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CONSOLIDATED INDEX FOR

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 14

REPUBLIC STEEL CORPORATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD AND
STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 7, 1940.

CERTIORARI GRANTED MAY 20, 1940.

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Vol. I

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 14

REPUBLIC STEEL CORPORATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD AND
STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 7, 1940.

CERTIORARI GRANTED MAY 20, 1940.

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

In the Matter of
REPUBLIC STEEL CORPORATION
and
STEEL WORKERS ORGANIZING COMMITTEE

Case No. C-184

I.

CHARGE

(Docketed June 21, 1937)

Pursuant to Section 10(b) of the National Labor Relations Act, the undersigned hereby charges that

REPUBLIC STEEL CORPORATION

has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subsections (1), (2) and (3) of said Act, in that

1) Said Corporation has discharged the following employees because of their membership or activities in the Steel Workers Organizing Committee:

Arthur Ervin Scott, 655 Union St., SW, Warren, Ohio, employed at the Warren, Ohio plant—Discharged March 22, 1937.

James R. Airwyke, R. D. #3, Warren, Ohio, employed at the Warren, Ohio plant—Discharged March 20, 1937.

Joseph Schuster, Cleveland, Ohio, employed in the Upson Nut Division, Cleveland, Ohio—Discharged on or about May 1, 1937.

Mr. Moyer, Massillon, Ohio, an employee of the Corporation at its Massillon, Ohio plant—Discharged May 25, 1937.

John Exall, Cleveland, Ohio; Fred Korecky, Cleveland, Ohio; John Petak, Cleveland, Ohio; Frank Pirichy, Cleveland, Ohio; Michael Marko Naletrich, Cleveland, Ohio; Nicko Brnicevich, Cleveland, Ohio; Gaetano Armeli, Cleveland, Ohio; Guy Kovacevich, Cleveland, Ohio; Thomas Cikah, Cleveland, Ohio; Wilbert Newman, Cleveland, Ohio; Vergo Cernan, Cleveland, Ohio; John Popik, Cleveland, Ohio; Tom Dean, Cleveland, Ohio; George Troyanovich, Cleveland, Ohio; Matt Babich, Cleveland, Ohio; Steve Kohlis, Cleveland, Ohio; John Cholas, Cleveland, Ohio; William Peak, Cleveland, Ohio—Employed at the Corrigan-McKinney Works, Cleveland, Ohio. Discharged on or about May 1, 1937.

2) On or about May 5, 1937, said Corporation suddenly closed down the tin mill at Canton, Ohio. This plant was completely organized by the Steel Workers Organizing Committee. There was absolutely no reason for the close down of this mill because there was plenty of work to be performed. The clear and obvious reason was an effort on the part of the Corporation to coerce and intimidate the employees to discontinue their membership in the Steel Workers Organizing Committee. On May 25, 1937, operations were slightly resumed in this tin mill.

By reason of the above discharges, and particularly by reason of the sudden shutdown of the mill at Canton, Ohio, which shutdown constituted a lockout of employees, the employees of said Corporation at its various plants struck on May 26, 1937, and said strike has continued down to the date of the filing of this Charge. Inasmuch as the Steel Workers Organizing Committee had theretofore been attempting to obtain a written agreement from said Corporation but had failed to do so since said Corporation refused to enter into any written agreement with the Steel Workers Organizing Committee, one of the demands involved in the strike is the demand for a written agreement with said Corporation.

3) Said Corporation has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act in that:

(a) At all times since the organization of the Steel Workers Organizing Committee, down to the calling of the strike on May 26, 1937, spies and gunmen in the employ of said Corporation followed organizers of the Steel Workers Organizing Committee in their efforts to organize the employees of said Corporation at its Cleveland, Canton, and Youngstown plants, and attacked and beat them.

(b) Foremen, superintendents, and police in the employ of said Corporation threatened employees at its Cleveland, Canton, and Youngstown plants with loss of their jobs if they joined the Steel Workers Organizing Committee.

(c) Since the strike on May 26, 1937, said Corporation has imported a great number of armed thugs and gunmen into the cities where its plants are located for the purpose of interfering with the right of peaceful picketing, and otherwise for the purpose of intimidating the strikers.

(d) At its plant at Warren, Ohio, said Corporation has used various devices and stratagems for the purpose of creating discord and dissension between white and Negro employees of said Corporation so as to destroy morale, lead to race riots, and thus interfere with self-organization.

(e) Said Corporation has acted in collusion with the Chief of Police at Canton, Ohio, in that company police and imported gunmen in the employ of said Corporation have been sworn in by said Chief of Police as special policemen with the sole purpose and intent of interfering with the right of peaceful picketing and otherwise intimidating the employees of said Corporation in the exercise of the rights guaranteed in Section 7 of the Act.

(f) Said Corporation has acted in collusion with Sheriff Ralph Elsor of Mahoning County, Ohio, and Mayor Evans of Youngstown, Ohio, in that company police and imported gunmen in the employ of said Corporation have been sworn in by said Sheriff and Mayor as special police and deputy sheriffs with the sole purpose and intent of interfering with the right of peaceful picketing and otherwise intimidating the employees of said Corporation in the exercise of the rights guaranteed in Section 7 of the Act.

(g) Said Corporation maintains extensive arsenals, including machine guns, rifles, revolvers, tear and bombing gas, riot sticks, etc., for the purpose of intimidating its employees at its Cleveland, Canton, Youngstown, Warren and Niles plants, in the exercise of the rights guaranteed in Section 7 of the Act.

(h) Agents of said Corporation, at its plants at Warren and Niles, Ohio, interfere with the right of peaceful picketing and otherwise intimidate the employees of said Corporation in the exercise of the rights guaranteed in Section 7 of the Act by shooting at pickets from inside said plants, and throwing bolts and other dangerous missiles at them.

4) Said Corporation has dominated and interfered with the formation and administration of labor organizations, and contributed financial and other support to them at its plants at Cleveland, Canton, and Youngstown, Ohio. Said labor organizations purport to exist for the purposes of collective bargaining, but actually have been organized

by said Corporation for the purpose of breaking the strike by back-to-work movements. In connection with such movements, superintendents, foremen, office help and other agents of said Corporation, being paid for so doing, visit members of Steel Workers Organizing Committee, who are on strike, at their homes for the purpose of intimidating them into signing so-called back-to-work petitions upon threat of loss of jobs. Also in connection with such movement, said Corporation has caused to be organized and dominates the John Q. Public League at Warren, Ohio, the Citizens' Committee at Canton, Ohio, and the Vigilantes at Youngstown, Ohio. These organizations consist primarily of imported thugs and gunmen, company police, office help, etc. in the pay and employ of said Corporation. Various public officials in said cities of Warren, Canton and Youngstown, Ohio, are cooperating with said Corporation by arming said persons who are in the pay and employ of said Corporation. All of said acts are done by said Corporation for the purpose of interfering with the right of peaceful picketing, and otherwise for the purpose of intimidating the employees of said Corporation in the exercise of the rights guaranteed in Section 7 of the Act.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the name and official position of the person acting for the organization.)

LEE PRESSMAN

General Counsel,
Steel Workers Organizing Committee.

3600 Grant Building,
Pittsburgh, Pennsylvania.

Subscribed and sworn to before me this 18th day of June, 1937.

John E. Lawyer,
Notary Public,
District of Columbia.

(Seal)

My commission expires September 8, 1939.

II.

SUPPLEMENTARY CHARGE

(Docketed July 14, 1937)

A charge having been previously filed with the National Labor Relations Board at Washington, D. C. on June 21, 1937, by the undersigned in the above captioned matter, the undersigned, pursuant to Section 10 (b) of the National Labor Relations Act, hereby supplements said charge and alleges that the

REPUBLIC STEEL CORPORATION

has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivisions (1), (2), and (3) of said Act in that:

(1) Said corporation has dominated and interfered with the formation and administration of the Employes' Representation Plan and the Independent Federation of Republic Employees, two labor organizations of its employees at its Youngstown, Ohio, plant, and has contributed financial and other support to such labor organizations.

(2) Said corporation by its officers and agents at all times since the organization of the Steel Workers Organizing Committee has threatened various employees at its Youngstown, Ohio, plant with discharge if they joined or assisted said Steel Workers Organizing Committee, and has interfered with, restrained, and coerced its employees in the exercise of the right to self-organization.

(3) Said corporation by its officers and agents on or about March 15, 1937 did discharge Thomas White

and Charles Bernard Fagan for joining and assisting the Steel Workers Organizing Committee.

(4) Said corporation on or about June 23, 1937, to July 2, 1937, has discharged and has refused, upon application, to reinstate to their former positions Frank J. Barany, John Bochu, Dan Bott, Walter Burke, Gustav Robert Carlson, Valare Chismus, Anthony M. DeLong, John E. DeLong, Robert Dunker, James Filbert, Daniel Foley, Ernest M. Franks, William A. Haren, Frank Higgins, Julius Ignat, John J. Janci, Westley I. Kennedy, John Klasovsky, Michael Krill, John Lazar, Joseph G. Miller, Charles Neverdusky, Andy L. Petrencik, Martin Petrencik, Rok Prus, Walter Raithel, Harry Rigby, Mike Romonko, Louis Schettler, Gilbert Shirey, Ernest Sotiros, Joseph Talley (Tulley), Vasile Urs, Gust Valantasis, Draia Vasile, Joseph S. Voytko, Joseph C. Voytko, Arja C. Wagner, Mat Yosenaric, James Yurchison, Joseph Yurchison, and other employees for the reason that said employees left its Youngstown, Ohio, plant on or after May 26, 1937, the day of said strike

(5) By collusion with and through the medium of the company dominated and administered labor organizations at its Youngstown, Ohio, plant, the Employes' Representation Plan and Independent Federation of Republic Employees, said corporation has caused to be circulated so-called back-to-work petitions, and has coerced and intimidated its employees into signing said petitions.

(6) Said corporation by its officers and agents, at its Youngstown, Ohio, plant has interfered with the peaceful assemblage and lawful picketing of its employees, and on June 19, 1937 did interfere with the peaceful assemblage and lawful picketing of its employees by shooting at said employees from inside said plant.

(7) By the aforesaid acts said corporation has discriminated in regard to the hire and tenure of employment of its employees within the meaning of Section 8, subdivision (3) of the said Act, dominated and interfered with the formation and administration of labor organizations of its employees and contributed financial and other support to such labor organizations within the meaning of Section 8, subdivision (2) of the said Act, and interfered with, restrained and coerced its employees in the exercise of their right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining and other mutual aid and protection within the meaning of Section 8, subdivision (1) of the said Act.

The undersigned further alleges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

LEE PRESSMAN
Steel Workers' Organizing Committee, 3600 Grant Building, Pittsburgh, Pennsylvania.

Subscribed and sworn to before me this 14th day of July, 1937.

ADELIA M. BATEMAN,
Notary Public,
D. C.

(Seal)

III.

SUPPLEMENTARY CHARGE

(Docketed July 14, 1937)

A charge having been previously filed with the National Labor Relations Board at Washington, D. C. on June 21, 1937, by the undersigned in the above captioned matter, the undersigned, pursuant to Section 10 (b) of the National Labor Relations Act, hereby supplements said charge and alleges that the

REPUBLIC STEEL CORPORATION

has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivisions (1), (2), and (3) of said act in that:

(1) Said corporation has dominated and interfered with the formation and administration of the Employes' Representation Plan and the Employees Independent Association, two labor organizations of its employees at its Warren, Ohio, plant, and has contributed financial and other support to such labor organizations.

(2) Said corporation by its officers and agents at all times since the organization of the Steel Workers Organizing Committee has threatened various employees at its Warren, Ohio, plant, with discharge if they joined or assisted said Steel Workers Organizing Committee, and has interfered with, restrained and coerced its employees in the exercise of the right to self organization.

(3) Said corporation has since the date of the strike of its employees on May 26, 1937 forced a con-

siderable number of its employees to remain at their jobs within its Warren, Ohio, plant and has threatened them with discharge and the loss of seniority rights and vacation privileges if they left said plant and joined the striking employees.

(4) Said corporation on or about June 23, 1937 to June 30, 1937 has refused, upon application, to reinstate to their former position Anthony Pasquale, John M. Carnahan, Richard Green, William Shank, Sam Maros, Douglas Lee, Frank Cykon, Jr., Paul Lomplak, John Siska, Walter L. Bingham, Hallie P. Hite, Gerald Driscoll, Henry Redmond, and other employees, for the reason that said employees left its Warren, Ohio, plant on or after May 26, 1937, the day of said strike, and has sought to compel Gerald Driscoll, Henry Redmond, and other employees to return as new employees with the loss of their former positions and seniority rights, for the reason that said employees left its Warren, Ohio, plant on or after May 26, 1937.

(5) By the aforesaid acts said corporation has discriminated in regard to the hire and tenure of employment of its employees within the meaning of Section 8, subdivision (3) of the said Act, dominated and interfered with the formation and administration of labor organizations of its employees and contributed financial and other support to such labor organizations within the meaning of Section 8, subdivision (2) of the said Act, and interfered with, restrained and coerced its employees in the exercise of their right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining and other mutual aid and protection within the meaning of Section 8, subdivision (1) of the said Act.

The undersigned further alleges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Lee Pressman
Steel Workers' Organizing Committee, 3600 Grant Building, Pittsburgh, Pennsylvania.

Subscribed and sworn to before me this 14th day of July, 1937.

Adelia M. Bateman,
Notary Public.
D. C.

(Seal)

IV.

COMPLAINT

(Docketed July 16, 1937)

It having been charged by the Steel Workers Organizing Committee, a labor organization, that the Republic Steel Corporation, hereinafter referred to as the respondent, has engaged in and is engaging in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, 49 Stat. 449, the National Labor Relations Board, pursuant to the power vested in it by the provisions of the said Act, hereby issues its complaint and alleges the following:

1. The respondent is and has been since April 8, 1930, a corporation organized and existing by virtue of the laws of the State of New Jersey, having its general offices in the City of Cleveland, County of Cuyahoga, State of Ohio, and is now and has continuously for a long period of time been engaged in its plants at Youngstown, Warren, Niles, Canton, Massillon, Cleveland, and other places, all in the State of Ohio, as well as at its many plants in places in the United States other than in the State of Ohio, in the production, assembly, sale and distribution of iron, steel and other metal products.

2. The respondent in the course and conduct of its business causes and has continuously caused over a long period of time, a large quantity of raw materials used in the production of its iron, steel and other metal products to be purchased and transported in interstate and foreign commerce from and through the several states of the United States other than the State of Ohio to its plants in Youngstown, Warren, Niles, Canton, Massillon, Cleveland, and

other places, in the State of Ohio, and causes and has continuously caused a large quantity of iron, steel and other metal products produced by it to be sold and transported by it in interstate and foreign commerce from its plants in Youngstown, Warren, Niles, Canton, Cleveland, and other places, in the State of Ohio, into and through the several States of the United States other than the State of Ohio, and from its plants in places in the United States other than in the State of Ohio, into and through the several states of the United States.

3. The respondent, by its officers and agents, while engaged as described above, on or about March 15, 1937, did discharge Thomas White and Charles Bernard Fagan, employed by the respondent at its Youngstown, Ohio, plant.

4. The respondent by its officers and agents, while engaged as described above, did discharge the hereinafter mentioned individuals employed in its Canton plants at Canton, Ohio, on or about the following dates: Joseph L. Corey and Peter Fontes, May 12, 1937; Will S. Wright, May 5, 1937; Charles Bikoski, April 29, 1937; Sabri Shaban, April 27, 1937; Tom Douglas, February 16, 1937; Mike Ugranovich, February 11, 1937; Michael Wucinick, October 19, 1936; and Victor Arias, August 8, 1936.

5. The respondent, by its officers and agents, while engaged as described above, did discharge the hereinafter mentioned individuals employed in its Massillon plant at Massillon, Ohio, on or about the following dates: Elli Metroff, May 4, 1937; Peter Moryios, May 3, 1937; Feim Gezo, April 30, 1937; and Paul Poulos, April 27, 1937.

6. The respondent, by its officers and agents, on or about March 20, 1937, while engaged as described above, did discharge James R. Airwyke, employed by the respondent at its Warren, Ohio, plant.

7. The respondent, by its officers and agents, while engaged as described above, did discharge, on or about May

1, 1937, the hereinafter mentioned individuals employed in its Corrigan-McKinney works at Cleveland, Ohio: Gaetana Armeli, Matt Babich, Nicko Brnicevich, Vergo Cernan, John Cholas, Thomas Cikah, Tom Dean, John Exall, Steve Kohlis, Fred Korecky, Guy Kovacevich, Michael Marko Noletrich, Wilbert Newman, William Peak, John Petak, Frank Pirichy, John Popik, and George Troyanovich.

8. The respondent has discharged the employees named above in paragraphs 3 to 7 for the reason that they had joined and assisted the Steel Workers Organizing Committee, a labor organization, and engaged in concerted activities with other employees of the respondent for the purposes of collective bargaining and other mutual aid and protection.

9. By its discharge and refusal to reinstate the employees named above in paragraphs 3 to 7 and each of them, as described above, the respondent did discriminate and is discriminating in regard to the hire and tenure of employment of said employees and each of them, and did thereby discourage and is discouraging membership in the said Steel Workers Organizing Committee, and did thereby and is thereby engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the said Act.

10. The respondent, by its officers and agents, on or about May 5, 1937, while engaged as described above, did suddenly and without notice cease operations at its tin plate mill in the Canton plant at Canton, Ohio, and did lock out almost all of the employees employed by the respondent at the said tin plate mill, and has at all times since the date of the lockout refused to reinstate the employees so locked out.

11. The respondent locked out and refused to reinstate almost all of the employees in its tin plate mill in the Canton Plant at Canton, Ohio, for the reason that they joined and assisted the Steel Workers Organizing Com-

mittee, a labor organization, and engaged in concerted activities with other employees of the respondent for collective bargaining and other mutual aid and protection, and for the purpose of intimidating and coercing its said tin plate mill employees and other employees of the respondent to discontinue their membership in the said Steel Workers Organizing Committee.

12. By the lockout and refusal to reinstate almost all of the employees in its tin plate mill in the Canton plant at Canton, Ohio, the respondent did discriminate and is discriminating in regard to the hire and tenure of employment of the said tin plate mill employees and did thereby discourage and is discouraging membership in the said Steel Workers Organizing Committee, and did thereby engage in and is thereby engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the said Act.

13. The respondent, by its officers and agents, prior to May 12, 1937, did threaten employees in its Massillon plant at Massillon, Ohio, with discharge, lay-off and the complete shutdown of said plant, and on or about May 12, 1937, did suddenly and without notice cease almost all of its operations at said Massillon plant and did lock out a considerable number of its employees in said plant.

14. The respondent locked out and failed to reinstate a considerable number of the said employees in its Massillon plant at Massillon, Ohio, for the reason that they joined and assisted the Steel Workers Organizing Committee, a labor organization, and engaged in concerted activities with other employees of the respondent for collective bargaining and other mutual aid and protection, and for the purpose of intimidating and coercing its said employees to discontinue their membership in the said Steel Workers Organizing Committee.

15. By the lockout and the refusal to reinstate a considerable number of the said employees in its Massillon

plant at Massillon, Ohio, the respondent did discriminate and is discriminating in regard to the hire and tenure of employment of the said employees and did thereby discourage and is discouraging membership in the said Steel Workers Organizing Committee, and did thereby engage in and is thereby engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the said Act.

16. By reason of the conduct of the respondent set forth above in paragraphs 3 to 15 inclusive, and by reason of the respondent's refusal to enter into a written agreement with the Steel Workers Organizing Committee, attempts to negotiate which had theretofore been made by the Steel Workers Organizing Committee, the employees of the respondent at its various plants, on or about May 26, 1937, went out on strike, and said strike has continued to the date of the issuance of this complaint.

17. The respondent has compelled a considerable number of employees at its Warren, Ohio, plant to remain at their jobs within said plant, and has threatened said employees with discharge and loss of seniority rights and vacation privileges if they left its said plant and joined the employees who went out on strike, thereby interfering with, restraining and coercing its employees in the exercise of their right to self-organization within the meaning of Section 8, subdivision (1) of the said Act.

18. The respondent, by its officers and agents, has refused, upon application, to reinstate to their positions, Anthony Pasquale, John M. Carnahan, Richard Green, William Shank, Sam Maros, Douglas Lee, Frank Cykon, Jr., Paul Lomplak, John Siska, Walter L. Bingham, Hallie P. Hite, Gerald Driscoll, Henry Redmond, and other employees at its Warren, Ohio, plant for the reason that they left the said plant during the progress of the aforementioned strike and joined and assisted the Steel Workers Organizing Committee, and has sought to compel Gerald Driscoll, Henry

Redmond, and other employees to return as new employees with the loss of their former positions and seniority rights, for the reason that they left the said plant during the progress of the aforementioned strike at its Warren, Ohio, plant, and joined and assisted the Steel Workers Organizing Committee.

19. By refusing to reinstate the employees named above in paragraph 18, the respondent has discriminated and is discriminating in regard to the hire and tenure of employment of the said employees and has thereby discouraged and is discouraging membership in the Steel Workers Organizing Committee, and has thereby engaged in and is thereby engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the said Act.

20. The respondent, by its officers and agents, while engaged as described above, on or about June 23, 1937, to July 2, 1937, has discharged, and has refused to reinstate to their former positions, the hereinafter mentioned individuals employed in its Youngstown plant at Youngstown, Ohio: Frank J. Barany, John Bochu, Dan Bott, Walter Burke, Gustav Robert Carlson, Valare Chismus, Anthony M. DeLong, John E. DeLong, Robert Dunker, James Filbert, Daniel Foley, Ernest M. Franks, William A. Haren, Frank Higgins, Julius Ignat, John J. Janci, Westley I. Kennedy, John Klasosky, Michael Krill, John Lazar, Joseph G. Miller, Charles Neverdusky, Andy L. Petrencik, Martin Petrencik, Rok Prus, Walter Raithel, Harry Rigby, Mike Romonko, Louis Schettler, Gilbert Shirey, Ernest Sotiros, Joseph Talley (Tulley), Vasile Urs, Gust Valantasis, Draia Vasile, Joseph S. Voytko, Joseph C. Voytko, Arja C. Wagner, Mat Yosenaric, James Yurchison, and Joseph Yurchison.

21. The respondent has discharged and has refused to reinstate the employees named above in paragraph 20

for the reason that they have joined and assisted the Steel Workers Organizing Committee, a labor organization, and engaged in concerted activities with other employees of the respondent for the purposes of collective bargaining and other mutual aid and protection.

22. By its discharge and refusal to reinstate the employees named above in paragraph 20, and each of them, as described above, the respondent did discriminate and is discriminating in regard to the hire and tenure of employment of said employees and each of them, and did thereby discourage and is thereby discouraging membership in the said Steel Workers Organizing Committee, and did thereby and is thereby engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the said Act.

23. The respondent, by its officers and agents, has dominated and interfered with the formation and administration of the Employes' Representation Plan and the Independent Federation of Republic Employees, labor organizations, at its plant in Youngstown, in the State of Ohio, and has contributed financial and other support to such labor organizations.

24. By dominating and interfering with the formation and administration of said labor organizations at its plant in Youngstown, in the State of Ohio, and by contributing financial and other support to such labor organizations, the respondent has thereby engaged in and is thereby engaging in unfair labor practices, within the meaning of Section 8, subdivision (2) of the said Act.

25. The respondent, by its officers and agents, has dominated and interfered with the formation and administration of Employes' Representation Plan and Employees Independent Association, labor organizations, at its plant in Warren, in the State of Ohio, and has contributed financial and other support to such labor organizations.

26. By dominating and interfering with the formation and administration of said labor organizations at its plant in Warren, in the State of Ohio, and by contributing financial and other support to such labor organizations, the respondent has thereby engaged in and is thereby engaging in unfair labor practices, within the meaning of Section 8, subdivision (2) of the said Act.

27. The respondent, by its officers and agents, has dominated and interfered with the formation and administration of the Plan of Employees Representation (Central Alloy District, Canton works), Employees' Representative Association and Plan of Representation of Employees, labor organizations at its plant in Canton, in the State of Ohio, and has contributed financial and other support to such labor organizations.

28. By dominating and interfering with the formation and administration of said labor organizations at its plant in Canton, in the State of Ohio, and by contributing financial and other support to such labor organizations, the respondent has thereby engaged in and is thereby engaging in unfair labor practices, within the meaning of Section 8, subdivision (2) of the said Act.

29. The respondent, by its officers and agents, has dominated and interfered with the formation and administration of the Employes' Representation Plan and the Employees Representative Association, labor organizations, at its plant in Massillon, in the State of Ohio, and has contributed financial and other support to such labor organizations.

30. By dominating and interfering with the formation and administration of said labor organizations at its plant in Massillon, in the State of Ohio, and by contributing financial and other support to such labor organizations, the respondent has thereby engaged in and is thereby engaging

in unfair labor practices, within the meaning of Section 8, subdivision (2) of the said Act.

31. The respondent, by its officers and agents, has dominated and interfered with the formation and administration of Employes' Representation Plan, a labor organization, at its plant in Cleveland, in the State of Ohio, and has contributed financial and other support to such labor organizations.

32. By dominating and interfering with the formation and administration of said labor organization at its plant in Cleveland, in the State of Ohio, and by contributing financial and other support to such labor organization, the respondent has thereby engaged in and is thereby engaging in unfair labor practices, within the meaning of Section 8, subdivision (2) of the said Act.

33. The respondent, by its officers and agents, at all times since the organization of the Steel Workers Organizing Committee, has threatened its employees at its plants in Youngstown, Warren, Niles, Canton, Massillon and Cleveland, in the State of Ohio, with discharge if they joined or assisted the Steel Workers Organizing Committee, thereby interfering with, restraining and coercing its employees in said plants in the exercise of their right to self-organization, within the meaning of Section 8, subdivision (1) of the said Act.

34. The respondent, by its officers and agents, including persons specially employed by the respondent for the purpose, has at all times since the organization of the Steel Workers Organizing Committee, down to the date of the strike on May 26, 1937, followed organizers of the said Steel Workers Organizing Committee in their efforts to organize the respondent's employees at its plants in Cleveland, Youngstown, and Warren, in the State of Ohio, and has brutally attacked and beaten said organizers with the inten-

tion and effect of thereby interfering with, restraining and coercing its employees at said plants in the exercise of their right to self-organization, within the meaning of Section 8, subdivision (1) of the said Act.

35. The respondent, by its officers and agents, immediately prior to and since the date of the strike of its employees on May 26, 1937, has considerably increased the number of its police force in its various plants and has used such police for the purpose of interfering with the right of its employees peacefully to picket the plants, and for the purpose of intimidating its striking employees, thereby interfering with, restraining and coercing its employees in the exercise of their right to self-organization, within the meaning of Section 8, subdivision (1) of the said Act.

36. The respondent, by its officers and agents, and in collusion with and through the medium of the various aforementioned labor organizations dominated and controlled by said respondent, has, prior to and since the date of the strike of its employees on May 26, 1937, called upon its employees who are members of the Steel Workers Organizing Committee, at their homes and elsewhere, in Youngstown, Warren, Canton, Massillon and Cleveland, in the State of Ohio, and has intimidated and coerced them into signing so-called back-to-work petitions and other petitions upon threat of loss of their jobs, thereby interfering with, restraining and coercing its employees in the exercise of their right to self-organization, within the meaning of Section 8, subdivision (1) of the said Act.

37. The respondent maintains at its plants in Youngstown, Niles, Warren, Canton, and Cleveland, in the State of Ohio, extensive arsenals, stocked with machine guns, rifles, revolvers, tear gas and other bombs, riot sticks and other dangerous weapons, for the purpose of interfering

with, restraining and coercing its employees at said plants in the exercise of their right to self-organization, within the meaning of Section 8, subdivision (1) of the said Act.

38. The respondent, by its officers and agents, at its plants in Youngstown, Canton, Massillon, Warren, Niles, and Cleveland, in the State of Ohio, has interfered and still does interfere with the right of its employees peacefully to picket said plants and has and still does intimidate its employees at the said plants, by shooting at them and by throwing bolts and other dangerous missiles at them, thereby interfering with, restraining and coercing said employees in the exercise of their right to self-organization, within the meaning of Section 8, subdivision (1) of the said Act.

39. The respondent, through its officers and agents, by each of the acts hereinbefore alleged in paragraphs 3 to 22 inclusive, and by other acts, has interfered with, restrained and coerced, and is interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, and did thereby engage and is thereby engaging in unfair labor practices, within the meaning of Section 8, subdivision (1) of the said Act.

40. The activities of the respondent set forth above in paragraphs 3 to 38 inclusive, occurring in connection with the operations of the respondent described in paragraphs 1 and 2 above, have a close, intimate, and substantial relation to trade, traffic and commerce among the several states and with foreign countries, and tend to lead to and have led to labor disputes burdening and obstructing commerce, and the free flow of commerce.

41. The aforesaid acts of respondent set forth herein in paragraphs 3 to 38 inclusive, constitute unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1), (2) and (3) and Section 2, subdivisions (6) and (7) of said Act.

WHEREFORE, the National Labor Relations Board, on the 15th day of July, 1937, issues this, its complaint, against the Republic Steel Corporation, the respondent herein.

Edwin S. Smith,
Member.

Donald Wakefield Smith,
Member.

National Labor Relations Board.

NOTICE OF HEARING

Please Take Notice that on the 21st day of July, 1937, at 10:00 o'clock in the forenoon, at the Auditorium, of the Public Health Service Building, between 19th and 20th Streets at Constitution Avenue, N. W., Washington, D. C., a hearing will be conducted by the National Labor Relations Board on the allegations set forth in the complaint attached hereto, at which time and place you will have the right to appear, in person or otherwise and give testimony.

You are further notified that you have the right to file with the National Labor Relations Board, with offices at 1010 Vermont Avenue, N. W., Washington, D. C., an answer to the attached complaint on or before the 21st day of July, 1937.

Enclosed herewith for your information is a copy of Rules and Regulations, Series 1, as amended, made and published by the National Labor Relations Board pursuant to authority granted in the National Labor Relations Act. Your attention is particularly directed to Article II of said Rules and Regulations.

In Witness Whereof the National Labor Relations Board has caused this, its notice of hearing, to be signed by its secretary, Benedict Wolf, on the 15th day of July, 1937.

By direction of the Board:

Benedict Wolf,
Secretary.

(Seal)

V.

ANSWER OF RESPONDENT, REPUBLIC STEEL CORPORATION

(Docketed Aug. 5, 1937)

Now comes Republic Steel Corporation, a New Jersey corporation, reserving all its constitutional rights and excepting and objecting to the jurisdiction of the National Labor Relations Board, in answer to the complaint filed in the above proceedings by the National Labor Relations Board, now and at all times denying the right of the Complainant to assert any claim thereunder concerning this Respondent, and at all times saving and reserving unto itself all manner of benefit and advantage of exceptions which can or may be taken to the many errors, uncertainties, insufficiencies and other imperfections contained in the said complaint, says:

Respondent denies that the Steel Workers Organizing Committee is a labor organization, denies that Respondent has engaged in and is engaging in any unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, 49 Stat., 449, and denies that the National Labor Relations Board has issued complaint herein pursuant to and in accordance with any power vested in it by the provisions of said Act.

1. Answering Paragraph 1 of said complaint, respondent admits the allegations therein contained.

2. Answering Paragraph 2 of said complaint, Respondent admits that in the course and conduct of its business over a long period of time it has purchased and used a large quantity of raw materials in the production of its iron, steel and other metal products and admits that it has pro-

duced and sold large quantities of iron, steel and other metal products but it denies the other allegations of said Paragraph 2 of said complaint as stated therein.

3. Answering Paragraph 3 of said complaint, Respondent specifically denies each and every allegation therein contained.

4. Answering Paragraph 4 of said complaint, Respondent specifically denies each and every allegation therein contained.

5. Answering Paragraph 5 of said complaint, Respondent specifically denies each and every allegation therein contained.

6. Answering Paragraph 6 of said complaint, Respondent specifically denies each and every allegation therein contained.

7. Answering Paragraph 7 of said complaint, Respondent specifically denies each and every allegation therein contained.

8. Answering Paragraph 8 of said complaint, Respondent specifically denies each and every allegation therein contained.

9. Answering Paragraph 9 of said complaint, Respondent specifically denies each and every allegation therein contained.

Further answering, Respondent says that each and every one of the employes mentioned in Paragraphs 3 to 7, inclusive, of said complaint, labored only in the manufacturing or production departments of Respondent, that they took no part in the transportation to and away from Respondent's plant, that they did not participate in any activity which proceeded or followed manufacturing or production; and that none of said employees was engaged in interstate or foreign commerce within the true meaning of the National Labor Relations Act or of the Constitution of the United States of America. Respondent further says that in each case of the persons mentioned in Paragraphs 3 to 7 inclusive of the said complaint, where any of them were laid off they were laid off for good and sufficient lawful and business reasons.

10. Answering Paragraph 10 of said complaint, Respondent specifically denies each and every allegation therein contained.

11. Answering Paragraph 11 of said complaint, Respondent specifically denies each and every allegation therein contained.

12. Answering Paragraph 12 of said complaint, Respondent specifically denies each and every allegation therein contained.

13. Answering Paragraph 13 of said complaint, Respondent specifically denies each and every allegation therein contained.

14. Answering Paragraph 14 of said complaint, Respondent specifically denies each and every allegation therein contained.

15. Answering Paragraph 15 of said complaint, Respondent specifically denies each and every allegation therein contained.

16. Answering Paragraph 16 of said complaint, Respondent says that on or about May 26, 1937, a small percentage of its employes went out on strike but not for the reasons stated in Paragraph 16, and with the foregoing explanation Respondent denies each and every allegation contained in Paragraph 16. Respondent further says that the strike was called by Steel Workers Organizing Committee, acting pursuant to the direction of Committee for Industrial Organization, without any cause or justification and solely for the selfish benefit and advantage of those committees, in an attempt to gain control of employes of the Respondent and, generally, of all steel company em-

ployes; that at the time the strike was called, there was no labor dispute between the Respondent and its employes, and no differences as to wages, hours or working conditions, that a large percentage of the Respondent's employes did not go on a strike but remained at work, and that others returned to work promptly after the Ohio National Guard had been called out to protect them while going to and from the Respondent's mills, factories and plants, against assaults, violence, coercion and intimidation on the part of the strikers and of the Steel Workers Organizing Committee and its agents and representatives.

17. Answering Paragraph 17 of said complaint, Respondent specifically denies each and every allegation therein contained.

18. Answering Paragraph 18 of said complaint, Respondent specifically denies each and every allegation there contained, and further says that each of the persons mentioned therein labored only in the manufacturing or production departments of Respondent, that they took no part in the transportation to or away from Respondent's plant, that they did not participate in any activity which proceeded or followed manufacturing, and that none of said employes was engaged in interstate or foreign commerce within the true meaning of the National Labor Relations Act, or of the Constitution of the United States of America.

19. Answering Paragraph 19 of said complaint, Respondent specifically denies each and every allegation therein contained.

20. Answering Paragraph 20 of said complaint, Respondent specifically denies each and every allegation therein contained, and further says that each of the persons mentioned therein labored only in the manufacturing or production departments of Respondent, that they took no part in the transportation to or away from Respondent's plant, that they did not participate in any activity which

preceded or followed manufacturing, and that none of said employes was engaged in interstate or foreign commerce within the true meaning of the National Labor Relations Act, or of the Constitution of the United States of America.

21. Answering Paragraph 21 of said complaint, Respondent specifically denies each and every allegation therein contained.

22. Answering Paragraph 22 of said complaint, Respondent specifically denies each and every allegation therein contained.

23. Answering Paragraph 23 of said complaint, Respondent specifically denies each and every allegation therein contained.

24. Answering Paragraph 24 of said complaint, Respondent specifically denies each and every allegation therein contained.

25. Answering Paragraph 25 of said complaint, Respondent specifically denies each and every allegation therein contained.

26. Answering Paragraph 26 of said complaint, Respondent specifically denies each and every allegation therein contained.

27. Answering Paragraph 27 of said complaint, Respondent specifically denies each and every allegation therein contained.

28. Answering Paragraph 28 of said complaint, Respondent specifically denies each and every allegation therein contained.

29. Answering Paragraph 29 of said complaint, Respondent specifically denies each and every allegation therein contained.

30. Answering Paragraph 30 of said complaint, Respondent specifically denies each and every allegation therein contained.

31. Answering Paragraph 31 of said complaint, Respondent specifically denies each and every allegation therein contained.

32. Answering Paragraph 32 of said complaint, Respondent specifically denies each and every allegation therein contained.

33. Answering Paragraph 33 of said complaint, Respondent specifically denies each and every allegation therein contained.

34. Answering Paragraph 34 of said complaint, Respondent specifically denies each and every allegation therein contained.

35. Answering Paragraph 35 of said complaint, Respondent specifically denies each and every allegation therein contained.

36. Answering Paragraph 36 of said complaint, Respondent specifically denies each and every allegation therein contained.

37. Answering Paragraph 37 of said complaint, Respondent specifically denies each and every allegation therein contained.

38. Answering Paragraph 38 of said complaint, Respondent specifically denies each and every allegation therein contained.

39. Answering Paragraph 39 of said complaint, Respondent specifically denies each and every allegation therein contained.

40. Answering Paragraph 40 of said complaint, Respondent specifically denies each and every allegation therein contained.

41. Answering Paragraph 41 of said complaint, Respondent specifically denies each and every allegation therein contained.

For further answer to said complaint, Respondent says that the complaint of the National Labor Relations Board against the Republic Steel Corporation, Respondent herein, should be dismissed for the following reasons:

(a) Because none of the alleged unfair labor practices complained of affected production, manufacture, sale, or distribution; nor affected, burdened, or obstructed the flow of Respondent's products; nor affected, burdened or obstructed the flow of interstate or foreign commerce, or tended to do so;

(b) Because none of the acts complained of interfered with Respondent's operations, nor caused a labor dispute, nor affected interstate or foreign commerce;

(c) Because none of the acts complained of tended to lead to a labor dispute, nor to burden or obstruct commerce and the free flow of commerce between the various states of the United States and/or foreign countries;

(d) Because none of the persons mentioned in said complaint were engaged in interstate commerce;

(e) Because the National Labor Relations Board has no authority to regulate relations between employers and employes engaged in local production or manufacture;

(f) Because the National Labor Relations Board has no jurisdiction to hear and determine assault and battery and felonious assault cases;

(g) Because the possible effect on interstate commerce of the alleged unfair labor practices complained of is too remote to warrant federal invasion of the rights of the several states where plants of the Respondent are located to regulate the employer and employe relations.

(h) Because all the words, acts and conduct of the Respondent were and have been within the legal and constitutional rights of the Respondent as guaranteed by the Constitution of the United States; and because the Respondent, Republic Steel Corporation has not violated any provision of the National Labor Relations Act;

(i) Because the National Labor Relations Act does not prohibit the normal exercise of the right of the Republic Steel Corporation to select its employes, to lay them off or to discharge them; and further if construed to do so, it is in violation of the Constitution of the United States of America and because any and all terminations of employment of any and all former employe or employes of Republic Steel Corporation named in the complaint herein by Respondent were lawful and for business reasons;

(j) Because the Constitution of the United States of America does not permit Congress or the National Labor Relations Board to regulate the dealing between Respondent and its employes where such employes are engaged in the purely local business of manufacture or production;

(k) Because the said complaint, and particularly Paragraphs 10 to 15, inclusive, 23 to 36, inclusive, and Paragraphs 39 and 40 are so indefinite that they do not inform the Respondent of the issues to be met herein, and therefore, proceeding further hereunder is a denial to the Complainant of due process of law;

(l) Because the issuance of such complaint, the facts and circumstances surrounding the same and under which said complaint was issued, the obvious purpose and intent for which said complaint was filed and the method of conducting proceedings and the procedure thereunder all constitute a denial to Respondent of due process of law and the violation of the rights of Respondent guaranteed to it under the provisions of the Constitution of the United States of America.

(m) Because the Steel Workers Organizing Committee, which filed the charges upon which the complaint is predicated, is not a labor organization, as defined by Section 2, Subdivision 5, of the National Labor Relations Act, and, therefore, is altogether without power or authority to file any charges whatsoever against the Respondent;

(n) Because the individuals, groups and organizations, in whose behalf the Steel Workers Organizing Committee purports to act in filing the charges aforesaid with the National Labor Relations Board, have themselves been guilty of many and repeated wholly unprovoked and unjustifiable acts and deeds of violence, coercion and intimidation against the defendant and its employes, such as to deprive those who filed the charges aforesaid of any standing so to do, and to require the National Labor Relations Board to dismiss the complaint predicated upon such charges.

(o) Because the National Labor Relations Board is altogether without jurisdiction to consider or determine the charges set forth in the complaint herein or to file the said complaint, for the following reasons: The National Labor Relations Act, pursuant to which the National Labor Relations Board was created and vested with certain jurisdiction, power and authority, is altogether void and of no validity in law, as construed and applied by the National Labor Relations Board, because its terms and provisions, if enforced, would deprive employers sought to be made subject to its terms, of due process of law, in violation of the 5th Amendment to the Constitution of the United States, in this, to wit: it gives to an employe the right to file with the Board charges against his employer and provides for a hearing thereof and action thereon against the employer by the Board or the courts of the United States, without giving to the employer a similar or corresponding right against his employe; it provides for a hearing of the charges so filed by an employe against his employer by the

Board or, in the first instance, by an agent or agency designated by the Board, with no restriction or limitation whatsoever as to the kind or character of evidence to be considered by the Board in support of or in answer to such charges, but upon the express condition that the findings of the Board as to the facts, if supported by evidence, shall be conclusive in the premises.

Wherefore, the complaint of the National Labor Relations Board against the Republic Steel Corporation, Respondent herein, should be dismissed.

J. A. Voss,
Director of Industrial Relations
for Republic Steel Corporation.

Thomas F. Patton,
Republic Building,
Cleveland, Ohio,
Luther Day,
1420 Union Trust Building,
Cleveland, Ohio,
Thomas F. Veach,
1420 Union Trust Building,
Cleveland, Ohio,
Day, Young & Veach,
1420 Union Trust Building,
Cleveland, Ohio,
Attorneys for Respondent,
Republic Steel Corporation,
Republic Building,
Cleveland, Ohio.

Dated August 2, 1937.

State of Ohio,
Cuyahoga County, *ss:*

On this 2nd day of August, 1937, before me, a Notary Public in and for said County, personally appeared J. A.

Voss, who, being by me first duly sworn, says that he is Director of Industrial Relations of the Republic Steel Corporation; that he signed the foregoing answer in behalf of said company and is duly authorized so to do; that he has read the answer by him so signed, knows well the contents thereof, and that the statements therein contained are true, of his own knowledge, except such as are made upon information and belief, and those he verily believes to be true.

E. M. Heid,
(Seal) *Notary Public.*

My Commission expires May 16, 1940.

VI.

ORDER DESIGNATING TRIAL EXAMINER

(Docketed Aug. 3, 1937)

At a regular meeting of the National Labor Relations Board, held at its office in the City of Washington, D. C., on the 3rd day of August, 1937
Present:

J. Warren Madden, Chairman
Edwin S. Smith

In the Matter of
Republic Steel Corporation
and
Steel Workers Organizing Committee

Case No. C-184

A charge having been filed in this matter, and hearing having commenced, with the Board presiding, and the Board having considered the matter and being advised in the premises,

It is hereby ordered that John T. Lindsay act as Trial Examiner in the above case and perform all the duties and exercise all the powers granted to trial examiners under the Rules and Regulations—Series 1, as amended, of the National Labor Relations Board.

By direction of the Board:
Benedict Wolf,
Secretary.

(Seal)

VII.

MOTION BY REPUBLIC STEEL CORPORATION, RESPONDENT, FOR LEAVE TO INTRODUCE ADDITIONAL EVIDENCE

(Docketed Jan. 21, 1938)

Now comes Republic Steel Corporation, the respondent herein, and respectfully prays the Board to permit it to introduce in its behalf in this proceeding, in addition to the evidence heretofore offered before the Board and the Trial Examiner, the following evidence relating to transactions which occurred after the conclusion of the hearing before the Board and the Trial Examiner, to wit:

(a) Evidence that Valare Chismus, also known as Walter Chizmas, named in paragraph 20 of the complaint herein as having been improperly discharged and refused reinstatement at the respondent's Youngstown, Ohio plant, did on or about October 20, 1937, in the Court of Common Pleas of Mahoning County, Ohio, enter a plea of guilty to a charge made against him in an indictment returned by the Grand Jury of said Mahoning County, Ohio, as follows, to wit:

"INDICTMENT FOR RIOTING

(Misdemeanor)

The State of Ohio, Mahoning County, ss.

In the Court of Common Pleas, Mahoning County, Ohio, of the Term of May in the year of Our Lord, one thousand, nine hundred and thirty seven.

The jurors of the Grand Jury of the County of Mahoning, and State of Ohio, then and there duly impaneled, sworn and charged to inquire of and present all offenses whatever committed within the limits of said County, on their said oaths, in the name and by the authority of the State of Ohio, do find and present: That Walter Chizmas late of said County, on the 10th day of June in the year of Our Lord one thousand nine hundred and thirty seven, at the County of Mahoning aforesaid and three other persons, whose names are to the jurors aforesaid unknown, being then and there unlawfully assembled together, unlawfully, riotously and routously did agree with each other then and there to do an unlawful act with force and violence to-wit: they did strike and beat duly authorized officers of the law and did attempt thereby to prevent officers from performing their duty and did then and there unlawfully and riotously make divers movements and great preparation therefor; to-wit: did then and there continue and by jeers and taunts and threats against the lives of said police officers did call upon other men then and there assembled to band together and prevent officers of the law from maintaining peace and order, contrary to the statute in such cases made and provided and against the peace and dignity of the State of Ohio.

Wm. A. Ambrose,
Prosecuting Attorney."

All as appears in Criminal Docket No. 29, Mahoning County, Ohio, in case No. 14,665 entitled State of Ohio vs. Walter Chizmas";

(b) Evidence that individuals, members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee, actively engaged and participating in the strike against the respondent at its Youngstown, Ohio plant, were indicted by the Grand Jury of Mahoning County, Ohio, because of their unlawful acts and conduct in carrying on said strike, and entered pleas of guilty to the offenses charged against them as hereinafter set forth, as follows:

Carrying Concealed Weapons	9
Riot—unlawfully assembling	66
Interfering with and obstructing railroad	11
Kidnapping—Forcibly detaining	7
Shooting with intent to wound	1
Assault and Battery	2
	96

All as appears on the Criminal Docket in the Court of Common Pleas of Mahoning County, Ohio.

(c) Evidence that Robert Burke, an organizer and leader affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee, and actively engaged and participating in the strike against the respondent at its Youngstown, Ohio plant, was indicted by the Grand Jury of Mahoning County, Ohio, for the offense of rioting—unlawfully assembling, and on being tried therefor, was found guilty by the jury on September 29, 1937:

(d) Evidence that Steel Workers Organizing Committee of the Committee for Industrial Organization, on or about October 22, 1937, by means of a check made payable to William F. Quinlan, Clerk of Courts, paid the sum of Four Thousand Seven Hundred Eleven and 32/100 Dollars ($4,711.32) by way of fines and legal costs in connection with the cases and indictments to which reference is hereinbefore made involving members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee, who actively engaged and participated in the strike against the Youngstown, Ohio, plant of respondent;

(e) Evidence that certain members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee who actively engaged in and participated in the strike against the respondent's plants at Youngstown, Mahoning County, Ohio, Warren, Trumbull County, Ohio, and Massillon, Stark County, Ohio, respectively, were indicted by a Grand Jury in the United States District Court for the Northern District of Ohio, Eastern Division, for the offense of obstructing and retarding the passage of the United States mail, and on or about December 20, 1937, pleaded guilty to the charges made against them, all as appears on the records of said United States District Court as follows:

In case No. 15,957 therein, entitled United States of America vs. Mike Walker;

In case No. 15,958, entitled United States of America vs. Tony Crisch;

In case No. 15,959, entitled United States of America vs. Sam Caputo;

In case No. 15,960, entitled United States of America vs. Will Williams;

In case No. 15,961, entitled United States of America vs. Dominic Scarpine;

In case No. 15,962, entitled United States of America vs. Theodore Pictowski, alias Tub, alias Friday;

In case No. 15,963, entitled United States of America vs. Joe M. Morton; (testified as a witness for the Board rec. p. 1084-1117).

In case No. 15,964, entitled United States of America vs. Leo Cox, (testified as a witness for the Board, rec. p. 1014-1052) and Joe M. Morton;

In case No. 15,965, entitled United States of America vs. Kenneth H. Steed, alias Harry K. Steed and Joe M. Morton;

A copy of the indictment against the said Mike Walker in case No. 15,957 is as follows, to wit:

"THE UNITED STATES OF AMERICA

Filed Jul 14 1937
C. B. Watkins, Clerk
U. S. District Court, N. D. O.

Northern District of Ohio
Eastern Division ss: 15957

In the District Court of the United States, within and for the Division and District aforesaid.

At the April Term of said Court, in the year of our Lord, One Thousand, Nine Hundred and Thirty-Seven.

The Grand Jurors of the United States of America, duly impanelled, sworn and charged to inquire of crimes and offenses within and for the body of the Eastern Division of the Northern District of Ohio, upon their oath present and find that

Mike Walker

hereinafter known and referred to as the defendant, late of the Division and District aforesaid, heretofore, to wit, on or about the 12th day of June, 1937, at Youngstown, in the County of Mahoning, State of Ohio, in the Eastern Division of the Northern District of Ohio and within the jurisdiction of this Court, did knowingly, unlawfully and willfully obstruct or retard the passage of mail and a driver or carrier and a conveyance carrying the same, that is to say, that he, the said defendant, in the vicinity of the plant of the Republic Steel Corporation at Stop 5, Poland Avenue, did interfere with, stop and prevent one, Paul A. Ricker, a special delivery messenger and a substitute mail carrier of the Post Office Department at Youngstown, Ohio, who was then and there in the performance of his duties as such special delivery messenger and substitute mail carrier in the postal service of the United States, from delivering certain mail matter, to wit, three parcels, which the said Paul A. Ricker then and there had in his possession in an automobile for delivery at said place, the said defendant then and there well knowing that the said Paul A. Ricker was an employee in the postal service of the United States, having in his possession at the time, mail matter, and being engaged at the time in the performance of his duties in the delivery of said mail matter, in violation of Section 324, Title 18, United States Code Annotated; contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

E. B. FREED,
United States Attorney."

The indictments against the other persons herein named are similar in form and substance to that just hereinbefore set forth.

The Respondent herein further prays the Board for leave to introduce in its behalf in this proceeding, evidence that the various plants of the respondent mentioned in the complaint herein and involved in the strike, had, on or before the 30th day of July, 1937, resumed normal operations and were employing a normal working force in the light of and measured by the business then on hand and production carried on at respondent's said plants and the business then on hand and production carried on generally at said time at other steel plants comparable to the respondent.

The Respondent further prays the Board, in the event it overrules this motion as to any or all of the items of evidence hereinbefore described and sought to be introduced, to grant leave to respondent to make and submit and have incorporated in the record in this proceeding as a part thereof, an offer or offers to prove with relation to the evidence so excluded in such form as shall protect and safeguard the rights of respondent in the premises.

The Respondent represents to the Board that this motion for leave to introduce, in its behalf, additional evidence is submitted in good faith, and, in the belief upon respondent's part, that such evidence is relevant and material to the issues herein presented, and is essential to the fair and proper presentation of respondent's defense to the charges made against it in the complaint herein. Respondent further represents to the Board that the granting of this motion for leave to introduce additional evidence or to submit and have incorporated in the record an offer or offers to prove relating to any evidence excluded, would be in the furtherance of justice in this proceeding.

(s) THOMAS F. PATTON,
(s) DAY, YOUNG, VEACH & LEFEVER,
Attorneys for Republic Steel Corporation, Respondent Herein.

VIII.

ORDER GRANTING IN PART AND DENYING IN PART MOTION BY REPUBLIC STEEL CORPORATION FOR LEAVE TO INTRODUCE ADDITIONAL EVIDENCE

(Docketed March 19, 1938)

At a regular meeting of the National Labor Relations Board, held at its office in the City of Washington, D. C., on the 19th day of March, 1938.

Present:

J. Warren Madden, Chairman
Donald Wakefield Smith

In the Matter of
Republic Steel Company
and
Steel Workers Organizing Committee

Case No. C-184

Whereas on January 21, 1938, after the conclusion of the hearings in the above entitled matter, Republic Steel Corporation, the respondent herein, filed a motion for leave to introduce in this proceeding certain evidence relating to transactions which occurred after the conclusion of the hearing before the Board and the Trial Examiner, and

Whereas the respondent further prayed the Board, in the event that it overruled said motion, to grant to the respondent leave to submit and have incorporated in the record in this proceeding as a part thereof an offer to prove with relation to the evidence so excluded, Now, therefore, the Board, being sufficiently advised in the premises and acting pursuant to Section 38 of National Labor Relations Board Rules and Regulations—Series 1, as amended, hereby orders

a) that the motion for leave to introduce additional evidence be, and it hereby is, denied,

b) that the motion for leave to submit and have incorporated in the record as a part thereof an officer to prove limited to the evidence described in the motion be, and it hereby is, granted.

Provided, however, that the respondent file its offer to prove within ten (10) days from the date of this order.

By direction of the Board:

Beatrice M. Stern,
Assistant Secretary.

IX.

RESPONDENT'S OFFER TO PROVE IN RE MOTION FOR LEAVE TO INTRODUCE ADDITIONAL EVIDENCE

(Docketed Mar. 28, 1938)

In accordance with the ruling of the National Labor Relations Board, heretofore entered on the 19th day of March, 1938, overruling respondent's motion for leave to introduce additional evidence, but granting respondent leave to submit and have incorporated in the record as a part thereof an offer to prove, limited to the evidence described in the motion, the respondent respectfully asks that an exception be noted to said ruling, and submits its offer to prove, as follows:

A.

That Valare Chismus, also known as Walter Chizmas, named in paragraph 20 of the complaint herein as having been improperly discharged and refused reinstatement at the respondent's Youngstown, Ohio plant, was, because of his unlawful acts and conduct in carrying on the strike against the respondent at said plant, indicted by the Grand Jury of Mahoning County, Ohio, as follows, to wit:

"Indictment for Rioting

(Misdemeanor)

The State of Ohio, Mahoning County, ss.

In the Court of Common Pleas, Mahoning County, Ohio, of the Term of May in the year of Our Lord, one thousand, nine hundred and thirty seven.

The Jurors of the Grand Jury of the County of Mahoning, and State of Ohio, then and there duly impaneled, sworn and charged to inquire of and present all offenses whatever committed within the limits of said County, on their said oaths, in the name and by the authority of the State of Ohio, do find and present:

That Walter Chizmas late of said County, on the 10th day of June in the year of Our Lord one thousand nine hundred and thirty seven, at the County of Mahoning aforesaid and three other persons, whose names are to the jurors aforesaid unknown, being then and there unlawfully assembled together, unlawfully, riotously and routously did agree with each other then and there to do an unlawful act with force and violence to wit: they did strike and beat duly authorized officers of the law and did attempt thereby to prevent officers from performing their duty and did then and there unlawfully and riotously make diverse movements and great preparation therefor; to wit: did then and there continue and by jeers and taunts and threats against the lives of said police officers did call upon other men then and there assembled to bank together and prevent officers of the law from maintaining peace and order, contrary to the statute in such cases made and provided and against the peace and dignity of the State of Ohio.

Wm. A. Ambrose,
Prosecuting Attorney."

and the said Walter Chizmas did, on or about October 20, 1937, enter a plea of guilty to the offense charged against him, as will more fully appear from the records of the Court of Common Pleas of Mahoning County, Ohio, in case No. 14665, entitled State of Ohio v. Walter Chizmas, and the respondent believes that the witness William F. Quinlan, the Clerk of said Court, if permitted, would so testify.

B.

That nine individuals, members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee, actively engaged and participating in the strike against the respondent at its Youngstown, Ohio plant, were, because of their unlawful acts and conduct in carrying on said strike, indicted by the Grand Jury of Mahoning County, Ohio for the offense of carrying concealed weapons, and entered pleas of guilty to the offenses charged against them, all as appears on the records of the Common Pleas Court of Mahoning County, Ohio, as follows:

Case No.	*Title.*
14770	State of Ohio v. John Bell
14910	State of Ohio v. Peter Crioni
14798	State of Ohio v. Gerald Fagan
14745	State of Ohio v. Armando Garcia
14793	State of Ohio v. Sam Parnelli
14786	State of Ohio v. Harold Rink
14740	State of Ohio v. Lee Troiani
14686	State of Ohio v. Paul Woodward
14743	State of Ohio v. Julian Yacibucci

Respondent believes that the witness William F. Quinlan, the Clerk of said Court, if permitted, would so testify.

That sixty-six individuals, members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee, actively engaged and participating in the strike against the respondent at its Youngstown, Ohio plant, were, because of their unlawful acts and conduct in carrying on said strike, indicted by the Grand Jury of Mahoning County, Ohio for the offense of rioting and unlawfully assembling, and entered pleas of guilty to the offenses charged against them, all as appears on the records of the Common Pleas Court of Mahoning County, Ohio, as follows:

Case No.	*Title*
14838	State of Ohio v. Duno Antonelli
14760	State of Ohio v. Second Babero
14778	State of Ohio v. Nick Bachanni
14767	State of Ohio v. Tony Bernardo
14848	State of Ohio v. John Blaine
14844	State of Ohio v. Joseph Bonk
14753	State of Ohio v. Walter Bugozzevicks
14750	State of Ohio v. Thomas Cambana
14759	State of Ohio v. Joe Cattecta
14752	State of Ohio v. Clodio Cernetti
14673	State of Ohio v. Ted Cichon
14762	State of Ohio v. Joe Covich
14764	State of Ohio v. Carmen De Marco
14781	State of Ohio v. Dominic DeWitt
14853	State of Ohio v. John Diller
14755	State of Ohio v. John Dizik
14792	State of Ohio v. Joseph Fagan
14670	State of Ohio v. John Pajack
14915	State of Ohio v. Mike Gregovich
14790	State of Ohio v. Ray Gossept
14780	State of Ohio v. Anthony Govert
14693	State of Ohio v. Woodrow Hoolmayer
14693	State of Ohio v. Walter Hoopingarner
14692	State of Ohio v. Charles Hoopingarner
14668	State of Ohio v. John Huzicka
14765	State of Ohio v. Charles Jasimiska
14664	State of Ohio v. John Fulian
14819	State of Ohio v. Patrick Julian
14675	State of Ohio v. John Kata
14807	State of Ohio v. James Kerr
14789	State of Ohio v. Steve Kenneth
14666	State of Ohio v. Frank Kornak

Case No.	*Title*
14692	State of Ohio v. Ernest Kuntz
14915	State of Ohio v. Joseph Malik
14763	State of Ohio v. Steve Markovitz
14667	State of Ohio v. Walter Melenik
14693	State of Ohio v. Frank Morton
14692	State of Ohio v. Joe Morton
14824	State of Ohio v. Nick Obra
14806	State of Ohio v. Charles Paliskis
14758	State of Ohio v. James Pallifrone
14779	State of Ohio v. George Paplko
14751	State of Ohio v. Carmen Pengello
14855	State of Ohio v. Angelo Petrillo
14748	State of Ohio v. S. Phatak
14674	State of Ohio v. Mike Preston
14845	State of Ohio v. Dominic Prologa
14915	State of Ohio v. Joseph Ramuno
14843	State of Ohio v. George Ratkovich
14747	State of Ohio v. Gay Respinto
14791	State of Ohio v. Harold Rink
14766	State of Ohio v. Vincenzo Romero
14672	State of Ohio v. Mike Sabo
14782	State of Ohio v. Mike Salapsky
14915	State of Ohio v. Joseph Shevitz
14692	State of Ohio v. John Shumar
14829	State of Ohio v. John Skira
14754	State of Ohio v. John Slilsz
14915	State of Ohio v. Joseph Stroney
14839	State of Ohio v. Raymond Vitullo
14671	State of Ohio v. John Vossevell
14796	State of Ohio v. Carlyl Walcott
14663	State of Ohio v. Alex Walsky
14828	State of Ohio v. Jack Warren
14757	State of Ohio v. Vincent Janucci
14821	State of Ohio v. Nick Simione

Respondent believes that the witness William F. Quinlan, the Clerk of said Court, if permitted, would so testify.

That seven individuals, members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee, actively engaged and participating in the strike against the respondent at its Youngstown, Ohio plant, were, because of their unlawful acts and conduct in carrying on said strike, indicted by the Grand Jury of Mahoning County, Ohio for the offense of kidnapping and forcibly detaining, and entered pleas of guilty to the offenses charged against them, all as appears on the records of the Common Pleas Court of Mahoning County, Ohio, as follows:

Case No.	*Title*
14906	State of Ohio v. Pete Fagan
14906	State of Ohio v. Frank Gregg
14908	State of Ohio v. Trefentalis Leontalis
14906	State of Ohio v. William McBride
14909	State of Ohio v. George Nickola
14906	State of Ohio v. William Steele
14907	State of Ohio v. Frank Yurachich

Respondent believes that the witness William F. Quinlan, the Clerk of said Court, if permitted, would so testify.

That eleven individuals, members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee, actively engaged and participating in the strike against the respondent at its Youngstown, Ohio plant, were, because of their unlawful acts and conduct in carrying on said strike, indicted by the Grand Jury of Mahoning County, Ohio for the offense of interfering with and obstructing a railroad, and entered pleas of guilty to the offenses charged against them, all as appears on the records of the Common Pleas Court of Mahoning County, Ohio, as follows:

Case No.	*Title*
14699	State of Ohio v. John Bakalar
14699	State of Ohio v. James Carluccio
14804	State of Ohio v. Guissepi Cortez
14810	State of Ohio v. Tony Crish
14809	State of Ohio v. Pat Mele
14808	State of Ohio v. Joe Naples
14823	State of Ohio v. Frank Ranumm
14805	State of Ohio v. Sam Restucci
14811	State of Ohio v. Mike Spanos
14684	State of Ohio v. John Steuben
14803	State of Ohio v. Jesse Young

Respondent believes that the witness William F. Quinlan, the Clerk of said Court, if permitted, would so testify.

That one individual, a member of a lodge or union affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee, actively engaged and participating in the strike against the respondent at its Youngstown, Ohio plant, was, because of his unlawful acts and conduct in carrying on said strike, indicted by the Grand Jury of Mahoning County, Ohio for the offense of shooting with intent to wound, and entered a plea of guilty to the offense charged against him, all as appears on the records of the Common Pleas Court of Mahoning County, Ohio, as follows:

Case No.	*Title*
14702	State of Ohio v. Chester DeWitt

Respondent believes that the witness William F. Quinlan, the Clerk of said Court, if so permitted, would so testify.

That two individuals, members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee, actively engaged and participating in the strike against the respondent at its Youngstown, Ohio plant, were, because of their unlawful acts and conduct in carrying on said strike, indicted by the Grand Jury of Mahoning County, Ohio for the offense of assault and battery, and entered pleas of guilty to the offenses charged against them, all as appears on the records of the Common Pleas Court of Mahoning County, Ohio, as follows:

Case No.	*Title*
14677	State of Ohio v. Fred Fortunato
14676	State of Ohio v. Frank Janik

Respondent believes that the witness William F. Quinlan, the Clerk of said Court, if permitted, would so testify.

C.

That Robert Burke, an organizer and leader affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee, and actively engaged and participating in the strike against the respondent at its Youngstown, Ohio plant was, because of his unlawful acts and conduct in carrying on said strike, indicted by the Grand Jury of Mahoning County, Ohio, for the offense of rioting—unlawfully assembling, and on being tried therefor, was found guilty by the jury on September 29, 1937, as will more fully appear from the records of the Court of Common Pleas of Mahoning County, Ohio, as follows: Case No. 14688, entitled State of Ohio v. Robert Burke, and the respondent believes that the witness William F. Quinlan, the Clerk of said Court, if permitted, would so testify.

D.

That the Steel Workers Organizing Committee of the Committee for Industrial Organization, on or about October 22, 1937, by means of a check made payable to William F. Quinlan, Clerk of Courts of the Common Pleas Court of Mahoning County, Ohio, paid the sum of Four

Thousand Seven Hundred Eleven and 32/100 Dollars ($4,711.32) by way of fines and legal costs in connection with the cases and indictments to which reference is hereinbefore made involving members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee, who actively engaged and participated in the strike against the Youngstown, Ohio plant of respondent, Respondent believes that the witness William F. Quinlan, the Clerk of said Court, if permitted, would so testify.

E.

That certain members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee who actively engaged in and participated in the strike against the respondent's plants at Youngstown, Mahoning County, Ohio, Warren, Trumbull County, Ohio, and Massillon, Stark County, Ohio, respectively, were, because of their unlawful acts and conduct in carrying on said strike, indicted by a Grand Jury in the United States District Court for the Northern District of Ohio, Eastern Division, for the offense of obstructing and retarding the passage of the United States mail, and on or about December 20, 1937, pleaded guilty to the charges made against them, all as appears on the records of said United States District Court, as follows:

Case No.	*Title*
15957	United States of America vs. Mike Walker
15958	United States of America vs. Tony Crisch
15958	United States of America vs. Sam Caputo
15960	United States of America vs. Will Williams
15961	United States of America vs. Dominic Scarpine
15962	United States of America vs. Theodore Pietowski alias Tub, alias Friday

Case No.	*Title*
15963	United States of America vs. Joe M. Morton (testified as a witness for the Board, rec. p. 1084-1117)
15964	United States of America vs. Lee Cox (testified as a witness for the Board, rec. p. 1014-1052) and Joe M. Morton
15965	United States of America vs. Kenneth H. Steed, alias Harry K. Steed and Joe M. Morton

A copy of the indictment against the said Mike Walker in case No. 15957 is as follows, to wit:

"THE UNITED STATES OF AMERICA

Filed July 14 1937
C. B. Watkins, Clerk
U. S. District Court, N. D. O.

Northern District of Ohio,
Eastern Division. ss. 15957

In the District Court of the United States, within and for the Division and District aforesaid.

At the April Term of said Court, in the year of our Lord, One Thousand, Nine Hundred and Thirty Seven.

The Grand Jurors of the United States of America, duly impanelled, sworn and charged to inquire of crimes and offenses within and for the body of the Eastern Division of the Northern District of Ohio, upon their oath present and find that

Mike Walker

hereinafter known and referred to as the defendant, late of the Division and District aforesaid, heretofore, to wit, on or about the 12th day of June, 1937, at

Youngstown, in the County of Mahoning, State of Ohio, in the Eastern Division of the Northern District of Ohio and within the jurisdiction of this Court, did knowingly, unlawfully and wilfully obstruct or retard the passage of mail and a driver or carrier and a conveyance carrying the same, that is to say, that he, the said defendant, in the vicinity of the plant of the Republic Steel Corporation at Stop 5, Poland Avenue, did interfere with, stop and prevent one, Paul A. Ricker, a special delivery messenger and a substitute mail carrier of the Post Office Department of Youngstown, Ohio, who was then and there in the performance of his duties as such special delivery messenger and substitute mail carrier in the postal service of the United States, from delivering certain mail matter, to wit, three parcels, which the said Paul A. Ricker then and there had in his possession in an automobile for delivery at said place, the said defendant then and there well knowing that the said Paul A. Ricker was an employee in the postal service of the United States, having in his possession at the time, mail matter, and being engaged at the time in the performance of his duties in the delivery of said mail matter, in violation of Section 324, Title 18, United States Code Annotated, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

E. B. Freed,
United States Attorney."

The indictments against the other persons herein named are similar in form and substance to that just hereinbefore set forth, and the respondent believes that the witness C. B. Watkins, the Clerk of said Court, if permitted, would so testify.

F.

That the various plants of the respondent mentioned in the complaint herein and involved in the strike, had, on or before the 30th day of July, 1937, resumed normal operations and were employing a normal working force in the light of and measured by the business then on hand and production carried on at respondent's said plants and the business then on hand and production carried on generally at said time at other steel plants comparable to the respondent. The respondent believes that officers, agents and employees of the respondent company having knowledge in the premises, if permitted, would so testify.

Respectfully submitted,

THOMAS F. PATTON,
HARRINGTON, HUXLEY & SMITH,
DAY, YOUNG, VEACH & LEFEVER,
Attorneys for Respondent,
Republic Steel Corporation.

X.

DECISION, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF THE NATIONAL LABOR RELATIONS BOARD

(Issued April 8, 1938)

Case No. C-184

Mr. Mark Lauter, Mr. Lawrence Hunt, Mr. Oscar Grossman, Mr. Joseph M. Hoskins, for the Board.

Mr. Luther Day, Mr. Thomas F. Veach, Mr. Arno Erdrich of Day, Young, and Veach, Cleveland, O.; Mr. J. G. Ketterer, Canton, O.; Mr. H. C. Pontius, of Lynch, Day, Pontius and Lynch, Canton O.; Judge Charles F. Smith, Mr. David E. Jones, Mr. Harry S. Manchester, Mr. R. D. Huxley, and Mr. George Renner, of Harrington, Huxley, and Smith, Youngstown, O.; and Mr. Thomas Patton, Cleveland, O., for the Company.

Mr. Lee Pressman, for the S. W. O. C.

Mr. Allan R. Rosenberg and Mr. Robert Burstein, of counsel to the Board.

DECISION AND ORDER

Statement of the Case

Upon charges and supplementary charges duly filed by Steel Workers Organizing Committee, herein called the S. W. O. C., the National Labor Relations Board, herein called the Board, issued its complaint, dated July 15, 1937, against Republic Steel Corporation, Cleveland, Ohio, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

In respect to unfair labor practices the complaint in substance alleged (1) that during August 1936 and the period from February to May 1937 the respondent discharged and refused to reinstate certain named individuals employed at its plants at Youngstown, Canton, Massillon, Warren, and Cleveland, Ohio, for the reason that they joined and assisted the S. W. O. C. and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection; (2) that on or about May 5, 1937, the respondent locked out and refused to reinstate almost all of its employees at its tin plate mill in the Canton plant, and that on or about May 12, the respondent locked out and failed to reinstate a considerable number of its employees at its Massillon plant, for the reason that they joined and assisted the S. W. O. C. and engaged in other concerted activities for the purpose of collective bargaining and other mutual aid and protection; (3) that on or about May 26, 1937, by reason of the aforesaid acts of the respondent and its refusal to enter into a written agreement with the S. W. O. C. the employees of the respondent at its various plants went out on strike, which strike continued to the date of the issuance of the complaint; (4) that the respondent compelled a considerable number of employees at its Warren plant to remain at their jobs within the plant, and threatened to discharge such employees if they left the plant and joined the employees on strike, and further refused to reinstate certain named employees at its Warren plant, and sought to compel others to return as new employees with the loss of former positions and seniority rights, for the reason that they left the plant during the progress of the strike and joined and assisted the S. W. O. C.; (5) that between June 23 and July 2, 1937, the respondent discharged and refused to reinstate to their former positions certain named individuals employed at its Youngstown plant for the reason that they joined and assisted the S. W. O. C. and engaged in concerted activities for the purposes of collective bargaining and other mutual aid and protection; (6) that the respondent dominated and interfered with the formation and administration of certain named labor organizations at its Youngstown, Warren, Canton, Massillon and Cleveland plants; (7) that the respondent threatened its employees at its Youngstown, Warren, Niles, Canton, Massillon and Cleveland plants with discharge if they joined or assisted the S. W. O. C., and by its officers and agents followed and brutally attacked organizers of the S. W. O. C. at its plants in Cleveland, Youngstown and Warren; (8) that the respondent immediately prior to and after the commencement of the strike increased the number of its police force in its various plants and used such police for the purpose of interfering with the right of its employees peacefully to picket the plants and for the purpose of intimidating its striking employees; (9) that the respondent, in collusion with the aforesaid labor organizations dominated and controlled by the respondent, before and after the commencement of the strike called upon its employees at their homes and elsewhere in Youngstown, Warren, Canton, Massillon, and Cleveland, and intimidated and coerced them into signing so-called back-to-work petitions and other petitions, upon threat of the loss of their jobs; (10) that the respondent maintained extensive arsenals at its plants in Youngstown, Warren, Niles, Canton, and Cleveland for the purpose of interfering with, restraining and coercing its employees in the exercise of their rights to self-organization, and interfered with the right of its employees peacefully to picket its plants by shooting at them and throwing bolts and other dangerous missiles at them; and (11) that by these and other acts the respondent interfered with, restrained and coerced, and is interfering with, restraining and coercing, its employees in the exercise of the rights guaranteed in Section 7 of the Act.

Copies of the complaint and notice of hearing to be held on July 21, 1937, at Washington, D. C., were duly served upon the respondent and the S. W. O. C. Pursuant to this notice, on July 21, 22, 23, and 24, 1937, a hearing was held in Washington, D. C., before the Board. At the outset of the hearing, the respondent moved to adjourn and transfer the hearing to Cleveland, Ohio. The Board denied this motion, but granted the respondent until August 4, 1937, to file its answer to the complaint. Thereafter, without waiving any of its objections to jurisdiction, the respondent participated in the hearing.

In its answer, dated August 2, 1937, the respondent denied the allegations of unfair labor practices alleged in the complaint, denied that the employees named in the complaint were engaged in interstate commerce, admitted that its employees went out on strike, but denied that they went out on strike for the reasons alleged in the complaint, and alleged that the strike was called by the S. W. O. C., acting pursuant to the direction of Committee for Industrial Organization, without any cause or justification and solely for the selfish advantage of those committees in an attempt to gain control of the employees of the respondent and generally of all steel company employees. The answer further alleged, inter alia, that at the time the strike was called there was no labor dispute between the respondent and its employees, and no difference as to wages, hours, and working conditions; that a large percentage of the respondent's employees did not go on strike but remained at work and that others returned to work promptly after the Ohio National Guard had been called out to protect them while going to and from the respondent's plants, against assaults, violence, coercion and intimidation on the part of the strikers and of the S. W. O. C. and its agents and representatives; that none of the alleged unfair labor practices complained of interfered with the respondent's operations, caused a labor dispute or affected or tended to affect commerce; that the Board has no jurisdiction to hear and determine assault and battery and felonious assault cases; and that the complaint was so indefinite as not to inform the respondent of the issues to be met, and therefore further proceeding thereunder was a denial to the respondent of due process of law.

Thereafter, pursuant to notice, the hearing was continued before John T. Lindsay, the Trial Examiner duly designated by the Board. Hearings were held from August 9 to August 12 in Canton, Ohio, from August 21 to August 24 in Youngstown, Ohio, on August 27 and August 28 in Cleveland, Ohio, from September 1 to September 16 in Canton, Ohio, from September 17 to September 21, in Youngstown, Ohio, and from September 23 to September 27, in Cleveland, Ohio. The Board, the respondent, and the S. W. O. C. were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing upon the issues was afforded to all parties.

During the hearing, the Trial Examiner granted a motion by counsel for the Board to amend the complaint by striking therefrom the names of certain employees alleged to have been discriminatorily discharged or refused reinstatement. At the close of the Board's case, the respondent moved to dismiss the complaint on the grounds that the alleged unfair labor practices did not affect interstate commerce and were not established by the evidence. The Trial Examiner denied the motion. At the close of the respondent's case, the Trial Examiner granted a motion by the attorney for the Board that the complaint be conformed to the proof adduced during the hearing.

During the course of the hearing, the Trial Examiner made numerous rulings on motions and objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On January 21, 1938, the respondent filed a motion with the Board for leave to introduce additional evidence, or in the alternative, to submit and have incorporated in the record as a part thereof, an offer to prove with relation to the evidence so excluded. On March 28, 1938, pursuant to an appropriate order of the Board, the respondent submitted its offer to prove.[1]

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. The Business of the Respondent

The respondent, Republic Steel Corporation, is a New Jersey corporation with its principal executive offices in

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[1] The Trial Examiner took under advisement, without ruling on their admissibility in evidence, Respondent's Exhibits Nos. 16, 17, 18 (sample ballot; certification of the result of a poll conducted by the Canton Chamber of Commerce among the respondent's employees in Canton to determine whether they wished to go back to work or stay out on strike; and a printed handbill, allegedly distributed by the Union, urging non-strikers to join the strike within the next 12 hours "after that your safety will be your own responsibility.") These exhibits will be admitted.

Cleveland, Ohio. Its total assets as of 1936 were valued at \$343,950,000. On May 1, 1937, the respondent and its subsidiaries employed 59,282 persons, 40,172 of them in the Ohio plants.

The respondent has developed an organization which is highly integrated from the mining of ore and other raw materials to the manufacture and distribution of a widely diversified line of finished products. In a registration statement filed with the Securities and Exchange Commission on October 21, 1936, the respondent described its business as follows:

> "The registrant (Republic Steel Corporation) is primarily an operating company, but certain divisions of its business are conducted through subsidiaries. It is engaged in the manufacture and sale of a diversified line of iron and steel products and ranks as the third largest steel company in the United States, having an annual ingot capacity of approximately 6,053,000 tons. The products of the registrant include pig iron, semi-finished steel, alloy steels, special steels, billets, bars, pipe, hot and cold rolled sheets, and strip, tin and terne plate, bolts and nuts, fabricated material and other products. It is a leading manufacturer of alloy steels, including stainless steel and high tensile steels, and is an important producer of steel for the automobile industry and of electrically welded pipe."[2]

The respondent and its subsidiaries—36 in number—operate numerous manufacturing plants. The principal iron and steel producing, manufacturing, and finishing plants which are in operation or have been operated within a recent period are located at Youngstown, Warren, Cleveland, Canton, Massillon, Niles, Campbell, and Elyria, Ohio; Brooklyn and Buffalo, New York; Chicago and Moline, Illinois; Hartford and Unionville, Connecticut; Pittsburgh and Beaver Falls, Pennsylvania; Gary and Muncie, Indiana; Monroe, Michigan; Cumberland, Maryland; Minneapolis, Minnesota; Birmingham and Gadsden, Alabama; Los Angeles, California; and Hamilton, Ontario, Canada. The respondent obtains more than half of its requirements of iron ore and coal from its own mines and the balance from the mines of companies in which it has an interest and by purchase from others. The respondent and its subsidiaries own or hold under lease extensive iron ore properties in Michigan, Minnesota, and Alabama; and coal properties in Pennsylvania, Kentucky, and West Virginia.

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[2] Board's Exhibit No. 108. The acquisition of Gulf States Steel Co. in April 1937 further strengthened the respondent's position as the third largest producer of steel in the United States. It provided the respondent with a well-integrated unit located at Gadsden, Alabama, having annual production facilities for about 400,500 tons of ingots, 297,600 tons of finished hot roll steel products, and finishing facilities for turning out large amounts of wire and wire products, nails and staples, sheets, and miscellaneous products used chiefly in the southern market.

We are concerned in this case particularly with the Ohio plants of the respondent located at Massillon, Canton, Youngstown, Warren, Niles, and Cleveland. With respect to these plants, both the outgoing shipments of iron and steel products and the incoming shipments of raw materials are preponderantly interstate in character. Thus, at the Canton works, shipments of products to points outside of Ohio for the year 1936 aggregated in value $19,717,266.36, whereas the shipments to points within Ohio aggregated $6,704,783.29; at the Massillon works, the respective aggregates were $17,533,026.74 and $4,823,432.13; at the Youngstown works, $25,321,814.36 and $5,176,815.58; at the Warren works, $24,014,830.69 and $11,891,949.34; at the Niles works, $754,829.05 and $2,932,243.42; and at the Cleveland works, $14,523,006.98 and $7,485,938.65.[3]

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[3] These products include semi-finished carbon, carbon bars and bar products, stainless sheet and strip and miscellaneous alloy, alloy bars, electric

The respective aggregates in value of the principal raw materials which originate outside of Ohio and those which originate within Ohio are approximately as follows: Canton—$7,681,335 and $3,907,721; Massillon—$5,312,093 and $1,567,287; Youngstown—$15,395,589 and $1,762,342; Warren—$5,961,680 and $1,397,822; Niles—$122,542 and $71,276; Cleveland—$13,685,764 and $3,706,148.[4]

II. THE UNION

While the record contains no detailed evidence relating to the structure and function of the Steel Workers Organizing Committee and the Amalgamated Association of Iorn, Steel and Tin Workers of North America, we have found upon numerous occasions in other cases, and the record as a whole in this case makes clear, that these organizations are labor organizations affiliated with the Committee for Industrial Organization.[5]

III. THE UNFAIR LABOR PRACTICES

All the plants of the respondent are operated as part of a single, integrated business, and its labor policy in each plant is directed from a single source. The unfair labor practices alleged in the complaint relate to the respondent's plants in the Massillon, Canton, Youngstown, Warren and

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weld pipe, butt weld pipe, lap weld pipe, semi-finished alloy, sheets, hot rolled strip, hot rolled strip sheets, cold rolled strip, cold rolled strip sheets, miscellaneous scrap, and northern pig iron.

[4] These raw materials include coal, iron, ore, limestone, sinter, scrap, ferro manganese, ferro silicon, nickel, vanadium, molybdenum, chrome ore, tin, spelter, dolomite, fluor spar, brick, acid, clay, lime, fuel oil, moulds and tools, pyrites, magnesite, sand, soda ash, crushed silica rock, ganister and flue dust.

[5] Matter of *Jones and Laughlin Steel Corporation,* Case No. C-57, I N. L. R. B. 503; Matter of *Wheeling Steel Corporation,* Case No. C-3, I N. L. R. B. 699; Matter of *Fansteel Metallurgical Corporation,* Case No. C-235, 5 N. L. R. B. No. 124, Matter of *Petroleum Iron Works Company,* Case No. R-255, 3 N. L. R. B. No. 77; Matter of *Lunkenheimer Company,* 4 N. L. R. B. No. 131; Matter of *Combustion Engineering Company, Inc.,* R-242, 5 N. L. R. B. No. 61.

Cleveland districts. We take up in order the events occurring in each of these cities.

A. Massillon

The respondent and its wholly owned subsidiary, Union Drawn Steel Company, operate two plants in or near Massillon: the Massillon Works (Central Alloy District) located in Stark County, just outside the city limits, employing approximately 3200 employees; and the Union Drawn Steel Company plant located in the City of Massillon, at some distance from the Massillon Works, and employing approximately 450 employees.

We turn first to the Plan of Employee Representation and its successors at the Massillon Works—the Employees' Representative Association and the Independent Association of Republic Employees. Against this background we consider the organizing campaign of the S. W. O. C., the strike which began on May 25, 1937, the Back-to-Work movement, the activities of the Law and Order League of Massillon, and the tragic history of the July days of the strike.

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1. *The Plan of Employee Representation and its successors,—the Employees' Representative Association and the Independent Association of Republic Employees*

In June 1933, the respondent prepared and introduced in its Massillon Works "A Plan of Employee Representation." Similar plans were introduced at the same time in its other plants and in the steel industry at large. The formal outlines of the Plan were contained in the Articles, drawn up by the respondent and distributed to the employees at the time of its inauguration. As expressed in the Plan, its purpose was to provide "an orderly and expeditious procedure for the prevention and adjustment of any future differences, to insure justice, maintain tranquillity and promote the common welfare."

The Plan functioned through Joint Committees, composed of representatives of the employees and Company representatives named by the management. The Employee Representatives were elected annually on the basis of one representative for every 200 employees in each department.[6] All the Employee Representatives elected throughout the Massillon Works constituted the General Body of Employee Representatives. After each annual election the General Body chose members for four standing committees. These committees, with the addition of Company Representatives who might equal but could not exceed in number the Employee Representatives, constituted the Joint Committees.

If an employee was unable to adjust a grievance with the foreman of the work on which he was engaged, he might take the matter up either in person or in writing through his Employee Representative, first with the superintendent concerned, second with the Management Representative,[7] third with the management, which either tried to effect a settlement or, with the approval of all the parties, referred the matter to the proper Joint Committee. If, thereafter, the dispute had not been satisfactorily settled within a reasonable time the employee through his Representative or the management through the Management Representative might require the matter to be referred to the Joint Appeals Committee, which, in its turn, attempted to effect a settlement. If this failed, the Plan provided that the President of the Company should be notified and the matter referred to arbitration, "if the President and a majority of the Employee Representatives on the Joint Appeals Committee agree to such reference."

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[6] Only employees who were 21 years of age or over and who were American citizens, were eligible to be Employee Representatives.

[7] The Management Representative was appointed by the management to facilitate close relationships between the management and the Employee Representatives. He was to respond to requests from Employee Representatives; to attend, but not vote at meetings of the Joint Committees; to refer for the management any matter to any committee of Employee Representatives, and refer to the Management any matter presented by a committee of Employee Representatives. Upon the joint approval of the Chairman of the General Body of Employee Representatives and the Management Representative depended the right of all committees and of the General Body of Employee Representatives to hold special meetings or regular meetings at any other time than that provided for in the Plan.

The Plan also provided that the Company should defray all the expenses of the operation of the plan, including the pay of Employee Representatives. No provision, therefore, was made for dues or for the office of treasurer. Likewise there was no provision for membership in the Plan, all employees having the right to vote for Employee Representatives, and no provision for general meetings of employees. Finally, the Plan could be amended only by two-thirds vote of the entire membership of the Joint Committee on Rules, Ways, and Means, or by concurrent majority vote of both the General Body of Employee Representatives and the Representatives of the Management at an annual conference.[8]

Under these provisions of the Articles the respondent retained full control over the operations of the Plan. No amendment was possible without the respondent's approval. No matter could be referred to arbitration unless the respondent agreed. Not only was there no provision for meetings of employees as a body, but in fact the employees were precluded from any direct concern with the functioning of the Plan. All the expenses, including the time spent by Employee Representatives at meetings or adjusting grievances, were met by the respondent. Even the right of the General Body and all committees of Employee Representatives to hold special meetings or regular meetings at any other time than that provided in the Plan, depended on the approval of the respondent. Thus behind its outward semblance of democratic procedure and its announced purposes of insuring justice and promoting the common welfare, the Plan was shrewdly designed to foreclose genuine collective bargaining and to fix firmly in the hands of the respondent an indisputable control over its employees.

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[8] During the fall of 1936, a Central Council, composed of Employee Representatives selected by the General Body of each of the respondent's plants, was informally instituted. All of its expenses were borne by the respondent. In March 1937, at meetings of the Central Council in the respondent's offices in Cleveland, a revision was proposed and amendments adopted, formally incorporating the Central Council in the Articles of the Plan.

From start to finish, the Plan was the respondent's own. The respondent prepared it, inaugurated it, and continued it in effect for almost four years, without ever submitting it, for acceptance, alteration or rejection, to a vote of its employees. Further, the respondent lost no opportunity, through statements of its officials and otherwise, to impress upon its employees the virtues of the Plan and to exhibit its opposition to "outside unions."[9] Thus the respondent dictated the type of representation and "collective bargaining" it was willing to allow its employees to have.

The following incident illustrates the manner in which the Plan operated:

At the regular monthly meeting of the General Body of Employee Representatives, held in the respondent's Industrial Relations Building on September 22, 1936, a request was made to the Management Representative for a general wage increase of the employees of the Massillon District. "Mr. Portz (then District Manager for the Central Alloy District, Canton and Massillon Works) discussed this item in detail and stated it was impossible for Management to grant this request. He also stated that when all conditions warrant this item will be given consideration."

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[9] Further evidences of the respondent's domination over the Plan are discussed *infra*.

On November 6 the Massillon newspapers carried an announcement of a general wage increase for the Massillon District. On the following day, Portz called a special meeting of the General Body of Employee Representatives and announced that effective November 16, 1936, wage rates would be increased 5½ cents per hour in the lower wage brackets. Despite the fact that "there was some kick . . . because they hollered about the newspapers having it before the representatives had it," the General Body went through the solemn procedure of voting on a motion that the wage increase be granted. The motion was carried. Such was collective bargaining under the Plan.[10]

On April 13, 1937, the day after the Supreme Court upheld the constitutionality of the Act, Carl Myers, Acting District Manager of the Canton and Massillon Works, summoned the General Body of Employee Representatives to a meeting in the Industrial Relations Building of the Massillon Works and announced that the respondent would withdraw financial support from the Plan. After Myers left the room, the Employee Representatives immediately formed "The Employees Representative Association." Nick Linckenhely and Nathan Brown, chairman and secretary of the General Body of Employee Representatives under the Plan, were chosen by the Representatives as president and secretary of the Association. Paul Hoffman, a Representative under the Plan, was chosen treasurer. For their attendance at this meeting, the Employee Representatives were paid by the respondent.

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[10] A similar incident occurred in March 1937.

The same committees which had existed under the Plan continued as committees of the Association. Linckenhely testified that the committees "kept on functioning the same as before, that is, committees seeing the foremen about grievances and superintendents"; that the committees continued to be paid by the respondent for handling grievances, "the same as before"; that the committees circulated application cards for membership in the Association throughout the plant and elsewhere on company property, during working hours, on company time; and that the Employee Representatives adopted and used as the constitution of the Association the Plan as amended on April 22, 1937.[11]

The history and nature of these amendments reveal the extent to which the Plan and the Association were subject to the domination of the respondent. At a conference of the Central Council of Employee Representatives in the respondent's offices at Cleveland on March 8, 1937, the question of amending the Plan was discussed but deferred for later consideration. Shortly afterwards E. L. O'Connell, temporary secretary of the Central Council, submitted a proposed revision of the Plan to the Employee Representatives from the various plants and to the respondent's vice president in charge of operations and its Director of Industrial Relations at Cleveland. This revision contained minor changes, of a kind calculated to diminish, but in no way to remove, the respondent's control.

Soon after the submission of the proposed revision to the respondent, the decisions of the United States Supreme Court upholding the constitutionality of the Act were handed down. The proposed revision was then further altered. In its final form the amended Plan, while omitting certain of the most obvious practices forbidden by the Act, retained the same general structure. Articles dealing with the pay of Employee Representatives and the holding of Central Council meetings in the respondent's general offices were eliminated. The Joint Committees were abolished, though the four committees of Employee Representatives remained. Any matter might be referred by a committee of Employee Representatives to the management through the Management Representative; and the management through the Management Representative might require a grievance which had not been satisfactorily adjusted to be referred to the proper committee of Employee Representatives. Requests for changes in rates of pay were to be considered closed upon a decision of the proper committee of Employee Representatives and the management, unless an appeal was filed in writing by an employee or his Representative with the Management Representative within a period of 3 days after the decision was rendered.

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[11] The Plan apparently continued in existence under its original name, at least at other plants, after the formation of the Association at Massillon.

Although the General Body of Employee Representatives were to elect a treasurer, no provision was made for initiation fees, dues, or funds for the payment of any expenses which might be incurred.[12] Employee Representatives continued to be elected on a basis of one for every 200 employees in each department, and meetings of the General Body of Employee Representatives and of the committees were to be held monthly thereafter. No provision was made for meetings of the membership at any time and membership continued to be automatic.[13]

The record does not disclose the circumstances under which the final draft of the proposed revision was prepared or approved. It does appear, however, that mimeograph copies of the Plan as amended, identical for the Massillon and Canton plants, were circulated shortly after April 22, 1937. It was stated in the preamble of the amended Plan that the amendments had been "adopted." Since under the Plan the adoption of amendments required the approval of the respondent, it is a fair inference that the amended Plan—accepted as the constitution of the Association—was, at the very least, approved by the respondent before becoming effective.

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[12] There is some evidence that dues of two dollars a year were to be fixed at some future date, but the record contains no evidence that dues were collected by the Employee Representatives or contributed by the employees.

[13] As stated above, it appears from the testimony of Linckenhely that, despite the absence of any provision for membership, the committees of the Association did attempt to obtain signatures to membership application cards.

As under the Plan, no meetings of the membership of the Association were ever held and the members never participated in or had a voice in its affairs. Pressure by the respondent in favor of the Association and against the outside Union continued as it had under the Plan. Thus Peter Mouyios, as we find below, was laid off on May 3 because of his refusal to join the Association. Again Russell Eckroad, a head rougher in the hot mill, testified that near the end of April at a meeting in the mill of 28 head roughers, Superintendent Alvin Smith, after mentioning a decrease in orders, and the high cost of production at the Massillon Works, said "that he thought everybody was satisfied with the company representation plan . . . if the C. I. O. organization would come in here, that there was still a good chance of not working . . . that possibly it would shut down the plant. If it did not, we would work only one or two days a week after that." Andrew Evans, sheet mill superintendent, announced that he agreed with Smith; and then foreman David Lewis spoke: " 'Boys,' he says, 'we all been working good. We have all been drawing nice pay. . . . If this thing happens, if C. I. O. comes in here, and there is a strike in this plant, and this plant shuts down, a lot of you boys are going to lose your homes, your automobiles and you won't know where your next bite is coming from.' "

The respondent did not call Smith, Evans, or Lewis as witnesses and made no showing as to their unavailability. It did seek to rebut Eckroad's testimony through Arthur Kemp, another employee present at this meeting. Nevertheless, in the light of Smith's speeches on another occasion, referred to hereafter we are inclined to credit Eckroad's version. Even on Kemp's version, however, it is clear that the respondent's supervisory officials were attempting to coerce the employees into joining the Association and not joining the S. W. O. C.

Despite the respondent's efforts to use the Plan and the Association to thwart self-organization among its employees, the S. W. O. C. continued to gain ground in the Massillon plant. On May 25, 1937, the employees at Massillon went out on strike. Throughout the strike the chief figures in the Plan and the Association played leading roles in the Back-to-Work movement. These matters are discussed at length hereafter and we pass now to the formation of the Independent Association of Republic Employees upon the reopening of the plant in July.

On July 6, the day on which he returned to work, Nick Linckenhely, Chairman of the General Body of Employee Representatives under the Plan, President of the Association, and the leading spirit in the Back-to-Work movement, called a noon hour meeting of 16 employees, in the pipe shop of the Massillon Works, to form a successor organization to the Association. Linckenhely testified that he sent for the 16 employees before and during working hours. Four Employee Representatives, in addition to Linckenhely, attended. Because of the odium attached to the use of the word "Representative" in the title of the Association, the committee of 16 decided to name the new organization the Independent Association of Republic Employees, pursuant to a suggestion made at one of the Cleveland meetings of the Central Council of Employee Representatives held under the Plan. The committee of 16 also elected as temporary officers the same Employee Representatives who had been officers under the Plan and the Association. With the formation of the Independent, the Association disappeared from the scene.

Later a new set of permanent officers was elected, none of whom, except Linckenhely, the vice chairman, appear to have been officers or Representatives in the predecessor organizations. Twenty-seven Employee Representatives, called the committee of 27, were also elected, on the basis of one for every 200 employees, "to have a way of dealing with the Company, representing the men." Many, if not all, of those elected had been Employee Representatives in the predecessor organizations and active in the Back-to-Work movement. On August 2 and 3, at the call of the chairman of the Central Council of Employee Representatives, the officers of the Independent met in Cleveland to discuss the adoption of a constitution and bylaws. As of September 13, the constitution and bylaws had not been adopted. At the time of the hearing, the Independent claimed to have a membership of approximately 2400, of whom approximately 1900 had paid their initiation fees and dues.

Like its predecessors the Independent was merely the creature of the respondent. The committee of 27 was allowed to obtain dues, initiation fees, and signatures to membership cards in the plant during working hours. Notices of further meetings of the Independent were posted in the plant. In addition, the respondent's officials took an active part in coercing employees to become members of the Independent.

Sherman Ebbert, a member of the Union who returned to work on July 12, testified that on that day, Ralph Eberly, a head loader, approached him during working hours and asked him to sign a membership card in the Independent. He said "it was all right, because it was a union amongst the employees, only it was to keep out any other outside union, and I asked him if it was compulsory and he said yes it is." He said "If you do not join it, we will throw you over the fence." Ebbert promised to give Ebberly an answer later. On the next day, during working hours, Ebberly again asked Ebbert to join the Independent. When Ebbert refused, Ebberly summoned a crowd of 15 or 20 men, including Paul Hoffman, one of the committee of 27, who told Ebbert that unless he joined the Independent, they would refuse to work with him. Ebbert then went to see Peppard, general superintendent of the billet department. "He (Peppard) said 'I understand you are having some trouble with the boys.' And I said 'They claim they will not work with me unless I join their union.' And he asked me why I did not want to join. . . . 'Well,' he said, 'the boys said they won't work with you unless you sign the union card. . . . By God, we are going to work around here and I ain't going to let no one man hold up the work. . . . Now you can go home and think it over. When you decide to do what the boys want you to do, you can come back and go to work.' " As Ebbert was leaving the plant Peppard sent for him, told him that he had straightened the matter out for the time being, and said that he might return to work. Later in the evening, Ebberly called Ebbert away from his work and announced that "the boys have decided they don't want you to come out to work tomorrow." When Ebbert replied that he had been told by Peppard to return to work, Ebberly said "You will have to fight it out with the boys then." As a result, Ebbert signed a membership card in the Independent. On August 6, however, he voluntarily left the plant because he "didn't like the way they was pushing things around there."

George Allen, a crane man employed by the respondent for 12 years and a member of the Union, who returned to work on July 8, testified that one afternoon during the second week of his return, Thomas Burkhart, treasurer of the Independent, asked him to sign a membership card in the Independent. On the next afternoon, when Allen stated that he had not yet made up his mind, Burkhart said, "If you do not sign this card, the men are going to refuse to work with you and the foreman is not going to do anything about it." Later, Don Lyman, a motor inspector, from whom Allen took orders, advised Allen to sign the membership card in the Independent within the next 2 or 3 days if he wanted to keep his job. On July 27 a committee, consisting of two motor inspectors and 11 or 12 other employees, none of whom worked with Allen, presented him with an ultimatum, "You are either going to sign this card and line up with us or you are going to get out on a picket line with the C. I. O." When Allen refused to sign, the 15 took a vote on the question of whether or not they wanted him to work. John Irwin, a steel foreman, announced the results of the ballot as 12 to 3 in favor of Allen's not working. Another man was assigned to Allen's crane. Allen then appealed to Andrew Evans, superintendent of the hot mill, who sent him to several other supervisory employees. Finally, Allen spoke to Jim Kelvey, head foreman over the electricians, and told Kelvey that the men had taken his job because he would not sign a membership card in the Independent. Kelvey replied "I can't do anything about that. . . . I give you a quit slip if you want to quit." Allen replied that he did not want to quit, that the men had taken his job and put another man on it. Kelvey promised to investigate the matter within the next few days. At the hearing on August 12, Allen testified that he had not yet heard from Kelvey.

The record is plain that, except in name, the Independent was identical with the Plan and the Association. It was formed, at least ostensibly, by the Chairman of the

Plan and the President of the Association. The leading figures were Employee Representatives under the Plan and the Association. It met to adopt its constitution at the call of the chairman of the Central Council of Employee Representatives of the Plan. It replaced the Association, which disappeared upon its advent, and occupied the same place in the respondent's plant as its predecessors. As Linckenhely himself testified:

> "The men wanted it (the Association) abolished on account of the name. . . . That is the only reason we changed the name and formed a new one."

Like its predecessors the Independent was dominated and controlled throughout by the respondent. It was formed on the respondent's property, received the respondent's favors, grew through the respondent's coercion. Further, even aside from actual interference by the respondent with the Independent itself, the Independent could not, in view of the circumstances under which it arose, be considered free from the respondent's influence and control. The leading figures in the Independent were a group of employees plainly under the respondent's domination and known by the employees to be so dominated. The successor to the Plan and the Association could not, by a mere change in name, be freed from the effects of the respondent's previous actions. In addition, the Independent was established under other conditions of flagrant interference with the rights of self-organization, described hereafter. Such an organization, formed in such an atmosphere, could not be considered to represent the free choice of the respondent's employees.

Upon the basis of the entire record we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation at the Massillon plant and of its successors, the

Employees' Representative Association and the Independent Association of Republic Employees, and has contributed financial and other support to them.

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2. *The discharge of Peter Mouyios*

On May 3, during working hours, Employee Representative "Happy" North approached Peter Mouyios, a chipper in the billet department, and asked him what union he wished to represent him. When Mouyios replied that he did not wish to be represented by any union, North said, "Well, I got a card here I am going to fill out for you." Despite Mouyios' insistence that he would not sign or accept the card, North filled it out, signed Mouyios' name, detached the stub, and left it with a fellow employee, from whom Mouyios retrieved it before the hearing. The card, which is in evidence, is an acceptance of membership in the Association. A comparison of Mouyios' signature written at the hearing with his purported signature on the card leaves no doubt that Mouyios' purported signature is not genuine. Mouyios testified that this entire incident took place in the presence of foreman Lefty Hilbert, that an hour and a half later, Hilbert came to where Mouyios was working and told him to go to see Peppard, and that Peppard then laid him off. When Mouyios protested that there were many men in the billet shed with less seniority who were not being laid off and offered to point out such men, Peppard looked at a little book and replied, "Well, I cannot help that."

The respondent contends that Mouyios was laid off, in the regular order of seniority, because of a general reduction in force of approximately 180 chippers. With this contention we cannot agree. Foreman Hilbert testified that he had submitted to Peppard a complaint from Mouyios that two men with less seniority had been retained and Peppard had shown him a service record, according to which it appeared that both men had been hired before Mouyios. Hilbert stated that the chippers had been laid off, on the basis of a list in Peppard's office, starting from the bottom of the list, but that he did not know whether or not the chippers at the bottom of the list were junior in seniority to the rest, and did not know of his own knowledge whether seniority had been followed. Similarly, Lauriston Miller, a general foreman in the billet and finishing department, testified that he was given a list by Peppard of chippers to be laid off, but did not know whether or not the seniority rule had been violated. It thus appears that Peppard was the only person whose testimony would rebut that of Mouyios. The respondent, however, did not call Peppard as a witness and made no showing as to his unavailability. Although Mouyios did not become a member of the Union until a week after his lay-off, we think it clear that the real reason for his lay-off was his refusal to join the Association.[14]

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3. *Background of the strike; the lockout at the Massillon Works*

In this atmosphere of company unionism and hostility to outside unions, the S. W. O. C. in June 1936 began its campaign to organize the employees of the respondent. Headquarters were established in Canton, approximately eight miles from Massillon, and organizers were sent out to obtain members among the employees in the Canton-Massillon area.[15]

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[14] At the time of his lay-off, Mouyios was earning 62½ cents an hour, plus a bonus, which brought his hourly rate to approximately 72 cents an hour, and had been working 3 or 4 hours a day for 5 days a week. Since May 3 he has not earned any money.

[15] The Canton and Massillon Works are apparently classified by the respondent for administrative purposes as one region, the Central Alloy District, which is under the supervision of a single District Manager.

On July 2, 1936, the respondent issued the following notice:

"Republic Steel Corporation
and Subsidiaries

"General Office Republic Building, Cleveland, Ohio

"TO OUR EMPLOYEES:

"We are making the following statement so that you will know the attitude of Republic toward the recently announced campaign for unionization of the steel workers.

"The leader of this drive is John L. Lewis, head of the Coal Miners' Union. He is not connected with the steel industry. He has enlisted the help of other organizations not connected with the steel industry. . . . Representatives of radical and communistic groups are helping in this movement. William Z. Foster, chairman of the Communist Party, has announced his support. Foster was the leader in the unsuccessful attempt to unionize the steel industry in 1919.

"WHAT DO THEY WANT?

"John Lewis and his organization want more workers to *pay them more dues*. . . . If they could organize the steel workers they hope to collect $5,000,000 a year from them. Republic employees alone would pay over half a million dollars. Furthermore, they could place dues and assessments at any figure they liked and steel workers would have to pay them.

"The real aim of the present organization drive is to establish a closed shop. They want to force you into the union and make you pay for the right to work. Under a 'Closed Shop' every man has to pay his dues to the union whether he wants to or not. If he gets behind in his dues, they can throw him out of the union. By this threat they can keep the dues rolling in.

"One of the announced purposes of this drive is to throw out your Employee Representatives whom you have elected for collective bargaining with the management. The union wants to destroy all Employee Representation Plans in the steel industry.

"Your Employee Representation Plan is not run by outsiders. It works. Under your plan, you select your own Employee Representatives—men you know and with whom you work. Under a union you would be represented by outsiders who may know little or nothing about your problems, your management, or the steel industry. Furthermore, you would have no choice in their selection. You would have to accept any bargain they made for you. You would have to pay money to be dictated to by somebody you did not even know.

"WHAT ARE THEIR METHODS?

"The methods customarily used by professional union agitators and organizers are force, coercion, and intimidation of workers and their families. They threaten to call a strike to force men to join their union. They try to force mills to stop operation and keep men from their work for months at a time. They do this to scare men into their union whom they know do not want to join the union.

"WHAT IS REPUBLIC'S STAND?

"Republic stands for the 'Open Shop' principle.

"No employee has to join any organization to get or hold a job.

"Advancement depends on individual merit and effort.

"Republic will not permit any activities within its plant which will:

1. Interfere with the orderly conduct of its operations.

2. Stir up strife or discontent.

3. Threaten the peace and comfort of its workers and their families.

"*Every Republic employee owes a duty of loyalty to the Company so that its best interests may be served. Conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management will not be tolerated.*

(s) T. M. Girdler
Chairman and President
R. J. Wysor
Executive Vice President and General Manager
C. M. White
Vice President in Charge of Operations
H. B. Carpenter
District Manager."[16]

With this statement of the respondent's policy as a guide, we turn to the history of the union's attempt to organize the employees in Massillon.

From the outset, the organizers were followed and spied upon by paid agents of the respondent. Howard Porter and Guy L. Sweeney, S. W. O. C. organizers, testified that men in old clothes and with a one or two day growth of beard, whom they had previously seen in the uniform of company police at the Union Drawn Steel Com-

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[16] Italics supplied.

pany, trailed them almost every day for three or four months in all their organizing trips in Canton, Massillon, and even to Louisville and Navarre, Ohio, towns located several miles from Massillon. Among the automobiles driven by these men, the organizers recognized one, a Ford coupe bearing the 1936 Ohio license number E-12, usually driven by the same two men, which invariably followed them. These men made no attempt to conceal their activities. They took rooms in the Northern Hotel in Canton on the fifth floor below the rooms occupied by Sweeney and Porter.

> "Every time an organizer would step out of the hotel . . . this same car E-12 would be following us. . . . There was always two, it was a coupe, 1935 Ford coupe. . . .
>
> "Q. (By Mr. Lauter): They would always follow you in an automobile?
>
> "A. No, at times when we would leave the hotel and go out to breakfast, lunch, or dinner, if we were walking, or making a contact, they would always follow us there walking, because they always parked across from the hotel . . . I have had them follow me into the restaurant, back to the hotel, on the elevator, upstairs and back down again. . . . They would follow me around in Massillon in making contacts. In other words, they would watch me, so that I would not get to see any steel workers because I did not want to get any steel worker in trouble."

On one occasion, after a midnight meeting in a public park of the employees of the 18 inch bar mill of the Massillon Works, these same two men followed one Laughlin, an employee of the respondent who had expressed interest in S. W. O. C., to his home, and for several days afterward were seen parked there for hours at a time. On another occasion, these men, accompanied by 15 or 20 others, followed several S. W. O. C. organizers to a fish fry at Eagles' Hall in Massillon given by the employees of Union Drawn Steel Company, and succeeded in staying so close to the organizers that they had no opportunity to speak to any of the employees there. On a third occasion, Porter and Sweeney were followed by the men driving the Ford coupe with the license number E-12 to Louisville, Ohio, where they had gone to visit a prospective member. A black sedan with five men cut in ahead of them, half blocking the road; the Ford coupe stopped directly behind them. The organizers escaped from this *cul de sac* but were prevented from visiting their prospective member.

The activities of these men were reported to Sheriff Nist of Stark County, who informed the organizers that if the car followed them out of Massillon into Stark County, again, he would arrest its occupants. On September 23, the two men driving the car with the license number E-12 followed Porter out of Massillon to Navarre, where he stopped at a filling station and telephoned to the Sheriff's office. In a few moments several deputy sheriffs in a cruiser car drove up, apprehended the two men, and took them to the County jail, where they gave their names as Long and McCallister, stated that they were plant policemen at the Union Drawn Mill in Massillon and informed Deputy Sheriff Koellner that they "had business following this car, that it was special work assigned to them as policemen at the Republic Steel Corporation." Porter sought to press charges against them, but was informed by the District Attorney at Canton that there was no law prohibiting such activities. The men then signed waivers, releasing the Sheriff from liability, and left. To all of this testimony, the respondent offered no evidence in rebuttal.

As a result of the respondent's known hostility to the S. W. O. C. and the constant and unconcealed shadowing of union organizers by the respondent's paid agents, the employees were afraid to be seen in the company of the organizers or even to permit them in their homes. At first, therefore, meetings were secretly held "out of town after night, out in corn fields, in parks, and different places where we thought nobody was watching us." Later, however, as more of the employees joined the S. W. O. C., meetings were held in the open; the membership grew; inroads were made even among the Employee Representatives. In December 1936, New Deal Lodge No. 1124 was chartered by the S. W. O. C.

While the respondent's police were thus engaged in shadowing union organizers, the respondent's foremen and supervisory officials were endeavoring by other means to combat the growth of union sentiment. Thomas Pastorius, an employee who had been approached to join the S. W. O. C., told Kenneth Poorman, a volunteer organizer for the S. W. O. C., "I am a foreman now, and as a foreman I am supposed to quash all talk of organization in the shop." Another employee was forewarned by a superintendent to expect the visit of the organizers and "watch his foot." Joe Morton, a member of the S. W. O. C., testified that foreman David Lewis and Hayden Bright, repeatedly warned him not to talk union to his fellow employees and stated that it was part of their jobs to break up this C. I. O. movement in the plant. Russel Eckroad, rougher in the hot mills, testified that the same David Lewis, after informing him that "Girdler will never sign a contract with the C. I. O.," mentioned something that had happened "up town" at the union hall. When Eckroad asked, "How do you know that?" Lewis replied, "That is all right how I know that. . . . We know things down here 10 minutes after they happen up town, no matter where it is."

In September 1936 Alvin Smith, general superintendent of the sheet mill, sent for Elmer Jordan, a helper in the sheet inspection department, and asked him what connections he had with the C. I. O. and John L. Lewis. Although Jordan was then a member of the S. W. O. C., he disclaimed any knowledge of the C. I. O., fearing that such an admission would result in his discharge. Smith then proceeded to lecture Jordan as follows:

> "Mr. Jordan, you know as well as I that the steel industry cannot be organized. He said, 'The Republic Steel Corporation has too much money for a thing like that to come in here.' He said you might organize the brick layers and carpenters, they are just a handful of men, but you will never touch Republic Steel. You know what happened down here a few years ago to the men who took an active part in the organization.[17] They lost their jobs. I think the best thing for you to do is lay off."

Several weeks later Jordan was again summoned to Smith's office, where Smith informed him that his work was becoming unsatisfactory.

> "He said, 'You are not on the job. . . . Your foreman is complaining about your not working right, talking to the men too much.' He said, 'You are going to leave the C. I. O. alone or you are not going to have a job here.' 'In other words,' he said, 'if they did, if they asked for recognition, we will shut this plant down, because we are operating now at cost.' "

Jordan testified that Smith again called him to his office in February 1937 and said:

> " 'I see that you did not listen to me when I told you before.' I said, 'I do not know what you are talk-

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[17] In May 1935, the Amalgamated Association of Iron, Steel and Tin Workers of North America, called a strike at the plant of the Berger Manufacturing Company, a wholly owned subsidiary of the respondent, in Canton, Ohio.

> ing about.' He said, 'Well, I see you are one of the active men in the C. I. O. and you have guts enough to go in part of the mill and pass out papers and then come in and take your job.' 'I do, I absolutely have,' I said, 'I did not get paid for it. I am doing it for the benefit of the men in this plant.' He said, 'This plant is going to be shut down. The orders are getting low. We are going to shut this plant down. It seems you are all going to be out of a job.' He said, 'Mr. Chase (assistant superintendent) thinks a lot of you. We were talking here the other day and we were figuring on putting you on an inspection job which you are entitled to.' He said, 'If you keep this thing up that you are doing now, I cannot give you a job.' "

On March 17, 1937, there occurred an event of historic importance in the steel industry: representatives of the Carnegie-Illinois Steel Company, and other subsidiaries of the United States Steel Corporation, met, bargained collectively, and signed a contract with the S. W. O. C., covering wages, hours, and working conditions, and recognizing the S. W. O. C. as the representative of its members who were employees of those companies. On the day following the signing of this contract, the respondent called a special meeting at its Cleveland offices of "the Joint Committee of the Representatives of the Northern Steel Plants and the Subsidiaries."[18] The minutes of this meeting, mimeographed and paid for by the respondent, and distributed to the Employee Representatives, read in part as follows:

> "Mr. White (respondent's vice president in charge of operations) addressed the conference and discussed Corporation labor relations with the Representatives.
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> "Mr. Voss, Director of Industrial Relations, explained all about collective bargaining with the repre-

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[18] This "Joint Committee" meeting appears to have been a meeting of the Central Council.

sentatives of any group within the employ of our Corporation.

* * * * * *

"The Joint Session showed the efforts of our different units in combating the encroachment of outside groups. The Buffalo and Cleveland Units have a Security League. This league has members avowed to support and help sustain all the activities in connection with the Republic Steel Representation Plan.

"*At this point, a motion was made and seconded that all the representatives of both the steel and Subsidiaries back the Management in opposition to all outside labor organizations. This motion was carried unanimously.*

"Another motion was made and seconded that each General Body within the Corporation develop methods best suited to their locality in fighting any coercion or intimidation in connection with labor organization. It was, also, suggested that each unit (Steel or Subsidiary) offer to each other the procedure or systems used in their localities to offset any efforts of outside groups.

"Before adjournment, an exchange of thanks between Management and Representatives developed. A very fine spirit of cooperation was manifested by both to carry on under our present set up." [19]

The results of this program of opposition to outside unions appeared almost immediately in those plants of the respondent involved in this proceeding. At Massillon foremen and Employee Representatives distributed petitions among the employees during working hours, stating, "We, the undersigned, are satisfied with our present Plan and do not want interference from the outside C. I. O.'' In the hot mill Employee Representatives circulated a petition reading, ''We, the undersigned, are satisfied with the Representation Plan and the wages, hours and conditions of the mill.'' At first only two or three of the 60 or 65 men in the department signed it. The Employee Representatives then sent for foreman Lewis, who asked:

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[19] Italics supplied.

> ''What is the matter with you fellows, you do not want to sign this petition. Everybody up above has signed it . . . Should I bring it down again? . . . If you boys don't sign this, the result of it will be that we won't work very long . . . if we don't sign this thing up and straighten it out like all the rest of the plants are doing, that when the company man went out on the road at the end of the month, he did not know whether he would get us any more orders or not.''

When Lewis returned with the petition, the men signed it.

At about the same time, the chippers in the billet department were told by their foremen to lay down their tools and report in groups of ten at a time to general superintendent Peppard's office. There the chippers were met by Employee Representatives, who copied their badge numbers on a slip of paper and informed them, ''We called you boys in here to sign, so that with your signatures fixed opposite your badge number that you are satisfied with the kind of employees' representation we got, this kind in the plant.'' Peter Demos, an employee, testified that he signed the petition under protest, because had he refused, his badge number would have remained on the paper without his signature, thus indicating his refusal to sign. A number of the chippers were apparently unable to read English. Employee Representative Pappas, without reading the petition aloud, explained it to them in Greek. A week or two later, Demos testified, ''we saw in the local papers a news item that the employees of the Republic Steel Corporation, Massillon, rejected the C. I. O. and copies of this . . . petition were sent to the local authorities and to the state authorities to show that the employees were satisfied with the Representation Plan and they did not desire any outside interference from an outside union."

During March, Alvin Smith, general superintendent of the sheet mill, called special meetings of the employees in several departments and threatened them with the loss of their jobs if the respondent were forced to recognize the C. I. O. Joe Morton, a catcher in the hot mill, testified that at a meeting in the Truck Garage of the Massillon Works Smith stated "that he didn't want any of the members there to join the C. I. O., or to join any outside organization that the Employees' Representation Plan had been very successful there, and that we had gotten our recent wage increases through the Employees' Representative Plan and that if the C. I. O. had to be recognized by the Republic Steel they would close down before they would recognize the C. I. O. The high cost of operating under a union contract would not let them work. He also stated that he would hate like hell to see grass growing in the streets of Massillon." Elmer Jordan, a helper in the sheet inspection department, testified that at another meeting in the Truck Garage, Smith "got up on a box . . . and he had a C. I. O. membership card, and he read this card off that I accept membership in the Amalgamated Association. 'Now,' he said, 'boys, I want to tell you one thing, the coal miners, the Mine Workers of America, they will assess them five or ten dollars and take everything out of their pay that they want. That is what will happen to you. They are a bunch of grafters, communists, and they are reds . . . The first thing you can do if you want to hold your job is lay off of this organization . . . In other words, this company has been running in the red for the last three years merely making expenses . . . Up in Monroe Michigan that plant they took over . . . can operate iron for half the costs they operate it here and save shipping costs.''

Although the respondent did not call Superintendent Smith as a witness, it sought through the testimony of others present at these meetings to rebut certain portions of both Jordan's and Morton's testimony. On the whole record, however, we are inclined to believe that Superintendent Smith made the statements reported by Jordan and Morton. Other testimony that Smith made statements of a similar character on other occasions stands entirely uncontradicted. Moreover, the respondent neither called Smith as a witness nor made any showing as to his unavailability. Even from the testimony of the respondent's witnesses, it is apparent that Smith mentioned the possibility that the mill would lose orders and warned the men not to join anything of any kind. Further, at approximately the same time, the respondent's District Managers in other plants were reiterating to meetings of Employee Representatives the respondent's announcement of policy made on July 2, 1936, that the Communist party was supporting the C. I. O., that John L. Lewis, President of the United Mine Workers, wanted to organize steel workers for the money involved, that the respondent stood for the open shop principle, was in favor of the Plan, and would not tolerate conduct which would disrupt what the respondent considered to be the satisfactory relations between the employees and the management. It would be curious, indeed, if the supervisory officials of the respondent explained the respondent's policy in a substantially different way from that in which the respondent's president had stated it.

Shortly after these meetings and within a fortnight after the signing of the Carnegie-Illinois agreement, the union for the first time approached the respondent with a proposal for collective bargaining. On March 30, Clinton

W. Golden, Regional Director of the S. W. O. C. for the Northeastern Region, wrote to Girdler, requesting a convenient date for a conference and enclosing a copy of a proposed agreement, identical in its principal terms with the Carnegie-Illinois agreement. The respondent did not reply.

On May 3 Golden addressed the following telegram to the respondent:

> "On March 30, 1937 we sent you standard collective bargaining contract with request for conference to discuss same stop No acknowledgement or other reply received to date stop Wide spread unrest among employees your company various mills prevails over uncertainty your position regarding signed collective bargaining contract stop This unrest accentuated result lay off several hundred union members your Canton and Massillon Works stop Unless we can have definite assurance from you with date for conference to negotiate written contract without further delay we shall be obliged disavow all responsibility union members in your mills remaining at work."

On May 5, J. A. Voss, Director of Industrial Relations, replied:

> "Your request for a meeting to discuss signed contract has been referred to me for reply. In view of Wagner Act see no necessity for signed contract. The policy of this company has been and is now that it is willing to meet with anyone to bargain with him for whomsoever he represents. In conformity with this general policy the proper representatives of this company will meet with you at any time mutually convenient for collective bargaining purposes. Advise if Tuesday May eleventh my office Cleveland satisfactory for meeting."

On the following day, Golden wired back:

> "Your wire fifth received stop Are we to understand you propose in lieu of signed collective bargaining contract that contracting parties commit provisions verbally agreed upon to memory and rely thereon for future reference whenever conferences are necessary to discuss grievances that may arise thereunder stop Do you further propose that management officials in the thirty five mills operated by your company and union grievance committeemen numbering two hundred as well as the sixty thousand employees also indulge in this memorizing process stop Is this your conception of orderly constructive methods of collective bargaining as contemplated by National Labor Relations Act stop If so we consider conference you propose for May 11 futile waste of time and energy stop Do you propose to accept terms similar to those in agreement signed by Carnegie Illinois Steel Corporation and approximately one hundred other companies with representatives of Steel Workers Organizing Committee without undertaking to affix your Company signature thereto stop."

A conference, nevertheless, was held between representatives of the S. W. O. C. and of the respondent in Cleveland on May 11. On the same day, the respondent issued the following statement:

> "TO OUR EMPLOYEES:
>
> "The following statement is being made so that you will know the attitude of Republic Steel Corporation toward the effort of the Committee for Industrial Organization (C. I. O.) to force the company to sign their union contract. In its effort to secure such contract, C. I. O. has threatened to call a strike.

"You have a vital interest in this situation. It involves your right to work in peace and to support your family in comfort. We are not convinced that the C. I. O. contract is for the best interests of the employees or the Company. . . ."

After summarizing the letter of March 30, addressed by Golden to the respondent, and the telegrams of May 3, 5, and 6, the statement continued:

"The C. I. O. made no complaints (at the meeting on May 11) relative to wages or hours of Republic employees. In spite of this, the Union demanded that the Company sign their Contract.

"This is the only matter at issue and the Company at the May 11 meeting informed the C. I. O. representatives that it still believes it inadvisable to sign such contract from the standpoint of the employees and of the Company itself.

"Among the reasons for this decision are:

"1. Thousands of our employees, through their representatives, have protested against the signing of any agreement by the Company with the C. I. O. The employees of Republic now have a successful Plan for collective bargaining in which plan a large majority of the employees participate.

"2. A study of the proposed contract wages, bonus, safety provisions, seniority rules and methods of handling grievances specified in the proposed contract are no more favorable than those now enjoyed by you.

"3. Both parties to a contract should be responsible. Republic is held by law responsible for acts of its officials. C. I. O. does not assume the same kind and measure of responsibility.

"4. The policy of Republic Steel Corporation is that NO EMPLOYEE HAS TO JOIN A UNION TO GET OR HOLD A JOB. Although the proposed agreement by its language does not disclose the ultimate objective of a closed shop, C. I. O. organizers have stated that the signing of the Carnegie-Illinois agreement 'will result in the complete unionization of the entire industry.' Republic does not believe in the closed shop principle.

"5. The signing of a C. I. O. union contract would be unfair to the workers who do not favor the Union as their collective bargaining agency and to those who prefer to deal for themselves individually with the Company. Coercion would be used by the Union in an attempt to force these workers into the Union against their wishes causing them to surrender, for all practical purposes, their rights to deal with the Company except through the C. I. O. on such vital questions as wages, hours, and working conditions.

"6. Such a step would disturb the present harmonious relations with our men and break down the mutual confidence which has existed in collective bargaining matters between the workers and management.

"7. The signing of C. I. O. contracts in other industries has not resulted in industrial peace. Notwithstanding signed agreements, sit-down strikes and other interruptions of work have occurred in the automotive and other industries.

"The policy of this company has been, and is now that it is willing to meet with any one to bargain with him for whomsoever he represents.

"Republic believes that every employee is entitled to determine for himself, free from discrimination, interference, restraint, coercion and intimidation by anyone, whom he wishes to represent him in the matter of collective bargaining. In view of the foregoing facts and because of the Wagner Act and recent decisions of the United States Supreme Court, Republic Steel Corporation sees no necessity for signing the C. I. O. contract.

"The Company is willing to bargain collectively with its employees as in the past. MEMBERSHIP OR NON MEMBERSHIP IN ANY ORGANIZATION IS NOT A REQUIREMENT OF EMPLOYMENT."

On the night of the conference, the Association held a mass meeting in the Main Office Auditorium of the Massillon Works. Employees on duty during this time were paid their regular wages by the respondent for attending, and a total of approximately 2,000 were present. Nick Linckenhely, the principal speaker, addressed the meeting over a loud speaker system; his main topic was "that the Employees Representation Plan had been so good, so successful in cooperating with the employees in the company in getting the present wage increases . . . that the C. I. O. was not a fit organization to belong to, that if the Republic Steel was forced to recognize the C. I. O., they would have to close down the plant, on account of the high cost of operation, and that being an old mill, Massillon would be without the Republic Steel."

Despite the respondent's pressure upon its employees to force them into the Association, however, that organization, on its own estimate, was never able to obtain more than 1,100 applications for membership out of over 3,000 employees. As a method of organizing opposition to the union the Association was a failure.

The respondent, therefore, resorted to a more direct method of attack. On May 20 it shut down all the mills in the Massillon Works, with the exception of the blooming mill, and locked out almost all its employees. The respondent contends that the shutdown and lock-out were not aimed at the union, but were caused by an emergency in the main turbo-generator unit which generates power for the use of the mills. T. J. Ess, a combustion engineer employed by the respondent, testified that at about 7 p. m. on the night of May 20 he received a call from the plant that there was trouble with the turbo-generator unit, that he went to the power house, saw the machine vibrating very badly, and after consultation decided that it was necessary to shut down certain units of the plant. At 10:45 p. m. power was switched off from all the mills of any consequence in the Massillon Works, except the blooming mill, and the mills remained shut for 3 days until May 23.

On cross-examination, however, Ess admitted that the respondent maintained a connection in the plant with the power service of the Ohio Public Service Company in order to take care of such a breakdown, and that power to run the mills could have been obtained from that company without even pulling a switch. It is therefore apparent that even if there was a breakdown in the turbo-generator unit, there was no emergency which compelled the respondent to shut down its mills.

On the other hand, the respondent had repeatedly threatened to close down the plant before it would grant recognition to the union. From November 1936 until a few days before the shut-down, in conversations, interviews, and meetings, Alvin Smith and Andrew Evans, superintendents in the sheet mill, and foreman David Lewis, had drummed into the ears of the employees that recognition of the C. I. O. would mean a shut-down of the plant. The chief selling point of the Association, as reiterated by the Employee Representatives to all comers, was—Join the Association or else—if Republic is forced to recognize the C. I. O., it will close down the plant.

Quite apart from these repeated threats and warnings, the uncontradicted testimony of Joe Morton, president of New Deal Lodge No. 1124, reveals the respondent's motive for the shut-down. On May 21 or 22 Morton met foreman Lewis on Main street in Massillon:

> "Mr. Lewis said, 'I guess you will have enough of this strike when the company gets done with you.' I said, 'What do you mean "when the company gets done with me?" ' He says, 'When we get through starving you out.' 'Why,' he said 'you won't want to strike.' "

In the light of these facts and the respondent's failure to show any convincing business reason for its conduct, we are compelled to conclude that the respondent shut down its mills and locked out its employees for the purpose of intimidating and coercing them not to join or to discontinue their membership in the union. The respondent thereby discriminated against its employees in regard to hire and tenure of employment and interfered with, restrained and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act.

To consider the lockout, however, as merely one more instance of the respondent's hostility toward the union would be to ignore the circumstances under which it occurred and the history of which it was a part. After the exchange of telegrams on May 6 and the breakdown of negotiations on May 11 between the S. W. O. C. and the respondent, the situation in Massillon was rife with unrest. At this critical time, the respondent saw fit to carry into execution its repeated threats to close the plant if the C. I. O. asked for recognition. In the long history of the respondent's campaign to crush the union, this was the final blow. Under these circumstances, the union could not hope to preserve itself without immediate resort to action. At 11 p. m. on the night of May 25, pickets surrounded the plant and the strike began.

The respondent's activities after the lockout leave no doubt that it expected the strike and made preparations to meet it. On the morning of May 25, Carl Myers, acting District Manager of the Canton and Massillon Works called on Stanley W. Switter, Massillon's Chief of Police, told Switter that "they expected a strike at almost any time in the near future and wanted to know how the Police Department was able to handle the situation . . . how we stood and how many men we had . . ." Later in the day, James A. Lewis, Service Manager of the Alloy Steel Division of the respondent, who had been in Detroit, Michigan, was informed by his office "that there was considerable talk about a strike taking effect that night" and made arrangements to get back as quickly as possible by flying from Detroit to Akron, arriving in Massillon at about 8 p. m. C. W. Cravens, one of the respondent's salesmen, who remained in the District Office with 85 other employees, including three cooks and seven telephone operators from May 25, for 15 days and 16 nights, testified that he came back from Akron to go into the office because he had heard rumors that there was going to be a strike, and that on the night of May 25 there were a number of cots in the District Office and a food supply "more than enough for 15 days and 16 nights." Several foremen and employees who remained in the Massillon Works after the strike was called also testified that they slept on cots which were already there, or which were delivered to the plant on the night of May 25.

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4. *The Strike*

Between May 25 and July 1, when Governor Davey ordered the Ohio National Guard into Massillon, the Massillon Works and the plant of the Union Drawn Steel Company remained closed. During this period, in preparation for the reopening of the plants, the respondent was engaged in a campaign to conscript the Massillon police department to break the strike.

Certain obstacles appeared to block the easy accomplishment of this objective. The Massillon police department was small and poorly equipped for the respondent's purposes. Of a total of 18 regular police, only 13 were available for strike duty and the department lacked a supply of tear and vomiting gas and other equipment considered essential to break a strike. Furthermore, all the city officials—Mayor Krier, City Solicitor Hardman, Chief of Police Switter, and the City Council—were insistent not only that the city could not afford to hire special police or buy extra equipment, but that the Massillon police must remain neutral and would not be used to break the picket lines. Finally, a large body of public opinion in Massillon supported both the strikers' cause and the attitude of the city officials.

The respondent began systematically to mobilize its forces and seek its allies to overcome these obstacles.

On May 26, the first day of the strike, a committee of six employees, met at Linckenhely's home and formed a Back-to-Work Committee. The members of this committee were either officers or Employee Representatives under the Plan and the Association.[20] During the strike other Employee Representatives and at least two foremen—Paul Rider, foreman in the billet shop, and "Chic" Immell, foreman in the blooming mill—joined the committee and took an active part in its work. Thus the Back-to-Work movement was organized by the very employees through whom the respondent had maintained its control over the Plan and the Association, and assisted by the respondent's foremen.

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[20] Nick Linckenhely, chairman of the General Body of Employee Representatives under the Plan and president of the Association; N. C. Brown, secretary of the General Body of Employee Representatives under the Plan and secretary of the Association; Paul Hoffman, Employee Representative under the Plan and treasurer of the Association; Henry Gonder, Sam Schilling, Don Burkhart, identified by Linckenhely as Employee Representatives under the Plan and the Association.

On May 27 or 28, the Board of Directors of the Massillon Chamber of Commerce organized a temporary committee composed of businessmen and citizens of Massillon with the announced purpose of acting as a clearing house for information with regard to the various phases of the strike situation as it affected the business community in Massillon. This committee later developed into a broader organization which came to be known as the Citizen's Committee, the Citizen's League, the Labor Relations Committee, or more commonly, the Law and Order League of Massillon. Its most active members were D. W. Case, secretary of the Massillon Chamber of Commerce, Jonathan Lester, president of the Massillon Rubber Company, and Glen Lanham, manager of the Erie Chevrolet Sales Company.

These two organizations formed the spearhead of the respondent's attack. For the first two or three weeks of the strike, as workingmen demanding only the right to work and as citizens interested in preserving law and order, they presented to the public an unimpeachable front. Thereafter, behind this front, the respondent proceeded to manipulate these groups for its own purposes.

On June 9, Glen Lanham of the Law and Order League went to Chief Switter's office with the message that Carl Myers and Gordon Hess, the respondent's assistant sales manager, wanted to see Switter in Canton. City Solicitor Hardman, Switter and Lanham then drove to the Hotel Onesto in Canton where Myers was confined to his room as a result of having been shot by one of his company guards.

Myers immediately launched into an attack upon the Chief and the city officials. "He wanted to know what the hell was going on over there; were we going to allow the hoodlums to run things and why they cut the telephone wires and why the hell we didn't take action such as the Chicago police did and put them where they belonged . . . they knew how to handle the situation, if we did not,[21] and if we didn't wake up, we wouldn't need what police force we had, we wouldn't need a chief of police and we wouldn't need a city solicitor and we wouldn't even have a first class post office; that Massillon would be a junction if that mill shut down, which it looked as if it would with the wires cut and they would have to evacuate the office . . ." Chief Switter replied that he had only 18 men and that "it was not our job (anyway), that we wasn't a strikebreaking outfit, and, furthermore, the mill was down in the country out of the city limits."

Hardman testified with regard to Myers' remarks as follows:

> "Mr. Myers began asking what the people of Massillon were doing about the strike, what the police department was able to do, and what the businessmen were doing about it, whether or not they were interested in keeping the steel plant there. And he went on to say that if the steel plant moved out that they would not need a chief of police and they would not need a mayor and would not need a city solicitor . . . Mr.

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[21] Myers was referring to the incident which occurred on May 30, 1937, in the vicinity of the respondent's plant in Chicago, Illinois, when the Chicago police dispersed a crowd of strikers and sympathizers, ten of whom were killed. See *The Chicago Memorial Day Incident,* Report (No. 46, Part 2) of the Committee on Education and Labor of the United States Senate, pursuant to S. Res. 266 (74th Congress), which makes the following findings with regard to this incident:

"We conclude that the consequences of the Memorial Day encounter were clearly avoidable by the police. The action of the responsible authorities in setting the seal of their approval upon the conduct of the police not only fails to place responsibility where responsibility properly belongs but will invite the repetition of similar incidents in the future."

Myers pointed out what a fine job the Chicago police had done."

At Myers' request, Switter agreed to remove certain records and evacuate from the main office certain employees who had remained there since May 26. In the course of this discussion, Myers stated that there were some arms and ammunition in the main office, which could be locked up in the vault, but "they wouldn't do anybody any good there." He proposed, instead, to give them to Switter as a start toward some equipment to help the police department "in any situation which might arise." Upon Switter's acceptance of this offer, Myers dictated a letter to Raleigh France, Chief Deputy Sheriff of Stark County, authorizing France, who was in charge of the main office, to turn the arms and ammunitions over to the Chief. "If you are going to turn this office over to Mr. Switter's protection," asked Lanham, "and moving out in the entirety, does that mean you are never going to open up this office in Massillon again and the plant in Massillon." "I did not say that" replied Myers, "I said that when enough men want to work in Massillon, we will open."

At 4 o'clock that afternoon, Switter placed the arms and ammunition with the office records in the trunk of a car, drove through the picket lines and delivered the trunk load to the respondent's agents. The arms and ammunition were not turned over to the Chief until later that evening. At 8 p. m., shortly after dark, pursuant to arrangements made with France, Switter drove to the Brookside Country Club, four miles north of Massillon, where Frank and Lieutenant Adler of the respondent's police force, under cover of darkness, transferred to Switter three shot guns, six combination shells, three gas guns, and about 90 gas projectiles.[22]

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[22] On June 1, 1937, Federal Laboratories, Pittsburgh, Pennsylvania, manufacturers of tear and vomiting gas, had shipped to the Union Drawn Steel Company at Massillon the following material:

The respondent's first objective was accomplished: The Massillon police department was now adequately equipped.

On June 11, Carl Myers again summoned the city officials to the Hotel Onesto in Canton, to discuss the question of supplying food to 16 guards and 4 maintenance men that had remained in the plant. Myers told the city officials and Raleigh France, whom Myers had invited to sit in at the conference, that "they had about four or five days supply of food in the plant, that it was up to Switter and Frank to get food into the men, that the maintenance men were keeping the coke ovens hot, that if that battery of coke ovens was ruined it would be goodbye for Massillon, that they wouldn't ever start that plant again." Switter promised to see what he could do about getting the food into the plant.

On the following day Myers called Switter on the telephone and angrily protested against an arrangement, to which Switter had agreed, by which one Marshall, a company official, was to enter the plant, accompanied by two pickets, to inspect certain insurance and relief records. Af-

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3 1½" cal. riot guns	@	$60.00	$180.
30 1½" cal. long range projectiles C. N. (tear gas)	@	7.50	225.
90 1½ cal. long range projectiles D. M. (vomiting gas)	@	8.00	720.
12 1½" cal. short range cartridges D. M.	@	6.00	72.
40 Grenades, Jumbo Triple Chaser D. M. 116 M	@	13.00	520.
35 Grenades, Jumbo Spedeheat D. M. 113 M.	@	12.00	420.
1 Type "GB" gas mask			25.50
Total			2159.50
Less 10% on item No. 1		18.00	
Less 20% on items 2-3-4-5-6		391.40	
			409.40
			1750.10
10% excise tax on items 1-2-3 and 4			97.56
			1847.66

(Exhibit 1343-P, p. 5021, Volume 14, Hearings before the Subcommittee of the Committee on Education and Labor United States Senate, Seventy-fifth Congress, first session, pursuant to S. Res. 266).

ter this telephone conversation, Switter informed D. W. Case that Myers was agitated by the refusal of the Union to permit Marshall to enter the plant without an escort of pickets. Case offered to have J. Lester of the Law and Order League telephone Myers and "stall him off for a few days until we know what we are going to do." Case then communicated with Lester, who telephoned to Canton and reported that Myers had "consented to give him (Switter) two or three days to get himself into position, he wanted to put himself (Myers) in shape to really take charge."

On the following afternoon, June 13, at Case's request, Switter attended a meeting of the Law and Order League at the Chamber of Commerce. Switter was asked whether, if the money was raised, he would be willing to add the required number of police and purchase the extra equipment. Switter replied that he would not agree to this without the Mayor, but that if the Law and Order League would hold a further meeting, he would see to it that the Mayor was present. Switter testified, "They wanted to know how much it would cost to put on these police and how many we would need in order to maintain law and order and so on and how much equipment. They argued why the Mayor would not appoint the police and we threshed around for a couple of hours there and talked about the Monroe situation. . . . Monroe, Michigan . . . They said they done a good job up there; they smashed the picket lines up there and they deputized enough police to do it . . . that turned out to be the main topic of conversation."

On the next morning, Mayor Krier, Switter, Hardman, and Snyder, the safety director of Massillon, attended the meeting of the Law and Order League at the Chamber of Commerce. Switter testified, "They put the heat on the Mayor about appointing some special police . . . they wanted to know why he would not appoint more police . . . and he argued that the city was broke and did not have the money to do it. And this group said they could raise the money . . . $8000 to pay for 50 policemen for two weeks and the equipment considered necessary for the department . . . and finally he agreed to appoint them (but) if he took on the 50 police that not one of them would go to the picket line . . . (This) they did not like . . . so well." After this meeting the League, which had raised approximately $1200, returned the money to the businessmen who had donated it.

Later that afternoon, Mayor Krier, Hardman, and Switter called on Myers at the Hotel Onesto in Canton and informed him that they could not get the food into the plant. Switter was the spokesman: "We told him we wasn't going to, that we wasn't bringing any food down to them or to the pickets, either . . . because we figured it was not our job; it was over in the county and it was not up to us to get food down to them. We decided we wasn't going to have nothing to do with it . . . And then he (Myers) lit on us and told us that it was a funny thing that a little town like Monroe could build up a police department big enough to get their mill operating again and control the situation and it was damn funny we couldn't do something. . . . He said that Massillon would be a prairie and it wouldn't need a mayor or safety director or any of us . . . he said he would take care of it himself that he wouldn't let those people starve." Hardman's testimony confirms and amplifies that of Switter: "We talked about what it meant to Massillon, if Massillon would lose that plant, and there was danger of its being lost . . . he said that if the plant was lost, the people of Massillon and the officials would be responsible for losing it and he thought they were not taking any interest in it and in seeing that the plant was reopened." With this, the conference ended.

On June 15, the respondent issued and distributed to its employees a statement signed by Tom M. Girdler which, after reciting that many of its plants were reopening, added:

> "Movements similar to that which resulted in opening the Monroe plant are spreading rapidly in other affected communities. Employees kept from their jobs by mobs of armed pickets many of whom have never worked for Republic and citizens outraged by this defiance of law and decency by the C. I. O. are joining together to insist that law enforcement agencies compel the union to cease unlawful picketing.
>
> * * * * * *
>
> So, when you get all through, the present controversy sums up somewhat like this:
>
> [Blackface type] Must Republic and its men submit to the communistic dictates and terrorism of the C. I. O.?
>
> [Blackface type] If America is to remain a free country the answer is NO."

After this statement, the Back-to-Work movement, which had hitherto been relatively inactive, began its work in earnest. At first, Linckenhely testified, the Employee Representatives, assisted by foremen Paul Rider and Chic Immell, merely circulated petitions from house to house, asking their fellow employees to return to work; then began "the big move." On June 20 Linckenhely and the other Employee Representatives called on the members of the Law and Order League at the Chamber of Commerce for their assistance, and "they all talked about the Back-to-Work movement and how to find a way and means of trying to get the men back to work." On the following day, June 21, led by Linckenhely, Fred Becker, a metallurgist in the employ of the respondent, and foremen Rider and Immell, a crowd of approximately 300 men appeared at City Hall. "They stormed the City Hall," testified Switter,

"... they demanded a meeting with the Mayor and I ... they was all up in the air about wanting to go back to work and wanting me to give them protection ... they demanded to know why I refused to accept this several thousand dollars that ... the Law and Order League promised to raise ... for the special police." A committee, with Linckenhely and Rider as spokesmen, then met in the Safety Director's office with the Mayor, Switter and Hardman. Switter urged the committee not to rush matters or to become so excited. He told them the money which the Law and Order League had promised had never been raised, and stated, in answer to their further questions, that he would refuse to accept it if it were raised again because he "was not going to take on a gang of men to go down and break the picket lines," and that the picket lines were around the entrances to the plant beyond the jurisdiction of the city.

After similar remarks by the Mayor and Hardman, the city officials upon the demand of the committee addressed the rest of the group waiting in the lobby of City Hall. Switter told them "to hold themselves a few days to give the Mediation Board at Cleveland ... appointed by the President of the United States ... a chance to do something before they started any back-to-work movement, and I told them then and there that I wasn't going to take any fifty greenhorn men and go down to the picket line under no consideration.[23] The Mayor also referred to the President's Mediation Board, called upon the members of the group not to be hasty and stated that they were foolish to get excited, that the plants would probably open within a few days, and that there was no use in going down to the picket lines and having a battle and losing more time than they would lose by waiting. "Gentlemen", he said, "remember if we start such things it won't be one-sided,—

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[23] See *Report of the Federal Steel Mediation Board to Secretary of Labor Frances Perkins.*

there will be bloodshed on both sides. Be patient a few days. . . . We don't want any trouble or bloodshed down there."

On the afternoon of the meeting with the Back-to-Work Committee, the city officials drove to Canton to see Colonel Lawler, observer for the National Guard in the Massillon district, and, after discussing conditions in Canton, told him of the demands of the Law and Order League and the Back-to-Work movement and requested him to come to Massillon to observe the situation there. Lawler replied that he himself and other National Guard observers had been to Massillon and ridden around the picket lines and that from his observations, Massillon was in fine condition, everything was pretty peaceful, as peaceful as could be expected under strike conditions. Lawler and the city officials then discussed the activities of the pickets in carrying sticks and clubs, piling stones, and blocking roads. Lawler dismissed these activities as "technical" and stated that it would be impossible to argue over every little technical point of the law when an emergency such as a strike situation arose. He ended by complimenting the city officials very highly on the way in which they had been handling the situation, and stated that they had it well in hand.

The city officials then returned to Massillon to attend a meeting of the City Council, where Switter presented a request for additional police, on the ground that he was using some men in the strike zone that were needed in the city. The City Council rejected the request. "They was kind of cold on it," Switter testified. "We went into a meeting in the City Solicitor's office after the Council . . . a committee meeting. They told me not to get hot and bothered about it, it was down in the county, and it was up to the sheriff." "They immediately jumped us," Hardman added, "about not having the funds to spend, and they said there was no reason for the Chief to get all excited about it; to begin with the plant was in the county and it was up to the sheriff to do something about it."

Following the conference at City Hall on June 21, the Back-to-Work movement held a meeting, with about 450 present, at Willowdale, on June 22, and another meeting at Sippo Park with about 700 present, on June 23. Foremen Rider and Immell donated the use of their automobiles to assist Linckenhely and the other Employee Representatives and to transport employees to these meetings. At the Willowdale meeting, Linckenhely testified, Rider addressed the crowd and "talked in regards to the way they were kept out of the plant and that so many men came to him; wanted to know if anything could be done about getting back to work . . . and spoke along the line (of) making arrangements to go back to work." At the Sippo Park meeting, Rider spoke "in regards to the same line of work . . . of trying to urge the men along that wanted to get back to work."

On the same day that Linckenhely had discussed "ways and means" at the Chamber of Commerce, the Law and Order League had retained Elson Wefler and Franklin Maier as its attorneys. On June 25 these two attorneys, with Case, Lester, and other members of the League, came to City Hall and presented to the city officials a petition signed by a number of civic organizations and leading citizens of Massillon. After the petition was read aloud, Maier delivered a speech about the breakdown of law and order, demanded that the city appoint special police, citing its statutory authority to borrow money from banks for that purpose in an emergency, and accused the city officials of refusing to accept the money which the Law and Order League had raised. Maier also stated that Massillon was losing a pay roll of $40,000 a day and that "he had it straight that if something wasn't done the Republic was going to move their plant out of Massillon."

Switter retorted that there had been no breakdown in law enforcement, that he had received a number of "cock and bull statements, the same as they did . . . of fellows being afraid to go home and being in fights, and being beaten up" but that only a few persons had signed affidavits and filed complaints, and that in every one of these cases an arrest had been made.[24] Switter further denied that the Law and Order League had ever raised any money for special police and called upon Case, who confirmed the Chief's statement. When Hardman spoke, he deprecated the whole petition as "a grandstand play," defied the Law and Order League to prove its assertion that dynamite was being transported through the streets, and denied that the general safety of the city was in peril. Hardman added that the reference in Maier's speech to the loss by Massillon of $40,000 a day "smoked the situation out" and showed that the League was interested, not in law and order, but in protecting the businessmen.

Finally, Switter and Mayor Krier agreed to appoint some more men as special police and the Law and Order League agreed to assist them to borrow money for this purpose from banks in Massillon.

After the meeting, Switter, Case, and Hardman conducted two officers of the Ohio National Guard on a tour of the city to assist them in finding suitable quarters for the troops, if they were called in. The officers inspected a number of possible sites and finally selected an old lodging house owned by the city, which Case agreed to equip with refrigeration, gas, plumbing, and water connections, if it became necessary. Subsequently, such equipment was added, and the Chamber of Commerce received a bill for the cost, which at the time of the hearing it had not paid.

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[24] Switter testified that there had been fewer arrests during the strike than in normal times.

At about five-thirty that afternoon, Gordon Hess, the respondent's assistant sales manager, telephoned Switter at Switter's home that he had received information from the respondent's Canton office that between five and ten thousand Akron rubber workers and "Canton C. I. O.'s" were on their way to invade Massillon, and demanded to know what the Chief was going to do. After insisting that "it sounded like more bull we had heard about other invasions," Switter finally agreed to call out the police department. Hess stated that he "would have his gang over there to back (the Chief) up."

When Switter arrived at City Hall, he found a crowd of approximately 200, including foreman Rider of the Back-to-Work movement and a number of the respondent's employees. Rider asked Switter to put in a three alarm signal for the American Legion. When Switter disclaimed any such authority Rider went to the fire chief, who sounded the signal. The crowd in the meantime was steadily growing, until it reached a total of several thousand persons in a high state of excitement. At 7 o'clock, when Hardman arrived, "the atmosphere was very tense . . . so tense that I did not park my car in the business district but drove it out into the residential district so that if there was any trouble the car would not be damaged."

In the Chief's office, a crowd, including Hess, Rider, and J. Lester of the Law and Order League, had congregated. Lester asked the Chief if he wanted him to go home and get a shot gun. Hess "grabbed the telephone and called up the Canton office of the Republic Steel Company and wanted them to send somebody over to see the enthusiasm that Massillon was showing and what a crowd was backing up the Massillon gang to go back to work." After the call, Hess informed Switter that men from Republic Steel had already been over to see the crowd. Nevertheless Hess procured a newspaper reporter to take pictures of the crowd, telling Switter and Hardman that "it would be great to have a picture showing the enthusiasm of the group . . . so they could show the Republic Steel there was still some interest in Massillon and some life there . . . showing the Republic Company (that) Massillon wanted the steel mill there."

At about 10 o'clock the two National Guard officers who had been in Massillon earlier in the day came to City Hall and wanted to know the reason for such a crowd. When Switter informed them that a mass invasion of Massillon was threatened, they replied that their intelligence division could find no trace of any mass movement on Massillon and "for God's sake to break up that crowd before something happened." Switter then addressed the crowd, thanking them for being willing to back him up on any invasion on the city, and asked them to disperse. Several members of the American Legion approached Switter and Hardman after the meeting and wanted to know why and on whose authority they had been called out, and stated that they did not want to get mixed up in any strike controversy.

On June 27 or 28 Chief Switter asked the Civil Service Commission to certify to him a list of men eligible for appointment as special police. Of the seven certified, Switter chose six, rejecting the seventh because he was a former employee of the respondent, and choosing four other men of neutral feelings. The Massillon police force now had reached a total of 28.

On June 29 the Back-to-Work Committee, through the assistance of Case, obtained the use of a room on the ground floor of the Union Bank Building as a place where they could set up tables and register the number of employees who wished to return to work. On the following day the Back-to-Work movement began registration. When crowds formed and the police interfered, dispersing them, Linckenhely, Rider, and Case called upon Switter in protest. Case especially urged upon the Chief that a large majority of men, not concerned with the strike, wanted to put themselves on record as desiring to go back to work, "so that there could be some definite assurance given the Republic that if Republic wanted to open the plant, that it could be opened, there was men enough to operate." Switter informed them that he had no objection to their registering employees, but stated that he did not think it was a good idea to use the ground floor. Case then offered the Back-to-Work Committee the use of the offices and facilities of the Chamber of Commerce on the eighth floor of the Ohio Merchants Bank Building, where registration continued from June 30 until July 3. Two full-page advertisements were published in the *Massillon Independent*, over the name of the Back-to-Work Committee, announcing the place and purpose of its work. By July 3, the respondent claimed, over 2200 employees had signed the above-described petitions.

This was "the big move" for which the Back-to-Work movement claimed credit. Linckenhely testified, however, that the Law and Order League had agreed to pay for $75,000 worth of insurance which was to have been taken out to cover property damage to the Union Bank Building: that the League had paid for the mimeographing of the petitions; that the League had furnished without charge all the desks and facilities for the registration of employees; and that the League had paid approximately $100 for the advertisements of the Back-to-Work Movement in the *Massillon Independent*, although by agreement between the *Independent* and the Law and Order League, nothing in the advertisements indicated that they had been paid for by the League.

Although the question of whether the Back-to-Work movement represented a majority of the employees of the respondent's Massillon Works is not in issue in this proceeding, it is worth noting that among the alleged 2200 signatures are those of a large number of foremen, superintendents, and office workers, together with the signatures of several individuals who signed the same petition as often as four times. Furthermore, the record is plain that supervisory officials of the respondent directly participated in circulating and obtaining signatures to this petition. Thus William Morris, a millwright leader, testified that his general foreman, one Shoemaker, telephoned him to go to the Chamber of Commerce and sign the Back-to-Work petition. Judson Moody testified that his foreman, Ray Henry, called at his house and asked him whether he had signed the Back-to-Work petition. Wilbur Larker, an office employee, testified that he signed the Back-to-Work petition while working in the temporary offices of the respondent in Canton, and that he saw other employees sign the petition there. Nick Linckenhely testified in detail concerning the activities of foremen Rider and Immell as members of the Back-to-Work committee. Switter testified that Gordon Hess referred to the Back-to-Work movement as his "gang" and sent them en masse to City Hall to back up the Chief on the fictitious invasion of Massillon.

Thus from beginning to end, the "big move" of the Back-to-Work Committee was in reality conducted from behind the scenes by the respondent and the Law and Order League. Like the discredited Employees Representative Association, of which it was merely a continuation, the Back-to-Work Committee was the creature of the respondent.

In the meantime on the night of July 1, Governor Davey had ordered General Marlin and four companies of the Ohio National Guard into Massillon. Despite previous arrangements to house the troops in the city lodging house, two companies were quartered in the main office of the

Massillon Works and the other two in a school house overlooking the respondent's plant.

On July 2 the Massillon Works and the plant of the Union Drawn Steel Company reopened. On the same morning, at the request of Creighton, general manager of the Union Drawn Steel Company, Switter supplied city police in two cruising cars to escort the Company guards and a quantity of arms, ammunition, and tear and vomiting gas, into the plant. One of the Company guards furnished Officer Moore with a few gas candles or jumpers, which were kept in the police cruiser car. Though the plants were open, the strike was still effective. The respondent was preparing for the day when arms and ammunition would be needed.

On July 2, 3, and 4, and thereafter upon the solicitation of superintendents and foremen, who telephoned to the men and visited them at their homes, a number of employees returned to work. Although the record does not indicate the exact number of this group,[25] it is evident that, even under the guns of the National Guard, in the fifth week of the strike, despite the campaign of the Law and Order League and the Back-to-Work Committee, and despite the continued solicitation of foremen and superintendents, a large number of men preferred not to return to work but to remain on strike.

On July 5 General Marlin called a meeting of the city officials, told them that the troops were not going to be there forever, and stated that if they wanted the steel mill in Massillon, they would have to be prepared to take over the situation when the troops left. The Massillon Works, he warned them, was the last plant to reopen, and if they did not keep it open they would lose it. Marlin suggested deputizing and arming a group of men from the respondent's plant to be known as "home guards" who on their own time would patrol their respective precincts after work. No definite plan, however, was agreed upon at this meeting.

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[25] There is some testimony that approximately 2000 employees returned to work. It is not clear whether this figure included the employees of the Union Drawn Steel Company.

On the next afternoon a delegation from the Law and Order League, the Back-to-Work Committee, and the respondent called upon the city officials at City Hall to urge upon the Chief the necessity of appointing special police and home guards. The composition of this delegation reveals the close relationship between the organizations. Among those present were R. E. Peppard, superintendent of the billet shops, Perry Angstadt, the respondent's chief accountant, and one Blantz. These three men had been Company Representatives under the Plan. Case and Quigley were present on behalf of the Law and Order League. In addition there was also present Fred Becker, the metallurgist who had been a member of the Back-to-Work Committee since its inception. According to the testimony of Case, however, Becker, together with Peppard and Angstadt, represented the respondent.

Representatives of all three organizations joined in the discussion. Peppard, Angstadt, and Becker asked the Chief to select men from a list of names of 66 of the respondent's employees, which they submitted, to be appointed as special police to act under Switter's jurisdiction and to be paid by the city. Hardman and Switter examined this list, recognized the names of a number of men they knew, and rejected most of them as being too excitable to act as police officers during the strike emergency.

The delegation then requested that the Chief deputize a group of the respondent's employees as home guards and Peppard offered to furnish a further list of names. To this proposal both Switter and Hardman objected, as Case testified, on the ground that "it was probably undesirable to use anybody connected with Republic although they were men connected with the Back-to-Work movement. . . . Hardman said if they did anything like that they should put some C. I. O. men on." The delegation argued that Canton had deputized the respondent's employees as home guards and that Massillon should follow suit. To prove this, Angstadt telephoned the respondent's office in Canton and then informed the city officials that "the city solicitor of Canton was down in the plant then swearing them in." Hardman and Switter, nevertheless, refused to accede to the delegation's request.

At this point there appears, most casually, upon the scene the principal character in the tragedy of bloodshed and violence that was to be enacted on the night of July 11. "During the meeting," testified Case, "Switter made the statement . . . of his inability to get any policemen who were competent and I made the suggestion to him . . . 'How do you stand with Captain Curley or Major Curley?' He said 'All right.' 'Well,' I said, 'I understand from one or two talks I had with Major Curley that there is a method by which you could get the type of people and kind of people that you want and that perhaps he would advise with you on the method.' And he says, 'Where is Major Curley?' "

The testimony is in conflict as to whether Switter then sent for Curley, or whether Curley had already interviewed Switter earlier in the day without any previous communication from Switter. There is no dispute, however, as to the fact that Case suggested Curley to the Chief as the man who would solve the problem of increasing the Massillon police department, or that on July 6 Curley called upon Chief Switter and offered his assistance in helping to secure men for the police force.

Case described Curley as a disinterested, public-spirited citizen, "a former Army officer . . . who had organized two companies in Massillon . . . for the world war, a very competent man along the lines of developing organization, also, a very influential member of the . . . American Legion." To this description of himself, Curley added that he had served in the Spanish American War as a private, in the World War as a captain and major, and was now retired with the rank of major. A disingenuous witness, whose testimony in many respects is contradicted by the testimony of other witnesses both for the Board and the respondent, and whose account of many of the events in which he participated is inherently improbable, he nevertheless furnished testimony which is indispensable to an understanding of the case.

On the evening of July 6 General Marlin, who had attended a meeting on the previous evening of the Law and Order League at J. Lester's home, called on Chief Switter. "He wanted to know why we were backing down and why we had not shown some signs of life in getting this group of . . . mill men they (Peppard, Angstadt, and Becker) certified to me . . . sworn in and getting ready to take over." Switter replied that he was "trying to get neutral men . . . and it was slow picking." "This is no time to pick up neutral men," Marlin answered, "you have to be ready to take this situation over. . . . I demand you have some plan to certify to me by tomorrow noon so I can report to the Governor." When Switter failed to agree with this, the General left in a huff.

Finally, on the following morning, the leading spirits in the Law and Order League descended upon the city officials. "They demanded we do something about this situation . . . why we had been passing the buck and why we refused to take the special police. They just climbed all over us and demanded some action be taken and threatened to impeach us, talked about getting rid of the Mayor. They talked about geting rid of the city solicitor and everybody else, and they wanted something done, wanted some action. . . . (They) said we could get plenty of men there . . . Republic Steel men . . . and I told them that I didn't want those men, that if I was going to have any special police, I wanted to have men on neutral sides that had no argument in the strike."

"Q. (by Mr. Hunt) What was the reply?

A. They said the steel mill was at stake, the City of Massillon was at stake, as far as industry goes, and we would lose the biggest of our industry.

Q. Did they ask you at this meeting if you would accept the assistance of Captain Curley in picking men to add to your police force?

A. Yes they said they knew where to get men and he could help pick the men.

Q. Did you finally agree to take the men right away?

A. No, it got pretty hot in there for the next hour or so.

Q. What do you mean it got pretty hot?

A. Why they were climbing on us to take on these men and wanting a showdown and wanting to know why and fighting with us and asking all kinds of things and saying all kinds of things against us, why we had done the way we did . . . and why we would not consent to it.

Q. Chief Switter, I have asked you so far merely a few questions about isolated meetings and conversations in the strike situation but weren't you subject to constant pressure throughout the day and night . . .?

A. I did, I worked sixteen, eighteen and twenty hours a day ever since the strike broke, and one time none of the department went home for four days and nights, four nights, only excepting a few hours sleep in the cruising car and I slept on the office floor and the whole department the same way, even the new rookies.

Q. So you were pretty tired at the meeting of this Law and Order Committee on July 7th?

A. We were pretty well pounded down by that time.

Q. By whom?

A. The law and order and the back-to-work movement.

* * * * * * *

Q. What did you finally tell the group that you would do about putting on these extra police?

A. I told them that was up to the Mayor and the chief executive of the city to make that decision and they got after the old boy pretty hot and he kind of weakened for the time being and asked me again what we should do. Then they jumped on me and I told them I would give them the works, I would give them what they wanted, I would appoint the whole damn outfit, give them all the guns they wanted and let them go to it, it is coming, and God damn let them have it . . .

Q. You could see what was coming?

A. That there was going to be a battle and bloodshed all around as soon as they put guns in those rookies' hands and we had been fighting against bloodshed all the time."

With this agreement reached, the Law and Order League invited the city officials to attend a luncheon that noon to which Case, at Curley's request, had also invited a score of the managers of Massillon's leading industries. Case opened the business of the meeting by announcing that Major Curley had been designated by the Mayor and Chief

Switter to make a statement to them about some cooperation that the city very badly needed at that time. Curley then addressed the meeting. He stated that he had consented to render such assistance as he could to the city for the purpose of developing a special police force, totalling 66 men, which would restore law and order in Massillon; that there were a number of men employed in industries who were not connected with the strike, whom he felt would make good special policemen; and that if any of those present had any available men, "we would like to have them sent to us immediately." After this a discussion arose about home guards. Curley stated that he "did not believe that was the need in Massillon, he believed that what they wanted was some special police here for the purpose, who would be deputized and be under the direction of the Chief."

The last speaker was Carl Myers. "He lit on the Mayor and the city solicitor and I," testified Switter, "with all fours . . . He said he had not thought a hell of a lot of us until now and he thought we was beginning to get on the right track now and go along and do something." "He was glad to see the Mayor and Chief had wakened up . . . ," testified Hardman, "he roasted them pretty heavily . . . he felt they had not been doing their duty . . . He said he loved Massillon and loved the Republic Steel Corporation . . . He dwelt on the fact that the Mayor and Chief had not enforced the law, that they had been asleep and not doing their duty." "The only thing I ever recall," added Case, upon cross-examination, "that Mr. Myers said at that meeting was somebody in the meeting insisted on the necessity of home guards, Mr. Myers made the statement that he felt the whole matter could be safely left with Major Curley, if he didn't need home guards, that was all up to him, *the whole situation could rest with him, he felt.*"[26]

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[26] Italics supplied.

After this meeting, the Law and Order League, its work accomplished, took no further part in the events in Massillon. We pause for a moment at this point to re-examine the role of the Law and Order League and the respondent's relations to it.

Almost from the beginning of the strike, the respondent had made it clear to the businessmen and officials of Massillon that the retention of the Massillon Works, and the very existence of Massillon, depended directly upon their success in breaking the strike. Thus on June 9 Carl Myers had asked Lanham what the businessmen were doing about the strike, whether or not they were interested in keeping the steel plant there, and had threatened Lanham and the city officials that unless Massillon furnished the same kind of protection the Chicago police had furnished, the respondent would move out, and Massillon would be a junction, without even a first class post office.[27] On June 25, the day the Law and Order League presented its petition to the city officials at City Hall, Franklin Maier, attorney for the League, informed Hardman that he "had it straight" that unless something was done, the Republic was going to move their plant out of Massillon. At the conference with Chief Switter on the morning of July 7, the members of the League had urged in desperation that the steel mill was at stake, the City of Massillon was at stake, and that the business community would lose its biggest industry. The record is replete with testimony that Carl Myers, on numerous occasions, had stated to the city officials that if they did not get the mills open, Massillon would be "a prairie in the junction of route 21 and route 30," that if the plant were lost, the people of Massillon and the city officials would be responsible for losing it, that without the mills, Massillon would need neither a Mayor nor a Chief of Police nor a City Solicitor. General Marlin, who had been in communication with the members of the League and whose troops were quartered in the respondent's main office, pointedly informed the city officials that it was not the proper time to select neutral men as special police, that if they wanted the steel mill in Massillon, they would have to be prepared to take over the situation when the troops left and that if they did not keep the mill open they would lose it.

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[27] On or about June 9 Lanham, Poe, and other members of the League also telephoned to Myers when they heard that "they were going to close up the mill, they were not going to open it up."

Under this threat of economic disaster, the Law and Order League, while publicly maintaining that its purpose was to establish law and order, privately set to work with all its power to assist the respondent to break the strike and to reopen the plants. When on June 15, the respondent, over the signature of Girdler, issued its statement that "movements similar to that which resulted in the opening of the Monroe plant are spreading rapidly to other affected communities," the respondent supplied the League with its program and its propaganda.

We have noted above how the Law and Order League assisted and subsidized the Back-to-Work Committee in many of its activities. Becker, Linckenhely and other members of that Committee conferred daily with Lester at his home and with Case at the Chamber of Commerce with regard to "the big move." So great was the League's anxiety to retain in Massillon the respondent's pay roll of $40,000 a day, that its members contributed within a few days $1200 toward a fund of $8200 to be raised to pay for special police and police equipment. Its concern for the establishment of law and order may be measured by the fact that the $1200 was returned to the members when it was learned that the city officials would not use the special police to break the picket lines. Lester and Lanham frequently acted as go-betweens between Myers and the city officials. Before the National Guard arrived, Case undertook the expense involved in extensive alterations of the municipal lodging house. When the National Guard was preparing to leave, the members of the League resorted to threats of impeachment against the city officials unless they agreed to hire the respondent's employees as special police.

Not the least of the League's functions was to assist the respondent in whipping up public opinion against the strikers and the Union by spreading unfounded statements that the C. I. O. was marching to invade Massillon, that explosives were being transported about the city, and that the strikers had instituted a reign of terror, in which the city authorities were powerless.

Finally, Case and other members of the League, together with the respondent, were successful in having Major Curley, allegedly a disinterested public spirited citizen of Massillon, placed in a position of authority in the Massillon police department, with results which are described below. In sum, what the respondent was unwilling or unable to do openly, it accomplished in part through the businessmen of Massillon, acting under the guise of establishing law and order. Under the stimulus of the respondent's threats to abandon its Massillon plant the League became the respondent's accomplice.

At 3 o'clock on the afternoon of July 7, a crowd of 60 or 70 men appeared at police headquarters, a good many of whom Switter recognized as employees of the respondent. Curley and Switter lined the men up and at Curley's suggestion all those under 30 years of age and all married men with families were asked to step forward. After these were dismissed, a further selection was made from the remainder, and 40 men were finally chosen as special police officers. Before the men were sworn in, Switter testified, there was a slight delay. "The bondsman did not show up and Curley had to contact Gordon Hess and he told him to arrange for getting the bondsmen to come over from Canton to bond the group of men . . . that is who Captain Curley said he was talking to, wanted to speed them up so they could swear them in."

In the light of subsequent events, the method by which these special police officers were bonded deserves careful examination. On July 5, Thomas R. Smith, a member of the insurance firm of Duerr, Smith, Lane Company of Canton, received a telephone call from Kenneth Cope, an attorney whose firm represented the respondent in this and other proceedings, to come to the respondent's offices in Canton and sign some bonds for special policemen. At first Smith refused on the ground that he was forbidden to sign such bonds during a strike, unless the respondent were willing to indemnify the Fidelity and Casualty Company of New York, the bonding company which Smith represented. Later Cope stated that the indemnity agreement could be arranged, and, accompanied by Assistant City Solicitor McCarroll of Canton, Smith drove to the Canton plant of the respondent. There W. C. Gubbins, the respondent's assistant treasurer, and Speis, its chief clerk, were engaged in selecting the men to be bonded from a group of employees. After certain employees had been dismissed as being "too hot-headed," the remainder, 56 in number, signed application forms and Smith signed, sealed, and executed public official bonds upon which the names of the employees had already been typed. Each bond bound the employee as principal, and the Fidelity and Casualty Company of New York as surety, to the City of Canton in the penal sum of $500, and was conditioned upon the faithful performance of duty by the employee as private police officer of the City of Canton. On the back of each signed application form, Gubbins wrote "Republic Steel Corporation by W. C. Gubbins, assistant treasurer," and agreed that the respondent would indemnify the Fidelity Company for any loss that company might sustain as a result of having acted as surety on the bonds. Assistant City Solicitor McCarroll then swore in the respondent's 56 employees as private police officers of the City of Canton. Of these 56, at least two were Employee Representatives, and two were supervisory officials at the Canton Works.

On the afternoon of July 7, Attorney David Day, of counsel for the respondent, telephoned Duerr, Smith, Lane Company and asked Smith to go to Massillon to sign more special police bonds. Day, Gubbins, and Smith then drove to City Hall in Massillon, where Day inquired of the desk sergeant in the police department for Captain Curley. Curley took the group to Switter's office and introduced them to the Chief who greeted them curtly, and sent them to another room where the men whom Curley had selected were awaiting to be bonded. Smith testified that none of the men were rejected, as they had been in Canton, and that the final selection had been made before they came to him. Hardman, Gubbins, and Curley, sitting at a table, assisted Smith in executing the bonds. Gubbins, who had been handed a list, apparently by Curley, of the men to be bonded, inquired of each applicant whether he was an employee of the respondent and, if so, his badge number. Hardman then administered the oath of office to the entire group as special police officers of the City of Massillon.

Under date of July 6, Smith forwarded to the respondent an itemized bill for $830, covering special police bonds, at a premium of $10 each, issued for 56 Canton employees and 27 Massillon employees of the respondent.[28] On July 13, Gubbins, for the respondent, signed a contract of indemnity whereby the respondent, as indemnitor, agreed inter alia to become surety for the Fidelity Company on both sets of public official bonds.

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[28] Smith testified that the bonding of the police occurred in Canton on July 5 and in Massillon on July 6. All other witnesses fixed the date of the bonding in Massillon as July 7.

Of the 27 Massillon employees thus bonded by the respondent, one William F. Henderson, was a foreman, and another, Maurice Schnierly, was an Employee Representative at Canton. In addition to these 27, 13 other men were appointed, making a total of 40 special police officers. Of the 40, the names of 19 had been submitted to the Chief by Peppard, Becker, and Angstadt on the morning of July 7; 24 had signed the Back-to-Work petition; and at least 32 were employees of the respondent.

From these facts it seems clear that Curley knew in advance the employees whom the respondent wished selected as special police officers and that in their selection he acted as the respondent's agent. Curley, however, denied that anybody connected with the respondent had anything to do with his activities, and denied that he knew the names of the 60 or 70 men who came to City Hall on July 7, or what plants they came from or whether they were employees of the respondent. Curley also denied that he knew that bonds were issued for the Massillon employees who were sworn in, or that he had telephoned Gordon Hess to arrange for the bondsmen to come from Canton, but admitted that he had spoken to J. Lester about it. These denials are not convincing. On the morning of July 7, the Law and Order League had demanded and the city officials had agreed that the respondent's employees would be appointed as special policemen, and Curley was in constant touch with Case and other members of the League. At the luncheon meeting of the League on July 7, Curley had rejected the proposal that home guards be appointed, and Carl Myers had approved his action, adding, according to the testimony of the respondent's own witness, "the whole matter could be safely left with Major Curley . . . the whole situation could rest with him.'' This was tantamount to a ratification of Curley's authority. In addition, before the bonds were signed for the employees in Massillon, Curley either telephoned to Gordon Hess, or spoke to J. Lester about telephoning to the respondent at Canton, in order to hurry the bondsmen to Massillon. Whichever version of this incident we accept, it is apparent that Curley knew, at least after the men had been selected, that they were to be bonded by the respondent. The uncontradicted testimony of Smith, the bonding agent who came to Massillon as a result of a telephone message from the respondent, confirms this conclusion. Smith testified not only that ''Curley had mentioned to (Switter) what we came for, to bond the special policemen,'' but that Curley was sitting in the very room where the men were bonded and where Gubbins was writing down their badge numbers. Furthermore, although in Canton Gubbins had weeded out certain employees before they were bonded, in Massillon he made no such selection and ratified Curley's choice without question. From these and other facts, we conclude that Curley's activities were conducted with the full knowledge and approval of the respondent, that Curley knew in advance and carried out the respondent's wishes, and that the manner in which he selected at least 32 of the respondent's employees of a total of 40 special police was designed to conceal the fact that, while apparently selecting men most suitable for the position, he was in reality choosing men whom the respondent had already designated.[29]

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[29] Attached to the bill, dated July 6, which Smith sent to the respondent covering special police bonds for 56 employees at Canton and 27 employees at Massillon, was an attached schedule of the names of these employees together with the report numbers of their bonds. With respect to this bill and attached schedule, Smith testified that it was "dated July 6th and it was made in our office at that time, and on the back of this we have attached a list of names arranged alphabetically." The employees named in the schedule were not sworn in until the following day, July 7. This confirms the conclusion that the respondent had chosen the employees to be appointed as special police officers before Curley had lined the men up at City Hall for his "selection." Despite the fact that Smith erroneously described the bonding as

On July 8 and 9, the National Guard moved out of Massillon and the police department, thus augmented, assumed control. Although there were no city funds to purchase equipment, Switter ordered 30 new sidearms and four dozen new night sticks. By Sunday, July 11, all the special police were armed.

"The breakdown of law and order in the city!" observed Switter on the witness stand. "Not one of these new men were put out where these homes were supposed to have had windows broken out of and men taken out and attacked. The whole outfit was concentrated in the strike zone."

At 2 o'clock on the afternoon of July 11, Switter and Curley drove to the Massillon Works to watch the behavior of the pickets when the afternoon shift of workers entered the plant and the morning shift came out. "The afternoon (shift) went along in fine," testified Switter, "no trouble at all." Curley and Switter then drove to a mass meeting of the Union at Oak Knoll Park, observed the conduct of the crowd, and made several trips to the Massillon Works and the plant of the Union Drawn Steel Company to see that the special police officers were at their posts. At about 5 o'clock according to Switter's testimony, Curley remarked, " 'I will go see that the night shift changes . . . you better get away and get some rest and recreation. You been at it too long. It is getting you down.' I said, 'That is fine, thanks old boy. If you will take over, I am gone.' " With this, Switter left Curley, went home to supper, and at 9:30 that evening drove out into the country with some friends for a few beers and lunch. On the same day, in the belief that the city was quiet, Hardman had left Massillon to visit his wife who was away on a vacation.

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having occurred on July 6, we are inclined to consider the bill and attached schedule, which were contemporaneously made, in the regular course of business, as better evidence than oral testimony, given some weeks later.

Nothing was said, testified Switter, about placing Curley in charge of the police department. "Things were quiet and they were having this meeting and it didn't look like anything was going to happen. It didn't look like there was going to be anything. It went off on the afternoon shift all right and we did not figure anything was going to happen that night."

> "Q. (by Mr. Donald Wakefield Smith) Is it fair to say that you didn't regard this as a matter of delegation of authority to Captain Curley? You merely thought nothing would happen and he would be around there?
>
> A. That is right. He was going to see the new rookies went on the post standing in front of C. I O. headquarters and there was a viaduct and a couple of men to be posted under the other end of the viaduct, and a couple of other roads supposed to be blocked so no traffic would come through. And that is the way it was supposed to be handled and he was just going to see the men were on their posts and what he could do. . . ."

Nevertheless, as soon as Switter had left the city, Curley took complete command of the police force, and countermanded all of Switter's previous orders.

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5. *The incident at C. I. O. headquarters*

At approximately 11 o'clock on the night of July 11, three persons received fatal injuries and an undetermined number were injured by gunfire and gas fumes, when special and regular police officers, under the command of Major Curley, dispersed a crowd of strikers and strike sympathizers at C. I. O. headquarters on Cleveland Avenue near the respondent's district office, in the City of

Massillon. All those killed or injured were strikers, strike sympathizers or bystanders. None of the police sustained any injuries.

Witnesses for the Board claimed that Curley in Switter's absence led the special and regular police in a murderous and unprovoked assault on C. I. O. headquarters, pursuant to a plan to destroy the union and break the strike. The respondent sought to show that the strikers had assembled at the C. I. O. headquarters with a preconceived plan to rush the police, enter the mill, and remove the employees who had returned to work. In order to understand the causes of and the responsibility for this encounter, it is necessary first to examine the circumstances immediately prior to its occurrence.

As noted above, as soon as Switter had left the city Curley, without authority, took command of the police department. He testified that at about 9:30 p. m., when he walked over to City Hall, "the boys were getting ready to go on the 10 o'clock shift. They all came in and reported for duty. A lot of rumors flying around there that in the afternoon meeting which they had at Oak Knoll Park and they were going to come down and clean up the Police Department. I said 'Hell, I have heard that so often. . . .'[30] They all came to me—I didn't know—for orders. They said 'What will we take along?' I said 'Hell there ain't anything to take along. . . . There is some gas in back of the Sergeant's desk there. Some gas guns.' " To this elaborate expression of unconcern Curley added, however, that the police officers took "everything we had . . . tear gas . . . five tear gas guns . . . and a submachine gun." Officer William Fellabom, a former machine gunner who served in the World War in the company which Curley organized, testified that at 9:30 p. m., when he reported to the police station, "Curley was in there and as soon as he saw me he says 'Bill, you better take your machine gun along tonight. They expect a lot of trouble so I takes the machine gun and some ammunition there we had and they hustled us right down there.' " From the testimony of other witnesses, it is clear that the police also took the 90 gas projectiles, six combination shells, and other equipment which Lieutenant Adler of the respondent's police and Chief Deputy Sheriff France had transferred to Switter for the police department at the Brookside Country Club on the night of June 9.

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[30] The Trial Examiner granted a motion by the Board's attorney that this latter remark be stricken from the record. In our view of the evidence, the remark is relevant as showing the unimportance which Curley attached to the rumor. We hereby overrule the ruling of the Trial Examiner.

Officer Ickes, a witness for the respondent, testified that when he reported for duty at 9:45 p. m., Curley countermanded Switter's order of the previous evening assigning Ickes to the plant of the Union Drawn Steel Company, and ordered Ickes and special officer Kelleher, one of the respondent's employees, to a post on Cleveland Avenue, 50 feet south of C. I. O.'s headquarters. The usual number of police assigned to this post was six. Curley admitted that after 10 p. m. the number was increased to 20, explained that he had countermanded Switter's order with reference to Ickes only because the plant of the Union Drawn Steel Company was not working that night, but denied that he had assigned more than two or three additional police to Cleveland Avenue.[31] From the testimony of other witnesses for the respondent, it is clear that Curley's testimony is not to be credited. Officer Fellabom testified that "before we left the station Curley says 'I will be over there, close to where the line is or close to the C. I. O. headquarters. . . . I want to see you over there. . . . You fellows will have to be stationed over there until things quiet down.' " Officer Kraft testified that Curley had sent eight or nine police officers to C. I. O. headquarters that evening in addition to those already assigned. Furthermore, Switter testified that when he returned to Massillon on the next morning, Captain Curley informed him that "he had raised the normal guard which was usually stationed about 50 feet in front of the strike headquarters from six men to 20 men." In view of this testimony, we conclude that Curley, upon his own authority, at approximately 10 p. m. armed the police with all the weapons in the possession of the police department, including the gas donated by the respondent, and ordered the normal guard on Cleveland Avenue near C. I. O. headquarters raised from six to 20 men. Of the 20, the record indicates that at least eight were employees of the respondent, including foreman William Henderson.

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[31] Curley's testimony on this point is confused. At times, he appeared to admit having assigned all the additional police to Cleveland Ave.; at one point he claimed that Officer Ickes was "about the only one he assigned."

As already indicated, Curley, in justification for his having armed the police, offered the rumor that in their afternoon meeting at Oak Knoll Park, the strikers had threatened to "come down and clean up the police department." It is clear that nothing occurred at this meeting to warrant the rumor. Edward Davies, an employee of the First Savings and Loan Company, testified for the respondent that he attended this meeting, that he heard Joe Morton speak, that "Morton made different statements in regard to the men that they should fight on, that they are bound to win the strike . . . that they should be down that night at 11 o'clock on the picket line." On cross-examination, Davies admitted that the meeting was perfectly peaceful, and that the general tenor of Morton's speech was merely such that "if I were . . . on the striking side, (it) would help me to feel I was justified and I wanted to continue . . . out on strike." Moreover, Switter testified that before he left Massillon at 9:30 p. m. on July 11, he had heard no rumors of any kind with regard to threatened activities of the strikers. Finally, even Curley himself attached no importance to the rumor. He admitted that between July 7, when the special police were sworn in, and July 11, before he assigned additional police to Cleveland Avenue, there had been a decrease in the number of arrests and the amount of difficulty, that on the afternoon of July 11, when Switter left Massillon, "everything seemed to be all right," and that on the evening of July 11 he did not expect any trouble. We are therefore unable to believe the explanation offered by Curley for his orders.

At approximately 10 o'clock, the 20 officers reported to their posts at or near Cleveland Avenue. In order to understand the events which took place after their arrival, a brief description of the locality is necessary. C. I. O. headquarters is a rectangular two story wooden frame building, with three front doors and three windows, facing west on Cleveland Avenue. Three steps, each about a foot high, lead up to the front doors. The union occupies the lower floor of the building, and had established a soup kitchen there to feed the pickets. The second story is occupied by the family of Wilbert Coleman, a non-striker who appeared as a witness for the respondent. About 100 yards to the southwest of this building lies the respondent's district or main office. About 350 yards to the southeast, on Oberlin Avenue, there is a viaduct over which a number of employees drive to work. Gate No. 1, the entrance to the sheet division of the respondent's plant, is located on Oberlin Avenue, approximately 175 yards west of the viaduct and about the same distance southeast of C. I. O. headquarters.

Immediately upon their arrival at C. I. O. headquarters, the police, pursuant to Curley's orders, prepared for trouble. Officer Ickes testified that from the time that he arrived on the scene, between 9:45 and 10 p. m., he expected trouble because otherwise "I would not have been sent down there." At that time, he testified, he procured from the police car a tear gas gun and nine projectiles, loaded the gun, and stationed himself across the street from C. I. O. headquarters. The other special and regular police officers, all armed with police clubs, revolvers, rifles or gas equipment, took posts on Cleveland Avenue, between 50 and 100 feet south of C. I. O. headquarters.

Curley directed Officer Fellabom to station himself, with his submachine gun, directly across the street from C. I. O. headquarters. Officer Fellabom testified:

> "As Curley said *when I took the gun,* he says 'Bill what kind of ammunition have you got in there'. . . . I said 'Nothing but bird shot and paper shells.' He said 'That is right; that is right; use them in there, Bill.' "[32]
>
> "Q. What time did he tell you that?
>
> A. *Right after I got out of the car when we landed there.*
>
> Q. What time was that?
>
> A. A little after ten; about 10 or 15 minutes after ten.
>
> Q. When did Captain Curley tell you that he expected trouble?
>
> A. At police headquarters.
>
> Q. What time was that?
>
> A. Ten minutes after ten.
>
> Q. What time was that?
>
> A. Ten minutes to 10."

At another point, Fellabom testified:

> "Q. Now when you got there did you see any other officers there?
>
> A. Oh, there was at least 16 or 20 . . . Curley

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[32] With respect to the ammunition with which the submachine gun was equipped, Curley testified that it always had three magazines of "regular 45 bullets" and three of "45 bird shot . . . a paper shell on the end of it with about nine little shot in them."

. . . told me to get over on the left hand side, kind of southwest of where we stopped.

Q. Where did you go then . . .

A. Over to the left hand side, that would be the west side of the street, up close to this tile building that is right pretty near straight across from C. I. O. headquarters."

It thus appears that at least three quarters of an hour before any shooting or any violence whatsoever occurred at C. I. O. headquarters, Curley directed Fellabom, the former army machine gunner, to take a post directly across from C. I. O. headquarters and to use his submachine gun.

We turn next to a consideration of the number and attitude of the strikers and strike sympathizers who congregated at union headquarters that night.

John Veto, a striker, who during the strike made it a practice to go to C. I. O. headquarters every evening, testified that at 8 p. m. on July 11, "when I reached there, they were playing music and the people were dancing on the street and I danced too, and we had a lot of fun. Then the rain came and a lot of people went into the kitchen and a lot of others were on the other side of the hall . . . the music was playing in there . . . in the hall . . . on the north side. We were talking together and having a lot of fun. Then the rain stopped and all of the people went out again, and the music went out again and the people went on the street just the same as they did before . . . I stood right there on the platform. . . . And on the bottom step there was a guy named Ruttenberg. And I believe Frank Hardesty was there. He was right on the sidewalk, I kept waiting around there and hearing the music. When I turned around on the south side there were 12 police over there. They was talking together. Pretty soon another car came and let three more out. As soon as the three more came, they all went together and talked together. . . . Then another car came and let three more down. . . . Three more special policemen. The fourth car came down there and it was a Massillon police car. . . . Well, I stood there, you see, and there were two police on the corner of Cleveland and Oberlin Avenue—that is near the plant and they were coming up toward the north where the other police were. They began to spread from this point here (indicating) across the street . . . they lined up."

Frank Hardesty, sub-regional director of the Canton-Massillon area for the S. W. O. C., who arrived at C. I. O. headquarters at approximately 9:45 p. m., testified that at that time there were 50 or 60 pickets at strike headquarters. "I went in the large room where they had to feed the pickets and there was music in there. There were four or five young fellows in there playing music and entertaining the pickets and having a very good time. . . . We went down to a soft drink stand . . . stayed there five or ten minutes, and then we started back. When we came out of the building it immediately started to rain very hard. . . . After it quit raining we came to strike headquarters. And the music and things were going on as usual."

At a few minutes before eleven, continued Hardesty, "the pickets changed their shifts and there were more men there . . . inside and outside the strike headquarters. . . . I suppose there were possibly 125 or 150 men there at that time. . . . I talked to some of the boys again. The music was still going on." Other witnesses for the Board estimated the number at strike headquarters in the vicinity of 11 p. m. as between 175 and 200.

Several witnesses for the respondent confirm and amplify this description. James Adams testified that at 9:30 p. m. he visited Wilbert Coleman, who occupied the rooms above the C. I. O. headquarters. "When I got there," he stated, "why the men was out in front and one of ther had one of these big bass fiddles and he was playing tha . . . a large crowd was out there. . . . There was nothing- just talking—I didn't pay much attention to it. . . . Then i sprinkled a little bit and they all went inside. . . . I coul hear the stamping and moving about inside." Wilbe Coleman on cross-examination added:

> "Q. (by Mr. Lauter) Now you said somethin about a crowd being up there on Sunday evening. Wa that a customary procedure?
>
> A. Yes on Sundays they gathered around ther and chattered around between themselves; more usua on Sunday evening.
>
> * * * * * *
>
> Q. Until the first shots were fired, everythin was peaceable there?
>
> A. Yes.
>
> Q. Was there anything unusual about the crowd Noisy or anything?
>
> A. They were just talking; you could hear ther talking."

The police, however, sought to picture the crowd as desperate, threatening mob. Thus, Officer Ickes testifie that at about 10 p. m., when he arrived at Cleveland Ave nue, he saw between 300 and 350 people in the vicinity that at approximately 10:30 p. m. some unidentified ma yelled "Let's get the police. Let's get them sons c bitches"; and that he walked down Cleveland Avenue fo a police car to take the men away but that when he re turned the men had gone. Officer Fellabom testified tha C. I. O. headquarters was packed full of men. "I coul hear them saying 'Come on boys, let's go through. W might as well cramp them sons of bitches down. We migh as well die now and get it over with . . . .' And he seeme to be a little intoxicated—a man with a white shirt and straw hat. Then Curley . . . hollered over to the C. I. O. headquarters—he says 'A couple of you men take this man out of here before he starts to make any trouble.' " According to Fellabom, this incident occurred immediately before the shooting. Curley testified, however, that a group of officers, including Officers Ickes and Fellabom, informed him at approximately 10:50 p. m. that there had been "a couple of drunks" that were getting unruly and ought to be taken away but that they had not seen them for some time.

It appears that all three witnesses have thus described the same incident. On cross-examination Ickes stated that the men were talking in foreign languages, "I could understand that when they said 'Let us get the police' but I couldn't understand the rest much." He added that these words were spoken in English and were the only words he understood. If Ickes' statement is true, then Fellabom's version must be regarded as embroidered. In any event the entire incident was considered so unimportant that neither Kraft nor Kelley, the other officers described as having been present, mentioned it in their testimony, and Curley himself merely referred to the men as a "couple of drunks that were getting unruly and ought to be taken away." All witnesses who testified to the alleged incident are agreed that within a few minutes after its occurrence the men disappeared. As noted above, the men were not identified.

On the other hand, Officer Johnson testified that there were between 250 and 300 people present that night; that 200 people was not an unusual number on nights when dances were held at C. I. O. headquarters; that, although he did not hear any music, the crowd was just moving around as any crowd of 250 people would do; and that he noticed nothing unusual about their appearance. Johnson also admitted that, although he did not see any women and children present before 11 p. m., he observed three women emerge from C. I. O. headquarters at 11:10 or 11:15. Officer Ickes testified that when he arrived at Cleveland Avenue at 10 p. m. and saw a crowd of approximately 350 people, he noticed women and children among those present and that women and children were among the crowd when the shooting began. Even Officer Fellabom admitted that, except for "a load of drunks" whom Johnson arrested and the remarks of the intoxicated man with the white shirt and straw hat, the crowd was perfectly peaceful.[33]

In addition, the record demonstrates that none of the strikers were armed. None of the police or other witnesses for the respondent claimed to have seen sticks, guns, knives or any other weapon in the crowd during the entire period prior to the encounter. As set forth below, of 165 persons arrested shortly after the encounter, only one, Harry Jones, was found by the police to have had even a pocket knife, and Jones testified that it was a knife which he had been accustomed to carry for 4 or 5 years, and that on the night of July 11 he was unaware of the fact that he had it.

We conclude that the crowd which gathered at C. I. O. headquarters from 8 to 11 p. m. was an unarmed, peaceful assembly, composed in part of women and children, engaged in playing music and dancing and other activities usual to a Sunday night gathering.

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[33] Officer Johnson testified that between 10 and 10:20 p. m. he stopped a car containing six men, driving up Cleveland Avenue, and asked the men their business. "They said they were C. I. O. men from Canton . . . going up to the C. I. O. Hall . . . They stepped out of the car and I searched them, searched the car for weapons, but they didn't have any . . . [illegible]) took them down to the police station and signed an affidavit . . . and locked them up in jail." The arrest was occasioned by the fact that a proclamation of the Sheriff of June 25 forbade all persons from entering the vicinity of strike areas except on lawful mission. The testimony is in conflict as to whether the proclamation and an injunction of the same date issued by the Court of Common Pleas of Stark County apply to the City of Massillon, where the above-described incident occurred. There is no testimony whatsoever in the record, except for this passing reference by Fellabom, that the men were drunk. The Trial Examiner ruled that similar testimony given by Curley with respect to the incident of the car from Canton be stricken from the record as having no connection with the issues in the proceeding.

At approximately 10:40 p. m., while the police with loaded gas guns and other weapons described above were stationed across the street from C. I. O. headquarters, a collision occurred at the corner of South Erie Street and Oberlin Avenue, a third of a mile distant from Cleveland Avenue. Because of the unreliable and conflicting testimony given by the witnesses for the respondent, the exact circumstances of this collision are not clear from the record. Certain facts, however, are undisputed. It appears that an automobile crashed into an abutment near the viaduct. Almost immediately another car bearing a C. I. O. sticker collided with the first car, with the result that the viaduct was temporarily blocked. The driver of the first car was taken into custody by several officers; the driver of the second car attempted to run away, but some one in the crowd in front of a beer garden located on the northwest corner of Erie Street pointed out the fugitive to Officer Mantasch, who pursued, fired one shot and captured him. Thereafter several unidentified numbers of the crowd threw stones and beer bottles at other cars. Mantasch testified that Officer Schwinger fired "some shots at some guy who threw stones" and that Officer Davenport shot off a riot gun to scare a man hiding under the viaduct. It appears that several shots were fired, all by the police, shortly before 11 p. m.

In 10 or 15 minutes the crowd was dispersed, the cars which had collided were pushed off to one side of the road, and traffic at that corner was resumed. Officer Mantasch took the drivers of the two cars to the city jail and locked them up. The man whom he had pursued gave his name as Flores and said that he belonged to the C. I. O.

Apart from these facts, the record provides no clear picture of what occurred at the viaduct. Thus Officer Mantasch on direct examination testified that at 10:15 p. m. when he arrived at the corner of South Erie Street and Oberlin Road, "I wouldn't exaggerate, I would say (there were) around a thousand people around the streets with automobiles" and several hundred gathered in front of the beer garden. On cross-examination, he testified with reference to the size of the crowd:

> "Q. (by Mr. Lauter) You are sure there weren't more than a thousand?
>
> A. Might have been more.
>
> Q. About 1500?
>
> A. Might have been more . . .
>
> Q. Might have been three or four or five thousand?
>
> A. I didn't count them . . .
>
> Q. There is no limit to the amount of people that might have been there?
>
> A. That is right."

Charles Moorhead on direct examination testified for the respondent that between 10:20 and 10:45 before the shots were fired by the police, he saw a large number of people milling around and talking at the east end of the viaduct. The number, however, he estimated as "in the vicinity of 40". Officer Moore, another witness for the respondent estimated the number as 300. Moorhead further testified that he saw a group of 20 or 25 men rush out from between houses near the viaduct and throw stones at 10 or 12 automobiles; that, after this, he saw Harold Rinke, a member of the C. I. O., and heard him say "Come on boys, let's get the other side. We are going to town"; and that about 100 men then followed Rinke in a northerly direction.

On cross-examination, Moorhead radically altered a number of these statements. He admitted that he had seen three or four cars stoned, instead of 10 or 12, asserted that there were about 100 men throwing stones, but admitted that he had not seen anyone breaking windows or glass on the cars, although he had heard the crash. With respect to Harold Rinke, he testified:

> "Q. (by Mr. Lauter) You weren't able to identify any of the hundred men?
>
> A. That is right; only one I saw but I didn't see him throw any stones.
>
> Q. You didn't see Harold Rinke?
>
> A. No, sir.
>
> * * * * * *
>
> Q. The only man you knew was there was Harold Rinke and you didn't see him throw any stones?
>
> A. I didn't see Harold throw any stones."

Moorhead first asserted and then denied, that he knew that the hundred men were members of the C. I. O. and added that there were present a number of the respondent's employees other than the members of the C. I. O. On redirect examination, he stated that he had recognized Harold Rinke sitting in a car. It is apparent that no conclusion can be drawn from the testimony of this witness.

Other witnesses for the respondent throw little, if any, further light upon this incident. In addition to Flores, only two or three members of the C. I. O. were identified by name or otherwise as having been present at the viaduct during this period. There is no evidence whatsoever that these two or three threw stones or committed any acts of violence.

As a consequence, however, of the shots fired by Schwinger, Mantasch, and Davenport, the police on Cleveland Avenue, already instructed by Curley to prepare for trouble, began to grow restless. "It didn't look so good" testified Officer Kelley, "the fracas in the viaduct and the stones and the two men in the cars on the bridge.'' Kelley added that he had heard shots from the viaduct, but did not know that the police had done the shooting.

From this description of the incident at the viaduct, we return to a consideration of the events that were occurring in the meantime at C. I. O. headquarters. The nature of these events, which precipitated the fatal encounter, was one of the most controverted questions at the hearing, and even their sequence, as presented by witnesses for the Board and for the respondent, is in considerable conflict. We turn first to the testimony of witnesses for the Board.

All of the witnesses for the Board testify that immediately preceding the encounter an automobile drove up and parked among several other automobiles directly across the street from C. I. O. headquarters. Martin Beckner, vice president of the Canton Lodge of the S. W. O. C., testified that at this time he was standing in the doorway of C. I. O. headquarters and noticed the police ''deployed across the street and some spread out and some closer than others, and I noticed there was something unusual about them . . . They all had guns, but up until that time they only had clubs . . . It appeared they were nervous, acting like men expecting something, and from the way they were acting I went into headquarters and asked the president of the Massillon Lodge if that was their usual method of conducting themselves. . . . We decided that these were new men and we had better ask the pickets outside to go home. . . . So the president of the Massillon lodge stepped out to tell these men to go home and when he went out the door, I stepped outside the door and stood on the step and Harold Ruttenberg was standing in the doorway. . . . A car pulled up across the street and two men came out and Bill Henderson . . . a chipper foreman in the Massillon plant . . . and the other policeman came forward toward the car. I didn't know who the other man was, but they told the drivers to put those damn lights out or they would shoot them out. . . . The car was across the street about 50 feet further down.[34] The man switched out the lights and these two officers started back toward the line of police and someone in the crowd of pickets yelled 'Whoopee' or something . . . and these officers immediately dropped to the ground and someone said 'break them down and let them have it', and the shooting started about fifty feet down from the strike headquarters on the southwest corner." It will be noted that Beckner testified that the shooting began in the immediate vicinity of the parked car whose headlights the police had ordered to be turned out.

Frank Hardesty was also standing on the steps at this time in the midst of a group of 20 or 25 men. He testified that a car drove up on the opposite side of the street. "His car was headed, or his lights were headed toward the mill. . . . What I noticed particularly was that the lights were shining on the policemen down there and I suppose they were more or less frightened being new men. They acted kind of nervous anyway . . . and one of them shouted 'Take the lights off'. . . . I saw the fellow cut his lights off, when they hollered at him. . . . It was only a few seconds after that until one of the policemen hollered 'Let them have it break it down'. I saw one policeman drop down and start shooting."

John Veto testified that about 20 police lined up across Cleveland Avenue "and then a car came up there with their headlights . . . from the north coming south, and they had the lights toward the police there. While the light was flashing, I saw a machine on the other side of the road, the police side. . . . Two cops stood up and they went forward and I heard them say 'Shut the lights off'. Well the car shut them lights off . . . and they took a couple of steps backwards and they said 'Let's bust them up boys'. And then they dropped flat." Veto identified one of the advancing policemen as Bill Henderson. "Then a shot came by just where I was standing."

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[34] Other testimony in the record indicates that this car, driven by Harry Jones, a striker, was parked approximately 20 feet south of and across the street from C. I. O. headquarters.

Walter Meyer, a striker, who had driven in his automobile to Canton with his wife and Mr. and Mrs. Wincek to attend a union meeting at Sippo Park, returned to Massillon shortly before 11 p. m. "After we went out in the evenings we always stopped and got a bowl of soup or lunch or something before we turned in for home, but this evening I was broke and Mr. Wincek didn't have much money either and when they mentioned about getting a bowl of soup at C. I. O. headquarters on Cleveland Avenue at Massillon we figured it would be a good place to go and get something to eat before we went home, so we all agreed to do so . . . and we drove down Cleveland Avenue north and pulled right directly across from C. I. O. headquarters and parked."

> "Q. (by Mr. Lauter) In the direction of the mill, is that right?
>
> A. The mill is directly south, in my estimation from Cleveland Avenue and the C. I. O. headquarters is on the east side of the street, and I parked directly across the street which is the west side. . . . I noticed there was a fire plug back of me, so I pulled up six or eight feet from it and parked. We were there for some time and quite a few people were standing around there talking and having a good time, and we were discussing whether we wanted to go in and get a bowl of soup or go back home. . . . So while I was discussing that with them, I seen a car coming down Cleveland Avenue and passed our car and pulled in directly ahead

of us and passed the fire plug and parked directly ahead of us.

Q. Was that on the same side of the street you were?

A. The same side of the street, and I judge it was 20 feet between my car and this man's car. The man pulled up and he shut his motor off and I heard the cops holler 'Turn them lights off'. I don't think the man heard the cops when they called the first time. Well, the man was getting out of the car, and he stepped on the pavement and they hollered a second time 'Turn those lights off or we will shoot them off'. So the man reached in and shut them lights off and he started toward the C. I. O. headquarters. . . . Well we sat there with the windows all down and after this man left that car, I turned around toward Mr. and Mrs. Wincek and my wife and asked them the last time what they intended to do, if they wanted to go in and get a bowl of soup or if they wanted to go back home. While they were arguing about it, at that time, I heard the motor start in the car ahead of me and I looked around quick and I seen his bright lights were on, and without warning, there were two shots fired and the shots sounded as though they hit the car ahead of us, and I surmised that they were shooting at the man's lights because they had said before they were going to shoot the lights off and just at that time the shots were fired, it all happened I heard the cops holler 'The God damn hunkies asked for it, let's give it to them'. . . . It was just like a hail storm hit my car, sounded like machine guns and shot guns, it sounded like the fourth of July or something at the lake and I seen all the people just pick up and run and run around corners, anywhere, they could go, and after that why the shooting kind of quieted down."

Harry Jones, a striker, was the driver of the car referred to in the foregoing testimony. He testified that "I drove down and pulled up right across the street from headquarters . . . and parked my machine. My brother-in-law and another young fellow were along. . . ."

> "Q. (by Mr. Lauter) When you pulled up in your car where did you stop?
>
> A. Right across the street from headquarters. . . .
>
> Q. Was that in front of the fire hydrant or back of it?
>
> A. It was just in front of it. . . . My brother-in-law said 'Someone hollered to turn the lights off'. I turned off the lights. He said 'You better turn them on dim'.
>
> Q. By the way, are you a little hard of hearing?
>
> A. A little, yes. That is the reason I didn't hear him. But my brother-in-law heard him and he told me. . . . So I got out of the left side of the car and turned them on. And my brother-in-law and the other fellow got out on the right. I suppose I took two steps, far enough to open the door and shut it, and I looked down and seen the policemen. I turned around and got in the car and pulled the dim lights on. When I went to pull the dim they just flickered and I pushed them back . . . (The lights) flickered so I got out of the other side of the car. I reached in and turned the lights off and I stood back from the car. Just as I got back from the car, the shooting started. . . . When they (the police) started to shooting I jumped in a doorway. I stood there for about a second or about a minute, I suppose, until the first volley was over. I got down and went around the corner and faced the police. I waved my hand and I hollered 'For . . . sakes stop shooting until I get my machine out of here'. So I ran back to

> the car and started the motor. And then I went to pull on the dim lights and it flickered. As she flickered a shot hit the windshield and glass flew in my face and I ducked.''

The police version of the incident of the headlights differs sharply from that of the strikers. Curley testified that the headlight was shot out at 11:15 p. m., approximately 15 minutes after the shooting elsewhere had begun. ''The fellow drove up with a car and he flooded all the police officers out there with all of the bright lights and just scattered the lights all over the whole area. And Fellabom says 'Turn out those lights'. The fellow turned out the lights and got right back in and turned them back on again and Fellabom says 'If you don't turn those lights out, I will shoot the damn things out'. The fellow didn't turn them out, so Fellabom just shot one out.''

Officer Fellabom was standing on the west side of Cleveland Avenue ''pretty near straight across from C. I. O. headquarters''. On direct examination he testified:

> ''Q. (by Mr. Pontius) Something has been said with respect to an automobile that ran up in here. Did you observe it?
>
> A. There was a car coming in there just before the trouble started (the shooting at approximately 11 p. m.) I should judge about maybe five minutes before . . . This car came down in there and whoever was driving it pulled over to the right hand curb and he had his bright lights on. Some one hollered over there to put those lights on and someone else hollered over the C. I. O. headquarters 'Turn them on and keep them on'. Of course, the illumination was pretty bright there for the boys that was on the road there. This young fellow parked his car right along the curb, right near this tile building, and he still had those lights on. Then

he jumped out of the car. Somebody hollered 'Turn them out or we will shoot them out'. So I shot out one of the headlights. After he ran away from the car he left it sit. . . .

Q. Was that before the other trouble occurred that you described?

A. That was before the trouble started.

Q. What instrument did you use to shoot the headlight out?

A. A machine gun."

On cross-examination, however, Fellabom materially changed his story.

"Q. (by Mr. Lauter) Before that (the shooting which occurred at approximately 11 p. m.) you had shot out the lights in the car that was standing in front, is that right?

A. That was *after* I shot toward the door.

Q. What is that?

A. That was after I shot at the door. You see, the car was standing in there with the lights on and the young fellow, whoever it was, he was in the car and left it and then he came back and then he left it for the second time. I think it was some time after the shooting from over the door that the headlight was shot out.

Q. About what time did you shoot the lights out from the car?

A. Oh, that might have been 11:30 along in there.

Q. What time did the man drive up with the car?

* * * * * *

A. Just before 11; around 11 o'clock.

* * * * * *

Q. The lights were shining on the police all that time for 35 minutes?

A. Yes.

Q. You walked over to the car 35 minutes after the lights had been on and told them to turn that off?

A. I told them to turn that off?

Q. Who did?

A. Some one hollered to turn them off. He jumped off the car and left them on and someone hollered, 'You better put them lights out or we will shoot them out'. He jumped in the car and then left the car. That is when the trouble started.

Q. You didn't shoot the lights out then?

A. No, sir.

Q. You waited around 35 minutes before you started to shoot them out?

A. At least 35; 30 or 35."

It will be noted that on cross-examination, Fellabom not only claims to have shot out the headlight after the shooting elsewhere began, but denies Curley's explicit statement that Fellabom commanded the occupant of the car to "turn those lights out or I will shoot the damn things out".

On the other hand Officer Kelley, who was standing with Curley on Cleveland Avenue, testified the headlight was shot out as Curley was advancing up Cleveland Avenue, a few seconds before the general shooting. Officer Johnson testified that he arrived at Cleveland Avenue after the shooting had begun and that no headlights were shot out at 11:35 p. m. or at any time after his arrival.

We are convinced that the testimony of Curley and the testimony of Fellabom on cross-examination, with regard to the time the headlight was shot out, is not to be credited. On the other hand, apart from their testimony with regard to the time, Fellabom and Curley appear to have accurately described the details of the incident. Hardesty, Beckner, and Veto stated that after the police had shouted to Jones, he turned the headlights off. It is apparent from their testimony, however, that they did not see the headlights turned on again or Fellabom fire his submachine gun at one headlight. From Jones' testimony, it is not clear whether he saw or heard Fellabom shoot out the headlight after he claims to have turned the headlights off. The entire incident occurred within a few seconds, and it must be remembered that Jones was hard of hearing, and Hardesty, Beckner and Veto were, at the time, standing in front of C. I. O. headquarters, where their opportunity to observe the events on the other side of the street was limited.[35] Curley's and Fellabom's testimony that Fellabom fired shots at the headlights because they had not been turned off, is obviously the more reasonable of the two descriptions, since Fellabom would hardly have sought to eliminate a glare which no longer existed. In addition, the testimony of both Curley and Fellabom with regard to the details of this incident is supported by that of Meyer, whom we regard as the most accurate and reliable observer of the events in his immediate vicinity.

From all this testimony we conclude that as Curley and Henderson had advanced approximately 50 feet toward C. I. O. headquarters, Fellabom fired several shots at the headlights of Harry Jones' car, and that immediately thereafter the police opened fire at the strikers.

At the first volley, it appears that the crowd stood incredulous and then fled in utter and bewildered panic. Hardesty was standing on the steps of C. I. O. headquarters. He testified that a few seconds after the headlights went off "I heard someone shout again. 'Break them up! Let them have it!' And they started to shoot. However I didn't move immediately because not being used to riots and things of that sort, I really thought they were just shooting dummies. I thought it was more or less of a bluff. But it wasn't very long until I found out they were really shooting bullets. . . ."

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[35] Fellabom testified that from where he stood on the west side of the street, his view of the doorway of C. I. O. headquarters was blocked except for the top two feet of the doorway, by a tarpaulin-covered truck, standing in front of C. I. O. headquarters. Presumably the view of Hardesty, Beckner, and Veto with respect to the activities of Fellabom on the opposite side of the street was similarly blocked.

"Q. (By Mr. Hunt) When you say they were shooting bullets, to whom do you refer?

A. The policemen.

Q. Where were they from C. I. O. headquarters?

A. They were about 50 feet down the street towards the steel plant. I saw a policeman go down like this (illustrating) and start to shoot. At first, I couldn't really believe they were shooting real bullets into a crowd of men like that, until I really heard the bullets flying and the bullets flying off the building. . . .

Mr. Edwin S. Smith: Let me get this straight. Was this crowd of men standing between you and the policemen and you were in back of them?

A. No, I was right in more or less mixed in with the men. There were some of the fellows who were behind me and some of them were in front of me. We started to move up the street. I had not moved far at all until one fellow hollered he had gotten shot in the shoulder and he threw his hand over his shoulder.

Mr. Edwin S. Smith: What did he say?

A. He said 'They got me. I am shot.' There were three or four friends with him and they grabbed hold of him and took him along with them.

Q. Let me understand this. You were running up Cleveland Avenue.

A. We were running up the street from the mill, up Cleveland Avenue. I had not run very far until I saw another man lying on his face with his hands outstretched, motionless, who had been shot by the policemen and from the way he was lying there, there was no doubt, or I thought he was dead, and I guess it did turn out that he was dead. So we kept running up the street until we found an opening in the fence. After I got there, Martin Beckner and another fellow drove up and on. Beckner was hanging on the running board of the car and he stopped and we got into the car and went back to Canton . . .

Q. Did you on the evening of July 11 at any time see any shooting at C. I. O. headquarters?

A. I did not.

Q. Did you see any persons other than police using any weapons?

A. I did not."

Martin Beckner who was standing on the steps of C. I. O. headquarters, had a similar experience:

"Q. (By Mr. Lauter) Was there shooting by anybody else?

A. Shotguns, machine guns and bullets from these special policemen located south of strike headquarters.

Q. At any time you were on the scene did you see any shooting from C. I. O. headquarters?

A. There was not.

Q. During the entire evening did you see or hear any shooting by any of the C. I. O. men?

A. No sir.

Q. Did you see any shooting by anyone else besides the police?

A. I did not.

Q. Describe what happened after the shooting started.

A. When they started shooting I went around strike headquarters on the north side of the building until I came to a lane running parallel with Cleveland Street . . . and seen some people from Canton in a car with two women and I told them to get the women out . . . because I didn't want to see the women shot . . . I went toward the Massillon headquarters and saw a man lying face down in the street and every once in a while the police were shooting gas shells and I said 'Let's get that fellow out' and we carried him up to the corner of Cleveland Street and McKinley Avenue and a car came up with two men and two women in it (the Meyers and the Winceks) . . . . We stopped the car and put the man in it and a second man had fallen and we picked this man up and he had been hurt in the shoulder . . . and by this time the special police started shooting at us and we started to McKinley Avenue . . . the special policemen were lined up on the west side of the street and some were still coming up Cleveland Avenue shooting gas shells and buck shot and these other policemen lined up across from the strike headquarters and every once in a while you could hear the gas guns and these special police went on up to another street running parallel with Cleveland Street and I seen this car with the Canton people in it and asked them to take Mr. Wilson—that was the name of the man that had been shot, and another car came along and I got on it and we drove back to Canton." Walter Meyer, his wife, and the Winceks were seated in a car outside C. I. O. headquarters.

"Q. (By Mr. Lauter) At the time the shooting started, what did the occupants of your car do?

A. I told them to duck.

Q. Did they duck?

A. Yes I say they ducked . . . after the first volley was over, the people pretty well cleared the street in front of headquarters and it quieted down after the first volley, and . . . just as I raised up there was a tear gas bomb dropped about six feet ahead of my car and right away I hollered at Mr. and Mrs. Wincek to roll them windows up . . . and attempted to start and get away from there and just as I done that the second volley came and the second time I told them to duck and stay ducked and I went down myself and we laid there until the second volley was over and I said to Mr. Wincek 'We have got to get out of here one way or another' so I raised up high enough that I could see out with my left eye, and I put my car in low gear and pulled up about eight feet, and I cut my wheels real short, and the third volley came and I didn't stop and I hit the car back of me and I back up the street all through the third volley and the third volley was over the minute I backed into the alley. I . . . went up the street in high speed . . . pretty near a block and I seen at least a dozen men standing around there. . . . and I seen two men (Beckner and Hardesty) holding one man between them and somebody hollered 'Take this man to the hospital.' . . . I stopped my car and I told my wife and Mr. and Mrs. Wincek to get out on the street in order that we would have room to take these men to the hospital. These two men were holding one man and we loaded this man in the back seat and one man . . . held this wounded man's head . . . . There was the man got on the front seat and he said he got shot in his right shoulder. . . . While we were driving up to the hospital this man lying on the back seat was moaning and suffering terribly. He said 'Boys, I am dying.' I rushed the man up to the hospital at high speed. We put him on the stretcher up and took them up on the second floor on the elevator. I helped lift the man on the bed and pulled his pants off. . . . And I rushed down to my car and beat it right back to where I left my wife and Mr. and Mrs. Wincek. When I got there, my wife and Mr. and Mrs. Wincek were not there. There were some other men standing there at the corner. Mr. Joe Morton picked up a tear gas shell that landed right on the corner there and up along the street. I was standing there looking at that and Mr. Wincek hollered up the street and said 'Hey Walt! I am up here.' So I went in my car and drove on up the street and I picked up my wife and Mr. and Mrs. Wincek.

Q. Do you know that the man you took in your car, who was lying in your back seat, died?

A. Yes. I went up to C. I. O. headquarters . . . the next day and some of the boys . . . told me 'you know that fellow you took to the hospital. . . . Well that fellow died this morning.'

Q. Will you describe the condition of your car after the shooting?

A. . . . The windshield was all shattered from being shot. I don't think there were any rifle shots or machine gun shots hit our car. It was practically all buckshot. It shattered . . . the body over the windshield and the body down along the sides of the windshield and both fenders. The left door window . . . was shattered. . . . I counted ten shots that went through the radiator that landed back of the motor up against the dashboard. . . .

Q. During all of the time that you were there did you see any shots come from C. I. O. headquarters?

A. No, sir; none whatsoever. I didn't see no flashes, and I didn't see no shots, and I didn't see any-

> body whatsoever have a gun.
>
> Q. Did you see anybody shooting except the police?
>
> A. No, sir."

Harry Jones testified that after the shooting began, "I laid down between the seat and the gear shift and the brake for maybe a minute or so, until I worked my body up onto the seat and kept my head down. . . . I opened the door and got around on the rear bumper. . . . While standing on the bumper, the gas shells and shots started flying and tears started rolling down my cheeks and I started feeling a little sick in my stomach. I got a foot braced and I made a leap. I ran from door to door until I got to the last building."

> "Q. (by Mr. Lauter) Will you describe the condition of your car?
>
> A. There was a bullet hole through the windshield and a lot of buckshot in the windshield, a bullet hole through the right headlight, and the radiator on the inside was all full of holes and the outside where the buckshot hit is dinged and the hood on the left side is all spotted from where the buckshot hit and knocked the paint off."

All the foregoing witnesses have described the tactics of the police as they saw them from outside C. I. O. headquarters. John Veto, retreating from the door into the building, describes a scene of unparalleled horror. He testified that as the two police officers advanced up Cleveland Avenue and said "Let's bust them up, boys" they dropped flat. "Then a shot came by just where I was standing, right on from there near me, and I think there was a tear gas shell, because it hit the building and some pieces came inside the room there. As soon as when I heard that I turned around and went into the hall. And there was a table right there in the hall. When I was turning to dive under the table I had a sharp feeling right on my leg here. And I laid flat under the table. And I didn't get up to see what it was because if I went from there I could get hit on the head."

. "Q. (by Mr. Lauter) You had been shot?

A. Yes. . . . I was (under) the table laying flat for ten minutes. . . . I heard a man from the outside say 'God! They're not blanks; they're bullets'. . . . Then when I heard that I crawled from the table and I went to the other room. And that room leads into the kitchen. And I went into the kitchen. And there five women and around seven or eight men. . . . We waited there for a little bit and we shut the windows all around us. . . . There was so much tear gas and the women were all choked up. . . . We waited a little bit in the kitchen there for about 15 or 20 minutes, I guess, and a man said 'I will go out and see what happened'.

Q. Why did he say that? Was the shooting still going on?

A. Yes. And I said 'All right. I will go with you'. He was going on from there and I was coming on back. And when he reached the door—

Q. What door?

A. The front door . . . that leads to the street. When he opened the door I saw a deputy sheriff shot at him right away while he was holding the knob of the door and the door was half opened and the deputy sheriff turned around and shot the guy right in the leg. He said 'God! I am hit'. When I heard that 'God, I am hit' I said 'Come on boys let's help these men out'. And two more men came and we helped him. . . .

* * * * * *

And we carried the man into the kitchen and we laid him on the icebox . . . a low icebox . . . a woman went to get hot water to clean him. And by the time she came, the kitchen was all full of blood. There was blood all over the kitchen there coming from his leg. . . . Then the woman washed him up and we let him go for a little bit. We heard a noise in there and we turned off the lights awhile, but the man he fell from the icebox on to the floor. And then we picked him up again. By the time we picked him up two women went to the door . . . to call for the ambulance. When they got to the door they were shot at twice, because when (they) came back they said 'Gosh, we have been shot at twice'. From that time on nobody went to the door anymore. We all sat behind there in the kitchen. . . . Then the ambulance came . . . and we helped the men to carry him out on the stretcher. When we carried him out, I said to the women there 'You women might as well get out from there'. Well, they got out. One of them, she crawled from the window . . . then the other one went out the front of the house.

Q. When did they go out the front room?

A. When the ambulance was there because that was the chance they had. Otherwise they would be shot and they couldn't get out.

Q. What did you do?

A. I helped the men put him in the ambulance and I went away too. . . . I went on the sidewalk, and when I reached around 25 feet them police were hollering to 'Come back here! Come back here!' I turned around and I saw them hollering and I stumbled on a man lying on the street there. . . . And I got up and ran away. And I reached the corner of Cleveland and McKinley Avenue there, and there was a bunch of men, I would say ten or eight men. They were talking together about helping the man lying on the street there. . . . When they were near the man, the police

> shot and they hit one of those men. . . . Then finally I went up McKinley Avenue. . . . And I saw a lot of police. They were coming from toward McKinley Avenue. And I saw that and I kept going. When I reached the corner of Duncan Street and McKinley Avenue, there was . . . a car of special police and a bunch of men sitting on the ground. They were talking together. When that passed, they shot at those men. I ducked down behind a telephone post there.
>
> Mr. Donald Wakefield Smith: How far was that from C. I. O. headquarters?
>
> A. It was three blocks away from C. I. O. headquarters.
>
> Q. (by Mr. Lauter) Now during all the time you were there, did you see any shooting from C. I. O. headquarters?
>
> A. No.
>
> Q. Did you see any shooting from anyone except the police?
>
> A. Just the police shot."

Wilbert Coleman, the occupant of the second floor, testified for the respondent that the glass windows in the front of the building were smashed, that there were bullet holes inside the building, that tear gas was fired through the two front windows, and that because of the effects of the gas, his wife, his brother-in-law and mother then in his apartment, required treatment at the Republic Steel hospital.

To all of this testimony the respondent replied with a plea, in effect, of self-defense, charging that the police opened fire only after several shots had been fired at the police from somewhere near the vicinity of C. I. O. headquarters.

Before examining the testimony of the witnesses for the respondent it is necessary to recapitulate the sequence of events immediately prior to the encounter as established up to this point:

(1) Shortly before 11 p. m. Harry Jones parked his car on the west side of Cleveland Avenue, almost directly across the street from C. I. O. headquarters, with its headlights shining on the regular and special police lined up on Cleveland Avenue 50 to 100 feet south of C. I. O. headquarters.

(2) Officer Fellabom armed with a loaded submachine gun was standing on the west side of Cleveland Avenue across the street from C. I. O. headquarters in the immediate vicinity of Jones' car.

(3) At approximately 11 p. m. Major Curley and Special Officer Henderson advanced midway from the line of police toward C. I. O. headquarters.

(4) At the same moment Officer Fellabom fired two or more shots at the headlights of Jones' car.

(5) Almost immediately thereafter the police opened fire at C. I. O. headquarters.

With this summary, we turn to the testimony of the witnesses for the respondent. It is evident that the vital question at issue is the exact source of the shots which the respondent alleges precipitated the shooting by the police. Officer Ickes testified, "Cap Curley lined seven or eight of us, maybe six or seven I don't know, . . . us fellows that had the gas guns, across the road . . . about 100 feet south of C. I. O. hall on Cleveland Avenue. . . . He said he was going over and tell those people to move, that it was late enough, that he was going to have them move off the street . . . break them up. . . . Just as he started over there about halfway between the C. I. O. headquarters up the line, there was *four or five shots came out along in the vicinity of the*

C. I. O. headquarters.[36] Stones started to fly. . . . We started firing. I don't remember whether—I started firing gas shells over against the front end of the building. . . . Well, we started to fire the gas shells, and after we shot some gas into them, they started to disappear somehow. There was still some across the street but not all of them. All of them didn't disappear but most of them did. They ran all over, I guess. . . . A little while later, the Canton police arrived and they drove up through Cleveland Avenue with their armoured car and shot gas—what they needed to clear the street. That is all there was to it."

On cross-examination Ickes added that he saw Special Officer Henderson advance with Curley, that he did not see anyone use a machine gun, and that he heard no other shots fired from the direction of C. I. O. headquarters except the four or five at the beginning, as Curley and Henderson had reached the point halfway up Cleveland Avenue.

Officer Kraft testified that he was standing about 100 feet south of the brick building on the west side of Cleveland Avenue ten yards west of the sidewalk. ". . . they got pretty noisy up there and Curley said something about breaking them up . . . and Curley started up toward . . . the crowd . . . and when he got about 50 feet from the crowd, four or five shots rang out and stones flew, they started shooting from both sides."

> "Q. (by Mr. Pontius) Now you saw four or five shots fired. Where did they come from, did you observe?
>
> A. *From the C. I. O. headquarters there some place.*[37]
>
> Q. What if anything did you notice about any automobile coming up there on the street? . . .

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[36] Italics supplied.

[37] Italics supplied.

A. Someone pulled up there with an automobile. He stopped there and turned the headlights on. He had the headlights on the police.

Q. Did that occur before Curley started up the street or after he started up the street?

A. Right about the same time.

Q. Did you hear any talk there with respect to those headlights?

A. I heard some one holler to turn them out. In front of the C. I. O. headquarters, he hollered to turn that light off."

Kraft on cross-examination testified with reference to the four or five shots as follows:

"Q. (by Mr. Lauter) Where did you see the bullets come from?

A. C. I. O. headquarters.

Q. What part of the headquarters?

A. The front part, close to the entrance some place . . . kind of a cement porch in front there.

* * * * * *

Q. Do you mean the sidewalk?

A. Yes, sir.

Q. And that is where the shots came from?

A. Up in there some place.

Q. From the sidewalk, is that right?

A. I can't swear where, right the exact spot where they come from, but they come from in there some place.

Q. I am trying to find out . . . whether you know where they came from or not.

A. I heard them in that direction right in front of the—

Q. Did you hear them or see them?

A. I heard them.

Q. Were you facing the C. I. O. headquarters?

A. I was.

* * * * * *

Q. You didn't see where they came from at all?

A. I didn't see them, I heard the direction they came from."

Kraft also testified that he saw Fellabom earlier in the evening take the submachine out of the police car, and walk across the street, but did not see him shoot at the headlights.

Officer Kelley was among the group of police stationed 100 feet south of C. I. O. headquarters. He testified that "an automobile was driven up and parked on the west side of the street; the driver got out of the car, left the lights burning. They were shining directly down the road and into our face and it was partially blinding us. Someone called for him to turn the lights out and the man had taken oh, possibly three or four steps away from the car and he turned and went back and turned the lights off. And someone called out from the vicinity of C. I. O. headquarters, and he used a string of unprintable words and ordered this man to turn the lights back on and he immediately went back to the car and snapped the lights back on. Then with that Captain Curley started forward . . . to turn the lights off . . . and as he passed me, he told me to cover him. . . . When he got up within, oh, approximately 15 feet of the automobile, why there was a volley of rocks thrown and some one fired *five shots from the revolver in the vicinity of the C. I. O. Hall.*[38] The shots were fired in rapid succession. And with the shots and the stones, the crowd surged forward and I released the tear gas shell about eight or twelve feet over their head. . . ."

On cross-examination, Kelley testified:

"Q. (by Mr. Lauter) You testified about covering Major Curley at one point. . . . Will you state when that was?

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[38] Italics supplied.

* * * * * *

A. Well, it was prior to the start of the fight up there, just a minute, or within a few seconds rather.

Q. Was that the time that the headlight was shot out?

A. Yes, sir."

Kelley then retracted his previous statement that Curley had gone forward in order to turn off the headlights.

"Q. He (Curley) said nothing about the lights?

A. Not to me.

Q. When were the lights shut off? Was that before the general shooting started?

A. Yes, sir.

Q. Fellabom shot the lights out of that car before the shooting occurred?

A. *No.* Let me recall about that. *That was before the fracas.*[39]

Q. Don't you know which statement is correct now?

A. The last one.

Q. The first statement was incorrect?

A. Yes, sir; I am sorry."

While this testimony confirms the testimony of witnesses for the Board with regard to the time at which Fellabom shot out the headlight, we are satisfied from the manner in which Kelley answered the questions put by counsel for the Board, and from his testimony on direct examination, that Kelley did not see the shots which were fired by Fellabom at the same moment that Kelley claimed to have heard the five shots fired in rapid succession from the vicinity of C. I. O. headquarters. If Kelley's testimony on this point is to be credited at all, it indicates that he merely saw the lights from the headlight shut off.

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[39] Italics supplied

It is evident from the testimony of these three officers that although they all appear to have been facing C. I. O. headquarters at a distance of approximately 100 feet when the four or five shots were fired, they could not fix the source of the shooting any more precisely than "out along in the vicinity of the C. I. O. headquarters", or "from the C. I. O. headquarters there some place" or "from the vicinity of the C. I. O. Hall". None of the three testified that they saw flashes or fire from a gun, and it appears from their further testimony that they merely heard the shots. Moreover, with the possible exception of Kelley, none of the three saw Fellabom, stationed directly across from C. I. O. headquarters, fire his submachine gun at the headlight of Jones' car at approximately the same moment that they claim to have heard the four or five shots from "out along in the vicinity of C. I. O. headquarters". Kelley's testimony, as noted above, merely indicates that he saw the light shut off, but not that he saw Fellabom fire his submachine gun. Although the testimony of these three witnesses establishes the fact that certain shots were fired, it does not indicate that they were fired by the strikers rather than by Fellabom.

We turn next to the testimony of several of the respondent's employees who claim to have seen the firing from C. I. O. headquarters.

Orin Pauli testified that at 11 o'clock he and two fellow employees whose shift ended at that hour, drove up to the respondent's main entrance or gatehouse, on their way out of the plant from work.[40] This entrance is located about 300 yards from C. I. O. headquarters. Pauli's car was fourth or fifth in line when the first car was stopped at the entrance by Republic Steel Police. "We drove up to the entrance, there they stopped us, they had started to shoot", he testified on direct examination. "You could see the flash of the fire coming out . . . of C. I. O. Hall. . . . I didn't see anything else, but we heard the bullets". On cross-examination, he stated that he was standing or "ducking" behind the car from the time the shooting started until after it was over, and again, that he was standing beside his car when he heard the first shot. Pauli also amplified his description of the shots by stating that he saw the flashing of guns from the front and side windows of C. I. O. headquarters when the shooting first started.

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[40] In his testimony on direct examination Pauli referred to Gate No. 1. A glance at the map (Respondent's Exhibit No. 1) will show that it would be almost impossible for anyone at the No. 1 gatehouse to observe the

It will be noted that there are two important discrepancies between Pauli's testimony on direct examination and his testimony on cross-examination. If he drove up to the entrance in his automobile and the shooting had already started, as he testified on direct examination, he could not have seen the first shots and could not have been standing behind or beside his automobile, as he testified on cross-examination. On cross-examination, confronted with this conflict, Pauli finally chose to reaffirm his second version.

In any event, we consider his testimony unreliable. Standing approximately 300 yards away, behind four or five other cars, in the darkness of 11 o'clock at night, he claimed to have seen flashes from the front and side windows of C. I. O. headquarters, which not even the closest observer of all the witnesses for the respondent claimed to have seen. It is obvious that even if he did see flashes

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front of C. I. O. headquarters. On redirect examination, Pauli corrected his previous testimony and stated that he meant to refer to Gate No. 2, the main entrance.

from guns, he could not at that distance have distinguished whether they came from Fellabom's machine gun or from C. I. O. headquarters.

Edward Lustig, a watchman employed by the respondent, testified that at approximately 11 o'clock he was standing at the window on the northeast corner of the respondent's main office building, about 400 feet from C. I. O. headquarters. "There was a man walked up the street toward the C. I. O. and he got part ways up there and I hear some noise and hollering and all at once why there was five shots fired from C. I. O. and this somebody hollered in the back for . . . somebody to come forward and they started to shoot this tear gas."

> "Q. (by Mr. Pontius) Just tell us from where you saw the shots fired as you observed them.
>
> A. Well, right from the C. I. O. building, right from the sidewalk down—there was a man standing as close as I could see from the distance I was away from him, and he fired five straight shots."

It will be noted that Lustig is the first witness for the respondent who claims to have seen any person firing the shots. All other witnesses observed only the flashes or the fire from the gun. On cross-examination, Lustig defined the man's position more closely. "It looked to me just like he was standing on the sidewalk when he fired this gun . . . just about eight or ten feet from the building . . . five shots in rapid succession."

In view of this testimony, more precise with regard to the position of the person who fired, than that of any other witness, the following testimony on cross-examination is significant:

> "Q. (by Mr. Lauter) Is your eyesight pretty good, Mr. Lustig, now?

* * * * * *

A. Pretty fair.

* * * * * *

Q. Can you see what time it is over there now (referring to the clock in the hearing room)?

A. Yes.

Q. What time is it?

A. I think it is 20 minutes after 4.

Mr. Lauter: Let the record show—

The witness: Or three.

Mr. Lauter: —that it is twenty-five minutes after three.

The witness: After three, is it?"

Lustig also admitted that he was "kind of a little deaf, that is my ears" and had considerable difficulty in hearing the questions addressed to him at the hearing. We consider that these admissions render Lustig's testimony unreliable. If, as appears, his eyesight was poor and he was hard of hearing, we doubt that at a distance of 400 feet at 11 o'clock at night he heard someone holler to come forward and saw what no other witness in the immediate vicinity was able to observe—a man standing on the sidewalk eight or ten feet from the C. I. O. headquarters fire five straight shots. At the very least, we believe that under these circumstances Lustig could not have distinguished whether the person firing the five shots in rapid succession was Fellabom with his machine gun across the street from C. I. O. headquarters or some other person among the strikers in front of C. I. O. headquarters.

Frank Swarm, a night watchman employed by the respondent, was standing at the window on the east end of the first floor of the district or main offices, at least 300 feet from C. I. O. headquarters. A few seconds after the 11 o'clock whistle had blown, he testified, he saw the fire from guns, from in front of C. I. O. headquarters, "five shots from the front of headquarters".

"Q. (by Mr. Pontius) Then what next did you see?

A. Well, really leading up to the shooting, there was two men walked up Cleveland Avenue, in front of the headquarters, and they got right up near the headquarters and there was five shots fired. Two men dropped and they started back towards the police department they had strung across Cleveland Avenue. After the fifth shot was fired, the Massillon city police started to shoot tear gas."

After the Canton police arrived, Swarm continued, "there was another volley of firing; shooting started from up in front of the hall again".

On cross-examination, he testified with respect to the first volley of shots:

"Q. (by Mr. Lauter) Where did the shots come from?

A. In front of the C. I. O. headquarters . . . directly in front of the building. . . .

Q. But you don't know whether it was from the doorway or the sidewalk?

A. I wouldn't be positive, no. . . .

Q. But are you sure they didn't come from the steps of the building?

A. No, it wasn't that close."

With respect to the second volley of shots, he testified:

"Q. (by Mr. Lauter) Where did these shots come from?

A. From headquarters all around headquarters . . . right up in front . . . right in front of headquarters.

Q. In the doorway?

A. I couldn't say if it came from the doorway or not.

Q. Would you say it came from the sidewalk?
A. Either the sidewalk or the street."

Officer Ickes and Major Curley testified that the only shots during the entire evening that came from the vicinity of C. I. O. headquarters were the four or five shots at the very beginning, immediately preceding the firing of gas bombs by the police. Officer Johnson, who arrived at Cleveland Avenue shortly after the shooting had begun, testified that he saw no shots fired from C. I. O. headquarters at any time after 11 o'clock. Officer Fellabom testified that the only shooting from C. I. O. headquarters that he saw came from the doorway at 11 o'clock, and that, thereafter, from his position directly across the street from C. I. O. headquarters, he fired several rounds at the upstairs windows of other houses. This testimony by the respondent's witnesses indicates that the second volley came not from C. I. O. headquarters but from Fellabom's submachine gun. As noted above, however, Swarm identified both volleys as having been fired from in front of C. I. O. headquarters. We think it clear that Swarm, standing at the east end of the main office building, was not in a position to distinguish whether the first volley came from Fellabom or from C. I. O. headquarters. The very fact, however, that Swarm identified both volleys as having been fired from the same spot indicates that the first volley, like the second, was fired from Fellabom's submachine gun.

The testimony of two other witnesses for the respondent lends support to this conclusion. Wilbert Coleman, the occupant of the rooms over the C. I. O. headquarters, testified that he heard the shooting but did not hear any shots come from the downstairs of the building. James Adams, a visitor at Coleman's apartment, testified that he saw a man on the west side of Cleveland Avenue on the sidewalk shooting a machine gun, that the first shots that were fired sounded as if they came from the west, from the street, directly in front of the building.

There remains to consider the testimony of Major Curley and Officer Fellabom who at relatively close range claim to have seen the flashes of the gun as it was fired. Of all the witnesses for the respondent, Fellabom tells the most circumstantial story of the events which followed. At many important points, however, his testimony differs from that of other witnesses both for the Board and for the respondent. He testified that immediately after the intoxicated man with a white shirt and a straw hat gave up his attempt to go through the police line, Curley walked up to the center of the street and shouted to C. I. O. headquarters, " 'A couple of you men take this man out of here before he starts to make trouble.'[41] I noticed this man walked to the doorway in the C. I. O. headquarters while Curley was standing there. Stones started to fly. I saw the fire flying off the bricks there. I saw one of these hand grenades —a gas bomb—I seen them flying off the stones. That gas bomb didn't any more hit the road when the shooting started out of the doorway."

> "Q. (by Mr. Pontius) Now from your position could you see any guns from there?
>
> A. I could see the flashes of the shooting. I couldn't see the guns . . . the fire was flying close from the top of the door. Just like someone was standing up and holding a gun and shooting down like that (indicating). I could see this much . . . just like someone was standing in the doorway and a gun held like that (indicating). I could see that much on the truck.
>
> Trial Examiner Lindsay: You mean the gun was held up over his head?
>
> A. Yes it was higher.

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[41] According to Curley and Ickes, this incident occurred at approximately 10:30 p. m.

Trial Examiner Lindsay: Holding the gun up in the air. The shooting was down?

A. Yes.

Q. (by Mr. Pontius) With respect to this truck, where was the location of this firing?

A. It was right behind the truck.

Q. That is from where you stood?

A. Yes, sir.

Q. Now, could you tell the direction in which these shots were fired?

A. They was coming toward our men. They were standing at an angle.

Q. From the position you were standing in at that time, could you see any part of the doorway, leading into the C. I. O. headquarters?

A. About two feet of it top and down.

Q. Now where in respect to the doorway did you see these flashes?

A. Close to the top.

Q. Were you able to distinguish any person there?

A. No, sir. It was a tarpaulin over this truck. It hid the view of the front. But I could see—all I could see was about two feet around in top of the road.

Q. Could you see the man holding his hand up there . . .

A. All I could see was this firing this fire was flying close to the top of the door.

Q. Now what if anything did you do at that time?

A. I turned the machine gun loose on that shooting out of the door. . . . I shot over in there and then stopped, and then the boys—the rest of them was all shooting in there, shooting gas. They was close to me and it got so noisy you couldn't hear yourself think."

Fellabom then described how he shot out one headlight of Harry Jones' car and explicity testified that he did this just before the above described events took place. Continuing, he testified that he first fired three times at the doorway, then "saw in the upstairs windows was flashes of shooting."

> "Q. By upstairs windows, you mean what?
>
> A. Toward the buildings along the street on the right hand side, on the east side of the road . . ."

On cross-examination, Fellabom stated that he was on the west side of the street across from C. I. O. headquarters, that "the first shot came out of the doorway of C. I. O. headquarters," and that he fired the second shot. As noted above, he then retracted his explicit testimony made on direct examination, that he had shot at the headlight just before shooting at the doorway, and asserted that he had waited approximately 35 minutes before shooting the headlight out. He remained firm in his assertion that there was no shooting other than the gas bomb before the shots came out of C. I. O. headquarters.

> "Q. (by Mr. Lauter) You are absolutely sure that some police officer fired a gas bomb before any shooting from the C. I. O. headquarters.
>
> A. Yes, sir. I saw it flying through the air. That is as true as I said it. . . .
>
> Q. I am asking you whether or not before the gas bomb was fired, the only action of any violent nature was the throwing of stones by some C. I. O. men, is that correct?
>
> A. Yes, sir."

Fellabom also testified that the only shooting that he saw came from the doorway, at approximately 11 o'clock. Later he testified that he saw between 50 and 100 shots coming from the upstairs windows of the eight or ten buildings on the east side of Cleveland Avenue, and that he fired his machine gun several times at these windows. As noted above, Officer Ickes and Major Curley testified for the respondent that the only shots which they heard or saw from the vicinity of C. I. O. headquarters during the entire evening were the four or five shots *immediately preceding the firing of gas bombs by the police*. Thus Fellabom, whose view of the front of C. I. O. headquarters was almost totally obstructed by the tarpaulin-covered truck, claims to have seen flashes or a first shot fired, from the doorway after a gas bomb was fired, at a time when Ickes and Curley with an unobstructed view testified that all firing had ceased from the vicinity of C. I. O. headquarters. In addition, no witness, except Fellabom, testified that any shots were fired from the doorway. Fellabom's testimony on this point is not only at variance with the testimony of the witnesses for the Board, who testified that no shots were fired from the doorway or any other place in the immediate vicinity of C. I. O. headquarters, but also with the testimony of all the witnesses for the respondent who testified to the first shots. We think the evidence is overwhelming that Fellabom's testimony to the effect that he saw flashes or a first shot from the top two feet of the doorway is not to be credited.

The salient part of Fellabom's testimony, however, relates to his consistent assertion that he saw a gas bomb fired by the police fly through the air and hit the road *before* he saw the "first shot" from the top two feet of the doorway of C. I. O. headquarters. Every other witness for the respondent, without exception, steadfastly asserted that the police fired gas bombs only *after* four or five shots were fired from some place, more or less definitely identified, in the vicinity of C. I. O. headquarters. This difference between the testimony of Fellabom and every other witness for the respondent is crucial. It indicates the police 100 feet south of C. I. O. headquarters opened fire after hearing the shots fired by Fellabom from his submachine gun in the belief that such shots were fired by the strikers.

Before summarizing the evidence in support of this conclusion, we turn to the testimony of Major Curley.

Curley testified that he was standing 100 feet south of C. I. O. headquarters among a group of special and regular police at 11 o'clock when "the crowd commenced to get larger at C. I. O. Hall and Kelley and Henderson and Fellabom and Ickes and I got our heads together and I said 'Don't you think it would be a pretty good idea to go up and tell those fellows that they will have to abide by the proclamation that was handed down by the Sheriff of Stark County.'... So I said 'We do not want to have any trouble here.' I said 'It would be a good idea to break it up.' So Henderson, he started forward, and he turned around and he said 'Come on Cap' and I said 'Hell, I ain't got any business up there. I am not deputized to go up in there.' And he said 'You are deputized now.' He says 'You are going right along up.' I says 'All right, if that is the way you feel about it, I will go up and try to talk to the boys.' So we started forward . . . and I got about 50 feet ahead of where the officers were lined up. . . . I was met with 'You God damn dirty sons of bitches' and bingo out came a bunch of rocks, clubs, stones and bingo five shots one right past my head."

> "Q. (by Mr. Day) Who said this about the sons of bitches?
>
> A. The men up around the C. I. O. Hall.
>
> Q. And where did the rocks come from?
>
> A. Around the C. I. O. Hall.
>
> Q. Where did the shots come from?

> A. From on the step of the—in front of the front door of the C. I. O. Hall.
>
> Q. How many shots did you see?
>
> A. Five.
>
> Q. Could you give an opinion as to what kind of shots they were, or from what guns they were fired?
>
> A. Yes, an automatic revolver. . . . I immediately dropped to the ground and all hell broke loose . . . the firing started, I was lying on the ground. I don't know, I laid down. The firing then started from both sides and tear gas guns were going. Fellabom was back with a machine gun loaded with bird shot. He started that barking. The gas—that was fired for effect only."

We have already referred to Curley's testimony that Fellabom shot out the headlight of Jones' car, fifteen minutes after the shooting had begun, and found that the overwhelming weight of evidence was to the effect that the shooting occurred at the same moment that Curley and Henderson had reached the half way point in their advance toward C. I. O. headquarters. It will be noted that in the testimony cited above, Curley stated that Fellabom was among the special police 100 feet south of C. I. O. headquarters, at the time Curley began his advance. On cross-examination Curley modified this statement and testified that Fellabom was on the west side, on "the first tile building on Cleveland Avenue." Other evidence in the record indicates that this tile building is almost directly across the street from C. I. O. headquarters. It is therefore, clear that Fellabom was approximately 50 feet to the north west of Curley at the moment the five shots were allegedly fired from C. I. O. headquarters. With respect to these shots, Curley further testified:

> "Q. (by Mr. Lauter) During the entire evening of July 11th, do you know how many shots were fired?
>
> A. Five.

Q. How many shots did you see coming out?

A. Five out of the steps.

Q. Did you see some shots other than those five that night?

A. I didn't.

Q. Then a total number of shots you saw coming out of the C. I. O. headquarters was five?

A. That is right."

Upon the reliability of Curley's testimony that five shots were fired from in front of the front door of C. I. O. headquarters depends in large measure the respondent's plea of self defense. Of all the witnesses for the respondent he was the one nearest to C. I. O. headquarters, with a totally unobstructed view of the entrance and the crowd, and had the best opportunity to observe the acts of the strikers. We believe, however, that Curley's testimony on this decisive point is completely unreliable.

As one who purported to act as a public spirited citizen, he had exhibited an active bias in favor of the respondent. As one who in the absence of Chief Switter had assumed command of the police department and with such command the responsibility for the acts of the regular and special police, he had a paramount interest in asserting that the strikers rather than the police were legally and morally liable for an encounter which resulted in the death of three strikers. This paramount interest and active bias run through his entire testimony.

We have already found that Curley's testimony with respect to the selection and bonding of the respondent's employees as special police is not to be credited. Similarly, Curley's testimony that he did not issue the orders which raised the guard at C. I. O. headquarters is flatly contradicted by the testimony of Chief Switter, Officer Kraft and Officer Fellabom, and is not to be credited.

Curley further testified that just before advancing toward C. I. O. headquarters, he was deputized, for the first time, by Special Officer Henderson, in the presence of Officers Kelley and Ickes. Kelley, however, testified that at this time Curley said nothing except that he was going forward. Ickes testified that Curley said nothing, as he began to advance, except that he was going to "break them up." Officer Kraft testified that he was in the line of police at this time and heard Curley say that he was going to break them up. Kraft did not mention any conversation between Henderson and Curley. Henderson was not called as a witness. Under these circumstances, in view of Curley's evident desire to give the color of legality to his actions, we consider his statement that he was deputized by Henderson to be a protective afterthought rather than a statement of fact. We believe that Curley's testimony on this point is not to be credited.

Finally, Curley testified that Fellabom shot out the headlight of Jones' car at 11:15 p. m. after the shooting elsewhere had begun. This testimony was flatly contradicted by a number of witnesses both for the Board and for the respondent. Under the circumstances described above, we found that Curley's testimony on this decisive point was not to be credited.

In view of the complete unreliability of Curley's testimony on such major points, and his obvious bias and interest, we feel justified in refusing to credit his testimony with regard to the source of the five shots.

A number of other witnesses for the respondent testified that they heard shots fired, either at the beginning of the encounter, or during it, but none of these witnesses was able to fix the source of the shooting more precisely than "Cleveland Avenue," or "on the other side of the viaduct" or generally in the location of Cleveland and

Oberlin Avenue. Some testified on direct examination to a number of shots coming from the crowd and on cross-examination admitted that they had not seen the shooting and did not know whether the police or other persons had fired the shots. A second group of witnesses testified that they saw flashes from cornfields, railroad tracks, and other places at some distance from C. I. O. headquarters. Both groups testified that they heard the shots come from all directions or from north to south or from the west to the east. It is obvious that such testimony proves little or nothing, except that there was a great deal of shooting taking place in and around the vicinity of C. I. O. headquarters from the time the encounter started until 11:30 or later. At least 20 police and an undetermined number of deputy sheriffs were engaged in shooting tear gas, guns, revolvers, and a machine gun in all directions on Cleveland Avenue. Other police east of Cleveland Avenue near the viaduct had shot revolvers and riot guns shortly before 11 p. m. The testimony of these witnesses, while indicating the wide extent of the shooting, proves nothing as to its source.

With this description of the incident at C. I. O. headquarters we turn to a concluding analysis and summary of the evidence.

For at least three quarters of an hour prior to the encounter, while an unarmed peaceful group of strikers and strike sympathizers were gathered at C. I. O. headquarters, engaging in their usual Sunday night pursuits of talking, changing pickets, playing music and dancing 20 regular and special police, armed with revolvers, rifles, gas equipment and a submachine gun, were lined up on Cleveland Avenue under instructions from Major Curley to expect trouble. We have analyzed and found without merit Curley's justification for his orders increasing and arming the police, and have examined and rejected the contention by the police that the crowd as a whole was otherwise than peaceful. Even if we should credit in full the testimony of those officers who claimed to have heard threats against the police by one or two men in the crowd, it is apparent that under the circumstances described such threats were not taken seriously and that the strikers cannot be held responsible for the isolated utterances of one or two unidentified drunken persons who disappeared from the vicinity approximately half an hour before any violence occurred.

Shortly before 11 p. m., when Curley and Henderson, advancing up Cleveland Avenue from the line of police 100 feet south of C. I. O. headquarters, had reached a point midway between the police line and the strikers, Fellabom, standing on the west side of Cleveland Avenue, across from C. I. O. headquarters, fired several shots at the headlight of Harry Jones' car. Upon this point, as we have seen, the testimony is in conflict. We think, however, that the testimony of the witnesses for the Board, corroborated by the testimony of Officers Kraft and Kelley, far outweighs the testimony of Curley, which is unsupported except for the self-contradictory testimony of Fellabom.

Immediately after Fellabom fired his submachine gun, the police opened fire on the strikers. Because of the darkness and the rapid succession of events, no one witness was able to observe more than a segment of this incident and what immediately followed. The whole, therefore, can be understood only by a synthesis of the pertinent testimony of a number of witnesses:

Beckner, standing on the steps of C. I. O. headquarters looking south, saw the shooting begin from a point in the immediate vicinity of Harry Jones' car, parked on the west side of Cleveland Avenue, across from C. I. O. headquarters, just at the moment that Henderson and Curley were approximately midway between the police and the crowd at headquarters. Beckner, however, did not see Fellabom fire at the headlight. Walter Meyer, whose car was parked directly across from C. I. O. headquarters, behind and slightly north of Harry Jones' car, heard Fellabom fire two shots at the headlights of Jones' car, but did not see Henderson and Curley. Adams, who was in Coleman's apartment on the floor above C. I. O. headquarters, heard the first shots fired from the west side of the street, in front of C. I. O. headquarters, approximately where Fellabom was standing. Swarm on the first floor of the respondent's district office building, saw a first and second volley of shots fired in front of C. I. O. headquarters. As noted above, Fellabom fired a second volley from his position on the west side of Cleveland Avenue across the street from C. I. O. headquarters, after all the alleged firing from C. I. O. headquarters had ceased. Swarm's testimony, therefore, indicates that the first volley, like the second, was fired by Fellabom.

Officers Ickes, Kelley, and Kraft, standing in the line of police 100 feet south of C. I. O. headquarters and facing it, heard four or five shots in rapid succession from "out along in the vicinity of C. I. O. headquarters," but did not see the shots and did not see Fellabom fire his submachine gun. They testify that immediately after hearing the four or five shots, they fired gas projectiles from their gas guns. Swarm testified that after the fifth shot was fired, the police started to shoot tear gas. Fellabom, however, asserted that the police fired gas bombs at the strikers before a first shot was fired from C. I. O. headquarters. Assuming that with relation to the sequence of the four or five shots and the gas bombs, these witnesses are telling the truth, the discrepancy between the testimony of Swarm and the officers south of C. I. O. headquarters and that of Fellabom across the street from the crowd, can only be explained by the fact that Fellabom first fired his submachine at the headlights of Harry Jones' car, that Ickes, Kelley, and Kraft and other police officers, hearing these shots in the vicinity of C. I. O. headquarters, fired their gas guns and other guns at the crowd, and that Fellabom, seeing the gas bombs flying through the air, opened fire with his submachine gun. Thus, all those present, except Fellabom, heard Fellabom's shots as shots from the strikers and Fellabom seeing the police open fire, continued to shoot his submachine gun. We regard Fellabom's contradictory testimony on this point as an attempt to confuse the issue and thereby avoid responsibility for the incident which touched off the encounter.

In view of the fact that witnesses to a sudden shooting are notoriously inaccurate as to certain details, we regard the discrepancy between the number of shots reported by Meyer and those reported by the witness for the respondent as unimportant. Several witnesses for the respondent testified that the shots were fired in rapid succession, thus indicating the probability that the shots came from a machine gun and that any estimate of the number of shots is at best an approximation. Jones' testimony that there was a bullet hole in his right headlight and another through his windshield, while lending support to Meyer's version of the two shots, is inconclusive, since there were a number of other holes in the radiator of Jones' car, and it is obviously impossible to know whether every shot fired from Fellabom's machine gun registered on Jones' car.

Fellabom's testimony that he used only birdshot in the submachine gun is contradicted by the testimony that there was a bullet hole in the right headlight of Jones' car, which Fellabom admitted having shot out with his submachine gun. Moreover, although Curley would not state what ammunition Fellabom used that night, he testified that the usual equipment for the machine gun was three magazines of regular 45 bullets and three of 45 birdshot.

In sum, the testimony of these witnesses with regard to the source, time, and nature of the first shots which provoked the shooting by the police indicates that they were fired by Fellabom standing across the street from C. I. O. headquarters.

Four witnesses for the respondent, however, claim to have seen flashes of shooting or shots from an unidentified person at some other point. With regard to the same four or five shots—and these are the only shots alleged to have been fired from C. I. O. headquarters—Curley claimed to have seen five shots fired from in front of the front steps of C. I. O. headquarters; Pauli claimed to have seen the flashing of guns from the front and side windows of C. I. O. headquarters; Fellabom claimed to have seen a first shot or flashes from a gun fired from the top two feet of the doorway of C. I. O. headquarters; and Lustig claimed to have seen five shots fired by a man standing on the sidewalk eight or ten feet from the building. For reasons already indicated, we believe their testimony is either false or incredible. As against these contradictory assertions, three witnesses for the Board—Beckner, Hardesty, and Veto—who were standing in or near the doorway of C. I. O. headquarters at the time in question, denied that any shots were fired by the strikers from the doorway or any other place in the vicinity of C. I. O. headquarters; and Wilbert Coleman, the occupant of the second floor, testified that he heard no shots from downstairs in the building. We regard it as significant, although not conclusive, that up to the very moment of the encounter, no witness claimed to have seen any person in the crowd of strikers with any weapon, and that after the encounter, the police found no weapons, except Jones' pocket knife, on the person or in the possession of the 165 men arrested.

From the whole record, we find that the police, armed and forwarned by Curley to expect trouble, and made restless by the sound of shooting from the viaduct, opened fire at C. I. O. headquarters immediately after Fellabom fired his submachine gun; that the shots which the police heard and attributed to the strikers were in fact the shots fired by Fellabom; and that no shots were fired by the strikers.

We turn now for a moment to the respondent's contention that the strikers had assembled at C. I. O. headquarters with a preconceived plan to rush the police, enter the mill, and remove the employees who had returned to work. This contention rests largely upon the testimony of Officers Moore and Kraft.

Moore testified that at about 4 p. m. on July 10, while he was on duty with Officer Kraft, and Special Officers Hodge and Henderson, one Mike Rudak emerged from C. I. O. headquarters, approached the car in which the officers were sitting and said, "You officers had better watch, they are coming down and get you. I am a friend of the police." Moore stated that Rudak then walked back to C. I. O. headquarters, spoke to several fellows, and was shoved out into the street, from which Moore picked him up and took him to jail. "You could tell from the way he talked," Moore added, "that he had had a few drinks." Thereafter, Moore told the other officers, "You had better watch out a little bit."

Officer Kraft testified that between 6 and 6:30 p. m. on July 11, while he was on duty with Special Officers Henderson and Kriger, a man called "Humpy" walked out of C. I. O. headquarters, approached the post where the officers were stationed and said, "You better get out . . . big trouble tonight, 11 o'clock. Between 500 and 1000 coming down. They will kill all of the police and go into the mill and get the slabs." "He couldn't say 'scabs'," Kraft testified. "He said 'slabs.' That is all he said to us fellows. He turned around and went back up to C. I. O. headquarters." Kraft also stated that "Humpy" had had a couple of drinks. Kraft further testified that when he reported this incident to Curley, Curley said he would send more men to that post.

Both of these stories are apparently versions of the same incident. We regard them both, if true, as without significance. Apart from the differences in the specific language attributed to Rudak or "Humpy" and the discrepancy in the date and the time of day on which the statements are alleged to have been made, it should be noted that Curley's testimony contains no reference to any such warning as that reported by Kraft, but was limited specifically to rumors which he had received as a result of the meeting of the strikers at Oak Knoll Park, that afternoon. Furthermore, Switter testified that before he left Massillon at 9:30 p. m. on July 11, he had heard no rumors of any kind with regard to any threatened activities by the strikers. If Mike Rudak was arrested on July 10, it is clear that Switter would have been informed of his alleged threats, had they been regarded as sufficiently serious to warrant action; and similarly if "Humpy" had informed three officers between 6 and 6:30 p. m. on July 11 of a plot to kill the police, it is reasonable to suppose that Switter, who at that time was still in charge of the police department, would have been notified or that Curley would have mentioned it in his testimony. Moreover, there is no evidence that any of the regular or special police, except the six regularly assigned there, reported to C. I. O. headquarters that night upon their own initiative as a result of these or any other rumors. As noted above, they were all instructed to report there by Curley; and it is clear that these threats were not the basis for Curley's orders.

Switter testified that upon his return to Massillon Curley had stated that he raised the guard at C. I. O. headquarters "because he got rumors from a source he did not want to disclose that the pickets were going to crash the line and stop them from going into the mill at the 11 o'clock shift.'' At the hearing on July 21, 1937, Switter testified that Curley had not yet told him the source of the rumors which caused him to raise the guard. Since Curley testified to no rumors except those which he had received from the Oak Knoll Park meeting, and Switter had heard no rumors at all, we are inclined to believe that this statement to Switter was merely Curley's *ad hoc* explanation to justify the results which followed his countermanding of Switter's orders.

Officer Moore testified that on July 10, one Burke, a former captain of the picket post, in a conversation with Moore and Special Officer Hodge had stated, ''They will know who is running this God damn show in 48 hours.'' Wilbert Coleman, an employee of the respondent, who occupied the second floor of the house in which the Union had established its headquarters, testified that at about 7:15 p. m. on July 11, he saw men whom he could not identify picking in the ground with flashlights and a stick and carrying stones toward the front of the building. Robert Adams, a plasterer, whose son was employed by the respondent, testified that between 6 and 7 p. m. on July 11, he overheard a ''red-headed American'' tell Mark Turkey, a member of the union, '' 'You keep your men out and we'll keep ours out.' . . . I heard Mr. Turkey said 'Well, I will never be out.' He said 'You get yours out.' He said 'We will get ours out.' . . . this American fellow said 'I feel sorry for the colored fellow, but the damn niggers have got it coming to them. If they get killed they will just have to take it'.'' He testified that shortly after the first shooting was over ''a car came up around the corner and stopped and they got out and my neighbor hollered and asked 'What is going on down there?' One fellow says 'They are having hell down there.' He says

'Anybody hurt?' He says 'Yes, we killed two of them damned city cops.' He said 'How do you know.' He said 'We saw them fall.' So this other fellow got out of the car and he walked up to another fellow and says 'You fellows are from Canton. Aren't you?' He said 'Yes.' 'Well you had better get the hell out of here before they get up here' and another fellow . . . said 'Is that thing in the car?' He said 'Yes.' 'Well,' he says, 'You had better get it out of here because they are liable to break through up here at any time.' And the fellow in the car got out and he says 'Did you see Joe?' He said 'No.' 'Well,' he says, 'we ought to find Joe.' They did not call no last names and my daughter was asking me. I says . . . 'Who is that fellow got out of the machine.' She says 'Tony Dimando. That is the only one I know'."[42]

In the light of the events which took place before C. I. O. headquarters, these sensational but vague statements, anonymous rumors, and acts by unidentified persons, freely attributed to the strikers, carry no weight. In the first place, since Burke's statement, the incident described by Coleman, and the remarks of the "red headed American" were not reported to Curley, they cannot be considered as a basis for his orders. In the second place, it is undisputed that the crowd at C. I. O. headquarters made no attempt whatsoever to rush the police, enter the mill, and remove the employees who had returned to work. On the contrary, at the first shots, the strikers fled in panic. With 20 regular and special police already lined up across Cleveland Avenue, armed with every weapon in the possession of the police department, and an undetermined number of deputy sheriffs in the vicinity, ready at a moment's notice to drive up in cars loaded with tear gas, such an attempt by an unarmed crowd of 200 people, including women and children, would obviously have been suicidal. Not only was no such attempt ever made, but the president of the Massillon lodge and the vice president of the Canton lodge of the S. W. O. C., noting the ominous attitude of the police, were on the point of telling the crowd to go home, when the police opened fire. In the third place, no police were killed, wounded, or even injured, except by the fumes of their own tear gas. The strikers were the victims, not the aggressors, in an unprovoked attack.

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[42] Dimando was not further identified.

After midnight, as soon as the Canton police in their armored car had cleared the streets of people in the vicinity of C. I. O. headquarters, a "mopping up" squad of special police and deputy sheriffs, led by foreman and special police officer William Henderson, broke into rooming houses near Cleveland Avenue occupied by members of the union, arrested 165 men, and, with the assistance of the National Guard, hauled them to jail.

At 2 a. m. on the morning of July 12, John Angelo, a striker who lived on the second floor of a three story rooming house on McKinley Avenue, a block and a half from C. I. O. headquarters, was awakened by a noise which shook the house, "hollering and breaking doors in the building." Two deputy sheriffs entered his room, thrust guns against his chest, hit him with a black jack, and threw him into the hall. Other armed deputy sheriffs roved through the hallways, crying, "Now you rats we have got you," and routed out the other occupants of the house. Fifteen or 20 roomers, most of them barefoot and half clad, including one woman, were taken downstairs and lined up outside the building. Other men from neighboring rooming houses were searched and added to the lineup. Angelo testified that a Special Officer Henderson in the company of several other special police officers, then asked, "How many C. I. O.'s are here and lift up your hands." Half to three-quarters of an hour later, 10 or 12 of these men were loaded into a National Guard truck, taken to the Massillon City Jail and then to the Canton Jail, where they were photographed and fingerprinted. After 2 days in the Canton Jail, Angelo, with a number of other men, was returned to Massillon, where he signed a waiver of his right to sue the city of Massillon and was released. He testified that when the deputy sheriffs entered his room, they showed him no warrant of arrest.

Christ Conzas, a striker, who occupied another room in the same rooming house, from his window observed the police enter houses on McKinley Avenue and heard doors breaking in his building. A short time later, two officers with guns and a flashlight broke down the door of his room, searched the room, and ordered him downstairs. There, he recognized Bill Henderson, the foreman for whom he had worked in the mill, and entreated Henderson to release him. "You belong to the C. I. O." said Henderson, "and you have to go down." Other men were taken out from other houses "some of them without shoes, some without clothes, some without dresses, some without shirts." Conzas with the others was taken in a National Guard truck to the Massillon Jail, where he remained until Tuesday, July 13, 1937. Conzas was shown no warrant of arrest by the officers who broke down the door to his room.

Mark Turkey, a member of the C. I. O., who lived with his wife and three children in a rooming house on Fourth Street, about three and a half blocks from C. I. O. headquarters, was awakened by his wife at five minutes of three. Half dressed, he went to the kitchen, where several deputy sheriffs, armed with a revolver and a shotgun, who had broken open the house door, asked for his guns and ammunition. When Turkey replied that he had none, they pushed him upstairs, ordered four men who occupied rooms there out of the building, tore up the beds and mattresses as they searched the rooms, broke into a trunk, where

Turkey's son kept a stamp collection, and ordered Turkey downstairs to wait for his "bus." A few moments later Turkey and the four roomers were loaded into a National Guard truck and taken to jail, in Canton, where they were photographed and fingerprinted. Turkey remained in jail at Canton until 4 p. m. Wednesday, July 14, 1937, when he was removed to the Massillon jail and released after signing a waiver. Turkey testified that when the deputy sheriffs broke into his house, they asked him whether he was a member of the C. I. O. but did not show him any warrant of arrest.

A total of about 165 men, all of them apparently members of the Union, were thus arrested and placed in jail. Hardman, who returned to Massillon after the shooting and conducted their examination, testified that none of the 165 had been shown warrants, that all had been arrested at places other than the scene of the riot by special police officers, deputy sheriffs, and National Guardsmen, and that although most of the men had been released from jail by Thursday, about four were still held, at that time, four days after the shooting. He also testified that of the 165, only one (Harry Jones) was charged with carrying any kind of weapon.[43]

We come, finally, to the question of whether the respondent is responsible for the events we have described. From a careful examination of the record, we think that the answer is plain. As early as June 9 Carl Myers, the respondent's Acting District Manager, had attempted to persuade Chief Switter to use violence against the strikers, "to take such action as the Chicago police did and put them where they belonged"; "they knew how to handle the situation if we did not." On that day Myers donated to the Massillon police department the gas and gas equipment which was used by the police against the strikers on July 11, for "any situation which might arise." On June 13, after the meeting at the Chamber of Commerce in which the members of the Law and Order League had praised the Monroe police for smashing the picket line at the respondent's plant at Monroe, Michigan, Carl Myers again urged the Massillon city officials to use violence against the strikers: "It was a funny thing that a little town like Monroe could build up a police department big enough to get their mill operating again and control the situation and it was damn funny we couldn't do anything." In a pamphlet issued by the respondent during the strike, entitled "*What the Editors are saying about the Republic Strike—Reprinted by Republic Steel Corporation,*" the respondent set its seal of approval upon the actions of "the Monroe police, and the American Legionnaires and voluntary police who aided them and stand with them."

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[43] As stated above, Jones was carrying a pocket knife.

> "They have performed a healthful public service and they deserve high commendation and support . . . These men have used forceful methods, but no more forceful than necessity demanded . . . They simply are undertaking to uphold American law, order, and individual liberties . . . "

As described above, the respondent through Chief Accountant Angstadt and Superintendent Peppard, the members of the Law and Order League, and the Back-to-Work movement succeeded in exerting such pressure upon the city officials that, against their better judgment, they finally agreed to accept Curley's assistance and swear in as special police officers at least 32 of the respondent's employees, including foreman Henderson. That these special police officers were not disposed to be neutral was a fact generally known in Massillon. Of the 66 candidates which Peppard, Angstadt and Becker had submitted to the city officials on the morning of July 9, 29 had signed the Back-to-Work petition, as had 19 of the 32 men chosen by Major Curley. With regard to the temper of the members of the Back-to-Work movement, the Reverend Hess, a witness for the respondent, testified, "From my most sober judgment I am positively of the opinion that if we had not had the police there on the night of the riot that we might have had not two men killed but maybe 50 or 100 or more killed . . . My reason is this, contacts that I had had with men, the Back-to-Work men . . . that they were in no temper to stand any more . . . I testify that it was my judgment, taking the balance of two factors in the situation, from all sides, that we would have been staggering for this whole country, if we had not had the police there."

The Reverend Hess was not aware that, at the time of the encounter, five of the respondent's employees, who had signed the Back-to-Work petition, who had been bonded by the respondent, and who had been warned by Curley to expect trouble were special police officers whom Curley had armed and stationed in the vicinity of C. I. O. headquarters. The respondent called none of these five as witnesses nor the three other employees who were special police officers present during the incident.

Apart from their connection with the Back-to-Work movement, the respondent's employees who were appointed as special police officers were obviously not impartial. It will be remembered that Hardman and Switter had reviewed the 66 names submitted by Peppard and Angstadt and had rejected most of them as too excitable, and that General Marlin had waived any question as to the fitness of the respondent's employees for the police force by stating that it was no time for neutral men.

Thus, prior to the encounter, the respondent had armed the police force with its gas equipment, staffed it with a foreman and 31 other employees, many of whom belonged to a group bitterly opposed to the strike, and had urged violence against the strikers. In addition, the respondent had approved, if it had not actually connived at, the appointment of Major Curley whose activities we have already found were conducted in the interest of and on behalf of the respondent.

These acts of the respondent achieve their real significance in the light of a hitherto undescribed event which occurred on July 11. John Veto testified that at 5 o'clock that afternoon, as he was returning to his home by way of Cleveland Avenue, near C. I. O. headquarters, he passed within three feet of two special police officers, seated on chairs with their backs to the mill, and heard one of them say, "We are going to clean them up tonight." Veto testified that the man who spoke turned around, "and I recognized him as Bill Henderson, a chipper foreman in the mill . . . He said 'Where is your picket card' and I said 'I didn't have any because I am not on duty.' " Veto also testified that the other special officer did not turn around and that he did not recognize him.

To rebut this testimony, the respondent's counsel asked Officer Kraft:

> "Q. (by Mr. Pontius) During that afternoon I will ask you whether Mr. Henderson said to you—that is, this special officer Mr. Henderson, about five o'clock in the afternoon said to you this, or this in substance: 'That we are going to clean them up tonight?'
>
> A. He never said nothing like that to me."

Kraft, however, testified that on that afternoon there were three officers detailed to and present at this post: himself, and Special Officer Henderson and Kriger.[44] It will be remembered that Veto testified that he did not recognize Henderson's companion. It is obvious, therefore, that Kraft's denial that Henderson "never said nothing like that to me" does not preclude Henderson's having made the statement to Kriger. We regard it as material that the respondent called neither Henderson nor Kriger as a witness and made no showing as to the unavailability of either.

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[44] Kriger, like Henderson, is an employee of the respondent for whose bond the respondent was billed.

At 9:30 p. m., after Switter and Hardman had left Massillon, Curley countermanded Switter's orders, raised and armed the guard at C. I. O. headquarters, and directed Fellabom to a post across the street from the strikers, with instructions to use his submachine gun. At approximately 11 p. m. when Curley and Henderson took it upon themselves to induce the crowd of strikers to go home, for no other avowed reason except that there were too many of them, Fellabom, pursuant to Curley's authority, used his submachine gun and shot out the headlight of Jones' car. As noted above, these shots were the overt act which precipitated the shooting by the other police officers.

After shooting about 25 tear gas projectiles, Officer Moore sent Gray, one of the respondent's foremen, to the Union Drawn Steel Company for more gas. Between 11:15 and 11:30 p. m., Curley telephoned from the respondent's main office to the Union Drawn Steel Company for more gas, and dispatched a police cruiser which returned with at least 25 cartridges of tear gas. Of the gas thus donated by the respondent prior to and during the encounter, Curley, Ickes, Moore, and Kelley testified that they fired a total of 158 gas projectiles or bombs at the strikers during the evening and that other special and regular police threw or fired an undetermined number of gas bombs or projectiles. The fury of the attack upon the strikers, led by Curley and Henderson, is matched only by the thoroughness of the round up, led by Henderson, in which all persons within a radius of three or more blocks from C. I. O. headquarters were arrested without warrants and incarcerated for several days, for the crime, apparently, of belonging to the Union.

We are of the opinion, from an examination of all the facts, that if Curley had not seized the opportunity when Switter had left Massillon, to take command of the police force, to increase and arm the guard in front of C. I. O. headquarters, and to instruct the regular and special police to expect trouble, the attack upon the strikers would never have occurred. That Fellabom's shooting at the headlight touched off the attack, may have been a tragic accident; but it is clear that, if Curley had not issued his unauthorized orders, neither Fellabom nor 13 of the other police would even have been present at C. I. O. headquarters on the evening of July 11. The attack was led by Curley, the respondent's agent, and by Henderson, its foreman; at least eight of the respondent's employees as special police officers participated in the attack; all the gas and gas equipment for the attack was supplied by the respondent. The respondent had publicly approved the use of violence against strikers by the police of Chicago and Monroe and had urged the Chief of Police of Massillon to follow the example of the police of those cities. When Switter left Massillon, Henderson was overheard to say, "We are going to clean them up tonight." From the whole record we find that the respondent is responsible for the attack upon the strikers.

B. CANTON

Of the respondent's plants in Canton, two are directly involved in this proceeding: The Canton Works (Central Alloy District) which employs between 5,000 and 6,000 employees; and a tin plate mill, employing approximately 650 employees, which the respondent acquired on July 1, 1936, from the Canton Tin Plate Corporation.

1. *The Plan of Employee Representation—Canton Works*

The Plan of Employee Representation was introduced at the Canton Works in June 1933 and, with minor amendments made in 1934, remained in operation until April 1937, after the decisions of the Supreme Court upholding the constitutionality of the Act. Thereafter, it was succeeded, as in Massillon, by the Employees Representative Association, which lasted until July 1937, when the Employee Representatives, who had been active in both the Plan and the Association, formed a new organization, the Steel Workers Union of America, which purported to be independent of the respondent. The formation and activities of the Association and the Steel Workers Union will be discussed hereafter.

The Plan at the Canton Works, as it existed until the latter part of April 1937, was substantially the same in structure and operation as the Plan at the Massillon Works. It is therefore unnecessary to describe it at length. It is sufficient to state that the respondent formulated and introduced the Plan, without submitting it to a vote of its employees; that throughout the existence of the Plan the respondent paid the Employee Representatives for attending meetings, during and after working hours, as well as for handling grievances; and that, down to the most minute item, the respondent defrayed all the expenses and furnished all the facilities for the operation of the Plan.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation (Central Alloy District) Canton Works and has contributed financial and other support to it.

2. *The Plan of Representation of Employees—Tin Plate Mill*

In August 1933 the Canton Tin Plate Corporation, then under independent ownership, inaugurated the Plan of Representation of Employees in its tin plate mill. After July 1, 1936, when the respondent purchased the mill, it continued this Plan in effect unchanged until April 30, 1937. With slight variations, this Plan substantially resembled the Plan at the Massillon Works. Neither at the time of its inauguration nor subsequently was it submitted to a vote of the employees. After July 1, 1936, the respondent continued to pay the Employee Representatives a dollar an hour for time spent during and after working hours at regular and special meetings, and continued to defray all expenses and furnish all facilities for the operation of this Plan.

On April 30, 1937, the respondent announced that in view of the Supreme Court decisions upholding the constitutionality of the Act, it would cease to pay the Employee Representatives. The Employee Representatives then sought to resign and discontinue the Plan, but on the solicitation of Sam Davey, then superintendent of the mill, decided to remain until the end of their term. At a regular meeting of the Employee Representatives on May 8, Sam Davey introduced Frank Geltz, Chairman of the General Body of Employee Representatives under the Plan and of the Association at the Canton Works, who explained the purposes of the Association and sought to enlist the support of the Employee Representatives. No action was taken on this proposal. In August 1937, according to Edward Kirkland, Secretary of the Plan, when the fiscal year of the Plan ended, no plans had been made for its continuation, because "we never asked the officials of the Republic Steel Corporation whether or not they wanted to continue the Plan."

From the whole record, we find that the respondent has dominated and interfered with the administration of the Plan of Representation of Employees at its tin plate mill, and has contributed financial and other support to it.

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3. *Events preceding the strike*

On July 2, 1936, shortly after the union had begun its campaign to organize the employees in the Canton-Massillon area, the respondent issued its statement, described above, announcing that "Republic stands for the open shop principle. . . . Every Republic employee owes a duty of loyalty to the Company so that its best interests may be served. Conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management will not be tolerated."

The circumstances surrounding the discharge of Victor Arias on August 2, 1936, serve to illustrate the method by which the respondent at this time sought to give effect to this policy. Arias had been continuously employed by the respondent since 1927, except for several weeks in May 1935 when he took part in a strike at the respondent's Berger Manufacturing Company plant. When he applied for reinstatement, superintendent Ellaser told him he had been active during the strike and "that is bad on your card." Several weeks later, in June 1935, Arias was reinstated. At that time, his foreman, David Carnes, offered him a job as a checker if he would report the activities of the men. Arias refused.

In July 1936 Arias joined the C. I. O. and was the first organizer in the Canton area. As such, he assisted Howard Porter and the other outside organizers sent to the Canton-Massillon district. It will be remembered that these organizers were given permanent shadows in the form of

Long and McCallister, plant policemen at the Union Drawn Steel Company, whose special business it was to follow them. In the latter part of July, Arias conducted meetings on farms and obtained 25 applications for membership and signed up eight members for the union. On August 9, when he returned from a week's vacation, he was told to stay home, that he would be called when needed. "Why are they holding me out?" he asked Graham, assistant to superintendent Ellaser, "is it anything concerning my work?" "No," replied Graham, "not that I know of. There are activities that you are in that I don't know about or exactly what it is." Superintendent Ellaser informed him: "Vic, you are in Dutch. I don't think I can do anything for you." Arias pleaded his long service with the respondent, his satisfactory work, his necessity to support his parents. Ellaser replied, "I am sorry. I can't do anything for you."

Arias then left Canton in search of a job. In April 1937, upon his return, he met Frank Geltz, Chairman of the General Body of Employee Representatives under the Plan, who offered to help him. Geltz, however, was unsuccessful. He reported that he had seen Ellaser who said that Arias had a company police record, and that Ake, the employment manager, had told him that on his record Arias talked too much.

During his nine years employment by the respondent, Arias had received at least three promotions; at the time of his discharge he was an inspector in charge of the chipping bed, earning approximately 90 cents an hour. Since his discharge on August 2, 1936, his total earnings, up to August 11, 1937, have been $164.40. He has not received regular and substantially equivalent employment elsewhere. Although the respondent in its answer denied that Arias was discharged because of his union activities, it produced no witnesses and offered no evidence to rebut Arias' testimony. We find that the respondent discharged Victor Arias for the reason that he joined and assisted the union.

Having thus plainly warned its employees that it was prepared to enforce its statement of July 2, the respondent took further repressive steps to halt the growth of the union. At the Canton Works and the tin plate mill, its activities paralleled those already described at the Massillon Works. Employees were called together at safety meetings once or twice a month, where a superintendent and foreman repeatedly extolled the virtues of the Plan and threatened employees with the loss of their jobs if they joined the "outside" union; employees were asked by a superintendent to sign petitions that they were satisfied with the Plan and were informed that the C. I. O. would never succeed; active union members were cajoled by supervisory employees not to waste their time passing out handbills, admonished to watch their step, and warned to stop trying to organize; a superintendent spoke with approval of a pamphlet which appeared in the plant, purporting to show that the C. I. O. was a revolutionary organization, controlled from Moscow, whose ultimate purpose was to overthrow the government of the United States by force and violence.[45]

On March 5, 1937, the respondent published its statement of open shop policy in the newspapers, as described above. Carl Myers read the statement to the General Body of Employee Representatives, to whom he promised the same degree of cooperation from the management that they had received in the past. Besides Arias, three employees, whose cases we discuss below, were discharged for union activities at about this time.

Despite these acts of interference and coercion by the respondent, the union continued to grow. On February 1,

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[45] *Join the C. I. O. and Help Build a Soviet America,* published by the Constitutional Educational League, Inc., New Haven, Connecticut.

1937, All Nations Lodge No. 1200 was established in Canton for the employees of the Canton Works and the tin plate mill. A number of the Employee Representatives joined the union, and in certain departments of the plant the union claimed to have achieved a membership of a large majority of the employees.

In the tin plate mill, where the union claimed a membership of approximately 90 per cent, the respondent sought to coerce its employees to leave the union by repeated threats to close the plant. Kenneth Poorman, a member of the union, testified that in October 1936 at a safety meeting in the tin plate mill, James Davey, then operating superintendent of the mill, informed the employees that "this is an old and obsolete mill. The Warren mill is of a newer type. . . . If we stay out of labor trouble this can be the mill to operate." Although Davey denied having used the specific language attributed to him on this occasion, we are not impressed with his denial. He admitted having told employees on another occasion that the mill was old and obsolete and that he hoped they would stay out of labor troubles. And even from Davey's own studied and evasive account of his remarks at the October safety meeting it is clear that the employees could reasonably have taken away only one impression—that the respondent would shut down the mill if they joined the C. I. O.

In January 1937 superintendent Thomas approached Homer Downerd, president of Lodge No. 1200, and asked him why he had become so active in organized labor. According to Downerd, Thomas said, " 'Do you think you are doing right?' and I said 'Yes, I think I have as much right to belong to organized labor as any one else has.' And he said 'Do you know what you are going to do?' and I said 'Yes, I do. We are going to put this organization across' and he said 'No, I will tell you what you are going to do —you are going to eventually shut down this plant and that will put not only me, but everyone else out of work and unless you quit, you will shut down the tin plate plant.' "

In February 1937 superintendent Thomas saw Martin Beckner, vice president of Lodge No. 1200, passing out hand bills near the Canton Works. "Beckner," said Thomas, "you do not seem to be the same sort of a fellow, the kind of a fellow that would be messing around with a bunch of radicals." "I told him," Beckner testified, "that I did not realize that I was a radical and he said, 'Don't you realize that Republic Steel will be closed down and won't operate any more?' "

On May 5 a notice appeared on the bulletin board at the tin plate mill announcing that the mill would be shut down until further notice, and that employees should call Thomas later in the week and find out when operations were to be resumed. The tin plate mill remained closed until May 24, the day before the strike. It appears that the production at the mill during April and May in terms of gross tons was as follows: For the week beginning April 5, 541; April 12, 888; April 19, 609; April 26, 921; May 3, 315; May 10, 0; May 17, 0; May 24, 650. Samuel Davey, then superintendent of the Canton Tin Plate Division, testified that there was no production for the weeks of May 10 and May 17 chiefly because a strike had been called at the plant of the Canton Enamelling and Stamping Company on April 29, at which time all orders from that company ceased, and that the respondent had in process or finished at that time approximately 1400 tons in the plant, equivalent to two weeks' work.

This ostensible reason for the shut-down is vitiated, however, by reference to a number of events which occurred before and after May 5, when the shut-down was announced. On May 8 Beckner telephoned superintendent Thomas and asked when the mill would start up. "He told me," Beckner testified, "he did not believe the mills would start up until we got rid of that union." During the strike at the respondent's plants in Canton, Thomas told Beckner, " 'It looks like the Tin Plate had made a mistake. The rest of the mill is going to resume but I do not think the Tin Plate will ever resume again.' And he felt it was all the fault of the men organizing because we had 90 per cent of the organization at that time." Since the respondent did not call Thomas as a witness and made no showing as to his unavailability, these and the earlier threats stand uncontradicted.

Furthermore, the respondent was in the sole possession of proof in support of its allegation that a decrease in orders caused the shut-down. We are not satisfied that, in view of the circumstances described above, it has supplied an adequate business reason for its conduct. It has not shown the amount or relative size of the orders of the Canton Enamelling and Stamping Company, nor how long the strike there lasted, nor precisely to what extent that strike caused a decrease in orders.

In weighing the evidence upon this point, we also take into account the fact that, at this time, the respondent's Canton and Massillon plants were both under the supervision of Carl Myers, Acting District Manager for the one region; and that the shut-down on May 23 of the Massillon Works was caused, not for the business reasons alleged by the respondent, but for the purpose of intimidating and coercing the employees.

It will be remembered that on May 3 Clinton Golden, Regional Director for the S. W. O. C., wired the respondent that widespread unrest prevailed among its employees over the uncertainty of the respondent's position regarding a signed collective bargaining contract, that this unrest had been accentuated by the lay-off of several hundred union members at the Canton and Massillon Works, and that the union urgently requested a conference to negotiate a signed, written contract. It thus appears that on May 5 the respondent gave a double answer to the union: Voss replied to Golden that he saw no necessity for a signed contract, but was willing to arrange a conference; Davey shut down the tin plate mill, a stronghold of the union, and locked out all but the maintenance employees.

From the whole record we find that the respondent shut down its tin plate mill at Canton and locked out almost all its employees for the purpose of intimidating and coercing them not to join or to discontinue their membership in the union. The respondent thereby discriminated against its employees with respect to hire and tenure of employment and interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

4. *The Employees Representative Association*

After the decisions of the Supreme Court on April 12, 1937, the General Body of Employee Representatives met on several occasions in the Canton Works on company time to discuss the formation, dues, and constitution of a new organization to succeed the Plan. The precise date upon which this organization—the Employees Representative Association—was formed does not appear. The record does show, however, that on April 24 Joseph Cox, an Employee Representative, signed a membership card in the Association and with other Employee Representatives began to solicit membership for the Association in the plant on company time.[46] On April 28, according to the minutes of a special meeting of the General Body of Employee Representatives of the Plan, "the proposed amendments to the by-laws were again reviewed and it is the feeling of the General Body that no further changes should be made at this time." These amended "bylaws"—the amendments adopted April 22, 1937, referred to above[47]—became the constitution of the Association. The respondent's participation in the formulation of these amendments, and its modified control of the operations of the organization under them, have already been discussed. At the same meeting on April 28 a treasurer was elected and Representatives assigned to committees.[48] A motion was carried that dues were to be temporarily waived and "some other method of raising finances, possibly through a raffle, should be used." At the conclusion of the meeting a "force report," or schedule, covering the time spent in the meeting by the Employee Representatives, was prepared, according to which the Employee Representatives were to be compensated by the respondent. Thus, as in Massillon, the new organization was, except in name, virtually identical with the old.

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[46] The signatures of the Chairman and Secretary of the General Body of Employee Representatives under the Plan are affixed to this card as Chairman and Secretary of the Association.

As in Massillon, the respondent gave the Association a free hand to organize opposition to the union. Frank Cutshall, a member of the union, testified that on May 16 or 17 he was notified by his foreman to attend a meeting in the bar mill at the Canton Works. "They were going to close down the department and everybody was to go over and we was to be paid for the time we would be over there at the meeting. They said they were holding these meetings for each particular turn, the three turns. At one o'clock they blew the whistle and the crane men, the chippers, the grinders and everybody employed in the plant, or practically so, attended. The whole department was shut down." Dan Allen, an Employee Representative, announced to the 400 assembled employees that "they were forming a union for the employees of this division of Republic Steel and they did not want any outside union. They wanted to make preparations if a strike was called to meet up near the square and make a rush for it and go down in a body. . . . They were anticipating the strike. They asked approval of . . . some of the men in this group." Cutshall testified that he was paid for the time spent at this meeting.

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[47] See Section A, 3.

[48] The office of Treasurer did not exist under the Plan, and apparently was the only office in the Association for which an election was held. As noted above, the Chairman and Secretary under the Plan remained as Chairman and Secretary under the Association.

On May 20 about 300 foremen and chippers at the Canton Works were notified to quit work to attend a meeting in the plant. Sammy Stokes, one of the chippers, testified that William Dunn, an Employee Representative, announced that "he was calling this meeting to explain this union plan to them, and he told the fellows that the company was expecting a strike and he wanted them all to sign a paper that they will work . . . and when the strike was called they should meet at the public square and they would prepare a way for them to go into the mill. And so he said 'I am going to pass out these blank pieces of paper and I want you to sign them.' " Stokes testified that he was paid for his attendance at this meeting. Cutshall, who also attended this meeting, testified that Dunn announced that the purpose of the meeting was to form an employees union for the Canton Works alone, in order not to "mix into any more troubles"; that Dunn handed out a copy of the pamphlet previously referred to, "Join the C. I. O. and Help Build a Soviet America"; and that Employee Representative Allen launched into an attack upon John L. Lewis.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Employees Representative Association and has contributed financial and other support to it.

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5. *The strike*

Although the events at Canton are not set forth in the record in such detail as those at Massillon, the testimony indicates that the respondent pursued a similar course in mobilizing its forces to break the strike. The following narrative is summarized largely from the testimony of witnesses for the respondent.

On or about May 18 superintendent Cornell told foreman Kuhns that the management intended to operate the plant in the event that the strike was called, and that he wanted the employees in the plant before it started. At 4:45 p. m. on May 25 Cornell called Kuhns to his office, told him there was to be a "meeting of the C. I. O. and it looked very much as though a strike was going to be pulled," and instructed him to have the employees come to the plant by 9 o'clock. On the night of May 25, when the strike was called, trucks arrived at the plant loaded with cots. Under the inducement of a bonus, free meals, and 16 hours' pay for 8 hours' work, a number of employees ate, lived, and slept in the plant from May 25 until July 1.

At 7 p. m. on May 25, before the strike was called, 12 Employee Representatives, including Frank Geltz, Ray Lilly, Dan Allen, and other active members of the Association, met in the assembly room of the respondent's Industrial Relations Building at the Canton Works. In previous discussions this group had decided that if the strike was called they would form a back-to-work movement and seek to have a vote conducted under their auspices among the employees at the Canton Works on the question of whether the employees wished to return to work or to continue on strike. At this meeting plans were made to hold the vote in the City Auditorium on Thursday, May 27. At 8:30 p. m. the group conferred with plant superintendent B. R. Richardson, who expressed his approval of their proposed activities. At 11 p. m. the strike was called and the group retired to two rooms at the Belden Hotel in Canton, which thereafter served as the headquarters for its activities.

Within a few days this committee, augmented by a number of other Employee Representatives, undertook to patrol the city, armed with shotguns, allegedly to protect the homes of non-strikers. On several occasions it held meetings of employees who wished to return to work, and conferred with the mayor of Canton with regard to its demands. On June 9 T. K. Harris of the Canton Law and Order League, said of the Back-to-Work movement, "It is becoming more difficult to keep them from taking the law into their own hands."[49]

As noted above, on or about July 5, a few days before the National Guard were withdrawn from the Canton-Massillon area, 56 of the respondent's employees were bonded by the respondent and sworn in as private police officers of the City of Canton. Of the 56, one, B. R. Richardson, was a plant superintendent, another, Russell Horn, was a supervisory official and at least three were members of the Back-to-Work Committee.

Most, if not all, the expenses of the Back-to-Work Committee were defrayed by the respondent. J. G. "Monk" Stewart, a supervisor of the guards, spokesman of the Back-to-Work Committee, and a roller in the mill with 10 or 12 men under him, testified that from May 25 until July 2, when the National Guard arrived, he received from the respondent for his work a total of approximately $500, calculated on the basis of his regular pay of $28 a day. Other members of the Committee testified that during this period they were paid approximately one and three quarters times their regular pay, or, in some instances, a bonus of $25 a week in addition to their regular pay. None of the witnesses for the respondent claimed to know who paid for the rooms at the Belden Hotel, although all admitted that no funds were collected by the Committee. It appears that Carl Lappin, an Employee Representative who acted as paymaster to the Committee for the respondent, rented the rooms in his own name.

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[49] What the Editors are Saying About the Republic Strike—reprinted by Republic Steel Corporation, from *The Canton Repository* of June 10, 1937.

Since employees participated in the Back-to-Work Committee and since it existed in part, if not wholly, for the purpose of dealing with the respondent concerning a labor dispute, it is a labor organization within the meaning of the Act. From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Back-to-Work Committee and has contributed financial and other support to it.

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6. *The Steel Workers Union of America*

On July 13, approximately two weeks after the plants had reopened, a number of the members of the Back-to-Work Committee whom the respondent had paid for acting as guards met at "Monk" Stewart's home to discuss the formation of an organization. Several days later Frank Geltz, Chairman of the Association, told Stewart that the former Employee Representatives, whose terms had expired in June, were also considering forming a new organization. After one preliminary meeting of the two groups, a formal meeting was held on June 20 in the Belden Hotel, where Stewart was elected temporary Chairman; Lilly, Secretary; and Geltz, Treasurer. On the following day, at a meeting in the Belden Hotel with Attorney Frank Bow, the name "Steel Workers Union of America" was selected, application cards drawn up, and chairmen of organization committees appointed. Although at the time of the hearing on September 15 no constitution or bylaws had yet been adopted, and no membership meeting had been held, Stewart testified that all employees at the Canton Works, except supervisory employees and police, were eligible for membership and that of 3900 eligible employees, between 2500 and 2700 had signed application cards for membership. Notices announcing the formation of the organization were posted in the plant; and members of the organization committees collected dues, initiation fees, and signatures to membership cards in the plant during working hours.

It is clear from the record that the Steel Workers Union, like the Independent Association at Massillon, was merely the successor to the Plan, the Association, and the Back-to-Work Committee, and still the creature of the respondent. Its officers were the officers of the predecessor organizations and its active members were former Employee Representatives or members of the Back-to-Work Committee. It received the same favors from the respondent as had the predecessor organizations. An organization with such antecedents, formed under such conditions, necessarily could not represent the free choice of the employees.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Steel Workers Union of America and has contributed support to it.

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7. *The discharges*

The complaint, as amended, alleges that three other employees at the Canton Works, besides Victor Arias, were discriminatorily discharged. The record shows that all three were discharged or laid off by superintendent Hopkins. We take up their cases in chronological order.

Mike Ugranovich. Ugranovich, a member of the union, had been employed by the respondent since 1934 as a grinder in the billet sheds. In 1935 he participated in the strike at the respondent's Berger Manufacturing Company plant. He testified that when he returned to work after that strike Edward Hopkins, superintendent of the billet sheds, "fired him off the job" for about a month, saying, "You got a job on the picket line and I cannot use you any more." Ugranovich then applied for his job to superintendent Baxter, who, in the presence of Hopkins, asked Ugranovich whether he had been on the picket line "and he asked me 'How long have you been in this country?' and I told him 'About 20 years' and he said 'Are you still crazy . . . I will give you your job back if you do not do that any more' . . . He told me I would have to stick with the company."

In December 1936 and January 1937 Ugranovich attended a number of safety meetings in the plant, at one of which, he testified, superintendent Hopkins said, "Don't belong to the outside union. You got to stick with the company union . . . If I find any more men (belong to the) outside (union), he cannot work for me." Ugranovich testified that on February 11, 1937, he was summoned to superintendent Hopkins' office where Hopkins said, "You have got some slow work, five and six weeks on a job . . . Don't you mind that strike in 1935 . . . I give you a chance that time and still now there is something else outside, some kind of a name, C. I. O.—and you are in it already." Ugranovich was then discharged.

The respondent contends that Ugranovich was discharged on February 8, 1937, not for his union activities, but because he came to work in an intoxicated condition. Superintendent Hopkins testified that, although he himself had not seen Ugranovich in an intoxicated condition, foreman Eichelberger reported to him that at midnight both he and the grinder boss had smelled alcohol on Ugranovich's breath and had sent him home with instructions to return in the morning, and that at 9 o'clock the next morning Hopkins had laid him off indefinitely because he had come to work intoxicated. "He tried to tell me that he was not intoxicated. I told him he was because my two foremen had told me that." Hopkins also denied some, but not all, of the statements attributed to him by Ugranovich. He denied that he had mentioned the C. I. O. to Ugranovich at the time he discharged him or said that his work was slow, but asserted, on the contrary, that in his opinion Ugranovich was a capable worker and not slow.

Eugene George, a grinder foreman, testified that at 12 o'clock on February 8, when Ugranovich reported for work, he smelt a strong odor of liquor on the man's breath, noticed that the surface of the steel on which Ugranovich was working had circular instead of horizontal marks, reported to foreman Eichelberger that Ugranovich was in no condition to work, and saw Ugranovich leave with a wobbly step. George added that he told Eichelberger that Ugranovich had a habit of laying off on pay day, that he had spoken to Ugranovich once or twice before about coming to work with liquor on his breath, and that he now recommended him for a discharge. Eichelberger confirmed George's testimony and asserted that Ugranovich was apparently under the influence of liquor, that his work was being done in an improper manner, and that when Ugranovich left he walked in an uncertain condition.

Ugranovich, however, denied that he had come to work intoxicated or that he had been given that reason for his discharge; denied that he had been warned about coming to work intoxicated before, or that he had a habit of laying off for two or three days after pay day; admitted that the tool which he used had made circular instead of horizontal marks on the surface of the steel, but explained that the fault was due to another grinder in failing to have the required number of belts on the machine. Ugranovich also asserted that he had been "off booze for 28 months and never touched it."

In this conflicting state of the evidence it is instructive to consider the respondent's policy, as stated by George, Eichelberger, and Hopkins, with regard to men who come to work in an intoxicated condition. George testified that Hopkins had personally instructed him to send a man home if he came to work in an intoxicated condition, that he had observed hundreds of men in the mill with liquor on their breath and on certain occasions had himself come to the mill with liquor on his breath, but that he disciplined an employee by sending him home only if the liquor on his breath was very strong or the man wobbled. George also testified that of the hundreds of men whom he had observed with liquor on their breath, Ugranovich was the only one who wobbled and whom he reported. Eichelberger testified that the general policy of the company was that so long as a man could work safely and was not intoxicated to the extent that he wobbled, no matter how strong the odor of liquor on his breath, he was not sent home. Eichelberger also testified that he could not remember having recommended discharge of any of the hundreds of employees who had come to work with liquor on their breaths, but claimed in the past eleven years to have recommended some men for two or three day layoff because of liquor on their breaths. Hopkins testified that he sends an employee home but does not discharge him for his first offense in wobbling, and that even if he had smelled liquor on his breath a couple of times and he was wobbly he would lay him off for two or three days, but would not discharge him.

It thus appears that even if Ugranovich was intoxicated when he came to work, which he denies, and had come to work once or twice before with liquor on his breath, which he also denies, the normal procedure would have been to reprimand and discipline him with a two or three day layoff instead of discharging him. Despite the respondent's policy, however, he was discharged, and, according to George, was the only man ever to have been discharged under the "wobbling" rule. In view of Hopkins' statement to Ugranovich at the time of his discharge, which is only partially denied, and certain of his other antiunion remarks, which are not denied, we are satisfied that Ugranovich was discharged not for his alleged intoxication but because he joined and assisted the union.

Ugranovich has not received substantially equivalent and regular employment elsewhere. At the time of the hearing he had earned approximately $111 since his discharge.

Will S. Wright. During a strike in 1922 at the Canton Works, then owned by the United Alloy Company, one Ake, superintendent of employment for the United Alloy and later for the respondent, hired Will S. Wright as a strikebreaker, promising him that "if you stick with the Company, you will have preference for a job as long as you do not do anything out of the way with the Company." After working three months, Wright left the employ of United Alloy and worked elsewhere until 1933, when he was employed by the respondent as a chipper. In May 1935 Wright took part in the strike at the respondent's Berger Manufacturing Company plant. After this strike, when Wright applied for and was denied reinstatement, he testified that superintendent Hopkins told him, "Bill if you want to work here, you have to stick with the Company. You cannot have one foot over here and one over there and expect the Company to stick with you." In the early part of 1936 Wright was offered help in getting his job back by one Williams, a chipper employed by the respondent, whom Wright characterized as a "snitcher for the Company." Pursuant to Williams' instructions, Wright went to Ake, superintendent of employment, who gave him a note to Hopkins. Wright testified that Hopkins offered him a job if he would stick with the Company. Wright accepted.

After returning to work, Wright attended numerous safety meetings in the plant where superintendent Hopkins, foreman Johnston, and "Charlie, the bed foreman," on occasion told the employees, "You don't want to mess around with no outside union, because if you want to work, you cannot be tied up with no union." In the early part of 1937 Wright was asked by Beckner to join the C. I. O. Williams advised him, "If you aint signed, you better not sign, because the damn C. I. O. aint no good, if you want your job." Several weeks later Beckner again asked Wright in Williams' presence to sign a membership card. "Williams sneaked out," Wright testified, "and, about two days after that (on April 27) . . . I was called into Mr. Hopkins office." Hopkins informed Wright and other employees who were present that new men were being laid off in order to give the older men more hours. Wright stayed after the others had left and reminded Hopkins that he had been employed in 1922 and that Ake had promised him preference. Hopkins replied that he had told Wright that if he wanted to work for the Company, he had to stay on the right side of the fence and could not have one foot over here and one over there, and that Ake was "not running the show." "I told him," Wright testified, " 'I am on the right side of the fence when I work.' And he said 'You are not dumb, you know what I mean.' " Wright also testified that some of the chippers who were not laid off had less seniority than he.

The respondent contends that Wright was laid off with a number of other chippers, without discrimination, for purely business reasons. Hopkins testified that because of the lack of tonnage the respondent decided to lay off 37 chippers; that Wright was thirty-fourth in length of service, and was laid off in regular order; that the respondent's policy with regard to seniority was that if a man was laid off for 30 days or more, while there was work available, his seniority rights were lost; that Wright had been laid off on May 22, 1935, 6 days before the Berger strike and had returned to work sometime in 1936; and that with this layoff Wright had lost the seniority rights which had accrued to him since his employment in 1933.

On cross-examination, however, Hopkins contradicted his earlier testimony with regard to the respondent's seniority policy, by stating that if an employee were laid off for more than 30 days he would not lose his seniority rights. On this basis, it appears that Wright was entitled to credit for approximately two years' service, and that when he was laid off on April 27, 1937, the regular order of seniority was not followed.

Although Hopkins denied all of the statements attributed to him by Wright, we are convinced that his denials are not to be credited. The respondent had pointedly warned its employees in its statement of July 2, 1936, that it would not tolerate "conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management." On March 5, 1937, after publishing the respondent's statement of its open shop policy in the newspapers, Carl Myers had summoned the Employee Representatives to a meeting at which he repeated the respondent's statement of July 2, 1936.

The record contains uncontradicted testimony that other superintendents and foremen had warned employees not to join the union under threat of loss of their jobs. Moreover, although Hopkins denied having made the statements at safety meetings attributed to him by Wright, he admitted that he could not recall what he had said. Ugranovich's testimony with regard to certain of Hopkins' antiunion statements is undenied. Under these circumstances we are of the opinion that Wright was laid off on April 27, 1937, because he had joined or was suspected of having joined the union.

Wright has not earned any money since April 27, 1937.

Sabri Shaban. Shaban was first employed by the respondent as a chipper from June 1933 until March 1934, when he left the respondent's employ for a visit to the "old country." In October 1936, upon his return, he applied to superintendent Hopkins for his former job. He testified that Hopkins asked him, " 'You belong to a union?' and I say 'No.' 'If somebody go on the road and stop you . . . what are you going to say?' And I just figure and I sit two or three minutes . . . He said 'What are you going to say to me now?' I say 'I know I no have to sign my name because I am hungry.' He said 'If you listen to me that way, I am going to give you a job right now.' And he gave me a job."

On or about April 23, 1937, Shaban went to work with a copy of the "Steel Worker," apparently a union newspaper, in his back pocket. Shaban testified that Hopkins saw the paper, pulled it from Shaban's pocket, and said " 'Why you no listen to me when I say I would give you a job' And he throw away that paper and didn't say nothing that time. In three or four days he called me in the office and he say 'You no listen to me that time when I was talking to you and I give you a job and you belong to the

C. I. O. now.' " Shaban was then laid off. He testified that many chippers hired with him on October 25, 1936, and others with less seniority were not laid off.

The respondent contends that Shaban, like Wright, was laid off on April 27 without discrimination, according to its policy of seniority. Hopkins testified that of the 37 chippers to be laid off Shaban was twentieth on the list, and that in determining Shaban's seniority he had counted the period from October 1936 to April 1937 and not the nine-month period in 1934 and 1935 when Shaban had worked for the respondent, in accordance with the respondent's seniority policy of cancelling rights which had accrued from former service, after a lay-off of 30 or more days. In view of Hopkins' later admission that an employee did not lose his seniority rights after such a lay-off, it appears that Shaban would be entitled to credit for his service in 1934 and 1935, even apart from his claim that men hired on or after October 1936 were not laid off. Although Hopkins denied all statements and acts attributed to him by Shaban, we do not find his denials convincing for the reasons cited in our discussion of Wright's discharge.

We find that Shaban was laid off on April 27, 1937, because he was suspected of having joined the Union. Shaban has earned $25 since April 27.

The cumulative testimony of Ugranovich, Wright, and Shaban, although denied in whole or part by Hopkins, satisfies us that Hopkins followed a policy of questioning employees on their union affiliations, and of discharging them or laying them off for real or suspected membership in the Union.

C. YOUNGSTOWN

1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Youngstown District was adopted in June 1933 and slightly revised in June 1934 and March 1937. On April 19, 1937, at a special meeting of the General Body of the Employee Representatives, McCoy, the Management Representative, announced that the respondent would withdraw financial support from the Plan. Shortly thereafter, the Employee Representatives formed the "Employee Representation Plan" which purported to be financially independent of the respondent, supplied themselves with membership cards and launched a membership campaign. On May 19, 1937, the Independent Federation of Republic Employees, herein called the Federation, was organized by the Employee Representatives for the dual purpose of lending support to the "new" Plan and taking measures to prevent the strike. Immediately after the strike was called and during the strike, the Federation sponsored the Back-to-Work movement and solicited signatures to back-to-work petitions. Thereafter, the Federation was combined with the Plan and a constitution and bylaws were adopted which purported to establish the Federation as a collective bargaining agency for the employees. The formation and activities of the "new" Plan and the Federation will be discussed hereafter.

The plan at Youngstown, as it existed until April 19, 1937, was substantially identical in structure and operation with the Plan in Massillon. It is therefore unnecessary to describe it at length. It is sufficient to point out certain circumstances and incidents which attest to its domination by the respondent.

The Plan was introduced and fostered by the respondent. Its adoption was never submitted to a vote of the employees, although the preamble to the March 1937 edition of the bylaws states that the Plan "has been adopted by the employees and the Company for the purpose of collective bargaining." John Guest, one of the Employee Representatives, testified that he was first apprised of the Plan in June 1933 when the foreman of his department handed him a copy of the bylaws and he saw posters announcing that the Plan would be put into effect and that, pursuant to it, nominations and elections of representatives would take place.

All the expenses involved in the conduct of the Plan were defrayed by the respondent, and all the necessary facilities were furnished by it. The Employee Representatives were reimbursed by the respondent not only for time lost during working hours but also for any additional time spent in attending meetings and performing other work in connection with the Plan.

In spite of the provisions in the bylaws that nominations and elections shall be "so conducted as to avoid influence or interference with voters," the evidence indicates that even the election campaigns were not always free from at least indirect participation by the management. Thus in the 1935 elections for Representatives, Joseph O'Hara, who opposed the reelection of John Guest, was granted permission by the foreman to leave his work and go around soliciting votes among the employees. Such permission was not given to Guest.

The testimony of Ralph Mondora, one of the Employee Representatives, shows that, at least in some instances, Employee Representatives were more concerned with the remuneration they received for their services than with promoting the interests of their constituents. Mondora admitted having lost interest in the Plan after the respondent announced its withdrawal of financial support. He testified, "We tried it and got to a point that there wasn't no funds, and we quit; I quit it as I wasn't going to use my time representing anybody, so I dropped out."

The futility of the Plan stemming from the respondent's control is strikingly illustrated by the operation of the Joint Committees and the Joint Appeals Committee, Joint Committee No. 4, which were composed of five Employee Representatives and five Company Representatives. The submission for adjustment of grievances to Joint Committee No. 2, in charge of wages, employment, schedules and working conditions, generally resulted in a five to five vote. The same result ensued upon an appeal to the Joint Appeals Committee. Such a deadlock generally ended the dispute and, in effect, constituted a decision against the employees. It is further significant that even at the first annual meeting of Joint Committee No. 2, when officers were being elected, repeated balloting for chairman resulted in a five to five tie. The Employee Representatives finally conceded the chairmanship to the management.

Numerous provisions in the bylaws of the Plan reflected management control. Typical were the provisions requiring the approval of the Management Representative for holding special meetings of the committees, and the consent of the management in order to put the question of the dissolution of the Plan before the employees at an annual election.

At a number of meetings of the General Body, the Employee Representatives themselves signified their dissatisfaction with the Plan and leveled criticism against its operation. Thus at a regular meeting held on February 25, 1937, the General Body voted its protest against the methods used by some superintendents and foremen in calling in employees who had asked an Employee Representative to act for them, and requested that they be restrained from doing so unless with the consent and in the presence of the Representative.

At a special meeting held on March 15, 1937, the General Body discussed the sentiments of the employees relative to the Plan and recommended the following:

> "1. A change in the Plan whereby it would not be dominated by the Management.
>
> "2. A small fee of 25c of monthly dues and the right to use the check-off system to make the Plan self-supporting.
>
> "3. The elimination of Nos. 2 and 4 Joint Committees, as has been proven nothing but tie votes are ever counted in those meetings.
>
> "4. The right to hold meetings with the men they represent . . .
>
> "6. When agreements are made, that they be made in writing and not orally.
>
> "7. The right to recall Representatives.
>
> "8. That when a case is presented to Management, to speed it up and not carry it over a lengthy period of time . . .
>
> "10. The right of the Employee Representatives to hold a meeting and to have the employees whom they represent cast a ballot as to their choice of the Plan—whether or not they wish to continue, or to have the check-off system of a monthly fee."

These proposals were submitted to the management at the meeting of the Central Council of Employee Representatives which was held in Cleveland on March 18, 1937. The policy of the management announced at the meeting was thereafter reported to the General Body at a meeting held on March 25, 1937. The management indicated that there was a possibility of eliminating Joint Committees Nos. 2 and 4, that it would give permission to Employee Representatives to hold meetings with their constituents, that it would grant the right to recall Employee Representatives, and that it would endeavor to speed up cases as much as possible. The management categorically refused to enter into any written agreement and to give permission to use the check-off system for dues. Significantly, the management was silent on the question of eliminating its domination over the Plan and of determining by secret ballot whether the employees desired the continuance of the Plan.

On the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation at its Youngstown District, and has contributed financial and other support to it.

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2. *Events preceding the strike; formation of the "new" Plan and the Federation*

The organizational activities of the S. W. O. C. in the Youngstown District began in July or August 1936. At some time thereafter, headquarters were set up in the Terminal Building, and Republic Lodge 1331 was established. Commencing in October or November, meetings were held first in Truck Drivers' Hall and then in the Roumanian Hall.

Surveillance of the meetings by company police began almost immediately. Joseph Gallagher, one of the first employees of the respondent to join the S. W. O. C., testified that whenever a meeting was scheduled, company police were present outside the meeting hall. Particularly conspicuous among the company police was Snyder, who, in the words of Gallagher, seemed "as though he was assigned permanent to that kind of work." The attitude of the company police is illustrated by the verbal altercation which, according to Gallagher, took place between them and Burke, an S. W. O. C. organizer, outside of Truck Drivers' Hall where a meeting was scheduled. An automobile with company police was parked near the hall. Burke said to them, "You better get going rats," and the reply was, "We are here to stay if we have to shoot our way through it. You'se better get going."

On January 23, 1937, Gallagher was discharged. He had been employed as an inspector in the electrical department, and his duties consisted in making the rounds of inspection and answering whistles summoning him in case of any trouble. The evidence is conflicting with respect to the circumstances attendant upon his discharge. John H. Graft, the electrical superintendent, testified that during that time there was a flood condition in Mahoning Valley, that Gallagher was warned to "watch his step," and that he was nevertheless caught asleep in the control house, or "shanty," where inspectors were not permitted to rest. Graft further testified that he did not discharge Gallagher but merely told him to go home and get some sleep, and that he returned for his money and never requested to be permitted to come back to work. Gallagher, however, testified that he was always accustomed to rest in the "shanty" when there was no immediate work without anyone ever objecting, that there was no danger in his department that night, and that he left the shanty immediately upon the blowing of the whistle. According to Gallagher's testimony, the following conversation took place:

> ". . . my superintendent, Mr. Graff (Graft), says to me: 'Joe, I had Mr. Walker blow that whistle for you.' I says, 'What is it for, Johnny?' and he says: 'Well, you have been sleeping in there; you can go

> ahead home until I send for you.' I says: 'Well, you have got to give me a better answer than that, Johnny, before I ever accept it . . .'
>
> "He says: 'Well, Joe, I know you couldn't have been sleeping for you answered the whistle too soon, but,' he says, 'if I was you, I would go ahead on home.' "

When Gallagher returned to see Graft the following morning, the company police refused to let him enter. On pay day he received his money and was never asked to return to work. In vew of the open hostility of the respondent toward outside unions and Gallagher's generally known membership in the S. W. O. C., we are inclined to the belief that the incident in the shanty was a pretext seized upon by the respondent to justify its conduct and that Gallagher was in fact discharged because of his affiliation with the S. W. O. C. However, it is unnecessary to make a finding with respect to this discharge, since it is not a basis of the complaint.

Beginning in February the S. W. O. C. organizers intensified their activities by visiting employees and talking to them about organization. Espionage by the respondent became correspondingly more systematic and persistent. Snyder was stationed near the headquarters of the S. W. O. C. in the Terminal Building and apprised other company police of the movements of the organizers. Gallagher testified that he was followed from the time he left his house at night to go to the Terminal Building until he returned. Charles Fagan, another organizer, testified to a particular occasion when he and Gallagher were followed "all around town" upon leaving the Roumanian Hall where they had attended a meeting. The automobile that usually followed the organizers bore license number H-763-V. On making an inquiry at the Bureau of Motor Vehicles in Columbus, Gallagher was informed that this license number was issued to Carl W. Parker, another of the company police.

Spying on organizers was not the only method by which the respondent endeavored to stifle union organization. Resort was had to the Plan as a means of spreading anti-union propaganda. Thus, at a meeting of the General Body in February, Elliott, district manager of the respondent, stated that it was up to each of the representatives to maintain the Plan in operation by going among their constituents and pointing out to them the merits of the Plan over the C. I. O. or any other outside organization.

This method was apparently ineffective. Unsuccessful in their attempts to get an increase in the wage rates, the Representatives, in a resolution adopted by the General Body on March 5, stated, "This Body feels it would be an insult to their intelligence to ask them to go among the men in favor of a plan that has failed to get for them what the employees of the other mills already enjoy." The respondent began, therefore, to pursue a more direct course of action.

On March 13, the day following the election of officers in Republic Lodge 1331, the foundry, a unit within the mechanical department, was suddenly closed. Twelve of the 14 men employed in the foundry were members of the S. W. O. C. and included Thomas White, President of the Lodge, and Charles Fagan, a member of the Grievance Committee. William Manley, superintendent of the mechanical department, testified that the foundry was closed because there was a backlog of orders for Bessemer steel and the iron used at the foundry was required for the Bessemer plant. He further testified that for a period of at least 30 days prior to the closing of the foundry, conferences were held with the heads of the Bessemer plant, and it was decided to discontinue operating the foundry.

This explanation is not convincing in the light of the attendant circumstances. The foundry had been in operation for 20 to 30 years and required only about 600 to 700 tons of iron per month, which amounted to two per cent of the iron used at the Bessemer plant. White testified that at about 3 o'clock in the afternoon of March 13 Manley came into the foundry and said, "Boys, I have bad news for you. Our foundry is being closed down for good." By way of explanation, he stated that he had orders from "up above" and was carrying them out. When Manley made the announcement, the molds in the foundry on which six men had been working since 10 o'clock in the morning were almost ready for pouring. It would have required only about 3 additional hours' work to close the molds and then cast them. Instead of completing the work, the men were ordered to knock the molds out. It is unlikely that the closing of the foundry would have proceeded in such haste and disorderly fashion if it had been made necessary by a shortage of Bessemer steel, and previously discussed at conferences.

We conclude rather that the closing of the foundry, where substantially all the employees belonged to the S. W. O. C., was another step in the continued efforts of the respondent to check the increasing union organization. It was designed to discourage union membership, and was particularly directed against White and Fagan, who were thus discriminated against in regard to the hire and tenure of their employment.[50]

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[50] On March 15 White, Fagan, and about four others who had been employed in the foundry interviewed McCoy, the Management Representative, regarding their positions. McCoy promised to extend his efforts on their behalf, but informed them that they would have to be hired through general labor. According to White's testimony, this signified being rehired as new men. When the men returned the same afternoon to get their tools, Bill

At about the same time, individual employees in other departments were called in by supervisory officers and questioned about their affiliation with the C. I. O.

Richard Elder, a first helper in the open hearth department, testified that on March 13 George Putnam, the superintendent of the same department, and Jones Cahill, the assistant superintendent, told him that they saw his name on the Executive Committee of Lodge 1331 in a C. I. O. pamphlet, and asked him whether he belonged to the C. I. O. Three days later, Putnam summoned Elder to his office and, according to Elder's testimony, said, "Dick, I always thought you was a good friend of mine . . . it don't look like it when you joined the C. I. O. . . . I just want to tell you that lots of times we have to let good men go that we don't like to lose, on account of union activities. . . . I just wanted to tell you that." Putnam admitted questioning Elder about his C. I. O. membership, although he de-

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Sponsler, the foreman at the Haselton furnace, handed them discharge slips. White objected and stated that he wanted to wait until pay day and look around in the meantime. But Sponsler replied, "I have my orders. You take these slips, and go and get your money."

Two or 3 weeks after the foundry was closed, McCoy secured employment for Fagan on the general labor gang at $5.00 a day. About 2 or 3 weeks thereafter Fagan was transferred to the coke works. Dissatisfied, he asked Manley for a better position. Manley said he had nothing for him. At about the same time, the foreman at the coke works asked Fagan his name and number, and said, "That is all I want to know." Several days later the same foreman told him he did not need him. Fagan returned to the labor gang, but worked only 1 or 2 days a week. Shortly before the strike, he received the vacation to which he was entitled.

Prior to the closing of the foundry, Fagan earned 84½ cents an hour and worked 6 days a week. He has not earned any money since he stopped working on the labor gang.

White was also offered employment on the labor gang, but he refused to accept it, and stated that in view of his years of service he thought he was entitled to a better position. Three or 4 weeks later, White told McCoy that he had been working out of town, but desired to return to the employ of the respondent. McCoy said he had to consult "one fellow" in the plant before White could be hired. Several days later, McCoy told him he could not take him back.

Prior to the closing of the foundry, White earned $44.16 a week. On about March 16 he obtained employment elsewhere and worked for about 6 weeks prior to the strike, commencing again on August 2. He left his employ at the beginning of the strike in order to participate in it as president of Lodge 1331.

nied making the other statements and asserted that he merely warned him that he would be discharged if he did any organizing on company time.

Jerry Simcox, a second helper, testified that on March 13 or 14 Cahill and Putnam told him they understood he was an executive of Lodge 1331 and asked him how long he had been a member of the C. I. O. and how many followers he had.

James Farner, a welder in the line department and a member of the Grievance Committee of Lodge 1331, testified that Graft, the superintendent of the electrical department, asked him why he wanted to join the C. I. O. and get himself mixed up with a "bunch of cheap Bolsheviks." According to Farner's testimony, Graft also stated that the respondent would never recognize the C. I. O. and that the superintendents and heads of each department were to head "this thing off and save all our necks." Graft testified that he merely warned Farner not to solicit employees on company time and on company property.

Joseph Stevens, a second line man, testified that Graft called him and said, ". . . they tell me you belong to the union quite a bit . . . I would rather you keep your nose clean." Graft admitted talking to Stevens about his union activities, but denied making any statements designed to discourage him from continuing his union activities outside of the plant.

As indicated, the respondent's witnesses denied making certain statements intended to discourage union membership. However, the accounts given by the witnesses for the Board are more consistent with the evidence as a whole. Moreover, the respondent's witnesses admit that they questioned the employees regarding their C. I. O. membership. Such action by itself constituted intimidation and coercion of the respondent's employees.

Likewise, at about this time supervisory officers in different departments intensified the campaign of intimidation and coercion by spreading propaganda in favor of the Plan and against the C. I. O. at meetings of the employees called by them for that purpose. Thus, in the middle of March a notice was posted on the bulletin board of the line shop in the electrical department announcing a "safety meeting." However, no safety measures were discussed. According to Stevens' testimony, Graft, the superintendent of the electrical department, spoke as follows:

> "Men, I am here in behalf of the ones that are interested in themselves and to try to convince the ones that are not interested in themselves, to be interested in themselves. . . . Big Chief John L. Lewis . . . has never done anything for the laboring class of people . . . he won't do anything, only get your money and go on with it . . . you won't have any more than you have got, only you will be just out of a job or cause you a lot of trouble, you can't never get over, you lose friends . . . (the Representative Plan) has always give satisfaction . . . All the grievances that we have ever had to settle, have been carried out and treated the men right . . . regardless if every man in here joins a union, we are not going to recognize it. We are not going to sign any contract . . . we are not going to have no closed shop or no collective bargaining."

Stevens' version of Graft's speech is, in substance, supported by the testimony of Farner, who also attended the meeting. Graft denied attacking the C. I. O. and testified as follows:

> "I told them that there had been many pamphlets, booklets circulated in the plant, talking among the men, and articles in the newspaper as to what one would

> have to do to hold his job with Republic Steel Corporation. I told them that I had called them together to tell them just exactly what the policy of the Republic Steel Corporation was, and that it was not necessary to join any organization regardless of what anybody said, to get their job or to hold their job.
>
> "If they did join, that was their business. That under the Representative Plan we had been able to make very good strides. That I thought that our policy was the best policy for the men."

Several other meetings of a similar nature were held at various times during the month of April, after Golden, the Regional Director of the S. W. O. C., had written to Girdler regarding a proposed agreement. These meetings were addressed respectively by Manley, superintendent of the mechanical department, Elliott, the district manager, and Levantry, the works manager. In these addresses the C. I. O. was attacked, the Plan was extolled, and the policy of the company with respect to outside organization was emphasized. Thus, Elliott reiterated that the respondent would never sign the C. I. O. or any other outside organization, adding, "Some of you fellows look at me as though to say 'to hell they won't,' but I say they might, but it would be a long, long struggle." Similarly, Levantry remarked, "This Company will never sign up . . . we will shut the mill up and board it up before we will sign with the C. I. O."

On April 19, as set forth above, McCoy announced at a special meeting of the General Body that the respondent was withdrawing financial support from the Plan. As reported in the minutes of this meeting, McCoy stated that "under the Wagner Labor Bill he would not be permitted to carry our time (as he has in the past) for attending meetings and explained that men off duty would not be compensated, but added that *men attending meetings during their regular working hours would be carried on their regular job.*" (Italics supplied). A motion was then passed that a monthly fee of 25 cents be assessed against all members of the Plan, and a treasurer was elected. The only other significant change in the operation of the Plan was that membership was no longer automatic upon voting for a representative, but depended upon signing a membership card. In addition the name of the Plan, as it appears on the membership card, was changed to "Employee Representation Plan."

Shortly thereafter the Representatives began a membership drive in the "new" Plan and solicited employees within the plant and during working hours. The campaign does not appear to have been successful. Ralph Mondora, one of the Representatives, testified that the Representatives tried to form their own organization, financed through the employees," but whatever funds they managed to secure were soon exhausted. Mondora testified also that he handled no grievances after April 19. When employees came to him, he "just turned them down, told them there isn't no such thing."

Plan activity was suddenly revived after the Cleveland conference of May 11 between representatives of the S. W. O. C. and the respondent. At the same time various measures were taken regarding the impending strike.

About a week before the strike, the Employee Representatives met to discuss steps for the prevention of the strike. Levantry, the works manager, was invited to attend. The Representatives voted to circulate through the plant and talk with the men. This was done. In addition, the respondent's supervisors assisted the Employee Representatives in holding meetings during working hours and on the respondent's property regarding the strike. Thus a meeting, previously announced by the foreman, was held in the machine shop. Butler, the assistant master mechanic, introduced Jack Jones, an Employee Representative. In the course of his speech, Jones said, "We can have an organization of our own in here. We don't need this C. I. O. All they want is your dollar . . . Our representative plan is good enough for us, and I have some cards here for you fellows to sign that want to work. You fellows that want to hold your jobs, sign these cards." He then distributed membership cards in the Plan.

William Cummings, a machinist, testifying for the respondent, stated that shortly before the strike he was given permission by his foreman to dictate a petition to the Mayor of Youngstown for the signature of employees. In substance, the petition read, "We, the undersigned, not wishing to strike, in the event of a strike, ask for police protection to enter and leave the plant." Cummings could not recall on cross-examination where he derived the notion of preparing such a petition. He testified, "I might have gotten the idea from newspaper talk or something I had heard, that when there was a strike, that this had been done; now I don't recall whether or where. I didn't burden my mind particularly." Whether or not Cummings himself conceived the idea of the petition, he prepared it and solicited signatures on the respondent's time and within the plant. Cummings' memory was equally vague regarding the disposition of the petition after he had obtained the signatures thereto. He testified that two men whose names he could not clearly recollect asked him for a copy of the petition and he gave it to them. He also failed to recall the conversation that took place between them.

There is evidence that the same or a similar petition was circulated in other departments. John Guest, an Employee Representative, testified that a clerk in the electrical department phoned and notified him that a petition was waiting for him in the office and that they were "in a hurry to get it signed." Guest went to the plant and circulated the petition.

On May 19, at a meeting held in the office building of the respondent, the Independent Federation of Republic Employees, Youngstown District, was organized. Guest testified that a notice announcing the meeting was posted on the bulletin board in the masonry department. Mart Murphy, chairman of the General Body under the Plan, presided. Temporary officers were elected. John L. Smith, a mechanic in the electrical department, being elected chairman. Murphy explained that the purpose of the Federation was not to engage in collective bargaining but to cooperate with the Plan. He requested Representatives under the Plan not to run for office in the Federation.

Between the date of its organization and the strike, a number of departmental meetings were held by the Federation on company time. At each meeting John Smith announced from the chair the date of the succeeding meetings. Employees of the department next scheduled to meet were notified, on company time and property, by employees who had attended the preceding meeting. Walters testified that his foreman informed him of a meeting in the mechanical department. He inquired whether attendance was compulsory and the foreman replied, "Manley wants to see you all there." At the meeting, Cummings, a machinist, spoke through a microphone. He launched into a eulogy of the Plan and said, "This outside Union here, they are not for you or me." Another speaker talked about the Plan, the coal fields, the C. I. O., and John L. Lewis. He repeated, "They are not for you, they will do to you fellows just like they did to the fellows in the coal fields. They will double your dues . . . You can't stop them once you sign their cause, then they can do as they please." Murphy pointed to Plan and Federation membership cards and said, "You fellows that want to work, sign the cards." The pamphlets of the Constitutional Educational League entitled, *"Join the C. I .O. and Help Build a Soviet America,"* were distributed.

Membership in the Federation was solicited not only at meetings but also individually. Michael Krill, an employee in the galvanizing department, testified that he was called in the foreman's office while another employee took over his work. Amal Valley, an Employee Representative, was seated at the foreman's desk. Valley asked Krill whether he wanted to join the Federation and handed him a membership card. He then remarked that there was not much use talking to Krill because he knew he was "100 per cent C. I. O.," but that he was supposed to speak to everyone in the plant. He added that Krill would be "better off" by joining the Federation. Krill was paid for the time so spent.

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3. *Events during the strike*

The strike commenced in Youngstown on the night of May 26. Immediately thereafter the Federation began to sponsor a back-to-work movement. Without consulting the other officers of the Federation or discussing the matter at any meeting, John L. Smith, the chairman, secured an office in the Dollar Bank Building, adjacent to the offices occupied by the Youngstown Sheet and Tube Federation of Employees. Back-to-work petitions were prepared for the signature of employees. Some of the petitions were retained in the office and others were distributed outside. Smith reimbursed the persons canvassing signatures for the gasoline used by them. Postal cards in the following form were dispatched to employees:

> "To All Republic Steel Employees:
>
> "If you are desirous of returning to work as soon as possible, stop in at Room No. 212 Dollar Bank Bldg.,

and sign up with the BACK TO WORK movement sponsored by the Independent Federation of Republic Employees.

John L. Smith,
Chairman."

The record does not indicate the source of the funds which were used in carrying on the back-to-work movement. Cummings testified that at one of the Federation meetings, the date of which he could not recall, the question of dues was mentioned and he handed Mart Murphy a dollar. Chester Crosby, ladle crane man, also testified that he paid dues without stating, however, the date of such payment. There is no other evidence, however, that at that time dues were either required or contributed by the employees.

Early in July, after the mills were reopened, the Federation held a meeting in order to combine the Federation with the Plan. As stated by Smith, "The purpose of that meeting was for the Independent Federation of Republic Employees to drop the old Representative Plan or combine the two of them together as one." He testified further,

> "Well, at that time the officers of the Representative Plan resigned and we took over the reins."

It was also decided to "donate" the members under the Plan to the Federation. The testimony of Ralph Mondora is revealing:

> "Q. Had the question ever been put to the members, and whether they wanted to become affiliated with this Independent Federation?
>
> "A. No, sir.
>
> "Q. Whether they wanted to be donated?
>
> "A. No, sir.
>
> "Q. That was an action that officers were taking

without the consent in any way of the members, is that correct?

"A. That is correct."

At a meeting held in the Central Auditorium on July 25, a constitution and bylaws were adopted. Application cards were prepared. Employees were solicited to sign application cards within the plant and on the respondent's time.

Although the new constitution and bylaws purport to make the Federation independent in form of company control, they cannot conceal its real purpose. The record clearly shows the policy of the respondent to perpetuate in its plants an organization subservient to its will and purposes and designed to thwart self-organization on the part of its employees. The Federation is merely a continuation of the Plan under a new guise and is tainted with the same illegality. Before the strike Federation meetings were announced by supervisory employees and held on the respondent's property. Prior to the strike and after the reopening of the mills, employees were solicited to join the Federation on the respondent's time and property.

On the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Employee Representation Plan and the Independent Federtaion of Republic Employees, Youngstown District.

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4. *The refusal to reinstate certain employees*

The mills in Youngstown reopened on June 25. Although the strike was still in progress, many employees returned to work. A number of them were refused reinstatement.

Harry Rigby. Rigby had been in the employ of the respondent for 26 years as an inspector in the electrical department. He joined the C. I. O. late in June 1937. Prior to the strike he was earning about $44 a week.

On Friday, June 25, Rigby and five other inspectors in the same department met and decided to return to work the following Monday. Kling, the foreman, phoned and said he needed men to start the mill at once. Rigby informed him of their decision to return Monday. Pursuant to Graft's instructions, Kling called again and said that if they did not return to work at once they would be replaced. When the men came to the mill on Monday, Kling said, "You fellows ain't got no jobs." Rigby saw Graft on July 13. Graft said, "Rigby, they tell me you are a chronic kicker . . . Charlie Ritchie told me that." Rigby replied that he did not believe that and that he had known Charlie Ritchie for a long time. Graft replied, "Well, I ain't got no more to say to you. You go home and stay home until I call for you." Thereafter, Rigby made attempts to see Graft again but was unsuccessful. Graft testified that the other inspectors admitted they made a mistake in not returning when told to do so and that they were all reinstated.

Rigby did not earn any money between the commencement of the strike and the hearing.

We are of the opinion that Rigby was not reinstated with the other inspectors because of the respondent's belief that he was "a chronic kicker." We find that Rigby was refused reinstatement because of his membership and activity in the union.

John Lazar. Lazar commenced work for the respondent in 1919 and worked regularly until the strike as an inspector in the inspection department. He joined the C. I. O. in April 1937 and served on the picket line for about a week. Prior to the strike Lazar worked from 42 to 48 hours a week at the rate of 92 cents an hour.

On June 26 Lazar interviewed Bill Conklin, the assistant superintendent, regarding his job. Conklin said he would call him when needed. Lazar returned on June 28 to see Reubendale, the superintendent. Nearly all the other inspectors were there. Reubendale gave them checks and told them to start working. When Lazar's turn came, he said, "No, I don't give you your check yet," and asked him what he was doing in the picket line carrying a stick or a club. Reubendale finally said, "Well, I can't do nothing for you, John, just go on home, when we need you, we will call you."

Lazar spoke to his foreman, Dan Weeks, shortly after the Fourth of July. Weeks said, "Well, John, I am sorry to lose you from down here. I like to have you back, but I can't do nothing for you. You have got to see Mr. Reubendale." Lazar called Reubendale on the telephone repeatedly and was always told to call "the last of the week" or the "first of the week." On August 9 Reubendale said to him, "I can't do nothing for you, John. Why don't you go in the C. I. O. . . They will help you out."

Lazar has earned $2.50 since the beginning of the strike.

It is clear that Lazar was refused reinstatement because of his connection with the union and of his activity in the strike. The respondent apparently attempts to justify this discrimination on the ground that Lazar carried a stick or a club in the picket line. For the reasons discussed hereinafter we are of the opinion that, under the circumstances of the case, such conduct upon the part of Lazar, if true, would not warrant the respondent in refusing to reemploy him.

Michael Krill. Krill worked continuously for the respondent from July 1936 until the strike. Prior to the strike he was employed in the galvanizing department a was earning from $6.75 to $7.00 a day. He joined the C. O. in January 1937, acted as a volunteer organizer, a served on the picket line.

At about 6 p. m. on June 28, Krill returned to the pla to seek his job. Linden, the foreman, told him to come ba an hour later. Krill inquired whether it would be sat factory if he returned the following morning since he had go back home, change his clothes and get his glasses. Lind replied that it would be all right, provided he returned pri to the dead line, but he did not know when it was. Wh Krill came early the following morning, Linden said that was too late and that the dead line was already in effe Linden also stated that he was aware of the time of t dead line the previous night, but did not want to appr him of it. Linden then suggested that he register at t employment office.

Krill called again in July, and Linden promised to se his number to the employment office if he was needed. August 13 Linden told Krill that he turned his number but that there was something wrong. He then asked h whether he was on the picket line and said they proba had his picture in the main office.

Krill has earned about $25.00 since the strike.

We find that Krill was refused reinstatement because his connection with the union and his assistance to t union during the strike.

Balare Chismus. Chismus started work for the resp dent on May 18, 1936. Prior to the strike he worked a laborer in the bar mill. He joined the C. I. O. on May and served on the picket line.

Chismus returned to the mill on June 27 or 28 to quire about his job. The turn foreman asked him, "Why you monkey around the C. I. O.,'' and told him to wait for Warnock, the general foreman. Warnock said he did not have anything for him then and told him to come back in a few days. On a subsequent occasion Warnock advised him to go to the employment office. At the employment office he was told that "there is nothing to do now.'' He made another attempt to see Rose, the employment manager, but was prevented by the company police. According to Warnock's testimony, Chismus admitted to him that he was arrested on the Market Street bridge on the night of June 10, and for this reason he was denied reinstatement. Warnock did not assert that Chismus was guilty of any acts of violence. Warnock further admitted that as far as he knew Chismus did not carry a club on the picket line.

Since the strike Chismus has earned about $68.00.

We find that Chismus was refused reinstatement because of his affiliation with the union and his assistance to the union during the strike.[51]

William A. Haren. Haren commenced work for the respondent in July 1926, and was employed as a mixer crane man. Prior to the strike he worked 40 to 48 hours a week at 77½ cents an hour. He joined the C. I. O. on August 6 1936.

On June 29 Haren went to the mill to inquire about his job. Charlie Ritchie, the foreman, asked him, "Where is your club,'' and said, "You have caused a lot of trouble around here. You have agitated . . . If I need you, I will call you.'' Haren asked, "That means that I am fired?'' Ritchie replied, "No, we don't fire anyone.''

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[51] In the respondent's offer of proof filed with the Board on March 28, 1937, it is stated that on or about October 20, 1937, Chismus pleaded guilty to a charge of rioting. For the reasons discussed hereafter we are of the opinion that, under the circumstances of the case, such offense is not a bar to his reinstatement.

Two or 3 weeks later Haren returned to the mill again. Pursuant to a policeman's instructions Haren went to the employment office. Haren told Rose, the employment manager, that he wanted to register. Rose said, "What do you mean, register? How long do you fellows think we are going to hold your jobs here—forever? Didn't you know that the gates had opened 2 or 3 weeks ago?" Haren testified that he thereafter phoned Graft and received the reply, "We don't have anything for you, Bill . . . We will notify you when we need you. We are all filled up."

Graft testified that he refused to reinstate Haren because he had an affidavit from one of the employees to the effect that Haren was on the picket line carrying a club. Graft does not know either the size of the club or the length of time Haren carried it.

Haren has not earned any money since the strike.

We find that Haren was refused reinstatement because of his connection with the union and his activity in the strike. As in the case of Lazar, the respondent was not justified in refusing to reemploy because of his alleged activity on the picket line.

Charles Neverdusky. Neverdusky began to work for the respondent on March 9, 1936. Prior to the strike he was employed as a hooker in the cut and lap shipping department and earned about $7.00 a day. He joined the C. I. O. on January 9, 1937.

Neverdusky was out of town on June 28, the date of the dead line in his department. On June 30 he returned and interviewed Rose at the employment office. Rose was unable to find his number in the files and said, "You are off the pay roll, altogether . . . You have to get rehired." Neverdusky came back the following day and showed Rose his pay stub. Rose made another unsuccessful attempt to find his number, and could not tell Neverdusky the reason for its absence. The latter persisted. "... who else but you could give me a reason? They would have to give you a reason for taking me off the pay roll." Rose said, "Who the hell am I to give you a reason? Get the hell out of here."

At the end of July or early in August, Neverdusky spoke to McCoy, the Management Representative under the Plan, regarding his job. McCoy said to him, "You are one of these guys, C. I. O. men that was on picket line carrying a club?" Neverdusky denied that he carried a club. McCoy said, "Well, you are one of these smart guys went down and filed with the Labor Board." To Neverdusky's query, "So that is where we stand?" McCoy replied, "That is exactly where you stand."

Neverdusky has earned $12.00 since the strike.

We find that Neverdusky was refused reinstatement because of his connection with the union, his assistance to the union during the strike, and his filing a charge with the Board.

Anthony Martin De Long. Anthony Martin De Long was employed as a hooker in the electric weld department from April 1935 until the strike. Prior to the strike he earned about $5.00 a day. He joined the C. I. O. in April 1937 and served on the picket line.

The dead line in De Long's department was June 28. De Long went to the employment office on June 30. Rose checked his number and said, "I don't believe there is anything here for you now ... We will call you when we need you." De Long inquired how soon that would be. Rose replied, "I don't know, come back New Year's."

On July 3 De Long spoke to Campbell, the general foreman of the department. Campbell told him that he had a clear record at the electric weld and he liked his work but he did not know how he could get back. He suggested that he see Roy Case, the superintendent. De Long testified that in the course of his conversation with Case on July 5, Campbell came running from the other side of the office and said, "Roy, do you know who this boy is? . . . His name is Tony De Long." The expression on Case's face suddenly changed and he told De Long the work in the mill was slack, that there was nothing for him. De Long remarked, "Well, I can see that I am not wanted around here." Case replied, "Oh, yes, you are wanted around here. The men can use you. You are a good worker, and all that. The only thing you have to do is to keep walking to the employment office."

De Long repeatedly went to the employment office, but the police prevented him from seeing Rose. The police were stationed in front of the building. One of them had lists of numbers and names. Employees whose numbers appeared on the lists were permitted to see Rose. The others were told to come back the next day. Discouraged with his fruitless attempts at the employment office, De Long finally succeeded in contacting Campbell again. De Long said he wanted to be taken off the "merry-go-round" and to be told if he had any chances of returning to work. In one breath, Campbell said, "No, you are not fired," and in the next, ". . . You have to keep . . . walking down to the employment office. You have to be rehired."

Shortly thereafter De Long spoke with McCoy who told him, "You will have to wait until the case is over with the National Labor Board before you can go back to work."

We find that De Long was refused reinstatement because of his connection with the union and his assistance to the union during the strike.

D. WARREN

1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Warren District of the respondent, comprising the Warren, Niles, and Trumbull Cliffs plants, was adopted in June 1933 and amended in May 1934. Shortly after the constitutionality of the Act was upheld, the Employees' Independent Association, herein called the Association, was formed. It purported to be a new organization and independent of the respondent. The activities of the Association will be discussed hereafter.

The similarity of the Warren Plan to the Plan at Massillon, Canton, and Youngstown renders it unnecessary to describe it fully. It is sufficient to indicate certain circumstances and incidents reflecting its domination by the respondent.

The Plan was initiated and sponsored by the respondent. Its adoption was never submitted to a vote of the employees. Ernest Webb, one of the Employee Representatives, testified that he was first apprised of the Plan at a meeting in June 1933 held in the office of the superintendent of the hot mill. Elliott, who was then district manager of Warren, explained the purpose of the Plan. The respondent bore the expenses of all the meetings and elections, both of which took place on company time and property, and of the entire functioning of the Plan. The representatives were paid their regular salaries for all time devoted to the Plan. Ed Mulligan, the chairman of the General Body of Employee Representatives, devoted most of his time to Plan work and was assigned an office for such work.

The record indicates that the elections themselves were not always free of management influence. Webb testified that prior to the election of the Chairman of the General Body in 1934, Mulligan, who was a candidate for the office, said to him, "Well, using some of the superintendents to probably bring a little pressure and a little politics, why we will make out all right."

The experience of Webb as chairman of Joint Committee No. 2, in charge of wages, employment, schedules and working conditions, is significant. Out of 17 requests for wage increases which were presented to the Committee during a period of 3 years, the employees won two and lost 15. The cases were lost as a result of a tie vote between the Employee Representatives and the Company Representatives both in Joint Committee No. 2 and in the Appeals Committee.

From the evidence as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation, Warren District, and has contributed financial and other support to it.

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2. *Events preceding the strike*

The circumstances surrounding the discharge of Richard John Green, a breaker operator in the hot strip finishing department, serve to illustrate the activities of the respondent prior to May 1937 when the anti-union drive reached its height.

Green joined the C. I. O. on March 2, 1937. On March 6 Paige, his foreman, summoned him to his office. As the office was occupied, Green was taken to the mechanic's shed where he was alone with the foreman. Green testified as follows:

> "He said: 'I called you in here, I want to ask you something. I want you to tell me the truth.' I said: 'I

> always have told you the truth, Ralph.' He said: 'I know that, that's why I called you in here'. He said: 'I hear your buddy, Jim Airwyke, is signing up members in the C. I. O.' I said: 'Yes, as a matter of fact, he signed me up'.
>
> "He said: 'What did you want to do that for?' I said: 'We men around here are not satisfied with the Company Union Plan. As it is,' I said, 'we have no representation at all'.
>
> "And he said: 'You have been long enough to know this Company's policy towards outside unions'. He said: 'You take my warning and get out of it, and everything will be O. K.' He said: 'I like you, and I don't want to see anything happen to you'."

Paige further questioned Green regarding his attendance of C. I. O. meetings and admonished him "to stay away from them".

On March 21 Green was called to the office of Minahan, the superintendent. Minahan showed Green certain defective steel handled by him and said, "I am going to have to lay you off, and seeing that you have been laid off twice before, I will have to let you go." Green explained that the steel turned out "wavy" because the rolls were worn in the machine, and that the foreman was aware of it but said it did not "hurt anything". Green also explained to Minahan the reasons for his previous lay-offs.[52] Minahan said, "I could give you another chance, but you have been talking too much about the union, around here . . . if you had been any ordinary sweeper, there would have been some excuse for you, but you are more intelligent and should have known better. . . . As far as I am concerned, I am through with you."

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[52] Green testified that his first lay-off was due to the "scratching" of some steel for which another operator was responsible, and that he submitted to a lay-off for 3 days rather than cause any trouble. The second lay-off occurred in March 1936. On that occasion Green and several other operators were instructed by the foreman to shovel coke because there was no immediate work on the breakers. Upon the refusal of the men to do so, the foreman sent them home and told them to stay home until he called for them. However, when the men explained the facts to Minahan a few days thereafter, he said that they would have lost no time if he had been informed about the incident immediately.

Shortly thereafter, Green requested Glenn Dugan, an Employee Representative, to take action in his behalf. Dugan was doubtful as to the possibility of Green's reinstatement, since he had been attending C. I. O. meetings. A week later Dugan informed Green that Minahan even refused to discuss his case. According to Green's testimony, Dugan also said that "he could not understand the Company's policy in putting statements in the paper that any man was free to join any union of his own choice and then when he did so, then they fired him for it".

Unable to obtain any results through the Plan, Green communicated with Mayo, the C. I. O. Regional Director. Mayo secured the services of the Committee of Trumbull Lodge No. 73, and a meeting was arranged with officials of the respondent. The latter refused to give a definite answer.

About April 24 an officer of the respondent, McClain, told the vice president of Trumbull Lodge that although he did not make any promises, he might consider reinstating Green but not James Airwyke or Arthur Scott, who were also discharged. On the same day the men decided to submit their case for determination by the Board. Several days later McClain called Green to his office to have "a man to man" talk with him. He said, "I hate to see a young fellow like you get off on the wrong foot with the wrong crowd", and asked him whether he wanted to return to work. Green was willing to return provided he was given back pay. Minahan said, "I will take you to the Labor Board and back four times before I give you your back pay". About May 3 or 4, Green decided to return to work without the back pay. He was asked to promise, however, not to talk about the union any more. Paige also told him that if he had heeded his warning he "would have never gotten into this trouble".[53]

Shortly after the constitutionality of the Act was upheld, the Employees' Independent Association was formed. Leaflets concerning the Association and membership cards were prepared for distribution. The leaflets were addressed to the employees of the Warren District and were signed by the members of a Committee, styled the "Reorganizing Committee for the Employees Independent Association".[54] Ed Mulligan, Chairman of the General Body under the Plan, was also chairman of this Committee. The leaflet indicates that the Association was intended to function pursuant to the provisions of the Plan as revised in March 1937. Presumably the reference is to the revision of the Plan adopted April 22, 1937, which has been described above.

An intensive Association membership drive began in May, and was conducted with the active support and assistance of the respondent's supervisory employees.

On about May 1, Mulligan undertook to mail a great number of leaflets and membership cards to employees. He performed this work in his office in the respondent's hospital building. Eddie Werner, assistant to the employment manager, helped Mulligan by folding the leaflets and cards, placing them in envelopes, and sealing them. Mulligan told Webb, an Employee Representative, that he had to mail about 5600 leaflets and cards and believed he could obtain the necessary money from the Athletic fund. This fund, which was under the supervision of a Plan committee, consisted of gate receipts of various sport events held on the respondent's ball grounds and of the rentals charged outside parties for the use of such grounds.

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[53] Green worked until the strike. During the strike Green was refused reinstatement. See *infra.*

[54] The leaflet reads in part as follows:

"In order that this plan can function in compliance with the various sections of the National Labor Relations Act (otherwise known as the Wagner Act), as regards rates of pay, wages, hours of employment or other conditions of employment, the plan was amended in March 1937 by the duly elected employee representatives.

"Paragraph 2, Section VIII, of the Wagner Act, recently held constitutional by the Supreme Court, provides, however, that an employer cannot contribute financial or other support to any labor organization. It is therefore necessary to secure financial support in order that our revised plan of collective bargaining can continue.

"If it is your desire to continue collective bargaining through a group of employee representatives chosen from among Republic employees, this can be accomplished by accepting membership in the EMPLOYES INDEPENDENT ASSOCIATION at a cost of Four Dollars ($4.00) per year . . ."

The membership campaign was not altogether successful. The employees were reluctant to sign the cards. On about May 12 McKinney, a superintendent, asked Webb why none of his men signed Association membership cards. Webb testified:

> "I said: 'How do you know?' 'Why,' he said, 'Mulligan told me'. I said: 'What business did he have telling you?' I said: 'This is supposed to be a secret order.' 'Well' he says, 'You will have to go out and talk to them, talk to these men.' He said: 'You are a free lance, you get around all over the plant'."

Webb refused to comply with McKinney's request, saying, "You know that the Wagner Bill has been passed". McKinney suggested that Webb consult Mulligan about it. Mulligan was absent from his office at that time. While Webb was waiting, Frank Neale, assistant to the master mechanic, entered and examined the membership cards in Mulligan's files. Shortly thereafter, Lowry, the master mechanic's chief clerk, came in with a handful of membership cards and deposited them with the other cards. Several days before the strike, McKinney again complained that he was in a "tough spot" because the men under his supervision had not returned the membership cards.

A number of foremen were themselves directly engaged in soliciting members for the Association during working hours and on the respondent's time. Thus about May 12, Michel, the general labor foreman, asked Eli Parkovich, a foreman in the labor department, whether he joined the "company union", and told him that ". . . everybody wants to work, got to join the company union". He then instructed him to take down the names and numbers of the men in his gang who refused to sign membership cards.

About May 14 Taylor, the foreman of the blast furnace, approached Ernest Garnett, an operator of a "lorry" car in the stock house, and inquired why he failed to return the Association card which had previously been mailed to him. Garnett replied that he already belonged to the C. I. O. Taylor then said, "If you know what is good for you, you will sign that". On the same and subsequent days, Kerwin, the superintendent of the blast furnace, engaged Garnett in conversation regarding the C. I. O.

William M. Cain, a roll turner, testified that about May 15, Baldwin, the foreman of the roll turner department, approached him while he was working and asked him what he thought about the "company union". When Cain expressed his opinion, Baldwin said, "I don't give a damn what you think of the company union, that don't interest me at all. I am on the spot. The roll turners at the Niles plant have signed up 100 per cent for the company union. The roll turners at the strip plant, fifty per cent of them have signed for the company union. I have eight men here, not one man has signed for me, and I am on the spot, and I think you fellows owe it to me to sign that card". Baldwin then told him not to worry about the dues because "the company will take care of that".

George Carter, a locomotive engineer, testified that a few days before the strike, Miller, his foreman, asked him and another engineer whether they received a letter with a white card. Carter argued that it would be useless to pay $4.00 a year to join an organization that was of no benefit to him. Miller told him to forget the $4.00 and explained that there was nothing on the membership card regarding the payment of dues. When Carter refused to sign the card, Miller launched into an attack on the C. I. O., saying that it consisted of a "bunch of communists and bolsheviks".

On the basis of all the evidence we find that the respondent dominated and interfered with the Employees' Independent Association, Warren District, and contributed support to it.

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3. *The strike*

The strike began at Warren on the night of May 26. Various preparations were made to meet it on that day. Richard Green testified that at the end of his shift on that night he joined the "hot mill" men who were on their way to the strip mill in order to urge the strip mill employees to join the strike. However, on the track between the strip mill and the sheet and tin department there were lined up a couple of hundred "loyal" workers and "bosses" armed with sledge hammers, pikes, and other weapons. As the hot mill men were going through the sheet and tin department, Ginert, the superintendent, yelled at them, "Come on, you sons-of-bitches, we are waiting for you". Not desiring to create any trouble, the men decided to leave the mill.

As the employees in the cold strip shipping department were ready to leave at 11 o'clock, Bill Thompson, the "boss" of the department, said, "You have to stay here to protect your jobs. . . . If you go home, you won't have any more jobs in this department". John Riffle and Albert Lewis, impelled by the fear of losing their job, remained in the plant. They slept on the floor. Next morning they were given an order for the restaurant. The only supply of food in the restaurant consisted of hamburger sandwiches and coffee. In view of the number of people who had to be served, the hamburger was not properly fried and both Lewis and Riffle became ill. They went home the same day.

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4. *The refusal to reinstate Green and Hite*

About June 25 or 26 employees began to return to work. Richard Green and Hallie Philip Hite, it is alleged in the complaint, were refused reinstatement because of their union affiliation.

Richard Green. Green was actively engaged during the strike in transporting strikers from the S. W. O. C. headquarters to the plant for picketing duty. On June 25 or 26 he went to the Warner Hotel where, he had been informed, passes were distributed enabling employees to get through the National Guard lines and enter the plant. In the lobby Green met McClain, who laughed at him and motioned to him to get out. Upon further inquiry, he was directed to the mezzanine floor where Mulligan was seated at a little table and had several lists in front of him. He informed Green that his name was on the ineligible list and refused to give him a pass. Green testified that there were two others present, St. Clair and Blanchard Bolton. Bolton explained to Mulligan that he was on vacation when the strike commenced, and was thereupon issued a pass. St. Clair was unsuccessful.

Prior to the strike, Green earned about $9.50 a day. Since the strike he was employed for one day as a deputy sheriff and 2 weeks as an electric welder at the American Welding Company. His check for the first week was $26.41.

We find that Green was refused reinstatement because of his connection with the union and his assistance to the union during the strike.

Hallie Philip Hite had been in the employ of the respondent since September 1923. Prior to the strike he was a yard conductor and "dumper" at the Trumbull Cliff Furnace, and earned $1.04 an hour with time and a half for working over 40 hours a week. Hite joined the C. I. O. on May 27 and served on the picket line.

Shortly before the strike, M. R. Martin, the traffic manager, and Kilcanney, the foreman, asked him to sign an Association membership card. Hite refused.

On about June 25 or 26 Hite was informed by Lavelle, one of the respondent's engineers, that the men were returning to work. The same day Hite saw Kilcanney and inquired about his job. Kilcanney said, ". . . if you go back to work, you have got to go back as a new man, rehire, that is, if they want to take you". Hite replied that he would never return as a new man after 14 years in the respondent's service. Hite made no further attempts to secure a job. According to his testimony, it would have been useless, since Kilcanney told him he had "the inside dope".

Hite has not earned any money since the strike.

We find that Hite was refused reinstatement because of his connection with the union and his activity in the strike.

E. CLEVELAND

1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Cleveland District was a continuation of the Plan which had been established in the Corrigan, McKinney Steel Company in

1933.[55] In March 1937 the bylaws were amended, apparently pursuant to the revision proposed at the Cleveland conferences of the Central Council of Employee Representatives. This revision, as already pointed out, contained minor changes only and in no way removed the respondent's control over the Plan. Shortly after the constitutionality of the Act was upheld by the Supreme Court, Wakefield, the Management Representative, announced at a meeting of the General Committee of the Employee Representatives [56] that the respondent would no longer be able to contribute any financial support to the Plan. Thereupon the Employee Representatives formed the Employees' Representative Association, a new organization which purported to be independent, of the respondent. The formation and activities of the Association are further discussed hereafter.

The Plan in the Cleveland District up until April 12, 1937, was similar in structure and operation to the Plan in Massillon and the other districts. It is therefore unnecessary to describe it at length. It is sufficient to state that the employees were never given an opportunity to vote on the adoption of the Plan; that the respondent defrayed the expenses of all the meetings and elections, both of which were held on the respondent's time and property, of clerical and stenographic services, printing, and of the entire functioning of the Plan; and that the representatives were compensated by the respondent for all time spent in connection with the Plan whether during working hours or outside of working hours.[57]

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[55] The assets and properties of the Corrigan, McKinney Steel Company were acquired by the respondent in September 1935. In April 1936 the name of the Corrigan, McKinney Steel Company, appearing in the by-laws of the Plan, was replaced by "Republic Steel Corporation, Cleveland District."

[56] The General Committee as set up in the bylaws of the Cleveland Plan corresponds to the "General Body" in the other districts, and is, in fact, referred to by witnesses as the "General Body."

[57] The following incident serves as an illustration of the operation of the Plan: John Exall, a chipper at the Corrigan, McKinney plant, testified

We find that the respondent dominated and interfered with the formation and administration of the Plan of Employee Representation at its Cleveland District.

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2. *Events preceding the strike*

The campaign to organize the respondent's employees in Cleveland began in June 1936. At that time, there not being any Lodge set up for the respondent's Cleveland employees, they began to join the Otis Steel Lodge.[58] The men were at first compelled to hold their meetings secretly.

As has already been stated, the respondent met the announcement of the campaign for the unionization of steel workers by its statement of July 2, 1936. Immediately thereafter it began a campaign to discourage and thwart organization.

(a) *The discharges*

Almost from the very first the respondent resorted to the weapon of discharges. We will take up in order those individuals named in the complaint as having been discriminated against for union activity. The respondent introduced no evidence to rebut testimony that the discharge of these men constituted unfair labor practices.

Thomas Cikah. Cikah commenced to work at the Corrigan, McKinney plant in 1925. Prior to his discharge he was employed as a locomotive engineer in the coke plant.

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that in the 1936 elections for Representatives he was defeated by five or six votes. He subsequently learned that Peters, the superintendent of the department, urged the employees not to vote for him, saying, "Don't vote for this man. He is a radical. He is a Communist. Even if he get elected, we going to fire him." To one employee who praised Exall as being a "good man" Peters said, "If you think he is a good man, then you are a Communist yourself."

[58] The Otis Steel Lodge had been established by the Amalgamated for the employees of the Otis Steel Company.

Cikah testified that during July and subsequent months company police watched the beer parlor operated by his wife near the plant, which was frequented by Balint, a C. I. O. organizer, and others connected with the C. I. O. Cikah joined the Union on July 2, 1936. Shortly thereafter Wall, the superintendent, summoned him to his office and inquired whether he belonged to any union. When Cikah replied that he did not, Wall advised him: "For . . . sake, don't join a union. They are no good. They don't give you anything."

Cikah was discharged on July 9, 1936. His foreman told him he was discharged because of his failure to stop the smoke and put out fires in the ovens under his supervision. Cikah testified, however, that he was not at fault in this regard and explained that while he was running the locomotive he could not do anything else. He also testified that there had previously been no complaints concerning his work. Furthermore, when he was reinstated shortly before the strike, he was assigned to his old position. This reinstatement took place on May 14, 1937, after Cikah had filed a charge with the Board.

At the time of his discharge Cikah was earning 59½ cents an hour. Since then the rates for locomotive engineers have been raised to 74 cents an hour. He did not earn any money between the date of his discharge and reinstatement.

On the basis of the whole record we find that Cikah was discharged because of his membership and activity in the Union.

John Popik. With the exception of a lay-off of five or six months, Popik worked as a rigger at the Corrigan, McKinney plant continuously from February 6, 1934, until his discharge on August 10, 1936.

Popik joined the C. I. O. on about August 3, 1936. On August 9 he was directed to report to the office of Agnew, the master mechanic, who questioned him regarding his membership in the C. I. O., and remarked, "Don't you know that this plant (is) never going to be organized? . . . this company got a lot of money and (is) going to break any Union in the world." On the following day Agnew again summoned Popik and said, "I got news for you . . . I got to let you go. That is the news." Shortly thereafter Popik saw Krause, the employment manager, and inquired whether his C. I. O. membership was the reason for his lay-off. In reply Krause put his fingers to his lips and said, "Sh-h-h."

After his discharge Popik filed a charge with the Board. On May 8, 1937, he received a card from the respondent directing him to report to the main office. Krause then reinstated him to his former position as a rigger.

At the time of his discharge Popik was earning 55 cents an hour plus a tonnage bonus. Since then the hourly rate for riggers has been increased to 72 and 75 cents. Between the date of his discharge and reinstatement, Popik earned $50 or $75 hauling coal in his own truck.

Upon the entire record in the case, we find that Popik was discharged because of his membership in the Union.

Frank Pirichy. Pirichy worked for the respondent off and on from May 1934 until his discharge in the latter part of August. For about six or seven weeks prior to his discharge he was employed as a chipper in the chipping department. Pirichy joined the C. I. O. on July 1 or 2, 1936, and did considerable organization work among the respondent's employees. He testified that he succeeded in organizing about 100 men in the chipping department.

Late in August, when Pirichy reported to work on his shift, he was unable to find his time card on the rack. Upon inquiry, it turned out that the company policeman in attendance was in possession of Pirichy's card together with five or six others. Pursuant to the policeman's suggestion, Pirichy contacted Krause the following morning. Krause informed him that he had received orders from George Belline,[59] the superintendent of the chipping department, to dismiss him. Krause was unable to give him any further explanation, and stated, "according to my record, you perfectly O. K. . . . I have no complaint against you. I don't know what it is all about."

Pirichy testified that the words "no work" were written on the discharge slip handed to him. Nevertheless, about 15 or 20 new men were hired in his department during the same week. Again, when Pirichy returned to the employment office about two weeks later, he witnessed the hiring of additional men. His own request for employment, however, was repeatedly turned down with the reply, "We have nothing for you."

Pirichy filed a charge with the Board about a week after his discharge. On May 11 he was reinstated to his former position and worked until the strike. At the time of his discharge he was earning 60 or 62 cents an hour. The rates for chippers have since that time been raised to 72 cents an hour. After his discharge Pirichy was employed by the W. P. A. for a period of four and a half months and earned $71 a month.

On the basis of all the evidence we find that Pirichy was discharged because of his union membership and activity.

George Troyanovich. Troyanovich began to work at the Corrigan McKinney plant on September 3, 1925. At the time of his discharge on August 27, 1936, he was employed as a bed chain man.

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[59] Also referred to as George Bellew and George Balleau.

Troyanovich became a member of Otis Steel Lodge in the latter part of June. On July 24 he met two organizers from the Otis Steel Company, Casey and Murphy, who invited him in their car which was parked on Broadway and engaged him in conversation. The conversation centered about the circumstance that the respondent's employees were being "called in" and questioned by their bosses and by Jones, the captain of the company police. Casey and Murphy expressed the belief that Lohman, an Employee Representative in the coke department, was furnishing the respondent with information. Upon leaving the two men, Troyanovich encountered Sam Naletrich, a loaderman in the coke department, who repeated that men were being called in. Naletrich then warned him, "Watch yourself, here comes the company stool." Troyanovich looked around, and saw a man coming slowly down the street. Naletrich remarked, "That fellow hangs around the beer joint all the time . . . he turns in fellows that sign up." Troyanovich then went to the office where he received his vacation money. On his way out, he noticed that the man who had been pointed out to him by Naletrich was talking to a company policeman.

On the same day Troyanovich was ordered to report to the main office where Wakefield, the Management Representative, and Captain Jones questioned him concerning his conversation with the two men on Broadway. Believing that a denial would be futile, Troyanovich admitted that they were two organizers from the Otis Steel Company. Captain Jones thereupon launched into an attack against the C. I. O. and accused John Lewis of being a racketeer and "out to make money for himself." He admonished Troyanovich to stay away from the two Otis Steel men if he knew what was good for him. When Troyanovich stated that he was "neutral" on the union question, Wakefield asserted that it is impossible to be neutral and that one must be either for or against the company. Troyanovich was then urged to influence the men in favor of the Plan and against the C. I. O.

Troyanovich left on his vacation the same afternoon. When he returned his house was watched by men who arrived in a car and parked on the other side of the street. Upon his leaving the house, the car also disappeared.

Two or three days after he returned from his vacation Troyanovich was summoned to the office of Zimmerman, the superintendent of the order and shipping department. Shriber, assistant to the district manager, talked to him. Troyanovich testified:

> "Well, he first said that he was very much disappointed in me, and I wanted to know just what he meant. He didn't get to the point. And then he said, 'You know . . . they are going to start organizing this union down here . . . there is going to be a lot of trouble . . . We have had intentions of putting in a new mill here in Cleveland, . . . if this threat of the union drive is going to go through, we might change our minds and not put the mill in here, . . . you know there is going to be some good jobs when that mill goes up . . . you look like a pretty intelligent fellow . . . if you work with us why . . . we will see that you will get a good job.'
>
> And he further stated . . . 'You know, the Republic Steel has the reputation of being very good to its friends, and damned ruthless to its enemies . . .' "

The same day Balint, the C. I. O. organizer, told Troyanovich that he was slated to be discharged. He explained that Lohman had signed an affidavit confessing that he was compensated by the respondent for furnishing information regarding employees who had joined the C. I. O.

When Troyanovich reported for work on August 27, Robbins, the chief chipper, stopped him and stated that his work had been unsatisfactory. He refused to explain any further. He said, "Charlie Barrie has got the proof," and added, "You have been a bad influence around here in the past two months."

Thereafter Troyanovich requested the Employee Representatives to take action in his behalf. An interview with Wakefield proved fruitless. He stated that they had enough to "hang" Troyanovich and would never rehire him. The Employee Representatives then appointed a committee to see Barrie and ascertain the facts relative to the discharge of Troyanovich. Barrie informed the committee that about two months before he had been instructed by his "superiors" to watch Troyanovich, that he had on numerous occasions observed him conversing with a group of five or six men, and that he turned him in because he was "suspecting that the man was talking about the Union and about Communism."

The matter was then submitted to the General Committee at a meeting held on September 8, 1936, and a motion was unanimously adopted recommending the reinstatement of Troyanovich. John Exall, an Employee Representative, testified that about a week after the meeting Carpenter called him into his office, upbraided him for "raising hell" about Troyanovich, and stated that he was a Communist and would never be taken back.

At the time of his discharge Troyanovich averaged over $5 a day and worked six or seven days a week. On September 30, 1936, he secured employment elsewhere at loading coal and worked for three months, earning $26.30 weekly. Since the first of April his earnings averaged only between $5 and $10 a week.

Upon all the evidence in this case, we find that Troyanovich was discharged because of his membership in the Union.

Michael Naletrich. Naletrich worked at the Corrigan, McKinney plant continuously from 1917 until his discharge on September 9, 1936. At the time of his discharge he was employed as a loaderman in the coke department. He testified that he had never been laid off and that his work had at all times been satisfactory.

Naletrich joined the C. I. O. in July 1936, and was active in organizing employees. In the middle of August he took 10 employees to Cikah's beer parlor where they were signed up by Fred Korecky, a speed car operator at the Corrigan, McKinney plant, and recording secretary of Lodge 1098, an S. W. O. C. Lodge. Naletrich testified that he was watched by men from the respondent's office as he entered the beer parlor with the employees. On about September 6 he was directed to report to the superintendent of the coke plant, Wall, who glanced at a slip of paper in his hand and inquired whether Naletrich had joined the C. I. O. Naletrich denied his membership. Wall warned him, "Better don't join." After this conversation Naletrich was closely watched by his foreman.

On September 9 Naletrich was discharged. By way of explanation his foreman told him that he had made a "big mistake" a month ago when he had pushed the coke before the whistle blew. Naletrich testified that he had already been penalized for his mistake by a one-day lay-off, and that others had committed the same error but were never discharged as a result. After his discharge he repeatedly tried to get his job back but was unsuccessful.

Naletrich filed a charge with the Board in March 1937. On May 6 he received a card from the respondent asking him to return to work. For 3 days he was assigned to loading doors and then he was reinstated to his former position.

At the time of his discharge Naletrich was working at the rate of 59 cents an hour. For the first 3 days after his return to work he earned 57 cents an hour and thereafter 74 cents, which constituted the new rate for his former job.

Upon all the evidence we find that Naletrich was discharged because of his membership and activities in the Union.

Fred Korecky. Korecky worked at the Corrigan, McKinney plant more or less regularly from 1930 until his discharge on December 19, 1936. During the first two and a half years he was a pump operator. Then he was employed as a speed or service car helper and was finally promoted to the position of service car operator. He testified that as far as he knew his work had always been satisfactory.

Korecky joined Lodge 1098 on July 26, 1936, and was elected recording secretary a month later. He was active in organization work among the employees. As already noted, in the middle of August he signed up the employees brought into Cikah's beer parlor by Naletrich. During the month of November Korecky was on different occasions questioned by Wakefield, the Management Representative, and Tull, the electrical superintendent, regarding his C. I. O. membership. Korecky denied that he had joined the C. I. O. He testified that after these conversations took place, his house was watched by a man, whom he recognized as a sergeant or lieutenant in the company police and whom he had previously seen in the mill.

On December 19 Korecky was laid off. In accordance with the suggestion of Homer Kerr, the turn foreman, he reported the following morning to the employment office where he saw six laborers being hired. Korecky implored

Krause to give him anything at all, even a laborer's job. Krause's reply was, "No." Korecky insisted, "Why you just hired six men out there. I seen them come in here and I seen you signing them up now." Krause said, "Oh, never mind."

Although it is not entirely clear, Korecky's testimony on cross-examination indicates that the occasion for Korecky's lay-off was furnished by the elimination at that time of gasoline locomotives from the equipment used in the service car work and the substitution of gasoline trucks. The service car gang consisted of Korecky and seven other men who had all joined the C. I. O. and were laid off at the same time. Korecky testified that all these men were subsequently taken back although he did not know on what dates. Korecky further testified that he was sixth in seniority in the service car gang but had greater seniority in the electrical department.

Korecky's case was discussed at a meeting of the General Committee of Employee Representatives on January 5, 1937. Korecky, who was called in to explain the facts of his case, stated that he had seniority rights in the electrical department where men were being hired on the pumps and on the construction gang. He was later informed by John Exall, one of the Representatives, that the General Committee recommended his reinstatement by unanimous vote. However, no further action was taken in the matter.

Korecky filed a charge with the Board in January. On May 18 or 19 Krause offered him a laborer's job. Korecky did not report to work, since he was occupied with some business matters for a few days, and then he heard that a strike was to be called.

On the basis of all the surrounding circumstances it must be concluded that Korecky was discharged and refused reinstatement until shortly before the strike because of his affiliation with the C. I. O. There is no evidence that the other men on his gang who had been taken back engaged in any organization work other than joining the C. I. O. Korecky, however, distinguished himself by securing the signatures of other employees. It may be that Korecky's position was in fact eliminated. He was, however, willing and anxious to accept any work for which he was qualified. Such work was denied to him although other men were being hired.

At the time of his discharge Korecky was earning 62 cents an hour and worked alternately 40 and 48 hours a week. He was paid time and a half for working over 40 hours a week. Between the date of his discharge and recall he earned about $370.

John Exall. Exall was employed as a chipper in the Corrigan McKinney plant from the spring of 1933 until his discharge on January 14, 1937. He joined the C. I. O. on July 2, 1936, and held the position of treasurer in Lodge 1098. It will be recalled that Exall, in his capacity as alternate Representative, endeavored to bring about the reinstatement of George Troyanovich who was discharged on August 27. On September 14 Carpenter summoned Exall to his office and said to him, "Exall, do you care to work any longer for us? . . . What the God-damn Hell are you raising hell about George Troyanovich? We fired him and when we fire him we never take him back, either. You know, he was a Communist." Carpenter then questioned Exall about his children and their education and suggested, ". . . suppose there is a chance for you to become a chipper foreman." Exall replied, "Mr. Carpenter, as long as I represent here, I decline the proposition. If the company thinks that I am good enough to become a chipper foreman, when my turn is over, I will think it over." Exall testified:

> ". . . he got sore a little bit on account of my answer, and he says, 'You don't fool anybody,' he says,

> 'we know you. We know all about you, and we got the goods on you, too...' I says, 'Any proof you got on me, lay your proof on the table and I will admit my mistake,' but he says, 'Go on now,' he says, 'Next time I call you here I am going to have the proof.' "

Late in October Wakefield requested Exall to urge all the employees in the chipping department to stay away from the C. I. O. Wakefield offered to permit him to work in the daytime, so that it would be possible for him to see the men on the different shifts; to recompense him for time spent outside of working hours in visiting the men at their homes; and to assist him in educating his children. Exall declined to accept these propositions.

At about the same time Exall attended a C. I. O. meeting held at the house of Manuel Garcia, an employee of the respondent. On the day following the meeting, John May, the Plan Chairman, visited Exall at his home. May explained that he was sent by Wakefield and instructed to speak to him like a father. He said they knew where Exall had been the previous day and he mentioned Garcia's name and the number of his house. He finally said, "Mr. Wakefield send me over here . . . to tell you to watch your step."

Upon his return to work thereafter Wakefield asked him whether May spoke to him and what he thought about it. Exall testified:

> "I told him Mr. Wakefield I think I got a right to go any place I want. What I am doing is my own affairs. He said, 'Yes, but it don't look good in the part of the Company. You cannot work both ways. If you want to work with the C. I. O., resign your position here.' I said, 'Why should I resign my position?' He said, 'You cannot work both ways . . . You don't give the cooperation.' I said, 'If I don't give you satisfaction, cooperation, why don't you fire me?' He said, 'Don't

worry, if you don't watch your step, you going to get fired.' "

Sometime in November Exall was laid off for a week under the following circumstances: An invitation had been extended to the Employee Representatives to attend a meeting in Youngstown of the "Employee Representatives of Ohio." At a meeting of the General Committee Wakefield announced that although they had no right to represent the respondent's employees at the Youngstown meeting, any Representative could attend as an individual if he so desired. Exall consequently made the trip. When he returned, George Belline, the superintendent of the chipping department, laid him off for a week for absenting himself from work without the foreman's permission. Exall protested that he had on other occasions taken time off without permission and was never reprimanded. He complained to Wakefield and requested that a special meeting of the General Committee be called to consider the question. Wakefield replied, "Nothing doing." He made the same request upon May, the Chairman of the General Committee, who told him that if Wakefield was opposed to a meeting, nothing could be done about it.

On about January 5 Exall was ordered to report to Wakefield's office. Captain Jones, who was present, read certain names from a list containing about 300 names and check numbers and asked whether Exall recognized them. Exall testified:

> "I said, 'Yes; most of them . . . Why?' He said, 'You done the dirty work.' I said, 'What do you mean, Mr. Jones?' He said, 'You signed up these men in the Union . . .' I told them it was a lie and he turned around and he said, 'Not only that but during [sic] the payroll C. I. O., you are getting $6 a day,' and I told him that was another lie. And he turned around

and said, 'Well, we expect you to say that but you cannot fool me. I am watching you day and night.' Then . . . I said, 'What business have you got to watch me what I am doing outside of the plant?' He said, 'That is my job. I am getting paid for it . . . as long as you want to work for them at $6 a day, why don't you talk to Mr. Wakefield? . . . we pay you $6 a day.'

And I says, 'What . . . are you trying to do, make a stool pigeon out of me? . . .' 'Well,' he says, 'You can't work for both sides, for Republic Steel and for C. I. O. . . . if you don't want to play ball with us . . . you won't stay long.'

I says, 'O. K. . . . If I don't give satisfaction, . . . they can fire me.'

He says, 'Don't worry . . . they are going to fire you if you don't play ball with us.' "

Jones then handed Exall a notebook containing a list of numbers headed by Exall's name and number and said that it belonged to Balint. Balint subsequently denied ever having seen the notebook. When Exall mentioned this to Wakefield, he said that Balint was double-crossing him.

At about that time lockers of employees in several departments had been broken into, and a systematic search was made of the personal belongings of some employees. Exall testified that his own locker was broken into twice but nothing was removed. This matter apparently became so acute that it was discussed at a General Committee meeting. At the meeting Exall made a statement that they were looking for union cards, that he was a union man and proud of it, and that he wished they would let him alone.

On the night of January 13 a C. I. O. mass meeting was held at the Bohemian Hall. Exall testified that he was seen entering the hall by Captain Jones and other company police who were stationed outside.

Exall was discharged on January 14. He testified that at about 2 o'clock on that day he proceeded to the tool room to change his chisels. Jack Simon, who was in charge of the tool room, told him to continue to use the same chisels longer. About half an hour later George Belline called Exall aside and said, "The way you act, it seems to me you want the Company to hire a couple of more grinders for you". He accused him of doing nothing all day but changing chisels, and specified the inches of steel that he had chipped with the respective sets of chisels. Exall replied that he could not possibly have ascertained the number of inches of steel he chipped with a particular set of chisels because he had been working alone since 12 o'clock and there was nobody present to measure. Belline refused to argue further and finally said, "Well, we don't want you here". Exall testified that the chippers had been cautioned at a number of safety meetings to exchange chisels which were worn down. Exall also testified that he had never before been reprimanded for improper use of tools. Moreover, it is unlikely that the offense with which Exall was charged was of a serious nature, since chisels which are returned to the tool room are not discarded but merely sharpened and then assigned for further use.

About a month later Exall and five or six other employees who had been discharged attempted to interview Wakefield regarding their jobs. A policeman at the gate stopped them and asked them to wait. He went in to speak to Captain Jones, returned in a few seconds, and said, "Nothing doing . . . they don't want youse". The same day Exall phoned Wakefield and was told, "You have got your case pending down at the Labor Board, we can't do nothing for you until the Labor Board makes decision".

On May 24 Wakefield offered Exall a labor job. When Exall suggested that he had seniority rights, Wakefield replied, "Oh, no, we want to hire you as a new man, forget about it". Exall was required to submit to a physical examination. He worked on May 26 and then went on strike.

At the time of his discharge Exall was working at the rate of 52 cents an hour. Since his discharge he was employed for about a month by the W. P. A. and earned approximately $60.00.

Upon the entire record we find that Exall was discharged because of his membership in the Union.

John Petak. Petak worked at the Corrigan, McKinney plant continuously from 1928 until his discharge on January 18, 1937. He was employed as a crane repairman in the bull gang.

Petak joined the C. I. O. on July 1 or 2, 1936. Two weeks thereafter Tull, the superintendent of the electrical department, said to him, "John, I have got your name and badge number here and I heard you joined outside union". He also told him that he had been informed of Balint's frequent visits to his house. After this conversation Petak was given considerably less work than the other men.

At about the same time his house was being watched by company police. On one occasion a company policeman followed him all the way from his home to the clock house in the plant and observed him as he punched his card. On January 13 Petak saw Captain Jones and the policeman who had previously followed him standing outside of the Bohemian Hall where a C. I. O. meeting was being held.

When Petak came to work on January 18 he found that his card had been removed from the rack, and that he had been laid off. Gene Perry, the boss in the electrical department, told him that the elimination of gasoline locomotives necessitated the lay-off of some men and that he was the youngest in the bull gang. When Petak remonstrated that there were four men on the gang with less seniority, Perry promised to secure for him a crane operator's job and to call him in a few days. He never called. About 3 weeks later Petak spoke to Krause. Krause told him to wait a minute. He returned after about an hour and a half and did not even want to talk to Petak. Petak made three other attempts and was met with the reply, "Nothing doing". Petak testified that in the meantime four men having less seniority had been taken off the speed car service and placed on the bull gang. He also testified that a janitor had been given a craneman's job and then placed on the bull gang.

Thereafter, Petak filed a charge with the Board. On May 18 he was offered a general labor job and worked until the commencement of the strike at the rate of 62 cents an hour. At the time of his lay-off he was earning 59 cents an hour. The rate for employees in the bull gang was ultimately increased to 74½ cents an hour. Petak had not earned any money from the date of his lay-off until his recall on May 18.

On the basis of the whole record we find that Petak was laid off because of his membership in the Union.

Mathew Babich. Babich first began to work at the Corrigan, McKinney plant in 1922. Shortly prior to the acquisition of the plant by the respondent in 1935, Babich was laid off because his position was eliminated. On May 6, 1936, he was given a job on the electrical repair gang and worked continuously until his lay-off on January 25, 1937.

Babich joined the C. I. O. on July 16, 1936. He testified that in August his locker had been broken into, and his union card had been removed. Everything else which he kept in the locker, including a little money, remained intact. On January 13 he went to the C. I. O. meeting at the Bohemian Hall which was kept under surveillance by company police.

On January 25 Gene Perry informed him that he had to lay him off because he was the youngest man in the gang.

Babich protested that only three or four men in the electrical department had greater seniority, that he had held various positions, and was willing to accept any job available. Perry promised to put him on at the first opportunity. Subsequent attempts on Babich's part to secure a job proved unsuccessful.

Babich filed a charge with the Labor Board in April. On May 19 or 20 Krause offered him a labor job and he worked until the strike, earning 62½ cents an hour. Prior to his lay-off he was paid at the rate of 62½ cents an hour and was working from 40 to 48 hours a week. The wage rates for electricians have been raised since then.

Upon the whole record we find that Babich was laid off because of his union membership.

Wilbert Neuman. Neuman first began to work at the Corrigan, McKinney plant on July 21, 1933. At the time of his discharge on January 27, 1937, he was employed as a chipper.

Neuman joined the C. I. O. in September 1936. He attended the C. I. O. meeting held in the Bohemian Hall on January 13. Neuman testified that at the meeting he compared his C. I. O. membership card with that of another chipper. Next to him sat a man called Russel Lapka whose father, Neuman later learned, was a company policeman.

After the meeting, Neuman sprained his back and was temporarily assigned to light work such as oiling chipping hammers and other odd jobs. On one occasion, when he was in the tool room, Jake Simon, the foreman, said to him, "You know, if I were you I would never join the C. I. O., because Republic Steel has too much money behind it".

On January 26, as Neuman proceeded to the tool room to exchange chisels, he encountered Nicola Michich, a foreman, who warned him, "You better watch yourself, because

George Balleau [Belline, the superintendent] has been watching you all day.'' The following day, Belline came over to Neuman with the four old chisels which he had presumably turned in the previous day, and ordered Edward Ray, another chipper, to test them. As Ray chipped the steel, Jake Simons measured the chips, and Belline made a note in his book. After Ray had thus tested all the chisels, Belline said to Neuman, ''I am going to fire you. . . . I have been watching you for the last two weeks. . . . You have been doing nothing but monkeying around. You have been using too many chisels. You are fired.'' Neuman testified that he had been employed as a chipper for 3 months prior to his discharge and had never before been criticized for using too many chisels.

Neuman filed a charge with the Board in February. On May 11 he was reinstated to his former position. At the time of his discharge he was working at the rate of 62½ cents an hour and was averaging about $5 a day.

Upon the whole record, we find that Neuman was discharged because of his membership in the Union.

Gaetano Armeli. Armeli first commenced to work at the Corrigan, McKinney plant on April 27, 1933, as a laborer. On November 12, 1936, he was promoted to the position of chipper. This position he maintained until his discharge on February 20, 1937.

Armeli joined the C. I. O. early in January. About a month later he lost his key case containing the keys to his locker and his C. I. O. membership card. He reported the loss to the company police. In 4 or 5 days Belline informed him that Captain Jones had found his keys and would return them to him. Captain Jones opened the case and asked Armeli whether the keys belonged to him. Afraid of the possible consequences, Armeli attempted to deny any knowledge of the C. I. O. card and tore it in half. Captain Jones, however, recovered the card from him and said, "Hold on, don't throw that away. Give it to me. I am going to check up your handwriting".

On about February 26 Armeli's foreman told him, "I am sorry, Tom, you have to go to see George Bellew, [Belline] the superintendent". Armeli testified that Belline drew a slip of paper out of his desk and read him "a story of using too many chisels" about which he knew nothing. Armeli's entreaties to be given a "break" were ineffective and he was advised to see Krause. Krause merely confirmed the fact that he was discharged and handed him his slip which, according to Armeli's testimony, was marked "suspicious".

Shortly thereafter Armeli filed a charge with the Board. On May 18 or 19 Krause visited him and offered him a job in the labor gang, where he worked until the strike at 52½ cents an hour. At the time of his discharge he was earning 62½ cents an hour plus a tonnage bonus. The wage rate for chippers has since been increased to 72½ cents an hour.

On the basis of all the evidence, we find that Armeli was discharged by the respondent because of his union membership.

(b) *Other acts of intimidation*

The discriminatory discharges of these employees accompanied by the surveillance of C. I. O. meetings, spying on employees affiliated with the C. I. O., and the other practices referred to, are not the only manifestations of the respondent's active hostility to self-organization on the part of its employees. Numerous other incidents serve further to illustrate the respondent's activities.

In the middle of August a C. I. O. meeting for negroes employed at the Corrigan, McKinney plant was scheduled to take place at the Globe theatre. The contemplated meeting, however, failed to materialize. One negro who came to the theatre explained that the men were afraid to attend because Captain Jones was driving around in his car with about four other men.

The company police, under the leadership of Captain Jones, made repeated attempts by means of threats and violence to prevent the distribution of union literature in the vicinity of the respondent's plants. Thus when Benny Favorito, a volunteer S. W. O. C. organizer, was distributing literature at Independence gate, Captain Jones and Sergeant Russell threatened the employees with discharge if they accepted any handbills. On another occasion in December Captain Jones began to assemble a crowd to "tackle" the C. I. O. organizers who were distributing handbills in front of the gate. The organizers were compelled to leave.

On January 13 Balint, Vincent Favorito, and another organizer went to the plant of the Truscon Steel Company, a subsidiary of the respondent, to distribute announcements of the mass meeting at the Bohemian Hall scheduled for that night. As they took their positions near the gate, a "great big fellow" wearing a blue lumber jacket came out of the gate and approached Balint. Believing that he was an employee, Balint handed him a leaflet. He took it with his left hand, whirled Balint around, said, "You dirty son-of-a-bitch, get the hell away from here", and hit him in the eye. Balint testified that the man had brass knuckles on his right hand. Walter Maloney, alias Walter Jergis of the company police, who was standing there, called them "further names" and said they received what they were looking for. As a result of the blow, Balint's eye became infected and had to be lanced. Balint subsequently saw the man who struck him dressed in uniform at the Truscon plant.

Benny Favorito testified that a number of C. I. O. men were distributing "Steel Labor" at the Truscon plant on January 25. One of the men who were massed around Captain Jones approached him and struck him in the face. Favorito retaliated. Thereupon a company policeman ran up to him, pulled out his gun, and said, "You son-of-a-bitch, if you don't cut it out I will put a slug in your back".

On April 19, Paul Castman was brutally beaten when he was distributing literature at the Truscon plant. Prior to a description of this incident, it is material to set forth certain circumstances relative to Castman. He had procured a job at the Truscon plant on March 5, 1937. On April 5 his foreman told him that he had received orders to lay him off but gave no reason. Frank Dunch, a Representative, informed him that he was discharged for union activities. He was advised to speak with Captain Jones who questioned him about his former employment and his union activities. Castman testified:

> "He said, 'You are not working with Al Balint, are you?' I said, 'No, sir. I am not. I don't even know Al Balint.' He says, 'He is one of the Union men. . . . You ought to be working for the Union. . . . One of the Presidents of the Union's Lodge is getting eight dollars a day from the C. I. O. . . . I am also paying him for his work down here'."

He then asked him about the extent of the C. I. O. membership in the plant and again inquired whether he was associated with Balint. He warned him, ". . . if you are, it will be too God damn bad for you, if you are double-crossing me, look out."

Subsequently, Castman engaged in voluntary organization work. As already stated, on April 19, he was distributing literature near the gate of the Truscon plant to the men entering and leaving the plant. John Jense, an employee of the respondent, told Castman he would sign a C. I. O. membership card if he had one available. Castman gave him a card and Jense filled it out. Castman noticed, however, that he had not written in the date and proceeded to do so himself. A man whom he recognized as a company policeman pushed Jense out of the way and struck him with a black jack on the side of his face. Castman testified:

> "When he hit me with the black jack, I stumbled backwards and fell in the gutter alongside of the sidewalk. . . .
>
> He jumped on me with his knees in the pit of my stomach, started beating me over the head and the arms and the hands with a black jack. He says, 'God damn you, here is some of Cap's Union. . . .'
>
> I had my hands over my head. I was trying to protect my head and he continued beating me with this black jack. Every time he would hit me he would say 'uh-uh. . . .' "

As a result of the beating Castman suffered severe injuries and spent 16 days in the hospital.

William Sikorski, who had previously been employed at the Corrigan, McKinney plant, spoke to Krause in April 1937 regarding a job. Before he was put to work, however, he was subjected to an interview with Captain Jones who was called in by Krause. Krause pointed to Sikorski and said, "There is your man". Jones examined Sikorski's application card, commented on the number of his children, and stated that the respondent would see to it that he had work to support his family. He then inquired about the men he had formerly worked with in the 10 and 12 inch mill. Sikorski mentioned a few names. Jones remarked, "Yes, every one of those boys are all on thin ice, I would not give you five cents for any one of their jobs. . . . They are running around the mill, over there, and they are organizing the fellows into the CIO, and we are not going to stand for it.'' He said further, ''Now, I want you to go over to work over there and I want you to keep your nose clean of the CIO because . . . we are never going to recognize them. Balint and Danitz, a couple of Communists, will never tell Republic Steel how they are going to run their corporation''.

In addition to the foregoing activities, the respondent, in combating the growth of union sentiment among its employees, attempted to spread propaganda in favor of the Plan and against the C. I. O. Thus, at a Plan banquet staged in October by Wakefield, the Management Representative, Wakefield delivered a speech in which he extolled the Plan, stated that the principal task was to keep the C. I. O. out of the plant, and requested the assistance of the Employee Representatives in doing so. Likewise, petitions were circulated within the plant expressing faith in the management and satisfaction with the Plan. Again, Babich testified that at a Plan meeting or banquet he received a photostatic copy of an article by Chesly Manely in the Chicago Tribune which attempted to discredit the C. I. O. by denouncing its objectives as communistic.[60] And John Sabol, an Employee Representative, testified that at a Plan conference which was attended by a number of company officials, White, vice president of operations, delivered a speech characterizing the C. I. O. as neither an American nor a responsible type of organization.

(c) *The Employees' Representative Association*

The Employees' Representative Association was formed after April 13 when Wakefield announced at a meet-

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[60] The article, dated March 28, 1937, appears under the heading "SEE C. I. O. DRIVE AS COMMUNIST IN ITS OBJECTS." The first paragraph, indicating the tenor of the article, reads as follows:

"The industrial union drive of John L. Lewis' Committee for Industrial Organization which has brought the current epidemic of sitdown strikes, is essentially a communist movement and has been advocated as the first step ing of the Plan that the respondent would henceforth be unable to furnish the Plan with financial support. The old Plan, however, was never formally dissolved. John Sabol testified that the Association contemplated the adoption of the bylaws under which the old Plan operated. The record contains no evidence that any other bylaws were formulated which would tend to make the Association independent of the respondent's control. Although some discussion was had regarding the question of assessing membership dues in the Association, there is no evidence that dues were in fact assessed or contributed by employees. There is nothing by which to distinguish the Association from the Plan except that membership was apparently no longer automatic upon voting for a Representative but depended upon the signing of membership cards. The character of the Association membership drive, which took place on the respondent's time and property, further attests to its domination by the respondent.

James C. Quinn, an inspector in the 12 inch finishing mill testified that Harold Sisk, an Employee Representative, distributed membership cards within the mill and explained the purpose of the Association. On another occasion Art Lawton, the turn superintendent, ordered every man in the mill to go into the office. On the desk in the office were a large number of membership cards, and as the men entered cards were thrust upon them. Quinn testified to the following altercation which he had with Lawton:

> " 'Mr. Lawton,' I says, 'What authority have you got standing up there and chasing them men in there?' I says, 'The Supreme Court has just signed the Wagner Relations Act,' I says, 'you haven't a damned bit of business standing up there making them men sign

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in a program to overthrow the government of the United States and set up a soviet dictatorship ever since the communist party of America was officially organized at Woodstock, N. Y., in May, 1921."

up.' I says, 'The only reason they sign up, if they don't sign it, you will turn them in to their bosses in the morning,' and I says, 'You know what that means, he would come out here and lay them off again like he always does.'

'Well,' he says, 'the Wagner Labor Relations Act is like everything else,' he says, 'it don't mean a damn thing.'

Then he went on to tell me about me and my bunch of communist friends, John L. Lewis all the way down, he raked them all over the boards. . . ."

At about the same time the members of the Plan Sanitation Committee, which had on its schedule a tour of inspection of sanitary conditions, were called into Wakefield's office where Wakefield, May, the Chairman of the General Committee, and Grimm, the Secretary of the General Committee, were present. Wakefield placed a package containing Association membership cards on the table, and said, "Well, we got to get started with this some time or other and we might as well get started now." In consequence, the Committee, instead of making an inspection tour, solicited employees to sign membership cards.

The employees, however, manifested reluctance to join the Association. Sabol testified that Tull, the superintendent of the electrical department, complained to him about the low percentage of employees in his department who had joined. Tull also summoned Nutting, the foreman of the construction gang, and inquired what the trouble was. Nutting stated that he had a couple of men whose example the rest of the employees seemed to follow, and expressed the opinion that only riddance of them would help matters. Sabol testified that in compliance with Tull's request he made further attempts to prevail upon the employees to join the Association but failed to get any signatures. No deduction was made from Sabol's pay for the time spent in this work.[61]

On the basis of the foregoing facts and the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Employees' Representative Association.

3. *The Strike*

The strike in Cleveland commenced on May 26. During the strike, the respondent again resorted to the dissemination of literature among its employees calculated to discredit the C. I. O. and to break the strike. Girdler issued for distribution to the employees the statement of June 15 (quoted *supra*), which attacks the C. I. O. as an irresponsible and communistic organization. Also the respondent prepared a reprint (referred to *supra*) of anti-C. I. O. articles culled from various newspapers and entitled, "What the Editors are saying about the Republic Strike." John Exall testified that he received through the mails copies of both the statement issued by Girdler and the reprint.

F. THE CENTRAL COUNCIL OF EMPLOYEE REPRESENTATIVES

Our previous discussion renders superfluous a detailed analysis of the Central Council. It was informally instituted in the fall of 1936, when Employee Representatives from ten of the respondent's plants met in the respondent's offices in Cleveland. After a second meeting at the same place on March 8, 1937, provisions for the participation of Employee Representatives in Central Council meetings were formally incorporated in the proposed revision of the Plan and later in the amended Plan, which was adopted on April 22, 1937. All the expenses of these meetings, including the meals, transportation expenses and salaries of Employee Representatives, were defrayed by the respondent.

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[61] About a week before the strike a new organization, styled The Republic Employees' Association, Corrigan, McKinney Division, came into existence. Relative to this organization, David Mac Means, an employee at the Corrigan, McKinney plant, testified that shortly prior to the strike he was summoned into the office of Eckert, a foreman, and asked to sign a membership card in the Republic Employees' Association. Eckert explained to him that the men were initiating this organization of their own volition and indicated that it would be to Mac Means' best interests to sign the card. Thereafter, Eckert told him, "You better make up your mind to join the Republic Employees Association . . . because all of you fellows are going to belong to it before the end of May." Mac Means also testified that on two occasions he saw notices posted on the bulletin board announcing meetings of the Republic Employee's Association.

On August 2 and 3, 1937, the Chairman of the Central Council called a meeting of the Independent Association of Republic Employees of Massillon to discuss the adoption of constitution and bylaws for the latter organization. Nick Linckenhely, who attended this meeting as a delegate, testified that the respondent paid none of its expenses and that he attended at his own expense.

The function of the Central Council, as already indicated, was to "back the Management in opposition to all outside labor organizations." It was composed in part of Employee Representatives and officers of the various labor organizations at the plants in the Massillon, Canton, Youngstown, Warren, and Cleveland districts, which, we have found, were dominated and controlled by the respondent. Under these circumstances, the Central Council could not represent the free choice of the employees. We find that the respondent has dominated and interfered with the formation and administration of the Central Council of Employee Representatives and has contributed financial and other support to it.

IV. THE CAUSES OF THE STRIKE

The respondent in its answer asserts that the strike was called without any cause or justification and solely for the selfish benefit and advantage of the S. W. O. C. and the

C. I. O. in an attempt to gain control of the respondent's employees and all steel company employees, and that there was no labor dispute between the respondent and its employees and no difference as to wages, hours, and working conditions.

From the facts recited in Section III we think it clear that the underlying cause of the strike was the respondent's whole campaign to crush the Union by means of unfair labor practices set forth above. The record shows that ever since the inauguration of the Plan in June 1933, the respondent had made plain its policy of complete antagonism to the self-organization of the employees and its determination to forestall or destroy any such organization by all means at its command. On July 2, 1936, shortly after the advent of the S. W. O. C., the respondent reiterated this basic policy in a public statement, and immediately and ruthlessly put it into effect. Its spies shadowed union organizers; its police attacked and beat them; its superintendent and foremen threatened, laid off and discharged employees for union activities; its officers fostered and supported a whole series of puppet labor organizations which the respondent manipulated to oppose the Union; and its president publicly vilified the Union's leaders, purposes and policies under circumstances intended to throw the weight of his influence against his employees' efforts at self-organization. Finally in May 1937 there occurred a series of events which precipitated the strike.

On May 3 the S. W. O. C., by Clinton Golden, wired the respondent that widespread unrest prevailed among its employees over the uncertainty of the respondent's position regarding a signed collective bargaining contract, that this unrest had been accentuated by the lay-off of several hundred Union members at the Canton and Massillon Works, and that "unless we can have definite assurance from you with date for conferences to negotiate written contract without further delay we shall be obliged to disavow all responsibility union members in your mills remaining at work." On May 5 the respondent replied to Golden's telegram that "in view of Wagner Act see no necessity for signed contract. The policy of this company . . . is that it is willing to meet with anyone to bargain with him for whomsoever he represents . . . Will meet with you at any time mutually convenient for collective bargaining purposes."

The complaint does not allege that the S. W. O. C. represented a majority of the employees in any or all of the respondent's plants at this time, or that the respondent's refusal to sign the S. W. O. C. agreement constituted a refusal to bargain collectively within the meaning of Section 8, subdivision (5) of the Act. Nevertheless it is plain that the manner and expression of the respondent's refusal to deal with the S. W. O. C. constituted interference, restraint and coercion of its employees in their right to self-organization and collective bargaining. The respondent on numerous occasions announced, as its reasons for refusing to sign the agreement with the Union, that it favored the Plan as a successful method of collective bargaining, that it would not tolerate any interference with this successful relationship between management and employees, and that the Union was communistic, corrupt, repressive and irresponsible. Further, on numerous occasions the respondent's superintendents and foremen had announced to meetings of employees that, for the same reasons, the respondent would never sign any contract with the Union. This position was announced in such language as the following: "Regardless if every man in here joins a union, we are not going to recognize it. We are not going to sign any contract. We are not going to have no . . . collective bargaining." "We will shut the mill up and board it up before we will sign with the C. I. O." We think it clear that these repeated statements and the unrest created thereby, to which Golden referred in his telegram, were a contributing and substantial cause of the strike which occurred on May 25 and 26.

On May 5, immediately after replying to Golden's telegram, the respondent shut down its tin plate mill at Canton and locked out approximately 650 of its employees, with the threat that the mill would not reopen "until we got rid of that Union." Upon the break-down of negotiations between the respondent and the S. W. O. C. on May 11, the Employee Representatives, with the respondent's support, intensified their attempts to obtain membership for the newly formed successors to the Plan, and conducted meetings in Canton, Massillon, Youngstown and Warren, for the purpose of preparing for a strike and organizing opposition to it. On May 20, under the circumstances described above, the respondent shut down its Massillon Works, locked out almost 3200 employees, and taunted the president of New Deal Lodge No. 1124 with its illegal conduct: "When we get through starving you out, you won't want to strike."

By these acts, the respondent served final notice in unmistakable terms that it was prepared to go to extreme lengths to destroy the Union and to deny to its employees the rights guaranteed in the Act. Faced with this illegal and provocative conduct, the Union called the strike, not as the respondent alleged, without cause or justification, but because in fact no other course remained open to it. The whole history of the respondent's unfair labor practices, culminating in this lockout on May 20, had placed the Union in a position where it had to fight for its life or be destroyed. The respondent, not the Union, had chosen the way of industrial strife.

We conclude that, although the respondent's refusal to sign the S. W. O. C. agreement, which we do not find to be an unfair labor practice, was in part the immediate cause of the strike, the fundamental cause of the strike, and a substantial factor in its precipitation on May 25 and 26, was the long series of unfair labor practices set forth in Section III above.

V. THE EFFECT OF THE UNFAIR LABOR PRACTICES ON COMMERCE

We find that the activities of the respondent set forth in Section III above, occurring in connection with the operations of the respondent, described in Section I above, have a close, intimate and substantial relation to trade, traffic and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

Upon the basis of the foregoing findings of fact and upon the entire record in the proceeding, the Board makes the following:

CONCLUSIONS OF LAW

1. Steel Workers Organizing Committee and Amalgamated Association of Iron, Steel and Tin Workers of North America are labor organizations within the meaning of Section 2, subdivision (5) of the Act.

2. The Plans of Employee Representation and their successors—the Employees' Representative Association, the Back-to-Work Committee, and the Independent Association of Republic Employees at Massillon; the Employees' Representative Association, the Back-to-Work Committee, and the Steel Workers Union of America at Canton; the Employee Representation Plan, the Independent Federation of Republic Employees, and the Back-to-Work Committee at Youngstown; the Employees' Independent Association of Warren; and the Employees' Representative Association at Cleveland—and the Plan of Representation of Employees at

the Canton tin plate mill and the Central Council of Employee Representatives, are labor organizations within the meaning of Section 2, subdivision (5) of the Act.

3. By its domination and interference with the formation and administration of the labor organizations named in paragraph 2 above, and by its contribution of financial and other support thereto, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (2) of the Act.

4. By discriminating in regard to the hire and tenure of employment of Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, George Troyanovich (referred to later as group A); Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (referred to later as group B); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, Fred Korecky (referred to later as group C); Harvey Rigby, John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, Anthony Martin De Long, Hallie P. Hite, Richard John Green (referred to later as group D); and each of them, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the Act.

5. By closing the Canton tin plate mill on May 5 and the Massillon Works on May 20 and thereby discriminating in regard to the hire and tenure of its employees at those plants, the respondent has engaged and is engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the Act.

6. By its espionage shadowing, and beatings of organizers and active members of the Union; its statements to its employees attempting to vilify and discredit the Union; its threats to discharge Union members and to close its plants before recognizing the Union, and its other

threats and warnings to employees regarding the Union; its attempts to turn civil authorities, business and other interests against the Union in order to further its own anti-Union activities; its incitement of violence and hysteria, in order to terrorize Union adherents; its donation of tear and vomiting gas to the City of Massillon; its support to the Law and Order League of Massillon and the Back-to-Work Committees in Massillon, Canton, and Youngstown; its activities in connection with the incident at C. I. O. headquarters at Massillon; its lay-offs, discharges and lockouts as stated above; its activities in connection with the above-named labor organizations; and by each of such acts, the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act and has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (1) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2, subdivision (6) and (7) of the Act.

THE REMEDY

The respondent having engaged in unfair labor practices, we shall order it to cease and desist therefrom and to take certain affirmative action which we find necessary to effectuate the policies of the Act and to restore as nearly as possible the situation that existed prior to the commission of the unfair labor practices and which would have existed except for them.

The respondent has unlawfully sponsored and supported various labor organizations discussed above. These organizations cannot, in view of the circumstances, operate as a true representative of the employees, and we shall order the respondent to withdraw recognition from them and to disestablish them as such representative.[62]

The respondent has also unlawfully discriminated against its employees by locking them out at the Massillon Works and the Canton tin plate mill. To remedy this illegal conduct, we shall order the respondent to pay the employees involved back pay for the period during which they were deprived of employment.

We have found that the respondent has unlawfully laid off and discharged certain employees. It has been our practice to order the reinstatement of such employees with back pay for losses suffered by reason of the respondent's unlawful acts. We have also found that the strike at the respondent's plants, which was still in effect at the time of the hearing, was caused in substantial part by the respondent's unfair labor practices. In previous cases of this character we have required the employer to reinstate the striking employees, upon application, to their former or substantially equivalent positions.

The respondent contends, however, that acts of violence by individual strikers renders such reinstatement inequitable in this case. At Massillon and Canton, where counsel for the Board introduced testimony that picketing by the strikers was peaceful, the Board and the Trial Examiner permitted the respondent to adduce testimony in rebuttal that certain named striking employees, as well as other unidentified persons alleged to be members of C. I. O., had carried sticks and clubs, cut a telephone wire, blocked roads, intimidated and beaten several members of the Canton Back-to-Work Committee and other non-strikers, and had in certain respects violated an injunction issued on or about June 25, 1937, by the Court of Common Pleas of Stark County. In Youngstown, Warren, and Cleveland, where counsel for the Board introduced no testimony on the issue of peaceful picketing, the Trial Examiner excluded testimony that strikers had committed acts of violence, but permitted the respondent to file written offers of proof setting out such testimony in detail. On March 19, 1938, the Board denied a motion by the respondent for leave to introduce additional evidence relating to violence, but granted its alternative motion for leave to submit and have incorporated in the record as a part thereof, evidence, inter alia, that certain named strikers, after the close of the hearing in this case, had pleaded guilty to indictments for various crimes committed in connection with the strike.

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[62] See *National Labor Relations Board v. Pennsylvania Greyhound Lines, Inc., and Greyhound Management Company*—US—, decided Feb. 28, 1938. The Court upheld the Board's order that the respondent disestablish and withdraw recognition from the Employees Association of the Pennsylvania Greyhound Lines, Inc., as the representative of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work. The structure and operation of the Plan and its successors, herein, are substantially the same as that of the Employees Association of Pennsylvania Greyhound Lines, Inc.

In considering the issue of violence in this case it should be borne in mind that, as we have pointed out before, the Board's power to order reinstatement is equitable in nature, to be exercised in the light of all the circumstances of the case. [63] Here, as we discuss more fully hereafter, the respondent has not only engaged in a long series of flagrant unfair labor practices but has itself committed or been responsible for numerous serious acts of violence. Our treatment of violence upon the part of the respondent's striking employees must be considered in the light of these facts.

Evidence that strikers have committed acts of violence is clearly relevant on the issue whether it is equitable to order their reinstatement. We will therefore take into consideration evidence of convictions and pleas of guilty of acts of violence committed by individual strikers in connection with the strike. In a case of this sort, however, we will not attempt to try before the Board accusations of violence which did not result in convictions or sentences upon pleas of guilty.

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[63] See *Matter of Standard Lime and Stone Company*, Case No. C-220, 5, N. L. R. B. No. 15; *Matter of United States Stamping Company*, Case No. C-203, 5 N. L. R. B. No. 29.

To receive evidence upon such matters would raise a mass of collateral issues which the Board is not equipped to handle. The Board, of course, does not have the facilities for investigation and prosecution of acts of violence that the local law enforcement agencies possess. Nor, as an administrative matter, can the Board attempt to determine the merits of allegations of several hundred various crimes.

We think also that the Board is entitled to rely upon the local law enforcement agencies for proof of such matters. The record shows that the police and prosecuting authorities of various towns were active throughout and after the strike. Numerous arrests were made and many convictions obtained. Under these circumstances the Board is inclined to feel that it can presume that any significant crime committed was investigated by the proper authorities and, if adequate evidence was found, was prosecuted by them. As a result, especially in view of the administrative difficulty of trying such collateral issues, the Board will not go into alleged acts of violence of individual strikers beyond accepting the offer of proof, and taking judicial notice, of convictions and pleas of guilty.

It should be noted that the reasons for excluding testimony, but admitting convictions, with regard to acts of violence by employees, do not apply in the case of testimony concerning similar acts by the respondent. Such testimony relates to whether the respondent has interfered with, restrained or coerced his employees in their right to self-organization and collective bargaining, and has thereby engaged in unfair labor practices within the meaning of the Act. Consequently, it raises direct, not collateral, issues which it is our proper duty to determine.[64]

We therefore affirm the rulings of the Trial Examiner in this matter.[65]

We come now to an examination of the evidence which we deem admissible upon this issue.

An analysis of the pleas of guilty in the respondent's offers to prove, of which we take judicial notice, supplemented by an examination of the criminal dockets of the Municipal Courts of Niles and Cleveland, the Courts of Common Pleas of Trumbull, Mahoning, and Cuyahoga Counties, and the United States District Court for the Northern District of Ohio, Eastern Division, at Cleveland, shows that seven "members or former members of the C.

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[64] That such a conclusion is in accordance with the clear intent of the Congress may be seen from the Reports of the Senate and House Committees in considering the reasons for confining the Act to unfair labor practices by employers. Thus the Senate Committee on Education and Labor, in reporting the bill to the Senate, said: "The bill is not a mere police court measure. The remedies against such acts (fraud and violence) in the State and Federal courts and by the invocation of local police authorities are now adequate, as arrests and injunctions in labor disputes throughout the country will attest . . . In addition, the procedure set up in this bill is not nearly so well suited as is existing law to the prevention of fraud or violence. Deliberations and hearings by the Board, followed by orders that must be referred to the Federal Courts for enforcement are methods of procedure that could never be sufficiently expeditious to be effective in this connection. The only results of introducing proposals of this sort into the bill, in the opinion of the committee, would be to overwhelm the Board with countercharges and recrimination that would prevent it from doing the task that needs to be done." (Sen. Rep. No. 573, 74th Cong. 1st Sess. (1935) 16, 17. See also H. R. No. 1147, 74th Cong. 1st Sess. 1935, 16.)

[65] At Youngstown the respondent offered to prove that "six members or former members of the C. I. O." had pleaded guilty to the possession and use of explosives; and, at Cleveland, that two individuals had pleaded guilty to police court offenses. In excluding such evidence, the Trial Examiner was in error. In view, however, of the fact that we take judicial notice of these pleas of guilty in the offer to prove and give them due weight in our consideration of the purpose for which they are offered, the error is not prejudicial.

I. O.'' were indicted for the ''possession and use of explosives,'' a felony; that three pleaded guilty to the indictment and received sentences of 1 to 20 years in the Ohio penitentiary; that three others who pleaded guilty to the indictment were placed on probation for 5 years; and that one pleaded guilty to ''malicious destruction of property to the value of $300,'' a felony, and was fined $300 and costs. It also appears that nine ''members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee'' pleaded guilty to indictments for ''unlawfully obstructing and retarding the passage of the United States Mail,'' a misdemeanor; that six received suspended sentences of 6 months in jail and were placed on probation; that two received sentences of 30 days in jail and costs; and that one received three sentences, to run concurrently, of 60 days in jail and costs. It further appears that 99 ''individuals, members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee''[66] entered pleas of guilty to the following offenses:

Assault and Battery (a misdemeanor)[67]	12
Rioting, assembling together to do an unlawful act (a misdemeanor)[68]	67
Malicious destruction of property to the value of $50 (a misdemeanor)[69]	6
Interfering with and obstructing railway tracks (a felony)[70]	5
Carrying concealed weapons (a felony)[71]	9

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[66] The respondent did not allege and the record does not disclose that more than four of the individuals who entered pleas of guilty as set forth in the offer to prove were employees of the respondent. We shall assume, however, that all individuals alleged to be members of unions affiliated with the C. I. O. or the S. W. O. C. are employees of the respondent.

[67] One was sentenced to pay the costs, but the costs were suspended; one was fined $25 and costs; nine were fined $25 and costs and given suspended sentences of 30 days in the county jail; one was fined $200 and

With the exception of the six men who pleaded guilty to the possession and use of explosives, and the one man who pleaded guilty to the malicious destruction of property to the value of $300, we cannot concur in the contention that these individuals have disqualified themselves from reemployment or that their crimes constitute valid reasons for dismissing the complaint. As we have pointed out, the respondent has committed or has been responsible for acts of violence far more serious than these offenses to which the strikers have pleaded guilty. We have found that the respondent is responsible for the incident at C. I. O. headquarters in Massillon, as a result of which three persons received fatal injuries, an undetermined number were injured by gun fire and gas fumes, 165 were arrested without warrants, and 164 held in jail without charges against them for periods ranging from one to four days. We have also found that the respondent's police at Cleveland brutally assaulted Alex Balint, an organizer for the Union, and on another occasion, beat Paul Castman, an active member of the Union, so severely that he spent 16 days in the hospital. In addition, uncontradicted testimony in the record indicates that a company guard at the Union Drawn Steel Company at Massillon attacked and burned Joe Morton, president of New Deal Lodge No. 1124, with a gas club, and left town after a warrant had been sworn out for his arrest; and that the respondent's Chief of Police, foremen and a superintendent at the Canton Works held Moesses Rafailedes, a member of the Union, against his will

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costs, given a suspended sentence of 6 months in the county jail, and placed on probation for 1 year.

68. All 67 were fined $25 and costs and given suspended sentences of 30 days in the county jail.

69. Five were fined $50 and costs and given suspended sentences of 60 days in the county jail; one was fined $300 and costs and given a suspended sentence of 30 days in the county jail.

70. All five were fined $50 and costs and given suspended sentences of 60 days in the county jail.

71. All nine were fined $50 and costs and given suspended sentences of 60 days in the county jail.

in the plant during the strike from May 25 to May 29, and despite the pleas of his family, refused to release him, until two priests effected his rescue.

In view of these acts of violence by the respondent, we are of the opinion that the respondent does not come before us with clean hands in asking us to refuse reinstatement to certain employees otherwise entitled to it.[72]

Furthermore, although the respondent refused to reinstate certain employees at Youngstown and elsewhere, allegedly for the reason that they had carried sticks or clubs on the picket line, it paid a bonus to the members of the Back-to-Work Committee of guards at Canton for patrolling the city armed with shotguns, and reinstated all such employees without question. In view of this discrimination, we are compelled to conclude that the real motive behind the respondent's refusal to reinstate striking employees was their union affiliation rather than an honest belief that by carrying sticks and clubs on the picket line they had proved themselves unfit for reemployment.[73]

Finally, the respondent, by engaging in the unfair labor practices described in Section III above, has itself violated the law of the land and thereby caused the strike of its employees in which the acts of violence occurred. While the Act imposes no criminal penalties for these unfair labor practices, it expresses an important national policy, in the light of which the respondent's illegal course of conduct must be judged and the consequences of that conduct determined. For these reasons, it does not lie in the mouth of the respondent to assert that the offenses of its striking employees are necessarily and of themselves a bar to their reinstatement.[74]

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[72] See *Matter of Biles Coleman Lumber Company*, Case No. C-197, 4 N. L. R. B. No. 86.

[73] See *Matter of Kentucky Firebrick Company*, Case No. C-179, 3 N. L. R. B. No. 46.

[74] See *Matter of Standard Lime and Stone Company*, Case No. C-220,

Under all these circumstances and without condoning the illegal acts of the strikers, we feel that such acts should not be a bar to the reinstatement of any, except those who pleaded guilty to the possession and use of explosives and the malicious destruction of property to the value of $300. The seven to be excluded are Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, George A. Bundas, Andrew J. Marsh, and Mike Spelich.

The respondent also contends that the strike as a whole was unlawful from the time pickets carried clubs and engaged in acts of violence, that all the strikers were acting in concert to carry out an illegal purpose and were responsible for the illegal acts of any of the other strikers, and that therefore none of the strikers should be reinstated and the complaint should be dismissed. This contention must be considered in the light of Section 6 of the Act of March 23, 1932, known as the Norris-LaGuardia Act:

> "No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute shall be held responsible or liable in any court of the United States for the unlawful acts of individual officers, members or agents except upon clear proof of actual participation in or actual authorization of such acts or of ratification of such acts after actual knowledge thereof." (Sec. 6, Act of March 23, 1932, 47 U. S. Stat. 70, C. 90).

With the possible exception of the 67 employees who pleaded guilty to rioting or assembling together to do an unlawful act, the respondent has neither proved nor offered "clear proof of actual participation in or actual authorization . . . (or) ratification" by strikers of the individual unlawful acts committed by other strikers. Fur-

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5 N. L. R. B. No. 15; *Matter of United States Stamping Company*, Case No. C-203, 5 N. L. R. B. No. 29.

ther, the considerations recited above in connection with the acts of individual strikers apply even more clearly here. As an administrative matter the Board is not equipped to determine whether thousands of strikers participated in or authorized or ratified unlawful acts by other strikers. Therefore, although we will accept evidence of convictions of illegal concerted action obtained by the local enforcement authorities, we will not try such issues before the Board.

Finally, even if there were proof of conviction of illegal concerted action we would not, in view of respondent's own role in the strike and the events prior thereto, consider such conviction ground for a blanket refusal to reinstate all strikers.

We shall, therefore, order the respondent to offer the employees who were laid off or discharged for their union activity immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights or privileges, and to pay such employees back pay for losses suffered by reason of the respondent's unlawful acts. We shall also order the respondent, upon application, to offer similar reinstatement to its employees who were on the pay roll on May 25, 1937, at its plants in the Canton, Massillon, Youngstown, Warren, and Cleveland districts, and who went out on strike on May 25 and thereafter, and have not since been fully reinstated.

Such reinstatement shall be effected in the following manner: Each employee ordered reinstated shall be entitled to reinstatement to his former or a substantially equivalent position in the plant where he was employed at the time of his lay-off or discharge, or at the time of the strike. In the case of those employees who were laid off or discharged, all employees hired after such lay-off or discharge shall, if necessary to provide positions for those to be reinstated, be dismissed; and in the case of strikers to be reinstated all employees hired after the commencement of the strike shall, if necessary to provide positions for those to be reinstated, be dismissed. If, thereafter, by reason of a reduction of force or otherwise, there are not sufficient positions available in any plant for the remaining employees plus those to be reinstated, all the employees in such plant, including those to be reinstated, shall be given equal preference for the available positions, and such positions shall be apportioned among the employees in accordance with the respondent's usual method of reducing its force, without discrimination against any employee because of his union affiliation or activities and following a system of seniority to such extent as has heretofore been applied in the conduct of the respondent's business. Those employees remaining after such reduction, for whom there are then no available positions, shall be placed upon a preferential list to be given employment at any of the respondent's plants, regardless of their previous place of employment, before other persons are hired.

ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent Republic Steel Corporation, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Dominating or interfering with the formation or administration of any labor organization of its employees or contributing financial or other support thereto;

(b) Discouraging membership in the Amalgamated Association of Iron, Steel and Tin Workers of North America or the Steel Workers Organizing Committee or any other labor organization of its employees, by discharging and refusing to reinstate employees, or otherwise discriminating in regard to hire or tenure of employment or any form or condition of employment or by threats of such discrimination;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Withdraw all recognition from the Plan of Employee Representation, and its successors—the Employees' Representative Association and the Independent Association of Republic Employees at Massillon; the Plan of Employee Representation, and its successors—the Employees' Representative Association, and the Steel Workers Union of America, and the Plan of Representation of Employees at Canton; the Plan of Employee Representation, and its successors—the Employee Representation Plan, and the Independent Federation of Republic Employees at Youngstown; the Plan of Employee Representation, and its successor—the Employees' Independent Association at Warren; the Plan of Employee Representation, and its successor—the Employees' Representative Association at Cleveland; the Central Council of Employee Representatives; and each of them, as the representatives of any of its employees at its plants in the Massillon, Canton, Youngstown, Warren, and Cleveland districts, respectively, for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work; and completely disestablish the foregoing labor organizations as such representatives;

(b) Offer to Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, and George Troyanovich (group A); Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (group B); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, Fred Korecky, (group C); Harry Rigby, John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, Anthony Martin de Long, Richard John Green, and Hallie P. Hite (group D); in the manner provided in the section entitled "The remedy" above, immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority and other rights and privileges;

(c) Make whole the persons named in paragraph 2 (b) above, and each of them, for any losses of pay they have suffered by reason of the respondent's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group A, from the date of their lay-off or discharge until the date when the strike began, and again from the date on which operations in their departments began after the reopening of the plants involved to the date of the offer of reinstatement as provided herein; in the case of group B, from the date of their discharge to the date of their offer of reinstatement prior to the strike, and again from the date of this Order to the date of the offer of reinstatement as provided herein; in the case of group C, from the date of the lay-off or discharge until the date of the strike, and again from the date of this Order to the date of the offer of reinstatement as provided herein; in the case of group D, from the date of the refusal to reinstate until the date of the offer of reinstatement as provided herein; less the amounts, if any, which each earned during said period;

(d) Make whole the employees of the Canton tin plate mill who were employed on May 4, 1937, for any loss of pay they have suffered by reason of the closing of the Canton tin plate mill on May 5, 1937, by payment to each of them, respectively, of a sum equal to that which each of them would normally have earned as wages during the period from May 5 to May 24, 1937, less the amount, if any, which each has earned during said period;

(e) Make whole the employees of the Massillon Works, who were employed on May 19, 1937, for any loss of pay they have suffered by reason of the closing of the Massillon Works on May 20, 1937, by payment to each of them, respectively, of a sum which each of them would normally have earned as wages during the period from May 20 to May 23, 1937, less the amount, if any, which each has earned during said period;

(f) Upon application, offer to those employees at its plants in the Canton, Massillon, Youngstown, Warren, and Cleveland districts, who went on strike on May 25, 1937, and thereafter, and who have not since been fully reinstated to their former positions (except Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, George A. Bundas, Andrew J. Marsh, and Mike Spelich), in the manner provided in the section entitled "The remedy" above, immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights or privileges;

(g) Make whole all the employees in the foregoing districts who went on strike on May 25, 1937, and thereafter (except Charles Byers, Sidney Watkins, A. C. Scott, John Barowiec, George Bundas, Andrew J. Marsh, and Mike Spelich) for any losses they may suffer by reason of any refusal of their application for reinstatement in accordance with the preceding paragraph by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during the period from the date of any such refusal of their application to the date of the offer of reinstatement, less the amount, if any, which each, respectively, earned during said period;

(h) Post immediately in conspicuous places in its plants in the Canton, Massillon, Youngstown, Warren, and Cleveland districts, and maintain for a period of at least sixty (60) consecutive days, notices to its employees stating that the respondent will cease and desist in the manner aforesaid and that recognition is withdrawn from the labor organizations named in paragraph 2 (a) above as representatives of any of the employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, and that the foregoing labor organizations are completely disestablished as such representatives;

(i) Notify the National Labor Relations Board in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

Signed at Washington, D. C., this 8th day of April 1938.

J. Warren Madden
Chairman
Edwin S. Smith
Member
Donald Wakefield Smith
Member

(Seal) National Labor Relations Board

AFFIDAVIT AS TO SERVICE

District of Columbia, ss:

I, Bertram Katz, being first duly sworn, on oath saith that I am one of the employees of the National Labor Relations Board, in the office of said Board in Washington, D. C.; that on the 8th day of April, 1938, I mailed postpaid, bearing Government frank, by registered mail, a copy of the Decision and Order to the following named persons, addressed to them at the following addresses:

Mr. Lee Pressman
1106 Connecticut Avenue
Washington, D. C.

Mr. Luther Day
Day, Young and Veach
1420 Union Trust Bldg.
Cleveland, Ohio

Mr. H. C. Pontius
Lynch, Day, Pontius and Lynch
Canton, Ohio

Harrington, Huxley and Smith
1200 Mahoning Bank Bldg.
Youngstown, Ohio

J. G. Ketterer
First National Bank Bldg.
Canton, Ohio

Thomas Patton
Republic Building
Cleveland, Ohio

Steel Workers Organizing Committee
3600 Grant Bldg.
Pittsburgh, Pa.

Bertram Katz.

Subscribed and sworn to before me this 8th day of April 1938.

HAROLD G. WILSON,
Notary Public,
District of Columbia.

My commission expires May 15, 1941.
(Seal)

(Return Receipt cards of those named above attached.)

XI.

TELEGRAPHIC NOTICE TO COUNSEL OF BOARD'S INTENTION TO VACATE ORDER OF APRIL 8, 1938

May 3, 1938

Joseph W Henderson
Rawle & Henderson
Packard Building
Philadelphia, Pa

I advised you in open Court in the Third Circuit Saturday ~~last,~~ April 30, that the Board was considering vacating its Decision and Order issued April 8, 1938 against Republic Steel Corporation in Case No. C-184. The Board has today decided definitely to vacate its order. You are notified that order to this effect will be made tomorrow, May 4, 1938

CHARLES FAHY,
National Labor Relations Board.

XII.
NOTICE

(Dated and Issued June 9, 1938)

To: Joseph W. Henderson, Esq.
Rawle & Henderson, Esqs.,
Packard Building,
Philadelphia, Pennsylvania

Luther Day, Esq.,
Day, Young, Veach and LeFever, Esqs.,
1420 Union Trust Building,
Cleveland, Ohio

Thomas F. Patton, Esq.,
Republic Building,
Cleveland, Ohio

Mortimer S. Gordon, Esq.,
80 Broad Street,
New York, New York

Attorneys for Republic Steel Corporation

Lee Pressman, Esq.,
1106 Connecticut Avenue,
Washington, D. C.

Attorney for Steel Workers Organizing Committee

Frank T. Bow, Esq.,
Harter Bank Building,
Canton, Ohio

John P. Walsh, Esq.,
Renkert Building,
Canton, Ohio

Attorneys for Central Council of Steel Plants, Northern District, Republic Steel Corporation

Please take notice that on Tuesday, June 14, 1938, in *In the Matter of Republic Steel Corporation and Steel Workers Organizing Committee,* Case No. C-184, the National Labor Relations Board, unless sufficient cause to the contrary shall then appear, will vacate and set aside its findings and order in said case made April 8, 1938, for the purpose of further proceedings before the Board.

NATIONAL LABOR RELATIONS BOARD,
By NATHAN WITT,
Secretary.

Dated at Washington, D. C. this 9th day of June, 1938.

AFFIDAVIT AS TO SERVICE

District of Columbia, ss:

I, Owen C. Fetters being first duly sworn, on oath saith that I am one of the employees of the National Labor Relations Board, in the office of said Board in Washington, D. C.; that on the 9th day of June, 1938, I mailed postpaid, bearing Government frank, by registered mail, a copy of the annexed notice of intention to vacate to the following named persons, addressed to them at the following addresses:

To: Joseph W. Henderson, Esq.
Rawle & Henderson, Esqs.,
Packard Building,
Philadelphia, Pennsylvania

Luther Day, Esq.,
Day, Young, Veach and LeFever, Esqs.,
1420 Union Trust Building
Cleveland, Ohio

Thomas F. Patton, Esq.,
Republic Building,
Cleveland, Ohio

Mortimer S. Gordon, Esq.,
80 Broad Street,
New York, New York

Lee Pressman, Esq.,
1106 Connecticut Avenue,
Washington, D. C.

Frank T. Bow, Esq.,
Harter Bank Building,
Canton, Ohio

John P. Walsh, Esq.,
Renkert Building,
Canton, Ohio

(s) Owen C. Fetters.

Subscribed and sworn to before me this 9th day of June 1938.

(s) Harold G. Wilson,
Notary Public,
District of Columbia.

My commission expires May 15, 1941.
(Seal)

(Return Receipt Cards of those named above attached.)

XIII.

OBJECTION BY RESPONDENT TO PROPOSED ACTION BY BOARD VACATING AND SETTING ASIDE ITS FINDINGS AND ORDER HEREIN

Now comes Republic Steel Corporation, respondent herein, and, having been notified by the Board that on Tuesday, June 14, 1938, unless sufficient cause to the contrary shall then appear, the Board will vacate and set aside its findings and order herein made April 8, 1938, for the purpose of further proceedings before the Board, objects to such proposed action by the Board upon the ground and for the reason that the Board has no jurisdiction, authority or power whatsoever to vacate and set aside its findings and order herein made April 8, 1938, for the purpose of further proceeding before the Board.

And the respondent says that it appears before the Board in this cause at this time solely for the purpose of filing this its objection to the proposed action of the Board as hereinbefore stated, and expressly reasserts and preserves all objections and exceptions of whatsoever kind heretofore made and entered by it in this proceeding.

Republic Steel Corporation,
Respondent.

By (s) Luther Day,
(s) Thomas F. Patton,
(s) Thomas F. Veach,
Attorneys for Republic Steel Corporation, Respondent.

Day, Young, Veach & LeFever,
Union Trust Bldg.,
Cleveland

XIV.

ORDER SETTING ASIDE FINDINGS AND ORDER

(Docketed June 14, 1938)

At a meeting of the National Labor Relations Board, held at its office in the City of Washington, D. C., on the 14th day of June, 1938.

Present: J. Warren Madden, Chairman
Edwin S. Smith, Member
Donald Wakefield Smith, Member

The Board having issued its findings and order in the above case on April 8, 1938; and the transcript of the record in said case not having been filed in any court; and the Board having given due notice that on this date, June 14, 1938, unless sufficient cause to the contrary should then appear, it would vacate and set aside its findings and order for the purpose of further proceedings before the Board; and no sufficient cause to the contrary appearing; and the Board desiring to take further proceedings in this matter:

It is hereby ordered that the findings and order of the Board in this case made April 8, 1938 be, and they hereby are, set aside; and that the Board shall take such further proceedings herein as it may be advised are necessary or desirable.

Signed at Washington, D. C. this 14th day of June, 1938.

J. Warren Madden,
Chairman,
Edwin S. Smith,
Member,
Donald Wakefield Smith,
Member,
National Labor Relations Board.

AFFIDAVIT AS TO SERVICE

District of Columbia, ss:

I, Owen C. Fetters being first duly sworn, on oath saith that I am one of the employees of the National Labor Relations Board, in the office of said Board in Washington, D. C.; that on the 14th day of June, 1938, I mailed postpaid, bearing Government frank, by registered mail, a copy of the Board's Order Setting Aside Findings and Order to the following named persons, addressed to them at the following addresses:

Joseph W. Henderson, Esq.
Rawle & Henderson, Esqs.
Packard Building
Philadelphia, Pa.

Day, Young, Veach and LeFever, Esqs.
1420 Union Trust Building
Cleveland, Ohio

Thomas F. Patton, Esq.
Republic Building
Cleveland, Ohio

Mortimer S. Gordon, Esq.
80 Broad Street
New York, N. Y.

Lee Pressman, Esq.
1106 Connecticut Avenue
Washington, D. C.

Frank T. Bow, Esq.
Harter Bank Building
Canton, Ohio

John P. Walsh, Esq.
Renkert Building
Canton, Ohio

(s) Owen C. Fetters.

Subscribed and sworn to before me this 14th day of June, 1938.

(s) John E. Lawyer,
Notary Public,
District of Columbia.

My commission expires September 8, 1939.
(Seal)

(Return Receipt cards of those named above attached)

XV.

MOTION BY RESPONDENT TO DISMISS COMPLAINT AND OBJECTION TO FURTHER PROCEEDINGS BY BOARD

(Docketed July 2, 1938)

Now comes Republic Steel Corporation, respondent herein, and moves the Board to forthwith dismiss the complaint herein and objects to any further proceedings upon the part of the Board in this cause, for the reason that the Board, having on June 14, 1938, set aside its order heretofore entered herein on April 8, 1938, is altogether without any jurisdiction, power or authority whatsoever to take any further proceedings herein.

And the respondent says that it appears before the Board in this cause at this time solely for the purpose of filing this its motion to dismiss and objection to further proceedings upon the part of the Board herein, and expressly reasserts and preserves all objections and exceptions of whatsoever kind heretofore made and entered by it in this proceeding.

Republic Steel Corporation,
Respondent.

By Luther Day,
Thomas F. Patton,
Thomas F. Veach,
Attorneys for Republic Steel Corporation, Respondent.

Day, Young, Veach & LeFever
1420 Union Trust Building
Cleveland

Luther Day
George B. Young
Thomas F. Veach
Earl W. LeFever
George H. Rudolph
Frederic S. Cross
Arno G. Erdrich

June 30, 1938.

National Labor Relations Board,
Washington, D. C.

No. C-184—In the Matter of Republic Steel Corporation and Steel Workers Organizing Committee.

Gentlemen:

Enclosed please find Motion to Dismiss Complaint and Objection to Further Proceedings by Board, which we are sending to you for immediate filing.

In the event the Board overrules this motion and objection by the respondent, will you kindly advise us if, as and when you determine to take further proceedings in this case, so that, in behalf of the respondent, we may take whatever action we deem advisable to protect its interests before such further proceedings are had.

Very truly yours,

Day, Young, Veach & LeFever.
Attorneys for Republic Steel Corp.

LD S
CC to Robert B. Watts, Acting General Counsel,
National Labor Relations Board, Washington, D. C.

XVI.

ORDER DENYING MOTION BY RESPONDENT TO DISMISS COMPLAINT AND OBJECTING TO FURTHER PROCEEDINGS BY THE BOARD

(Issued July 8, 1938)

The Board having on April 8, 1938 issued its Findings and Order in the above-entitled matter and on June 14, 1938 having set aside said Findings and Order and the respondent thereafter having moved the Board to dismiss the complaint herein and having objected to any further proceedings on the part of the Board in this cause, and the Board having duly considered the matter,

It is hereby ordered that said motion be, and it hereby is, denied, and that said objection be, and it hereby is, overruled.

Dated, Washington, D. C. this 8th day of July 1938.

By direction of the Board.

Nathan Witt,
Secretary.

(Seal)

XVII.

ORDER DIRECTING ISSUANCE OF PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND PROPOSED ORDER, AFFORDING OPPORTUNITY TO FILE EXCEPTIONS AND BRIEFS, AND SETTING ORAL ARGUMENT

(Docketed July 8, 1938)

The Board having issued its Findings and Order in the above-entitled case on April 8, 1938, and having on June 14, 1938, set aside said Findings and Order, it is hereby

Ordered, pursuant to Article II, Section 38 (d), of National Labor Relations Board Rules and Regulations—Series 1, as amended, that Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order shall be issued in said case, and that the parties herein shall have the right on or before August 6, 1938, to file with the Board exceptions and briefs in support of such exceptions; and it is further

Ordered, that a hearing be held before the National Labor Relations Board on August 11, 1938 at 10 a. m. in Room 326, Shoreham Building, 15th and H Streets, N. W., Washington, D. C., for the purpose of oral argument upon any exceptions filed and upon the issues raised by the pleadings and evidence in said case, and that the parties herein shall have the right to appear and be heard if they so desire.

Dated at Washington, D. C., this 8th day of July 1938.

By direction of the Board:

Nathan Witt,
Secretary.

(Seal)

XVIII.

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF THE NATIONAL LABOR RELATIONS BOARD

(Issued July 8, 1938)

Mr. Mark Lauter, Mr. Lawrence Hunt, Mr. Oscar Grossman, Mr. Joseph A. Hoskins, for the Board.

Mr. Luther Day, Mr. Thomas F. Veach, Mr. Arno Erdrich, of Day, Young, and Veach, Cleveland, O.; Mr. J. G. Ketterer, Canton, O.; Mr. H. C. Pontius, of Lynch, Day, Pontius and Lynch, Canton, O.; Judge Charles F. Smith, Mr. David E. Jones, Mr. Harry S. Manchester, Mr. R. D. Huxley, and Mr. George Renner, of Harrington, Huxley, and Smith, Youngstown, O.; and Mr. Thomas Patton, Cleveland, O., for the Company.

Mr. Lee Pressman, for the S. W. O. C.

Mr. Allan R. Rosenberg and Mr. Robert Burstein, of counsel to the Board.

PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW and PROPOSED ORDER OF THE NATIONAL LABOR RELATIONS BOARD

(Issued July 8, 1938)

Statement of the Case

Upon charges and supplementary charges duly filed by Steel Workers Organizing Committee, herein called the

S. W. O. C., the National Labor Relations Board, herein called the Board, issued its complaint, dated July 15, 1937, against Republic Steel Corporation, Cleveland, Ohio, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

In respect to unfair labor practices the complaint in substance alleged (1) that during August 1936 and the period from February to May 1937 the respondent discharged and refused to reinstate certain named individuals employed at its plants at Youngstown, Canton, Massillon, Warren, and Cleveland, Ohio, for the reason that they joined and assisted the S. W. O. C. and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection; (2) that on or about May 5, 1937, the respondent locked out and refused to reinstate almost all of its employees at its tin plate mill in the Canton plant, and that on or about May 12, the respondent locked out and failed to reinstate a considerable number of its employees at its Massillon plant, for the reason that they joined and assisted the S. W. O. C. and engaged in other concerted activities for the purpose of collective bargaining and other mutual aid and protection; (3) that on or about May 26, 1937, by reason of the aforesaid acts of the respondent and its refusal to enter into a written agreement with the S. W. O. C. the employees of the respondent at its various plants went out on strike, which strike continued to the date of the issuance of the complaint; (4) that the respondent compelled a considerable number of employees at its Warren plant to remain at their jobs within the plant, and threatened to discharge such employees if they left the plant and joined the employees on strike, and further refused to reinstate certain named employees at its Warren plant, and sought to compel others to return as new employees with the loss of former positions and seniority rights, for the reason that they left the plant during the progress of the strike and joined and assisted the S. W. O. C.; (5) that between June 23 and July 2, 1937, the respondent discharged and refused to reinstate to their former positions certain named individuals employed at its Youngstown plant for the reason that they joined and assisted the S. W. O. C. and engaged in concerted activities for the purposes of collective bargaining and other mutual aid and protection; (6) that the respondent dominated and interfered with the formation and administration of certain named labor organizations at its Youngstown, Warren, Canton, Massillon and Cleveland plants; (7) that the respondent threatened its employees at its Youngstown, Warren, Niles, Canton, Massillon and Cleveland plants with discharge if they joined or assisted the S. W. O. C., and by its officers and agents followed and brutally attacked organizers of the S. W. O. C. at its plants in Cleveland, Youngstown and Warren; (8) that the respondent immediately prior to and after the commencement of the strike increased the number of its police force in its various plants and used such police for the purpose of interfering with the right of its employees peacefully to picket the plants and for the purpose of intimidating its striking employees; (9) that the respondent, in collusion with the aforesaid labor organizations dominated and controlled by the respondent, before and after the commencement of the strike called upon its employees at their homes and elsewhere in Youngstown, Warren, Canton, Massillon, and Cleveland, and intimidated and coerced them into signing so-called back-to-work petitions and other petitions, upon threat of the loss of their jobs; (10) that the respondent maintained extensive arsenals at its plants in Youngstown, Warren, Niles, Canton, and Cleveland for the purpose of interfering with, restraining and coercing its employees in the exercise of their rights to self-organization, and interfered with the right of its employees peacefully to picket its plants by shooting at them and throwing bolts and other dangerous missiles at them; and (11) that by these and other acts the respondent interfered with, restrained and coerced, and is interfering with, restraining and coercing, its employees in the exercise of the rights guaranteed in Section 7 of the Act.

Copies of the complaint and notice of hearing to be held on July 21, 1937, at Washington, D. C., were duly served upon the respondent and the S. W. O. C. Pursuant to this notice, on July 21, 22, 23, and 24, 1937, a hearing was held in Washington, D. C., before the Board. At the outset of the hearing, the respondent moved to adjourn and transfer the hearing to Cleveland, Ohio. The Board denied this motion, but granted the respondent until August 4, 1937, to file its answer to the complaint. Thereafter, without waiving any of its objections to jurisdiction, the respondent participated in the hearing.

In its answer, dated August 2, 1937, the respondent denied the allegations of unfair labor practices alleged in the complaint, denied that the employees named in the complaint were engaged in interstate commerce, admitted that its employees went out on strike, but denied that they went out on strike for the reasons alleged in the complaint, and alleged that the strike was called by the S. W. O. C., acting pursuant to the direction of Committee for Industrial Organization, wtihout any cause or justification and solely for the selfish advantage of those committees in an attempt to gain control of the employees of the respondent and generally of all steel company employees. The answer further alleged, inter alia, that at the time the strike was called there was no labor dispute between the respondent and its employees, and no difference as to wages, hours, and working conditions; that a large percentage of the respondent's employees did not go on strike but remained at work and that others returned to work promptly after the Ohio National Guard had been called out to protect them while going to and from the respondent's plants, against assaults, violence, coercion and intimidation on the part of the strikers and of the S. W. O. C. and its agents and representatives; that none of the alleged unfair labor practices complained of interfered with the respondent's operations, caused a labor dispute or affected or tended to affect commerce; that the Board has no jurisdiction to hear and determine assault and battery and felonious assault cases; and that the complaint was so indefinite as not to inform the respondent of the issues to be met, and therefore further proceeding thereunder was a denial to the respondent of due process of law.

Thereafter, pursuant to notice, the hearing was continued before John T. Lindsay, the Trial Examiner duly designated by the Board. Hearings were held from August 9 to August 12 in Canton, Ohio, from August 21 to August 24 in Youngstown, Ohio, on August 27 and August 28 in Cleveland, Ohio, from September 1 to September 16 in Canton, Ohio, from September 17 to September 21, in Youngstown, Ohio, and from September 23 to September 27, in Cleveland, Ohio. The Board, the respondent, and the S. W. O. C. were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing upon the issues was afforded to all parties.

During the hearing, the Trial Examiner granted a motion by counsel for the Board to amend the complaint by striking therefrom the names of certain employees alleged to have been discriminatorily discharged or refused reinstatement. At the close of the Board's case, the respondent moved to dismiss the complaint on the grounds that the alleged unfair labor practices did not affect interstate commerce and were not established by the evidence. The Trial Examiner denied the motion. At the close of the respondent's case, the Trial Examiner granted a motion by the attorney for the Board that the complaint be conformed to the proof adduced during the hearing.

During the course of the hearing, the Trial Examiner made numerous rulings on motions and objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On January 21, 1938, the respondent filed a motion with the Board for leave to introduce additional evidence, or in the alternative, to submit and have incorporated in the record as a part thereof, an offer to prove with relation to the evidence so excluded. On March 28, 1938, pursuant to an appropriate order of the Board, the respondent submitted its offer to prove.[1]

On April 8, 1938, the Board issued findings of facts and an order in the case. On April 18, 1938, the respondent filed in the United States Circuit Court of Appeals for the Third Circuit its petition to review and set aside the order of the Board. On April 30, 1938, in open court, counsel for the Board notified the Circuit Court that the Board was considering vacating its order and on May 3, 1938, the Board notified the respondent that it had definitely decided to do so on the following day. Before the Board could vacate its order pursuant to this notice, the Circuit Court on May 3, 1938, issued a rule directing the Board to show cause on May 13, 1938, why it should not be required to certify and file in the Circuit Court a transcript of the record in the proceedings before the Board; at the same time the Circuit Court issued an order restraining the Board from taking any action in the case until the return day of the rule. On May 6, 1938, the Board filed with the clerk of the Circuit Court its motion, returnable May 9, 1938, for the vacation of the restraining order. The Circuit Court took the motion under advisement. On May 13, 1938, the Circuit Court made absolute the rule of May 3, 1938, requiring the Board to file a certified transcript of the record, and enjoined the Board from taking any further steps or proceedings in the case until the record was filed. On the same day the Board duly presented to the Supreme Court of the United States its petition for writs of mandamus and prohibition directing the Circuit Court to vacate its order of May 13, 1938, and prohibiting that Court from exercising any jurisdiction upon the petition of the respondent to review and set aside the Board's order without affording the Board a reasonable opportunity to vacate its order. On May 31, 1938, the Supreme Court rendered its opinion holding that the Circuit Court lacked jurisdiction to enter the order of May 13, 1938, and stating that, in view of the expression of willingness by the Circuit Judges to vacate the order of May 13, 1938, if the Supreme Court deemed said order to have been entered without jurisdiction, the issue of the writs prayed by the Board was supererogatory. On June 7, 1938, the Circuit Court, in compliance with the opinion of the Supreme Court, entered its order vacating the order of May 13, 1938. On June 14, 1938, the Board, having duly notified all the parties, entered its order vacating and setting aside its findings and order of April 8, 1938, and directing that such further proceedings be taken in the case before the Board as the Board may be advised are necessary or desirable. On June 27, 1938, the Circuit Court upon motion of the Board, dismissed the respondent's petition to review and set aside the order of April 8, 1938.

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[1] The Trial Examiner took under advisement, without ruling on their admissibility in evidence, Respondent's Exhibits Nos. 16, 17, 18 (sample ballot; certification of the result of a poll conducted by the Canton Chamber of Commerce among the respondent's employees in Canton to determine whether they wished to go back to work or stay out on strike; and a printed handbill, allegedly distributed by the Union, urging non-strikers to join the strike within the next 12 hours "after that your safety will be your own responsibility.") These exhibits will be admitted.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent, Republic Steel Corporation, is a New Jersey corporation with its principal executive offices in Cleveland, Ohio. Its total assets as of 1936 were valued at $343,950,000. On May 1, 1937, the respondent and its subsidiaries employed 59,282 persons, 40,172 of them in the Ohio plants.

The respondent has developed an organization which is highly integrated from the mining of ore and other raw materials to the manufacture and distribution of a widely diversified line of finished products. In a registration statement filed with the Securities and Exchange Commission on October 21, 1936, the respondent described its business as follows:

> "The registrant (Republic Steel Corporation) is primarily an operating company, but certain divisions of its business are conducted through subsidiaries. It is engaged in the manufacture and sale of a diversified line of iron and steel products and ranks as the third largest steel company in the United States, having an annual ingot capacity of approximately 6,053,000 tons. The products of the registrant include pig iron, semi-finished steel, alloy steels, special steels, billets, bars, pipe, hot and cold rolled sheets, and strip, tin and terne plate, bolts and nuts, fabricated material and other products. It is a leading manufacturer of alloy steels, including stainless steel and high tensile

steels, and is an important producer of steel for the automobile industry and of electrically welded pipe."[2]

The respondent and its subsidiaries—36 in number—operate numerous manufacturing plants. The principal iron and steel producing, manufacturing, and finishing plants which are in operation or have been operated within a recent period are located at Youngstown, Warren, Cleveland, Canton, Massillon, Niles, Campbell, and Elyria, Ohio; Brooklyn and Buffalo, New York; Chicago and Moline, Illinois; Hartford and Unionville, Connecticut; Pittsburgh and Beaver Falls, Pennsylvania; Gary and Muncie, Indiana; Monroe, Michigan; Cumberland, Maryland; Minneapolis, Minnesota; Birmingham and Gadsden, Alabama; Los Angeles, California; and Hamilton, Ontario, Canada. The respondent obtains more than half of its requirements of iron ore and coal from its own mines and the balance from the mines of companies in which it has an interest and by purchase from others. The respondent and its subsidiaries own or hold under lease extensive iron ore properties in Michigan, Minnesota, and Alabama; and coal properties in Pennsylvania, Kentucky, and West Virginia.

We are concerned in this case particularly with the Ohio plants of the respondent located at Massillon, Canton, Youngstown, Warren, Niles, and Cleveland. With respect to these plants, both the outgoing shipments of iron and steel products and the incoming shipments of raw materials are preponderantly interstate in character. Thus, at the Canton works, shipments of products to points outside of Ohio for the year 1936 aggregated in value $19,717,266.36, whereas the shipments to points within Ohio aggregated $6,704,783.29; at the Massillon works, the respective aggregates were $17,533,026.74 and $4,823,432.13; at the Youngstown works, $25,321,814.36 and $5,176,815.58; at the Warren works, $24,014,830.69 and $11,891,949.34; at the Niles works, $754,829.05 and $2,932,243.42; and at the Cleveland works, $14,523,006.98 and $7,485,938.65.[3]

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[2] Board's Exhibit No. 108. The acquisition of Gulf States Steel Co. in April 1937 further strengthened the respondent's position as the third largest producer of steel in the United States. It provided the respondent with a well-integrated unit located at Gadsden, Alabama, having annual production facilities for about 400,500 tons of ingots, 297,600 tons of finished hot roll steel products, and finishing facilities for turning out large amounts of wire and wire products, nails and staples, sheets, and miscellaneous products used chiefly in the southern market.

The respective aggregates in value of the principal raw materials which originate outside of Ohio and those which originate within Ohio are approximately as follows: Canton—$7,681,335 and $3,907,721; Massillon—$5,312,093 and $1,567,287; Youngstown—$15,395,589 and $1,762,342; Warren—$5,961,680 and $1,397,822; Niles—$122,542 and $71,276; Cleveland—$13,685,764 and $3,706,148.[4]

II. THE UNION

While the record contains no detailed evidence relating to the structure and function of the Steel Workers Organizing Committee and the Amalgamated Association of Iron, Steel and Tin Workers of North America, we have found upon numerous occasions in other cases, and the record as a whole in this case makes clear, that these organizations are labor organizations affiliated with the Committee for Industrial Organization.[5]

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[3] These products include semi-finished carbon, carbon bars and bar products, stainless sheet and strip and miscellaneous alloy, alloy bars, electric weld pipe, butt weld pipe, lap weld pipe, semi-finished alloy, sheets, hot rolled strip, hot rolled strip sheets, cold rolled strip, cold rolled strip sheets, miscellaneous scrap, and northern pig iron.

[4] These raw materials include coal, iron, ore, limestone, sinter, scrap, ferro manganese, ferro silicon, nickel, vanadium, molybdenum, chrome ore, tin, spelter, dolomite, fluer spar, brick, acid, clay, lime, fuel oil, moulds and tools, pyrites, magnesite, sand, soda ash, crushed silica rock, ganister and flue dust.

[5] Matter of *Jones and Laughlin Steel Corporation,* Case No. C-57, 1 N. L. R. B. 503; Matter of *Wheeling Steel Corporation,* Case No. C-3, 1 N. L. R. B. 699; Matter of *Fansteel Metallurgical Corporation,* Case No. C-235, 5

III. THE UNFAIR LABOR PRACTICES

All the plants of the respondent are operated as part of a single, integrated business, and its labor policy in each plant is directed from a single source. The unfair labor practices alleged in the complaint relate to the respondent's plants in the Massillon, Canton, Youngstown, Warren and Cleveland districts. We take up in order the events occurring in each of these cities.

A. Massillon

The respondent and its wholly owned subsidiary, Union Drawn Steel Company, operate two plants in or near Massillon: the Massillon Works (Central Alloy District) located in Stark County, just outside the city limits, employing approximately 3200 employees; and the Union Drawn Steel Company plant located in the City of Massillon, at some distance from the Massillon Works, and employing approximately 450 employees.

We turn first to the Plan of Employee Representation and its successors at the Massillon Works—the Employees' Representative Association and the Independent Association of Republic Employees. Against this background we consider the organizing campaign of the S. W. O. C., the strike which began on May 25, 1937, the Back-to-Work movement, the activities of the Law and Order League of Massillon, and the tragic history of the July days of the strike.

N. L. R. B. No. 124; Matter of *Petroleum Iron Works Company*, Case No. R-255, 3 N. L. R. B. No. 77; Matter of *Lunkenheimer Company*, 4 N. L. R. B. No. 131; Matter of *Combustion Engineering Company, Inc.*, R-242, 5 N. L. R. B. No. 61.

1. *The Plan of Employee Representation and its successors,—the Employees' Representative Association and the Independent Association of Republic Employees*

In June 1933, the respondent prepared and introduced in its Massillon Works "A Plan of Employee Representation." Similar plans were introduced at the same time in its other plants and in the steel industry at large. The formal outlines of the Plan were contained in the Articles, drawn up by the respondent and distributed to the employees at the time of its inauguration. As expressed in the Plan, its purpose was to provide "an orderly and expeditious procedure for the prevention and adjustment of any future differences, to insure justice, maintain tranquillity and promote the common welfare."

The Plan functioned through Joint Committees, composed of representatives of the employees and Company representatives named by the management. The Employee Representatives were elected annually on the basis of one representative for every 200 employees in each department.[6] All the Employee Representatives elected throughout the Massillon Works constituted the General Body of Employee Representatives. After each annual election the General Body chose members for four standing committees. These committees, with the addition of Company Representatives who might equal but could not exceed in number the Employee Representatives, constituted the Joint Committees.

If an employee was unable to adjust a grievance with the foreman of the work on which he was engaged, he might take the matter up either in person or in writing through his Employee Representative, first with the superintendent concerned, second with the Management Representative,[7] third with the management, which either tried to effect a settlement or, with the approval of all the parties, referred the matter to the proper Joint Committee. If, thereafter, the dispute had not been satisfactorily settled within a reasonable time the employee through his Representative or the management through the Management Representative might require the matter to be referred to the Joint Appeals Committee, which, in its turn, attempted to effect a settlement. If this failed, the Plan provided that the President of the Company should be notified and the matter referred to arbitration, "if the President and a majority of the Employee Representatives on the Joint Appeals Committee agree to such reference."

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[6] Only employees who were 21 years of age or over and who were American citizens, were eligible to be Employee Representatives.

The Plan also provided that the Company should defray all the expenses of the operation of the Plan, including the pay of Employee Representatives. No provision, therefore, was made for dues or for the office of treasurer. Likewise there was no provision for membership in the Plan, all employees having the right to vote for Employee Representatives, and no provision for general meetings of employees. Finally, the Plan could be amended only by two-thirds vote of the entire membership of the Joint Committee on Rules, Ways, and Means, or by concurrent majority vote of both the General Body of Employee Representatives and the Representatives of the Management at an annual conference.[8]

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[7] The Management Representative was appointed by the management to facilitate close relationships between the management and the Employee Representatives. He was to respond to requests from Employee Representatives; to attend, but not vote at meetings of the Joint Committees; to refer for the management any matter to any committee of Employee Representatives, and refer to the Management any matter presented by a committee of Employee Representatives. Upon the joint approval of the Chairman of the General Body of Employee Representatives and the Management Representative depended the right of all committees and of the General Body of Employee Representatives to hold special meetings or regular meetings at any other time than that provided for in the Plan.

[8] During the fall of 1936, a Central Council, composed of Employee

Under these provisions of the Articles the respondent retained full control over the operations of the Plan. No amendment was possible without the respondent's approval. No matter could be referred to arbitration unless the respondent agreed. Not only was there no provision for meetings of employees as a body, but in fact the employees were precluded from any direct concern with the functioning of the Plan. All the expenses, including the time spent by Employee Representatives at meetings or adjusting grievances, were met by the respondent. Even the right of the General Body and all committees of Employee Representatives to hold special meetings or regular meetings at any other time than that provided in the Plan, depended on the approval of the respondent. Thus behind its outward semblance of democratic procedure and its announced purposes of insuring justice and promoting the common welfare, the Plan was shrewdly designed to foreclose genuine collective bargaining and to fix firmly in the hands of the respondent an indisputable control over its employees.

From start to finish, the Plan was the respondent's own. The respondent prepared it, inaugurated it, and continued it in effect for almost four years, without ever submitting it, for acceptance, alteration or rejection, to a vote of its employees. Further, the respondent lost no opportunity, through statements of its officials and otherwise, to impress upon its employees the virtues of the Plan and to exhibit its opposition to "outside unions."[9] Thus the respondent dictated the type of representation and "collective bargaining" it was willing to allow its employees to have.

Representatives selected by the General Body of each of the respondent's plants, was informally instituted. All of its expenses were borne by the respondent. In March 1937, at meetings of the Central Council in the respondent's offices in Cleveland, a revision was proposed and amendments adopted, formally incorporating the Central Council in the Articles of the Plan.

[9] Further evidences of the respondent's domination over the Plan are discussed *infra*.

The following incident illustrates the manner in which the Plan operated:

At the regular monthly meeting of the General Body of Employee Representatives, held in the respondent's Industrial Relations Building on September 22, 1936, a request was made to the Management Representative for a general wage increase of the employees of the Massillon District. "Mr. Portz (then District Manager for the Central Allo. District, Canton and Massillon Works) discussed this item in detail and stated it was impossible for Management to grant this request. He also stated that when all conditions warrant this item will be given consideration."

On November 6 the Massillon newspapers carried an announcement of a general wage increase for the Massillon District. On the following day, Portz called a special meeting of the General Body of Employee Representatives and announced that effective November 16, 1936, wage rates would be increased 5½ cents per hour in the lower wage brackets. Despite the fact that "there was some kick . . . because they hollered about the newspapers having it before the representatives had it," the General Body went through the solemn procedure of voting on a motion that the wage increase be granted. The motion was carried. Such was collective bargaining under the Plan.[10]

On April 13, 1937, the day after the Supreme Court upheld the constitutionality of the Act, Carl Myers, Acting District Manager of the Canton and Massillon Works, summoned the General Body of Employee Representatives to a meeting in the Industrial Relations Building of the Massillon Works and announced that the respondent would withdraw financial support from the Plan. After Myers left the room, the Employee Representatives immediately formed "The Employees Representative Association."

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[10] A similar incident occurred in March 1937.

Nick Linckenhely and Nathan Brown, chairman and secretary of the General Body of Employee Representatives under the Plan, were chosen by the Employee Representatives as president and secretary of the Association. Paul Hoffman, an Employee Representative under the Plan, was chosen treasurer. For their attendance at this meeting, the Employee Representatives were paid by the respondent.

The same committees which had existed under the Plan continued as committees of the Association. Linckenhely testified that the committees "kept on functioning the same as before, that is, committees seeing the foremen about grievances and superintendents"; that the committees continued to be paid by the respondent for handling grievances, "the same as before"; that the committees circulated application cards for membership in the Association throughout the plant and elsewhere on company property, during working hours, on company time; and that the Employee Representatives adopted and used as the constitution of the Association the Plan as amended on April 22, 1937.[11]

The history and nature of these amendments reveal the extent to which the Plan and the Association were subject to the domination of the respondent. At a conference of the Central Council of Employee Representatives in the respondent's offices at Cleveland on March 8, 1937, the question of amending the Plan was discussed but deferred for later consideration. Shortly afterwards E. L. O'Connell, temporary secretary of the Central Council, submitted a proposed revision of the Plan to the Employee Representatives from the various plants and to the respondent's vice president in charge of operations and its Director of Industrial Relations at Cleveland. This revision contained minor changes, of a kind calculated to diminish, but in no way to remove, the respondent's control.

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[11] The Plan apparently continued in existence under its original name, at least at other plants, after the formation of the Association at Massillon.

Soon after the submission of the proposed revision to the respondent, the decisions of the United States Supreme Court upholding the constitutionality of the Act were handed down. The proposed revision was then further altered. In its final form the amended Plan, while omitting certain of the most obvious practices forbidden by the Act, retained the same general structure. Articles dealing with the pay of Employee Representatives and the holding of Central Council meetings in the respondent's general offices were eliminated. The Joint Committees were abolished, though the four committees of Employee Representatives remained. Any matter might be referred by a committee of Employee Representatives to the management through the Management Representative; and the management through the Management Representative might require a grievance which had not been satisfactorily adjusted to be referred to the proper committee of Employee Representatives. Requests for changes in rates of pay were to be considered closed upon a decision of the proper committee of Employee Representatives and the management, unless an appeal was filed in writing by an employee or his Representative with the Management Representative within a period of 3 days after the decision was rendered.

Although the General Body of Employee Representatives was to elect a treasurer, no provision was made for initiation fees, dues, or funds for the payment of any expenses which might be incurred.[12] Employee Representatives continued to be elected on a basis of one for every 200 employees in each department, and meetings of the General Body of Employee Representatives and of the committees were to be held monthly thereafter. No provision was made for meetings of the membership at any time and membership continued to be automatic.[13]

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[12] There is some evidence that dues of two dollars a year were to be fixed at some future date, but the record contains no evidence that dues were collected by the Employee Representatives or contributed by the employees.

The record does not disclose the circumstances under which the final draft of the proposed revision was prepared or approved. It does appear, however, that mimeograph copies of the Plan as amended, identical for the Massillon and Canton plants, were circulated shortly after April 22, 1937. It was stated in the preamble of the amended Plan that the amendments had been "adopted." Since under the Plan the adoption of amendments required the approval of the respondent, it is a fair inference that the amended Plan—accepted as the constitution of the Association—was, at the very least, approved by the respondent before becoming effective.

As under the Plan, no meetings of the membership of the Association were ever held and the members never participated in or had a voice in its affairs. Pressure by the respondent in favor of the Association and against the outside Union continued as it had under the Plan. Thus Peter Mouyios, as we find below, was laid off on May 3 because of his refusal to join the Association. Again Russell Eckroad, a head rougher in the hot mill, testified that near the end of April at a meeting in the mill of 28 head roughers, Superintendent Alvin Smith, after mentioning a decrease in orders, and the high cost of production at the Massillon Works, said "that he thought everybody was satisfied with the company representation plan . . . if the C. I. O. organization would come in here, that there was still a good chance of not working . . . that possibly it would shut down the plant. If it did not, we would work only one or two days a week after that." Andrew Evans, sheet mill superintendent, announced that he agreed with Smith; and then foreman David Lewis spoke: " 'Boys,' he says, 'we all been working good. We have all been drawing nice pay . . . If this thing happens, if C. I. O. comes in here, and there is a strike in this plant, and this plant shuts down, a lot of you boys are going to lose your homes, your automobiles and you won't know where your next bite is coming from.' "

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[13] As stated above, it appears from the testimony of Linckenhely that, despite the absence of any provision for membership, the committees of the Association did attempt to obtain signatures to membership application cards.

The respondent did not call Smith, Evans, or Lewis as witnesses and made no showing as to their unavailability. It did seek to rebut Eckroad's testimony through Arthur Kemp, another employee present at this meeting. Nevertheless, in the light of Smith's speeches on another occasion, referred to hereafter we are inclined to credit Eckroad's version. Even on Kemp's version, however, it is clear that the respondent's supervisory officials were attempting to coerce the employees into joining the Association and not joining the S. W. O. C.

Despite the respondent's efforts to use the Plan and the Association to thwart self-organization among its employees, the S. W. O. C. continued to gain ground in the Massillon plant. On May 25, 1937, the employees at Massillon went out on strike. Throughout the strike the chief figures in the Plan and the Association played leading roles in the Back-to-Work movement. These matters are discussed at length hereafter and we pass now to the formation of the Independent Association of Republic Employees upon the reopening of the plant in July.

On July 6, 1937, the day on which he returned to work, Nick Linckenhely, Chairman of the General Body of Employee Representatives under the Plan, President of the Association, and the leading spirit in the Back-to-Work movement, called a noon hour meeting of 16 employees, in the pipe shop of the Massillon Works, to form a successor organization to the Association. Linckenhely testified that he sent for the 16 employees before and during working hours. Four Employee Representatives, in addition to Linckenhely, attended. Because of the odium attached to the use of the word "Representative" in the title of the Association, the committee of 16 decided to name the new organization the Independent Association of Republic Employees, pursuant to a suggestion made at one of the Cleveland meetings of the Central Council of Employee Representatives held under the Plan. The committee of 16 also elected as temporary officers the same Employee Representatives who had been officers under the Plan and the Association. With the formation of the Independent, the Association disappeared from the scene.

Later a new set of permanent officers was elected, none of whom, except Linckenhely, the vice chairman, appear to have been officers or Representatives in the predecessor organizations. Twenty-seven Employee Representatives, called the committee of 27, were also elected, on the basis of one for every 200 employees, "to have a way of dealing with the Company, representing the men." Many, if not all, of those elected had been Employee Representatives in the predecessor organizations and active in the Back-to-Work movement. On August 2 and 3, at the call of the chairman of the Central Council of Employee Representatives, the officers of the Independent met in Cleveland to discuss the adoption of a constitution and bylaws. As of September 13, the constitution and bylaws had not been adopted. At the time of the hearing, the Independent claimed to have a membership of approximately 2400, of whom approximately 1900 had paid their initiation fees and dues.

Like its predecessors the Independent was merely the creature of the respondent. The committee of 27 was allowed to obtain dues, initiation fees, and signatures to membership cards in the plant during working hours. Notices of further meetings of the Independent were posted in the plant. In addition, the respondent's officials took an active part in coercing employees to become members of the Independent.

Sherman Ebbert, a member of the Union who returned to work on July 12, testified that on that day, Ralph Ebberly, a head loader, approached him during working hours and asked him to sign a membership card in the Independent. He said "it was all right, because it was a union amongst the employees, only it was to keep out any other outside union, and I asked him if it was compulsory and he said yes it is." He said "If you do not join it, we will throw you over the fence." Ebbert promised to give Ebberly an answer later. On the next day, during working hours, Ebberly again asked Ebbert to join the Independent. When Ebbert refused, Ebberly summoned a crowd of 15 or 20 men, including Paul Hoffman, one of the committee of 27, who told Ebbert that unless he joined the Independent, they would refuse to work with him. Ebbert then went to see Peppard, general superintendent of the billet department. "He (Peppard) said 'I understand you are having some trouble with the boys.' And I said 'They claim they will not work with me unless I join their union.' And he asked me why I did not want to join . . . 'Well,' he said, 'the boys said they won't work with you unless you sign the union card . . . By God, we are going to work around here and I ain't going to let no one man hold up the work . . . Now you can go home and think it over. When you decide to do what the boys want you to do, you can come back and go to work.' " As Ebbert was leaving the plant Peppard sent for him, told him that he had straightened the matter out for the time being, and said that he might return to work. Later in the evening, Ebberly called Ebbert away from his work and announced that "the boys have decided they don't want you to come out to work tomorrow." When Ebbert replied that he had been told by Peppard to return to work, Ebberly said "You will have to fight it out with the boys then." As a result, Ebbert signed a membership card in the Independent. On August 6, however, he voluntarily left the plant because he "didn't like the way they was pushing things around there."

George Allen, a crane man employed by the respondent for 12 years and a member of the Union, who returned to work on July 8, testified that one afternoon during the second week of his return, Thomas Burkhart, treasurer of the Independent, asked him to sign a membership card in the Independent. On the next afternoon, when Allen stated that he had not yet made up his mind, Burkhart said, "If you do not sign this card, the men are going to refuse to work with you and the foreman is not going to do anything about it." Later, Don Lyman, a motor inspector, from whom Allen took orders, advised Allen to sign the membership card in the Independent within the next 2 or 3 days if he wanted to keep his job. On July 27 a committee, consisting of two motor inspectors and 11 or 12 other employees, none of whom worked with Allen, presented him with an ultimatum, "You are either going to sign this card and line up with us or you are going to get out on a picket line with the C. I. O." When Allen refused to sign, the 15 took a vote on the question of whether or not they wanted him to work. John Irwin, a steel foreman, announced the results of the ballot as 12 to 3 in favor of Allen's not working. Another man was assigned to Allen's crane. Allen then appealed to Andrew Evans, superintendent of the hot mill, who sent him to several other supervisory employees. Finally, Allen spoke to Jim Kelvey, head foreman over the electricians, and told Kelvey that the men had taken his job because he would not sign a membership card in the Independent. Kelvey replied "I can't do anything about that . . . I give you a quit slip if you want to quit." Allen replied that he did not want to quit, that the men had taken his job and put another man on it. Kelvey promised to investigate the matter within the next few days. At the hearing on August 12, Allen testified that he had not yet heard from Kelvey.

The record is plain that, except in name, the Independent was identical with the Plan and the Association. It was formed, at least ostensibly, by the Chairman of the Plan and the President of the Association. The leading figures were Employee Representatives under the Plan and the Association. It met to adopt its constitution at the call of the chairman of the Central Council of Employee Representatives of the Plan. It replaced the Association, which disappeared upon its advent, and occupied the same place in the respondent's plant as its predecessors. As Linckenhely himself testified:

> "The men wanted it (the Association) abolished on account of the name . . . That is the only reason we changed the name and formed a new one."

Like its predecessors the Independent was dominated and controlled throughout by the respondent. It was formed on the respondent's property, received the respondent's favors, grew through the respondent's coercion. Further, even aside from actual interference by the respondent with the Independent itself, the Independent could not, in view of the circumstances under which it arose, be considered free from the respondent's influence and control. The leading figures in the Independent were a group of employees plainly under the respondent's domination and known by the employees to be so dominated. The successor to the Plan and the Association could not, by a mere change in name, be freed from the effects of the respondent's previous actions. In addition, the Independent was established under other conditions of flagrant interference with the rights of self-organization, described hereafter. Such an organization; formed in such an atmosphere, could not be considered to represent the free choice of the respondent's employees.

Upon the basis of the entire record we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation at the Massillon plant and of its successors, the Employees' Representative Association and the Independent Association of Republic Employees, and has contributed financial and other support to them.

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2. *The discharge of Peter Mouyios*

On May 3, 1937, during working hours, Employee Representative "Happy" North approached Peter Mouyios, a chipper in the billet department, and asked him what union he wished to represent him. When Mouyios replied that he did not wish to be represented by any union, North said, "Well, I got a card here I am going to fill out for you." Despite Mouyios' insistence that he would not sign or accept the card, North filled it out, signed Mouyios' name, detached the stub, and left it with a fellow employee, from whom Mouyios retrieved it before the hearing. The card, which is in evidence, is an acceptance of membership in the Association. A comparison of Mouyios' signature written at the hearing with his purported signature on the card leaves no doubt that Mouyios' purported signature is not genuine. Mouyios testified that this entire incident took place in the presence of foreman Lefty Hilbert, that an hour and a half later, Hilbert came to where Mouyios was working and told him to go to see Peppard, and that Peppard then laid him off. When Mouyios protested that there were many men in the billet shed with less seniority who were not being laid off and offered to point out such men, Peppard looked at a little book and replied, "Well, I cannot help that."

The respondent contends that Mouyios was laid off, in the regular order of seniority, because of a general reduction in force of approximately 180 chippers. With this contention we cannot agree. Foreman Hilbert testified that he had submitted to Peppard a complaint from Mouyios that two men with less seniority had been retained and Peppard had shown him a service record, according to which it appeared that both men had been hired before Mouyios. Hilbert stated that the chippers had been laid off, on the basis of a list in Peppard's office, starting from the bottom of the list, but that he did not know whether or not the chippers at the bottom of the list were junior in seniority to the rest, and did not know of his own knowledge whether seniority had been followed. Similarly, Lauriston Miller, a general foreman in the billet and finishing department, testified that he was given a list by Peppard of chippers to be laid off, but did not know whether or not the seniority rule had been violated. It thus appears that Peppard was the only person whose testimony would rebut that of Mouyios. The respondent, however, did not call Peppard as a witness and made no showing as to his unavailability. Although Mouyios did not become a member of the Union until a week after his lay-off, we think it clear that the real reason for his lay-off was his refusal to join the Association.[14]

3. *Background of the strike; the lockout at the Massillon Works*

In this atmosphere of company unionism and hostility to outside unions, the S. W. O. C. in June 1936 began its campaign to organize the employees of the respondent. Headquarters were established in Canton, approximately eight miles from Massillon, and organizers were sent out to obtain members among the employees in the Canton-Massillon area.[15]

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[14] At the time of his lay-off, Mouyios was earning 62½ cents an hour, plus a bonus, which brought his hourly rate to approximately 72 cents an hour, and had been working 3 or 4 hours a day for 5 days a week. Since May 3 he has not earned any money.

On July 2, 1936, the respondent issued the following notice:

"Republic Steel Corporation
and Subsidiaries

"General Offices Republic Building, Cleveland, Ohio

"TO OUR EMPLOYEES:

"We are making the following statement so that you will know the attitude of Republic toward the recently announced campaign for unionization of the steel workers.

"The leader of this drive is John L. Lewis, head of the Coal Miners' Union. He is not connected with the steel industry. He has enlisted the help of other organizations not connected with the steel industry . . . Representatives of radical and communistic groups are helping in this movement. William Z. Foster, chairman of the Communist Party, has announced his support. Foster was the leader in the unsuccessful attempt to unionize the steel industry in 1919.

"WHAT DO THEY WANT?

"John Lewis and his organization want more workers to *pay them more dues*. . . . If they could organize the steel workers they hope to collect $5,000,000 a year from them. Republic employees alone would pay over half a million dollars. Furthermore, they could place dues and assessments at any figure they liked and steel workers would have to pay them.

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[15] The Canton and Massillon Works are apparently classified by the respondent for administrative purposes as one region, the Central Alloy District, which is under the supervision of a single District Manager.

"The real aim of the present organization drive is to establish a closed shop. They want to force you into the union and make you pay for the right to work. Under a 'Closed Shop' every man has to pay his dues to the union whether he wants to or not. If he gets behind in his dues, they can throw him out of the union. By this threat they can keep the dues rolling in.

"One of the announced purposes of this drive is to throw out your Employee Representatives whom you have elected for collective bargaining with the management. The union wants to destroy all Employee Representation Plans in the steel industry.

"Your Employee Representation Plan is not run by outsiders. It works. Under your plan, you select your own Employee Representatives—men you know and with whom you work. Under a union you would be represented by outsiders who may know little or nothing about your problems, your management, or the steel industry. Furthermore, you would have no choice in their selection. You would have to accept any bargain they made for you. You would have to pay money to be dictated to by somebody you did not even know.

"WHAT ARE THEIR METHODS?

"The methods customarily used by professional union agitators and organizers are force, coercion, and intimidation of workers and their families. They threaten to call a strike to force men to join their union. They try to force mills to stop operation and keep men from their work for months at a time. They do this to scare men into their union whom they know do not want to join the union.

"WHAT IS REPUBLIC'S STAND?

"Republic stands for the 'Open Shop' principle

"No employee has to join any organization to get or hold a job.

"Advancement depends on individual merit and effort.

"Republic will not permit any activities within its plant which will:

1. Interfere with the orderly conduct of its operations.

2. Stir up strife or discontent.

3. Threaten the peace and comfort of its workers and their families.

"*Every Republic employee owes a duty of loyalty to the Company so that its best interests may be served. Conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management will not be tolerated.*

(s) T. M. Girdler
Chairman and President
R. J. Wysor
Executive Vice President and General Manager
C. M. White
Vice President in Charge of Operations
H. B. Carpenter
District Manager."[16]

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[16] Italics supplied.

With this statement of the respondent's policy as a guide, we turn to the history of the union's attempt to organize the employees in Massillon.

From the outset, the organizers were followed and spied upon by paid agents of the respondent. Howard Porter and Guy L. Sweeney, S. W. O. C. organizers, testified that men in old clothes and with a one or two day growth of beard, whom they had previously seen in the uniform of company police at the Union Drawn Steel Company, trailed them almost every day for three or four months in all their organizing trips in Canton, Massillon, and even to Louisville and Navarre, Ohio, towns located several miles from Massillon. Among the automobiles driven by these men, the organizers recognized one, a Ford coupe bearing the 1936 Ohio license number E-12, usually driven by the same two men, which invariably followed them. These men made no attempt to conceal their activities. They took rooms in the Northern Hotel in Canton on the fifth floor below the rooms occupied by Sweeney and Porter.

> "Every time an organizer would step out of the hotel . . . this same car E-12 would be following us . . . There was always two, it was a coupe, 1935 Ford coupe . . .
>
> "Q. (By Mr. Lauter) They would always follow you in an automobile?
>
> "A. No, at times when we would leave the hotel and go out to breakfast, lunch, or dinner, if we were walking, or making a contact, they would always follow us there walking, because they always parked across from the hotel . . . I have had them follow me into the restaurant, back to the hotel, on the elevator, upstairs and back down again . . . They would follow me around in Massillon in making contacts. In other words, they would watch me, so that I would not get to see any

steel workers because I did not want to get any steel worker in trouble."

On one occasion, after a midnight meeting in a public park of the employees of the 18 inch bar mill of the Massillon Works, these same two men followed one Laughlin, an employee of the respondent who had expressed interest in S. W. O. C., to his home, and for several days afterward were seen parked there for hours at a time. On another occasion, these men, accompanied by 15 or 20 others, followed several S. W. O. C. organizers to a fish fry at Eagle's Hall in Massillon given by the employees of Union Drawn Steel Company, and succeeded in staying so close to the organizers that they had no opportunity to speak to any of the employees there. On a third occasion, Porter and Sweeney were followed by the men driving the Ford coupe with the license number E-12 to Louisville, Ohio, where they had gone to visit a prospective member. A black sedan with five men cut in ahead of them, half blocking the road; the Ford coupe stopped directly behind them. The organizers escaped from this *cul de sac* but were prevented from visiting their prospective member.

The activities of these men were reported to Sheriff Nist of Stark County, who informed the organizers that if the car followed them out of Massillon into Stark County again, he would arrest its occupants. On September 23, the two men driving the car with the license number E-12 followed Porter out of Massillon to Navarre, where he stopped at a filling station and telephoned to the Sheriff's office. In a few moments several deputy sheriffs in a cruiser car drove up, apprehended the two men, and took them to the County Jail, where they gave their names as Long and McCallister, stated that they were plant policemen at the Union Drawn Mill in Massillon and informed Deputy Sheriff Koellner that they "had business following this car, that it was special work assigned to them as policemen at the

Republic Steel Corporation." Porter sought to press charges against them, but was informed by the District Attorney at Canton that there was no law prohibiting such activities. The men then signed waivers, releasing the Sheriff from liability, and left. To all of this testimony, the respondent offered no evidence in rebuttal.

As a result of the respondent's known hostility to the S. W. O. C. and the constant and unconcealed shadowing of union organizers by the respondent's paid agents, the employees were afraid to be seen in the company of the organizers or even to permit them in their homes. At first, therefore, meetings were secretly held "out of town after night, out in corn fields, in parks, and different places where we thought nobody was watching us." Later, however, as more of the employees joined the S. W. O. C., meetings were held in the open; the membership grew; inroads were made even among the Employee Representatives. In December 1936, New Deal Lodge No. 1124 was chartered by the S. W. O. C.

While the respondent's police were thus engaged in shadowing union organizers, the respondent's foremen and supervisory officials were endeavoring by other means to combat the growth of union sentiment. Thomas Pastorius, an employee who had been approached to join the S. W. O. C., told Kenneth Poorman, a volunteer organizer for the S. W. O. C., "I am a foreman now, and as a foreman I am supposed to quash all talk of organization in the shop." Another employee was forewarned by a superintendent to expect the visit of organizers and "watch his foot". Joe Morton, a member of the S. W. O. C., testified that foreman David Lewis and Hayden Bright repeatedly warned him not to talk union to his fellow employees and stated that it was part of their jobs to break up this C. I. O. movement in the plant. Russel Eckroad, rougher in the hot mills, testified that the same David Lewis, after informing him that "Girdler will never sign a contract with the C. I. O.," mentioned something that had happened "up town" at the union hall. When Eckroad asked, "How do you know that?" Lewis replied, "That is all right how I know that. . . . We know things down here 10 minutes after they happen up town, no matter where it is."

In September 1936 Alvin Smith, general superintendent of the sheet mill, sent for Elmer Jordan, a helper in the sheet inspection department, and asked him what connections he had with the C. I. O. and John L. Lewis. Although Jordan was then a member of the S. W. O. C., he disclaimed any knowledge of the C. I. O., fearing that such an admission would result in his discharge. Smith then proceeded to lecture Jordan as follows:

> "Mr. Jordan, you know as well as I that the steel industry cannot be organized. He said, 'The Republic Steel Corporation has too much money for a thing like that to come in here.' He said you might organize the brick layers and carpenters, they are just a handful of men, but you will never touch Republic Steel. You know what happened down here a few years ago to the men who took an active part in the organization.[17] They lost their jobs. I think the best thing for you to do is lay off."

Several weeks later Jordan was again summoned to Smith's office, where Smith informed him that his work was becoming unsatisfactory.

> "He said, 'You are not on the job . . . Your foreman is complaining about your not working right, talking to the men too much.' He said, 'You are going to leave

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[17] In May, 1935, the Amalgamated Association of Iron, Steel and Tin Workers of North America, called a strike at the plant of the Berger Manufacturing Company, a wholly owned subsidiary of the respondent, in Canton, Ohio.

> the C. I. O. alone or you are not going to have a job here.' 'In other words,' he said, 'if they did, if they asked for recognition, we will shut this plant down, because we are operating now at cost.' "

Jordan testified that Smith again called him to his office in February 1937 and said:

> " 'I see that you did not listen to me when I told you before.' I said, 'I do not know what you are talking about.' He said, 'Well, I see you are one of the active men in the C. I. O. and you have guts enough to go in part of the mill and pass out papers and then come in and take your job.' 'I do, I absolutely have,' I said, 'I did not get paid for it. I am doing it for the benefit of the men in this plant.' He said ,'This plant is going to be shut down. The orders are getting low. We are going to shut this plant down. It seems you are all going to be out of a job.' He said, 'Mr. Chase (assistant superintendent) thinks a lot of you. We were talking here the other day and we were figuring on putting you on an inspection job which you are entitled to.' He said, 'If you keep this thing up that you are doing now, I cannot give you a job.' "

On March 17, 1937, there occurred an event of historic importance in the steel industry: representatives of the Carnegie-Illinois Steel Company, and other subsidiaries of the United States Steel Corporation, met, bargained collectively, and signed a contract with the S. W. O. C., covering wages, hours, and working conditions, and recognizing the S. W. O. C. as the representative of its members who were employees of those companies. On the day following the signing of this contract, the respondent called a special meeting at its Cleveland offices of "the Joint Committee of the Representatives of the Northern Steel Plants and the

Subsidiaries."[18] The minutes of this meeting, mimeographed and paid for by the respondent, and distributed to the Employee Representatives, read in part as follows:

> "Mr. White (respondent's vice president in charge of operations) addressed the conference and discussed Corporation labor relations with the Representatives.
>
> "Mr. Voss, Director of Industrial Relations, explained all about collective bargaining with the representatives of any group within the employ of our Corporation.
>
> * * * * * * * *
>
> "The Joint Session showed the efforts of our different units in combating the encroachment of outside groups. The Buffalo and Cleveland Units have a Security League. This league has members avowed to support and help sustain all the activities in connection with the Republic Steel Representation Plan.
>
> "*At this point, a motion was made and seconded that all the representatives of both the Steel and Subsidiaries back the Management in opposition to all outside labor organizations. This motion was carried unanimously.*
>
> "Another motion was made and seconded that each General Body within the Corporation develop methods best suited to their locality in fighting any coercion or intimidation in connection with labor organization. It was, also, suggested that each unit (Steel or Subsidiary) offer to each other the procedure or systems used in their localities to offset any efforts of outside groups.
>
> "Before adjournment, an exchange of thanks between Management and Representatives developed. A

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[18] This "Joint Committee" meeting appears to have been a meeting of the Central Council.

very fine spirit of cooperation was manifested by both to carry on under our present set up.''[19]

The results of this program of opposition to outside unions appeared almost immediately in those plants of the respondent involved in this proceeding. At Massillon foremen and Employee Representatives distributed petitions among the employees during working hours, stating, ''We, the undersigned, are satisfied with our present Plan and do not want interference from the outside C. I. O.'' In the hot mill Employee Representatives circulated a petition reading, ''We, the undersigned, are satisfied with the Representation Plan and the wages, hours and conditions of the mill.'' At first only two or three of the 60 or 65 men in the department signed it. The Employee Representatives then sent for foreman Lewis, who asked:

> ''What is the matter with you fellows, you do not want to sign this petition. Everybody up above has signed it. . . . Should I bring it down again? . . . If you boys don't sign this, the result of it will be that we won't work very long . . . if we don't sign this thing up and straighten it out like all the rest of the plants are doing, that when the company man went out on the road at the end of the month, he did not know whether he would get us any more orders or not.''

When Lewis returned with the petition, the men signed it.

At about the same time, the chippers in the billet department were told by their foremen to lay down their tools and report in groups of ten at a time to general superintendent Peppard's office. There the chippers were met by Employee Representatives, who copied their badge numbers on a slip of paper and informed them, ''We called you boys in here to sign, so that with your signatures fixed opposite your badge number that you are satisfied with the kind of employees' representation we got, this kind in the plant." Peter Demos, an employee, testified that he signed the petition under protest, because had he refused, his badge number would have remained on the paper without his signature, thus indicating his refusal to sign. A number of the chippers were apparently unable to read English. Employee Representative Pappas, without reading the petition aloud, explained it to them in Greek. A week or two later, Demos testified, "we saw in the local papers a news item that the employees of the Republic Steel Corporation, Massillon, rejected the C. I. O. and copies of this . . . petition were sent to the local authorities and to the state authorities to show that the employees were satisfied with the Representation Plan and they did not desire any outside interference from an outside union."

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[19] Italics supplied.

During March, Alvin Smith, general superintendent of the sheet mill, called special meetings of the employees in several departments and threatened them with the loss of their jobs if the respondent were forced to recognize the C. I. O. Joe Morton, a catcher in the hot mill, testified that at a meeting in the Truck Garage of the Massillon Works Smith stated "that he didn't want any of the members there to join the C. I. O., or to join any outside organization, that the Employees' Representation Plan had been very successful there, and that we had gotten our recent wage increases through the Employees' Representative Plan and that if the C. I. O. had to be recognized by the Republic Steel they would close down before they would recognize the C. I. O. The high cost of operating under a union contract would not let them work. He also stated that he would hate like hell to see grass growing in the streets of Massillon." Elmer Jordan, a helper in the sheet inspection department, testified that at another meeting in the Truck Garage, Smith "got up on a box . . . and he had a C. I. O.

membership card, and he read this card off that I accept membership in the Amalgamated Association. 'Now,' he said, 'boys, I want to tell you one thing, the coal miners, the Mine Workers of America, they will assess them five or ten dollars and take everything out of their pay that they want. That is what will happen to you. They are a bunch of grafters, communists, and they are reds . . . The first thing you can do if you want to hold your job is lay off of this organization . . . In other words, this company has been running in the red for the last three years merely making expenses. . . . Up in Monroe, Michigan, that plant they took over . . . can operate iron for half the costs they operate it here and save shipping costs.''

Although the respondent did not call Superintendent Smith as a witness, it sought through the testimony of others present at these meetings to rebut certain portions of both Jordan's and Morton's testimony. On the whole record, however, we are inclined to believe that Superintendent Smith made the statements reported by Jordan and Morton. Other testimony that Smith made statements of a similar character on other occasions stands entirely uncontradicted. Moreover, the respondent neither called Smith as a witness nor made any showing as to his unavailability. Even from the testimony of the respondent's witnesses, it is apparent that Smith mentioned the possibility that the mill would lose orders and warned the men not to join anything of any kind. Further, at approximately the same time, the respondent's District Managers in other plants were reiterating to meetings of Employee Representatives the respondent's announcement of policy made on July 2, 1936, that the Communist party was supporting the C. I. O., that John L. Lewis, President of the United Mine Workers, wanted to organize steel workers for the money involved, that the respondent stood for the open shop principle, was in favor of the Plan, and would not tolerate conduct which would disrupt what the respondent considered to be the satisfactory relations between the employees and the management. It would be curious, indeed, if the supervisory officials of the respondent explained the respondent's policy in a substantially different way from that in which the respondent's president had stated it.

Shortly after these meetings and within a fortnight after the signing of the Carnegie-Illinois agreement, the Union for the first time approached the respondent with a proposal for collective bargaining. On March 30, Clinton W. Golden, Regional Director of the S. W. O. C. for the Northeastern Region, wrote to Girdler, requesting a convenient date for a conference and enclosing a copy of a proposed agreement, identical in its principal terms with the Carnegie-Illinois agreement. The respondent did not reply.

On May 3 Golden addressed the following telegram to the respondent:

> "On March 30, 1937 we sent you standard collective bargaining contract with request for conference to discuss same stop No acknowledgment or other reply received to date stop Wide spread unrest among employees your company various mills prevails over uncertainty your position regarding signed collective bargaining contract stop This unrest accentuated result lay off several hundred union members your Canton and Massillon Works stop Unless we can have definite assurance from you with date for conference to negotiate written contract without further delay we shall be obliged disavow all responsibility union members in your mills remaining at work."

On May 5, J. A. Voss, Director of Industrial Relations, replied:

"Your request for a meeting to discuss signed contract has been referred to me for reply. In view of Wagner Act see no necessity for signed contract. The policy of this company has been and is now that it is willing to meet with anyone to bargain with him for whomsoever he represents. In conformity with this general policy the proper representatives of this company will meet with you at any time mutually convenient for collective bargaining purposes. Advise if Tuesday May eleventh my office Cleveland satisfactory for meeting."

On the following day, Golden wired back:

"Your wire fifth received stop Are we to understand you propose in lieu of signed collective bargaining contract that contracting parties commit provisions verbally agreed upon to memory and rely thereon for future reference whenever conferences are necessary to discuss grievances that may arise thereunder stop Do you further propose that management officials in the thirty five mills operated by your company and union grievance committeemen numbering two hundred as well as the sixty thousand employees also indulge in this memorizing process stop Is this your conception of orderly constructive methods of collective bargaining as contemplated by National Labor Relations Act stop If so we consider conference you propose for May 11 futile waste of time and energy stop Do you propose to accept terms similar to those in agreement signed by Carnegie Illinois Steel Corporation and approximately one hundred other companies with representatives of Steel Workers Organizing Committee without undertaking to affix your Company signature thereto stop."

A conference, nevertheless, was held between representatives of the S. W. O. C. and of the respondent in Cleveland on May 11. On the same day, the respondent issued the following statement:

> "TO OUR EMPLOYEES:
>
> "The following statement is being made so that you will know the attitude of Republic Steel Corporation toward the effort of the Committee for Industrial Organization (C. I. O.) to force the company to sign their union contract. In its effort to secure such contract, C. I. O. has threatened to call a strike.
>
> "You have a vital interest in this situation. It involves your right to work in peace and to support your family in comfort. We are not convinced that the C. I. O. contract is for the best interests of the employees or the Company. . . ."

After summarizing the letter of March 30, addressed by Golden to the respondent, and the telegrams of May 3, 5, and 6, the statement continued:

> "The C. I. O. made no complaints (at the meeting on May 11) relative to wages or hours of Republic employees. In spite of this, the Union demanded that the Company sign their Contract.
>
> "This is the only matter at issue and the Company at the May 11 meeting informed the C. I. O. representatives that it still believes it inadvisable to sign such contract from the standpoint of the employees and of the Company itself.
>
> "Among the reasons for this decision are:
>
> "1. Thousands of our employees, through their representatives, have protested against the signing of any agreement by the Company with the C. I. O. The employees of Republic now have a successful Plan for

collective bargaining in which plan a large majority of the employees participate.

"2. A study of the proposed contract wages, bonus, safety provisions, seniority rules and methods of handling grievances specified in the proposed contract are no more favorable than those now enjoyed by you.

"3. Both parties to a contract should be responsible. Republic is held by law responsible for acts of its officials. C. I. O. does not assume the same kind and measure of responsibility.

"4. The policy of Republic Steel Corporation is that NO EMPLOYEE HAS TO JOIN A UNION TO GET OR HOLD A JOB. Although the proposed agreement by its language does not disclose the ultimate objective of a closed shop, C. I. O. organizers have stated that the signing of the Carnegie-Illinois agreement 'will result in the complete unionization of the entire industry.' Republic does not believe in the closed shop principle.

"5. The signing of a C. I. O. union contract would be unfair to the workers who do not favor the Union as their collective bargaining agency and to those who prefer to deal for themselves individually with the Company. Coercion would be used by the Union in an attempt to force these workers into the Union against their wishes causing them to surrender, for all practical purposes, their rights to deal with the Company except through the C. I. O. on such vital questions as wages, hours, and working conditions.

"6. Such a step would disturb the present harmonious relations with our men and break down the mutual confidence which has existed in collective bargaining matters between the workers and management.

"7. The signing of C. I. O. contracts in other industries has not resulted in industrial peace. Notwithstanding signed agreements, sit-down strikes and other interruptions of work have occurred in the automotive and other industries.

"The policy of this company has been, and is now that it is willing to meet with any one to bargain with him for whomsoever he represents.

"Republic believes that every employee is entitled to determine for himself, free from discrimination, interference, restraint, coercion and intimidation by anyone, whom he wishes to represent him in the matter of collective bargaining. In view of the foregoing facts and because of the Wagner Act and recent decisions of the United States Supreme Court, Republic Steel Corporation sees no necessity for signing the C. I. O. contract.

"The Company is willing to bargain collectively with its employees as in the past. MEMBERSHIP OR NON MEMBERSHIP IN ANY ORGANIZATION IS NOT A REQUIREMENT OF EMPLOYMENT."

On the night of the conference, the Association held a mass meeting in the Main Office Auditorium of the Massillon Works. Employees on duty during this time were paid their regular wages by the respondent for attending, and a total of approximately 2,000 were present. Nick Linckenhely, the principal speaker, addressed the meeting over a loud speaker system; his main topic was "that the Employees Representation Plan had been so good, so successful in cooperating with the employees in the company in getting the present wage increases . . . that the C. I. O.

was not a fit organization to belong to, that if the Republic Steel was forced to recognize the C. I. O., they would have to close down the plant, on account of the high cost of operation, and that being an old mill, Massillon would be without the Republic Steel."

Despite the respondent's pressure upon its employees to force them into the Association, however, that organization, on its own estimate, was never able to obtain more than 1,100 applications for membership out of over 3,000 employees. As a method of organizing opposition to the Union the Association was a failure.

The respondent, therefore, resorted to a more direct method of attack. On May 20 it shut down all the mills in the Massillon Works, with the exception of the blooming mill, and locked out almost all its employees. The respondent contends that the shutdown and lock-out were not aimed at the union, but were caused by an emergency in the main turbo-generator unit which generates power for the use of the mills. T. J. Ess, a combustion engineer employed by the respondent, testified that at about 7 p. m. on the night of May 20 he received a call from the plant that there was trouble with the turbo-generator unit, that he went to the power house, saw the machine vibrating very badly, and after consultation decided that it was necessary to shut down certain units of the plant. At 10:45 p. m. power was switched off from all the mills of any consequence in the Massillon Works, except the blooming mill, and the mills remained shut for 3 days until May 23.

On cross-examination, however, Ess admitted that the respondent maintained a connection in the plant with the power service of the Ohio Public Service Company in order to take care of such a breakdown, and that power to run the mills could have been obtained from that company without even pulling a switch. It is therefore apparent that even if there was a breakdown in the turbo-generator unit, there was no emergency which compelled the respondent to shut down its mills.

On the other hand, the respondent had repeatedly threatened to close down the plant before it would grant recognition to the union. From November 1936 until a few days before the shut-down, in conversations, interviews, and meetings, Alvin Smith and Andrew Evans, superintendents in the sheet mill, and foreman David Lewis, had drummed into the ears of the employees that recognition of the C. I. O. would mean a shut-down of the plant. The chief selling point of the Association, as reiterated by the Employee Representatives to all comers, was—Join the Association or else—if Republic is forced to recognize the C. I. O., it will close down the plant.

Quite apart from these repeated threats and warnings, the uncontradicted testimony of Joe Morton, president of New Deal Lodge No. 1124, reveals the respondent's motive for the shut-down. On May 21 or 22 Morton met foreman Lewis on Main Street in Massillon:

> "Mr. Lewis said, 'I guess you will have enough of this strike when the company gets done with you.' I said, 'What do you mean "when the company gets done with me?"' He says, 'When we get through starving you out.' 'Why,' he said 'you won't want to strike'."

In the light of these facts and the respondent's failure to show any convincing business reason for its conduct, we are compelled to conclude that the respondent shut down its mills and locked out its employees for the purpose of intimidating and coercing them not to join or to discontinue their membership in the Union. The respondent thereby discriminated against its employees in regard to hire and tenure of employment and interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

To consider the lockout, however, as merely one more instance of the respondent's hostility toward the union would be to ignore the circumstances under which it occurred and the history of which it was a part. After the exchange of telegrams on May 6 and the breakdown of negotiations on May 11 between the S. W. O. C. and the respondent, the situation in Massillon was rife with unrest. At this critical time, the respondent saw fit to carry into execution its repeated threats to close the plant if the C. I. O. asked for recognition. In the long history of the respondent's campaign to crush the Union, this was the final blow. Under these circumstances, the union could not hope to preserve itself without immediate resort to action. At 11 p. m. on the night of May 25, pickets surrounded the plant and the strike began.

The respondent's activities after the lockout leave no doubt that it expected the strike and made preparations to meet it. On the morning of May 25, Carl Myers, acting District Manager of the Canton and Massillon Works called on Stanley W. Switter, Massillon's Chief of Police, told Switter that "they expected a strike at almost any time in the near future and wanted to know how the Police Department was able to handle the situation . . . how we stood and how many men we had. . . ." Later in the day, James A. Lewis, Service Manager of the Alloy Steel Division of the respondent, who had been in Detroit, Michigan, was informed by his office "that there was considerable talk about a strike taking effect that night" and made arrangements to get back as quickly as possible by flying from Detroit to Akron, arriving in Massillon at about 8

p. m. C. W. Cravens, one of the respondent's salesmen, who remained in the District Office with 85 other employees, including three cooks and seven telephone operators from May 25, for 15 days and 16 nights, testified that he came back from Akron to go into the office because he had heard rumors that there was going to be a strike, and that on the night of May 25 there were a number of cots in the District Office and a food supply "more than enough for 15 days and 16 nights." Several foremen and employees who remained in the Massillon Works after the strike was called also testified that they slept on cots which were already there, or which were delivered to the plant on the night of May 25.

4. THE STRIKE

Between May 25 and July 1, when Governor Davey ordered the Ohio National Guard into Massillon, the Massillon Works and the plant of the Union Drawn Steel Company remained closed. During this period, in preparation for the reopening of the plants, the respondent was engaged in a campaign to conscript the Massillon police department to break the strike.

Certain obstacles appeared to block the easy accomplishment of this objective. The Massillon police department was small and poorly equipped for the respondent's purposes. Of a total of 18 regular police, only 13 were available for strike duty and the department lacked a supply of tear and vomiting gas and other equipment considered essential to break a strike. Furthermore, all the city officials—Mayor Krier, City Solicitor Hardman, Chief of Police Switter, and the City Council—were insistent not only that the city could not afford to hire special police or buy extra equipment, but that the Massillon police must remain neutral and would not be used to break the picket lines. Finally, a large body of public opinion in Massillon supported both the strikers' cause and the attitude of the city officials.

The respondent began systematically to mobilize its forces and seek its allies to overcome these obstacles.

On May 26, the first day of the strike, a committee of six employees, met at Linckenhely's home and formed a Back-to-Work Committee. The members of this committee were either officers or Employee Representatives under the Plan and the Association.[20] During the strike other Employee Representatives and at least two foremen—Paul Rider, foreman in the billet shop, and "Chic" Immell, foreman in the blooming mill—joined the committee and took an active part in its work. Thus the Back-to-Work movement was organized by the very employees through whom the respondent had maintained its control over the Plan and the Association, and assisted by the respondent's foremen.

On May 27 or 28, the Board of Directors of the Massillon Chamber of Commerce organized a temporary committee composed of businessmen and citizens of Massillon with the announced purpose of acting as a clearing house for information with regard to the various phases of the strike situation as it affected the business community in Massillon. This committee later developed into a broader organization which came to be known as the Citizen's Committee, the Citizen's League, the Labor Relations Committee, or more commonly, the Law and Order League of

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[20] Nick Linckenhely, chairman of the General Body of Employee Representatives under the Plan and president of the Association; N. C. Brown, secretary of the General Body of Employee Representatives under the Plan and secretary of the Association; Paul Hoffman, Employee Representative under the Plan and treasurer of the Association; Henry Gonder, Sam Schilling, Don Burkhart, identified by Linckenhely as Employee Representatives under the Plan and the Association.

Massillon. Its most active members were D. W. Case, secretary of the Massillon Chamber of Commerce, Jonathan Lester, president of the Massillon Rubber Company, and Glen Lanham, manager of the Erie Chevrolet Sales Company.

These two organizations formed the spearhead of the respondent's attack. For the first two or three weeks of the strike, as workingmen demanding only the right to work and as citizens interested in preserving law and order, they presented to the public an unimpeachable front. Thereafter, behind this front, the respondent proceeded to manipulate these groups for its own purposes.

On June 9, Glen Lanham of the Law and Order League went to Chief Switter's office with the message that Carl Myers and Gordon Hess, the respondent's assistant sales manager, wanted to see Switter in Canton. City Solicitor Hardman, Switter and Lanham then drove to the Hotel Onesto in Canton where Myers was confined to his room as a result of having been shot by one of his company guards. Myers immediately launched into an attack upon the Chief and the city officials. "He wanted to know what the hell was going on over there; were we going to allow the hoodlums to run things and why they cut the telephone wires and why the hell we didn't take action such as the Chicago police did and put them where they belonged . . . they knew how to handle the situation, if we did not,[21] and if we didn't wake up, we wouldn't need what police force we had, we wouldn't need a chief of police and we wouldn't need a city solicitor and we wouldn't even have a first class post office; that Massillon would be a junction if that mill shut down, which it looked as if it would with the wires cut and they would have to evacuate the office . . ." Chief Switter replied that he had only 18 men and that "it was not our job (anyway), that we wasn't a strike-breaking outfit, and, furthermore, the mill was down in the country out of the city limits."

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[21] Myers was referring to the incident which occurred on May 30, 1937, in the vicinity of the respondent's plant in Chicago, Illinois, when the Chicago police dispersed a crowd of strikers and sympathizers, ten of whom were killed. See *The Chicago Memorial Day Incident*, Report (No. 46, Part 2) of the Committee on Education and Labor of the United States Senate, pursuant to S. Res. 266 (74th Congress), which makes the following findings with regard to this incident:

"We conclude that the consequences of the Memorial Day encounter were clearly avoidable by the police. The action of the responsible authorities in setting the seal of their approval upon the conduct of the police not only fails to place responsibility where responsibility properly belongs but will invite the repetition of similar incidents in the future."

Hardman testified with regard to Myer's remarks as follows:

> "Mr. Myers began asking what the people of Massillon were doing about the strike, what the police department was able to do, and what the businessmen were doing about it, whether or not they were interested in keeping the steel plant there. And he went on to say that if the steel plant moved out that they would not need a chief of police and they would not need a mayor and would not need a city solicitor. . . . Mr. Myers pointed out what a fine job the Chicago police had done."

At Myer's request, Switter agreed to remove certain records and evacuate from the main office certain employees who had remained there since May 26. In the course of this discussion, Myers stated that there were some arms and ammunition in the main office, which could be locked up in the vault, but "they wouldn't do anybody any good there." He proposed, instead, to give them to Switter as a start toward some equipment to help the police department "in any situation which might arise." Upon Switter's acceptance of this offer, Myers dictated a letter to Raleigh France, Chief Deputy Sheriff of Stark County, authorizing France, who was in charge of the main office, to turn the arms and ammunitions over to the Chief. "If you are going to turn this office over to Mr. Switter's protection," asked Lanham, "and moving out in the entirety, does that mean you are never going to open up this office in Massillon again and the plant in Massillon." "I did not say that," replied Myers, "I said that when enough men want to work in Massillon, we will open."

At 4 o'clock that afternoon, Switter placed the arms and ammunition with the office records in the trunk of a car, drove through the picket lines and delivered the trunk load to the respondent's agents. The arms and ammunition were not turned over to the Chief until later that evening. At 8 p. m., shortly after dark, pursuant to arrangements made with France, Switter drove to the Brookside Country Club, four miles north of Massillon, where Frank and Lieutenant Adler of the respondent's police force, under cover of darkness transferred to Switter three shot guns, six combination shells, three gas guns, and about 90 gas projectiles.[22] The respondent's first objective was accomplished: The Massillon police department was now adequately equipped.

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[22] On June 1, 1937, Federal Laboratories, Pittsburgh, Pennsylvania, manufacturers of tear and vomiting gas, had shipped to the Union Drawn Steel Company at Massillon the following material:

3	1½" cal. riot guns	@	$60.00	$180.
30	1½" cal. long range projectiles C. N. (tear gas)	@	7.50	225.
90	1½ cal. long range projectiles D. M. (vomiting gas)	@	8.00	720.
12	1½" cal. short range cartridges D. M.	@	6.00	72.
40	Grenades, Jumbo Triple Chaser D. M. 116 M	@	13.00	520.
35	Grenades, Jumbo Spedeheat D. M. 113 M	@	12.00	420.
1	Type "GB" gas mask			25.50
	Total			2159.50
	Less 10% on item # 1		18.00	
	Less 20% on items 2-3-4-5-6		391.40	
				409.40
				1750.10

On June 11, Carl Myers again summoned the city officials to the Hotel Onesto in Canton, to discuss the question of supplying food to 16 guards and 4 maintenance men that had remained in the plant. Myers told the city officials and Raleigh France, whom Myers had invited to sit in at the conference, that "they had about four or five days supply of food in the plant, that it was up to Switter and Frank to get food into the men, that the maintenance men were keeping the coke ovens hot, that if that battery of coke ovens was ruined it would be goodbye for Massillon, that they wouldn't ever start that plant again." Switter promised to see what he could do about getting the food into the plant.

On the following day Myers called Switter on the telephone and angrily protested against an arrangement, to which Switter had agreed, by which one Marshall, a company official, was to enter the plant, accompanied by two pickets, to inspect certain insurance and relief records. After this telephone conversation, Switter informed D. W. Case that Myers was agitated by the refusal of the Union to permit Marshall to enter the plant without an escort of pickets. Case offered to have J. Lester of the Law and Order League telephone Myers and "stall him off for a few days until we know what we are going to do." Case then communicated with Lester, who telephoned to Canton and reported that Myers had "consented to give him (Switter) two or three days to get himself into position, he

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10% excise tax on items 1-2-3 and 4	97.56
	1847.66

(Exhibit 1343-P, p. 5021, Volume 14, Hearings before the Subcommittee of the Committee on Education and Labor United States Senate, Seventy-fifth Congress, first session, pursuant to S. Res. 266).

wanted to put himself (Myers) in shape to really take charge."

On the following afternoon, June 13, at Case's request, Switter attended a meeting of the Law and Order League at the Chamber of Commerce. Switter was asked whether, if the money was raised, he would be willing to add the required number of police and purchase the extra equipment. Switter replied that he would not agree to this without the Mayor, but that if the Law and Order League would hold a further meeting, he would see to it that the Mayor was present. Switter testified, "They wanted to know how much it would cost to put on these police and how many we would need in order to maintain law and order and so on and how much equipment. They argued why the Mayor would not appoint the police and we threshed around for a couple of hours there and talked about the Monroe situation . . . Monroe, Michigan. . . . They said they done a good job up there; they smashed the picket lines up there and they deputized enough police to do it . . . that turned out to be the main topic of conversation."

On the next morning, Mayor Krier, Switter, Hardman, and Snyder, the safety director of Massillon, attended the meeting of the Law and Order League at the Chamber of Commerce. Switter testified, "They put the heat on the Mayor about appointing some special police . . . they wanted to know why he would not appoint more police . . . and he argued that the city was broke and did not have the money to do it. And this group said they could raise the money . . . $8000 to pay for 50 policemen for two weeks and the equipment considered necessary for the department . . . and finally he agreed to appoint them (but) if he took on the 50 police that not one of them would go to the picket line . . . (This) they did not like

. . . so well.'' After this meeting the League, which had raised approximately $1200, returned the money to the businessmen who had donated it.

Later that afternoon, Mayor Krier, Hardman, and Switter called on Myers at the Hotel Onesto in Canton and informed him that they could not get the food into the plant. Switter was the spokesman: ''We told him we wasn't going to, that we wasn't bringing any food down to them or to the pickets, either . . . because we figured it was not our job; it was over in the county and it was not up to us to get food down to them. We decided we wasn't going to have nothing to do with it. . . . And then he (Myers) lit on us and told us that it was a funny thing that a little town like Monroe could build up a police department big enough to get their mill operating again and control the situation and it was damn funny we couldn't do something. . . . He said that Massillon would be a prairie and it wouldn't need a mayor or safety director or any of us . . . he said he would take care of it himself that he wouldn't let those people sta .'' Hardman's testimony confirms and amplifies that of Switter: ''We talked about what it meant to Massillon, if Massillon would lose that plant, and there was danger of its being lost . . . he said that if the plant was lost, the people of Massillon and the officials would not be responsible for losing it and he thought they were not taking any interest in it and in seeing that the plant was reopened.'' With this, the conference ended.

On June 15, the respondent issued and distributed to its employees a statement signed by Tom M. Girdler which, after reciting that many of its plants were reopening, added:

''Movements similar to that which resulted in opening the Monroe plant are spreading rapidly in other affected communities. Employees kept from their jobs by mobs of armed pickets many of whom have never worked for Republic and citizens outraged by this defiance of law and decency by the C. I. O. are joining together to insist that law enforcement agencies compel the union to cease unlawful picketing.

* * * * * *

So, when you get all through, the present controversy sums up somewhat like this:

[Blackface type] Must Republic and its men submit to the communistic dictates and terrorism of the C. I. O.?

[Blackface type] If America is to remain a free country the answer is NO."

After this statement, the Back-to-Work movement, which had hitherto been relatively inactive, began its work in earnest. At first, Linckenhely testified, the Employee Representatives, assisted by foremen Paul Rider and Chic Immell, merely circulated petitions from house to house, asking their fellow employees to return to work; then began "the big move." On June 20 Linckenhely and the other Employee Representatives called on the members of the Law and Order League at the Chamber of Commerce for their assistance, and "they all talked about the Back-to-Work movement and how to find a way and means of trying to get the men back to work." On the following day, June 21, led by Linckenhely, Fred Becker, a metallurgist in the employ of the respondent, and foremen Rider and Immell, a crowd of approximately 300 men appeared at City Hall. "They stormed the City Hall," testified Switter, " . . . they demanded a meeting with the Mayor and I . . . they was all up in the air about wanting to go back to work and wanting me to give them protection . . . they demanded to know why I refused to accept this several thousand dollars that . . . the Law and Order League promised to raise . . . for the special police.'' A committee, with Linckenhely and Rider as spokesmen, then met in the Safety Director's office with the Mayor, Switter and Hardman. Switter urged the committee not to rush matters or to become so excited. He told them the money which the Law and Order League had promised had never been raised, and stated, in answer to their further questions, that he would refuse to accept it if it were raised again because he ''was not going to take on a gang of men to go down and break the picket lines,'' and that the picket lines were around the entrances to the plant beyond the jurisdiction of the city.

After similar remarks by the Mayor and Hardman, the city officials upon the demand of the committee addressed the rest of the group waiting in the lobby of City Hall. Switter told them ''to hold themselves a few days to give the Mediation Board at Cleveland . . . appointed by the President of the United States . . . a chance to do something before they started any back-to-work movement, and I told them then and there that I wasn't going to take any fifty greenhorn men and go down to the picket line under no consideration.[23] The Mayor also referred to the President's Mediation Board, called upon the members of the group not to be hasty and stated that they were foolish to get excited, that the plants would probably open within a few days, and that there was no use in going down to the picket lines and having a battle and losing more time than they would lose by waiting. ''Gentlemen'' he said, ''remember if we start such things it won't be one-sided,—

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[23] See *Report of the Federal Steel Mediation Board to Secretary of Labor Frances Perkins.*

there will be bloodshed on both sides. Be patient a few days. . . . We don't want any trouble or bloodshed down there."

On the afternoon of the meeting with the Back-to-Work Committee, the city officials drove to Canton to see Colonel Lawler, observer for the National Guard in the Massillon district, and, after discussing conditions in Canton, told him of the demands of the Law and Order League and the Back-to-Work movement and requested him to come to Massillon to observe the situation there. Lawler replied that he himself and other National Guard observers had been to Massillon and ridden around the picket lines and that from his observations, Massillon was in fine condition, everything was pretty peaceful, as peaceful as could be expected under strike conditions. Lawler and the city officials then discussed the activities of the pickets in carrying sticks and clubs, piling stones, and blocking roads. Lawler dismissed these activities as "technical" and stated that it would be impossible to argue over every little technical point of the law when an emergency such as a strike situation arose. He ended by complimenting the city officials very highly on the way in which they had been handling the situation, and stated that they had it well in hand.

The city officials then returned to Massillon to attend a meeting of the City Council, where Switter presented a request for additional police, on the ground that he was using some men in the strike zone that were needed in the city. The City Council rejected the request. "They was kind of cold on it," Switter testified. "We went into a meeting in the City Solicitor's office after the Council . . . a committee meeting. They told me not to get hot and bothered about it, it was down in the county, and it was up to the sheriff." "They immediately jumped us," Hardman added, "about not having the funds to spend, and they said there was no reason for the Chief to get all excited about it; to begin with the plant was in the county and it was up to the sheriff to do something about it."

Following the conference at City Hall on June 21, the Back-to-Work movement held a meeting, with about 450 present, at Willowdale, on June 22, and another meeting at Sippo Park with about 700 present, on June 23. Foremen Rider and Immell donated the use of their automobiles to assist Linckenhely and the other Employee Representatives and to transport employees to these meetings. At the Willowdale meeting, Linckenhely testified, Rider addressed the crowd and "talked in regards to the way they were kept out of the plant and that so many men came to him, wanted to know if anything could be done about getting back to work . . . and spoke along the line (of) making arrangements to go back to work." At the Sippo Park meeting, Rider spoke "in regards to the same line of work . . . of trying to urge the men along that wanted to get back to work."

On the same day that Linckenhely had discussed "ways and means" at the Chamber of Commerce, the Law and Order League had retained Elson Wefler and Franklin Maier as its attorneys. On June 25 these two attorneys, with Case, Lester, and other members of the League, came to City Hall and presented to the city officials a petition signed by a number of civic organizations and leading citizens of Massillon. After the petition was read aloud, Maier delivered a speech about the breakdown of law and order, demanded that the city appoint special police, citing its statutory authority to borrow money from banks for that purpose in an emergency, and accused the city officials of refusing to accept the money which the Law and Order League had raised. Maier also stated that Massillon was losing a pay roll of $40,000 a day and that "he had it straight that if something wasn't done the Republic was going to move their plant out of Massillon."

Switter retorted that there had been no breakdown in law enforcement, that he had received a number of "cock and bull statements, the same as they did . . . of fellows being afraid to go home and being in fights, and being beaten up" but that only a few persons had signed affidavits and filed complaints, and that in every one of these cases an arrest had been made.[24] Switter further denied that the Law and Order League had ever raised any money for special police and called upon Case, who confirmed the Chief's statement. When Hardman spoke, he deprecated the whole petition as "a grandstand play," defied the Law and Order League to prove its assertion that dynamite was being transported through the streets, and denied that the general safety of the city was in peril. Hardman added that the reference in Maier's speech to the loss by Massillon of $40,000 a day "smoked the situation out" and showed that the League was interested, not in law and order, but in protecting the businessmen.

Finally, Switter and Mayor Krier agreed to appoint some more men as special police and the Law and Order League agreed to assist them to borrow money for this purpose from banks in Massillon.

After the meeting, Switter, Case, and Hardman conducted two officers of the Ohio National Guard on a tour of the city to assist them in finding suitable quarters for the troops, if they were called in. The officers inspected a number of possible sites and finally selected an old lodging house owned by the city, which Case agreed to equip with refrigeration, gas, plumbing, and water connections, if it became necessary. Subsequently, such equipment was added, and the Chamber of Commerce received a bill for the cost, which at the time of the hearing it had not paid.

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[24] Switter testified that there had been fewer arrests during the strike than in normal times.

At about five-thirty that afternoon, Gordon Hess, the respondent's assistant sales manager, telephoned Switter at Switter's home that he had received information from the respondent's Canton office that between five and ten thousand Akron rubber workers and "Canton C. I. O.'s" were on their way to invade Massillon, and demanded to know what the Chief was going to do. After insisting that "it sounded like more bull we had heard about other invasions," Switter finally agreed to call out the police department. Hess stated that he "would have his gang over there to back (the Chief) up."

When Switter arrived at City Hall, he found a crowd of approximately 200, including foreman Rider of the Back-to-Work movement and a number of the respondent's employees. Rider asked Switter to put in a three alarm signal for the American Legion. When Switter disclaimed any such authority Rider went to the fire chief, who sounded the signal. The crowd in the meantime was steadily growing, until it reached a total of several thousand persons in a high state of excitement. At 7 o'clock, when Hardman arrived, "the atmosphere was very tense . . . so tense that I did not park my car in the business district but drove it out into the residential district so that if there was any trouble the car would not be damaged."

In the Chief's office, a crowd, including Hess, Rider, and J. Lester of the Law and Order League, had congregated. Lester asked the Chief if he wanted him to go home and get a shot gun. Hess "grabbed the telephone and called up the Canton office of the Republic Steel Company and wanted them to send somebody over to see the enthusiasm that Massillon was showing and what a crowd was backing up the Massillon gang to go back to work." After the call, Hess informed Switter than men from Republic Steel had already been over to see the crowd. Nevertheless Hess procured a newspaper reporter to take pictures of the crowd, telling Switter and Hardman that "it would be great to have a picture showing the enthusiasm of the group . . . so they could show the Republic Steel there was still some interest in Massillon and some life there . . . showing the Republic Company (that) Massillon wanted the steel mill there."

At about 10 o'clock the two National Guard officers who had been in Massillon earlier in the day came to City Hall and wanted to know the reason for such a crowd. When Switter informed them that a mass invasion of Massillon was threatened, they replied that their intelligence division could find no trace of any mass movement on Massillon and "for God's sake to break up that crowd before something happened." Switter then addressed the crowd, thanking them for being willing to back him up on any invasion on the city, and asked them to disperse. Several members of the American Legion approached Switter and Hardman after the meeting and wanted to know why and on whose authority they had been called out, and stated that they did not want to get mixed up in any strike controversy.

On June 27 or 28 Chief Switter asked the Civil Service Commission to certify to him a list of men eligible for appointment as special police. Of the seven certified, Switter chose six, rejecting the seventh because he was a former employee of the respondent, and choosing four other men of neutral feelings. The Massillon police force now had reached a total of 28.

On June 29 the Back-to-Work Committee, through the assistance of Case, obtained the use of a room on the ground floor of the Union Bank Building as a place where they could set up tables and register the number of employees who wished to return to work. On the following day the Back-to-Work movement began registration. When crowds formed and the police interfered, dispersing them, Linckenhely, Rider, and Case called upon Switter in protest. Case especially urged upon the Chief that a large majority of men, not concerned with the strike, wanted to put themselves on record as desiring to go back to work, "so that there could be some definite assurance given the Republic that if Republic wanted to open the plant, that it could be opened, there was men enough to operate." Switter informed them that he had no objection to their registering employees, but stated that he did not think it was a good idea to use the ground floor. Case then offered the Back-to-Work Committee the use of the offices and facilities of the Chamber of Commerce on the eighth floor of the Ohio Merchants Bank Building, where registration continued from June 30 until July 3. Two full-page advertisements were published in the *Massillon Independent,* over the name of the Back-to-Work Committee, announcing the place and purpose of its work. By July 3, the respondent claimed, over 2200 employees had signed the above-described petitions.

This was "the big move" for which the Back-to-Work movement claimed credit. Linckenhely testified, however, that the Law and Order League had agreed to pay for $75,000 worth of insurance which was to have been taken out to cover property damage to the Union Bank Building; that the League had paid for the mimeographing of the petitions; that the League had furnished without charge all the desks and facilities for the registration of employees; and that the League had paid approximately $100 for the advertisements of the Back-to-Work Movement in the *Massillon Independent*, although by agreement between the *Independent* and the Law and Order League, nothing in the advertisements indicated that they had been paid for by the League.

Although the question of whether the Back-to-Work movement represented a majority of the employees of the respondent's Massillon Works is not in issue in this proceeding, it is worth noting that among the alleged 2200 signatures are those of a large number of foremen, superintendents, and office workers, together with the signatures of several individuals who signed the same petition as often as four times. Furthermore, the record is plain that supervisory officials of the respondent directly participated in circulating and obtaining signatures to this petition. Thus William Norris, a millwright leader, testified that his general foreman, one Shoemaker, telephoned him to go to the Chamber of Commerce and sign the Back-to-Work petition. Judson Moody testified that his foreman, Ray Henry, called at his house and asked him whether he had signed the Back-to-Work petition. Wilbur Larker, an office employee, testified that he signed the Back-to-Work petition while working in the temporary offices of the respondent in Canton, and that he saw other employees sign the petition there. Nick Linckenhely testified in detail concerning the activities of foremen Rider and Immell as members of the Back-to-Work Committee. Switter testified that Gordon Hess referred to the Back-to-Work movement as his "gang" and sent them en masse to City Hall to back up the Chief on the fictitious invasion of Massillon.

Thus from beginning to end, the "big move" of the Back-to-Work Committee was in reality conducted from behind the scenes by the respondent and the Law and Order League. Like the discredited Employees Representative Association, of which it was merely a continuation, the Back-to-Work Committee was the creature of the respondent.

In the meantime on the night of July 1, Governor Davey had ordered General Marlin and four companies of the Ohio National Guard into Massillon. Despite previous arrangements to house the troops in the city lodging house, two companies were quartered in the main office of the Massillon Works and the other two in a school house overlooking the respondent's plant.

On July 2 the Massillon Works and the plant of the Union Drawn Steel Company reopened. On the same morning, at the request of Creighton, general manager of the Union Drawn Steel Company, Switter supplied city police in two cruising cars to escort the Company guards and a quantity of arms, ammunition, and tear and vomiting gas, into the plant. One of the Company guards furnished Officer Moore with a few gas candles or jumpers, which were kept in the police cruiser car. Though the plants were open, the strike was still effective. The respondent was preparing for the day when arms and ammunition would be needed.

On July 2, 3, and 4, and thereafter upon the solicitation of superintendents and foremen, who telephoned to the men and visited them at their homes, a number of employees returned to work. Although the record does not indicate the exact number of this group,[25] it is evident that, even under the guns of the National Guard, in the fifth week of the strike, despite the campaign of the Law and Order League and the Back-to-Work Committee, and despite the continued solicitation of foremen and superintendents, a large number of men preferred not to return to work but to remain on strike.

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[25] There is some testimony that approximately 2000 employees returned to work. It is not clear whether this figure included the employees of the Union Drawn Steel Company.

On July 5 General Marlin called a meeting of the city officials, told them that the troops were not going to be there forever, and stated that if they wanted the steel mill in Massillon, they would have to be prepared to take over the situation when the troops left. The Massillon Works, he warned them, was the last plant to reopen, and if they did not keep it open they would lose it. Marlin suggested deputizing and arming a group of men from the respondent's plant to be known as "home guards" who on their own time would patrol their respective precincts after work. No definite plan, however, was agreed upon at this meeting.

On the next afternoon a delegation from the Law and Order League, the Back-to-Work Committee, and the respondent called upon the city officials at City Hall to urge upon the Chief the necessity of appointing special police and home guards. The composition of this delegation reveals the close relationship between the organizations. Among those present were R. E. Peppard, superintendent of the billet shops, Perry Angstadt, the respondent's chief accountant, and one Blantz. These three men had been Company Representatives under the Plan. Case and Quigley were present on behalf of the Law and Order League. In addition there was also present Fred Becker, the metallurgist who had been a member of the Back-to-Work Committee since its inception. According to the testimony of Case, however, Becker, together with Peppard and Angstadt, represented the respondent.

Representatives of all three organizations joined in the discussion. Peppard, Angstadt, and Becker asked the Chief to select men from a list of names of 66 of the respondent's employees, which they submitted, to be appointed as special police to act under Switter's jurisdiction and to be paid by the city. Hardman and Switter examined this list, recognized the names of a number of men they knew, and rejected most of them as being too excitable to act as police officers during the strike emergency.

The delegation then requested that the Chief deputize a group of the respondent's employees as home guards and Peppard offered to furnish a further list of names. To this proposal both Switter and Hardman objected, as Case testified, on the ground that "it was probably undesirable to use anybody connected with Republic although they were men connected with the Back-to-Work movement . . . Hardman said if they did anything like that they should put some C. I. O. men on." The delegation argued that Canton had deputized the respondent's employees as home guards and that Massillon should follow suit. To prove this, Angstadt telephoned the respondent's office in Canton and then informed the city officials that "the city solicitor of Canton was down in the plant then swearing them in." Hardman and Switter, nevertheless, refused to accede to the delegation's request.

At this point there appears, most casually, upon the scene the principal character in the tragedy of bloodshed and violence that was to be enacted on the night of July 11. "During the meeting," testified Case, "Switter made the statement . . . of his inability to get any policemen who were competent and I made the suggestion to him . . . 'How do you stand with Captain Curley or Major Curley?' He said 'All right.' 'Well,' I said, 'I understand from one or two talks I had with Major Curley that there is a method by which you could get the type of people and kind of people that you want and that perhaps he would advise with you on the method.' And he says, 'Where is Major Curley?' "

The testimony is in conflict as to whether Switter then sent for Curley, or whether Curley had already interviewed Switter earlier in the day without any previous communication from Switter. There is no dispute, however, as to the fact that Case suggested Curley to the Chief as the man who would solve the problem of increasing the Massillon police department, or that on July 6 Curley called upon Chief Switter and offered his assistance in helping to secure men for the police force.

Case described Curley as a disinterested, public-spirited citizen, "a former Army officer . . . who had organized two companies in Massillon . . . for the world war, a very competent man along the lines of developing organization, also, a very influential member of the . . . American Legion." To this description of himself, Curley added that he had served in the Spanish American War as a private, in the World War as a captain and major, and was now retired with the rank of major. A disingenuous witness, whose testimony in many respects is contradicted by the testimony of other witnesses both for the Board and the respondent, and whose account of many of the events in which he participated is inherently improbable, he nevertheless furnished testimony which is indispensable to an understanding of the case.

On the evening of July 6 General Marlin, who had attended a meeting on the previous evening of the Law and Order League at J. Lester's home, called on Chief Switter. "He wanted to know why we were backing down and why we had not shown some signs of life in getting this group of . . . mill men they (Peppard, Angstadt, and Becker) certified to me . . . sworn in and getting ready to take over." Switter replied that he was "trying to get neutral men . . . and it was slow picking." "This is no time to pick up neutral men," Marlin answered, "you have to be ready to take this situation over. . . . I demand you have some plan to certify to me by tomorrow noon so I can report to the Governor." When Switter failed to agree with this, the General left in a huff.

Finally, on the following morning, the leading spirits in the Law and Order League descended upon the city officials. "They demanded we do something about this situation . . . why we had been passing the buck and why we refused to take the special police. They just climbed all over us and demanded some action be taken and threatened to impeach us, talked about getting rid of the Mayor. They talked about getting rid of the city solicitor and everybody else, and they wanted something done, wanted some action . . . (They) said we could get plenty of men there . . . Republic Steel men . . . and I told them that I didn't want those men, that if I was going to have any special police, I wanted to have men on neutral sides that had no argument in the strike."

> "Q. (by Mr. Hunt) What was the reply?
>
> A. They said the steel mill was at stake, the City of Massillon was at stake, as far as industry goes, and we would lose the biggest of our industry.
>
> Q. Did they ask you at this meeting if you would accept the assistance of Captain Curley in picking men to add to your police force?
>
> A. Yes they said they knew where to get men and he could help pick the men.
>
> Q. Did you finally agree to take the men right away?
>
> A. No, it got pretty hot in there for the next hour or so.
>
> Q. What do you mean it got pretty hot?
>
> A. Why they were climbing on us to take on these men and wanting a showdown and wanting to know why and fighting with us and asking all kinds

of things and saying all kinds of things against us, why we had done the way we did . . . and why we would not consent to it.

Q. Chief Switter, I have asked you so far merely a few questions about isolated meetings and conversations in the strike situation but weren't you subject to constant pressure throughout the day and night . . .?

A. I did, I worked sixteen, eighteen and twenty hours a day ever since the strike broke, and one time none of the department went home for four days and nights, four nights, only excepting a few hours sleep in the cruising car and I slept on the office floor and the whole department the same way, even the new rookies.

Q. So you were pretty tired at the meeting of this Law and Order Committee on July 7th?

A. We were pretty well pounded down by that time.

Q. By whom?

A. The law and order and the back-to-work movement.

* * * * * *

Q. What did you finally tell the group that you would do about putting on these extra police?

A. I told them that was up to the Mayor and the chief executive of the city to make that decision and they got after the old boy pretty hot and he kind of weakened for the time being and asked me again what we should do. Then they jumped on me and I told them I would give them the works, I would give them what they wanted, I would appoint the whole damn outfit, give them all the guns they wanted and let them go to it, it is coming, and God damn let them have it. . . .

Q. You could see what was coming?

A. That there was going to be a battle and bloodshed all around as soon as they put guns in those rookies' hands and we had been fighting against bloodshed all the time."

With this agreement reached, the Law and Order League invited the city officials to attend a luncheon that noon to which Case, at Curley's request, had also invited a score of the managers of Massillon's leading industries. Case opened the business of the meeting by announcing that Major Curley had been designated by the Mayor and Chief Switter to make a statement to them about some cooperation that the city very badly needed at that time. Curley then addressed the meeting. He stated that he had consented to render such assistance as he could to the city for the purpose of developing a special police force, totalling 66 men, which would restore law and order in Massillon; that there were a number of men employed in industries who were not connected with the strike, whom he felt would make good special policemen; and that if any of those present had any available men, "we would like to have them sent to us immediately." After this a discussion arose about home guards. Curley stated that he "did not believe that was the need in Massillon, he believed that what they wanted was some special police here for the purpose, who would be deputized and be under the direction of the Chief."

The last speaker was Carl Myers. "He lit on the Mayor and the city solicitor and I," testified Switter, "with all fours . . . He said he had not thought a hell of a lot of us until now and he thought we was beginning to get on the right track now and go along and do something." "He was glad to see the Mayor and Chief had wakened up . . .," testified Hardman, "he roasted them pretty heavily . . . he felt they had not been doing their duty . . . He said he loved Massillon and loved the Republic Steel Corporation.

. . . He dwelt on the fact that the Mayor and Chief had not enforced the law, that they had been asleep and not doing their duty." "The only thing I ever recall," added Case, upon cross-examination, "that Mr. Myers said at that meeting was somebody in the meeting insisted on the necessity of home guards, Mr. Myers made the statement that he felt the whole matter could be safely left with Major Curley, if he didn't need home guards, that was all up to him, *the whole situation could rest with him, he felt.*"[26]

After this meeting, the Law and Order League, its work accomplished, took no further part in the events in Massillon. We pause for a moment at this point to re-examine the role of the Law and Order League and the respondent's relations to it.

Almost from the beginning of the strike, the respondent had made it clear to the businessmen and officials of Massillon that the retention of the Massillon Works, and the very existence of Massillon, depended directly upon their success in breaking the strike. Thus on June 9 Carl Myers had asked Lanham what the businessmen were doing about the strike, whether or not they were interested in keeping the steel plant there, and had threatened Lanham and the city officials that unless Massillon furnished the same kind of protection the Chicago police had furnished, the respondent would move out, and Massillon would be a junction, without even a first class post office.[27] On June 25, the day the Law and Order League presented its petition to the city officials at City Hall, Franklin Maier, attorney for the League, informed Hardman that he "had it straight" that unless something was done, the Republic was going to move their plant out of Massillon. At the conference with Chief Switter on the morning of July 7, the members of the League had urged in desperation that the steel mill was at stake, the City of Massillon was at stake, and that the business community would lose its biggest industry. The record is replete with testimony that Carl Myers, on numerous occasions, had stated to the city officials that if they did not get the mills open, Massillon would be "a prairie in the junction of route 21 and route 30," that if the plant were lost, the people of Massillon and the city officials would be responsible for losing it, that without the mills, Massillon would need neither a Mayor nor a Chief of Police nor a City Solicitor. General Marlin, who had been in communication with the members of the League and whose troops were quartered in the respondent's main office, pointedly informed the city officials that it was not the proper time to select neutral men as special police, that if they wanted the steel mill in Massillon, they would have to be prepared to take over the situation when the troops left and that if they did not keep the mill open they would lose it.

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[26] Italics supplied.

[27] On or about June 9 Lanham, Poe, and other members of the League also telephoned to Myers when they heard that "they were going to close up the mill, they were not going to open it up."

Under this threat of economic disaster, the Law and Order League, while publicly maintaining that its purpose was to establish law and order, privately set to work with all its power to assist the respondent to break the strike and to reopen the plants. When on June 15, the respondent, over the signature of Girdler, issued its statement that "movements similar to that which resulted in the opening of the Monroe plant are spreading rapidly to other affected communities," the respondent supplied the League with its program and its propaganda.

We have noted above how the Law and Order League assisted and subsidized the Back-to-Work Committee in many of its activities. Becker, Linckenhely and other members of that Committee conferred daily with Lester at his home and with Case at the Chamber of Commerce with regard to "the big move." So great was the League's anxiety to retain in Massillon the respondent's pay roll of $40,000 a day, that its members contributed within a few days $1200 toward a fund of $8200 to be raised to pay for special police and police equipment. Its concern for the establishment of law and order may be measured by the fact that the $1200 was returned to the members when it was learned that the city officials would not use the special police to break the picket lines. Lester and Lanham frequently acted as go-betweens between Myers and the city officials. Before the National Guard arrived, Case undertook the expense involved in extensive alterations of the municipal lodging house. When the National Guard was preparing to leave, the members of the League resorted to threats of impeachment against the city officials unless they agreed to hire the respondent's employees as special police.

Not the least of the League's functions was to assist the respondent in whipping up public opinion against the strikers and the Union by spreading unfounded statements that the C. I. O. was marching to invade Massillon, that explosives were being transported about the city, and that the strikers had instituted a reign of terror, in which the city authorities were powerless.

Finally, Case and other members of the League, together with the respondent, were successful in having Major Curley, allegedly a disinterested public spirited citizen of Massillon, placed in a position of authority in the Massillon police department, with results which are described below. In sum, what the respondent was unwilling or unable to do openly, it accomplished in part through the businessmen of Massillon, acting under the guise of establishing law and order. Under the stimulus of the respondent's threats to abandon its Massillon plant the League became the respondent's accomplice.

At 3 o'clock on the afternoon of July 7, a crowd of 60 or 70 men appeared at police headquarters, a good many of whom Switter recognized as employees of the respondent. Curley and Switter lined the men up and at Curley's suggestion all those under 30 years of age and all married men with families were asked to step forward. After these were dismissed, a further selection was made from the remainder, and 40 men were finally chosen as special police officers. Before the men were sworn in, Switter testified, there was a slight delay. "The bondsman did not show up and Curley had to contact Gordon Hess and he told him to arrange for getting the bondsmen to come over from Canton to bond the group of men . . . that is who Captain Curley said he was talking to, wanted to speed them up so they could swear them in."

In the light of subsequent events, the method by which these special police officers were bonded deserves careful examination. On July 5, Thomas R. Smith, a member of the insurance firm of Duerr, Smith, Lane Company of Canton, received a telephone call from Kenneth Cope, an attorney whose firm represented the respondent in this and other proceedings, to come to the respondent's offices in Canton and sign some bonds for special policemen. At first Smith refused on the ground that he was forbidden to sign such bonds during a strike, unless the respondent were willing to indemnify the Fidelity and Casualty Company of New York, the bonding company which Smith represented. Later Cope stated that the indemnity agreement could be arranged, and, accompanied by Assistant City Solicitor McCarroll of Canton, Smith drove to the Canton plant of the respondent. There W. C. Gubbins, the respondent's assistant treasurer, and Speis, its chief clerk, were engaged in selecting the men to be bonded from a group of employees. After certain employees had been dismissed as being "too hot-headed," the remainder, 56 in number, signed application forms and Smith signed, sealed, and executed public official bonds upon which the names of the employees had already been typed. Each bond bound the employee as principal, and the Fidelity and Casualty Company of New York as surety, to the City of Canton in the penal sum of $500, and was conditioned upon the faithful performance of duty by the employee as private police officer of the City of Canton. On the back of each signed application form, Gubbins wrote "Republic Steel Corporation by W. C. Gubbins, assistant treasurer," and agreed that the respondent would indemnify the Fidelity Company for any loss that company might sustain as a result of having acted as surety on the bonds. Assistant City Solicitor McCarroll then swore in the respondent's 56 employees as private police officers of the City of Canton. Of these 56, at least two were Employee Representatives, and two were supervisory officials at the Canton Works.

On the afternoon of July 7, Attorney David Day, of counsel for the respondent, telephoned Duerr, Smith, Lane Company and asked Smith to go to Massillon to sign more special police bonds. Day, Gubbins, and Smith then drove to City Hall in Massillon, where Day inquired of the desk sergeant in the police department for Captain Curley. Curley took the group to Switter's office and introduced them to the Chief who greeted them curtly, and sent them to another room where the men whom Curley had selected were waiting to be bonded. Smith testified that none of the men were rejected, as they had been in Canton, and that the final selection had been made before they came to him. Hardman, Gubbins, and Curley, sitting at a table, assisted Smith in executing the bonds. Gubbins, who had been handed a list, apparently by Curley, of the men to be bonded, inquired of each applicant whether he was an employee of the respondent and, if so, his badge number. Hardman then administered the oath of office to the entire group as special police officers of the City of Massillon.

Under date of July 6, Smith forwarded to the respondent an itemized bill for $830, covering special police bonds, at a premium of $10 each, issued for 56 Canton employees and 27 Massillon employees of the respondent.[28] On July 13, Gubbins, for the respondent, signed a contract of indemnity whereby the respondent, as indemnitor, agreed inter alia to become surety for the Fidelity Company on both sets of public official bonds.

Of the 27 Massillon employees thus bonded by the respondent, one William F. Henderson, was a foreman, and another, Maurice Schnierly, was an Employee Representative at Canton. In addition to these 27, 13 other men were appointed, making a total of 40 special police officers. Of the 40, the names of 19 had been submitted to the Chief by Peppard, Becker, and Angstadt on the morning of July 7; 24 had signed the Back-to-Work petition; and at least 32 were employees of the respondent.

From these facts it seems clear that Curley knew in advance the employees whom the respondent wished selected as special police officers and that in their selection he acted as the respondent's agent. Curley, however, denied that anybody connected with the respondent had anything to do with his activities, and denied that he knew the names of the 60 or 70 men who came to City Hall on July 7, or what plants they came from or whether they were employees of the respondent. Curley also denied that he knew that bonds were issued for the Massillon employees who were sworn in, or that he had telephoned Gordon Hess to arrange for the bondsmen to come from Canton, but admitted that he had spoken to J. Lester about it. These denials are not convincing. On the morning of July 7, the

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[28] Smith testified that the bonding of the police occurred in Canton on July 5 and in Massillon on July 6. All other witnesses fixed the date of the bonding in Massillon as July 7.

Law and Order League had demanded and the city officials had agreed that the respondent's employees would be appointed as special policemen, and Curley was in constant touch with Case and other members of the League. At the luncheon meeting of the League on July 7, Curley had rejected the proposal that home guards be appointed, and Carl Myers had approved his action, adding, according to the testimony of the respondent's own witness, "the whole matter could be safely left with Major Curley . . . the whole situation could rest with him." This was tantamount to a ratification of Curley's authority. In addition, before the bonds were signed for the employees in Massillon, Curley either telephoned to Gordon Hess, or spoke to J. Lester about telephoning to the respondent at Canton, in order to hurry the bondsmen to Massillon. Whichever version of this incident we accept, it is apparent that Curley knew, at least after the men had been selected, that they were to be bonded by the respondent. The uncontradicted testimony of Smith, the bonding agent who came to Massillon as a result of a telephone message from the respondent, confirms this conclusion. Smith testified not only that "Curley had mentioned to (Switter) what we came for, to bond the special policemen," but that Curley was sitting in the very room where the men were bonded and where Gubbins was writing down their badge numbers. Furthermore, although in Canton Gubbins had weeded out certain employees before they were bonded, in Massillon he made no such selection and ratified Curley's choice without question. From these and other facts, we conclude that Curley's activities were conducted with the full knowledge and approval of the respondent, that Curley knew in advance and carried out the respondent's wishes, and that the manner in which he selected at least 32 of the respondent's employees of a total of 40 special police was designed to conceal the fact that, while apparently selecting men most suitable for the position, he was in reality choosing men whom the respondent had already designated.[29]

On July 8 and 9, the National Guard moved out of Massillon and the police department, thus augmented, assumed control. Although there were no city funds to purchase equipment, Switter ordered 30 new sidearms and four dozen new night sticks. By Sunday, July 11, all the special police were armed.

"The breakdown of law and order in the city!" observed Switter on the witness stand. "Not one of these new men were put out where these homes were supposed to have had windows broken out of and men taken out and attacked. The whole outfit was concentrated in the strike zone."

At 2 o'clock on the afternoon of July 11, Switter and Curley drove to the Massillon Works to watch the behavior of the pickets when the afternoon shift of workers entered the plant and the morning shift came out. "The afternoon (shift) went along in fine," testified Switter, "no trouble at all." Curley and Switter then drove to a mass meeting of the Union at Oak Knoll Park, observed the conduct of the crowd, and made several trips to the Massillon Works and the plant of the Union Drawn Steel Company to see that the special police officers were at their posts. At about 5 o'clock according to Switter's testimony, Curley remarked, " 'I will go see that the night shift changes . . . you better get away and get some rest and recreation. You been at it too long. It is getting you down.' I said, 'That is fine, thanks old boy. If you will take over, I am gone.' " With this, Switter left Curley, went home to supper, and at 9:30 that evening drove out into the country with some friends for a few beers and lunch. On the same day, in the belief that the city was quiet, Hardman had left Massillon to visit his wife who was away on a vacation.

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[29] Attached to the bill, dated July 6, which Smith sent to the respondent covering special police bonds for 56 employees at Canton and 27 employees at Massillon, was an attached schedule of the names of these employees together with the report numbers of their bonds. With respect to this bill and attached schedule, Smith testified that it was "dated July 6th and it was made in our office at that time, and on the back of this we have attached a list of names arranged alphabetically." The employees named in the schedule were not sworn in until the following day, July 7. This confirms the conclusion that the respondent had chosen the employees to be appointed as special police officers before Curley had lined the men up at City Hall for his "selection." Despite the fact that Smith erroneously described the bonding as having occurred on July 6, we are inclined to consider the bill and attached schedule, which were contemporaneously made, in the regular course of business, as better evidence than oral testimony, given some weeks later.

Nothing was said, testified Switter, about placing Curley in charge of the police department. "Things were quiet and they were having this meeting and it didn't look like anything was going to happen. It didn't look like there was going to be anything. It went off on the afternoon shift all right and we did not figure anything was going to happen that night."

> "Q. (by Mr. Donald Wakefield Smith) Is it fair to say that you didn't regard this as a matter of delegation of authority to Captain Curley? You merely thought nothing would happen and he would be around there?
>
> A. That is right. He was going to see the new rookies went on the post standing in front of C. I. O. headquarters and there was a viaduct and a couple of men to be posted under the other end of the viaduct, and a couple of other roads supposed to be blocked so no traffic would come through. And that is the way it was supposed to be handled and he was just going to see the men were on their posts and what he could do . . ."

Nevertheless, as soon as Switter had left the city, Curley took complete command of the police force, and countermanded all of Switter's previous orders.

5. *The incident at C. I. O. headquarters*

At approximately 11 o'clock on the night of July 11, three persons received fatal injuries and an undetermined number were injured by gunfire and gas fumes, when special and regular police officers, under the command of Major Curley, dispersed a crowd of strikers and strike sympathizers at C. I. O. headquarters on Cleveland Avenue near the respondent's district office, in the City of Massillon. All those killed or injured were strikers, strike sympathizers or bystanders. None of the police sustained any injuries.

Witnesses for the Board claimed that Curley in Switter's absence led the special and regular police in a murderous and unprovoked assault on C. I. O. headquarters, pursuant to a plan to destroy the union and break the strike. The respondent sought to show that the strikers had assembled at the C. I. O. headquarters with a preconceived plan to rush the police, enter the mill, and remove the employees who had returned to work. In order to understand the causes of and the responsibility for this encounter, it is necessary first to examine the circumstances immediately prior to its occurrence.

As noted above, as soon as Switter had left the city Curley, without authority, took command of the police department. He testified that at about 9:30 p. m., when he walked over to City Hall, "the boys were getting ready to go on the 10 o'clock shift. They all came in and reported for duty. A lot of rumors flying around there that in the afternoon meeting which they had at Oak Knoll Park and they were going to come down and clean up the Police Department. I said 'Hell, I have heard that so often . . .'[30]

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[30] The Trial Examiner granted a motion by the Board's attorney that this latter remark be stricken from the record. In our view of the evidence, the remark is relevant as showing the unimportance which Curley attached to the rumor. We hereby overrule the ruling of the Trial Examiner.

They all came to me—I didn't know—for orders. They said 'What will we take along?' I said 'Hell there aint anything to take along . . . There is some gas in back of the Sergeant's desk there. Some gas guns.' " To this elaborate expression of unconcern Curley added, however, that the police officers took "everything we had . . . tear gas . . . five tear gas guns . . . and a submachine gun." Officer William Fellabom, a former machine gunner who served in the World War in the company which Curley organized, testified that at 9:30 p. m., when he reported to the police station, "Curley was in there and as soon as he saw me he says 'Bill, you better take your machine gun along tonight. They expect a lot of trouble so I takes the machine gun and some ammunition there we had and they hustled us right down there.' " From the testimony of other witnesses, it is clear that the police also took the 90 gas projectiles, six combination shells, and other equipment which Lieutenant Adler of the respondent's police and Chief Deputy Sheriff France had transferred to Switter for the police department at the Brookside Country Club on the night of June 9.

Officer Ickes, a witness for the respondent, testified that when he reported for duty at 9:45 p. m., Curley countermanded Switter's order of the previous evening assigning Ickes to the plant of the Union Drawn Steel Company, and ordered Ickes and special officer Kelleher, one of the respondent's employees, to a post on Cleveland Avenue, 50 feet south of C. I. O. headquarters. The usual number of police assigned to this post was six. Curley admitted that after 10 p. m. the number was increased to 20, explained that he had countermanded Switter's order with reference to Ickes only because the plant of the Union Drawn Steel Company was not working that night, but denied that he had assigned more than two or three additional police to Cleveland Avenue.[31] From the testimony of other witnesses for the respondent, it is clear that Curley's testimony is not to be credited. Officer Fellabom testified that "before we left the station Curley says 'I will be over there, close to where the line is or close to the C. I. O. headquarters . . . I want to see you over there . . . You fellows will have to be stationed over there until things quiet down.' " Officer Kraft testified that Curley had sent eight or nine police officers to C. I. O. headquarters that evening in addition to those already assigned. Furthermore, Switter testified that when he returned to Massillon on the next morning, Captain Curley informed him that "he had raised the normal guard which was usually stationed about 50 feet in front of the strike headquarters from six men to 20 men." In view of this testimony, we conclude that Curley, upon his own authority, at approximately 10 p. m. armed the police with all the weapons in the possession of the police department, including the gas donated by the respondent, and ordered the normal guard on Cleveland Avenue near C. I. O. headquarters raised from six to 20 men. Of the 20, the record indicates that at least eight were employees of the respondent, including foreman William Henderson.

As already indicated, Curley, in justification for his having armed the police, offered the rumor that in their afternoon meeting at Oak Knoll Park, the strikers had threatened to "come down and clean up the police department." It is clear that nothing occurred at this meeting to warrant the rumor. Edward Davies, an employee of the First Savings and Loan Company, testified for the respondent that he attended this meeting, that he heard Joe Morton speak, that "Morton made different statements in regard to the men that they should fight on, that they are bound to win the strike . . . that they should be down that night at 11 o'clock on the picket line." On cross-examination, Davies admitted that the meeting was perfectly peaceful, and that the general tenor of Morton's speech was merely such that "if I were . . . on the striking side, (it) would help me to feel I was justified and I wanted to continue . . . out on strike." Moreover, Switter testified that before he left Massillon at 9:30 p. m. on July 11, he had heard no rumors of any kind with regard to threatened activities of the strikers. Finally, even Curley himself attached no importance to the rumor. He admitted that between July 7, when the special police were sworn in, and July 11, before he assigned additional police to Cleveland Avenue, there had been a decrease in the number of arrests and the amount of difficulty, that on the afternoon of July 11, when Switter left Massillon, "everything seemed to be all right," and that on the evening of July 11 he did not expect any trouble. We are therefore unable to believe the explanation offered by Curley for his orders.

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[31] Curley's testimony on this point is confused. At times, he appeared to admit having assigned all the additional police to Cleveland Ave.; at one point he claimed that Officer Ickes was "about the only one he assigned."

At approximately 10 o'clock, the 20 officers reported to their posts at ~~or near~~ Cleveland Avenue. In order to understand the events which took place after their arrival, a brief description of the locality is necessary. C. I. O. headquarters is a rectangular two story wooden frame building, with three front doors and three windows, facing west on Cleveland Avenue. Three steps, each about a foot high, lead up to the front doors. The union occupies the lower floor of the building, and had established a soup kitchen there to feed the pickets. The second story is occupied by the family of Wilbert Coleman, a non-striker who appeared as a witness for the respondent. About 100 yards to the southwest of this building lies the respondent's district or main office. About 350 yards to the southeast, on Oberlin Avenue, there is a viaduct over which a number of employees drive to work. Gate No. 1, the entrance to the sheet division of the respondent's plant, is located on Oberlin Avenue, approximately 175 yards west of the viaduct and about the same distance southeast of C. I. O. headquarters.

Immediately upon their arrival at C. I. O. headquarters, the police, pursuant to Curley's orders, prepared for trouble. Officer Ickes testified that from the time that he arrived on the scene, between 9:45 and 10 p. m., he expected trouble because otherwise "I would not have been sent down there." At that time, he testified, he procured from the police car a tear gas gun and nine projectiles, loaded the gun, and stationed himself across the street from C. I. O. headquarters. The other special and regular police officers, all armed with police clubs, revolvers, rifles or gas equipment, took posts on Cleveland Avenue, between 50 and 100 feet south of C. I. O. headquarters.

Curley directed Officer Fellabom to station himself, with his submachine gun, directly across the street from C. I. O. headquarters. Officer Fellabom testified:

> "As Curley said *when I took the gun,* he says 'Bill what kind of ammunition have you got in there' . . . I said 'Nothing but bird shot and paper shells.' He said 'That is right; that is right; use them in there, Bill.' "[32]
>
> "Q. What time did he tell you that?
>
> A. *Right after I got out of the car when we landed there.* [33]
>
> Q. What time was that?
>
> A. A little after ten; about 10 or 15 minutes after ten.

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[32] With respect to the ammunition with which the submachine gun was equipped, Curley testified that it always had three magazines of "regular 45 bullets" and three of "45 bird shot . . . a paper shell on the end of it with about nine little shot in them."

[33] Italics supplied.

Q. When did Captain Curley tell you that he expected trouble?

A. At police headquarters.

Q. What time was that?

A. **Ten minutes after ten.**

Q. What time was that?

A. Ten minutes to 10."

At another point, Fellabom testified:

"Q. Now when you got there did you see any other officers there?

A. Oh, there was at least 16 or 20 . . . Curley . . . told me to get over on the left hand side, kind of southwest of where we stopped.

Q. Where did you go then . . .

A. Over to the left hand side, that would be the west side of the street, up close to this tile building that is right pretty near straight across from C. I. O. headquarters."

It thus appears that at least three quarters of an hour before any shooting or any violence whatsoever occurred at C. I. O. headquarters, Curley directed Fellabom, the former army machine gunner, to take a post directly across from C. I. O. headquarters and to use his submachine gun.

We turn next to a consideration of the number and attitude of the strikers and strike sympathizers who congregated at union headquarters that night.

John Veto, a striker, who during the strike made it a practice to go to C. I. O. headquarters every evening, testified that at 8 p. m. on July 11, "when I reached there, they were playing music and the people were dancing on the street and I danced too, and we had a lot of fun. Then the rain came and a lot of people went into the kitchen and a lot of others were on the other side of the hall . . . the music was playing in there . . . in the hall . . . on the north side. We were talking together and having a lot of fun. Then the rain stopped and all of the people went out again, and the music went out again and the people went on the street just the same as they did before . . . I stood right there on the platform . . . And on the bottom step there was a guy named Ruttenberg. And I believe Frank Hardesty was there. He was right on the sidewalk, I kept waiting around there and hearing the music. When I turned around on the south side there were 12 police over there. They was talking together. Pretty soon another car came and let three more out. As soon as the three more came, they all went together and talked together . . . Then another car came and let three more down . . . Three more special policemen. The fourth car came down there and it was a Massillon police car . . . Well, I stood there, you see, and there were two police on the corner of Cleveland and Oberlin Avenue—that is near the plant and they were coming up toward the north where the other police were. They began to spread from this point here (indicating) across the street . . . they lined up.''

Frank Hardesty, sub-regional director of the Canton-Massillon area for the S. W. O. C., who arrived at C. I. O. headquarters at approximately 9:45 p. m. testified that at that time there were 50 or 60 pickets at strike headquarters. ''I went in the large room where they had to feed the pickets and there was music in there. There were four or five young fellows in there playing music and entertaining the pickets and having a very good time . . . We went down to a soft drink stand . . . stayed there five or ten minutes, and then we started back. When we came out of the building it immediately started to rain very hard . . . After it quit raining we came to strike headquarters. And the music and things were going on as usual.''

At a few minutes before eleven, continued Hardesty, ''the pickets changed their shifts and there were more men there . . . inside and outside the strike headquarters . . . I suppose there were possibly 125 or 150 men there at that time . . . I talked to some of the boys again. The music was still going on." Other witnesses for the Board estimated the number at strike headquarters in the vicinity of 11 p. m. as between 175 and 200.

Several witnesses for the respondent confirm and amplify this description. James Adams testified that at 9:30 p. m. he visited Wilbert Coleman, who occupied the rooms above the C. I. O. headquarters. "When I got there," he stated, "why the men was out in front and one of them had one of these big bass fiddles and he was playing that . . . a large crowd was out there . . . There was nothing—just talking—I didn't pay much attention to it . . . Then it sprinkled a little bit and they all went inside . . . I could hear the stamping and moving about inside." Wilbert Coleman on cross-examination added:

> "Q. (by Mr. Lauter) Now you said something about a crowd being up there on Sunday evening. Was that a customary procedure?
>
> A. Yes on Sundays they gathered around there and chattered around between themselves; more usual on Sunday evening.
>
> * * * * * *
>
> Q. Until the first shots were fired, everything was peaceable there?
>
> A. Yes.
>
> Q. Was there anything unusual about the crowd? Noisy or anything?
>
> A. They were just talking; you could hear them talking."

The police, however, sought to picture the crowd as a desperate, threatening mob. Thus, Officer Ickes testified that at about 10 p. m., when he arrived at Cleveland Avenue, he saw between 300 and 350 people in the vicinity; that at approximately 10:30 p. m. some unidentified man yelled "Let's get the police. Let's get them sons of bitches"; and that he walked down Cleveland Avenue for a police car to take the men away but that when he returned the men had gone. Officer Fellabom testified that C. I. O. headquarters was packed full of men. "I could hear them saying 'Come on boys, let's go through. We might as well cramp them sons of bitches down. We might as well die now and get it over with . . .' And he seemed to be a little intoxicated—a man with a white shirt and a straw hat. Then Curley . . . hollered over to the C. I. O. headquarters —he says 'A couple of you men take this man out of here before he starts to make any trouble.' " According to Fellabom, this incident occurred immediately before the shooting. Curley testified, however, that a group of officers, including Officers Ickes and Fellabom, informed him at approximately 10:50 p. m. that there had been "a couple of drunks" that were getting unruly and ought to be taken away but that they had not seen them for some time.

It appears that all three witnesses have thus described the same incident. On cross-examination Ickes stated that the men were talking in foreign languages, "I could understand that when they said 'Let us get the police' but I couldn't understand the rest much." He added that these words were spoken in English and were the only words he understood. If Ickes' statement is true, then Fellabom's version must be regarded as embroidered. In any event the entire incident was considered so unimportant that neither Kraft nor Kelley, the other officers described as having been present, mentioned it in their testimony, and Curley himself merely referred to the men as a "couple of drunks that were getting unruly and ought to be taken away." All witnesses who testified to the alleged incident are agreed that within a few minutes after its occurrence the men disappeared. As noted above, the men were not identified.

On the other hand, Officer Johnson testified that there were between 250 and 300 people present that night; that 200 people was not an unusual number on nights when dances were held at C. I. O. headquarters; that, although he did not hear any music, the crowd was just moving around as any crowd of 250 people would do; and that he noticed nothing unusual about their appearance. Johnson also admitted that, although he did not see any women and children present before 11 p. m., he observed three women emerge from C. I. O. headquarters at 11:10 or 11:15. Officer Ickes testified that when he arrived at Cleveland Avenue at 10 p. m. and saw a crowd of approximately 350 people, he noticed women and children among those present and that women and children were among the crowd when the shooting began. Even Officer Fellabom admitted that, except for "a load of drunks" whom Johnson arrested and the remarks of the intoxicated man with the white shirt and straw hat, the crowd was perfectly peaceful.[34]

In addition, the record demonstrates that none of the strikers were armed. None of the police or other witnesses for the respondent claimed to have seen sticks, guns, knives or any other weapon in the crowd during the entire period prior to the encounter. As set forth below, of 165 persons arrested shortly after the encounter, only one, Harry Jones, was found by the police to have had even a pocket knife, and Jones testified that it was a knife which he had been accustomed to carry for 4 or 5 years, and that on the night of July 11 he was unaware of the fact that he had it.

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[34] Officer Johnson testified that between 10 and 10:20 p. m. he stopped a car containing six men, driving up Cleveland Avenue, and asked the men their business. "They said they were C. I. O. men from Canton . . . going up to the C. I. O. Hall . . . They stepped out of the car and I searched them, searched the car for weapons, but they didn't have any . . . (I) took them down to the police station and signed an affidavit . . . and locked them up in jail." The arrest was occasioned by the fact that a proclamation of the Sheriff of June 25 forbade all persons from entering the vicinity of strike areas except on lawful mission. The testimony is in conflict as to whether the proclamation and an injunction of the same date issued by the Court of Common Pleas of Stark County apply to the City of Massillon, where the above-described incident occurred. There is no testimony whatsoever in the record, except for this passing reference by Fellabom, that the men were drunk. The Trial Examiner ruled that similar testimony given by Curley with respect to the incident of the car from Canton be stricken from the record as having no connection with the issues in the proceeding.

We conclude that the crowd which gathered at C. I. O. headquarters from 8 to 11 p. m. was an unarmed, peaceful assembly, composed in part of women and children, engaged in playing music and dancing and other activities usual to a Sunday night gathering.

At approximately 10:40 p. m., while the police with loaded gas guns and other weapons described above were stationed across the street from C. I. O. headquarters, a collision occurred at the corner of South Erie Street and Oberlin Avenue, a third of a mile distant from Cleveland Avenue. Because of the unreliable and conflicting testimony given by the witnesses for the respondent, the exact circumstances of this collision are not clear from the record. Certain facts, however, are undisputed. It appears that an automobile crashed into an abutment near the viaduct. Almost immediately another car bearing a C. I. O. sticker collided with the first car, with the result that the viaduct was temporarily blocked. The driver of the first car was taken into custody by several officers; the driver of the second car attempted to run away, but some one in the crowd in front of a beer garden located on the northwest corner of Erie Street pointed out the fugitive to Officer Mantasch, who pursued, fired one shot and captured him. Thereafter several unidentified numbers of the crowd threw stones and beer bottles at other cars. Mantasch testified that Officer Schwinger fired "some shots at some guy who threw stones" and that Officer Davenport shot off a riot gun to scare a man hiding under the viaduct. It appears that several shots were fired, all by the police, shortly before 11 p. m.

In 10 or 15 minutes the crowd was dispersed, the cars which had collided were pushed off to one side of the road, and traffic at that corner was resumed. Officer Mantasch took the drivers of the two cars to the city jail and locked them up. The man whom he had pursued gave his name as Flores and said that he belonged to the C. I. O.

Apart from these facts, the record provides no clear picture of what occurred at the viaduct. Thus Officer Mantasch on direct examination testified that at 10:15 p. m. when he arrived at the corner of South Erie Street and Oberlin Road, "I wouldn't exaggerate, I would say (there were) around a thousand people around the streets with automobiles" and several hundred gathered in front of the beer garden. On cross-examination, he testified with reference to the size of the crowd:

> "Q. (by Mr. Lauter) You are sure there weren't more than a thousand?
>
> A. Might have been more.
>
> Q. About 1500?
>
> A. Might have been more . . .
>
> Q. Might have been three or four or five thousand?
>
> A. I didn't count them . . .
>
> Q. There is no limit to the amount of people that might have been there?
>
> A. That is right."

Charles Moorhead on direct examination testified for the respondent that between 10:20 and 10:45, before the shots were fired by the police, he saw a large number of people milling around and talking at the east end of the viaduct. The number, however, he estimated as "in the vicinity of 40." Officer Moore, another witness for the respondent estimated the number as 300. Moorhead further testified that he saw a group of 20 or 25 men rush out from between houses near the viaduct and throw stones at 10 or 12 automobiles; that, after this, he saw Harold Rinke, a member of the C. I. O., and heard him say "Come on boys, let's get the other side. We are going to town"; and that about 100 men then followed Rinke in a northerly direction.

On cross-examination, Moorhead radically altered a number of these statements. He admitted that he had seen three or four cars stoned, instead of 10 or 12, asserted that there were about 100 men throwing stones, but admitted that he had not seen anyone breaking windows or glass on the cars, although he had heard the crash. With respect to Harold Rinke, he testified:

> "Q. (by Mr. Lauter) You weren't able to identify any of the hundred men?
>
> A. That is right; only one I saw but I didn't see him throw any stones.
>
> Q. You didn't see Harold Rinke?
>
> A. No sir.
>
> * * * * * *
>
> Q. The only man you knew was there was Harold Rinke and you didn't see him throw any stones?
>
> A. I didn't see Harold throw any stones."

Moorhead first asserted, and then denied, that he knew that the hundred men were members of the C. I. O. and added that there were present a number of the respondent's employees other than the members of the C. I. O. On redirect examination, he stated that he had recognized Harold Rinke sitting in a car. It is apparent that no conclusion can be drawn from the testimony of this witness.

Other witnesses for the respondent throw little, if any, further light upon this incident. In addition to Flores, only two or three members of the C. I. O. were identified by name or otherwise as having been present at the viaduct during this period. There is no evidence whatsoever that these two or three threw stones or committed any acts of violence.

As a consequence, however, of the shots fired by Schwinger, Mantasch, and Davenport, the police on Cleveland Avenue, already instructed by Curley to prepare for trouble, began to grow restless. "It didn't look so good" testified Officer Kelley, "the fracas in the viaduct and the stones and the two men in the cars on the bridge." Kelley added that he had heard shots from the viaduct, but did not know that the police had done the shooting.

From this description of the incident at the viaduct, we return to a consideration of the events that were occurring in the meantime at C. I. O. headquarters. The nature of these events, which precipitated the fatal encounter, was one of the most controverted questions at the hearing, and even their sequence, as presented by witnesses for the Board and for the respondent, is in considerable conflict. We turn first to the testimony of witnesses for the Board.

All of the witnesses for the Board testify that immediately preceding the encounter an automobile drove up and parked among several other automobiles directly across the street from C. I. O. headquarters. Martin Beckner, vice president of the Canton Lodge of the S. W. O. C., testified that at this time he was standing in the doorway of C. I. O. headquarters and noticed the police "deployed across the street and some spread out and some closer than others, and I noticed there was something unusual about them . . . They all had guns, but up until that time they only had clubs . . . It appeared they were nervous, acting like men expecting something, and from the way they were acting I went into headquarters and asked the president of the Massillon Lodge if that was their usual method of conducting themselves . . . We decided that these were new men and we had better ask the pickets outside to go home . . . So the president of the Massillon lodge stepped out to tell these men to go home and when he went out the door, I stepped outside the door and stood on the step and Harold Ruttenberg was standing in the door way . . . A car pulled up across the street and two men came out and Bill Henderson . . . a chipper foreman in the Massillon plant . . . and the other policeman came forward toward the car. I didn't know who the other man was, but they told the drivers to put those damn lights out or they would shoot them out . . . The car was across the street about 50 feet further down.[35] The man switched out the lights and these two officers started back toward the line of police and someone in the crowd of pickets yelled 'Whoopee' or something . . . and these officers immediately dropped to the ground and someone said 'break them down and let them have it,' and the shooting started about fifty feet down from the strike headquarters on the southwest corner." It will be noted that Beckner testified that the shooting began in the immediate vicinity of the parked car whose headlights the police had ordered to be turned out.

Frank Hardesty was also standing on the steps at this time in the midst of a group of 20 or 25 men. He testified that a car drove up on the opposite side of the street. "His car was headed, or his lights were headed toward the mill . . . What I noticed particularly was that the lights were shining on the policemen down there and I suppose they were more or less frightened being new men. They acted kind of nervous anyway . . . and one of them shouted 'Take the lights off' . . . I saw the fellow cut his lights off, when they hollered at him . . . It was only a few seconds after that until one of the policemen hollered 'Let them have it break it down.' I saw one policeman drop down and start shooting."

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[35] Other testimony in the record indicates that this car, driven by Harry Jones, a striker, was parked approximately 20 feet south of and across the street from C. I. O. headquarters.

John Veto testified that about 20 police lined up across Cleveland Avenue "and then a car came up there with their headlights . . . from the north coming south, and they had the lights toward the police there. While the light was flashing, I saw a machine on the other side of the road, the police side . . . Two cops stood up and they went forward and I heard them say 'Shut the lights off.' Well the car shut them lights off . . . and they took a couple of steps backwards and they said 'Let's bust them up boys.' And then they dropped flat." Veto identified one of the advancing policemen as Bill Henderson. "Then a shot came by just where I was standing."

Walter Meyer, a striker, who had driven in his automobile to Canton with his wife and Mr. and Mrs. Wincek to attend a union meeting at Sippo Park, returned to Massillon shortly before 11 p. m. "After we went out in the evenings we always stopped and got a bowl of soup or lunch or something before we turned in for home, but this evening I was broke and Mr. Wincek didn't have much money either and when they mentioned about getting a bowl of soup at C. I. O. headquarters on Cleveland Avenue at Massillon we figured it would be a good place to go and get something to eat before we went home, so we all agreed to do so . . . and we drove down Cleveland Avenue north and pulled right directly across from C. I. O. headquarters and parked."

> "Q. (by Mr. Lauter) In the direction of the mill, is that right?
>
> A. The mill is directly south, in my estimation from Cleveland Avenue and the C. I. O. headquarters is on the east side of the street, and I parked directly

across the street which is the west side . . . I noticed there was a fire plug back of me, so I pulled up six or eight feet from it and parked. We were there for some time and quite a few people were standing around there talking and having a good time, and we were discussing whether we wanted to go in and get a bowl of soup or go back home . . . So while I was discussing that with them, I seen a car coming down Cleveland Avenue and passed our car and pulled in directly ahead of us and passed the fire plug and parked directly ahead of us.

Q. Was that on the same side of the street you were?

A. The same side of the street, and I judge it was 20 feet between my car and this man's car. The man pulled up and he shut his motor off and I heard the cops holler 'Turn them lights off.' I don't think the man heard the cops when they called the first time. Well, the man was getting out of the car, and he stepped on the pavement and they hollered a second time 'Turn those lights off or we will shoot them off.' So the man reached in and shut them lights off and he started toward the C. I. O. headquarters . . . Well we sat there with the windows all down and after this man left that car, I turned around toward Mr. and Mrs. Wincek and my wife and asked them the last time what they intended to do, if they wanted to go in and get a bowl of soup or if they wanted to go back home. While they were arguing about it, at that time, I heard the motor start in the car ahead of me and I looked around quick and I seen his bright lights were on, and without warning, there were two shots fired and the shots sounded as though they hit the car ahead of us, and I surmised that they were shooting at the man's lights because they had said before they were going to shoot the lights off and just at that time the shots were fired, it all happened I heard the cops holler 'The God damn hunkies asked for it, let us give it to them' . . . It was just like a hail storm hit my car, sounded like machine guns and shot guns, it sounded like the Fourth of July or something at the lake and I seen all the people just pick up and run and run around corners, anywhere, they could go, and after that why the shooting kind of quieted down."

Harry Jones, a striker, was the driver of the car referred to in the foregoing testimony. He testified that "I drove down and pulled up right across the street from headquarters . . . and parked my machine. My brother-in-law and another young fellow were along . . . "

"Q. (by Mr. Lauter) When you pulled up in your car where did you stop?

A. Right across the street from headquarters . . .

Q. Was that in front of the fire hydrant or back of it?

A. It was just in front of it . . . My brother-in-law said 'Someone hollered to turn the lights off.' I turned off the lights. He said 'You better turn them on dim.'

Q. By the way, are you a little hard of hearing?

A. A little yes. That is the reason I didn't hear him. But my brother-in-law heard him and he told me . . . So I got out of the left side of the car and turned them on. And my brother-in-law and the other fellow got out on the right. I suppose I took two steps, far enough to open the door and shut it, and I looked down and seen the policemen. I turned around and got in the car and pulled the dim lights on. When I went to pull the dim they just flickered and I pushed them back . . . (The lights) flickered so I got out of the other side of the car. I reached in and turned the

> lights off and I stood back from the car. Just as I got back from the car, the shooting started . . . When they (the police) started to shooting I jumped in a doorway. I stood there for about a second or about a minute, I suppose, until the first volley was over. I got down and went around the corner and faced the police. I waved my hand and I hollered 'For . . . sakes stop shooting until I get my machine out of here' So I ran back to the car and started the motor. And then I went to pull on the dim lights and it flickered. As she flickered a shot hit the windshield and glass flew in my face and I ducked."

The police version of the incident of the headlights differs sharply from that of the strikers. Curley testified that the headlight was shot out at 11:15 p. m., approximately 15 minutes *after* the shooting elsewhere had begun. "The fellow drove up with a car and he flooded all the police officers out there with all of the bright lights and just scattered the lights all over the whole area. And Fellabom says 'Turn out those lights.' The fellow turned out the lights and got right back in and turned them back on again and Fellabom says 'If you don't turn those lights out, I will shoot the damn things out.' The fellow didn't turn them out, so Fellabom just shot one out."

Officer Fellabom was standing on the west side of Cleveland Avenue "pretty near straight across from C. I. O. headquarters." On direct examination he testified:

> "Q. (by Mr. Pontius) Something has been said with respect to an automobile that ran up in here. Did you observe it?
>
> A. There was a car coming in there just before the trouble started (the shooting at approximately 11 p. m.) I should judge about maybe five minutes before . . . This car came down in there and whoever was driving it pulled over to the right hand curb and he

had his bright lights on. Some one hollered over there to put those lights on and someone else hollered over the C. I. O. headquarters 'Turn them on and keep them on.' Of course, the illumination was pretty bright there for the boys that was on the road there. This young fellow parked his car right along the curb, right near this tile building, and he still had those lights on. Then he jumped out of the car. Somebody hollered 'Turn them out or we will shoot them out.' So I shot out one of the headlights. After he ran away from the car he left it sit . . .

Q. Was that before the other trouble occurred that you described?

A. That was before the trouble started.

Q. What instrument did you use to shoot the headlight out?

A. A machine gun."

On cross-examination, however, Fellabom materially changed his story.

"Q. (by Mr. Lauter) Before that (the shooting which occurred at approximately 11 p. m.) you had shot out the lights in the car that was standing in front, is that right?

A. That was *after* I shot toward the door.

Q. What is that?

A. That was after I shot at the door. You see, the car was standing in there with the lights on and the young fellow, whoever it was, he was in the car and left it and then he came back and then he left it for the second time. I think it was some time after the shooting from over the door that the headlight was shot out.

Q. About what time did you shoot the lights out from the car?

A. Oh that might have been 11:30 along in there.

Q. What time did the man drive up with the car?

* * * * * *

A. Just before 11; around 11 o'clock.

* * * * * *

Q. The lights were shining on the police all that time for 35 minutes?

A. Yes.

Q. You walked over to the car 35 minutes after the lights had been on and told them to turn that off?

A. I told them to turn that off?

Q. Who did?

A. Some one hollered to turn them off. He jumped off the car and left them on and someone hollered, 'You better put them lights out or we will shoot them out.' He jumped in the car and then left the car. That is when the trouble started.

Q. You didn't shoot the lights out then?

A. No sir.

Q. You waited around 35 minutes before you started to shoot them out?

A. At least 35; 30 or 35."

It will be noted that on cross-examination, Fellabom not only claims to have shot out the headlight after the shooting elsewhere began, but denies Curley's explicit statement that Fellabom commanded the occupant of the car to "turn those lights out or I will shoot the damn things out."

On the other hand Officer Kelley, who was standing with Curley on Cleveland Avenue, testified the headlight was shot out as Curley was advancing up Cleveland Avenue, a few seconds before the general shooting. Officer Johnson testified that he arrived at Cleveland Avenue after the shooting had begun and that no headlights were shot out at 11:35 p. m. or at any time after his arrival.

We are convinced that the testimony of Curley and the testimony of Fellabom on cross-examination, with regard to the time the headlight was shot out, is not to be credited. On the other hand, apart from their testimony with regard to the time Fellabom and Curley appear to have accurately described the details of the incident. Hardesty, Beckner, and Veto stated that after the police had shouted to Jones, he turned the headlights off. It is apparent from their testimony, however, that they did not see the headlights turned on again or Fellabom fire his submachine gun at one headlight. From Jones' testimony, it is not clear whether he saw or heard Fellabom shoot out the headlight after he claims to have turned the headlights off. The entire incident occurred within a few seconds, and it must be remembered that Jones was hard of hearing, and Hardesty, Beckner and Veto were, at the time, standing in front of C. I. O. headquarters, where their opportunity to observe the events on the other side of the street was limited.[36] Curley's and Fellabom's testimony that Fellabom fired shots at the headlights because they had not been turned off, is obviously the more reasonable of the two descriptions, since Fellabom would hardly have sought to eliminate a glare which no longer existed. In addition, the testimony of both Curley and Fellabom with regard to the details of this incident is supported by that of Meyer, whom we regard as the most accurate and reliable observer of the events in his immediate vicinity.

From all this testimony we conclude that as Curley and Henderson had advanced approximately 50 feet toward C. I. O. headquarters Fellabom fired several shots at the headlights of Harry Jones' car, and that immediately thereafter the police opened fire at the strikers.

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[36] Fellabom testified that from where he stood on the west side of the street, his view of the doorway of C. I. O. headquarters was blocked except for the top two feet of the doorway, by a tarpaulin-covered truck, standing in front of C. I. O. headquarters. Presumably the view of Hardesty, Beckner, and Veto with respect to the activities of Fellabom on the opposite side of the street was similarly blocked.

At the first volley, it appears that the crowd stood incredulous and then fled in utter and bewildered panic. Hardesty was standing on the steps of C. I. O. headquarters. He testified that a few seconds after the headlights went off "I heard someone shout again. 'Break them up! Let them have it!' And they started to shoot. However I didn't move immediately because not being used to riots and things of that sort, I really thought they were just shooting dummies. I thought it was more or less of a bluff. But it wasn't very long until I found out they were really shooting bullets . . . "

> "Q. (by Mr. Hunt) When you say they were shooting bullets, to whom do you refer?
>
> A. The policemen.
>
> Q. Where were they from C. I. O. headquarters?
>
> A. They were about 50 feet down the street towards the steel plant. I saw a policeman go down like this (illustrating) and start to shoot. At first, I couldn't really believe they were shooting real bullets into a crowd of men like that, until I really heard the bullets flying and the bullets flying off the building . . .
>
> Mr. Edwin S. Smith: Let me get this straight. Was this crowd of men standing between you and the policemen and you were in back of them?
>
> A. No, I was right in more or less mixed in with the men. There were some of the fellows who were behind me and some of them were in front of me. We started to move up the street. I had not moved far at all until one fellow hollered he had gotten shot in the shoulder and he threw his hand over his shoulder.
>
> Mr. Edwin S. Smith. What did he say?

A. He said 'They got me. I am shot.' There were three or four friends with him and they grabbed hold of him and took him along with them.

Q. Let me understand this. You were running up Cleveland Avenue.

A. We were running up the street from the mill, up Cleveland Avenue. I had not run very far until I saw another man lying on his face with his hands outstretched, motionless, who had been shot by the policemen and from the way he was lying there, there was no doubt, or I thought he was dead, and I guess it did turn out that he was dead. So we kept running up the street until we found an opening in the fence. After I got there, Martin Beckner and another fellow drove up and on. Beckner was hanging on the running board of the car and he stopped and we got into the car and went back to Canton.

* * * * * *

Q. Did you on the evening of July 11 at any time see any shooting at C. I. O. headquarters?

A. I did not.

Q. Did you see any persons other than police using any weapons?

A. I did not."

Martin Beckner who was standing on the steps of C. I. O. Headquarters had a similar experience:

"Q. (by Mr. Lauter) Was there shooting by anybody else?

A. Shotguns, machine guns and bullets from these special policemen located south of strike headquarters.

Q. At any time you were on the scene did you see any shooting from C. I. O. headquarters?

A. There was not.

Q. During the entire evening did you see or hear any shooting by any of the C. I. O. men?

A. No sir.

Q. Did you see any shooting by anyone else besides the police?

A. I did not.

Q. Describe what happened after the shooting started.

A. When they started shooting I went around strike headquarters on the north side of the building until I came to a lane running parallel with Cleveland Street . . . and seen some people from Canton in a car with two women and I told them to get the women out . . . because I didn't want to see the women shot . . . I went toward the Massillon headquarters and saw a man lying face down in the street and every once in a while the police were shooting gas shells and I said 'Let's get that fellow out' and we carried him up to the corner of Cleveland Street and McKinley Avenue and a car came up with two men and two women in it (the Meyers and the Winceks) . . . We stopped the car and put the man in it and a second man had fallen and we picked this man up and he had been hurt in the shoulder . . . and by this time the special police started shooting at us and we started to McKinley Avenue . . . the special police men were lined up on the west side of the street and some were still coming up Cleveland Avenue shooting gas shells and buck shot and these other policemen lined up across from the strike headquarters and every once in a while you could hear the gas guns and these special police went on up to another street running parallel with Cleveland Street and I seen this car with the Canton people in it and asked them to take Mr. Wilson—that was the name of the man that had been shot, and another car came along and I got on it and we drove back to Canton."

Walter Meyer, his wife, and the Winceks were seated in a car outside C. I. O. headquarters:

"Q. (by Mr. Lauter) At the time the shooting started, what did the occupants of your car do?

A. I told them to duck.

Q. Did they duck?

A. Yes I say they ducked . . . after the first volley was over, the people pretty well cleared the street in front of headquarters and it quieted down after the first volley, and . . . just as I raised up there was a tear gas bomb dropped about six feet ahead of my car and right away I holiered at Mr. and Mrs. Wincek to roll them windows up . . . and attempted to start and get away from there and just as I done that the second volley came and the second time I told them to duck and stay ducked and I went down myself and we laid there until the second volley was over and I said to Mr. Wincek 'We have got to get out of here one way or another' so I raised up high enough that I could see out with my left eye, and I put my car in low gear and pulled up about eight feet, and I cut my wheels real short, and the third volley came and I didn't stop and I hit the car back of me and I back up the street all through the third volley and the third volley was over the minute I backed into the alley. I . . . went up the street in high speed . . . pretty near a block and I seen at least a dozen men standing around there . . . and I seen two men (Beckner and Hardesty) holding one man between them and somebody hollered 'Take this man to the hospital' . . . I stopped my car and I told my wife and Mr. and Mrs. Wincek to get out on the street in order that we would have room to take these men to the hospital. These two men were holding one man and we loaded this man in the back seat and one man . . . held this wounded man's head . . .

There was the man got on the front seat and he said he got shot in his right shoulder . . . While we were driving up to the hospital this man lying on the back seat was moaning and suffering terribly. He said 'Boys, I am dying.' I rushed the man up to the hospital at high speed. We put him on the stretcher up there and took them up on the second floor on the elevator. I helped lift the man on the bed and pulled his pants off . . . And I rushed down to my car and beat it right back to where I left my wife and Mr. and Mrs. Wincek. When I got there, my wife and Mr. and Mrs. Wincek were not there. There were some other men standing there at the corner. Mr. Joe Morton picked up a tear gas shell that landed right on the corner there and up along the street. I was standing there looking at that and Mr. Wincek hollered up the street and said 'Hey Walt! I am up here.' So I went in my car and drove on up the street and I picked up my wife and Mr. and Mrs. Wincek.

Q. Do you know that the man you took in your car, who was lying in your back seat, died?

A. Yes. I went up to C. I. O. headquarters . . . the next day and some of the boys . . . told me 'you know that fellow you took to the hospital . . . Well that fellow died this morning.'

Q. Will you describe the condition of your car after the shooting?

A. . . . The windshield was all shattered from being shot. I don't think there were any rifle shots or machine gun shots hit our car. It was practically all buckshot. It shattered . . . the body over the windshield and the body down along the sides of the windshield and both fenders. The left door window . . . was shattered . . . I counted ten shots that went through the radiator that landed back of the motor up against the dashboard . . .

Q. During all of the time that you were there did you see any shots come from C. I. O. headquarters?

A. No sir; none whatsoever. I didn't see no flashes, and I didn't see no shots, and I didn't see anybody whatsoever have a gun.

Q. Did you see anybody shooting except the police?

A. No sir."

Harry Jones testified that after the shooting began, "I laid down between the seat and the gear shift and the brake for maybe a minute or so, until I worked my body up onto the seat and kept my head down . . . I opened the door and got around on the rear bumper . . . While standing on the bumper, the gas shells and shots started flying and tears started rolling down my cheeks and I started feeling a little sick in my stomach. I got a foot braced and I made a leap. I ran from door to door until I got to the last building."

"Q. (By Mr. Lauter) Will you describe the condition of your car?

A. There was a bullet hole through the windshield and a lot of buckshot in the windshield, a bullet hole through the right headlight, and the radiator on the inside was all full of holes and the outside where the buckshot hit is dinged and the hood on the left side is all spotted from where the buckshot hit and knocked the paint off."

All the foregoing witnesses have described the tactics of the police as they saw them from outside C. I. O. headquarters. John Veto, retreating from the door into the building, describes a scene of unparalleled horror. He testified that as the two police officers advanced up Cleveland Avenue and said "Let's bust them up, boys" they dropped flat. "Then a shot came by just where I was standing, right on from there near me, and I think there was a tear gas sheii, because it hit the building and some pieces came inside the room there. As soon as when I heard that I turned around and went into the hall. And there was a table right there in the hall. When I was turning to dive under the table I had a sharp feeling right on my leg here. And I laid flat under the table. And I didn't get up to see what it was because if I went from there I could get hit on the head."

"Q. (by Mr. Lauter) You had been shot?

A. Yes . . . I was (under) the table laying flat for ten minutes . . . I heard a man from the outside say 'God! They're not blanks; they're bullets.' . . . Then when I heard that I crawled from the table and I went to the other room. And that room leads into the kitchen. And I went into the kitchen. And there five women and around seven or eight men . . . We waited there for a little bit and we shut the windows all around us . . . There was so much tear gas and the women were all choked up . . . We waited a little bit in the kitchen there for about 15 or 20 minutes, I guess, and a man said 'I will go out and see what happened.'

Q. Why did he say that? Was the shooting still going on?

A. Yes. And I said 'All right. I will go with you.' He was going on from there and I was coming on back. And when he reached the door—

Q. What door?

A. The front door . . . that leads to the street. When he opened the door I saw a deputy sheriff shot at him right away while he was holding the knob of the door and the door was half opened and the deputy sheriff turned around and shot the guy right in the leg. He said 'God! I am hit.' When I heard that 'God, I am hit' I said 'Come on boys let's help these men out.' And two more men came and we helped him . . .

* * * * * *

And we carried the man into the kitchen and we laid him on the icebox . . . a low icebox . . . a woman went to get hot water to clean him. And by the time she came, the kitchen was all full of blood. There was blood all over the kitchen there coming from his leg . . . Then the woman washed him up and we let him go for a little bit. We heard a noise in there and we turned off the lights awhile, but the man he fell from the icebox on to the floor. And then we picked him up again. By the time we picked him up two women went to the door . . . to call for the ambulance. When they got to the door they were shot at twice, because when (they) came back they said 'Gosh, we have been shot at twice.' From that time on nobody went to the door anymore. We all sat behind there in the kitchen . . . Then the ambulance came . . . and we helped the men to carry him out on the stretcher. When we carried him out, I said to the women there 'You women might as well get out from there.' Well, they got out. One of them, she crawled from the window . . . then the other one went out the front of the house.

Q. When did they go out the front room?

A. When the ambulance was there because that was the chance they had. Otherwise they would be shot and they couldn't get out.

Q. What did you do?

A. I helped the men put him in the ambulance and I went away too . . . I went on the sidewalk, and when I reached around 25 feet them police were hollering to 'Come back here! Come back here!' I turned around

> and I saw them hollering and I stumbled on a man lying on the street there . . . And I got up and ran away. And I reached the corner of Cleveland and McKinley Avenue there, and there was a bunch of men, I would say ten or eight men. They were talking together about helping the man lying on the street there . . . When they were near the man, the police shot and they hit one of those men . . . Then finally I went up McKinley Avenue . . . And I saw a lot of police. They were coming from toward McKinley Avenue. And I saw that and I kept going. When I reached the corner of Duncan Street and McKinley Avenue, there was . . . a car of special police and a bunch of men sitting on the ground. They were talking together. When that passed, they shot at those men. I ducked down behind a telephone post there.
>
> Mr. Donald Wakefield Smith: How far was that from C. I. O. headquarters?
>
> A. It was three blocks away from C. I. O. headquarters.
>
> Q. (by Mr. Lauter) Now during all the time you were there, did you see any shooting from C. I. O. headquarters?
>
> A. No.
>
> Q. Did you see any shooting from anyone except the police?
>
> A. Just the police shot."

Wilbert Coleman, the occupant of the second floor, testified for the respondent that the glass windows in the front of the building were smashed, that there were bullet holes inside the building, that tear gas was fired through the two front windows, and that because of the effects of the gas, his wife, his brother-in-law and mother then in his apartment, required treatment at the Republic Steel hospital.

To all of this testimony, the respondent replied with a plea, in effect, of self-defense, charging that the police opened fire only after several shots had been fired at the police from somewhere near the vicinity of C. I. O. headquarters.

Before examining the testimony of the witnesses for the respondent it is necessary to recapitulate the sequence of events immediately prior to the encounter as established up to this point:

(1) Shortly before 11 p. m. Harry Jones parked his car on the west side of Cleveland Avenue, almost directly across the street from C. I. O. headquarters, with its headlights shining on the regular and special police lined up on Cleveland Avenue 50 to 100 feet south of C. I. O. headquarters.

(2) Officer Fellabom armed with a loaded submachine gun was standing on the west side of Cleveland Avenue across the street from C. I. O. headquarters in the immediate vicinity of Jones' car.

(3) At approximately 11 p. m. Major Curley and Special Officer Henderson advanced midway from the line of police toward C. I. O. headquarters.

(4) At the same moment Officer Fellabom fired two or more shots at the headlights of Jones' car.

(5) Almost immediately thereafter the police opened fire at C. I. O. headquarters.

With this summary, we turn to the testimony of the witnesses for the respondent. It is evident that the vital question at issue is the exact source of the shots which the respondent alleges precipitated the shooting by the police. Officer Ickes testified, "Cap Curley lined seven or eight of us, maybe six or seven I don't know . . . us fellows that had the gas guns, across the road . . . about 100 feet south of C. I. O. hall on Cleveland Avenue . . . He said he was going over and tell those people to move, that it was late enough, that he was going to have them move off the street . . . break them up . . . Just as he started over there about halfway between the C. I. O. headquarters up the line, there was *four or five shots came out along in the vicinity of the C. I. O. headquarters.* [37] Stones started to fly . . . We started firing. I don't remember whether—I started firing gas shells over against the front end of the building . . . Well, we started to fire the gas shells, and after we shoe some gas into them, they started to disappear somehow. There was still some across the street but not all of them. All of them didn't disappear but most of them did. They ran all over, I guess . . . A little while later, the Canton police arrived and they drove up through Cleveland Avenue with their armoured car and shot gas—what they needed to clear the street. That is all there was to it."

On cross-examination Ickes added that he saw Special Officer Henderson advance with Curley, that he did not see anyone use a machine gun, and that he heard no other shots fired from the direction of C. I. O. headquarters except the four or five at the beginning, as Curley and Henderson had reached the point halfway up Cleveland Avenue.

Officer Kraft testified that he was standing about 100 feet south of the brick building on the west side of Cleveland Avenue ten yards west of the sidewalk. " . . . they got pretty noisy up there and Curley said something about breaking them up . . . and Curley started up toward . . . the crowd . . . and when he got about 50 feet from the crowd, four or five shots rang out and stones flew, they started shooting from both sides."

"Q. (by Mr. Pontius) Now you saw four or five shots fired. Where did they come from, did you observe?

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[37] Italics supplied.

A. *From the C. I. O. headquarters there some place.*[38]

Q. What if anything did you notice about any automobile coming up there on the street? . . .

A. Someone pulled up there with an automobile. He stopped there and turned the headlights on. He had the headlights on the police.

Q. Did that occur before Curley started up the street or after he started up the street?

A. Right about the same time.

Q. Did you hear any talk there with respect to those headlights? .

A. I heard some one holler to turn them out. In front of the C. I. O. headquarters, he hollered to turn that light off.''

Kraft on cross-examination testified with reference to the four or five shots as follows:

"Q. (by Mr. Lauter) Where did you see the bullets come from?

A. C. I. O. headquarters.

Q. What part of the headquarters?

A. The front part, close to the entrance some place . . . kind of a cement porch in front there.

* * * * * *

Q. Do you mean the sidewalk?

A. Yes sir.

Q. And that is where the shots came from?

A. Up in there some place.

Q. From the sidewalk is that right?

A. I can't swear where, right the exact spot where they come from, but they come from in there some place.

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[38] Italics supplied.

Q. I am trying to find out . . . whether you know where they came from or not.

A. I heard them in that direction right in front of the—

Q. Did you hear them or see them?

A. I heard them.

Q. Were you facing the C. I. O. headquarters?

A. I was.

* * * * * *

Q. You didn't see where they came from at all?

A. I didn't see them, I heard the direction they came from."

Kraft also testified that he saw Fellabom earlier in the evening take the submachine out of the police car, and walk across the street, but did not see him shoot at the headlights.

Officer Kelley was among the group of police stationed 100 feet south of C. I. O. headquarters. He testified that "an automobile was driven up and parked on the west side of the street; the driver got out of the car, left the lights burning. They were shining directly down the road and into our face and it was partially blinding us. Someone called for him to turn the lights out and the man had taken oh possibly three or four steps away from the car and he turned and went back and turned the lights off. And someone called out from the vicinity of C. I. O. headquarters, and he used a string of unprintable words and ordered this man to turn the lights back on and he immediately went back to the car and snapped the lights back on. Then with that Captain Curley started forward . . . to turn the lights off . . . and as he passed me, he told me to cover him . . . When he got up within oh approximately 15 feet of the automobile, why there was a volley of rocks thrown and some one fired *five shots from the revolver in the vicinity* *of the C. I. O. Hall.*[39] The shots were fired in rapid succession. And with the shots and the stones, the crowd surged forward and I released the tear gas shell about eight or twelve feet over their head . . . ''

On cross-examination, Kelley testified:

"Q. (by Mr. Lauter) You testified about covering Major Curley at one point . . . Will you state when that was?

* * * * * *

A. Well it was prior to the start of the fight up there, just a minute, or within a few seconds rather.

Q. Was that the time that the headlight was shot out?

A. Yes sir."

Kelley then retracted his previous statement that Curley had gone forward in order to turn off the headlights.

"Q. He (Curley) said nothing about the lights?

A. Not to me.

Q. When were the lights shut off? Was that before the general shooting started?

A. Yes sir.

Q. Fellabom shot the lights out of that car before the shooting occurred?

A. *No.* Let me recall about that. *That was before the fracas.*[39]

Q. Don't you know which statement is correct now?

A. The last one.

Q. The first statement was incorrect?

A. Yes, sir, I am sorry."

While this testimony confirms the testimony of witnesses for the Board with regard to the time at which Fellabom shot out the headlight we are satisfied from the manner in which Kelley answered the questions put by counsel for the Board, and from his testimony on direct examination, that Kelley did not see the shots which were fired by Fellabom at the same moment that Kelley claimed to have heard the five shots fired in rapid succession from the vicinity of C. I. O. headquarters. If Kelley's testimony on this point is to be credited at all, it indicates that he merely saw the light from the headlight shut off.

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[39] Italics supplied.

It is evident from the testimony of these three officers that although they all appear to have been facing C. I. O. headquarters at a distance of approximately 100 feet when the four or five shots were fired, they could not fix the source of the shooting any more precisely than "out along in the vicinity of the C. I. O. headquarters," or "from the C. I. O. headquarters there some place" or "from the vicinity of the C. I. O. Hall." None of the three testified that they saw flashes or fire from a gun, and it appears from their further testimony that they merely heard the shots. Moreover, with the possible exception of Kelley, none of the three saw Fellabom, stationed directly across from C. I. O. headquarters, fire his submachine gun at the headlight of Jones' car at approximately the same moment that they claim to have heard the four or five shots from "out along in the vicinity of C. I. O. headquarters." Kelley's testimony, as noted above, merely indicates that he saw the light shut off, but not that he saw Fellabom fire his submachine gun. Although the testimony of these three witnesses establishes the fact that certain shots were fired, it does not indicate that they were fired by the strikers rather than by Fellabom.

We turn next to the testimony of several of the respondent's employees who claim to have seen the firing from C. I. O. headquarters.

Orin Pauli testified that at 11 o'clock he and two fellow employees, whose shift ended at that hour, drove up to the respondent's main entrance or gatehouse, on their way out of the plant from work.[40] This entrance is located about 300 yards from C. I. O. headquarters. Pauli's car was fourth or fifth in line when the first car was stopped at the entrance by Republic Steel Police. "We drove up to the entrance, there they stopped us, they had started to shoot," he testified on direct examination "You could see the flash of the fire coming out . . . of C. I. O. Hall . . . I didn't see anything else, but we heard the bullets." On cross-examination, he stated that he was standing or "ducking" behind the car from the time the shooting started until after it was over, and again, that he was standing beside his car when he heard the first shot. Pauli also amplified his description of the shots by stating that he saw the flashing of guns from the front and side windows of C. I. O. headquarters when the shooting first started.

It will be noted that there are two important discrepancies between Pauli's testimony on direct examination and his testimony on cross-examination. If he drove up to the entrance in his automobile and the shooting had already started, as he testified on direct examination, he could not have seen the first shots and could not have been standing behind or beside his automobile, as he testified on cross-examination. On cross-examination, confronted with this conflict, Pauli finally chose to reaffirm his second version.

In any event we consider his testimony unreliable. Standing approximately 300 yards away, behind four or five other cars, in the darkness of 11 o'clock at night, he claimed to have seen flashes from the front and side windows of C. I. O. headquarters, which not even the closest observer of all the witnesses for the respondent claimed to have seen. It is obvious that even if he did see flashes from guns, he could not at that distance have distinguished whether they came from Fellabom's machine gun or from C. I. O. headquarters.

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[40] In his testimony on direct examination Pauli referred to Gate No. 1. A glance at the map (Respondent's Exhibit No. 1) will show that it would be almost impossible for anyone at the No. 1 gatehouse to observe the front of C. I. O. headquarters. On redirect examination, Pauli corrected his previous testimony and stated that he meant to refer to Gate No. 2, the main entrance.

Edward Lustig, a watchman employed by the respondent, testified that at approximately 11 o'clock he was standing at the window on the north east corner of the respondent's main office building, about 400 feet from C. I. O. headquarters. "There was a man walked up the street toward the C. I. O. and he got part ways up there and I hear some noise and hollering and all at once why there was five shots fired from C. I. O. and this somebody hollered in the back for . . . somebody to come forward and they started to shoot this tear gas."

> "Q. (by Mr. Pontius) Just tell us from where you saw the shots fired as you observed them.
>
> A. Well right from the C. I. O. building, right from the sidewalk down—there was a man standing as close as I could see from the distance I was away from him, and he fired five straight shots."

It will be noted that Lustig is the first witness for the respondent who claims to have seen any person firing the shots. All other witnesses observed only the flashes or the fire from the gun. On cross-examination, Lustig defined the man's position more closely. "It looked to me just like he was standing on the sidewalk when he fired this gun . . . just about eight or ten feet from the building . . . five shots in rapid succession."

In view of this testimony, more precise, with regard to the position of the person who fired, than that of any other witness, the following testimony on cross-examination is significant:

> "Q. (by Mr. Lauter) Is your eyesight pretty

good, Mr. Lustig, now?

* * * * * *

A. Pretty fair.

* * * * * *

Q. Can you see what time it is over there now (referring to the clock in the hearing room)?

A. Yes.

Q. What time is it?

A. I think it is 20 minutes after 4.

Mr. Lauter: Let the record show—

The witness: Or three.

Mr. Lauter:—that it is twenty-five minutes after three.

The witness: After three, is it?"

Lustig also admitted that he was "kind of a little deaf, that is my ears" and had considerable difficulty in hearing the questions addressed to him at the hearing. We consider that these admissions render Lustig's testimony unreliable. If, as appears, his eyesight was poor and he was hard of hearing, we doubt that at a distance of 400 feet at 11 o'clock at night he heard someone holler to come forward and saw what no other witness in the immediate vicinity was able to observe—a man standing on the sidewalk eight or ten feet from the C. I. O. headquarters fire five straight shots. At the very least, we believe that under these circumstances Lustig could not have distinguished whether the person firing the five shots in rapid succession was Fellabom with his machine gun across the street from C. I. O. headquarters or some other person among the strikers in front of C. I. O. headquarters.

Frank Swarm, night watchman employed by the respondent, was standing at the window on the east end of the first floor of the district or main offices, at least 300 feet from C. I. O. headquarters. A few seconds after the 11 o'clock whistle had blown, he testified, he saw the fire from guns, from in front of C. I. O. headquarters, "five shots from the front of headquarters."

> "Q. (by Mr. Pontius) Then what next did you see?
>
> A. Well really leading up to the shooting, there was two men walked up Cleveland Avenue, in front of the headquarters, and they got right up near the headquarters and there was five shots fired. Two men dropped and they started back towards the police department they had strung across Cleveland Avenue. After the fifth shot was fired, the Massillon city police started to shoot tear gas."

After the Canton police arrived, Swarm continued, "there was another volley of firing; shooting started from up in front of the hall again."

On cross-examination, he testified with respect to the first volley of shots:

> "Q. (by Mr. Lauter) Where did the shots come from?
>
> A. In front of the C. I. O. headquarters . . . directly in front of the building . . .
>
> Q. But you don't know whether it was from the doorway or the sidewalk?
>
> A. I wouldn't be positive, no . . .
>
> Q. But are you sure they didn't come from the steps of the building?
>
> A. No, it wasn't that close."

With respect to the second volley of shots, he testified:

> "Q. (by Mr. Lauter) Where did these shots come from?
>
> A. From headquarters all around headquarters . . . right up in front . . . right in front of headquarters.
>
> Q. In the doorway?

A. I couldn't say if it came from the doorway or not.

Q. Would you say it came from the sidewalk?

A. Either the sidewalk or the street."

Officer Ickes and Major Curley testified that the only shots during the entire evening that came from the vicinity of C. I. O. headquarters were the four or five shots at the very beginning. immediately preceding the firing of gas bombs by the police. Officer Johnson, who arrived at Cleveland Avenue shortly after the shooting had begun, testified that he saw no shots fired from C. I. O. headquarters at any time after 11 o'clock. Officer Fellabom testified that the only shooting from C. I. O. headquarters that he saw came from the doorway at 11 o'clock, and that, thereafter, from his position directly across the street from C. I. O. headquarters, he fired several rounds at the upstairs windows of other houses. This testimony by the respondent's witnesses indicates that the second volley came not from C. I. O. headquarters but from Fellabom's submachine gun. As noted above, however, Swarm identified both volleys as having been fired from in front of C. I. O. headquarters. We think it clear that Swarm, standing at the east end of the main office building, was not in a position to distinguish whether the first volley came from Fellabom or from C. I. O. headquarters. The very fact, however, that Swarm identified both volleys as having been fired from the same spot indicates that the first volley, like the second, was fired from Fellabom's submachine gun.

The testimony of two other witnesses for the respondent lends support to this conclusion. Wilbert Coleman, the occupant of the rooms over the C. I. O. headquarters, testified that he heard the shooting but did not hear any shots come from the downstairs of the building. James Adams, a visitor at Coleman's apartment, testified that he saw a man on the west side of Cleveland Avenue on the sidewalk shooting a machine gun, that the first shots that were fired sounded as if they came from the west, from the street, directly in front of the building.

There remains to consider the testimony of Major Curley and Officer Fellabom who at relatively close range claim to have seen the flashes of the gun as it was fired. Of all the witnesses for the respondent, Fellabom tells the most circumstantial story of the events which followed. At many important points, however, his testimony differs from that of other witnesses both for the Board and for the respondent. He testified that immediately after the intoxicated man with a white shirt and a straw hat gave up his attempt to go through the police line, Curley walked up to the center of the street and shouted to C. I. O. headquarters, " 'A couple of you men take this man out of here before he starts to make trouble.'[41] I noticed this man walked to the doorway in the C. I. O. headquarters while Curley was standing there. Stones started to fly. I saw the fire flying off the bricks there. I saw one of these hand grenades—a gas bomb—I seen them flying off the stones. That gas bomb didn't any more hit the road when the shooting started out of the doorway."

> "Q. (by Mr. Pontius) Now from your position could you see any guns from there?
>
> A. I could see the flashes of the shooting. I couldn't see the guns . . . the fire was flying close from the top of the door. Just like someone was standing up and holding a gun and shooting down like that (indicating) I could see this much . . . just like someone was standing in the doorway and a gun held like that (indicating). I could see that much on the truck.

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[41] According to Curley and Ickes, this incident occurred at approximately 10:30 p. m.

Trial Examiner Lindsay: You mean the gun was held up over his head?

A. Yes it was higher.

Trial Examiner Lindsay: Holding the gun up in the air. The shooting was down?

A. Yes.

Q. (by Mr. Pontius) With respect to this truck, where was the location of this firing?

A. It was right behind the truck.

Q. That is from where you stood?

A. Yes, sir.

Q. Now, could you tell the direction in which these shots were fired?

A. They was coming toward our men. They were standing at an angle.

Q. From the position you were standing in at that time, could you see any part of the doorway, leading into the C. I. O. headquarters?

A. About two feet of it top and down.

Q. Now where in respect to the doorway did you see these flashes?

A. Close to the top.

Q. Were you able to distinguish any person there?

A. No, sir. It was a tarpaulin over this truck. It hid the view of the front. But I could see—all I could see was about two feet around in top of the road.

Q. Could you see the man holding his hand up there . . .

A. All I could see was this firing this fire was flying close to the top of the door.

Q. Now what if anything did you do at that time?

A. I turned the machine gun loose on that shoot-

> ing out of the door . . . I shot over in there and then stopped, and then the boys—the rest of them was all shooting in there, shooting gas. They was close to me and it got so noisy you couldn't hear yourself think."

Fellabom then described how he shot out one headlight of Harry Jones' car and explicitly testified that he did this just before the above described events took place. Continuing, he testified that he first fired three times at the doorway, then "saw in the upstairs windows was flashes of shooting."

> "Q. By upstairs windows, you mean what?
>
> A. Toward the buildings along the street on the right hand side, on the east side of the road. . ."

On cross-examination, Fellabom stated that he was on the west side of the street across from C. I. O. headquarters, that "the first shot came out of the doorway of C. I. O. headquarters," and that he fired the second shot. As noted above, he then retracted his explicit testimony made on direct examination, that he had shot at the headlight just before shooting at the doorway, and asserted that he had waited approximately 35 minutes before shooting the headlight out. He remained firm in his assertion that there was no shooting other than the gas bomb before the shots came out of C. I. O. headquarters.

> "Q. (by Mr. Lauter) You are absolutely sure that some police officer fired a gas bomb before any shooting from the C. I. O. headquarters.
>
> A. Yes, sir. I saw it flying through the air. That is as true as I said it . . .
>
> Q. I am asking you whether or not before the gas bomb was fired, the only action of any violent nature was the throwing of stones by some C. I. O. men, is that correct?
>
> A. Yes, sir."

Fellabom also testified that the only shooting that he saw came from the doorway, at approximately 11 o'clock. Later he testified that he saw between 50 and 100 shots coming from the upstairs windows of the eight or ten buildings on the east side of Cleveland Avenue, and that he fired his machine gun several times at these windows. As noted above, Officer Ickes and Major Curley testified for the respondent that the only shots which they heard or saw from the vicinity of C. I. O. headquarters during the entire evening were the four or five shots *immediately preceding the firing of gas bombs by the police.* Thus Fellabom whose view of the front of C. I. O. headquarters was almost totally obstructed by the tarpaulin-covered truck, claims to have seen flashes or a first shot fired, from the doorway after a gas bomb was fired, at a time when Ickes and Curley with an unobstructed view testified that all firing had ceased from the vicinity of C. I. O. headquarters. In addition, no witness, except Fellabom, testified that any shots were fired from the doorway. Fellabom's testimony on this point is not only at variance with the testimony of the witnesses for the Board, who testified that no shots were fired from the doorway or any other place in the immediate vicinity of C. I. O. headquarters, but also with the testimony of all the witnesses for the respondent who testified to the first shots. We think the evidence is overwhelming that Fellabom's testimony to the effect that he saw flashes or a first shot from the top two feet of the doorway is not to be credited.

The salient part of Fellabom's testimony, however, relates to his consistent assertion that he saw a gas bomb fired by the police fly through the air and hit the road *before* he saw the "first shot" from the top two feet of the doorway of C. I. O. headquarters. Every other witness for the respondent, without exception, steadfastly asserted that the police fired gas bombs only *after* four or five shots were fired from some place, more or less definitely identified, in the vicinity of C. I. O. headquarters. This difference between the testimony of Fellabom and every other witness for the respondent is crucial. It indicates the police 100 feet south of C. I. O. headquarters opened fire after hearing the shots fired by Fellabom from his submachine gun in the belief that such shots were fired by the strikers.

Before summarizing the evidence in support of this conclusion, we turn to the testimony of Major Curley.

Curley testified that he was standing 100 feet south of C. I. O. headquarters among a group of special and regular police at 11 o'clock when "the crowd commenced to get larger at C. I. O. Hall and Kelley and Henderson and Fellabom and Ickes and I got our heads together and I said 'Don't you think it would be a pretty good idea to go up and tell those fellows that they will have to abide by the proclamation that was handed down by the Sheriff of Stark County.' . . . So I said 'We do not want to have any trouble here.' I said 'It would be a good idea to break it up.' So Henderson, he started forward, and he turned around and he said 'Come on Cap' and I said 'Hell, I ain't got any business up there. I am not deputized to go up in there.' And he said 'You are deputized now.' He says 'You are going right along up.' I says 'All right, if that is the way you feel about it, I will go up and try to talk to the boys.' So we started forward . . . and I got about 50 feet ahead of where the officers were lined up . . . I was met with 'You God damn dirty sons of bitches' and bingo out came a bunch of rocks, clubs, stones and bingo five shots one right past my head."

"Q. (by Mr. Day) Who said this about the sons of bitches?

A. The men up around the C. I. O. Hall.

Q. And where did the rocks come from?

A. Around the C. I. O. Hall.

Q. Where did the shots come from?

A. From on the step of the—in front of the front door of the C. I. O. Hall.

Q. How many shots did you see?

A. Five.

Q. Could you give an opinion as to what kind of shots they were, or from what guns they were fired?

A. Yes, an automatic revolver . . . I immediately dropped to the ground and all hell broke loose . . . the firing started, I was lying on the ground. I don't know, I laid down. The firing then started from both sides and tear gas guns were going. Fellabom was back with a machine gun loaded with bird shot. He started that barking. The gas—that was fired for effect only."

We have already referred to Curley's testimony that Fellabom shot out the headlight of Jones' car, fifteen minutes after the shooting had begun, and found that the overwhelming weight of evidence was to the effect that the shooting occurred at the same moment that Curley and Henderson had reached the half way point in their advance toward C. I. O. headquarters. It will be noted that in the testimony cited above, Curley stated that Fellabom was among the special police 100 feet south of C. I. O. headquarters, at the time Curley began his advance. On cross-examination Curley modified this statement and testified that Fellabom was on the west side, on "the first tile building on Cleveland Avenue." Other evidence in the record indicates that this tile building is almost directly across the street from C. I. O. headquarters. It is therefore, clear that Fellabom was approximately 50 feet to the north west of Curley at the moment the five shots were allegedly fired from C. I. O. headquarters. With respect to these shots, Curley further testified:

"Q. (by Mr. Lauter) During the entire evening of July 11th, do you know how many shots were fired?

A. Five.

Q. How many shots did you see coming out?

A. Five out of the steps.

Q. Did you see some shots other than those five that night?

A. I didn't.

Q. Then a total number of shots you saw coming out of the C. I. O. headquarters was five?

A. That is right."

Upon the reliability of Curley's testimony that five shots were fired from in front of the front door of C. I. O. headquarters depends in large measure the respondent's plea of self defense. Of all the witnesses for the respondent he was the one nearest to C. I. O. headquarters, with a totally unobstructed view of the entrance and the crowd, and had the best opportunity to observe the acts of the strikers. We believe, however, that Curley's testimony on this decisive point is completely unreliable.

As one who purported to act as a public spirited citizen, he had exhibited an active bias in favor of the respondent. As one who in the absence of Chief Switter had assumed command of the police department and with such command the responsibility for the acts of the regular and special police, he had a paramount interest in asserting that the strikers rather than the police were legally and morally liable for an encounter which resulted in the death of three strikers. This paramount interest and active bias run through his entire testimony.

We have already found that Curley's testimony with respect to the selection and bonding of the respondent's employees as special police is not to be credited. Similarly, Curley's testimony that he did not issue the orders which raised the guard at C. I. O. headquarters is flatly contradicted by the testimony of Chief Switter, Officer Kraft and Officer Fellabom, and is not to be credited.

Curley further testified that just before advancing toward C. I. O. headquarters, he was deputized, for the first time, by Special Officer Henderson, in the presence of Officers Kelley and Ickes. Kelley, however, testified that at this time Curley said nothing except that he was going forward. Ickes testified that Curley said nothing, as he began to advance, except that he was going to "break them up." Officer Kraft testified that he was in the line of police at this time and heard Curley say that he was going to break them up. Kraft did not mention any conversation between Henderson and Curley. Henderson was not called as a witness. Under these circumstances, in view of Curley's evident desire to give the color of legality to his actions, we consider his statement that he was deputized by Henderson to be a protective afterthought rather than a statement of fact. We believe that Curley's testimony on this point is not to be credited.

Finally, Curley testified that Fellabom shot out the headlight of Jones' car at 11:15 p. m. after the shooting elsewhere had begun. This testimony was flatly contradicted by a number of witnesses both for the Board and for the respondent. Under the circumstances described above, we found that Curley's testimony on this decisive point was not to be credited.

In view of the complete unreliability of Curley's testimony on such major points, and his obvious bias and interest, we feel justified in refusing to credit his testimony with regard to the source of the five shots.

A number of other witnesses for the respondent testified that they heard shots fired, either at the beginning of the encounter, or during it, but none of these witnesses was able to fix the source of the shooting more precisely than "Cleveland Avenue," or "on the other side of the viaduct" or generally in the location of Cleveland and Oberlin Avenues. Some testified on direct examination to a number of shots coming from the crowd and on cross-examination admitted that they had not seen the shooting and did not know whether the police or other persons had fired the shots. A second group of witnesses testified that they saw flashes from cornfields, railroad tracks, and other places at some distance from C. I. O. headquarters. Both groups testified that they heard the shots come from all directions or from north to south or from the west to the east. It is obvious that such testimony proves little or nothing, except that there was a great deal of shooting taking place in and around the vicinity of C. I. O. headquarters from the time the encounter started until 11:30 or later. At least 20 police and an undetermined number of deputy sheriffs were engaged in shooting tear gas, guns, revolvers, and a machine gun in all directions on Cleveland Avenue. Other police east of Cleveland Avenue near the viaduct had shot revolvers and riot guns shortly before 11 p. m. The testimony of these witnesses, while indicating the wide extent of the shooting, proves nothing as to its source.

With this description of the incident at C. I. O. headquarters we turn to a concluding analysis and summary of the evidence.

For at least three quarters of an hour prior to the encounter, while an unarmed peaceful group of strikers and strike sympathizers were gathered at C. I. O. headquarters, engaging in their usual Sunday night pursuits of talking, changing pickets, playing music and dancing, 20 regular and special police, armed with revolvers, rifles, gas equipment and a submachine gun, were lined up on Cleveland Avenue under instructions from Major Curley to expect trouble. We have analyzed and found without merit Curley's justification for his orders increasing and arming the police, and have examined and rejected the contention by the police that the crowd as a whole was other than peaceful. Even if we should credit in full the testimony of those officers who claimed to have heard threats against the police by one or two men in the crowd, it is apparent that under the circumstances described such threats were not taken seriously and that the strikers cannot be held responsible for the isolated utterances of one or two unidentified drunken persons who disappeared from the vicinity approximately half an hour before any violence occurred.

Shortly before 11 p. m., when Curley and Henderson, advancing up Cleveland Avenue from the line of police 100 feet south of C. I. O. headquarters, had reached a point midway between the police line and the strikers, Fellabom, standing on the west side of Cleveland Avenue, across from C. I. O. headquarters, fired several shots at the headlight of Harry Jones' car. Upon this point, as we have seen, the testimony is in conflict. We think, however, that the testimony of the witnesses for the Board, corroborated by the testimony of Officers Kraft and Kelley, far outweighs the testimony of Curley, which is unsupported except for the self-contradictory testimony of Fellabom.

Immediately after Fellabom fired his submachine gun, the police opened fire on the strikers. Because of the darkness and the rapid succession of events, no one witness was able to observe more than a segment of this incident and what immediately followed. The whole, therefore, can be understood only by a synthesis of the pertinent testimony of a number of witnesses.

Beckner, standing on the steps of C. I. O. headquarters looking south, saw the shooting begin from a point in the immediate vicinity of Harry Jones' car, parked on the west side of Cleveland Avenue, across from C. I. O. headquarters, just at the moment that Henderson and Curley were approximately midway between the police and the crowd at headquarters. Beckner, however, did not see Fellabom fire at the headlight. Walter Meyer, whose car was parked directly across from C. I. O. headquarters, behind and slightly north of Harry Jones' car, heard Fellabom fire two shots at the headlights of Jones' car, but did not see Henderson and Curley. Adams, who was in Coleman's apartment on the floor above C. I. O. headquarters, heard the first shots fired from the west side of the street, in front of C. I. O. headquarters, approximately where Fellabom was standing. Swarm on the first floor of the respondent's district office building, saw a first and second volley of shots fired in front of C. I. O. headquarters. As noted above, Fellabom fired a second volley from his position on the west side of Cleveland Avenue across the street from C. I. O. headquarters, after all the alleged firing from C. I. O. headquarters had ceased. Swarm's testimony, therefore, indicates that the first volley, like the second, was fired by Fellabom.

Officers Ickes, Kelley, and Kraft, standing in the line of police 100 feet south of C. I. O. headquarters and facing it, heard four or five shots in rapid succession from "out along in the vicinity of C. I. O. headquarters," but did not see the shots and did not see Fellabom fire his submachine gun. They testify that immediately after hearing the four or five shots, they fired gas projectiles from their gas guns. Swarm testified that after the fifth shot was fired, the police started to shoot tear gas. Fellabom, however, asserted that the police fired gas bombs at the strikers before a first shot was fired from C. I. O. headquarters. Assuming that with relation to the sequence of the four or five shots and the gas bombs, these witnesses are telling the truth, the discrepancy between the testimony of Swarm and the officers south of C. I. O. headquarters and that of Fellabom across the street from the crowd, can only be explained by the fact that Fellabom first fired his submachine gun at the headlights of Harry Jones' car, that Ickes, Kelley, and Kraft and other police officers, hearing these shots in the vicinity of C. I. O. headquarters, fired their gas guns and other guns at the crowd, and that Fellabom, seeing the gas bombs flying through the air, opened fire with his submachine gun. Thus, all those present, except Fellabom, heard Fellabom's shots as shots from the strikers and Fellabom seeing the police open fire, continued to shoot his submachine gun. We regard Fellabom's contradictory testimony on this point as an attempt to confuse the issue and thereby avoid responsibility for the incident which touched off the encounter.

In view of the fact that witnesses to a sudden shooting are notoriously inaccurate as to certain details, we regard the discrepancy between the number of shots reported by Meyer and those reported by the witness for the respondent as unimportant. Several witnesses for the respondent testified that the shots were fired in rapid succession, thus indicating the probability that the shots came from a machine gun and that any estimate of the number of shots is at best an approximation. Jones' testimony that there was a bullet hole in his right headlight and another through his windshield, while lending support to Meyer's version of two shots, is inconclusive, since there were a number of other holes in the radiator of Jones' car, and it is obviously impossible to know whether every shot fired from Fellabom's machine gun registered on Jones' car.

Fellabom's testimony that he used only birdshot in the submachine gun is contradicted by the testimony that there was a bullet hole in the right headlight of Jones' car, which Fellabom admitted having shot out with his submachine gun. Moreover, although Curley would not state what ammunition Fellabom used that night, he testified that the usual equipment for the machine gun was three magazines of regular 45 bullets and three of 45 birdshot.

In sum, the testimony of these witnesses with regard to the source, time, and nature of the first shots which provoked the shooting by the police indicates that they were fired by Fellabom standing across the street from C. I. O. headquarters.

Four witnesses for the respondent, however, claim to have seen flashes of shooting or shots from an unidentified person at some other point. With regard to the same four or five shots—and these are the only shots alleged to have been fired from C. I. O. headquarters—Curley claimed to have seen five shots fired from in front of the front steps of C. I. O. headquarters; Pauli claimed to have seen the flashing of guns from the front and side windows of C. I. O. headquarters; Fellabom claimed to have seen a first shot or flashes from a gun fired from the top two feet of the doorway of C. I. O. headquarters; and Lustig claimed to have seen five shots fired by a man standing on the sidewalk eight or ten feet from the building. For reasons already indicated, we believe their testimony is either false or incredible. As against these contradictory assertions, three witnesses for the Board—Beckner, Hardesty, and Veto—who were standing in or near the doorway of C. I. O. headquarters at the time in question, denied that any shots were fired by the strikers from the doorway or any other place in the vicinity of C. I. O. headquarters; and Wilbert Coleman, the occupant of the second floor, testified that he heard no shots from downstairs in the building. We regard it as significant, although not conclusive, that up to the very moment of the encounter, no witness claimed to have seen any person in the crowd of strikers with any weapon, and that after the encounter, the police found no weapons, except Jones' pocket knife, on the person or in the possession of the 165 men arrested.

From the whole record, we find that the police, armed and forwarned by Curley to expect trouble, and made restless by the sound of shooting from the viaduct, opened fire at C. I. O. headquarters immediately after Fellabom fired his submachine gun; that the shots which the police heard and attributed to the strikers were in fact the shots fired by Fellabom; and that no shots were fired by the strikers.

We turn now for a moment to the respondent's contention that the strikers had assembled at C. I. O. headquarters with a preconceived plan to rush the police, enter the mill, and remove the employees who had returned to work. This contention rests largely upon the testimony of Officers Moore and Kraft.

Moore testified that at about 4 p. m. on July 10, while he was on duty with Officer Kraft, and Special Officers Hodge and Henderson, one Mike Rudak emerged from C. I. O. headquarters, approached the car in which the officers were sitting and said, "You officers had better watch, they are coming down and get you. I am a friend of the police." Moore stated that Rudak then walked back to C. I. O. headquarters, spoke to several fellows, and was shoved out into the street, from which Moore picked him up and took him to jail. "You could tell from the way he talked," Moore added, "that he had had a few drinks." Thereafter Moore told the other officers, "You had better watch out a little bit."

Officer Kraft testified that between 6 and 6:30 p. m. on July 11 while he was on duty with Special Officers Henderson and Kriger, a man called "Humpy" walked out of C. I. O. headquarters, approached the post where the officers were stationed and said, "You better get out . . . big trouble tonight, 11 o'clock. Between 500 and 1000 coming down. They will kill all of the police and go into the mill and get the slabs." "He couldn't say 'scabs,'" Kraft testified. "He said 'slabs.' That is all he said to us fellows. He turned around and went back up to C. I. O. headquarters." Kraft also stated that "Humpy" had had a couple of drinks. Kraft further testified that when he reported this incident to Curley, Curley said he would send more men to that post.

Both of these stories are apparently versions of the same incident. We regard them both, if true, as without significance. Apart from the differences in the specific language attributed to Rudak or "Humpy" and the discrepancy in the date and the time of day on which the statements are alleged to have been made, it should be noted that Curley's testimony contains no reference to any such warning as that reported by Kraft, but was limited specifically to rumors which he had received as a result of the meeting of the strikers at Oak Knoll Park, that afternoon. Furthermore, Switter testified that before he left Massillon at 9:30 p. m. on July 11, he had heard no rumors of any kind with regard to any threatened activities by the strikers. If Mike Rudak was arrested on July 10, it is clear that Switter would have been informed of his alleged threats, had they been regarded as sufficiently serious to warrant action; and similarly if "Humpy" had informed three officers between 6 and 6:30 p. m. on July 11 of a plot to kill the police, it is reasonable to suppose that Switter, who at that time was still in charge of the police department, would have been notified or that Curley would have mentioned it in his testimony. Moreover, there is no evidence that any of the regular or special police, except the six regularly assigned there, reported to C. I. O. headquarters that night upon their own initiative as a result of these or any other rumors. As noted above, they were all instructed to report there by Curley; and it is clear that these threats were not the basis for Curley's orders.

Switter testified that upon his return to Massillon Curley had stated that he raised the guard at C. I. O. headquarters "because he got rumors from a source he did not want to disclose that the pickets were going to crash the line and stop them from going into the mill at the 11 o'clock shift." At the hearing on July 21, 1937, Switter testified that Curley had not yet told him the source of the rumors which caused him to raise the guard. Since Curley testified to no rumors except those which he had received from the Oak Knoll Park meeting, and Switter had heard no rumors at all, we are inclined to believe that this statement to Switter was merely Curley's *ad hoc* explanation to justify the results which followed his countermanding of Switter's orders.

Officer Moore testified that on July 10, one Burke, a former captain of the picket post, in a conversation with Moore and Special Officer Hodge had stated, "They will know who is running this God damn show in 48 hours." Wilbert Coleman, an employee of the respondent, who occupied the second floor of the house in which the Union had established its headquarters, testified that at about 7:15 p. m. on July 11, he saw men whom he could not identify picking in the ground with flashlights and a stick and carrying stones toward the front of the building. Robert Adams, a plasterer, whose son was employed by the respondent, testified that between 6 and 7 p. m. on July 11, he overheard a "red-headed American" tell Mark Turkey, a member of the union, " 'You keep your men out and we'll keep ours out.' . . . I heard Mr. Turkey said 'Well, I will never be out.' He said 'You get yours out.' He said 'We will get ours out.' . . . this American fellow said 'I feel sorry for the colored fellow, but the damn niggers have got it coming to them. If they get killed they will just have to take it'." He testified that shortly after the first shooting was over "a car came up around the corner and stopped and they got out and my neighbor hollered and asked 'What is going on down there?' One fellow says 'They are having hell down there.' He says 'Anybody hurt?' He says 'Yes, we killed two of them damned city cops.' He said 'How do you know.' He said 'We saw them fall.' So this other fellow got out of the car and he walked up to another fellow and says 'You fellows are from Canton. Aren't you?' He said 'Yes.' 'Well you had better get the hell out of here before they get up here' and another fellow . . . said 'Is that thing in the car?' He said 'Yes.' 'Well,' he says, 'You had better get it out of here because they are liable to break through up here at any time.' And the fellow in the car got out and he says 'Did you see Joe?' He said 'No.' 'Well,' he says, 'we ought to find Joe.' They did not call no last names and my daughter was asking me. I says . . . 'Who is that fellow got out of the machine.' She says 'Tony Dimando. That is the only one I know'."[42]

In the light of the events which took place before C. I. O. headquarters, these sensational but vague statements, anonymous rumors, and acts by unidentified persons, freely attributed to the strikers, carry no weight. In the first place, since Burke's statement, the incident described by Coleman, and the remarks of the "red headed American" were not reported to Curley, they cannot be considered as a basis for his orders. In the second place, it is undisputed that the crowd at C. I. O. headquarters made no attempt whatsoever to rush the police, enter the mill, and remove the employees who had returned to work. On the contrary, at the first shots, the strikers fled in panic. With 26 regular and special police already lined up across Cleveland Avenue, armed with every weapon in the possession of the police department, and an undetermined number of deputy sheriffs in the vicinity, ready at a moment's notice to drive up in cars loaded with tear gas, such an attempt by an unarmed crowd of 200 people, including women and children, would obviously have been suicidal. Not only was no such attempt ever made, but the president of the Massillon lodge and the vice president of the Canton lodge of the S. W. O. C., noting the ominous attitude of the police, were on the point of telling the crowd to go home, when the police opened fire. In the third place, no police were killed, wounded, or even injured, except by the fumes of their own tear gas. The strikers were the victims, not the aggressors, in an unprovoked attack.

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[42] Dimando was not further identified.

After midnight, as soon as the Canton police in their armored car had cleared the streets of people in the vicinity of C. I. O. headquarters, a "mopping up" squad of special police and deputy sheriffs, led by foreman and special police officer William Henderson, broke into rooming houses near Cleveland Avenue occupied by members of the Union, arrested 165 men, and, with the assistance of the National Guard, hauled them to jail.

At 2 a. m. on the morning of July 12, John Angelo, a striker who lived on the second floor of a three story rooming house on McKinley Avenue, a block and a half from C. I. O. headquarters, was awakened by a noise which shook the house, "hollering and breaking doors in the building." Two deputy sheriffs entered his room, thrust guns against his chest, hit him with a black jack, and threw him into the hall. Other armed deputy sheriffs roved through the hallways, crying, "Now you rats we have got you," and routed out the other occupants of the house. Fifteen or 20 roomers, most of them barefoot and half clad, including one woman, were taken downstairs and lined up outside the building. Other men from neighboring rooming houses were searched and added to the lineup. Angelo testified that a Special Officer Henderson in the company of several other special police officers, then asked, "How many C. I. O.'s are here and lift up your hands." Half to three-quarters of an hour later, 10 or 12 of these men were loaded into a National Guard truck, taken to the Massillon City Jail and then to the Canton Jail, where they were photographed and fingerprinted. After 2 days in the Canton Jail, Angelo, with a number of other men, was returned to Massillon, where he signed a waiver of his right to sue the city of Massillon and was released. He testified that when the deputy sheriffs entered his room, they showed him no warrant of arrest.

Christ Conzas, a striker, who occupied another room in the same rooming house, from his window observed the police enter houses on McKinley Avenue and heard doors breaking in his building. A short time later, two officers with guns and a flashlight broke down the door of his room, searched the room, and ordered him downstairs. There, he recognized Bill Henderson, the foreman for whom he had worked in the mill, and entreated Henderson to release him. "You belong to the C. I. O.," said Henderson, "and you have to go down." Other men were taken out from other houses "some of them without shoes, some without clothes, some without dresses, some without shirts." Conzas with the others was taken in a National Guard truck to the Massillon Jail, where he remained until Tuesday, July 13, 1937. Conzas was shown no warrant of arrest by the officers who broke down the door to his room.

Mark Turkey, a member of the C. I. O., who lived with his wife and three children in a rooming house on Fourth

Street, about three and a half blocks from C. I. O. headquarters, was awakened by his wife at five minutes of three. Half dressed, he went to the kitchen, where several deputy sheriffs, armed with a revolver and a shotgun, who had broken open the house door, asked for his guns and ammunition. When Turkey replied that he had none, they pushed him upstairs ordered four men who occupied rooms there out of the building, tore up the beds and mattresses as they searched the rooms, broke into a trunk, where Turkey's son kept a stamp collection, and ordered Turkey downstairs to wait for his "bus." A few moments later Turkey and the four roomers were loaded into a National Guard truck and taken to jail, in Canton, where they were photographed and fingerprinted. Turkey remained in jail at Canton until 4 p. m. Wednesday, July 14, 1937, when he was removed to the Massillon jail and released after signing a waiver. Turkey testified that when the deputy sheriffs broke into his house, they asked him whether he was a member of the C. I. O. but did not show him any warrant of arrest.

A total of about 165 men, all of them apparently members of the Union, were thus arrested and placed in jail. Hardman, who returned to Massillon after the shooting and conducted their examination, testified that none of the 165 had been shown warrants, that all had been arrested at places other than the scene of the riot by special police officers, deputy sheriffs, and National Guardsmen, and that although most of the men had been released from jail by Thursday, about four were still held, at that time, four days after the shooting. He also testified that of the 165, only one (Harry Jones) was charged with carrying any kind of weapon.[43]

We come, finally, to the question of whether the respondent is responsible for the events we have described.

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[43] As stated above, Jones was carrying a pocket knife.

From a careful examination of the record, we think that the answer is plain. As early as June 9 Carl Myers, the respondent's Acting District Manager, had attempted to persuade Chief Switter to use violence against the strikers, "to take such action as the Chicago police did and put them where they belonged"; "they knew how to handle the situation if we did not." On that day Myers donated to the Massillon police department the gas and gas equipment which was used by the police against the strikers on July 11, for "any situation which might arise." On June 13, after the meeting at the Chamber of Commerce in which the members of the Law and Order League had praised the Monroe police for smashing the picket line at the respondent's plant at Monroe, Michigan, Carl Myers again urged the Massillon city officials to use violence against the strikers: "It was a funny thing that a little town like Monroe could build up a police department big enough to get their mill operating again and control the situation and it was damn funny we couldn't do anything." In a pamphlet issued by the respondent during the strike, entitled "*What the Editors are saying about the Republic Strike—Reprinted by Republic Steel Corporation,*" the respondent set its seal of approval upon the actions of "the Monroe police, and the American Legionnaires and voluntary police who aided them and stand with them.

> "They have performed a healthful public service and they deserve high commendation and support. . . . These men have used forceful methods, but no more forceful than necessity demanded. . . . They simply are undertaking to uphold American law, order, and individual liberties. . . ."

As described above, the respondent through Chief Accountant Angstadt and Superintendent Peppard, the members of the Law and Order League, and the Back-to-Work movement succeeded in exerting such pressure upon the city officials that, against their better judgment, they finally agreed to accept Curley's assistance and swear in as special police officers at least 32 of the respondent's employees, including foreman Henderson. That these special police officers were not disposed to be neutral was a fact generally known in Massillon. Of the 66 candidates which Peppard, Angstadt and Becker had submitted to the city officials on the morning of July 9, 29 had signed the Back-to-Work petition, as had 19 of the 32 men chosen by Major Curley. With regard to the temper of the members of the Back-to-Work movement, the Reverend Hess, a witness for the respondent, testified, "From my most sober judgment I am positively of the opinion that if we had not had the police there on the night of the riot that we might have had not two men killed but maybe 50 or 100 or more killed. . . . My reason is this, contacts that I had had with men, the Back-to-Work men . . . that they were in no temper to stand any more. . . . I testify that it was my judgment, taking the balance of two factors in the situation, from all sides, that we would have been staggering for this whole country, if we had not had the police there."

The Reverend Hess was not aware that, at the time of the encounter, five of the respondent's employees, who had signed the Back-to-Work petition, who had been bonded by the respondent, and who had been warned by Curley to expect trouble were special police officers whom Curley had armed and stationed in the vicinity of C. I. O. headquarters. The respondent called none of these five as witnesses nor the three other employees who were special police officers present during the incident.

Apart from their connection with the Back-to-Work movement, the respondent's employees who were appointed as special police officers were obviously not impartial. It will be remembered that Hardman and Switter had reviewed the 66 names submitted by Peppard and

Angstadt and had rejected most of them as too excitable, and that General Marlin had waived any question as to the fitness of the respondent's employees for the police force by stating that it was no time for neutral men.

Thus, prior to the encounter, the respondent had armed the police force with its gas equipment, staffed it with a foreman and 31 other employees, many of whom belonged to a group bitterly opposed to the strike, and had urged violence against the strikers. In addition, the respondent had approved, if it had not actually connived at, the appointment of Major Curley whose activities we have already found were conducted in the interest of and on behalf of the respondent.

These acts of the respondent achieve their further real significance in the light of a hitherto undescribed event which occurred on July 11. John Veto testified that at 5 o'clock that afternoon, as he was returning to his home by way of Cleveland Avenue, near C. I. O. headquarters, he passed within three feet of two special police officers, seated on chairs with their backs to the mill, and heard one of them say, "We are going to clean them up tonight." Veto testified that the man who spoke turned around, "and I recognized him as Bill Henderson, a chipper foreman in the mill. . . . He said 'Where is your picket card' and I said 'I didn't have any because I am not on duty'." Veto also testified that the other special officer did not turn around and that he did not recognize him.

To rebut this testimony, the respondent's counsel asked Officer Kraft:

> "Q. (by Mr. Pontius) During that afternoon I will ask you whether Mr. Henderson said to you—that is, this special officer Mr. Henderson, about five o'clock in the afternoon said to you this, or this in substance: 'That we are going to clean them up tonight?'

A. He never said nothing like that to me."

Kraft, however, testified that on that afternoon there were three officers detailed to and present at this post: himself, and Special Officer Henderson and Kriger.[44] It will be remembered that Veto testified that he did not recognize Henderson's companion. It is obvious, therefore, that Kraft's denial that Henderson "never said nothing like that to me" does not preclude Henderson's having made the statement to Kriger. We regard it as material that the respondent called neither Henderson nor Kriger as a witness and made no showing as to the unavailability of either.

At 9:30 p. m., after Switter and Hardman had left Massillon, Curley countermanded Switter's orders, raised and armed the guard at C. I. O. headquarters, and directed Fellabom to a post across the street from the strikers, with instructions to use his submachine gun. At approximately 11 p. m. when Curley and Henderson took it upon themselves to induce the crowd of strikers to go home, for no other avowed reason except that there were too many of them, Fellabom, pursuant to Curley's authority, used his submachine gun and shot out the headlight of Jones' car. As noted above, these shots were the overt act which precipitated the shooting by the other police officers.

After shooting about 25 tear gas projectiles, Officer Moore sent Gray, one of the respondent's foremen, to the Union Drawn Steel Company for more gas. Between 11:15 and 11:30 p. m., Curley telephoned from the respondent's main office to the Union Drawn Steel Company for more gas, and dispatched a police cruiser which returned with at least 25 cartridges of tear gas. Of the gas thus donated by the respondent prior to and during the encounter, Curley, Ickes, Moore, and Kelley testified that they fired a total of 158 gas projectiles or bombs at the strikers during the evening and that other special and regular police threw or fired an undetermined number of gas bombs or projectiles. The fury of the attack upon the strikers, led by Curley and Henderson, is matched only by the thoroughness of the round up, led by Henderson, in which all persons within a radius of three or more blocks from C. I. O. headquarters were arrested without warrants and incarcerated for several days, for the crime, apparently, of belonging to the Union.

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[44] Kriger, like Henderson, is an employee of the respondent for whose bond the respondent was billed.

We are of the opinion, from an examination of all the facts, that if Curley had not seized the opportunity when Switter had left Massillon, to take command of the police force, to increase and arm the guard in front of C. I. O. headquarters, and to instruct the regular and special police to expect trouble, the attack upon the strikers would never have occurred. That Fellabom's shooting at the headlight touched off the attack, may have been a tragic accident; but it is clear that, if Curley had not issued his unauthorized orders, neither Fellabom nor 13 of the other police would even have been present at C. I. O. headquarters on the evening of July 11. The attack was led by Curley, the respondent's agent, and by Henderson, its foreman; at least eight of the respondent's employees as special police officers participated in the attack; all the gas and gas equipment for the attack was supplied by the respondent. The respondent had publicly approved the use of violence against strikers by the police of Chicago and Monroe and had urged the Chief of Police of Massillon to follow the example of the police of those cities. When Switter left Massillon, Henderson was overheard to say, "We are going to clean them up tonight." From the whole record we find that the respondent is responsible for the attack upon the strikers.

B. CANTON

Of the respondent's plants in Canton, two are directly involved in this proceeding: The Canton Works (Central Alloy District) which employes between 5,000 and 6,000 employees; and a tin plate mill, employing approximately 650 employees, which the respondent acquired on July 1, 1936, from the Canton Tin Plate Corporation.

1. *The Plan of Employee Representation—(Central Alloy District)—Canton Works*

The Plan of Employee Representation was introduced at the Canton Works in June 1933 and, with minor amendments made in 1934, remained in operation until April 1937, after the decisions of the Supreme Court upholding the constitutionality of the Act. Thereafter, it was succeeded, as in Massillon, by the Employees Representative Association, which lasted until July 1937, when the Employee Representatives, who had been active in both the Plan and the Association, formed a new organization, the Steel Workers Union of America, which purported to be independent of the respondent. The formation and activities of the Association and the Steel Workers Union will be discussed hereafter.

The Plan at the Canton Works, as it existed until the latter part of April 1937, was substantially the same in structure and operation as the Plan at the Massillon Works. It is therefore unnecessary to describe it at length. It is sufficient to state that the respondent formulated and introduced the Plan, without submitting it to a vote of its employees; that throughout the existence of the Plan the respondent paid the Employee Representatives for attending meetings, during and after working hours, as well as for handling grievances; and that, down to the most minute item, the respondent defrayed all the expenses and furnished all the facilities for the operation of the Plan.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation (Central Alloy District) Canton Works and has contributed financial and other support to it.

2. *The Plan of Representation of Employees—Tin Plate Mill*

In August 1933 the Canton Tin Plate Corporation, then under independent ownership, inaugurated the Plan of Representation of Employees in its tin plate mill. After July 1, 1936, when the respondent purchased the mill, it continued this Plan in effect unchanged until April 30, 1937. With slight variations, this Plan substantially resembled the Plan at the Massillon Works. Neither at the time of its inauguration nor subsequently was it submitted to a vote of the employees. After July 1, 1936, the respondent continued to pay the Employee Representatives a dollar an hour for time spent during and after working hours at regular and special meetings, and continued to defray all expenses and furnish all facilities for the operation of this Plan.

On April 30, 1937, the respondent announced that in view of the Supreme Court decisions upholding the constitutionality of the Act, it would cease to pay the Employee Representatives. The Employee Representatives then sought to resign and discontinue the Plan, but on the solicitation of Sam Davey, then superintendent of the mill, decided to remain until the end of their term. At a regular meeting of the Employee Representatives on May 8, Sam Davey introduced Frank Geltz, Chairman of the General Body of Employee Representatives under the Plan and President of the Association at the Canton Works, who explained the purposes of the Association and sought to enlist the support of the Employee Representatives. No action was taken on this proposal. In August 1937, according to Edward Kirkland, Secretary of the Plan, when the fiscal year of the Plan ended, no plans had been made for its continuation, because "we never asked the officials of the Republic Steel Corporation whether or not they wanted to continue the Plan."

From the whole record, we find that the respondent has dominated and interfered with the administration of the Plan of Representation of Employees at its tin plate mill, and has contributed financial and other support to it.

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3. *Events preceding the strike*

On July 2, 1936, shortly after the Union had begun its campaign to organize the employees in the Canton-Massillon area, the respondent issued its statement, described above, announcing that "Republic stands for the open shop principle. . . . Every Republic employee owes a duty of loyalty to the Company so that its best interests may be served. Conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management will not be tolerated."

The circumstances surrounding the discharge of Victor Arias on August 2, 1936, serve to illustrate the method by which the respondent at this time sought to give effect to this policy. Arias had been continuously employed by the respondent since 1927, except for several weeks in May 1935 when he took part in a strike at the respondent's Berger Manufacturing Company plant. When he applied for reinstatement, superintendent Ellaser told him he had been active during the strike and "that is bad on your card." Several weeks later, in June 1935, Arias was reinstated. At that time, his foreman, David Carnes, offered him a job as a checker if he would report the activities of the men. Arias refused.

In July 1936 Arias joined the C. I. O. and was the first organizer in the Canton area. As such, he assisted Howard Porter and the other outside organizers sent to the Canton-Massillon district. It will be remembered that these organizers were given permanent shadows in the form of Long and McCallister, plant policemen at the Union Drawn Steel Company, whose special business it was to follow them. In the latter part of July, Arias conducted meetings on farms and obtained 25 applications for membership and signed up eight members for the union. On August 9, when he returned from a week's vacation, he was told to stay home, that he would be called when needed. "Why are they holding me out?" he asked Graham, assistant to superintendent Ellaser, "is it anything concerning my work?" "No," replied Graham, "not that I know of. There are activities that you are in that I don't know about or exactly what it is." Superintendent Ellaser informed him: "Vic, you are in Dutch. I don't think I can do anything for you." Arias pleaded his long service with the respondent, his satisfactory work, his necessity to support his parents. Ellaser replied, "I am sorry. I can't do anything for you."

Arias then left Canton in search of a job. In April 1937, upon his return, he met Frank Geltz, Chairman of the General Body of Employee Representatives under the Plan, who offered to help him. Geltz, however, was unsuccessful. He reported that he had seen Ellaser who said that Arias had a company police record, and that Ake, the employment manager, had told him that on his record Arias talked too much.

During his nine years employment by the respondent, Arias had received at least three promotions; at the time of his discharge he was an inspector in charge of the chipping bed, earning approximately 90 cents an hour. Since his discharge on August 2, 1936, his total earnings, up to August 11, 1937, have been $164.40. He has not received regular and substantially equivalent employment elsewhere. Although the respondent in its answer denied that Arias was discharged because of his union activities, it produced no witnesses and offered no evidence to rebut Arias' testimony. We find that the respondent discharged Victor Arias for the reason that he joined and assisted the Union.

Having thus plainly warned its employees that it was prepared to enforce its statement of July 2, the respondent took further repressive steps to halt the growth of the Union. At the Canton Works and the tin plate mill, its activities paralleled those already described at the Massillon Works. Employees were called together at safety meetings once or twice a month, where a superintendent and foreman repeatedly extolled the virtues of the Plan and threatened employees with the loss of their jobs if they joined the "outside" union; employees were asked by a superintendent to sign petitions that they were satisfied with the Plan and were informed that the C. I. O. would never succeed; active union members were cajoled by supervisory employees not to waste their time passing out handbills, admonished to watch their step, and warned to stop trying to organize; a superintendent spoke with approval of a pamphlet which appeared in the plant, purporting to show that the C. I. O. was a revolutionary organization, controlled from Moscow, whose ultimate purpose was to overthrow the government of the United States by force and violence.[45]

On March 5, 1937, the respondent published its statement of open shop policy in the newspapers, as described above. Carl Myers read the statement to the General Body of Employee Representatives, to whom he promised the same degree of cooperation from the management that they had received in the past. Besides Arias, three employees, whose cases we discuss below, were discharged for union activities at about this time.

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[45] *Join the C. I. O. and Help Build a Soviet America,* published by the Constitutional Educational League, Inc., New Haven, Connecticut.

Despite these acts of interference and coercion by the respondent, the Union continued to grow. On February 1, 1937, All Nations Lodge No. 1200 was established in Canton for the employees of the Canton Works and the tin plate mill. A number of the Employee Representatives joined the Union, and in certain departments of the plant the Union claimed to have achieved a membership of a large majority of the employees.

In the tin plate mill, where the Union claimed a membership of approximately 90 per cent, the respondent sought to coerce its employees to leave the Union by repeated threats to close the plant. Kenneth Poorman, a member of the Union, testified that in October 1936 at a safety meeting in the tin plate mill, James Davey, then operating superintendent of the mill, informed the employees that "this is an old and obsolete mill. The Warren mill is of a newer type. . . . If we stay out of labor trouble this can be the mill to operate." Although Davey denied having used the specific language attributed to him on this occasion, we are not impressed with his denial. He admitted having told employees on another occasion that the mill was old and obsolete and that he hoped they would stay out of labor troubles. And even from Davey's own studied and evasive account of his remarks at the October safety meeting it is clear that the employees could reasonably have taken away only one impression—that the respondent would shut down the mill if they joined the C. I. O.

In January 1937 superintendent Thomas approached Homer Downerd, president of Lodge No. 1200, and asked him why he had become so active in organized labor. According to Downerd, Thomas said, "'Do you think you are doing right?' and I said 'Yes, I think I have as much right to belong to organized labor as any one else has.' And he said 'Do you know what you are going to do?' and I said 'Yes, I do. We are going to put this organization across' and he said 'No, I will tell you what you are going to do—you are going to eventually shut down this plant and that will put not only me, but everyone else out of work and unless you quit, you will shut down the tin plate plant'."

In February 1937 superintendent Thomas saw Martin Beckner, vice president of Lodge No. 1200, passing out hand bills near the Canton Works. "Beckner," said Thomas, "you do not seem to be the same sort of a fellow, the kind of fellow that would be messing around with a bunch of radicals." "I told him," Beckner testified, "that I did not realize that I was a radical and he said, 'Don't you realize that Republic Steel will be closed down and won't operate any more?'"

On May 5 a notice appeared on the Bulletin board at the tin plate mill announcing that the mill would be shut down until further notice, and that employees should call Thomas later in the week and find out when operations were to be resumed. The tin plate mill remained closed until May 24, the day before the strike. It appears that the production at the mill during April and May in terms of gross tons was as follows: For the week beginning April 5, 541; April 12, 888; April 19, 609; April 26, 921; May 3, 315; May 10, 0; May 17, 0; May 24. 650. Samuel Davey, then superintendent of the Canton Tin Plate Division, testified that there was no production for the weeks of May 10 and May 17 chiefly because a strike had been called at the plant of the Canton Enamelling and Stamping Company on April 29, at which time all orders from that company ceased, and that the respondent had in process or finished at that time approximately 1400 tons in the plant, equivalent to two week's work.

This obstensible reason for the shut-down is vitiated, however by reference to a number of events which occurred before and after May 5, when the shut-down was announced. On May 8 Beckner telephoned superintendent Thomas and asked when the mill would start up. "He told me," Beckner testified, "he did not believe the mills would start up until we got rid of that union." During the strike at the respondent's plants in Canton, Thomas told Beckner, " 'It looks like the Tin Plate had made a mistake. The rest of the mill is going to resume but I do not think the Tin Plate will ever resume again.' And he felt it was all the fault of the men organizing because we had 90 per cent of the organization at that time." Since the respondent did not call Thomas as a witness and made no showing as to his unavailability, these and the earlier threats stand uncontradicted.

Furthermore, the respondent was in the sole possession of proof in support of its allegation that a decrease in orders caused the shut-down. We are not satisfied that, in view of the circumstances described above, it has supplied an adequate business reason for its conduct. It has not shown the amount or relative size of the orders of the Canton Enamelling and Stamping Company, nor how long the strike there lasted, nor precisely to what extent that strike caused a decrease in orders.

In weighing the evidence upon this point, we also take into account the fact that, at this time, the respondent's Canton and Massillon plants were both under the supervision of Carl Myers, Acting District Manager for the one region; and that the shut-down on May 20 of the Massillon Works was caused, not for the business reasons alleged by the respondent, but for the purpose of intimidating and coercing the employees.

It will be remembered that on May 3 Clinton Golden, Regional Director for the S. W. O. C., wired the respondent that widespread unrest prevailed among its employees over the uncertainty of the respondent's position regarding a signed collective bargaining contract, that this unrest had been accentuated by the lay-off of several hundred union members at the Canton and Massillon Works, and that the union urgently requested a conference to negotiate a signed, written contract. It thus appears that on May 5 the respondent gave a double answer to the union: Voss replied to Golden that he saw no necessity for a signed contract, but was willing to arrange a conference; Davey shut down the tin plate mill, a stronghold of the union, and locked out all but the maintenance employees.

From the whole record we find that the respondent shut down its tin plate mill at Canton and locked out almost all its employees for the purpose of intimidating and coercing them not to join or to discontinue their membership in the union. The respondent thereby discriminated against its employees with respect to hire and tenure of employment and interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

4. *The Employees Representative Association*

After the decisions of the Supreme Court on April 12, 1937, the General Body of Employee Representatives met on several occasions in the Canton Works on company time to discuss the formation, dues, and constitution of a new organization to succeed the Plan. The precise date upon which this organization—the Employees Representative

Association—was formed does not appear. The record does show, however, that on April 24 Joseph Cox, an Employee Representative, signed a membership card in the Association and with other Employee Representatives began to solicit membership for the Association in the plant on company time.[46] On April 28, according to the minutes of a special meeting of the General Body of Employee Representatives of the Plan, "the proposed amendments to the by-laws were again reviewed and it is the feeling of the General Body that no further changes should be made at this time." These amended "by-laws"—the amendments adopted April 22, 1937, referred to above[47]—became the constitution of the Association. The respondent's participation in the formulation of these amendments, and its modified control of the operations of the organization under them, have already been discussed. At the same meeting on April 28 a treasurer was elected and Representatives assigned to committees.[48] A motion was carried that dues were to be temporarily waived and "some other method of raising finances, possibly through a raffle, should be used." At the conclusion of the meeting a "force report," or schedule, covering the time spent in the meeting by the Employee Representatives, was prepared, according to which the Employee Representatives were to be compensated by the respondent. Thus, as in Massillon, the new organization was, except in name, virtually identical with the old.

As in Massillon, the respondent gave the Association a free hand to organize opposition to the union. Frank

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[46] The signatures of the Chairman and Secretary of the General Body of Employee Representatives under the Plan are affixed to this card as Chairman and Secretary of the Association.

[47] See Section A, 3.

[48] The office of Treasurer did not exist under the Plan, and apparently was the only office in the Association for which an election was held. As noted above, the Chairman and Secretary under the Plan remained as Chairman and Secretary under the Association.

Cutshall, a member of the Union, testified that on May 16 or 17 he was notified by his foreman to attend a meeting in the bar mill at the Canton Works. "They were going to close down the department and everybody was to go over and we was to be paid for the time we would be over there at the meeting. They said they were holding these meetings for each particular turn, the three turns. At one o'clock they blew the whistle and the crane men, the chippers, the grinders and everybody employed in the plant, or practically so, attended. The whole department was shut down." Dan Allen, an Employee Representative, announced to the 400 assembled employees that "they were forming a union for the employees of this division of Republic Steel and they did not want any outside union. They wanted to make preparations if a strike was called to meet up near the square and make a rush for it and go down in a body. . . . They were anticipating the strike. They asked approval of . . . some of the men in this group." Cutshall testified that he was paid for the time spent at this meeting.

On May 20 about 300 foremen and chippers at the Canton Works were notified to quit work to attend a meeting in the plant. Sammy Stokes, one of the chippers, testified that William Dunn, an Employee Representative, announced that "he was calling this meeting to explain this union plan to them, and he told the fellows that the company was expecting a strike and he wanted them all to sign a paper that they will work . . . and when the strike was called they should meet at the public square and they would prepare a way for them to go into the mill. And so he said 'I am going to pass out these blank pieces of paper and I want you to sign them'." Stokes testified that he was paid for his attendance at this meeting. Cutshall, who also attended this meeting, testified that Dunn announced that the purpose of the meeting was to form an employees union for the Canton Works alone, in order not to "mix into any more troubles"; that Dunn handed out a copy of the pamphlet previously referred to, "Join the C. I. O. and help Build a Soviet America"; and that Employee Representative Allen launched into an attack upon John L. Lewis.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Employees Representative Association and has contributed financial and other support to it.

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5. *The Strike*

Although the events at Canton are not set forth in the record in such detail as those at Massillon, the testimony indicates that the respondent pursued a similar course in mobilizing its forces to break the strike. The following narrative is summarized largely from the testimony of witnesses for the respondent.

On or about May 18 superintendent Cornell told foreman Kuhns that the management intended to operate the plant in the event that the strike was called, and that he wanted the employees in the plant before it started. At 4:45 p. m. on May 25 Cornell called Kuhns to his office, told him there was to be "a meeting of the C. I. O. and it looked very much as though a strike was going to be pulled," and instructed him to have the employees come to the plant by 9 o'clock. On the night of May 25, when the strike was called, trucks arrived at the plant loaded with cots. Under the inducement of a bonus, free meals, and 16 hours' pay for 8 hours' work, a number of employees ate, lived, and slept in the plant from May 25 until July 1.

At 7 p. m. on May 25, before the strike was called, 12 Employee Representatives, including Frank Geltz, Ray Lilly, Dan Allen, and other active members of the Association, met in the assembly room of the respondent's Industrial Relations Building at the Canton Works. In previous discussions this group had decided that if the strike was called they would form a back-to-work movement and seek to have a vote conducted under their auspices among the employees at the Canton Works on the question of whether the employees wished to return to work or to continue on strike. At this meeting plans were made to hold the vote in the City Auditorium on Thursday, May 27. At 8:30 p.m. the group conferred with plant superintendent B. R. Richardson, who expressed his approval of their proposed activities. At 11 p.m. the strike was called and the group retired to two rooms at the Belden Hotel in Canton, which thereafter served as the headquarters for its activities.

Within a few days this committee, augmented by a number of other Employee Representatives, undertook to patrol the city, armed with shotguns, allegedly to protect the homes of non-strikers. On several occasions it held meetings of employees who wished to return to work, and conferred with the mayor of Canton with regard to its demands. On June 10 T. K. Harris of the Canton Law and Order League, said of the Back-to-Work movement, "It is becoming more difficult to keep them from taking the law into their own hands."[49]

As noted above, on or about July 5, a few days before the National Guard were withdrawn from the Canton-Massillon area, 56 of the respondent's employees were bonded by the respondent and sworn in as private police officers of the City of Canton. Of the 56, one, B. R. Richardson, was a plant superintendent, another, Russell Horn, was a supervisory official and at least three were members of the Back-to-Work Committee.

Most, if not all, the expenses of the Back-to-Work

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[49] What the Editors are Saying About the Republic Strike—reprinted by Republic Steel Corporation, from *The Canton Repository* of June 10, 1937.

Committee were defrayed by the respondent. J. G. "Monk" Stewart, a supervisor of the guards, spokesman of the Back-to-Work Committee, and a roller in the mill with 10 or 12 men under him, testified that from May 25 until July 2, when the National Guard arrived, he received from the respondent for his work a total of approximately $500, calculated on the basis of his regular pay of $28 a day. Other members of the Committee testified that during this period they were paid approximately one and three quarters times their regular pay, or, in some instances, a bonus of $25 a week in addition to their regular pay. None of the witnesses for the respondent claimed to know who paid for the rooms at the Belden Hotel, although all admitted that no funds were collected by the Committee. It appears that Carl Lappin, an Employee Representative who acted as paymaster to the Committee for the respondent, rented the rooms in his own name.

Since employees participated in the Back-to-Work Committee and since it existed in part, if not wholly, for the purpose of dealing with the respondent concerning a labor dispute, it is a labor organization within the meaning of the Act. From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Back-to-Work Committee and has contributed financial and other support to it.

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6. *The Steel Workers Union of America*

On July 13, approximately two weeks after the plants had reopened, a number of the members of the Back-to-Work Committee whom the respondent had paid for acting as guards met at "Monk" Stewart's home to discuss the formation of an organization. Several days later Frank Geltz, Chairman of the Association, told Stewart that the former Employee Representatives, whose terms had expired in June, were also considering forming a new organization. After one preliminary meeting of the two groups, a formal meeting was held on June 20 in the Belden Hotel, where Stewart was elected temporary Chairman; Lilly, Secretary; and Geltz, Treasurer. On the following day, at a meeting in the Belden Hotel with Attorney Frank Bow, the name "Steel Workers Union of America" was selected, application cards drawn up, and chairmen of organization committees appointed. Although at the time of the hearing on September 15 no constitution or by-laws had yet been adopted, and no membership meeting had been held, Stewart testified that all employees at the Canton Works, except supervisory employees and police, were eligible for membership and that of 3900 eligible employees, between 2500 and 2700 had signed application cards for membership. Notices announcing the formation of the organization were posted in the plant; and members of the organization committees collected dues, initiation fees, and signatures to membership cards in the plant during working hours.

It is clear from the record that the Steel Workers Union, like the Independent Association at Massillon, was merely the successor to the Plan, the Association, and the Back-to-Work Committee, and still the creature of the respondent. Its officers were the officers of the predecessor organizations and its active members were former Employee Representatives or members of the Back-to-Work Committee. It received the same favors from the respondent as had the predecessor organizations. An organization with such antecedents, formed under such conditions, necessarily could not represent the free choice of the employees.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Steel Workers Union of America and has contributed support to it.

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7. *The discharges*

The complaint, as amended, alleges that three other employees at the Canton Works, besides Victor Arias, were discriminatorily discharged. The record shows that all three were discharged or laid off by superintendent Hopkins. We take up their cases in chronological order.

Mike Ugranovich. Ugranovich, a member of the Union, had been employed by the respondent since 1934 as a grinder in the billet sheds. In 1935 he participated in the strike at the respondent's Berger Manufacturing Company plant. He testified that when he returned to work after that strike Edward Hopkins, superintendent of the billet sheds, "fired him off the job" for about a month, saying, "You got a job on the picket line and I cannot use you any more." Ugranovich then applied for his job to superintendent Baxter, who, in the presence of Hopkins, asked Ugranovich whether he had been on the picket line "and he asked me 'How long have you been in this country?' and I told him 'About 20 years' and he said 'Are you still crazy . . . I will give you your job back if you do not do that any more' . . . He told me I would have to stick with the company."

In December 1936 and January 1937 Ugranovich attended a number of safety meetings in the plant, at one of which, he testified, superintendent Hopkins said, "Don't belong to the outside union. You got to stick with the company union . . . If I find any more men (belong to the) outside (union), he cannot work for me." Ugranovich testified that on February 11, 1937, he was summoned to superintendent Hopkins' office where Hopkins said, "You have got some slow work, five and six weeks on a job . . .

Don't you mind that strike in 1935 . . . I give you a chance that time and still now there is something else outside, some kind of a name, C. I. O.—and you are in it already." Ugranovich was then discharged.

The respondent contends that Ugranovich was discharged on February 8, 1937, not for his union activities, but because he came to work in an intoxicated condition. Superintendent Hopkins testified that, although he himself had not seen Ugranovich in an intoxicated condition, foreman Eichelberger reported to him that at midnight both he and the grinder boss had smelled alcohol on Ugranovich's breath and had sent him home with instructions to return in the morning, and that at 9 o'clock the next morning Hopkins had laid him off indefinitely because he had come to work intoxicated. "He tried to tell me that he was not intoxicated. I told him he was because my two foremen had told me that." Hopkins also denied some, but not all, of the statements attributed to him by Ugranovich. He denied that he had mentioned the C. I. O. to Ugranovich at the time he discharged him or said that his work was slow, but asserted, on the contrary, that in his opinion Ugranovich was a capable worker and not slow.

Eugene George a grinder foreman, testified that at 12 o'clock on February 8, when Ugranovich reported for work, he smelt a strong odor of liquor on the man's breath, noticed that the surface of the steel on which Ugranovich was working had circular instead of horizontal marks, reported to foreman Eichelberger that Ugranovich was in no condition to work, and saw Ugranovich leave with a wobbly step. George added that he told Eichelberger that Ugranovich had a habit of laying off on pay day, that he had spoken to Ugranovich once or twice before about coming to work with liquor on his breath, and that he now recommended him for a discharge. Eichelberger confirmed

George's testimony and asserted that Ugranovich was apparently under the influence of liquor, that his work was being done in an improper manner, and that when Ugranovich left he walked in an uncertain condition.

Ugranovich, however, denied that he had come to work intoxicated or that he had been given that reason for his discharge; denied that he had been warned about coming to work intoxicated before, or that he had a habit of laying off for two or three days after pay day; admitted that the tool which he used had made circular instead of horizontal marks on the surface of the steel, but explained that the fault was due to another grinder in failing to have the required number of belts on the machine. Ugranovich also asserted that he had been "off booze for 28 months and never touched it."

In this conflicting state of the evidence it is instructive to consider the respondent's policy, as stated by George, Eichelberger, and Hopkins, with regard to men who come to work in an intoxicated condition. George testified that Hopkins had personally instructed him to send a man home if he came to work in an intoxicated condition, that he had observed hundreds of men in the mill with liquor on their breath and on certain occasions had himself come to the mill with liquor on his breath, but that he disciplined an employee by sending him home only if the liquor on his breath was very strong or the man wobbled. George also testified that of the hundreds of men whom he had observed with liquor on their breath, Ugranovich was the only one who wobbled and whom he reported. Eichelberger testified that the general policy of the company was that so long as a man could work safely and was not intoxicated to the extent that he wobbled, no matter how strong the odor of liquor on his breath, he was not sent home. Eichelberger also testified that he could not remember having recommended discharge of any of the hundreds of employees who had come to work with liquor on their breaths, but claimed in the past eleven years to have recommended some men for two or three day lay-off because of liquor on their breaths. Hopkins testified that he sends an employee home but does not discharge him for his first offense in wobbling, and that even if he had smelled liquor on his breath a couple of times and he was wobbly he would lay him off for two or three days, but would not discharge him.

It thus appears that even if Ugranovich was intoxicated when he came to work, which he denies, and had come to work one or twice before with liquor on his breath, which he also denies, the normal procedure would have been to reprimand and discipline him with a two or three day lay-off instead of discharging him. Despite the respondent's policy, however, he was discharged, and, according to George, was the only man ever to have been discharged under the "wobbling" rule. In view of Hopkins' statement to Ugranovich at the time of his discharge, which is only partially denied, and certain of his other antiunion remarks, which are not denied, we are satisfied that Ugranovich was discharged not for his alleged intoxication but because he joined and assisted the Union.

Ugranovich has not received substantially equivalent and regular employment elsewhere. At the time of the hearing he had earned approximately $111 since his discharge.

Will S. Wright. During a strike in 1922 at the Canton Works, then owned by the United Alloy Company, one Ake, superintendent of employment for the United Alloy and later for the respondent, hired Will S. Wright as a strikebreaker, promising him that "if you stick with the Company, you will have preference for a job as long as you do not do anything out of the way with the Company." After working three months, Wright left the employ of United Alloy and worked elsewhere until 1933, when he was employed by the respondent as a chipper. In May 1935 Wright took part in the strike at the respondent's Berger Manufacturing Company plant. After this strike, when Wright applied for and was denied reinstatement, he testified that superintendent Hopkins told him, "Bill if you want to work here, you have to stick with the Company. You cannot have one foot over here and one over there and expect the Company to stick with you." In the early part of 1936 Wright was offered help in getting his job back by one Williams, a chipper employed by the respondent, whom Wright characterized as a "snitcher for the Company." Pursuant to Williams' instructions, Wright went to Ake, superintendent of employment, who gave him a note to Hopkins. Wright testified that Hopkins offered him a job if he would stick with the Company. Wright accepted.

After returning to work, Wright attended numerous safety meetings in the plant where superintendent Hopkins, foreman Johnston, and "Charlie, the bed foreman," on occasion told the employees, "You don't want to mess around with no outside union, because if you want to work, you cannot be tied up with no union." In the early part of 1937 Wright was asked by Beckner to join the C. I. O. Williams advised him, "If you aint signed, you better not sign, because the damn C. I. O. aint no good, if you want your job." Several weeks later Beckner again asked Wright in Williams' presence to sign a membership card. "Williams sneaked out," Wright testified, "and, about two days after that (on April 27) . . . I was called into Mr. Hopkins office." Hopkins informed Wright and other employees who were present that new men were being laid off in order to give the older men more hours. Wright stayed after the others had left and reminded Hopkins that he had been employed in 1922 and that Ake had promised him preference. Hopkins replied that he had told Wright that if he wanted to work for the Company, he had to stay on the right side of the fence and could not have one foot over here and one over there, and that Ake was "not running the show." "I told him," Wright testified, " 'I am on the right side of the fence when I work.' And he said 'You are not dumb, you know what I mean'." Wright also testified that some of the chippers who were not laid off had less seniority than he.

The respondent contends that Wright was laid off with a number of other chippers, without discrimination, for purely business reasons. Hopkins testified that because of the lack of tonnage the respondent decided to lay off 37 chippers; that Wright was thirty-fourth in length of service, and was laid off in regular order; that the respondent's policy with regard to seniority was that if a man was laid off for 30 days or more, while there was work available, his seniority rights were lost; that Wright had been laid off on May 22, 1935, 6 days before the Berger strike and had returned to work sometime in 1936; and that with this lay-off Wright had lost the seniority rights which had accrued to him since his employment in 1933.

On cross-examination, however, Hopkins contradicted his earlier testimony with regard to the respondent's seniority policy, by stating that if an employee were laid off for more than 30 days, he would not lose his seniority rights. On this basis, it appears that Wright was entitled to credit for approximately two years' service, and that when he was laid off on April 27, 1937, the regular order of seniority was not followed.

Although Hopkins denied all of the statements attributed to him by Wright, we are convinced that his denials are not to be credited. The respondent had pointedly warned its employees in its statement of July 2, 1936, that it would not tolerate "conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management." On March 5, 1937, after publishing the respondent's statement of its open shop policy in the newspapers, Carl Myers had summoned the Employee Representatives to a meeting at which he repeated the respondent's statement of July 2, 1936. The record contains uncontradicted testimony that other superintendents and foremen had warned employees not to join the union under threat of loss of their jobs. Moreover, although Hopkins denied having made the statements at safety meetings attributed to him by Wright, he admitted that he could not recall what he had said. Ugranovich's testimony with regard to certain of Hopkins' antiunion statements is undenied. Under these circumstances we are of the opinion that Wright was laid off on April 27, 1937, because he had joined or was suspected of having joined the Union.

Wright has not earned any money since April 27, 1937.

Sabri Shaban. Shaban was first employed by the respondent as a chipper from June 1933 until March 1934, when he left the respondent's employ for a visit to the "old country." In October 1936, upon his return, he applied to superintendent Hopkins for his former job. He testified that Hopkins asked him, "'You belong to a union?' and I say 'No.' 'If somebody go on the road and stop you . . . what are you going to say?' And I just figure and I sit two or three minutes . . .He said 'What are you going to say to me now?' I say 'I know I no have to sign my name because I am hungry.' He said 'If you listen to me that way, I am going to give you a job right now.' And he gave me a job."

On or about April 23, 1937, Shaban went to work with a copy of the "Steel Worker," apparently a union newspaper, in his back pocket. Shaban testified that Hopkins saw the paper, pulled it from Shaban's pocket, and said "'Why you no listen to me when I say I would give you a job' And he throw away that paper and didn't say nothing that time. In three or four days he called me in the office and he say 'You no listen to me that time when I was talking to you and I give you a job and you belong to the C. I. O. now'." Shaban was then laid off. He testified that many chippers hired with him on October 25, 1936, and others with less seniority were not laid off.

The respondent contends that Shaban, like Wright, was laid off on April 27 without discrimination, according to its policy of seniority. Hopkins testified that of the 37 chippers to be laid off Shaban was twentieth on the list, and that in determining Shaban's seniority he had counted the period from October 1936 to April 1937 and not the nine-month period in 1934 and 1935 when Shaban had worked for the respondent, in accordance with the respondent's seniority policy of cancelling rights which had accrued from former service, after a lay-off of 30 or more days. In view of Hopkins' later admission that an employee did not lose his seniority rights after such a lay-off, it appears that Shaban would be entitled to credit for his service in 1934 and 1935, even apart from his claim that men hired on or after October 1936 were not laid off. Although Hopkins denied all statements and acts attributed to him by Shaban, we do not find his denials convincing for the reasons cited in our discussion of Wright's discharge.

We find that Shaban was laid off on April 27, 1937, because he was suspected of having joined the Union. Shaban has earned $25 since April 27.

The cumulative testimony of Ugranovich, Wright, and Shaban, although denied in whole or part by Hopkins, satisfies us that Hopkins followed a policy of questioning employees on their union affiliations, and of discharging them or laying them off for real or suspected membership in the Union.

C. YOUNGSTOWN

1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Youngstown District was adopted in June 1933 and slightly revised in June 1934 and March 1937. On April 19, 1937, at a special meeting of the General Body of the Employee Representatives, McCoy, the Management Representative, announced that the respondent would withdraw financial support from the Plan. Shortly thereafter, the Employee Representatives formed the "Employee Representation Plan" which purported to be financially independent of the respondent, supplied themselves with membership cards and launched a membership campaign. On May 19, 1937, the Independent Federation of Republic Employees, herein called the Federation, was organized by the Employee Representatives for the dual purpose of lending support to the "new" Plan and taking measures to prevent the strike. Immediately after the strike was called and during the strike, the Federation sponsored the Back-to-Work movement and solicited signatures to back-to-work petitions. Thereafter, the Federation was combined with the Plan and a constitution and by-laws were adopted which purported to establish the Federation as a collective bargaining agency for the employees. The formation and activities of the "new" Plan and the Federation will be discussed hereafter.

The Plan at Youngstown, as it existed until April 19, 1937, was substantially identical in structure and operation with the Plan in Massillon. It is therefore unnecessary to describe it at length. It is sufficient to point out certain circumstances and incidents which attest to its domination by the respondent.

The Plan was introduced and fostered by the respondent. Its adoption was never submitted to a vote of the employees, although the preamble to the March 1937 edition of the by-laws states that the Plan "has been adopted by the employees and the Company for the purpose of collective bargaining." John Guest, one of the Employee Representatives, testified that he was first apprised of the Plan in June 1933 when the foreman of his department handed him a copy of the by-laws and he saw posters announcing that the Plan would be put into effect and that, pursuant to it, nominations and elections of representatives would take place.

All the expenses involved in the conduct of the Plan were defrayed by the respondent, and all the necessary facilities were furnished by it. The Employee Representatives were reimbursed by the respondent not only for time lost during working hours but also for any additional time spent in attending meetings and performing other work in connection with the Plan.

In spite of the provisions in the by-laws that nominations and elections shall be "so conducted as to avoid influence or interference with voters," the evidence indicates that even the election campaigns were not always free from at least indirect participation by the management. Thus in the 1935 elections for Representatives, Joseph O'Hara, who opposed the reelection of John Guest, was granted permission by the foreman to leave his work and go around soliciting votes among the employees. Such permission was not given to Guest.

The testimony of Ralph Mondora, one of the Employee Representatives, shows that, at least in some instances, Employee Representatives were more concerned with the remuneration they received for their services than with promoting the interests of their constituents. Mondora admitted having lost interest in the Plan after the respondent announced its withdrawal of financial support. He testified, "We tried it and got to a point that there wasn't no funds, and we quit; I quit it as I wasn't going to use my time representing anybody, so I dropped out."

The futility of the Plan stemming from the respondent's control is strikingly illustrated by the operation of the Joint Committees and the Joint Appeals Committee, Joint Committee No. 4, which were composed of five Employee Representatives and five Company Representatives. The submission for adjustment of grievances to Joint Committee No. 2, in charge of wages, employment, schedules and working conditions, generally resulted in a five to five vote. The same result ensued upon an appeal to the Joint Appeals Committee. Such a deadlock generally ended the dispute and, in effect, constituted a decision against the employees. It is further significant that even at the first annual meeting of Joint Committee No. 2, when officers were being elected, repeated balloting for chairman resulted in a five to five tie. The Employee Representatives finally conceded the chairmanship to the management.

Numerous provisions in the bylaws of the Plan reflected management control. Typical were the provisions requiring the approval of the Management Representative for holding special meetings of the committees, and the consent of the management in order to put the question of the dissolution of the Plan before the employees at an annual election.

At a number of meetings of the General Body, the Employee Representatives themselves signified their dissatisfaction with the Plan and leveled criticism against its operation. Thus at a regular meeting held on February 25, 1937, the General Body voted its protest against the methods used by some superintendents and foremen in calling in employees who had asked an Employee Representative to act for them, and requested that they be restrained from doing so unless with the consent and in the presence of the Representative.

At a special meeting held on March 15, 1937, the General Body discussed the sentiments of the employees relative to the Plan and recommended the following:

> "1. A change in the Plan whereby it would not be dominated by the Management.
>
> "2. A small fee of 25c of monthly dues and the right to use the check-off system to make the Plan self-supporting.
>
> "3. The elimination of Nos. 2 and 4 Joint Committees as has been proven nothing but tie votes are ever counted in those meetings.
>
> "4. The right to hold meetings with the men they represent . . .
>
> "6. When agreements are made, that they be made in writing and not orally.
>
> "7. The right to recall Representatives.
>
> "8. That when a case is presented to Management, to speed it up and not carry it over a lengthy period of time . . .
>
> "10. The right of the Employee Representatives to hold a meeting and to have the employees whom they represent cast a ballot as to their choice of the Plan—whether or not they wish to continue, or to have the check-off system of a monthly fee."

These proposals were submitted to the management at the meeting of the Central Council of Employee Representatives which was held in Cleveland on March 18, 1937. The policy of the management announced at the meeting was thereafter reported to the General Body at a meeting held on March 25, 1937. The management indicated that there was a possibility of eliminating Joint Committees Nos. 2 and 4, that it would give permission to Employee Representatives to hold meetings with their constituents, that it would grant the right to recall Employee Representatives, and that it would endeavor to speed up cases as much as possible. The management categorically refused to enter into any written agreement and to give permission to use the check-off system for dues. Significantly, the management was silent on the question of eliminating its domination over the Plan and of determining by secret ballot whether the employees desired the continuance of the Plan.

On the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation at its Youngstown District, and has contributed financial and other support to it.

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2. *Events preceding the strike; formation of the "new" Plan and the Federation*

The organizational activities of the S. W. O. C. in the Youngstown District began in July or August 1936. At some time thereafter, headquarters were set up in the Terminal Building, and Republic Lodge 1331 was established. Commencing in October or November, meetings were held first in Truck Drivers' Hall and then in the Roumanian Hall.

Surveillance of the meetings by company police began almost immediately. Joseph Gallagher, one of the first employees of the respondent to join the S. W. O. C., testified that whenever a meeting was scheduled, company police were present outside the meeting hall. Particularly conspicuous among the company police was Snyder, who, in the words of Gallagher, seemed "as though he was assigned permanent to that kind of work." The attitude of the company police is illustrated by the verbal altercation which, according to Gallagher, took place between them and Burke, an S. W. O. C. organizer, outside of Truck Drivers' Hall where a meeting was scheduled. An automobile with company police was parked near the hall. Burke said to them, "You better get going, rats," and the reply was, "We are here to stay if we have to shoot our way through it. You'se better get going."

On January 23, 1937, Gallagher was discharged. He had been employed as an inspector in the electrical department, and his duties consisted in making the rounds of inspection and answering whistles summoning him in case of any trouble. The evidence is conflicting with respect to the circumstances attendant upon his discharge. John H. Graft, the electrical superintendent, testified that during that time there was a flood condition in Mahoning Valley, that Gallagher was warned to "watch his step," and that he was nevertheless caught asleep in the control house, or "shanty," where inspectors were not permitted to rest. Graft further testified that he did not discharge Gallagher but merely told him to go home and get some sleep, and that he returned for his money and never requested to be permitted to come back to work. Gallagher however, testified that he was always accustomed to rest in the "shanty" when there was no immediate work without anyone ever objecting, that there was no danger in his department that night, and that he left the shanty immediately upon the blowing of the whistle. According to Gallagher's testimony, the following conversation took place:

> ". . . my superintendent, Mr. Graff (Graft), says to me: 'Joe, I had Mr. Walker blow that whistle for you.' I says, 'What is it for, Johnny?' and he says: 'Well, you have been sleeping in there; you can go ahead home until I send for you.' I says: 'Well, you have got to give me a better answer than that, Johnny, before I ever accept it . . .'
>
> "He says: 'Well, Joe, I know you couldn't have been sleeping for you answered the whistle too soon, but,' he says, 'if I was you, I would go ahead on home.' "

When Gallagher returned to see Graft the following morning, the company police refused to let him enter. On pay day he received his money and was never asked to return to work. In view of the open hostility of the respondent toward outside unions and Gallagher's generally known membership in the S. W. O. C., we are inclined to the belief that the incident in the shanty was a pretext seized upon by the respondent to justify its conduct and that Gallagher was in fact discharged because of his affiliation with the S. W. O. C. However, it is unnecessary to make a finding with respect to this discharge, since it is not a basis of the complaint.

Beginning in February the S. W. O. C. organizers intensified their activities by visiting employees and talking to them about organization. Espionage by the respondent became correspondingly more systematic and persistent. Snyder was stationed near the headquarters of the S. W. O. C. in the Terminal Building and apprised other company police of the movements of the organizers. Gallagher testified that he was followed from the time he left his house at night to go to the Terminal Building until he returned. Charles Fagan, another organizer, testified to a particular occasion when he and Gallagher were followed "all around town" upon leaving the Roumanian Hall where they had attended a meeting. The automobile that usually followed the organizers bore license number H-763-V. On making an inquiry at the Bureau of Motor Vehicles in Columbus, Gallagher was informed that this license number was issued to Carl W. Parker, another of the company police.

Spying on organizers was not the only method by which the respondent endeavored to stifle union organization. Resort was had to the Plan as a means of spreading anti-union propaganda. Thus, at a meeting of the General Body in February, Elliott, district manager of the respondent, stated that it was up to each of the representatives to maintain the Plan in operation by going among their constituents and pointing out to them the merits of the Plan over the C. I. O. or any other outside organization.

This method was apparently ineffective. Unsuccessful in their attempts to get an increase in the wage rates, the Representatives, in a resolution adopted by the General Body on March 5, stated, "This Body feels it would be an insult to their intelligence to ask them to go among the men in favor of a plan that has failed to get for them what the employees of the other mills already enjoy." The respondent began, therefore, to pursue a more direct course of action.

On March 13, the day following the election of officers in Republic Lodge 1331, the foundry, a unit within the mechanical department, was suddenly closed. Twelve of the 14 men employed in the foundry were members of the S. W. O. C. and included Thomas White, President of the Lodge, and Charles Fagan, a member of the Grievance Committee. William Manley, superintendent of the mechanical department, testified that the foundry was closed because there was a backlog of orders for Bessemer Steel and the iron used at the foundry was required for the Bessemer plant.

He further testified that for a period of at least 30 days prior to the closing of the foundry, conferences were held with the heads of the Bessemer plant, and it was decided to discontinue operating the foundry.

This explanation is not convincing in the light of the attendant circumstances. The foundry had been in operation for 20 to 30 years and required only about 600 to 700 tons of iron per month, which amounted to two per cent of the iron used at the Bessemer plant. White testified that at about 3 o'clock in the afternoon of March 13 Manley came into the foundry and said, "Boys, I have bad news for you. Our foundry is being closed down for good." by way of explanation, he stated that he had orders from "up above" and was carrying them out. When Manley made the announcement, the molds in the foundry on which six men had been working since 10 o'clock in the morning were almost ready for pouring. It would have required only about 3 additional hours' work to close the molds and then cast them. Instead of completing the work, the men were ordered to knock the molds out. It is unlikely that the closing of the foundry would have proceeded in such haste and disorderly fashion if it had been made necessary by a shortage of Bessemer steel, and previously discussed at conferences.

We conclude rather that the closing of the foundry, where substantially all the employees belonged to the S. W. O. C., was another step in the continued efforts of the respondent to check the increasing union organization. It was designed to discourage union membership, and was particularly directed against White and Fagan, who were thus discriminated against in regard to the hire and tenure of their employment.[50]

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[50] On March 15 White, Fagan, and about four others who had been employed in the foundry interviewed McCoy, the Management Representative, regarding their positions. McCoy promised to extend his efforts on their behalf, but informed them that they would have to be hired through general

At about the same time, individual employees in other departments were called in by supervisory officers and questioned about their affiliation with the C. I. O.

Richard Elder, a first helper in the open hearth department, testified that on March 13 George Putnam, the superintendent of the same department, and Jones Cahill, the assistant superintendent, told him that they saw his name on the Executive Committee of Lodge 1331 in a C. I. O. pamphlet, and asked him whether he belonged to the C.I. O. Three days later, Putnam summoned Elder to his office and, according to Elder's testimon[illegible] said, "Dick, I always thought you was a good friend of mine . . . it don't look like it when you join the C. I. O. . . . I just want to tell you that lots of times we have to let good men go that we don't like to lose, on account of union activities . . . I just wanted

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labor. According to White's testimony, this signified being rehired as new men. When the men returned the same afternoon to get their tools, Bill Sponsler, the foreman at the Haselton furnace, handed them discharge slips. White objected and stated that he wanted to wait until pay day and look around in the meantime. But Sponsler replied, "I have my orders. You take these slips, and go and get your money."

Two or 3 weeks after the foundry was closed, McCoy secured employment for Fagan on the general labor gang at $5.00 a day. About 2 or 3 weeks thereafter Fagan was transferred to the coke works. Dissatisfied, he asked Manley for a better position. Manley said he had nothing for him. At about the same time, the foreman at the coke works asked Fagan his name and number, and said, "That is all I want to know." Several days later the same foreman told him he did not need him. Fagan returned to the labor gang, but worked only 1 or 2 days a week. Shortly before the strike, he received the vacation to which he was entitled.

Prior to the closing of the foundry, Fagan earned 84½ cents an hour and worked 6 days a week. He has not earned any money since he stopped working on the labor gang.

White was also offered employment on the labor gang, but he refused to accept it, and stated that in view of his years of service he thought he was entitled to a better position. Three or 4 weeks later, White told McCoy that he had been working out of town, but desired to return to the employ of the respondent. McCoy said he had to consult "one fellow" in the plant before White could be hired. Several days later, McCoy told him he could not take him back.

Prior to the closing of the foundry, White earned $44.16 a week. On about March 16 he obtained employment elsewhere and worked for about 6 weeks prior to the strike, commencing again on August 2. He left his employ at the beginning of the strike in order to participate in it as president of Lodge 1331.

to tell you that." Putnam admitted questioning Elder about his C. I. O. membership, although he denied making the other statements and asserted that he merely warned him that he would be discharged if he did any organizing on company time.

Jerry Simcox, a second helper, testified that on March 13 or 14 Cahill and Putnam told him they understood he was an executive of Lodge 1331 and asked him how long he had been a member of the C. I. O. and how many followers he had.

James Farner, a welder in the line department and a member of the Grievance Committee of Lodge 1331, testified that Graft, the superintendent of the electrical department, asked him why he wanted to join the C. I. O. and get himself mixed up with a "bunch of cheap Bolsheviks." According to Farner's testimony, Graft also stated that the respondent would never recognize the C. I. O. and that the superintendents and heads of each department were to head "this thing off and save all our necks." Graft testified that he merely warned Farner not to solicit employees on company time and on company property.

Joseph Stevens, a second line man, testified that Graft called him and said, ". . . they tell me you belong to the union quite a bit . . . I would rather you keep your nose clean." Graft admitted talking to Stevens about his union activities, but denied making any statements designed to discourage him from continuing his union activities outside of the plant.

As indicated, the respondent's witnesses denied making certain statements intended to discourage union membership. However, the accounts given by the witnesses for the Board are more consistent with the evidence as a whole. Moreover, the respondent's witnesses admit that they questioned the employees regarding their C. I. O. membership. Such action by itself constituted intimidation and coercion of the respondent's employees.

Likewise, at about this time supervisory officers in different departments intensified the campaign of intimidation and coercion by spreading propaganda in favor of the Plan and against the C. I. O. at meetings of the employees called by them for that purpose. Thus, in the middle of March a notice was posted on the bulletin board of the line shop in the electrical department announcing a "safety meeting." However, no safety measures were discussed. According to Stevens' testimony, Graft, the superintendent of the electrical department, spoke as follows:

> "Men, I am here in behalf of the ones that are interested in themselves and to try to convince the ones that are not interested in themselves, to be interested in themselves . . . Big Chief John L. Lewis . . . has never done anything for the laboring class of people . . . he won't do anything, only get your money and go on with it . . . you won't have any more than you have got, only you will be just out of a job or cause you a lot of trouble, you can't never get over, you lose friends . . . (the Representative Plan) has always give satisfaction . . . All the grievances that we have ever had to settle, have been carried out and treated the men right . . . regardless if every man in here joins a union, we are not going to recognize it. We are not going to sign any contract . . . we are not going to have no closed shop or no collective bargaining."

Stevens' version of Graft's speech is, in substance, supported by the testimony of Farner, who also attended the meeting. Graft denied attacking the C. I. O. and testified as follows:

> "I told them that there had been many pamphlets,

> booklets circulated in the plant, talking among the men, and articles in the newspaper as to what one would have to do to hold his job with Republic Steel Corporation. I told them that I had called them together to tell them just exactly what the policy of the Republic Steel Corporation was, and that it was not necessary to join any organization regardless of what anybody said, to get their job or to hold their job
>
> "If they did join, that was their business. That under the Representative Plan we had been able to make very good strides. That I thought that our policy was the best policy for the men."

Several other meetings of a similar nature were held at various times during the month of April, after Golden, the Regional Director of the S. W. O. C., had written to Girdler regarding a proposed agreement. These meetings were addressed respectively by Manley, superintendent of the mechanical department, Elliott, the district manager, and Levantry, the works manager. In these addresses the C. I. O. was attacked, the Plan was extolled, and the policy of the company with respect to outside organization was emphasized. Thus, Elliott reiterated that the respondent would never sign with the C. I. O. or any other outside organization, adding, "Some of you fellows look at me as though to say 'to hell they won't,' but I say they might, but it would be a long, long struggle." Similarly, Levantry remarked, "This Company will never sign up . . . we will shut the mill up and board it up before we will sign with the C. I. O."

On April 19, as set forth above, McCoy announced at a special meeting of the General Body that the respondent was withdrawing financial support from the Plan. As reported in the minutes of this meeting, McCoy stated that "under the Wagner Labor Bill he would not be permitted to carry our time (as he has in the past) for attending meetings and explained that men off duty would not be compensated, but added that *men attending meetings during their regular working hours would be carried on their regular job.''* (Italics supplied). A motion was then passed that a monthly fee of 25 cents be assessed against all members of the Plan, and a treasurer was elected. The only other significant change in the operation of the Plan was that membership was no longer automatic upon voting for a representative, but depended upon signing a membership card. In addition the name of the Plan, as it appears on the membership card, was changed to ''Employee Representation Plan.''

Shortly thereafter the Representatives began a membership drive in the ''new'' Plan and solicited employees within the plant and during working hours. The campaign does not appear to have been successful. Ralph Mondora, one of the Representatives, testified that the ''Representatives tried to form their own organization, financed through the employees,'' but whatever funds they managed to secure were soon exhausted. Mondora testified also that he handled no grievances after April 19. When employees came to him, he ''just turned them down, told them there isn't no such thing.''

Plan activity was suddenly revived after the Cleveland conference of May 11 between representatives of the S. W. O. C. and the respondent. At the same time various measures were taken regarding the impending strike.

About a week before the strike, the Employee Representatives met to discuss steps for the prevention of the strike. Levantry, the works manager, was invited to attend. The Representatives voted to circulate through the plant and talk with the men. This was done. In addition, the respondent's supervisors assisted the Employee Representatives in holding meetings during working hours and on the respondent's property regarding the strike. Thus a meeting, previously announced by the foreman, was held in the machine shop. Butler, the assistant master mechanic, introduced Jack Jones, an Employee Representative. In the course of his speech, Jones said, "We can have an organization of our own in here. We don't need this C. I. O. All they want is your dollar . . . Our representative plan is good enough for us, and I have some cards here for you fellows to sign that want to work. You fellows that want to hold your jobs, sign these cards." He then distributed membership cards in the Plan.

William Cummings, a machinist, testifying for the respondent, stated that shortly before the strike he was given permission by his foreman to dictate a petition to the Mayor of Youngstown for the signature of employees. In substance, the petition read, "We, the undersigned, not wishing to strike, in the event of a strike, ask for police protection to enter and leave the plant." Cummings could not recall on cross-examination where he derived the notion of preparing such a petition. He testified, "I might have gotten the idea from newspaper talk or something I had heard, that when there was a strike, that this had been done; now I don't recall whether or where. I didn't burden my mind particularly." Whether or not Cummings himself conceived the idea of the petition, he prepared it and solicited signatures on the respondent's time and within the plant. Cummings' memory was equally vague regarding the disposition of the petition after he had obtained the signatures thereto. He testified that two men whose names he could not clearly recollect asked him for a copy of the petition and he gave it to them. He also failed to recall the conversation that took place between them.

There is evidence that the same or a similar petition was circulated in other departments. John Guest, an Employee Representative, testified that a clerk in the electrical department phoned and notified him that a petition was waiting for him in the office and that they were "in a hurry to get it signed." Guest went to the plant and circulated the petition.

On May 19, at a meeting held in the office building of the respondent, the Independent Federation of Republic Employees, Youngstown District, was organized. Guest testified that a notice announcing the meeting was posted on the bulletin board in the masonry department. Mart Murphy, chairman of the General Body under the Plan, presided. Temporary officers were elected, John L. Smith, a mechanic in the electrical department, being elected chairman. Murphy explained that the purpose of the Federation was not to engage in collective bargaining but to cooperate with the Plan. He requested Representatives under the Plan not to run for office in the Federation.

Between the date of its organization and the strike, a number of departmental meetings were held by the Federation on company time. At each meeting John Smith announced from the chair the date of the succeeding meetings. Employees of the department next scheduled to meet were notified, on company time and property, by employees who had attended the preceding meeting. Walters testified that his foreman informed him of a meeting in the mechanical department. He inquired whether attendance was compulsory and the foreman replied, "Manley wants to see you all there." At the meeting, Cummings, a machinist, spoke through a microphone. He launched into a eulogy of the Plan and said, "This outside Union here, they are not for you or me." Another speaker talked about the Plan, the coal fields, the C. I. O., and John L. Lewis. He repeated, "They are not for you, they will do to you fellows just like they did to the fellows in the coal fields. They will double your dues . . . You can't stop them once you sign their cause, then they can do as they please." Murphy pointed to Plan and Federation membership cards and said, "You fellows that want to work, sign the cards." The pamphlets of the Constitutional Educational League entitled, *"Join the C. I. O. and Help Build a Soviet America,"* were distributed.

Membership in the Federation was solicited not only at meetings but also individually. Michael Krill, an employee in the galvanizing department, testified that he was called in the foreman's office while another employee took over his work. Amal Valley, an Employee Representative, was seated at the foreman's desk. Valley asked Krill whether he wanted to join the Federation and handed him a membership card. He then remarked that there was not much use talking to Krill because he knew he was "100 per cent C. I. O.," but that he was supposed to speak to everyone in the plant. He added that Krill would be "better off" by joining the Federation. Krill was paid for the time so spent.

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3. *Events during the strike*

The strike commenced in Youngstown on the night of May 26. Immediately thereafter the Federation began to sponsor a back-to-work movement. Without consulting the other officers of the Federation or discussing the matter at any meeting, John L. Smith, the chairman, secured an office in the Dollar Bank Building, adjacent to the offices occupied by the Youngstown Sheet and Tube Federation of Employees. Back-to-work petitions were prepared for the signature of employees. Some of the petitions were retained in the office and others were distributed outside. Smith reimbursed the persons canvassing signatures for the gasoline used by them. Postal cards in the following form were dispatched to employees:

> "To All Republic Steel Employees:
>
> "If you are desirous of returning to work as soon

as possible, stop in at Room #212 Dollar Bank Bldg., and sign up with the BACK TO WORK movement sponsored by the Independent Federation of Republic Employees.

John L. Smith,
Chairman.''

The record does not indicate the source of the funds which were used in carrying on the back-to-work movement. Cummings testified that at one of the Federation meetings, the date of which he could not recall, the question of dues was mentioned and he handed Mart Murphy a dollar. Chester Crosby, ladle crane man, also testified that he paid dues without stating, however, the date of such payment. There is no other evidence, however, that at that time dues were either required or contributed by the employees.

Early in July, after the mills were reopened, the Federation held a meeting in order to combine the Federation with the Plan. As stated by Smith, ''The purpose of that meeting was for the Independent Federation of Republic Employees to drop the old Representative Plan or combine the two of them together as one.'' He testified further,

> ''Well, at that time the officers of the Representative Plan resigned and we took over the reins.''

It was also decided to ''donate'' the members under the Plan to the Federation. The testimony of Ralph Mondora is revealing:

> ''Q. Had the question ever been put to the members, and whether they wanted to become affiliated with this Independent Federation?
>
> ''A. No sir.
>
> ''Q. Whether they wanted to be donated?
>
> ''A. No sir.
>
> ''Q. That was an action that the officers were taking without the consent in any way of the members,

is that correct?

"A. That is correct."

At a meeting held in the Central Auditorium on July 25, a constitution and bylaws were adopted. Application cards were prepared. Employees were solicited to sign application cards within the plant and on the respondent's time.

Although the new constitution and bylaws purport to make the Federation independent in form of company control, they cannot conceal its real purpose. The record clearly shows the policy of the respondent to perpetuate in its plants an organization subservient to its will and purposes and designed to thwart self-organization on the part of its employees. The Federation is merely a continuation of the Plan under a new guise and is tainted with the same illegality. Before the strike Federation meetings were announced by supervisory employees and held on the respondent's property. Prior to the strike and after the reopening of the mills, employees were solicited to join the Federation on the respondent's time and property.

On the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Employee Representation Plan and the Independent Federation of Republic Employees, Youngstown District.

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4. *The refusal to reinstate certain employees*

The mills in Youngstown reopened on June 25. Although the strike was still in progress, many employees returned to work. A number of them were refused reinstatement.

Harry Rigby. Rigby had been in the employ of the respondent for 26 years as an inspector in the electrical department. He joined the C. I. O. late in June 1937. Prior to the strike he was earning about $44 a week.

On Friday, June 25, Rigby and five other inspectors in the same department met and decided to return to work the following Monday. Kling, the foreman, phoned and said he needed men to start the mill at once. Rigby informed him of their decision to return Monday. Pursuant to Graft's instructions, Kling called again and said that if they did not return to work at once they would be replaced. When the men came to the mill on Monday, Kling said, "You fellows ain't got no jobs." Rigby saw Graft on July 13. Graft said, "Rigby, they tell me you are a chronic kicker. . . . Charlie Ritchie told me that." Rigby replied that he did not believe that and that he had known Charlie Ritchie for a long time. Graft replied, "Well, I ain't got no more to say to you. You go home and stay home until I call for you." Thereafter, Rigby made attempts to see Graft again but was unsuccessful. Graft testified that the other inspectors admitted they made a mistake in not returning when told to do so and that they were all reinstated.

Rigby did not earn any money between the commencement of the strike and the hearing.

We are of the opinion that Rigby was not reinstated with the other inspectors because of the respondent's belief that he was "a chronic kicker." We find that Rigby was refused reinstatement because of his membership and activity in the Union.

John Lazar. Lazar commenced work for the respondent in 1919 and worked regularly until the strike as an inspector in the inspection department. He joined the C. I. O. in April 1937 and served on the picket line for about a week. Prior to the strike Lazar worked from 42 to 48 hours a week at the rate of 92 cents an hour.

On June 26 Lazar interviewed Bill Conklin, the assistant superintendent, regarding his job. Conklin said he would call him when needed. Lazar returned on June 28 to see Reubendale, the superintendent. Nearly all the other inspectors were there. Reubendale gave them checks and told them to start working. When Lazar's turn came, he said, "No, I don't give you your check yet," and asked him what he was doing in the picket line carrying a stick or a club. Reubendale finally said, "Well, I can't do nothing for you, John, just go on home, when we need you, we will call you."

Lazar spoke to his foreman, Dan Weeks, shortly after the Fourth of July. Weeks said, "Well, John, I am sorry to lose you from down here. I like to have you back, but I can't do nothing for you. You have got to see Mr. Reubendale." Lazar called Reubendale on the telephone repeatedly and was always told to call "the last of the week" or the "first of the week." On August 9 Reubendale said to him, "I can't do nothing for you, John. Why don't you go in the C. I. O. . . . They will help you out."

Lazar has earned $2.50 since the beginning of the strike.

It is clear that Lazar was refused reinstatement because of his connection with the Union and of his activity in the strike. The respondent apparently attempts to justify this discrimination on the ground that Lazar carried a stick or a club in the picket line. For the reasons discussed hereinafter we are of the opinion that, under the circumstances of the case, such conduct upon the part of Lazar, if true, would not warrant the respondent in refusing to reemploy him.

Michael Krill. Krill worked continuously for the respondent from July 1936 until the strike. Prior to the strike he was employed in the galvanizing department and was earning from $6.75 to $7.00 a day. He joined the C. I. O.

in January 1937, acted as a volunteer organizer, and served on the picket line.

At about 6 p. m. on June 28, Krill returned to the plant to seek his job. Linden, the foreman, told him to come back an hour later. Krill inquired whether it would be satisfactory if he returned the following morning since he had to go back home, change his clothes and get his glasses. Linden replied that it would be all right, provided he returned prior to the dead line, but he did not know when it was. When Krill came early the following morning, Linden said that it was too late and that the dead line was already in effect. Linden also stated that he was aware of the time of the dead line the previous night, but did not want to apprise him of it. Linden then suggested that he register at the employment office

Krill called again in July, and Linden promised to send his number to the employment office if he was needed. On August 13 Linden told Krill that he turned his number in but that there was something wrong. He then asked him whether he was on the picket line and said they probably had his picture in the main office.

Krill has earned about $25.00 since the strike.

We find that Krill was refused reinstatement because of his connection with the union and his assistance to the Union during the strike.

Balare Chismus. Chismus started work for the respondent on May 18, 1936. Prior to the strike he worked as a laborer in the bar mill. He joined the C. I. O. on May 28 and served on the picket line.

Chismus returned to the mill on June 27 or 28 to inquire about his job. The turn foreman asked him, "Why did you monkey around the C. I. O.," and told him to wait for Warnock, the general foreman. Warnock said he did not have anything for him then and told him to come back in a few days. On a subsequent occasion Warnock advised him to go to the employment office. At the employment office he was told that "there is nothing to do now." He made another attempt to see Rose, the employment manager, but was prevented by the company police. According to Warnock's testimony, Chismus admitted to him that he was arrested on the Market Street bridge on the night of June 10, and for this reason he was denied reinstatement. Warnock did not assert that Chismus was guilty of any acts of violence. Warnock further admitted that as far as he knew Chismus did not carry a club on the picket line.

Since the strike Chismus has earned about $68.00.

We find that Chismus was refused reinstatement because of his affiliation with the Union and his assistance to the Union during the strike.[51]

William A. Haren. Haren commenced work for the respondent in July 1926, and was employed as a mixer crane man. Prior to the strike he worked 40 to 48 hours a week at 77½ cents an hour. He joined the C. I. O. on August 6, 1936.

On June 29 Haren went to the mill to inquire about his job. Charlie Ritchie, the foreman, asked him, "Where is your club," and said, "You have caused a lot of trouble around here. You have agitated . . . If I need you, I will call you." Haren asked, "That means that I am fired?" Ritchie replied, "No, we don't fire anyone."

Two or 3 weeks later Haren returned to the mill again. Pursuant to a policeman's instructions Haren went to the employment office. Haren told Rose, the employment manager, that he wanted to register. Rose said, "What do you mean, register? How long do you fellows think we are going to hold your jobs here,—forever? Didn't you know that the gates had opened 2 or 3 weeks ago?" Haren testified that he thereafter phoned Graft and received the reply, "We don't have anything for you, Bill . . . We will notify you when we need you. We are all filled up."

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[51] In the respondent's offer of proof filed with the Board on March 28, 1937, it is stated that on or about October 20, 1937, Chismus pleaded guilty to a charge of rioting. For the reasons discussed hereafter we are of the opinion that, under the circumstances of the case, such offense is not a bar to his reinstatement.

Graft testified that he refused to reinstate Haren because he had an affidavit from one of the employees to the effect that Haren was on the picket line carrying a club. Graft does not know either the size of the club or the length of time Haren carried it.

Haren has not earned any money since the strike.

We find that Haren was refused reinstatement because of his connection with the Union and his activity in the strike. As in the case of Lazar, the respondent was not justified in refusing to reemploy because of his alleged activity on the picket line.

Charles Neverdusky. Neverdusky began to work for the respondent on March 9, 1936. Prior to the strike he was employed as a hooker in the cut and lap shipping department and earned about $7.00 a day. He joined the C. I. O. on January 9, 1937.

Neverdusky was out of town on June 28, the date of the dead line in his department. On June 30 he returned and interviewed Rose at the employment office. Rose was unable to find his number in the files and said, "You are off the pay roll, altogether . . . You have to get rehired." Neverdusky came back the following day and showed Rose his pay stub. Rose made another unsuccessful attempt to find his number, and could not tell Neverdusky the reason for its absence. The latter persisted, ". . . who else but you could give me a reason? They would have to give you a reason for taking me off the pay roll.'' Rose said, ''Who the hell am I to give you a reason? Get the hell out of here.''

At the end of July or early in August, Neverdusky spoke to McCoy, the Management Representative under the Plan, regarding his job. McCoy said to him, ''You are one of these guys, C. I. O. men that was on picket line carrying a club?'' Neverdusky denied that he carried a club. McCoy said, ''Well, you are one of these smart guys went down and filed with the Labor Board.'' To Neverdusky's query, ''So that is where we stand?'' McCoy replied, ''That is exactly where you stand.''

Neverdusky has earned $12.00 since the strike.

We find that Neverdusky was refused reinstatement because of his connection with the Union, his assistance to the Union during the strike, and his filing a charge with the Board.

Anthony Martin De Long. Anthony Martin De Long was employed as a hooker in the electric weld department from April 1935 until the strike. Prior to the strike he earned about $5.00 a day. He joined the C. I. O. in April 1937 and served on the picket line.

The dead line in De Long's department was June 28. De Long went to the employment office on June 30. Rose checked his number and said, ''I don't believe there is anything here for you now . . . We will call you when we need you.'' De Long inquired how soon that would be. Rose replied, ''I don't know, come back New Year's.''

On July 3 De Long spoke to Campbell, the general foreman of the department. Campbell told him that he had a clear record at the electric weld and he liked his work but he did not know how he could get back. He suggested that he see Roy Case, the superintendent. De Long testified that in the course of his conversation with Case on July 5, Campbell came running from the other side of the office and said, "Roy, do you know who this boy is? . . . His name is Tony De Long." The expression on Case's face suddenly changed and he told De Long the work in the mill was slack, that there was nothing for him. De Long remarked, "Well, I can see that I am not wanted around here." Case replied, "Oh, yes, you are wanted around here. The men can use you. You are a good worker, and all that. The only thing you have to do is to keep walking to the employment office."

De Long repeatedly went to the employment office, but the police prevented him from seeing Rose. The police were stationed in front of the building. One of them had lists of numbers and names. Employees whose numbers appeared on the lists were permitted to see Rose. The others were told to come back the next day. Discouraged with his fruitless attempts at the employment office, De Long finally succeeded in contacting Campbell again. De Long said he wanted to be taken off the "merry-go-round" and to be told if he had any chances of returning to work. In one breath, Campbell said, "No, you are not fired," and in the next, ". . . You have to keep . . . walking down to the employment office. You have to be rehired."

Shortly thereafter De Long spoke with McCoy who told him, "You will have to wait until the case is over with the National Labor Board before you can go back to work."

We find that De Long was refused reinstatement because of his connection with the union and his assistance to the union during the strike.

D. WARREN

1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Warren

District of the respondent, comprising the Warren, Niles, and Trumbull Cliffs plants, was adopted in June 1933 and amended in May 1934. Shortly after the constitutionality of the Act was upheld, the Employees' Independent Association, herein called the Association, was formed. It purported to be a new organization and independent of the respondent. The activities of the Association will be discussed hereafter.

The similarity of the Warren Plan to the Plan at Massillon, Canton, and Youngstown renders it unnecessary to describe it fully. It is sufficient to indicate certain circumstances and incidents reflecting its domination by the respondent.

The Plan was initiated and sponsored by the respondent. Its adoption was never submitted to a vote of the employees. Ernest Webb, one of the Employee Representatives, testified that he was first apprised of the Plan at a meeting in June 1933 held in the office of the superintendent of the hot mill. Elliott, who was then district manager of Warren, explained the purpose of the Plan. The respondent bore the expenses of all the meetings and elections, both of which took place on company time and property, and of the entire functioning of the Plan. The representatives were paid their regular salaries for all time devoted to the Plan. Ed Mulligan, the chairman of the General Body of Employee Representatives, devoted most of his time to Plan work and was assigned an office for such work.

The record indicates that the elections themselves were not always free of management influence. Webb testified that prior to the election of the Chairman of the General Body in 1934, Mulligan, who was a candidate for the office, said to him, "Well, using some of the superintendents to probably bring a little pressure and a little politics, why we will make out all right."

The experience of Webb as chairman of Joint Committee No. 2, in charge of wages, employment, schedules and working conditions, is significant. Out of 17 requests for wage increases which were presented to the Committee during a period of 3 years, the employees won two and lost 15. The cases were lost as a result of a tie vote between the Employee Representatives and the Company Representatives both in Joint Committee No. 2 and in the Appeals Committee.

From the evidence as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation, Warren District, and has contributed financial and other support to it.

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2. *Events preceding the strike*

The circumstances surrounding the discharge of Richard John Green, a breaker operator in the hot strip finishing department, serve to illustrate the activities of the respondent prior to May 1937 when the anti-union drive reached its height.

Green joined the C. I. O. on March 2, 1937. On March 6 Paige, his foreman, summoned him to his office. As the office was occupied, Green was taken to the mechanic's shed where he was alone with the foreman. Green testified as follows:

> "He said: 'I called you in here, I want to ask you something. I want you to tell me the truth.' I said: 'I always have told you the truth, Ralph.' He said: 'I know that, that's why I called you in here.' He said: 'I hear your buddy, Jim Airwyke, is signing

> up members in the C. I. O.' I said: 'Yes, as a matter of fact, he signed me up.'
>
> "He said: 'What did you want to do that for?' I said: 'We men around here are not satisfied with the Company Union Plan. As it is,' I said, 'we have no representation at all.'
>
> "And he said: 'You have been long enough to know this Company's policy towards outside unions.' He said: 'You take my warning and get out of it, and everything will be O. K.' He said: 'I like you, and I don't want to see anything happen to you.' "

Paige further questioned Green regarding his attendance of C. I. O. meetings and admonished him "to stay away from them."

On March 21 Green was called to the office of Minahan, the superintendent. Minahan showed Green certain defective steel handled by him and said, "I am going to have to lay you off, and seeing that you have been laid off twice before, I will have to let you go." Green explained that the steel turned out "wavy" because the rolls were worn in the machine, and that the foreman was aware of it but said it did not "hurt anything." Green also explained to Minahan the reasons for his previous lay-offs.[52] Minahan said, "I could give you another chance, but you have been talking too much about the union, around here, . . . if you had been any ordinary sweeper, there would have been some excuse for you, but you are more intelligent and should have known better . . . As far as I am concerned, I am through with you."

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[52] Green testified that his first lay-off was due to the "scratching" of some steel for which another operator was responsible, and that he submitted to a lay-off for 3 days rather than cause any trouble. The second lay-off occurred in March 1936. On that occasion Green and several other operators were instructed by the foreman to shovel coke because there was no immediate work on the breakers. Upon the refusal of the men to do so, the foreman sent them home and told them to stay home until he called for them. However, when the men explained the facts to Minahan a few days thereafter, he said that they would have lost no time if he had been informed about the incident immediately.

Shortly thereafter, Green requested Glenn Dugan, an Employee Representative, to take action in his behalf. Dugan was doubtful as to the possibility of Green's reinstatement, since he had been attending C. I. O. meetings. A week later Dugan informed Green that Minahan even refused to discuss his case. According to Green's testimony, Dugan also said that "he could not understand the Company's policy in putting statements in the paper that any man was free to join any union of his own choice and then when he did so, then they fired him for it."

Unable to obtain any results through the Plan, Green communicated with Mayo, the C. I. O. Regional Director. Mayo secured the services of the Committee of Trumbull Lodge No. 73 and a meeting was arranged with officials of the respondent. The latter refused to give a definite answer.

About April 24 an officer of the respondent, McClain, told the vice president of Trumbull Lodge that although he did not make any promises, he might consider reinstating Green but not James Airwyke or Arthur Scott, who were also discharged. On the same day the men decided to submit their case for determination by the Board. Several days later McClain called Green to his office to have "a man to man" talk with him. He said, "I hate to see a young fellow like you get off on the wrong foot with the wrong crowd," and asked him whether he wanted to return to work. Green was willing to return provided he was given back pay. Minahan said, "I will take you to the Labor Board and back four times before I give you your back pay." About May 3 or 4, Green decided to return to work without the back pay. He was asked to promise, however, not to talk about the union any more. Paige also told him that if he had heeded his warning he "would have never gotten into this trouble."[53]

Shortly after the constitutionality of the Act was upheld, the Employees' Independent Association was formed. Leaflets concerning the Association and membership cards were prepared for distribution. The leaflets were addressed to the employees of the Warren District and were signed by the members of a Committee, styled the "Reorganizing Committee for the Employees Independent Association."[54] Ed Mulligan, Chairman of the General Body under the Plan, was also chairman of this Committee. The leaflet indicates that the Association was intended to function pursuant to the provisions of the Plan as revised in March 1937. Presumably the reference is to the revision of the Plan adopted April 22, 1937, which has been described above.

An intensive Association membership drive began in May, and was conducted with the active support and assistance of the respondent's supervisory employees.

On about May 1, Mulligan undertook to mail a great number of leaflets and membership cards to employees. He performed this work in his office in the respondent's hospital building. Eddie Werner, assistant to the employment manager, helped Mulligan by folding the leaflets and cards, placing them in envelopes, and sealing them. Mulligan told Webb, an Employee Representative, that he had to mail about 5600 leaflets and cards and believed he could obtain the necessary money from the Athletic fund. This fund, which was under the supervision of a Plan committee, consisted of gate receipts of various sport events held on the respondent's ball grounds and of the rentals charged outside parties for the use of such grounds.

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[53] Green worked until the strike. During the strike Green was refused reinstatement. See *infra*.

[54] The leaflet reads in part as follows:

"In order that this plan can function in compliance with the various sections of the National Labor Relations Act (otherwise known as the Wagner Act), as regards rates of pay, wages, hours of employment or other conditions of employment, the plan was amended in March 1937 by the duly elected employee representatives.

"Paragraph 2, Section VIII, of the Wagner Act, recently held constitutional by the Supreme Court, provides, however, that an employer cannot contribute financial or other support to any labor organization. It is therefore necessary to secure financial support in order that our revised plan of collective bargaining can continue.

"If it is your desire to continue collective bargaining through a group of employee representatives chosen from among Republic employees, this can be accomplished by accepting membership in the EMPLOYES INDEPENDENT ASSOCIATION at a cost of Four Dollars ($4.00) per year . . . "

The membership campaign was not altogether successful. The employees were reluctant to sign the cards. On about May 12 McKinney, a superintendent, asked Webb why none of his men signed Association membership cards. Webb testified:

> "I said: 'How do you know?' 'Why,' he said, 'Mulligan told me.' I said: 'What business did he have telling you?' I said: 'This is supposed to be a secret order.' 'Well' he says, 'You will have to go out and talk to them, talk to these men.' He said: 'You are a free lance, you get around all over the plant.' "

Webb refused to comply with McKinney's request, saying, "You know that the Wagner Bill has been passed." McKinney suggested that Webb consult Mulligan about it. Mulligan was absent from his office at that time. While Webb was waiting, Frank Neale, assistant to the master mechanic, entered and examined the membership cards in Mulligan's files. Shortly thereafter, Lowry, the master mechanic's chief clerk, came in with a handful of membership cards and deposited them with the other cards. Several days before the strike, McKinney again complained that he was in a "tough spot" because the men under his supervision had not returned the membership cards.

A number of foremen were themselves directly engaged in soliciting members for the Association during working hours and on the respondent's time. Thus about May 12, Michel, the general labor foreman, asked Eli Parkovich, a foreman in the labor department, whether he joined the "company union," and told him that " . . . everybody wants to work, got to join the company union." He then instructed him to take down the names and numbers of the men in his gang who refused to sign membership cards.

About May 14 Taylor, the foreman of the blast furnace, approached Ernest Garnett, an operator of a "lorry" car in the stock house, and inquired why he failed to return the Association card which had previously been mailed to him. Garnett replied that he already belonged to the C. I. O. Taylor then said, "If you know what is good for you, you will sign that." On the same and subsequent days, Kerwin, the superintendent of the blast furnace, engaged Garnett in conversation regarding the C. I. O.

William M. Cain, a roll turner, testified that about May 15, Baldwin, the foreman of the roll turner department, approached him while he was working and asked him what he thought about the "company union." When Cain expressed his opinion, Baldwin said, "I don't give a damn what you think of the company union, that don't interest me at all. I am on the spot. The roll turners at the Niles plant have signed up 100 per cent for the company union. The roll turners at the strip plant, fifty per cent of them have signed for the company union. I have eight men here, not one man has signed for me, and I am on the spot, and I think you fellows owe it to me to sign that card." Baldwin then told him not to worry about the dues because "the company will take care of that."

George Carter, a locomotive engineer, testified that a few days before the strike, Miller his foreman, asked him and another engineer whether they received a letter with a white card. Carter argued that it would be useless to pay

$4.00 a year to join an organization that was of no benefit to him. Miller told him to forget the $4.00 and explained that there was nothing on the membership card regarding the payment of dues. When Carter refused to sign the card, Miller launched into an attack on the C. I. O., saying that it consisted of a "bunch of communists and bolsheviks."

On the basis of all the evidence we find that the respondent dominated and interfered with the Employees' Independent Association, Warren District, and contributed support to it.

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3. *The strike*

The strike began at Warren on the night of May 26. Various preparations were made to meet it on that day. Richard Green testified that at the end of his shift on that night he joined the "hot mill" men who were on their way to the strip mill in order to urge the strip mill employees to join the strike. However, on the track between the strip mill and the sheet and tin department there were lined up a couple of hundred "loyal" workers and "bosses" armed with sledge hammers, pikes, and other weapons. As the hot mill men were going through the sheet and tin department, Ginert, the superintendent, yelled at them, "Come on, you sons-of-bitches, we are waiting for you." Not desiring to create any trouble, the men decided to leave the mill.

As the employees in the cold strip shipping department were ready to leave at 11 o'clock, Bill Thompson, the "boss" of the department, said, "You have to stay here to protect your jobs . . . If you go home, you won't have any more jobs in this department." John Riffle and Albert Lewis, impelled by the fear of losing their job, remained in the plant. They slept on the floor. Next morning they were given an order for the restaurant. The only supply of food in the restaurant consisted of hamburger sandwiches and coffee. In view of the number of people who had to be served, the hamburger was not properly fried and both Lewis and Riffle became ill. They went home the same day.

4. *The refusal to reinstate Green and Hite*

About June 25 or 26 employees began to return to work. Richard Green and Hallie Philip Hite, it is alleged in the complaint, were refused reinstatement because of their union affiliation.

Richard Green. Green was actively engaged during the strike in transporting strikers from the S. W. O. C. headquarters to the plant for picketing duty. On June 25 or 26 he went to the Warner Hotel where, he had been informed, passes were distributed enabling employees to get through the National Guard lines and enter the plant. In the lobby Green met McClain, who laughed at him and motioned to him to get out. Upon further inquiry, he was directed to the mezzanine floor where Mulligan was seated at a little table and had several lists in front of him. He informed Green that his name was on the ineligible list and refused to give him a pass. Green testified that there were two others present, St. Clair and Blanchard Bolton. Bolton explained to Mulligan that he was on vacation when the strike commenced, and was thereupon issued a pass. St. Clair was unsuccessful.

Prior to the strike, Green earned about $9.50 a day. Since the strike he was employed for one day as a deputy sheriff and 2 weeks as an electric welder at the American Welding Company. His check for the first week was $26.41.

We find that Green was refused reinstatement because of his connection with the Union and his assistance to the Union during the strike.

Hallie Philip Hite had been in the employ of the respondent since September 1923. Prior to the strike he was a yard conductor and "dumper" at the Trumbull Cliffs Plant, and earned $1.04 an hour with time and a half for working over 40 hours a week. Hite joined the C. I. O. on May 27 and served on the picket line.

Shortly before the strike, M. R. Martin, the traffic manager, and Kilcanney, the foreman, asked him to sign an Association membership card. Hite refused.

On about June 25 or 26 Hite was informed by Lavelle, one of the respondent's engineers, that the men were returning to work. The same day Hite saw Kilcanney and inquired about his job. Kilcanney said, " . . . if you go back to work, you have got to go back as a new man, rehire, that is, if they want to take you." Hite replied that he would never return as a new man after 14 years in the respondent's service. Hite made no further attempts to secure a job. According to his testimony, it would have been useless, since Kilcanney told him he had "the inside dope."

Hite has not earned any money since the strike.

We find that Hite was refused reinstatement because of his connection with the Union and his activity in the strike.

E. Cleveland

1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Cleveland District was a continuation of the Plan which had been established in the Corrigan, McKinney Steel Company in

1933.[55] In March 1937 the bylaws were amended, apparently pursuant to the revision proposed at the Cleveland conferences of the Central Council of Employee Representatives. This revision, as already pointed out, contained minor changes only and in no way removed the respondent's control over the Plan. Shortly after the constitutionality of the Act was upheld by the Supreme Court, Wakefield, the Management Representative, announced at a meeting of the General Committee of the Employee Representatives [56] that the respondent would no longer be able to contribute any financial support to the Plan. Thereupon the Employee Representatives formed the Employees' Representative Association, a new organization which purported to be independent of the respondent. The formation and activities of the Association are further discussed hereafter.

The Plan in the Cleveland District up until April 12, 1937, was similar in structure and operation to the Plan in Massillon and the other districts. It is therefore unnecessary to describe at length. It is sufficient to state that the employees were never given an opportunity to vote on the adoption of the Plan; that the respondent defrayed the expenses of all the meetings and elections, both of which were held on the respondent's time and property, of clerical and stenographic services, printing, and of the entire functioning of the Plan; and that the representatives were compensated by the respondent for all time spent in connection with the Plan whether during working hours or outside of working hours.[57]

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[55] The assets and properties of the Corrigan, McKinney Steel Company were acquired by the respondent in September 1935. In April 1936 the name of the Corrigan, McKinney Steel Company, appearing in the bylaws of the Plan, was replaced by "Republic Steel Corporation, Cleveland District."

[56] The General Committee as set up in the bylaws of the Cleveland Plan corresponds to the "General Body" in the other districts, and is, in fact, referred to by witnesses as the "General Body."

[57] The following incident serves as an illustration of the operation of the Plan. John Exall, a chipper at the Corrigan, McKinney plant, testified

We find that the respondent dominated and interfered with the formation and administration of the Plan of Employee Representation at its Cleveland District.

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2. *Events preceding the strike*

The campaign to organize the respondent's employees in Cleveland began in June 1936. At that time, there not being any Lodge set up for the respondent's Cleveland employees, they began to join the Otis Steel Lodge.[58] The men were at first compelled to hold their meetings secretly.

As has already been stated, the respondent met the announcement of the campaign for the unionization of steel workers by its statement of July 2, 1936. Immediately thereafter it began a campaign to discourage and thwart organization.

(*a*) *The discharges*

Almost from the very first the respondent resorted to the weapon of discharges. We will take up in order those individuals named in the complaint as having been discriminated against for union activity. The respondent introduced no evidence to rebut testimony that the discharge of these men constituted unfair labor practices.

Thomas Cikah. Cikah commenced to work at the Corrigan, McKinney plant in 1925. Prior to his discharge he was employed as a locomotive engineer in the coke plant.

Cikah testified that during July and subsequent months company police watched the beer parlor operated

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that in the 1936 elections for Representatives he was defeated by five or six votes. He subsequently learned that Peters, the superintendent of the department, urged the employees not to vote for him, saying, "Don't vote for this man. He is a radical. He is a Communist. Even if he get elected, we going to fire him." To one employee who praised Exall as being a "good man" Peters said, "If you think he is a good man, then you are a Communist yourself."

[58] The Otis Steel Lodge had been established by the Amalgamated for the employees of the Otis Steel Company.

by his wife near the plant, which was frequented by Balint, a C. I. O. organizer, and others connected with the C. I. O. Cikah joined the Union on July 2, 1936. Shortly thereafter Wall, the superintendent, summoned him to his office and inquired whether he belonged to any union. When Cikah replied that he did not, Wall advised him: "For . . . sake, don't join a union. They are no good. They don't give you anything."

Cikah was discharged on July 9, 1936. His foreman told him he was discharged because of his failure to stop the smoke and put out fires in the ovens under his supervision. Cikah testified, however, that he was not at fault in this regard and explained that while he was running the locomotive he could not do anything else. He also testified that there had previously been no complaints concerning his work. Furthermore, when he was reinstated shortly before the strike, he was assigned to his old position. This reinstatement took place on May 14, 1937, after Cikah had filed a charge with the Board.

At the time of his discharge Cikah was earning 59½ cents an hour. Since then the rates for locomotive engineers have been raised to 74 cents an hour. He did not earn any money between the date of his discharge and reinstatement.

On the basis of the whole record we find that Cikah was discharged because of his membership and activity in the Union.

John Popik. With the exception of a lay-off of five or six months, Popik worked as a rigger at the Corrigan, McKinney plant continuously from February 6, 1934, until his discharge on August 10, 1936.

Popik joined the C. I. O. on about August 3, 1936. On August 9 he was directed to report to the office of Agnew, the master mechanic, who questioned him regarding his membership in the C. I. O., and remarked, "Don't you know that this plant (is) never going to be organized? . . . this company got a lot of money and (is) going to break any Union in the world." On the following day Agnew again summoned Popik and said, "I got news for you . . . I got to let you go. That is the news." Shortly thereafter Popik saw Krause, the employment manager, and inquired whether his C. I. O. membership was the reason for his lay-off. In reply Krause put his fingers to his lips and said, "Sh-h-h."

After his discharge Popik filed a charge with the Board. On May 8, 1937, he received a card from the respondent directing him to report to the main office. Krause then reinstated him to his former position as a rigger.

At the time of his discharge, Popik was earning 55 cents an hour plus a tonnage bonus. Since then the hourly rate for riggers has been increased to 72 and 75 cents. Between the date of his discharge and reinstatement, Popik earned $50 or $75 hauling coal in his own truck.

Upon the entire record in the case, we find that Popik was discharged because of his membership in the Union.

Frank Pirichy. Pirichy worked for the respondent off and on from May 1934 until his discharge in the latter part of August. For about six or seven weeks prior to his discharge he was employed as a chipper in the chipping department. Pirichy joined the C. I. O. on July 1 or 2, 1936, and did considerable organization work among the respondent's employees. He testified that he succeeded in organizing about 100 men in the chipping department.

Late in August, when Pirichy reported to work on his shift, he was unable to find his time card on the rack. Upon inquiry, it turned out that the company policeman in attendance was in possession of Pirichy's card together with five or six others. Pursuant to the policeman's suggestion, Pirichy contacted Krause the following morning. Krause informed him that he had received orders from George Belline,[59] the superintendent of the chipping department, to dismiss him. Krause was unable to give him any further explanation, and stated, "according to my record, you perfectly O. K. . . . I have no complaint against you. I don't know what it is all about."

Pirichy testified that the words "no work" were written on the discharge slip handed to him. Nevertheless, about 15 or 20 new men were hired in his department during the same week. Again, when Pirichy returned to the employment office about two weeks later, he witnessed the hiring of additional men. His own request for employment, however, was repeatedly turned down with the reply, "We have nothing for you."

Pirichy filed a charge with the Board about a week after his discharge. On May 11 he was reinstated to his former position and worked until the strike. At the time of his discharge he was earning 60 or 62 cents an hour. The rates for chippers have since that time been raised to 72 cents an hour. After his discharge Pirichy was employed by the W. P. A. for a period of four and a half months and earned $71 a month.

On the basis of all the evidence we find that Pirichy was discharged because of his union membership and activity.

George Troyanovich. Troyanovich began to work at the Corrigan, McKinney plant on September 3, 1925. At the time of his discharge on August 27, 1936, he was employed as a bed chain man.

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[59] Also referred to as George Bellew and George Balleau.

Troyanovich became a member of Otis Steel Lodge in the latter part of June. On July 24 he met two organizers from the Otis Steel Company, Casey and Murphy, who invited him in their car which was parked on Broadway and engaged him in conversation. The conversation centered about the circumstance that the respondent's employees were being "called in" and questioned by their bosses and by Jones, the captain of the company police. Casey and Murphy expressed the belief that Lohman, an Employee Representative in the coke department, was furnishing the respondent with information. Upon leaving the two men, Troyanovich encountered Sam Naletrich, a loaderman in the coke department, who repeated that men were being called in. Naletrich then warned him, "Watch yourself, here comes the company stool." Troyanovich looked around, and saw a man coming slowly down the street. Naletrich remarked, "That fellow hangs around the beer joint all the time . . . he turns in fellows that sign up." Troyanovich then went to the office where he received his vacation money. On his way out, he noticed that the man who had been pointed out to him by Naletrich was talking to a company policeman.

On the same day Troyanovich was ordered to report to the main office where Wakefield, the Management Representative, and Captain Jones questioned him concerning his conversation with the two men on Broadway. Believing that a denial would be futile, Troyanovich admitted that they were two organizers from the Otis Steel Company. Captain Jones thereupon launched into an attack against the C. I. O. and accused John Lewis of being a racketeer and "out to make money for himself." He admonished Troyanovich to stay away from the two Otis Steel men if he knew what was good for him. When Troyanovich stated that he was "neutral" on the union question, Wakefield asserted that it is impossible to be neutral and that one must be either for or against the company. Troyanovich was then urged to influence the men in favor of the Plan and against the C. I. O.

Troyanovich left on his vacation the same afternoon. When he returned his house was watched by men who arrived in a car and parked on the other side of the street. Upon his leaving the house, the car also disappeared.

Two or three days after he returned from his vacation Troyanovich was summoned to the office of Zimmerman, the superintendent of the order and shipping department. Shriber, assistant to the district manager, talked to him. Troyanovich testified:

> "Well, he first said that he was very much disappointed in me, and I wanted to know just what he meant. He didn't get to the point. And then he said, 'You know . . . they are going to start organizing this union down here . . . there is going to be a lot of trouble . . . We have had intentions of putting in a new mill here in Cleveland . . . if this threat of the union drive is going to go through, we might change our minds and not put the mill in here . . . you know there is going to be some good jobs when that mill goes up . . . you look like a pretty intelligent fellow . . . if you work with us why . . . we will see that you will get a good job.'
>
> And he further stated . . . 'You know, the Republic Steel has the reputation of being very good to its friends, and damned ruthless to its enemies . . . ' "

The same day Balint, the C. I. O. organizer, told Troyanovich that he was slated to be discharged. He explained that Lohman had signed an affidavit confessing that he was compensated by the respondent for furnishing information regarding employees who had joined the C. I. O.

When Troyanovich reported for work on August 27, Robbins, the chief chipper, stopped him and stated that his work had been unsatisfactory. He refused to explain any further. He said, "Charlie Barrie has got the proof," and added, "You have been a bad influence around here in the past two months."

Thereafter Troyanovich requested the Employee Representatives to take action in his behalf. An interview with Wakefield proved fruitless. He stated that they had enough to "hang" Troyanovich and would never rehire him. The Employee Representatives then appointed a committee to see Barrie and ascertain the facts relative to the discharge of Troyanovich. Barrie informed the committee that about two months before he had been instructed by his "superiors" to watch Troyanovich, that he had on numerous occasions observed him conversing with a group of five or six men, and that he turned him in because he was "suspecting that the man was talking about the Union and about Communism."

The matter was then submitted to the General Committee at a meeting held on September 8, 1936, and a motion was unanimously adopted recommending the reinstatement of Troyanovich. John Exall, an Employee Representative, testified that about a week after the meeting Carpenter called him into his office, upbraided him for "raising hell" about Troyanovich, and stated that he was a Communist and would never be taken back.

At the time of his discharge Troyanovich averaged over $5 a day and worked six or seven days a week. On September 30, 1936, he secured employment elsewhere at loading coal and worked for three months, earning $26.30 weekly. Since the first of April his earnings averaged only between $5 and $10 a week.

Upon all the evidence in this case, we find that Troyanovich was discharged because of his membership in the Union.

Michael Naletrich. Naletrich worked at the Corrigan, McKinney plant continuously from 1917 until his discharge on September 9, 1936. At the time of his discharge he was employed as a loaderman in the coke department. He testified that he had never been laid off and that his work had at all times been satisfactory.

Naletrich joined the C. I. O. in July 1936, and was active in organizing employees. In the middle of August he took 10 employees to Cikah's beer parlor where they were signed up by Fred Korecky, a speed car operator at the Corrigan, McKinney plant, and recording secretary of Lodge 1098, an S. W. O. C. Lodge. Naletrich testified that he was watched by men from the respondent's office as he entered the beer parlor with the employees. On about September 6 he was directed to report to the superintendent of the coke plant, Wall, who glanced at a slip of paper in his hand and inquired whether Naletrich had joined the C. I. O. Naletrich denied his membership. Wall warned him, "Better don't join." After this conversation Naletrich was closely watched by his foreman.

On September 9 Naletrich was discharged. By way of explanation his foreman told him that he had made a "big mistake" a month ago when he had pushed the coke before the whistle blew. Naletrich testified that he had already been penalized for his mistake by a one-day lay-off, and that others had committed the same error but were never discharged as a result. After his discharge he repeatedly tried to get his job back but was unsuccessful.

Naletrich filed a charge with the Board in March 1937. On May 6 he received a card from the respondent asking him to return to work. For 3 days he was assigned to loading doors and then he was reinstated to his former position.

At the time of his discharge Naletrich was working at the rate of 59 cents an hour. For the first 3 days after his return to work he earned 57 cents an hour and thereafter 74 cents, which constituted the new rate for his former job.

Upon all the evidence we find that Naletrich was discharged because of his membership and activities in the Union.

Fred Korecky. Korecky worked at the Corrigan, McKinney plant more or less regularly from 1930 until his discharge on December 19, 1936. During the first two and a half years he was a pump operator. Then he was employed as a speed or service car helper and was finally promoted to the position of service car operator. He testified that as far as he knew his work had always been satisfactory.

Korecky joined Lodge 1098 on July 26, 1936, and was elected recording secretary a month later. He was active in organization work among the employees. As already noted, in the middle of August he signed up the employees brought into Cikah's beer parlor by Naletrich. During the month of November Korecky was on different occasions questioned by Wakefield, the Management Representative, and Tull, the electrical superintendent, regarding his C. I. O. membership. Korecky denied that he had joined the C. I. O. He testified that after these conversations took place, his house was watched by a man, whom he recognized as a sergeant or lieutenant in the company police and whom he had previously seen in the mill.

On December 19 Korecky was laid off. In accordance with the suggestion of Homer Kerr, the turn foreman, he reported the following morning to the employment office where he saw six laborers being hired. Korecky implored Krause to give him anything at all, even a laborer's job. Krause's reply was, "No." Korecky insisted, "Why you just hired six men out there. I seen them come in here and I seen you signing them up now." Krause said, "Oh, never mind."

Although it is not entirely clear, Korecky's testimony on cross-examination indicates that the occasion for Korecky's lay-off was furnished by the elimination at that time of gasoline locomotives from the equipment used in the service car work and the substitution of gasoline trucks. The service car gang consisted of Korecky and seven other men who had all joined the C. I. O. and were laid off at the same time. Korecky testified that all these men were subsequently taken back although he did not know on what dates. Korecky further testified that he was sixth in seniority in the service car gang but had greater seniority in the electrical department.

Korecky's case was discussed at a meeting of the General Committee of Employee Representatives on January 5, 1937. Korecky, who was called in to explain the facts of his case, stated that he had seniority rights in the electrical department where men were being hired on the pumps and on the construction gang. He was later informed by John Exall, one of the Representatives, that the General Committee recommended his reinstatement by unanimous vote. However, no further action was taken in the matter.

Korecky filed a charge with the Board in January. On May 18 or 19 Krause offered him a laborer's job. Korecky did not report to work, since he was occupied with some business matters for a few days, and then he heard that a strike was to be called.

On the basis of all the surrounding circumstances it must be concluded that Korecky was discharged and refused reinstatement until shortly before the strike because of his affiliation with the C. I. O. There is no evidence that the other men on his gang who had been taken back engaged in any organization work other than joining the C. I. O. Korecky, however, distinguished himself by securing the signatures of other employees. It may be that Korecky's position was in fact eliminated. He was, however, willing and anxious to accept any work for which he was qualified. Such work was denied to him although other men were being hired.

At the time of his discharge Korecky was earning 62 cents an hour and worked alternately 40 and 48 hours a week. He was paid time and a half for working over 40 hours a week. Between the date of his discharge and recall he earned about $370.

John Exall. Exall was employed as a chipper in the Corrigan, McKinney plant from the spring of 1933 until his discharge on January 14, 1937. He joined the C. I. O. on July 2, 1936, and held the position of treasurer in Lodge 1098. It will be recalled that Exall, in his capacity as alternate Representative, endeavored to bring about the reinstatement of George Troyanovich who was discharged on August 27. On September 14 Carpenter summoned Exall to his office and said to him, "Exall, do you care to work any longer for us? . . . What the God-damn Hell are you raising hell about George Troyanovich? We fired him and when we fire him we never take him back, either. You know, he was a Communist." Carpenter then questioned Exall about his children and their education and suggested, " . . . suppose there is a chance for you to become a chipper foreman." Exall replied, "Mr. Carpenter, as long as I represent here, I decline the proposition. If the company thinks that I am good enough to become a chipper foreman, when my turn is over, I will think it over." Exall testified:

> " . . . he got sore a little bit on account of my answer, and he says, 'You don't fool anybody,' he says, 'we know you. We know all about you, and we got the goods on you, too . . . ' I says, 'Any proof you got on me, lay your proof on the table and I will admit my mistake,' but he says, 'Go on now,' he says, 'Next time I call you here I am going to have the proof.' "

Late in October Wakefield requested Exall to urge all the employees in the chipping department to stay away from the C. I. O. Wakefield offered to permit him to work in the daytime, so that it would be possible for him to see the men on the different shifts; to recompense him for time spent outside of working hours in visiting the men at their homes; and to assist him in educating his children. Exall declined to accept these propositions.

At about the same time Exall attended a C. I. O. meeting held at the house of Manuel Garcia, an employee of the respondent. On the day following the meeting, John May, the Plan Chairman, visited Exall at his home. May explained that he was sent by Wakefield and instructed to speak to him like a father. He said they knew where Exall had been the previous day and he mentioned Garcia's name and the number of his house. He finally said, "Mr. Wakefield send me over here . . . to tell you to watch your step."

Upon his return to work thereafter Wakefield asked him whether May spoke to him and what he thought about it. Exall testified:

> "I told him Mr. Wakefield I think I got a right to go any place I want. What I am doing is my own affairs. He said, 'Yes, but it don't look good in the part of the Company. You cannot work both ways. If you want to work with C. I. O., resign your position here.'

> I said, 'Why should I resign my position?' He said, 'You cannot work both ways . . . You don't give the co-operation.' I said, 'If I don't give you satisfaction, co-operation, why don't you fire me?' He said, 'Don't worry, if you don't watch your step, you going to get fired.' "

Sometime in November Exall was laid off for a week under the following circumstances: An invitation had been extended to the Employee Representatives to attend a meeting in Youngstown of the "Employee Representatives of Ohio." At a meeting of the General Committee Wakefield announced that although they had no right to represent the respondent's employees at the Youngstown meeting, any Representative could attend as an individual if he so desired. Exall consequently made the trip. When he returned, George Belline, the superintendent of the chipping department, laid him off for a week for absenting himself from work without the foreman's permission. Exall protested that he had on other occasions taken time off without permission and was never reprimanded. He complained to Wakefield and requested that a special meeting of the General Committee be called to consider the question. Wakefield replied, "Nothing doing." He made the same request upon May, the Chairman of the General Committee, who told him that if Wakefield was opposed to a meeting, nothing could be done about it.

On about January 5 Exall was ordered to report to Wakefield's office. Captain Jones, who was present, read certain names from a list containing about 300 names and check numbers and asked whether Exall recognized them. Exall testified:

> "I said, 'Yes; most of them . . . Why?' He said, 'You done the dirty work.' I said, 'What do you mean, Mr. Jones?' He said, 'You signed up these men in the

> Union . . . ' I told them it was a lie and he turned around and he said, 'Not only that but during [sic] the payroll C. I. O., you are getting $6 a day,' and I told him that was another lie. And he turned around and said, 'Well, we expect you to say that but you cannot fool me. I am watching you day and night.' Then . . . I said, 'What business have you got to watch me what I am doing outside of the plant?' He said, 'That is my job. I am getting paid for it . . . as long as you want to work for them at $6 a day, why don't you talk to Mr. Wakefield? . . . we pay you $6 a day.'
>
> And I says, 'What . . . are you trying to do, make a stool pigeon out of me? . . . ' 'Well,' he says, 'You can't work for both sides, for Republic Steel and for C. I. O. . . . if you don't want to play ball with us . . . you won't stay long.'
>
> I says, 'O. K. . . . If I don't give satisfaction, . . . they can fire me.'
>
> He says, 'Don't worry . . . they are going to fire you if you don't play ball with us.' "

Jones then handed Exall a notebook containing a list of numbers headed by Exall's name and number and said that it belonged to Balint. Balint subsequently denied ever having seen the notebook. When Exall mentioned this to Wakefield, he said that Balint was double-crossing him.

At about that time lockers of employees in several departments had been broken into, and a systematic search was made of the personal belongings of some employees. Exall testified that his own locker was broken into twice but nothing was removed. This matter apparently became so acute that it was discussed at a General Committee meeting. At the meeting Exall made a statement that they were looking for union cards, that he was a union man and proud of it, and that he wished they would let him alone.

On the night of January 13 a C. I. O. mass meeting was held at the Bohemian Hall. Exall testified that he was seen entering the hall by Captain Jones and other company police who were stationed outside.

Exall was discharged on January 14. He testified that at about 2 o'clock on that day he proceeded to the tool room to change his chisels. Jack Simon, who was in charge of the tool room, told him to continue to use the same chisels longer. About half an hour later George Belline called Exall aside and said, "The way you act, it seems to me you want the Company to hire a couple of more grinders for you." He accused him of doing nothing all day but changing chisels, and specified the inches of steel that he had chipped with the respective sets of chisels. Exall replied that he could not possibly have ascertained the number of inches of steel he chipped with a particular set of chisels because he had been working alone since 12 o'clock and there was nobody present to measure. Belline refused to argue further and finally said, "Well, we don't want you here." Exall testified that the chippers had been cautioned at a number of safety meetings to exchange chisels which were worn down. Exall also testified that he had never before been reprimanded for improper use of tools. Moreover, it is unlikely that the offense with which Exall was charged was of a serious nature, since chisels which are returned to the tool room are not discarded but merely sharpened and then assigned for further use.

About a month later Exall and five or six other employees who had been discharged attempted to interview Wakefield regarding their jobs. A policeman at the gate stopped them and asked them to wait. He went in to speak to Captain Jones, returned in a few seconds, and said, "Nothing doing . . . they don't want youse." The same day Exall phoned Wakefield and was told, "You have got your case pending down at the Labor Board, we can't do nothing for you until the Labor Board makes decision."

On May 24 Wakefield offered Exall a labor job. When Exall suggested that he had seniority rights, Wakefield replied, "Oh, no, we want to hire you as a new man, forget about it." Exall was required to submit to a physical examination. He worked on May 26 and then went on strike.

At the time of his discharge Exall was working at the rate of 52 cents an hour. Since his discharge he was employed for about a month by the W. P. A. and earned approximately $60.00.

Upon the entire record we find that Exall was discharged because of his membership in the Union.

John Petak. Petak worked at the Corrigan, McKinney plant continuously from 1928 until his discharge on January 18, 1937. He was employed as a crane repairman in the bull gang.

Petak joined the C. I. O. on July 1 or 2, 1936. Two weeks thereafter Tull, the superintendent of the electrical department, said to him, "John, I have got your name and badge number here and I heard you joined outside union." He also told him that he had been informed of Balint's frequent visits to his house. After this conversation Petak was given considerably less work than the other men.

At about the same time his house was being watched by company police. On one occasion a company policeman followed him all the way from his home to the clock house in the plant and observed him as he punched his card. On January 13 Petak saw Captain Jones and the policeman who had previously followed him standing outside of the Bohemian Hall where a C. I. O. meeting was being held.

When Petak came to work on January 18 he found that his card had been removed from the rack, and that he had been laid off. Gene Perry, the boss in the electrical department, told him that the elimination of gasoline locomotives necessitated the lay-off of some men and that he was the youngest in the bull gang. When Petak remonstrated that there were four men on the gang with less seniority, Perry promised to secure for him a crane operator's job and to call him in a few days. He never called. About 3 weeks later Petak spoke to Krause. Krause told him to wait a minute. He returned after about an hour and a half and did not even want to talk to Petak. Petak made three other attempts and was met with the reply, "Nothing doing." Petak testified that in the meantime four men having less seniority had been taken off the speed car service and placed on the bull gang. He also testified that a janitor had been given a craneman's job and then placed on the bull gang.

Thereafter, Petak filed a charge with the Board. On May 18 he was offered a general labor job and worked until the commencement of the strike at the rate of 62 cents an hour. At the time of his lay-off he was earning 59 cents an hour. The rate for employees in the bull gang was ultimately increased to 74½ cents an hour. Petak had not earned any money from the date of his lay-off until his recall on May 18.

On the basis of the whole record we find that Petak was laid off because of his membership in the Union.

Mathew Babich. Babich first began to work at the Corrigan, McKinney plant in 1922. Shortly prior to the acquisition of the plant by the respondent in 1935, Babich was laid off because his position was eliminated. On May 6, 1936, he was given a job on the electrical repair gang and worked continuously until his lay-off on January 25, 1937.

Babich joined the C. I. O. on July 16, 1936. He testified that in August his locker had been broken into, and his union card had been removed. Everything else which he kept in the locker, including a little money, remained intact. On January 13 he went to the C. I. O. meeting at the Bohemian Hall which was kept under surveillance by company police.

On January 25 Gene Perry informed him that he had to lay him off because he was the youngest man in the gang. Babich protested that only three or four men in the electrical department had greater seniority, that he had held various positions, and was willing to accept any job available. Perry promised to put him on at the first opportunity. Subsequent attempts on Babich's part to secure a job proved unsuccessful.

Babich filed a charge with the Labor Board in April. On May 19 or 20 Krause offered him a labor job and he worked until the strike, earning 62½ cents an hour. Prior to his lay-off he was paid at the rate of 62½ cents an hour and was working from 40 to 48 hours a week. The wage rates for electricians have been raised since then.

Upon the whole record we find that Babich was laid off because of his union membership.

Wilbert Neuman. Neuman first began to work at the Corrigan, McKinney plant on July 21, 1933. At the time of his discharge on January 27, 1937, he was employed as a chipper.

Neuman joined the C. I. O. in September 1936. He attended the C. I. O. meeting held in the Bohemian Hall on January 13. Neuman testified that at the meeting he compared his C. I. O. membership card with that of another chipper. Next to him sat a man called Russel Lapka whose father, Neuman later learned, was a company policeman.

After the meeting, Neuman sprained his back and was temporarily assigned to light work such as oiling chipping hammers and other odd jobs. On one occasion, when he was in the tool room, Jake Simon, the foreman, said to him, "You know, if I were you I would never join the C. I. O., because Republic Steel has too much money behind it."

On January 26, as Neuman proceeded to the tool room to exchange chisels, he encountered Nicola Michich, a foreman, who warned him, "You better watch yourself, because George Balleau [Belline, the superintendent] has been watching you all day." The following day, Belline came over to Neuman with the four old chisels which he had presumably turned in the previous day, and ordered Edward Ray, another chipper, to test them. As Ray chipped the steel, Jake Simons measured the chips, and Belline made a note in his book. After Ray had thus tested all the chisels, Belline said to Neuman, "I am going to fire you . . . I have been watching you for the last two weeks . . . You have been doing nothing but monkeying around. You have been using too many chisels. You are fired." Neuman testified that he had been employed as a chipper for 3 months prior to his discharge and had never before been criticized for using too many chisels.

Neuman filed a charge with the Board in February. On May 11 he was reinstated to his former position. At the time of his discharge he was working at the rate of 62½ cents an hour and was averaging about $5 a day.

Upon the whole record we find that Neuman was discharged because of his membership in the Union.

Gaetano Armeli. Armeli first commenced to work at the Corrigan, McKinney plant on April 27, 1933, as a laborer. On November 12, 1936, he was promoted to the position of chipper. This position he maintained until his discharge on February 20, 1937.

Armeli joined the C. I. O. early in January. About a month later he lost his key case containing the keys to his locker and his C. I. O. membership card. He reported the loss to the company police. In 4 or 5 days Belline informed him that Captain Jones had found his keys and would return them to him. Captain Jones opened the case and asked Armeli whether the keys belonged to him. Afraid of the possible consequences, Armeli attempted to deny any knowledge of the C. I. O. card and tore it in half. Captain Jones, however, recovered the card from him and said, "Hold on, don't throw it away. Give it to me. I am going to check up your handwriting."

On about February 26 Armeli's foreman told him, "I am sorry, Tom, you have to go to see George Bellew, [Belline] the superintendent." Armeli testified that Belline drew a slip of paper out of the desk and read him "a story of using too many chisels" about which he knew nothing. Armeli's entreaties to be given a "break" were ineffective and he was advised to see Krause. Krause merely confirmed the fact that he was discharged and handed him his slip which, according to Armeli's testimony, was marked "suspicious."

Shortly thereafter Armeli filed a charge with the Board. On May 18 or 19 Krause visited him and offered him a job in the labor gang, where he worked until the strike at 52½ cents an hour. At the time of his discharge he was earning 62½ cents an hour plus a tonnage bonus. The wage rate for chippers has since been increased to 72½ cents an hour.

On the basis of all the evidence we find that Armeli was discharged by the respondent because of his union membership.

(*b*) *Other acts of intimidation*

The discriminatory discharges of these employees accompanied by the surveillance of C. I. O. meetings, spying on employees affiliated with the C. I. O., and the other practices referred to, are not the only manifestations of the respondent's active hostility to self-organization on the part of its employees. Numerous other incidents serve further to illustrate the respondent's activities.

In the middle of August a C. I. O. meeting for Negroes employed at the Corrigan, McKinney plant was scheduled to take place at the Globe theatre. The contemplated meeting, however, failed to materialize. One Negro who came to the theatre explained that the men were afraid to attend because Captain Jones was driving around in his car with about four other men.

The company police, under the leadership of Captain Jones, made repeated attempts by means of threats and violence to prevent the distribution of union literature in the vicinty of the respondent's plants. Thus when Benny Favorito, a volunteer S. W. O. C. organizer, was distributing literature at Independence gate, Captain Jones and Sergeant Russell threatened the employees with discharge if they accepted any handbills. On another occasion in December Captain Jones began to assemble a crowd to "tackle" the C. I. O. organizers who were distributing handbills in front of the gate. The organizers were compelled to leave.

On January 13, Balint, Vincent Favorito, and another organizer went to the plant of the Truscon Steel Company, a subsidiary of the respondent, to distribute announcements of the mass meeting at the Bohemian Hall scheduled for that night. As they took their positions near the gate, a "great big fellow" wearing a blue lumber jacket came out of the gate and approached Balint. Believing that he was an employee, Balint handed him a leaflet. He took it with his left hand, whirled Balint around, said, "You dirty son-of-a-bitch, get the hell away from here," and hit him in the eye. Balint testified that the man had brass knuckles on his right hand. Walter Maloney, alias Walter Jergis of the company police, who was standing there, called them "further names" and said they received what they were looking for. As a result of the blow, Balint's eye became infected and had to be lanced. Balint subsequently saw the man who struck him dressed in uniform at the Truscon plant.

Benny Favorito testified that a number of C. I. O. men were distributing "Steel Labor" at the Truscon plant on January 25. One of the men who were massed around Captain Jones approached him and struck him in the face. Favorito retaliated. Thereupon a company policeman ran up to him, pulled out his gun, and said, "You son-of-a-bitch, if you don't cut it out I will put a slug in your back."

On April 19 Paul Castman was brutally beaten when he was distributing literature at the Truscon plant. Prior to a description of this incident it is material to set forth certain circumstances relative to Castman. He had procured a job at the Truscon plant on March 5, 1937. On April 5 his foreman told him that he had received orders to lay him off but gave no reason. Frank Dunch, a Representative, informed him that he was discharged for union activities. He was advised to speak with Captain Jones who questioned him about his former employment and his union activities. Castman testified:

> "He said, 'You are not working with Al Balint, are you?' I said, 'No, sir. I am not. I don't even know Al Balint.' He says, 'He is one of the Union

> men . . . You ought to be working for the Union . . . One of the Presidents of the Union's Lodge is getting eight dollars a day from the C. I. O. . . . I am also paying him for his work down here.' ''

He then asked him about the extent of the C. I. O. membership in the plant and again inquired whether he was associated with Balint. He warned him, ". . . if you are, it will be too God damn bad for you, if you are double-crossing me, look out."

Subsequently, Castman engaged in voluntary organization work. As already stated, on April 19 he was distributing literature near the gate of the Truscon plant to the men entering and leaving the plant. John Jense, an employee of the respondent, told Castman he would sign a C. I. O. membership card if he had one available. Castman gave him a card and Jense filled it out. Castman noticed, however, that he had not written in the date and proceeded to do so himself. A man whom he recognized as a company policeman pushed Jense out of the way and struck him with a black jack on the side of his face. Castman testified:

> "When he hit me with the black jack, I stumbled backwards and fell in the gutter alongside of the sidewalk . . .
>
> He jumped on me with his knees in the pit of my stomach, started beating me over the head and the arms and the hands with a black jack. He says, 'God damn you, here is some of Cap's Union. . .'
>
> I had my hands over my head. I was trying to protect my head and he continued beating me with this black jack. Every time he would hit me he would say 'uh-uh . . .' "

As a result of the beating Castman suffered severe injuries and spent 16 days in the hospital.

William Sikorski, who had previously been employed at the Corrigan, McKinney plant, spoke to Krause in April 1937 regarding a job. Before he was put to work, however, he was subjected to an interview with Captain Jones who was called in by Krause. Krause pointed to Sikorski and said, "There is your man." Jones examined Sikorski's application card, commented on the number of his children, and stated that the respondent would see to it that he had work to support his family. He then inquired about the men he had formerly worked with in the 10 and 12 inch mill. Sikorski mentioned a few names. Jones remarked, "Yes, everyone of those boys are all on thin ice, I would not give you five cents for any one of their jobs . . . They are running around the mill, over there, and they are organizing the fellows into the CIO, and we are not going to stand for it." He said further, "Now, I want you to go over to work over there and I want you to keep your nose clean of the CIO because . . . we are never going to recognize them. Balint and Danitz, a couple of Communists, will never tell Republic Steel how they are going to run their corporation."

In addition to the foregoing activities, the respondent, in combating the growth of union sentiment among its employees, attempted to spread propaganda in favor of the Plan and against the C. I. O. Thus, at a Plan banquet staged in October by Wakefield, the Management Representative, Wakefield delivered a speech in which he extolled the Plan, stated that the principal task was to keep the C. I. O. out of the plant, and requested the assistance of the Employee Representatives in doing so. Likewise, petitions were circulated within the plant expressing faith in the management and satisfaction with the Plan. Again, Babich testified that at a Plan meeting or banquet he received a photostatic copy of an article by Chesly Manly in the Chicago Tribune which attempted to discredit the C. I. O. by denouncing its objectives as communistic.[60] And John Sabol, an Employee Representative, testified that at a Plan conference which was attended by a number of company officials, White, vice president of operations, delivered a speech characterizing the C. I. O. as neither an American nor a responsible type of organization.

(*c*) *The Employees' Representative Association*

The Employees' Representative Association was formed after April 13 when Wakefield announced at a meeting of the Plan that the respondent would henceforth be unable to furnish the Plan with financial support. The old Plan, however, was never formally dissolved. John Sabol testified that the Association contemplated the adoption of the bylaws under which the old Plan operated. The record contains no evidence that any other bylaws were formulated which would tend to make the Association independent of the respondent's control. Although some discussion was had regarding the question of assessing membership dues in the Association, there is no evidence that dues were in fact assessed or contributed by employees. There is nothing by which to distinguish the Association from the Plan except that membership was apparently no longer automatic upon voting for a Representative but depended upon the signing of membership cards. The character of the Association membership drive, which took place on the respondent's time and property, further attests to its domination by the respondent.

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[60] The article, dated Mar. 28, 1937, appears under heading, "SEE C. I. O. DRIVE AS COMMUNISTS IN ITS OBJECTS." The first paragraph, indicating the tenor of the article, reads as follows:

"The industrial union drive of John L. Lewis' Committee for Industrial Organization which has brought the current epidemic of sitdown strikes, is essentially a communist movement and has been advocated as the first step in a program to overthrow the government of the United States and set up a soviet dictatorship ever since the communist party of America was officially organized at Woodstock, N. Y., in May, 1921."

James C. Quinn, an inspector in the 12 inch finishing mill testified that Harold Sisk, an Employee Representative distributed membership cards within the mill and explained the purpose of the Association. On another occasion Art Lawton, the turn superintendent, ordered every man in the mill to go into the office. On the desk in the office were a large number of membership cards, and as the men entered cards were thrust upon them. Quinn testified to the following altercation which he had with Lawton:

> " 'Mr. Lawton,' I says, 'What authority have you got standing up there and chasing them men in there?' I says 'The Supreme Court has just signed the Wagner Relations Act,' I says, 'you haven't a damned bit of business standing up there making them men sign up.' I says, 'The only reason they sign up, if they don't sign it, you will turn them in to their bosses in the morning,' and I says, 'You know what that means, he would come out here and lay them off again like he always does.'
>
> 'Well,' he says, 'the Wagner Labor Relations Act is like everything else,' he says, 'it don't mean a damn thing.'
>
> Then he went on to tell me about me and my bunch of communist friends, John L. Lewis all the way down, he raked them all over the boards . . ."

At about the same time the members of the Plan Sanitation Committee, which had on its schedule a tour of inspection of sanitary conditions, were called into Wakefield's office where Wakefield, May, the Chairman of the General Committee, and Grimm, the Secretary of the General Committee, were present. Wakefield placed a package containing Association membership cards on the table, and said, "Well, we got to get started with this some time or other and we might as well get started now.'' In consequence, the Committee, instead of making an inspection tour, solicited employees to sign membership cards.

The employees, however, manifested reluctance to join the Association. Sabol testified that Tull, the superintendent of the electrical department, complained to him about the low percentage of employees in his department who had joined. Tull also summoned Nutting, the foreman of the construction gang, and inquired what the trouble was. Nutting stated that he had a couple of men whose example the rest of the employees seemed to follow, and expressed the opinion that only riddance of them would help matters. Sabol testified that in compliance with Tull's request he made further attempts to prevail upon the employees to join the Association but failed to get any signatures. No deduction was made from Sabol's pay for the time spent in this work.[61]

On the basis of the foregoing facts and the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Employees' Representative Association.

3. *The Strike*

The strike in Cleveland commenced on May 26. During the strike, the respondent again resorted to the dissemination of literature among its employees calculated to discredit the C. I. O. and to break the strike. Girdler issued for distribution to the employees the statement of June 15 (quoted *supra*), which attacks the C. I. O. as an irresponsible and communistic organization. Also the respondent prepared a reprint (referred to *supra*) of anti-C. I. O. articles culled from various newspapers and entitled, "What the Editors are saying about the Republic Strike." John Exall testified that he received through the mails copies of both the statement issued by Girdler and the reprint.

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[61] About a week before the strike a new organization, styled The Republic Employees' Association, Corrigan, McKinney Division, came into existence. Relative to this organization, David Mac Means, an employee at the Corrigan, McKinney plant, testified that shortly prior to the strike he was summoned into the office of Eckert, a foreman, and asked to sign a membership card in the Republic Employees' Association. Eckert explained to him that the men were initiating this organization of their own volition and indicated that it would be to Mac Means' best interests to sign the card. Thereafter, Eckert told him, "You better make up your mind to join the Republic Employees Association . . . because all of you fellows are going to belong to it before the end of May." Mac Means also testified that on two occasions he saw notices posted on the bulletin board announcing meetings of the Republic Employee's Association.

F. THE CENTRAL COUNCIL OF EMPLOYEE REPRESENTATIVES

Our previous discussion renders superfluous a detailed analysis of the Central Council. It was informally instituted in the fall of 1936, when Employee Representatives from ten of the respondent's plants met in the respondent's offices in Cleveland. After a second meeting at the same place on March 8, 1937, provisions for the participation of Employee Representatives in Central Council meetings were formally incorporated in the proposed revision of the Plan and later in the amended Plan, which was adopted on April 22, 1937. All the expenses of these meetings, including the meals, transportation expenses and salaries of Employee Representatives, were defrayed by the respondent.

On August 2 and 3, 1937, the Chairman of the Central Council called a meeting of the Independent Association of Republic Employees of Massillon to discuss the adoption of constitution and bylaws for the latter organization. Nick Linckenhely, who attended this meeting as a delegate, testified that the respondent paid none of its expenses and that he attended at his own expense.

The function of the Central Council, as already indicated, was to "back the Management in opposition to all outside labor organizations." It was composed in part of Employee Representatives and officers of the various labor organizations at the plants in the Massillon, Canton, Youngstown, Warren, and Cleveland districts, which, we have found, were dominated and controlled by the respondent. Under these circumstances, the Central Council could not represent the free choice of the employees. We find that the respondent has dominated and interfered with the formation and administration of the Central Council of Employee Representatives and has contributed financial and other support to it.

IV. THE CAUSES OF THE STRIKE

The respondent in its answer asserts that the strike was called without any cause or justification and solely for the selfish benefit and advantage of the S. W. O. C. and the C. I. O. in an attempt to gain control of the respondent's employees and all steel company employees, and that there was no labor dispute between the respondent and its employees and no difference as to wages, hours, and working conditions.

From the facts recited in Section III we think it clear that the underlying cause of the strike was the respondent's whole campaign to crush the Union by means of the unfair labor practices set forth above. The record shows that ever since the inauguration of the Plan in June 1933, the respondent had made plain its policy of complete antagonism to the self-organization of the employees and its determination to forestall or destroy any such organization by all means at its command. On July 2, 1936, shortly after the advent of the S. W. O. C., the respondent reiterated this basic policy in a public statement, and immediately and ruthlessly put it into effect. Its spies shadowed union organizers; its police attacked and beat them; its superintendent and foremen threatened, laid off and discharged employees for union activities; its officers fostered and supported a whole series of puppet labor organizations which the respondent manipulated to oppose the Union; and its president publicly vilified the Union's leaders, purposes and policies under circumstances intended to throw the weight of his influence against his employees' efforts at self-organization. Finally in May 1937 there occurred a series of events which precipitated the strike.

On May 3 the S. W. O. C., by Clinton Golden, wired the respondent that widespread unrest prevailed among its employees over the uncertainty of the respondent's position regarding a signed collective bargaining contract, that this unrest had been accentuated by the lay-off of several hundred Union members at the Canton and Massillon Works, and that "unless we can have definite assurance from you with date for conferences to negotiate written contract without further delay we shall be obliged to disavow all responsibility union members in your mills remaining at work." On May 5 the respondent replied to Golden's telegram that "in view of Wagner Act see no necessity for signed contract. The policy of this company . . . is that it is willing to meet with anyone to bargain with him for whomsoever he represents . . . Will meet with you at any time mutually convenient for collective bargaining purposes."

The complaint does not allege that the S. W. O. C. represented a majority of the employees in any or all of the respondent's plants at this time, or that the respondent's refusal to sign the S. W. O. C. agreement constituted a refusal to bargain collectively within the meaning of Section 8, subdivision (5) of the Act. Nevertheless it is plain that the manner and expression of the repondent's refusal to deal with the S. W. O. C. constituted interference, restraint and coercion of its employees in their right to self-organization and collective bargaining. The respondent on numerous occasions announced, as its reasons for refusing to sign the agreement with the Union, that it favored the Plan as a successful method of collective bargaining, that it would not tolerate any interference with this successful relationship between management and employees, and that the Union was communistic, corrupt, repressive and irresponsible. Further, on numerous occasions the respondent's superintendents and foremen had announced to meetings of employees that, for the same reasons, the respondent would never sign any contract with the Union. This position was announced in such language as the following: "Regardless if every man in here joins a union, we are not going to recognize it. We are not going to sign any contract. We are not going to have no . . . collective bargaining." "We will shut the mill up and board it up before we will sign with the C. I. O." We think it clear that these repeated statements and the unrest created thereby, to which Golden referred in his telegram, were a contributing and substantial cause of the strike which occurred on May 25 and 26.

On May 5, immediately after replying to Golden's telegram, the respondent shut down its tin plate mill at Canton and locked out approximately 650 of its employees, with the threat that the mill would not reopen "until we got rid of that union." Upon the break-down of negotiations between the respondent and the S. W. O. C. on May 11, the Employee Representatives, with the respondent's support, intensified their attempts to obtain membership for the newly formed successors to the Plan, and conducted meetings in Canton, Massillon, Youngstown and Warren, for the purpose of preparing for a strike and organizing opposition to it. On May 20, under the circumstances described above, the respondent shut down its Massillon

Works, locked out almost 3200 employees, and taunted the president of New Deal Lodge No. 1124 with its illegal conduct: "When we get through starving you out, you won't want to strike."

By these acts, the respondent served final notice in unmistakable terms that it was prepared to go to extreme lengths to destroy the Union and to deny to its employees the rights guaranteed in the Act. Faced with this illegal and provocative conduct, the Union called the strike, not as the respondent alleged, without cause or justification, but because in fact no other course remained open to it. The whole history of the respondent's unfair labor practices, culminating in this lockout on May 20, had placed the Union in a position where it had to fight for its life or be destroyed. The respondent, not the Union, had chosen the way of industrial strife.

We conclude that, although the respondent's refusal to sign the S. W. O. C. agreement, which we do not find to be an unfair labor practice, was in part the immediate cause of the strike, the fundamental cause of the strike, and a substantial factor in its precipitation on May 25 and 26, was the long series of unfair labor practices set forth in Section III above.

V. THE EFFECT OF THE UNFAIR LABOR PRACTICES ON COMMERCE

We find that the activities of the respondent set forth in Section III above, occurring in connection with the operations of the respondent, described in Section I above, have a close, intimate and substantial relation to trade, traffic and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

Upon the basis of the foregoing findings of fact and upon the entire record in the proceeding, the Board makes the following:

CONCLUSIONS OF LAW

1. Steel Workers Organizing Committee and Amalgamated Association of Iron, Steel and Tin Workers of North America are labor organizations within the meaning of Section 2, subdivision (5) of the Act.

2. The Plans of Employee Representation and their successors—the Employees' Representative Association, the Back-to-Work Committee, and the Independent Association of Republic Employees at Massillon; the Employees' Representative Association, the Back-to-Work Committee, and the Steel Workers Union of America at Canton; the Employee Representation Plan, the Independent Federation of Republic Employees, and the Back-to-Work Committee at Youngstown; the Employees' Independent Association of Warren; and the Employees' Representative Association at Cleveland—and the Plan of Representation of Employees at the Canton tin plate mill and the Central Council of Employee Representatives, are labor organizations within the meaning of Section 2, subdivision (5) of the Act.

3. By its domination and interference with the formation and administration of the labor organizations named in paragraph 2 above, and by its contribution of financial and other support thereto, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (2) of the Act.

4. By discriminating in regard to the hire and tenure of employment of Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, George Troyano-

vich (referred to later as group A); Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (referred to later as group B); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, Fred Korecky (referred to later as group C); Harvey Rigby, John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, Anthony Martin De Long, Hallie P. Hite, Richard John Green (referred to later as group D); and each of them, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the Act.

5. By closing the Canton tin plate mill on May 5 and the Massillon Works on May 20 and thereby discriminating in regard to the hire and tenure of its employees at those plants, the respondent has engaged and is engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the Act.

6. By its espionage, shadowing, and beatings of organizers and active members of the Union; its statements to its employees attempting to vilify and discredit the Union; its threats to discharge Union members and to close its plants before recognizing the Union, and its other threats and warnings to employees regarding the Union; its attempts to turn civil authorities, business and other interests against the Union in order to further its own anti-Union activities; its incitement of violence and hysteria, in order to terrorize Union adherents; its donation of tear and vomiting gas to the City of Massillon; its support to the Law and Order League of Massillon and the Back-to-Work Committees in Massillon, Canton, and Youngstown; its activities in connection with the incident at C. I. O. headquarters at Massillon; its lay-offs, discharges and lockouts as stated above; its activities in connection with

the above-named labor organizations; and by each of such acts, the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act and has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (1) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2, subdivisions (6) and (7) of the Act.

THE REMEDY

The respondent having engaged in unfair labor practices, we shall order it to cease and desist therefrom and to take certain affirmative action which we find necessary to effectuate the policies of the Act and to restore as nearly as possible the situation that existed prior to the commission of the unfair labor practices and which would have existed except for them.

The respondent has unlawfully sponsored and supported various labor organizations discussed above. These organizations cannot, in view of the circumstances, operate as a true representative of the employees, and we shall order the respondent to withdraw recognition from them and to disestablish them as such representative.[62]

The respondent has also unlawfully discriminated against its employees by locking them out at the Massillon Works and the Canton tin plate mill. To remedy this illegal conduct, we shall order the respondent to pay the employees involved back pay for the period during which they were deprived of employment.

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[62] See *National Labor Relations Board v. Pennsylvania Greyhound Lines, Inc., and Greyhound Management Company*—US—, decided Feb. 28, 1938. The Court upheld the Board's order that the respondent disestablish and withdraw recognition from the Employees Association of the Pennsylvania Greyhound Lines, Inc. as the representative of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work. The structure and operation of the Plan and its successors, herein, are substantially the same as that of the Employees Association of Pennsylvania Greyhound Lines, Inc.

We have found that the respondent has unlawfully laid off, discharged, and refused reinstatement to certain employees. It has been our practice to order the reinstatement of such employees with back pay for losses suffered by reason of the respondent's unlawful acts. We have also found that the strike at the respondent's plants, which was still in effect at the time of the hearing, was caused in substantial part by the respondent's unfair labor practices. In previous cases of this character we have required the employer to reinstate the striking employees, upon application, to their former or substantially equivalent positions.

The respondent contends, however, that acts of violence by individual strikers renders such reinstatement inequitable in this case. At Massillon and Canton, where counsel for the Board introduced testimony that picketing by the strikers was peaceful, the Board and the Trial Examiner permitted the respondent to adduce testimony in rebuttal that certain named striking employees, as well as other unidentified persons alleged to be members of C. I. O., had carried sticks and clubs, cut a telephone wire, blocked roads, intimidated and beaten several members of the Canton Back-to-Work Committee and other non-strikers, and had in certain respects violated an injunction issued on or about June 25, 1937, by the Court of Common Pleas of Stark County. In Youngstown, Warren, and Cleveland, where counsel for the Board introduced no testimony on the issue of peaceful picketing, the Trial Examiner excluded testimony that strikers had committed acts of violence, but permitted the respondent to file written offers of proof setting out such testimony in detail. On March 19, 1938, the Board denied a motion by the respondent for leave to introduce additional evidence relating to violence, but granted its alternative motion for leave to submit and have incorporated in the record as a part thereof, evidence, inter alia, that certain named strikers, after the close of the hearing in this case, had pleaded guilty to indictments for various crimes committed in connection with the strike.

In considering the issue of violence in this case it should be borne in mind that, as we have pointed out before, the Board's power to order reinstatement is equitable in nature, to be exercised in the light of all the circumstances of the case.[63] Here, as we discuss more fully hereafter, the respondent has not only engaged in a long series of flagrant unfair labor practices but has itself committed or been responsible for numerous serious acts of violence. Our treatment of violence upon the part of the respondent's striking employees must be considered in the light of these facts.

Evidence that strikers have committed acts of violence is clearly relevant on the issue whether it is equitable to order their reinstatement. We will therefore take into consideration evidence of convictions and pleas of guilty of acts of violence committed by individual strikers in connection with the strike. In a case of the sort, however, we will not attempt to try before the Board accusations of violence which did not result in convictions or sentences upon pleas of guilty.

To receive evidence upon such matters would raise a mass of collateral issues which the Board is not equipped to handle. The Board, of course, does not have the facilities for investigation and prosecution of acts of violence that the local law enforcement agencies possess. Nor, as an administrative matter, can the Board attempt to determine the merits of allegations of several hundred various crimes.

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[63] See *Matter of Standard Lime and Stone Company*, Case No. C-220, 5 N. L. R. B. No. 15; *Matter of United States Stamping Company*, Case No. C-203, 5 N. L. R. B. No. 29.

We think also that the Board is entitled to rely upon the local law enforcement agencies for proof of such matters. The record shows that the police and prosecuting authorities of various towns were active throughout and after the strike. Numerous arrests were made and many convictions obtained. Under these circumstances the Board is inclined to feel that it can presume that any significant crime committed was investigated by the proper authorities and, if adequate evidence was found, was prosecuted by them. As a result, especially in view of the administrative difficulty of trying such collateral issues, the Board will not go into alleged acts of violence of individual strikers beyond accepting the offer of proof, and taking judicial notice, of convictions and pleas of guilty.

It should be noted that the reasons for excluding testimony, but admitting pleas of guilty or convictions, with regard to acts of violence by employees, do not apply in the case of testimony concerning similar acts by the respondent. Such testimony relates to whether the respondent has interfered with, restrained, or coerced his employees in their right to self-organization and collective bargaining, and has thereby engaged in unfair labor practices within the meaning of the Act. Consequently, it raises direct, not collateral, issues which it is our proper duty to determine.[64]

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[64] That such a conclusion is in accordance with the clear intent of the Congress may be seen from the Reports of the Senate and House Committees in considering the reasons for confining the Act to unfair labor practices by employers. Thus the Senate Committee on Education and Labor, in reporting the bill to the Senate, said: "The bill is not a mere police court measure. The remedies against such acts (fraud and violence) in the State and Federal courts and by the invocation of local police authorities are now adequate, as arrests and injunctions in labor disputes throughout the country

We therefore affirm the rulings of the Trial Examiner in this matter.[65]

We come now to an examination of the evidence which we deem admissible upon this issue.

An analysis of the pleas of guilty in the respondent's offers to prove, of which we take judicial notice, supplemented by an examination of the criminal dockets of the Municipal Courts of Niles and Cleveland, the Courts of Common Pleas of Trumbull, Mahoning, and Cuyahoga Counties, and the United States District Court for the Northern District of Ohio, Eastern Division, at Cleveland, shows that seven "members or former members of the C. I. O." were indicted for the "possession and use of explosives," a felony; that three pleaded guilty to the indictment and received sentences of 1 to 20 years in the Ohio penitentiary; that three others who pleaded guilty to the indictment were placed on probation for 5 years; and that one pleaded guilty to "malicious destruction of property to the value of $300," a felony, and was fined $300 and costs. It also appears that nine "members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee" pleaded guilty to indictments for "unlawfully obstructing and retarding

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will attest . . . In addition, the procedure set up in this bill is not nearly so well suited as is existing law to the prevention of fraud or violence. Deliberations and hearings by the Board, followed by orders that must be referred to the Federal Courts for enforcement are methods of procedure that could never be sufficiently expeditious to be effective in this connection. The only results of introducing proposals of this sort into the bill, in the opinion of the committee, would be to overwhelm the Board with countercharges and recrimination that would prevent it from doing the task that needs to be done." (Sen. Rep. No. 573, 74th Cong. 1st Sess. (1935) 16, 17. See also H. R. No. 1147, 74th Cong. 1st Sess. 1935, 16.)

[65] At Youngstown the respondent offered to prove that "six members or former members of the C. I. O." had pleaded guilty to the possession and use of explosives; and, at Cleveland, that two individuals had pleaded guilty to police court offenses. In excluding such evidence, the Trial Examiner was in error. In view, however, of the fact that we take judicial notice of these pleas of guilty in the offer to prove and give them due weight in our consideration of the purpose for which they are offered, the error is not prejudicial.

the passage of the United States Mail,'' a misdemeanor; that six received suspended sentences of 6 months in jail and were placed on probation; that two received sentences of 30 days in jail and costs; and that one received three sentences, to run concurrently, of 60 days in jail and costs. It further appears that 99 ''individuals, members of lodges or unions affiliated with the Committee for Industrial Organization and the Steel Workers Organizing Committee''[66] entered pleas of guilty to the following offenses:

Assault and Battery (a misdemeanor)[67]	12
Rioting, assembling together to do an unlawful act (a misdemeanor)[68]	67
Malicious destruction of property to the value of $50 (a misdemeanor)[69]	6
Interfering with and obstructing railway tracks (a felony)[70]	5
Carrying concealed weapons (a felony)[71]	9

With the exception of the six men who pleaded guilty to the possession and use of explosives, and the one man who pleaded guilty to the malicious destruction of property to the value of $300, we cannot concur in the contention that these individuals have disqualified themselves from reemployment or that their crimes constitute valid reasons for dismissing the complaint. As we have pointed out, the respondent has committed or has been responsible for acts of violence far more serious than these offenses to which the strikers have pleaded guilty. We have found that the respondent is responsible for the incident at C. I. O. headquarters in Massillon, as a result of which three persons received fatal injuries, an undetermined number were injured by gun fire and gas fumes, 165 were arrested without warrants, and 164 held in jail without charges against them for periods ranging from one to four days. We have also found that the respondent's police at Cleveland brutally assaulted Alex Balint, an organizer for the Union, and on another occasion, beat Paul Castman, an active member of the Union, so severely that he spent 16 days in the hospital. In addition, uncontradicted testimony in the record indicates that a company guard at the Union Drawn Steel Company at Massillon attacked and burned Joe Morton, president of New Deal Lodge No. 1124, with a gas club, and left town after a warrant had been sworn out for his arrest; and that the respondent's Chief of Police, foremen and a superintendent at the Canton Works held Moesses Rafailedes, a member of the Union, against his will in the plant during the strike from May 25 to May 29, and despite the pleas of his family, refused to release him, until two priests effected his rescue.

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[66] The respondent did not allege and the record does not disclose that more than four of the individuals who entered pleas of guilty as set forth in the offer to prove were employees of the respondent. We shall assume, however, that all individuals alleged to be members of unions affiliated with the C. I. O. or the S. W. O. C. are employees of the respondent.

[67] One was sentenced to pay the costs, but the costs were suspended; one was fined $25 and costs; nine were fined $25 and costs and given suspended sentences of 30 days in the county jail; one was fined $200 and costs, given a suspended sentence of 6 months in the county jail, and placed on probation for 1 year.

[68] All 67 were fined $25 and costs and given suspended sentences of 30 days in the county jail.

[69] Five were fined $50 and costs and given suspended sentences of 60 days in the county jail; one was fined $300 and costs and given a suspended sentence of 30 days in the county jail.

[70] All five were fined $50 and costs and given suspended sentences of 60 days in the county jail.

[71] All nine were fined $50 and costs and given suspended sentences of 60 days in the county jail.

In view of these acts of violence by the respondent, we are of the opinion that the respondent does not come before us with clean hands in asking us to refuse reinstatement to certain employees otherwise entitled to it.[72]

Furthermore, although the respondent refused to reinstate certain employees at Youngstown and elsewhere, allegedly for the reason that they had carried sticks or clubs on the picket line, it paid a bonus to the members of the Back-to-Work Committee of guards at Canton for patrolling the city armed with shotguns, and reinstated all such employees without question. In view of this discrimination, we are compelled to conclude that the real motive behind the respondent's refusal to reinstate striking employees was their union affiliation rather than an honest belief that by carrying sticks and clubs on the picket line they had proved themselves unfit for reemployment.[73]

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[72] See *Matter of Biles Coleman Lumber Company*, Case No. C-197, 4 N. L. R. B. No. 86.

Finally, the respondent, by engaging in the unfair labor practices described in Section III above, has itself violated the law of the land and thereby caused the strike of its employees in which the acts of violence occurred. While the Act imposes no criminal penalties for these unfair labor practices, it expresses an important national policy, in the light of which the respondent's illegal course of conduct must be judged and the consequences of that conduct determined. For these reasons, it does not lie in the mouth of the respondent to assert that the offenses of its striking employees are necessarily and of themselves a bar to their reinstatement.[74]

Under all these circumstances and without condoning the illegal acts of the strikers, we feel that such acts should not be a bar to the reinstatement of any, except those who pleaded guilty to the possession and use of explosives and the malicious destruction of property to the value of $300. The seven to be excluded are Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, George A. Bundas, Andrew J. Marsh, and Mike Spelich.

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[73] See *Matter of Kentucky Firebrick Company*, Case No. C-179, 3 N. L. R. B. No. 46.

[74] See *Matter of Standard Lime and Stone Company*, Case No. C-220, 5 N. L. R. B. No. 15; *Matter of United States Stamping Company*, Case No. C-203, 5 N. L. R. B. No. 29.

The respondent also contends that the strike as a whole was unlawful from the time pickets carried clubs and engaged in acts of violence, that all the strikers were acting in concert to carry out an illegal purpose and were responsible for the illegal acts of any of the other strikers, and that therefore none of the strikers should be reinstated and the complaint should be dismissed. This contention must be considered in the light of Section 6 of the Act of March 23, 1932, known as the Norris-LaGuardia Act.

> "No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute shall be held responsible or liable in any court of the United States for the unlawful acts of individual officers, members or agents except upon clear proof of actual participation in or actual authorization of such acts or of ratification of such acts after actual knowledge thereof." (Sec. 6, Act of March 23, 1932, 47 U. S. Stat. 70, C. 90).

With the possible exception of the 67 employees who pleaded guilty to rioting or assembling together to do an unlawful act, the respondent has neither proved nor offered "clear proof of actual participation in or actual authorization . . . (or) ratification" by strikers of the individual unlawful acts committed by other strikers. Further, the considerations recited above in connection with the acts of individual strikers apply even more clearly here. As an administrative matter the Board is not equipped to determine whether thousands of strikers participated in or authorized or ratified unlawful acts by other strikers. Therefore, although we will accept evidence of convictions of illegal concerted action obtained by the local enforcement authorities, we will not try such issues before the Board.

Finally, even if there were proof of conviction of illegal concerted action we would not, in view of respondent's own role in the strike and the events prior thereto, consider such conviction ground for a blanket refusal to reinstate all strikers.

We shall, therefore, order the respondent to offer the employees who were laid off, discharged, or refused reinstatement for their union activity immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights or privileges, and to pay such employees back pay for losses suffered by reason of the respondent's unlawful acts. We shall also order the respondent, upon application, to offer similar reinstatement to its employees who were on the pay roll at its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts on May 25, 1937, and who went out on strike on May 25 and thereafter, and have not since been fully reinstated.

Such reinstatement shall be effected in the following manner: Each employee ordered reinstated shall be entitled to reinstatement to his former or a substantially equivalent position in the plant where he was employed at the time of his lay-off or discharge, or at the time of the strike. In the case of those employees who were laid off or discharged, all employees hired after such lay-off or discharge shall, if necessary to provide positions for those to be reinstated, be dismissed; and in the case of strikers to be reinstated all employees hired after the commencement of the strike shall, if necessary to provide positions for those to be reinstated, be dismissed. If, thereafter, by reason of a reduction in force there are not sufficient positions available in any plant for the remaining employees, including those to be reinstated, all available positions shall be distributed among such remaining employees in accordance with the respondent's usual method of reducing its force, without discrimination against any employee because of his union affiliation or activities and following a system of seniority to such extent as has heretofore been applied in the conduct of the respondent's business. Those employees remaining after such reduction, for whom there are then no available positions, shall be placed upon a preferential list prepared in accordance with principles set forth in the previous sentence, and shall thereafter, in accordance with such list, be offered employment in their former or substantially equivalent positions at any of the respondent's plants,[75] regardless of their previous place of employment, as such employment becomes available and before other persons are hired for such work.

ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Republic Steel Corporation, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

    (a) Dominating or interfering with the formation or administration of any labor organization of its employees or contributing financial or other support thereto;

    (b) Discouraging membership in the Amalgamated Association of Iron, Steel and Tin Workers of North America or the Steel Workers Organizing Committee or any other labor organization of its employees, by discharging and refusing to reinstate employees, or otherwise discriminating in regard to hire or tenure of employment or any form or condition of employment or by threats of such discrimination;

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[75] To be included among such plants are any plants which the respondent has acquired since the date of the hearing from its subsidiaries or otherwise.

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Withdraw all recognition from the Plan of Employee Representation, and its successors—the Employees' Representative Association and the Independent Association of Republic Employees at Massillon; the Plan of Employee Representation, and its successors—the Employees' Representative Association, and the Steel Workers Union of America, and the Plan of Representation of Employees at Canton; the Plan of Employee Representation, and its successors—the Employee Representation Plan, and the Independent Federation of Republic Employees at Youngstown; the Plan of Employee Representation, and its successor—the Employees' Independent Association at Warren; the Plan of Employee Representation, and its successor—the Employees' Representative Association at Cleveland; the Central Council of Employee Representatives; and each of them, as the representatives of any of its employees at its plants in the Massillon, Canton, Youngstown, Warren, Niles, and Cleveland districts, respectively, for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work; and completely disestablish the foregoing labor organizations as such representatives;

(b) Offer to Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, and George Troyanovich (group A); Harry Rigby, John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, Anthony Martin de Long, Richard John Green, and Hallie P. Hite (group B), in the manner provided in the section entitled "The remedy" above, immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority and other rights and privileges; and make them whole for any losses of pay they have suffered by reason of the respondent's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group A, from the date of their lay-off or discharge until the date when the strike began, and again from the date on which operations in their departments began after the reopening of the plants involved to the date of the offer of reinstatement as provided herein, and in the case of group B, from the date of the refusal to reinstate until the date of the offer of reinstatement as provided herein, less the amounts, if any, which each earned during said period;

(c) Make whole Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (group C); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, and Fred Korecky (group D) for any losses of pay they have suffered by reason of the respondent's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group C, from the date of their discharge to the date of their offer of reinstatement prior to the strike, and in the case of group D, from the date of their lay-off or discharge until the date of the strike, less the amounts, if any, which each earned during said period;

(d) Make whole the employees of the Canton tin plate mill who were employed on May 4, 1937, for any loss of pay they have suffered by reason of the closing of the Canton tin plate mill on May 5, 1937, by payment to each of them, respectively, of a sum equal to that which each of them would normally have earned as wages during the period from May 5 to May 24, 1937, less the amount, if any, which each has earned during said period;

(e) Make whole the employees of the Massillon Works, who were employed on May 19, 1937, for any loss of pay they have suffered by reason of the closing of the Massillon Works on May 20, 1937, by payment to each of them, respectively, of a sum which each of them would normally have earned as wages during the period from May 20 to May 23, 1937, less the amount, if any, which each has earned during said period;

(f) Upon application, offer to those employees at its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts, (including those referred to as groups C and D in paragraph 2 (c) above), who went on strike on May 25, 1937, and thereafter, (except Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, George A. Bundas, Andrew J. Marsh, and Mike Spelich), immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights or privileges, in the manner provided in the section entitled "The remedy" above; and place those employees for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in said manner, offer them employment as it becomes available;

(g) Make whole all the employees referred to in paragraph 2 (f) above for any losses they may suffer by reason of any refusal of reinstatement or placement upon the preferential list required by paragraph 2 (f) above by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during the period from five (5) days after the date of application to the date of offer of reinstatement or placement upon the preferential list, less the amount, if any, which each, respectively, earned during said period;

(h) Post immediately in conspicuous places in its plants in the Canton, Massillon, Youngstown, Warren, Niles and Cleveland districts, and maintain for a period of at least sixty (60) consecutive days, notices to its employees stating that the respondent will cease and desist in the manner aforesaid and that recognition is withdrawn from the labor organizations named in paragraph 2 (a) above as representatives of any of the employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, and that the foregoing labor organizations are completely disestablished as such representatives;

(i) Notify the National Labor Relations Board in writing within ten (10) days from the date of this

Order what steps the respondent has taken to comply herewith.

Dated at Washington, D. C., this 8th day of July, 1938.

(Return Receipt cards of those named above attached (except S. W. O. C.) attached)

Affidavit As To Service

District of Columbia, ss:

I, Owen Fetters, being first duly sworn, on oath saith that I am one of the employees of the National Labor Relations Board, in the office of said Board in Washington, D. C.; that on the 8th day of July, 1938, I mailed postpaid, bearing Government frank, by registered mail, a copy of the Order, Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order of the Board to the following named persons, addressed to them at the following addresses:

Mr. Lee Pressman
1106 Connecticut Avenue
Washington, D. C.
69363

Mr. Luther Day
Day, Young and Veach
1420 Union Trust Building
Cleveland, Ohio
69371

Mr. H. C. Pontius
Lynch, Day, Pontius and Lynch
Canton, Ohio
69369

Harrington, Huxley and Smith
1200 Mahoning Bank Building
Youngstown, Ohio
69370

J. G. Ketterer
First National Bank Building
Canton, Ohio
69367

Thomas Patton
Republic Building
Cleveland, Ohio
69368

Steel Workers Organizing Committee
3600 Grant Building
Pittsburgh, Pennsylvania
69364

OWEN C. FETTERS

Subscribed and sworn to before me this 8th day of July 1938.

Harold G. Wilson,
Notary Public, District of Columbia

My Commission expires May 15, 1941.
(Seal)

XIX.

RESPONDENT'S EXCEPTIONS TO PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND PROPOSED ORDER; REQUEST TO THE BOARD FOR FURTHER INFORMATION; AND RESPONDENT'S EXCEPTIONS TO RULINGS OF BOARD AND TRIAL EXAMINER UPON MOTIONS, OBJECTIONS AND OFFERS TO PROVE AT THE HEARING OF EVIDENCE HEREIN.

(Docketed Aug. 6, 1938)

Now comes Republic Steel Corporation, the respondent, and expressly averring and reasserting that the Board had no jurisdiction whatsoever under the National Labor Relations Act or the National Labor Relations Board Rules and Regulations (including Article II, Section 38 (d) thereof, upon which the Board relies), or otherwise, to make or issue proposed findings of fact, proposed conclusions of law and proposed order, and expressly reserving all rights and benefits of any motions or objections or exceptions heretofore made or taken by it and appearing in any part of the record herein, and expressly relying upon said motions, objections and exceptions, states the following as its exceptions to the Board's proposed findings of fact, proposed conclusions of law and proposed order, and also its exceptions to the rulings of the Board and the Trial Examiner upon motions, objections and offers to prove at the hearing of evidence herein.

EXCEPTIONS TO THE BOARD'S PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND PROPOSED ORDER.

1. Respondent excepts to the order of the Board of

July 8, 1938, directing the issuance of proposed findings of fact, proposed conclusions of law and proposed order, and affording opportunity to file exceptions and briefs and setting oral argument, upon the ground that the Board had no jurisdiction or authority or power, whatsoever, under the provisions of the National Labor Relations Act, or the National Labor Relations Board Rules and Regulations (including Article II, Section 38(d) thereof, upon which the Board relies), or otherwise, to make or issue said order of July 8, 1938.

2. Respondent excepts to each and all of the Board's proposed findings of fact, each and all of its proposed conclusions of law, and to its proposed order upon the ground that the Board had no jurisdiction, authority or power, whatsoever, under the provisions of the National Labor Relations Act, or the National Labor Relations Board Rules and Regulations (including Article II, Section 38(d) thereof, upon which the Board relies), or otherwise, to make or issue said proposed findings of fact, proposed conclusions of law and proposed order.

3. Respondent excepts to the action of the Board in overruling and denying its objection to the vacating and setting aside by the Board of its findings and order of April 8, 1938, for the purpose of further proceedings before the Board, said objection being based upon the ground that the Board had no jurisdiction, authority or power whatsoever to vacate and set aside said findings and order for the purpose of further proceedings before the Board.

4. Respondent excepts to the action of the Board in overruling and denying its motion to dismiss the complaint herein and its objection to further proceedings by the Board herein, said motion and objection being filed after the Board, on June 14, 1938, had set aside its order heretofore made and issued on April 8, 1938, and being based upon the ground that the Board, after it had set aside its said order

of April 8, 1938, was altogether without any jurisdiction, power or authority whatsoever to take any further proceedings herein.

5. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order upon the ground that the Board was wholly without any jurisdiction, authority or power whatsoever, under the provisions of the National Labor Relations Act or the National Labor Relations Board Rules and Regulations (including Article II, Section 38(d) thereof, upon which the Board relies), or otherwise, to set aside its order of April 8, 1938 for the purpose of taking further proceedings before the Board in this cause.

6. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order upon the ground that the Board, having heretofore, on April 8, 1938 made and issued its final findings of fact, final conclusions of law and final order, and later, on June 14, 1938, having voluntarily set them aside, was thereafter and is now wholly without jurisdiction, authority or power under the provisions of the National Labor Relations Act, or the National Labor Relations Board Rules and Regulations (including Article II, Section 38(d) thereof, upon which the Board relies), or otherwise, to make or issue further proposed findings of fact, proposed conclusions of law, or a proposed order herein.

7. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order upon the ground that the Board, in making and issuing them, and allegedly affording the respondent an opportunity to have a hearing thereon, is not, in law or in fact, actually taking further proceedings herein or granting an actual legal hearing to the respondent upon the matters involved herein, but is merely attempting to regularize its proceedings herein and its action heretofore taken on April

8th, 1938, when it made and issued, without affording to respondent any hearing whatsoever as to the charges made against it in the complaint herein or upon the questions of law and fact herein involved, its final findings of fact, its final conclusions of law and its final order herein, which were, as appears from the record, in all substantial respects identical with its proposed findings of fact, proposed conclusions of law and proposed order.

8. Respondent excepts to the proposed order of the Board upon the ground that said proposed order does, and if made final would, deny to the respondent due process of law in violation of the Fifth Amendment to the Constitution of the United States by reason of the proceedings taken and the acts of the Board herein, to wit: The charges made against respondent in the complaint herein and put in issue by respondent's answer herein were heard in part before the Board and in part before a Trial Examiner designated by the Board; after such hearing, no intermediate report was filed with the Board by the Trial Examiner nor were any proposed findings of fact, proposed conclusions of law or proposed order made or issued by the Trial Examiner or the Board; on April 8, 1938, more than six months after the hearings had been concluded, the Board, without affording to respondent any hearing whatsoever, made and issued final findings of fact, final conclusions of law, and a final order herein against the respondent; on June 14, 1938, the Board voluntarily set aside its final findings and final order of April 8, 1938, thereby likewise setting aside its final conclusions of law, the Board stating that its reason for such action was so that it might take such further proceedings herein as it deemed necessary or desirable; on July 8, 1938, the Board, without affording to the respondent any hearing whatsoever, and without first notifying respondent, as respondent had requested, as to what further proceedings it proposed to take, made and

issued its proposed findings of fact, proposed conclusions of law, and proposed order, which are substantially identical, with its original findings of fact, conclusions of law and order, and sought to afford to respondent an opportunity to file exceptions thereto and to have a hearing thereon, on August 11, 1938; any hearing such as is now offered respondent by the Board, after the Board had already finally determined all questions of fact and of law herein and had made and issued its final order herein (April 8, 1938), would not and could not be a hearing in accordance with the law of the land and the usual and accepted rules of procedure and would not and could not grant or secure to the respondent due process of law as guaranteed to it by the Fifth Amendment to the Constitution of the United States.

9. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order upon the ground that respondent was not afforded any hearing as to the charges made against it in the complaint until after the Board had determined and decided all questions of fact and of law herein, and had made and issued its final order herein (April 8, 1938); and, in this connection, respondent avers that the alleged hearing now offered by the Board is nothing more than a hearing upon questions of fact and questions of law already decided by the Board and is, therefore, not a hearing in accordance with the law of the land and the usual and accepted rules of procedure and is, therefore, a denial to the respondent of due process of law in violation of the Fifth Amendment to the Constitution of the United States.

10. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order upon the ground that the Board made up its mind and reached a determination with relation to said proposed findings of fact, proposed conclusions of law and proposed

order without affording the respondent a hearing before the Board as to the charges made against it in the complaint, or as to questions of law and of fact herein involved, thereby denying to the respondent due process of law, in violation of the Fifth Amendment to the Constitution of the United States.

11. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order upon the ground that the National Labor Relations Act is null and void and of no legal effect whatsoever, because it denies to the respondent due process of law in violation of the Fifth Amendment to the Constitution of the United States, and seeks to delegate to the Board the right to exercise legislative power in violation of Article I, Section 1 of the Constitution of the United States and the right to exercise judicial power in violation of Article III, Section 1 of the Constitution of the United States.

12. Respondent excepts to the action of the Board in affirming each and all of the rulings of the Trial Examiner made at the hearing before him upon motions and objections and offers of proof upon the ground that said Trial Examiner did in fact commit in that regard many errors prejudicial to the respondent, all as appears in detail in the exceptions of the respondent to the rulings of the Board and the Trial Examiner at the hearing of this case and in the record herein.

13. Respondent excepts to each and all of the Board's proposed findings of fact, proposed conclusions of law and to its proposed order upon the ground that they are based in substantial part upon evidence erroneously admitted to the prejudice of the respondent at the hearing of this case before the Board and the Trial Examiner, respectively, and give no consideration whatsoever to certain relevant and competent evidence offered at the hearing by the respondent

but excluded to its prejudice by the Board and Trial Examiner, respectively, all as appears in detail in the exceptions of the respondent to the rulings of the Board and of the Trial Examiner at the hearing of this case and in the record herein.

14. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law, and proposed order upon the ground that the Board should have dismissed the complaint herein for the reasons set forth in the respondent's answer herein filed.

15. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law, and proposed order for the reason that the Board should have dismissed the complaint herein by granting a motion to that end made by the respondent at the conclusion of the evidence offered by the Board, as fully appears in the record herein.

16. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law, and proposed order for the reason that the evidence herein does not disclose any unfair labor practices committed by the respondent or the existence of any current labor dispute, and, hence the Board has no jurisdiction in this case.

17. Respondent excepts to the proposed order of the Board (pp. 122-124, inc.)* as a whole upon the grounds that said proposed order is contrary to law; is not supported by the evidence herein; is based upon the Board's proposed findings which are not supported by the evidence herein; is based upon the Board's proposed conclusions of law which are unsound and incorrect statements of law and are not supported by or applicable to the evidence nor

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* Page references herein are to pages of "Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order of the National Labor Relations Board," a copy of which was served on respondent.

by the record herein; is beyond the jurisdiction of the Board, and is not based upon or justified by the Board's own proposed findings of fact or own conclusions of law.

(17-a) Respondent excepts to the Board's proposed Order No. 1-a (p. 122) by which the Board orders the respondent, its officers, agents, successors and assigns to

> 1. Cease and desist from:
>
> (a) Dominating or interfering with the formation or administration of any labor organization of its employees or contributing financial or other support thereto.

upon the grounds stated in and in support of exception No. 17; and upon the further grounds that it covers future transactions not connected with transactions at issue in the present case, present transactions outside of the issues in the case, and is so indefinite as to require interpretation by the respondent at its peril.

(17-b) Respondent excepts to the Board's proposed Order No. 1-b (p. 123) by which the Board orders the respondent, its officers, agents, successors, and assigns to

> 1. Cease and desist from:
>
> (b) Discouraging membership in the Amalgamated Association of Iron, Steel and Tin Workers of North America or the Steel Workers Organizing Committee or any other labor organization of its employees, by discharging and refusing to reinstate employees, or otherwise discriminating in regard to hire or tenure of employment or any form or condition of employment or by threats of such discrimination.

upon the grounds stated in and in support of exceptions Nos. 17 and 17-a.

(17-c) Respondent excepts to the Board's proposed Order No. 1-c (p. 123) by which the Board orders the respondent, its officers, agents, successors, and assigns to

> 1. Cease and desist from:
>
> (c) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection as guaranteed in Section 7 of the Act.

upon the gounds stated in and in support of exceptions Nos. 17 and 17-a.

(17-d) Respondent excepts to the Board's proposed Order No. 2-a (p. 123) by which the Board orders the respondent to take the following affirmative action which the Board finds will effectuate the policies of the Act:

> (a) Withdraw all recognition from the Plan of Employee Representation, and its successors—the Employees' Representative Association and the Independent Association of Republic Employees at Massillon; the Plan of Employee Representation, and its successors—the Employees' Representative Association, and the Steel Workers Union of America, and the Plan of Representation of Employees at Canton; the Plan of Employee Representation, and its successors—the Employee Representation Plan, and the Independent Federation of Republic Employees at Youngstown; the Plan of Employee Representation, and its successor—the Employees' Independent Association at Warren; the Plan of Employee Representation, and its successor—the Employees' Representative Association at Cleveland; the Central Council of Employee Representatives; and each of them, as the representatives of any of its employees at its plants in the Massillon, Can-

> ton, Youngstown, Warren, Niles, and Cleveland districts, respectively, for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work; and completely disestablish the foregoing labor organizations as such representatives.

Respondent excepts to the Board's proposed order aforesaid upon the grounds set forth in exception 17 hereof, and upon the further and additional ground that the National Labor Relations Act, if construed as vesting power and jurisdiction in the National Labor Relations Board to make and issue said order so as to effectuate the policies of the act, is unconstitutional and void as being an attempt by Congress to vest legislative power in the National Labor Relations Board, in violation of Article I, Section 1, of the Constitution of the United States.

(17-e) Respondent excepts to the Board's proposed Order No. 2-b (p. 123) by which the Board orders the respondent to take the following affirmative action which the Board finds will effectuate the policies of the Act:

> (b) Offer to Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, and George Troyanovich (group A); Harry Rigby, John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, Anthony Martin de Long, Richard John Green, and Hallie P. Hite (group B), in the manner provided in the section entitled "The remedy" above, immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority and other rights and privileges; and make them whole for any losses of pay they have suffered by reason of the respondent's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group A, from the date of

> their lay-off or discharge until the date when the strike began, and again from the date on which operations in their departments began after the reopening of the plants involved to the date of the offer of reinstatement as provided herein, and in the case of group B, from the date of the refusal to reinstate until the date of the offer of reinstatement as provided herein, less the amounts, if any, which each earned during said period.

Respondent excepts to the Board's proposed order aforesaid upon the grounds set forth in and in support of exception 17 hereof, and the additional ground set forth in and in support of Section 17-d hereof.

(17-f) Respondent excepts to the Board's proposed Order No. 2-c (p. 123) by which the Board orders the respondent to take the following affirmative action which the Board finds will effectuate the policies of the Act:

> (c) Make whole Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (group C); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, and Fred Korecky (group D) for any losses of pay they have suffered by reason of the respondent's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group C, from the date of their discharge to the date of their offer of reinstatement prior to the strike, and in the case of group D, from the date of their lay-off or discharge until the date of the strike, less the amounts, if any, which each earned during said period.

Respondent excepts to the Board's proposed order aforesaid upon the grounds set forth in and in support of exception 17 hereof, and the additional ground set forth in and in support of Section 17-d hereof.

(17-g) Respondent excepts to the Board's proposed Order No. 2-d (p. 124) by which the Board orders the respondent to take the following affirmative action which the Board finds will effectuate the policies of the Act:

> (d) Make whole the employees of the Canton tin plate mill who were employed on May 4, 1937, for any loss of pay they have suffered by reason of the closing of the Canton tin plate mill on May 5, 1937, by payment to each of them, respectively, of a sum equal to that which each of them would normally have earned as wages during the period from May 5 to May 24, 1937, less the amount, if any, which each has earned during said period.

Respondent excepts to the Board's proposed order aforesaid upon the grounds set forth in and in support of exception 17 hereof, and the additional ground set forth in and in support of Section 17-d hereof.

(17-h) Respondent excepts to the Board's proposed Order No. 2-e (p. 124) by which the Board orders the respondent to take the following affirmative action which the Board finds will effectuate the policies of the Act:

> (e) Make whole the employees of the Massillon Works, who were employed on May 19, 1937, for any loss of pay they have suffered by reason of the closing of the Massillon Works on May 20, 1937, by payment to each of them, respectively, of a sum which each of them would normally have earned as wages during the period from May 20 to May 23, 1937, less the amount, if any, which each has earned during said period.

Respondent excepts to the Board's proposed order aforesaid upon the grounds set forth in and in support of exception 17 hereof, and the additional ground set forth in and in support of Section 17-d hereof.

(17-i) Respondent excepts to the Board's proposed Order No. 2-f (p. 124) by which the Board orders the respondent to take the following affimative action which the Board finds will effectuate the policies of the Act:

> (f) Upon application, offer to those employees at its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts (including those referred to as groups C and D in paragraph 2-c above), who went on strike on May 25, 1937, and thereafter, (except Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, George A. Bundas, Andrew J. Marsh, and Mike Spelich), immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights or privileges, in the manner provided in the section entitled "The remedy" above; and place those employees for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in said manner, offer them employment as it becomes available.

Respondent excepts to the Board's proposed order aforesaid upon the grounds set forth in and in support of exception 17 hereof, and the additional ground set forth in and in support of Section 17-d hereof.

(17-j) Respondent excepts to the Board's proposed Order No. 2-g (p. 124) by which the Board orders the respondent to take the following affirmative action which the Board finds will effectuate the policies of the Act:

> (g) Make whole all the employees referred to in paragraph 2-f above for any losses they may suffer by reason of any refusal of reinstatement or placement upon the preferential list required by paragraph

> 2-f above by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during the period from five (5) days after the date of application to the date of offer of reinstatement or placement upon the preferential list, less the amount, if any, which each, respectively, earned during said period.

Respondent excepts to the Board's proposed order aforesaid upon the grounds set forth in and in support of exception 17 hereof, and the additional ground set forth in and in support of Section 17-d hereof.

(17-k) Respondent excepts to the Board's proposed Order No. 2-h (p. 124) by which the Board orders the respondent to take the following affirmative action which the Board finds will effectuate the policies of the Act:

> (h) Post immediately in conspicuous places in its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts, and maintain for a period of at least sixty (60) consecutive days, notices to its employees stating that the respondent will cease and desist in the manner aforesaid and that recognition is withdrawn from the labor organizations named in paragraph 2-a above as representatives of any of the employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, and that the foregoing labor organizations are completely disestablished as such representatives.

Respondent excepts to the Board's proposed order aforesaid upon the grounds set forth in and in support of exception 17 hereof, and the additional ground set forth in and in support of Section 17-d hereof.

(17-l) Respondent excepts to the Board's proposed

Order No. 2-i (p. 124) by which the Board orders the respondent to take the following affirmative action which the Board finds will effectuate the policies of the Act:

> (i) Notify the National Labor Relations Board in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

Respondent excepts to the Board's proposed order aforesaid upon the grounds set forth in and in support of exception 17 hereof, and the additional ground set forth in and in support of Section 17-d hereof.

18. Respondent excepts to that portion of the Board's proposed findings of fact, proposed conclusions of law, and proposed order which is styled "The remedy," (pp. 117-122, inc.) and to each and every statement therein contained, for the reason that such statements are each and all contrary to law and not supported by the evidence or by the record herein.

19. Respondent excepts to the Board's proposed conclusions of law numbered from 1 to 7, inclusive (pp. 116-117, inc.), as a whole, upon the grounds that said proposed conclusions of law are, as a whole, unsound and incorrect statements of law; are not supported by, or applicable to, the evidence herein; are based upon proposed findings of fact which are not supported by the evidence herein, and are not warranted by the entire record herein; and are beyond the jurisdiction of the Board.

(19-a) Respondent excepts to the Board's proposed conclusion of law No. 1 (p. 116), as follows:

> 1. Steel Workers Organizing Committee and Amalgamated Association of Iron, Steel and Tin Workers of North America are labor organizations within the meaning of Section 2, subdivision (5) of the Act.

upon the ground that said proposed conclusion of law No.

1 is not supported by the evidence herein.

(19-b) Respondent excepts to the Board's proposed conclusion of law No. 2 (p. 116), as follows:

> 2. The plans of Employee Representation and their successors—the Employees' Representative Association, the Back-to-Work Committee, and the Independent Association of Republic Employees at Massillon; the Employees' Representative Association, the Back-to-Work Committee, and the Steel Workers Union of America at Canton; the Employee Representation Plan, the Independent Federation of Republic Employees, and the Back-to-Work Committee at Youngstown; the Employees' Independent Association of Warren; and the Employees' Representative Association at Cleveland—and the Plan of Representation of Employees at the Canton tin plate mill and the Central Council of Employee Representatives, are labor organizations within the meaning of Section 2, subdivision (5) of the Act.

upon the grounds that said proposed conclusion of law is an unsound and incorrect statement of law; is not supported by or applicable to the evidence herein; is based upon proposed findings of fact which are not supported by the evidence herein and are not warranted by the entire record herein; and is beyond the jurisdiction of the Board.

(19-c) Respondent excepts to the Board's proposed conclusion of law No. 3 (p. 116), as follows:

> 3. By its domination and interference with the formation and administration of the labor organizations named in paragraph 2 above, and by its contribution of financial and other support thereto, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (2) of the Act.

upon the grounds that said proposed conclusion of law is an unsound and incorrect statement of law; is not supported by or applicable to the evidence herein; is based upon proposed findings of fact which are not supported by the evidence herein and are not warranted by the entire record herein; and is beyond the jurisdiction of the Board.

(19-d) Respondent excepts to the Board's proposed conclusion of law No. 4 (p. 116), as follows:

> 4. By discriminating in regard to the hire and tenure of employment of Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, George Troyanovich (referred to later as group A); Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (referred to later as group B); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, Fred Korecky (referred to later as group C); Harvey Rigby, John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, Anthony Martin de Long, Hallie P. Hite, Richard John Green (referred to later as group D); and each of them, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the Act.

upon the grounds that said proposed conclusion of law is an unsound and incorrect statement of law; is not supported by or applicable to the evidence herein; is based upon proposed findings of fact which are not supported by the evidence herein and are not warranted by the entire record herein; and is beyond the jurisdiction of the Board.

(19-e) Respondent excepts to the Board's proposed conclusion of law No. 5 (p. 116), as follows:

> 5. By closing the Canton tin plate mill on May 5 and the Massillon Works on May 20 and thereby dis-

> criminating in regard to the hire and tenure of its employees at those plants, the respondent has engaged and is engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the Act.

upon the grounds that said proposed conclusion of law is an unsound and incorrect statement of law; is not supported by or applicable to the evidence herein; is based upon proposed findings of fact which are not supported by the evidence herein and are not warranted by the entire record herein; and is beyond the jurisdiction of the Board.

(19-f) Respondent excepts to the Board's proposed conclusion of law No. 6 (pp. 116 and 117), as follows:

> 6. By its espionage, shadowing, and beatings of organizers and active members of the Union; its statements to its employees attempting to vilify and discredit the Union; its threats to discharge Union members and to close its plants before recognizing the Union, and its other threats and warnings to employees regarding the Union; its attempts to turn civil authorities, business and other interests against the Union in order to further its own anti-Union activities; its incitement of violence and hysteria, in order to terriorize Union adherents; its donation of tear and vomiting gas to the City of Massillon; its support to the Law and Order League of Massillon and the Back-to-Work Committees in Massillon, Canton, and Youngstown; its activities in connection with the incident at C. I. O. headquarters at Massillon; its lay-offs, discharges and lockouts as stated above; its activities in connection with the above-named labor organizations; and by each of such acts, the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act and

> has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (1) of the Act.

upon the grounds that said proposed conclusion of law is an unsound and incorrect statement of law; is not supported by or applicable to the evidence herein; is based upon proposed findings of fact which are not supported by the evidence herein and are not warranted by the entire record herein; and is beyond the jurisdiction of the Board.

(19-g) Respondent excepts to the Board's proposed conclusion of law No. 7 (p. 117), as follows:

> 7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2, subdivisions (6) and (7) of the Act.

upon the grounds that said proposed conclusion of law is an unsound and incorrect statement of law; is not supported by or applicable to the evidence herein; is based upon proposed findings of fact which are not supported by the evidence herein and are not warranted by the entire record herein; and is beyond the jurisdiction of the Board.

20. Respondent excepts to all of that portion of the Board's proposed findings of fact, proposed conclusions of law, and proposed order which is designated therein as "Findings of Fact," upon the ground that it is not in proper and legal form in that it has mingled therein statements of witnesses, expressions of opinion, references to evidence and matters of argument upon the part of the Board. Preserving the exception just above noted, respondent excepts to the Board's proposed findings of fact as a whole upon the ground that said findings of

fact are, as a whole, not supported by the evidence nor by the record herein. Respondent, preserving the above exceptions, excepts, upon the grounds already noted, separately to each and every finding, statement, and conclusion of fact contained in the Board's proposed findings of fact, proposed conclusions of law, and proposed order, and set forth under the heading "findings of fact," in the same manner as if each and every one of such findings, statements, and conclusions of fact were separately set forth herein and each made the subject of a separate and distinct exception. Preserving again each and all of its exceptions as above noted, the respondent, upon the grounds that they, each and all, are not supported by the evidence nor by the record herein, excepts separately to each and all of the following of the Board's ultimate findings of fact, to wit:

(a) That the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation at the Massillon plant, and of its successors, the Employees' Representative Association and the Independent Association of Republic Employees, and has contributed financial and other support to them (pp. 10-11, inc.);

(b) That the respondent laid off Peter Mouyios (Massillon, Ohio) because of his failure to join the Independent Association of Republic Employees (Massillon, Ohio) (p. 11);

(c) That the respondent (Massillon, Ohio) shut down its mills and locked out its employees for the purpose of intimidating and coercing them not to join or to discontinue their membership in the Union, and thereby discriminated against its employees in regard to hire and tenure of employment and interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Board Act (p. 21);

(d) That the Back-to-Work Committee (Massillon, Ohio) was in reality conducted from behind the scenes by respondent and the Law and Order League and was a creature of the respondent (p. 29);

(e) That the respondent was responsible for the disturbance and riot at Massillon, Ohio on July 11, 1937 (p. 70);

(f) That the respondent dominated and interfered with the formation and administration of the Plan of Employee Representation. (Central Alloy District), Canton Works, and contributed financial and other support to it (p. 71);

(g) That respondent dominated and interfered with the administration of the Plan of Representation of Employees at its tin plate mill (Canton, Ohio) and has contributed financial and other support to it (p. 72);

(h) That Victor Arias was discharged by the respondent for the reason that he joined and assisted the Union (p. 72);

(i) That the respondent shut down its tin plate mill at Canton and locked out almost all of its employees for the purpose of intimidating and coercing them not to join or to discontinue their membership in the Union, thereby discriminating against its employees with respect to hire, tenure of employment and interfered with, restrained and coerced its employees in the exercise, of the right guaranteed in Section 7 of the National Labor Relations Act (p. 74);

(j) That the respondent dominated and interfered with the formation and administration of the Employees' Representative Association (Canton, Ohio) and has contributed financial and other support to it (p. 76);

(k) That the respondent dominated and interfered with the formation and administration of the Steel Workers Union of America (Canton, Ohio) and has contributed support to it (p. 77);

(l) That Mike Ugranovich was discharged by the respondent not for his alleged intoxication but because he joined and assisted the Union (p. 79);

(m) That Will S. Wright was laid off by the respondent on April 27, 1937 because he had joined or was suspected of having joined the Union (p. 80);

(n) That Sabri Shaban was laid off on April 27, 1937 by the respondent because he was suspected of having joined the Union (p. 81);

(o) That the respondent dominated and interfered with the formation and administration of the Plan of Employee Representation at its Youngstown District and has contributed financial and other support to it (p. 83);

(p) That the closing of the foundry at Youngstown by the respondent was a step by the respondent in its continued efforts to check increasing Union organization (p. 85);

(q) That respondent interfered with the formation and administration of the Employee Representation Plan and the Independent Federation of Republic Employees, Youngstown District (p. 91);

(r) That Harry Rigby was refused reinstatement by the respondent because of his membership and activity in the Union (p. 91);

(s) That John Lazar was refused reinstatement by the respondent because of his connection with the Union and of his activity in the strike (p. 92);

(t) That Michael Krill was refused reinstatement by the respondent because of his connection with the Union and his assistance to the Union during the strike (p. 92);

(u) That Balare Chismas was refused reinstatement by the respondent because of his affiliation with the Union and his assistance to the Union during the strike (p. 93);

(v) That William A. Haren was refused reinstatement by the respondent because of his connection with the Union and his activity in the strike (p. 93);

(w) That Charles Neverdusky was refused reinstatement by the respondent because of his connection with the Union, his assistance to the Union during the strike and his filing a charge with the Board (p. 94);

(x) That Anthony Martin De Long was refused reinstatement by the respondent because of his connection with the Union and his assistance to the Union during the strike (p. 94);

(y) That the respondent dominated and interfered with the formation and administration of the Plan of Employee Representation, Warren District, and contributed financial and other support to it (p. 95);

(z) That the respondent dominated and interfered with Employees' Independent Association, Warren District, and contributed support to it (p. 99);

(aa) That Richard Green was refused reinstatement by the respondent because of his connection with the Union and his assistance to the Union during the strike (p. 99);

(bb) That Hallie Philip Hite was refused reinstatement by the respondent because of his connection with the Union and his activity in the strike (p. 100);

(cc) That the respondent dominated and interfered with the formation and administration of the Plan of Employees' Representation at its Cleveland District (p. 101);

(dd) That Thomas Cikah was discharged by the respondent because of his membership and activity in the Union (p. 102);

(ee) That John Popik was discharged by respondent because of his membership in the Union (p. 102);

(ff) That Frank Pirichy was discharged by respondent because of his Union membership and activity (p. 103);

(gg) That George Troyanovich was discharged by the respondent because of his membership in the Union (p. 104);

(hh) That Michael Naletrich was discharged by the respondent because of his membership and activities in the Union (p. 105);

(ii) That Fred Korecky was discharged and refused reinstatement by the respondent until shortly before the strike because of his affiliation with the C. I. O. (p. 106);

(jj) That John Exall was discharged by the respondent because of his membership in the Union (p. 108);

(kk) That John Petak was laid off by the respondent because of his membership in the Union (p. 109);

(ll) That Mathew Babich was laid off by the respondent because of his Union membership (p. 109);

(mm) That Wilbert Neuman was discharged by respondent because of his membership in the Union (p. 110);

(nn) That Gaetano Armeli was discharged by the respondent because of his Union membership (p. 110);

(oo) That the respondent dominated and interfered with the formation and administration of Employees' Representative Association (Cleveland Plant) (p. 113);

(pp) That respondent dominated and interfered with the formation and administration of the Central Council of Employee Representatives and has contributed financial and other support to it (p. 114);

(qq) That by its acts, the respondent served final notice that it was prepared to go to extreme lengths to destroy the Union and to deny to its employees the rights guaranteed in the Act; that the Union called the strike, not without cause or justification, but because no other course remained open to it; that unfair labor practices on the part of the respondent, culminating in a lockout on May 20, had placed the Union in a position where it had to fight for its life or be destroyed; that the respondent, not the Union, had chosen the way of industrial strife.

(rr) That the fundamental cause of the strike and a substantial factor in its precipitation on May 25th and May 26th was a long series of unfair labor practices by the respondent (p. 116);

(ss) That the activities of the respondent occurring in connection with the operations of the respondent have a close, intimate and substantial relation to trade, traffic and commerce among the several states and tend to lead to labor disputes burdening and disturbing commerce and the free flow of commerce (p. 116).

21. Respondent excepts to the Board's proposed order in so far as it relates to or is based upon the strike, upon the ground that the Board has no jurisdiction to make any order whatsoever relating to the strike, or matters and things based upon or growing out of the strike, due to the fact that the evidence herein discloses without dispute that the strike was caused solely because the respondent refused to sign the proposed contract presented by the Steel Workers Organizing Committee, such refusal upon respondent's part not constituting an unfair labor practice under the terms of the National Labor Relations Act (as the Board itself expressly finds, p. 116) and there being no current labor dispute here involved.

22. Respondent excepts to that portion of the Board's proposed order (Sections 2(b), 2(f) and 2(g)) by which respondent is ordered by the Board to reinstate strikers formerly employed by the respondent, including strikers specifically named or designated in the complaint

and strikers not so named or designated, upon the ground that the evidence herein discloses without dispute that the strike was wholly unlawful upon the part of the said strikers, and was called by reason of the refusal of the respondent to sign the contract presented to it by the Steel Workers Organizing Committee, such refusal not constituting an unfair labor practice under the terms of the National Labor Relations Act (as the Board itself expressly finds, p. 116) and there being no current labor dispute herein involved.

23. Respondent excepts to the Board's proposed order upon the ground that the Board should have dismissed the complaint herein upon the ground that the evidence herein disclosed that the alleged acts of the respondent complained of as constituting alleged unfair labor practices in violation of the National Labor Relations Act did not occur in interstate or foreign commerce and did not have a direct bearing thereon nor impede the flow thereof, all as appears in the evidence herein.

24. Respondent excepts to the Board's proposed order upon the ground that the Board should have dismissed the complaint herein because the evidence herein discloses that the strikers, individuals, groups and organizations, in whose behalf the Steel Workers Organizing Committee purported to act in filing the charges herein with the Board, and on whose behalf the complaint was filed, were guilty of many and repeated wholly unprovoked and unjustifiable acts and deeds of violence, coercion and intimidation against the respondent and its employees, of such a character as to deprive those who filed the charges aforesaid of any right so to do, and to require the Board to dismiss the complaint herein predicated upon such charges.

25. Respondent excepts to the Board's proposed

order (Sections 2(f) and 2(g)) in so far as it orders respondent to reinstate, upon application, to their former positions of employment by the respondent, strikers not named or specifically designated in the complaint as having been unlawfully or improperly discharged or discriminated against by the respondent, upon the ground that no issue as to them is tendered or raised by the complaint herein or by the issues joined thereon, and the respondent has never been accorded or offered a hearing nor the opportunity of making its defense as to the right of said strikers to be so reinstated, the proposed order of the Board in this regard constituting a denial of due process of law to the respondent in violation of the Fifth Amendment to the Constitution of the United States.

26. Respondent excepts to that portion of the Board's proposed order (Sections 2(b), 2(f) and 2(g)) by which respondent is ordered to reinstate, upon application, to their former positions of employment by the respondent, strikers formerly employed by the respondent, who, as the evidence herein discloses, have heretofore voluntarily quit their positions of employment by the respondent, upon the ground that said portion of the Board's proposed order is contrary to law and not supported by the evidence herein and constitutes a denial to the respondent of the right of liberty of contract as guaranteed to respondent by the Fifth Amendment to the Constitution of the United States.

27. Respondent excepts to that portion of the Board's proposed order by which respondent is ordered to reinstate, upon application, to their former positions of employment by the respondent, certain strikers formerly employed by the respondent notwithstanding the fact that said strikers had committed acts of violence and lawless conduct in connection with the strike, and had

either been convicted of or pleaded guilty to criminal charges, based upon such acts and conduct, made against them in the courts of Ohio, as follows, to wit: Assault and Battery, a misdemeanor, 12; Rioting, Assembling together to do an unlawful act, a misdemeanor, 67; carrying concealed weapons, a felony, 9; interfering with and obstructing railway tracks, a felony, 5; malicious destruction of property to the value of $50.00, 6; upon the ground that this portion of said proposed order is contrary to law. And respondent excepts to that portion of the Board's proposed order by which respondent is ordered to reinstate Balare Chismus and John Exall, specifically named in the complaint, notwithstanding the fact that the evidence herein discloses that they pleaded guilty in the Courts of Common Pleas of Mahoning County and Cuyahoga County, respectively, to the offense of assault and battery, committed in connection with the strike.

28. Respondent excepts to that portion of the Board's proposed order by which respondent is ordered to reinstate, upon application, to their former positions of employment by the respondent, certain strikers formerly employed by the respondent notwithstanding the fact that said strikers, nine in number, entered pleas of guilty in the United States District Court for the Northern District of Ohio, Eastern Division, to the offense of impeding the United States mails.

29. Respondent excepts to the proposed order of the Board, in so far as it relates to respondent's Youngstown, Warren and Niles plants, upon the ground that said proposed order does not give weight and consideration to relevant and competent evidence offered by the respondent at the hearing herein, but excluded by the Trial Examiner and the Board, tending to prove continued, concerted, wholly unprovoked and unlawful acts

of conduct upon the part of strikers, pickets and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization, consisting of unlawful picketing, unlawful assemblage, riot, violence and general lawless conduct in and about the respondent's Youngstown, Warren and Niles plants, said evidence being based upon the proffered testimony of approximately 75 witnesses and being embodied and described in detail in respondent's offer to prove, marked its Exhibit 50, found in the record herein.

30. Respondent excepts to the proposed order of the Board in so far as it relates to respondent's Cleveland plants, upon the ground that said proposed order does not give weight and consideration to relevant and competent evidence offered by the respondent at the hearing herein, but excluded by the Trial Examiner and the Board, tending to prove continued, concerted, wholly unprovoked and unlawful acts of conduct upon the part of strikers, pickets and persons affiliated with the Steel Workers Organizing Committee and Committee for Industrial Organization, consisting of unlawful picketing, unlawful assemblage, riot, violence and general lawless conduct in and about the respondent's Cleveland plants, said evidence so offered and so excluded being based upon the proffered testimony of approximately 200 witnesses and being embodied in and described in detail in respondent's offer to prove, marked its Exhibit 64, found in the record herein.

31. Respondent excepts to the Board's proposed order in so far as it relates to the respondent's Youngstown, Warren, Niles and Cleveland plants, upon the ground that the Trial Examiner erred at the hearing herein (his ruling being affirmed by the Board in its proposed order), in refusing to permit respondent to

call to the witness stand, each separately and individually, and examine and question, each separately and individually, approximately 75 witnesses from the Youngstown, Warren and Niles districts, and 200 witnesses from the Cleveland district, whose evidence, if received, would have tended to prove unlawful conduct upon the part of pickets, strikers and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization.

32. Respondent excepts to that part of the Board's proposed order which orders the respondent to cease and desist from certain specified acts and conduct with relation to certain alleged labor organizations, upon the ground that at the hearing the Trial Examiner erred (his ruling being affirmed by the Board in its proposed order), in excluding competent, admissible and relevant evidence offered by the respondent as follows to wit: that approximately 2000 of respondent's employees at its Massillon, Ohio, plants did not wish to go out on a strike but did wish to continue at work, and that they signed the back-to-work petition at Massillon and application cards for membership in the Independent Association of Republic Employees, an independent labor organization at Massillon, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents; that approximately 2500 of its employees at its Canton, Ohio, plants did not wish to go out on a strike but did wish to continue at work, and that they signed application cards for membership in the Steel Workers of America, at Canton an independent labor organization, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents; that approximately 2900 of re-

spondent's employees at its Youngstown, Ohio, plants did not wish to go out on a strike, but did wish to continue at work and that they signed a back-to-work petition of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents, and that approximately 1900 of respondent's employees at its Youngstown plants signed application cards for membership in the Independent Federation of Republic Employees, an independent labor organization at Youngstown, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents; that approximately 2000 of respondent's employees at its Warren and Niles plants did not wish to go out on a strike, but did wish to continue at work, and that they signed application cards for membership in the Employees Independent Association, an independent labor organization, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents; that approximately 2500 of the respondent's employees at its Cleveland plants did not wish to go out on a strike, but did wish to continue at work. All of the evidence so offered by the respondent, and excluded, is described in offers to prove found in the record.

33. Respondent excepts to that part of the Board's proposed order (Sections 2(b), 2(f) and 2(g)), by which respondent is ordered, subject to specified exceptions, to reinstate, upon application, to their former positions of employment by the respondent, all strikers formerly employed by the respondent, upon the ground that the evidence and offers to prove by the respondent establish the fact that said strikers are not entitled to reinstate-

ment because they, acting separately and in concert, have committed in connection with the strike at various plants of the respondent, many and repeated wholly unlawful, unprovoked and unjustifiable deeds and acts of violence, coercion and intimidation against the respondent and its employees. And upon the same ground as just above stated, respondent excepts to that part of the Board's proposed order by which respondent is ordered to reinstate strikers who are specifically named or specifically designated in the complaint herein.

34. Respondent excepts to the Board's proposed order and to each and every separate order therein set forth, upon the ground that said proposed order and said separate orders are not properly based upon the Board's own proposed findings of fact and its own proposed conclusions of law, even if (as the respondent avers is not the fact) said proposed findings of fact are supported by the evidence and said proposed conclusions of law are correct statements of law.

35. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order, upon the ground that Article II, Section 38-d of the National Labor Relations Board Rules and Regulations, Series 1, as amended, upon which the Board relies in making and issuing said proposed findings of fact, proposed conclusions of law and proposed order, does not, if properly construed, confer upon or vest in the Board any jurisdiction, authority or power whatsoever, to make said proposed findings of fact, said proposed conclusions of law and said proposed order. And, in support of this exception, the respondent avers that if Article II, Section 38-d of the National Labor Relations Board Rules and Regulations, Series 1, as amended, is construed or interpreted as conferring upon or vesting in the Board any jurisdiction, power or authority whatso-

ever to make and issue said proposed findings of fact, proposed conclusions of law and proposed order, then, in that event, said Section aforesaid is unconstitutional and void in that it denies to the respondent due process of law, in violation of the Fifth Amendment to the Constitution of the United States.

36. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order, upon the ground that the National Labor Relations Act does not, if properly construed, confer upon or vest in the Board any jurisdiction, authority or power whatsoever to make said proposed findings of fact, said proposed conclusions of law and said proposed order. And, in support of this exception, the respondent avers that if the National Labor Relations Act is construed or interpreted as conferring upon or vesting in the Board any jurisdiction, power or authority whatsoever to make and issue said proposed findings of fact, proposed conclusions of law and proposed order, then, in that event, said Act aforesaid is unconstitutional and void, in that it denies to the respondent due process of law, in violation of the Fifth Amendment to the Constitution of the United States.

37. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order, upon the ground that respondent was not offered, as to the charges made against it in the complaint, a hearing in accordance with the usual and accepted rules of procedure and the law of the land, and was denied due process of law, in violation of the Fifth Amendment to the Constitution of the United States in that: The Trial Examiner designated by the Board (whose rulings on motions and objections to the admission of evidence are affirmed by the Board in its proposed

order, p. 3) displayed, throughout the hearings before him, a distinct bias and prejudice in favor of the strikers, the Steel Workers' Organizing Committee and the Committee for Industrial Organization, in whose behalf the complaint herein was filed, and against the respondent; arbitrarily and capriciously permitted counsel for the Board to introduce hearsay evidence and wholly inadmissible evidence prejudicial to the respondent and in no way related to the issues here involved; unduly and arbitrarily restricted the introduction of competent and relevant evidence in behalf of the respondent and prevented the respondent from offering and presenting its defense to the charges made against it; attempted to lecture and intimidate the respondent's witnesses; and in other respects and particulars denied to the respondent a fair and impartial hearing, all as appears in detail in the respondent's exceptions to the rulings of the Trial Examiner at the hearing before him.

38. Respondent excepts to that portion of the Board's proposed order by which respondent is ordered to withdraw recognition from the Plan of Employees' Representation and other labor organizations and to completely disestablish said labor organizations as employee representatives for specific purposes, including the presentation of grievances to respondent (Order 2-a, p. 123), on the ground that this portion of the Board's proposed order is beyond the scope of the jurisdiction and power constitutionally conferred upon the Board by the National Labor Relations Act, it being based upon those provisions of said Act which purport to confer upon the Board jurisdiction and power to require an employer (here, the respondent) to take such affirmative action as will effectuate the policies of the Act, which portion of said Act is unconstitutional and therefore void, as being an attempt by Congress to delegate, without fixing def-

inite rules or standards to be followed by the Board, legislative power to the Board, contrary to Article I, Section 1, of the Constitution of the United States, which vests all legislative powers in the Congress of the United States.

39. Respondent excepts upon the grounds stated in exception 38, to that portion of the Board's proposed order (Order 2-h, p. 124), by which the respondent is ordered to post in conspicuous places in its plants and maintain for a period of at least sixty days, notices to its employees stating that it will cease and desist from certain practices, and that recognition is withdrawn from the labor organizations named in the order and that they have been completely disestablished as employee representatives; and upon the further ground that it requires the respondent to admit having engaged in unfair labor practices, which it disclaims.

40. Respondent excepts to the action of the Board, as embodied in its findings that respondent has engaged in unfair labor practices affecting interstate commerce, and in making an order based upon such findings upon the ground that the National Labor Relations Act, in so far as it seeks to authorize the Board to make such findings and base an order thereon requiring the respondent to cease and desist from such practices, to reinstate former employees with or without back pay, and to take such other affirmative action as will effectuate the policies of the Act, is unconstitutional and therefore void, as being an attempt on the part of Congress to confer judicial power upon the National Labor Relations Board, contrary to Article III, Section 1, of the Constitution of the United States.

41. Respondent excepts to that portion of the Board's proposed order (Sections 2(b), 2(f) and 2(g)) which, subject to specified exceptions, requires respond-

ent to place those of its former employees who went out on a strike and may hereafter apply for reinstatement pursuant to the Board's order, upon a preferential list, and to give them employment when available in any of the respondent's plants, regardless of their previous places of employment, before other employees are hired, upon the ground that said portion of the Board's order is contrary to law, not supported by the evidence, and wholly beyond the jurisdiction, authority and power of the Board.

42. Respondent excepts to the action of the Board in including among the respondent's plants referred to in the respondent's exception 41, plants of the respondent which it has acquired since the date of hearing of the evidence herein from its subsidiaries, or otherwise, or opened since said date, upon the ground that such action by the Board is contrary to law, is not supported by the evidence, and is wholly beyond the jurisdiction, authority and power of the Board, and, upon the further ground, that no issue or question whatsoever was presented to or determined by the Board or Trial Examiner at the hearing and taking of evidence herein, relating in any manner whatsoever to plants of the respondent acquired or opened by the respondent since the date of the hearing of evidence herein, or to the respective rights, duties and liabilities of the respondent and the striking employees with relation to such plants so acquired or opened or employment therein.

43. Respondent excepts to that portion of the Board's order (Sections 2(b), 2(f), and 2(g)) which requires the respondent to dismiss from its employment employees hired by the respondent since the commencement of the strike and now employed by it, so as to make places for the reinstatement of strikers, upon the ground that said portion of the Board's proposed order is contrary to

law, not supported by the evidence, and wholly beyond the jurisdiction and authority of the Board.

44. Respondent excepts to that portion of the Board's proposed order (Sections 2(b), 2(f) and 2(g)) which requires the respondent, subject to specified exceptions, to reinstate, upon application, former employees of the respondent who went out on strike, and to pay such employees, if, upon application by them, reinstatement by the respondent is not granted, altogether regardless of whether such employees have lost their status as employees of the respondent by the doing of acts furnishing good cause for their discharge or non-reinstatement or by having obtained other employment substantially equivalent to their former employment by the respondent, or otherwise, upon the ground that said portion of the Board's proposed order is contrary to law. not supported by the evidence, and wholly beyond the jurisdiction and authority of the Board.

45. Respondent excepts to that portion of the Board's proposed order (Sections 2(b), 2(f) and 2(g)) which requires respondent, subject to specified exceptions, to reinstate, upon application, its former employees who went out on strike, without fixing any time limit within which application for reinstatement by such former employees must be made nor defining the procedure to be followed in such cases, upon the ground that said portion of the Board's proposed order is so vague, uncertain and indefinite in character as to have no legal effect whatsoever, and as not to impose any legal obligation upon the respondent, and is contrary to law, not supported by the evidence, and wholly beyond the jurisdiction and authority of the Board.

46. Respondent excepts to that portion of the Board's proposed order (Sections 2(b), 2(f) and 2(g))

which orders the respondent, subject to specified exceptions, to reinstate, upon application, certain of its former employees who went out on strike, notwithstanding the fact that the evidence herein discloses that after the various plants of the respondent had resumed operations, said former employees, with knowledge in the premises, failed to return to work or to attempt so to do, and had never asked that they be reemployed in their former positions by the respondent, upon the ground that said portion of the Board's proposed order is contrary to law, not supported by the evidence, and wholly beyond its jurisdiction and authority.

47. Respondent excepts to that portion of the Board's proposed order (Sections 2(b), 2(f) and 2(g)) by which respondent is ordered, subject to specified exceptions, to reinstate, upon application, its former employees who went out on strike, notwithstanding the fact that, upon the evidence herein and additional competent and relevant evidence sought to be introduced by the respondent, the strike has been heretofore, in law and in fact, finally concluded and terminated and the aforesaid former employees of the respondent have ceased to have any legal or factual status as employees of the respondent, upon the ground that said portion of the Board's proposed order is contrary to law, not supported by the evidence, and beyond the jurisdiction, power and authority of the Board.

48. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order, upon the ground that, in making and issuing them, the Board failed to take into consideration additional competent and relevant evidence in behalf of the respondent, permission to introduce which was prayed for by the respondent in motions filed with the Board for that purpose and by the Board denied.

49. Respondent excepts to the Board's proposed order, and to each and every portion thereof, and particularly excepts to those portions thereof (Sections 2(b), 2(f) and 2(g)) by which the respondent is ordered, subject to specified exceptions, to reinstate strikers, upon application, and, in order to make places for them, to dismiss employees hired since the strike commenced, and under certain conditions to place strikers upon a preferential list, and (Section 2(a)) to disestablish and discontinue dealing with certain labor organizations, upon the ground that the said order and each and every portion thereof, and particularly the portions just hereinbefore specifically described, constitute an arbitrary and gross abuse of discretion upon the part of the Board and do not tend in any manner whatsoever to effectuate the policies of the National Labor Relations Act, but tend to defeat them.

50. Respondent excepts to the Board's proposed finding of fact that the fundamental cause of the strike and a substantial factor in its precipitation on May 25 and May 26, 1937, was a long series of unfair labor practices upon the part of the respondent (p. 116), and to that portion of the Board's proposed findings of fact, proposed conclusions of law and proposed order, relating to "causes of the strike" (pp. 114-116, inc.), and to each and every portion of the Board's order based upon said findings and statements aforesaid, upon the ground that there is a total, absolute and fatal variance between the Board's said findings and statements and that portion of the complaint wherein the unfair labor practices of the respondent alleged to have caused or contributed to cause the strike are set forth and described. (See complaint, paragraphs 3-15, inc.)

51. Respondent excepts to that portion of the Board's proposed findings of fact, proposed conclusions of law and

proposed order, in which, in substance, the Board states as its conclusion that respondent is estopped by reason of its own alleged violence and lawless conduct, to assert that relief should be denied the members of the Steel Workers Organizing Committee and the strikers because of their having committed acts of violence and lawless conduct, upon the ground that said statement and conclusion are contrary to law, not supported by the evidence herein, and beyond the jurisdiction of the Board.

52. Respondent excepts to the proposed finding of the Board that the Steel Workers Organizing Committee and the Amalgamated Association of Iron, Steel and Tin Workers of North America are each and both labor organizations, upon the ground that said finding, in each respect, is not supported by the evidence nor by the record herein, and upon the further ground that the Board's own proposed findings of fact, proposed conclusions of law and proposed order contains the following statement, to wit:

> "II. The Union
>
> "While the record contains no detailed evidence relating to structure and function of the Steel Workers Organizing Committee and the Amalgamated Association of Iron, Steel and Tin Workers of North America, we have found upon numerous occasions in other cases, and the record as a whole in this case makes clear, that these organizations are labor organizations affiliated with the Committee for Industrial Organization." (p. 5.)

53. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order, upon the ground that the Board had no jurisdiction whatsoever under the National Labor Relations Act, the National Labor Relations Board Rules and Regulations (in-

cluding Article 2, Section 38(d), upon which the Board relies), or otherwise, having voluntarily set aside its decision and order of April 8, 1938, to make and issue, as it here seeks to do, proposed findings of fact, proposed conclusions of law and a proposed order which are identical in all substantial respects with the Board's original findings of fact, conclusions of law and order, in an attempt by the Board to regularize the proceedings herein and its action in making and issuing its decision and order of April 8, 1938 without affording to respondent a hearing as to the charges made against respondent in the complaint herein; and in support of this exception the respondent avers that said attempt by the Board so to regularize the proceedings herein and its action in making and issuing its original decision and order herein does not constitute in law or in fact the taking of further proceedings by the Board in a manner authorized or sanctioned by the National Labor Relations Act, the National Labor Relations Board Rules and Regulations (including Article 2, Section 38 (d), upon which the Board relies), or otherwise.

54. Respondent excepts to that portion of the Board's proposed order (Sections 2(b), 2(f) and 2(g)) by which respondent is ordered, subject to specified exceptions, to reinstate, upon application, former employees who went out on strike, upon the ground that said portion of the Board's proposed order is contrary to law, not supported by the evidence and beyond the jurisdiction of the Board, in that the evidence herein wholly fails to establish that the said strikers, or any of them, went out on a strike or ceased work as employees of the respondent in consequence of or in connection with any current labor dispute or because of any unfair labor practice upon the part of the respondent.

55. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed

order, upon the ground that it will in its operation and effect deprive the respondent of the right to meet, counsel and advise with labor organizations of its own employees, and the members thereof, even if such meetings or conferences be requested by them; the rights through its officers, management and supervisory agents to discuss freely matters involving employment and having relation to wages, hours and working conditions, and the right to express freely, orally or in writing, its views and opinions concerning labor organizations and the duty or obligation of any of its own employees to become members thereof; thereby abridging the respondent's freedom of speech, as is guaranteed to it by the First Amendment to the Constitution of the United States.

56. The respondent excepts to the Board's proposed order upon the ground that the National Labor Relations Act, as construed and applied by the Board as proposed herein, is unconstitutional and void in that it denies to the respondent due process of law and freedom of contract in violation of the Fifth Amendment to the Constitution of the United States, and freedom of speech in violation of the First Amendment to the Constitution of the United States, and in that it seeks to delegate to the Board, an administrative body, the right to exercise legislative power in violation of Article I, Section 1 of the Constitution of the United States, and judicial power in violation of Article III, Section 1 of the Constitution of the United States.

57. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order upon the ground that the Board, having set aside its order of April 8, 1938, if the National Labor Relations Act or any provision thereof gives or purports to give to the Board any jurisdiction, power or authority thereafter to take any further proceedings herein, said act or part thereof

giving or purporting to give such jurisdiction, power and authority, fails to state what further proceedings or orders the Board may take or make in such contingency, and fails to set up any standards whatsoever by which it can reasonably be determined what further proceedings or orders in such contingency the Board may take or make, and is therefore invalid and in violation of Section 1 of Article I of the Constitution of the United States in that it constitutes an unauthorized and improper delegation to the Board of powers vested exclusively in Congress and the legislative branch of the Government.

58. Respondent excepts to the finding and conclusion of the Board that the so-called back-to-work movements are labor organizations within the meaning of the National Labor Relations Act, upon the ground that said finding is contrary to law and not supported by the evidence.

59. Respondent excepts to the Board's proposed findings of fact, proposed conclusions of law and proposed order upon the ground that, in making and issuing them, the Board treated, and relied upon, as evidence, matters and things outside of the hearing of evidence and the record herein.

RESPONDENT'S REQUEST TO THE BOARD FOR FURTHER INFORMATION

Respondent, so that it may adequately and properly protect the rights guaranteed to it in this case by the Constitution of the United States, the National Labor Relations Act, and any other laws applicable to this proceeding, requests the Board and the individual members thereof to give to the respondent information pertinent to this case, as follows, to wit:

(a) Information as to whether the members of the Board, or any of them, read and examined the evidence and exhibits offered and introduced at the hearing of this case before the Board and the Trial Examiner herein designated by the Board, before the Board's decision and order of April 8, 1938, was made and issued by the Board.

(b) Information as to whether the Board, or any of the members thereof, read and examined said evidence and exhibits before making and issuing the Board's order of July 8, 1938, directing issuance of proposed findings of fact, proposed conclusions of law and proposed order.

(c) Information as to whether the Board, or any of the members thereof, prepared the findings of fact, the decision and order of the Board, and the findings of fact and conclusions of law and order therein contained, made and issued by the Board on April 8, 1938.

(d) Information as to whether the members of the Board, or any of them, prepared the proposed findings of fact, proposed conclusions of law and proposed order of the Board, issued on July 8, 1938.

(e) Information as to in what manner and by whom the Board's decision and order of April 8, 1938, and its proposed findings, proposed conclusions of law and proposed order of July 8, 1938, were prepared, if not prepared by the Board or a member thereof.

The respondent, in connection with this request upon the Board for information, states that it reserves unto itself the right to file further exceptions to the Board's proposed findings of fact, proposed conclusions of law and proposed order of July 8, 1938, and to take such other steps as it may deem proper and expedient in the premises, in the event that such action by respondent, is, in its judgment or that of its counsel, justified and required by any information given by the Board pursuant to the respondent's request therefor, as above set forth, or by a failure upon the part of the Board to give to the respondent the information requested.

EXCEPTIONS TO THE RULINGS OF THE BOARD AND THE TRIAL EXAMINER UPON MOTIONS, OBJECTIONS AND OFFERS TO PROVE AT THE HEARING OF EVIDENCE HEREIN, SAID EXCEPTIONS BEING BASED UPON THE GROUNDS APPEARING IN THE RECORD HEREIN.

WASHINGTON HEARING BEFORE BOARD.

1. (R. p. 4) Respondent excepts to the action of the Board in compelling respondent to proceed to a hearing in this case upon only four and one-half days' notice and before the time granted under the rules of the Board to respondent for the filing of an answer.

2. (R. p. 4) Respondent excepts to the denial by the Board of the motion of respondent for a continuance to enable respondent to prepare for the hearing.

3. (R. p. 4) Respondent excepts to the denial by the Board of respondent's motion that proceedings be conducted in Cleveland, Ohio.

4. (R. p. 7) Respondent excepts to the Board's denial of the request of respondent to require counsel for the Board to state the circumstances which made it necessary to proceed with the hearing at that time and in Washington.

5. (R. p. 14) Respondent excepts to the denial by the Board of respondent's request for an exclusion and separation of witnesses.

6. (R. pp. 17 and 18) Respondent excepts to the overruling of respondent's objections to the testimony of the witness Switter, Chief of Police, Massillon, Ohio, and excepts to the admission of the testimony of the said Switter with reference to conversations with Carl Myers.

7. (R. pp. 20 and 21) Respondent excepts to the overruling of the objection of respondent, and to the admission of testimony of the witness Switter concerning rumors.

8. (R. p. 25) Respondent excepts to the overruling of the objection of respondent to the testimony of the witness Switter about reports concerning a riot.

9. (R. p. 26) Respondent excepts to the admission of the testimony of the witness Switter as to the cause of the riot.

10. (R. pp. 26 and 27) Respondent excepts to the admission of the testimony of the witness Switter as to the cause of the so-called small riot.

11. (R. p. 78) Respondent excepts to the admission, over respondent's objection, of the testimony of the witness Switter as to conversation with Ralph Peppard and Perry Angstadt, pertaining to an inquiry on their part as to whether the witness Switter intended to deputize Home Guards, and the suggestion that they take names off of a list which they had prepared for that purpose.

12. (R. p. 79) Respondent excepts to the admission, over respondent's objection, of Board's Exhibit 3, which purports to be a list of names submitted by Peppard and Angstadt to the witness Switter.

13. (R. p. 93) Respondent excepts to the admission, over respondent's objection, of Board's Exhibit 4, which purports to be a list of the names of men on the Massillon Police force prepared by the witness Switter.

14. (R. p. 104) Respondent excepts to the admission of testimony, over respondent's objection, calling for the conclusion of the witness Switter as to whether it would have been possible for him to have handled the strike situation in Massillon without bloodshed had he not been sub-

jected to pressure by certain individuals.

15. (R. p. 104) Respondent excepts to the admission of testimony of the witness Switter, over respondent's objection, wherein he was permitted to state that such pressure was brought on him continuously since the beginning of the strike.

16. (R. p. 105) Respondent excepts to the admission of testimony, over respondent's objection, of the witness Switter, wherein he stated that he had only testified as to the high lights of such pressure.

17. (R. p. 106) Respondent excepts to the admission of testimony, over respondent's objection, of the witness Switter, wherein, in a series of leading questions, he was asked to give his conclusions as to whether it was his purpose to avoid bloodshed and maintain peace during the strike, and whether he tried to put men on the police force who were neutral, and whether he would have been successful in carrying out these policies if pressure had not been exerted upon him.

18. (R. pp. 109 and 110) Respondent excepts to the Board's ruling in refusing respondent the right to inquire of the witness Switter, on cross examination, where he had been stopping in Washington.

19. (R. p. 110) Respondent excepts to the comment of Board's counsel, in the presence of the witness Switter, then being examined on cross examination by respondent's counsel, that witnesses, including the witness then being examined, had been subjected to sufficient pressure and should not be subjected to further pressure from respondent.

20. (R. p. 110) Respondent excepts to the Board's refusal to permit respondent's counsel to interrogate the witness Switter as to how long he expected to remain in Washington.

21. (R. pp. 212-214) Respondent excepts to the Board's ruling admitting testimony of the witness Hardman, over respondent's objection, given in answer to a series of questions in which the witness purported to relate a series of conversations with Case, Secretary of the Massillon Chamber of Commerce, and with one Lester, and particularly to the Board's ruling, in which this witness was permitted to state, over respondent's objection, what was alleged to have been told the witness by Lester of a conversation which Lester was said to have had with Carl Myers.

22. (R. pp. 219-222) Respondent excepts to the ruling of the Board in permitting the witness Hardman, over the objection of respondent, to answer a series of questions, wherein the witness Hardman related the details of a meeting which he had with Trades and Labor Council of the City of Massillon, at which, according to the witness, he gave the details of an imaginary interview with the Governor of the State of Ohio.

23. (R. p. 225) Respondent excepts to the Board's action in overruling respondent's motion to strike from the record, for the reasons therein stated, the testimony of the witness Switter, said motion relating to each conversation, each episode and each incident related by said witness.

24. (R. p. 231) Respondent excepts to the Board's ruling in refusing to permit respondent's counsel to inquire of the witness Switter, on cross examination, whether his family knew where he was at the time he was testifying before the Board in Washington, and whether the City of Massillon knew where he was at that time.

25. (R. pp. 232-245) Respondent excepts to the ruling of the Board in permitting the witness Hardman, over respondent's objection, to give the details of various conversations alleged to have been had by the witness with

different people representing the Law and Order League of the City of Massillon, the Chief of Police of the City of Massillon, the Mayor of the City of Massillon, representatives from the National Guard, including Col. Lawler, and citizens of the City of Massillon.

26. (R. pp. 246-247) Respondent excepts to the Board's ruling in permitting the witness Hardman to testify, over respondent's objection, concerning alleged conversations with one Linckenhely and with various officials of the City of Massillon and the City of Canton, respectively, concerning the back-to-work movement and concerning the matter of deputizing men as special police.

27. (R. pp. 248-250) Respondent excepts to the Board's ruling in permitting the witness Hardman, over respondent's objection, to give details of an alleged conversation with Messrs. Peppard and Angstadt concerning the selection of men for the special police force at Massillon.

28. (R. pp. 250-252) Respondent excepts to the Board's ruling permitting the witness Hardman, over respondent's objection, to testify concerning the details of an alleged meeting between the Law and Order League of the City of Massillon, the Mayor and Chief of Police of the City of Massillon, and the witness.

29. (R. p. 278) Respondent excepts to the Board's ruling in refusing to permit respondent's counsel to interrogate the witness Hardman as to whether his family had been able to communicate with him at the time he was in Washington preceding the hearing.

30. (R. p. 279) Respondent excepts to the Board's ruling in refusing to permit respondent's counsel to interrogate the witness Hardman as to whether the City of Massillon was able to communicate with him during the time he was in Washington prior to the hearing there.

31. (R. p. 279) Respondent excepts to the Board's ruling in refusing to permit respondent's counsel to interrogate the witness Hardman as to why he left Massillon so precipitately for Washington prior to the hearing.

32. (R. pp. 329-330) Respondent excepts to the Board's ruling permitting the witness Krier to testify, over respondent's objection, to the details of an alleged meeting at the Chamber of Commerce, Massillon, with the Chief of Police, the City Solicitor, the Service Director and citizens of Massillon.

33. (R. pp. 330-331) Respondent excepts to the Board's ruling in permitting the witness Krier to testify, over respondent's objection, to the details of an alleged conference at the Onesto Hotel, Canton, between the witness and Carl Myers.

34. (R. pp. 331-332) Respondent excepts to the Board's ruling in permitting the witness Krier to testify, over respondent's objection, concerning the details of an alleged meeting with a group representing the Trades and Labor Council of the City of Massillon.

35. (R. pp. 332-333) Respondent excepts to the Board's ruling in permitting the witness Krier to testify, over respondent's objection, concerning a meeting with a back-to-work committee on or about June 21, 1937, at Massillon.

36. (R. pp. 333-334) Respondent excepts to the Board's ruling in permitting the witness Krier to testify, over respondent's objection, concerning an alleged conversation with Colonel Lawler of the Ohio National Guard.

37. (R. p. 336) Respondent excepts to the Board's ruling in denying the motion of respondent's counsel to strike from the record, for the reasons stated therein, the testimony of the witnesses, Hardman and Krier, as a whole,

and as to each and every conversation and episode related by them.

38. (R. pp. 337-338) Respondent excepts to the Board's ruling in admitting, over respondent's objection, Board's Exhibit 5, Board's Exhibit 6 and Board's Exhibit 7, purporting to be letters received by the witness Krier.

39. (R. p. 341) Respondent excepts to the Board's ruling in permitting the witness Krier to testify, over respondent's objection, concerning an alleged meeting with the Law and Order League of the City of Massillon on June 25, 1937, and the details of the conversation had at said meeting.

40. (R. p. 342) Respondent excepts to the Board's ruling in permitting the witness Krier to testify, over respondent's objection, concerning an alleged conference with Colonel Marlin of the Ohio National Guard on July 5, 1937.

41. (R. pp. 342-343) Respondent excepts to the Board's ruling in permitting the witness Krier to testify, over respondent's objection, concerning a conference with the Law and Order League of the City of Massillon on or about July 7, 1937.

42. (R. pp. 346-347) Respondent excepts to the Board's ruling in permitting the witness Krier to testify, over respondent's objection, concerning a meeting at the Y. W. C. A. in Massillon between certain officials of the City of Massillon, including the witness, and various citizens of the City of Massillon.

43. (R. pp. 351-352) Respondent excepts to the Board's ruling in denying the motion of respondent's counsel to strike from the record, for the reasons stated therein, the testimony of the witness Krier, in so far as it relates to episodes and conversations detailed by the witness, separately and collectively.

44. (R. pp. 354-362) Respondent excepts to the Board's ruling in permitting the witness Hardesty to testify, over respondent's objection, concerning the details of a riot in the City of Massillon on or about July 11, 1937, at or near the viaduct leading into the plant of respondent and at or near the headquarters of the C. I. O. in the City of Massillon.

45. (R. pp. 389-398) Respondent excepts to the Board's ruling in permitting the witness Beckner to testify, over respondent's objection, concerning the happenings and incidents in a certain riot at Massillon on the night of July 11, 1937.

46. (R. pp. 407-418) Respondent excepts to the Board's ruling in permitting the witness Meyer to testify, over respondent's objection, concerning the details of the witness's conduct and actions on the evening of July 11, 1937, prior to a riot at Massillon.

47. (R. pp. 434-444) Respondent excepts to the Board's ruling in permitting the witness Jones to testify, over respondent's objection, concerning the incidents and happenings involved in a riot on or about July 11, 1937, at or near the viaduct entrance of the plant of respondent and the C. I. O. headquarters in Massillon.

48. (R. p. 443) Respondent excepts to the Board's ruling in permitting the witness Jones to testify, over respondent's objection, as to whether he was given anything to eat in the Massillon City Jail on the day following the riot, at which time the witness was under arrest in the Massillon City Jail.

49. (R. p. 461) Respondent excepts to the ruling of the Board in permitting the witness Veto to testify, over respondent's objection, to an alleged conversation overheard by the witness between two individuals, one of whom

the witness asserted was a Bill Henderson; and respondent excepts to each and every part of the testimony of the witness upon this subject. (See general objection, page 542.)

50. (R. pp. 462-478) Respondent excepts to the ruling of the Board in permitting the witness Veto to testify, over respondent's objection, to the details and happenings involved in a certain riot on or about July 11, 1937, at or near the viaduct entrance to the respondent's Massillon plant and the C. I. O. headquarters in said city, and respondent excepts to each and every part of the testimony of the witness upon this subject. (See general objection, page 542.)

51. (R. p. 470) Respondent excepts to the ruling of the Board in admitting, over respondent's objection, Board's Exhibit No. 8, purporting to be a photograph of one Bill Henderson.

52. (R. pp. 489-505) Respondent excepts to the Board's ruling in the admission of the testimony of the witness Angelo relating to the alleged details of the arrest of the witness and his treatment during his confinement in the Stark County jail following his arrest, and respondent excepts to each and every part of the testimony of the witness upon this subject. (See general objection, page 542.)

53. (R. pp. 507-519) Respondent excepts to the admission by the Board of the testimony of the witness Conzas, wherein the witness purports to relate the alleged details concerning his arrest on the night of July 11, 1937, and subsequent confinement in Stark County Jail, and an alleged conversation at the time of his arrest with one Bill Henderson; and respondent excepts to each and every part of the testimony of the witness upon this subject. (See general objection, page 542.)

54. (R. pp. 520-542) Respondent excepts to the admission by the Board of the testimony of the witness Turkey, wherein the witness purports to relate the alleged details surrounding his arrest on the night of July 11, 1937, and subsequent confinement in the Stark County jail, and respondent excepts to each and every part of the testimony of the witness upon this subject. (See general objection, page 542.)

55. (R. pp. 543-558) Respondent excepts to the Board's ruling in admitting, over respondent's objection, the testimony of the witness Smith concerning the details of the execution of special policeman bonds at the respondent's Canton plant on or about July 5, 1937, and respondent excepts to each and every part of the testimony of the witness upon this subject.

56. (R. p. 553) Respondent excepts to the admission by the Board, over respondent's objection, of Board's Exhibit No. 9, purporting to be an application for a public official's bond of $5,000.00 or less.

57. (R. p. 555) Respondent excepts to the ruling of the Board in admitting, over respondent's objection, Board's Exhibit No. 10, consisting of two documents, one, a long printed page, and the other a small card with the words "private police commission" on top.

58. (R. p. 557) Respondent excepts to the admission by the Board, over respondent's objection, of Board's Exhibit No. 11, purporting to be an invoice made to respondent for the execution of certain special policeman bonds in the City of Canton and in the City of Massillon.

59. (R. pp. 559-565) Respondent excepts to the Board's ruling in admitting, over respondent's objection, the testimony of the witness Smith, wherein the witness testified concerning the execution of certain special policeman bonds in the City of Massillon on or about July 6,

1937, and the respondent excepts to each and every part of the testimony of the witness upon this subject.

60. (R. p. 565) Respondent excepts to the Board's ruling in admitting, over respondent's objection, Board's Exhibit No. 12, which purports to be a mimeographed blank form of the special policeman bond used in the City of Massillon.

61. (R. p. 567) Respondent excepts to the Board's ruling in admitting into the record, over respondent's objection, Board's Exhibit No. 13, (13-a and 13-b), which purports to be a record from the office of the witness Smith of the execution and issuance of certain special policeman bonds.

62. (R. pp. 567-568) Respondent excepts to the ruling of the Board in admitting into the record, over respondent's objection, Board's Exhibits Nos. 14-a and 14-b, which purport to be a carbon copy of a letter transmitting a certain indemnity agreement from the office of the witness to respondent.

63. (R. pp. 582-583) Respondent excepts to the ruling of the Board in overruling the motion of respondent, at the conclusion of the hearing at Washington, to strike from the record, for the reasons therein stated, the testimony of each and all of the witnesses who testified on behalf of the Board, beginning on page 1 of the record through page 583, inclusive, such motion being directed to each conversation, incident and episode detailed by each witness.

CANTON, OHIO HEARING BEFORE TRIAL EXAMINER.

64. (R. pp. 591-592) Respondent excepts to the ruling of the trial examiner in admitting the testimony of the witness Price, over respondent's exception, wherein

the witness purported to relate an alleged conversation with a C. I. O. organizer without showing any connection with respondent.

65. (R. p. 596) Respondent excepts to the ruling of the trial examiner in denying the motion of respondent to strike the answer of the witness Porter, wherein he purported to describe a lot of terrorism among the workers.

66. (R. pp. 598-599) Respondent excepts to the ruling of the trial examiner in admitting into evidence, over respondent's objection, testimony of the witness Porter concerning an alleged conversation with a Mr. Laughlin.

67. (R. p. 617) Respondent excepts to the ruling of the trial examiner in denying the motion of respondent to exclude from the record all the testimony of the witness Porter on the ground that the witness failed to connect respondent with any of the incidents described therein.

68. (R. p. 620) Respondent excepts to the ruling of the trial examiner in denying the motion of respondent to strike certain testimony of the witness Sweany, wherein the witness purported to detail certain conversations with unnamed individuals in the absence of respondent.

69. (R. p. 622) Respondent excepts to the ruling of the trial examiner in denying the application of respondent for a separation of witnesses and for an order excluding witnesses from the hearing until after they had testified.

70. (R. pp. 626-627) Respondent excepts to the ruling of the trial examiner in permitting the witness Sweany to detail, over respondent's objection, conversations with unnamed individuals whom the witness was contacting for the purpose of organization into the C. I. O.

71. (R. pp. 627-628) Respondent excepts to the ruling of the trial examiner in permitting the witness Sweany

to testify, over objection of respondent, concerning a conversation with an unidentified person, in which he expressed fear as to the witness coming to his house.

72. (R. pp. 629-630) Respondent excepts to the ruling of the trial examiner in permitting the witness Sweany to testify, over respondent's objection, to the details of his conversation in soliciting membership in C. I. O. of one Thomas Pastorious.

73. (R. p. 631) Respondent excepts to the ruling of the trial examiner in denying the motion of respondent to strike from the record all the testimony of the witness Sweany.

74. (R. p. 632) Respondent excepts to the ruling of the trial examiner in admitting into the record Board's Exhibits Nos. 16 and 17 purporting to be releases issued by a deputy sheriff of Stark County for two men by the names of Harold McAllister and Morris Long.

75. (R. pp. 635-636) Respondent excepts to the ruling of the trial examiner in permitting the witness Koellner to testify, over respondent's objection, to a conversation with one Deputy Ronk.

76. (R. p. 636) Respondent excepts to the ruling of the trial examiner in permitting the witness Koellner, over respondent's objection, to testify concerning an alleged conversation with McAllister and Long.

77. (R. p. 639) Respondent excepts to the ruling of the trial examiner in overruling the motion of respondent to strike from the record all the testimony of the witness Koellner.

78. (R. pp. 717-718) Respondent excepts to the ruling of the trial examiner in admitting into the record, over respondent's objection, Board's Exhibit No. 26, purporting

to be a pamphlet entitled "Employee Representation in the Iron and Steel Industry."

79. (R. pp. 758-759) Respondent excepts to the ruling of the trial examiner in permitting the witness Downard, over respondent's objection, to testify concerning a conversation with one Jim Doyle.

80. (R. p. 759) Respondent excepts to the ruling of the trial examiner in denying the motion of respondent to strike from the record the testimony of the witness Downard as to an alleged conversation with Doyle.

81. (R. p. 760) Respondent excepts to the ruling of the trial examiner in permitting the witness Downard to testify, over respondent's objection, to the details of an alleged conversation in January, 1937, between the witness and one Gene Thomas.

82. (R. pp. 761-764) Respondent excepts to the ruling of the trial examiner in permitting the witness Downard to testify, over respondent's objection, to the details of an alleged conversation between the witness and a Mr. Tebay.

83. (R. p. 764) Respondent excepts to the ruling of the trial examiner in denying the motion of respondent to strike from the record the testimony of the witness Downard in respect to an alleged conversation with a Mr. Tebay.

84. (R. pp. 764-766) Respondent excepts to the ruling of the trial examiner in permitting the witness Downard to testify, over respondent's objection, to an alleged conversation in May, 1937, between the witness and a Mr. Tebay, a Mr. Allen and a Mr. Geltz.

85. (R. p. 764) Respondent excepts to the ruling of the trial examiner in overruling the motion of respondent to strike the testimony of the witness Downard as to an

alleged conversation between the witness and a Mr. Tebay, a Mr. Allen and a Mr. Geltz.

86. (R. p. 782) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent's counsel to interrogate the witness Downard, on cross examination, as to the details of a torture chamber in Bandi's Hall, the C. I. O. headquarters in Canton during the strike.

87. (R. pp. 789-790) Respondent excepts to the ruling of the trial examiner in denying the motion of respondent to strike the answer of the witness Beckner as to an alleged conversation with a Mr. Horne in 1934.

88. (R. pp. 800-802) Respondent excepts to the ruling of the trial examiner in admitting, over respondent's objection, the testimony of the witness Beckner concerning an alleged conversation with one William Tebay in the early part of May, 1937.

89. (R. p. 802) Respondent excepts to the ruling of the trial examiner in denying the objection of respondent to strike the testimony of the witness Beckner as to a certain conversation with one Tebay in May, 1937.

90. (R. p. 812) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent to interrogate the witness Beckner, on cross examination, as to whether he was under indictment in Youngstown, Ohio, for carrying concealed weapons.

91. (R. p. 828) Respondent excepts to the ruling of the trial examiner in permitting the witness Ugranovich to testify, over respondent's objection, concerning his alleged discharge from respondent's employ, in 1935.

92. (R. p. 841) Respondent excepts to the ruling of the trial examiner in permitting the witness Shaban to testify, over respondent's objection, as to an alleged conversation with a Mr. Hopkins.

93. (R. pp. 853-854) Respondent excepts to the ruling of the trial examiner in permitting the witness Wright to testify, over respondent's objection, as to a certain alleged conversation in 1922 between the witness and a Mr. Ake.

94. (R. pp. 854-855) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike all the testimony of the witness Wright relating to an alleged conversation between the witness and a Mr. Ake in 1922.

95. (R. p. 857) Respondent excepts to the ruling of the trial examiner in permitting the witness Wright to testify, over respondent's objection, as to an alleged conversation with one Williams.

96. (R. p. 859) Respondent excepts to the ruling of the trial examiner in permitting the witness Wright to testify, over the ojection of respondent, as to whether he attended safety meetings.

97. (R. pp. 861-862) Respondent excepts to the ruling of the trial examiner in permitting the witness Wright to testify concerning an alleged conversation between the witness and Martin Beckner and a Mr. Williams.

98. (R. pp. 875-876) Respondent excepts to the ruling of the trial examiner in permitting the witness Arias to testify, over respondent's objection, concerning an alleged conversation in April, 1937, between the witness and one Frank Geltz.

99. (R. pp. 887-888) Respondent excepts to the ruling of the trial examiner in permitting the witness Schwartz to testify, over respondent's objection, as to an alleged conversation with one Jim Davey in December, 1936.

100. (R. p. 888) Respondent excepts to the ruling of the trial examiner in permitting the witness Schwartz to

testify, over respondent's objection, to a further alleged conversation between the witness and one Jim Davey, alleged to have taken place in the restaurant at the Canton Tin Plate Division of respondent's plant.

101. (R. p. 892) Respondent excepts to the ruling of the trial examiner in permitting the witness Poorman to testify, over respondent's objection, as to why he attempted to keep secret from the company that he was a member of the C. I. O.

102. (R. pp. 893-894) Respondent excepts to the ruling of the trial examiner in permitting the witness Schwartz to relate, over respondent's objection, the details of an alleged conversation with one Thomas Pastorious, alleged to have taken place in January, 1937.

103. (R. pp. 900-901) Respondent excepts to the ruling of the trial examiner in permitting the witness Cameron to testify, over respondent's objection, as to an alleged conversation with one Dan Allen concerning the alleged solicitation of the witness by said Allen for membership in the Employees' Representative Plan.

104. (R. p. 913) Respondent excepts to the ruling of the trial examiner in permitting the witness Stokes to testify, over respondent's objection, as to the details of an alleged conversation on May 24, 1937, between the witness and one Gene Williams.

105. (R. pp. 915-916) Respondent excepts to the ruling of the trial examiner in permitting the witness Stokes to testify, over respondent's objection, concerning the details of an alleged conversation between the witness and one Williams.

106. (R. p. 919) Respondent excepts to the ruling of the trial examiner in permitting the witness Stokes to testify, over respondent's objection, concerning an alleged

conversation between the witness and one Garcia Epps.

107. (R. p. 920) Respondent excepts to the ruling of the trial examiner in permitting the witness Stokes to testify, over respondent's objection, concerning an alleged conversation between the witness and one Andy Bodizar.

108. (R. pp. 931-932) Respondent excepts to the ruling of the trial examiner in sustaining the motion of Board's counsel to strike from the record the testimony of the witness Stokes elicited on cross examination by respondent's counsel, concerning the arrest of the witness and the circumstances attendant thereon, such testimony commencing on page 929 and extending through to page 932, inclusive.

109. (R. p. 950) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent's counsel to interrogate the witness Ugranovich concerning his practice of laying off for several days around pay day.

110. (R. pp. 956-957) Respondent excepts to the ruling of the trial examiner in permitting the witness Cutshall to testify, over respondent's objection, to an alleged conversation between the witness and a Mr. Schnerly.

111. (R. pp. 966-967) Respondent excepts to the ruling of the trial examiner in permitting the witness Cutshall to testify, over respondent's objection, concerning an alleged meeting at which one William Dunn is alleged to have spoken.

112. (R. p. 976) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent's counsel to interrogate the witness Cutshall, on cross examination, concerning the treatment of one Dan Allen at Bandi's Hall.

113. (R. p. 981) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike

the testimony of the witness Cutshall as to group meetings and what occurred thereat.

114. (R. pp. 984-985) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike the testimony of the witness Cutshall concerning a meeting held on or about May 20, 1937, attended by the witness and employees of respondent.

115. (R. p. 991) Respondent excepts to the ruling of the trial examiner in permitting the witness Cutshall to testify, over respondent's objection, as to whether a foreman could fire or discharge him.

116. (R. p. 992) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike the testimony of the witness Cutshall concerning a meeting of employees of respondent addressed by one William Dunn.

117. (R. p. 998) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike the testimony of the witness Rafaledes concerning his alleged detention in the Canton plant of respondent for several days following the commencement of the strike.

118. (R. p. 1007) Respondent excepts to the ruling of the trial examiner in refusing respondent the right to interrogate the witness Rafaledes, on cross examination, as to whether a great many men remained in the mill during the strike.

119. (R. p. 1009) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent to interrogate the witness Rafaledes as to whether he refrained from leaving the plant during the strike because of the presence of a great number of pickets.

120. (R. p. 1010) Respondent excepts to the ruling of

the trial examiner in refusing respondent the right to interrogate the witness Rafaledes as to whether or not there was a great number of men in the Canton plant of respondent during the strike.

121. (R. p. 1021) Respondent excepts to the ruling of the trial examiner in denying respondent's objection to the testimony of the witness Cox concerning an alleged conversation with a Mr. Kelvey.

122. (R. pp. 1054-1055) Respondent excepts to the ruling of the trial examiner in permitting the witness Eckroad to testify, over respondent's objection, concerning an alleged conversation with one Dave Lewis.

123. (R. p. 1056) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike the testimony of the witness Eckroad concerning an alleged talk with one Dave Lewis, an employee of respondent.

124. (R. p. 1057) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike further testimony of the witness Eckroad in respect to certain alleged conversations with one Dave Lewis.

125. (R. p. 1072) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent to interrogate the witness Jordan, on cross examination, concerning how many men he signed up while acting as an organizer for the C. I. O.

126. (R. p. 1078) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent to interrogate the witness Jordan, on cross examination, as to whether any other men in the mill at respondent's plant were working secretly for the C. I. O.

127. (R. pp. 1079-1080) Respondent excepts to the ruling of the trial examiner in precluding respondent from

interrogating the witness Jordan as to whether he made arrangements with one Frank Hardesty for an organizing job with the C. I. O.

128. (R. pp. 1080-1081) Respondent excepts to the ruling of the trial examiner in preventing respondent from interrogating the witness Jordan as to his whereabouts on the night of July 11, 1937.

129. (R. p. 1081) Respondent excepts to the ruling of the trial examiner wherein he sustained an objection by the Board to the following inquiry propounded by respondent to the witness Jordan on cross examination: "Well, were you there (Massillon) the night of the riot?"

130. (R. p. 1083) Respondent excepts to the ruling of the trial examiner wherein he refused to permit respondent to cross examine the witness Jordan as to whether he was in Youngstown, Ohio, when there was trouble there.

131. (R. p. 1092) Respondent excepts to the ruling of the trial examiner in denying respondent's objection to the testimony of the witness Morton as to conversations had with a Mr. Hayden Bright and a Mr. Lewis in respondent's Massillon plant.

132. (R. p. 1093) Respondent excepts to the ruling of the trial examiner in permitting the witness Jordan to relate, over respondent's objection, an alleged conversation with one Paul Irwin on or about May 20, 1937.

133. (R. p. 1094) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike the testimony of the witness Morton that some of respondent's foremen had said the mill would be shut down before respondent would recognize the C. I. O.

134. (R. pp. 1094-1095) Respondent excepts to the ruling of the trial examiner in permitting the witness Morton

to testify, over respondent's objection, concerning a further alleged conversation on or about May 20, 1937, with a Mr. Lewis.

135. (R. pp. 1100-1101) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike a portion of the answer of the witness Morton appearing on p. 1100.

136. (R. pp. 1105-1106) Respondent excepts to the ruling of the trial examiner wherein he denied respondent the right to interrogate the witness Morton, on cross examination, as to whether the witness did not know that there was a committee of workmen known as the Appeals Committee.

137. (R. p. 1113) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent to interrogate the witness Morton, on cross examination, as to whether he knew at the time of an alleged conversation that one Dave Lewis, to whom he was talking, was working.

138. (R. p. 1114) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent to interrogate the witness Morton, on cross examination, as to whether anybody was working in the Massillon Plant of respondent on May 20, 1937, to the knowledge of the witness.

139. (R. p. 1116) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike the answer of the witness Morton in reply to the first question on page 1116, on the ground that said answer was not responsive to the question.

140. (R. pp. 1119-1120) Respondent excepts to the ruling of the trial examiner in admitting, over respondent's objection, Board's Exhibit No. 49, purporting to be a written notice to the witness to return to work.

141. (R. p. 1120) Respondent excepts to the ruling of the trial examiner in permitting the witness Tahir to testify, over respondent's objection, as to the identity of the person signing a paper marked "Board's Exhibit No. 49" with the initials "C. S."

142. (R. p. 1121) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike Board's Exhibit No. 49.

143. (R. p. 1123) Respondent excepts to the ruling of the trial examiner in admitting, over respondent's objection, Board's Exhibit No. 50, purporting to be a notice in writing to the witness Tahir to return to work at respondent's plant.

144. (R. p. 1125) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike Board's Exhibit No. 49.

145. (R. p. 1129) Respondent excepts to the ruling of the trial examiner in permitting the witness Ebbert to testify over respondent's objection, concerning an alleged conversation which the witness claimed to have had with one Ralph Ebberly on or about July 12, 1937.

146. (R. pp. 1130-1131) Respondent excepts to the ruling of the trial examiner in receiving in evidence, over respondent's objection, Board's Exhibit No. 51, purporting to be an application card for membership in Independent Association of Republic Employees.

147. (R. p. 1131) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike an alleged conversation between the witness and one Ebberly.

148. (R. pp. 1132-1135) Respondent excepts to the ruling of the trial examiner in permitting the witness Ebbert

to testify over respondent's objection, concerning an alleged conversation with various persons in respondent's Massillon plant, including Ralph Ebberly, Paul Hoffman and Ralph J. Peppard.

149. (R. pp. 1135-1137) Respondent excepts to the ruling of the trial examiner in permitting the witness Ebbert to testify, over respondent's objection, concerning an alleged conversation with Ralph J. Peppard.

150. (R. p. 1138) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike the following answer given by the witness Ebbert: "Well, I didn't like the condition of the way they was pushing things around there."

151. (R. p. 1140) Respondent excepts to the ruling of the trial examiner in denying the motion of respondent to exclude all testimony of the Witness Ebbert concerning all conversations detailed by him and relating to his alleged difficulty with the men with whom he was working.

152. (R. p. 1143) Respondent excepts to the ruling of the trial examiner in permitting the witness Holderman to testify, over respondent's objection, concerning Employees' Representative Association.

153. (R. p. 1151) Respondent excepts to the ruling of the trial examiner in permitting the witness Holderman to testify concerning an alleged conversation with one Harold Detterline.

154. (R. pp. 1151-1152) Respondent excepts to the ruling of the trial examiner in permitting the witness Holderman to testify, over respondent's objection, concerning a conversation which the witness claimed to have had with one Harold Detterline, who was alleged to be telling what he, in turn, had been told by one John Stough.

155. (R. p. 1157) Respondent excepts to the ruling of the trial examiner in denying respondent's motion to strike all testimony of the witness Holderman.

156. (R. p. 1161) Respondent excepts to the ruling of the trial examiner in permitting the witness Allen to testify, over respondent's objection, concerning the so-called new Union, no mention of said new Union having been made in the complaint filed herein.

157. (R. p. 1165) Respondent excepts to the ruling of the trial examiner in permitting the witness Allen to testify concerning a meeting held in the office with one Don Lyman.

158. (R. p. 1170) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike all testimony of the witness Allen on the ground that it did not relate to any charge contained in the complaint and that the alleged conversations do not appear to have been with anybody authorized to speak on behalf of respondent.

159. (R. p. 1180) Respondent excepts to the ruling of the trial examiner permitting the witness Mouyios to testify, over respondent's objection, concerning an alleged conversation with one Happy North.

160. (R. pp. 1193-1194) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike the conversation which the witness Mossop is alleged to have had with one Otto Hense.

161. (R. p. 1212) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike an answer of the witness Demos as to an indefinite conversation which he had with unknown employes concerning one Whitey Taylor.

162. (R. p. 1212) Respondent excepts to the ruling of

the trial examiner permitting the witness Demos to testify, over respondent's objection, as to a further alleged conversation with one Whitey Taylor.

163. (R. p. 1214) Respondent excepts to the ruling of the trial examiner permitting the witness Demos to relate, over respondent's objection, an alleged conversation with one George Pappas.

YOUNGSTOWN, OHIO HEARING BEFORE TRIAL EXAMINER

164. (R. p. 1242) Respondent excepts to the ruling of the trial examiner sustaining the objection of the Board to a question asked of the witness Gallagher by respondent, on cross examination, as to the number of C. I. O. organizers.

165. (R. pp. 1264-1265) Respondent excepts to the ruling of the trial examiner who, on his own motion, refused to permit respondent to ask the witness Fagan, on cross examination, whether the other men who were laid off at the same time he was, had applied for other jobs also.

166. (R. p. 1287) Respondent excepts to the ruling of the trial examiner sustaining an objection of the Board to a question asked of the witness White by respondent on cross examination as to the name of the company he worked for after leaving the employ of respondent.

167. (R. pp. 1294-1295) Respondent excepts to the ruling of the trial examiner in overruling respondent's objection to a question asked of the witness Walters upon direct examination respecting a conversation between the witness and one Manley, master mechanic.

168. (R. p. 1296) Respondent excepts to the ruling of the trial examiner in overruling respondent's motion to

strike the testimony of the witness Walters as to a certain meeting.

169. (R. pp. 1298-1299) Respondent excepts to the ruling of the trial examiner in overruling respondent's objection to the testimony of the witness Walters as to a conversation alleged to have taken place at a certain meeting (May, 1937).

170. (R. pp. 1301-1302) Respondent excepts to the ruling of the trial examiner admitting, over respondent's objection, Board's Exhibit No. 55, purporting to be two cards having to do with membership in the Independent Federation of Republic Employees.

171. (R. p. 1303) Respondent excepts to the ruling of the trial examiner in overruling respondent's objection to a question asked of the witness Walters, upon direct examination, as to a statement made by Mr. Manley that he would fire any one that talked Union around the job.

172. (R. p. 1305) Respondent excepts to the ruling of the trial examiner in overruling respondent's objection to an answer made by the witness Walters purporting to tell about a petition to the Mayor of Youngstown.

173. (R. p. 1306) Respondent excepts to the ruling of the trial examiner in overruling respondent's objection to a question and the answer thereto given by the witness Walters with respect to a speech made by a Mr. Jones.

174. (R. p. 1310) Respondent excepts to the ruling of the trial examiner in overruling respondent's objection to questions asked and testimony given by the witness Walters, upon direct examination, respecting a meeting held on May 19, 1937.

175. (R. p. 1326) Respondent excepts to the ruling of the trial examiner admitting into evidence Board's Ex-

hibit No. 60, purporting to be a copy of a case which the witness Goest received, the original of which was presented to the chairman and members of Joint Committee No. 2, having been filed March 20, 1936.

176. (R. p. 1327) Respondent excepts to the ruling of the trial examiner in overruling respondent's objection and in permitting the witness Goest to testify as to the meaning of certain pencilled notations on the bottom of Board's Exhibit No. 60.

177. (R. pp. 1328-1329) Respondent excepts to the ruling of the trial examiner admitting Board's Exhibit No. 61, which purports to consist of forms supplied by the company which Joint Committee No. 2 used in handling grievances.

178. (R. pp. 1331-1332) Respondent excepts to the ruling of the trial examiner in overruling respondent's objections to questions asked, testimony given and conversations related by the witness Goest, on direct examination, as to a certain complaint that he took up with the respondent respecting an increase in wages for bricklayers, in which he did not obtain the Ohio Works rate but only the Sheet and Tube rate.

179. (R. pp. 1334-1335-1335-A-1336) Respondent excepts to the ruling of the trial examiner in admitting, over respondent's objection, Board's Exhibits Nos. 62, 63 and 64, which purport to be minutes of the regular meeting of the General Body February 5, 1937; minutes of the special meeting of the General Body February 26, 1937, and minutes of the special meeting of the General Body, March 5, 1937, respectively; and respondent particularly objects to the pencilled notations being allowed to remain on the exhibits and the refusal of the trial examiner to cause the same to be erased.

180. (R. p. 1336) Respondent excepts to the ruling of the trial examiner admitting Board's Exhibit No. 65, which purports to be the minutes of a special meeting of the General Body, March 15, 1937.

181. (R. pp. 1337-1338) Respondent excepts to the ruling of the trial examiner in overruling respondent's motion to strike, as hearsay, answers given by the witness Goest, on direct examination, to the effect that some of the boys told him that Mr. O'Hara was going through the mill getting votes and that he had been given permission by respondent to leave his job to solicit votes.

182. (R. p. 1339) Respondent excepts to the ruling of the trial examiner in refusing to strike answers of the witness Goest, given on direct examination, respecting a certain conversation which he is alleged to have had with Mr. O'Hara.

183. (R. p. 1342) Respondent excepts to the ruling of the trial examiner in overruling respondent's objection to a question calling for a conversation between the witness Goest and a fellow employe named Murphy.

184. (R. p. 1342) Respondent excepts to the ruling of the trial examiner in overruling the respondent's objection to a question asked of the witness Goest, on direct examination, as to why he thought it was not in the interest of the men in the mill for the said Goest to be removed from the committee and replaced by another man.

185. (R. p. 1344) Respondent excepts to the ruling of the trial examiner in admitting, over respondent's objection, Board's Exhibits Nos. 66, 67, 68 and 69, which purport to be copies of minutes of certain meetings.

186. (R. p. 1347) Respondent excepts to the ruling of the trial examiner overruling respondent's motion to strike an answer of the witness Goest, given on direct examina-

tion, as to why a meeting was called, namely, to conform the Representative Plan to the Wagner Act.

187. (R. p. 1349) Respondent excepts to the ruling of the trial examiner in admitting Board's Exhibit No. 70, which purports to be a proposed revision of the Plan of Employee Representation worked on at a meeting in Cleveland, upon which were pencilled notations made by the witness Goest.

188. (R. pp. 1351-1352) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question calling for a conversation had at the above mentioned Cleveland meeting.

189. (R. p. 1357) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked of the witness Goest, on direct examination, calling for a description of the so-called Mayor's petition.

190. (R. p. 1359) Respondent excepts to the ruling of the trial examiner overruling a motion to strike part of the testimony of the witness Goest, given on direct examination, in which he volunteered to state that he did not agree with certain matters in the Mayor's petition.

191. (R. pp. 1362-1363) Respondent excepts to the ruling of the trial examiner in admitting Board's Exhibits Nos. 71 and 72, which purport to be bulletins of respondent dated April, 1935, and April, 1936, respectively.

192. (R. pp. 1363-1364) Respondent excepts to the ruling of the trial examiner admitting Board's Exhibits Nos. 73 and 74, which purport to be a program of the annual conference of the Representative Plan, Youngstown District, April 7, 1936, and an enumeration of the delegates that should attend the central council meeting.

193. (R. p. 1365) Respondent excepts to the ruling of

the trial examiner admitting Board's Exhibit No. 75, which purports to be a notice which the witness Goest received concerning the first annual conference of employee representatives.

194. (R. p. 1366) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked of the witness Goest, on direct examination, respecting what was said at a meeting on March 19th.

195. (R. pp. 1367-1368-1369-1370) Respondent excepts to the rulings of the trial examiner overruling respondent's objections to questions asked of the witness Goest, on direct examination, as to what was said and done at the meeting of May 19th with respect to the Independent Federation of Employees.

196. (R. p. 1371) Respondent excepts to the ruling of the trial examiner admitting Board's Exhibit No. 76 which purports to be a copy of a pamphlet passed out at the meeting of May 19th.

197. (R. p. 1382) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked, on direct examination, of the witness Walters concerning statements made at the meeting of May 19th by an unidentified man.

198. (R. pp. 1385-1386-1387) Respondent excepts to the ruling of the trial examiner overruling respondent's objection and permitting the witness Walters, on direct examination, to repeat a speech he made at the meeting of May 19th.

199. (R. p. 1390) Respondent excepts to the ruling of the trial examiner admitting Board's Exhibit No. 77, which purports to be a colored card similar to Board's Exhibit No. 5.

200. (R. p. 1392) Respondent excepts to the ruling of

the trial examiner overruling respondent's motion to strike all of the conversations and incidents related by the witness Walters on direct examination.

201. (R. pp. 1401-1402-1403) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to answers given by the witness Stephens in relating a speech alleged to have been made by John Graft.

202. (R. pp. 1405-1406) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to questions asked and answers given by the witness Stephens, on direct examination, respecting conversations he had with a fellow employe and Mr. John Graft.

203. (R. pp. 1409-1410) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked concerning certain conversations between the witness Stephens and Mr. Graft.

204. (R. p. 1410) Respondent excepts to the ruling of the trial examiner permitting the Board to ask the witness Stephens on direct examination, "What prompted you to come back on the 12th?"

205. (R. p. 1412) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a conversation alleged to have taken place between the witness Stephens and Mr. Graft.

206. (R. p. 1419) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a conversation alleged to have taken place between the witness Farner and Mr. Graft.

207. (R. p. 1421) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to question asked of the witness Farner as to the scope of Mr. Graft's authority.

208. (R. p. 1425) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked of the witness Farner as to what happened at the meeting where Mr. Graft spoke.

209. (R. pp. 1431-1432) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked and an answer given by the witness Farner as to a conversation had between him and the employment agency of the Youngstown Sheet and Tube Company.

210. (R. p. 1444) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked of the witness Elder, on direct examination, as to how he was summoned to a meeting, who spoke and what was said.

211. (R. p. 1464) Respondent excepts to the ruling of the trial examiner overruling respondent's motion to strike a certain conversation related by the witness Simcox that he had with three policemen.

212. (R. pp. 1481-1482-1483) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a conversation related by the witness Opalcih which was had between him and one Kology who was not a foreman but just an employe.

213. (R. p. 1491) Respondent excepts to the ruling of the trial examiner in sustaining an objection of the Board to a question asked by respondent of the witness Opalcih, on cross examination, as to whether or not he worked for his family until the C. I. O. came to Youngstown.

214. (R. pp. 1503-1504) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked by the Board of the witness Krill, on direct examination, with reference to certain conversations

had between him and one Emil Valley.

215. (R. p. 1510) Respondent excepts to the ruling of the trial examiner overruling respondent's motion to strike an answer of the witness Krill concerning rehiring of employes.

216. (R. pp. 1519-1520) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent to question witnesses concerning employment, since their alleged discharge by the respondent, of those persons named in the complaint.

217. (R. pp. 1540-1541) Respondent excepts to the action, conduct and statements made by the trial examiner directed to counsel for respondent in connection with the cross examination of the witness Haren, and particularly excepts thereto on the ground that the conduct, action and statements made by the trial examiner with respect to the Board's witnesses, compared with the same towards witnesses for respondent, disclosed his bias and prejudice against the respondent.

218. (R. pp. 1546-1547) Respondent excepts to the action, conduct and statements of the trial examiner, who, on his own motion, prevented respondent from asking the witness Haren, on cross examination, whether he talked to counsel for the Board at 302 Terminal Building, Youngstown, and in sustaining the objection of the Board to such question.

219. (R. pp. 1568-1569) Respondent excepts to the ruling of the trial examiner in sustaining the Board's objection to questions asked of the witness Rigby, on cross examination, as to when he signed with the C. I. O., and particularly, the respondent excepts to the statements made by the trial examiner to counsel for respondent.

220. (R. pp. 1585-A-B-C-D, 1586) Respondent excepts

to the ruling of the trial examiner striking respondent's statement that the witness Chismus had been indicted; excepts to the action of the trial examiner excluding respondent's remarks from the record; excepts to the action of the trial examiner denying any argument upon the question; excepts to the action of the trial examiner excluding the exception from the official record; excepts to the ruling of the trial examiner sustaining Board's objection to the question as to whether the witness Chismus was involved in a riot at Youngstown.

221. (R. p. 1616) Respondent excepts to the ruling of the trial examiner overruling respondent's motion to strike part of an answer of the witness DeLong that "* * * every man that was a C. I. O. man wasn't working."

222. (R. p. 1624) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked of the witness DeLong on direct examination as to a conversation with an employe of the Y. M. C. A.

223. (R. p. 1677) Respondent excepts to the ruling of the trial examiner overruling respondent's objection and permitting the witness Jones to explain his apprentice contract (Board's Exhibit 78).

224. (R. p. 1678) Respondent excepts to the ruling of the trial examiner permitting the introduction in evidence of Board's Exhibit No. 78, Apprentice Contract of George E. Jones.

225. (R. p. 1688) Respondent excepts to the ruling of the trial examiner sustaining Board's objection to a question asked of the witness Jones by respondent as to whether he knew or was interested in the number of respondent's employes who returned to work.

226. (R. pp. 1692-1693) Respondent excepts to the ruling of the trial examiner overruling respondent's objection

to a question asked of the witness Cain, on direct examination, as to a statement made by a Mr. Baldwin concerning the company union.

227. (R. pp. 1695-1696) Respondent excepts to the ruling of the trial examiner admitting Board's Exhibits Nos. 79, 80 and 81, being papers in connection with the Employees Independent Association at Warren, Ohio.

228. (R. p. 1708) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question concerning a conversation between the witness Riffle and one Mike.

229. (R. pp. 1713-1714) Respondent excepts to the rulings of the trial examiner overruling respondent's objections to questions asked of the witness Riffle, on direct examination, as to whether any new man had been hired in his department while he was not working, when the witness did not show any actual knowledge of the facts.

230. (R. pp. 1725-1726) Respondent excepts to the rulings of the trial examiner overruling respondent's objections to questions asked on direct examination of the witness Lewis as to whether he was going to sign a card of the Employees Independent Association and as to who asked him to sign, without showing that the said person was connected in any way with respondent.

231. (R. p. 1728) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to questions asked of the witness Lewis, on direct examination, concerning a conversation he had with one Shorty Dishon.

232. (R. pp. 1745-1746) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to questions asked of the witness Green on direct examination as to what the men in the plant felt was the policy of

the company about joining an outside union.

233. (R. p. 1758) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked of the witness Green on direct examination concerning a conversation with one Mr. Page, his foreman.

234. (R. p. 1761) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked on direct examination of the witness Green respecting conversations he had with an employes' representative of the company.

235. (R. p. 1777) Respondent excepts to the ruling of the trial examiner overruling respondent's motion to strike the testimony and the answer given by the witness Hite with reference to a conversation he had with a fellow employe, a locomotive engineer.

236. (R. p. 1801) Respondent excepts to the ruling of the trial examiner overruling respondent's motion to strike the conversations between the witness Hite and other persons named in the record.

237. (R. pp. 1807-1808-1810) Respondent excepts to the rulings of the trial examiner overruling respondent's objections to questions asked on direct examination of the witness Garnett respecting applications of the Employees Independent Association and a conversation had with a Mr. Taylor.

238. (R. p. 1822) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question concerning exhibits of the Employees Independent Association.

239. (R. p. 1823) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question concerning a conversation between Mr. Miller, a foreman, and the witness Carter.

240. (R. pp. 1824-1825-1826) Respondent excepts to the rulings of the trial examiner overruling respondent's objections to questions asked of the witness Carter concerning the Employees Independent Association and a conversation with Mr. Miller.

241. (R. pp. 1834-1835) Respondent excepts to the ruling of the trial examiner sustaining Board's objection to a question asked on cross examination of the witness Carter as to whether he was present at a railroad crossing at a time that a blockade was placed there; and, further, excepts to that part of the trial examiner's instruction to respondent to refrain from asking questions about the Baltimore & Ohio Railroad.

242. (R. p. 1850) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a conversation alleged to have taken place between the witness Webb and Mr. Mulligan, an employes' representative.

243. (R. p. 1856) Respondent excepts to the ruling of the trial examiner admitting Board's Exhibit No. 85, which purports to be a copy of the minutes of the regular meeting of Standing Committee No. 2, September 10, 1935.

244. (R. pp. 1857-1858) Respondent excepts to the ruling of the trial examiner admitting Board's Exhibit No. 86, which purports to be a form for a complaint or grievance.

245. (R. p. 1861) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked on direct examination of the witness Webb as to an unusual occurrence at the time the vote was taken in Joint Committee No. 2 in 1934.

246. (R. pp. 1864-1865) Respondent excepts to the ruling of the trial examiner admitting Board's Exhibit No. 87, which purports to be a form theretofore used by an

employes' representative in connection with time spent on work for the representative plan.

247. (R. p. 1868) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked on direct examination of the witness Webb as to why he did not run for reelection under the representative plan.

248. (R. pp. 1869-1871) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to questions asked on direct examination of the witness Webb as to conversations between him and one Mulligan.

249. (R. pp. 1873-1876-1877) Respondent excepts to the rulings of the trial examiner overruling respondent's objections to questions asked on direct examination of the witness Webb as to conversations between him and one McKenney.

250. (R. pp. 1879-1880) Respondent excepts to the ruling of the trial examiner sustaining Board's objection to a question asked of the witness Webb, on cross examination, as to when he decided in his own mind to join the C. I. O.

251. (R. pp. 1882-1883-1884) Respondent excepts to the ruling of the trial examiner sustaining Board's objection to a question asked of the witness Webb, on cross examination, as to his knowledge of a railroad track being dynamited and cars of coal dumped by the strikers, and further excepts to the ruling of the trial examiner sustaining the objection to that line of questioning.

252. (R. pp. 1893-A, 1894) Respondent excepts to the conduct and action of the trial examiner in striking respondent's remarks, in volunteering to instruct respondent, and in interfering with the cross examination of the witness Webb before any objection was made by the Board.

253. (R. pp. 1908-1909) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked of the witness Parkovich on direct examination as to a conversation between him and Mr. Michels.

254. (R. pp. 1917-1918) Respondent excepts to the conduct of the trial examiner in interrupting respondent's cross examination and in giving the uncalled for admonition not to take advantage of the witness.

CLEVELAND, OHIO, HEARING BEFORE TRIAL EXAMINER

255. (R. p. 1928) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike the following portion of the testimony of the witness Balint: "I told Favorito at the time that we walked towards the plant that something—something must be up."

256. (R. p. 1929) Respondent excepts to the ruling of the trial examiner permitting the witness Balint to testify on direct examination as to what his companion Favorito was thinking.

257. (R. p. 1930) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike all the testimony of the witness Balint relating to an alleged occurrence at the gate of the Truscon plant of respondent.

258. (R. p. 1932) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike a further portion of the testimony of the witness Balint relating to what he and his companion decided.

259. (R. p. 1935) Respondent excepts to the ruling of the trial examiner denying respondent the right to inter-

rogate the witness Balint on cross examination as to his activities following his discharge from respondent's plant in September, 1935.

260. (R. p. 1935) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent to further cross examine the witness Balint as to his activities subsequent to his discharge from respondent's plant.

261. (R. p. 1952) Respondent excepts to the ruling of the trial examiner permitting the witness Vincent Favorito to testify concerning an incident that occurred in the vicinity of the Globe Theater near 55th Street and Woodland Avenue, Cleveland, Ohio.

262. (R. p. 1954) Respondent excepts to the ruling of the trial examiner in permitting the witness Vincent Favorito to testify as to an occurrence in the vicinity of Woodland Avenue, Cleveland, Ohio, and in permitting said witness, in connection with his testimony, to state his conclusion as to why certain people did not appear at a meeting.

263. (R. pp. 1954-1955) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike the testimony of the witness Vincent Favorito relating to an occurrence in the vicinity of 55th Street and Woodland Avenue, Cleveland, Ohio.

264. (R. p. 1962) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent to interrogate the witness Vincent Favorito as to what, if anything, he had to do with preparing the evidence at the hearing before the Board.

265. (R. pp. 1971-1972) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike the testimony of the witness Benny Favorito relating to an alleged conversation between a Captain Jones and his men at the gates of respondent's Cleveland plant.

266. (R. p. 1982) Respondent excepts to the ruling of the trial examiner permitting the witness Castman to testify concerning an alleged conversation with one Grulick.

267. (R. p. 1983) Respondent excepts to the ruling of the trial examiner permitting the witness Castman to testify, over respondent's objection, concerning an alleged conversation with one Dunch.

268. (R. p. 1983) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike an alleged conversation between the witness and one Dunch.

269. (R. p. 1983) Respondent excepts to the ruling of the trial examiner in permitting the witness Castman, over respondent's objection, to testify further as to a conversation with one Dunch.

270. (R. p. 1984) Respondent excepts to the ruling of the trial examiner in permitting the witness Castman to testify, over respondent's objection, to an alleged conversation with an unidentified member of respondent's police force.

271. (R. p. 1985) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike the testimony of the witness Castman involving an alleged conversation with an unidentified member of respondent's police force.

272. (R. p. 1985) Respondent excepts to the ruling of the trial examiner permitting the witness Castman to testify concerning an alleged conversation with one Sergeant Brown.

273. (R. pp. 1986-1987) Respondent excepts to the ruling of the trial examiner permitting the witness Castman to testify concerning an alleged conversation with Captain Jones of respondent's police force.

274. (R. p. 1990) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike the testimony of the witness Castman concerning an alleged conversation with one Captain Jones.

275. (R. p. 1992) Respondent excepts to the ruling of the trial examiner permitting the witness Castman to testify concerning an alleged conversation with respondent's policeman.

276. (R. p. 1993) Respondent excepts to the ruling of the trial examiner permitting the witness Castman to testify concerning an alleged conversation with one of respondent's policemen on or about April 19, 1937.

277. (R. p. 1994) Respondent excepts to the ruling of the trial examiner permitting the witness Castman to detail an alleged conversation with one Jense.

278. (R. pp. 2030-2031) Respondent excepts to the ruling of the trial examiner permitting the witness Cikah to testify concerning the alleged watching of a beer parlor operated by the witness's wife and by respondent's police.

279. (R. pp. 2032-2033) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike the testimony of the witness Cikah concerning a conversation with various people, including the witness's neighbors.

280. (R. p. 2033) Respondent excepts to the ruling of the trial examiner permitting the witness Cikah to testify concerning an alleged conversation with neighbors living across the street from him.

281. (R. p. 2034) Respondent excepts to the ruling of the trial examiner permitting the witness Cikah to testify concerning an alleged conversation with neighbors living across the street from him.

282. (R. pp. 2051-2052) Respondent excepts to the ruling of the trial examiner permitting the witness Popik to testify, over respondent's objection, concerning an alleged conversation with an unidentified person whose name is given as Andy.

283. (R. p. 2057) Respondent excepts to the ruling of the trial examiner permitting the witness Popik to testify, over respondent's objection, concerning an alleged conversation with one Mr. Cooper.

284. (R. p. 2059) Respondent excepts to the ruling of the trial examiner permitting the witness Popik to testify, over respondent's objection, to an alleged conversation with a person identified only by the name of Charlie.

285. (R. p. 2070) Respondent excepts to the ruling of the trial examiner permitting the witness Neuman, over respondent's objection, to testify concerning an alleged conversation with one Jake Simons.

286. (R. pp. 2075-2076) Respondent excepts to the manner and form of the statements of the trial examiner in interfering with respondent's cross examination, without any objection to the method of cross examination having been interposed by Board's counsel.

287. (R. p. 2085) Respondent excepts to the ruling of the trial examiner permitting the witness Sikorski to testify, over respondent's objection, concerning an alleged conversation with the employment manager and general manager at respondent's Monroe, Michigan, plant.

288. (R. p. 2136) Respondent excepts to the ruling of the trial examiner permitting the witness Korecky to testify, on direct examination, to a request he made while he served as a representative under the Employees' Representative Plan.

289. (Blank).

290. (R. p. 2161) Respondent excepts to the ruling of the trial examiner sustaining Board's objection and denying respondent the right to continue the cross examination of the witness Korecky as to the source from which he learned that a strike was to be called before he returned to work.

291. (R. p. 2168) Respondent excepts to the ruling of the trial examiner permitting the witness Troyanovich to testify, on direct examination, concerning a conversation which he had with two employes of the Otis Steel Company on July 24, 1936.

292. (R. p. 2172) Respondent excepts to the ruling of the trial examiner permitting the witness Troyanovich to relate a conversation between him and a fellow employe, Sam Naletrich.

293. (R. pp. 2172-2173) Respondent excepts to the ruling of the trial examiner overruling respondent's motion to strike the testimony of the witness Troyanovich purporting to relate a conversation he had with a fellow employe, Sam Naletrich.

294. (R. p. 2180) Respondent excepts to the ruling of the trial examiner permitting the witness Troyanovich to testify concerning and to relate an alleged conversation between him and a Mr. Balint, an organizer for the Steel Workers' Organizing Committee, who had formerly been an employe of respondent.

295. (R. p. 2181) Respondent excepts to the ruling of the trial examiner overruling respondent's motion to strike the testimony of the witness Troyanovich concerning matters told him by one Alex Balint and which were the subject of a conversation between the said Balint and one Lohman.

296. (R. p. 2182) Respondent excepts to the ruling

of the trial examiner permitting the witness Troyanovich to testify that one Balint told him that Bozo Damisch had a signed confession from the said Lohman.

297. (R. p. 2182) Respondent excepts to the ruling of the trial examiner refusing to strike an answer of the witness Troyanovich, in which he stated that the said Damisch had a signed confession from Lohman admitting that the said Lohman had accepted money from respondent to sell the men out.

298. (R. p. 2183) Respondent excepts to the ruling of the trial examiner permitting the witness Troyanovich to testify, on direct examination, to a conversation between him and the said Damisch, sub-regional or regional director for C. I. O.

299. (R. p. 2184) Respondent excepts to the ruling of the trial examiner in refusing to strike an answer of the witness Troyanovich to the effect that there was a lack of interest in the Union because the men were terrorized by respondent's agents.

300. (R. p. 2188) Respondent excepts to the ruling of the trial examiner permitting the witness Troyanovich to testify to an alleged conversation between him and a fellow employe, Tony Matchurik.

301. (R. p. 2188) Respondent excepts to the ruling of the trial examiner permitting the witness Troyanovich to testify, on direct examination, to what Tony Matchurik told him as to statements made by Mr. Wakefield.

302. (R. p. 2189) Respondent excepts to the ruling of the trial examiner in refusing to strike an answer of the witness Troyanovich, on direct examination, in which he relates a conversation between the said Matchurik and Mr. Wakefield, the substance of which conversation was related to the witness by the said Matchurik.

303. (R. p. 2191) Respondent excepts to the ruling of the trial examiner permitting the witness Troyanovich to testify, on direct examination, concerning a conversation between him and a fellow employe, Matchurik.

304. (R. p. 2192) Respondent excepts to the ruling of the trial examiner permitting the witness Troyanovich on two occasions to testify, on direct examination, as to what he said Matchurik told him that Charlie Barrie said.

305. (R. p. 2195) Respondent excepts to the ruling of the trial examiner admitting Board's Exhibit No. 88, which purports to be a copy of minutes of a meeting of the General Body on September 8, 1936, handed to the witness Troyanovich by Mr. John Exall.

306. (R. p. 2196) Respondent excepts to the ruling of the trial examiner permitting the witness Troyanovich to testify, on direct examination, as to what Mr. Exall told him that Mr. Carpenter said.

307. (R. p. 2197) Respondent excepts to the ruling of the trial examiner in refusing to strike the answer of the witness Troyanovich, on direct examination, in which he relates what Mr. Exall told him that Mr. Carpenter said.

308. (R. p. 2200) Respondent excepts to the ruling of the trial examiner in refusing on two occasions to permit respondent to inquire of the witness Troyanovich, on cross examination, as to whether or not he had talked Communism with the men in respondent's plant during working hours.

309. (R. pp. 2200-2201) Respondent excepts to the ruling of the trial examiner in sustaining Board's objection to a question of the respondent directed to the witness Troyanovich, on cross examination, as to whether he was a Communist.

310. (R. p. 2217) Respondent excepts to the ruling

of the trial examiner permitting the witness Petak to testify, over respondent's objection, concerning the details of an alleged conversation with one Sam Naletrich.

311. (R. p. 2221) Respondent excepts to the ruling of the trial examiner permitting the witness Petak to testify, over respondent's objection, concerning the details of an alleged conversation between him and an insurance nurse.

312. (R. p. 2237) Respondent excepts to the ruling of the trial examiner permitting the witness Exall to testify, over respondent's objection, as to how he ascertained that a Mr. Peters in respondent's plant told men not to vote for him as an employees' representative.

313. (R. p. 2237) Respondent excepts to the ruling of the trial examiner permitting the witness Exall to testify, over respondent's objection, to what other unidentified persons told him as to their alleged conversation with a Mr. Peters concerning the witness as a candidate for representative.

314. (R. p. 2239) Respondent excepts to the ruling of the trial examiner admitting, over respondent's objection, Board's Exhibit No. 89, purporting to be a notice naming employes eligible to vote and eligible to be elected as representatives, Electrical Division, Corrigan McKinney Plant.

315. (R. p. 2249) Respondent excepts to the ruling of the trial examiner permitting the witness Exall to testify, over respondent's objection, as to whether he had ever taken up any grievances for the men in his department.

316. (R. p. 2250) Respondent excepts to the ruling of the trial examiner permitting the witness Exall to testify, over respondent's objection, concerning transactions which he claims to have had as a representative on behalf

of scarfers for whose department the witness was an employees' representative.

317. (R. p. 2260) Respondent excepts to the ruling of the trial examiner admitting, over respondent's objection, Board's Exhibits Nos. 93, 94 and 95, purporting to be copies of minutes of various meetings held by employees' representatives.

318. (R. p. 2261) Respondent excepts to the ruling of the trial examiner permitting the witness Exall to testify concerning an alleged conversation with one Troyanovich, whom he represented.

319. (R. p. 2264) Respondent excepts to the ruling of the trial examiner permitting the witness Exall to testify, over respondent's objection, to an alleged conversation between a committee representative and one Charlie Barrie.

320. (R. p. 2269) Respondent excepts to the ruling of the trial examiner admitting, over respondent's objection, Board's Exhibit No. 96, purporting to be a letter to members of the Health and Sanitation Committee, dated September 10, 1936.

321. (R. p. 2279) Respondent excepts to the ruling of the trial examiner permitting the witness Exall to testify, over respondent's objection, as to whether Manuel Garcia was discharged by respondent the day following a meeting described by the witness.

322. (R. p. 2279) Respondent excepts to the ruling of the trial examiner permitting the witness Exall to testify, over respondent's objection, to a conversation with Manuel Garcia concerning the latter's term of employment with respondent.

323. (R. p. 2287) Respondent excepts to the ruling of the trial examiner permitting the witness Exall to tes-

tify, over respondent's objection, concerning an alleged conversation with Balint.

324. (R. p. 2292) Respondent excepts to the ruling of the trial examiner permitting the witness Exall to testify, over respondent's objection, concerning his conclusion as to what was included in the minutes of the meeting of the representatives in respondent's plant.

325. (R. p. 2318) Respondent excepts to the ruling of the trial examiner in interfering with the cross examination of the witness Exall without any objection from the Board, and in refusing to permit respondent to interrogate the witness Exall, upon cross examination, concerning the facts in connection with a specific act of violence committed by the witness in striking one of respondent's employes during the strike.

326. (R. pp. 2327-2328) Respondent excepts to the ruling of the trial examiner admitting, over respondent's objection, Board's Exhibit No. 101, consisting of certain check stubs without evidence of dates.

327. (R. pp. 2330-2331) Respondent excepts to the ruling of the trial examiner permitting the witness Sabol to testify, over respondent's objection, concerning the Employees' Representative Association in respondent's Cleveland plant (Corrigan, McKinney).

328. (R. p. 2331) Respondent excepts to the ruling of the trial examiner permitting the witness Sabol to testify as to what first definite action, to his knowledge, was taken in connection with the Employees' Representative Plan.

329. (R. p. 2333) Respondent excepts to the ruling of the trial examiner admitting, over respondent's objection, Board's Exhibit No. 102, purporting to be a membership card of the Employees' Representative Association, Corrigan, McKinney Plant.

330. (R. p. 2337) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike all of the testimony of the witness Sabol relating to the Employees' Representative Plan in respondent's Cleveland (Corrigan, McKinney) plant.

331. (R. p. 2354) Respondent excepts to the ruling of the trial examiner permitting the witness Rodway to testify, over respondent's objection, about an alleged conversation between a Mr. MacMeans and the witness's wife when the witness was not present.

332. (R. p. 2355) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike the testimony of the witness Rodway concerning a conversation between the witness's wife and one MacMeans in the absence of the witness.

333. (R. p. 2360) Respondent excepts to the ruling of the trial examiner permitting the witness Quinn to testify, over respondent's objection, concerning conversations between the witness and a Mr. Sisk, an employes' representative at the respondent's Corrigan, McKinney plant.

334. (R. p. 2361) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike a conversation between the witness and a Mr. Sisk, an employes' representative.

335. (R. p. 2363) Respondent excepts to the ruling of the trial examiner permitting the witness Quinn to testify, over respondent's objection concerning an alleged conversation between the witness and a Mr. Satter.

336. (R. p. 2369) Respondent excepts to the ruling of the trial examiner permitting the witness Quinn to testify, over respondent's objection, to an alleged conversation between the witness and Jack Newhouse.

337. (R. p. 2369) Respondent excepts to the ruling

of the trial examiner denying respondent's motion to strike all of the testimony of the witness Quinn concerning an alleged conversation with Jack Newhouse.

338. (R. p. 2379) Respondent excepts to the ruling of the trial examiner permitting the witness MacMeans to testify, over respondent's objection, concerning an alleged conversation with a Mr. Lauton, night foreman.

339. (R. p. 2380) Respondent excepts to the ruling of the trial examiner permitting the witness MacMeans to testify, over respondent's objection, concerning an alleged conversation with a Mr. Eckert.

340. (R. pp. 2382-2383) Respondent excepts to the ruling of the trial examiner permitting the witness MacMeans to testify concerning the Employees' Representative Plan in respondent's Cleveland (Corrigan, McKinney) plant.

341. (R. p. 2383) Respondent excepts to the ruling of the trial examiner admitting Board's Exhibit No. 105, purporting to be an application card for membership in the Employees' Representative Association.

342. (R. p. 2384) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike that portion of the testimony of the witness MacMeans to the effect that he figured that he had to be careful about what he did or said.

343. (R. p. 2386) Respondent excepts to the ruling of the trial examiner permitting the witness MacMeans to testify to an alleged conversation with a Mr. Bankey, first assistant roller.

344. (R. p. 2387) Respondent excepts to the ruling of the trial examiner permitting the witness MacMeans to testify concerning the details of a conversation between the witness's wife and a Mr. Kavanaugh.

345. (R. p. 2391) Respondent excepts to the ruling of the trial examiner permitting the witness MacMeans to testify, over respondent's objection, concerning the details of an alleged statement of a Mr. Eckert about a man by the name of Lohman.

346. (R. p. 2392) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike all of the testimony of the witness MacMeans concerning his conversations with Eckert, with Kavanaugh, and with Lauton.

347. (R. pp. 2396-2397) Respondent excepts to the ruling of the trial examiner admitting, over respondent's objection, Board's Exhibit No. 106, purporting to be a certified statement filed with the Securities Exchange Commission by respondent.

348. (R. p. 2397) Respondent excepts to the ruling of the trial examiner admitting, over respondent's objection, Board's Exhibits Nos. 107, 108 and 109, purporting to be copies of reports of respondent to Securities Exchange Commission.

349. (R. p. 2398) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike Board's Exhibits Nos. 106, 107, 108 and 109, purporting to be copies of reports of respondent to Securities Exchange Commission.

350. (R. p. 2399) Respondent excepts to the ruling of the trial examiner admitting, over respondent's objection, Board's Exhibit No. 110, purporting to be a report in re respondent by Standard Statistics Company.

351. (R. p. 2399) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike Board's Exhibit No. 110, purporting to be a copy of a report by Standard Statistics Company, Inc., published June 7, 1937.

352. (R. p. 2400) Respondent excepts to the ruling of the trial examiner admitting, over respondent's objection, Board's Exhibit No. 111, purporting to be a copy of a report by Standard Statistics Company, Inc.

353. (R. p. 2400) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike Board's said Exhibit No. 111.

354. (R. p. 2401) Respondent excepts to the ruling of the trial examiner admitting, over respondent's objection, Board's Exhibit No. 112, purporting to be a booklet of some hearing before the National Labor Relations Board bearing upon the status of the National Labor Relations Act and the reasonableness of the regulations embodied therein.

355. (R. p. 2402) Respondent excepts to the ruling of the trial examiner denying respondent's motion to strike Board's said Exhibit No. 112.

356. (R. pp. 2403-2404-2405) Respondent excepts to the ruling of the trial examiner granting Board's motion, over respondent's objection, to amend the complaint by striking therefrom certain names set forth on pages 2403 and 2404 of the record.

357. (R. p. 2405) Respondent excepts to the ruling of the trial examiner denying respondent's motion to dismiss the complaint as to the persons named on pages 2403 and 2404 and included in the motion of the Board to amend the complaint by striking the names of said persons therefrom.

RESPONDENT'S EVIDENCE AT CANTON HEARING BEFORE TRIAL EXAMINER.

358. (R. p. 2409) Respondent excepts to the ruling of the trial examiner denying respondent's motion to dis-

miss the complaint, said motion being set forth on pages 2408-a, 2408-b and 2408-c of the record.

359. (R. p. 2488) Respondent excepts to the ruling of the trial examiner refusing to permit respondent's counsel to interrogate the witness Case, upon direct examination, as to why he took an interest in the matters which he had described in his testimony.

360. (R. pp. 2488-2489) Respondent excepts to the ruling of the trial examiner in respect to the offer to prove made by respondent, and the observation by the trial examiner that an offer to prove does not mean anything.

361. (R. p. 2492) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Case as to whether he had ever noticed mill policemen at the gates of respondent's plant.

362. (R. p. 2493) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Case, upon cross examination, as to whether he noticed mill policemen at any time at the entrance gates of respondent's plant.

363. (R. p. 2543) Respondent excepts to the ruling of the trial examiner sustaining Board's motion to strike a portion of the answer of the witness Hess, to the effect that he had heard rumors of force and wanted to see for himself.

364. (R. p. 2552) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Hess as to whether he made any investigation as to the men who were arrested in Massillon on July 11, 1937.

365. (R. p. 2626) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike

the following answer of the witness Schmid: "Because of opposition on the part of strikers."

366. (R. pp. 2629-2630) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Schmid as to what he did all day.

367. (R. pp. 2630-2634) Respondent excepts to the ruling of the trial examiner permitting the Board to interrogate the witness Schmid, over respondent's objection, concerning various business activities of the respondent.

368. (R. p. 2634) Respondent excepts to the ruling of the trial examiner overruling respondent's motion to strike all of the testimony of the witness Schmid elicited upon cross examination up to page 2634.

369. (R. pp. 2659-2660) Respondent excepts to the ruling of the trial examiner sustaining Board's motion to strike the following answer of the witness Cravens: "He yelled out 'go back into your hole, you dirty rats.' Well, we didn't see any use starting running back into the building."

370. (R. p. 2769) Respondent excepts to the ruling of the trial examiner permitting the Board to interrogate the witness Larker, upon cross examination, as to whether, like all of the girls in the payroll division, he was not afraid of the clubs in the hands of the pickets.

371. (R. p. 2776) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Larker as to whether he saw other employes sign a back-to-work petition in the Canton plant.

372. (R. pp. 2784-2785) Respondent excepts to the ruling of the trial examiner permitting the Board, over re-

spondent's objection, to interrogate the witness Vojnovich as to who called the four men, who worked along with him, back to work.

373. (R. p. 2796) Respondent excepts to the ruling of the trial examiner refusing to permit respondent to interrogate the witness Robert Adams, upon direct examination, as follows: "And did you hear any commotion down—any shooting or any noise—down below you that night?"

374. (R. p. 2797) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the answer of the witness Adams that he saw persons piling up stones.

375. (R. p. 2853) Respondent excepts to the ruling of the trial examiner permitting the Board to interrogate the witness Arnold as to where he signed the back-to-work petition.

376. (R. pp. 2858-2859) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the testimony of the witness Spicer.

377. (R. pp. 2878-2881) Respondent excepts to the ruling of the trial examiner refusing to permit respondent to interrogate the witness Wood, upon direct examination, concerning what he observed on the night of the Massillon, riot, the substance of the testimony of this witness being set forth in respondent's offer to prove.

378. (R. p. 2904) Respondent excepts to the ruling of the trial examiner in refusing to permit respondent to ask the witness Laber, upon direct examination, the following question: "By way of refreshing your recollection, did you see any bricks thrown or anything thrown that night?"

379. (R. pp. 2904-A-2904-B) Respondent excepts to the attitude of the trial examiner, as displayed by his rulings

and observations concerning pertinent rules of law, wherein he stated: "Listen, we are not following the law of Ohio," and later, after being advised as to the rules existing in the Ohio Federal courts, stated: "It is immaterial to me what the rules of law are or anything else. The specific law in these particular hearings is the law that governs these hearings."

380. (R. pp. 2907-2908) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike all of the testimony of the witness Laber.

381. (R. p. 3199) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the answer of the witness Fellabom, upon cross examination, as to what men were doing around the C. I. O. headquarters at Massillon on the night of the riot, as follows: "Very restless."

382. (R. pp. 3209-3210) Respondent excepts to the ruling of the trial examiner denying respondent's objection to interruptions by the Board of the witness Fellabom before he had completed his answer.

383. (R. pp. 3223-3224) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the answer of the witness Johnson as to the throwing of a gas bomb on the night of July 11, 1937.

384. (R. pp. 3246-3247) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the following portion of the answer of the witness Moorhead: "It was too hot in there for me so I milled around myself."

385. (R. p. 3248) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the answer of the witness Moorhead, as follows: "Just milling—just standing around, talking. You never saw

those people there at that corner before."

386. (R. pp. 3253-3257) Respondent excepts to the ruling of the trial examiner permitting the Board to interrogate the witness Moorhead upon cross examination, over respondent's objection, as to what materials were shipped from the department of respondent in which the witness worked, the amount of products shipped, the destination of the shipments, and the manner of making them.

387. (R. p. 3257) Respondent excepts to the ruling of the trial examiner permitting the Board to interrogate the witness Moorhead upon cross examination, over respondent's objection, as to how many men he fired.

388. (R. p. 3258) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Moorhead, upon cross examination, as to whether foremen have the right to fire men.

389. (R. p. 3261) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the following part of the answer of the witness Moorhead: "until the time the pickets came out there and prevented him from going to work May 25th."

390. (R. p. 3262) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Moorhead, upon cross examination, concerning a conversation with one Reed Moorhead.

391. (R. pp. 3263-3264) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Moorhead as to whether his son was paid for the time he spent on the police force.

392. (R. pp. 3297-3298) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Denzer, upon cross examination, as to the period of time that he worked in respondent's Massillon plant after the strike started, and the conditions under which he worked there during that period.

393. (R. p. 3299) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Denzer, upon cross examination, as to whether any policemen objected to his going over the viaduct.

394. (R. p. 3317) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Norris as to whether he ever hired or fired any men.

395. (R. p. 3319) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to ask the witness Norris the following question: "Did he tell you who told him to come to tell you about it?"

396. (R. p. 3320) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to ask the witness Norris the following question, upon cross examination: "Did any of the foremen tell you to go there to the Chamber of Commerce room?"

397. (R. pp. 3331-3332) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike all of the testimony of the witness Hartley.

398. (R. p. 3343) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Ertle, upon cross ex-

amination, as to whether any one suggested that he go back to work.

399. (R. p. 3360) Respondent excepts to the ruling of the trial examiner permitting the Board to question the witness Mullett, over respondent's objection, as to whether any one suggested that he go back to work.

400. (R. pp. 3370-3371) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to question the witness Coleman as to where he signed the back-to-work petition in Massillon, and under what circumstances.

401. (R. p. 3392) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness James Kenneth Adams, upon cross examination, as to whether he had not heard some other witness who preceded him on the stand testify that he could not identify anyone who was picking up stones when he looked out of the window.

402. (R. p. 3430) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the testimony of the witness France relating to a boy having been injured after having been struck by a stone thrown by a picket the night preceding a conference which the witness had at strike headquarters with the C. I. O.

403. (R. p. 3442) Respondent excepts to the ruling of the trial examiner in failing to admit Respondent's Exhibit No. 8, purporting to be a photograph of clubs taken from pickets.

(This is a conditional exception, to be disregarded if trial examiner admits the exhibit. The matter was held under advisement when this statement of exceptions was prepared.)

404. (R. p. 3448) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the testimony of the witness France concerning the criminal charges filed and pending against one John Rossi.

405. (R. p. 3456) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the testimony of the witness France in respect to Ivan Bartolic.

406. (R. p. 3469) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Pauli, upon cross examination, as to who suggested he ought to return to work after the strike.

407. (R. pp. 3490-3491) Respondent excepts to the action of the trial examiner in dealing with the testimony of the witness Pauli, and to the refusal of the trial examiner to permit the witness to explain a statement made upon direct examination, as requested by respondent.

408. (R. p. 3505) Respondent excepts to the ruling of the trial examiner in refusing to admit Respondent's Exhibit No. 9, which was a bullet.

409. (R. p. 3508) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike all of the testimony of the witness Ralph Scott pertaining to a bullet which the witness testified was fired into respondent's plant during the strike.

410. (R. p. 3508) Respondent excepts to the ruling of the trial examiner in refusing to admit Respondent's Exhibit No. 9, which was re-offered at this point.

411. (R. pp. 3509-3510) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Ralph

Scott concerning the signing of back-to-work petitions.

412. (R. p. 3536) Respondent excepts to the ruling of the trial examiner permitting the Board to cross examine the witness Watkins, over respondent's objection, as to whether a prior answer given by the witness was correct.

413. (R. p. 3550) Respondent excepts to the ruling of the trial examiner striking the testimony of the witness Lustig, upon direct examination, that he had observed shots being fired from the C. I. O.

414. (R. pp. 3552-3553) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the testimony of the witness Lustig as to why he left a window where he was watching some shooting in Massillon on or about July 11th.

415. (R. p. 3609) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Spees, upon cross examination, as to how many hours a day he was paid for while he was in the mill several days immediately after the strike was called.

416. (R. p. 3616) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the testimony of the witness Spees in respect to the throwing of stones on the night of the Massillon riot.

417. (R. p. 3621) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the testimony of the witness Wertz, upon direct examination, that a switching locomotive which was run into the Massillon plant during the strike was stoned.

418. (R. p. 3624) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the testimony of the witness MacKenzie, upon direct ex-

amination, concerning the details of the stoning of a switching locomotive which was operated by the witness as engineer into respondent's plant during the strike.

419. (R. pp. 3630-3631) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Diamond, upon cross examination, as to how he came to return to work in respondent's Massillon plant on July 8th.

420. (R. p. 3647) Respondent excepts to the ruling of the trial examiner striking the following portion of the answer of the witness Betz upon direct examination: "Well, he is a—he must be a member. He was down there and had a badge on himself and seemed to have a lot to say."

421. (R. p. 3665) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Betz as to where and on what date he signed a back-to-work petition in Canton.

422. (R. p. 3693) Respondent excepts to the ruling of the trial examiner striking the following part of the answer of the witness Stewart: "did not permit us to have an election."

423. (R. p. 3703) Respondent excepts to the ruling of the trial examiner striking from the testimony of the witness Stewart, the word "election."

424. (R. p. 3705) Respondent excepts to the ruling of the trial examiner striking from the testimony of the witness Stewart, the word "election."

425. (R. p. 3719) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the answer of the witness Stewart, upon re-direct examination, as follows: "He realized there would be violence, men would get hurt."

426. (R. p. 3735) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the testimony of the witness Stokoe concerning his treatment at C. I. O. headquarters in Bandi's Hall, and his experiences on Martindale Road, at which time the witness testified he was kidnapped by C. I. O. strikers.

427. (R. p. 3768) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Stokoe, upon direct examination, as to his reason for carrying a gun.

428. (R. pp. 3804-3805) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the testimony of the witness Snyder relating to the Martindale Road incident.

429. (R. pp. 3866-3869) Respondent excepts to the ruling of the trial examiner striking the testimony of the witness Kristoff, given on direct examination on behalf of respondent.

430. (R. pp. 3871-3872) Respondent excepts to the ruling of the trial examiner striking the testimony of the witness Knotts, upon direct examination, wherein he related an incident involving the firing of some shots by pickets surrounding respondent's Canton plant during the strike.

431. (R. p. 3872) Respondent excepts to the ruling of the trial examiner striking the testimony of the witness Knotts, upon direct examination, to the effect that he tripped over a cable stretched around a fire plug.

432. (R. p. 3873) Respondent excepts to the ruling of the trial examiner striking the testimony of the witness Knotts, upon direct examination, that a police cruiser came along and frightened certain men away.

433. (R. p. 3876) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike

all of the testimony of the witness Knotts upon direct and cross examination, such motion having been made by the Board after cross examination of the witness.

434. (R. pp. 3925-3926) Respondent excepts to the ruling of the trial examiner in sustaining the Board's motion to strike the testimony of the witness Linckenhely upon direct examination, that no officer, or agent, or person in a supervisory capacity dominated or interfered with the employee representation plan in respondent's Massillon plant.

435. (R. p. 3993) Respondent excepts to the ruling of the trial examiner refusing to admit Respondent's Exhibit No. 15, being the original back-to-work petitions signed by respondent's employees in Massillon.

436. (R. p. 4020) Respondent excepts to the ruling of the trial examiner striking the following portion of the testimony of the witness Hershberger, upon direct examination: "By telephone up until the time that the wires were cut, and then by letter."

437. (R. p. 4023) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Hershberger, upon cross examination, as to how many hours he worked during the time that he stayed at the respondent's plant between May 25th and June 24th, 1937.

438. (R. p. 4039-A) Respondent excepts to the action of the trial examiner in denying respondent the right to make an offer to prove that respondent's witness Hostetler recalled an attempted election at the City Hall, Canton.

439. (R. pp. 4041-4041-A) Respondent excepts to the action of the trial examiner reminding respondent's witness Hostetler that he was under oath and that he did not care about the witness's theories, and to the language used by the trial examiner in addressing the witness.

440. (R. p. 4046) Respondent excepts to the ruling of the trial examiner refusing to admit Respondent's Exhibit No. 16, being a copy of a letter and attached ballot prepared by the Canton Chamber of Commerce and forwarded to respondent's employees during the strike.

> (The Board, at p. 3 of the Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order, held that this exhibit would be admitted.)

441. (R. p. 4051) Respondent excepts to the ruling of the trial examiner refusing to admit Respondent's Exhibit No. 17, being the original report made by the judges to the Canton Chamber of Commerce of the results of the vote taken during the strike at respondent's plant at Canton to determine which of respondent's employees wished to continue on strike and which wished to return to work.

> (The Board, at p. 3 of the Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order, held that this exhibit would be admitted.)

442. (R. p. 4051) Respondent excepts to the action of the trial examiner sustaining Board's motion to strike all of the testimony of the witness Hostetler appearing up to page 4051 of the record.

443. (R. p. 4079) Respondent excepts to the attitude of the trial examiner and the directions which he gave to the witness Hostetler in insisting that the witness answer a question "yes" or "no."

444. (R. p. 4088) Respondent excepts to the action of the trial examiner striking the following portion of the testimony of the witness Hostetler, upon cross examination: "To be perfectly unbiased in every way."

445. (R. p. 4088) Respondent excepts to the action of the trial examiner in lecturing the witness Hostetler and in insisting that the witness answer the question "yes" or "no."

446. (R. p. 4095) Respondent excepts to the ruling of the trial examiner striking the following answer of the witness Hostetler, upon cross examination: "They were all persons present who participated in the opening of the envelopes and the sorting of the ballots, could see the fact that they were obviously counterfeit."

447. (R. p. 4095) Respondent excepts to the action of the trial examiner in connection with the instructions he gave the witness Hostetler, and the manner in which he gave such instructions.

448. (R. p. 4105) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Gibson to testify as to whether he received any direction from any foreman or other officer of respondent that he should work in respondent's plant in the event of a strike. (See respondent's offer to prove.)

449. (R. pp. 4113-4115) Respondent excepts to the ruling of the trial examiner striking the testimony of the witness Gibson relating to the action of the strikers in sending a moving freight train into respondent's plant unmanned by any crew, and the effects thereof in the plant.

450. (R. p. 4165) Respondent excepts to the ruling of the trial examiner refusing to permit respondent's witness Greenwald to testify, upon direct examination, as to his reason for attempting to leave respondent's Canton plant during the strike.

451. (R. p. 4167) Respondent excepts to the ruling of the trial examiner refusing to admit Respondent's Exhibit No. 18, being one of a number of leaflets dropped from an aeroplane on to a group of respondent's employees who were working in the Canton plant during the strike.

(The Board, at p. 3 of the Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order, held that this exhibit would be admitted.)

452. (R. p. 4271) Respondent excepts to the ruling of the trial examiner permitting the Board, over respondent's objection, to interrogate the witness Hopkins, upon cross examination, as to whether there were any machine guns in respondent's plant during the strike.

453. (R. p. 4279) Respondent excepts to the manner and form of the admonition of the trial examiner to the witness Hopkins, as follows: "Just a minute. It doesn't make any difference about what you tried to tell them. The fact is—did you or didn't you?"

454. (R. pp. 4308-4309) Respondent excepts to the action of the trial examiner and the manner in which he undertook the examination of the witness Hopkins.

455. (R. p. 4341) Respondent excepts to the ruling of the trial examiner refusing to permit respondent's witness James Davey to testify as to whether he intended to return one Verne Holderman to work for respondent on the occasion of a conference between the witness and said Holderman on or about the 21st of July.

456. (R. p. 4342) Respondent excepts to the ruling of the trial examiner refusing to accept respondent's offer to prove in connection with the question asked of the witness James Davey as to whether he intended to return one Verne Holderman to work on July 21, 1937.

457. (R. p. 4342) Respondent excepts to the ruling of the trial examiner refusing to permit respondent to ask the witness James Davey, the following question: "What, if anything, did you intend to do on the 21st of July?"

458. (R. p. 4348) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to

strike the following answer of the witness James Davey: "I think probably at different times I have talked about representative plans."

459. (R. p. 4348) Respondent excepts to the statement of the trial examiner in respect to the above answer of the witness James Davey, as follows: "Those are things that do not mean anything. Either you did or you didn't do it."

460. (R. p. 4363) Respondent excepts to the ruling of the trial examiner striking the following answer of the witness Davey elicited by the Board upon cross examination: "I do not know. No, sir. I have eight hundred headaches to care for and I don't know."

461. (R. p. 4383) Respondent excepts to the ruling of the trial examiner striking a part of the answer of the witness Stewart, as follows: "When we got back to work, we got to talking and we thought we needed an organization to protect ourselves."

462. (R. p. 4388) Respondent excepts to the ruling of the trial examiner striking an answer of the witness Stewart, as follows: "Well, the opinion of the men was that we should have some—."

463. (R. p. 4428) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Morgan to testify as to whether or not he signed the back-to-work petition of his own free will.

464. (R. p. 4428) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the answer of the witness Morgan that he signed the back-to-work petition of his own free will.

465. (R. pp. 4428-4429) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Morgan to testify, upon direct examination, as to whether

or not he was influenced in any way whatsoever in the signing of the back-to-work petition at Massillon by anything that was said or done by respondent or any of its officers or agents.

466. (R. p. 4429) Respondent excepts to the ruling of the the trial examiner striking the answer of the witness Morgan that he was not influenced in any way in signing the back-to-work petition by anything that was said or done by respondent or any of its officers or agents.

467. (R. p. 4430) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Morgan to testify, upon direct examination, as to whether he had signed an application for membership in the Independent Association of Republic Employees of his own free will.

468. (R. p. 4430) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Morgan that he signed an application for membership in the Independent Association of Republic Employees of his own free will.

469. (R. pp. 4430-4431) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Morgan to testify, upon direct examination, as to whether or not he was influenced in the signing of an application card for membership in the Independent Association of Republic Employees by anything that was said or done by respondent or any of its officers or agents.

470. (R. p. 4431) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Morgan that his signing of the application card for membership in the Independent Association of Republic Employees at Massillon was not influenced to any extent whatsoever by anything that was said or done by respondent or any of its officers or agents.

471. (R. p. 4438) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Ream to testify upon direct examination as to whether or not he signed the back-to-work petition of his own free will.

472. (R. p. 4438) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Ream that he signed the back-to-work petition of his own free will.

473. (R. p. 4439) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Ream to testify as to whether or not he was influenced in any manner by respondent, its officers or agents, in signing the back-to-work petition.

474. (R. p. 4439) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Ream that he was not influenced in signing the back-to-work petition by anything that was said or done by respondent or any of its officers or agents.

475. (R. p. 4441) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Ream to testify, upon direct examination, as to whether he signed the application for membership in the Independent Association of Republic Employees of his own free will.

476. (R. p. 4441) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Ream that he signed the application for membership in the Independent Association of Republic Employees of his own free will.

477. (R. pp. 4441-4442) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Ream that he signed the membership card in the Independent Association of Republic Employees of "my own free will."

478. (R. p. 4442) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Ream to testify upon direct examination, as to whether he was influenced to any extent whatsoever in signing the application for membership in the Independent Association of Republic Employees at Massillon, Ohio, by anything that was said or done by respondent or any of its officers or agents.

479. (R. p. 4442) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Ream that, in signing the application card for membership in the Independent Association of Republic Employees at Massillon, Ohio, he was not influenced by anything whatsoever that was said or done by respondent or any of its officers or agents.

480. (R. p. 4446) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Garber to testify, upon direct examination, as to whether he signed the back-to-work petition at the Massillon plant of his own free will.

481. (R. pp. 4446-4447) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Garber that he signed the back-to-work petition of his own free will.

482. (R. p. 4447) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Garber to testify, upon direct examination, as to whether or not he was influenced in any manner whatsoever in the signing of the back-to-work petition at Massillon, Ohio, by anything that was said or done by respondent or any of its officers or agents.

483. (R. p. 4447) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Garber that he was not influenced in any manner whatso-

ever in the signing of the petition to return to work in Massillon, Ohio, by anything that was said or done by respondent or any of its officers or agents.

484. (R. p. 4448) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Garber to testify as to whether or not he signed the application card for membership in the Independent Association of Republic Employees of his own free will.

485. (R. p. 4449) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Garber to testify, upon direct examination, as to whether he was influenced to any extent whatsoever in signing the application card for membership in the Independent Association of Republic Employees by anything that was said or done by respondent or any of its officers or agents.

486. (R. p. 4449) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Garber that, in signing the application card for membership in the Independent Association of Republic Employees, he was not influenced to any extent whatsoever by anything that was said or done by respondent or any of its officers or agents.

487. (R. pp. 4453-4454) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Donant to testify, upon direct examination, as to whether he signed the back-to-work petition at the Massillon plant of his own free will.

488. (R. pp. 4453-4454) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Donant that he signed the back-to-work petition of his own free will.

489. (R. p. 4454) Respondent excepts to the ruling of the trial examiner refusing to permit the witness

Donant to testify, upon direct examination, as to whether or not he was influenced in any manner whatsoever in signing the back-to-work petition at Massillon, Ohio, by anything that was said or done by respondent or any of its officers or agents.

490. (R. p. 4454) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Donant that he was not influenced in any manner whatsoever in signing the petition to return to work in Massillon, Ohio, by anything that was said or done by respondent or any of its officers or agents.

491. (R. p. 4455) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Donant to testify as to whether or not he signed the application card for membership in the Independent Association of Republic Employees of his own free will.

492. (R. p. 4455) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Donant to testify, upon direct examination, as to whether he was influenced to any extent whatsoever in signing the application card for membership in the Independent Association of Republic Employees by anything that was said or done by respondent or any of its officers or agents.

493. (R. p. 4456) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Donant that, in signing the application card for membership in the Independent Association of Republic Employees, he was not influenced to any extent whatsoever by anything that was said or done by respondent or any of its officers or agents.

494. (R. pp. 4461-4462) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Stevens to testify, upon direct examination, as to

whether he signed the back-to-work petition at the Massillon plant of his own free will.

495. (R. pp. 4461-4462) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Stevens that he signed the back-to-work petition of his own free will.

496. (R. pp. 4465-4466) Respondent excepts to the ruling of the trial examiner refusing to permit respondent to call and question further and additional witnesses, to the number of approximately two thousand, respondent's employees at respondent's Massillon plants, each and all of whom respondent believes and stated to the trial examiner, and now states herein, would, if permitted, have testified that they did not wish to go on a strike but did wish to continue at work at the Massillon plants of the respondent, and that they signed the back-to-work petition at Massillon and application cards for membership in the Independent Association of Republic Employees (Massillon plants) of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents.

> (See in this regard statement of respondent's counsel and offer to prove in respondent's behalf, R. pp. 4505 and 4507.)

497. (R. pp. 4469-4470) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Grau to testify, upon direct examination, as to whether he had signed the application card for membership in the Steel Workers of America in respondent's Canton plant of his own free will.

498. (R. pp. 4469-4470) Respondent excepts to the ruling of the trial examiner striking the answer of the

witness Grau that he signed the application card for membership in the Steel Workers of America in respondent's Canton plant of his own free will.

499. (R. pp. 4471-4472) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Grau to testify, upon direct examination, as to whether, in signing the application card for membership in the Steel Workers of America, he was influenced to any extent whatsoever by anything that was said or done by respondent or any of its officers or agents.

500. (R. p. 4472) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Grau that he was not influenced to any extent whatsoever in signing the application for membership in the Steel Workers of America by anything that was said or done by respondent or any of its officers or agents.

501. (R. p. 4476) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Smith to testify, upon direct examination, as to whether he signed the application for membership in the Steel Workers of America in respondent's Canton plant of his own free will.

502. (R. p. 4476) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Smith that he signed the application for membership in the Steel Workers of America in respondent's Canton plant of his own free will.

503. (R. p. 4477) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Smith to testify, upon direct examination, as to whether, in signing the application card for membership in the Steel Workers of America, he was influenced to any extent whatsoever by anything that was said or done by respondent or any of its officers or agents.

504. (R. p. 4477) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Smith that he was not influenced to any extent whatsoever in signing the application for membership in the Steel Workers of America by anything that was said or done by respondent or any of its officers or agents.

505. (R. pp. 4482-4483) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Mortenson to testify, upon direct examination, as to whether he had signed the application card for membership in the Steel Workers of America in respondent's Canton plant of his own free will.

506. (R. pp. 4482-4483) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Mortenson that he signed the application for membership in the Steel Workers of America in respondent's Canton plant of his own free will.

507. (R. p. 4483) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Mortenson to testify, upon direct examination, as to whether, in signing the application card for membership in the Steel Workers of America, he was influenced to any extent whatsoever by anything that was said or done by respondent or anv of its officers or agents.

508. (R. p. 4483) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Mortenson that he was not influenced to any extent whatsoever in signing the application for membership in the Steel Workers of America by anything that was said or done by respondent or any of its officers or agents.

509. (R. p. 4494) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Markley to testify, upon direct examination, as to whether he had signed the application card for membership in the Steel

Workers of America in respondent's Canton plant of his own free will.

510. (R. p. 4494) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Markley that he signed the application for membership in the Steel Workers of America in respondent's Canton plant of his own free will.

511. (R. p. 4495) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Markley to testify, upon direct examination, as to whether, in signing the application card for membership in the Steel Workers of America, he was influenced to any extent whatsoever by anything that was said or done by respondent or any of its officers or agents.

512. (R. p. 4495) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Markley that he was not influenced to any extent whatsoever in signing the application for membership in the Steel Workers of America by anything that was said or done by respondent or any of its officers or agents.

513. (R. pp. 4502-4503) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Gerke to testify, upon direct examination, as to whether he signed the application card for membership in the Steel Workers of America in respondent's Canton plant of his own free will.

514. (R. pp. 4502-4503) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Gerke that he signed the application for membership in the Steel Workers of America in respondent's Canton plant of his own free will.

515. (R. p. 4503) Respondent excepts to the ruling of the trial examiner refusing to permit the witness Gerke

to testify, upon direct examination, as to whether, in signing the application card for membership in the Steel Workers of America, he was influenced to any extent whatsoever by anything that was said or done by respondent or any of its officers or agents.

516. (R. p. 4503) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Gerke that he was not influenced to any extent whatsoever in signing the application for membership in the Steel Workers of America by anything that was said or done by respondent or any of its officers or agents.

517. (R. p. 4505) Respondent excepts to the ruling of the trial examiner refusing to permit respondent to call and question further and additional witnesses, to the number of approximately twenty-five hundred, respondent's employees at respondent's Canton plant, each and all of whom respondent believes and stated to the trial examiner, and now states herein, would, if permitted, have testified that they did not wish to go on a strike but did wish to continue at work at the Canton plant of the respondent, and that they signed application cards for membership in the Steel Workers of America (Canton plant) of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents.

> (See in this regard statement of respondent's counsel and offer to prove in respondent's behalf, R. pp. 4508-4509.)

RESPONDENT'S EVIDENCE AT YOUNGSTOWN HEARING BEFORE TRIAL EXAMINER.

518. (R. p. 4516) Respondent excepts to the ruling of the trial examiner striking out the word "persuasion,"

and instructing the witness Richmond, acting Captain of Police at Youngstown, Ohio, as to the manner in which to testify.

519. (R. p. 4517) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Richmond as to his being stopped by pickets.

520. (R. p. 4519) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Richmond on the ground that he used the word "blockade."

521. (R. p. 4526) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Richmond with regard to the word "confusion."

522. (R. pp. 4526-4527) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Richmond as to who was in charge of the C. I. O. when the testimony showed that the witness had personal knowledge of the facts in that regard.

523. (R. p. 4528) Respondent excepts to the conduct and action of the trial examiner, as showing his apparent bias, in striking an answer of the witness Richmond as to the conduct of pickets, without any objection thereto having been made by the Board.

524. (R. p. 4529) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the answer of the witness Richmond that two policemen were injured.

525. (R. pp. 4534-4535) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike the answer of the witness Richmond as to the space under the Market Street Bridge being under the control of the county.

526. (R. p. 4573) Respondent excepts to the ruling of the trial examiner sustaining the Board's objections and motions to questions asked of the witness Richmond by respondent pertaining to violence at Stop 5, Youngstown, Ohio, which objections and motions are substantially as follows: (See, also, statement of trial examiner with reference to his rulings, on page 4697).

> R. p. 4517: Objection to the line of inquiry as to "* * * what the pickets did at that particular time * * *."
>
> R. p. 4518: Objection as to conduct of the pickets blockading the road.
>
> R. p. 4524: Objection to the line of inquiry "* * * with respect to June 9th * * *."
>
> R. p. 4537: Motion to strike from the record "* * * all of the evidence with respect to the June 9th incident."
>
> R. p. 4538: Objection to evidence respecting acts of violence of individual pickets or members of the C. I. O.
>
> R. p. 4548: Objection to testimony concerning violence by unidentified persons similar to testimony already given with respect to June 9th.
>
> R. p. 4549: Objection to testimony concerning incidents on June 9th with a motion to strike the same and objection to similar testimony that might be offered with respect to incidents on June 19th concerning which the Board had offered no evidence in chief.
>
> R. p. 4552: Objection to introduction of any evidence of alleged acts of violence on June 9th and June 19th, 1937 and to this general line of inquiry.

527. (R. p. 4573) Respondent excepts to the ruling

of the trial examiner sustaining the Board's objection to the admission of evidence offered by the respondent and tending to prove and establish continued, concerted and wholly unprovoked and unlawful acts and conduct upon the part of strikers, pickets and persons affiliated with the C. I. O. and the S. W. O. C., in whose behalf the complaint herein is filed, consisting of unlawful picketing, unlawful assemblage, riot, violence and lawless conduct in and about the respondent's Youngstown plants and its Warren and Niles plants, all as is set forth and described in respondent's offer to prove with relation to the Youngstown and Warren and Niles districts, said offer to prove being a document consisting of sixty pages embodying the proffered testimony of approximately seventy-five witnesses, and presented to the trial examiner and marked Respondent's Exhibit 50, at pages 5498, 5499, 5500 of the record (Cleveland hearing).

528. (R. pp. 5014-5015-5016, 5498) Respondent excepts to the ruling of the trial examiner in not permitting respondent to call to the witness stand, each separately and individually, and to examine and question, each separately and individually, approximately seventy-five witnesses from the Youngstown and Warren and Niles districts, respectively, whose testimony, if received would tend to prove unlawful conduct upon the part of pickets, strikers and persons affiliated with the C. I. O. and S. W. O. C., as described in respondent's exception No. 527. And respondent excepts to the ruling of the trial examiner in refusing to permit respondent to present separate and individual offers to prove as to each of said witnesses in the event his evidence was excluded by the trial examiner.

529. (R. p. 4583) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to a question asked of the witness Cummings, upon direct examination, as to his purpose in circulating a petition

through the machine shop. (See different ruling of the Board, Record page 37.)

530. (R. p. 4587) Respondent excepts to the conduct and action of the trial examiner in connection with statements made respecting leading questions, in lieu of ruling on an objection made.

531. (R. p. 4589) Respondent excepts to the ruling of the trial examiner striking an answer of the witness Cummings that the mechanical department had a number of meetings.

532. (R. p. 4596) Respondent excepts to the remarks and conduct of the trial examiner striking the word "active" and stating "you can only tell what they did," as compared with the latitude given by the trial examiner to witnesses for the Board.

533. (R. p. 4598) Respondent, for the same reason as stated in the preceding exception, excepts to the action of the trial examiner in striking, upon his own motion, the word "officially" from the question asked by respondent of the witness Cummings.

534. (R. p. 4599) Respondent excepts to the ruling of the trial examiner sustaining an objection of the Board, by which the witness Cummings was not permitted to state that a constitution and by-laws were adopted at a meeting, but was only permitted to state that a vote was taken.

535. (R. p. 4637) Respondent excepts to the ruling of the trial examiner striking an answer of the witness Smith, upon direct examination, as to whether or not there was any discussion at a meeting in connection with the strike question. Respondent further excepts to the ruling upon this question and upon numerous other questions whereby the trial examiner imposed a rigid application of

the rules of evidence as to witnesses for respondent which he did not impose as to witnesses for the Board.

536. (R. pp. 4638-4639-4640) Respondent excepts to the ruling of the trial examiner striking answers of the witness Smith, upon direct examination, as to what he heard said by those present at a particular meeting, and to the conduct and statements of the trial examiner imposing a stricter rule of evidence upon respondent's witnesses than was imposed upon witnesses for the Board.

537. (R. pp. 4648-4649) Respondent excepts to the ruling of the trial examiner sustaining an objection of the Board to a question asked by respondent of the witness Smith, upon direct examination, as to whether or not the Independent Federation referred to was a separate organization.

538. (R. p. 4661) Respondent excepts to the ruling of the trial examiner striking an answer of the witness Smith, upon cross examination, that the holding of a meeting was common knowledge around the plant.

539. (R. pp. 4681-4682) Respondent excepts to the ruling of the trial examiner permitting the introduction of Board's Exhibit No. 113, purporting to be a telegram sent to Frances Perkins by the witness Smith on June 23, 1937.

540. (R. pp. 4688-4690-4756) Respondent excepts to the ruling of the trial examiner refusing to admit Respondent's Exhibits Nos. 25 and 26, being panoramic photographs of the vicinity of the Stop 5 entrance to respondent's Youngstown plant, taken by the witness McGranahan.

541. (R. pp. 4697-4698-4699-4757) Respondent excepts to the ruling of the trial examiner excluding Respondent's Exhibit No. 27, purporting to be a map showing the

vicinity of Stop 5, Youngstown, Ohio, prepared by the witness Haenny.

542. (R. pp. 4709-4710) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to a question and striking the testimony of the witness McCreary in answer thereto, upon direct examination, as to why he did not go to his work and home again, and back to his work each day as he formerly had done before the strike, the answer of the witness being that he was "afraid to get (his) my head knocked off." Respondent further excepts to the ruling of the trial examiner in not permitting respondent to make an offer to prove after the motion was sustained and the answer stricken out.

543. (R. pp. 4710-4711) Respondent excepts to the ruling of the trial examiner striking an answer "yes" made by the witness McCreary to the question as to whether he had observed pickets in and about respondent's plant at Youngstown; and respondent further excepts to the action of the trial examiner and the remarks made by him, on the ground of bias and prejudice, when he chastised the witness for answering a question to which an objection was interposed, when, in fact, the question was answered before the Board interposed an objection thereto, and in view of the fact that he did not adopt the same procedure when numerous other witnesses answered questions before an objection was made.

544. (R. pp. 4714-4715-4719-4720) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to the question "Describe what you saw." Respondent further excepts to the ruling of the trial examiner prohibiting respondent from making an offer to prove concerning the above question asked upon direct examination. Respondent also excepts to the scope of the trial examiner's ruling with relation to acts of violence and con-

duct of pickets at Youngstown, as stated by the trial examiner on page 4720 of the Record.

545. (R. pp. 4721-4722) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to a question asked of the witness McCreary upon direct examination, as to why he did not attempt to go out of the gate when he left the plant. Respondent further excepts to the ruling of the trial examiner prohibiting respondent from making an offer to prove respecting said question.

546. (R. pp. 4725-4726) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to questions asked of the witness McCreary, upon direct examination, respecting the efforts of said witness to get back into the plant and go to work during the strike and respecting acts of violence committed upon him.

547. (R. pp. 4732-4733) Respondent excepts to the ruling of the trial examiner, and to the conduct and actions of the trial examiner as tending to show bias upon his part, in overruling respondent's objection to a series of questions asked of the witness McCreary, upon cross examination, when it clearly appears that the witness did not understand the questions; and respondent excepts to the statements made by the trial examiner that the witness was not confused.

548. (R. pp. 4735-4736) Respondent excepts to the ruling of the trial examiner sustaining the Board's motion to strike an answer of the witness McCreary, upon cross examination, to the effect that there was a ruling against going into the plant and that the ruling, as he understood it, had been made by the Governor.

549. (R. p. 4746) Respondent excepts to the ruling of the trial examiner sustaining an objection and a motion

to strike by the Board with reference to the following answer of the witness Parilla when asked, upon direct examination, what he observed: "A barricade there with many people congregated there."

550. (R. p. 4747) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to the following question asked of the witness Parilla, upon direct examination: "* * * I wish you would describe what it was that you referred to as a barricade."

551. (R. p. 4751) Respondent excepts to the ruling of the trial examiner sustaining Board's objection and striking an answer of the witness Parilla, upon direct examination, that he saw persons who were wearing the C. I. O. insignia carrying clubs.

552. (R. pp. 4751-4752) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to the following question asked of the witness Parilla, upon direct examination: "What did they have in their hands?"

553. (R. pp. 4768-4769) Respondent excepts to the conduct of the trial examiner, as showing bias and prejudice, relating to the manner in which he sought to prevent the witness Carney from testifying upon direct examination as to the offense to which Jerry Simcox pleaded guilty in the Municipal Court, Youngstown, Ohio.

554. (R. pp. 4810-4811) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to a question asked of the witness Mondoro, upon direct examination, as to whether there was any interference with him in the performance of his duties as an employees' representative.

555. (R. p. 4814) Respondent excepts to the ruling of the trial examiner sustaining an objection to a ques-

tion asked the witness Mondoro, upon direct examination, as to whether or not he was influenced by any one in the performance of his duty as an employees' representative.

556. (R. pp 4852-4853, 4853-A, 4853-B, 4853-C, 4853-D, 4853-E, 4853-F) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to a question asked of the witness Quinlan, upon direct examination, as to what the record showed as to whether or not one Walter Chismus had been indicted for any offense.

557. (R. p. 4862) Respondent excepts to the ruling of the trial examiner striking from the answer of the witness Gillen the statement that persons in the mill seemed perfectly satisfied.

558. (R. pp. 4867-4868) Respondent excepts to the ruling of the trial examiner striking from the answer of the witness Gillen a statement that "a fellow got his car upset," which occurrence, as clearly appears from the record, aided the witness in fixing the time or the occasion when he saw the greatest number of pickets at the corner of Pine and Walnut Streets, Youngstown, Ohio.

559. (R. pp. 4869, 4870, 4871, 4872, 4873, 4873-A) Respondent excepts to the action of the trial examiner in striking, upon his own motion, a statement from the answer of the witness Gillen, who, when asked by the Board as to the date when he observed pickets upon the streets of Warren, Ohio, stated that he thought it was the 2d of May, and then attempted to fix the date more definitely by stating that it was the day "* * * the fellow got arrested." Respondent further excepts to the wholly unprovoked conduct of the trial examiner in severely chastising the witness Gillen and censuring counsel for respondent without any justification or excuse therefor.

560. (R. pp. 4883-4888, inc.) Respondent excepts to

the ruling of the trial examiner striking the answer of the witness Gillen that pickets had baseball bats in their hands. Respondent further excepts to the statements made by the trial examiner as to the exclusion of all testimony relating to violence.

561. (R. pp. 4914-4915-4916-4917-4920) Respondent excepts to the ruling of the trial examiner sustaining the Board's objections and motions to various questions relating to violence on the part of pickets, which questions were asked of the witness Gillen on re-direct examination and were clearly proper and justified by reason of certain questions having been propounded to this witness by the Board upon cross examination.

562. (R. p. 4924) Respondent excepts to the ruling of the trial examiner striking from the answer of the witness Thomas upon direct examination, the words "* * * they started to attack him," upon the alleged ground, as stated by the trial examiner, that such words do not mean anything.

563. (R. p. 4925) Respondent excepts to the ruling of the trial examiner striking from the answer of the witness Thomas the statement that Mr. Weins seemed to be in charge of the pickets and that he acted in that capacity.

564. (R. 4927) Respondent excepts to the ruling of the trial examiner refusing to admit Respondent's Exhibit No. 36, purporting to be a pass given to the witness Thomas by a C. I. O. organizer, Gus Hall, permitting the said witness to drive over the streets of the City of Warren, Ohio. (See, also, Record page 5323.)

565. (R. pp. 4927-4928) Respondent excepts to the action of the trial examiner in striking, upon his own motion, from an answer previously given by the witness Thomas the statement that the pickets struck the witness's car with their clubs.

566. (R. p. 4932) Respondent excepts to the ruling of the trial examiner striking from the answer of the witness Thomas that portion thereof which referred to statements made to the witness by men in the mill that they were well satisfied with the conditions there.

567. (R. p. 4936) Respondent excepts to the ruling of the trial examiner striking from an answer of the witness Thomas the words "threshed out" which were included in an answer which referred to certain discussions had in the mill as to what should be done with men who desired to leave the mill and go to their homes.

568. (R. p. 4940) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to a question asked of the witness Thomas, upon direct examination, as to what the pickets carried in their hands, and in striking his answer thereto, which was: "clubs."

569. (R. p. 4970) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Crosby, upon direct examination, that he signed the back-to-work petition at Youngstown, of his own free will.

570. (R. pp. 4970-4971) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Crosby as to how he came to sign the back-to-work petition, in which he stated that he had been through two steel strikes before and that he wanted to work.

571. (R. pp. 4971-4972) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Crosby that he was not influenced by the respondent or any of its officers or agents in signing the back-to-work petition.

572. (R. p. 4973) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Crosby that he signed an application for membership in

the Independent Federation of Employees at Youngstown of his own free will.

573. (R. pp. 4973-4974) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Crosby that he signed an application for membership because he desired representation inasmuch as the Wagner Act had practically done away with the Employees Representative Plan.

574. (R. pp. 4974-4975) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Crosby that he was not influenced by the respondent or any of its officers or agents in signing the application for membership.

575. (R. p. 4980) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Thomas, upon direct examination, that he signed the back-to-work petition of his own free will.

576. (R. p. 4980) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Thomas, upon direct examination, that he wasn't influenced in any manner in signing said petition by the respondent or any of its officers or agents.

577. (R. p. 4981) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Thomas, upon direct examination, that he did not wish to go out on strike.

578. (R. pp. 4981-4982) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Thomas that he signed the application for membership in the Independent Federation of Employees of his own free will.

579. (R. p. 4983) Respondent excepts to the ruling

of the trial examiner striking the answer of the witness Thomas that, in signing said application for membership, he was not influenced to any extent by the respondent or any of its officers or agents.

580. (R. p. 4992) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Pritchard that he signed the petition to return to work of his own free will.

581. (R. p. 4992) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Pritchard that he was not influenced in any manner in signing the petition to return to work by the respondent or any of its officers or agents.

582. (R. pp. 4992-4993) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Pritchard that he did not wish to go out on strike.

583. (R. pp. 4993-4994) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Pritchard that he signed an application for membership in the Independent Federation of Employees of his own free will.

584. (R. p. 4994) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Pritchard that, in signing the application for membership in said Independent Federation, he was not influenced to any extent by the respondent or any of its officers or agents.

585. (R. pp. 4996 to 5001, inc.) Respondent excepts to the ruling of the trial examiner sustaining Board's objection whereby respondent was prevented from continuing the direct examination of the witness DeBlois.

586. (R. pp. 4996-5001) Respondent excepts to the

ruling of the trial examiner refusing to permit respondent to call and question further and additional witnesses, to the number of approximately two thousand nine hundred, respondent's employees at respondent's Youngstown plants each and all of whom respondent believes and stated to the trial examiner, and now states herein, would, if permitted, have testified that they did not wish to go on a strike but did wish to continue to work at the Youngstown plants of respondent, and that they signed the back-to-work petition at Youngstown of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents, and witnesses, to the number of approximately one thousand nine hundred, respondent's employees at respondent's Youngstown plants, each and all of whom respondent believes and stated to the trial examiner, and now states herein, would, if permitted, have testified that they signed application cards for membership in the Independent Federation of Republic Employees in the Youngstown plants of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents.

(See in this regard statement of respondent's counsel and offer to prove in respondent's behalf, R. pp. 4996-5001, inc. and R. pp. 5575, *et seq.*)

587. (R. p. 5002) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Krey that he did not wish to go out on strike (Warren-Niles district).

588. (R. p. 5003) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Krey that he signed an application for membership in the Em-

ployees Independent Association (Warren-Niles district) of his own free will.

589. (R. p. 5004) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Krey that he was not influenced to any extent by respondent or any of its officers or agents in signing said application.

590. (R. pp. 5005-5006) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Bonar that he did not wish to go out on strike.

591. (R. p. 5006) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Bonar that he signed an application for membership in the Employees Independent Association of his own free will.

592. (R. pp. 5006-5007) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Bonar, that, in signing said application, he was not influenced to any extent by anything that was said or done by respondent or any of its officers or agents.

593. (R. p. 5008) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Hanna that he did not wish to go out on strike.

594. (R. pp. 5008 to 5013, inc.) Respondent excepts to the rulings of the trial examiner sustaining objections and motions of the Board whereby respondent was prevented from continuing the direct examination of the witness Hanna.

595. (R. pp. 5008 to 5013, inc.) Respondent excepts to the ruling of the trial examiner refusing to permit respondent to call and question further and additional witnesses to the number of approximately two thousand, respondent's employees at respondent's Warren and Niles

plants, each and all of whom respondent believes and stated to the trial examiner, and now states herein, would, if permitted, have testified that they did not wish to go on a strike but did wish to continue to work at the Warren and Niles plants of respondent, and witnesses, to the number of approximately one thousand eight hundred, respondent's employees at respondent's Warren and Niles plants, each and all of whom respondent believes and stated to the trial examiner, and now states herein, would, if permitted, have testified that they signed application cards for membership in the Employees Independent Association in the Warren and Niles plants of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents.

(See in this regard statement of respondent's counsel and offer to prove in respondent's behalf R. pp. 5009-5013, and also R. pp. 5576-5577.)

RESPONDENT'S EVIDENCE AT CLEVELAND HEARING BEFORE TRIAL EXAMINER, INCLUDING EVIDENCE RELATING TO CANTON, MASSILLON, YOUNGSTOWN, WARREN AND NILES DISTRICTS.

596. (R. pp. 5037 to 5050, inc.) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to a question asked of the witness Manley, upon direct examination, as to whether any different treatment was accorded the former employees named in the complaint than that accorded other employees of respondent. Respondent further excepts to the refusal of the trial examiner to permit respondent to make an offer to prove in connection with this ruling. Respondent also excepts to the action, conduct and statements of the trial examiner in this regard, directed to counsel for respondent.

597. (R. p. 5075) Respondent excepts to the conduct of counsel for the Board in attempting to prevent respondent's witness Manley from answering a question, upon cross examination, and in asking the question the second time before the witness had an opportunity to answer it when first asked. Respondent further excepts to the action and remarks of the trial examiner reproving counsel for respondent for attempting to protect the witness against the above mentioned conduct of Board's counsel.

598. (R. p. 5096) Respondent excepts to the ruling of the trial examiner striking from an answer of the witness Manley the words "law breakers."

599. (R. p. 5104) Respondent excepts to the ruling of the trial examiner striking an answer of the witness Manley that the biggest percentage of former employees who had affidavits filed against them would admit the truth of the charges contained therein.

600. (R. p. 5129) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Graft that one Gallagher had the appearance of a man who had been sound asleep.

601. (R. p. 5130) Respondent excepts to the ruling of the trial examiner striking the answer of the witness Graft that Gallagher did not seem to understand what the witness Graft was talking to him about.

602. (R. pp. 5161-5162) Respondent excepts to the ruling of the trial examiner striking from the answer of the witness Graft certain statements which were made to him by eight employees seeking reinstatement.

603. (R. p. 5191) Respondent excepts to the action of the trial examiner in striking, upon his own motion, from an answer of the witness Warnek, upon direct examination, the statement that certain practices of an employee com-

plained of were endangering the lives of employees working beneath him.

604. (R. p. 5207) Respondent excepts to the conduct of the trial examiner in striking, upon his own motion, an answer of the witness Putnam containing, in a statement which was otherwise clearly competent, the phrase that the employee complained of "would be organizing for the C. I. O."

605. (R. pp. 5219-5220) Respondent excepts to the ruling of the trial examiner striking an answer of the witness Putnam that he knew the company paid employees' representatives for attending meetings up until the time it became unlawful to do so.

606. (R. p. 5313) Respondent excepts to the ruling of the trial examiner overruling respondent's objection to a question asked of the witness Adhemar, upon cross examination, as to when the witness had ever placed, at approximately the same time, 500 to 1,000 men on the inactive list, when the witness had not testified that such had been done.

607. (R. p. 5556) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to a question asked of the witness Kieffer, upon direct examination, as to whether or not, after the strike was called, he wished to continue at work.

608. (R. pp. 5557 to 5559, inc.) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection and in refusing to permit respondent to continue his direct examination of the witness Powell.

609. (R. pp. 5559-5560) Respondent excepts to the ruling of the trial examiner refusing to permit respondent to call and question further and additional witnesses, to the number of approximately two thousand, respondent's employees at respondent's Cleveland plants, each and all

of whom respondent believes and stated to the trial examiner, and now states herein, would, if permitted, have testified that they did not wish to go on a strike but did wish to continue to work at the Cleveland plants of respondent.

> (See in this regard statement of respondent's counsel and offer to prove in respondent's behalf R. pp. 5559-5560 and R. p. 5578.)

610. (R. pp. 5569-5570) Respondent excepts to the ruling of the trial examiner sustaining the Board's objection to the admission of evidence offered by respondent tending to prove and establish continued, concerted and wholly unprovoked and unlawful acts and conduct upon the part of strikers, pickets and persons affiliated with the C. I. O. and the S. W. O. C., in whose behalf the complaint herein is filed, consisting of unlawful picketing, unlawful assemblage, riot, violence and lawless conduct in and about respondent's Cleveland plants, all as is set forth and described in respondent's offer to prove with relation to the Cleveland district, said offer to prove being a document consisting of sixty-six pages embodying the proffered testimony of approximately two hundred witnesses and presented to the trial examiner and marked Respondent's Exhibit No. 64.

611. (R. p. 5570) Respondent excepts to the ruling of the trial examiner in not permitting respondent to call to the witness stand, each separately and individually, and to examine and question, each separately and individually, approximately two hundred witnesses from the Cleveland district, whose testimony, if received, would tend to prove unlawful conduct upon the part of pickets, strikers and persons affiliated with the C. I. O. and the S. W. O. C., as described in respondent's exception No. 610. And respondent excepts to the ruling of the trial examiner in refusing to permit respondent to present separate and indi-

vidual offers to prove as to each of said witnesses in the event his evidence was excluded by the trial examiner.

612. (R. pp. 5572-5573-5574) Respondent excepts to the action of the trial examiner refusing to admit Respondent's Exhibits Nos. 64 (described in exception 610) and 65 and 66, purporting to be a Proclamation of the Governor of Ohio, and a letter from the Governor to the Adjutant General, respectively.

> Note: Certified copies of the above exhibits have been substituted in lieu of those originally offered.

613. (R. p. 5580) Respondent excepts to the statement and ruling of the trial examiner to the effect that the subpoenas for the witnesses Golden and Lind do not meet the requirement of the rules and regulations of the Board, Section 21. (See also R. pp. 5586-5587.)

614. (R. pp. 5585-5586) Respondent excepts to the ruling of the trial examiner refusing to accept respondent's written offer to prove in connection with the testimony of the witness Quinlan that the Grand Jury of Mahoning County, Ohio, had returned an indictment against Walter Chismus, one of the Board's witnesses, who had testified that respondent had discriminated against him with respect to his employment.

615. (R. pp. 5589-5590-5591) Respondent excepts to the ruling of the trial examiner admitting in evidence, after respondent had closed its case, Board's Exhibits Nos. 116 to 126, inclusive, purporting to contain data prepared by or under the direction of Pierce L. Boyer, Comptroller of respondent, pursuant to the request of counsel for the Board.

616. Respondent excepts to the action of the Board in denying a motion by the respondent for leave to intro-

duce additional evidence after the conclusion of the hearing of evidence before the Board and the Trial Examiner, said additional evidence relating for the most part to matters and things which transpired after the hearing of evidence had been concluded and relevant and competent and essential in respondent's judgment to a proper and adequate presentation of its defense herein.

REPUBLIC STEEL CORPORATION, *Respondent*,

By THOMAS F. PATTON,
DAY, YOUNG, VEACH & LEFEVER,
LYNCH, DAY, PONTIUS & LYNCH,
HARRINGTON, HUXLEY & SMITH,
Attorneys for Respondent.

August 4, 1938.

XX.

SUPPLEMENTARY ORDER ALLOTTING TIME FOR ORAL ARGUMENT

(Issued July 14, 1938)

The Board having issued Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order in the above-entitled case, and having ordered that the parties herein shall have the right on or before August 6, 1938 to file with the Board exceptions and briefs in support of such exceptions, and having further ordered that a hearing be held before the National Labor Relations Board on August 11, 1938 at 10 a. m. in Room 326, Shoreham Building, 15th and N Streets, N. W., Washington, D. C., for the purpose of oral argument upon any exceptions filed and upon the issues raised by the pleadings and the evidence in said case, and that the parties herein shall have the right to appear and be heard if they so desire.

It is hereby ordered that the parties herein shall each be allotted 1 hour for oral argument at the said hearing.

Dated, Washington, D. C., this 14th day of July, 1938.

By Direction of the Board:

Nathan Witt,
Secretary.

(Se

Affidavit As To Service

District of Columbia, ss:

I, Owen C. Fetters, being first duly sworn, on oath saith that I am one of the employees of the National Labor Relations Board, in the office of said Board in Washington, D. C.; that on the 14th day of July, 1938, I mailed postpaid, bearing Government frank, by registered mail, a copy of the Supplementary Order Allotting Time For Oral Argument to the following named persons, addressed to them at the following addresses:

Mr. Lee Pressman
1106 Connecticut Avenue
Washington, D. C.
69483

Mr. Luther Day
Day, Young & Veach
1420 Union Trust Bldg.
Cleveland, Ohio
69484

Mr. H. C. Pontius
Lynch, Day, Pontius & Lynch
Canton, Ohio
69485

Harrington, Huxley and Smith
1200 Mahoning Bank Bldg.
Youngstown, Ohio
69486

J. G. Ketterer
First National Bank Bldg.
Canton, Ohio
69487

Thomas Patton
Republic Building

Cleveland, Ohio
69488

Steel Workers Organizing Committee
3600 Grant Bldg.
Pittsburgh, Pa.
69489

Owen C. Fetters

Subscribed and sworn to before me this 14th day of July, 1938.

(Seal)

(S) Harold G. Wilson

Notary Public, District of Columbia

My commission expires May 15, 1941.

(Return Receipt Cards of those named above attached)

XXI.

PETITION FOR LEAVE TO INTERVENE

(Dated July 20, 1938)

To the Honorable, the Members of the National Labor Relations Board:

The Central Council of Steel Plants, Northern District of Republic Steel Corporation, (hereinafter referred to as the Council), respectfully petitions this Honorable Board for leave to intervene in the above entitled proceedings.

In support of this petition, the Council respectfully shows:

1. That the Council is an association of independent unions or associations of employed workers and its membership consists of labor unions whose members are in turn at the prresent time confined to employees of the Republic Steel Corporation.

Among the unions or associations which are members of the Council are the following:

Steel Workers Union of America, Canton Ohio

Steel Workers Union of America, Massillon, Ohio

Independent Federation of Republic Employees, Youngstown, Ohio

Employees Independent Association for Employees of Republic Steel, Warren District, Warren, Ohio

Cleveland Steel Workers Union of America, Cleveland, Ohio.

2. The membership of the constituent unions or as-

sociations which form the Council totals approximately 50,000 of the employees of the Republic Steel Corporation. The said members constitute more than a majority of all of the eligible employees in the respective plants represented by the various member associations.

3. The Council was formed on or about the second day of January, 1938, and by its by-laws and through resolution of the various constituent bodies, represents such constituent bodies and is their successor in interest in all matters pertaining to the instant proceedings.

4. Upon information and belief, a proposed finding of facts, proposed conclusion of law and proposed order entered by the National Labor Relations Board as of July 8, 1938, after charges filed on or about the 18th day of June, 1937, and hearings held from on or about July 21, 1937 to on or about said July 8, 1938. Of the pendency of the proceedings before the said Board neither the constituent member organizations of the Council nor the individual member organizations of the Council or any individual members of such associations received any notice, nor were they accorded an opportunity to be heard upon the matters hereinafter set forth, nor were they advised or notified that the question of the organization of the constituent member organizations was to be considered in said hearing by said Board.

5. The Council, nor its constituent member organizations, nor the individual member organizations of the Council or any individual members of such associations, received any notice nor were they accorded an opportunity to be heard, nor were they advised or notified that the question of the reinstatement of striking employees, to positions filled by the employment of men, after July 15, 1937, was to be considered in said hearing by said Board, which said reinstatement if made would violate the con-

tractual rights of employees given employment after July 15, 1937.

6. The Council and its constituent members for whom it acts, would be aggrieved by the proposed finding of facts, proposed conclusions of law and proposed order issued by the National Labor Relations Board July 8, 1938, if such proposals were made final in these proceedings in that the said order directs, among other things, that the Republic Steel Corporation and its officers and agents, shall:

> "2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:
>
> (a) Withdraw all recognition from the Plan of Employee Representation, and its successors—the Employees' Representative Association and the Independent Association of Republic Employees at Massillon; the Plan of Employee Representation, and its successors—the Employees' Representative Association, and the Steel Workers Union of America, and the Plan of Representation of Employees at Canton; the Plan of Employee Representation, and its successors—the Employee Representation Plan, and the Independent Federation of Republic Employees at Youngstown; the Plan of Employee Representation, and its successor—the Employees' Independent Association at Warren; the Plan of Employee Representation, and its successor—the Employees' Representative Association at Cleveland; the Central Council of Employee Representatives; and each of them, as the representatives of any of its employees at its plants in the Massillon, Canton, Youngstown, Warren, Niles and Cleveland districts, respectively, for the wages, rates of pay, hours of employment or conditions of work; and completely disestablish the foregoing labor organizations as such representatives;

(f) Upon application, offer to those employees at its plants in the Canton, Massillon, Youngstown, Warren, Niles and Cleveland districts (including those referred to as Group C and D in Paragraph 2 (c) above), who went on strike May 25, 1937, and thereafter, (except Charles Byers, Sidney Watkins, A. D. Scott, John Borawiec, George A. Bundas, Andrew J. Marsh and Mike Spelich), immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights and privileges, in the manner provided in the section entitled "The Remedy" above; and place those employees for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in said manner, offer them employment as it becomes available;

(g) Make whole all the employees referred to in Paragraph (2) above for any losses they may suffer by reason of any refusal of reinstatement or placement upon the preferential list required by Paragraph (f) above by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during the period from five (5) days after the date of application to the date of offer of reinstatement or placement upon the perferential list, less the amount, if any, which each, respectively, earned during said period;

(h) Post immediately in conspicuous places in its plants in the Canton, Massillon, Youngstown, Warren, Niles and Cleveland districts, and maintain for a period of at least sixty (60) consecutive days, notices to its employees stating that the respondent will cease and desist in the manner aforesaid and that recognition is withdrawn from the labor organizations named in Paragraph 2 (a) above as representatives of any of the employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, and that the foregoing labor organizations are completely disestablished as such representatives."

7. In Paragraphs 2 (a) and 2 (h) of the proposed order above quoted, the Republic Steel Corporation is directed to withdraw all recognition from the Council's constituent members, more particularly described in Paragraph 1 hereof, and to post notices in conspicuous places in its plants in Canton, Massillon, Youngstown, Warren, Niles and Cleveland districts, and maintain for a period of at least 60 consecutive days notices to its employees, stating that the Republic Steel Corporation will cease and desist as ordered, and refrain from recognition of said individual unions which are constituents of the intervenor.

Said intervening petitioner and its constituent members would be aggrieved by the terms of said proposed order above set out, in that it deprives the petitioner and its constituent members of the rights to which they are entitled, to bargain collectively for their members with the Republic Steel Corporation, and further deprives the individual members of the constituent associations forming the petitioner, of their contractual rights with the Republic Steel Corporation, without hearing, and without evidence justifying such deprivation, and that it disestablishes the petitioner as the bargaining agent for a majority of the employees of the Republic Steel Corporation, without justification and without due process of law.

8. In said proposed order, in Paragraph 2 (f) and 2 (g), it directs the Republic Steel Corporation to offer reinstatement to all employees at its plants on the 25th day of May, 1937, upon application of said employees. The effect of this provision if carried out, will be to deprive the individual members of the associations forming this

petitioner of their employment and their contractual rights to such employment, without hearing with respect to such rights.

The effect of this provision, if carried out, will be materially aggravated by the fact that because of changes in economic conditions, the total number of production and maintenance employees in various plants of the Republic Steel Corporation is substantially less than on May 25, 1937.

9. That the constituent members of the Council are organization in which employees participate, and which exists for the purpose in whole or in part of dealing with the Republic Steel Corporation concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, and that said individual members or said constituent associations would form or join said organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or for other mutual aid or protection.

10. The Council further respectfully represents that at no time has the Republic Steel Corporation dominated or interfered with the formation or administration of said Council or any of its constituent members, or has the said Republic Steel Corporation contributed financial or other support to said Council or any of its constituent members.

Wherefore, petitioner prays that it be granted leave to intervene in this proceeding and it be heard thereon, and be given an opportunity to offer proof and establish before said Board all of the claims and allegations contained in Paragraphs 1 to 10 which were submitted in support of this petition.

Petitioner further prays that it may have such other and further relief in the premises as to this Board may seem just.

Central Council of Steel Plants,
Northern District, Republic Steel
Corporation
By (s) Frank J. Bow,
Harter Bldg., Canton, Ohio.

(s) John Walsh,
Renkert Bldg., Canton, Ohio.

United States of America
State of Ohio,
Stark County, ss:

Paul W. Horner, being first duly sworn, deposes and says that he is President of the Central Council of Steel Plant, Northern District, Republic Steel Corporation; that he has read the foregoing petition and has knowledge of the facts stated therein; that the statements made in the foregoing petition are true to the best of his knowledge and belief.

(s) Paul W. Horner

Sworn to before me and Subscribed in my presence at Canton, Ohio, this 20th day of July, 1938.

(s) Julia M. Repace,
Notary Public, Stark County, Ohio

(Seal)

My commission expires April 20, 1940.

XXII.

ORDER DENYING PETITION FOR LEAVE TO INTERVENE

(Issued July 26, 1938)

Charges having been filed in the above-entitled matter, a hearing having been held before the Board and a Trial Examiner duly designated by the Board, the Board having issued and thereafter having set aside its Findings and Order, and having issued Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order, and the Central Council of Steel Plants, Northern District of Republic Steel Corporation having petitioned the Board for leave to intervene in the proceedings, and the Board having duly considered the matter,

It is hereby ordered that said petition for leave to intervene in the proceedings be, and it hereby is, denied.

Dated, Washington, D. C., July 26, 1938.

By direction of the Board:

Nathan Witt,
Secretary.

(Seal)

XXIII.

REQUEST OF S. W. O. C. FOR EXTENSION OF TIME TO FILE EXCEPTIONS TO PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(Dated August 4, 1938)

COMMITTEE FOR INDUSTRIAL ORGANIZATION
1106 Connecticut Avenue, Northwest
Washington, D. C.

Office of
General Counsel August 4, 1938 Telephone District 3582

National Labor Relations Board
Shoreham Building
Washington, DC

Att: Nathan Witt, Esq.

Re: Republic Steel Corporation and Steel Workers Organizing Committee

NLRB case C-184

Gentlemen:

As attorney for Steel Workers Organizing Committee, I request that the time within which to file exceptions to the Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order of the Board in the above matter be extended to and including Tuesday, August 9, 1938.

Copies of this request are being served on the other parties to the case.

Very truly yours,

(s) Lee Pressman
Lee Pressman,
Attorney for Steel Workers Organizing Committee.

Copies to: Joseph W. Henderson, Esq.,
Luther Day, Esq.,
Thomas F. Patton, Esq.,
Mortimer S. Gordon, Esq.,
Attorneys for Republic Steel Corporation.
Frank T. Bow, Esq.,
John P. Walsh, Esq.,
Attorneys for Central Council Of Steel Plants, Northern District, Republic Steel Corporation.

XXIV.

ALLOWANCE OF EXTENSION OF TIME TO S. W. O. C. TO FILE EXCEPTIONS TO PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER.

(Dated August 9, 1938)

9th August 1938

Lee Pressman, Esquire, General Counsel,
Committee for Industrial Organization,
1106 Connecticut Avenue, N. W.
Washington, D. C.

Re: Republic Steel Corp.
Case No. C-184

Dear Sir:

This will acknowledge receipt of your letter dated August 4th, and received in this office today, requesting extension of time within which to file exceptions to the Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order of the Board in the above noted case, on behalf of the Steel Workers Organizing Committee.

In compliance with such request, we hereby advise you you that you have been granted until August 9th for the filing of such exceptions.

Very truly yours,
NATHAN WITT,
Secretary.

esf;an

CC-Messrs. Lynch, Day, Pontius & Lynch
Canton, Ohio

Messrs. Day, Young & Veach
1420 Union Trust Bldg.
Cleveland, Ohio

N. L. R. B. 8th Region
NBC Building
Cleveland, Ohio

XXV.

REQUEST OF S. W. O. C. FOR EXTENSION OF TIME FOR FILING BRIEF

(Dated August 4, 1938)

COMMITTEE FOR INDUSTRIAL ORGANIZATION
1106 Connecticut Avenue, Northwest
Washington, D. C.

Office of General Counsel
Telephone District 3582

August 4, 1938

National Labor Relations Board
Shoreham Building
Washington, DC

Att: Nathan Witt, Esq.

Re: Republic Steel Corporation and Steel Workers Organizing Committee

NLRB case C-184

Gentlemen:

As attorney for Steel Workers Organizing Committee, I request that the time within which to file briefs in the above matter be extended to and including Tuesday, August 9, 1938.

Copies of this request are being served on the other parties to the case.

Very truly yours,

(s) Lee Pressman
Lee Pressman,
Attorney for Steel Workers Organizing Committee.

Copies to: Joseph W. Henderson, Esq.,

Luther Day, Esq.,

Thomas F. Patton, Esq.,

Mortimer S. Gordon, Esq.,

Attorneys for Republic Steel Corporation.

Frank T. Bow, Esq.,

John P. Walsh, Esq.,

Attorneys for Central Council of Steel Plants, Northern District, Republic Steel Corporation.

XXVI.

ALLOWANCE OF EXTENSION OF TIME TO. S. W. O. C. FOR FILING BRIEF

(Dated August 6, 1938)

6th August, 1938

Lee Pressman, Esq.
Attorney for Steel Workers Organizing Committee
1106 Connecticut Avenue, N. W.
Washington, D. C.
Dear Sir:

In re: Republic Steel Corporation

C-184

This will acknowledge receipt of your letter of August 4th, requesting extension of time within which brief may be filed in the above-noted case, up to and including August 9, 1938.

You are hereby granted until Wednesday, August 10th, 1938 for filing such brief. This privilege is extended all parties.

Very truly yours,

(s) Nathan Witt
Nathan Witt,
Secretary.

C:C to Mr. Luther Day
Day, Young and Veach
1420 Union Trust Bldg.
Cleveland, Ohio

Mr. H. C. Pontius
Lynch, Day, Pontius & Lynch
Canton, Ohio

Steel Workers Organizing Committee
3600 Grant Bldg.
Pittsburgh, Pa.

Harrington, Huxley and Smith
1200 Mahoning Bank Bldg.
Youngstown, Ohio

J. G. Ketterer
1st National Bank Bldg.
Canton, Ohio

Thomas Patton
Republic Bldg.
Cleveland, Ohio

XXVII.

TELEGRAM RE ACTION ON PETITION TO INTERVENE

(Dated August 6, 1938)

POSTAL TELEGRAPH

PB9 56 2 EX NL

1938 AUG 6 AM I 33

CANTON OHIO 5

THE NATIONAL LABOR RELATIONS BOARD
WASHN DC

PETITION FOR LEAVE TO INTERVENE WAS FILED JULY 21ST WITH BOARD ON BEHALF OF CENTRAL COUNCIL OF STEEL PLANTS NORTHERN DISTRICT OF REPUBLIC STEEL CORPORATION. NO ACKNOWLEDGEMENT OF FILING OR RULING ON PETITION HAS BEEN RECEIVED IN THIS OFFICE STOP IS STEEL WORKERS ORGANIZING COMMITTEE A PARTY TO PROCEEDINGS PLEASE WIRE REPLY MY EXPENSE

FRANK T BOW ATTY FOR CENTRAL COUNCIL OF STEEL PLANTS NORTHERN DISTRICT OF REPUBLIC STEEL CORPN.

XXVIII.

TELEGRAM FROM N. L. R. B. IN REPLY TO TELEGRAM RE INTERVENTION

(Dated August 6, 1938)

AUGUST 6, 1938.

TELEGRAM

OFFICIAL BUSINESS—GOVERNMENT RATES

From—NW:JCB

Bureau—NLRB

Chg. Appropriation—NLRB

PB9 56 2 EX NL

FRANK T BOW ATTY FOR CENTRAL COUNCIL OF STEEL PLANTS NORTHERN DISTRICT OF REPUBLIC STEEL CORPORATION
CANTON OHIO

RE TEL REPUBLIC STEEL CASE NO. C-184. ORDER DENYING PETITION FOR LEAVE TO INTERVENE WAS MADE BY BOARD ON JULY TWENTY SIXTH AND SENT TO PARTIES. REGRET THAT BY INADVERTANCE COPY WAS NOT SENT YOU WILL SEND COPY TODAY. STEEL WORKERS ORGANIZING COMMITTEE IS A PARTY.

NATHAN WITT, SECRETARY

NATIONAL LABOR RELATIONS BOARD

XXIX.

MOTION BY RESPONDENT THAT THE RECORD BE REOPENED FOR FURTHER PROCEEDINGS AND THAT RESPONDENT BE PERMITTED TO INTRODUCE ADDITIONAL EVIDENCE

ALTERNATIVE MOTION BY RESPONDENT THAT IT BE PERMITTED TO HAVE INCORPORATED INTO AND MADE A PART OF THE RECORD SPECIFIED OFFERS TO PROVE

(Docketed August 6, 1938)

In presenting the motions subsequently herein stated, the respondent, Republic Steel Corporation, expressly avers and reasserts that the Board had no jurisdiction whatsoever under the National Labor Relations Act or the National Labor Relations Board Rules and Regulations (including Article II, Section 38 (d) thereof, upon which the Board relies), or otherwise, to make or issue its proposed findings of fact, proposed conclusions of law and proposed order issued July 8, 1938, and respondent hereby reserves all of its rights and disclaims any intention to waive any thereof, arising from rulings made or to be made on any and all motions, objections and offers to prove heretofore made or arising from exceptions taken or to be taken respecting such rulings, or respecting the proposed findings of fact, proposed conclusions of law and proposed order issued July 8, 1938.

MOTION BY RESPONDENT THAT THE RECORD BE REOPENED FOR FURTHER PROCEEDINGS AND THAT RESPONDENT BE PERMITTED TO INTRODUCE ADDITIONAL EVIDENCE

Republic Steel Corporation, respondent herein, respectfully moves that the record herein be reopened for further proceedings and that respondent be permitted to introduce additional evidence, made particularly relevant, material and essential by the issuance by the National Labor Relations Board on July 8, 1938, of its proposed findings of fact, proposed conclusions of law and proposed order, to a proper consideration thereof, to wit, evidence substantially as follows:

Specification 1: Evidence consisting of statements and proclamations by the Steel Workers Organizing Committee through the medium of its duly authorized officers, spokesmen and agencies, conclusively showing that the sole and proximate cause of the strike was respondent's refusal to sign a C. I. O. form of agreement with said Committee.

Specification 2: Evidence that prior to and/or soon after the reopening of such of respondent's plants as became involved in the strike, those of respondent's employees who had gone out on the strike and had not yet returned to their work with respondent were informed, at respondent's instance, of the fact that said plants would be, or had been, reopened, and that all persons on respondent's payrolls at the time of said strike, excepting those who had been guilty of acts of violence, or of provoking, condoning or instigating acts of violence or of indulging in other unlawful acts during said strike, would be reinstated to their former jobs with respondent upon their making applications therefor, or as soon as production had increased sufficiently to justify adding more persons to the payrolls, wholly without any discrimination on account of union membership or lawful union activities.

Specification 3: Evidence that portions of the proposed order are wholly impossible of performance; that other portions are so utterly impracticable as to performance, and that other portions are so difficult as to performance that an enforcement thereof would unavoidably render impossible normal operation of respondent's business and would disasterously impede, obstruct and disrupt the conduct of respondent's business and cause loss to all employees through loss of work and wages, and cause confusion and discontent among employees inimical to their and respondent's interests.

Specification 4: All of that evidence heretofore offered by respondent and excluded by the Trial Examiner respecting which respondent made offers to prove, and which evidence is included in respondent's Exhibits 50 and 64.

Specification 5: Evidence in addition to the evidence heretofore offered before the Board and the Trial Examiner, that certain strikers, pickets, and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization, who actively engaged and participated in the strike against respondent at its Massillon, Ohio, plant, were arrested for committing unlawful acts while carrying on said strike activities, and were found guilty of the offenses charged against them, all as appears in the files or upon the docket of the Municipal Court of Massillon, Massillon, Ohio.

Specification 6: Evidence in addition to the evidence heretofore offered before the Board and the Trial Examiner, that certain strikers, pickets, and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization, who actively engaged and participated in the strike against respondent at its Canton, Ohio, plant, were arrested for committing unlawful acts while carrying on said strike activities, and entered pleas of guilty to, or were convicted of, the offenses charged against them, all as appears in the files or upon the docket of the Municipal Court of Canton, Canton, Ohio, and the Common Pleas Court of Stark County, Canton, Ohio.

Specification 7: Evidence in addition to the evidence heretofore offered before the Board and the Trial Examiner, that certain strikers, pickets, and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization, who actively engaged and participated in the strike against respondent at certain of its Cleveland, Ohio, plants, were arrested for committing unlawful acts while carrying on said strike activities, and entered pleas of guilty to, or were convicted of, the offenses charged again them, all as appears in the files or upon the docket of the Municipal Court of Cleveland, Cleveland, Ohio.

Specification 8: Evidence that strikers, pickets, and persons affiliated with the Steel Workers Organizing Committee and Committee for Industrial Organization, while actively engaging and participating in the strike activities against respondent at its Youngstown, Warren, Niles, Canton, Massillon and Cleveland plants, caused damage to respondent's property in very substantial amounts and caused further substantial damage to the property of certain of respondent's employees who were not engaged in the strike.

Specification 9: Evidence in addition to the evidence heretofore offered before the Board and the Trial Examiner, that, after the Board, on June 14, 1938, set aside its final findings of fact, final conclusions of law, and final order of April 8, 1938, stating that its reason for such action was in substance, so that it might take such further proceedings herein as it deemed necessary or advisable, respondent, on June 30, 1938, in writing, asked the Board to notify respondent if, as and when the Board determined to take further proceedings, so that respondent could take whatever action it deemed advisable to protect its interests, before further proceedings were had, but that without first notifying respondent as to what further proceedings it proposed to take, the Board, on July 8, 1938, made and issued its proposed findings of fact, proposed conclusions of law, and proposed order of July 8, 1938, which are substantially identical with its original findings of fact, conclusions of law, and order of April 8, 1938.

Specification 10: Evidence (correcting an offer to prove previously made herein, so as to show) that normal operations in respondent's several plants mentioned in the complaint and involved in the strike, in the sense of employing a normal working force in the light of and measured by the business then on hand, and considered in connection with its inventories on hand and the production carried on generally at the time at other steel plants comparable to those of respondent, were resumed (not necessarily in every department or mill of said plants, however) on or before July 30, 1937, except at its plants in the cities of Warren and Niles, Ohio, where such operations were resumed on or about August 30, 1937.

Specification 11: As a part of said motion, respondent respectfully requests that it be permitted now to introduce into evidence and have the same made and considered as a part of the record of the evidence herein a true copy of the copy of the findings of fact, conclusions of law and order issued by the Board on April 8, 1938, which was sent by the Board to respondent or its counsel on or about the time of the issuance thereof, and also a true copy of the copy of the proposed findings of fact, proposed conclusions of law and proposed order issued by the Board on July 8, 1938, which was sent by the Board to respondent or its counsel on or about the date of the issuance thereof.

The foregoing motion is being made for the general reason that upon the issue joined by the complaint and the answer herein, considered in connection with the record herein, the evidence above referred to and which is herein sought to be introduced, is made particularly relevant, material and essential by the issuance on July 8, 1938, of said proposed findings of fact, proposed conclusions of law and proposed order, to a proper consideration thereof.

Respondent, stating more specifically the grounds upon which it bases its foregoing motion to introduce additional evidence herein, says:

As to the Cause of the Strike. In the complaint herein it is alleged (paragraph 16) that the strike was caused by certain alleged unfair labor practices by the respondent, as sought to be described in paragraphs 3-15, inclusive, of the complaint, "and by reason of the respondent's refusal to enter into a written agreement with the Steel Workers Organizing Committee, attempts to negotiate which had theretofore been made by the Steel Workers Organizing Committee." The unfair labor practices to which the complaint refers consist of the alleged wrongful discharge of, and refusal to reinstate, because of their union activities, etc., certain persons named in the complaint who were employees of the respondent at its various plants, and the closing down of certain of the respondent's plants at Canton and Massillon. It is the position and contention of the respondent that the record herein contains absolutely no evidence tending to establish that the strike was caused directly or indirectly by any of said alleged unfair labor practices. On the contrary, respondent contends that all of the evidence in the record relating to this subject discloses that the strike was caused solely and proximately by the refusal of the respondent to sign a form of written agreement presented by the Steel Workers Organizing Committee, which the Board itself found was not an unfair labor practice. And the respondent further contends that the burden of proof as to the cause of the strike was upon the Board and that there is here disclosed an utter and absolute failure upon the Board's part to sustain such burden. However, the Board in its proposed findings of fact finds that although the immediate cause of the strike was, in part, the respondent's failure to sign the proposed written agreement presented to it, the fundamental cause of the strike and a substantial factor in its precipitation was a long series of unfair labor practices upon the part of the respondent. The additional evidence which the respondent seeks to offer, consisting in part as it does, of statements and proclamations by the Steel Workers Organizing Committee through the medium of its duly authorized officers, spokesmen and agencies, conclusively removes any doubt that might otherwise exist as to the actual, sole and proximate cause of the strike and establishes that the only cause for the strike was, as we have stated, the failure of the respondent to sign the proposed written agreement. The Board's proposed findings of fact and conclusions of law and order here under consideration are not final determinations by the Board, and the question involved upon the hearing of the respondent's exceptions thereto is whether the Board should make them final. If upon this issue, i. e., whether the Board should make its proposed findings and order final, either the respondent or counsel for the Board is able to offer additional evidence which will correct a proposed finding by the Board which is not in accord with the actual facts in the case, or will serve to clarify any doubt which might otherwise exist as to it, we assume the Board will welcome such evidence and give it proper weight and consideration.

Such is the case here presented.

As to the Evidence Relating Generally to Strikers Who Have Not as yet Applied for Reinstatement. The Board proposes to order the respondent to reinstate, upon application, certain of its former employees who went out on a strike but who have not as yet been reinstated to their former jobs. There are included in this class a great number of former employees, perhaps 5,000 or more. It is and has been the position and contention of the respondent that there is no issue presented by the complaint herein relating to this class of former employees (see express statement by counsel for the respondent to this effect in the Record, pp. 4561-4562). It is respondent's further contention that the whole question of reinstating these former employees has been injected into this case for the first time by the Board's order of April 8, 1938, since set aside by the Board, and now by its proposed order issued July 8, 1938, now under consideration. Respondent submits that it should be permitted to introduce its additional evidence so as to enable it to place before the Board facts, not in the record, disclosing the situation as it exists with relation to the performance of the Board's proposed order, so that the Board may determine, *in the light of the facts as they now exist* and by the application of legal and equitable principles thereto, whether its proposed findings, conclusions and order in this regard should be made final.

Certain of the additional evidence, respondent contends, should be admitted for a further reason. The hearing of evidence in this case was concluded in September, 1937, and obviously, no evidence could have been offered thereat in anticipation of facts which might or might not thereafter exist or come into being, or of an order by the Board dealing with the facts as they might be found to exist almost a year later, as does that part of the Board's proposed order now under discussion. Inasmuch as the Board proposed to require the respondent to reinstate, under the terms of its order, certain of its employees and to do so as of a date at least ten months after the hearing of evidence in this case had been concluded, is not the respondent in all fairness entitled to present additional evidence dealing with the changing factual situation as it now exists or will exist in the event the Board's proposed order in this regard is made final? This is all the respondent by said motion seeks to do.

ALTERNATIVE MOTION BY RESPONDENT THAT IT BE PERMITTED TO HAVE INCORPORATED INTO AND MADE A PART OF THE RECORD SPECIFIED OFFERS TO PROVE

As an alternative motion, and in event the foregoing motion shall be overruled respecting one or more of its eleven specifications, respondent respectfully moves that as to each such specification so overruled, respondent be permitted to have incorporated into and made a part of the record in this proceeding, a corresponding offer to prove as follows:

1. Corresponding to said specification 1, respondent submits the following offer to prove:

That as quoted in the report, printed for use of the Committee on Post Officers and Post Roads by the United States Government Printing Office, of Hearings Before The

Committee On Post Offices and Post Roads, United States Senate, Seventy-fifth Congress, First Session, on S. Res. 140, held from June 11 to June 24, 1937, one Philip Murray testified under oath in said hearings in part, as follows:

> "I am chairman of the Steel Workers' Organizing Committee and vice president of the United Mine Workers of America." (P. 41 of said report)

and in part, further as follows:

> "On May 26, 1937, a strike was called by the official representatives of all of the lodges of steel workers of the Amalgamated Association of Iron, Steel & Tin Workers of North America in the plants of the Republic, Inland, Youngstown, and Bethlehem companies. This strike went into effect at 11 p. m. on May 26, 1937." (P. 43 of said report)

That on or about May 4, 1937, B. J. Damisch, Steel Workers Organizing Committee leader in the Cleveland area, made the following statement:

> "We do not like to strike but we don't want them to think that we're afraid. We will not run away from the battle. What was good enough for United States Steel Corporation units certainly ought to be good enough for Mr. Girdler."

Respondent believes that a witness, if permitted, would so testify.

That on or about May 5, 1937, Mr. Greggs, President of Campbell Lodge, of the C. I. O. made the following statement:

> "It was clear that the men would be satisfied with nothing less than a signed agreement."

Respondent believes that a witness, if permitted, would so testify.

That on or about May 6, 1937, Philip Murray, Chairman of the Steel Workers Organizing Committee, made a statement in which he said in part that he warned the independents that the union would call a strike if necessary, to win agreements on wages, hours and working conditions, and further said that the independents had formed an "unholy alliance" against contracts with the Committee and as a result would face a crisis in their coal mines "within forty-eight hours".

Respondent believes that a witness, if permitted, would so testify.

That on or about May 10, 1937, Philip Murray, Chairman of the Steel Workers Organizing Committee, stated that the union would force such pacts even if it were compelled to "go to a court of last resort, a strike".

Respondent believes that a witness, if permitted, would so testify.

That on or about May 13, 1937, Philip Murray, Chairman of the Steel Workers Organizing Committee, made the following statement:

> "So great has been the pressure put on us by our union members to secure written collective bargaining contracts we don't feel justified in continuing longer fruitless efforts to persuade these companies to sign contracts where there is every reason to believe they have no intention whatever of doing so."

Respondent believes that a witness, if permitted, would so testify.

That on or about May 13, 1937, a pamphlet was issued by Warren Lodge No. 1375, which stated in part as follows:

> "We are opposed to strikes but are determined to secure our legal rights which are guaranteed to every free American citizen. * * * The union is ready to sign. The responsibility for peace and harmony in this community now rests solely with the Republic Steel Corporation."

Respondent believes that a witness, if permitted, would so testify.

That on or about May 14, 1937, Philip Murray, Chairman of the Steel Workers Organizing Committee, made the following statement:

> "If the managements of Republic and Sheet & Tube persist in refusing to sign contracts a strike is inevitable. I cannot say whether that will be today, tomorrow or Sunday but it is inevitable."

Respondent believes that a witness, if permitted, would so testify.

That on or about May 14, 1937, Mr. Mayo, President of the Republic Lodge of C. I. O. in Youngstown, Ohio, made the following statement:

> "Something definite will come from Saturday's conference which may result in steps to compel Republic and Sheet & Tube to sign a contract with CIO."

Respondent believes that a witness, if permitted, would so testify.

That on or about May 14, 1937, B. J. Damisch, Steel Workers Organizing Committee leader of the Cleveland area, made the following statement:

> "Saturday is the deadline for agreement for Republic to sign a contract with the SWOC."

Respondent believes that a witness, if permitted, would so testify.

That on or about May 14, 1937, Philip Murray, Chairman of the Steel Workers Organizing Committee, made the following statement:

> "If the management of Sheet & Tube and Republic persist in refusing to sign contracts a strike is inevitable."

Respondent believes that a witness, if permitted, would so testify.

That on or about May 17, 1937, Niles Republic Lodge of C. I. O. released as information for publication, that it had voted to back any plans to induce employers to sign a contract and to call a strike "if found necessary."

Respondent believes that a witness, if permitted, would so testify.

That on or about May 26, 1937 Joe Morton, President of New Deal Lodge No. 1124, of Massillon, Ohio, made the following statement:

> "This was strictly a move of our own lodge to strike. The men want recognition of their union, a signed contract. No negotiations with local officials are planned. That's between Girdler and Murray and we'll stay out until Girdler signs."

Respondent believes that a witness, if permitted, would so testify.

That on or about May 26, 1937, Philip Murray, Chairman of the Steel Workers Organizing Committee, wired Mr. Girdler as follows:

> "The strike was precipitated by you and your associates through refusal to sign a labor agreement."

Respondent believes that a witness, if permitted, would so testify.

That on or about May 27, 1937, Mr. Mayo, President of the Republic Lodge of C. I. O. in Youngstown, made the following statement:

> "We mean to simply close the properties until a contract is agreed to."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 3, 1937, Mr. Mayo, President of the Republic Lodge of C. I. O. in Youngstown, made the following statement:

> "It is refusal of Sheet & Tube and Republic to give their workmen what they are entitled to under the law which has brought about the strike. Of course the steel workers here want to work, but they want to work under protection of a signed contract. Frank Purnell and Tom Girdler can end the strike tomorrow by doing what the presidents of 157 other steel companies have done. There is no other issue. * * * Neither the Independent Federation of Republic Employees nor the Independent Society of Sheet & Tube are going to keep the steel workers from getting a contract."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 4, 1937, the following statement was made by Philip Murray, Chairman of the Steel Workers Organizing Committee speaking at an open-air mass meeting at the C. I. O. headquarters in Warren, Ohio:

> "I'm prepared to say to Governor Davey that I'm not going to settle this strike until Tom Girdler places his signature on a written contract."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 4, 1937, Philip Murray, Chairman of the Steel Workers Organizing Committee, made the following statement:

> "We won't settle until Tom Girdler signs Union contract."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 4, 1937, Philip Murray, Chairman of the Steel Workers Organizing Committee, made the following statement:

> "I'm not going to settle this strike until Tom M. Girdler signs an agreement."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 4, 1937, Philip Murray, Chairman of the Steel Workers Organizing Committee, in an address at Warren, Ohio, stated, in part, as follows:

> "We're not going to settle for anything less than a written agreement and I'm here to tell you that we're going to make Tom Girdler sign that agreement or we're going to whip him."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 4, 1937, Philip Murray, Chairman of the Steel Workers Organizing Committee, speaking at Warren, Ohio, stated in part as follows:

> "I'm going to tell him (Davey) that I won't settle until Tom Girdler signs an agreement. That's positive. And Tom will sign because we're going to whip him."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 10, 1937, in a full page advertisement in the Youngstown Vindicator, signed "Steel Workers Organizing Committee" the following statement was made under the heading "Why Don't They Sign and End the Steel Strike?":

> "They are idle because their workmen went on strike for a signed contract. Workmen of Youngstown Sheet & Tube and Republic want a signed contract like the workmen in 160 other steel companies have. By all the laws of morals and justice they are entitled to a signed contract."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 19, 1937, John Owens, C. I. O. Director, made the following statement:

> "By Monday the searchlight of publicity will be focused on the real issues and companies refusing to sign will be condemned, not only by the President, but by every fair-minded citizen."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 19, 1937, John Owens, C. I. O. Director, speaking at Warren, stated in part as follows:

> "The CIO will never cease agitating and organizing until every non-union mill in the country has signed the contract.
>
> "* * *
>
> "It won't end until Frank Purnell and Tom Girdler come to terms and agree to allow the workers to have their constitutional rights of a signed agreement. We have asked the workers in these steel plants to withhold their labors until Frank Purnell and Tom Girdler give them their constitutional rights of a signed agreement. We are going to continue the fight until we reach that objective."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 22, 1937, John L. Lewis, Chairman of the Committee for Industrial Organization, made a statement in part as follows:

> "The C. I. O. is only asking that these four companies do what 258 other corporate entities in the steel industry already have done." (Sign a contract.)

Respondent believes that a witness, if permitted, would so testify.

That on or about June 22, 1937, John L. Lewis, Chairman of the Committee for Industrial Organization, after meeting with the Federal Mediation Commission, made the 7 following statement:

> "* * * The Steel Workers Organizing Committee is only asking these four steel companies to do what 258 corporate entities in the steel industry have already done. The S. W. O. C. has contractual relationship with 258 companies producing and fabricating steel, which employ 440,000 men.
>
> "There will be no compromise by the steel workers on this question."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 25, 1937, the Federal Mediation Commission issued a statement for publication which, in part, is as follows:

> "The sole question therefore is whether an agreement should be reached."

Respondent believes that a witness, if permitted, would so testify.

That on or about June 27, 1937, O. L. Thomas of the Trumbull Lodge of the C. I. O. made a statement in part as follows:

> "The fight has just started and as far as we are concerned it will continue until we get a signed agreement."

Respondent believes that a witness, if permitted, would so testify.

That on July 13, 1937, a telegram dated July 13, 1937, No. 1132-a, signed by Homer Downard, President, All Nations Lodge No. 1200, Steel Workers Organizing Committee, 1200P., and addressed to Tom Girdler, President—Republic Steel Corporation, was received by the addressee, which quoted in part, is as follows:

> "* * * We are on strike and will remain on strike

until we get a signed contract with you. * * *"

Respondent believes that a witness, if permitted, would produce for introduction into evidence, and properly identify the telegram so received.

That in the July 23, 1937, issue of Steel Labor (published twice a month by the Steel Workers' Organizing Committee) appears an editorial under the heading:

"A TERRIFIC BEATING",

which, quoted in part, is as follows:

> "* * * Republic Steel is the hardest hit, and is still suffering staggering losses daily because of the greatly curtailed production. Youngstown Sheet & Tube was also given terrific punishment, but the agreement just reached between that Company and the Union enables them to get back to better production.
>
> "The estimate of the losses suffered by these companies for refusing to sign a contract with the SWOC—the sole issue in the strike—does not take into account the business permanently lost. It is known that a heavy volume of business from both Republic and Sheet & Tube has gone to other companies which are assured of continued operations, because of their contracts. * * *"

Respondent believes that a witness, if permitted, would so testify.

2. Corresponding to said specification 2, respondent submits the following offer to prove:

That as the plants of Republic Steel Corporation were preparing to reopen, intensive efforts were made by respondent to acquaint all persons who had been on its payrolls at the time of the strike with the fact that the plants were to be reopened, and that subject to the exceptions hereinafter stated, their jobs were waiting for them. That this information was given to the employees in several forms. That it was printed conspicuously in advertisements in newspapers circulating in most of the cities in which the plants affected by the strike are located. It was released as statements, or stories, or both, to the newspapers, not only in the communities in which the plants are located, but through wire services and other media of dissemination of information, and notices covering re-employment of men were sent to newspaper commentators at broadcasting stations serving the communities involved for use in their news broadcasts.

That in the advertisements and statements formally issued by respondent it was stated that all men on the payrolls at the time of the strike would be returned to their jobs, upon proper application, except such men who were guilty of acts of violence or of provoking, condoning or instigating acts of violence or other unlawful acts during said strike, and that there would be no discrimination on account of union membership or union activities.

That on June 21, 1937, an advertisement was placed in the Youngstown Vindicator, at the instance of respondent. That this advertisement was entitled "NOTICE TO EMPLOYEES OF REPUBLIC STEEL CORPORATION" and is as follows:

> "According to the direct request of thousands of our employees who desire to work, we take this means of notifying them that the Poland Avenue Gate at Stop 5 will be opened at 7:00 a. m., Tuesday, June 22nd, so that employees may return to work.
>
> "All employees should report to their foreman for assignment to their positions.
>
> "City and County authorities have assured us ample protection if needed.
>
> "Operations will be on a twelve-hour basis temporarily, with time and a half over eight hours.

> "There will be no discrimination on account of Union membership. We cannot, however, rehire anyone who has been guilty of violence, or guilty of provoking, condoning or instigating acts of violence against the corporation, its employees, their homes or their families.
>
> Republic Steel Corporation."

That the substance of the above-quoted advertisement was sent as an official statement by respondent, to all Cleveland newspapers, to all wire services, to the Dow-Jones Service, to the Universal News Service, to Iron Age, to Daily Metal Trade, to American Metal Market, and to the New York Herald Tribune.

That on June 26, 1937, an official statement was wired to the managing editors of the Pittsburgh Post Gazette, New York Herald Tribune, New York Times, Detroit Free Press, New York Sun, Pittsburgh Sun Telegraph, The Youngstown Vindicator, The Canton Repository, The Cincinnati Enquirer, The Cleveland Plain Dealer, The Associated Press, The United Press, International News Service and to a number of radio commentators. This statement quoted directly Mr. T. M. Girdler, Chairman of the Board of Republic Steel Corporation, and said in part:

> "I was further misquoted in some of the press dispatches as saying that when our plants reopened Republic would refuse to rehire any former employees who had joined the C. I. O. I made no such statement and it is not true. Republic has posted notices in the plants stating its policy on the question of rehiring employees which stated that we cannot rehire anyone who has been guilty of violence or lawbreaking. I have never stated that Republic would refuse to rehire former employees just because they had joined the C. I.

> O. Our employees are free to join or not join any union, as they please."

That in addition to official statements made by the respondent inviting men to return to work, newspapers published and circulated in the City of Cleveland, Ohio, carried stories announcing the reopening of the plants and the respondent's offer to return to work, without discrimination because of union membership or union activities, employees who had been on the strike.

That on July 8, 1937, respondent caused to be inserted an advertisement in the Canton Repository, published in the City of Canton, Ohio, which was in part as follows:

> "As our plants increase production, more and more employees will be called back to work. Men who were on the payroll prior to the strike will be taken back as the cases demand, except in cases where such employees have been guilty of provoking, condoning or instigating acts of violence or indulging in other unlawful acts."

That on July 10, 1937, respondent caused to be inserted in the Evening Independent published in Massillon, Ohio, an advertisement which was in part as follows:

> "As our plants increase production, more and more employees will be called back to work. Men who were on the payroll prior to the strike will be taken back as the cases demand, except in cases where such employees have been guilty of provoking, condoning instigating acts of violence or indulging in other unlawful acts."

That on July 10, 1937, respondent caused to be inserted an advertisement in the Niles Daily Times, published in the City of Niles, Ohio, which was in part as follows:

> "Our position is that we will take back without medical examination all employees except those who have been guilty of violence or guilty of provoking, condoning or instigating acts of violence, or of indulging in other unlawful acts."

And that the newspapers last hereinabove named are the only newspapers published in their respective communities and are widely read in the cities and sections in which published.

Respondent believes that Edgar S. Bowerfind, a member of the firm of Messrs. Hill & Knowlton, publicists for Republic Steel Corporation and other clients, would, if permitted, so testify.

3. Corresponding to said specification 3, respondent submits the following offer to prove:

> That portions of the proposed order are impossible of performance due to the radical changes in methods of manufacture employed by respondent since the advent of the strike. That said changes have been brought about by the construction of a continuous tin plate mill in Niles, Ohio, and a new strip mill in Cleveland, Ohio, and by the utilization of more modern equipment for the conditioning of steel to improve the surface. That the former method of chipping out the surface defects with a chipping hammer and chisel has, since the start of the strike, been largely supplanted with the method of burning out the defects with a scarfing torch. That these new methods have reduced the number of men necessary in several of respondent's plants and have caused the elimination of a very large number of employees in each one of the plants. That it will be impossible to replace many of these former employees on their normal jobs because the jobs

which they formerly had no longer exist. That as a result of the new mills, the Canton tin plate mill has been dismantled because it was not able to produce a kind of product required by the trade and at the same time compete with modern methods of rolling. That the new mills also have required the recent elimination of a group of tin mills called the 4-Point mills at Warren, Ohio, because the product made there ceased to be acceptable to the trade and because the operating cost was so much higher than other modern mills that it was not economical to operate them.

That the new strip mill in Cleveland, Ohio, which was finished in December, 1937, and which will further reduce the operations of the sheet mills at Massillon, Niles and Canton, Ohio, requires the employment of an entirely different kind of skilled labor than that which operated the old sheet mills used by respondent at the time the strike was started, and that it was necessary to obtain men from other plants who were familiar with this sort of specialized work. That such men were practically all hired since the start of the strike. That these men who were hired at the new Cleveland strip mill were hired without relation to any labor trouble and were hired long after the labor trouble ceased, and were of a group not found in the corporation prior to the strike. And that it would be impossible to operate said new mills and to carry on the newly instituted methods of manufacture if persons ordered reinstated under the terms of the proposed order of the National Labor Relations Board are placed in the positions of such of its present employees as do the work in said new mills and handle the newly instituted methods of manufacture.

That many of the persons ordered reinstated have lost their skill, in part at least, due to their being away from their work for more than a year, and that putting them back to work in a large group necessarily would result in inefficiency and high cost of operation on account of increased waste of material and lessening of production, and the impairment of quality. That an impairment as to quality of production would not only cause respondent irreparable damage by the ensuing loss of business, but would necessarily cause great loss to employees through loss of work and wages. That there would, with reasonable probability, follow a substantial increase in labor injuries and fatalities.

That there are cases in certain units where approximately all employees with the longest service records have not returned to work since the strike. That to restore such employees to their former or substantially equivalent positions would mean the dismissal of all the men with the shorter service record, or dividing available work, which in many cases would be reduced from two or three days a week to one or one and a half days a week for all, and that such procedure would be productive of inefficiency and dissatisfaction among employees. That the method prescribed for reinstating men is absolutely impracticable in that if applicants are placed who have a shorter service record than those who apply later with a longer service record, they will have to be again shifted to the place required by their records, and that there being no time within which applications for reinstatement must be made under the terms of the proposed order, the ensuing and continuing confusion and disruption of operations of respondent's plants will, with reasonable probability, so interfere with respondent's operations as to result in a loss of business, and thus in a loss of work and a decrease in its payroll. That considering the widely scattered locations of respondent's plants, that portion of the proposed order which provides that on certain conditions, strikers should be placed upon a preferential list to be given employment at any of respondent's plants before other persons are hired, places an insurmountable difficulty upon respondent's operations in that vacant positions, wherever they may occur, would be required to be kept vacant until it was determined whether or not there were available for such positions any persons ordered reinstated.

Respondent believes that Charles Herdman Elliott, Assistant Vice President in Charge of Operations of Republic Steel Corporation would, if permitted, so testify.

4. Corresponding to said specification 4, respondent re-submits as offers to prove the offers to prove previously submitted and included in respondent's Exhibits 50 and 64.

Corresponding to Specification 5, respondent submits the following offer to prove:

That 15 individuals, comprising strikers, pickets, and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization, while actively engaged in the strike activities against the respondent at its Massillon, Ohio, plant, committed unlawful acts in carrying on such strike, as a result whereof each was arrested and upon trial, was found guilty of the offense charged against him, all as appears in the files and upon the docket of the Municipal Court of Massillon, Ohio, as follows:

Pete Vidovich, disturbing the peace, found guilty, fined $15.00 and costs.

Peter Stevens, discharging firearms, found guilty, fined $25.00 and costs and 30 days.

Albert Fichter, disturbing the peace, found guilty, fined $25.00 and costs.

Tony Demando, assault and battery, found guilty, fined $15.00 and costs.

Merle Maxheimer, assault and battery, found guilty, fined $15.00 and costs.

Anthony Talenco, disturbing the peace, found guilty, fined $15.00 and costs.

Forest Ramsey, suspicion, found guilty, fined $15.00 and costs.

Rudy Stump, interfering with an officer, found guilty, fined $15.00 and costs.

Ascanio Dimazza, interfering with an officer, found guilty, fined $5.00 and costs.

Ralph Flounders, suspicion, found guilty, fined $15.00 and costs.

Walter Taylor (Tulalis), disorderly conduct, found guilty, fined $15.00 and costs.

Ernest Koontz, threatening in a menacing manner, found guilty, fined $15.00 and costs.

Byron Giltz, suspicion, found guilty, fined $15.00 and costs.

Charles Henry, suspicion, found guilty, fined $15.00 and costs.

Sherwin Alberts, suspicion, found guilty, fined $15.00 and costs.

Respondent believes that a witness, if permitted, would so testify, and that the Clerk of said Court would, if permitted, produce and identify said files and docket disclosing such facts.

Corresponding to Specification 6, respondent submits the following offer to prove:

That 10 individuals, comprising strikers, pickets, and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization, while actively engaged in the strike activities against the respondent at its Canton, Ohio, plant, committed unlawful acts in carrying on the said strike, as a result whereof each was arrested and upon arraignment or trial entered a plea of guilty to, or was convicted of, the offense charged against him, all as appears in the files or upon the docket of the Common Pleas Court of Stark County, Ohio, as follows:

Herman Herzog, charged with possession of dynamite, found guilty and sentenced to the penitentiary for from 1 to 20 years.

Peter Vaslee, charged with possession of dynamite, found guilty and sentenced to the penitentiary for from 1 to 20 years.

Jesse Runtario, charged with possession of dynamite, found guilty and sentenced to the penitentiary for from 1 to 20 years.

Omer Williams, charged with possession of dynamite, found guilty and sentenced to the penitentiary for from 1 to 20 years.

John Zgurich, charged with carrying concealed weapons, plead guilty, and placed on probation for two years.

Nick Woodrich, charged with cutting telephone wires, plead guilty and fined $250.00 and costs.

Ivan Bartalic, charged with carrying concealed weapons. Plead guilty and placed on probation for three months.

Lewis Simonelli, charged with transporting explosives, found guilty, fined $100.00 and costs.

Steve Miku, charged with carrying concealed weapons, plead guilty and placed on probation for two years.

Geo. Thomas, charged with carrying concealed weapons, indicted by Grand Jury, plead guilty, sentenced 90 days in the Work House and fined the costs.

Respondent believes that a witness, if permitted, would so testify, and that the Clerk of said Court would, if permitted, produce and identify said files and docket disclosing such facts.

That 15 individuals, comprising strikers, pickets, and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization, while actively engaged in the strike activities against the respondent at its Canton, Ohio, plant, committed unlawful acts in carrying on the said strike, as a result whereof each was apprehended or arrested and upon arraignment or trail, entered a plea of guilty to, or was convicted of, the offense charged against him, all as appears in the files or upon the docket of the Municipal Court of Canton, Ohio, as follows:

2008 George Somar, charged with disorderly conduct, found guilty, fined $10.00 and costs.

2009 Ray Bednarczyk, charged with disorderly conduct, plead guilty, fined $10.00 and costs.

2051 John Bertea, charged with disorderly conduct and interfering with officer, plead guilty, fined $10.00 and costs.

2108 Samuel Stokes, charged with interfering with officer, plead guilty, fined $10.00 and costs.

2176 Louie Luda, charged with disorderly conduct, found guilty, and fined $50.00 and costs and 30 days.

2184 Joe Rosso, charged with disorderly conduct, found guilty, and fined $50.00 and costs and 30 days.

2191 E. C. Eichelberger, charged with disorderly conduct, found guilty, and fined $25.00 and costs.

2307 Mike Huegel, charged with intoxication and violating Court Order, found guilty and fined $25.00 and Costs.

2336 Andy Augustine, charged with intoxication, disturbing the peace, destruction of property, assault and battery, found guilty of assault and battery, given 30 days. Other charges dismissed.

2400 George Cundiff, charged with disturbing the peace, found guilty and fined $10.00 and costs.

2439 Ruben Jones, charged with malicious destruction of property, found guilty, paid costs.

Erardo Garcia, charged with destruction of property, struck police car with club, found guilty, given 30 day jail sentence.

E. J. Parpontzi, Discharging fire arms within the city limits, plead guilty and fined $10.00 and costs.

Otis Cesar, discharging fire arms within the city limits, plead guilty and fined $10.00 and costs.

Domonick Rossi, arrested for assault and battery resulting in injury to Glen Bechtel, 10 year old boy, tried Jan. 27, 1938, found guilty, fined $5.00 and costs and given 30 day Work House sentence. Sentence suspended.

Respondent believes that a witness, if permitted, would so testify and that the Clerk of said Court would, if permitted, produce and identify said files and docket disclosing such facts.

Corresponding to specification 7, respondent submits the following offer to prove:

That 11 individuals, comprising strikers, pickets, and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization, while actively engaged in the strike against the respondent at its Cleveland, Ohio, plants, committed unlawful acts in carrying on said strike, as a result whereof each was arrested and upon trial, was found guilty of the offense charged against him, all as appears in the files or upon the docket of the Municipal Court of Cleveland, Ohio, as follows:

82048 George Cordiak, assault and battery, found guilty, fined $10.00 and costs and 10 days.

82050 John Exall, assault and battery, found guilty, fined $30.00 and costs.

81095 Peter Cushion, assault and battery, found guilty, fined $10.00 and costs and 30 days.

82660 Andrew Slusarcryk, assault and battery, found guilty, fined $5.00 and costs.

82905 Steve Cupak, assault and battery, found guilty, fined $10.00 and costs.

80664 Joseph Gonczy, Mike Urgdn, George Pelat, John Bolz, Joe Schenovsky and John Teleschak, unlawful riot and assembly, found guilty, fined $10.00 and costs.

Respondent believes that a witness, if permitted, would so testify and that the Clerk of said Court would, if permitted, produce and identify said files and docket disclosing such facts.

Corresponding to specification 8, respondent submits the following offer to prove:

That strikers, pickets, and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization, while actively engaging and participating in the strike activities against respondent at its Youngstown, Warren, Niles, Canton, Massillon and Cleveland plants, caused damage in excess of $3,500.00, to property of respondent and caused damage in excess of $7,500.00 to property of certain of respondent's employees who were not engaged in the strike.

Respondent believes that witnesses, if permitted, would so testify.

Corresponding to specification 9, respondent submits the following offer to prove:

That, after the Board, on June 14, 1938, voluntarily set aside it final findings of fact, final conclusions of law, and final order of April 8, 1938, stating that its reason for such action was so that it might take such further proceedings herein as it deemed necessary or advisable, respondent, on June 30, 1938, mailed to the Board a letter of which the following is a true copy:

''June 30, 1938

''National Labor Relations Board
Washington, D. C.

No. C-184 — In the Matter of Republic Steel Corporation and Steel Workers Organizing Committee

Gentlemen:

Enclosed please find Motion to Dismiss Complaint and Objection to Further Proceedings by Board, which we are sending to you for immediate filing.

In the event the Board overrules this motion and objection by the respondent, will you kindly advise us if, as and when you determine to take further proceedings in this case, so that, in behalf of the respondent, we may take whatever action we deem advisable to protect its interest before such further proceedings are had.

Very truly yours,

Day, Young, Veach & LeFever,
Attorneys for Republic Steel
Corporation

LD S

CC to Robert B. Watts, Acting General Counsel,

National Labor Relations Board, Washington, D. C."

Further, that said request was duly received by the Board on July 2, 1938, but that without first notifying respondent as to what further proceedings it proposed to take, the Board, on July 8, 1938, made and issued its proposed findings of fact, proposed conclusions of law, and proposed order of that date, which are substantially identical with its original findings of fact, conclusions of law, and order of April 8, 1938.

Respondent believes that a witness, if permitted, would so testify.

Corresponding to specification 10, respondent submits the following offer to prove:

> That normal operations in respondent's several plants mentioned in the complaint and involved in the strike, in the sense of employing a normal working force in the light of and measured by the business then on hand, and considered in connection with its inventories on hand and the production carried on generally

at the time at other steel plants comparable to those of respondent, were resumed (not necessarily in every department or mill of said plants, however) on or before July 30, 1937, except at its plants in the cities of Warren and Niles, Ohio, where such operations were resumed on or about August 30, 1937.

And also that an offer to prove previously made herein and relating to the same subject matter as is set forth in the paragraph immediately preceding, is not accurate and should be modified to that extent which will cause such previously made offer to be made consistent with the subject matter of the offer to prove contained in the immediately preceding paragraph hereof.

Respondent believes that certain of its officers and employees would, if permitted, so testify.

Corresponding to specification 11, respondent hereby offers in evidence and requests that the same be received and considered as a part of the record of the evidence herein a true copy of the copy of the findings of fact, conclusions of law and order issued by the Board on April 8, 1938, which was sent by the Board to respondent or its counsel on or about the time of the issuance thereof, and also a true copy of the copy of the proposed findings of fact, proposed conclusions of law and proposed order issued by the Board on July 8, 1938, which was sent by the Board to respondent or its counsel on or about the date of the issuance thereof. Further, respondent hereby offers to produce, have properly marked and identified so as to be made a part of the record herein, one each of the copies of said findings of fact, conclusions of law and order of April 8, 1938, and of such proposed findings of fact, proposed conclusions of law and proposed order of July 8, 1938, which were received by respondent, or its counsel, from the Board.

Respectfully submitted,

Thomas F. Patton,

Day, Young, Veach & LeFever,

Lynch, Day, Pontius & Lynch,

Harrington, Huxley & Smith,

Attorneys for Respondent.

XXX.

EXCEPTIONS OF CHARGING PARTY TO PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND PROPOSED ORDER, AND TO RULINGS OF THE BOARD AND THE TRIAL EXAMINER

(Docketed Aug. 9, 1938)

Steel Workers Organizing Committee, charging party herein, hereby respectfully excepts to the Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order of the Board herein as follows:

(1) To said Proposed Findings of Fact in that they do not recite that the Order of the Board dated April 8, 1938, required the immediate reinstatement of all strikers on application or the placement of their names on a preferential list and payment of back wages from the date of such application to the date of such reinstatement or placement.

(2) To Sections 2 (f) and (g) of said Proposed Order insofar as they might be interpreted as applying only to employees making application to return to work after the date of said Proposed Order or any final order issued pursuant thereto, for the reason that said Sections should apply not only to such employees but to all employees making application in any manner or form and at any time between May 25, 1937, and a reasonable period after issuance and compliance by the respondent with any final order hereinafter promulgated by the Board.

(3) To Section 2 of said Proposed Order insofar as it fails to recommend the reinstatement with appropriate back pay of any employee on whose behalf charges were filed herein or evidence adduced with respect to discriminatory lay-off, discharge or refusal to reinstate, for the rea-

son that such employees are entitled to such reinstatement with back pay from the date of any application to return to work made in any manner or form and at any time between May 25, 1937, and a reasonable time after issuance of and compliance with any final order hereinafter promulgated by the Board, and from the date of such discharge or lay-off.

(4) To Section 2 of said Proposed Order insofar as it confines any remedy to employees of the respondent to the exclusion of individuals who have not obtained any other regular and substantially equivalent employment.

(5) To Section 2 (g) of said Proposed Order insofar as it may be interpreted to permit the respondent to deduct from back wages to be paid to any individual any sum which such individual may have earned on WPA or other public relief employment.

(6) To Section 6 of said Proposed Conclusions of Law in that it fails to find that respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act and has engaged in unfair labor practices within the meaning of Section 8, subsection 1 of the Act by its announcements that it would not enter into a signed agreement with Steel Workers Organizing Committee.

(7) To said Proposed Findings of Fact and Proposed Conclusions of Law, including the section titled "The Remedy," and to rulings of the Board and of the Trial Examiner, insofar as they conflict with or fail to support the foregoing exceptions.

Respectfully submitted,
LEE PRESSMAN,
Lee Pressman
Attorney for Charging Party.

Dated Washington, D. C.
this 9th day of August, 1938.

XXXI.

TRANSCRIPT OF ORAL ARGUMENT BEFORE N. L. R. B. AUGUST 11, 1938.

(Docketed August 12, 1938)

Shoreham Building,
Washington, D. C.,
Thursday, August 11, 1938.

The above-entitled matter came on for oral argument before the Board at 10 o'clock, a. m., pursuant to notice.

Present:

Chairman J. Warren Madden,

Board Member Donald Wakefield Smith, and

Board Member Edwin Smith.

Appearances:

Allan Rosenberg, Washington, D. C., appearing on behalf of the National Labor Relations Board.

Luther Day, 1420 Union Trust Building, Cleveland, Ohio, also Arthur J. Gentholts and E. J. Magee, Cleveland, Ohio, appearing on behalf of respondents.

Anthony Wayne Smith, Washington, D. C., appearing on behalf of Steel Workers Organizing Committee.

PROCEEDINGS

CHAIRMAN MADDEN: Republic Steel Corporation Case.

I don't know who should speak first. Counsel for the company and the Union filed exceptions to the proposed findings, and the Union is the charging party, so I suppose that it might very well proceed.

MR. DAY: Could we have a copy of the Union exceptions?

MR. WAYNE SMITH: May I say, Mr. Chairman, that I have here a copy of the exceptions that I would like now to serve on Mr. Day. Registered service was mailed to Mr. Day on the day the exceptions were filed. It is possible they were not received at the time.

MR. DAY: There is no brief?

MR. WAYNE SMITH: Because of the fact that the briefs are on the way over to me at any minute from my office, I would like to serve them in the same way. I don't have them here at the minute.

CHAIRMAN MADDEN: Copies of the briefs were sent to the Board yesterday about 6 o'clock.

MR. DAY: We do not ask for any delay, of course.

CHAIRMAN MADDEN: But there is a brief?

MR. DAY: I see.

MR. WAYNE SMITH: I might say this, also, if it is of no material difference to the other party as to who speaks first, I would like to prefer to wait, in view of the fact that the brief is on the way over, and I would like to use it in the argument.

MR. DAY: That is quite all right.

MR. WAYNE SMITH: Whatever time that is.

CHAIRMAN MADDEN: Will you proceed, then?

MR. DAY: I understand that we have one hour a side.

We have filed a motion for leave to introduce additional evidence. May we consider that that is being submitted at the same time?

CHAIRMAN MADDEN: Well, if you care to make any argument on that, you may make it, and if you want a little more time, that will be granted.

MR. DAY: No, I would not want any more time. I think whatever argument we will make with regard to that, we will kind of try and tie it in.

CHAIRMAN MADDEN: Very well.

MR. DAY: With the other arguments on the situation.

CHAIRMAN MADDEN: Very well.

MR. DAY: I want to say at the outset, as we have said in the brief and in the exceptions, in fact, in practically every paper we have filed recently in this proceeding, that we are appearing here relying upon and reasserting the contention that the Board has no jurisdiction and had no jurisdiction to make or issue the proposed findings and the proposed conclusions of law and the proposed order.

I should like to have that understood.

I think perhaps it is understood, because we have said that so many times in the various papers we have filed, and in the oral argument we will deal only with some of the questions presented here and respectfully refer the Board as to other questions to a consideration of our brief.

But, we wish to have it understood that the respondent is relying upon each and all of the exceptions which have been filed, whether they are discussed in the oral argument in detail, specifically or not.

The first point we wish to make relates to the jurisdiction of the Board, and our contention is that the Board had no jurisdiction to issue or make the proposed findings; and, I shall refer, with the Board's permission, to the proposed order, the proposed conclusions and the proposed findings as just the proposed findings, so as to shorten matters up somewhat.

The first point I make is that the Board had no jurisdiction to set aside the order of April 8, 1938, for the purpose of taking further proceedings. The Board, being an administrative body created by statute, concededly has only the jurisdiction which the statute gives it. The jurisdiction to set aside is in 10(d) of the Act, and that is the jurisdiction to set aside the order in whole or in part, or to modify the order before—as the Board knows better than I do—a transcript is filed.

It is our contention that to set aside, as used in the Act, means to make void, to annul, and that the Board has no jurisdiction to set aside the order for further proceedings.

Our next proposition is that the Board having set aside the order of April 8th had no further jurisdiction to issue or make a proposed finding, a proposed order upon the basis that the setting aside of the order of April 8th by the Board is a sweeping away of the order for all purposes as to all intents and leaves the Board without any jurisdiction from that time on.

Both of those first two propositions were presented to the Board and saved by the respondent by the filing of proper motions which the Board denied.

Our next contention is that what the Board is proposing to do here does not, in fact, constitute the taking of further proceedings.

Assuming that in a proper case the Board had jurisdiction or has jurisdiction for further proceedings, it is our contention that what the Board proposes to do here is not that; that is, it is not the taking of further proceedings; in other words, we contend that what the Board is proposing to do now is merely to regularize the proceedings heretofore taken by the Board and the action of the Board in making the order of April 8th without affording to respondent a hearing.

In that connection I want to call the Board's attention to something that was said by the Supreme Court in our recent case involving the Third Circuit Court of Appeals, Ex Parte Labor Board.

In the majority opinion the Court said:

> "Counsel for Republic urges that the Board's petition to this court indicates that it does not intend irrevocably to abandon its former order but merely to regularize it and reenter it after regularization and that the Act gives no power to do this after the Board has heard the case and issued an order. We have no occasion to speculate upon the future proceedings before the Board. It is enough that the petition shows that the Board desired to and would have vacated its order had it not been restrained by the action of the Court. What the legal effect of its future proceedings may be we need not decide."

So, it is our contention that the Board made and entered on the 8th of April a final order, final conclusions of law, final findings of fact dealing with every phase of the case, embodied and set forth in a document here which, as we have a copy of it, consists of some more than one hundred, I think, mimeographed pages.

Now, that was done by the Board, we contend, without any hearing being afforded us. I will discuss that more in detail in a few moments.

Now, after that had been done and after a final order had been made and final findings of fact had been made and final conclusions of law had been made and arrived at, the decision came down, as the Board knows, in the so-called Stock Yards Case.

Then, after we had filed the petition for review in the Third Circuit Court of Appeals, the Board not having filed the transcript and the Supreme Court having held that the third circuit had no jurisdiction until the transcript was filed, set aside its order of April 8th for the purpose of taking of further proceedings as recited in the journal entry of the Board.

After the order had been set aside, as the Board knows, the proposed findings were made and issued. Now, the proposed findings are practically and substantially in all important respects identical with the original findings. That is true, substantially, as to the order, the conclusions of law, and the findings of fact.

Now, it is our contention that that does not constitute the taking of further proceedings by the Board, assuming that the Board has jurisdiction under the state of facts here presented to take further proceedings; that the refiling with slight changes, unimportant changes, under the caption and guise of proposed findings, and so forth, under the original findings, is not the taking of further proceedings, but is merely an attempt by the Board to meet the situation created by the decision in the Stock Yards Case, and, as the Supreme Court said, regularize the proceedings had before the order of April 8th issued, and which was had without any hearing being accorded the respondent.

CHAIRMAN MADDEN: Are you going to suggest—are you Judge Day?

MR. DAY: I am just Luther Day, sir.

CHAIRMAN MADDEN: Are you going to suggest what the Board might have done which would have constituted further proceedings, assuming that some of the steps that were not taken before, were necessary steps?

MR. DAY: Of course, we make the point that a situation existed here; that the order was set aside where the Board had no jurisdiction to take further proceedings at all.

Of course, I have already stated that point.

CHAIRMAN MADDEN: Well, that seems to be a very unreasonable view, assuming that a statement was made before, that all the Board can then do with the case is to throw it in the wastebasket.

MR. DAY: Our contention is on that;—and I have already stated it and I shall be very glad to restate it again,—the Board being an administrative body, has only the power that the statute gives it; that the statute gives the Board power to set the order aside.

Obviously, this is not a modification of the order. It is a setting aside of the order. And, the meaning of laying or setting aside of the order is to make null and void, and therefore, if the order is set aside, it is made null and void for all purposes.

To answer the question that you have submitted a moment ago, and assuming for the sake of the argument that the Board has jurisdiction to take further proceedings, it would seem to me that the further proceedings would be by way of correcting some error, or something of that kind, or correct some mistake that the Board had made or some misapprehension that the Board had fallen into; something of that kind.

CHAIRMAN MADDEN: Were you under the impression that this gathering here this morning was for the purpose of giving you an opportunity to persuade us that we had made a mistake and—

MR. DAY: I realize that; I realize that, but I am emphatically and respectfully making the suggestion that the Board has no jurisdiction, and I think the Board fully realizes that I am making that contention, and the fact that you are giving us the opportunity to be heard, of course, does not deprive us of the right to question at all stages the jurisdiction of the Board to proceed.

There is one more point on that question of jurisdiction and that is this, that the Act does not set any standards at all to govern the conduct of the Board in the event the Board has the right to take further proceedings, and that is, the Act as construed as giving the Board jurisdiction and power to do anything that it sees fit in the nature of further proceedings;—the Act in that respect is unconstitutional because it confers a power upon an administrative body without setting any standards to govern the carrying out and execution and performance of that power.

Now, the next question we wish to argue is that respondent on the record as it now stands, a record which we believe cannot be corrected in any sense, has been denied due process of law in that the respondent has never been accorded a hearing upon the charges made against it in the complaint in this case.

This hearing began in July 1937, before the Board. The Chairman was not present but the other two members were present.

You recall we were here three or four days. Then a Trial Examiner was appointed, designated by the Board, and hearings were had before the Trial Examiner at various places, Canton, Youngstown and Cleveland on behalf of the Board, and also on behalf of the respondent.

Then the Trial Examiner concluded the hearings and left.

This being known what is known as a Board Case, the Board had under its rules the right to have the Trial Examiner, or require the Trial Examiner to make an intermediate report;—that was not done—to decide the case forthwith upon the record, to reopen the case or to make other disposition of the case.

We did not know what disposition was going to be made of this case after we got through with the hearing before the Trial Examiner. There is nothing in the rules by which we could have been apprised of that in the rules.

About six months after the hearing before the Trial Examiner had been concluded, the Board issued its final findings, conclusions and order and issued them without any hearing being accorded to the respondent.

It wasn't a situation in which a respondent was required to ask for a hearing, because the respondent had no way of knowing what was to be done, whether there was to be an intermediate report, proceedings before the Board, or what, and the Board—

CHAIRMAN MADDEN: You speak of not having a hearing. You don't mean you didn't have a hearing! You have just said for week after week you did participate.

MR. DAY: I am very glad you made that suggestion. That was the taking of evidence before the Board and the Trial Examiner.

CHAIRMAN MADDEN: On the issues raised.

MR. DAY: On the issues raised, exactly, sir.

CHAIRMAN MADDEN: By the complaint.

MR. DAY: Right, sir, and on the issues set forth in the complaint and joined by the answer, that is true.

But, coming directly to the point, we contend that we never had a hearing, because we were never given a chance to make an argument in the case and we were never given a chance to contest in the sense that that term means in constitutional law the claims made and charges made against us in the complaint.

CHAIRMAN MADDEN: What did you think you were doing during all those weeks before the Trial Examiner?

MR. DAY: Well, we were presenting evidence.

CHAIRMAN MADDEN: Wasn't that contesting?

MR. DAY: No, no, no. It was simply the presentation of evidence, and I am glad you asked me that question.

We contend that under the decision in the Morgan

Case, the doctrine of the Morgan Case and other cases—the Morgan Case did not introduce anything radically new on that subject—that we are to get a hearing and gives us the right to contemplate an argument first. We never had that argument; and, second, it contemplates the right to contest the charges made against the respondent in this case by argument, and it contemplates more than anything else, and of the greatest importance on this phase of the case, the right to be heard by argument and in contesting the claims made against us before this Board, before the Board made up its mind; not after the Board made up its mind.

MR. DONALD WAKEFIELD SMITH: The Board has not made up its mind in this case yet. These are only proposed findings of fact. This is not a decision and order. You are being given now the opportunity now to argue.

MR. DAY: Quite true, but I make this point on that, and I want to make it respectfully but emphatically that we are not being accorded any hearing at all now; in other words, the hearing which we were entitled to as to the charges made against us in this complaint was a hearing before the Board made up its mind, not after the Board made up its mind, and in regard to the suggestion you just made, Mr. Donald Wakefield Smith, if this Board has not made up its mind, we respectfully submit that an examination of the first order of April 8, 1938, the findings of fact and conclusions of law, lead to the inevitable conclusion that the Board at that time had made up its mind, because if that were not true, why, we would find ourselves in a situation where the Board had made an order requiring us to perform a great many acts without having made up its mind whether the order ought to stand or ought not to stand, or whether or not it should be the order.

There was clearly here a making up of the mind by the Board before the order of April 8, 1938.

CHAIRMAN MADDEN: There isn't any doubt about that.

MR. DAY: I don't think there can be any doubt about that.

MR. DONALD WAKEFIELD SMITH: May I just ask, Mr. Day, whether you think that you were precluded from arguing orally before the Board prior to the issuance of the last order.

MR. DAY: You mean the last order of July.

MR. DONALD WAKEFIELD SMITH: Whether, according to the rules and regulations, you were precluded from requesting oral argument before the Board.

MR. DAY: You mean, before the order of April 8th?

MR. DONALD WAKEFIELD SMITH: That is right; yes.

MR. DAY: Well, we take this position, that it was not incumbent upon us to request anything, because we were in a position where the procedure was entirely within the hands of the Board; in other words, the Board under its own rules could not have ordered the Examiner to make an intermediate report, in which event we agreed to file exceptions to that.

The Board might decide the case forthwith upon the record; the Board might decide to give us oral argument and file briefs and your own rules read if you reach that conclusion the Board will notify us, the respondent, as to when the brief shall be filed or the arguments made.

Now, quite frankly—we cannot be of any advantage to anybody without discussing this question quite frankly. We contend that the Board made up its mind finally as to every issue in this case, made up its mind finally as to every charge in the complaint when it reached its conclusion on April 8th, and that the present proceeding is not a hearing at all, because if you take your original findings and compare them with the two findings, as you have already done, no doubt, you will find there are a few pages changed and a few typographical corrections and some changes in the final order.

CHAIRMAN MADDEN: Mr. Day, do you expect to devote any time to the merits of this case?

MR. DAY: Yes; I am going to devote a little time to certain phases of it, and I will leave the question of whether or not we have been accorded a hearing, and whether or not we have been afforded or denied due process of law in that connection, along with what I have said and with what we say in our brief.

MR. EDWIN SMITH: Mr. Day, supposing there had not been these intervening court proceedings and what the Board had done on April 8th and what it did subsequently, namely, to issue proposed findings and order in the same terms and language as that which is now before us, will you consider that that would have constituted a fair hearing?

MR. DAY: No.

MR. DONALD WAKEFIELD SMITH: That is, without an opportunity to argue those findings?

MR. DAY: No, sir.

MR. EDWIN SMITH: Would you consider that the findings, proposed findings issued at that time, would have constituted a making up of its mind by the Board?

MR. DAY: We take the position in the brief and take the position here that the making up of proposed findings of fact, conclusions of law and order and giving what is characterized as an opportunity to us to be heard upon them, does not constitute a hearing or due process that we are entitled to.

CHAIRMAN MADDEN: Even though there had not been a finding?

MR. DAY: Yes.

CHAIRMAN MADDEN: Final finding?

MR. DAY: Yes; that we are entitled to a hearing. We are entitled to contest; we are entitled to argue; we are entitled to convince the Board, if we can, that we are right, before there is any making up of minds that here you have a final or proposed order.

CHAIRMAN MADDEN: Then, the functions of the proposed findings, as drawing the issue, you would discard that entirely as being a warning to you?

MR. DAY: Yes. We take the position that we were entitled to be heard by argument and in contesting the claim of the other side before you even make any proposed findings.

CHAIRMAN MADDEN: So, the only use which an administrative agency might make of proposed findings would be proposed findings prepared by a subordinate, for example, but without the sanction of the Board?

MR. DAY: Well, I cannot find anything, either in the Act or in the rules that has anything to do with proposed findings. I cannot find anything in the Act to that effect.

CHAIRMAN MADDEN: Well, I was speaking generally about the administrative process. The Supreme Court has said a good deal about the use of proposed findings by an administrative body and I wondered whether it was tolerable after all.

MR. DAY: Well, we don't think in this situation it was.

CHAIRMAN MADDEN: Well, this situation is no different than the other one.

MR. DAY: No, I think this is considerably different. I cannot find any jurisdiction in the Board to make proposed findings and frankly—

CHAIRMAN MADDEN: That would not be a constitutional question.

MR. DAY: And I do not think the Board would have ever considered making proposed findings except for the decision in the Stock Yards Case. But, we have made our position on that.

MR. DONALD WAKEFIELD SMITH: May I inquire, Mr. Day?

MR. DAY: Yes, sir.

MR. DONALD WAKEFIELD SMITH: You made the argument to the Third Circuit Court of Appeals at the time on your petition for review, on the Board's order of April 8th that you had been denied due process because the intermediate report had been filed and because you were not afforded the opportunity to argue before the Board?

MR. DAY: I don't think we made that point in the Third Circuit, sir. I don't think that was involved in the proceedings in the third circuit.

Of course, we contend that the Act is unconstitutional, as construed by the Board, for reasons set forth in the Brief, and we do not expect that the Board holds the Act unconstitutional. We don't care to argue that orally.

Now, we are going to submit on brief;—because of the lack of time we have, although we have an extension of time, and we appreciate that;—the questions as to the labor organizations.

We have that quite fully discussed in the brief and we submit that on the brief.

Any detailed discussion of the labor organizations phase in this case orally would take so much time, that I think really we would be ahead if we submitted it on the brief, where it is discussed in considerable detail and which I suppose the members of the Board have already seen.

We also submit on the brief, for the same reason given, the discrimination and the discharge cases. That you will find very fully set forth.

Now, I want to come to a discussion of the facts and the merits.

Insofar as the proposed order seeks to deal with what we have characterized generally since April 8th as the five thousand men—there might be five or six thousand men, but I call it five thousand men, and please understand I am not trying to be precise or accurate when I use that figure; those are the men, employees of Republic, the respondent, who are not specifically named in the complaint, as having been discriminated against, and those are the men which the Board in its proposed order and in its first order orders us to reinstate upon application.

Now, I take it that it is not necessary for me to deal further in calling to the attention of the Board that group of men, because I take it you all have in mind the group that I am talking about.

Now, we make several contentions with relation to that group of men, and the first is that there is no issue tendered in the complaint of this case as to those 5000 men; no issue involving their reinstatement in the complaint, and that the case was not tried before the Trial Examiner on the theory that any issue was tendered as to those five thousand men, but on the contrary was tried upon the theory that there was no issue as to those five thousand men.

Now, in the complaint you will find in paragraph 16 that because of the acts set forth in paragraphs 3 to 15, the employees of the respondents went on a strike.

Now, those acts as set forth in the complaint, paragraphs 3 to 15, consisted of discharge and discrimination cases at the various places involved in the hearing and the closing down or shutting down of our plant at Canton and our plant at Massillon.

When this case was tried and, at the present time, we submit that if you carefully examine and analyze the petition you will find no issue submitted or tendered as to those men.

When we had the hearing at Youngstown before the Trial Examiner, when we offered our evidence or were seeking to offer our evidence, we had a question presented as to whether or not we had a right to show violations generally upon the part of the strikers.

I contend we had a right to show that for two reasons at that time:

The first was that if the strikers and those in whose behalf the complaint was filed and who filed the charges had themselves been guilty of violence and unlawful conduct, then the proceedings should not have been taken up and heard at all because they were stopped; that was the first.

The second was, we contended then as we contend now that if those named in the complaint specifically as having been discriminated against acted in concert with these other strikers, even though they were not identified, those named in the complaint were chargeable with the violence upon the part of the others, and if there was general violence, concerted violence, violence as the result of concerted action or conspiracy, then the violation of all of them would be a bar to any right on the part of these specifically named.

Now, in the course of that argument this question came up that the complaint was not broad enough to include any question as to reinstatement of those who we will call "The 5,000 men," and I said, "I want to get it into the record," I said, "I want to make this statement on the record." The Trial Examiner said, "It is on the record, but I want to talk to you " Now, there wasn't any opposition manifested on the part of the Board or the Trial Examiner. So the point I make is this, that the complaint offers no issue as to those 5,000 men, it is amplified in the brief; that being true, we were never accorded a hearing as to those 5,000 men, and the issue as to those 5,000 men and the question as to whether they should be reinstated by us upon proof as found by the Board's order is a question that was injected into the case in the first place by the Board's own order of April 8th.

CHAIRMAN J. WARREN MADDEN: The complaint does state specifically that certain of your unfair labor practices caused the strike, does it not?

MR. DAY: Yes, sir.

CHAIRMAN J. WARREN MADDEN: And, of course, we have decided numerous times and I take it you have probably familiarized yourself somewhat with the unwritten law which was administered before you tried this case that we had, with the approval of the courts, numerous times as part of the remedy in our order, reinstated strikers.

MR. DAY: I realize that.

CHAIRMAN J. WARREN MADDEN: On this same kind of situation of the pleading.

MR. DAY: Well, I do not believe that it is justified on the pleading.

CHAIRMAN J. WARREN MADDEN: It hadn't troubled us and it hadn't troubled the judges, and you were certainly on notice of what our procedure was in that regard.

MR. DAY: Well, I think if you will examine the complaint you will find there is no such issue tendered by it. I want to state my position, I want to say now that the respondent takes the position that the complaint was not broad enough to be made the basis of any order requiring the reinstatement of any employees of the respondent now allied with the SWOC except those who are definitely named in the complaint as having been discriminated against by the respondent.

When you read the brief you will find what counsel for the Board said upon the last trial, and I think you will agree with me when you read the brief that is a part of the record, that the case was then being tried upon the theory that the rights of men were involved only to the extent that they were rights of men and employees specifically named in the complaint, and that was the position taken by us and taken by the Board also.

CHAIRMAN J. WARREN MADDEN: I do not understand how it was taken by the Board.

MR. DAY: Well, it was taken by the Board in the arguments by the Board upon the question of the admissibility of this general testimony as to violence done by the strikers and taken by the Board when there was no question on the position we took.

CHAIRMAN J. WARREN MADDEN: Would you present evidence of violence on the part of named strikers?

MR. DAY: Yes.

CHAIRMAN J. WARREN MADDEN: For the purpose of indicating that no one of your former employees who was on strike was fit to work for you ever again.

MR. DAY: Now, we would present this evidence for the reason, and it is important because some of our additional evidence has to do with the same thing, we re-offer the evidence we offered before, and we were offering that evidence for this purpose: In the first place we said in our answer that the strikers and those affiliated with them, and so forth and so on, who filed the charges in this case upon which the complaint was filed, were themselves guilty of many acts of violence, and so forth and so on, of such a character as to bar them from the right to file the charge and hence that the Board should not have taken jurisdiction of the case.

And, second, we make the point here and we will adhere to it to the end as a sound proposition of law, that the violence of all the strikers acting in concert is chargeable against those specifically mentioned in the complaint as having been unlawfully discriminated against, and upon the theory—and there are some cases cited in our brief in support of it—that when the man specifically named in the complaint acts as a striker in concert with others, that each and every one of those participants in that concerted action is responsible for the act of all, so that if we show that there were pickets and so forth, and so on, that indulged in lawless conduct, that lawless conduct is chargeable against and is a bar against those specifically named in the complaint.

CHAIRMAN J. WARREN MADDEN: And everybody else who is on strike.

MR. DAY: Yes; yes, sir.

CHAIRMAN J. WARREN MADDEN: Which does amount to the proposition that I suggested that no one of your former employees who is on strike is fit to work for you again, that is, fit to have any protection under the law.

MR. DAY: No, and I will answer that directly; if there was unlawful picketing here, lawless picketing, violent picketing, pickets exceeding the legal definition and limits of peaceful picketing, that from the moment that that peaceful picketing was violated, the strike was unlawful and everyone participating in that strike was not entitled to be reinstated, and I state that as a propositon of law.

CHAIRMAN J. WARREN MADDEN: Well, this is just for the purpose of this hearing; I mean, in fact, you did reinstate a great many of them, you didn't as a practical matter consider them outlaws at all, but you want us to consider them as outlaws.

MR. DAY: No, that isn't it at all. Our additional evidence shows this: That about the time that we resumed operations at our various plants we made the statement, public statement, that we were open and that we would take back any man that had not been guilty of violence.

CHAIRMAN J. WARREN MADDEN: Either personally or by his associates and by his taking part.

MR. DAY: Well, we didn't say that.

CHAIRMAN J. WARREN MADDEN: What did you mean?

MR. DAY: What those who made the statement meant I do not know, but my position would be that any man who acted in concert with others in doing acts of violence is not entitled to be taken back.

CHAIRMAN J. WARREN MADDEN: Well, that was all of them.

MR. DAY: I do not know whether it was all of them or not, it may have been practically all of them. But we think we had the right to show the conduct of these men as tending to show that it was not peaceful picketing, and therefore was unlawful.

MR. DONALD WAKEFIELD SMITH: Of course, I was one of the members of the Board who sat at the inception of this case and that question then arose, and as I recall, the disturbance occurred one and a half or two blocks from the plant where the injunction which you had secured in Canton did not apply. Now how would that injunction proceeding which you say permitted peaceful picketing—

MR. DAY: Right.

MR. DONALD WAKEFIELD SMITH: But that the picketing was not peaceful.

MR. DAY: Right.

MR. DONALD WAKEFIELD SMITH: Well, now, the evidence adduced at the hearing established that the disturbance in Massillon occurred without the jurisdiction of that injunction.

MR. DAY: Part of it, yes.

MR. DONALD WAKEFIELD SMITH: Well, the major part. It occurred at the CIO headquarters, which was a block and a half away from the plant in this county over which this injunction had effect.

MR. DAY: No, it was outside of the city, but it seems to me it was inside of the county.

MR. DONALD WAKEFIELD SMITH: But that was picketing, it was picketing of the CIO headquarters.

MR. DAY: The first point I make as to the 5,000 men is that we were not afforded a hearing as to them, there were no charges made as to them in the complaint, and some of the additional evidence we offer bears upon that subject.

The next proposition is that the Board's order as to these 5,000 men is based upon a finding by the Board that the respondent was responsible for the strike and the respondent caused the strike. I want to spend a little time on that. The Board found that a long series of unfair labor practices was the fundamental cause of the strike and said, also, that the important cause of the strike was the failure of Republic to sign the so-called Carnegie-Illinois contract presented for signature by the SWOC. Some of our new evidence or additional evidence relates to statements made by those high up in SWOC as to the cause of the strike and tends to show that the cause of the strike and the sole cause of the strike was the failure to sign this contract.

The question as to the cause of the strike is important here, as the Board sees better than I do, because if these 5,000 men were not on a strike due to unfair labor practice on the part of the respondent, they are not entitled to reinstatement. There doesn't seem to be any question in this case about the strike as to whether or not it constituted an unfair labor practice.

We contend that there is no evidence in this record that the unfair labor practices described in the complaint caused the strike. Those unfair labor practices were the discharge and refusal to reinstate certain men. We say there is no possible causal connection between that and the strike.

The supposed finding also suggests that the strike was due to the shut-down at Canton and Massillon. We make the same contention as to that. There is no basis of finding in this record, no connection between the strike and the closing down of the Canton and Massillon plants. As a matter of fact, at the time the men went out on strike they had already returned to work at the Canton and Massillon plants. There was no evidence introduced by the Board as to the cause of the strike. The only thing they introduced was a statement made, I think by Mr. Girdler, to the employees and perhaps to the public generally, stating that correspondence between Clinton Golden and Mr. Girdler preceding the strike had taken place, suggesting that the cause of the strike was failure to sign the contract. We make the contention as to the finding of the Board—

CHAIRMAN J. WARREN MADDEN: Might I interrupt you?

(Here followed a statement, off the record, and made to the photographers.)

MR. DAY: Now, the cause of the strike is an important question in this case. In our additional evidence here is what we have: Specific statements made by officers of the SWOC that the cause of the strike and the sole issue at stake was our refusal to sign that contract.

MR. DONALD WAKEFIELD SMITH: Were they available for presentation from the beginning, Mr. Day?

MR. DAY: Yes, yes, they were available.

MR. DONALD WAKEFIELD SMITH: And did you offer them?

MR. DAY: We did not. Now, I will tell you why: The burden of proving the cause of the strike was on the Board. When this case was finally submitted upon the evidence as we saw it there was no evidence supporting the Board's contention as to the cause of the strike, that the evidence tended to show that the cause of the strike was our refusal to sign that contract, and the Board itself said that that in itself was not an unfair labor practice. We assumed and so state, that the Board would take judicial notice of the fact that the Republic strike was a part of the Little Steel Strike, part of the strike that involved Republic, Bethlehem, Youngstown Sheet & Tube, and Inland, and the cause of that strike, and everybody interested in it knew, and the Board said, the cause of that strike was the failure to sign that contract.

We find now a very important part of this Board's order based upon the finding that the cause of the strike was this unfair, series of unfair labor practices. We are asking the Board now for an opportunity to present this additional evidence upon the theory that if the Board made a mistake, we take it the Board will welcome the opportunity to correct any incorrect finding the Board has made upon the question, we think the Board will correct it and will welcome that opportunity.

CHAIRMAN J. WARREN MADDEN: My recollection is that the strike at Massillon preceded the rest of the strike and followed immediately upon—

MR. DAY: (Interposing) That is evident that the men went out at Canton, I think, on the 25th; the men went out at Massillon, I think, on the morning of the 26th, I think that is true.

CHAIRMAN J. WARREN MADDEN: Why would that have been a part of the strategy of the whole Little Steel strike that they should strike first at Canton where there happened to be a lock-out and strike next at Massillon where there happened also to be a similar lock-out?

MR. DAY: Well, we take it that the record claims the shut-down at Canton.

CHAIRMAN J. WARREN MADDEN: Well, I am asking you for the moment to assume that the Board is right in finding that those were lock-outs.

MR. DAY: Well, even if they were, the evidence shows those men are back at work, that they were all back before the strike was called, at both places.

Now, of course, we contend also that there is a variance as to the cause of the strike between the complaint and the Board's findings, but I do not wish to argue that at this time.

MR. DONALD WAKEFIELD SMITH: I believe the strike first occurred at Massillon, Mr. Day, and the following day occurred at Canton; I am trying to pick out that from the record.

MR. DAY: I think the one at Canton first, that they went out at Canton first. They went out at one place on the 25th, of that I am sure, and I am also sure, as I suggested to the chairman of the Board, before the strike was called, the other difficulty was all over.

CHAIRMAN J. WARREN MADDEN: Why did they do that?

MR. DAY: They did that because of the failure to sign the contract, and the additional evidence shows that the refusal—

CHAIRMAN J. WARREN MADDEN: (Interposing) The failure to sign that contract was universal.

MR. DAY: But my recollection of the additional evidence is that it contains a statement of those in charge of the lodges at Canton and Massillon, one or both places, to the effect that the cause of the strike was the refusal to sign the contract, and if you assume that was the cause of the strike, if I am correct in that, and I take it I am, that is the answer to your question.

The next proposition as to the 5,000 men, the first was the cause of the strike, and you see the result of that just as well and better than I do and you gentlemen should hear, we contend. all of the evidence bearing upon that proposition.

We have this situation in the evidence and in the additional evidence—if we concede for the sake of argument that one of the causes of the strike was the shut-down at Canton and Massillon, the men are back at work there before the strike of Little Steel was called.

As to the discrimination cases and the discharge cases, that was all over, so that we have a case here which shows upon the undisputed evidence that the declaration of the strike by the strikers must have been because of the failure and refusal of Republic to sign that contract. The Board found that that was not an unfair labor practice, therefore, they were not employees while they continued that strike even though the motivating causes were what the Board said they were; those causes have been removed long before the time when this strike arose.

We have this situation in the order: You require us to reinstate the men at any of our plants. I want to call your attention to that. As I understand the order, it is this, and if I do not understand it, I wish you would tell me now, I am not quite sure I do understand it; you order us to put all of these strikers who have not heretofore applied for reinstatement back to work, upon application, and upon a preference list, if there is no work for them, and then to give them work, together with the men who stayed at work at our plants, in order of seniority, but at any of our plants.

I am asking for information, frankly, of the members of the Board. As I understand the order, we must reinstate those men if there is work for them. If we had new men we put those men out to make room for them, strikers who were there before the strike. So then we will have a man who remained true all the way and then reinstate a striker with the new men out.

We understand that the Board's order requires us to give them work, if work is available, and if work is not available to put them on a preferential basis and to give them first call with seniority along with those who stayed in our plants all the time. You make that order applicable to any one of our plants. This is the question as to those men, if we have a plant down in Birmingham, Alabama, and the plant involved in Ohio, does that mean if a man is laid off, has been laid off in Birmingham, Alabama, our plant down there, and then work comes for the place that that man held, that we must consult a preferential list, and if there is a striker at our Niles plant who has worked longer for us than the man who worked for us at Birmingham that the striker at Niles gets the job? I don't know whether it means that or not; the way I interpret the order it does.

CHAIRMAN J. WARREN MADDEN: You say that would be inconvenient to you, to your management at Birmingham, to have to consult this preferential list at Niles. Suppose, on the other hand, there is a great deal of inconvenience for those men at Niles, or a particular man at Niles who hasn't got a job or a living, and balancing those two inconveniences with yours, with the inconvenience to the company, giving him an opportunity to be paid, if he is willing to go to Birmingham, is your inconvenience greater than the inconvenience to that man of trying to eat without a job?

MR. DAY: I do not base the argument on inconvenience one way or the other. I base it upon the ground of legal right. If you put that order into effect, if it is put into effect, you will give that employee at Niles who went out on a strike a greater right than he would have had if he had not gone out on that strike.

CHAIRMAN J. WARREN MADDEN: I was interested in your argument about these situations, and it seems to me that you have used them in reverse. I do not suppose there was any limitation whatever in any legal jurisdictional limits on the court's going as far as it can even though its remedy may be very imperfect, as of course a job in

Birmingham would be a very imperfect substitute for a job in Niles for a man living in Niles, but I did not suppose that any court had ever been criticized for doing the best it could by the way of remedy when the remedy was not a very good substitute.

MR. DAY: Well, the order does not take into consideration the right of the employer at all, you put a premium by your order, and I want you to consider that quite seriously, you put a premium by that part of your order upon the striker because he went out on a strike.

CHAIRMAN J. WARREN MADDEN: You do not call it a premium.

MR. DAY: Well, suppose at Niles there is no strike at all, and there is a strike at Birmingham. Then the plant closes down at Niles and closes down at Birmingham. Now, the man at Niles gets his job back when they open at Niles; the man in Birmingham gets his job back when they open in Birmingham. There isn't any way by which, if we open in Birmingham and it happens that the man in Niles has worked longer than the man at Birmingham that the employer has to say to the man in Niles, "Come on down and get this job," but talking about rights of men, you have suggested, the man working in Birmingham that has lived all his life in Birmingham, who has worked there all his life, who has raised his family there, I take it under the law, and under sound policy—

CHAIRMAN J. WARREN MADDEN: Now, wait just a minute, what right under the law, assuming that you have been guilty of unlawful labor practices, what right has the other man,—he hasn't any right at all?

MR. DAY: No, but when you come to the general meaning of the—

CHAIRMAN J. WARREN MADDEN: (Continuing) Well, he hasn't any legal right, you must admit that he hasn't any legal right. Now, the other man does have, you have discriminated against him, you have kept him out of work.

MR. DAY: But kept him out of work at Niles.

CHAIRMAN J. WARREN MADDEN: The Board is attempting to remedy that.

MR. DAY: No, the Board is attempting,—I must proceed upon this proposition until I am satisfied it is true, that the Board is giving that man at Niles a better and bigger right as an employee than he would have had if there had been no strike at all by requiring us to give him a job at Birmingham if he has worked longer for Republic than the man at Birmingham has.

We contend that is a finding of discrimination upon the Board's part; if it is, it is going beyond any jurisdiction that the Board has, that it is not sound.

That is discussed in full in our brief and I do not want to spend any more of my time on that.

In addition, also, the order of the Board did not take into consideration men who had obtained substantially equivalent employment elsewhere, does not make any suggestion as to them, and you also make your order applicable to new plants of ours, whereas the additional evidence shows, and that has been injected into the case for the first time by this proposed order, that there is a different kind of work, different kinds of labor required at the new plants.

I just want to say a word now about this evidence as to violence. The Board mentions in its finding that it was split, to some extent at least, as a court of equity. You make your order applicable to 5,000 men not named in the complaint, you order us to reinstate those men, upon application. Not having any issue presented as to them in the complaint, we have never had any opportunity to show the Board whether or not one or a hundred more of those men specifically named has been guilty of some conduct which would bar his right to be reinstated.

Some of these men have inflicted damage upon the property of the company. There might be reason, if we knew that all the 5,000 men were contemplated in the Board's order, that we would show to the Board why they should not be reinstated. That right has been denied to us. That is covered in the additional evidence and in the offer of additional evidence.

It seems to me and always has seemed to me and I am afraid it always will—

CHAIRMAN J. WARREN MADDEN: (Interposing) Do I understand that you have in this offer of additional evidence every case of violence attributable to any of these people; that is, I notice some of your evidence—

MR. DAY: And I think this is a fact—

CHAIRMAN J. WARREN MADDEN: I notice some of your evidence speaks of men being guilty of disorderly conduct.

MR. DAY: I think we have in the offer of additional evidence all of the information we have available as to strikers who were found guilty or pleaded guilty of misdemeanors who were not named in our former offer of proof. I think that is a fact.

CHAIRMAN J. WARREN MADDEN: You seriously contend that if a man was fined $10 for disorderly conduct it is outlawing him as far as work is concerned.

MR. DAY: We contend that in any action when the striking man commits a misdemeanor, an act of violence, that he is barred, whether he is affected or not, because if the strike is unlawful his conduct is unlawful. In other words, we contend that if a man goes out on the picket line with a ball bat, waiting to swing it at somebody—

CHAIRMAN J. WARREN MADDEN: Is that what you call disorderly conduct?

MR. DAY: Just having a ball bat in his hands?

CHAIRMAN J. WARREN MADDEN: Yes.

MR. DAY: I don't know whether he would or not, I think they would. I think patrolling around in front of our property with a ball bat in your hand would be disorderly conduct.

MR. DONALD WAKEFIELD SMITH: I notice some here were found guilty of suspicion and fined $15. That covers a multitude of sins.

MR. DAY: I think it does. I did not know anything about that.

CHAIRMAN J. WARREN MADDEN: Suspicion?

MR. DAY: If there is anything in there involving suspicion, I did not know anything about that.

CHAIRMAN J. WARREN MADDEN: I thought that was a Pennsylvania crime exclusively.

MR. EDWIN S. SMITH: Mr. Day, on this argument about violence on the part of strikers, suppose there had been provocation on the part of the company, do you consider that in any way legally offsets the situation you are describing?

MR. DAY: Of course, if you are sitting as a court of equity the question is as to whether or not those who seek relief come in with clean hands. Their conduct is under scrutiny. They are the ones who are seeking relief, we are not, and upon that basis their conduct would be important; ours would not.

CHAIRMAN J. WARREN MADDEN: You went into equity, got an injunction here. Did you advance in that case, claim that your hands were not as clean as they might have been?

MR. DAY: I was not in that case. You were in that case, Mr. Anthony Wayne Smith, the Canton injunction case.

MR. ANTHONY WAYNE SMITH: Not the first one.

MR. DAY: I think we did, but I can't answer the question, I was not in the case. The injunction was granted in Trumbull County, Ohio, the judge in that county granted the injunction and what took place in the Canton and Stark

County cases I can't tell you, I wasn't in either one of those cases.

MR. ANTHONY WAYNE SMITH: On that part I can say that there was.

MR. DAY: Now, upon this question of violence on the part of the strikers. We offered proof and reoffer to prove a great amount of violence on the part of the striker at all these different places. We think the Trial Examiner should have admitted that evidence, we think the Board ought to consider that evidence in coming to its conclusion in this case. If you are sitting here as a court of equity, to some extent at least, and you so indicate in your findings, it seems to me that the conduct of all of those engaged in the situation should be considered, and particularly the conduct of all of those who are asking reinstatement should be considered, and that you should not rule out evidence such as we offered in relation to the Warren and Niles and the Cleveland strikers.

MR. EDWIN S. SMITH: When you say the conduct of all those concerned, you include the company?

MR. DAY: Oh, I think so, although I do think, however, that the question of violence is a question that relates more specifically to the strikers, because they are asking the relief, and even if we have been guilty of violence, if we concede that for the sake of argument, they certainly would not be entitled to the relief if they are also in the first instance or at any time guilty of acts of violence.

MR. DONALD WAKEFIELD SMITH: You say, Mr. Day, that they are asking for relief. Is that a correct statement? This is merely a charge that is filed by the union here in behalf of the employees alleging that an unfair labor practice is committed by the Republic Steel Company. Now, any reinstatement of those strikers or any award of back pay is part of the remedy, so is it in the first instance, so far as they are concerned, a seeking of relief? Isn't it simply bringing to the attention of the United States

Government the fact, that as they allege, that the Republic Steel Corporation has committed an unfair labor practice? Now, the Board determines whether or not they have committed such unfair labor practice, and part of the remedy in order to establish a status quo results in the reinstatement of strikers with back pay.

MR. DAY: Well, I think after all no matter what the form of the proceeding may be, it is a proceeding in which relief is sought by those who file the charges, and they really ask for relief. Well, they don't say in so many words that they ask for anything, the Board files a complaint based upon charges; after all, when you get right down to it it is a proceeding in which they ask to be reinstated or to get back pay.

We have also a request for information here as to the manner in which these proposed orders and final orders were prepared. We have asked the Board to tell us—

MR. DONALD WAKEFIELD SMITH: Mr. Day, might I inquire whether it is customary when you have a case decided in a court to inquire of the judges how they decided the case?

MR. DAY: No, it is not, but we have felt in this case that the problems brought out and our client's specific request requires us to ask for that information, and we have asked for it.

CHAIRMAN J. WARREN MADDEN: You have asked for it.

MR. DAY: Yes. I have just about taken my hour, and I want to say a few words in reply, if you will indulge me, and I ask, therefore, that you examine the brief as to the legal questions that I have not touched upon and that you also examine the brief for the detailed discussion of the factual situations here involved.

I thank you.

ARGUMENT OF MR. ANTHONY WAYNE SMITH ON BEHALF OF THE STEEL WORKERS ORGANIZING COMMITTEE

MR. SMITH: Gentlemen of the Board, I now have with me the briefs. We filed a brief last night, and I would like at this time to ask permission to file three re-typed copies, that is, the original and two copies, in substitution for those that were filed yesterday.

It is a pleasure to be here on the other side of the table from Mr. Day. We have had occasion to be on the opposite side of the table in Ohio and in some of the cases which arose out of the steel strike. I confess that as I listened to counsel's able presentation of their somewhat legalistic contention with regard to jurisdiction and due process, I could not help letting my mind run to some of the scenes of the strike in Ohio last summer. I could not help my thoughts going back to my friends, members of the Steel Workers Organizing Committee in Warren, Canton, Youngstown, and Massillon. I could not help bearing in mind the reports that we get from Ohio or recent contacts that I have had with members of the Steel Workers Organizing Committee in Ohio. Here in this room, legalisms, legalistic split-hairs seem quite important, and indeed, they are important. They are important if we do not allow them to come between us and the realities of the industrial situation. As I said, in the State of Ohio for the last year, year and a half or two years, during the period during which the Steel Workers Organizing Committee was building up its membership, it was endeavoring, under the laws of the United States, to obtain the sort of recognition from Republic Steel Company to which it was entitled, the sort of treatment from Republic Steel Company to which it was entitled, the sort of treatment from Republic Steel Company to which it was entitled to obtain from the members of that organization, the sort of treatment to which they are entitled under the laws of the United States, under the policy and intent of the law.

Legalisms are important if you do not let them come between us and the things that happened during that strike, the methods that were used by Republic Steel during the strike, the consequences of that strike forced upon the Steel Workers Organizing Committee, and men and women and children in the State of Ohio.

Gentlemen, in this connection I know a lot of those men, women and children in the State of Ohio. I worked with them between two and three months. I know them personally, I know them by their first names, I know the suffering they went through, I know the suffering they are going through now. Men with high skill, rollers, chippers, other specialized experts in the production of steel, gentlemen sitting around doing nothing or working by the day as laborers, working on WPA jobs, and maybe working on such a job for a year. What does that do to a man's skill? I have talked at my house one night last week with some of the leaders of our organization who are here testifying in the LaFollette hearings, that came up here from Warren; they were discussing some of the aspects of steel, the making of steel, of the details which bear on the question of displacement of men by machines, and so forth, and they used a language which I just could not understand. They have a specialized language, they have a specialized skill all of their own, and one of them said, "Well, here we are, we are sitting here talking about trade, our craft, we haven't worked at it for a year and the way things look now maybe we will never work at our craft again."

The point is that the legalisms which counsel have granted have practically nothing to do with either the law or the real fact, the true social facts of this case, and I am appalled again as I have been before at the thought that the contention can even be seriously advanced that the National Labor Relations Board does not have jurisdiction to review an order entered by it and to modify that order after withdrawing it or in any other way, regardless of the precise words of the statute.

And the Act was intended to confer upon this Board the right to enter certain remedial orders after granting fair hearing to the parties to be affected, and that was the only issue, and in regard to a fair hearing being accorded, the Board has practically overstated its authority throughout and tried the respondent by due process of law.

Reference is made to the Morgan case, and reference is made to the opportunity for argument, and it is contended that the respondent had that opportunity at the trial on the evidence in this case; whether it availed itself of it or not, I do not know and I do not care, but it had the opportunity. If it wanted to have opportunity for argument it should have asked for it, and it should not come in now and claim that it had been denied or anything in the way of fair opportunity to present its case, and that it should do that is a thing that speaks ill for the future of the possibility of adjustment of these industrial conflicts which must be contested and adjusted. There is only one way in which they can be readjusted and that is the attempt to work out reasonably fair and honest proceedings and in the essence of due process of law and in that respect respondents in this case have absolutely nothing about which to complain.

The same comment, the same general type of comment, is to be made in regard to the contention of respondent that it had no opportunity to meet the issue involved in the question of reinstating strikers. Respondent was under notice under the terms of the complaint that it had to meet the question of whether its unfair labor practices did or did not cause the strike, whether it had or did not have anything to do with the strike. Counsel for respondent are thoroughly familiar with the cases that went before and the theory of remedies administered by the Board in connection with unfair labor practice strikes. It was fully aware that it had to meet the issue, had the opportunity to present that proof at the hearing, present any proof in that connection which it cared to present.

To come in now with an offer of proof after a year has elapsed and ask for a reopening of the record and ask for anything, and ask that even offers of proof be incorporated in the record is something which is certainly something which goes very close to the fundamental question here of the order of procedure which the Board must follow in cases of this kind. And respondent has argued about being given very little opportunity, about not being given sufficient opportunity to present their angles in this case; they can go on forever and a day presenting new evidence in cases of this kind and we submit that in proceedings of this kind they must be brought to a close at some stage of the case.

Respondent has been given full and complete opportunity at the hearing to introduce evidence on the question of unfair labor strike and to come in at this time and ask for the reopening of this case and the introduction of any further evidence which will result in further delay of the decision of this case is something that constitutes nothing less than a bar to simple functioning of the proceedings before the Board.

We have a very serious question. If proceedings of this kind can be dragged out forever by wealthy corporations, if they can put dozens of lawyers on a job like this, put them very exclusively on a job like this for a period of months, and if litigation of this kind is to be permitted to be opened up for the introduction of new evidence and this sort of thing can go on forever like the Little Steel strike in Ohio, if they are permitted forever and a day to introduce new evidence, and to present new offers of proof, then there is no possibility of a proper enforcement of the law of this question, there is no possibility of its enforcement with the financial means available; there is no possibility of the enforcement of the law within a period of time which can give any sufficient and substantial relief to the employees involved.

With regard to Massillon and Canton, counsel asked to be allowed to make offer of proof of conflicts and fights on citizens in Massillon and Canton. I believe if we got into that whole issue we might very well ask to introduce proof of the domination by Republic Steel and Youngstown Sheet & Tube and the other small steel corporations over the law enforcement agencies of the State of Ohio.

I could take the stand and testify to a lot of that myself. We might show how men were arrested and held incommunicado without charges being placed against them of any kind for days at a time, and the necessity of getting blanket writs of habeas corpus to get union men out of jail, held there without charges being placed against them. I suspect it would not be a very difficult proposition to prove the close relationship between the local government and the State government of the State of Ohio to Little Steel.

The point is, gentlemen, that the Board cannot begin to go into all these issues, they have got to stop somewhere, it cannot act as a police court for the trial of petty offenses arising during the prosecution of a strike, arising presumably during the strike and brought about by respondent's own unfair labor practices.

We contend, in our exceptions and in our proof, that no striker should be denied reinstatement, regardless of any guilty pleas, regardless of the sentence that may have been enterd against them.

For a corporation to embark upon a union-breaking expedition, upon a law-breaking expedition, if you please, and that is what the combination of Little Steel was last summer, and that is what Republic Steel was doing last summer, and then to come before this Board and say that John Jones should be denied reinstatement because he has been shown to have plead guilty or to have been convicted of suspicion and fined $15 is an insult to the intelligence of the Board. I do not care whether it is a crime, suspicion, if it be a crime, or whether this is a crime of greater magnitude, such as those on the basis of pleas of guilty of which certain strikers were sent to the Ohio State Penitentiary, men who are goaded into desperate resistance against a corporation's effort to overcome and to break down the law and to break a labor organization, those men are entitled to a very special kind of consideration from any tribunal which is enforcing the law and intends to protect the rights of labor. We believe that there is no very clear stopping point between one kind of crime and another, the differences are mostly of degree, and I think the essential fact to be kept in mind in a situation is that under the circumstances prevalent here the company cannot be heard to say that the reason why it refused reinstatement or would refuse reinstatement to any striker is that that striker may have been guilty of some offense for which he paid some penalty or for which he may not have paid any penalty in a State court, to embark upon a course of procedure such as is evident here is to break down the administration of the Act.

Further, the relative offense of a corporation which has embarked upon a program such as Republic Steel undertook last year and those of any striker, I don't care what he did, they are so different as to be non-subjectable to equitable balancing in any respect.

I should perhaps say a few words in reply to one or two other points which counsel has made. There is no question, of course, but the question of the refusal to sign a contract was a very important issue at the time of the strike, that it contributed to the strike and evidence which has been tendered by counsel to prove that fact is completely immaterial, or cumulative at least.

For that resaon it should be denied admission.

The point in regard to refusal to sign a contract, of course, is the manner in which that refusal was made. Republic Steel made it perfectly clear. It was not that the issue was "We sign if we reach an agreement", but "we will not sign because we don't have to sign, regardless of whether you have a majority, regardless of the legal basis of your claims, we won't sign a contract with you, and we won't sign it now, we won't accept it, we won't sign it in the future and we don't care how the situation changes, we are not going to sign a contract."

Now, that is an entirely different question from the question of whether under circumstances where no claim of exclusive representation is made the corporation must at the time sign the undertaking to bargain exclusively with the union. The reason why Republic refused to sign a contract, and its announcement that it would not sign a contract, is an unfair labor practice, is that it was made in that manner, that it was the spear point of the announcement that the corporation would never under any circumstances deal with SWOC. Further it was the final issue involved in the corporation's definite intention to dispose of SWOC, they tried hard enough to do so, and the climax, the top, the end, the final straw in that whole development was that refusal to sign a contract, so that the necessity for any further evidence in regard to the fact that they refused to sign a contract was one of the issues in the case is immaterial, and further it is cumulative, and should be denied.

One final comment in rebuttal in regard to the issue of clean hands. I suppose counsel knows, as well as the Board does, as well as I do, that the answer to that which is given where labor unions assert that corporations are not entitled to an injunction because if they come into court with unclean hands, is that two wrongs do not make a right. That is one point. And I return again to the other point that in a strike which follows, has been invoked by the unfair labor practices of a corporation, that the difference between those particularly affected that are made by Republic Steel in any event and any offense on the part of SWOC, is so great that the two were incomparable.

Certain points were made in regard to the reinstatement of employees, and since our exceptions in the brief deal entirely with the proper form or procedure, I will now turn to that point.

Counsel protest against the necessity of sending men to plants other than those in which they worked. They have offered proof incidentally, to a considerable amount, of changed situations in regard to the plant; the number of plants which are not now working, and that new plants have been opened up.

Be that as it may, it is a reasonable supposition that there would be a considerable number of cases of changes in the production procedure in the plant since the hearings.

The order of the Board should be broad enough to take care of that sort of a problem. It should be broad enough to permit an employee of the Republic Steel, where his plant has been shut down, to get employment at some other place, some other plant. I don't believe that counsel seriously contends that there is any very complicated problem as between the plants in the State of Ohio.

In regard to the other plants, it seems to me that it should be very possible, when the time comes, to work out a procedure of reinstatement, and that then if there was a very serious problem involved, it could be considered at that time in accordance with proper, customary procedure under ordinary administrative law.

The second thing is to have the order of the Board broad enough to permit whatever steps should properly be taken that might necessarily be taken in order to reinstate men to something equivalent to their former position so far as may be possible.

In fact, we should have taken exception to the order of the Board in that respect. We should have asked that the respondent be required to pay the traveling expenses and the other expenses incidental to the transfer of any striker from the state of Ohio to Alabama, and it just occurs to me at the moment, it might be a very good idea, so I make that suggestion and request formally that the order of the Board be broadened to take care of that sort of a situation.

Now, as we read the order of the Board, there is a possibility that some of the sections might be construed as limiting the amount of back wages to be paid strikers to the time of an application made after the proposed order of the Board, after any final [order] of the Board, entered into pursuant to the proposed order.

We have taken exception to the proposed order in that respect and we wish to present to the Board the contention that any application for reinstatement made by a striker at any time after the beginning of the strike should constitute the basis of the beginning of accrual of back wages.

Again I go back to the industrial realities of this situation, gentlemen. Five thousand men, more or less, have been out of work in the State of Ohio as the result of respondent's unfair labor practices. They have been subsisting on union relief and public relief, state, local and national.

The American people have been paying a price, a large portion of the price of respondent's unfair labor practices. The taxpayers have been carrying that burden. Union members in other organizations have been carrying that burden.

Respondent knew very well that it was required to meet the issue of unfair labor practices and having caused these strikes.

That quite sufficiently puts that issue before us.

Applications were made all through that period. It should be possible to prove, in a compliance and enforcement proceeding, that they were made, if respondent compels us to go to that length.

It should be proper for our members to submit their proof to respondent that they made application prior to the final order of the Board and that they were denied reinstatement, so from that day back wages would accrue, so that there would be some possibility of placing upon the respondent the cause of its own unlawfulness; so that there would be some possibility of lifting from the public the cost of respondent's unlawful actions.

In that connection we have taken another exception to the form of the Board's order in that it rather expressly refers to the deduction of earnings from the amount of money to be paid by the respondent in the form of back wages.

The Board has ruled in previous cases that a form of relief insurance—similar funds received by strikers are not to be deducted from back wages. The statute uses the term "back wages." It doesn't say to make whole. It doesn't say to compensate for losses. It uses the term "back wages," and we have recommended that the Board require the payment of back wages without the deduction of any earnings from public work relief, WPA or otherwise, subject to the proviso that the employee receiving such monies pay them over to the public relief agencies to the extent that such earnings have been received in work relief from such agencies, up to but not exceeding the amount of back wages received.

I might say that unless this policy is followed in connection with this particular case, the remedial penalty, as I believe respondent has chosen to refer to it in one section of the brief, will simply be of no effect whatsoever, or it will, at least, be very greatly reduced in its effect.

Moreover, the public and the labor organizations will have been required to pay the greater amount of the financial burden resulting from a strike induced by the vicious attempt to break the law on the part of the respondent.

With regard to the applications again, or to go back to the time of application, we believe there is no substantial difference between the applications made before the close of the hearing and those made after the close of the hearing.

Workers cannot be required to know the intricacies of legal procedure; to know that they had an opportunity, perhaps, to file their charges before the hearing was over, or to make distinctions of that kind.

The statute of limitations cannot be imposed. They are not imposed by the Act and they should not be imposed by its administration.

There is even less reason for excluding from the effect of this order of the Board any strikers who made application after the close of the hearing and before the first order of the Board, or before the final order of the Board and the first order of the Board; there is even less reason for that, for excluding any of those who made application after and on the basis of the first order of the Board.

There are those three classes of employees who have made prior application, and the order of the Board must be framed in such a way that those applications can be proved in whatever proceedings may be necessary for compliance and enforcement of that order.

It must be framed in such a way that all that will be necessary to show at those compliance proceedings is that the application was made.

Moreover, we call specific attention to the fact that no particular form of application must be required; further, that the form of the application, whatever it may be, is completely immaterial so long as it evidences a return to work, go back and return to work under the law at that time

It is a reasonable supposition, for example, that applications to return to work were made on the basis of the first order of the Board in this case; that they were made with reference to that order.

We contend that any such application indicated an attempt to return to work at that time, if not before; further, that it should not supersede any application to return to work, and that the form in which they were made is completely immaterial, provided that the intent is sufficiently expressed.

CHAIRMAN MADDEN: Mr. Smith, you think it would be a practical matter for this company to reinstate these strikers, that is, as they return more or less casually, one today and three tomorrow, and so forth?

Now, the proposed scheme for reinstatement, of course, presupposes a very substantial readjustment on the part of the company, the shuffling up of jobs, which I suppose they would want to do, some of them almost every day, which I think it might not be practical for them to do at all, except over sort of a limited period in making this readjustment on more or less a wholesale basis.

Don't you see a difficulty there?

MR. ANTHONY WAYNE SMITH: Well, I don't think it is a very serious one, Mr. Chairman.

In the first place, the company has had before it a very substantial number of applications.

If I may be permitted, in answer to your question, in discussing this point, to go off the record to that extent, applications made after the first order of the Board were made in a systematic and orderly fashion, properly served upon the respondent, which would have made it possible for an immediate compilation of lists, immediate arrangement of those lists in accordance with seniority rights.

Evidence in regard to those issues was obtained and is available. If the company evidences any intent whatsoever to comply with the order of this Board, we can assure you that full cooperation will be given in an effort to work out these arrangements.

It is quite obviously a thing which cannot be worked out in precise detail so that every man involved can stand strictly on strict legal rights; the issues are too complicated; the numbers of men are too many and the problem of getting them back to work promptly is too important, and it is a practical problem which has to be worked out, when we come face to face with it.

The question is, is the company going along or is it going to fight. If it is going to fight, gentlemen, it is absolutely impossible for this thing to be done until we get a court order so that we can impose penalties of some kind.

I assure you, however, that the Steel Workers Organizing Committee intends to cooperate if there is any such intention whatsoever on the part of the corporation. If both parties cooperate in this problem there is no reason why both parties cannot work it out in quite a satisfactory manner, specifically in regard to that precise issue.

Most of these applications were made at about the same time. Most of those were made as a result of your order; made out about the same time. They could have been considered together by the respondent; they could have been arranged and reinstatements made then; arranged in a systematic manner. The respondent has all those matters before it.

It has a record of them, or should have, and if it imposes an expense and trouble on the respondent to work out this thing, put things back the way they were, the respondent itself is to blame.

I don't see how we can take that burden, or the fact that the Board can be expected to lean over backwards in protecting the comfort and the convenience of the corporation, which is responsible for all this trouble.

MR. DONALD WAKEFIELD SMITH: You claim, Mr. Smith, there were applications for reinstatement made prior to the Board's order of April 8th.

MR. ANTHONY WAYNE SMITH: I am quite certain that in the enforcement of this order it will be found that there were a great number of such applications made.

It is our contention that it should be possible to show those applications and that employees who made such applications should be entitled to back wages from that time.

Certainly, the order of the Board should be broad enough to admit that proof in a compliance proceeding, if necessary.

MR. EDWIN SMITH: Is there testimony in the record as to persons who applied and were not accepted?

MR. ANTHONY WAYNE SMITH: There was testimony in regard to specific cases. I am not sufficiently familiar with the transcript to say whether there were or were not. It seems to me that that is quite an obvious probability. It is a thing of which I suppose the Board in an administrative matter should have simply in mind.

Whether it is a question of taking judicial notice or not, I don't know, but certainly as an administrator of the Labor Act, you should have in mind that there is a possibility that strikers, after an unfair labor practice, will in a certain number of cases apply to go back to work, and that they will do so before there is an order in the case, and that such striker should be entitled to back wages from that time.

On the issue of persons having obtained substantial, equivalent and permanent employment elsewhere, which counsel has raised, we believe that there is some possibility that the order of the Board is not entirely clear in that respect, inasmuch as it refers to employees, and the definition of the Act, as it has been asserted—that the definition, I think, under the Act, is one which would exclude from the remedies of the Act persons who had to take regular and substantially equivalent employment elsewhere.

We believe that there are at least two reasons why the order of the Board should be so phrased as to be applicable, as to make the remedy applicable to those in regard to whom the contention might be advanced that they have obtained employment elsewhere.

We believe that the person to decide that issue is the employee himself. If he has employment elsewhere; if it is really permanent and really substantially equivalent, then he is not going to make a change. He is not going to make a change back to Republic Steel. He is going to stay where he is.

The second point is that if we permit the encumbrance of enforcement proceedings, which are already going to be tremendously difficult, the whole enforcement procedure with issues of this kind, as to whether a man is or is not a striker, is or is not employed, if five thousand strikers have or have not obtained regular and substantially equivalent employment elsewhere, nobody is going back to work for another year or two.

These issues are ones which have not been entirely worked out. They are new issues and during the course of the next year or so the Board will be considerably concerned with working out issues of this kind, since they relate to compliance.

Labor organizations will again be extremely concerned with issues of this kind. We are concerned with them here and are criticizing them for that reason. It is highly essential that the enforcement proceedings or compliance proceedings be worked out; that the procedure or arrangement of enforcement of the Board's orders be worked out in such a way that delay be avoided at all hazards; that they be made as promptly and simply applicable as can be done.

For that reason we believe that the issue of having obtained substantially equivalent employment elsewhere is one which should be omitted, is one which can be omitted under the Act insofar as the Board has broad powers to order affirmative relief.

Similarly we have advanced the contention and have pressed it in certain cases in regard to which charges were filed in these proceedings, in regard to which motions to dismiss were obtained before the Trial Examiner, some thirteen or fourteen in number, I believe, and also certain other cases as to which rather complete groups of discrimination, discharge, lay-off or refusal to reinstate was adduced, but which were dismissed because the names were not mentioned in the complaint, and should not have been dismissed, and if it is permissible at this time to take exception to the decision of the Trial Examiner in so doing, we take that exception, and we have included that exception in the exceptions filed day before yesterday, and we have discussed it in the brief.

In any event, we take exception to the order of the Board insofar as it denies relief to these men. We believe again that these are issues which it should be possible to deal with in a compliance and enforcement proceeding;

that the order of the Board should be so framed so as to permit that to be done.

I am not at all sure whether labor organizations will want to do that; whether they will want to adduce proof where sufficient proof has not been adduced in a compliance proceeding in court.

In regard to cases in which full proof has been brought into the record, however, and where nothing but a motion to conform the pleadings to the proof is necessary to regularize the proceedings, then certainly in cases like that the order of the Board should be broad enough to cover any such employees.

In conclusion I want to come back again to the whole background of this case.

There are thousands of men in the state of Ohio who regard the officers of Republic Steel as murderers, and I believe no weeping or wailing or legal technicalities is going to change their minds in that respect.

Respondent in its brief says that everyone knows that the steel strike was caused by the refusal to sign a contract. Well, it isn't so. Everyone knows that the strike was caused by the determination of Tom Girdler and his associates to do two things:

To break the Steel Workers Organizing Committee, at which you gentlemen failed most dismally, and to break the National Labor Relations Act, at which, gentlemen, you are also going to fail most dismally.

And, the truth of this is, and it just can't be lost sight of, is the fact that there was a vast conspiracy between Republic Steel and its associates to do just those things, to break the law and to destroy labor organizations, and to use any method whatsoever in so doing.

We ask for a final order of the Board, to grant the relief proposed in the proposed order of the Board, subject to the broadening of the terms of the sections of the order proper, such as to permit a proper administration of the remedies guaranteed by the Act.

MR. DAY: May I have just a moment?

This is the first time that we have had an opportunity to examine the brief of the SWOC. We have examined the Act, and I personally have never had the question before me for any consideration before that the SWOC, as the charging party, has the right to file exceptions.

Now, if that is true, of course, I raise no question about it. I don't know whether it is true or not.

CHAIRMAN MADDEN: Yes, it is true.

MR. DAY: One part of the Act seems to indicate that.

Now, I don't know whether any time was fixed for the filing of their exceptions; whether there was a time extended for the filing of their exceptions or simply for the filing of their briefs.

If there is any question about that, of course, we wish to take all the advantage there is in it, but assuming that the exceptions are here and are properly filed—

CHAIRMAN MADDEN: Mr. Smith, were you given any definite time within which to file?

MR. ANTHONY WAYNE SMITH: Yes, I was given until Tuesday in which to file exceptions.

MR. DAY: The 9th?

MR. ANTHONY WAYNE SMITH: And until yesterday to file a brief.

MR. DAY: I saw the order granting time to file a brief. I am not sure I saw the order to file exceptions.

Well, I guess there is no question but what it is there. This is the first time we have seen the exceptions and the first time we have seen the brief, and the Board has been very generous in its time allowance, and I will only take a second.

The suggestion is made here that the Board's order should require us to reinstate certain strikers who applied for reinstatement pursuant to the Board's order of April 8th.

In regard to that we simply say this:

Those applications were filed pursuant to your order. The order has been set aside. We don't think that we need to take any time of the Board to discuss the proposition that the Board should not regard those applications for reinstatement as having been filed at all; having been filed concededly pursuant to an order which the Board itself has set aside.

Now, Mr. Smith went considerably outside of the record and he said some rather unkind things about the respondent here. I think it is a good rule anywhere, in any proceeding, when anything is said about your client, that you represent, which is not true, that you say something about it.

Now, I simply want to take a moment, not by way of wailing or moaning, but by way of a positive fact that this suggestion that the respondent officers are murderers or that there is any connection between the respondent and the law enforcement officers of Ohio, is absolutely untrue and absolutely unfounded.

(Whereupon, at 12 o'clock, noon, arguments in the foregoing matter were concluded and the Board adjourned.)

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Vol. II

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 14

REPUBLIC STEEL CORPORATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD AND
STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 7, 1940.

CERTIORARI GRANTED MAY 20, 1940.

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XXXII.

DECISION, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF THE NATIONAL LABOR RELATIONS BOARD ISSUED OCTOBER 18, 1938

(Dated and Issued Oct. 18, 1938)

Mr. Mark Lauter, Mr. Lawrence Hunt, Mr. Oscar Grossman, Mr. Joseph A. Hoskins, for the Board.

Mr. Luther Day, Mr. Thomas F. Veach, Mr. Arno Erdrich of Day, Young and Veach, Cleveland, Ohio; Mr. J. G. Ketterer, Canton, Ohio; Mr. H. C. Pontius, of Lynch, Day, Pontius and Lynch, Canton Ohio; Judge Charles F. Smith, Mr. David E. Jones, Mr. Harry S. Manchester, Mr. R. D. Huxley, and Mr. George Renner, of Harrington, Huxley and Smith, Youngstown, Ohio; and Mr. Thomas Patton, Cleveland, Ohio, for the Company.

Mr. Lee Pressman, for the S. W. O. C.

Mr. Allan R. Rosenberg and Mr. Robert Burstein, of counsel to the Board.

DECISION AND ORDER

Statement of the Case

Upon charges and supplementary charges duly filed by Steel Workers Organizing Committee, herein called the S. W. O. C., the National Labor Relations Board, herein called the Board, issued its complaint, dated July 15, 1937, against Republic Steel Corporation, Cleveland, Ohio, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

In respect to unfair labor practices the complaint in substance alleged (1) that during August 1936 and the period from February to May 1937 the respondent discharged and refused to reinstate certain named individuals employed at its plants at Youngstown, Canton, Massillon, Warren, and Cleveland, Ohio, for the reason that they joined and assisted the S. W. O. C. and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection; (2) that on or about May 5, 1937, the respondent locked out and refused to reinstate almost all of its employees at its tin plate mill in the Canton plant, and that on or about May 12, the respondent locked out and failed to reinstate a considerable number of its employees at its Massillon plant, for the reason that they joined and assisted the S. W. O. C. and engaged in other concerted activities for the purpose of collective bargaining and other mutual aid and protection; (3) that on or about May 26, 1937, by reason of the aforesaid acts of the respondent and its refusal to enter into a written agreement with the S. W. O. C. the employees of the respondent at its various plants went out on strike, which strike continued to the date of the issuance of the complaint; (4) that the respondent compelled a considerable number of employees at its Warren plant to remain at their jobs within the plant, and threatened to discharge such employees if they left the plant and joined the employees on strike and further refused to reinstate certain named employees at its Warren plant, and sought to compel others to return as new employees with the loss of former positions and seniority rights, for the reason that they left the plant during the progress of the strike and joined and assisted the S. W. O. C.; (5) that between June 23 and July 2, 1937, the respondent discharged and refused to reinstate to their former positions certain named individuals employed at its Youngstown plant for the reason that they joined and assisted the S. W. O. C. and engaged in concerted activities for the purposes of collective bargaining and other mutual aid and protection; (6) that the respondent dominated and interfered with the formation and administration of certain named labor organizations at its Youngstown, Warren, Canton, Massillon and Cleveland plants; (7) that the respondent threatened its employees at its Youngstown, Warren, Niles, Canton, Massillon and Cleveland plants with discharge if they joined or assisted the S. W. O. C., and by its officers and agents followed and brutally attacked organizers of the S. W. O. C. at its plants in Cleveland, Youngstown and Warren; (8) that the respondent immediately prior to and after the commencement of the strike increased the number of its police force in its various plants and used such police for the purpose of interfering with the right of its employees peacefully to picket the plants and for the purpose of intimidating its striking employees; (9) that the respondent, in collusion with the aforesaid labor organizations dominated and controlled by the respondent, before and after the commencement of the strike called upon its employees at their homes and elsewhere in Youngstown, Warren, Canton, Massillon, and Cleveland, and intimidated and coerced them into signing so-called back-to-work petitions and other petitions, upon threat of the loss of their jobs; (10) that the respondent maintained extensive arsenals at its plants in Youngstown, Warren, Niles, Canton, and Cleveland for the purpose of interfering with, restraining and coercing its employees in the exercise of their rights to self-organization, and interfered with the right of its employees peacefully to picket its plants by shooting at them and throwing bolts and other dangerous missiles at them: and (11) that by these and other acts the respondent interfered with, restrained and coerced, and is interfering with, restraining and coercing, its employees in the exercise of the rights guaranteed in Section 7 of the Act.

Copies of the complaint and notice of hearing to be held on July 21, 1937, at Washington, D.C., were duly served upon the respondent and the S. W. O. C. Pursuant to this notice, on July 21, 22, 23, 1937, a hearing was held in Washington, D. C., before the Board. At the outset of the hearing, the respondent moved to adjourn and transfer the hearing to Cleveland, Ohio. The Board denied this motion, but granted the respondent until August 4, 1937, to file its answer to the complaint. Thereafter, without waiving any of its objections to jurisdiction, the respondent participated in the hearing.

In its answer, dated August 2, 1937, the respondent denied the allegations of unfair labor practices alleged in the complaint, denied that the employees named in the complaint were engaged in interstate commerce, admitted that its employees went out on strike, but denied that they went out on strike for the reasons alleged in the complaint, and alleged that the strike was called by the S. W. O. C., acting pursuant to the direction of Committee for Industrial Organization, without any cause or justification and solely for the selfish advantage of those committees in an attempt to gain control of the employees of the respondent and generally of all steel company employees. The answer further alleged, inter alia, that at the time the strike was called there was no labor dispute between the respondent and its employees, and no difference as to wages, hours, and working conditions; that a large percentage of the respondent's employees did not go on strike but remained at work and that others returned to work promptly after the Ohio National Guard had been called out to protect them while going to and from the respondent's plants, against assaults, violence, coercion and intimidation on the part of the strike and of the S. W. O. C. and its agents and representatives; that none of the alleged unfair labor practices complained of interfered with the respondent's operations, caused a labor dispute or affected or tended to affect commerce; that the Board has no jurisdiction to hear and determine assault and battery and felonious assault cases; and that the complaint was so indefinite as not to inform the respondent of the issues to be met, and therefore further proceeding thereunder was a denial to the respondent of due process of law.

Thereafter, pursuant to notice, the hearing was continued before John T. Lindsay, the Trial Examiner duly designated by the Board. Hearings were held from August 9 to August 12 in Canton, Ohio, from August 20 to August 24 in Youngstown, Ohio, from August 27 to August 30 in Cleveland, Ohio, from September 1 to September 16 in Canton, Ohio, from September 17 to September 21 in Youngstown, Ohio, and from September 23 to September 27, in Cleveland, Ohio. The Board, the respondent, and the S. W. O. C. were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing upon the issues was afforded to all parties.

During the hearing, the Trial Examiner granted a motion by counsel for the Board to amend the complaint by striking therefrom the names of certain employees alleged to have been discriminatorily discharged or refused reinstatement. At the close of the Board's case, the respondent moved to dismiss the complaint on the grounds that the alleged unfair labor practices did not affect interstate commerce and were not established by the evidence. The Trial Examiner denied the motion. At the close of the respondent's case, the Trial Examiner granted a motion by the attorney for the Board that the complaint be conformed to the proof adduced during the hearing.

During the course of the hearing, the Trial Examiner made numerous rulings on motions and objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. Except as noted below the rulings are hereby affirmed.[1]

On January 21, 1938, the respondent, filed a motion with the Board for leave to introduce additional evidence, or in the alternative, to submit and have incorporated in the record as a part thereof, an offer to prove with relation to the evidence so excluded. On March 28, 1938, pursuant to an appropriate order of the Board, the respondent submitted its offer to prove.

On April 8, 1938, the Board issued findings of fact and an Order in the case. The Order directed the respondent to cease and desist from (a) dominating and interfering with any labor organization of its employees, (b) discouraging membership in the Amalgamated Association of Iron, Steel, and Tin Workers of North America or the S. W. O. C. or any other labor organization of its employees by discharging and refusing to reinstate employees, or otherwise discriminating in regard to hire or tenure of employment or any form or condition of employment or by threat of such discrimination, (c) in any other manner interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act. The Order also required the respondent to take certain affirmative action, *inter alia,* to offer, upon application, to those employees at its plants in the Canton, Massillon, Youngstown, Warren and Cleveland districts, who went on strike on May 25, 1937, and thereafter, and who had not been fully reinstated to their former positions (with specified exceptions) immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights or privileges; or, in the event sufficient positions were not available, to place such employees upon a preferential list, to be offered employment as work became available, in accordance with principles set out in a part of the findings entitled "The remedy." The Order also directed the respondent to make whole all the aforesaid employees for any losses suffered by reason of any refusal to reinstate them upon application or to place them upon a preferential list, by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during the period from the date of any such refusal of their application to the date of the offer of reinstatement or placement upon a preferential list, less the amount, if any, which each, respectively, earned during said period. On April 18, 1938, the respondent filed in the United States Circuit Court of Appeals for the Third Circuit its petition to review and set aside the Order of the Board. On April 30, 1938, in open court, counsel for the Board notified the Circuit Court that the Board was considering vacating its Order and on May 3, 1938, the Board notified the respondent that it had definitely decided to do so on the following day. Before the Board could vacate its Order pursuant to this notice, the Circuit Court on May 3, 1938, issued a rule directing the Board to show cause on May 13, 1938, why it should not be required to certify and file in the Circuit Court a transcript of the record in the proceedings before the Board; at the same time the Circuit Court issued an order restraining the Board from taking any action in the case until the return day of the rule. On May 6, 1938, the Board filed with the clerk of the Circuit Court its motion, returnable May 9, 1938, for the vacation of the restraining order. The Circuit Court took the motion under advisement. On May 13, 1938, the Circuit Court made absolute the rule of May 3, 1938, requiring the Board to file a certified transcript of the record, and enjoined the Board from taking any further steps or proceedings in the case until the record was filed. On the same day the Board duly presented to the Supreme Court of the United States its petition for writs of mandamus and prohibition directing the Circuit Court to vacate its order of May 13, 1938, and prohibiting that Court from exercising any jurisdiction upon the petition of the respondent to review and set aside the Board's Order without affording the Board a reasonable opportunity to vacate its order. On May 31, 1938, the Supreme Court rendered its opinion holding that the Circuit Court lacked jurisdiction to enter the order of May 13, 1938, and stating that, in view of the expression of willingness by the Circuit Judges to vacate the order of May 13, 1938, if the Supreme Court deemed said order to have been entered without jurisdiction, the issue of the writs prayed by the Board was supererogatory. On June 7, 1938, the Circuit Court, in compliance with the opinion of the Supreme Court, entered its order vacating the order of May 13, 1938. On June 14, 1938, the Board, having duly notified all the parties, entered its order vacating and setting aside its findings and Order of April 8, 1938, and directing that such further proceedings be taken in the case before the Board as the Board may be advised are necessary or desirable. On June 27, 1938, the Circuit Court, upon motion of the Board, dismissed the respondent's petition to review and set aside the Order of April 8, 1938.

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[1] The Trial Examiner took under advisement, without ruling on their admissibility in evidence, Respondent's Exhibits Nos. 8, 15, 16, 17, and 18. These exhibits will be admitted.

On July 8, 1938, the Board denied a motion filed by the respondent to dismiss the complaint herein and overruled an objection by the respondent to further proceedings by the Board in this cause. On the same day, the Board ordered Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order herein to be issued, granted the parties the right to file exceptions, and briefs in support of such exceptions, and directed a hearing to be held before the Board for the purpose of oral argument upon any exceptions filed and upon the issues raised by the pleadings and evidence. On the same day, the Board issued Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order which were substantially the same as the findings and Order of April 8, 1938. Thereafter, both the respondent and the S. W. O. C. filed exceptions, and briefs in support of their exceptions, to the Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order. The respondent also moved that the record be reopened for further proceedings and that the respondent be permitted to introduce additional evidence, or in the alternative, that it be permitted to have incorporated into and made a part of the record specified offers to prove. On July 26, 1938, the Board denied a petition for leave to intervene in the proceedings, filed on July 22, 1938, by the Central Council of Steel Plants, Northern District of Republic Steel Corporation. On August 11, 1938, a hearing before the Board was held for the purpose of oral argument, at which the respondent and the S. W. O. C. were represented by counsel.

We have considered the exceptions of the respondent and the S. W. O. C. and, except as granted herein, find them without merit. For reasons discussed below, the respondent's motion to reopen the record and for leave to introduce additional evidence is hereby denied. The respondent's alternative motion that specified offers to prove be incorporated into and made a part of the record herein is hereby granted.[2]

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent, Republic Steel Corporation, is a New Jersey corporation with its principal executive offices in Cleveland, Ohio. Its total assets as of 1936 were valued at $343,950,000. On May 1, 1937, the respondent and its subsidiaries employed 59,282 persons, 40,172 of them in the Ohio plants.

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[2] The respondent in its motion to reopen the record and in its offer to prove seeks to introduce in evidence a true copy of the copy of the findings and Order issued by the Board on April 8, 1938, which was sent by the Board to the respondent or its counsel on or about the time of the issuance thereof, and a true copy of the copy of the Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order issued by the Board on July 8, 1938, which was sent to the respondent or its counsel on or about the date of the issuance thereof. Since both the findings and Order of April 8, 1938, and the Proposed Findings, Proposed Conclusions of Law, and Proposed Order of July 8, 1938, are already a part of the record herein and are identical with copies sent by the Board to the respondent or its counsel, at the time of issuance, it is unnecessary to reopen the record to permit their introduction in evidence. The respondent also seeks to introduce evidence that after the Board had issued its order on June 14, 1938, setting aside its findings and Order of April 8, 1938, and ordering that such further proceedings herein be taken as the Board might be advised were necessary or desirable, the respondent asked the Board by letter dated June 30, 1938, to notify the respondent if, as, and when the Board determined to take further proceedings so that the respondent could take whatever action it deemed advisable to protect its interests before further proceedings were had, but that without first notifying the respondent as to what further proceedings it proposed to take, the Board on July 8, 1938, made and issued its Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order of July 8, 1938, which are substantially identical with its original findings and Order of April 8, 1938. Here again the evidence which the respondent seeks to introduce is already a part of the record herein, and it is unnecessary to reopen the record to permit its introduction in evidence.

The respondent has developed an organization which is highly integrated from the mining of ore and other raw materials to the manufacture and distribution of a widely diversified line of finished products. In a registration statement filed with the Securities and Exchange Commission on October 21, 1936, the respondent described its business as follows:

> "The registrant (Republic Steel Corporation) is primarily an operating company, but certain divisions of its business are conducted through subsidiaries. It is engaged in the manufacture and sale of a diversified line of iron and steel products and ranks as the third largest steel company in the United States, having an annual ingot capacity of approximately 6,053,000 tons. The products of the registrant include pig iron, semifinished steel, alloy steels, special steels, billets, bars, pipe, hot and cold rolled sheets, and strip, tin and terne plate, bolts and nuts, fabricated material and other products. It is a leading manufacturer of alloy steels, including stainless steel and high tensile steels, and is an important producer of steel for the automobile industry and of electrically welded pipe."[3]

The respondent and its subsidiaries—36 in number—operate numerous manufacturing plants. The principal iron and steel producing, manufacturing, and finishing plants which are in operation or have been operated within a recent period are located at Youngstown, Warren, Cleveland, Canton, Massillon, Niles, Campbell, and Elyria, Ohio; Brooklyn and Buffalo, New York; Chicago and Moline, Illinois; Hartford and Unionville, Connecticut; Pittsburgh and Beaver Falls, Pennsylvania; Gary and Muncie, Indiana; Monroe, Michigan; Cumberland, Maryland; Minneapolis, Minnesota; Birmingham and Gadsden, Alabama; Los Angeles, California; and Hamilton, Ontario, Canada. The respondent obtains more than half of its requirements of iron ore and coal from its own mines and the balance from the mines of companies in which it has an interest and by purchase from others. The respondent and its subsidiaries own or hold under lease extensive iron ore properties in Michigan, Minnesota, and Alabama; and coal properties in Pennsylvania, Kentucky, and West Virginia.

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[3] Board's Exhibit No. 108. The acquisition of Gulf States Steel Co. in April 1937 further strengthened the respondent's position as the third largest producer of steel in the United States. It provided the respondent with a well-integrated unit located at Gadsden, Alabama, having annual production facilities for about 400,500 tons of ingots, 297,600 tons of finished hot roll steel products, and finishing facilities for turning out large amounts of wire and wire products, nails and staples, sheets, and miscellaneous products used chiefly in the southern market.

We are concerned in this case particularly with the Ohio plants of the respondent located at Massillon, Canton, Youngstown, Warren, Niles, and Cleveland. With respect to these plants, both the outgoing shipments of iron and steel products and the incoming shipments of raw materials are preponderantly interstate in character. Thus, at the Canton works, shipments of products to points outside of Ohio for the year 1936 aggregated in value $19,717,266.36, whereas the shipments to points within Ohio aggregated $6,704,783.29; at the Massillon works, the respective aggregates were $17,533,026.74 and $4,823,432.13; at the Youngstown works, $25,321,814.36 and $5,176,815.58; at the Warren works, $24,014,830.69 and $11,891,949.34; at the Niles works, $754,829.05 and $2,932,243.42; and at the Cleveland works, $14,523,006.98 and $7,485,938.65.[4]

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[4] These products include semi-finished carbon, carbon bars and bar products, stainless sheet and strip and miscellaneous alloy, alloy bars, electric weld pipe, butt weld pipe, lap weld pipe, semi-finished alloy, sheets, hot rolled strip, hot rolled strip sheets, cold rolled strip, cold rolled strip sheets, miscellaneous scrap, and northern pig iron.

The respective aggregates in value of the principal raw materials which originate outside of Ohio and those which originate within Ohio are approximately as follows: Canton—$7,681,335 and $3,907,721; Massillon—$5,312,093 and $1,567,287; Youngstown—$15,395,589 and $1,762,342; Warren—$5,961,680 and $1,397,822; Niles—$122,542 and $71,276; Cleveland—$13,685,764 and $3,706,148.[5]

II. THE UNION

While the record contains no detailed evidence relating to the structure and function of the Steel Workers Organizing Committee and the Amalgamated Association of Iron, Steel and Tin Workers of North America, we have found upon numerous occasions in other cases, and the record as a whole in this case makes clear, that these organizations are labor organizations affiliated with the Committee for Industrial Organization.[6]

III. THE UNFAIR LABOR PRACTICES

All the plants of the respondent are operated as part of a single, integrated business, and its labor policy in each plant is directed from a single source. The unfair labor practices alleged in the complaint relate to the respondent's plants in the Massillon, Canton, Youngstown, Warren and

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[5] These raw materials include coal, iron, ore, limestone, sinter, scrap, ferro manganese, ferro silicon, nickel, vanadium, molybdenum, chrome ore, tin, spelter, dolomite, fluor spar, brick, acid, clay, lime, fuel oil, moulds and tools, pyrites, magnesite, sand, soda ash, crushed silica rock, ganister and flue dust.

[6] Matter of *Jones and Laughlin Steel Corporation,* Case No. C-57, 1 N. L. R. B. 503; Matter of *Wheeling Steel Corporation,* Case No. C-3, 1 N. L. R. B. 699; Matter of *Fansteel Metallurgical Corporation,* Case No. C-235, 5 N. L. R. B. No. 124; Matter of *Petroleum Iron Works Company,* Case No. R-255, 3 N. L. R. B. 774; Matter of *Lunkenheimer Company,* Case No. R-471, 4 N. L. R. B. No. 131; Matter of *Combustion Engineering Company, Inc.,* Case No. R-242, 5 N. L. R. B. No. 61; Matter of *Eagle Manufacturing Company,* Cases Nos. C-478 and R-390, 6 N. L. R. B. No. 73.

Cleveland districts. We take up in order the events occurring in each of these cities.

A. MASSILLON

The respondent and its wholly owned subsidiary, Union Drawn Steel Company, operate two plants in or near Massillon: the Massillon Works (Central Alloy District) located in Stark County, just outside the city limits, employing approximately 3200 employees; and the Union Drawn Steel Company plant located in the City of Massillon, at some distance from the Massillon Works, and employing approximately 450 employees.

We turn first to the Plan of Employee Representation and its successors at the Massillon Works—the Employees' Representative Association and the Independent Association of Republic Employees. Against this background we consider the organizing campaign of the S. W. O. C., the strike which began on May 25, 1937, the Back-to-Work movement, the activities of the Law and Order League of Massillon, and the tragic history of the July days of the strike.

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1. *The Plan of Employee Representation and its successors,—the Employees' Representative Association and the Independent Association of Republic Employees.*

In June 1933, the respondent prepared and introduced in its Massillon Works "A Plan of Employee Representation." Similar plans were introduced at the same time in its other plants and in the steel industry at large. The formal outlines of the Plan were contained in the Articles, drawn up by the respondent and distributed to the employees at the time of its inauguration. As expressed in the Plan, its purpose was to provide "an orderly and expeditious procedure for the prevention and adjustment of any future differences, to insure justice, maintain tranquillity and promote the common welfare."

The Plan functioned through Joint Committees, composed of representatives of the employees and Company representatives named by the management. The Employee Representatives were elected annually on the basis of one representative for every 200 employees in each department.[7] All the employee Representatives elected throughout the Massillon Works constituted the General Body of Employee Representatives. After each annual election the General Body chose members for four standing committees. These committees, with the addition of Company Representatives who might equal but could not exceed in number the Employee Representatives, constituted the Joint Committees.

If an employee was unable to adjust a grievance with the foreman of the work on which he was engaged, he might take the matter up either in person or in writing through his Employee Representative, first with the superintendent concerned, second with the Management Representative,[8] third with the management, which either tried to effect a settlement or, with the approval of all the parties, referred the matter to the proper Joint Committee. If, thereafter, the dispute had not been satisfactorily settled within a reasonable time the employee through his Representative or the management through the Management Representative might require the matter to be referred to the Joint Appeals

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[7] Only employees who were 21 years of age or over and who were American citizens, were eligible to be Employee Representatives.

[8] The Management Representative was appointed by the management to facilitate close relationships between the management and the Employee Representatives. He was to respond to requests from Employee Representatives; to attend, but not vote at, meetings of the Joint Committees; to refer for the management any matter to any committee of Employee Representatives, and refer to the Management any matter presented by a committee of Employee Representatives. Upon the joint approval of the Chairman of the General Body of Employee Representatives and the Management Representative depended the right of all committees and of the General Body of Employee Representatives to hold special meetings or regular meetings at any other time than that provided for in the Plan.

Committee, which, in its turn attempted to effect a settlement. If this failed, the Plan provided that the President of the Company should be notified and the matter referred to arbitration, "if the President and a majority of the Employee Representatives on the Joint Appeals Committee agree to such reference."

The Plan also provided that the Company should defray all the expenses of the operation of the Plan, including the pay of Employee Representatives. No provision, therefore, was made for dues or for the office of treasurer. Likewise there was no provision for membership in the Plan, all employees having the right to vote for Employee Representatives, and no provision for general meetings of employees. Finally, the Plan could be amended only by two-thirds vote of the entire membership of the Joint Committee on Rules, Ways, and Means, or by concurrent majority vote of both the General Body of Employee Representatives and the Representatives of the Management at an annual conference.[9]

Under these provisions of the Articles the respondent retained full control over the operations of the Plan. No amendment was possible without the respondent's approval. No matter could be referred to arbitration unless the respondent agreed. Not only was there no provision for meetings of employees as a body, but in fact the employees were precluded from any direct concern with the functioning of the Plan. All the expenses, including the time spent by Employee Representatives at meetings or adjusting grievances, were met by the respondent. Even the right of the General Body and all committees of Employee Representatives to hold special meetings or regular meetings at any other time than that provided in the Plan, depended on the approval of the respondent. Thus behind its outward semblance of democratic procedure and its announced purposes of insuring justice and promoting the common welfare, the Plan was shrewdly designed to foreclose genuine collective bargaining and to fix firmly in the hands of the respondent an indisputable control over its employees.

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[9] During the fall of 1936, a Central Council, composed jointly of representatives of management and of Employee Representatives selected by the General Body of each of the respondent's plants, was informally instituted. All of its expenses were borne by the respondent. In or after March 1937, at meetings of the Central Council in the respondent's offices in Cleveland a revision was proposed and later amendments were adopted, formally incorporating the Central Council in the Articles of the Plan.

From start to finish, the Plan was the respondent's own. The respondent prepared it, inaugurated it, and continued it in effect for almost four years, without ever submitting it, for acceptance, alteration, or rejection, to a vote of its employees. Further, the respondent lost no opportunity, through statements of its officials and otherwise, to impress upon its employees the virtues of the Plan and to exhibit its opposition to "outside unions."[10] Thus the respondent dictated the type of representation and "collective bargaining" it was willing to allow its employees to have.

The following incident illustrates the manner in which the Plan operated:

At the regular monthly meeting of the General Body of Employee Representatives, held in the respondent's Industrial Relations Building on September 22, 1936, a request was made to the Management Representative for a general wage increase for the employees of the Massillon District. "Mr. Portz (then District Manager for the Central Alloy District, Canton and Massillon Works) discussed this item in detail and stated it was impossible for Management to grant this request. He also stated that when all conditions warrant this item will be given consideration."

On November 6 the Massillon newspapers carried an announcement of a general wage increase for the Massillon

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[10] Further evidences of the respondent's domination over the Plan are discussed *infra*.

District. On the following day, Portz called a special meeting of the General Body of Employee Representatives and announced that effective November 16, 1936, wage rates would be increased 5½ cents per hour in the lower wage brackets. Despite the fact that "there was some kick . . . because they hollered about the newspapers having it before the representatives had it," the General Body went through the solemn procedure of voting on a motion that the wage increase be granted. The motion was carried. Such was collective bargaining under the Plan.[11]

On April 13, 1937, the day after the Supreme Court upheld the constitutionality of the Act, Carl Myers, Acting District Manager of the Canton and Massillon Works, summoned the General Body of Employee Representatives to a meeting in the Industrial Relations Building of the Massillon Works and announced that the respondent would withdraw financial support from the Plan. After Myers left the room, the Employee Representatives immediately formed "The Employees' Representative Association." Nick Linckenhely and Nathan Brown, chairman and secretary of the General Body of Employee Representatives under the Plan, were chosen by the Employee Representatives as president and secretary of the Association. Paul Hoffman, an Employee Representative under the Plan, was chosen treasurer. For their attendance at this meeting, the Employee Representatives were paid by the respondent.

The same committees which had existed under the Plan continued as committees of the Association. Linckenhely testified that the committees "kept on functioning the same as before, that is, committees seeing the foremen about grievances and superintendents"; that the committees continued to be paid by the respondent for handling grievances, "the same as before"; that the committees circulated application cards for membership in the Association throughout the plant and elsewhere on company property, during working hours, on company time; that the Employee Representatives took no steps to dissolve the Plan; and that the Employee Representatives adopted and used as the constitution of the Association the Plan as amended on April 22, 1937.[12]

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[11] A similar incident occurred in March 1937.

The history and nature of these amendments reveal the extent to which the Plan and the Association were subject to the domination of the respondent. At a conference of the Central Council of Employee Representatives in the respondent's offices at Cleveland on March 8, 1937, the question of amending the Plan was discussed but deferred for later consideration. Shortly afterwards, E. L. O'Connell, temporary secretary of the Central Council, submitted a proposed revision of the Plan to the Employee Representatives from the various plants and to the respondent's vice president in charge of operations and its Director of Industrial Relations at Cleveland. This revision contained minor changes, of a kind calculated to diminish, but in no way to remove, the respondent's control.

Soon after the submission of the proposed revision to the respondent the decisions of the United States Supreme Court upholding the constitutionality of the Act were handed down. The proposed revision was then further altered. In its final form the amended Plan, while omitting certain of the most obvious practices forbidden by the Act, retained the same general structure. Articles dealing with the pay of Employee Representatives and the holding of Central Council meetings in the respondent's general offices were eliminated. The Joint Committees were abolished, though the four committees of Employee Representatives remained. Any matter might be referred by a committee of Employee Representatives to the management through the Management Representative; and the management through the Management Representative might require a grievance which had not been satisfactorily adjusted to be referred to the proper committee of Employee Representatives. Requests for changes in rates of pay were to be considered closed upon a decision of the proper committee of Employee Representatives and the management, unless an appeal was filed in writing by an employee or his Representative with the Management Representative within a period of 3 days after the decision was rendered.

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[12] The plan apparently continued in existence under its original name, at Massillon.

Although the General Body of Employee Representatives was to elect a treasurer, no provision was made for initiation fees, dues, or funds for the payment of any expenses which might be incurred.[13] Employee Representatives continued to be elected on a basis of one for every 200 employees in each department, and meetings of the General Body of Employee Representatives and of the committees were to be held monthly thereafter. No provision was made for meetings of the membership at any time and membership continued to be automatic.[14]

The record does not disclose the circumstances under which the final draft of the proposed revision was prepared or approved. It does appear, however, that mimeographed copies of the Plan as amended, identical for the Massillon and Canton plants, were circulated shortly after April 22, 1937. It was stated in the preamble of the amended Plan that the amendments had been "adopted." Linckenhely testified that at one of the meetings of the Central Council, the Employee Representatives "revised those by-laws. We had a meeting with the management in regards to them." Since under the Plan the adoption of amendments required the approval of the respondent, it is a fair inference that the amended Plan—accepted as the constitution of the Association—was, at the very least, approved by the respondent before becoming effective.

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[13] There is some evidence that dues of two dollars a year were to be fixed at some future date, but the record contains no evidence that dues were collected by the Employee Representatives or contributed by the employees.

[14] As stated above, it appears from the testimony of Linckenhely that, despite the absence of any provision for membership, the committees of the Association did attempt to obtain signatures to membership application cards.

As under the Plan, no meetings of the membership of the Association were ever held and the members never participated in or had a voice in its affairs. Pressure by the respondent in favor of the Association and against the outside Union continued as it had under the Plan. Thus Peter Mouyios, as we find below, was laid off on May 3 because of his refusal to join the Association. Again Russell Eckroad, a head rougher in the hot mill, testified that near the end of April at a meeting in the mill of 28 head roughers, Superintendent Alvin Smith, after mentioning a decrease in orders, and the high cost of production at the Massillon Works, said "that he thought everybody was satisfied with the company representation plan . . . if the C.I.O. organization would come in here, that there was still a good chance of not working . . . that possibly it would shut down the plant. If it did not, we would work only one or two days a week after that." Andrew Evans, sheet mill superintendent, announced that he agreed with Smith; and then Foreman David Lewis spoke: " 'Boys,' he says, 'we all been working good. We have all been drawing nice pay . . . If this thing happens, if C. I. O. comes in here, and there is a strike in this plant, and this plant shuts down, a lot of you boys are going to lose your homes, your automobiles and you won't know where your next bite is coming from'."

The respondent did not call Smith, Evans, or Lewis as witnesses and made no showing as to their unavailability. It did seek to rebut Eckroad's testimony through Arthur

Kemp, another employee present at this meeting. Nevertheless, in the light of Smith's speeches on another occasion, referred to hereafter, we are inclined to credit Eckroad's version. Even on Kemp's version, however, it is clear that the respondent's supervisory officials were attempting to coerce the employees into joining the Association and not joining the S. W. O. C.

Despite the respondent's efforts to use the Plan and the Association to thwart self-organization among its employees, the S. W. O. C. continued to gain ground in the Massillon plant. On May 25, 1937, the employees at Massillon went out on strike. Throughout the strike the chief figures in the Plan and the Association played leading roles in the Back-to-Work movement. These matters are discussed at length hereafter and we pass now to the formation of the Independent Association of Republic Employees upon the reopening of the plant in July.

On July 6, 1937, the day on which he returned to work, Nick Linckenhely, Chairman of the General Body of Employee Representatives under the Plan, President of the Association, and the leading spirit in the Back-to-Work movement, called a noon hour meeting of 16 employees, in the pipe shop of the Massillon Works, to form a successor organization to the Association. Linckenhely testified that he sent for the 16 employees before and during working hours. Four Employee Representatives, in addition to Linckenhely, attended. Because of the odium attached to the use of the word "Representative" in the title of the Association, the committee of 16 decided to name the new organization the Independent Association of Republic Employees, pursuant to a suggestion made at one of the Cleveland meetings of the Central Council of Employee Representatives held under the Plan. The committee of 16 also elected as temporary officers the same Employee Representatives who had been officers under the Plan and the Association. With the formation of the Independent, the Association disappeared from the scene.

Later a new set of permanent officers was elected, none of whom, except Linckenhely, the vice chairman, appear to have been officers or Representatives in the predecessor organizations. Twenty-seven Employee Representatives, called the committee of 27, were also elected, on the basis of one for every 200 employees, "to have a way of dealing with the Company, representing the men." Many, if not all, of those elected had been Employee Representatives in the predecessor organizations and active in the Back-to-Work movement. On August 2 and 3, at the call of the chairman of the Central Council of Employee Representatives, the officers of the Independent met in Cleveland to discuss the adoption of a constitution and by-laws. As of September 13, the constitution and by-laws had not been adopted. At the time of the hearing, the Independent claimed to have a membership of approximately 2400, of whom approximately 1900 had paid their initiation fees and dues.

Like its predecessors the Independent was merely the creature of the respondent. The committee of 27 was allowed to obtain dues, initiation fees, and signatures to membership cards in the plant during working hours. Notices of further meetings of the Independent were posted in the plant. In addition, the respondent's officials took an active part in coercing employees to become members of the Independent.

Sherman Ebbert, a member of the Union who returned to work on July 12, testified that on that day, Ralph Eberly, a head loader, approached him during working hours and asked him to sign a membership card in the Independent. "He said 'it was all right, because it was a union amongst the employees, only it was to keep out any other outside union, and I asked him if it was compulsory and he said yes it is. He said 'If you do not join it, we will throw you over the fence'." Ebbert promised to give Ebberly an answer later. On the next day, during working hours, Ebberly again asked Ebbert to join the Independent. When Ebbert refused, Ebberly summoned a crowd of 15 or 20 men, including Paul Hoffman, one of the committee of 27, who told Ebbert that unless he joined the Independent, they would refuse to work with him. Ebbert then went to see Peppard, general superintendent of the billet department. "He (Peppard) said 'I understand you are having some trouble with the boys.' And I said 'They claim they will not work with me unless I join their union.' And he asked me why I did not want to join . . . . 'Well,' he said, 'the boys said they won't work with you unless you sign the union card. . . . By God, we are going to work around here and I ain't going to let no man hold up the work. . . . Now you can go home and think it over. When you decide to do what the boys want you to do, you can come back and go to work'." As Ebbert was leaving the plant Peppard sent for him, told him that he had straightened the matter out for the time being, and said that he might return to work. Later in the evening, Ebberly called Ebbert away from his work and announced that "the boys have decided they don't want you to come out to work tomorrow." When Ebbert replied that he had been told by Peppard to return to work, Ebberly said "You will have to fight it out with the boys then." As a result, Ebbert signed a membership card in the Independent. On August 6, however, he voluntarily left the plant because he "didn't like the way they was pushing things around there."

George Allen, a crane man employed by the respondent for 12 years and a member of the Union, who returned to work on July 8, testified that one afternoon during the second week of his return. Thomas Burkhart, treasurer of the Independent, asked him to sign a membership card in the Independent. On the next afternoon, when Allen stated that he had not yet made up his mind, Burkhart said, "If you do not sign this card, the men are going to refuse to work with you and the foreman is not going to do anything about it." Later, Don Lyman, a motor inspector, from whom Allen took orders, advised Allen to sign the membership card in the Independent within the next 2 or 3 days if he wanted to keep his job. On July 27 a committee, consisting of two motor inspectors and 11 or 12 other employees, none of whom worked with Allen, presented him with an ultimatum, "You are either going to sign this card and line up with us or you are going to get out on a picket line with the C. I. O." When Allen refused to sign, the 15 took a vote on the question of whether or not they wanted him to work. John Irwin, a steel foreman, announced the results of the ballot as 12 to 3 in favor of Allen's not working. Another man was assigned to Allen's crane. Allen then appealed to Andrew Evans, superintendent of the hot mill, who sent him to several other supervisory employees. Finally, Allen spoke to Jim Kelvey, head foreman over the electricians, and told Kelvey that the men had taken his job because he would not sign a membership card in the Independent. Kelvey replied "I can't do anything about that . . . . I give you a quit slip if you want to quit." Allen replied that he did not want to quit, that the men had taken his job and put another man on it. Kelvey promised to investigate the matter within the next few days. At the hearing on August 12, Allen testified that he had not yet heard from Kelvey.

The record is plain that, except in name, the Independent was identical with the Plan and the Association. It was formed, at least ostensibly, by the Chairman of the Plan and the President of the Association. The leading figures were Employee Representatives under the Plan and the Association. It met to adopt its constitution at the call of the chairman of the Central Council of Employee Representatives of the Plan. It replaced the Association, which disappeared upon its advent, and occupied the same place in the respondent's plant as its predecessors. As Linckenhely himself testified:

> "The men wanted it (the Association) abolished on account of the name. . . . That is the only reason we changed the name and formed a new one."

Like its predecessors the Independent was dominated and controlled throughout by the respondent. It was formed on the respondent's property, received the respondent's favors, grew through the respondent's coercion. Further, even aside from actual interference by the respondent with the Independent itself, the Independent could not, in view of the circumstances under which it arose, be considered free from the respondent's influence and control. The leading figures in the Independent were a group of employees plainly under the respondent's domination and known by the employees to be so dominated. The successor to the Plan and the Association could not, by mere change in name, be freed from the effects of the respondent's previous actions. In addition, the Independent was established under other conditions of flagrant interference with the rights of self-organization, described hereafter. Such an organization, formed in such an atmosphere, could not be considered to represent the free choice of the respondent's employees.

Upon the basis of the entire record we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation at the Massillon plant and of its successors, the Employees' Representative Association and the Independent Association of Republic Employees, and has contributed financial and other support to them.

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2. *The discharge of Peter Mouyios*

On May 3, 1937, during working hours, Employee Representative "Happy" North approached Peter Mouyios, a chipper in the billet department, and asked him what union he wished to represent him. When Mouyios replied that he did not wish to be represented by any union, North said, "Well, I got a card here I am going to fill out for you." Despite Mouyios' insistence that he would not sign or accept the card, North filled it out, signed Mouyios' name, detached the stub, and left it with a fellow employee, from whom Mouyios retrieved it before the hearing. The card, which is in evidence, is an acceptance of membership in the Association. A comparison of Mouyios' signature written at the hearing with his purported signature on the card leaves no doubt that Mouyios' purported signature is not genuine. Mouyios testified that this entire incident took place in the presence of foreman Lefty Hilbert, that an hour and a half later, Hilbert came to where Mouyios was working and told him to go to see Peppard, and that Peppard then laid him off. When Mouyios protested that there were many men in the billet shed with less seniority who were not being laid off and offered to point out such men, Peppard looked at a little book and replied, "Well, I cannot help that."

The respondent contends that Mouyios was laid off, in the regular order of seniority, because of a general reduction in force of approximately 180 chippers. With this contention we cannot agree. Foreman Hilbert testified that he had submitted to Peppard a complaint from Mouyios that two men with less seniority had been retained and

Peppard had shown him a service record, according to which it appeared that both men had been hired before Mouyios. Hilbert stated that the chippers had been laid off, on the basis of a list in Peppard's office, starting from the bottom of the list, but that he did not know whether or not the chippers at the bottom of the list were junior in seniority to the rest, and did not know of his own knowledge whether seniority had been followed. Similarly, Lauriston Miller, a general foreman in the billet and finishing department, testified that he was given a list by Peppard of chippers to be laid off, but did not know whether or not the seniority rule had been violated. It thus appears that Peppard was the only person whose testimony would rebut that of Mouyios. The respondent, however, did not call Peppard as a witness and made no showing as to his unavailability. Although Mouyios did not become a member of the Union until a week after his lay-off, we think it clear that the real reason for his lay-off was his refusal to join the Association.[15]

We find that the respondent has discriminated against Peter Mouyios in regard to hire and tenure of employment, thereby discouraging membership in the Union and encouraging membership in the Association.

3. *Background of the strike; the lock-out at the Massillon Works*

In this atmosphere of company unionism and hostility to outside unions, the S. W. O. C. in June 1936 began its campaign to organize the employees of the respondent. Headquarters were established in Canton, approximately eight miles from Massillon, and organizers were sent out to obtain members among the employees in the Canton-Massillon area.[16]

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[15] At the time of his lay-off, Mouyios was earning 62½ cents an hour, plus a bonus, which brought his hourly rate to approximately 72 cents an hour, and had been working 3 or 4 hours a day for 5 days a week. Since May 3 he has not earned any money.

On July 2, 1936, the respondent issued the following notice:

> "Republic Steel Corporation and Subsidiaries
> "General Offices Republic Building, Cleveland, Ohio
>
> "TO OUR EMPLOYEES:
>
> "We are making the following statement so that you will know the attitude of Republic toward the recently announced campaign for unionization of the steel workers.
>
> "The leader of this drive is John L. Lewis, head of the Coal Miners' Union. He is not connected with the steel industry. He has enlisted the help of other organizations not connected with the steel industry . . . Representatives of radical and communistic groups are helping in this movement. William Z. Foster, chairman of the Communist Party, has announced his support. Foster was the leader in the unsuccessful attempt to unionize the steel industry in 1919.
>
> "WHAT DO THEY WANT?
>
> "John Lewis and his organization want more workers to *pay them more dues* . . . If they could organize the steel workers they hope to collect $5,000,000 a year from them. Republic employees alone would pay over half a million dollars. Furthermore, they could place dues and assessments at any figure they liked and steel workers would have to pay them.
>
> "The real aim of the present organization drive is

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[16] The Canton and Massillon Works are apparently classified by the respondent for administrative purposes as one region, the Central Alloy District, which is under the supervision of a single District Manager.

to establish a closed shop. They want to force you into the union and make you pay for the right to work. Under a 'Closed Shop' every man has to pay his dues to the union whether he wants to or not. If he gets behind in his dues, they can throw him out of the union. By this threat they can keep the dues rolling in.

"One of the announced purposes of this drive is to throw out your Employee Representatives whom you have elected for collective bargaining with the management. The union wants to destroy all Employee Representation Plans in the steel industry.

"Your Employee Representation Plan is not run by outsiders. It works. Under your plan, you select your own Employee Representatives—men you know and with whom you work. Under a union you would be represented by outsiders who may know little or nothing about your problems, your management, or the steel industry. Furthermore, you would have no choice in their selection. You would have to accept any bargain they made for you. You would have to pay money to be dictated to by somebody you did not even know.

"WHAT ARE THEIR METHODS?

"The methods customarily used by professional union agitators and organizers are force, coercion, and intimidation of workers and their families. They threaten to call a strike to force men to join their union. They try to force mills to stop operation and keep men from their work for months at a time. They do this to scare men into their union whom they know do not want to join the union.

"WHAT IS REPUBLIC'S STAND?

"Republic stands for the 'Open Shop' principle.

"No employee has to join any organization to get or hold a job.

"Advancement depends on individual merit and effort.

"Republic will not permit any activities within its plant which will:

1. Interfere with the orderly conduct of its operations.
2. Stir up strife or discontent.
3. Threaten the peace and comfort of its workers and their families.

"*Every Republic employee owes a duty of loyalty to the Company so that its best interests may be served. Conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management will not be tolerated.*

(s) T. M. Girdler
Chairman and President

R. J. Wysor
Executive Vice President and General Manager

C. M. White
Vice President in Charge of Operations

H. B. Carpenter
District Manager.'"[17]

With this statement of the respondent's policy as a guide, we turn to the history of the union's attempt to organize the employees at Massillon.

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[17] Italics supplied.

From the outset, the organizers were followed and spied upon by paid agents of the respondent. Howard Porter and Guy L. Sweeney, S. W. O. C. organizers, testified that men in old clothes and with a one or two day growth of beard, whom they had previously seen in the uniform of company police at the Union Drawn Steel Company, trailed them almost every day for three or four months in all their organizing trips in Canton, Massillon, and even to Louisville and Navarre, Ohio, towns located several miles from Massillon. Among the automobiles driven by these men, the organizers recognized one, a Ford coupe bearing the 1936 Ohio license number E-12, usually driven by the same two men, which invariably followed them. These men made no attempt to conceal their activities. They took rooms in the Northern Hotel in Canton on the fifth floor below the rooms occupied by Sweeney and Porter.

> "Every time an organizer would step out of the hotel . . . this same car E-12 would be following us. . . . There was always two, it was a coupe, 1935 Ford coupe. . . .
>
> "Q. (by Mr. Lauter) They would always follow you in an automobile?
>
> "A. No, at times when we would leave the hotel and go out to breakfast, lunch, or dinner, if we were walking, or making a contact, they would always follow us there walking, because they always parked across from the hotel. . . . I have had them follow me into the restaurant, back to the hotel, on the elevator, upstairs and back down again. . . . They would follow me around in Massillon in making contacts. In other words, they would watch me, so that I would not get to see any steel workers because I did not want to get any steel worker in trouble."

On one occasion, after a midnight meeting in a public park of the employees of the 18-inch bar mill of the Massillon Works, these same two men followed one Laughlin, an employee of the respondent who had expressed interest in S. W. O. C., to his home, and for several days afterward were seen parked there for hours at a time. On another occasion, these men, accompanied by 15 or 20 others, followed several S. W. O. C. organizers to a fish fry at Eagles' Hall in Massillon given by the employees of Union Drawn Steel Company, and succeeded in staying so close to the organizers that they had no opportunity to speak to any of the employees there. On a third occasion, Porter and Sweeney were followed by the men driving the Ford coupe with the license number E-12 to Louisville, Ohio, where they had gone to visit a prospective member. A black sedan with five men cut in ahead of them, half blocking the road; the Ford coupe stopped directly behind them. The organizers escaped from this *cul de sac* but were prevented from visiting their prospective member.

The activitites of these men were reported to Sheriff Nist of Stark County, who informed the organizers that if the car followed them out of Massillon into Stark County again, he would arrest its occupants. On September 23, the two men driving the car with the license number E-12 followed Porter out of Massillon to Navarre, where he stopped at a filling station and telephoned to the Sheriff's office. In a few moments several deputy sheriffs in a cruiser car drove up, apprehended the two men, and took them to the County Jail, where they gave their names as Long and McCallister, stated that they were plant policemen at the Union Drawn Mill in Massillon and informed Deputy Sheriff Koellner that they "had business following this car, that it was special work assigned to them as policemen at the Republic Steel Corporation". Porter sought to press charges against them, but was informed by the

District Attorney at Canton that there was no law prohibiting such activities. The men then signed waivers, releasing the Sheriff from liability, and left. To all of this testimony, the respondent offered no evidence in rebuttal.

As a result of the respondent's known hostility to the S. W. O. C. and the constant and unconcealed shadowing of union organizers by the respondent's paid agents, the employees were afraid to be seen in the company of the organizers or even to permit them in their homes. At first, therefore, meetings were secretly held "out of town after night, out in corn fields, in parks, and different places where we thought nobody was watching us." Later, however, as more of the employees joined the S. W. O. C., meetings were held in the open; the membership grew; inroads were made even among the Employee Representatives. In December, 1936, New Deal Lodge No. 1124 was chartered by the S. W. O. C.

While the respondent's police were thus engaged in shadowing union organizers, the respondent's foremen and supervisory officials were endeavoring by other means to combat the growth of union sentiment. Thomas Pastorius, an employee who had been approached to join the S. W. O. C., told Kenneth Poorman, a volunteer organizer for the S. W. O. C., "I am a foreman now, and as a foreman I am supposed to quash all talk of organization in the shop." Another employee was forewarned by a superintendent to expect the visit of organizers and "watch his foot". Joe Morton, a member of the S. W. O. C., testified that foremen David Lewis and Hayden Bright repeatedly warned him not to talk union to his fellow employees and stated that it was part of their jobs to break up this C. I. O. movement in the plant. Russell Eckroad, rougher in the hot mills, testified that the same David Lewis, after informing him that "Girdler will never sign a contract with the C. I. O.", mentioned something that had happened "up town" at the union hall. When Eckroad asked, "How do you know that?" Lewis replied, "That is all right how I know that. . . . We know things down here 10 minutes after they happen up town, no matter where it is."

In September 1936 Alvin Smith, general superintendent of the sheet mill, sent for Elmer Jordan, a helper in the sheet inspection department, and asked him what connections he had with the C. I. O. and John L. Lewis. Although Jordan was then a member of the S. W. O. C., he disclaimed any knowledge of the C. I. O., fearing that such an admission would result in his discharge. Smith then proceeded to lecture Jordan as follows:

> " 'Mr. Jordan, you know as well as I that the steel industry cannot be organized.' He said, 'The Republic Steel Corporation has too much money for a thing like that to come in here.' He said 'you might organize the brick layers and carpenters, they are just a handful of men, but you will never touch Republic Steel. You know what happened down here a few years ago to the men who took an active part in the organization.[18] They lost their jobs. I think the best thing for you to do is lay off'."

Several weeks later Jordan was again summoned to Smith's office, where Smith informed him that his work was becoming unsatisfactory.

> "He said, 'You are not on the job. . . . Your foreman is complaining about your not working right, talking to the men too much.' He said, 'You are going

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[18] In May 1935, the Amalgamated Association of Iron, Steel and Tin Workers of North America, called a strike at the plant of the Berger Manufacturing Company, a wholly owned subsidiary of the respondent, in Canton, Ohio.

> to leave the C. I. O. alone or you are not going to have a job here.' 'In other words,' he said, 'if they did, if they asked for recognition, we will shut this plant down, because we are operating now at cost'."

Jordan testified that Smith again called him to his office in February 1937 and said:

> " 'I see that you did not listen to me when I told you before.' I said, 'I do not know what you are talking about.' He said, 'Well, I see you are one of the active men in the C. I. O. and you have guts enough to go in part of the mill and pass out papers and then come in and take your job.' 'I do, I absolutely have,' I said, 'I did not get paid for it. I am doing it for the benefit of the men in this plant.' He said, 'This plant is going to be shut down. The orders are getting low. We are going to shut this plant down. It seems you are all going to be out of a job.' He said, 'Mr. Chase (assistant superintendent) thinks a lot of you. We were talking here the other day and we were figuring on putting you on an inspection job which you are entitled to.' He said, 'If you keep this thing up that you are doing now, I cannot give you a job'."

On March 17, 1937, there occurred an event of historic importance in the steel industry: representatives of the Carnegie-Illinois Steel Company, and other subsidiaries of the United States Steel Corporation, met, bargained collectively, and signed a contract with the S. W. O. C., covering wages, hours, and working conditions, and recognizing the S. W. O. C. as the representative of its members who were employees of those companies. On the day following the signing of this contract, the respondent called a special meeting at its Cleveland offices of "the Joint Committee of the Representatives of the Northern Steel Plants and the

Subsidiaries."[19] The minutes of this meeting, mimeographed and paid for by the respondent, and distributed to the Employee Representatives, read in part as follows:

> "Mr. White (respondent's vice president in charge of operations) addressed the conference and discussed Corporation labor relations with the Representatives.
>
> "Mr. Voss, Director of Industrial Relations, explained all about collective bargaining with the representatives of any group within the employ of our Corporation.
>
> * * * * * * *
>
> "The Joint Session showed the efforts of our different units in combating the encroachment of outside groups. The Buffalo and Cleveland Units have a Security League. This league has members avowed to support and help sustain all the activities in connection with the Republic Steel Representation Plan.
>
> "*At this point, a motion was made and seconded that all the representatives of both the Steel and Subsidiaries back the Management in opposition to all outside labor organizations. This motion was carried unanimously.*
>
> "Another motion was made and seconded that each General Body within the Corporation develop methods best suited to their locality in fighting any coercion or intimidation in connection with labor organization. It was, also, suggested that each unit (Steel or Subsidiary) offer to each other the procedure or systems used in their localities to offset any efforts of outside groups.

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[19] This "Joint Committee" meeting appears to have been a meeting of the Central Council.

> "Before adjournment, an exchange of thanks between Management and Representatives developed. A very fine spirit of cooperation was manifested by both to carry on under our present set up."[20]

The results of this program of opposition to outside unions appeared almost immediately in those plants of the respondent involved in this proceeding. At Massillon, foremen and Employee Representatives distributed petitions among the employees during working hours, stating, "We, the undersigned, are satisfied with our present Plan and do not want interference from the outside C. I. O." In the hot mill Employee Representatives circulated a petition reading, "We, the undersigned, are satisfied with the Representation Plan and the wages, hours and conditions of the mill." At first only two or three of the 60 to 65 men in the department signed it. The Employee Representatives then sent for foreman Lewis, who asked:

> "What is the matter with you fellows, you do not want to sign this petition. Everybody up above has signed it. . . . Should I bring it down again? . . . If you boys don't sign this, the result of it will be that we won't work very long . . . if we don't sign this thing up and straighten it out like all the rest of the plants are doing, that when the company man went out on the road at the end of the month, he did not know whether he would get us any more orders or not."

When Lewis returned with the petition, the men signed it.

At about the same time, the chippers in the billet department were told by their foremen to lay down their tools and report in groups of ten at a time to general superintendent Peppard's office. There the chippers were met by Employee Representatives, who copied their badge numbers on a slip of paper and informed them, "We called you boys in here to sign, so that with your signatures fixed opposite your badge number that you are satisfied with the kind of employees' representation we got, this kind in the plant." Peter Demos, an employee, testified that he signed the petition under protest, because, had he refused, his badge number would have remained on the paper without his signature, thus indicating his refusal to sign. A number of the chippers were apparently unable to read English. Employee Representative Pappas, without reading the petition aloud, explained it to them in Greek. A week or two later, Demos testified, "we saw in the local papers a news item that the employees of the Republic Steel Corporation, Massillon, rejected the C. I. O. and copies of this . . . petition were sent to the local authorities and to the state authorities to show that the employees were satisfied with the Representation Plan and they did not desire any outside interference from an outside union."

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[20] Italics supplied.

During March, Alvin Smth, general superintendent of the sheet mill, called special meetings of the employees in several departments and threatened them with the loss of their jobs if the respondent were forced to recognize the C. I. O. Joe Morton, a catcher in the hot mill, testified that at a meeting in the Truck Garage of the Massillon Works, Smith stated "that he didn't want any of the members there to join the C. I. O., or to join any outside organization, that the Employees' Representation Plan had been very successful there, and that we had gotten our recent wage increases through the Employees' Representative Plan and that if the C. I. O. had to be recognized by the Republic Steel they would close down before they would recognize the C. I. O. The high cost of operating under a union contract would not let them work. He also stated that he would hate like hell to see grass growing in the streets of Massillon." Elmer Jordan, a helper in the sheet inspection department, testified that at another meeting in the Truck Garage, Smith "got up on a box . . . and he had a C. I. O. membership card, and he read this card off that I accept membership in the Amalgamated Association. 'Now,' he said, 'boys, I want to tell you one thing, the coal miners, the Mine Workers of America, they will assess them five or ten dollars and take everything out of their pay that they want. That is what will happen to you. They are a bunch of grafters, communists, and they are reds. . . . The first thing you can do if you want to hold your job is lay off of this organization. . . . In other words, this company has been running in the red for the last three years merely making expenses. . . . Up in Monroe, Michigan, that plant they took over . . . can operate iron for half the costs they operate it here and save shipping costs.' "

Although the respondent did not call Superintendent Smith as a witness, it sought through the testimony of others present at these meetings to rebut certain portions of both Jordan's and Morton's testimony. On the whole record, however, we are inclined to believe that Superintendent Smith made the statements reported by Jordan and Morton. Other testimony that Smith made statements of a similar character on other occasions stands entirely uncontradicted. Moreover, the respondent neither called Smith as a witness nor made any showing as to his unavailability. Even from the testimony of the respondent's witnesses, it is apparent that Smith mentioned the possibility that the mill would lose orders and warned the men not to join anything of any kind. Further, at approximately the same time, the respondent's District Managers in other plants were reiterating to meetings of Employee Representatives the respondent's announcement of policy made on July 2, 1936, that the Communist party was supporting the C. I. O., that John L. Lewis, President of the United Mine Workers, wanted to organize steel workers for the money involved, that the respondent stood for the open shop principle, was in favor of the Plan, and would not tolerate conduct which would disrupt what the respondent considered to be the satisfactory relations between the employees and the management. It would be curious, indeed, if the supervisory officials of the respondent explained the respondent's policy in a substantially different way from that in which the respondent's president had stated it.

Shortly after these meetings and within a fortnight after the signing of the Carnegie-Illinois agreement, the union for the first time approached the respondent with a proposal for collective bargaining. On March 30, Clinton W. Golden, Regional Director of the S. W. O. C. for the Northeastern Region, wrote to Girdler, requesting a convenient date for a conference and enclosing a copy of a proposed agreement, identical in its principal terms with the Carnegie-Illinois agreement. The respondent did not reply.

On May 3, Golden addressed the following telegram to the respondent:

> "On March 30, 1937 we sent you standard collective bargaining contract with request for conference to discuss same stop No acknowledgment or other reply received to date stop Wide spread unrest among employees your company various mills prevails over uncertainty your position regarding signed collective bargaining contract stop This unrest accentuated result lay off several hundred union members your Canton and Massillon Works stop Unless we can have definite assurance from you with date for conference to negotiate written contract without further delay we shall be obliged disavow all responsibility union members in your mills remaining at work."

On May 5, J. A. Voss, Director of Industrial Relations, replied:

> "Your request for a meeting to discuss signed contract has been referred to me for reply. In view of Wagner Act see no necessity for signed contract. The policy of this company has been and is now that it is willing to meet with anyone to bargain with him for whomsoever he represents. In conformity with this general policy the proper representatives of this company will met with you at any time mutually convenient for collective bargaining purposes. Advise if Tuesday, May eleventh my office Cleveland satisfactory for meeting."

On the following day, Golden wired back:

> "Your wire fifth received stop Are we to understand you propose in lieu of signed collective bargaining contract that contracting parties commit provisions verbally agreed upon to memory and rely thereon for future reference whenever conferences are necessary to discuss grievances that may arise thereunder stop Do you further propose that management officials in the thirty-five mills operated by your company and union grievance committeemen numbering two hundred as well as the sixty thousand employees also indulge in this memorizing process stop Is this your conception of orderly constructive methods of collective bargaining as contemplated by National Labor Relations Act stop If so we consider conference you propose for May 11 futile waste of time and energy stop Do you propose to accept terms similar to those in agreement signed by Carnegie Illinois Steel Corporation and approximately one hundred other companies with representatives of Steel Workers Organizing Committee without

undertaking to affix your Company signature thereto stop."

A conference, nevertheless, was held between representatives of the S. W. O. C. and of the respondent in Cleveland on May 11. On the same day, the respondent issued the following statement:

> "TO OUR EMPLOYEES:
>
> "The following statement is being made so that you will know the attitude of Republic Steel Corporation toward the effort of the Committee for Industrial Organization (C. I. O.) to force the company to sign their union contract. In its effort to secure such contract, C. I. O. has threatened to call a strike.
>
> "You have a vital interest in this situation. It involves your right to work in peace and to support your family in comfort. We are not convinced that the C. I. O. contract is for the best interests of the employees or the Company. . . . "

After summarizing the letter of March 30, addressed by Golden to the respondent, and the telegrams of May 3, 5, and 6, the statement continued:

> "The C. I. O. made no complaints (at the meeting on May 11) relative to wages or hours of Republic employees. In spite of this, the Union demanded that the Company sign their Contract.
>
> "This is the only matter at issue and the Company at the May 11 meeting informed the C. I. O. representatives that it still believes it inadvisable to sign such contract from the standpoint of the employees and of the Company itself.
>
> "Among the reasons for this decision are:

"1. Thousands of our employees, through their representatives, have protested against the signing of any agreement by the Company with the C. I. O. The employees of Republic now have a successful Plan for collective bargaining in which plan a large majority of the employees participate.

"2. A study of the proposed contract wages, bonus, safety provisions, seniority rules and methods of handling grievances specified in the proposed contract are no more favorable than those now enjoyed by you.

"3. Both parties to a contract should be responsible. Republic is held by law responsible for acts of its officials. C. I. O. does not assume the same kind and measure of responsibility.

"4. The policy of Republic Steel Corporation is that NO EMPLOYEE HAS TO JOIN A UNION TO GET OR HOLD A JOB. Although the proposed agreement by its language does not disclose the ultimate objective of a closed shop, C. I. O. organizers have stated that the signing of the Carnegie-Illinois agreement 'will result in the complete unionization of the entire industry.' Republic does not believe in the closed shop principle.

"5. The signing of a C. I. O. union contract would be unfair to the workers who do not favor the Union as their collective bargaining agency and to those who prefer to deal for themselves individually with the Company. Coercion would be used by the Union in an attempt to force these workers into the Union against their wishes causing them to surrender, for all practical purposes, their rights to deal with the Company except through the C. I. O. on such vital questions as wages, hours, and working conditions.

"6. Such a step would disturb the present harmonious relations with our men and break down the mutual confidence which has existed in collective bargaining matters between the workers and management.

"7. The signing of C. I. O. contracts in other industries has not resulted in industrial peace. Notwithstanding signed agreements, sit-down strikes and other interruptions of work have occurred in the automotive and other industries.

"The policy of this company has been, and is now that it is willing to meet with any one to bargain with him for whomsoever he represents.

"Republic believes that every employee is entitled to determine for himself, free from discrimination, interference, restraint, coercion and intimidation by anyone, whom he wishes to represent him in the matter of collective bargaining. In view of the foregoing facts and because of the Wagner Act and recent decisions of the United States Supreme Court, Republic Steel Corporation sees no necessity for signing the C. I. O. contract.

"The Company is willing to bargain collectively with its employees as in the past. MEMBERSHIP OR NON MEMBERSHIP IN ANY ORGANIZATION IS NOT A REQUIREMENT OF EMPLOYMENT."

On the night of the conference, the Association held a mass meeting in the Main Office Auditorium of the Massillon Works. Employees on duty during this time were paid their regular wages by the respondent for attending, and a total of approximately 2,000 were present. Nick Linckenhely, the principal speaker, addressed the meeting over a loud-speaker system; his main topic was "that the Employees Representation Plan had been so good, so successful in cooperating with the employees in the company in getting the present wage increases . . . that the C. I. O. was not a fit organization to belong to, that if the Republic Steel was forced to recognize the C. I. O., they would have to close down the plant, on account of the high cost of operation, and that being an old mill, Massillon would be without the Republic Steel."

Despite the respondent's pressure upon its employees to force them into the Association, however, that organization, on its own estimate, was never able to obtain more than 1,100 applications for membership out of over 3,000 employees. As a method of organizing opposition to the Union the Association was a failure.

The respondent, therefore, resorted to a more direct method of attack. On May 20 it shut down all the mills of any consequence in the Massillon Works, with the exception of the blooming mill, and locked out its employees. The respondent contends that the shut-down and lock-out were not aimed at the Union, but were caused by an emergency in the main turbo-generator unit which generates power for the use of the mills. T. J. Ess, a combustion engineer employed by the respondent, testified that at about 7 p. m. on the night of May 20 he received a call from the plant that there was trouble with the turbo-generator unit, that he went to the powerhouse, saw the machine vibrating very badly, and after consultation decided that it was necessary to shut down certain units of the plant. At 10:45 p. m. power was switched off from the sheet mills, the 12 and 18-inch mills, and the hot strip mill—all the mills, as Ess testified, of any consequence in the Massillon Works, except the blooming mill; and the mills remained shut for 3 days until May 23. The open hearth, and some of the minor auxiliary departments remained unaffected.

On cross-examination, however, Ess admitted that the respondent maintained a connection in the plant with the power service of the Ohio Public Service Company in order to take care of such a break-down and that power to run the mills could have been obtained from that company without even pulling a switch. It is therefore apparent that even if there was a break-down in the turbo-generator unit, there was no emergency which compelled the respondent to shut down its mills.

On the other hand, the respondent had repeatedly threatened to close down the plant before it would grant recognition to the union. From November 1936 until a few days before the shut-down, in conversations, interviews, and meetings, Alvin Smith and Andrew Evans, superintendents in the sheet mill, and foreman David Lewis, had drummed into the ears of the employees that recognition of the C. I. O. would mean a shut-down of the plant. The chief selling point of the Association, as reiterated by the Employee Representatives to all comers, was—Join the Association or else—if Republic is forced to recognize the C. I. O., it will close down the plant.

Quite apart from these repeated threats and warnings, the uncontradicted testimony of Joe Morton, president of New Deal Lodge No. 1124, reveals the respondent's motive for the shut-down. On May 21 or 22 Morton met foreman Lewis on Main Street in Massillon:

> "Mr. Lewis said, 'I guess you will have enough of this strike when the company gets done with you.' I said, 'What do you mean "when the company gets done with me?" ' He says, 'When we get through starving you out.' 'Why,' he said 'you won't want to strike.' "

In the light of these facts and the respondent's failure to show any convincing business reason for its conduct, we are compelled to conclude that the respondent shut down its mills and locked out its employees for the purpose of intimidating and coercing them not to join or to discontinue their membership in the Union. The respondent by the foregoing acts discriminated against its employees in regard to hire and tenure of employment thereby discouraging membership in a labor organization, and interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

To consider the lock-out, however, as merely one more instance of the respondent's hostility toward the Union would be to ignore the circumstances under which it occurred and the history of which it was a part. After the exchange of telegrams on May 6 and the break-down of negotiations on May 11 between the S. W. O. C. and the respondent, the situation in Massillon was rife with unrest. At this critical time, the respondent saw fit to carry into execution its repeated threats to close the plant if the C. I. O. asked for recognition. In the long history of the respondent's campaign to crush the Union, this was the final blow. Under these circumstances, the Union could not hope to preserve itself without immediate resort to action. At 11 p. m. on the night of May 25, pickets surrounded the plant and the strike began.

The respondent's activities after the lock-out leave no doubt that it expected the strike and made preparations to meet it. On the morning of May 25, Carl Myers, acting District Manager of the Canton and Massillon Works, called on Stanley W. Switter, Massillon's Chief of Police, told Switter that "they expected a strike at almost any time in the near future and wanted to know how the Police Department was able to handle the situation . . . how we stood and how many men we had. . . . " Later in the day, James A. Lewis, Service Manager of the Alloy Steel Division of the respondent, who had been in Detroit, Michigan, was informed by his office "that there was considerable talk about a strike taking effect that night" and made arrangements to get back as quickly as possible by flying from Detroit to Akron, arriving in Massillon at about 8 p. m. C. W. Cravens, one of the respondent's salesmen, who remained in the District Office with 85 other employees, including three cooks and seven telephone operators from May 25, for 15 days and 16 nights, testified that he came back from Akron to go into the office because he had heard rumors that there was going to be a strike, and that on the night of May 25 there were a number of cots in the District Office and a food supply "more than enough for 15 days and 16 nights." Several foremen and employees who remained in the Massillon Works after the strike was called also testified that they slept on cots which were already there, or which were delivered to the plant on the night of May 25.

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4. *The Strike*

Between May 25 and July 1, 1937, when Governor Davey ordered the Ohio National Guard into Massillon, the Massillon Works and the plant of the Union Drawn Steel Company remained closed. During this period, in preparation for the reopening of the plants, the respondent was engaged in a campaign to conscript the Massillon police department to break the strike.

Certain obstacles appeared to block the easy accomplishment of this objective. The Massillon police department was small and poorly equipped for the respondent's purposes. Of a total of 18 regular police, only 13 were available for strike duty and the department lacked a supply of tear and vomiting gas and other equipment considered essential to break a strike. Furthermore, all the city officials—Mayor Krier, City Solicitor Hardman, Chief of Police Switter, and the City Council—were insistent not only that the city could not afford to hire special police or buy extra equipment, but that the Massillon police must remain neutral and would not be used to break the picket lines. Finally, a large body of public opinion in Massillon supported both the strikers' cause and the attitude of the city officials.

The respondent began systematically to mobilize its forces and seek its allies to overcome these obstacles.

On May 26, the first day of the strike, a committee of six employees, met at Linckenhely's home and formed a Back-to-Work Committee. The members of this committee were either officers or Employee Representatives under the Plan and the Association.[21] During the strike other Employee Representatives and at least two foremen—Paul Rider, foreman in the billet shop, and "Chic" Immell, foreman in the blooming mill—joined the committee and took an active part in its work. Thus the Back-to-Work movement was organized by the very employees through whom the respondent had maintained its control over the Plan and the Association, and was assisted by the respondent's foremen.

On May 27 or 28, the Board of Directors of the Massillon Chamber of Commerce organized a temporary committee composed of businessmen and citizens of Massillon with the announced purpose of acting as a clearing house for information with regard to the various phases of the strike situation as it affected the business community in Massillon. This committee later developed into a broader organization which came to be known as the Citizen's Committee, the Citizen's League, the Labor Relations Committee, or more commonly, the Law and Order League of Massillon. Its most active members were D. W. Case, secretary of the Massillon Chamber of Commerce, Jonathan Lester, president of the Massillon Rubber Company, and Glen Lanham, manager of the Erie Chevrolet Sales Company.

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[21] Nick Linckenhely, chairman of the General Body of Employee Representatives under the Plan and president of the Association; N. C. Brown, secretary of the General Body of Employee Representatives under the Plan and secretary of the Association; Paul Hoffman, Employee Representative under the Plan and treasurer of the Association; Henry Gonder, Sam Schilling, Don Burkhart, identified by Linckenhely as Employee Representatives under the Plan and the Association.

These two organizations formed the spearhead of the respondent's attack. For the first 2 or 3 weeks of the strike, as workingmen demanding only the right to work and as citizens interested in preserving law and order, they presented to the public an unimpeachable front. Thereafter, behind this front, the respondent proceeded to manipulate these groups for its own purposes.

On June 9, Glen Lanham of the Law and Order League went to Chief Switter's office with the message that Carl Myers and Gordon Hess, the respondent's assistant sales manager, wanted to see Switter in Canton. City Solicitor Hardman, Switter and Lanham then drove to the Hotel Onesto in Canton where Myers was confined to his room as a result of having been shot by one of his company guards. Myers immediately launched into an attack upon the Chief and the city officials. "He wanted to know what the hell was going on over there; were we going to allow the hoodlums to run things and why they cut the telephone wires and why the hell we didn't take action such as the Chicago police did and put them where they belonged . . . they knew how to handle the situation, if we did not,[22] and if we didn't wake up, we wouldn't need what police force we had, we wouldn't need a chief of police and we wouldn't need a city solicitor and we wouldn't even have a first class post office; that Massillon would be a junction if that mill shut down, which it looked as if it would with the wires cut and they would have to evacuate the office. . . . " Chief Switter replied that he had only 18 men and that "it was not our job (anyway), that we wasn't a strikebreaking outfit, and, furthermore, the mill was down in the country out of the city limits."

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[22] Myers was referring to the incident which occurred on May 30, 1937, in the vicinity of the respondent's plant in Chicago, Illinois, when the Chicago police dispersed a crowd of strikers and sympathizers, ten of whom were killed. See *The Chicago Memorial Day Incident*, Report (No. 46, Part 2) of the Committee on Education and Labor of the United States Senate, pursuant to S. Res. 266 (74th Congress), which makes the following findings with regard to this incident:

"We conclude that the consequences of the Memorial Day encounter were clearly avoidable by the police. The action of the responsible authorities in setting the seal of their approval upon the conduct of the police not only fails to place responsibility where responsibility properly belongs but will invite the repetition of similar incidents in the future."

Hardman testified with regard to Myers' remarks as follows:

> "Mr. Myers began asking what the people of Massillon were doing about the strike, what the police department was able to do, and what the businessmen were doing about it, whether or not they were interested in keeping the steel plant there. And he went on to say that if the steel plant moved out that they would not need a chief of police and they would not need a mayor and would not need a city solicitor. . . . Mr. Myers pointed out what a fine job the Chicago police had done."

At Myers' request, Switter agreed to remove certain records and evacuate from the main office certain employees who had remained there since May 26. In the course of this discussion, Myers stated that there were some arms and ammunition in the main office, which could be locked up in the vault, but "they wouldn't do anybody any good there." He proposed, instead, to give them to Switter as a start toward some equipment to help the police department "in any situation which might arise." Upon Switter's acceptance of this offer, Myers dictated a letter to Raleigh Frank, authorizing Frank, who was in charge of the main office, to turn the arms and ammunitions over to the Chief. "If you are going to turn this office over to Mr. Switter's protection,'' asked Lanham, ''and moving out in the entirety, does that mean you are never going to open up this office in Massillon again and the plant in Massillon.'' ''I did not say that'' replied Myers, ''I said that when enough men want to work in Massillon, we will open.''

At 4 o'clock that afternoon, Switter placed the arms and ammunition with the office records in the trunk of a car, drove through the picket lines and delivered the trunk load to the respondent's agents. The arms and ammunition were not turned over to the Chief until later that evening. At 8 p. m., shortly after dark, pursuant to arrangements made with Frank, Switter drove to the Brookside Country Club, 4 miles north of Massillon, where Frank and Lieutenant Adler of the respondent's police force, under cover of darkness, transferred to Switter three shot guns, six combination shells, three gas guns, and about 90 gas projectiles.[23] The respondent's first objective was accom-

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[23] On June 1, 1937, Federal Laboratories, Pittsburgh, Pennsylvania, manufacturers of tear and vomiting gas, had shipped to the Union Drawn Steel Company at Massillon the following material:

3 1½" cal. riot guns	@	$60.00	$180
30 1½" cal. long range projectiles C. N. (tear gas)	@	7.50	225
90 1½ cal. long range projectiles D. M. (vomiting gas)	@	8.00	720
12 1½" cal. short range cartridges D. M.	@	6.00	72
40 Grenades, Jumbo Triple Chaser D. M. 116M	@	13.00	520
35 Grenades, Jumbo Spedeheat D. M. 113 M	@	12.00	420
1 Type "GB" gas mask			25.50
Total			2159.50
Less 10% on item No. 1		18.00	
Less 20% on items 2-3-4-5-6		391.40	
			409.40
			1750.10
10% excise tax on items 1-2-3 and 4			97.56
			1847.66

(Exhibit 1343-P, p. 5021, Volume 14, Hearings before the Subcommittee plished: the Massillon police department was now adequately equipped.

On June 11, Carl Myers again summoned the city officials to the Hotel Onesto in Canton, to discuss the question of supplying food to 16 guards and 4 maintenance men that had remained in the plant. Myers told the city officials and R. R. France, Chief Deputy Sheriff of Stark County, whom Myers had invited to sit in at the conference, that "they had about four or five days supply of food in the plant, that it was up to Switter and France to get food into the men, that the maintenance men were keeping the coke ovens hot, that if that battery of coke ovens was ruined it would be goodbye for Massillon, that they wouldn't ever start that plant again." Switter promised to see what he could do about getting the food into the plant.

On the following day Myers called Switter on the telephone and angrily protested against an arrangement, to which Switter had agreed, by which one Marshall, a company official, was to enter the plant, accompanied by two pickets, to inspect certain insurance and relief records. After this telephone conversation, Switter informed D. W. Case that Myers was agitated by the refusal to the Union to permit Marshall to enter the plant without an escort of pickets. Case offered to have J. Lester of the Law and Order League telephone Myers and "stall him off for a few days until we know what we are going to do." Case then communicated with Lester, who telephoned to Canton and reported that Myers had "consented to give him (Switter) two or three days to get himself into position, he wanted to put himself (Myers) in shape to really take charge."

On the following afternoon, June 13, at Case's request, Switter attended a meeting of the Law and Order League

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of the Committee on Education and Labor, United States Senate, Seventy-fifth Congress, first session, pursuant to S. Res. 266.)

at the Chamber of Commerce. Switter was asked whether, if the money was raised, he would be willing to add the required number of police and purchase the extra equipment. Switter replied that he would not agree to this without the Mayor, but that if the Law and Order League would hold a further meeting, he would see to it that the Mayor was present. Switter testified, "They wanted to know how much it would cost to put on these police and how many we would need in order to maintain law and order and so on and how much equipment. They argued why the Mayor would not appoint the police and we threshed around for a couple of hours there and talked about the Monroe situation. . . . Monroe, Michigan. . . . They said they done a good job up there; they smashed the picket lines up there and they deputized enough police to do it . . . that turned out to be the main topic of conversation."

On the next morning, Mayor Krier, Switter, Hardman, and Snyder, the safety director of Massillon, attended the meeting of the Law and Order League at the Chamber of Commerce. Switter testified, "They put the heat on the Mayor about appointing some special police . . . they wanted to know why he would not appoint more police . . . and he argued that the city was broke and did not have the money to do it. And this group said they could raise the money . . . $8000 to pay for 50 policemen for two weeks and the equipment considered necessary for the department . . . and finally he agreed to appoint them (but) if he took on the 50 police that not one of them would go to the picket line. . . . (This) they did not like . . . so well." After this meeting the League, which had raised approximately $1200, returned the money to the businessmen who had donated it.

Later that afternoon, Mayor Krier, Hardman, and Switter called on Myers at the Hotel Onesto in Canton and informed him that they could not get the food into the plant. Switter was the spokesman: "We told him we wasn't going to, that we wasn't bringing any food down to them or to the pickets, either . . . because we figured it was not our job; it was over in the county and it was not up to us to get food down to them. We decided we wasn't going to have nothing to do with it. . . . And then he (Myers) lit on us and told us that it was a funny thing that a little town like Monroe could build up a police department big enough to get their mill operating again and control the situation and it was damn funny we couldn't do something. . . . He said that Massillon would be a prairie and it wouldn't need a mayor or safety director or any of us . . . he said he would take care of it himself that he wouldn't let those people starve." Hardman's testimony confirms and amplifies that of Switter: "We talked about what it meant to Massillon, if Massillon would lose that plant, and there was danger of its being lost . . . he said that if the plant was lost, the people of Massillon and the officials would be responsible for losing it and he thought they were not taking any interest in it and in seeing that the plant was reopened." With this, the conference ended.

On June 15, the respondent issued and distributed to its employees a statement signed by Tom M. Girdler which, after reciting that many of its plants were reopening, added:

> "Movements similar to that which resulted in opening the Monroe plant are spreading rapidly in other affected communities. Employees kept from their jobs by mobs of armed pickets many of whom have never worked for Republic and citizens outraged by this defiance of law and decency by the C. I. O. are joining together to insist that law enforcement agencies compel the union to cease unlawful picketing.
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> * * * * * * * *
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> So, when you get all through, the present controversy sums up somewhat like this:

[Blackface type] Must Republic and its men submit to the communistic dictates and terrorism of the C. I. O.?

[Blackface type] If America is to remain a free country the answer is NO."

After this statement, the Back-to-Work movement, which had hitherto been relatively inactive, began its work in earnest. At first, Linckenhely testified, the Employee Representatives, assisted by foremen Paul Rider and Chic Immell, merely circulated petitions from house to house, asking their fellow employees to return to work; then began "the big move." On June 20, Linckenhely and the other Employee Representatives called on the members of the Law and Order League at the Chamber of Commerce for their assistance, and "they all talked about the Back-to-Work movement and how to find a way and means of trying to get the men back to work." On the following day, June 21, led by Linckenhely, Fred Becker, a metallurgist in the employ of the respondent, and Foremen Rider and Immell, a crowd of approximately 300 men appeared at City Hall. "They stormed the City Hall," testified Switter, " . . . they demanded a meeting with the Mayor and I . . . they was all up in the air about wanting to go back to work and wanting me to give them protection . . . they demanded to know why I refused to accept this several thousand dollars that . . . the Law and Order League promised to raise . . . for the special police." A committee, with Linckenhely and Rider as spokesmen, then met in the Safety Director's office with the Mayor, Switter and Hardman. Switter urged the committee not to rush matters or to become so excited. He told them the money which the Law and Order League had promised had never been raised, and stated, in answer to their further questions, that he would refuse to accept it if it were raised again because he "was not going to take on a gang of men to go down and break the picket lines," and that the picket lines were around the entrances to the plant beyond the jurisdiction of the city.

After similar remarks by the Mayor and Hardman, the city officials upon the demand of the committee addressed the rest of the group waiting in the lobby of City Hall. Switter told them "to hold themselves a few days to give the Mediation Board at Cleveland . . . appointed by the President of the United States . . . a chance to do something before they started any back-to-work movement, and I told them then and there that I wasn't going to take any fifty greenhorn men and go down to the picket line under no consideration."[24] The Mayor also referred to the President's Mediation Board, called upon the members of the group not to be hasty and stated that they were foolish to get excited, that the plants would probably open within a few days, and that there was no use in going down to the picket lines and having a battle and losing more time than they would lose by waiting. "Gentlemen," he said, "remember if we start such things it won't be one-sided,—there will be bloodshed on both sides. Be patient a few days. . . . We don't want any trouble or bloodshed down there."

On the afternoon of the meeting with the Back-to-Work Committee, the city officials drove to Canton to see Colonel Lawler, observer for the National Guard in the Massillon district, and, after discussing conditions in Canton, told him of the demands of the Law and Order League and the Back-to-Work movement and requested him to come to Massillon to observe the situation there. Lawler replied that he himself and other National Guard observers had been to Massillon and ridden around the picket lines and that from his observations, Massillon was in fine condition, everything was pretty peaceful, as peaceful as could be expected under strike conditions. Lawler and the city officials then discussed the activities of the pickets in carrying sticks and clubs, piling stones, and blocking roads. Lawler dismissed these activities as "technical" and stated that it would be impossible to argue over every little technical point of the law when an emergency such as a strike situation arose. He ended by complimenting the city officials very highly on the way in which they had been handling the situation, and stated that they had it well in hand.

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[24] See *Report of the Federal Steel Mediation Board to Secretary of Labor Frances Perkins.*

The city officials then returned to Massillon to attend a meeting of the City Council, where Switter presented a request for additional police, on the ground that he was using some men in the strike zone that were needed in the city. The City Council rejected the request. "They was kind of cold on it," Switter testified. "We went into a meeting in the City Solicitor's office after the Council . . . a committee meeting. They told me not to get hot and bothered about it, it was down in the county, and it was up to the sheriff." "They immediately jumped us," Hardman added, "about not having the funds to spend, and they said there was no reason for the Chief to get all excited about it; to begin with the plant was in the county and it was up to the sheriff to do something about it."

Following the conference at City Hall on June 21, the Back-to-Work movement held a meeting, with about 450 present, at Willowdale, on June 22, and another meeting at Sippo Park with about 700 present, on June 23. Foremen Rider and Immell donated the use of their automobiles to assist Linckenhely and the other Employee Representatives and to transport employees to these meetings. At the Willowdale meeting, Linckenhely testified, Rider addressed the crowd and "talked in regards to the way they were kept out of the plant and that so many men came to him, wanted to know if anything could be done about getting back to work . . . and spoke along the line (of) making arrangements to go back to work." At the Sippo Park meeting, Rider spoke "in regards to the same line of work . . . of trying to urge the men along that wanted to get back to work."

On the same day that Linckenhely had discussed "ways and means" at the Chamber of Commerce, the Law and Order League had retained Elson Wefler and Franklin Maier as its attorneys. On June 25 these two attorneys, with Case, Lester, and other members of the League, came to City Hall and presented to the city officials a petition signed by a number of civic organizations and leading citizens of Massillon. After the petition was read aloud, Maier delivered a speech about the break-down of law and order, demanded that the city appoint special police, citing its statutory authority to borrow money from banks for that purpose in an emergency, and accused the city officials of refusing to accept the money which the Law and Order League had raised. Maier also stated that Massillon was losing a pay roll of $40,000 a day and that "he had it straight that if something wasn't done the Republic was going to move their plant out of Massillon."

Switter retorted that there had been no break-down in law enforcement, that he had received a number of "cock and bull statements, the same as they did . . . of fellows being afraid to go home and being in fights, and being beaten up" but that only a few persons had signed affidavits and filed complaints, and that in every one of these cases an arrest had been made.[25] Switter further denied that the Law and Order League had ever raised any money for special police and called upon Case, who confirmed the

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[25] Switter testified that there had been fewer arrests during the strike than in normal times.

Chief's statement. When Hardman spoke, he deprecated the whole petition as "a grandstand play," defied the Law and Order League to prove its assertion that dynamite was being transported through the streets, and denied that the general safety of the city was in peril. Hardman added that the reference in Maier's speech to the loss by Massillon of $40,000 a day "smoked the situation out" and showed that the League was interested, not in law and order, but in protecting the businessmen.

Finally, Switter and Mayor Krier agreed to appoint some more men as special police and the Law and Order League agreed to assist them to borrow money for this purpose from banks in Massillon.

After the meeting, Switter, Case, and Hardman conducted two officers of the Ohio National Guard on a tour of the city to assist them in finding suitable quarters for the troops, if they were called in. The officers inspected a number of possible sites and finally selected an old lodging house owned by the city, which Case agreed to equip with refrigeration, gas, plumbing, and water connections, if it became necessary. Subsequently, such equipment was added, and the Chamber of Commerce received a bill for the cost, which at the time of the hearing it had not paid.

At about five-thirty that afternoon, Gordon Hess, the respondent's assistant sales manager, telephoned Switter at Switter's home that he had received information from the respondent's Canton office that between five and ten thousand Akron rubber workers and "Canton C. I. O.'s" were on their way to invade Massillon, and demanded to know what the Chief was going to do. After insisting that "it sounded like more bull we had heard about other invasions," Switter finally agreed to call out the police department. Hess stated that he "would have his gang over there to back (the Chief) up."

When Switter arrived at City Hall, he found a crowd of approximately 200, including Foreman Rider of the Back-to-Work movement and a number of the respondent's employees. Rider asked Switter to put in a three alarm signal for the American Legion. When Switter disclaimed any such authority Rider went to the fire chief, who sounded the signal. The crowd in the meantime was steadily growing, until it reached a total of several thousand persons in a high state of excitement. At 7 o'clock, when Hardman arrived, "the atmosphere was very tense . . . so tense that I did not park my car in the business district but drove it out in to the residential district so that if there was any trouble the car would not be damaged."

In the Chief's office, a crowd, including Hess, Rider, and J. Lester of the Law and Order League, had congregated. Lester asked the Chief if he wanted him to go home and get a shot gun. Hess "grabbed the telephone and called up the Canton office of the Republic Steel Company and wanted them to send somebody over to see the enthusiasm that Massillon was showing and what a crowd was backing up the Massillon gang to go back to work." After the call, Hess informed Switter that men from Republic Steel had already been over to see the crowd. Nevertheless Hess procured a newspaper reporter to take pictures of the crowd, telling Switter and Hardman that "it would be great to have a picture showing the enthusiasm of the group . . . so they could show the Republic Steel there was still some interest in Massillon and some life there . . . showing the Republic Company (that) Massillon wanted the steel mill there."

At about 10 o'clock the two National Guard officers who had been in Massillon earlier in the day came to City Hall and wanted to know the reason for such a crowd. When Switter informed them that a mass invasion of Massillon was threatened, they replied that their intelligence division could find no trace of any mass movement on Massillon and "for God's sake to break up that crowd before something happened." Switter then addressed the crowd, thanking them for being willing to back him up on any invasion of the city, and asked them to disperse. Several members of the American Legion approached Switter and Hardman after the meeting and wanted to know why and on whose authority they had been called out, and stated that they did not want to get mixed up in any strike controversy.

On June 27 or 28, Chief Switter asked the Civil Service Commission to certify to him a list of men eligible for appointment as special police. Of the seven certified, Switter chose six, rejecting the seventh because he was a former employee of the respondent, and choosing four other men of neutral feelings. The Massillon police force now had reached a total of 28.

On June 29 the Back-to-Work Committee, through the assistance of Case, obtained the use of a room on the ground floor of the Union Bank Building as a place where they could set up tables and register the number of employees who wished to return to work. On the following day the Back-to-Work movement began registration. When crowds formed and the police interfered, dispersing them, Linckenhely, Rider, and Case called upon Switter in protest. Case especially urged upon the Chief that a large majority of men, not concerned with the strike, wanted to put themselves on record as desiring to go back to work, "so that there could be some definite assurance given the Republic that if Republic wanted to open the plant, that it could be opened, there was men enough to operate." Switter informed them that he had no objection to their registering employees, but stated that he did not think it was a good idea to use the ground floor. Case then offered the Back-to-Work Committee the use of the offices and facilities of the Chamber of Commerce on the eighth floor of the Ohio Merchants Bank Building, where registration continued from June 30 until July 3. Two full-page advertisements were published in the *Massillon Independent*, over the name of the Back-to-Work Committee, announcing the place and purpose of its work. By July 3, the respondent claimed, over 2200 employees had signed the above-described petitions.

This was "the big move" for which the Back-to-Work movement claimed credit. Linckenhely testified, however, that the Law and Order League had agreed to pay for $75,000 worth of insurance which was to have been taken out to cover property damage to the Union Bank Building; that the League had paid for the mimeographing of the petitions; that the League had furnished without charge all the desks and facilities for the registration of employees; and that the League had paid approximately $100 for the advertisements of the Back-to-Work Movement in the *Massillon Independent*, although by agreement between the *Independent* and the Law and Order League, nothing in the advertisements indicated that they had been paid for by the League.

Although the question of whether the Back-to-Work Movement represented a majority of the employees of the respondent's Massillon Works is not in issue in this proceeding, it is worth noting that among the alleged 2200 signatures are those of a large number of foremen, superintendents, and office workers, together with the signatures of a number of individuals who signed the petition more than once. Furthermore, the record is plain that supervisory officials of the respondent directly participated in circulating and obtaining signatures to this petition. Thus William Norris, a millwright leader, testified that his general foreman, one Shoemaker, telephoned him to go to the Chamber of Commerce and sign the Back-to-Work petition. Judson Moody testified that his foreman, Ray Henry, called at his house and asked him whether he had signed the Back-to-Work petition. Wilbur Larker, an office employee, testified that he signed the Back-to-Work petition while working in the temporary offices of the respondent in Canton, and that he saw other employees sign the petition there. Nick Linckenhely testified in detail concerning the activities of foremen Rider and Immell as members of the Back-to-Work committee. Switter testified that Gordon Hess referred to the Back-to-Work movement as his "gang" and sent them en masse to City Hall to back up the Chief on the fictitious invasion of Massillon.

Thus from beginning to end, the "big move" of the Back-to-Work Committee was in reality conducted from behind the scenes by the respondent and the Law and Order League. Like the discredited Employees' Representative Association, of which it was merely a continuation, the Back-to-Work Committee was the creature of the respondent.

In the meantime, on the night of July 1, Governor Davey had ordered General Marlin and four companies of the Ohio National Guard into Massillon. Despite previous arrangements to house the troops in the city lodging house, two companies were quartered in the main office of the Massillon Works and the other two in a school house overlooking the respondent's plant.

On July 2 the Massillon Works and the plant of the Union Drawn Steel Company reopened. On the same morning, at the request of Creighton, general manager of the Union Drawn Steel Company, Switter supplied city police in two cruising cars to escort the company guards and a quantity of arms, ammunition, and tear and vomiting gas, into the plant. One of the company guards furnished Officer Moore with a few gas candles or jumpers, which were kept in the police cruiser car. Though the plants were open, the strike was still effective. The respondent was preparing for the day when arms and ammunition would be needed.

On July 2, 3, and 4, and thereafter upon the solicitation of superintendents and foremen, who telephoned to the men and visited them at their homes, a number of employees returned to work. Although the record does not indicate the exact number of this group,[26] it is evident that, even under the guns of the National Guard, in the fifth week of the strike, despite the campaign of the Law and Order League and the Back-to-Work Committee, and despite the continued solicitation of foremen and superintendents, a large number of men did not return to work but remained on strike.

On July 5, General Marlin called a meeting of the city officials, told them that the troops were not going to be there forever, and stated that if they wanted the steel mill in Massillon, they would have to be prepared to take over the situation when the troops left. The Massillon Works, he warned them, was the last plant to reopen, and if they did not keep it open they would lose it. Marlin suggested deputizing and arming a group of men from the respondent's plant to be known as "home guards" who on their own time would patrol their respective precincts after work. No definite plan, however, was agreed upon at this meeting.

On the next afternoon a delegation from the Law and Order League, the Back-to-Work Committee, and the respondent called upon the city officials at City Hall to urge upon the Chief the necessity of appointing special police and home guards. The composition of this delegation reveals the close relationship between the organizations. Among those present were R. E. Peppard, superintendent of the billet shops, Perry Angstadt, the respondent's chief accountant, and one Blantz. These three men had been Company Representatives under the Plan. Case and Quigley were present on behalf of the Law and Order League. In addition there was also present Fred Becker, the metallurgist who had been a member of the Back-to-Work Committee since its inception. According to the testimony of Case, however, Becker, together with Peppard and Angstadt, represented the respondent.

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[26] There is some testimony that approximately 2000 employees returned to work. It is not clear whether this figure included the employees of the Union Drawn Steel Company.

Representatives of all three organizations joined in the discussion. Peppard, Angstadt, and Becker asked the Chief to select men from a list of names of 66 of the respondent's employees, which they submitted, to be appointed as special police to act under Switter's jurisdiction and to be paid by the city. Hardman and Switter examined this list, recognized the names of a number of men they knew, and rejected most of them as being too excitable to act as police officers during the strike emergency.

The delegation then requested that the Chief deputize a group of the respondent's employees as home guards and Peppard offered to furnish a further list of names. To this proposal both Switter and Hardman objected, as Case testified, on the ground that "it was probably undesirable to use anybody connected with Republic although they were men connected with the Back-to-Work movement. . . . Hardman said if they did anything like that they should put some C. I. O. men on." The delegation argued that Canton had deputized the respondent's employees as home guards and that Massillon should follow suit. To prove this, Angstadt telephoned the respondent's office in Canton and then informed the city officials that "the city solicitor of Canton was down in the plant then swearing them in." Hardman and Switter, nevertheless, refused to accede to the delegation's request.

At this point there appears, most casually, upon the scene the principal character in the tragedy of bloodshed and violence that was to be enacted on the night of July 11. "During the meeting," testified Case, "Switter made the statement . . . of his inability to get any policemen who were competent and I made the suggestion to him. . . . 'How do you stand with Captain Curley or Major Curley?' He said 'All right.' 'Well,' I said, 'I understand from one or two talks I had with Major Curley that there is a method by which you could get the type of people and kind of people that you want and that perhaps he would advise with you on the method.' And he says, 'Where is Major Curley?' "

The testimony is in conflict as to whether Switter then sent for Curley, or whether Curley had already interviewed Switter earlier in the day without any previous communication from Switter. There is no dispute, however, as to the fact that Case suggested Curley to the Chief as the man who would solve the problem of increasing the Massillon police department, or that on July 6, Curley called upon Chief Switter and offered his assistance in helping to secure men for the police force.

Case described Curley as a disinterested, public-spirited citizen, "a former Army officer . . . who had organized two companies in Massillon . . . for the world war, a very competent man along the lines of developing organization, also, a very influential member of the . . . American Legion." To this description of himself, Curley added that he had served in the Spanish American War as a private, in the World War as a captain and major, and was now retired with the rank of major. A disingenuous witness, whose testimony in many respects is contradicted by the testimony of other witnesses both for the Board and the respondent, and whose account of many of the events in which he participated is inherently improbable, he nevertheless furnished testimony which is indispensable to an understanding of the case.

On the evening of July 6, General Marlin, who had attended a meeting on the previous evening of the Law and Order League at J. Lester's home, called on Chief Switter. "He wanted to know why we were backing down and why we had not shown some signs of life in getting this group of . . . mill men they (Peppard, Angstadt, and Becker) certified to me . . . sworn in and getting ready to take over." Switter replied that he was "trying to get neutral men . . . and it was slow picking." "This is no time to pick up neutral men," Marlin answered, "you have to be ready to take this situation over. . . . I demand you have some plan to certify to me by tomorrow noon so I can report to the Governor." When Switter failed to agree with this, the General left in a huff.

Finally, on the following morning, the leading spirits in the Law and Order League descended upon the city officials. "They demanded we do something about this situation . . . why we had been passing the buck and why we refused to take the special police. They just climbed all over us and demanded some action be taken and threatened to impeach us, talked about getting rid of the Mayor. They talked about getting rid of the city solicitor and everybody else, and they wanted something done, wanted some action. . . . (They) said we could get plenty of men there. . . . Republic Steel men . . . and I told them that I didn't want those men, that if I was going to have any special police, I wanted to have men on neutral sides that had no argument in the strike."

"Q. (by Mr. Hunt) What was the reply?

A. They said the steel mill was at stake, the City of Massillon was at stake, as far as industry goes, and we would lose the biggest of our industry.

Q. Did they ask you at this meeting if you would accept the assistance of Captain Curley in picking men to add to your police force?

A. Yes they said they knew where to get men and he could help pick the men.

Q. Did you finally agree to take the men right away?

A. No, it got pretty hot in there for the next hour or so.

Q. What do you mean it got pretty hot?

A. Why they were climbing on us to take on these men and wanting a showdown and wanting to know why and fighting with us and asking all kinds of things and saying all kinds of things against us, why we had done the way we did . . . and why we would not consent to it.

Q. Chief Switter, I have asked you so far merely a few questions about isolated meetings and conversations in the strike situation but weren't you subject to constant pressure throughout the day and night. . . . ?

A. I did, I worked sixteen, eighteen and twenty hours a day ever since the strike broke, and one time none of the department went home for four days and nights, four nights, only excepting a few hours sleep in the cruising car and I slept on the office floor and the whole department the same way, even the new rookies.

Q. So you were pretty tired at the meeting of this Law and Order Committee on July 7th?

A. We were pretty well pounded down by that time.

Q. By whom?

> A. The law and order and the back-to-work movement.
>
> Q. What did you finally tell the group that you would do about putting on these extra police?
>
> A. I told them that was up to the Mayor and the chief executive of the city to make that decision and they got after the old boy pretty hot and he kind of weakened for the time being and asked me again what we should do. Then they jumped on me and I told them I would give them the works, I would give them what they wanted, I would appoint the whole damn outfit, give them all the guns they wanted and let them go to it, it is coming, and God damn let them have it. . . .
>
> Q. You could see what was coming?
>
> A. That there was going to be a battle and bloodshed all around as soon as they put guns in those rookies' hands and we had been fighting against bloodshed all the time."

With this agreement reached, the Law and Order League invited the city officials to attend a luncheon that noon to which Case, at Curley's request, had also invited a score of the managers of Massillon's leading industries. Case opened the business of the meeting by announcing that Major Curley had been designated by the Mayor and Chief Switter to make a statement to them about some cooperation that the city very badly needed at that time. Curley then addressed the meeting. He stated that he had consented to render such assistance as he could to the city for the purpose of developing a special police force, totaling 66 men, which would restore law and order in Massillon; that there were a number of men employed in industries who were not connected with the strike, who he felt would make good special policemen; and that if any of those present had any available men, "we would like to have them sent to us immediately." After this a discussion arose about home guards. Curley stated that he "did not believe that was the need in Massillon, he believed that what they wanted was some special police here for the purpose, who would be deputized and be under the direction of the Chief."

The last speaker was Carl Myers. "He lit on the Mayor and the city solicitor and I," testified Switter, "with all fours. . . . He said he had not thought a hell of a lot of us until now and he thought we was beginning to get on the right track now and go along and do something." "He was glad to see the Mayor and Chief had wakened up . . . ," testified Hardman, "he roasted them pretty heavily . . . he felt they had not been doing their duty. . . . He said he loved Massillon and loved the Republic Steel Corporation. . . . He dwelt on the fact that the Mayor and Chief had not enforced the law, that they had been asleep and not doing their duty." "The only thing I ever recall," added Case, upon cross-examination, "that Mr. Meyers said at that meeting was somebody in the meeting insisted on the necessity of home guards, Mr. Meyers made the statement that he felt the whole matter could be safely left with Major Curley, if he didn't need home guards, that was all up to him, *the whole situation could rest with him, he felt.*"[27]

After this meeting, the Law and Order League, its work accomplished, took no further part in the events in Massillon. We pause for a moment at this point to reexamine the role of the Law and Order League and the respondent's relations to it.

Almost from the beginning of the strike, the respondent had made it clear to the businessmen and officials of Massillon that the retention of the Massillon Works, and the very existence of Massillon, depended directly upon their success in breaking the strike. Thus, on June 9, Carl

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[27] Italics supplied.

Myers had asked Lanham what the businessmen were doing about the strike, whether or not they were interested in keeping the steel plant there, and had threatened Lanham and the city officials that unless Massillon furnished the same kind of protection the Chicago police had furnished, the respondent would move out, and Massillon would be a junction, without even a first-class post office.[28] On June 25, the day the Law and Order League presented its petition to the city officials at City Hall, Franklin Maier, attorney for the League, informed Hardman that he "had it straight" that unless something was done, the Republic was going to move their plant out of Massillon. At the conference with Chief Switter on the morning of July 7, the members of the League had urged in desperation that the steel mill was at stake, the City of Massillon was at stake, and that the business community would lose its biggest industry. The record is replete with testimony that Carl Myers, on numerous occasions, had stated to the city officials that if they did not get the mills open, Massillon would be "a prairie in the junction of route 21 and route 30," that if the plant were lost, the people of Massillon and the city officials would be responsible for losing it, that without the mills, Massillon would need neither a Mayor nor a Chief of Police nor a City Solicitor. General Marlin, who had been in communication with the members of the League and whose troops were quartered in the respondent's main office, pointedly informed the city officials that it was not the proper time to select neutral men as special police, that if they wanted the steel mill in Massillon, they would have to be prepared to take over the situation when the troops left and that if they did not keep the mill open they would lose it.

Under this threat of economic disaster, the Law and

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[28] On or about June 9, Lanham, Poe, and other members of the League also telephoned to Myers when they heard that "they were going to close up the mill, they were not going to open it up."

Order League, while publicly maintaining that its purpose was to establish law and order, privately set to work with all its power to assist the respondent to break the strike and to reopen the plants. When, on June 15, the respondent, over the signature of Girdler, issued its statement that "movements similar to that which resulted in the opening of the Monroe plant are spreading rapidly to other affected communities," the respondent supplied the League with its program and its propaganda.

We have noted above how the Law and Order League assisted and subsidized the Back-to-Work Committee in many of its activities. Becker, Linckenhely and other members of that Committee conferred daily with Lester at his home and with Case at the Chamber of Commerce with regard to "the big move." So great was the League's anxiety to retain in Massillon the respondent's pay roll of $40,000 a day, that its members contributed within a few days $1200 toward a fund of some $8200 to be raised to pay for special police and police equipment. Its concern for the establishment of law and order may be measured by the fact that the $1200 was returned to the members when it was learned that the city officials would not use the special police to break the picket lines. Lester and Lanham frequently acted as go-betweens between Myers and the city officials. Before the National Guard arrived, Case undertook the expense involved in extensive alterations of the municipal lodging house. When the National Guard was preparing to leave, the members of the League resorted to threats of impeachment against the city officials unless they agreed to hire the respondent's employees as special police.

Not the least of the League's functions was to assist the respondent in whipping up public opinion against the strikers and the Union by spreading unfounded statements that the C. I. O. was marching to invade Massillon, that explosives were being transported about the city, and that the strikers had instituted a reign of terror, in which the city authorities were powerless.

Finally, Case and other members of the League, together with the respondent, were successful in having Major Curley, allegedly a disinterested public spirited citizen of Massillon, placed in a position of authority in the Massillon police department, with results which are described below. In sum, what the respondent was unwilling or unable to do openly, it accomplished in part through the businessmen of Massillon, acting under the guise of establishing law and order. Under the stimulus of the respondent's threats to abandon its Massillon plant the League became the respondent's accomplice.

At 3 o'clock on the afternoon of July 7, a crowd of 60 or 70 men appeared at police headquarters, a good many of whom Switter recognized as employees of the respondent. Curley and Switter lined the men up and at Curley's suggestion all those under 30 years of age and all married men with families were asked to step forward. After these were dismissed, a further selection was made from the remainder, and 40 men were finally chosen as special police officers. Before the men were sworn in, Switter testified, there was a slight delay. "The bondsman did not show up and Curley had to contact Gordon Hess and he told him to arrange for getting the bondsmen to come over from Canton to bond the group of men . . . that is who Captain Curley said he was talking to, wanted to speed them up so they could swear them in."

In the light of subsequent events, the method by which these special police officers were bonded deserves careful examination. On July 5, Thomas R. Smith, a member of the insurance firm of Duerr, Smith, Lane Company of Canton, received a telephone call from Kenneth Cope, an attorney whose firm represented the respondent in this and other proceedings, to come to the respondent's offices in Canton and sign some bonds for special policemen. At first Smith refused on the ground that he was forbidden to sign such bonds during a strike, unless the respondent were willing to indemnify the Fidelity and Casualty Company of New York, the bonding company which Smith represented. Later Cope stated that the indemnity agreement could be arranged, and, accompanied by Assistant City Solicitor McCarroll of Canton, Smith drove to the Canton plant of the respondent. There W. C. Gubbins, the respondent's assistant treasurer, and Speis, its chief clerk, were engaged in selecting the men to be bonded from a group of employees. After certain employees had been dismissed as being "too hot-headed," the remainder, 56 in number, signed application forms and Smith signed, sealed, and executed public official bonds upon which the names of the employees had already been typed. Each bond bound the employee as principal, and the Fidelity and Casualty Company of New York as surety, to the City of Canton in the penal sum of $500, and was conditioned upon the faithful performance of duty by the employee as private police officer of the City of Canton. On the back of each signed application form, Gubbins wrote "Republic Steel Corporation by W. C. Gubbins, assistant treasurer," and agreed that the respondent would indemnify the Fidelity Company for any loss that company might sustain as a result of having acted as surety on the bonds. Assistant City Solicitor McCarroll then swore in the respondent's 56 employees as private police officers of the City of Canton. Of these 56, at least two were Employee Representatives, and two were supervisory officials at the Canton Works.

On the afternoon of July 7, Attorney David Day, of counsel for the respondent, telephoned Duerr, Smith, Lane Company and asked Smith to go to Massillon to sign more special police bonds. Day, Gubbins, and Smith then drove to City Hall in Massillon, where Day inquired of the desk sergeant in the police department for Captain Curley. Curley took the group to Switter's office and introduced them to the Chief who greeted them curtly, and sent them to another room where the men whom Curley had selected were waiting to be bonded. Smith testified that none of the men were rejected, as they had been in Canton, and that the final selection had been made before they came to him. Hardman, Gubbins, and Curley, sitting at a table, assisted Smith in executing the bonds. Gubbins, who had been handed a list, apparently by Curley, of the men to be bonded, inquired of each applicant whether he was an employee of the respondent and, if so, his badge number. Hardman then administered the oath of office to the entire group as special police officers of the City of Massillon.

Under date of July 6, Smith forwarded to the respondent an itemized bill for $830, covering special police bonds, at a premium of $10 each, issued for 56 Canton employees and 27 Massillon employees of the respondent.[29] On July 13, Gubbins, for the respondent, signed a contract of indemnity whereby the respondent, as indemnitor, agreed *inter alia* to become surety for the Fidelity Company on both sets of public official bonds.

Of the 27 Massillon employees thus bonded by the respondent, one William F. Henderson, was a foreman, and another, Maurice Schnierly, was an Employee Representative at Canton. In addition to these 27, 13 other men were appointed, making a total of 40 special police officers. Of the 40, the names of 19 had been submitted to the Chief by Peppard, Becker, and Angstadt on the morning of July 7; 24 had signed the Back-to-Work petition; and at least 32 were employees of the respondent.

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[29] Smith testified that the bonding of the police occurred in Canton on July 5 and in Massillon on July 6. All other witnesses fixed the date of the bonding in Massillon as July 7.

From these facts it seems clear that Curley knew in advance the employees whom the respondent wished selected as special police officers and that in their selection he acted as the respondent's agent. Curley, however, denied that anybody connected with the respondent had anything to do with his activities, and denied that he knew the names of the 60 or 70 men who came to City Hall on July 7, or what plants they came from or whether they were employees of the respondent. Curley also denied that he knew that bonds were issued for the Massillon employees who were sworn in, or that he had telephoned Gordon Hess to arrange for the bondsmen to come from Canton, but admitted that he had spoken to J. Lester about it. These denials are not convincing. On the morning of July 7, the Law and Order League had demanded and the city officials had agreed that the respondent's employees would be appointed as special policemen, and Curley was in constant touch with Case and other members of the League. At the luncheon meeting of the League on July 7, Curley had rejected the proposal that home guards be appointed, and Carl Myers had approved his action, adding, according to the testimony of the respondent's own witness, "the whole matter could be safely left with Major Curley . . . the whole situation could rest with him." This was tantamount to a ratification of Curley's authority. In addition, before the bonds were signed for the employees in Massillon, Curley either telephoned to Gordon Hess, or spoke to J. Lester about telephoning to the respondent at Canton, in order to hurry the bondsmen to Massillon. Whichever version of this incident we accept, it is apparent that Curley knew, at least after the men had been selected, that they were to be bonded by the respondent. The uncontradicted testimony of Smith, the bonding agent, who came to Massillon as a result of a telephone message from the respondent, confirms this conclusion. Smith testified not only that "Curley had mentioned to (Switter) what we came for, to bond the special policemen,'' but that Curley was sitting in the very room where the men were bonded and where Gubbins was writing down their badge numbers. Furthermore, although in Canton Gubbins had weeded out certain employees before they were bonded, in Massillon he made no such selection and ratified Curley's choice without question. From these and other facts, we conclude that Curley's activities were conducted with the full knowledge and approval of the respondent, that Curley knew in advance and carried out the respondent's wishes, and that the manner in which he selected at least 32 of the respondent's employees of a total of 40 special police was designed to conceal the fact that, while apparently selecting men most suitable for the position, he was in reality choosing men whom the respondent had already designated.[30]

On July 8 and 9, the National Guard moved out of Massillon and the police department, thus augmented, assumed control. Although there were no city funds to purchase equipment, Switter ordered 30 new sidearms and four dozen new night sticks. By Sunday, July 11, all the special police were armed.

''The breakdown of law and order in the city!'' observed Switter on the witness stand. ''Not one of these new men were put out where these homes were supposed to have had windows broken out of and men taken out and attacked. The whole outfit was concentrated in the strike zone."

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[30] Attached to the bill, dated July 6, which Smith sent to the respondent covering special police bonds for 56 employees at Canton and 27 employees at Massillon, was an attached schedule of the names of these employees together with the report numbers of their bonds. With respect to this bill and attached schedule, Smith testified that it was "dated July 6th and it was made in our office at that time, and on the back of this we have attached a list of names arranged alphabetically." The employees named in the schedule were not sworn in until the following day, July 7. This confirms the conclusion that the respondent had chosen the employees to be appointed as special police officers before Curley had lined the men up at City Hall for his "selection." Despite the fact that Smith erroneously described the bonding as having occurred on July 6, we are inclined to consider the bill and attached schedule which were contemporaneously made, in the regular course of business, as better evidence than oral testimony, given some weeks later.

At 2 o'clock on the afternoon of July 11, Switter and Curley drove to the Massillon Works to watch the behavior of the pickets when the afternoon shift of workers entered the plant and the morning shift came out. "The afternoon (shift) went along in fine," testified Switter, "no trouble at all." Curley and Switter then drove to a mass meeting of the Union at Oak Knoll Park, observed the conduct of the crowd, and made several trips to the Massillon Works and the plant of the Union Drawn Steel Company to see that the special police officers were at their posts. At about 5 o'clock according to Switter's testimony, Curley remarked, " 'I will go see that the night shift changes all right, you better get away and get some rest and recreation. You been at it too long. It is getting you down.' I said, 'That is fine, thanks old boy. If you will look after it, I am gone'." With this, Switter left Curley, went home to supper, and at 9:30 that evening drove out into the country with some friends for a few beers and lunch. On the same day, in the belief that the city was quiet, Hardman had left Massillon to visit his wife who was away on a vacation.

Nothing was said, testified Switter, about placing Curley in charge of the police department. "Things were quiet and they were having this meeting and it didn't look like anything was going to happen. It didn't look like there was going to be anything. It went off on the afternoon shift all right and we did not figure anything was going to happen that night."

> "Q. (by Mr. Donald Wakefield Smith) Is it fair to say that you didn't regard this as a matter of delegation of authority to Captain Curley? You merely

thought nothing would happen and he would be around there?

A. That is right. He was going to see the new rookies went on the post standing in front of C. I. O. headquarters and there was a viaduct and a couple of men to be posted under the other end of the viaduct, and a couple of other roads supposed to be blocked so no traffic would come through. And that is the way it was supposed to be handled and he was just going to see the men were on their posts and what he could do. . . ."

Nevertheless, as soon as Switter had left the city, Curley took complete command of the police force, and countermanded all of Switter's previous orders.

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5. *The incident at C. I. O. headquarters*

At approximately 11 o'clock on the night of July 11, three persons received fatal injuries and an undetermined number were injured by gunfire and gas fumes, when special and regular police officers, under the command of Major Curley, dispersed a crowd of strikers and strike sympathizers at C. I. O. headquarters on Cleveland Avenue near the respondent's district office, in the city of Massillon. All those killed or injured were strikers, strike sympathizers or bystanders. None of the police sustained any injuries.

Witnesses for the Board claimed that Curley in Switter's absence led the special and regular police in a murderous and unprovoked assault on C. I. O. headquarters, pursuant to a plan to destroy the Union and break the strike. The respondent sought to show that the strikers had assembled at the C. I. O. headquarters with a preconceived plan to rush the police, enter the mill, and remove the employees who had returned to work. In order to understand the causes of and the responsibility for this encounter, it is necessary first to examine the circumstances immediately prior to its occurrence.

As noted above, as soon as Switter had left the city Curley, without authority, took command of the police department. He testified that at about 9:30 p. m., when he walked over to City Hall, "the boys were getting ready to go on the 10 o'clock shift. They all came in and reported for duty. A lot of rumors flying around there that in the afternoon meeting which they had at Oak Knoll Park and they were going to come down and clean up the Police Department. I said 'Hell, I have heard that so often. . . .'[31] They all came to me—I didn't know—for orders. They said 'What will we take along?' I said 'Hell, there aint anything to take along. . . . There is some gas in back of the Sergeant's desk there. Some gas guns'." To this elaborate expression of unconcern Curley added, however, that the police officers took "everything we had . . . tear gas . . . five tear gas guns . . . and a submachine gun." Officer William Fellabom, a former machine gunner who served in the World War in the company which Curley organized, testified that at 9:30 p. m., when he reported to the police station, "Curley was in there and as soon as he saw me he says 'Bill, you better take your machine gun along tonight. They expect a lot of trouble, so I takes the machine gun and some ammunition there we had and they hustled us right down there'." From the testimony of other witnesses, it is clear that the police also took the 90 gas projectiles, six combination shells, and other equipment which Lieutenant Adler of the respondent's police and Raleigh Frank had transferred to Switter for the police department at the Brookside Country Club on the night of June 9.

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[31] The Trial Examiner granted a motion by the Board's attorney that this latter remark be stricken from the record. In our view of the evidence, the remark is relevant as showing the unimportance which Curley attached to the rumor. We hereby overrule the ruling of the Trial Examiner.

Officer Ickes, a witness for the respondent, testified that when he reported for duty at 9:45 p. m., Curley countermanded Switter's order of the previous evening assigning Ickes to the plant of the Union Drawn Steel Company, and ordered Ickes and Special Officer Kelleher, one of the respondent's employees, to a post on Cleveland Avenue, 50 feet south of C. I. O. headquarters. The usual number of police assigned to this post was six. Curley admitted that after 10 p. m. the number was increased to 20, explained that he had countermanded Switter's order with reference to Ickes only because the plant of the Union Drawn Steel Company was not working that night, but denied that he had assigned more than two or three additional police to Cleveland Avenue.[32]

From the testimony of other witnesses for the respondent, it is clear that Curley's testimony is not to be credited. Officer Fellabom testified that 'before we left the station Curley says 'I will be over there, close to where the line is or close to the C. I. O. headquarters. . . . I want to see you over there. . . . You fellows will have to be stationed over there until things quiet down'." Officer Kraft testified that Curley had sent eight or nine police officers to C. I. O. headquarters that evening in addition to those already assigned. Furthermore, Switter testified that when he returned to Massillon on the next morning, Captain Curley informed him that "he had raised the normal guard which was usually stationed about 50 feet in front of the strike headquarters from six men to 20 men." In view of this testimony, we conclude that Curley, upon his own authority, at approximately 10 p. m. armed the police with all the weapons in the possession of the police department, including the gas donated by the respondent, and ordered the normal guard on Cleveland Avenue near C. I. O. headquarters raised from six to 20 men. Of the 20, the record indicates that at least eight were employees of the respondent, including foreman William Henderson.

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[32] Curley's testimony on this point is confused. At times, he appeared to admit having assigned all the additional police to Clevcland Ave.; at one point he claimed that Officer Ickes was "about the only one he assigned."

As already indicated, Curley, in justification for his having armed the police offered the rumor that in their afternoon meeting at Oak Knoll Park, the strikers had threatened to "come down and clean up the police department." It is clear that nothing occurred at this meeting to warrant the rumor. Edward Davies, an employee of the First Savings and Loan Company, testified for the respondent that he attended this meeting, that he heard Joe Morton speak, that "Morton made different statements in regard to the men that they should fight on, that they are bound to win the strike . . . that they should be down that night at 11 o'clock on the picket line." On cross-examination, Davies admitted that the meeting was perfectly peaceful, and that the general tenor of Morton's speech was merely such that "if I were . . . on the striking side, (it) would help me to feel I was justified and I wanted to continue . . . out on strike." Moreover, Switter testified that before he left Massillon at 9:30 p. m. on July 11, he had heard no rumors of any kind with regard to threatened activities of the strikers. Finally, even Curley himself attached no importance to the rumor. He admitted that between July 7, when the special police were sworn in, and July 11, before he assigned additional police to Cleveland Avenue, there had been a decrease in the number of arrests and the amount of difficulty, that on the afternoon of July 11, when Switter left Massillon, "everything seemed to be all right," and that on the evening of July 11 he did not expect any trouble. We are therefore unable to believe the explanation offered by Curley for his orders.

At approximately 10 o'clock, the 20 officers reported to their posts at or near Cleveland Avenue. In order to understand the events which took place after their arrival, a brief description of the locality is necessary. C. I. O. headquarters is a rectangular two story wooden frame building, with three front doors and three windows, facing west on Cleveland Avenue. Three steps, each about a foot high, lead up to the front doors. The union occupies the lower floor of the building, and had established a soup kitchen there to feed the pickets. The second story is occupied by the family of Wilbert Coleman, a non-striker who appeared as a witness for the respondent. About 100 yards to the southwest of this building lies the respondent's district or main office. About 350 yards to the southeast, on Oberlin Avenue, there is a viaduct over which a number of employees drive to work. Gate No. 1, the entrance to the sheet division of the respondent's plant, is located on Oberlin Avenue, approximately 175 yards west of the viaduct and about the same distance southeast of C. I. O. headquarters.

Immediately upon their arrival at C. I. O. headquarters, the police pursuant to Curley's orders, prepared for trouble. Officer Ickes testified that from the time that he arrived on the scene, between 9:45 and 10 p. m., he expected trouble because otherwise "I would not have been sent down there." At that time, he testified, he procured from the police car a tear gas gun and nine projectiles, loaded the gun, and stationed himself across the street from C. I. O. headquarters. The other special and regular police officers, all armed with police clubs, revolvers, shotguns or gas equipment, took posts on Cleveland Avenue, between 50 and 100 feet south of C. I. O. headquarters.

Curley directed Officer Fellabom to station himself, with his submachine gun, directly across the street from C. I. O. headquarters. Officer Fellabom testified:

"As Curley said *when I took the gun*, he says

'Bill what kind of ammunition have you got in there.' . . . I said 'Nothing but bird shot and paper shells.' He said 'That is right; that is right; use them in there, Bill'."[33]

"What time did he tell you that?

A. *Right after I got out of the car when we landed there.*[34]

Q. What time was that?

A. A little after ten; about 10 or 15 minutes after ten.

Q. When did Captain Curley tell you that he expected trouble?

A. At police headquarters.

Q. What time was that?

A. Ten minutes after ten.

Q. What time was that?

A. Ten minutes to 10."

At another point, Fellabom testified:

"Q. Now when you got there did you see any other officers there?

A. Oh, there was at least 16 or 20 . . . Curley . . . told me to get over on the left hand side, kind of southwest of where we stopped.

Q. Where did you go then. . . .

A. Over to the left hand side, that would be the west side of the street, up close to this tile building that is right pretty near straight across from C. I. O. headquarters."

It thus appears that at least three quarters of an hour before any shooting or any violence whatsoever occurred at C. I. O. headquarters, Curley directed Fellabom, the former army machine gunner, to take a post directly across from C. I. O. headquarters and to use his submachine gun.

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[33] With respect to the ammunition with which the submachine gun was equipped, Curley testified that it always had three magazines of "regular 45 bullets" and three of "45 bird shot . . . a paper shell on the end of it with about nine little shot in them."

[34] Italics supplied.

We turn next to a consideration of the number and attitude of the strikers and strike sympathizers who congregated at union headquarters that night.

John Veto, a striker, who during the strike made it a practice to go to C. I. O. headquarters every evening, testified that at 8 p. m. on July 11, "when I reached there, they were playing music and the people were dancing on the street and I danced too, and we had a lot of fun. Then the rain came and a lot of people went into the kitchen and a lot of others were on the other side of the hall . . . the music was playing in there . . . in the hall . . . on the north side. We were talking together and having a lot of fun. Then the rain stopped and all of the people went out again, and the music went out again and the people went on the street just the same as they did before. . . . I stood right there on the platform. . . . And on the bottom step there was a guy named Ruttenberg. And I believe Frank Hardesty was there. He was right on the sidewalk, I kept waiting around there and hearing the music. When I turned around on the south side there were 12 police over there. They was talking together. Pretty soon another car came and let three more out. As soon as the three more came, they all went together and talked together. . . . Then another car came and let three more down. . . . Three more special policemen. The fourth car came down there and it was a Massillon police car. . . . Well, I stood there, you see, and there were two police on the corner of Cleveland and Oberlin Avenue—that is near the plant and they were coming up toward the north where the other police were. They began to spread from this point here (indicating) across the street . . . they lined up."

Frank Hardesty, sub-regional director of the Canton-Massillon area for the S. W. O. C., who arrived at C. I. O.

headquarters at approximately 9:45 p. m. testified that at that time there were 50 or 60 pickets at strike headquarters. "I went in the large room where they had to feed the pickets and there was music in there. There were four or five young fellows in there playing music and entertaining the pickets and having a very good time. . . . We went down to a soft drink stand . . . stayed there five or ten minutes, and then we started back. When we came out of the building it immediately started to rain very hard. . . . After it quit raining we came to strike headquarters. And the music and things were going on as usual."

At a few minutes before eleven, continued Hardesty, "the pickets changed their shifts and there were more men there . . . inside and outside the strike headquarters. . . . I suppose there were possibly 125 or 150 men there at that time. . . . I talked to some of the boys again. The music was still going on." Other witnesses for the Board estimated the number at strike headquarters in the vicinity of 11 p. m. as between 175 and 200.

Several witnesses for the respondent confirm and amplify this description. James Adams testified that at 9:30 p. m. he visited Wilbert Coleman, who occupied the rooms above the C. I. O. headquarters. "When I got there," he stated, "why the men was out in front and one of them had one of these big bass fiddles and he was playing that . . . a large crowd was out there. . . . There was nothing—just talking—I didn't pay much attention to it. . . . Then it sprinkled a little bit and they all went inside. . . . I could hear the stamping and moving about inside." Wilbert Coleman on cross-examination added:

> "Q. (by Mr. Lauter) Now you said something about a crowd being up there on Sunday evening. Was that a customary procedure?
>
> A. Yes, on Sundays they gathered around there

and chattered around between themselves; more usual on Sunday evening.

* * * * * *

Q. Until the first shots were fired, everything was peaceable there?

A. Yes.

Q. Was there anything unusual about the crowd? Noisy or anything?

A. They were just talking; you could hear them talking.''

The police, however, sought to picture the crowd as a desperate threatening mob. Thus, Officer Ickes testified that at about 10 p. m., when he arrived at Cleveland Avenue, he saw between 300 and 350 people in the vicinity; that at approximately 10:30 p. m. some unidentified man yelled ''Let's get the police. Let's get them sons of bitches''; and that he walked down Cleveland Avenue for a police car to take the men away but that when he returned the men had gone. Officer Fellabom testified that C. I. O. headquarters was packed full of men. ''I could hear them saying 'Come on boys, let's go through. We might as well cramp them sons of bitches down. We might as well die now and get it over with. . . .' And he seemed to be a little intoxicated—a man with a white shirt and a straw hat. Then Curley . . . hollered over to the C. I. O. headquarters—he says 'A couple of you men take this man out of here before he starts to make any trouble'.'' According to Fellabom, this incident occurred immediately before the shooting. Curley testified, however, that a group of officers, including Officers Ickes and Fellabom, informed him at approximately 10:50 p. m. that there had been ''a couple of drunks'' that were getting unruly and ought to be taken away but that they had not seen them for some time.

It appears that all three witnesses have thus described the same incident. On cross-examination Ickes stated that the men were talking in foreign languages. "I could understand that when they said 'Let us get the police' but I couldn't understand the rest much." He added that these words were spoken [illegible] lish and were the only words he understood. If Ick [illegible] statement is true, then Fellabom's version must be regarded as embroidered. In any event the entire incident was considered so unimportant that neither Kraft nor Kelley, the other officers described as having been present, mentioned it in their testimony, and Curley himself merely referred to the men as a "couple of drunks that were getting unruly and ought to be taken away." All witnesses who testified to the alleged incident are agreed that within a few minutes after its occurrence the men disappeared. As noted above, the men were not identified.

On the other hand, Officer Johnson testified that there were between 250 and 300 people present that night; that 200 people was not an unusual number on nights when dances were held at C. I. O. headquarters; that, although he did not hear any music, the crowd was just moving around as any crowd of 250 people would do; and that he noticed nothing unusual about their appearance. Johnson also admitted that, although he did not see any women and children present before 11 p. m., he observed three women emerge from C. I. O. headquarters at 11:10 or 11:15. Officer Ickes testified that when he arrived at Cleveland Avenue at 10 p. m. and saw a crowd of approximately 350 people, he noticed women and children among those present and that women and children were among the crowd when the shooting began. Even Officer Fellabom admitted that, except for "a load of drunks" whom Johnson arrested and the remarks of the intoxicated man with the white shirt and straw hat, the crowd was perfectly peaceful.[35]

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[35] Officer Johnson testified that between 10 and 10:20 p. m. he stopped a car containing six men, driving up Cleveland Avenue, and asked the men their business. "They said they were C. I. O. men from Canton . . . going up to the C. I. O. Hall . . . They stepped out of the car and I searched them,

In addition, the record demonstrates that none of the strikers were armed. None of the police or other witnesses for the respondent claimed to have seen sticks, guns, knives or any other weapon in the crowd during the entire period prior to the encounter. As set forth below, of 165 persons arrested shortly after the encounter, only one, Harry Jones, was found by the police to have had even a pocket knife, and Jones testified that it was a knife which he had been accustomed to carry for 4 or 5 years, and that on the night of July 11 he was unaware of the fact that he had it.

We conclude that the crowd which gathered at C. I. O. headquarters from 8 to 11 p. m. was an unarmed, peaceful assembly, composed in part of women and children, engaged in playing music and dancing and other activities usual to a Sunday night gathering.

At approximately 10:40 p. m., while the police with loaded gas guns and other weapons described above were stationed across the street from C. I. O. headquarters, a collision occurred at the corner of South Erie Street and Oberlin Avenue, a third of a mile distant from Cleveland Avenue. Because of the unreliable and conflicting testimony given by the witnesses for the respondent, the exact circumstances of this collision are not clear from the record. Certain facts, however, are undisputed. It appears that an automobile crashed into an abutment near the viaduct. Almost immediately another car bearing a C. I. O. sticker

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searched the car for weapons, but they didn't have any . . . (I) took them down to the police station and signed an affidavit . . . and locked them up in jail." The arrest was occasioned by the fact that a proclamation of the Sheriff of June 25 forbade all persons from entering the vicinity of strike areas except on lawful mission. The testimony is in conflict as to whether the proclamation and an injunction of the same date issued by the Court of Common Pleas of Stark County apply to the City of Massillon, where the above-described incident occurred. There is no testimony whatsoever in the record, except for this passing reference by Fellabom, that the men were drunk. The Trial Examiner ruled that similar testimony given by Curley with respect to the incident of the car from Canton be stricken from the record as having no connection with the issues in the proceeding.

collided with the first car, with the result that the viaduct was temporarily blocked. The driver of the first car was taken into custody by several officers; the driver of the second car attempted to run away, but some one in the crowd in front of a beer garden located on the northwest corner of Erie Street pointed out the fugitive to Officer Mantasch, who pursued, fired one shot and captured him. Thereafter several unidentified numbers of the crowd threw stones and beer bottles at other cars. Mantasch testified that Officer Schwinger fired "some shots at some guy who threw stones" and that Officer Davenport shot off a riot gun to scare a man hiding under the viaduct. It appears that several shots were fired, all by the police, shortly before 11 p. m.

In 10 or 15 minutes the crowd was dispersed, the cars which had collided were pushed off to one side of the road, and traffic at that corner was resumed. Officer Mantasch took the drivers of the two cars to the city jail and locked them up. The man whom he had pursued gave his name as Flores and said that he belonged to the C. I. O.

Apart from these facts, the record provides no clear picture of what occurred at the viaduct. Thus Officer Mantasch on direct examination testified that at 10:15 p. m. when he arrived at the corner of South Erie Street and Oberlin Road, "I wouldn't exaggerate, I would say (there were) around a thousand people around the streets with automobiles" and several hundred gathered in front of the beer garden. On cross-examination, he testified with reference to the size of the crowd:

> "Q. (by Mr. Lauter) You are sure there weren't more than a thousand?
>
> A. Might have been more.
>
> Q. About 1500?
>
> A. Might have been more. . . .

Q. Might have been three or four or five thousand?

A. I didn't count them. . . .

Q. There is no limit to the amount of people that might have been there?

A. That is right."

Charles Moorhead on direct examination testified for the respondent that between 10:20 and 10:45, before the shots were fired by the police, he saw a large number of people milling around and talking at the east end of the viaduct. The number, however, he estimated as "in the vicinity of 40." Officer Moore, another witness for the respondent estimated the number as 300. Moorhead further testified that he saw a group of 20 or 25 men rush out from between houses near the viaduct and throw stones at 10 or 12 automobiles; that, after this, he saw Harold Rinke, a member of the C. I. O., and heard him say "Come on boys, let's get the other side. We are going to town"; and that about 100 men then followed Rinke in a northerly direction.

On cross-examination, Moorhead radically altered a number of these statements. He admitted that he had seen three or four cars stoned, instead of 10 or 12, asserted that there were about 100 men throwing stones, but admitted that he had not seen anyone breaking windows or glass on the cars, although he had heard the crash. With respect to Harold Rinke, he testified:

"Q. (by Mr. Lauter) You weren't able to identify any of the hundred men?

A. That is right; only one I saw but I didn't see him throw any stones.

Q. You didn't see Harold Rinke?

A. No, sir.

* * * * * *

Q. The only man you knew was there was Harold Rinke and you didn't see him throw any stones?

A. I didn't see Harold throw any stones.''

Moorhead first asserted, and then denied, that he knew that the hundred men were members of the C. I. O. and added that there were present a number of the respondent's employees other than the members of the C. I. O. On redirect examination, he stated that he had recognized Harold Rinke sitting in a car. It is apparent that no conclusion can be drawn from the testimony of this witness.

Other witnesses for the respondent throw little, if any, further light upon this incident. In addition to Flores, only two or three members of the C. I. O. were identified by name or otherwise as having been present at the viaduct during this period. There is no evidence whatsoever that these two or three threw stones or committed any acts of violence.

As a consequence, however, of the shots fired by Schwinger, Mantasch, and Davenport, the police on Cleveland Avenue, already instructed by Curley to prepare for trouble, began to grow restless. "It didn't look so good," testified Officer Kelley, "the fracas in the viaduct and the stones and the two men in the cars on the bridge." Kelley added that he had heard shots from the viaduct, but did not know that the police had done the shooting.

From this description of the incident at the viaduct, we return to a consideration of the events that were occurring in the meantime at C. I. O. headquarters. The nature of these events, which precipitated the fatal encounter, was one of the most controverted questions at the hearing, and even their sequence, as presented by witnesses for the Board and for the respondent, is in considerable conflict. We turn first to the testimony of witnesses for the Board.

All of the witnesses for the Board testify that immediately preceding the encounter an automobile drove up and parked among several other automobiles directly across the street from C. I. O. headquarters. Martin Beckner, vice president of the Canton Lodge of the S. W. O. C., testified that at this time he was standing in the doorway of C. I. O. headquarters and noticed the police "deployed across the street and some spread out and some closer than others, and I noticed there was something unusual about them. . . . They all had guns, but up until that time they only had clubs. . . . It appeared they were nervous, acting like men expecting something, and from the way they were acting I went into headquarters and asked the president of the Massillon Lodge if that was their usual method of conducting themselves. . . . We decided that these were new men and we had better ask the pickets outside to go home. . . . So the president of the Massillon lodge stepped out to tell these men to go home and when he went out the door, I stepped outside the door and stood on the step and Harold Ruttenberg was standing in the door way. . . . A car pulled up across the street and two men came out and Bill Henderson . . . a chipper foreman in the Massillon plant . . . and the other policeman came forward toward the car. I didn't know who the other man was, but they told the drivers to put those damn lights out or they would shoot them out. . . . The car was across the street about 50 feet further down.[36] The men switched out the lights and these two officers started back toward the line of police and someone in the crowd of pickets yelled 'Whoopee' or something . . . and these officers immediately dropped to the ground and someone said 'break them down and let them have it,' and the shooting started about fifty feet down from the strike headquarters on the southwest corner." It will be noted that Beckner testified that the shooting began in the immediate vicinity of the parked car whose headlights the police had ordered to be turned out.

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[36] Other testimony in the record indicates that this car, driven by Harry Jones, a striker, was parked approximately 20 feet south of and across the street from C. I. O. headquarters.

Frank Hardesty was also standing on the steps at this time in the midst of a group of 20 or 25 men. He testified that a car drove up on the opposite side of the street. "His car was headed, or his lights were headed toward the mill. . . . What I noticed particularly was that the lights were shining on the policemen down there and I suppose they were more or less frightened being new men. They acted kind of nervous anyway . . . and one of them shouted 'Take the lights off.' . . . I saw the fellow cut his lights off, when they hollered at him. . . . It was only a few seconds after that until one of the policemen hollered 'Let them have it break it down.' I saw one policeman drop down and start shooting."

John Veto testified that about 20 police lined up across Cleveland Avenue "and then a car came up there with their headlights . . . from the north coming south, and they had the lights toward the police there. While the light was flashing, I saw a machine on the other side of the road, the police side. . . . Two cops stood up and they went forward and I heard them say 'Shut the lights off.' Well the car shut them lights off . . . and they took a couple of steps backwards and they said 'Let's bust them up boys.' And then they dropped flat." Veto identified one of the advancing policemen as Bill Henderson. "Then a shot came by just where I was standing."

Walter Meyer, a striker, who had driven in his automobile to Canton with his wife and Mr. and Mrs. Wincek to attend a union meeting at Sippo Park, returned to Massillon shortly before 11 p. m. "After we went out in the evenings we always stopped and got a bowl of soup or lunch or something before we turned in for home, but this evening I was broke and Mr. Wincek didn't have much money either and when they mentioned about getting a bowl of soup at C. I. O. headquarters on Cleveland Avenue at Massillon we figured it would be a good place to go and get something to eat before we went home, so we all agreed to do so . . . and we drove down Cleveland Avenue north and pulled right directly across from C. I. O. headquarters and parked."

"Q. (by Mr. Lauter) In the direction of the mill, is that right?

A. The mill is directly south, in my estimation from Cleveland Avenue and the C. I. O. headquarters is on the east side of the street, and I parked directly across the street which is the west side. . . . I noticed there was a fire plug back of me, so I pulled up six or eight feet from it and parked. We were there for some time and quite a few people were standing around there talking and having a good time, and we were discussing whether we wanted to go in and get a bowl of soup and go back home. . . . So while I was discussing that with them, I seen a car coming down Cleveland Avenue and passed our car and pulled in directly ahead of us and passed the fire plug and parked directly ahead of us.

Q. Was that on the same side of the street you were?

A. The same side of the street, and I judge it was 20 feet between my car and this man's car. The man pulled up and he shut his motor off and I heard the cops holler 'Turn them lights off.' I don't think the man heard the cops when they called the first time. Well, the man was getting out of the car, and he stepped on the pavement and they hollered a second time 'Turn those lights off or we will shoot them off.'

> So the man reached in and shut them lights off and he started toward the C. I. O. headquarters. . . . Well we sat there with the windows all down and after this man left that car, I turned around toward Mr. and Mrs. Wincek and my wife and asked them the last time what they intended to do, if they wanted to go in and get a bowl of soup or if they wanted to go back home. While they were arguing about it, at that time, I heard the motor start in the car ahead of me and I looked around quick and I seen his bright lights were on, and without warning, there were two shots fired and the shots sounded as though they hit the car ahead of us, and I surmised that they were shooting at the man's lights because they had said before they were going to shoot the lights off and just at that time the shots were fired, it all happened I heard the cops holler 'The God damn hunkies asked for it, let us give it to them.' . . . It was just like a hail storm hit my car, sounded like machine guns and shot guns, it sounded like the fourth of July or something at the lake and I seen all the people just pick up and run and run around corners, anywhere, they could go, and after that why the shooting kind of quieted down."

Harry Jones, a striker, was the driver of the car referred to in the foregoing testimony. He testified that "I drove down and pulled up right across the street from headquarters . . . and parked my machine. My brother-in-law and another young fellow were along. . . ."

> "Q. (by Mr. Lauter) When you pulled up in your car where did you stop?
>
> A. Right across the street from headquarters. . . .
>
> Q. Was that in front of the fire hydrant or back of it?
>
> A. It was just in front of it . . . My brother-in-law said 'Someone hollered to turn the lights off.' I

turned off the lights. He said 'You better turn them on dim.'

Q. By the way, are you a little hard of hearing?

A. A little yes. That is the reason I didn't hear him. But my brother-in-law heard him and he told me . . . So I got out of the left side of the car and turned them on. And my brother-in-law and the other fellow got out on the right. I suppose I took two steps, far enough to open the door and shut it, and I looked down and seen the policemen. I turned around and got in the car and pulled the dim lights on. When I went to pull the dim they just flickered and I pushed them back . . . (The lights) flickered so I got out of the other side of the car. I reached in and turned the lights off and I stood back from the car. Just as I got back from the car, the shooting started . . . When they (the police) started to shooting I jumped in a doorway. I stood there for about a second or about a minute, I suppose, until the first volley was over. I got down and went around the corner and faced the police. I waved my hand and I hollered 'For . . . sakes stop shooting until I get my machine out of here.' So I ran back to the car and started the motor. And then I went to pull on the dim lights and it flickered. As she flickered a shot hit the windshield and glass flew in my face and I ducked."

The police version of the incident of the headlights differs sharply from that of the strikers. Curley testified that the headlight was shot out at 11:15 p. m., approximately 15 minutes *after* the shooting elsewhere had begun. "The fellow drove up with a car and he flooded all the police officers out there with all of the bright lights and just scattered the lights all over the whole area. And Fellabom says 'Turn out those lights.' The fellow turned out the lights and got right back in and turned them back on again and Fellabom says 'If you don't turn those lights out, I will shoot the damn things out.' The fellow didn't turn them out, so Fellabom just shot one out."

Officer Fellabom was standing on the west side of Cleveland Avenue "pretty near straight across from C. I. O. headquarters." On direct examination he testified:

> "Q. (by Mr. Pontius) Something has been said with respect to an automobile that ran up in here. Did you observe it?
>
> A. There was a car coming in there just before the trouble started (the shooting at approximately 11 p. m.) I should judge about maybe five minutes before . . . This car came down in there and whoever was driving it pulled over to the right hand curb and he had his bright lights on. Some one hollered over there to put those lights on and someone else hollered over the C. I. O. headquarters 'Turn them on and keep them on.' Of course, the illumination was pretty bright there for the boys that was on the road there. This young fellow parked his car right along the curb, right near this tile building, and he still had those lights on. Then he jumped out of the car. Somebody hollered 'Turn them out or we will shoot them out.' So I shot out one of the headlights. After he ran away from the car he left it sit . . .
>
> Q. Was that before the other trouble occurred that you described?
>
> A. That was before the trouble started.
>
> Q. What instrument did you use to shoot the headlight out?
>
> A. A machine gun."

On cross-examination, however, Fellabom materially changed his story:

> "Q. (by Mr. Lauter) Before that (the shooting

which occurred at approximately 11 p. m.) you had shot out the lights in the car that was standing in front, is that right?

A. That was *after* I shot toward the door.

Q. What is that?

A. That was after I shot at the door. You see, the car was standing in there with the lights on and the young fellow, whoever it was, he was in the car and left it and then he came back and then he left it for the second time. I think it was some time after the shooting from over the door that the headlight was shot out.

Q. About what time did you shoot the lights out from the car?

A. Oh that might have been 11:30 along in there.

Q. What time did the man drive up with the car?

* * *

A. Just before 11; around 11 o'clock.

* * *

Q. The lights were shining on the police all that time for 35 minutes?

A. Yes.

Q. You walked over to the car 35 minutes after the lights had been on and told them to turn that off?

A. I told them to turn that off?

Q. Who did?

A. Some one hollered to turn them off. He jumped off the car and left them on and someone hollered, "You better put them lights out or we will shoot them out." He jumped in the car and then left the car. That is when the trouble started.

Q. You didn't shoot the lights out then?

A. No sir.

Q. You waited around 35 minutes before you started to shoot them out?

A. At least 35; 30 or 35."

It will be noted that on cross-examination, Fellabom not only claims to have shot out the headlight after the shooting elsewhere began, but denies Curley's explicit statement that Fellabom commanded the occupant of the car to "turn those lights out or I will shoot the damn things out."

On the other hand Officer Kelley, who was standing with Curley on Cleveland Avenue, testified the headlight was shot out as Curley was advancing up Cleveland Avenue, a few seconds before the general shooting. Officer Johnson testified that he arrived at Cleveland Avenue after the shooting had begun and that no headlights were shot out at 11:35 p. m. or at any time after his arrival.

We are convinced that the testimony of Curley and the testimony of Fellabom on cross-examination, with regard to the time the head light was shot out, is not to be credited. On the other hand, apart from their testimony with regard to the time, Fellabom and Curley appear to have accurately described the details of the incident. Hardesty, Beckner, and Veto stated that after the police had shouted to Jones, he turned the headlights off. It is apparent from their testimony, however, that they did not see the headlights turned on again or Fellabom fire his submachine gun at one headlight. From Jones' testimony, it is not clear whether he saw or heard Fellabom shoot out the headlight after he claims to have turned the headlights off. The entire incident occurred within a few seconds, and it must be remembered that Jones was hard of hearing, and Hardesty, Beckner and Veto were, at the time, standing in front of C. I. O. headquarters, where their opportunity to observe the events on the other side of the street was limited.[37] Curley's and Fellabom's testimony that Fellabom fired shots at the headlights because they had not been turned off, is obviously the more reasonable of the two descriptions, since Fellabom would hardly have sought to eliminate a glare which no longer existed. In addition, the testimony of both Curley and Fellabom with regard to the details of this incident is supported by that of Meyer, whom we regard as the most accurate and reliable observer of the events in his immediate vicinity.

From all this testimony we conclude that as Curley and Henderson had advanced approximately 50 feet toward C. I. O. headquarters, Fellabom fired several shots at the headlights of Harry Jones' car, and that immediately thereafter the police opened fire at the strikers.

At the first volley, it appears that the crowd stood incredulous and then fled in utter and bewildered panic. Hardesty was standing on the steps of C. I. O. headquarters. He testified that a few seconds after the headlights went off "I heard someone shout again. 'Break them up! Let them have it!' And they started to shoot. However I didn't move immediately because not being used to riots and things of that sort, I really thought they were just shooting dummies. I thought it was more or less of a bluff. But it wasn't very long until I found out they were really shooting bullets . . . "

> "Q. (by Mr. Hunt) When you say they were shooting bullets, to whom do you refer?
>
> A. The policemen.
>
> Q. Where were they from C. I. O. headquarters?
>
> A. They were about 50 feet down the street to-

---

[37] Fellabom testified that from where he stood on the west side of the street, his view of the doorway of C. I. O. headquarters was blocked except for the top two feet of the doorway, by a tarpaulin-covered truck, standing in front of C. I. O. headquarters. Presumably the view of Hardesty, Beckner, and Veto with respect to the activities of Fellabom on the opposite side of the street was similarly blocked.

wards the steel plant. I saw a policeman go down like this (illustrating) and start to shoot. At first, I couldn't really believe they were shooting real bullets into a crowd of men like that, until I really heard the bullets flying and the bullets flying off the building . . .

Mr. Edwin S. Smith: Let me get this straight. Was this crowd of men standing between you and the policemen and you were in back of them?

A. No, I was right in more or less mixed in with the men. There were some of the fellows who were behind me and some of them were in front of me. We started to move up the street. I had not moved far at all until one fellow hollered he had gotten shot in the shoulder and he threw his hand over his shoulder.

Mr. Edwin S. Smith: What did he say?

A. He said 'They got me. I am shot.' There were three or four friends with him and they grabbed hold of him and took him along with them.

Q. Let me understand this. You were running up Cleveland Avenue.

A. We were running up the street from the mill, up Cleveland Avenue. I had not run very far until I saw another man lying on his face with his hands outstretched, motionless, who had been shot by the policemen and from the way he was lying there, there was no doubt, or I thought he was dead, and I guess it did turn out that he was dead. So we kept running up the street until we found an opening in the fence. After I got there, Martin Beckner and another fellow drove up and on. Beckner was hanging on the running board of the car and he stopped and we got into the car and went back to Canton.

* * * * * * * * *

Q. Did you on the evening of July 11 at any time see any shooting at C. I. O. headquarters?

A. I did not.

Q. Did you see any persons other than police using any weapons?

A. I did not."

Martin Beckner who was standing on the steps of C. I. O. headquarters, had a similar experience:

"Q. (by Mr. Lauter) Was there shooting by anybody else?

A. Shotguns, machine guns and bullets from these special policemen located south of strike headquarters.

Q. At any time you were on the scene did you see any shooting from C. I. O. headquarters?

A. There was not.

Q. During the entire evening did you see or hear any shooting by any of the C. I. O. men?

A. No sir.

Q. Did you see any shooting by anyone else besides the police?

A. I did not.

Q. Describe what happened after the shooting started.

A. When they started shooting I went around strike headquarters on the north side of the building until I came to a lane running parallel with Cleveland Street . . . and seen some people from Canton in a car with two women and I told them to get the women out . . . because I didn't want to see the women shot . . . I went toward the Massillon headquarters and saw a man lying face down in the street and every once in a while the police were shooting gas shells and I said 'Let's get that fellow out' and we carried him up to the corner of Cleveland Street and McKinley Avenue and a car came up with two men and two women in it (the Meyers and the Winceks) . . . We stopped the car and put the man in it and a second man had fallen and we picked this man up and he had been hurt in the shoulder . . . and by this time the special police started shooting at us and we started to McKinley Avenue . . . the special police men were lined up on the west side of the street and some were still coming up Cleveland avenue shooting gas shells and buck shot and these other policemen lined up across from the strike headquarters and every once in a while you could hear the gas guns and these special police went on up to another street running parallel with Cleveland Street and I seen this car with the Canton people in it and asked them to take Mr. Wilson—that was the name of the man that had been shot, and another car came along and I got on it and we drove back to Canton."

Walter Meyer, his wife, and the Winceks were seated in a car outside C. I. O. headquarters:

"Q. (By Mr. Lauter) At the time the shooting started, what did the occupants of your car do?

A. I told them to duck.

Q. Did they duck?

A. Yes I say they ducked . . . after the first volley was over, the people pretty well cleared the street in front of headquarters and it quieted down after the first volley, and . . . just as I raised up there was a tear gas bomb dropped about six feet ahead of my car and right away I hollered at Mr. and Mrs. Wincek to roll them windows up . . . and attempted to start and get away from there and just as I done that the second volley came and the second time I told them to duck and stay ducked and I went down myself and we laid there until the second volley was over and I said to Mr. Wincek 'We have got to get out of here one way or another' so I raised up high enough that I could see out with my left eye, and I put my car in low gear and pulled up about eight feet, and I cut my wheels real short, and the third volley came and I didn't stop and I hit the car back of me and I back up the street all through the third volley and the third volley was over the minute I backed into the alley. I . . . went up the street in high speed . . . pretty near a block and I seen at least a dozen men standing around there . . . and I seen two men (Beckner and Hardesty) holding one man between them and somebody hollered 'Take this man to the hospital' . . . I stopped my car and I told my wife and Mr. and Mrs. Wincek to get out on the street in order that we would have room to take these men to the hospital. These two men were holding one man and we loaded this man in the back seat and one man . . . held this wounded man's head . . . There was the man got on the front seat and he said he got shot in his right shoulder . . . While we were driving up to the hospital this man lying on the back seat was moaning and suffering terribly. He said 'Boys, I am dying.' I rushed the man up to the hospital at high speed. We put him on the stretcher up there and took them up on the second floor on the elevator. I helped lift the man on the bed and pulled his pants off . . . And I rushed down to my car and beat it right back to where I left my wife and Mr. and Mrs. Wincek. When I got there, my wife and Mr. and Mrs. Wincek were not there. There were some other men standing there at the corner. Mr. Joe Morton picked up a tear gas shell that landed right on the corner there and up along the street. I was standing there looking at that and Mr. Wincek hollered up the street and said 'Hey Walt! I am up here.' So I went in my car and drove on up the street and I picked up my wife and Mr. and Mrs. Wincek.

Q. Do you know that the man you took in your car who was lying in your back seat, died?

A. Yes. I went up to C. I. O. headquarters . . . the next day and some of the boys . . . told me 'you know that fellow you took to the hospital . . . Well, that fellow died this morning.'

Q. Will you describe the condition of your car after the shooting?

A. . . . The windshield was all shattered from being shot. I don't think there were any rifle shots or machine gun shots hit our car. It was practically all buckshot. It shattered . . . the body over the windshield and the body down along the sides of the windshield and both fenders. The left door window . . . was shattered . . . I counted ten shots that went through the radiator that landed back of the motor up against the dashboard . . .

Q. During all of the time that you were there did you see any shots come from C. I. O. headquarters?

A. No sir; none whatsoever. I didn't see no flashes, and I didn't see no shots, and I didn't see anybody whatsoever have a gun.

Q. Did you see anybody shooting except the police?

A. No sir."

Harry Jones testified that after the shooting began, "I laid down between the seat and the gear shift and the brake for maybe a minute or so, until I worked my body up onto the seat and kept my head down . . . I opened the door and got around on the rear bumper . . . While standing on the bumper, the gas shells and shots started flying and tears started rolling down my cheeks and I started feeling a little sick in my stomach. I got a foot braced and I made a leap. I ran from door to door until I got to the last building."

"Q. (by Mr. Lauter) Will you describe the condition of your car?

> A. There was a bullet hole through the windshield and a lot of buckshot in the windshield, a bullet hole through the right headlight, and the radiator on the inside was all full of holes and the outside where the buckshot hit is dinged and the hood on the left side is all spotted from where the buckshot hit and knocked the paint off."

All the foregoing witnesses have described the tactics of the police as they saw them from outside C. I. O. headquarters. John Veto, retreating from the door into the building, describes a scene of unparalleled horror. He testified that as the two police officers advanced up Cleveland Avenue and said "Let's bust them up, boys" they dropped flat. "Then a shot came by just where I was standing, right on from there near me, and I think there was a tear gas shell, because it hit the building and some pieces came inside the room there. As soon as when I heard that I turned around and went into the hall. And there was a table right there in the hall. When I was turning to dive under the table I had a sharp feeling right on my leg here. And I laid flat under the table. And I didn't get up to see what it was because if I went from there I could get hit on the head."

> "Q. (by Mr. Lauter) You had been shot?
>
> A. Yes . . . I was (under) the table laying flat for ten minutes . . . I heard a man from the outside say 'God! They're not blanks; they're bullets.' . . . Then when I heard that I crawled from the table and I went to the other room. And that room leads into the kitchen. And I went into the kitchen. And there five women and around seven or eight men . . . We waited there for a little bit and we shut the windows all around us . . . There was so much tear gas and the women were all choked up . . . We waited a little bit in the kitchen

there for about 15 or 20 minutes, I guess, and a man said 'I will go out and see what happened.'

Q. Why did he say that? Was the shooting still going on?

A. Yes. And I said 'All right. I will go with you.' He was going on from there and I was coming on back. And when he reached the door—

Q. What door?

A. The front door . . . that leads to the street. When he opened the door I saw a deputy sheriff shot at him right away while he was holding the knob of the door and the door was half opened and the deputy sheriff turned around and shot the guy right in the leg. He said 'God! I am hit.' When I heard that 'God, I am hit' I said 'Come on boys let's help these men out.' And two more men came and we helped him . . .

* * * * * *

And we carried the man into the kitchen and we laid him on the icebox . . . a low icebox . . . a woman went to get hot water to clean him. And by the time she came, the kitchen was all full of blood. There was blood all over the kitchen there coming from his leg . . . Then the woman washed him up and we let him go for a little bit. We heard a noise in there and we turned off the lights awhile, but the man he fell from the icebox on to the floor. And then we picked him up again. By the time we picked him up two women went to the door . . . to call for the ambulance. When they got to the door they were shot at twice, because when (they) came back they said 'Gosh, we have been shot at twice.' From that time on nobody went to the door anymore. We all sat behind there in the kitchen . . . Then the ambulance came . . . and we helped the men to carry him out on the stretcher. When we carried him out, I said to the women there 'You women might as well get out from there'. Well, they got out. One of them, she crawled from the window . . . then the other one went out the front of the house.

Q. When did they go out the front room?

A. When the ambulance was there because that was the chance they had. Otherwise they would be shot and they couldn't get out.

Q. What did you do?

A. I helped the men put him in the ambulance and I went away too . . . I went on the sidewalk, and when I reached around 25 feet them police were hollering to 'Come back here! Come back here!' I turned around and I saw them hollering and I stumbled on a man lying on the street there . . . And I got up and ran away. And I reached the corner of Cleveland and McKinley Avenue there, and there was a bunch of men, I would say ten or eight men. They were talking together about helping the man lying on the street there . . . When they were near the man, the police shot and they hit one of those men . . . Then finally I went up McKinley Avenue . . . And I saw a lot of police. They were coming from toward McKinley Avenue. And I saw that and I kept going. When I reached the corner of Duncan Street and McKinley Avenue, there was . . . a car of special police and a bunch of men sitting on the ground. They were talking together. When that passed, they shot at those men. I ducked down behind a telephone post there.

Mr. Donald Wakefield Smith: How far was that from C. I. O. headquarters?

A. It was three blocks away from C. I. O. headquarters.

Q. (by Mr. Lauter) Now during all the time you were there, did you see any shooting from C. I. O.

headquarters?

A. No.

Q. Did you see any shooting from anyone except the police?

A. Just the police shot."

Wilbert Coleman, the occupant of the second floor, testified for the respondent that the glass windows in front of the building were smashed, that there were bullet holes inside the building, that tear gas was fired through the two front windows, and that because of the effects of the gas, his wife, his brother-in-law and mother then in his apartment, required treatment at the Republic Steel hospital.

To all of this testimony, the respondent replied with a plea, in effect, of self-defense, charging that the police opened fire only after several shots had been fired at the police from somewhere near the vicinity of C. I. O. headquarters.

Before examining the testimony of the witnesses for the respondent it is necessary to recapitulate the sequence of events immediately prior to the encounter as established up to this point:

(1) Shortly before 11 p. m. Harry Jones parked his car on the west side of Cleveland Avenue, almost directly across the street from C. I. O. headquarters, with its headlights shining on the regular and special police lined up on Cleveland Avenue 50 to 100 feet south of C. I. O. headquarters.

(2) Officer Fellabom armed with a loaded submachine gun was standing on the west side of Cleveland Avenue across the street from C. I. O. headquarters in the immediate vicinity of Jones' car.

(3) At approximately 11 p. m. Major Curley and

Special Officer Henderson advanced midway from the line of police toward C. I. O. headquarters.

(4) At the same moment Officer Fellabom fired two or more shots at the headlights of Jones' car.

(5) Almost immediately thereafter the police opened fire at C. I. O. headquarters.

With this summary, we turn to the testimony of the witnesses for the respondent. It is evident that the vital question at issue is the exact source of the shots which the respondent alleges precipitated the shooting by the police. Officer Ickes testified, "Cap Curley lined seven or eight of us, maybe six or seven I don't know, . . . us fellows that had the gas guns, across the road . . . about 100 feet south of C. I. O. hall on Cleveland Avenue . . . He said he was going over and tell those people to move, that it was late enough, that he was going to have them move off the street . . . break them up . . . Just as he started over there about halfway between the C. I. O. headquarters up the line, there was *four or five shots came out along in the vicinity of the C. I. O. headquarters.*[38] Stones started to fly . . . We started firing. I don't remember whether—I started firing gas shells over against the front end of the building . . . Well, we started to fire the gas shells, and after we shot some gas into them, they started to disappear somehow. There was still some across the street but not all of them. All of them didn't disappear but most of them did. They ran all over, I guess . . . A little while later, the Canton police arrived and they drove up through Cleveland Avenue with their armoured car and shot gas—what they needed to clear the street. That is all there was to it."

On cross-examination Ickes added that he saw Special Officer Henderson advance with Curley, that he did not see anyone use a machine gun, and that he heard no other shots fired from the direction of C. I. O. headquarters except the four or five at the beginning, as Curley and Henderson had reached the point halfway up Cleveland Avenue.

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[38] Italics supplied.

Officer Kraft testified that he was standing about 100 feet south of the brick building on the west side of Cleveland Avenue ten yards west of the sidewalk. " . . . they got pretty noisy up there and Curley said something about breaking them up . . . and Curley started up toward . . . the crowd . . . and when he got about 50 feet from the crowd, four or five shots rang out and stones flew, they started shooting from both sides."

> "Q. (by Mr. Pontius) Now you saw four or five shots fired. Where did they come from, did you observe?
>
> A. *From the C. I. O. headquarters there some place.*[39]
>
> Q. What if anything did you notice about any automobile coming up there on the street? . . .
>
> A. Someone pulled up there with an automobile. He stopped there and turned the headlights on. He had the headlights on the police.
>
> Q. Did that occur before Curley started up the street or after he started up the street?
>
> A. Right about the same time.
>
> Q. Did you hear any talk there with respect to those headlights?
>
> A. I heard some one holler to turn them out. In front of the C. I. O. headquarters, he hollered to turn that light off."

Kraft on cross-examination testified with reference to the four or five shots as follows:

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[39] Italics supplied.

"Q. (by Mr. Lauter) Where did you see the bullets come from?

A. C. I. O. headquarters.

Q. What part of the headquarters?

A. The front part, close to the entrance some place . . . kind of a cement porch in front there.

* * * * * *

Q. Do you mean the sidewalk?

A. Yes sir.

Q. And that is where the shots came from?

A. Up in there some place.

Q. From the sidewalk is that right?

A. I can't swear where, right the exact spot where they come from, but they come from in there some place.

Q. I am trying to find out . . . whether you know where they came from or not.

A. I heard them in that direction right in front of the—

Q. Did you hear them or see them?

A. I heard them.

Q. Were you facing the C. I. O. headquarters?

A. I was.

* * * * * *

Q. You didn't see where they came from at all?

A. I didn't see them, I heard the direction they came from."

Kraft also testified that he saw Fellabom earlier in the evening take the submachine out of the police car, and walk across the street, but did not see him shoot at the headlights.

Officer Kelley was among the group of police stationed 100 feet south of C. I. O. headquarters. He testified that "an automobile was driven up and parked on the west side of the street; the driver got out of the car, left the lights burning. They were shining directly down the road and into our face and it was partially blinding us. Someone called for him to turn the lights out and the man had taken oh possibly three or four steps away from the car and he turned and went back and turned the lights off. And someone called out from the vicinity of C. I. O. headquarters, and he used a string of unprintable words and ordered this man to turn the lights back on and he immediately went back to the car and snapped the lights back on. Then with that Captain Curley started forward . . . to turn the lights off . . . and as he passed me, he told me to cover him . . . When he got up within oh approximately 15 feet of the automobile, why there was a volley of rocks thrown and some one fired *five shots from the revolver in the vicinity of the C. I. O. Hall.*[40] The shots were fired in rapid succession. And with the shots and the stones, the crowd surged forward and I released the tear gas shell about eight or twelve feet over their head . . . "

On cross-examination, Kelley testified:

> "Q. (by Mr. Lauter) You testified about covering Major Curley at one point . . . Will you state when that was?
>
> * * * * * *
>
> A. Well it was prior to the start of the fight up there, just a minute, or within a few seconds rather.
>
> Q. Was that the time that the headlight was shot out?
>
> A. Yes sir."

Kelley then retracted his previous statement that Curley had gone forward in order to turn off the headlights.

> "Q. He (Curley) said nothing about the lights?
>
> A. Not to me.
>
> Q. When were the lights shut off? Was that be-

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[40] Italics supplied.

fore the general shooting started?

A. Yes sir.

Q. Fellabom shot the lights out of that car before the shooting occurred?

A. *No.* Let me recall about that. *That was before the fracas.*

Q. Don't you know which statement is correct now?

A. The last one.

Q. The first statement was incorrect?

A. Yes, sir, I am sorry."

While this testimony confirms the testimony of witnesses for the Board with regard to the time at which Fellabom shot out the headlight we are satisfied from the manner in which Kelley answered the questions put by counsel for the Board, and from his testimony on direct examination, that Kelley did not see the shots which were fired by Fellabom at the same moment that Kelley claimed to have heard the five shots fired in rapid succession from the vicinity of C. I. O. headquarters. If Kelley's testimony on this point is to be credited at all, it indicates that he merely saw the lights from the headlight shut off.

It is evident from the testimony of these three officers that although they all appear to have been facing C. I. O. headquarters at a distance of approximately 100 feet when the four or five shots were fired, they could not fix the source of the shooting any more precisely than "out along in the vicinity of the C. I. O. headquarters", or "from the C. I. O. headquarters there some place" or "from the vicinity of the C. I. O. Hall." None of the three testified that they saw flashes or fire from a gun, and it appears from their further testimony that they merely heard the shots. Moreover, with the possible exception of Kelley, none of the three saw Fellabom, stationed directly across from C. I.

O. headquarters, fire his submachine gun at the headlight of Jones' car at approximately the same moment that they claim to have heard the four or five shots from "out along in the vicinity of C. I. O. headquarters." Kelley's testimony, as noted above, merely indicates that he saw the light shut off, but not that he saw Fellabom fire his submachine gun. Although the testimony of these three witnesses establishes the fact that certain shots were fired, it does not indicate that they were fired by the strikers rather than by Fellabom.

We turn next to the testimony of several of the respondent's employees who claim to have seen the firing from C. I. O. headquarters.

Orin Pauli testified that at 11 o'clock he and two fellow employees, whose shift ended at that hour, drove up to the respondent's main entrance or gatehouse, on their way out of the plant from work.[41] This entrance is located about 300 yards from C. I. O. headquarters. Pauli's car was fourth or fifth in line when the first car was stopped at the entrance by Republic Steel Police. "We drove up to the entrance, there they stopped us, they had started to shoot," he testified on direct examination "You could see the flash of the fire coming out . . . of C. I. O. Hall . . . I didn't see anything else, but we heard the bullets." On cross-examination, he stated that he was standing or "ducking" behind the car from the time the shooting started until after it was over, and again, that he was standing beside his car when he heard the first shot. Pauli also amplified his description of the shots by stating that he saw the flashing of guns from the front and side windows of C. I. O. headquarters when the shooting first started.

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[41] In his testimony on direct examination Pauli referred to Gate No. 1. A glance at the map (Respondent's Exhibit No. 1) will show that it would be almost impossible for anyone at the No. 1 gatehouse to observe the front of C. I. O. headquarters. On redirect examination, Pauli corrected his previous testimony and stated that he meant to refer to Gate No. 2, the main entrance.

It will be noted that there are two important discrepancies between Pauli's testimony on direct examination and his testimony on cross-examination. If he drove up to the entrance in his automobile and the shooting had already started, as he testified on direct examination, he could not have seen the first shots and could not have been standing behind or beside his automobile, as he testified on cross-examination. On cross-examination, confronted with this conflict, Pauli finally chose to reaffirm his second version.

In any event we consider his testimony unreliable. Standing approximately 300 yards away, behind four or five other cars, in the darkness of 11 o'clock at night, he claimed to have seen flashes from the front and side windows of C. I. O. headquarters, which not even the closest observer of all the witnesses for the respondent claimed to have seen. It is obvious that even if he did see flashes from guns, he could not at that distance have distinguished whether they came from Fellabom's machine gun or from C. I. O. headquarters.

Edward Lustig, a watchman employed by the respondent, testified that at approximately 11 o'clock he was standing at the window on the northeast corner of the respondent's main office building, about 400 feet from C. I. O. headquarters. "There was a man walked up the street toward the C. I. O. and he got part ways up there and I hear some noise and hollering and all at once why there was five shots fired from C. I. O. and this somebody hollered in the back for . . . somebody to come forward and they started to shoot this tear gas."

> "Q. (by Mr. Pontius) Just tell us from where you saw the shots fired as you observed them.
>
> A. Well right from the C. I. O. building, right from the sidewalk down—there was a man standing as

close as I could see from the distance I was away from him, and he fired five straight shots."

It will be noted that Lustig is the first witness for the respondent who claims to have seen any person firing the shots. All other witnesses observed only the flashes or the fire from the gun. On cross-examination, Lustig defined the man's position more closely. "It looked to me just like he was standing on the sidewalk when he fired this gun . . . just about eight or ten feet from the building . . . five shots in rapid succession."

In view of this testimony, more precise, with regard to the position of the person who fired, than that of any other witness, the following testimony on cross-examination is significant:

> "Q. (by Mr. Lauter) Is your eyesight pretty good, Mr. Lustig, now?
>
> * * * * * *
>
> A. Pretty fair.
>
> * * * * * *
>
> Q. Can you see what time it is over there now?[42]
> A. Yes.
> Q. What time is it?
> A. I think it is 20 minutes after 4.
> Mr. Lauter: Let the record show—
> The witness: Or three.
> Mr. Lauter: —that it is twenty-five minutes after three.
> The witness: After three, is it?"

Lustig also admitted that he was "kind of a little deaf, that is my ears" and had considerable difficulty in hearing the questions addressed to him at the hearing. We consider that these admissions render Lustig's testimony unreliable. If, as appears, his eyesight was poor and he was hard of hearing, we doubt that at a distance of 400 feet at 11 o'clock at night he heard someone holler to come forward and saw what no other witness in the immediate vicinity was able to observe--a man standing on the sidewalk eight or ten feet from the C. I. O. headquarters fire five straight shots. At the very least, we believe that under these circumstances Lustig could not have distinguished whether the person firing the five shots in rapid succession was Fellabom with his machine gun across the street from C. I. O. headquarters or some other person among the strikers in front of C. I. O. headquarters.

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[42] This reference is to the clock in the hearing room.

Frank Swarm, a night watchman employed by the respondent, was standing at the window on the east end of the first floor of the district or main offices, at least 300 feet from C. I. O. headquarters. A few seconds after the 11 o'clock whistle had blown, he testified, he saw the fire from guns, from in front of C. I. O. headquarters, "five shots from the front of headquarters."

> "Q. (by Mr. Pontius) Then what next did you see?
>
> A. Well really leading up to the shooting, there was two men walked up Cleveland Avenue, in front of the headquarters, and they got right up near the headquarters and there was five shots fired. Two men dropped and they started back towards the police department they had strung across Cleveland Avenue. After the fifth shot was fired, the Massillon city police started to shoot tear gas."

After the Canton police arrived, Swarm continued, "there was another volley of firing; shooting started from up in front of the hall again."

On cross-examination, he testified with respect to the first volley of shots:

> "Q. (by Mr. Lauter) Where did the shots come from?

> A. In front of the C. I. O. headquarters . . . directly in front of the building . . .
>
> Q. But you don't know whether it was from the doorway or the sidewalk?
>
> A. I wouldn't be positive, no . . .
>
> Q. But are you sure they didn't come from the steps of the building?
>
> A. No, it wasn't that close."

With respect to the second volley of shots, he testified:

> "Q. (by Mr. Lauter) Where did these shots come from?
>
> A. From headquarters all around headquarters . . . right up in front . . . right in front of headquarters.
>
> Q. In the doorway?
>
> A. I couldn't say if it came from the doorway or not.
>
> Q. Would you say it came from the sidewalk?
>
> A. Either the sidewalk or the street."

Officer Ickes and Major Curley testified that the only shots during the entire evening that came from the vicinity of C. I. O. headquarters were the four or five shots at the very beginning, immediately preceding the firing of gas bombs by the police. Officer Johnson, who arrived at Cleveland Avenue shortly after the shooting had begun, testified that he saw no shots fired from C. I. O. headquarters at any time after 11 o'clock. Officer Fellabom testified that the only shooting from C. I. O. headquarters that he saw came from the doorway at 11 o'clock, and that, thereafter, from his position directly across the street from C. I. O. headquarters, he fired several rounds at the upstairs windows of other houses. This testimony by the respondent's witnesses indicates that the second volley came not from C. I. O. headquarters but from Fellabom's submachine gun. As noted above, however, Swarm identified both volleys as having been fired from in front of C. I. O. headquarters. We think it clear that Swarm, standing at the east end of the main office building, was not in a position to distinguish whether the first volley came from Fellabom or from C. I. O. headquarters. The very fact, however, that Swarm identified both volleys as having been fired from the same spot indicates that the first volley, like the second, was fired from Fellabom's submachine gun.

The testimony of two other witnesses for the respondent lends support to this conclusion. Wilbert Coleman, the occupant of the rooms over the C. I. O. headquarters, testified that he heard the shooting but did not hear any shots come from the downstairs of the building. James Adams, a visitor at Coleman's apartment, testified that he saw a man on the west side of Cleveland Avenue on the sidewalk shooting a machine gun, that the first shots that were fired sounded as if they came from the west, from the street, directly in front of the building.

There remains to consider the testimony of Major Curley and Officer Fellabom who at relatively close range claim to have seen the flashes of the gun as it was fired. Of all the witnesses for the respondent, Fellabom tells the most circumstantial story of the events which followed. At many important points, however, his testimony differs from that of other witnesses both for the Board and for the respondent. He testified that immediately after the intoxicated man with a white shirt and a straw hat gave up his attempt to go through the police line, Curley walked up to the center of the street and shouted to C. I. O. headquarters, " 'A couple of you men take this man out of here before he starts to make trouble.' [43] I noticed this man walked to the doorway in the C. I. O. headquarters while Curley was standing there. Stones started to fly. I saw the fire flying off the bricks there. I saw one of these hand grenades—a gas bomb—I seen them flying off the stones. That gas bomb didn't any more hit the road when the shooting started out of the doorway."

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[43] According to Curley and Ickes, this incident occurred at approximately 10:30 p. m.

"Q. (by Mr. Pontius) Now from your position could you see any guns from there?

A. I could see the flashes of the shooting. I couldn't see the guns . . . the fire was flying close from the top of the door. Just like someone was standing up and holding a gun and shooting down like that (indicating) I could see this much . . . just like someone was standing in the doorway and a gun held like that (indicating). I could see that much on the truck.

Trial Examiner Lindsay: You mean the gun was held up over his head?

A. Yes it was higher.

Trial Examiner Lindsay: Holding the gun up in the air? The shooting was down?

A. Yes.

Q. (by Mr. Pontius) With respect to this truck, where was the location of this firing?

A. It was right behind the truck.

Q. That is from where you stood?

A. Yes sir.

Q. Now, could you tell the direction in which these shots were fired?

A. They was coming toward our men. They were standing at an angle.

Q. From the position you were standing in at that time, could you see any part of the doorway, leading into the C. I. O. headquarters?

A. About two feet of it top and down.

Q. Now where in respect to the doorway did you see these flashes?

A. Close to the top.

Q. Were you able to distinguish any person there?

A. No, sir. It was a tarpaulin over this truck. It hid the view of the front. But I could see—all I could see was about two feet around in top of the road.

Q. Could you see the man holding his hand up there . . .

A. All I could see was this firing; this fire was flying close to the top of the door.

Q. Now what if anything did you do at that time?

A. I turned the machine gun loose on that shooting out of the door . . . I shot over in there and then stopped, and then the boys—the rest of them was all shooting in there, shooting gas. They was close to me and it got so noisy you couldn't hear yourself think."

Fellabom then described how he shot out one headlight of Harry Jones' car and explicitly testified that he did this just before the above-described events took place. Continuing, he testified that he first fired three times at the doorway, then "saw in the upstairs windows was flashes of shooting."

"Q. By upstairs windows, you mean what?

A. Toward the buildings along the street on the right hand side, on the east side of the road . . . "

On cross-examination, Fellabom stated that he was on the west side of the street across from C. I. O. headquarters, that "the first shot came out of the doorway of C. I. O. headquarters," and that he fired the second shot. As noted above, he then retracted his explicit testimony made on direct examination, that he had shot at the headlight just before shooting at the doorway, and asserted that he had waited approximately 35 minutes before shooting the headlight out. He remained firm in his assertion that there was no shooting other than the gas bomb before the shots came out of C. I. O. headquarters.

> "Q. (by Mr. Lauter) You are absolutely sure that some police officer fired a gas bomb before any shooting from the C. I. O. headquarters.
>
> A. Yes, sir. I saw it flying through the air. That is as true as I said it . . .
>
> Q. I am asking you whether or not before the gas bomb was fired, the only action of any violent nature was the throwing of stones by some C. I. O. men, is that correct?
>
> A. Yes, sir."

Fellabom also testified that the only shooting that he saw came from the doorway, at approximately 11 o'clock. Later he testified that he saw between 50 and 100 shots coming from the upstairs windows of the eight or ten buildings on the east side of Cleveland Avenue, and that he fired his machine gun several times at these windows. As noted above, Officer Ickes and Major Curley testified for the respondent that the only shots which they heard or saw from the vicinity of C. I. O. headquarters during the entire evening were the four or five shots *immediately preceding the firing of gas bombs by the police.* Thus Fellabom, whose view of the front of C. I. O. headquarters was almost totally obstructed by the tarpaulin-covered truck, claims to have seen flashes or a first shot fired, from the doorway after a gas bomb was fired, at a time when Ickes and Curley with an unobstructed view testified that all firing had ceased from the vicinity of C. I. O. headquarters. In addition, no witness, except Fellabom, testified that any shots were fired from the doorway. Fellabom's testimony on this point is not only at variance with the testimony of the witnesses for the Board, who testified that no shots were fired from the doorway or any other place in the immediate vicinity of C. I. O. headquarters, but also with the testimony of all the witnesses for the respondent who testified to the first shots. We think the evidence is overwhelming that Fellabom's testimony to the effect that he saw flashes or a first shot from the top two feet of the doorway is not to be credited.

The salient part of Fellabom's testimony, however, relates to his consistent assertion that he saw a gas bomb fired by the police fly through the air and hit the road *before* he saw the "first shot" from the top two feet of the doorway of C. I. O. headquarters. Every other witness for the respondent, without exception, steadfastly asserted that the police fired gas bombs only *after* four or five shots were fired from some place, more or less definitely identified, in the vicinity of C. I. O. headquarters. This difference between the testimony of Fellabom and every other witness for the respondent is crucial. It indicates the police 100 feet south of C. I. O. headquarters opened fire after hearing the shots fired by Fellabom from his submachine gun in the belief that such shots were fired by the strikers.

Before summarizing the evidence in support of this conclusion, we turn to the testimony of Major Curley.

Curley testified that he was standing 100 feet south of C. I. O. headquarters among a group of special and regular police at 11 o'clock when "the crowd commenced to get larger at C. I. O. Hall and Kelley and Henderson and Fellabom and Ickes and I got our heads together and I said 'Don't you think it would be a pretty good idea to go up and tell those fellows that they will have to abide by the proclamation that was handed down by the Sheriff of Stark County.' . . . So I said 'We do not want to have any trouble here.' I said 'It would be a good idea to break it up.' So Henderson, he started forward, and he turned around and he said 'Come on Cap' and I said 'Hell, I ain't got any business up there. I am not deputized to go up in there.' And he said 'You are deputized now.' He says 'You are going right along up.' I says 'All right, if that is the way you feel about it, I will go up and try to talk to the boys.' So we started forward . . . and I got about 50 feet ahead of where the officers were lined up . . . I was met with 'You God damn dirty sons of bitches' and bingo out came a bunch of rocks, clubs, stones and bingo five shots one right past my head."

> "Q. (by Mr. Day) Who said this about the sons of bitches?
>
> A. The men up around the C. I. O. Hall.
>
> Q. And where did the rocks come from?
>
> A. Around the C. I. O. Hall.
>
> Q. Where did the shots come from?
>
> A. From on the step of the—in front of the front door of the C. I. O. Hall.
>
> Q. How many shots did you see?
>
> A. Five.
>
> Q. Could you give an opinion as to what kind of shots they were, or from what guns they were fired?
>
> A. Yes, an automatic revolver . . . I immediately dropped to the ground and all hell broke loose . . . the firing started, I was lying on the ground. I don't know, I laid down. The firing then started from both sides and tear gas guns were going. Fellabom was back with a machine gun loaded with bird shot. He started that barking. The gas—that was fired for effect only."

We have already referred to Curley's testimony that Fellabom shot out the headlight of Jones' car, fifteen minutes after the shooting had begun, and found that the overwhelming weight of evidence was to the effect that the shooting occurred at the same moment that Curley and Henderson had reached the half way point in their advance toward C. I. O. headquarters. It will be noted that in the testimony cited above, Curley stated that Fellabom was among the special police 100 feet south of C. I. O. headquarters, at the time Curley began his advance. On cross-examination Curley modified this statement and testified that Fellabom was on the west side, on "the first tile building on Cleveland Avenue." Other evidence in the record indicates that this tile building is almost directly across the street from C. I. O. headquarters. It is therefore, clear that Fellabom was approximately 50 feet to the north west of Curley at the moment the five shots were allegedly fired from C. I. O. headquarters. With respect to these shots, Curley further testified:

> "Q. (by Mr. Lauter) During the entire evening of July 11th, do you know how many shots were fired?
>
> A. Five.
>
> Q. How many shots did you see coming out?
>
> A. Five out of the steps.
>
> Q. Did you see some shots other than those five that night?
>
> A. I didn't.
>
> Q. Then a total number of shots you saw coming out of the C. I. O. headquarters was five?
>
> A. That is right."

Upon the reliability of Curley's testimony that five shots were fired from in front of the front door of C. I. O. headquarters depends in large measure the respondent's plea of self defense. Of all the witnesses for the respondent he was the one nearest to C. I. O. headquarters, with a totally unobstructed view of the entrance and the crowd, and had the best opportunity to observe the acts of the strikers. We believe, however, that Curley's testimony on this decisive point is completely unreliable.

As one who purported to act as a public spirited citizen, he had exhibited an active bias in favor of the respondent. As one who in the absence of Chief Switter had assumed command of the police department and with such command the responsibility for the acts of the regular and special police, he had a paramount interest in asserting that the strikers rather than the police were legally and morally liable for an encounter which resulted in the death of three strikers. This paramount interest and active bias run through his entire testimony.

We have already found that Curley's testimony with respect to the selection and bonding of the respondent's employees as special police is not to be credited. Similarly, Curley's testimony that he did not issue the orders which raised the guard at C. I. O. headquarters is flatly contradicted by the testimony of Chief Switter, Officer Kraft and Officer Fellabom, and is not to be credited.

Curley further testified that just before advancing toward C. I. O. headquarters, he was deputized, for the first time, by Special Officer Henderson, in the presence of Officers Kelley and Ickes. Kelley, however, testified that at this time Curley said nothing except that he was going forward. Ickes testified that Curley said nothing, as he began to advance, except that he was going to "break them up." Officer Kraft testified that he was in the line of police at this time and heard Curley say that he was going to break them up. Kraft did not mention any conversation between Henderson and Curley. Henderson was not called as a witness. Under these circumstances, in view of Curley's evident desire to give the color of legality to his actions, we consider his statement that he was deputized by Henderson to be a protective afterthought rather than a statement of fact. We believe that Curley's testimony on this point is not to be credited.

Finally, Curley testified that Fellabom shot out the headlight of Jones' car at 11:15 p. m. after the shooting elsewhere had begun. This testimony was flatly contradicted by a number of witnesses both for the Board and for the respondent. Under the circumstances described above, we found that Curley's testimony on this decisive point was not to be credited.

In view of the complete unreliability of Curley's testimony on such major points, and his obvious bias and interest, we feel justified in refusing to credit his testimony with regard to the source of the five shots.

A number of other witnesses for the respondent testified that they heard shots fired, either at the beginning of the encounter, or during it, but none of these witnesses was able to fix the source of the shooting more precisely than "Cleveland Avenue," or "on the other side of the viaduct" or generally in the location of Cleveland and Oberlin Avenues. Some testified on direct examination to a number of shots coming from the crowd and on cross-examination admitted that they had not seen the shooting and did not know whether the police or other persons had fired the shots. A second group of witnesses testified that they saw flashes from cornfields, railroad tracks, and other places at some distance from C. I. O. headquarters. Both groups testified that they heard the shots come from all directions or from north to south or from the west to the east, or from the east to the west. It is obvious that such testimony proves little or nothing, except that there was a great deal of shooting taking place in and around the vicinity of C. I. O. headquarters from the time the encounter started until 11:30 or later. At least 20 police and an undetermined number of deputy sheriffs were engaged in shooting tear gas, guns, revolvers, and a machine gun in all directions on Cleveland Avenue. Other police east of Cleveland Avenue near the viaduct had shot revolvers and riot guns shortly before 11 p. m. The testimony of these witnesses, while indicating the wide extent of the shooting, proves nothing as to its source.

With this description of the incident at C. I. O. headquarters we turn to a concluding analysis and summary of the evidence.

For at least three quarters of an hour prior to the encounter, while an unarmed peaceful group of strikers and strike sympathizers were gathered at C. I. O. headquarters, engaging in their usual Sunday night pursuits of talking, changing pickets, playing music and dancing, 20 regular and special police, armed with clubs, revolvers, shotguns, gas equipment and a submachine gun, were lined up on Cleveland Avenue under instructions from Major Curley to expect trouble. We have analyzed and found without merit Curley's justification for his orders increasing and arming the police, and have examined and rejected the contention by the police that the crowd as a whole was other than peaceful. Even if we should credit in full the testimony of those officers who claimed to have heard threats against the police by one or two men in the crowd, it is apparent that under the circumstances described such threats were not taken seriously and that the strikers cannot be held responsible for the isolated utterances of one or two unidentified drunken persons who disappeared from the vicinity approximately half an hour before any violence occurred.

Shortly before 11 p. m., when Curley and Henderson, advancing up Cleveland Avenue from the line of police 100 feet south of C. I. O. headquarters, had reached a point midway between the police line and the strikers, Fellabom, standing on the west side of Cleveland Avenue, across from C. I. O. headquarters, fired several shots at the headlight of Harry Jones' car. Upon this point, as we have seen, the testimony is in conflict. We think, however, that the testimony of the witnesses for the Board, corroborated by the testimony of Officers Kraft and Kelley, far outweighs the testimony of Curley, which is unsupported except for the self-contradictory testimony of Fellabom.

Immediately after Fellabom fired his submachine gun, the police opened fire on the strikers. Because of the darkness and the rapid succession of events, no one witness was able to observe more than a segment of this incident and what immediately followed. The whole, therefore, can be understood only by a synthesis of the pertinent testimony of a number of witnesses:

Beckner, standing on the steps of C. I. O. headquarters looking south, saw the shooting begin from a point in the immediate vicinity of Harry Jones' car, parked on the west side of Cleveland Avenue, across from C. I. O. headquarters, just at the moment that Henderson and Curley were approximately midway between the police and the crowd at headquarters. Beckner, however, did not see Fellabom fire at the headlight. Walter Meyer, whose car was parked directly across from C. I. O. headquarters, behind and slightly north of Harry Jones' car, heard Fellabom fire two shots at the headlights of Jones' car, but did not see Henderson and Curley. Adams, who was in Coleman's apartment on the floor above C. I. O. headquarters, heard the first shots fired from the west side of the street, in front of C. I. O. headquarters, approximately where Fellabom was standing. Swarm on the first floor of the respondent's district office building, saw a first and second volley of shots fired in front of C. I. O. headquarters. As noted above, Fellabom fired a second volley from his position on the west side of Cleveland Avenue across the street from C. I. O. headquarters, after all the alleged firing from C. I. O. headquarters had ceased. Swarm's testimony, therefore, indicates that the first volley, like the second, was fired by Fellabom.

Officers Ickes, Kelley, and Kraft, standing in the line of police 100 feet south of C. I. O. headquarters and facing it, heard four or five shots in rapid succession from "out along in the vicinity of C. I. O. headquarters," but did not see the shots and did not see Fellabom fire his submachine gun. They testify that immediately after hearing the four or five shots, they fired gas projectiles from their gas guns. Swarm testified that after the fifth shot was fired, the police started to shoot tear gas. Fellabom, however, asserted that the police fired gas bombs at the strikers before a first shot was fired from C. I. O. headquarters. Assuming that with relation to the sequence of the four or five shots and the gas bombs, these witnesses are telling the truth, the discrepancy between the testimony of Swarm and the officers south of C. I. O. headquarters and that of Fellabom across the street from the crowd, can only be explained by the fact that Fellabom first fired his submachine gun at the headlights of Harry Jones' car, that Ickes, Kelley, and Kraft and other police officers, hearing these shots in the vicinity of C. I. O. headquarters, fired their gas guns and other guns at the crowd, and that Fellabom, seeing the gas bombs flying through the air, opened fire at C. I. O. headquarters with his submachine gun. Thus, all those present, except Fellabom, heard Fellabom's shots as shots from the strikers and Fellabom seeing the police open fire, continued to shoot his submachine gun. We regard Fellabom's contradictory testimony on this point as an attempt to confuse the issue and thereby avoid responsibility for the incident which touched off the encounter.

In view of the fact that witnesses to a sudden shooting are notoriously inaccurate as to certain details, we regard the discrepancy between the number of shots reported by Meyer and those reported by the witnesses for the respondent as unimportant. Several witnesses for the respondent testified that the shots were fired in rapid succession, thus indicating the probability that the shots came from a machine gun and that any estimate of the number of shots is at best an approximation. Jones' testimony that there was a bullet hole in his right headlight and another through his windshield, while lending support to Meyer's version of two shots, is inconclusive, since there were a number of other holes in the radiator of Jones' car, and it is obviously impossible to know whether every shot fired from Fellabom's machine gun registered on Jones' car.

Fellabom's testimony that he used only bird shot in the submachine gun is contradicted by the testimony that there was a bullet hole in the right headlight of Jones' car, which Fellabom admitted having shot out with his submachine gun. Moreover, although Curley would not state what ammunition Fellabom used that night, he testified that the usual equipment for the machine gun was three magazines of regular 45 bullets and three of 45 birdshot.

In sum, the testimony of these witnesses with regard to the source, time and nature of the first shots which provoked the shooting by the police indicates that they were fired by Fellabom standing across the street from C. I. O. headquarters.

Four witnesses for the respondent, however, claim to have seen flashes of shooting or shots from an unidentified person at some other point. With regard to the same four or five shots—and these are the only shots alleged to have been fired from C. I. O. headquarters—Curley claimed to have seen five shots fired from in front of the front steps of C. I. O. headquarters; Pauli claimed to have seen the flashing of guns from the front and side windows of C. I. O. headquarters; Fellabom claimed to have seen a first shot or flashes from a gun fired from the top two feet of the doorway of C. I. O. headquarters; and Lustig claimed to have seen five shots fired by a man standing on the sidewalk eight or ten feet from the building. For reasons already indicated, we believe their testimony is either false or incredible. As against these contradictory assertions, three witnesses for the Board—Beckner, Hardesty, and Veto—who were standing in or near the doorway of C. I. O. headquarters at the time in question, denied that any shots were fired by the strikers from the doorway or any other place in the vicinity of C. I. O. headquarters; and Wilbert Coleman, the occupant of the second floor, testified that he heard no shots from downstairs in the building. We regard it as significant, although not conclusive, that up to the very moment of the encounter, no witness claimed to have seen any person in the crowd of strikers with any weapon, and that after the encounter, the police found no weapons, except Jones' pocket knife, on the person or in the possession of the 165 men arrested.

From the whole record, we find that the police, armed and forewarned by Curley to expect trouble, and made restless by the sound of shooting from the viaduct, opened fire at C. I. O. headquarters immediately after Fellabom fired his submachine gun; that the shots which the police heard and attributed to the strikers were in fact the shots fired by Fellabom; and that no shots were fired by the strikers.

We turn now for a moment to the respondent's contention that the strikers had assembled at C. I. O. headquarters with a preconceived plan to rush the police, enter the mill, and remove the employees who had returned to work. This contention rests largely upon the testimony of Officers Moore and Kraft.

Moore testified that at about 4 p. m. on July 10, while he was on duty with Officer Kraft, and Special Officers Hodge and Henderson, one Mike Rudak emerged from C. I. O. headquarters, approached the car in which the officers were sitting and said, "You officers had better watch, they are coming down and get you. I am a friend of the police."

Moore stated that Rudak then walked back to C. I. O. headquarters, spoke to several fellows, and was shoved out into the street, from which Moore picked him up and took him to jail. "You could tell from the way he talked," Moore added, "that he had had a few drinks." Thereafter, Moore told the other officers, "You had better watch out a little bit."

Officer Kraft testified that between 6 and 6:30 p. m. on July 11, while he was on duty with Special Officers Henderson and Kriger, a man called "Humpy" walked out of C. I. O. headquarters, approached the post where the officers were stationed and said, "You better get out . . . big trouble tonight, 11 o'clock. Between 500 and 1000 coming down. They will kill all of the police and go into the mill and get the slabs." "He couldn't say 'scabs,'" Kraft testified. "He said 'slabs.' That is all he said to us fellows. He turned around and went back up to C. I. O. headquarters." Kraft also stated that "Humpy" had had a couple of drinks. Kraft further testified that when he reported this incident to Curley, Curley said he would send more men to that post.

Both of these stories are apparently versions of the same incident. We regard them both, if true, as without significance. Apart from the differences in the specific language attributed to Rudak or "Humpy" and the discrepancy in the date and the time of day on which the statements are alleged to have been made, it should be noted that Curley's testimony contains no reference to any such warning as that reported by Kraft, but was limited specifically to rumors which he had received as a result of the meeting of the strikers at Oak Knoll Park, that afternoon. Furthermore, Switter testified that before he left Massillon at 9:30 p. m. on July 11, he had heard no rumors of any kind with regard to any threatened activities by the strikers. If Mike Rudak was arrested on July 10, it is clear that

Switter would have been informed of his alleged threats, had they been regarded as sufficiently serious to warrant action; and similarly if "Humpy" had informed three officers between 6 and 6:30 p. m. on July 11 of a plot to kill the police, it is reasonable to suppose that Switter, who at that time was still in charge of the police department, would have been notified or that Curley would have mentioned it in his testimony. Moreover, there is no evidence that any of the regular or special police, except the six regularly assigned there, reported to C. I. O. headquarters that night upon their own initiative as a result of these or any other rumors. As noted above, they were all instructed to report there by Curley; and it is clear that these threats were not the basis for Curley's orders.

Switter testified that upon his return to Massillon Curley had stated that he raised the guard at C. I. O. headquarters "because he got rumors from a source he did not want to disclose that the pickets were going to crash the line and stop them from going into the mill at the 11 o'clock shift." At the hearing on July 21, 1937, Switter testified that Curley had not yet told him the source of the rumors which caused him to raise the guard. Since Curley testified to no rumors except those which he had received from the Oak Knoll Park meeting, and Switter had heard no rumors at all, we are inclined to believe that this statement to Switter was merely Curley's *ad hoc* explanation to justify the results which followed his countermanding of Switter's orders.

Officer Moore testified that on July 10, one Burke, a former captain of the picket post, in a conversation with Moore and Special Officer Hodge had stated, "They will know who is running this God damn show in 48 hours." Wilbert Coleman, an employee of the respondent, who occupied the second floor of the house in which the Union had established its headquarters, testified that at about 7:15 p. m. on July 11, he saw men whom he could not identify picking in the ground with flashlights and a stick and carrying stones toward the front of the building. Robert Adams, a plasterer, whose son was employed by the respondent, testified that between 6 and 7 p. m. on July 11, he overheard a "red-headed American" tell Mark Turkey, a member of the union, " 'You keep your men out and we'll keep ours out' . . . I heard Mr. Turkey said 'Well, I will never be out.' He said 'You get yours out.' He said, 'We will get ours out.' . . . this American fellow said 'I feel sorry for the colored fellow, but the damn niggers have got it coming to them. If they get killed they will just have to take it.' " He testified that shortly after the first shooting was over "a car came up around the corner and stopped and they got out and my neighbor hollered and asked 'What is going on down there?' One fellow says 'They are having hell down there.' He says 'Anybody hurt?' He says 'Yes, we killed two of them damned city cops.' He said 'How do you know.' He said 'We saw them fall.' So this other fellow got out of the car and he walked up to another fellow and says 'You fellows are from Canton. Aren't you?' He said 'Yes.' 'Well you had better get the hell out of here before they get up here' and another fellow . . . said 'Is that thing in the car?' He said 'Yes.' 'Well,' he says 'You had better get it out of here because they are liable to break through up here at any time.' And the fellow in the car got out and he says 'Did you see Joe?' He said 'No.' 'Well,' he says 'we ought to find Joe.' They did not call no last names and my daughter was asking me. I says . . . 'Who is that fellow got out of the machine.' She says 'Tony Dimando. That is the only one I know.' "[44]

In the light of the events which took place before C. I. O. headquarters, these sensational but vague statements, anonymous rumors, and acts by unidentified persons, freely attributed to the strikers, carry no weight. In the first place, since Burke's statement, the incident described by Coleman, and the remarks of the "red headed American" were not reported to Curley, they cannot be considered as a basis for his orders. In the second place, it is undisputed that the crowd at C. I. O. headquarters made no attempt whatsoever to rush the police, enter the mill, and remove the employees who had returned to work. On the contrary, at the first shots, the strikers fled in panic. With 20 regular and special police already lined up across Cleveland Avenue, armed with every weapon in the possession of the police department, and an undetermined number of deputy sheriffs in the vicinity, ready at a moment's notice to drive up in cars loaded with tear gas, such an attempt by an unarmed crowd of 200 people, including women and children, would obviously have been suicidal. Not only was no such attempt ever made, but the president of the Massillon lodge and the vice president of the Canton lodge of the S. W. O. C., noting the ominous attitude of the police, were on the point of telling the crowd to go home, when the police opened fire. In the third place, no police were killed, wounded, or even injured, except by the fumes of their own tear gas. The strikers were the victims, not the aggressors, in an unprovoked attack.

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[44] Dimando was not further identified.

After midnight, as soon as the Canton police in their armoured car had cleared the streets of people in the vicinity of C. I. O. headquarters, a "mopping up" squad of special police and deputy sheriffs, led by foreman and special police officer William Henderson, broke into rooming houses near Cleveland Avenue occupied by members of the Union, arrested 165 men, and, with the assistance of the National Guard, hauled them to jail.

At 2 a. m. on the morning of July 12, John Angelo, a striker who lived on the second floor of a three-story rooming house on McKinley Avenue, a block and a half from C. I. O. headquarters, was awakened by a noise which shook the house, "hollering and breaking doors in the building." Two deputy sheriffs entered his room, thrust guns against his chest, hit him with a black jack, and threw him into the hall. Other armed deputy sheriffs roved through the hallways, crying, "Now, you rats, we have got you," and routed out the other occupants of the house. Fifteen or 20 roomers, most of them barefoot and half clad, including one woman, were taken downstairs and lined up outside the building. Other men from neighboring rooming houses were searched and added to the line-up. Angelo testified that Special Officer Henderson in the company of several other special police officers, then asked, "How many C. I. O.'s are here and lift up your hands." Half to three-quarters of an hour later, 10 or 12 of these men were loaded into a National Guard truck, taken to the Massillon City Jail and then to the Canton Jail, where they were photographed and fingerprinted. After 2 days in the Canton Jail, Angelo, with a number of other men, was returned to Massillon, where he signed a waiver of his right to sue the city of Massillon and was released. He testified that when the deputy sheriffs entered his room, they showed him no warrant of arrest.

Christ Conzas, a striker, who occupied another room in the same rooming house, from his window observed the police enter houses on McKinley Avenue and heard doors breaking in his building. A short time later, two officers with guns and a flashlight broke down the door of his room searched the room, and ordered him downstairs. There, he recognized Bill Henderson, the foreman for whom he had worked in the mill, and entreated Henderson to release him. "You belong to the C. I. O.," said Henderson, "and you have to go down." Other men were taken out from other houses "some of them without shoes, some without clothes, some without dresses, some without shirts.'' Conzas with the others was taken in a National Guard truck to the Massillon Jail, where he remained until Tuesday, July 13, 1937. Conzas was shown no warrant of arrest by the officers who broke down the door to his room.

Mark Turkey, a member of the C. I. O., who lived with his wife and three children in a rooming house on Fourth Street, about three and a half blocks from C. I. O. headquarters, was awakened by his wife at five minutes of three. Half dressed, he went to the kitchen where several deputy sheriffs, armed with a revolver and a shotgun, who had broken open the house door, asked for his guns and ammunition. When Turkey replied that he had none, they pushed him upstairs, ordered four men who occupied rooms there out of the building, tore up the beds and mattresses as they searched the rooms, broke into a trunk, where Turkey's son kept a stamp collection, and ordered Turkey downstairs to wait for his ''bus.'' A few moments later Turkey and the four roomers were loaded into a National Guard truck and taken to jail, in Canton, where they were photographed and fingerprinted. Turkey remained in jail at Canton until 4 p. m. Wednesday, July 14, 1937, when he was removed to the Massillon jail and released after signing a waiver. Turkey testified that when the deputy sheriffs broke into his house, they asked him whether he was a member of the C. I. O. but did not show him any warrant of arrest.

A total of about 165 men, all of them apparently members of the Union, were thus arrested and placed in jail. Hardman, who returned to Massillon after the shooting and conducted their examination, testified that none of the 165 had been shown warrants, that all had been arrested at places other than the scene of the riot by special police officers, deputy sheriffs, and National Guardsmen, and that although most of the men had been released from jail by

Thursday, about four were still held, at that time, four days after the shooting. He also testified that of the 165, only one (Harry Jones) was charged with carrying any kind of weapon.[45]

We come, finally, to the question of whether the respondent is responsible for the events we have described. From a careful examination of the record, we think that the answer is plain. As early as June 9, Carl Myers, the respondent's Acting District Manager, had attempted to persuade Chief Switter to use violence against the strikers, "to take such action as the Chicago police did and put them where they belonged"; "they knew how to handle the situation if we did not." On that day Myers donated to the Massillon police department for "any situation which might arise," the gas and gas equipment which was used by the police against the strikers on July 11. On June 13, after the meeting of the Chamber of Commerce in which the members of the Law and Order League had praised the Monroe police for smashing the picket line at the respondent's plant at Monroe, Michigan, Carl Myers again urged the Massillon city officials to use violence against the strikers: "It was a funny thing that a little town like Monroe could build up a police department big enough to get their mill operating again and control the situation and it was damn funny we couldn't do anything." In a pamphlet issued by the respondent during the strike, entitled "*What the Editors are saying about the Republic Strike—Reprinted by Republic Steel Corporation,*" the respondent set its seal of approval upon the actions of

> "the Monroe police, and the American Legionnaires and voluntary police who aided them and stand with them. They have performed a healthful public service and they deserve high commendation and support . . . These men have used forceful methods, but no

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[45] As stated above Jones was carrying a pocket knife.

more forceful than necessity demanded . . . They simply are undertaking to uphold American law, order, and individual liberties . . .''

As described above, the respondent through Chief Accountant Angstadt and Superintendent Peppard, the members of the Law and Order League, and the Back-to-Work movement succeeded in exerting such pressure upon the city officials that, against their better judgment, they finally agreed to accept Curley's assistance and swear in as special police officers at least 32 of the respondent's employees, including foreman Henderson. That these special police officers were not disposed to be neutral was a fact generally known in Massillon. Of the 66 candidates which Peppard, Angstadt and Beckner had submitted to the city officials on the morning of July 9, 29 had signed the Back-to-Work petition, as had 19 of the 32 men chosen by Major Curley. With regard to the temper of the members of the Back-to-Work movement, the Reverend Hess, a witness for the respondent, testified, ''From my most sober judgment I am positively of the opinion that if we had not had the police there on the night of the riot that we might have had not two men killed but maybe 50 or 100 or more killed . . . My reason is this, contacts that I had had with men, the Back-to-Work men . . . that they were in no temper to stand any more . . . I testify that it was my judgment, taking the balance of two factors in the situation, from all sides, that we would have been staggering for this whole country, if we had not had the police there.''

The Reverend Hess was not aware that, at the time of the encounter, five of the respondent's employees, who had signed the Back-to-Work petition, who had been bonded by the respondent, and who had been warned by Curley to expect trouble, were special police officers whom Curley had armed and stationed in the vicinity of C. I. O. headquarters. The respondent called none of these five as witnesses nor the three other employees who were special police officers present during the incident.

Apart from their connection with the Back-to-Work movement, the respondent's employees who were appointed as special police officers were obviously not impartial. It will be remembered that Hardman and Switter had reviewed the 66 names submitted by Peppard and Angstadt and had rejected most of them as too excitable, and that General Marlin had waived any question as to the fitness of the respondent's employees for the police force by stating that it was no time for neutral men.

Thus, prior to the encounter, the respondent had armed the police force with its gas equipment, staffed it with a foreman and 31 other employees, many of whom belonged to a group bitterly opposed to the strike, and had urged violence against the strikers. In addition, the respondent had approved, if it had not actually connived at, the appointment of Major Curley whose activities we have already found were conducted in the interest of and on behalf of the respondent.

These acts of the respondent achieve further significance in the light of a hitherto undescribed event which occurred on July 11. John Veto testified that at 5 o'clock that afternoon, as he was returning to his home by way of Cleveland Avenue, near C. I. O. headquarters, he passed within three feet of two special police officers, seated on chairs with their backs to the mill, and heard one of them say, "We are going to clean them up tonight." Veto testified that the man who spoke turned around, "and I recognized him as Bill Henderson, a chipper foreman in the mill . . . He said 'Where is your picket card' and I said 'I didn't have any because I am not on duty.' " Veto also testified that the other special officer did not turn around and that he did not recognize him.

To rebut this testimony, the respondent's counsel asked Officer Kraft:

> "Q. (by Mr. Pontius) During that afternoon I will ask you whether Mr. Henderson said to you—that is, this special officer Mr. Henderson, about five o'clock in the afternoon said to you this, or this in substance: 'That we are going to clean them up tonight?'
>
> A. He never said nothing like that to me."

Kraft, however, testified that on that afternoon there were three officers detailed to and present at this post: himself, and Special Officers Henderson and Kriger.[46] It will be remembered that Veto testified that he did not recognize Henderson's companion. It is obvious, therefore, that Kraft's denial that Henderson "never said nothing like that to me" does not preclude Henderson's having made the statement to Kriger. We regard it as material that the respondent called neither Henderson nor Kriger as a witness and made no showing as to the unavailability of either.

At 9:30 p. m., after Switter and Hardman had left Massillon, Curley countermanded Switter's orders, raised and armed the guard at C. I. O. headquarters, and directed Fellabom to a post across the street from the strikers, with instructions to use his submachine gun. At approximately 11 p. m. when Curley and Henderson took it upon themselves to induce the crowd of strikers to go home, for no other avowed reason except that there were too many of them, Fellabom, pursuant to Curley's authority, used his submachine gun and shot out the headlight of Jones' car. As noted above, these shots were the overt act which precipitated the shooting by the other police officers.

After shooting about 25 tear gas projectiles, Officer Moore sent Gray, one of the respondent's foremen, to the

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[46] Kriger, like Henderson, is an employee of the respondent for whose bond the respondent was billed.

Union Drawn Steel Company for more gas. Between 11:15 and 11:30 p. m., Curley telephoned from the respondent's main office to the Union Drawn Steel Company for more gas, and dispatched a police cruiser which returned with at least 25 cartridges of tear gas. Of the gas thus donated by the respondent prior to and during the encounter, Curley, Ickes, Moore, and Kelley testified that they fired a total of 158 gas projectiles or bombs at the strikers during the evening and that other special and regular police threw or fired an undetermined number of gas bombs or projectiles. The fury of the attack upon the strikers, led by Curley and Henderson, is matched only by the thoroughness of the round-up, led by Henderson, in which all persons within a radius of three or more blocks from C. I. O. headquarters were arrested without warrants and incarcerated for several days, for the crime, apparently, of belonging to the Union.

We are of the opinion, from an examination of all the facts, that if Curley had not seized the opportunity when Switter had left Massillon, to take command of the police force, to increase and arm the guard in front of C. I. O. headquarters, and to instruct the regular and special police to expect trouble, the attack upon the strikers would never have occurred. That Fellabom's shooting at the headlight touched off the attack may have been a tragic accident; but it is clear that, if Curley had not issued his unauthorized orders, neither Fellabom nor 13 of the other police would even have been present at C. I. O. headquarters on the evening of July 11. The attack was led by Curley, the respondent's agent, and by Henderson, its foreman; at least eight of the respondent's employees as special police officers were present at or participated in the attack; all the gas and gas equipment for the attack was supplied by the respondent. The respondent had publicly approved the use of violence against strikers by the police of Chicago and Monroe and had urged the Chief of Police of Massillon to follow the example of the police of those cities. When Switter left Massillon, Henderson was overheard to say, "We are going to clean them up tonight." From the whole record we find that the respondent is responsible for the attack upon the strikers.

B. CANTON

Of the respondent's plants in Canton, two are directly involved in this proceeding: The Canton Works (Central Alloy District) which employs between 5,000 and 6,000 employees; and a tin plate mill, employing approximately 650 employees, which the respondent acquired on July 1, 1936, from the Canton Tin Plate Corporation.

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1. *The Plan of Employee Representation—(Central Alloy District) Canton Works*

The Plan of Employee Representation was introduced at the Canton Works in June 1933 and, with minor amendments made in 1934, remained in operation until April 1937, after the decisions of the Supreme Court upholding the constitutionality of the Act. Thereafter, it was succeeded, as in Massillon, by the Employees' Representation Association, which lasted until July 1937, when the Employee Representatives, who had been active in both the Plan and the Association, formed a new organization, the Steel Workers Union of America, which purported to be independent of the respondent. The formation and activities of the Association and the Steel Workers Union will be discussed hereafter.

The Plan at the Canton Works, as it existed until the latter part of April 1937, was substantially the same in structure and operation as the Plan at the Massillon Works.

It is therefore unnecessary to describe it at length. It is sufficient to state that the respondent formulated and introduced the Plan, without submitting it to a vote of its employees; that throughout the existence of the Plan the respondent paid the Employee Representatives for attending meetings, during and after working hours, as well as for handling grievances; and that, down to the most minute item, the respondent defrayed all the expenses and furnished all the facilities for the operation of the Plan.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation (Central Alloy District) Canton Works and has contributed financial and other support to it.

2. *The Plan of Representation of Employees—Tin Plate Mill*

In August 1933 the Canton Tin Plate Corporation, then under independent ownership, inaugurated the Plan of Representation of Employees in its tin plate mill. After July 1, 1936, when the respondent purchased the mill, it continued this Plan in effect unchanged until April 30, 1937. With slight variations, this Plan substantially resembled the Plan at the Massillon Works. Neither at the time of its inauguration nor subsequently was it submitted to a vote of the employees. After July 1, 1936, the respondent continued to pay the Employee Representatives a dollar an hour for time spent during and after working hours at regular and special meetings, and continued to defray all expenses and furnish all facilities for the operation of this Plan.

On April 30, 1937, the respondent announced that in view of the Supreme Court decisions upholding the constitutionality of the Act, it would cease to pay the Employee Representatives. The Employee Representatives then sought to resign and discontinue the Plan, but on the solicitation of Sam Davey, then superintendent of the mill, decided to remain until the end of their term. At a regular meeting of the Employee Representatives on May 8, 1937, Sam Davey introduced Frank Geltz, Chairman of the General Body of Employee Representatives under the Plan and of the Association at the Canton Works, who explained the purposes of the Association and sought to enlist the support of the Employee Representatives. No action was taken on this proposal. In August, 1937, according to Edward Kirkland, Secretary of the Plan, when the fiscal year of the Plan ended, no plans had been made for its continuation, because "we never asked the officials of the Republic Steel Corporation whether or not they wanted to continue the Plan."

From the whole record, we find that the respondent has dominated and interfered with the administration of the Plan of Representation of Employees at its tin plate mill, and has contributed financial and other support to it.

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3. *Events preceding the strike*

On July 2, 1936, shortly after the Union had begun its campaign to organize the employees in the Canton-Massillon Area, the respondent issued its statement, described above, announcing that "Republic stands for the 'Open Shop' principle . . . Every Republic employee owes a duty of loyalty to the Company so that its best interests may be served. Conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management will not be tolerated."

The circumstances surrounding the discharge of Victor

Arias on August 2, 1936, serve to illustrate the method by which the respondent at this time sought to give effect to this policy. Arias had been continuously employed by the respondent since 1927, except for several weeks in May 1935 when he took part in a strike at the respondent's Berger Manufacturing Company plant. When he applied for reinstatement, superintendent Ellaser told him he had been active during the strike and "that is bad on your card." Several weeks later, in June 1935, Arias was reinstated. At that time, his foreman, David Carnes, offered him a job as a checker if he would report the activities of the men. Arias refused.

In July 1936 Arias joined the C. I. O. and was the first organizer in the Canton area. As such, he assisted Howard Porter and the other outside organizers sent to the Canton-Massillon district. It will be remembered that these organizers were given permanent shadows in the form of Long and McCallister, plant policemen at the Union Drawn Steel Company, whose special business it was to follow them. In the latter part of July, Arias conducted meetings on farms and obtained 25 applications for membership and signed up eight members for the union. On August 9, when he returned from a week's vacation, he was told to stay home, that he would be called when needed. "Why are they holding me out?" he asked Graham, assistant to superintendent Ellaser, "is it anything concerning my work?" "No," replied Graham, "Not that I know of. There are activities that you are in that I don't know about or exactly what it is." Superintendent Ellaser informed him: "Vic, you are in Dutch. I don't think I can do anything for you." Arias pleaded his long service with the respondent, his satisfactory work, his necessity to support his parents. Ellaser replied, "I am sorry. I can't do anything for you."

Arias then left Canton in search of a job. In April

1937, upon his return, he met Frank Geltz, Chairman of the General Body of Employee Representatives under the Plan, who offered to help him. Geltz, however, was unsuccessful. He reported that he had seen Ellaser who said that Arias had a company police record, and that Ake, the employment manager, had told him that on his record Arias talked too much.

During his nine years' employment by the respondent, Arias had received at least three promotions; at the time of his discharge he was an inspector in charge of the chipping bed, earning approximately 90 cents an hour. Since his discharge on August 2, 1936, his total earnings, up to August 11, 1937, have been $164.40. He has not received regular and substantially equivalent employment elsewhere. Although the respondent in its answer denied that Arias was discharged because of his union activities, it produced no witnesses and offered no evidence to rebut Arias' testimony.

We think it clear that the respondent discharged Victor Arias for the reason that he joined and assisted the Union. We find that the respondent, by this act, discriminated against Victor Arias in regard to hire and tenure of employment, thereby discouraging membership in a labor organization.

Having thus plainly warned its employees that it was prepared to enforce its statement of July 2, the respondent took further repressive steps to halt the growth of the Union. At the Canton Works and the tin plate mill, its activities paralleled those already described at the Massillon Works. Employees were called together at safety meetings once or twice a month, where a superintendent and foreman repeatedly extolled the virtues of the Plan and threatened employees with the loss of their jobs if they joined the "outside" union; employees were asked by a superintendent to sign petitions that they were satisfied with the Plan and were informed that the C. I. O. would never succeed; active union members were cajoled by supervisory employees not to waste their time passing out handbills, admonished to watch their step, and warned to stop trying to organize; a superintendent spoke with approval of a pamphlet which appeared in the plant, purporting to show that the C. I. O. was a revolutionary organization, controlled from Moscow, whose ultimate purpose was to overthrow the government of the United States by force and violence.[47]

On March 5, 1937, the respondent published its statement of open-shop policy in the newspapers, as described above. Carl Myers read the statement to the General Body of Employee Representatives, to whom he promised the same degree of cooperation from the management that they had received in the past. Besides Arias, three employees, whose cases we discuss below, were discharged for union activities at about this time.

Despite these acts of interference and coercion by the respondent, the Union continued to grow. On February 1, 1937, All Nations Lodge No. 1200 was established in Canton for the employees of the Canton Works and the tin plate mill. A number of the Employee Representatives joined the Union, and in certain departments of the plant the Union claimed to have achieved a membership of a large majority of the employees.

In the tin plate mill, where the Union claimed a membership of approximately 90 per cent, the respondent sought to coerce its employees to leave the Union by repeated threats to close the plant. Kenneth Poorman, a member of the Union, testified that in October 1936 at a safety meeting in the tin plate mill, James Davey, then operating superintendent of the mill, informed the employees that "this is an old and obsolete mill. The Warren mill is of a newer type . . . If we stay out of labor trouble this can be the mill to operate." Although Davey denied having used the specific language attributed to him on this occasion, we are not impressed with his denial. He admitted having told employees on another occasion that the mill was old and obsolete and that he hoped they would stay out of labor troubles. And even from Davey's own studied and evasive account of his remarks at the October safety meeting it is clear that the employees could reasonably have taken away only one impression—that the respondent would shut down the mill if they joined the C. I. O.

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[47] *Join the C. I. O. and Help Build a Soviet America*, published by the Constitutional Educational League, Inc., New Haven, Connecticut.

In January 1937 Superintendent Thomas approached Homer Downerd, president of Lodge No. 1200, and asked him why he had become so active in organized labor. According to Downerd, Thomas said, " 'Do you think you are doing right?' and I said 'Yes, I think I have as much right to belong to organized labor as anyone else has.' And he said 'Do you know what you are going to do?' and I said 'Yes, I do. We are going to put this organization across' and he said 'No, I will tell you what you are going to do—you are going to eventually shut down this plant and that will put not only me, but everyone else out of work and unless you quit, you will shut down the tin plate plant.' "

In February 1937 Superintendent Thomas saw Martin Beckner, vice president of Lodge No. 1200, passing out handbills near the Canton Works. "Beckner," said Thomas, "you do not seem to be the same sort of a fellow, the kind of fellow that would be messing around with a bunch of radicals." "I told him," Beckner testified, "that I did not realize that I was a radical and he said, 'Don't you realize that Republic Steel will be closed down and won't operate any more?' "

On May 5 a notice appeared on the bulletin board at the tin plate mill announcing that the mill would be shut down until further notice, and that employees should call Thomas later in the week and find out when operations were to be resumed. The tin plate mill remained closed until May 24, the day before the strike. It appears that the production at the mill during April and May in terms of gross tons was as follows: For the week beginning April 5, 541; April 12, 888; April 19, 609; April 26, 921; May 3, 315; May 10, 0; May 17, 0; May 24, 650. Samuel Davey, then superintendent of the Canton Tin Plate Division, testified that there was no production for the weeks of May 10 and May 17 chiefly because a strike had been called at the plant of the Canton Enamelling and Stamping Company on April 29, at which time all orders from that company ceased, and that the respondent had in process or finished at that time approximately 1400 tons in the plant, equivalent to two weeks' work.

This ostensible reason for the shut-down is vitiated, however, by reference to a number of events which occurred before and after May 5, when the shut-down was announced. On May 8 Beckner telephoned Superintendent Thomas and asked when the mill would start up. "He told me," Beckner testified, "he did not believe the mills would start up until we got rid of that union." During the strike at the respondent's plants in Canton, Thomas told Beckner, " 'It looks like the Tin Plate had made a mistake. The rest of the mill is going to resume but I do not think the Tin Plate will ever resume again.' And he felt it was all the fault of the men organizing because we had 90 per cent of the organization at that time." Since the respondent did not call Thomas as a witness and made no showing as to his unavailability, these and the earlier threats stand uncontradicted.

Furthermore, the respondent was in the sole possession of proof in support of its allegation that a decrease in orders caused the shut-down. We are not satisfied that, in view of the circumstances described above, it has supplied an adequate business reason for its conduct. It has not shown the amount or relative size of the orders of the Canton Enamelling and Stamping Company nor how long the strike there lasted, nor precisely to what extent that strike caused a decrease in orders.

In weighing the evidence upon this point, we also take into account the fact that, at this time, the respondent's Canton and Massillon plants were both under the supervision of Carl Myers, Acting District Manager for the one region; and that the shut-down on May 20 of the Massillon Works was caused, not for the business reasons alleged by the respondent, but for the purpose of intimidating and coercing the employees.

It will be remembered that on May 3 Clinton Golden, Regional Director for the S. W. O. C., wired the respondent that widespread unrest prevailed among its employees over the uncertainty of the respondent's position regarding a signed collective bargaining contract. that this unrest had been accentuated by the lay-off of several hundred union members at the Canton and Massillon Works, and that the Union urgently requested a conference to negotiate a signed, written contract. It thus appears that on May 5 the respondent gave a double answer to the union; Voss replied to Golden that he saw no necessity for a signed contract, but was willing to arrange a conference; Davey shut down the tin plate mill, a stronghold of the Union, and locked out all but the maintenance employees.[48]

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[48] The respondent in its brief apparently contends that no complete lock-out was ever carried out, in that 50 per cent of the men remained at work after May 10. However, Davey testified that when working the tin plate mill employed between 640 and 680 employees; that at the time of the shut-down (May 5) there were 570 employees; that about 50 per cent of the employees, in the finishing departments, "remained at work on the shut-

From the whole record we find that the respondent shut down its tin plate mill at Canton and locked out almost all its employees for the purpose of intimidating and coercing them not to join or to discontinue their membership in the Union. The respondent, by the foregoing acts, discriminated against its employees with respect to hire and tenure of employment, thereby discouraging membership in a labor organization, and interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

4. *The Employees' Representative Association*

After the decisions of the Supreme Court on April 12, 1937, the General Body of Employee Representatives met on several occasions in the Canton Works on company time to discuss the formation, dues, and constitution of a new organization to succeed the Plan. The precise date upon which this organization—the Employees' Representative Association—was formed does not appear. The record does show, however, that on April 24 Joseph Cox, an Employee Representative, signed a membership card in the Association and with other Employee Representatives began to solicit membership for the Association in the plant on company time.[49] On April 28, according to the minutes of a special meeting of the General Body of Employee Representatives of the Plan, "the proposed amendments to the bylaws were again reviewed and it is the feeling of the General Body that no further changes should be made at this time." These amended "bylaws"—the amendments adopted April 22, 1937, referred to above [50]—became the

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down"; and that when operations finally ceased on May 10, there was a complete shut-down, except for maintenance-men.

[49] The signatures of the Chairman and Secretary of the General Body of Employee Representatives under the Plan are affixed to this card as Chairman and Secretary of the Association.

[50] See Section A, 3.

constitution of the Association. The respondent's participation in the formulation of these amendments, and its modified control of the operations of the organization under them, have already been discussed. At the same meeting on April 28 a treasurer was elected and Representatives assigned to committees.[51] A motion was carried that dues were to be temporarily waived and "some other method of raising finances, possibly through a raffle, should be used." At the conclusion of the meeting a "force report," or schedule, covering the time spent in the meeting by the Employee Representatives, was prepared, according to which the Employee Representatives were to be compensated by the respondent. Thus, as in Massillon, the new organization was, except in name, virtually identical with the old.

As in Massillon, the respondent gave the Association a free hand to organize opposition to the Union. Frank Cutshall, a member of the Union, testified that on May 16 or 17 he was notified by his foreman to attend a meeting in the bar mill at the Canton Works. "They were going to close down the department and everybody was to go over and we was to be paid for the time we would be over there at the meeting. They said they were holding these meetings for each particular turn, the three turns. At one o'clock they blew the whistle and the crane men, the chippers, the grinders and everybody employed in the plant, or practically so, attended. The whole department was shut down." Dan Allen, an Employee Representative, announced to the 400 assembled employees that "they were forming a union for the employees of this division of Republic Steel and they did not want any outside union. They wanted to make preparations if a strike was called to meet up near the square and make a rush for it and go down in a body . . .

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[51] The office of Treasurer did not exist under the Plan, and apparently was the only office in the Association for which an election was held. As noted above, the Chairman and Secretary under the Plan remained as Chairman and Secretary under the Association.

They were anticipating the strike. They asked approval of . . . some of the men in this group." Cutshall testified that he was paid for the time spent at this meeting.

On May 20, about 300 foremen and chippers at the Canton Works were notified to quit work to attend a meeting in the plant. Sammy Stokes, one of the chippers, testified that William Dunn, an Employee Representative, announced that "he was calling this meeting to explain this union plan to them, and he told the fellows that the company was expecting a strike and he wanted them all to sign a paper that they will work . . . and when the strike was called they should meet at the public square and they would prepare a way for them to go into the mill. And so he said 'I am going to pass out these blank pieces of paper and I want you to sign them.' " Stokes testified that he was paid for his attendance at this meeting. Cutshall, who also attended this meeting, testified that Dunn announced that the purpose of the meeting was to form an employee union for the Canton Works alone, in order not to "mix into any more troubles"; that Dunn handed out a copy of the pamphlet previously referred to, "Join the C. I. O. and Help Build a Soviet America"; and that Employee Representative Allen launched into an attack upon John L. Lewis.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Employees' Representative Association and has contributed financial and other support to it.

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5. *The Strike*

Although the events at Canton are not set forth in the record in such detail as those at Massillon, the testimony indicates that the respondent pursued a similar course in mobilizing its forces to break the strike. The following narrative is summarized largely from the testimony of witnesses for the respondent.

On or about May 18 superintendent Cornell told foreman Kuhns that the management intended to operate the plant in the event that the strike was called, and that he wanted the employees in the plant before it started. At 4:45 p. m. on May 25 Cornell called Kuhns to his office, told him there was to be "a meeting of the C. I. O. and it looked very much as though a strike was going to be pulled," and instructed him to have the employees come to the plant by 9 o'clock. On the night of May 25, when the strike was called, trucks arrived at the plant loaded with cots. Under the inducement of a bonus, free meals, and 16 hours' pay for 8 hours' work, a number of employees ate, lived, and slept in the plant from May 25 until July 1.

At 7 p. m. on May 25, before the strike was called, 12 Employee Representatives, including Frank Geltz, Ray Lilly, Dan Allen, and other active members of the Association, met in the assembly room of the respondent's Industrial Relations Building at the Canton Works. In previous discussions this group had decided that if the strike was called they would form a back-to-work movement and seek to have a vote conducted under their auspices among the employees at the Canton Works on the question of whether the employees wished to return to work or to continue on strike. At this meeting plans were made to hold the vote in the City Auditorium on Thursday, May 27. At 8:30 p. m. the group conferred with plant superintendent B. R. Richardson, who expressed his approval of their proposed activities. At 11 p. m. the strike was called and the group retired to two rooms at the Belden Hotel in Canton, which thereafter served as the headquarters for its activities.

Within a few days this committee, augmented by a number of other Employee Representatives, undertook to patrol the city, armed with shotguns, allegedly to protect the homes of non-strikers. On several occasions it held meetings of employees who wished to return to work, and conferred with the mayor of Canton with regard to its demands. On June 10 T. K. Harris of the Canton Law and Order League, said of the Back-to-Work movement, "It is becoming more difficult to keep them from taking the law into their own hands."[52]

As noted above, on or about July 5, a few days before the National Guard were withdrawn from the Canton-Massillon area, 56 of the respondent's employees were bonded by the respondent and sworn in as private police officers of the City of Canton. Of the 56, one, B. R. Richardson, was a plant superintendent, another, Russell Horn, was a supervisory official and at least three were members of the Back-to-Work Committee.

Most, if not all, the expenses of the Back-to-Work Committee were defrayed by the respondent. J. G. "Monk" Stewart, a supervisor of the guards, spokesman of the Back-to-Work Committee, and a roller in the mill with 10 or 12 men under him, testified that from May 25 until July 2, when the National Guard arrived, he received from the respondent for his work a total of approximately $500, calculated on the basis of his regular pay of $28 a day. Other members of the Committee testified that during this period they were paid approximately one and three quarters times their regular pay, or, in some instances, a bonus of $25 a week in addition to their regular pay. None of the witnesses for the respondent claimed to know who paid for the rooms at the Belden Hotel, although all admitted that no funds were collected by the Committee. It appears that Carl Lappin, an Employee Representative who acted as paymaster to the Committee for the respondent, rented the rooms in his own name.

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[52] What the Editors are Saying About the Republic Strike—reprinted by Republic Steel Corporation, from *The Canton Repository* of June 10, 1937.

Since employees participated in the Back-to-Work Committee and since it existed in part, if not wholly, for the purpose of dealing with the respondent concerning a labor dispute, it is a labor organization within the meaning of the Act. From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Back-to-Work Committee and has contributed financial and other support to it.

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6. *The Steel Workers Union of America*

On July 13, approximately two weeks after the plants had reopened, a number of the members of the Back-to-Work Committee whom the respondent had paid for acting as guards met at "Monk" Stewart's home to discuss the formation of an organization. Several days later Frank Geltz, Chairman of the Association, told Stewart that the former Employee Representatives, whose terms had expired in June, were also considering forming a new organization. After one preliminary meeting of the two groups, a formal meeting was held on June 20 in the Belden Hotel, where Stewart was elected temporary Chairman; Lilly, Secretary; and Geltz, Treasurer. On the following day, at a meeting in the Belden Hotel with Attorney Frank Bow, the name "Steel Workers Union of America" was selected, application cards drawn up, and chairmen of organization committees appointed. Although at the time of the hearing on September 15 no constitution or bylaws had yet been adopted, and no membership meeting had been held, Stewart testified that all employees at the Canton Works, except supervisory employees and police, were eligible for membership and that of 3900 eligible employees, between 2500 and 2700 had signed application cards for membership.

Notices announcing the formation of the organization were posted in the plant; and members of the organization committees collected dues, initiation fees, and signatures to membership cards in the plant during working hours.

It is clear from the record that the Steel Workers Union, like the Independent Association at Massillon, was merely the successor to the Plan, the Association, and the Back-to-Work Committee, and still the creature of the respondent. Its officers were the officers of the predecessor organizations and its active members were former Employee Representatives or members of the Back-to-Work Committee. It received the same favors from the respondent as had the precedessor organizations. An organization with such antecedents, formed under such conditions, necessarily could not represent the free choice of the employees.

From the whole record, we find that the respondent has dominated and interfered with the formation and administration of the Steel Workers Union of America and has contributed support to it.

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7. *The discharges*

The complaint, as amended, alleges that three other employees at the Canton Works, besides Victor Arias, were discriminatorily discharged. The record shows that all three were discharged or laid off by superintendent Hopkins. We take up their cases in chronological order.

Mike Ugranovich. Ugranovich, a member of the union, had been employed by the respondent since 1934 as a grinder in the billet sheds. In 1935 he participated in the strike at the respondent's Berger Manufacturing Company plant. He testified that when he returned to work after that strike Edward Hopkins, superintendent of the billet sheds, "fired him off the job" for about a month, saying, "You got a job on the picket line and I cannot use you any more." Ugranovich then applied for his job to superintendent Baxter, who, in the presence of Hopkins, asked Ugranovich whether he had been on the picket line "and he asked me 'How long have you been in this country?' and I told him 'About 20 years' and he said 'Are you still crazy . . . I will give you your job back if you do not do that anymore' . . . He told me I would have to stick with the company."

In December 1936 and January 1937 Ugranovich attended a number of safety meetings in the plant, at one of which, he testified, superintendent Hopkins said, "Don't belong to the outside union. You got to stick with the company union. . . . If I find any more men (belong to the) outside (union), he cannot work for me." Ugranovich testified that on February 11, 1937, he was summoned to superintendent Hopkins' office where Hopkins said, "You have got some slow work, five and six weeks on a job. . . . Don't you mind that strike in 1935. . . . I give you a chance that time and still now there is something else outside, some kind of a name, C. I. O.—and you are in it already." Ugranovich was then discharged.

The Respondent contends that Ugranovich was discharged on February 8, 1937, not for his union activities, but because he came to work in an intoxicated condition. Superintendent Hopkins testified that, although he himself had not seen Ugranovich in a intoxicated condition, foreman Eichelberger reported to him that at midnight both he and the grinder boss had smelled alcohol on Ugranovich's breath and had sent him home with instructions to return in the morning, and that at 9 o'clock the next morning Hopkins had laid him off indefinitely because he had come to work intoxicated. "He tried to tell me that he was not intoxicated. I told him he was because my two foremen had told me that." Hopkins also denied some, but not all, of the statements attributed to him by Ugranovich. He denied that he had mentioned the C. I. O. to Ugranovich at the time he discharged him or said that his work was slow, but asserted, on the contrary, that in his opinion Ugranovich was a capable worker and not slow.

Eugene George a grinder foreman, testified that at 12 o'clock on February 8, when Ugranovich reported for work, he smelt a strong odor of liquor on the man's breath, noticed that the surface of the steel on which Ugranovich was working had circular instead of horizontal marks, reported to foreman Eichelberger that Ugranovich was in no condition to work, and saw Ugranovich leave with a wobbly step. George added that he told Eichelberger that Ugranovich had a habit of laying off on pay day, that he had spoken to Ugranovich once or twice before about coming to work with liquor on his breath, and that he now recommended him for a discharge. Eichelberger confirmed George's testimony and asserted that Ugranovich was apparently under the influence of liquor, that his work was being done in an improper manner, and that when Ugranovich left he walked in an uncertain condition.

Ugranovich, however, denied that he had come to work intoxicated or that he had been given that reason for his discharge; denied that he had been warned about coming to work intoxicated before, or that he had a habit of laying off for two or three days after pay day; admitted that the tool which he used had made circular instead of horizontal marks on the surface of the steel, but explained that the fault was due to another grinder in failing to have the required number of belts on the machine. Ugranovich also asserted that he had been "off booze for 28 months and never touched it."

In this conflicting state of the evidence it is instructive to consider the respondent's policy, as stated by George, Eichelberger, and Hopkins, with regard to men who come to work in an intoxicated condition. George testified that Hopkins had personally instructed him to send a man home if he came to work in an intoxicated condition, that he had observed hundreds of men in the mill with liquor on their breath and on certain occasions had himself come to the mill with liquor on his breath, but that he disciplined an employee by sending him home only if the liquor on his breath was very strong or the man wobbled. George also testified that of the hundreds of men whom he had observed with liquor on their breath, Ugranovich was the only one who wobbled and whom he reported. Eichelberger testified that the general policy of the company was that so long as a man could work safely and was not intoxicated to the extent that he wobbled, no matter how strong the odor of liquor on his breath, he was not sent home. Eichelberger also testified that he could not remember having recommended discharge of any of the hundreds of employees who had come to work with liquor on their breaths, but claimed in the past eleven years to have recommended some men for two or three day layoff because of liquor on their breaths. Hopkins testified that he sends an employee home but does not discharge him for his first offense in wobbling, and that even if he had smelled liquor on his breath a couple of times and he was wobbly he would lay him off for two or three days, but would not discharge him.

It thus appears that even if Ugranovich was intoxicated when he came to work, which he denies, and had come to work once or twice before with liquor on his breath, which he also denies, the normal procedure would have been to reprimand and discipline him with a two or three day layoff instead of discharging him. Despite the respondent's policy, however, he was discharged, and, according to George, was the only man ever to have been discharged under the "wobbling" rule. In view of Hopkins' statement to Ugranovich at the time of his discharge, which is only partially denied, and certain of his other antiunion remarks, which are not denied, we are satisfied that Ugranovich was discharged not for his alleged intoxication but because he joined and assisted the union.

Ugranovich has not received substantially equivalent and regular employment elsewhere. At the time of the hearing he had earned approximately $111 since his discharge.

Will S. Wright. During a strike in 1922 at the Canton Works, then owned by the United Alloy Company, one Ake, superintendent of employment for the United Alloy and later for the respondent, hired Will S. Wright as a strikebreaker, promising him that "if you stick with the Company, you will have preference for a job as long as you do not do anything out of the way with the Company." After working three months, Wright left the employ of United Alloy and worked elsewhere until 1933, when he was employed by the respondent as a chipper. In May 1935 Wright took part in the strike at the respondent's Berger Manufacturing Company plant. After this strike, when Wright applied for and was denied reinstatement, he testified that superintendent Hopkins told him, "Bill if you want to work here, you have to stick with the Company. You cannot have one foot over here and one over there and expect the Company to stick with you." In the early part of 1936 Wright was offered help in getting his job back by one Williams, a chipper employed by the respondent, whom Wright characterized as a "snitcher for the Company." Pursuant to Williams' instructions, Wright went to Ake, superintendent of employment, who gave him a note to Hopkins. Wright testified that Hopkins offered him a job if he would stick with the Company. Wright accepted.

After returning to work, Wright attended numerous safety meetings in the plant where superintendent Hopkins, foreman Johnston, and "Charlie, the bed foreman," on occasion told the employees, "You don't want to mess around with no outside union, because if you want to work, you cannot be tied up with no union." In the early part of 1937 Wright was asked by Beckner to join the C. I. O. Williams advised him, "If you aint signed, you better not sign, because the damn C. I. O. aint no good, if you want your job." Several weeks later Beckner again asked Wright in Williams' presence to sign a membership card. "Williams sneaked out," Wright testified, "and, about two days after that (on April 27).... I was called into Mr. Hopkins office." Hopkins informed Wright and other employees who were present that new men were being laid off in order to give the older men more hours. Wright stayed after the others had left and reminded Hopkins that he had been employed in 1922 and that Ake had promised him preference. Hopkins replied that he had told Wright that if he wanted to work for the Company, he had to stay on the right side of the fence and could not have one foot over here and one over there, and that Ake was "not running the show." "I told him," Wright testified, " 'I am on the right side of the fence when I work.' And he said 'You are not dumb, you know what I mean.' " Wright also testified that some of the chippers who were not laid off had less seniority than he.

The respondent contends that Wright was laid off with a number of other chippers, without discrimination, for purely business reasons. Hopkins testified that because of the lack of tonnage the respondent decided to lay off 37 chippers; that Wright was thirty-fourth in length of service, and was laid off in regular order; that the respondent's policy with regard to seniority was that if a man was laid off for 30 days or more, while there was work available, his seniority rights were lost; that Wright had been laid off on May 22, 1935, 6 days before the Berger strike and had returned to work sometime in 1936; and that with this lay-off Wright had lost the seniority rights which had accrued to him since his employment in 1933.

On cross-examination, however, Hopkins contradicted his earlier testimony with regard to the respondent's seniority policy, by stating that if an employee were laid off for more than 30 days, he would not lose his seniority rights. On this basis, it appears that Wright was entitled to credit for approximately two years' service, and that when he was laid off on April 27, 1937, the regular order of seniority was not followed.

Although Hopkins denied all of the statements attributed to him by Wright, we are convinced that his denials are not to be credited. The respondent had pointedly warned its employees in its statement of July 2, 1936, that it would not tolerate "conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management." On March 5, 1937, after publishing the respondent's statement of its open shop policy in the newspapers, Carl Myers had summoned the Employee Representatives to a meeting at which he repeated the respondent's statement of July 2, 1936. The record contains uncontradicted testimony that other superintendents and foremen had warned employees not to join the union under threat of loss of their jobs. Moreover, although Hopkins denied having made the statements at safety meetings attributed to him by Wright, he admitted that he could not recall what he had said. Ugranovich's testimony with regard to certain of Hopkins' antiunion statements is undenied. Under these circumstances we are of the opinion that Wright was laid off on April 27, 1937, because he had joined or was suspected of having joined the union.

Wright has not earned any money since April 27, 1937.

Sabri Shaban. Shaban was first employed by the respondent as a chipper from June 1933 until March 1934, when he left the respondent's employ for a visit to the "old country." In October 1936, upon his return, he applied to superintendent Hopkins for his former job. He testified that Hopkins asked him, " 'You belong to a union?' and I say 'No' 'If somebody go on the road and stop you . . . what are you going to say?' And I just figure and I sit two or three minutes. . . . He said 'What are you going to say to me now?' I say 'I know I no have to sign my name because I am hungry.' He said 'If you listen to me that way, I am going to give you a job right now.' And he gave me a job."

On or about April 23, 1937, Shaban went to work with a copy of the "Steel Worker," apparently a union newspaper, in his back pocket. Shaban testified that Hopkins saw the paper, pulled it from Shaban's pocket, and said " 'Why you no listen to me when I say I would give you a job.' And he throw away that paper and didn't say nothing that time. In three or four days he called me in the office and he say 'You no listen to me that time when I was talking to you and I give you a job and you belong to the C. I. O. now.' " Shaban was then laid off. He testified that many chippers hired with him on October 25, 1936, and others with less seniority were not laid off.

The respondent contends that Shaban, like Wright, was laid off on April 27 without discrimination, according to its policy of seniority. Hopkins testified that of the 37 chippers to be laid off Shaban was twentieth on the list, and that in determining Shaban's seniority he had counted the period from October 1936 to April 1937 and not the nine-month period in 1934 and 1935 when Shaban had worked for the respondent, in accordance with the respondent's seniority policy of cancelling rights which had accrued from former service, after a lay-off of 30 or more days. In view of Hopkins later admission that an employee did not lose his seniority rights after such a lay-off, it appears that Shaban would be entitled to credit for his service in 1934 and 1935, even apart from his claim that men hired on or after October 1936 were not laid off. Although Hopkins denied all statements and acts attributed to him by Shaban, we do not find his denials convincing for the reasons cited in our discussion of Wright's discharge.

We find that Shaban was laid off on April 27, 1937, because he was suspected of having joined the Union. Shortly after his lay-off, Shaban worked for approximately 4 days at the Canton Culvert Company, owned by the respondent, where he earned $25, his total earnings since April 27.

The cumulative testimony of Ugranovich, Wright, and Shaban, although denied in whole or part by Hopkins, satisfies us that Hopkins followed a policy of questioning employees on their union affiliations, and of discharging them or laying them off for real or suspected membership in the Union.

We find that the respondent has discriminated against Mike Ugranovich, Will S. Wright, and Sabri Shaban in regard to hire and tenure of employment, thereby discouraging membership in a labor organization.

C. YOUNGSTOWN

1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Youngstown District was adopted in June 1933 and slightly revised in June 1934 and March 1937. On April 19, 1937, at a special meeting of the General Body of the Employee Representatives, McCoy, the Management Representative, announced that the respondent would withdraw financial support from the Plan. Shortly thereafter, the Employee Representatives formed the "Employee Representation Plan" which purported to be financially independent of the respondent, supplied themselves with membership cards, and launched a membership campaign. On May 19, 1937, the Independent Federation of Republic Employees, herein called the Federation, was organized by the Employee Representatives for the dual purpose of lending support to the "new" Plan and taking measures to prevent the strike. Immediately after the strike was called and during the strike, the Federation sponsored the Back-to-Work movement and solicited signatures to back-to-work petitions. Thereafter, the Federation was combined with the Plan and a constitution and bylaws were adopted which purported to establish the Federation as a collective bargaining agency for the employees. The formation and activities of the "new" Plan and the Federation will be discussed hereafter.

The Plan at Youngstown, as it existed until April 19, 1937, was substantially indentical in structure and operation with the Plan in Massillon. It is therefore unnecessary to describe it at length. It is sufficient to point out certain circumstances and incidents which attest to its domination by the respondent.

The Plan was introduced and fostered by the respondent. Its adoption was never submitted to a vote of the employees, although the preamble to the March 1937 edition of the bylaws states that the Plan "has been adopted by the employees and the Company for the purpose of collective bargaining." John Guest, one of the Employee Representatives, testified that he was first apprised of the Plan in June 1933 when the foreman of his department handed him a copy of the bylaws and he saw posters announcing that the Plan would be put into effect and that, pursuant to it, nominations and elections of representatives would take place.

All the expenses involved in the conduct of the Plan were defrayed by the respondent, and all the necessary facilities were furnished by it. The Employee Representatives were reimbursed by the respondent not only for time lost during working hours but also for any additional time spent in attending meetings and performing other work in connection with the Plan.

In spite of the provisions in the bylaws that nominations and elections shall be "so conducted as to avoid influence or interference with voters," the evidence indicates that even the election campaigns were not always free from at least indirect participation by the management. Thus in the 1935 elections for Representatives, Joseph O'Hara, who opposed the reelection of John Guest, was granted permission by the foreman to leave his work and go around soliciting votes among the employees. Such permission was not given to Guest.

The testimony of Ralph Mondora, one of the Employee Representatives, shows that, at least in some instances, Employee Representatives were more concerned with the remuneration they received for their services than with promoting the interests of their constituents. Mondora admitted having lost interest in the Plan after the respondent announced its withdrawal of financial support. He testified, "We tried it and got to a point that there wasn't no funds, and we quit; I quit it as I wasn't going to use my time representing anybody, so I dropped out."

The futility of the Plan stemming from the respondent's control is strikingly illustrated by the operation of the

Joint Committees and the Joint Appeals Committee, Joint Committee No. 4, which were composed of five Employee Representatives and five Company Representatives. The submission for adjustment of grievances to Joint Committee No. 2, in charge of wages, employment, schedules and working conditions, generally resulted in a five to five vote. The same result ensued upon an appeal to the Joint Appeals Committee. Such a deadlock generally ended the dispute and, in effect, constituted a decision against the employees. It is further significant that even at the first annual meeting of Joint Committee No. 2, when officers were being elected, repeated balloting for chairman resulted in a five to five tie. The Employee Representatives finally conceded the chairmanship to the management.

Numerous provisions in the bylaws of the Plan reflected management control. Typical were the provisions requiring the approval of the Management Representative for holding special meetings of the committees, and the consent of the management in order to put the question of the dissolution of the Plan before the employees at an annual election.

At a number of meetings of the General Body, the Employee Representatives themselves signified their dissatisfaction with the Plan and leveled criticism against its operation. Thus at a regular meeting held on February 25, 1937, the General Body voted its protest against the methods used by some superintendents and foremen in calling in employees who had asked an Employee Representative to act for them, and requested that they be restrained from doing so unless with the consent and in the presence of the Representative.

At a special meeting held on March 15, 1937, the General Body discussed the sentiments of the employees relative to the Plan and recommended the following:

"1. A change in the Plan whereby it would not be dominated by the Management.

"2. A small fee of 25c of monthly dues and the right to use the check-off system to make the Plan self-supporting.

"3. The elimination of Nos. 2 and 4 Joint Committees, as has been proven nothing but tie votes are ever counted in those meetings.

"4. The right to hold meetings with the men they represent . . .

"6. When agreements are made, that they be made in writing and not orally.

"7. The right to recall Representatives.

"8. That when a case is presented to Management, to speed it up and not carry it over a lengthy period of time . . .

"10. The right of the Employee Representatives to hold a meeting and to have the employees who they represent cast a ballot as to their choice of the Plan—whether or not they wish to continue, or to have the check-off system of a monthly fee."

These proposals were submitted to the management at the meeting of the Central Council of Employee Representatives which was held in Cleveland on March 18, 1937. The policy of the management announced at the meeting was thereafter reported to the General Body at a meeting held on March 25, 1937. The management indicated that there was a possibility of eliminating Joint Committees Nos. 2 and 4, that it would give permission to Employee Representatives to hold meetings with their constituents, that it would grant the right to recall Employee Representatives, and that it would endeavor to speed up cases as much as possible. The management categorically refused to enter into any written agreement and to give permission to use the check-off system for dues. Significantly, the management was silent on the question of eliminating its domination over the Plan and of determining by secret ballot whether the employees desired the continuance of the Plan.

On the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation at its Youngstown District, and has contributed financial and other support to it.

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2. *Events preceding the strike; formation of the "new" Plan and the Federation*

The organizational activities of the S. W. O. C. in the Youngstown District began in July or August 1936. At some time thereafter, headquarters were set up in the Terminal Building, and Republic Lodge 1331 was established. Commencing in October or November, meetings were held first in Truck Drivers' Hall and then in the Roumanian Hall.

Surveillance of the meetings by company police began almost immediately. Joseph Gallagher, one of the first employees of the respondent to join the S. W. O. C., testified that whenever a meeting was scheduled, company police were present outside the meeting hall. Particularly conspicuous among the company police was Snyder, who, in the words of Gallagher, seemed "as though he was assigned permanent to that kind of work." The attitude of the company police is illustrated by the verbal altercation which, according to Gallagher, took place between them and Burke, a S. W. O. C. organizer, outside of Truck Drivers' Hall where a meeting was scheduled. An automobile with company police was parked near the hall. Burke said to them, "You better get going, rats," and the reply was, "We are here to stay if we have to shoot our way through it. You'se better get going."

On January 23, 1937, Gallagher was discharged. He had been employed as an inspector in the electrical department, and his duties consisted in making the rounds of inspection and answering whistles summoning him in case of any trouble. The evidence is conflicting with respect to the circumstances attendant upon his discharge. John H. Graft, the electrical superintendent, testified that during that time there was a flood condition in Mahoning Valley, that Gallagher was warned to "watch his step," and that he was nevertheless caught asleep in the control house, or "shanty," where inspectors were not permitted to rest. Graft further testified that he did not discharge Gallagher but merely told him to go home and get some sleep, and that he returned for his money and never requested to be permitted to come back to work. Gallagher, however, testified that he was always accustomed to rest in the "shanty" when there was no immediate work without anyone ever objecting, that there was no danger in his department that night, and that he left the shanty immediately upon the blowing of the whistle. According to Gallagher's testimony, the following conversation took place:

> " . . . my superintendent, Mr. Graff (Graft), says to me: 'Joe, I had Mr. Walker blow that whistle for you.' I says, 'What is it for, Johnny?' and he says: 'Well, you have been sleeping in there; you can go ahead home until I send for you.' I says: 'Well, you have got to give me a better answer than that, Johnny, before I ever accept it . . .'
>
> "He says: 'Well, Joe, I know you couldn't have been sleeping for you answered the whistle too soon, but,' he says, 'if I was you, I would go ahead on home.' "

When Gallagher returned to see Graft the following morning, the company police refused to let him enter. On pay day he received his money and was never asked to return to work. In view of the open hostility of the respondent toward outside unions and Gallagher's generally known membership in the S. W. O. C., we are inclined to the belief that the incident in the shanty was a pretext seized upon by the respondent to justify its conduct and that Gallagher was in fact discharged because of his affiliation with the S. W. O. C. However, it is unnecessary to make a finding with respect to this discharge, since it is not a basis of the complaint.

Beginning in February the S. W. O. C. organizers intensified their activities by visiting employees and talking to them about organization. Espionage by the respondent became correspondingly more systematic and persistent. Snyder was stationed near the headquarters of the S. W. O. C. in the Terminal Building and apprised other company police of the movements of the organizers. Gallagher testified that he was followed from the time he left his house at night to go to the Terminal Building until he returned. Charles Fagan, another organizer, testified to a particular occasion when he and Gallagher were followed "all around town" upon leaving the Roumanian Hall where they had attended a meeting. The automobile that usually followed the organizers bore license number H-763-V. On making an inquiry at the Bureau of Motor Vehicles in Columbus, Gallagher was informed that this license number was issued to Carl W. Parker, another of the company police.

Spying on organizers was not the only method by which the respondent endeavored to stifle union organization. Resort was had to the Plan as a means of spreading anti-union propaganda. Thus, at a meeting of the General Body in February, Elliott, district manager of the respondent, stated that it was up to each of the representatives to maintain the Plan in operation by going among their constituents and pointing out to them the merits of the Plan over the C. I. O. or any other outside organization.

This method was apparently ineffective. Unsuccessful in their attempts to get an increase in the wage rates, the Representatives, in a resolution adopted by the General Body on March 5, stated, "This Body feels it would be an insult to their intelligence to ask them to go among the men in favor of a plan that has failed to get for them what the employees of the other mills already enjoy." The respondent began, therefore, to pursue a more direct course of action.

On March 13, the day following the election of officers in Republic Lodge 1331, the foundry was suddenly closed. Twelve of the 14 men employed in the foundry were members of the S. W. O. C. and included Thomas White, President of the Lodge, and Charles Fagan, a member of the Grievance Committee. The foundry was a unit within the mechanical department and its chief products were molds or stools used in the open hearth and the Bessemer plant. William Manley, superintendent of the mechanical department, testified that the foundry was closed because there was a backlog of orders for Bessemer steel and the iron used at the foundry was required for the Bessemer plant. According to his testimony, for a period of at least 30 days prior to the closing of the foundry, conferences were held with the heads of the Bessemer plant, and it was decided to discontinue operating the foundry. He further testified that prior to the closing of the foundry the respondent had purchased some molds or stools to try them out.

This explanation is not convincing in the light of the attendant circumstances. The foundry had been in operation for 20 to 30 years and required only about 600 to 700 tons of iron per month, which amounted to two per cent of the iron used at the Bessemer plant. White testified that at about 3 o'clock in the afternoon of March 13 Manley came into the foundry and said, "Boys, I have bad news for you. Our foundry is being closed down for good." By way of explanation, he stated that he had orders from "up above" and was carrying them out. When Manley made the announcement, the molds in the foundry on which six men had been working since 10 o'clock in the morning were almost ready for pouring. It would have required only about 3 additional hours' work to close the molds and then cast them. Instead of completing the work, the men were ordered to knock the molds out. It is unlikely that the closing of the foundry would have proceeded in such haste and disorderly fashion if it had been made necessary by a shortage of Bessemer steel, and previously discussed at conferences.

We conclude rather that the closing of the foundry, where substantially all the employees belonged to the S. W. O. C., was another step in the continued efforts of the respondent to check the increasing union organization. It was designed to discourage union membership, and was particularly directed against White and Fagan, who were thus discriminated against in regard to the hire and tenure of their employment.[53]

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[53] On March 15 White, Fagan, and about four others who had been employed in the foundry interviewed McCoy, the Management Representative, regarding their positions. McCoy promised to extend his efforts on their behalf, but informed them that they would have to be hired through general labor. According to White's testimony, this signified being rehired as new men. When the men returned the same afternoon to get their tools, Bill Sponsler, the foreman at the Haselton furnace, handed them discharge slips. White objected and stated that he wanted to wait until pay day and look around in the meantime. But Sponsler replied, "I have my orders. You take these slips, and go and get your money." White testified that it was not the normal procedure in similar situations to discharge employees immediately, but that usually employees were permitted to retain their pay slips or time cards which enabled them to enter the mill at any time indicated on the cards and to communicate with the various foremen and supervisors.

Two or 3 weeks after the foundry was closed, McCoy secured employment for Fagan on the general labor gang at $5.00 a day. About 2 or 3 weeks thereafter Fagan was transferred to the coke works. Dissatisfied, he asked

At about the same time, individual employees in other departments were called in by supervisory officers and questioned about their affiliation with the C. I. O.

Richard Elder, a first helper in the open hearth department, testified that on March 13 George Putnam, the superintendent of the same department and Jones Cahill, the assistant superintendent, told him that they saw his name on the Executive Committee of Lodge 1331 in a C. I. O. pamphlet, and asked him whether he belonged to the C. I. O. Three days later, Putnam summoned Elder to his office and, according to Elder's testimony, said, "Dick, I always thought you was a good friend of mine . . . it don't look like it when you joined the C.I.O. . . . I just want to tell you that lots of times we have to let good men go that we don't like to lose, on account of union activities. . . I just wanted to tell you that." Putnam admitted questioning Elder about his C. I. O. membership, although he denied making the other statements and asserted that he merely warned him that he would be discharged if he did any organizing on company time.

Manley for a better position. Manley said he had nothing for him. About half an hour later, the foreman at the coke works asked Fagan his name and number, and said, "That is all I want to know." Several days later the same foreman told him he did not need him. Fagan returned to the labor gang, but worked only 1 or 2 days a week. He made two or three other attempts to obtain a position but was met with the reply that there was no work for him. Shortly before the strike, he received the vacation to which he was entitled.

Prior to the closing of the foundry, Fagan earned 84½ cents an hour and worked 6 days a week. He has not earned any money since he stopped working on the labor gang.

White was also offered employment on the labor gang, but he refused to accept it, and stated that in view of his years of service he thought he was entitled to a better position. Three or 4 weeks later, White told McCoy that he had been working out of town, but desired to return to the employ of the respondent. McCoy said he had to consult "one fellow" in the plant before White could be hired. Several days later, McCoy told him he could not take him back.

Prior to the closing of the foundry, White earned $44.40 a week. On about March 16 he obtained employment elsewhere and worked for about 6 weeks prior to the strike, commencing again on August 2. He left his employ at the beginning of the strike in order to participate in it as president of Lodge 1331.

Jerry Simcox, a second helper, testified that on March 13 or 14 Cahill and Putnam told him they understood he was an executive of Lodge 1331 and asked him how long he had been a member of the C. I. O. and how many followers he had.

James Farner, a welder in the line department and a member of the Grievance Committee of Lodge 1331, testified that Graft, the superintendent of the electrical department, asked him why he wanted to join the C. I. O. and get himself mixed up with a "bunch of cheap Bolsheviks." According to Farner's testimony, Graft also stated that the respondent would never recognize the C. I. O. and that the superintendents and heads of each department were to head "this thing off and save all our necks." Graft testified that he merely warned Farner not to solicit employees on company time and on company property.

Joseph Stevens, a second line man, testified that Graft called him and said, ". . . they tell me you belong to the union quite a bit . . . I would rather you keep your nose clean." Graft admitted talking to Stevens about his union activities, but denied making any statements designed to discourage him from continuing his union activities outside of the plant.

As indicated, the respondent's witnesses denied making certain statements intended to discourage union membership. However, the accounts given by the witnesses for the Board are more consistent with the evidence as a whole. Moreover, the respondent's witnesses admit that they questioned the employees regarding their C. I. O. membership. Such action by itself constituted intimidation and coercion of the respondent's employees.

Likewise, at about this time supervisory officers in different departments intensified the campaign of intimidation and coercion by spreading propaganda in favor of the

Plan and against the C. I. O. at meetings of the employees called by them for that purpose. Thus, in the middle of March a notice was posted on the bulletin board of the line shop in the electrical department announcing a "safety meeting." However, no safety measures were discussed. According to Stevens' testimony, Graft, the superintendent of the electrical department, spoke as follows:

> "Men, I am here in behalf of the ones that are interested in themselves and to try to convince the ones that are not interested in themselves, to be interested in themselves... Big Chief John L. Lewis . . . has never done anything for the laboring class of people . . . he won't do anything, only get your money and go on with it . . . you won't have any more than you have got, only you will be just out of a job or cause you a lot of trouble, you can't never get over, you lose friends . . . (the Representative Plan) has always give satisfaction . . . All the grievances that we have ever had to settle, have been carried out and treated the men right . . . regardless if every man in here joins a union, we are not going to recognize it. We are not going to sign any contract . . . we are not going to have no closed shop or no collective bargaining."

Stevens' version of Graft's speech is, in substance, supported by the testimony of Farner, who also attended the meeting. Graft denied attacking the C. I. O. and testified as follows:

> "I told them that there had been many pamphlets, booklets circulated in the plant, talking among the men, and articles in the newspaper as to what one would have to do to hold his job with Republic Steel Corporation. I told them that I had called them together to tell them just exactly what the policy of the Republic Steel Corporation was, and that it was not necessary to

> join any organization regardless of what anybody said, to get their job or to hold their job.
>
> "If they did join, that was their business. That under the Representative Plan we had been able to make very good strides. That I thought that our policy was the best policy for the men."

Several other meetings of a similar nature were held at various times during the month of April, after Golden, the Regional Director of the S. W. O. C., had written to Girdler regarding a proposed agreement. These meetings were addressed respectively by Manley, superintendent of the mechanical department, Elliott, the district manager, and Levantry, the works manager. In these addresses the C. I. O. was attacked, the Plan was extolled, and the policy of the company with respect to outside organization was emphasized. Thus, Elliott reiterated that the respondent would never sign with the C. I. O. or any other outside organization, adding, "Some of you fellows look at me as though to say 'to hell they won't,' but I say they might, but it would be a long, long struggle." Similarly, Levantry remarked, "This Company will never sign up . . . we will shut the mill up and board it up before we will sign with the C. I. O."

On April 19, as set forth above, McCoy announced at a special meeting of the General Body that the respondent was withdrawing financial support from the Plan. As reported in the minutes of this meeting, McCoy stated that "under the Wagner Labor Bill he would not be permitted to carry our time (as he has in the past) for attending meetings and explained that men off duty would not be compensated, but added that *men attending meetings during their regular working hours would be carried on their regular job*." (Italics supplied). A motion was then passed that a monthly fee of 25 cents be assessed against all members of the Plan, and a treasurer was elected. The only other significant change in the operation of the Plan was that membership was no longer automatic upon voting for a representative, but depended upon signing a membership card. In addition the name of the Plan, as it appears on the membership card, was changed to "Employee Representation Plan."

Shortly thereafter the Representatives began a membership drive in the "new" Plan and solicited employees within the plant and during working hours. The campaign does not appear to have been successful. Ralph Mondora, one of the Representatives, testified that the "Representatives tried to form their own organization, financed through the employees," but whatever funds they managed to secure were soon exhausted. Mondora testified also that he handled no grievances after April 19. When employees came to him, he "just turned them down, told them there isn't no such thing."

Plan activity was suddenly revived after the Cleveland conference of May 11 between representatives of the S. W. O. C. and the respondent. At the same time various measures were taken regarding the impending strike.

About a week before the strike, the Employee Representatives met to discuss steps for the prevention of the strike. Levantry, the works manager, was invited to attend. The Representatives voted to circulate through the plant and talk with the men. This was done. In addition, the respondent's supervisors assisted the Employee Representatives in holding meetings during working hours and on the respondent's property regarding the strike. Thus a meeting, previously announced by the foreman was held in the machine shop. Butler, the assistant master mechanic, introduced Jack Jones, an Employee Representative. In the course of his speech, Jones said, "We can have an organization of our own in here. We don't need this C. I. O. All they want is your dollar. . . Our representative plan is good enough for us, and I have some cards here for you fellows to sign that want to work. You fellows that want to hold your jobs, sign these cards." He then distributed membership cards in the Plan.

William Cummings, a machinist, testifying for the respondent, stated that shortly before the strike he was given permission by his foreman to dictate a petition to the Mayor of Youngstown for the signature of employees. In substance, the petition read, "We, the undersigned, not wishing to strike, in the event of a strike, ask for police protection to enter and leave the plant." Cummings could not recall on cross-examination where he derived the notion of preparing such a petition. He testified, "I might have gotten the idea from newspaper talk or something I had heard, that when there was a strike, that this had been done; now I don't recall whether or where. I didn't burden my mind particularly." Whether or not Cummings himself conceived the idea of the petition, he prepared it and solicited signatures on the respondent's time and within the plant. Cummings' memory was equally vague regarding the disposition of the petition after he had obtained the signatures thereto. He testified that two men whose names he could not clearly recollect asked him for a copy of the petition and he gave it to them. He also failed to recall the conversation that took place between them.

There is evidence that the same or a similar petition was circulated in other departments. John Guest, an Employee Representative, testified that a clerk in the electrical department phoned and notified him that a petition was waiting for him in the office and that they were "in a hurry to get it signed." Guest went to the plant and circulated the petition.

On May 19, at a meeting held in the office building of the respondent, the Independent Federation of Republic Employees, Youngstown District, was organized. Guest testified that a notice announcing the meeting was posted on the bulletin board in the masonry department. Mart Murphy, chairman of the General Body under the Plan, presided. Temporary officers were elected. John L. Smith, a mechanic in the electrical department, being elected chairman. Murphy explained that the purpose of the Federation was not to engage in collective bargaining but to cooperate with the Plan. He requested Representatives under the Plan not to run for office in the Federation.

Between the date of its organization and the strike, a number of departmental meetings were held by the Federation on company time. At each meeting John Smith announced from the chair the date of the succeeding meetings. Employees of the department next scheduled to meet were notified, on company time and property, by employees who had attended the preceding meeting. Walters testified that his foreman informed him of a meeting in the mechanical department. He inquired whether attendance was compulsory and the foreman replied, "Manley wants to see you all there." At the meeting, Cummings, a machinist, spoke through a microphone. He launched into a eulogy of the Plan and said, "This outside Union here, they are not for you or me." Another speaker talked about the Plan, the coal fields, the C. I. O., and John L. Lewis. He repeated, "They are not for you, they will do to you fellows just like they did to the fellows in the coal fields. They will double your dues. . . . You can't stop them once you sign their cause, then they can do as they please." Murphy pointed to Plan and Federation membership cards and said, "You fellows that want to work, sign the cards." The pamphlets of the Constitutional Educational League, entitled, "*Join the C. I. O. and Help Build a Soviet Amer-*

ica," were distributed.

Membership in the Federation was solicited not only at meetings but also individually. Michael Krill, an employee in the galvanizing department, testified that he was called in the foreman's office while another employee took over his work. Amel Valley, an Employee Representative, was seated at the foreman's desk. Valley asked Krill whether he wanted to join the Federation and handed him a membership card. He then remarked that there was not much use talking to Krill because he knew he was "100 per cent C. I. O.," but that he was supposed to speak to everyone in the plant. He added that Krill would be "better off" by joining the Federation. Krill was paid for the time so spent.

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3. *Events during the strike*

The strike commenced in Youngstown on the night of May 26. Immediately thereafter the Federation began to sponsor a back-to-work movement. Without consulting the other officers of the Federation or discussing the matter at any meeting, John L. Smith, the chairman, secured an office in the Dollar Bank Building, adjacent to the offices occupied by the Youngstown Sheet and Tube Federation of Employees. Back-to-work petitions were prepared for the signature of employees. Some of the petitions were retained in the office and others were distributed outside. Smith reimbursed the persons canvassing signatures for the gasoline used by them. Postal cards in the following form were dispatched to employees:

> "To All Republic Steel Employees:—
>
> "If you are desirous of returning to work as soon as possible, stop in at Room No. 212 Dollar Bank Bldg., and sign up with the BACK TO WORK movement

sponsored by the Independent Federation of Republic Employees.

John L. Smith,
Chairman."

The record does not indicate the source of the funds which were used in carrying on the back-to-work movement. Cummings testified that at one of the Federation meetings, the date of which he could not recall, the question of dues was mentioned and he handed Mart Murphy a dollar. Chester Crosby, ladle crane man, also testified that he paid dues without stating, however, the date of such payment. There is no other evidence, however, that at that time dues were either required or contributed by the employees.

Early in July, after the mills were reopened, the Federation held a meeting in order to combine the Federation with the Plan. As stated by Smith, "The purpose of that meeting was for the Independent Federation of Republic Employees to drop the old Representative Plan or combine the two of them together as one." He testified further,

> "Well, at that time the officers of the Representative Plan resigned and we took over the reins."

It was also decided to "donate" the members under the Plan to the Federation. The testimony of Ralph Mondora is revealing:

> "Q. Had the question ever been put to the members, and whether they wanted to become affiliated with this Independent Federation?
>
> "A. No, sir.
>
> "Q. Whether they wanted to be donated?
>
> "A. No, sir.
>
> "Q. That was an action that the officers were taking without the consent in any way of the members, is that correct?

"A. That is correct."

At a meeting held in the Central Auditorium on July 25, a constitution and by-laws were adopted. Application cards were prepared. Employees were solicited to sign application cards within the plant and on the respondent's time.

Although the new constitution and by-laws purport to make the Federation independent in form of company control, they cannot conceal its real purpose. The record clearly shows the policy of the respondent to perpetuate in its plants an organization subservient to its will and purposes and designed to thwart self-organization on the part of its employees. The Federation is merely a continuation of the Plan under a new guise and is tainted with the same illegality. Before the strike Federation meetings were announced by supervisory employees and held on the respondent's property. Prior to the strike and after the reopening of the mills, employees were solicited to join the Federation on the respondent's time and property.

On the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Employee Representation Plan and the Independent Federation of Republic Employees, Youngstown District.

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4. *The refusal to reinstate certain employees*

The mills in Youngstown reopened on June 25. Although the strike was still in progress, many employees returned to work. A number of them were refused reinstatement.

Harry Rigby. Rigby had been in the employ of the respondent for 26 years as an inspector in the electrical department. He joined the C. I. O. late in June 1937. Prior to the strike he was earning about $44 a week.

On Friday, June 25, Rigby and five other inspectors in the same department met and decided to return to work the following Monday. Kling, the foreman, phoned and said he needed men to start the mill at once. Rigby informed him of their decision to return Monday. Pursuant to Graft's instructions, Kling called again and said that if they did not return to work at once they would be replaced. When the men came to the mill on Monday, Kling said, "You fellows ain't got no jobs." Rigby saw Graft on July 13. Graft said, "Rigby, they tell me you are a chronic kicker . . . Charlie Ritchie told me that." Rigby replied that he did not believe that and that he had known Charlie Ritchie for a long time. Graft replied, "Well, I ain't got no more to say to you. You go home and stay home until I call for you." Thereafter, Rigby made attempts to see Graft again but was unsuccessful. Graft testified that the other inspectors admitted they made a mistake in not returning when told to do so and that they were all reinstated.

Upon the evidence in this case, we cannot find that Rigby was refused reinstatement because of his membership or activity in the Union.

John Lazar. Lazar commenced work for the respondent in 1919 and worked regularly until the strike as an inspector in the inspection department. He joined the C. I. O. in April 1937 and served on the picket line for about a week. Prior to the strike Lazar worked from 42 to 48 hours a week at the rate of 92 cents an hour.

On June 26 Lazar interviewed Bill Conklin, the assistant superintendent, regarding his job. Conklin said he would call him when needed. Lazar returned on June 28 to see Reubendale, the superintendent. Nearly all the other inspectors were there. Reubendale gave them checks and told them to start working. When Lazar's turn came, he said, "No, I don't give you your check yet," and asked him what he was doing in the picket line carrying a stick or a club. Reubendale finally said, "Well, I can't do nothing for you, John, just go on home, when we need you, we will call you."

Lazar spoke to his foreman, Don Weeks, shortly after the Fourth of July. Weeks said, "Well, John, I am sorry to lose you from down here. I like to have you back, but I can't do nothing for you. You have got to see Mr. Reubendale." Lazar called Reubendale on the telephone repeatedly and was always told to call "the last of the week" or the "first of the week." An August 9 Reubendale said to him, "I can't do nothing for you, John. Why don't you go in the C. I. O. . . . They will help you out."

Lazar has earned $2.50 since the beginning of the strike.

It is clear that Lazar was refused reinstatement because of his connection with the Union and of his activity in the strike. The respondent apparently attempts to justify this discrimination on the ground that Lazar carried a stick or a club in the picket line. For the reasons discussed hereinafter we are of the opinion that, under the circumstances of the case, such conduct upon the part of Lazar, if true, would not warrant the respondent in refusing to reemploy him.

Michael Krill. Krill worked continuously for the respondent from July 1936 until the strike. Prior to the strike he was employed in the galvanizing department and was earning from $6.75 to $7.00 a day. He joined the C. I. O. in January 1937, acted as a volunteer organizer, and served on the picket line.

At about 6 p. m. on June 28, Krill returned to the plant to seek his job. Linden, the foreman, told him to come back an hour later. Krill inquired whether it would be satisfactory if he returned the following morning since he had to go back home, change his clothes and get his glasses. Linden replied that it would be all right, provided he returned prior to the dead line, but he did not know when it was. When Krill came early the following morning, Linden said that it was too late and that the dead line was already in effect. Linden also stated that he was aware of the time of the dead line the previous night, but did not want to apprise him of it. Linden then suggested that he register at the employment office.

Krill called again in July, and Linden promised to send his number to the employment office if he was needed. On August 13 Linden told Krill that he turned his number in but that there was something wrong. He then asked him whether he was on the picket line and said they probably had his picture in the main office.

Krill has earned about $25.00 since the strike.

We find that Krill was refused reinstatement because of his connection with the Union and his assistance to the union during the strike.

Balare Chismus. Chismus started work for the respondent on May 18, 1936. Prior to the strike he worked as a laborer in the bar mill. He joined the C. I. O. on May 28 and served on the picket line.

Chismus returned to the mill on June 27 or 28 to inquire about his job. The turn foreman asked him, "Why did you monkey around the C. I. O.," and told him to wait for Warnock, the general foreman. Warnock said he did not have anything for him then and told him to come back in a few days. On a subsequent occasion Warnock advised him to go to the employment office. At the employment office he was told that "there is nothing to do now." He made another attempt to see Rose, the employment manager, but was prevented by the company police. According to Warnock's testimony, Chismus admitted to him that he was arrested on the Market Street bridge on the night of June 10, and for this reason he was denied reinstatement. Warnock did not assert that Chismus was guilty of any acts of violence. Warnock further admitted that as far as he knew Chismus did not carry a club on the picket line.

Since the strike Chismus has earned about $68.00.

We find that Chismus was refused reinstatement because of his affiliation with the Union and his assistance to the Union during the strike.[54]

William A. Haren. Haren commenced work for the respondent in July 1926, and was employed as a mixer crane man. Prior to the strike he worked 40 to 48 hours a week at 77½ cents an hour. He joined the C. I. O. on August 6, 1936.

On June 29, Haren went to the mill to inquire about his job. Charlie Ritchie, the foreman, asked him, "Where is your club," and said, "You have caused a lot of trouble around here. You have agitated . . . If I need you, I will call you." Haren asked, "That means that I am fired?" Ritchie replied, "No, we don't fire anyone."

Two or 3 weeks later Haren returned to the mill again. Pursuant to a policeman's instructions Haren went to the employment office. Haren told Rose, the employment manager, that he wanted to register. Rose said, "What do you mean, register? How long do you fellows think we are going to hold your jobs here,—forever? Didn't you know that the gates had opened 2 or 3 weeks ago?" Haren testified that he thereafter phoned Graft and received the reply, "We don't have anything for you, Bill . . . We will notify you when we need you. We are all filled up."

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[54] In the respondent's offer of proof filed with the Board on March 28, 1937, it is stated that on or about October 20, 1937, Chismus pleaded guilty to a charge of rioting. For the reasons discussed hereafter we are of the opinion that, under the circumstances of the case, the plea of guilty to such offense is not a bar to his reinstatement.

Graft testified that he refused to reinstate Haren because he had an affidavit from one of the employees to the effect that Haren was on the picket line carrying a club. Graft does not know either the size of the club or the length of time Haren carried it.

Haren has not earned any money since the strike.

We find that Haren was refused reinstatement because of his connection with the Union and his activity in the strike. As in the case of Lazar, the respondent was not justified in refusing to reemploy because of his alleged activity on the picket line.

Charles Neverdusky. Neverdusky began to work for the respondent on March 9, 1936. Prior to the strike he was employed as a hooker in the cut and lap shipping department and earned about $7.00 a day. He joined the C. I. O. on January 9, 1937.

Neverdusky was out of town on June 28, the date of the dead line in his department. On June 30 he returned and interviewed Rose at the employment office. Rose was unable to find his number in the files and said, "You are off the pay roll, altogether . . . You have to get rehired." Neverdusky came back the following day and showed Rose his pay stub. Rose made another unsuccessful attempt to find his number, and could not tell Neverdusky the reason for its absence. The latter persisted, " . . . who else but you could give me a reason? They would have to give you a reason for taking me off the pay roll." Rose said, "Who the hell am I to give you a reason? Get the hell out of here."

At the end of July or early in August, Neverdusky spoke to McCoy, the Management Representative under the Plan, regarding his job. McCoy said to him, "You are one of these guys, C. I. O. men that was on picket line carrying a club?" Neverdusky denied that he carried a club. McCoy said, "Well, you are one of these smart guys went down and filed with the Labor Board." To Neverdusky's query, "So that is where we stand?" McCoy replied, "That is exactly where you stand."

Neverdusky has earned $12.00 since the strike.

We find that Neverdusky was refused reinstatement because of his connection with the Union, his assistance to the Union during the strike, and his filing a charge with the Board.

Anthony Martin De Long. Anthony Martin De Long was employed as a hooker in the electric weld department from April 1935 until the strike. Prior to the strike he earned about $5.00 a day. He joined the C. I. O. in April 1937 and served on the picket line.

The dead line in De Long's department was June 28. De Long went to the employment office on June 30. Rose checked his number and said, "I don't believe there is anything here for you now . . . We will call you when we need you." De Long inquired how soon that would be. Rose replied, "I don't know, come back New Year's."

On July 3 De Long spoke to Campbell, the general foreman of the department. Campbell told him that he had a clear record at the electric weld and he liked his work but he did not know how he could get back. He suggested that he see Roy Case, the superintendent. De Long testified that in the course of his conversation with Case on July 5, Campbell came running from the other side of the office and said, "Roy, do you know who this boy is? . . . His name is Tony De Long." The expression on Case's face suddenly changed and he told De Long the work in the mill was slack, that there was nothing for him. De Long remarked, "Well, I can see that I am not wanted around here." Case replied, "Oh, yes, you are wanted around here. The men can use you. You are a good worker, and all that. The only thing you have to do is to keep walking to the employment office."

De Long repeatedly went to the employment office, but the police prevented him from seeing Rose. The police were stationed in front of the building. One of them had lists of numbers and names. Employees whose numbers appeared on the lists were permitted to see Rose. The others were told to come back the next day. Discouraged with his fruitless attempts at the employment office, De Long finally succeeded in contacting Campbell again. De Long said he wanted to be taken off the "merry-go-round" and to be told if he had any chances of returning to work. In one breath, Campbell said, "No, you are not fired," and in the next, ". . . You have to keep . . . walking down to the employment office. You have to be rehired."

Shortly thereafter De Long spoke with McCoy who told him, "You will have to wait until the case is over with the National Labor Board before you can go back to work."

We find that De Long was refused reinstatement because of his connection with the Union and his assistance to the Union during the strike.

We find that the respondent has discriminated against John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, and Anthony Martin De Long in regard to hire and tenure of employment, thereby discouraging membership in a labor organization.

D. Warren

1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Warren District of the respondent, comprising the Warren, Niles, and Trumbull Cliffs plants, was adopted in June 1933 and amended in May 1934. Shortly after the constitutionality of the Act was upheld, the Employees' Independent Association, herein called the Association, was formed. It purported to be a new organization and independent of the respondent. The activities of the Association will be discussed hereafter.

The similarity of the Warren Plan to the Plan at Massillon, Canton, and Youngstown renders it unnecessary to describe it fully. It is sufficient to indicate certain circumstances and incidents reflecting its domination by the respondent.

The Plan was initiated and sponsored by the respondent. Its adoption was never submitted to a vote of the employees. Ernest Webb, one of the Employee Representatives, testified that he was first apprised of the Plan at a meeting in June 1933 held in the office of the superintendent of the hot mill. Elliott, who was then district manager of Warren, explained the purpose of the Plan. The respondent bore the expenses of all the meetings and elections, both of which took place on company time and property, and of the entire functioning of the Plan. The representatives were paid their regular salaries for all time devoted to the Plan. Ed Mulligan, the chairman of the General Body of Employee Representatives, devoted most of his time to Plan work and was assigned an office for such work.

The record indicates that the elections themselves were not always free of management influence. Webb testified that prior to the election of the Chairman of the General Body in 1934, Mulligan, who was a candidate for the office, said to him, "Well, using some of the superintendents to probably bring a little pressure and a little politics, why we will make out all right."

The experience of Webb as chairman of Joint Committee No. 2, in charge of wages, employment, schedules and working conditions, is significant. Out of 17 requests for wage increases which were presented to the Committee during a period of 3 years, the employees won two and lost 15. The cases were lost as a result of a tie vote between the Employee Representatives and the Company Representatives both in Joint Committee No. 2 and in the Appeals Committee.

From the evidence as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Plan of Employee Representation, Warren District, and has contributed financial and other support to it.

2. *Events preceding the strike*

The circumstances surrounding the discharge of Richard John Green, a breaker operator in the hot strip finishing department, serve to illustrate the activities of the respondent prior to May 1937 when the anti-union drive reached its height.

Green joined the C. I. O. on March 2, 1937. On March 6 Paige, his foreman, summoned him to his office. As the office was occupied, Green was taken to the mechanic's shed where he was alone with the foreman. Green testified as follows:

> "He said: 'I called you in here, I want to ask you something. I want you to tell me the truth.' I said: 'I always have told you the truth, Ralph.' He said: 'I know that, that's why I called you in here.' He said: 'I hear your buddy, Jim Airwyke, is signing up members in the C. I. O.' I said: 'Yes, as a matter of fact, he signed me up.'
>
> "He said: 'What did you want to do that for?' I said: 'We men around here are not satisfied with the Company Union Plan. As it is,' I said, 'we have no representation at all.'
>
> "And he said: 'You have been long enough to know this Company's policy towards outside unions.' He said: 'You take my warning and get out of it, and everything will be O. K.' He said: 'I like you, and I don't want to see anything happen to you.' "

Paige further questioned Green regarding his attendance of C. I. O. meetings and admonished him "to stay away from them."

On March 21 Green was called to the office of Minahan, the superintendent. Minahan showed Green certain defective steel handled by him and said, "I am going to have to lay you off, and seeing that you have been laid off twice before, I will have to let you go." Green explained that the steel turned out "wavy" because the rolls were worn in the machine, and that the foreman was aware of it but said it did not "hurt anything." Green also explained to Minahan the reasons for his previous lay-offs. [55]

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[55] Green testified that his first lay-off was due to the "scratching" of some steel for which another operator was responsible, and that he submitted to a lay-off for 3 days rather than cause any trouble. The second lay-off occurred in March 1936. On that occasion Green and several other operators were instructed by the foreman to shovel coke because there was no immediate work on the breakers. Upon the refusal of the men to do so, the foreman sent them home and told them to stay home until he called for them. However, when the men explained the facts to Minahan a few days

Minahan said, "I could give you another chance, but you have been talking too much about the union, around here, ... if you had been any ordinary sweeper, there would have been some excuse for you, but you are more intelligent and should have known better ... As far as I am concerned, I am through with you."

Shortly thereafter, Green requested Glenn Dugan, an Employee Representative, to take action in his behalf. Dugan was doubtful as to the possibility of Green's reinstatement, since he had been attending C. I. O. meetings. A week later Dugan informed Green that Minahan even refused to discuss his case. According to Green's testimony, Dugan also said that "he could not understand the Company's policy in putting statements in the paper that any man was free to join any union of his own choice and then when he did so, then they fired him for it."

Unable to obtain any results through the Plan, Green communicated with Mayo, the C. I. O. Regional Director. Mayo secured the services of the Committee of Trumbull Lodge No. 73, and a meeting was arranged with officials of the respondent. The latter refused to give a definite answer.

About April 24 the Management Representative under the Plan, McClain, told the vice president of Trumbull Lodge that although he did not make any promises, he might consider reinstating Green but not James Airwyke or Arthur Scott, who were also discharged. On the same day the men decided to submit their case for determination by the Board. Several days later McClain called Green to his office to have "a man to man" talk with him. He said, "I hate to see a young fellow like you get off on the wrong foot with the wrong crowd," and asked him whether he

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thereafter, he said that they would have lost no time if he had been informed about the incident immediately.

wanted to return to work. Green was willing to return provided he was given back pay. Minahan said, "I will take you to the Labor Board and back four times before I give you your back pay." About May 3 or 4, Green decided to return to work without the back pay. He was asked to promise, however, not to talk about the union any more. Paige also told him that if he had heeded his warning he "would have never gotten into this trouble." [56]

Shortly after the constitutionality of the Act was upheld, the Employees' Independent Association was formed. Leaflets concerning the Association and membership cards were prepared for distribution. The leaflets were addressed to the employees of the Warren District and were signed by the members of a Committee, styled the "Reorganizing Committee for the Employes Independent Association."[57] Ed Mulligan, Chairman of the General Body under the Plan, was also chairman of this Committee. The leaflet indicates that the Association was intended to function pursuant to the provisions of the Plan as revised in March 1937. Presumably the reference is to the revision of the Plan adopted April 22, 1937, which has been described above.

An intensive Association membership drive began in

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[56] Green worked until the strike. During the strike Green was refused reinstatement. See *infra.*

[57] The leaflet reads in part as follows:

"In order that this plan can function in compliance with the various sections of the National Labor Relations Act (otherwise known as the Wagner Act), as regards rates of pay, wages, hours of employment or other conditions of employment, the plan was amended in March 1937 by the duly elected employee representatives.

"Paragraph 2, Section VIII, of the Wagner Act, recently held constitutional by the Supreme Court, provides, however, that an employer cannot contribute financial or other support to any labor organization. It is therefore necessary to secure financial support in order that our revised plan of collective bargaining can continue.

"If it is your desire to continue collective bargaining through a group of employee representatives chosen from among Republic employees, this can be accomplished by accepting membership in the EMPLOYES INDEPENDENT ASSOCIATION at a cost of Four Dollars ($4.00) per year . . . "

May, and was conducted with the active support and assistance of the respondent's supervisory employees.

On about May 1, Mulligan undertook to mail a great number of leaflets and membership cards to employees. He performed this work in his office in the respondent's hospital building. Eddie Werner, assistant to the employment manager, helped Mulligan by folding the leaflets and cards, placing them in envelopes, and sealing them. Mulligan told Webb, an Employee Representative, that he had to mail about 5600 leaflets and cards and believed he could obtain the necessary money from the Athletic fund. This fund, which was under the supervision of a Plan committee, consisted of gate receipts of various sport events held on the respondent's ball grounds and of the rentals charged outside parties for the use of such grounds.

The membership campaign was not altogether successful. The employees were reluctant to sign the cards. On about May 12, McKinney, a superintendent, asked Webb why none of his men signed Association membership cards. Webb testified:

> "I said: 'How do you know?' 'Why,' he said, 'Mulligan told me.' I said: 'What business did he have telling you?' I said: 'This is supposed to be a secret order.' 'Well' he says, 'you will have to go out and talk to them, talk to these men.' He said: 'You are a free lance, you get around all over the plant.' "

Webb refused to comply with McKinney's request, saying, "You know that the Wagner Bill has been passed." McKinney suggested that Webb consult Mulligan about it. Mulligan was absent from his office at that time. While Webb was waiting, Frank Neale, assistant to the master mechanic, entered and examined the membership cards in Mulligan's files. Shortly thereafter, Lowry, the master mechanic's chief clerk, came in with a handful of membership cards and deposited them with the other cards. Several days before the strike, McKinney again complained that he was in a "tough spot" because the men under his supervision had not returned the membership cards.

A number of foremen were themselves directly engaged in soliciting members for the Association during working hours and on the respondent's time. Thus about May 12, Michel, the general labor foreman, asked Eli Parkovich, a foreman in the labor department, whether he joined the "company union," and told him that ". . . everybody wants to work, got to join the company union." He then instructed him to take down the names and numbers of the men in his gang who refused to sign membership cards.

About May 14, Taylor, the foreman of the blast furnace, approached Ernest Garnett, an operator of a "lorry" car in the stock house, and inquired why he failed to return the Association card which had previously been mailed to him. Garnett replied that he already belonged to the C. I. O. Taylor then said "If you know what is good for you, you will sign that." On the same and subsequent days, Kerwin, the superintendent of the blast furnace, engaged Garnett in conversation regarding the C. I. O.

William M. Cain, a roll turner, testified that about May 15, Baldwin, the foreman of the roll turner department, approached him while he was working and asked him what he thought about the "company union." When Cain expressed his opinion, Baldwin said, "I don't give a damn what you think of the company union, that don't interest me at all. I am on the spot. The roll turners at the Niles plant have signed up 100 per cent for the company union. The roll turners at the strip plant, fifty per cent of them have signed for the company union. I have eight men here, not one man has signed for me, and I am on the spot, and I think you fellows owe it to me to sign that card." Baldwin then told him not to worry about the dues because "the company will take care of that."

George Carter, a locomotive engineer, testified that a few days before the strike, Miller, his foreman, asked him and another engineer whether they received a letter with a white card. Carter argued that it would be useless to pay $4.00 a year to join an organization that was of no benefit to him. Miller told him to forget the $4.00 and explained that there was nothing on the membership card regarding the payment of dues. When Carter refused to sign the card, Miller launched into an attack on the C. I. O., saying that it consisted of a "bunch of communists and bolsheviks."

On the basis of all the evidence we find that the respondent dominated and interfered with the Employees' Independent Association, Warren District, and contributed support to it.

3. *The strike*

The strike began at Warren on the night of May 26. Various preparations were made to meet it on that day. Richard Green testified that at the end of his shift on that night he joined the "hot mill" men who were on their way to the strip mill in order to urge the strip mill employees to join the strike. However, on the track between the strip mill and the sheet and tin department there were lined up a couple of hundred "loyal" workers and "bosses" armed with sledge hammers, pikes, and other weapons. As the hot mill men were going through the sheet and tin department, Ginert, the superintendent, yelled at them, "Come on, you sons-of-bitches, we are waiting for you." Not desiring to create any trouble, the men decided to leave the mill.

As the employees in the cold strip shipping department were ready to leave at 11 o'clock, Bill Thompson, the "boss" of the department, said, "You have to stay here to protect your jobs. . . . If you go home, you won't have any more jobs in this department." John Riffle and Albert Lewis, impelled by the fear of losing their jobs, remained in the plant. They slept on the floor. Next morning they were given an order for the restaurant. The only supply of food in the restaurant consisted of hamburger sandwiches and coffee. In view of the number of people who had to be served, the hamburger was not properly fried and both Lewis and Riffle became ill. They went home the same day.

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4. *The refusal to reinstate Green and Hite*

About June 25 or 26 employees began to return to work. Richard Green and Hallie Philip Hite, it is alleged in the complaint, were refused reinstatement because of their union affiliation.

Richard Green. Green was actively engaged during the strike in transporting strikers from the S. W. O. C. headquarters to the plant for picketing duty. On June 25 or 26 he went to the Warner Hotel where, he had been informed, passes were distributed enabling employees to get through the National Guard lines and enter the plant. In the lobby Green met McClain, the Management Representative under the Plan, who laughed at him and motioned to him to get out. He then asked someone where to go in order to find out about returning to work. He was directed to the mezzanine floor where Mulligan, the chairman of the General Body under the Plan and chairman of the "Reorganizing Committee for the Employees Independent Association," was seated at a little table and had several lists in front of him which were believed by Green to con tain the names of the men who were to return to work. He informed Green that his name was not on the eligible list and refused to give him a pass. Green testified that there were two others present, St. Clair and Blanchard Bolton. Bolton explained to Mulligan that he was on vacation when the strike commenced, and was thereupon told that he would be given a pass to see his boss. St. Clair was unsuccessful.

Green testified that he made no subsequent attempts to return to work, because he had heard that several men who had communicated with his superintendent were told that they would be called back when needed but never were.

The respondent contends that Green's visit to the Warner Hotel does not constitute an application for work, and that Mulligan's refusal to issue a pass does not constitute a refusal to reinstate Green, since Mulligan had no authority to register any employees or to assign them to any department, but simply acted as an Employee Representative and cooperated with the men for their own best interests. Green testified, and his testimony is not contradicted, that passes were necessary in order to get through the National Guard lines. It is inconceivable that the National Guard would have honored passes issued by Mulligan or anyone else had it not been instructed to do so by the respondent. That Mulligan's actions were authorized or at least acquiesced in by the respondent is further indicated by the presence in the hotel of McClain, who was the Management Representative under the Plan and who, as indicated above, had a voice in the hiring and discharging of employees. Moreover, Mulligan was the Chairman of the General Body under the plan and of the Association, which, as we found, were dominated and interfered with by the respondent and were but the tools of the respondent. Thus the respondent at the very least permitted

Mulligan in issuing or refusing to issue passes to hold himself out as acting for the respondent. It was, therefore, reasonable for Green to believe that Mulligan was acting with the respondent's authority. The natural interpretation of Mulligan's refusal to issue Green a pass based on lists of employees before him is that he would not be reinstated and that it would be useless for him to make any further attempts.

We find that Green was refused reinstatement by the respondent because of his connection with the union and his assistance to the Union during the strike.

Prior to the strike, Green earned about $9.50 a day. Since the strike he was employed for 1 day as a deputy sheriff and 2 weeks as an electric welder at the American Welding Company. His check for the first week was $26.-41.

Hallie Philip Hite had been in the employ of the respondent since September 1923. Prior to the strike he was a yard conductor and "dumper" at the Trumbull-Cliffs plant, and earned $1.04 an hour with time and a half for working over 40 hours a week. Hite joined the C. I. O. on May 27 and served on the picket line.

Shortly before the strike, M. R. Martin, the traffic manager, and Kilcanney, the foreman, asked him to sign an Association membership card. Hite refused.

On about June 25 or 26 Hite was informed by Lavelle, one of the respondent's engineers, that the men were returning to work. The same day Hite saw Kilcanney and inquired about his job. Kilcanney said, " . . . if you go back to work, you have got to go back as a new man, rehire, that is, if they want to take you." Hite replied that he would never return as a new man after 14 years in the respondent's service. Hite made no further attempts to secure a job. According to his testimony, it would have been useless, since Kilcanney told him he had "the inside dope."

Hite has not earned any money since the strike.

We find that Hite was refused reinstatement because of his connection with the Union and his activity in the strike.

We find that the respondent has discriminated against Richard Green and Hallie Philip Hite in regard to hire and tenure of employment, thereby discouraging membership in a labor organization.

E. CLEVELAND

1. *The Plan of Employee Representation*

The Plan of Employee Representation in the Cleveland District was a continuation of the Plan which had been established in the Corrigan, McKinney Steel Company in 1933.[58] In March 1937 the by-laws were amended, apparently pursuant to the revision proposed at the Cleveland conferences of the Central Council of Employee Representatives. This revision, as already pointed out, contained minor changes only and in no way removed the respondent's control over the Plan. Shortly after the constitutionality of the Act was upheld by the Supreme Court, Wakefield, the Management Representative, announced at a meeting of the General Committee of the Employee Representatives[59] that the respondent would no longer be able to contribute any financial support to the Plan. Thereupon the Employee Representatives formed the Employees' Representative Association, a new organization which purported to be independent of the respondent. The formation and activities of the Association are further discussed hereafter.

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[58] The assets and properties of the Corrigan, McKinney Steel Company were acquired by the respondent in September 1935. In April 1936 the name of the Corrigan, McKinney Steel Company, appearing in the bylaws of the Plan, was replaced by "Republic Steel Corporation, Cleveland District."

[59] The General Committee as set up in the by-laws of the Cleveland Plan corresponds to the "General Body" in the other districts, and is, in fact, referred to by witnesses as the "General Body."

The Plan in the Cleveland District up until April 12, 1937, was similar in structure and operation to the Plan in Massillon and the other districts. It is therefore unnecessary to describe it at length. It is sufficient to state that the employees were never given an opportunity to vote on the adoption of the Plan; that the respondent defrayed the expenses of all the meetings and elections, both of which were held on the respondent's time and property, of clerical and stenographic services, printing, and of the entire functioning of the Plan; and that the representatives were compensated by the respondent for all time spent in connection with the Plan whether during working hours or outside of working hours.[60]

We find that the respondent dominated and interfered with the formation and administration of the Plan of Employee Representation at its Cleveland District.

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2. *Events preceding the strike*

The campaign to organize the respondent's employees in Cleveland began in June 1936. At that time, there not being any Lodge set up for the respondent's Cleveland employees, they began to join the Otis Steel Lodge.[61] The men were at first compelled to hold their meetings secretly.

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[60] The following incident serves as an illustration of the operation of the Plan: John Exall, a chipper at the Corrigan, McKinney plant, testified that in the 1936 elections for Representatives he was defeated by five or six votes. He subsequently learned that Peters, the superintendent of the department, urged the employees not to vote for him, saying, "Don't vote for this man. He is a radical. He is a Communist. Even if he get elected, we going to fire him." To one employee who praised Exall as being a "good man" Peters said, "If you think he is a good man, then you are a Communist yourself."

As has already been stated, the respondent met the announcement of the campaign for the unionization of steel workers by its statement of July 2, 1936. Immediately thereafter it began a campaign to discourage and thwart organization.

(*a*) *The discharges*

Almost from the very first the respondent resorted to the weapon of discharges. We will take up in order those individuals named in the complaint as having been discriminated against for union activity. The respondent introduced no evidence to rebut testimony that the discharge of these men constituted unfair labor practices.

Thomas Cikah. Cikah commenced to work at the Corrigan, McKinney plant in 1925. Prior to his discharge he was employed as a locomotive engineer in the coke plant.

Cikah testified that during July and subsequent months company police watched the beer parlor operated by his wife near the plant, which was frequented by Balint, a C. I. O. organizer, and others connected with the C. I. O. Cikah joined the Union on July 2, 1936. Shortly thereafter Wall, the superintendent, summoned him to his office and inquired whether he belonged to any union. When Cikah replied that he did not, Wall advised him: "For . . . sake, don't join a union. They are no good. They don't give you anything."

Cikah was discharged on July 9, 1936. His foreman told him he was discharged because of his failure to stop the smoke and put out fires in the ovens under his supervision. Cikah testified, however, that he was not at fault in this regard and explained that while he was running the locomotive he could not do anything else. He also testified that there had previously been no complaints concerning his work. Furthermore, when he was reinstated shortly before the strike, he was assigned to his old position. This reinstatement took place on May 14, 1937, after Cikah had filed a charge with the Board.

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[61] The Otis Steel Lodge had been established by the Amalgamated for the employees of the Otis Steel Company.

At the time of his discharge Cikah was earning 59½ cents an hour. Since then the rates for locomotive engineers have been raised to 74 cents an hour. He did not earn any money between the date of his discharge and reinstatement.

On the basis of the whole record we find that Cikah was discharged because of his membership and activity in the Union.

John Popik. With the exception of a lay-off of five or six months, Popik worked as a rigger at the Corrigan, McKinney plant continuously from February 6, 1934, until his lay-off on August 10, 1936.

Popik joined the C. I. O. on about August 3, 1936. On August 9 he was directed to report to the office of Agnew, the master mechanic, who questioned him regarding his membership in the C. I. O., and remarked, "Don't you know that this plant (is) never going to be organized? . . . this company got a lot of money and (is) going to break any Union in the world." On the following day Agnew again summoned Popik and said, "I got news for you . . . I got to let you go. That is the news." Shortly thereafter Popik saw Krause, the employment manager, and inquired whether his C. I. O. membership was the reason for his lay-off. In reply Krause put his fingers to his lips and said, "Sh-h-h."

After his discharge Popik filed a charge with the Board. On May 8, 1937, he received a card from the respondent directing him to report to the main office. Krause then reinstated him to his former position as a rigger.

At the time of his discharge, Popik was earning 55 cents an hour plus a tonnage bonus. Since then the hourly rate for riggers has been increased to 72 and 75 cents. Between the date of his discharge and reinstatement, Popik earned $50 or $75 hauling coal in his own truck.

Upon the entire record in the case, we find that Popik was laid off because of his membership in the Union.

Frank Pirichy. Pirichy worked for the respondent off and on from May 1934 until his discharge in the latter part of August. For about 6 or 7 weeks prior to his discharge he was employed as a chipper in the chipping department. Pirichy joined the C. I. O. on July 1 or 2, 1936, and did considerable organization work among the respondent's employees. He testified that he succeeded in organizing about 100 men in the chipping department.

Late in August, when Pirichy reported to work on his shift, he was unable to find his time card on the rack. Upon inquiry, it turned out that the company policeman in attendance was in possession of Pirichy's card together with five or six others. Pursuant to the policeman's suggestion, Pirichy contacted Krause the following morning. Krause informed him that he had received orders from George Belline,[62] the superintendent of the chipping department, to dismiss him. Krause was unable to give him any further explanation, and stated, "according to my record, you perfectly O. K. . . . I have no complaint against you. I don't know what it is all about."

Pirichy testified that the words "no work" were written on the discharge slip handed to him. Nevertheless, about 15 or 20 new men were hired in his department during the same week. Again, when Pirichy returned to the employment office about 2 weeks later, he witnessed the hiring of additional men. His own request for employment, however, was repeatedly turned down with the reply, "We have nothing for you."

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[62] Also referred to as George Bellew and George Balleau.

Pirichy filed a charge with the Board about a week after his discharge. On May 11 he was reinstated to his former position and worked until the strike. At the time of his discharge he was earning 60 or 62 cents an hour. The rates for chippers have since that time been raised to 72 cents an hour. After his discharge Pirichy was employed by the W. P. A. for a period of four and a half months and earned $71 a month.

On the basis of all the evidence we find that Pirichy was discharged because of his union membership and activity.

George Troyanovich. Troyanovich began to work at the Corrigan, McKinney plant on September 3, 1925. At the time of his discharge on August 27, 1936, he was employed as a bed chain man.

Troyanovich became a member of Otis Steel Lodge in the latter part of June. On July 24 he met two organizers from the Otis Steel Company, Casey and Murphy, who invited him in their car which was parked on Broadway and engaged him in conversation. The conversation centered about the circumstance that the respondent's employees were being "called in" and questioned by their bosses and by Jones, the captain of the company police. Casey and Murphy expressed the belief that Lohman, an Employee Representative in the coke department, was furnishing the respondent with information. Upon leaving the two men, Troyanovich encountered Sam Naletrich, a loaderman in the coke department, who repeated that men were being called in. Naletrich then warned him, "Watch yourself, here comes the company stool." Troyanovich looked around, and saw a man coming slowly down the street. Naletrich remarked, "That fellow hangs around the beer joint all the time . . . he turns in fellows that sign up." Troyanovich then went to the office where he received his vacation money. On his way out, he noticed that the man who had been pointed out to him by Naletrich was talking to a company policeman.

On the same day Troyanovich was ordered to report to the main office where Wakefield, the Management Representative, and Captain Jones questioned him concerning his conversation with the two men on Broadway. Believing that a denial would be futile, Troyanovich admitted that they were two organizers from the Otis Steel Company. Captain Jones thereupon launched into an attack against the C. I. O. and accused John Lewis of being a racketeer and "out to make money for himself." He admonished Troyanovich to stay away from the two Otis Steel men if he knew what was good for him. When Troyanovich stated that he was "neutral" on the union question, Wakefield asserted that it is impossible to be neutral and that one must be either for or against the company. Troyanovich was then urged to influence the men in favor of the Plan and against the C. I. O.

Troyanovich left on his vacation the same afternoon. When he returned his house was watched by men who arrived in a car and parked on the other side of the street. Upon his leaving the house, the car also disappeared.

Two or three days after he returned from his vacation Troyanovich was summoned to the office of Zimmerman, the superintendent of the order and shipping department. Shriber, assistant to the district manager, talked to him. Troyanovich testified:

> "Well, he first said that he was very much disappointed in me, and I wanted to know just what he meant by that. He said that I knew what he meant. He didn't get to the point. And then he said, 'You know . . . they are going to start organizing this union down here . . . there is going to be a lot of trouble . . . We have had intentions of putting in a new mill here in Cleveland, . . . if this threat of the union drive is going to go through, we might change our minds and not put the mill in here, . . . you know there is going to be some good jobs when that mill goes up . . . you look like a pretty intelligent fellow . . . if you work with us, why . . . we will see that you will get a good job.'
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> And he further stated . . . 'You know, the Republic Steel has the reputation of being very good to its friends, and damned ruthless to its enemies . . .' "

The same day Balint, the C. I. O. organizer, told Troyanovich that he was slated to be discharged. He explained that Lohman had signed an affidavit confessing that he was compensated by the respondent for furnishing information regarding employees who had joined the C. I. O.

When Troyanovich reported for work on August 27, Robbins, the chief chipper, stopped him and stated that his work had been unsatisfactory. He refused to explain any further. He said, "Charlie Barrie has got the proof," and added, "You have been a bad influence around here in the past two months."

Thereafter Troyanovich requested the Employee Representatives to take action in his behalf. An interview with Wakefield proved fruitless. He stated that they had enough to "hang" Troyanovich and would never rehire him. The Employee Representatives then appointed a committee to see Barrie and ascertain the facts relative to the discharge of Troyanovich. Barrie informed the committee that about

2 months before he had been instructed by his "superiors" to watch Troyanovich, that he had on numerous occasions observed him conversing with a group of five or six men, and that he turned him in because he was "suspecting that the man was talking about the Union and about Communism."

The matter was then submitted to the General Committee at a meeting held on September 8, 1936, and a motion was unanimously adopted recommending the reinstatement of Troyanovich. John Exall, an Employee Representative, testified that about a week after the meeting Carpenter called him into his office, upbraided him for "raising hell" about Troyanovich, and stated that he was a Communist and would never be taken back.

At the time of his discharge Troyanovich averaged over $5 a day and worked 6 or 7 days a week. On September 30, 1936, he secured employment elsewhere at loading coal and worked for 3 months, earning $26.30 weekly. Since the first of April his earnings averaged only between $5 and $10 a week.

Upon all the evidence in this case, we find that Troyanovich was discharged because of his membership in the Union.

Michael Naletrich. Naletrich worked at the Corrigan, McKinney plant continuously from 1917 until his discharge on September 9, 1936. At the time of his discharge he was employed as a loaderman in the coke department. He testified that he had never been laid off and that his work had at all times been satisfactory.

Naletrich joined the C. I. O. in July 1936, and was active in organizing employees. In the middle of August he took 10 employees to Cikah's beer parlor where they were signed up by Fred Korecky, a speed car operator at the

Corrigan, McKinney plant, and recording secretary of Lodge 1098, an S. W. O. C. Lodge. Naletrich testified that he was watched by men from the respondent's office as he entered the beer parlor with the employees. On about September 6 he was directed to report to the superintendent of the coke plant, Wall, who glanced at a slip of paper in his hand and inquired whether Naletrich had joined the C. I. O. Naletrich denied his membership. Wall warned him "Better don't join." After this conversation Naletrich was closely watched by his foreman.

On September 9 Naletrich was discharged. By way of explanation his foreman told him that he had made a "big mistake" a month ago when he had pushed the coke before the whistle blew. Naletrich testified that he had already been penalized for his mistake by a one-day lay-off, and that others had committed the same error but were never discharged as a result. After his discharge he repeatedly tried to get his job back but was unsuccessful.

Naletrich filed a charge with the Board in March 1937. On May 6 he received a card from the respondent asking him to return to work. For 3 days he was assigned to loading doors and then he was reinstated to his former position.

At the time of his discharge Naletrich was working at the rate of 59 cents an hour. For the first 3 days after his return to work he earned 57 cents an hour and thereafter 74 cents, which constituted the new rate for his former job. After his discharge Naletrich was employed elsewhere for a period of 8 weeks and earned about $160.

Upon all the evidence we find that Naletrich was discharged because of his membership and activities in the Union.

Fred Korecky. Korecky worked at the Corrigan, Mc-

Kinney plant more or less regularly from 1930 until his discharge on December 19, 1936. During the first two and a half years he was a pump operator. Then he was employed as a speed or service car helper and was finally promoted to the position of service car operator. He testified that as far as he knew his work had always been satisfactory.

Korecky joined Lodge 1098 on July 26, 1936, and was elected recording secretary a month later. He was active in organization work among the employees. As already noted, in the middle of August he signed up the employees brought into Cikah's beer parlor by Naletrich. During the month of November Korecky was on different occasions questioned by Wakefield, the Management Representative, and Tull, the electrical superintendent, regarding his C. I. O. membership. Korecky denied that he had joined the C. I. O. He testified that after these conversations took place, his house was watched by a man, whom he recognized as a sergeant or lieutenant in the company police and whom he had previously seen in the mill.

On December 19 Korecky was laid off. In accordance with the suggestion of Homer Kerr, the turn foreman, he reported the following morning to the employment office where he saw six laborers being hired. Korecky implored Krause to give him anything at all, even a laborer's job. Krause's reply was, "No." Korecky insisted, "Why you just hired six men out there. I seen them come in here and I seen you signing them up now." Krause said, "Oh, never mind."

Although it is not entirely clear, Korecky's testimony on cross-examination indicates that the occasion for Korecky's lay-off was furnished by the elimination at that time of gasoline locomotives from the equipment used in the service car work and the substitution of gasoline trucks.

The service car gang consisted of Korecky and seven other men who had all joined the C. I. O. and were laid off at the same time. Korecky testified that all these men were subsequently taken back although he did not know on what dates. Korecky further testified that he was sixth in seniority in the service car gang but had greater seniority in the electrical department.

Korecky's case was discussed at a meeting of the General Committee of Employee Representatives on January 5, 1937. Korecky, who was called in to explain the facts of his case, stated that he had seniority rights in the electrical department where men were being hired on the pumps and on the construction gang. He was later informed by John Exall, one of the Representatives, that the General Committee recommended his reinstatement by unanimous vote. However, no further action was taken in the matter.

Korecky filed a charge with the Board in January. On May 18 or 19 Krause offered him a laborer's job. Korecky did not report to work, since he was occupied with some business matters for a few days, and then he heard that a strike was to be called.

On the basis of all the surrounding circumstances it must be concluded that Korecky was discharged and refused reinstatement until shortly before the strike because of his affiliation with the C. I. O. There is no evidence that the other men on his gang who had been taken back engaged in any organization work other than joining the C. I. O. Korecky, however, distinguished himself by securing the signatures of other employees. It may be that Korecky's position was in fact eliminated. He was, however, willing and anxious to accept any work for which he was qualified. Such work was denied to him although other men were being hired.

At the time of his discharge Korecky was earning 62 cents an hour and worked alternately 40 and 48 hours a week. He was paid time and a half for working over 40 hours a week. Between the date of his discharge and recall he earned about $370.

John Exall. Exall was employed as a chipper in the Corrigan, McKinney plant from the spring of 1933 until his discharge on January 14, 1937. He joined the C. I. O. on July 2, 1936, and held the position of treasurer in Lodge 1098. It will be recalled that Exall, in his capacity as alternate Representative, endeavored to bring about the reinstatement of George Troyanovich who was discharged on August 27. On September 14 Carpenter summoned Exall to his office and said to him, "Exall, do you care to work any longer for us? . . . What the God-damn Hell are you raising hell about George Troyanovich? We fired him and when we fire him we never take him back, either. You know, he was a Communist." Carpenter then questioned Exall about his children and their education and suggested, ". . . suppose there is a chance for you to become a chipper foreman." Exall replied, "Mr. Carpenter, as long as I represent here, I decline the proposition. If the company thinks that I am good enough to become a chipper foreman, when my turn is over, I will think it over." Exall testified:

> ". . . he got sore a little bit on account of my answer, and he says, 'You don't fool anybody,' he says, 'we know you. We know all about you, and we got the goods on you, too . . .' I says, 'Any proof you got on me, lay your proof on the table and I will admit my mistake,' but he says, 'Go on now,' he says, 'Next time I call you here I am going to have the proof.' "

Late in October Wakefield requested Exall to urge all the employees in the chipping department to stay away from the C. I. O. Wakefield offered to permit him to work in the daytime, so that it would be possible for him to see the men on the different shifts; to recompense him for time spent outside of working hours in visiting the men at their homes; and to assist him in educating his children. Exall declined to accept these propositions.

At about the same time Exall attended a C. I. O. meeting held at the house of Manuel Garcia, an employee of the respondent. On the day following the meeting, John May, the Plan Chairman, visited Exall at his home. May explained that he was sent by Wakefield and instructed to speak to him like a father. He said they knew where Exall had been the previous day and he mentioned Garcia's name and the number of his house. He finally said, "Mr. Wakefield send me over here . . . to tell you to watch your step."

Upon his return to work thereafter Wakefield asked him whether May spoke to him and what he thought about it. Exall testified:

> "I told him Mr. Wakefield I think I got a right to go any place I want. What I am doing is my own affairs. He said, 'Yes, but it don't look good in the part of the Company. You cannot work both ways. If you want to work with C. I. O., resign your position here.' I said, 'Why should I resign my position?' He said, 'You cannot work both ways . . . You don't give the co-operation.' I said, 'If I don't give you satisfactory co-operation, why don't you fire me?' He said, 'Don't worry, if you don't watch your step, you going to get fired.' "

Sometime in November Exall was laid off for a week under the following circumstances: An invitation had been extended to the Employee Representatives to attend a meeting in Youngstown of the "Employee Representatives of Ohio." At a meeting of the General Committee Wakefield announced that although they had no right to represent the respondent's employees at the Youngstown meeting, any Representative could attend as an individual if he so desired. Exall consequently made the trip. When he returned, George Belline, the superintendent of the chipping department, laid him off for a week for absenting himself from work without the foreman's permission. Exall protested that he had on other occasions taken time off without permission and was never reprimanded. He complained to Wakefield and requested that a special meeting of the General Committee be called to consider the question. Wakefield replied, "Nothing doing." He made the same request upon May, the Chairman of the General Committee, who told him that if Wakefield was opposed to a meeting, nothing could be done about it.

On about January 5 Exall was ordered to report to Wakefield's office. Captain Jones, who was present, read certain names from a list containing about 300 names and check numbers and asked whether Exall recognized them. Exall testified:

> "I said, 'Yes; most of them . . . Why?' He said, 'You done the dirty work.' I said, 'What do you mean, Mr. Jones?' He said, 'You signed up these men in the Union . . .' I told them it was a lie and he turned around and he said, 'Not only that but during [sic] the payroll C. I. O., you are getting $6 a day,' and I told him that was another lie. And he turned around and said, 'Well, we expect you to say that but you cannot fool me. I am watching you day and night.' Then . . . I said, 'What business have you got to watch me what I am doing outside of the plant?' He said, 'That is my job. I am getting paid for it . . . As long as you want to work for them at $6 a day, why don't you talk to Mr. Wakefield? . . . We pay you $6 a day.'
>
> And I says, 'What . . . are you trying to do, make

> a stool pigeon out of me? . . .' 'Well,' he says, 'You can't work for both sides, for Republic Steel and for C. I. O. . . . if you don't want to play ball with us . . . you won't stay long.'
>
> I says, 'O. K. . . . If I don't give satisfaction, . . . they can fire me.'
>
> He says, 'Don't worry . . . they are going to fire you if you don't play ball with us.' "

Jones then handed Exall a notebook containing a list of numbers headed by Exall's name and number and said that it belonged to Balint. Balint subsequently denied ever having seen the notebook. When Exall mentioned this to Wakefield, he said that Balint was double-crossing him.

At about that time lockers of employees in several departments had been broken into, and a systematic search was made of the personal belongings of some employees. Exall testified that his own locker was broken into twice but nothing was removed. This matter apparently became so acute that it was discussed at a General Committee meeting. At the meeting Exall made a statement that they were looking for union cards, that he was a union man and proud of it, and that he wished they would let him alone.

On the night of January 13 a C. I. O. mass meeting was held at the Bohemian Hall. Exall testified that he was seen entering the hall by Captain Jones and other company police who were stationed outside.

Exall was discharged on January 14. He testified that at about 2 o'clock on that day he proceeded to the tool room to change his chisels. Jack Simon, who was in charge of the tool room, told him to continue to use the same chisels longer. About half an hour later George Belline called Exall aside and said, "The way you act, it seems to me you want the Company to hire a couple of more grinders for you." He accused him of doing nothing all day but changing chisels, and specified the inches of steel that he had chipped with the respective sets of chisels. Exall replied that he could not possibly have ascertained the number of inches of steel he chipped with a particular set of chisels because he had been working alone since 12 o'clock and there was nobody present to measure. Belline refused to argue further and finally said, "Well, we don't want you here." Exall testified that the chippers had been cautioned at a number of safety meetings to exchange chisels which were worn down. Exall also testified that he had never before been reprimanded for improper use of tools. Moreover, it is unlikely that the offense with which Exall was charged was of a serious nature, since chisels which are returned to the tool room are not discarded but merely sharpened and then assigned for further use.

About a month later Exall and five or six other employees who had been discharged attempted to interview Wakefield regarding their jobs. A policeman at the gate stopped them and asked them to wait. He went in to speak to Captain Jones, returned in a few seconds, and said, "Nothing doing . . . they don't want youse." The same day Exall phoned Wakefield and was told, "You have got your case pending down at the Labor Board, we can't do nothing for you until the Labor Board makes decision."

On May 24, Wakefield offered Exall a labor job. When Exall suggested that he had seniority rights, Wakefield replied, "Oh, no, we want to hire you as a new man, forget about it." Exall was required to submit to a physical examination. He worked on May 26 and then went on strike.

At the time of his discharge Exall was working at the rate of 52 cents an hour. Since his discharge he was employed for about a month by the W. P. A. and earned approximately $60.00.

Upon the entire record we find that Exall was discharged because of his membership in the Union.[63]

John Petak. Petak worked at the Corrigan, McKinney plant continuously from 1928 until his lay-off on January 18, 1937. He was employed as a crane repairman in the bull gang.

Petak joined the C. I. O. on July 1 or 2, 1936. Two weeks thereafter Tull, the superintendent of the electrical department, said to him, "John, I have got your name and badge number here and I heard you joined outside union." He also told him that he had been informed of Balint's frequent visits to his house. After this conversation Petak was given considerably less work than the other men.

At about the same time his house was being watched by company police. On one occasion a company policeman followed him all the way from his home to the clock house in the plant and observed him as he punched his card. On January 13 Petak saw Captain Jones and the policeman who had previously followed him standing outside of the Bohemian Hall where a C. I. O. meeting was being held.

When Petak came to work on January 18 he found that his card had been removed from the rack, and that he had been laid off. Gene Perry, the boss in the electrical department told him that the elimination of gasoline locomotives necessitated the lay-off of some men and that he was the youngest in the bull gang. When Petak remonstrated that there were four men on the gang with less seniority, Perry promised to secure for him a crane operator's job and to call him in a few days. He never called. About 3 weeks later Petak spoke to Krause. Krause told him to wait a minute. He returned after about an hour and a half and did not even want to talk to Petak. Petak made three other attempts and was met with the reply, "Nothing doing." Petak testified that in the meantime four men having less seniority had been taken off the speed car service and placed on the bull gang. He also testified that a janitor had been given a craneman's job and then placed on the bull gang.

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[63] Exall testified and it also appears in the offer of proof with respect to violence contained in the respondent's motion to reopen filed on August 6, 1938, that he was found guilty of assault and battery committed during the strike. For the reasons discussed hereafter, we are of the opinion that, under the circumstances of the case, conviction of such offense is not a bar to his reinstatement.

Thereafter, Petak filed a charge with the Board. On May 18 he was offered a general labor job and worked until the commencement of the strike at the rate of 62 cents an hour. At the time of his lay-off he was earning 59 cents an hour. The rate of employees in the bull gang was ultimately increased to 74½ cents an hour. Petak had not earned any money from the date of his lay-off until his recall on May 18.

On the basis of the whole record we find that Petak was laid off because of his membership in the Union.

Mathew Babich. Babich first began to work at the Corrigan, McKinney plant in 1922. Shortly prior to the acquisition of the plant by the respondent in 1935, Babich was laid off because his position was eliminated. On May 6, 1936, he was given a job on the electrical repair gang and worked continuously until his lay-off on January 25, 1937.

Babich joined the C. I. O. on July 16, 1936. He testified that in August his locker had been broken into, and his union card had been removed. Everything else which he kept in the locker, including a little money, remained intact. On January 13 he went to the C. I. O. meeting at the Bohemian Hall which was kept under surveillance by company police.

On January 25 Gene Perry informed him that he had to lay him off because he was the youngest man in the gang. Babich protested that only three or four men in the electrical department had greater seniority, that he had held various positions, and was willing to accept any job available. Perry promised to put him on at the first opportunity. Subsequent attempts on Babich's part to secure a job proved unsuccessful.

Babich filed a charge with the Labor Board in April. On May 19 or 20 Krause offered him a labor job and he worked until the strike, earning 62½ cents an hour. Prior to his lay-off he was paid at the rate of 62½ cents an hour and was working from 40 to 48 hours a week. The wage rates for electricians have been raised since then. Babich earned $26 between the date of his discharge and recall.

Upon the whole record we find that Babich was laid off because of his union membership.

Wilbert Neuman. Neuman first began to work at the Corrigan, McKinney plant on July 21, 1933. At the time of his discharge on January 27, 1937, he was employed as a chipper.

Neuman joined the C. I. O. in September 1936. He attended the C. I. O. meeting held in the Bohemian Hall on January 13. Neuman testified that at the meeting he compared his C. I. O. membership card with that of another chipper. Next to him sat a man called Russel Lapka whose father, Neuman later learned, was a company policeman.

After the meeting, Neuman sprained his back and was temporarily assigned to light work such as oiling chipping hammers and other odd jobs. On one occasion, when he was in the tool room, Jake Simon, the foreman, said to him, "You know, if I were you I would never join the C. I. O., because Republic Steel has too much money behind it."

On January 26, as Neuman proceeded to the tool room to exchange chisels, he encountered Nicola Michich, a foreman, who warned him, "You better watch yourself, because George Balleau [Belline, the superintendent] has been watching you all day." The following day, Belline came over to Neuman with the four old chisels which he had presumably turned in the previous day, and ordered Edward Ray, another chipper, to test them. As Ray chipped the steel, Jake Simons measured the chips, and Belline made a note in his book. After Ray had thus tested all the chisels, Belline said to Neuman, "I am going to fire you. . . . I have been watching you for the last two weeks . . . You have been doing nothing but monkeying around. You have been using too many chisels. You are fired." Neuman testified that he had been employed as a chipper for 3 months prior to his discharge and had never before been criticized for using too many chisels.

Neuman filed a charge with the Board in February. On May 11 he was reinstated to his former position. At the time of his discharge he was working at the rate of 62½ cents an hour and was averaging about $5 a day. He did not earn any money between the date of his discharge and reinstatement.

Upon the whole record we find that Neuman was discharged because of his membership in the Union.

Gaetano Armeli. Armeli first commenced to work at the Corrigan, McKinney plant on April 27, 1933, as a laborer. On November 12, 1936, he was promoted to the position of chipper. This position he maintained until his discharge on February 20, 1937.

Armeli joined the C. I. O. early in January. About a month later he lost his key case containing the keys to his locker and his C. I. O. membership card. He reported the loss to the company police. In 4 or 5 days Belline informed him that Captain Jones had found his keys and would return them to him. Captain Jones opened the case and asked Armeli whether the keys belonged to him. Afraid of the possible consequences, Armeli attempted to deny any knowledge of the C. I. O. card and tore it in half. Captain Jones, however, recovered the card from him and said, "Hold on, don't throw it away. Give it to me. I am going to check up your handwriting."

On about February 26 Armeli's foreman told him, "I am sorry, Tom, you have to go to see George Bellew, [Belline] the superintendent." Armeli testified that Belline drew a slip of paper out of his desk and read him "a story of using too many chisels" about which he knew nothing. Armeli's entreaties to be given a "break" were ineffective and he was advised to see Krause. Krause merely confirmed the fact that he was discharged and handed him his slip which, according to Armeli's testimony, was marked "suspicious."

Shortly thereafter Armeli filed a charge with the Board. On May 18 or 19 Krause visited him and offered him a job in the labor gang, where he worked until the strike at 52½ cents an hour. At the time of his discharge he was earning 62½ cents an hour plus a tonnage bonus. The wage rate for chippers has since been increased to 72½ cents an hour.

On the basis of all the evidence we find that Armeli was discharged by the respondent because of his union membership.

We find that the respondent has discriminated against Thomas Cikah, John Popik, Frank Pirichy, George Troyanovich, Michael Naletrich, Fred Korecky, John Exall, John Petak, Mathew Babich, Wilbert Neuman, and Gaetano Armeli in regard to hire and tenure of employment, thereby discouraging membership in a labor organization.

(b) *Other acts of intimidation*

The discriminatory discharges of these employees accompanied by the surveillance of C. I. O. meetings, spying on employees affiliated with the C. I. O., and the other practices referred to, are not the only manifestations of the respondent's active hostility to self-organization on the part of its employees. Numerous other incidents serve further to illustrate the respondent's activities.

In the middle of August a C. I. O. meeting for Negroes employed at the Corrigan, McKinney plant was scheduled to take place at the Globe theatre. The contemplated meeting, however, failed to materialize. One Negro who came to the theatre explained that the men were afraid to attend because Captain Jones was driving around in his car with about four other men.

The company police, under the leadership of Captain Jones, made repeated attempts by means of threats and violence to prevent the distribution of union literature in the vicinity of the respondent's plants. Thus when Benny Favorito, a volunteer S. W. O. C. organizer, was distributing literature at Independence gate, Captain Jones and Sergeant Russell threatened the employees with discharge if they accepted any handbills. On another occasion in December Captain Jones began to assemble a crowd to "tackle" the C. I. O. organizers who were distributing handbills in front of the gate. The organizers were compelled to leave.

On January 13 Balint, Vincent Favorito, and another organizer went to the plant of the Truscon Steel Company, a subsidiary of the respondent, to distribute announcements of the mass meeting at the Bohemian Hall scheduled for that night. As they took their positions near the gate, a "great big fellow" wearing a blue lumber jacket came out of the gate and approached Balint. Believing that he was an employee, Balint handed him a leaflet. He took it with his left hand, whirled Balint around, said, "You dirty son-of-a-bitch, get the hell away from here," and hit him in the eye. Balint testified that the man had brass knuckles on his right hand. Walter Maloney, alias Walter Jergis of the company police, who was standing there, called them "further names" and said they received what they were looking for. As a result of the blow, Balint's eye became infected and had to be lanced. Balint subsequently saw the man who struck him dressed in uniform at the Truscon plant.

Benny Favorito testified that a number of C. I. O. men were distributing "Steel Labor" at the Truscon plant on January 25. One of the men who were massed around Captain Jones approached him and struck him in the face. Favorito retaliated. Thereupon a company policeman ran up to him, pulled out his gun, and said, "You son-of-a-bitch, if you don't cut it out I will put a slug in your back."

On April 19 Paul Castman was brutally beaten when he was distributing literature at the Truscon plant. Prior to a description of this incident it is material to set forth certain circumstances relative to Castman. He had procured a job at the Truscon plant on March 5, 1937. On April 5 his foreman told him that he had received orders to lay him off but gave no reason. Frank Dunch, a Representative, informed him that he was discharged for union activities. He was advised to speak with Captain Jones who questioned him about his former employment and his union activities. Castman testified:

> "He said, 'You are not working with Al Balint, are you?' I said, 'No, sir. I am not. I don't even know Al Balint.' He says, 'He is one of the Union men . . . You ought to be working for the Union . . . One of the Presidents of the Union's Lodge is getting eight dollars a day from the C. I. O. . . . I am also paying him for his work down here.' "

He then asked him about the extent of the C. I. O. membership in the plant and again inquired whether he was associated with Balint. He warned him, "... if you are, it will be too God damned bad for you, if you are double-crossing me, look out."

Subsequently, Castman engaged in voluntary organization work. As already stated, on April 19 he was distributing literature near the gate of the Truscon plant to the men entering and leaving the plant. John Jense, an employee of the respondent, told Castman he would sign a C. I. O. membership card if he had one available. Castman gave him a card and Jense filled it out. Castman noticed, however, that he had not written in the date and proceeded to do so himself. A man whom he recognized as a company policeman pushed Jense out of the way and struck him with a black jack on the side of his face. Castman testified:

> "When he hit me with the black jack, I stumbled backwards and fell in the gutter alongside of the sidewalk ...
>
> He jumped on me with his knees in the pit of my stomach, started beating me over the head and the arms and the hands with a black jack. He says, 'God damn you, here is some of Cap's Union....'
>
> I had my hands over my head. I was trying to protect my head and he continued beating me with this black jack. Every time he would hit me he would say 'uh-uh ...' "

As a result of the beating Castman suffered severe injuries and spent 16 days in the hospital.

William Sikorski, who had previously been employed at the Corrigan, McKinney plant, spoke to Krause in April 1937 regarding a job. Before he was put to work, however, he was subjected to an interview with Captain Jones who was called in by Krause. Krause pointed to Sikorski and said, "There is your man." Jones examined Sikorski's application card, commented on the number of his children, and stated that the respondent would see to it that he had work to support his family. He then inquired about the men he had formerly worked with in the 10 and 12 inch mill. Sikorski mentioned a few names. Jones remarked, "Yes, everyone of those boys are all on thin ice. I would not give you five cents for any one of their jobs . . . They are running around the mill, over there, and they are organizing the fellows into the CIO, and we are not going to stand for it." He said further, "Now, I want you to go over to work over there and I want you to keep your nose clean of the CIO because . . . we are never going to recognize them. Balint and Danitz, a couple of Communists, will never tell Republic Steel how they are going to run their corporation."

In addition to the foregoing activities, the respondent, in combating the growth of union sentiment among its employees, attempted to spread propaganda in favor of the Plan and against the C. I. O. Thus, at a Plan banquet staged in October by Wakefield, the Management Representative, Wakefield delivered a speech in which he extolled the Plan, stated that the principal task was to keep the C. I. O. out of the plant, and requested the assistance of the Employee Representatives in doing so. Likewise, petitions were circulated within the plant expressing faith in the management and satisfaction with the Plan. Again, Babich testified that at a Plan meeting or banquet he received a photostatic copy of an article by Chesly Manly in the Chicago Tribune which attempted to discredit the C. I. O. by denouncing its objectives as communistic.[64] And John

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[64] The article, dated March 28, 1937, appears under the heading "SEE C. I. O. DRIVE AS COMMUNIST IN ITS OBJECTS." The first paragraph, indicating the tenor of the article, reads as follows:

"The industrial union drive of John L. Lewis' Committee for Industrial

Sabol, an Employee Representative, testified that at a Plan conference which was attended by a number of company officials, White, vice president of operations, delivered a speech characterizing the C. I. O. as neither an American nor a responsible type of organization.

(c) *The Employees' Representative Association*

The Employees' Representative Association was formed after April 13 when Wakefield announced at a meeting of the Plan that the respondent would henceforth be unable to furnish the Plan with financial support. The old Plan, however, was never formally dissolved. John Sabol testified that the Association contemplated the adoption of the bylaws under which the old Plan operated. The record contains no evidence that any other bylaws were formulated which would tend to make the Association independent of the respondent's control. Although some discussion was had regarding the question of assessing membership dues in the Association, there is no evidence that dues were in fact assessed or contributed by employees. There is nothing by which to distinguish the Association from the Plan except that membership was apparently no longer automatic upon voting for a Representative but depended upon the signing of membership cards. The character of the Association membership drive, which took place on the respondent's time and property, further attests to its domination by the respondent.

James C. Quinn, an inspector in the 12 inch finishing mill testified that Harold Sisk, an Employee Representative, distributed membership cards within the mill and ex-

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Organization which has brought the current epidemic of sitdown strikes, is essentially a communist movement and has been advocated as the first step in a program to overthrow the government of the United States and set up a soviet dictatorship ever since the communist party of America was officially organized at Woodstock, N. Y., in May, 1921."

plained the purpose of the Association. On another occasion Art Lawton, the turn superintendent, ordered every man in the mill to go into the office. On the desk in the office were a large number of membership cards, and as the men entered cards were thrust upon them. Quinn testified to the following altercation which he had with Lawton:

> " 'Mr. Lawton,' I says, 'What authority have you got standing up there and chasing them men in there?' I says, 'The Supreme Court has just signed the Wagner Relations Act.' I says, 'you haven't a damned bit of business standing up there making them men sign up.' I says, 'The only reason they sign up, if they don't sign it, you will turn them in to their bosses in the morning,' and I says, 'You know what that means, he would come out here and lay them off again like he always does.'
>
> 'Well,' he says, 'the Wagner Labor Relations Act is like everything else,' he says, 'it don't mean a damn thing.'
>
> Then he went on to tell me about me and my bunch of communist friends, John L. Lewis all the way down, he raked them all over the boards . . . "

At about the same time the members of the Plan Sanitation Committee, which had on its schedule a tour of inspection of sanitary conditions, were called into Wakefield's office where Wakefield, May, the Chairman of the General Committee, and Grimm, the Secretary of the General Committee, were present. Wakefield placed a package containing Association membership cards on the table, and said, "Well, we got to get started with this some time or other and we might as well get started now." In consequence, the Committee, instead of making an inspection tour, solicited employees to sign membership cards.

The employees, however, manifested reluctance to join the Association. Sabol testified that Tull, the superintendent of the electrical department, complained to him about the low percentage of employees in his department who had joined. Tull also summoned Nutting, the foreman of the construction gang, and inquired what the trouble was. Nutting stated that he had a couple of men whose example the rest of the employees seemed to follow, and expressed the opinion that only riddance of them would help matters. Sabol testified that in compliance with Tull's request he made further attempts to prevail upon the employees to join the Association but failed to get any signatures. No deduction was made from Sabol's pay for the time spent in this work.[65]

On the basis of the foregoing facts and the record as a whole, we find that the respondent has dominated and interfered with the formation and administration of the Employees' Representative Association.

3. *The Strike*

The strike in Cleveland commenced on May 26. During the strike, the respondent again resorted to the dissemination of literature among its employees calculated to discredit the C. I. O. and to break the strike. Girdler issued for distribution to the employees the statement of June 15 (quoted *supra*), which attacks the C. I. O. as an irresponsible and communistic organization. Also the respondent prepared a reprint (referred to *supra*) of anti-C. I. O. articles culled from various newspapers and entitled, "What the Editors are saying about the Republic Strike." John Exall testified that he received through the mails copies of both the statement issued by Girdler and the reprint.

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[65] About a week before the strike a new organization, styled The Republic Employees' Association, Corrigan, McKinney Division, came into existence. Relative to this organization, David Mac Means, an employee at the Corrigan, McKinney plant, testified that shortly prior to the strike he was summoned into the office of Eckert, a foreman, and asked to sign a membership card in the Republic Employees' Association. Eckert explained to him that the men were initiating this organization of their own volition and indicated that it would be to Mac Means' best interests to sign the card. Thereafter, Eckert told him, "You better make up your mind to join the Republic Employees Association . . . because all of you fellows are going to belong to it before the end of May." Mac Means also testified that on two occasions he saw notices posted on the bulletin board announcing meetings of the Republic Employees' Association.

F. The Central Council of Employee Representatives

Our previous discussion renders superfluous a detailed analysis of the Central Council. It was informally instituted in the fall of 1936 when Employee Representatives from the respondent's plants in nine districts met with representatives of the management in the respondent's offices in Cleveland. After a second meeting at the same place on March 8, 1937, at which representatives of the management were present and participated, provisions for the participation of Employee Representatives in Central Council meetings were formally incorporated in the proposed revision of the Plan and later in the amended Plan, which was adopted on April 22, 1937. All the expenses of these meetings, including the meals, transportation expenses and salaries of Employee Representatives, were defrayed by the respondent.

On August 2 and 3, 1937, the Chairman of the Central Council called a meeting of the Independent Association of Republic Employees of Massillon to discuss the adoption of constitution and bylaws for the latter organization. Nick Linckenhely, who attended this meeting as a delegate, testified that the respondent paid none of its expenses and that he attended at his own expense.

The function of the Central Council, as already indicated, was to "back the Management in opposition to all outside labor organizations." It was composed in part of representatives of the management, at least until April 1937, and in part of Employee Representatives and officers of the various labor organizations at the plants in the Massillon, Canton, Youngstown, Warren and Cleveland districts, which, we have found, were dominated and controlled by the respondent. Under these circumstances, the Central Council could not represent the free choice of the employees. We find that the respondent has dominated and interfered with the formation and administration of the Central Council of Employee Representatives and has contributed financial and other support to it.

IV. THE CAUSES OF THE STRIKE

The respondent in its answer asserts that the strike was called without any cause or justification and solely for the selfish benefit and advantage of the S. W. O. C. and the C. I. O. in an attempt to gain control of the respondent's employees and all steel company employees, and that there was no labor dispute between the respondent and its employees and no difference as to wages, hours, and working conditions.

From the facts recited in Section III, we think it clear that the underlying cause of the strike, and a substantial factor in its precipitation on May 25 and 26, was the respondent's campaign to crush the Union by means of the unfair labor practices set forth above. The respondent's conduct falls squarely within the findings of the Congress in Section I of the Act, "The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest . . ." The record shows that ever since the inauguration of the Plan in June 1933, the respondent had made plain its policy of complete antagonism to the self-organization of the employees and its determination to forestall or destroy any such organization by all means at its command. On July 2, 1936, shortly after the advent of the S. W. O. C., the respondent reiterated this basic policy in a public statement, and immediately and ruthlessly put it into effect. Its spies shadowed union organizers; its police attacked and beat them; its superintendent and foremen threatened, laid off and discharged employees for union activities; its officers fostered and supported a whole series of puppet labor organizations which the respondent manipulated to oppose the Union; and its chairman and president publicly vilified the Union's leaders, purposes and policies under circumstances intended to throw the weight of his influence against his employees' efforts at self-organization. Finally in May 1937 there occurred a series of events which precipitated the strike.

On May 3 the S. W. O. C., by Clinton Golden, wired the respondent that widespread unrest prevailed among its employees over the uncertainty of the respondent's position regarding a signed collective bargaining contract, that this unrest had been accentuated by the lay-off of several hundred Union members at the Canton and Massillon Works, and that "unless we can have definite assurance from you with date for conferences to negotiate written contract without further delay we shall be obliged to disavow all responsibility union members in your mills remaining at work." On May 5 the respondent replied to Golden's telegram that "in view of Wagner Act see no necessity for signed contract. The policy of this company . . . is that it is willing to meet with anyone to bargain with him for whomsoever he represents . . . Will meet with you at any time mutually convenient for collective bargaining purposes."

The complaint does not allege that the S. W. O. C. represented a majority of the employees in any or all of the respondent's plants at this time, or that the respondent's refusal to sign the S. W. O. C. agreement constituted a refusal to bargain collectively within the meaning of Section 8, subdivision (5) of the Act. Nevertheless, it is plain that the manner and expression of the respondent's refusal to deal with the S. W. O. C. constituted interference, restraint and coercion of its employees in their right to self-organization and collective bargaining. The respondent on numerous occasions announced, as its reasons for refusing to sign the agreement with the Union, that it favored the Plan as a successful method of collective bargaining, that it would not tolerate any interference with this successful relationship between management and employees, and that the Union was communistic, corrupt, repressive and irresponsible. Further, on numerous occasions the respondent's superintendents and foremen had announced to meetings of employees that, for the same reasons, the respondent would never sign any contract with the Union. This position was announced in such language as the following: "Regardless if every man in here joins a union, we are not going to recognize it. We are not going to sign any contract. We are not going to have no . . . collective bargaining." "We will shut the mill up and board it up before we will sign with the C. I. O." We think it clear that these repeated statements and the unrest created thereby, to which Golden referred in his telegram, were a contributing and substantial cause of the strike which occurred on May 25 and 26.

On May 5, immediately after replying to Golden's telegram, the respondent shut down its tin plate mill at Canton and locked out almost all of its employees, with the threat that the mill would not reopen "until we got rid of that union." Upon the break-down of negotiations between the respondent and the S. W. O. C. on May 11, the Employee Representatives, with the respondent's support, intensified their attempts to obtain membership for the newly formed successors to the Plan, and conducted meetings in Canton, Massillon, Youngstown and Warren, for the purpose of preparing for a strike and organizing opposition to it. On May 20, under the circumstances described above, the respondent shut down its Massillon Works, locked out its employees, and taunted the president of New Deal Lodge No. 1124 with its illegal conduct: "When we get through starving you out, you won't want to strike."

By these acts, the respondent served final notice in unmistakable terms that it was prepared to go to extreme lengths to destroy the Union and to deny to its employees the rights guaranteed in the Act. Faced with this illegal and provocative conduct, the Union called the strike, not as the respondent alleged, without cause or justification, but because in fact no other course remained open to it. The whole history of the respondent's unfair labor practices, culminating in this lock-out on May 20, had placed the Union in a position where it had to fight for its life or be destroyed. The respondent, not the Union, had chosen the way of industrial strife.

In its brief the respondent takes the position that the sole cause and only issue in the strike was the respondent's refusal to sign an agreement with the Union. It is true that the respondent's refusal to sign an agreement—which is not alleged or found to be an unfair labor practice in this case—was important in precipitating the strike. But this action on the part of the respondent cannot be divorced from its whole previous campaign to crush the Union through unfair labor practices. And, as stated above, basically it was that campaign which underlay and made inevitable the strike.

Further, the significance of the Union's insistence upon an agreement should not be misunderstood. To the employees attempting self-organization the proposed agreement involved much more than a fixing by contract of certain wages, hours and working conditions. Indeed, the respondent contended that the provisions of the proposed contract were no more favorable to the employees than the conditions already existing in its plants. As the provision in the proposed agreement for recognition of the Union demonstrates,[66] the agreement was intended to mark the acknowledgement by the respondent of the right of its employees to organize without interference and the cessation by the respondent of its unfair labor practices. Thus the Union's demand for an agreement represents to a large extent merely one aspect of the demand of the employees for freedom in self-organization and emphasizes, rather than contradicts, our analysis of the causes of the strike.

We conclude, therefore, that although the respondent's refusal to sign the agreement presented by the S. W. O. C. was in part the immediate cause of the strike, the fundamental cause of the strike, and a substantial factor in its precipitation on May 25 and 26, was the long series of unfair labor practices which occurred prior to the strike as set forth in Section III above.

The respondent, in its motion to reopen the record for the taking of further evidence, asserts that the record herein contains no evidence tending to establish that the strike was caused directly or indirectly by any of the unfair labor practices set forth above, but that, on the contrary, all of the evidence in the record relating to this subject discloses that the strike was caused solely and proximately by the refusal of the respondent to sign a form of written agreement presented by the S. W. O. C., which was not alleged or found to be an unfair labor practice. The respondent also asserts that the burden of proof, as to the cause of the strike, was upon the Board, that the Board has failed to sustain its burden, and that the additional evidence which the respondent seeks to offer conclusively removes any doubt that might otherwise exist as to the actual, sole, and proximate cause of the strike.

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[66] "Section 2—Recognition—The Corporation recognizes the Union as the collective bargaining agency for those employees of the Corporation who are members of the Union. The Corporation recognizes and will not interfere with the right of its employees to become members of the Union. There shall be no discrimination, interference, restraint or coercion by the Corporation or any of its agents against any members because of membership in the Union . . ."

These contentions of the respondent do not constitute grounds for reopening the record. The respondent does not assert that newly discovered evidence upon the issue is now available, or that it was denied an opportunity at the hearing before the Board or the Trial Examiner to adduce the evidence now offered. On the contrary, counsel for the respondent admitted at the oral argument before the Board that all the evidence which it now seeks to introduce on this issue was available at the time of the hearing and was not offered. It also appears that at the hearing before the Trial Examiner in Cleveland the respondent did, in fact, introduce evidence, similar to that which it now seeks to introduce, in support of its theory that the strike was caused solely by its refusal to sign the agreement proposed by the S. W. O. C. It further appears from an examination of the respondent's offer to prove, accompanying the motion to reopen, that none of the proffered evidence relied on as conclusively removing doubts as to the cause of the strike is inconsistent with the evidence in the record or would alter our finding thereon as to the basic causes of the strike. For these reasons, the respondent's motion to reopen the record for the taking of further evidence upon this issue is denied.

The respondent excepts to our finding on this issue for the further reason that a variance, asserted to be fatal, exists between the allegations in the complaint, and our findings, as to the cause of the strike. This exception is without merit. As set forth above, the complaint alleges, and the answer denies, that the respondent discharged and refused to reinstate certain named individuals (paragraphs 3 to 9); that the respondent locked out and failed or refused to reinstate employees at its tin plate mill in the Canton plant and at its Massillon plant (paragraphs 10 to 15); and (paragraph 16) that "by reason of the conduct of the respondent set forth above in paragraphs 3 to 15 inclusive (all of which was duly alleged to constitute unfair labor practices within the meaning of the Act) and by reason of the respondent's refusal to enter into a written agreement with the S. W. O. C. (not alleged to constitute an unfair labor practice within the meaning of the Act), attempts to negotiate which had theretofore been made by the S. W. O. C., the employees of the respondent at its various plants on or about May 26, 1937, went out on strike." The answer, as an affirmative defense to paragraph 16 of the complaint, sets forth that the strike was called by the S. W. O. C., acting pursuant to the direction of the C. I. O., without any cause or justification but solely for the selfish benefit and advantage of the S. W. O. C. and the C. I. O., in an attempt to gain control of the employees of the respondent and, generally, of all steel company employees. The succeeding paragraphs of the complaint, numbered 17 to 41, allege, and the respondent's answer correspondingly denies, that the respondent has engaged and is engaging in further unfair labor practices within the meaning of the Act, both before and after the strike. At the close of the hearing the Trial Examiner granted a motion by the attorney for the Board, without objection or exception from the respondent, that the pleadings be conformed to the proof.

Thus the complaint, the answer, and the affirmative defense to paragraph 16 of the complaint put in issue the causes of the strike. At the hearing the evidence relating to all the unfair labor practices alleged to have occurred before the strike, including those not mentioned in paragraph 16, clearly involved the basic reasons for the strike. It is plain, therefore, that the hearing as a whole raised the general issue of the causes of the strike. That issue was adequately tried out and the respondent had full opportunity to, and did, introduce all the evidence it then desired with respect to it. Therefore, the fact that the Board finds that the strike was caused not only by the specific unfair labor practices mentioned in paragraph 16 of the complaint, but also by other unfair labor practices, does not constitute a variance which could have prejudiced the respondent. Further, any variance which might have existed was cured by the motion of the Board's attorney to conform the pleadings to the proof.

Moreover, the exception should be overruled on other grounds. The significance of the Board's findings with respect to the cause of the strike lies in the fact that where the Board finds that a strike has been caused in whole or in substantial part by an employer's unfair labor practices it may, in order to effectuate the policies of the Act, require the employer to reinstate the strikers upon application. (See "The remedy" *infra.*) Here we think it clear from what has already been stated that the specific unfair labor practices mentioned in paragraph 16 of the complaint were, in themselves, a substantial, contributing cause of the strike. Consequently, even if the other unfair labor practices are left out of consideration, the Board would still have power under the Act to order the reinstatement of the strikers. The respondent, of course, had full opportunity to meet the claim that the strike was caused in part by the unfair labor practices referred to in paragraph 16; it also had full notice that the Board would require the reinstatement of strikers if such claim was sustained. (See "The remedy" *infra.*) Any variance or misunderstanding, therefore, as to this issue, would not have prejudiced the respondent.

We conclude that the respondent has not been denied any substantial right. Its contention that a fatal variance exists between the pleadings and proof must be rejected as purely technical. For these reasons the exception is overruled.

V. THE EFFECT OF THE UNFAIR LABOR PRACTICES ON COMMERCE

We find that the activities of the respondent set forth in Section III above, occurring in connection with the operations of the respondent, described in Section I above, have a close, intimate and substantial relation to trade, traffic and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

Upon the basis of the foregoing findings of fact and upon the entire record in the proceeding, the Board makes the following:

CONCLUSIONS OF LAW

1. Steel Workers Organizing Committee and Amalgamated Association of Iron, Steel and Tin Workers of North America are labor organizations within the meaning of Section 2, subdivision (5) of the Act.

2. The Plans of Employee Representation and their successors—the Employees' Representative Association, the Back-to-Work Committee, and the Independent Association of Republic Employees at Massillon; the Employees' Representative Association, the Back-to-Work Committee, and the Steel Workers Union of America at Canton; the

Employee Representation Plan, the Independent Federation of Republic Employees, and the Back-to-Work Committee at Youngstown; the Employees' Independent Association of Warren; and the Employees' Representative Association at Cleveland—and the Plan of Representation of Employees at the Canton tin plate mill and the Central Council of Employee Representatives, are labor organizations within the meaning of Section 2, subdivision (5) of the Act.

3. By its domination and interference with the formation and administration of the labor organizations named in paragraph 2 above, and by its contribution of financial and other support thereto, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (2) of the Act.

4. By discriminating in regard to the hire and tenure of employment of Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, George Troyanovich (referred to later as group A); John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, Anthony Martin De Long, Hallie P. Hite, Richard Green (referred to later as group B); Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (referred to later as group C); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, Fred Korecky (referred to later as group D); and each of them, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the Act.

5. By closing the Canton tin plate mill on May 5 and the Massillon Works on May 20 and thereby discriminating in regard to the hire and tenure of its employees at those plants, the respondent has engaged and is engaging in unfair labor practices within the meaning of Section 8, subdivision (3) of the Act.

6. By its espionage, shadowing, and beatings of organizers and active members of the Union; its announcements, before and after the presentation by the Union of its proposed agreement, that it would not sign any contract with the Union; its statements to its employees attempting to vilify and discredit the Union; its threats to discharge Union members and to close its plants before recognizing the Union, and its other threats and warnings to employees regarding the Union; its attempts to turn civil authorities, business and other interests against the Union in order to further its own anti-Union activities; its incitement of violence and hysteria, in order to terrorize Union adherents; its donation of tear and vomiting gas to the City of Massillon; its support to the Law and Order League of Massillon and the Back-to-Work Committees in Massillon, Canton, and Youngstown; its activities in connection with the incident at C. I. O. headquarters at Massillon; its lay-offs, discharges and lock-outs as stated above; its activities in connection with the above-named labor organizations; and by each of such acts, the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act and has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivision (1) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2, subdivisions (6) and (7) of the Act.

8. The respondent has not engaged in an unfair labor practice within the meaning of Section 8, subdivision (3) of the Act with respect to Harry Rigby.

THE REMEDY

The respondent having engaged in unfair labor practices, we shall order it to cease and desist therefrom and to take certain affirmative action which we find necessary to effectuate the policies of the Act and to restore as nearly as possible the situation that existed prior to the commission of the unfair labor practices and which would have existed except for them.

The respondent has unlawfully sponsored and supported various labor organizations discussed above. These organizations cannot, in view of the circumstances, operate as a true representative of the employees, and we shall order the respondent to withdraw recognition from them and to disestablish them as such representative.

The respondent has also unlawfully discriminated against its employees by locking them out at the Massillon Works and the Canton tin plate mill. To remedy this illegal conduct, we shall order the respondent to pay the employes involved back pay for the period during which they were deprived of employment.

We have found that the respondent has unlawfully laid off, discharged, and refused reinstatement to certain employees. In accordance with our usual practice, we shall order the reinstatement of such employees with back pay for losses suffered by reason of the respondent's unlawful acts.

We have also found that the strike at the respondent's plants, which was still in effect at the time of the hearing, was caused fundamentally by the respondent's unfair labor practices. In previous cases of this character we have required the employer to reinstate the striking employees, upon application, to their former or substantially equivalent positions. We find this requirement appropriate and necessary to effectuate the purposes of the Act in this case. In order to protect the right of the respondent's employees to "full freedom of association, self-organization, and designation of representatives," as guaranteed by the Act, it is essential that the respondent be required not only to cease and desist from its unfair labor practices but so far as possible to repair the damage occasioned by such unlawful acts. The most effective method of restoring the situation to that existing prior to the respondent's unfair labor practices, and thereby assuring all the respondent's employees full freedom in self-organization and collective bargaining, is to reinstate to their former positions those employees who have gone out on strike as a consequence of the respondent's unlawful conduct.

The Board's power, derived from Section 10 (c) of the Act, to order such reinstatement is dependent upon the finding that the respondent's unfair labor practices were the fundamental or substantial, contributing cause of the strike of its employees. Where the respondent's refusal to sign the proposed agreement—not alleged or found to be an unfair labor practice—is also a factor in causing the strike, it rests upon the respondent to disentangle the consequences for which it is responsible from those from which it is immune. As set forth above, however, the record shows that the respondent's refusal to sign the proposed agreement is inextricably bound up with its unfair labor practices and was, in effect, a refusal to abandon its studied policy of interference with the right of its employees to self-organization. It may be that if the respondent had signed the proposed agreement, the strike would not have occurred; but since the respondent cannot show that it could have signed the agreement without abandoning its unfair labor practices, it cannot show that the loss of the men's jobs was caused by a controversy which the Act does not attempt to regulate, or that the Board is not empowered to order reinstatement upon finding that the respondent's unfair labor practices were the fundamental or a substantial, contributing cause of the strike.

The order of reinstatement may be based either upon the finding that the strike was fundamentally caused by all the respondent's unfair labor practices occurring prior thereto, or upon the finding that those unfair labor practices enumerated in paragraph 16 of the complaint were in themselves a substantial and contributing cause of the strike.[67] No material question of variance between pleadings and proof arises with respect to this issue.

The respondent contends, however, that acts of violence by individual strikers renders such reinstatement inequitable in this case and would defeat rather than effectuate the purposes of the Act. At Massillon and Canton, where counsel for the Board introduced testimony that picketing by the strikers was peaceful, the Board and the Trial Examiner permitted the respondent to adduce testimony in rebuttal that certain named striking employees, as well as other unidentified persons alleged to be members of C. I. O., had carried sticks and clubs, cut a telephone wire, blocked roads, intimidated and beaten several members of the Canton Back-to-Work Committee and other non-strikers, and had in certain respects violated an injunction issued on or about June 25, 1937, by the Court of Common Pleas of Stark County. In Youngstown, Warren, and Cleveland, where counsel for the Board introduced no testimony on the issue of peaceful picketing, the Trial Examiner excluded testimony that strikers had committed acts of violence, but permitted the respondent to file written offers of proof setting out such testimony in detail. On March 19, 1938, the Board denied a motion by the respondent for leave to introduce additional evidence relating to violence, but granted its alternative motion for leave to submit and have incorporated in the record as a part thereof, evidence, *inter alia*, that certain named strikers, after the close of the hearing in this case, had pleaded guilty to indictments for various crimes committed in connection with the strike. On August 6, 1938, the respondent filed a motion to reopen the proceeding, herein denied, and an alternative motion, herein granted, to have incorporated in the record specified offers to prove, setting forth, *inter alia,* that in Massillon 15, in Canton 25, and in Cleveland 11 "strikers, pickets, or persons affiliated with the S. W. O. C. or the C. I. O." had pleaded guilty to, or had been convicted of, unlawful acts during the strike.

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[67] See *National Labor Relations Board v. Remington Rand, Inc.*, 94 F. (2d) 862, 872 (C. C. A. 2) cert. denied 58 S. Ct. 1046.

In our opinion evidence that the strikers committed acts of violence is relevant on the issue of whether it would effectuate the policies of the Act to order their reinstatement. We will therefore take into consideration evidence of convictions and pleas of guilty of acts of violence committed by individual strikers in connection with the strike. In a case of this sort, however, we will not attempt to try before the Board accusations of violence which did not result in convictions or sentences upon pleas of guilty.

To receive evidence upon such matters would raise a mass of collateral issues which the Board is not equipped to handle. The Board, of course does not have the facilities for investigation and prosecution of acts of violence that the local law enforcement agencies possess. Nor, as an administrative matter, can the Board attempt to determine the merits of allegations of several hundred various crimes.

We think also that the Board is entitled to rely upon the local law enforcement agencies for proof of such matters. The record shows that the police and prosecuting authorities of various cities were active throughout and after the strike. Numerous arrests were made and many convictions obtained. Under these circumstances the Board is inclined to feel that it can presume that any significant crime committed was investigated by the proper authorities and, if adequate evidence was found, was prosecuted by them. As a result, especially in view of the administrative difficulty of trying such collateral issues, the Board will not go into alleged acts of violence of individual strikers beyond accepting the offer of proof, and taking judicial notice, of convictions and pleas of guilty.

It should be noted that the reasons for excluding testimony, but admitting pleas of guilty or convictions, with regard to acts of violence by employees, do not apply in the case of testimony concerning similar acts by the respondent. Such testimony relates to whether the respondent has interfered with, restrained, or coerced his employees in their right to self-organization and collective bargaining, and has thereby engaged in unfair labor practices within the meaning of the Act. Consequently, it raises direct, not collateral, issues which it is our proper duty to determine.[68]

We therefore affirm the rulings of the Trial Examiner in this matter.[69]

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[68] That such a conclusion is in accordance with the clear intent of the Congress may be seen from the Reports of the Senate and House Committees in considering the reasons for confining the Act to unfair labor practices by employers. Thus the Senate Committee on Education and Labor, in reporting the bill to the Senate, said: "The bill is not a mere police court measure. The remedies against such acts (fraud and violence) in the State and Federal courts and by the invocation of local police authorities are now adequate, as arrests and injunctions in labor disputes throughout the country will attest . . . In addition, the procedure set up in this bill is not nearly so well suited as is existing law to the prevention of fraud or violence. Deliberations and hearings by the Board, followed by orders that must be referred to the Federal Courts for enforcement are methods of procedure that could never be sufficiently expeditious to be effective in this connection. The only results of introducing proposals of this sort into the bill, in the opinion of the committee, would be to overwhelm the Board with countercharges and recrimination that would prevent it from doing the task that needs to be done." (Sen. Rep. No. 573, 74th Cong. 1st Sess. (1935) 16, 17. See also H. R. No. 1147, 74th Cong. 1st Sess. 1935, 16.)

[69] At Youngstown the respondent offered to prove that "six members or former members of the C. I. O." had pleaded guilty to the possession and use of explosives; and, at Cleveland, that two individuals had pleaded guilty to police court offenses. In excluding such evidence, the Trial Examiner was in error. In view, however, of the fact that we take judicial notice of

We come now to an examination of the evidence which we deem admissible upon this issue.

An analysis of the convictions and pleas of guilty in all of the respondent's offers to prove, of which we take judicial notice,[70] supplemented by an examination of the criminal dockets of the Municipal Courts of Massillon, Canton, Niles, and Cleveland, the Courts of Common Pleas of Trumbull, Mahoning, Stark, and Cuyahoga Counties, and the United States District Court for the Northern District of Ohio, Eastern Division, at Cleveland, shows that in Youngstown seven "members or former members of the C. I. O." were indicted for the "possession and use of explosives," a felony; that three pleaded guilty to the indictment and received sentences of 1 to 20 years in the Ohio penitentiary; that three others who pleaded guilty to the indictment were placed on probation for 5 years; and that one pleaded guilty to "malicious destruction of property to the value of $300," a felony, and was fined $300 and costs. It also appears that in Cleveland four "strikers, pickets, and persons affiliated with the S. W. O. C. and the C. I. O." were found guilty of "possession of a bomb," a felony, and received sentences of 1 to 20 years in the Ohio penitentiary. It further appears that nine "members of lodges or unions affiliated with the C. I. O. and the S. W. O. C." pleaded guilty to indictments for "unlawfully obstructing and retarding the passage of the United States Mail," a misdemeanor; that six received suspended sentences of 6 months in jail and were placed on probation; that two received sentences of 30 days in jail and costs;

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these pleas of guilty in the offer to prove and give them due weight in our consideration of the purpose for which they are offered, the error is not prejudicial.

[70] The full purpose of the respondent's motions to reopen the proceedings to introduce evidence that strikers have pleaded guilty to and were convicted of unlawful acts during the strike is served by our judicial notice of these pleas of guilty and convictions, as set forth in the respondent's offers to prove. It is therefore unnecessary to reopen the record to receive these matters.

and that one received three sentences, to run concurrently, of 60 days in jail and costs. It further appears that 144 "strikers, pickets, individuals, members of, or persons affiliated with, lodges or unions affiliated with the C. I. O. and the S. W. O. C."[71] entered pleas of guilty to, or were found guilty of, the following offenses:

Intoxication (a misdemeanor)[72]	**1**
Intoxication and violation of court order (a misdemeanor)[73]	**1**
Threatening in a menacing manner (a misdemeanor)[74]	**1**
Suspicious person (a misdemeanor)[75]	**4**
Disturbing the peace (a misdemeanor)[76]	**4**
Disorderly conduct (misdemeanor)[77]	7
Interference with a police officer (a misdemeanor)[78]	**3**
Discharging firearms (a misdemeanor)[79]	**3**

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[71] The respondent did not allege and the record does not disclose that more than five of the individuals who entered pleas of guilty or were convicted as set forth in the offers to prove were employees of the respondent. We shall assume, however, that all individuals alleged to be strikers, pickets, members of unions, or persons affiliated with the C. I. O. or the S. W. O. C. are employees of the respondent.

[72] He was fined $15 and costs.

[73] He was fined $25 and costs.

[74] He was fined $15 and costs.

[75] All four were fined $15 and costs.

[76] One was fined $10 and costs, but the fine was suspended; two were fined $15 and costs; one was fined $25 and costs.

[77] Four were fined $10 and costs, but the fine was suspended in two cases; one was fined $15 and costs; one received a sentence of $50, costs, and 30 days which, except for $10, was suspended on good behavior; one received a fine of $25 and costs which, except for $10, was suspended on good behavior.

[78] One was fined $5 and costs; one was fined $10 and costs but the fine was suspended; one was fined $15 and costs.

[79] Two were fined $10 and costs; one was fined $25 and costs and received a sentence of 30 days, but was committed to the workhouse for 9 days, during which time he worked out both the fine and the sentence.

Assault and battery (a misdemeanor)[80]	21
Rioting, assembling together to do an unlawful act (a misdemeanor)[81]	72
Malicious destruction of property (a misdemeanor)[82]	7
Unlawfully interfering etc. with telegraph or telephonic messages (a misdemeanor)[83]	1
Transporting explosives (a misdemeanor)[84]	1
Interfering with and obstructing railway tracks (a felony)[85]	5
Carrying concealed weapons (a felony)[86]	13

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[80] One was sentenced to pay the costs, but the costs were suspended; one was fined $25 and costs; nine were fined $25 and costs and given suspended sentences of 30 days in the county jail; one was fined $200 and costs, given a suspended sentence of 6 months in the county jail, and placed on probation for 1 year. Two were fined costs; two were fined $15 and costs; one received a suspended sentence of $5 and costs and 10 days; one received a suspended sentence of $10 and costs and 10 days; one was fined $10 and costs and received a suspended sentence of 10 days; one received a sentence of 30 days; one was fined $10 and costs.

[81] Sixty-seven pleaded guilty, were fined $25 and costs, and given suspended sentences of 30 days in the county jail; five were found guilty, were fined $10 and costs, but the costs were suspended.

[82] Six pleaded guilty to "Malicious destruction of property to the value of $50"; of these five were fined $50 and costs, and given suspended sentences of 60 days in the county jail; one was fined $300 and costs and given a suspended sentence of 30 days in the county jail. One pleaded guilty to "Malicious destruction of property to the value of $15," was sentenced to 30 days and costs, and was committed to the county jail on June 11, 1937, but his sentence was suspended on June 17, 1937, on condition that he refrain from picketing. One other was arrested for "Malicious destruction of property to the value of $6"; the charge was withdrawn but he was required to pay costs.

[83] He was fined $250 and costs, and sentenced to stand committed to the county jail until fine and costs were paid.

[84] He was fined $100 and costs and sentenced to stand committed to the county jail until the costs were paid.

[85] All five were fined $50 and costs and given suspended sentences of 60 days in the county jail.

[86] Nine were fined $50 and costs and given suspended sentences of 60

With the exception of the six men who pleaded guilty to the possession and use of explosives, the one man who pleaded guilty to the malicious destruction of property to the value of $300, and the four who were found guilty of possession of a bomb, we cannot concur in the suggestion that the foregoing individuals should be denied reinstatement. The Board's power of reinstatement is discretionary in nature, to be exercised in the light of all the circumstances of the case in the manner best calculated to effectuate the purposes of the Act. We have already indicated the compelling reasons for ordering the reinstatement of employees who go out on strike caused in whole or in part by the employer's unfair labor practices.[87] The respondent's argument for denying reinstatement in this case comes down to the contention (1) that the individuals guilty of violence are no longer suitable employees, and (2) that the reinstatement of such employees would tend to encourage violence in industrial disputes. In our opinion these contentions are not supported by the record in this case (except for the 11 men mentioned above) and are therefore wholly insufficient to outweigh the factors which persuade us to order reinstatement.

It must be remembered that the acts of which the respondent complains were committed by strikers in the heat and turmoil of bitter industrial strife in which the threat of violence on the part of the respondent against the strikers was ever present and frequently carried into execution; that the strike was brought on fundamentally by the respondent's own unlawful acts; that the respondent had itself been guilty of brutal acts of violence in the period

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days in the county jail. Two received suspended sentences and were placed on probation for 2 years and fined costs; one was sentenced to 3 months in the county jail, to stand committed until the costs were paid, but was placed on probation and only served out the costs; one was sentenced to 90 days in the county jail, to stand committed until the costs were paid.

[87] See *Matter of Remington Rand, Inc.*, Case No. C-145, 2 N. L. R. B. 626, 94 F. (2d) 862 (C. C. A. 2); cert. denied, 58 S. Ct. 1046.

of organization preceding the strike; and that the respondent itself committed or was responsible for acts of violence during the strike far more serious than those attributed to the strikers in question. Under these circumstances, in the case of all but 11 of the strikers, we find no warrant in the gravity of their crimes, or in the severity of their sentences, for believing that they would not be as fit to work for the respondent now as they were before the strike. Furthermore, although the respondent refused to reinstate certain employees at Youngstown and elsewhere, allegedly for the reason that they had carried sticks or clubs on the picket line, it paid a bonus to the members of the Back-to-Work Committee of guards at Canton for patrolling the city armed with shotguns, and reinstated all such employees without question. In view of this discrimination, we are compelled to conclude that the real motive behind the respondent's refusal to reinstate striking employees was their union affiliation rather than an honest belief that by carrying sticks and clubs on the picket line they had proved themselves unfit for reemployment.[88]

Finally, the respondent, by engaging in the unfair labor practices described in Section III above, has itself violated the law of the land and thereby caused the strike of its employees in which the acts of violence occurred. While the Act imposes no criminal penalties for these unfair labor practices, it expresses an important national policy, in the light of which the respondent's illegal course of conduct must be judged and the consequences of that conduct determined.

For these reasons, it does not lie in the mouth of the respondent to assert that the offenses of its striking employees are necessarily and of themselves a bar to their reinstatement,[89] or that they are any less fit to be employees than the respondent is to be the employer.

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[88] See *Matter of Kentucky Firebrick Company,* Case No. C-179, 3 N. L. R. B. No. 46.

For much the same reasons we cannot conclude that the reinstatement of strikers in this situation will provide any material incentive to violence in future industrial conflict. Where passions are aroused by bitter industrial warfare the deterrent effects of a possible failure to achieve reinstatement by Board order at some future date after the conclusion of the strike will scarcely be a factor of significance in the amount of violence likely to occur. Furthermore, the primary control of such misconduct is and must be found in the police power of State and local authorities. In this case strikers guilty of misconduct have been prosecuted by the local authorities and have paid the penalty for such misconduct. The Act was not intended to regulate conduct subject to local police regulation but primarily to protect the right of self-organization and collective bargaining. In so far as the discouragement of crime may be accomplished in this case without sacrificing the effectuation of the policy of the Act, we exercise our discretion in excluding from our order of reinstatement those employees whose crimes are sufficiently grave to disqualify them from re-employment. We think it evident, however, that the respondent's unfair labor practices should not be imperfectly remedied and that the important national policy of the Act, which is fulfilled by the reinstatement of strikers, should not be imperfectly effectuated, merely because the respondent's striking employees have violated other laws, where such violations have already been punished by the appropriate law enforcement agencies and are not of such a character as to disqualify the strikers from reemployment.

Under all these circumstances, without condoning the illegal acts of these men, and in order to effectuate the purposes of the Act, we hold that such acts do not constitute a bar to the reinstatement of any of the strikers, except those who pleaded guilty to the possession and use of explosives and the malicious destruction of property to the value of $300 and those who were convicted of possession of a bomb. The 11 to be excluded are Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, Andrew J. Marsh, Mike Spelich, Herman Herzog, Jesse Rentoria (Runtario), Pete Vasleo, and Omer Williams.

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[89] See *Matter of United States Stamping Company*, Case No. C-203, 5 N. L. R. B. No. 29.

The respondent also contends that the strike as a whole was unlawful from the time pickets carried clubs and engaged in acts of violence, that all the strikers were acting in concert to carry out an illegal purpose and were responsible for the illegal acts of any of the other strikers, and that therefore none of the strikers should be reinstated and the complaint should be dismissed. This contention must be considered in the light of Section 6 of the Act of March 23, 1932, known as the Norris-LaGuardia Act:

> "No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute shall be held responsible or liable in any court of the United States for the unlawful acts of individual officers, members or agents except upon clear proof of actual participation in or actual authorization of such acts or of ratification of such acts after actual knowledge thereof." (Sec. 6, Act of March 23, 1932, 47 U. S. Stat. 70, C. 90)

With the possible exception of the 67 employees who pleaded guilty to, and the five who were found guilty of, rioting or assembling together to do an unlawful act, the respondent has neither proved nor offered "clear proof of actual participation in or actual authorization—(or) ratification" by strikers of the individual unlawful acts committed by other strikers. Further, the considerations recited above in connection with the acts of individual strikers apply even more clearly here. As an administrative matter the Board is not equipped to determine whether thousands of strikers participated in or authorized or ratified unlawful acts by other strikers. Therefore, although we will accept evidence of convictions of illegal concerted action obtained by the local enforcement authorities, we will not try such issues before the Board.

Finally, even if there were proof of conviction of such illegal concerted action as the respondent asserts, we would not, for reasons previously stated and in view of the respondent's own role in the strike and the events prior thereto, consider such conviction ground for a blanket refusal to reinstate all strikers.

We shall, therefore, order the respondent to offer the employees who were laid off, discharged, or refused reinstatement for their union activity immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights or privileges, and to pay such employees back pay for losses suffered by reason of the respondent's unlawful acts. We shall also order the respondent, upon application, to offer similar reinstatement to its employees who were on the pay roll at its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts on May 25, 1937, and who went out on strike on May 25 and thereafter, and have not since been fully reinstated.

Such reinstatement shall be effected in the following manner: Each employee ordered reinstated shall be entitled to reinstatement to his former or a substantially equivalent position in the plant where he was employed at the time of his lay-off or discharge, or at the time of the strike. In the case of those employees who were laid off or discharged, all employees hired after such lay-off or discharge shall, if necessary to provide positions for those to be reinstated, be dismissed; and in the case of strikers to be reinstated, all employees hired after the commencement of the strike shall, if necessary to provide positions for those to be reinstated, be dismissed. If, thereafter, by reason of a reduction in force there are not sufficient positions available in any plant for the remaining employees, including those to be reinstated, all available positions shall be distributed among such remaining employees in accordance with the respondent's usual method of reducing its force, without discrimination against any employee because of his union affiliation or activities and following a system of seniority to such extent as has heretofore been applied in the conduct of the respondent's business. Those employees remaining after such reduction, for whom there are then no available positions, shall be placed upon a preferential list prepared in accordance with principles set forth in the previous sentence, and shall thereafter, in accordance with such list, be offered employment in their former or substantially equivalent positions at any of the respondent's plants,[90] in Ohio, Monroe, Michigan, and Pittsburgh and Beaver Falls, Pennsylvania, regardless of their previous place of employment, as such employment becomes available and before other persons are hired for such work, provided, however, that an employee shall remain on the preferential list until he accepts an offer of employment at any of the foregoing plants of the respondent in his former or substantially equivalent position, or declines an offer of employment in the plant where he was employed.

In our Proposed Findings of Fact and Proposed Order we required that the employees on said preferential list should be offered employment in the same manner in their former or substantially equivalent positions at *any* of the respondent's plants. The respondent in its exceptions, and brief in support of its exceptions, contends, *inter alia,* that such a requirement would inconvenience the respondent out of all proportion to any benefit conferred upon the beneficiaries of the Proposed Order. We find that this exception, for the specific reason cited, is well taken with regard to those plants not located in Ohio, Monroe, Michigan, or Beaver Falls or Pittsburgh, Pennsylvania, and accordingly, we have so modified our findings and Order.

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[90] To be included among such plants are any plants which the respondent has acquired since the date of the hearing from its subsidiaries or otherwise.

The question is raised by the Union's exceptions whether the respondent should be permitted to deduct from the back pay due under our Order money received by an employee for work performed upon Federal, State, county, municipal or other work relief projects during the period for which the respondent is under obligation to pay such employee back wages. In so far as the employee receives remuneration for such work during periods when he would otherwise have been working for the respondent, it would not seem necessary, in restoring him to the status quo, that he be reimbursed in such amounts. Nevertheless, to hold that the losses accruing from the respondent's unfair labor practices must be borne by the government or governments financing the work relief project would not effectuate the purposes of the Act. We shall therefore order the respondent to deduct such sums from the amounts otherwise due the employees and to pay such deductions over to the appropriate fiscal agency of the Federal, State, county, municipal or other government or governments which supplied the funds for the work relief project.

In its exceptions, and brief in support of its exceptions, the respondent contends that that portion of the

Board's Proposed Order (Sections 2f and 2g) by which the respondent is ordered to reinstate strikers upon application is a denial of due process of law to the respondent because it has never been put on notice or afforded a hearing as to the rights of such strikers. Specifically, the respondent contends that the complaint alleges the discharge of certain named individuals and the lock-outs at Canton and Massillon as unfair labor practices within the meaning of specific sections of the Act; that paragraph 16 of the complaint, dealing with the causes of the strike, does not allege that in causing the strike the respondent committed a specific unfair labor practice; that whereas the complaint specifically names certain employees whose rights are involved, no specific reference is made to any of the employees who went out on strike, so that there is nothing to call to the attention of the respondent the fact that the Board intended to deal with the rights of the strikers generally; and that the clear implication of the complaint must be that, in so far as the rights of individual employees were concerned, its purpose was to tender an issue as to those and those only who were named specifically in the complaint. The respondent asserts, therefore, that it was denied the opportunity to make its defense as to all strikers who were not named in the complaint. Counsel for the respondent also asserts that at the hearing before the Trial Examiner he expressly stated that the complaint was not broad enough to tender any issue as to the rights of any strikers other than those specifically named in the complaint; that this statement was not dissented from by the Trial Examiner nor disputed by counsel for the Board; that counsel for the Board and the Trial Examiner misled counsel for the respondent and, impliedly at least advised the respondent that the hearing was limited to a determination of the rights of the persons specifically named in the complaint, in that when the respondent offered evidence to show that the strikers generally had been guilty of acts of violence and lawless conduct, the Trial Examiner sustained the objection of counsel for the Board to the admission of this evidence on the ground, *inter alia*, that evidence of acts of violence must be limited to the individuals specifically named in the complaint.

A review of the entire record discloses that there was no misunderstanding, either as the result of the complaint or the conduct at the hearing of counsel for the Board and of the Trial Examiner, as to the right of the Board to order the reinstatement with back wages of strikers not specifically named in the complaint:

The Board in its decisions prior to the issuance of the complaint in this case had consistently taken the position that where a strike has been caused by unfair labor practices of an employer the Board will as a matter of remedy order the employer to reinstate the strikers upon application.[91] This remedy had been sustained by the courts.[92] Paragraph 16 of the complaint in the instant case—alleging that certain unfair labor practices of the respondent had been a cause of the strike—laid the factual foundation for the reinstatement of the strikers and sufficiently put the respondent on notice that the customary remedy would, if the Board found the facts as alleged, be ordered by the Board. Furthermore, conclusive of this matter is the fact that at the oral argument before the Board, counsel for the respondent while reiterating the position taken in his brief and exceptions, admitted that he had realized at the time of the trial of this proceeding that the issue of reinstatement of strikers was involved in the case.[93]

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[91] Matter of *The Jeffrey-DeWitt Insulator Company*, Case No. C-21, 1 N. L. R. B. 618.

Matter of *Remington Rand, Inc.*, Case No. C-145, 2 N. L. R. B. 626.

Matter of *Alaska Juneau Gold Mining Company*, Case No. C-91, 2 N. L. R. B. 125.

Matter of *Carlisle Lumber Company*, Case No. C-93, 2 N. L. R. B. 248.

[92] Matter of *The Jeffrey-DeWitt Insulator Company* v. *National Labor Relations Board*, 91 F. (2) 34; cert. denied 302 U. S. 731.

Furthermore, after examination of the record, we are convinced that neither the Trial Examiner nor the attorney for the Board acquiesced in the respondent's assertion that the complaint was not broad enough to tender any issue as to the reinstatement of strikers not named in the complaint; and that neither the Trial Examiner nor the attorney for the Board misled counsel for the respondent by any ruling or otherwise with respect to this issue.

Finally, even if the respondent misunderstood any statement or ruling of the Trial Examiner or any statement of counsel and as the result of its misunderstanding was misled as to the nature of the evidence which it might have introduced at the hearing in defense to the reinstatement of strikers, the respondent has not been prejudiced in any way; for it has set forth in its motion to reopen and its offers to prove all such evidence as it wished to produce at the hearing, and, for reasons discussed elsewhere, we hold that all such evidence (other than that relating to pleas of guilty and convictions of strikers, of which we take judicial notice) is inadmissible now and should have been excluded, if offered at the hearing before the Trial Examiner.

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93. CHAIRMAN J. WARREN MADDEN: The complaint does state specifically that certain of your unfair labor practices caused the strike, does it not?

MR. DAY: Yes, sir.

CHAIRMAN J. WARREN MADDEN: And, of course, we have decided numerous times and I take it you have probably familiarized yourself somewhat with the unwritten law which was administered before you tried this case, that we had, with the approval of the courts, numerous times, as part of the remedy in our order, reinstated strikers.

MR. DAY: I realize that.

CHAIRMAN J. WARREN MADDEN: On this same kind of situation of the pleading.

MR. DAY: Well, I do not believe that it is justified on the pleading.

CHAIRMAN J. WARREN MADDEN: It hadn't troubled us and it hadn't troubled the judges, and you were certainly on notice of what our procedure was in that regard.

MR. DAY: Well, I think if you will examine the complaint you will find there is no such issue tendered by it.

In its motion to reopen the proceeding for the taking of further evidence the respondent raises several issues not previously discussed. Reasserting that the issue of reinstating striking employees not named in the complaint was not raised by the complaint but was injected into the case for the first time by the Board's Order of April 8, 1938, the respondent contends that it should be permitted to introduce evidence in order to enable it to place before the Board facts, not in the record, some of which occurred after the hearing had been concluded, disclosing the situation as it exists with relation to the performance of the Board's Proposed Order, so that the Board may determine in the light of the facts as they now exist, whether its Proposed Findings of Fact, Proposed Conclusions of Law and Proposed Order should be made final. Under this heading, the respondent asserts and offers to prove (1) that prior to and soon after the reopening of such of the respondent's plants as became involved in the strike, those of the respondent's employees who had gone out on strike and had not yet returned to their work were informed at the respondent's instance of the fact that said plants would be or had been reopened and that all the persons on the respondent's pay rolls at the time of the strike, excepting those who had been guilty of acts of violence, or of provoking, condoning, or instigating acts of violence, or of indulging in other unlawful acts during the strike, would be reinstated to their former jobs with the respondent upon their making application therefor or as soon as production had increased sufficiently to justify adding more persons to the pay rolls, wholly without any discrimination on account of union membership or lawful union activity;[94] and that normal operations in the respondent's several plants mentioned in the complaint and involved in the strike were resumed on or before July 30, 1937, except at its plants in Warren and Niles, where such operations were resumed on or about August 30, 1937; (2) that strikers caused damage in excess of $3500 to the property of the respondent, and damage in excess of $7500 to the property of certain of the respondent's employees not engaged in the strike; and (3) that portions of the Proposed Order are wholly impossible of performance, due to the radical changes in methods of manufacture employed by the respondent since the advent of the strike, which have resulted in the dismantling of several of the respondent's mills, have reduced the number of men necessary in several of the respondent's plants, have caused the elimination of a large number of positions for employees in each one of the plants, and have required the employment of an entirely different type of skilled labor from that which operated the old sheet mills used by the respondent at the time the strike was started; and that other portions of the Proposed Order are so impracticable or so difficult as to performance that an enforcement thereof would disrupt and render impossible normal operations of business.

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[94] The respondent, at the hearing and at the oral argument before the Board, contended that all of the strikers were chargeable with the unlawful conduct of those strikers guilty of unlawful acts and that all of the strikers were therefore barred from reinstatement.

None of these contentions constitute grounds for reopening the record. With regard to the respondent's first assertion—that during the strike the respondent resumed its normal operations and called back to work its striking employees—the respondent contends in its brief that the evidence it seeks to introduce on this point is material as showing that thereafter the strikers were no longer employees, for the reason that the discharges and lock-outs, found to be a cause of the strike, had thereby been "removed from the picture" and that the strikers were continuing the strike solely because of the respondent's refusal to sign the agreement presented by the S. W. O. C., which we do not find to have been an unfair labor practice.

The respondent's assertion and its offer to prove, however, do not include a showing that the respondent ceased from engaging in the unfair labor practices which caused the strike, that it made whole the employees laid off, discharged, and locked out at Canton and Massillon, and the employees laid off, discharged and refused reinstatement at its other plants, or that it has disestablished the labor organizations whose formation and administration it dominated and interfered with. Hence, the respondent's resumption of operations and offer of employment to strikers, in the manner alleged, did not remedy the unfair labor practices which caused the strike or "remove them from the picture." Accordingly, the strike continued because of unfair labor practices and the strikers continued to be employees within the meaning of Section 2 (3) of the Act. Thus, even if such evidence were admitted, it would not relieve the respondent of its obligation to reinstate strikers upon application when they apply for reinstatement, in accordance with the Order herein. As a further ground for denying this part of the respondent's motion, it appears from the face of the motion that all of the foregoing evidence which the respondent offers to prove was available at the time of the hearing, and was not offered. The proffered evidence is therefore both immaterial and untimely.

Immaterial also is the respondent's claim that "pickets, strikers, and persons affiliated with the S. W. O. C. and the C. I. O." caused damage to the property of the respondent and to the property of certain non-striking employees. The purpose of this offer, as appears from the respondent's brief, is to establish a basis for set-offs or recoupments against the back wages ordered by the Board for the purpose of making the strikers whole. However proper such set-offs or recoupments might be in a controversy between private litigants over private rights, there is no basis for such a claim in a controversy, such as this, of a public character, where conformance is sought with the public policy of the United States, as expressed in a statute, and where those to whom the Board has awarded back pay are not private litigants in the cause.

Finally, with respect to the respondent's third contention, we see nothing in the respondent's assertions or in its offer to prove, with the exception noted below[95] which indicates any impossibility or impracticability of performance of the Board's order. The order states generally the principles to be followed by the respondent in making reinstatement, and none of the matters set forth in the respondent's motion raise issues which are not covered by these general principles. Thus the respondent asserts that changes in methods of manufacture subsequent to the hearing have eliminated a number of previous jobs; this contingency, however, is expressly provided for in the order through the device of the preferential list. Again, while it is true that compliance with the Board's order will require certain readjustments in the respondent's business, such difficulties as the respondent may experience, as, for instance, in displacing employees hired since the strike or in reinstating men who may have lost some of their skill through unemployment, are merely the normal concomitant and the necessary result of the respondent's violation of the law.[96] Our experience with similar orders of reinstate-

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[95] As set forth above we recognize the difficulties pointed out by the respondent in regard to reinstating employees to positions in plants which are removed some distance from the employee's place of residence, and have accordingly modified our order in this respect.

[96] See *National Labor Relations Board* v. *Remington Rand, Inc.*, (97 F. (2) 195).

"Apparently it (the respondent) believes that the substitutions (of strikers to be reinstated for employees hired since the strike) were not peremptorily required, in the sense that they must be carried out, regardless of their effect upon the company's business. That is a mistake; the order required the substitutions unconditionally, regardless as much of their effect on the Company's business, as of the hardship entailed upon those who must be displaced. The old hands are to be offered their former jobs as soon as they can be identified, and so far as their jobs remain; that is to say, so far as anyone else is performing the same, or substantially the same, services as they were performing or any other services which they can perform. If this involves ment has been that performance is neither impossible nor impracticable but can be readily carried out if the employer makes a *bona fide* attempt to comply. The evidence which the respondent seeks to introduce is, therefore, immaterial to the issues of the case.

Further, with respect to that evidence which was available at the time of the hearing we think it plain there is no justification for reopening the record at this time. Despite the respondent's contention to the contrary, the issue of the reinstatement of the strikers was present throughout the hearing and any evidence relating to that issue should have been introduced at that time. With respect to evidence not available at the hearing—mainly relating to subsequent changes in the respondent's methods of operation—we cannot, as a matter of administration of the Act reopen the record to receive testimony upon the constantly changing details of compliance with or performance of the Board's order. To do so would require a reopening of the record whenever the employer changed his method of operation and would delay interminably the final adjudication of the issues.

ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Republic Steel Corporation, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Dominating or interfering with the formation or

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disturbance to the Company's business, it is no doubt unfortunate; but, having chosen to challenge the law, it must abide the loss."

administration of any labor organization of its employees or contributing financial or other support thereto;

(b) Discouraging membership in the Amalgamated Association of Iron, Steel and Tin Workers of North America or the Steel Workers Organizing Committee or any other labor organization of its employees, by discharging and refusing to reinstate employees, or otherwise discriminating in regard to hire or tenure of employment or any term or condition of employment or by threats of such discrimination.

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organiaztion, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Withdraw all recognition from the Plan of Employee Representation, and its successors—the Employees' Representative Association and the Independent Association of Republic Employees at Massillon; the Plan of Employee Representation, and its successors—the Employees' Representative Association, and the Steel Workers Union of America—and the Plan of Representation of Employees at Canton; The Plan of Employee Representation, and its successors—the Employee Representation Plan, and the Independent Federation of Republic Employees at Youngstown; the Plan of Employee Representation, and its successor—the Employees' Independent Association at Warren; the Plan of Employee Representation, and its successor—the Employees' Representative Association at Cleveland; the Central Council of Employee Representatives; and each of them, as the representatives of any of its employees at its plants in the Massillon, Canton, Youngstown, Warren, Niles, and Cleveland districts, respectively, for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work; and completely disestablish the foregoing labor organizations as such representatives;

(b) Offer to Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, and George Troyanovich (group A); John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, Anthony Martin de Long, Richard Green, and Hallie P. Hite (group B), in the manner provided in the section entitled "The remedy" above, immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority and other rights and privileges; and make them whole for any losses of pay they have suffered by reason of the respondent's discriminatory acts, by payment of each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group A, from the date of their lay-off or discharge until the date when the strike began, and again from the date on which operations in their departments began after the reopening of the plants involved to the date of the offer of reinstatement as provided herein, and in the case of group B, from the date of the refusal to reinstate until the date of the offer of reinstatement as provided herein; less the amounts, if any, which each earned during said period, deducting, however, from the amount otherwise due to each of the said employees, monies received by said employees during said periods for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work relief projects;

(c) Make whole Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (Group C); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, and Fred Korecky (Group D) for any losses of pay they have suffered by reason of the respondent's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group C, from the date of their discharge to the date of their offer of reinstatement prior to the strike, and in the case of group D, from the date of their lay-off or discharge until the date of the strike; less the amounts, if any, which each earned during said period, deducting, however, from the amount otherwise due to each of the said employees, monies received by said employees during said periods for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work relief projects;

(d) Make whole the employees of the Canton tin plate mill who were employed on May 4, 1937, for any loss of pay they have suffered by reason of the closing of the Canton tin plate mill on May 5, 1937, by payment to each of them, respectively, of a sum equal to that which each of them would normally have earned as wages during the period from May 5 to May 24, 1937, less the amount, if any, which each has earned during said period;

(e) Make whole the employees of the Massillon Works, who were employed on May 19, 1937, for any loss of pay they have suffered by reason of the closing of the Massillon Works on May 20, 1937, by payment to each of them, respectively, of a sum which each of them would normally have earned as wages during the period from May 20 to May 23, 1937, less the amount, if any, which each has earned during said period;

(f) Upon application, offer to those employees at its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts, (including those referred to as groups C and D in paragraph 2 (c) above), who went on strike on May 25, 1937, and thereafter, (except Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, George A. Bundas, Andrew J. Marsh, Mike Spelich, Herman Herzog, Jesse Rentario (Runtario), Pete Vasleo, and Omer Williams), immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights or privileges, in the manner provided in the section entitled "The remedy" above; and place those employees for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in said manner, offer them employment as it becomes available;

(g) Make whole all the employees referred to in paragraph 2 (f) above for any losses they may suffer by reason of any refusal of reinstatement or placement upon the preferential list required by paragraph 2 (f) above by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during the period from five (5) days after the date of application to the date of offer of reinstatement or placement upon the preferential list, less the amount, if any, which each, respectively, earned during said period, deducting, however, from the amounts otherwise due to each of the said employees, monies received by said employees during said period for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, or municipal or other government or governments which supplied the funds for said work relief projects;

(h) Post immediately in conspicuous places in its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts, and maintain for a period of at least sixty (60) consecutive days, notices to its employees stating that the respondent will cease and desist in the manner aforesaid and that recognition is withdrawn from the labor organizations named in paragraph 2 (a) above as representatives of any of the employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, and that the foregoing labor organizations are completely disestablished as such representatives;

(i) Notify the National Labor Relations Board in writing what steps the respondent has taken to comply with the Order herein.

And it is further ordered that the allegations of the complaint with respect to the discharge and refusal to reinstate Harry Rigby be, and they hereby are, dismissed.

Dated at Washington, D. C., this 18th day of October, 1938.

J. Warren Madden
Chairman
Edwin S. Smith
Member
Donald Wakefield Smith
Member
National Labor Relations Board

(Seal)

AFFIDAVIT AS TO SERVICE

District of Columbia, ss:

I, George Lo Verde being first duly sworn, on oath saith that I am one of the employees of the National Labor Relations Board, in the office of said Board in Washington, D. C.; that on the 18th day of October, 1938, I mailed postpaid, bearing Government frank, by registered mail, a copy of the Decision and Order to the following named persons, addressed to them at the following addresses:

Mr. Lee Pressman
1106 Connecticut
Washington, D. C.
69361

Mr. H. C. Pontius
Lynch, Day, Pontius and Lynch
Canton, Ohio
69362

Mr. J. G. Ketterer
First National Bank Bldg.
Canton, Ohio
69363

Harrington, Huxley and Smith
1200 Mahoning Bank Bldg.
Youngstown, Ohio
69364

Steel Workers Organizing Committee
3600 Grant Bldg.
Pittsburgh, Pa.
69365

George Lo Verde

Subscribed and sworn to before me
this 18th day of October, 1938
John A. Nevres
Notary Public,
D. C. (Seal)

My Commission Expires Aug. 15,
1943.

(Return Receipt Cards of those named above attached)

AFFIDAVIT OF SERVICE

State of Ohio,
County of Cuyahoga, ss:

Max W. Johnstone, Attorney, first being duly sworn, deposes and says that on the 19th day of October, 1938, as agent for the National Labor Relations Board, he personally served upon Earl W. LeFever, of Day, Young, Veach and LeFever, of counsel for Republic Steel Corporation, at their offices in the Union Bank of Commerce Building, City of Cleveland, County of Cuyahoga, State of Ohio, at approximately 10:15 A. M., on the above mentioned date, a copy of the Decision and Order of the National Labor Relations Board in the above entitled matter.

Max W. Johnstone

Subscribed and sworn to before me
this 19th day of October, 1938.
Elizabeth A. Wells
Notary Public,
My commission expires Feb. 21, 1941.
(Seal)

AFFIDAVIT OF SERVICE

State of Ohio,
County of Cuyahoga, ss:

Max W. Johnstone, Attorney, first being duly sworn, deposes and says that on the 19th day of October, 1938, as agent for the National Labor Relations Board, he personally served upon P. F. Boyer, Comptroller of the Republic Steel Corporation, at the offices of the Republic Steel Corporation, in the Republic Building, City of Cleveland, County of Cuyahoga, State of Ohio, at approximately 10:05 A. M., on the above mentioned date, a copy of the Decision and Order of the National Labor Relations Board in the above entitled matter.

Max W. Johnstone

Subscribed and sworn to before me this 19th day of October, 1938.

Elizabeth A. Wells
Notary Public,

My commission expires Feb. 21, 1941.
(Seal)

AFFIDAVIT OF SERVICE

State of Ohio,
County of Cuyahoga, ss:

Max W. Johnstone, Attorney, first being duly sworn, deposes and says that on the 19th day of October, 1938, as agent for the National Labor Relations Board, he personally served upon A. J. Gentholtz, Assistant General Counsel of Republic Steel Corporation, at the offices of the Legal Department of Republic Steel Corporation, in the Republic Building, City of Cleveland, County of Cuyahoga, State of Ohio, at approximately 10:00 A. M., on the above mentioned date, a copy of the Decision and Order of the National Labor Relations Board in the above entitled matter.

Max W. Johnstone

Subscribed and sworn to before me this 19th day of October, 1938.

Elizabeth A. Wells
Notary Public,

My commission expires Feb. 21, 1941.
(Seal)

XXXIII.

TRANSCRIPT OF TESTIMONY

BEFORE THE NATIONAL LABOR RELATIONS BOARD
Washington, D. C.

In the Matter of:
REPUBLIC STEEL CORPORATION
and
STEEL WORKERS ORGANIZING COMMITTEE
Case No. 184.

Auditorium of the Public Health Service Building, Constitution Avenue between Nineteenth and Twentieth Streets, Washington, D. C., Wednesday, July 21, 1937.

The above-entitled matter came on for hearing, pursuant to notice, at 10 o'clock a. m.

Before:
Mr. Edwin S. Smith, Member of the Board
Mr. Donald Wakefield Smith, Member of the Board.

Appearances:

Charles Fahy, Esq., General Counsel, Robert B. Watts, Esq., Associate General Counsel, Mark Lauter, Esq., Lawrence Hunt, Esq., Oscar Grossman, Esq., and Joseph M. Hoskins, Esq., Counsel appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young & Veach (1420 Union Trust Building, Cleveland, Ohio), and Thomas F. Patton, Esq., (Republic Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

Lee Pressman, Esq. (50 Broadway, New York City), appearing for the Steel Workers Organizing Committee.

PROCEEDINGS

MR. EDWIN S. SMITH: Are you ready to proceed, gentlemen?

MR. LAUTER: If the Board please, I assume the appearances for the Board have already been entered.

MR. WATTS: Yes.

MR. LAUTER: I do not know whether the appearances for the Respondent Company have been entered, or not.

MR. PATTON: They have been noted.

For the benefit of the Board who possibly do not know the Attorneys for the Republic Steel Company: This gentleman to my right is Mr. Luther Day, of Cleveland; Mr. Thomas F. Veach, of Cleveland, is at the end of the table, and my name is T. F. Patton, of Cleveland. We will appear for the Republic Steel Corporation.

MR. LAUTER: If the Board please, I offer as Board's Exhibit No. 1, a copy of the charge and order permitting the filing of the charge with the Board; the supplemental charges; the complaint; two affidavits of service of the complaint; and the order extending the time to answer.

MR. PATTON: If the Board please, I am not entirely clear as to the rules of procedure, but before we begin the introduction of evidence there are one or two motions and statements that Republic Steel Corporation would like to make, if you will hear them.

MR. EDWIN S. SMITH: Let me suggest these formal pleadings be admitted first. That is customary. Then you may proceed with your motions, or whatever you have.

Board's Exhibit No. 1 is admitted.

(Thereupon, the documents referred to were received in evidence and marked "Board's Exhibit No. 1.")

MR. EDWIN S. SMITH: I understand there is a rule that smoking is not permitted in this hearing room. We are here by courtesy of the Public Health Service, so I think we would better obey that rule.

MR. PATTON: On behalf of the Republic Steel Corporation, if the Board please, at this time we would like to make a motion for a continuance of at least two weeks before these hearings begin, and to have them begin in Cleveland. Our grounds for this motion are the following:

The complaint was served on us just four and a half days ago, last Friday morning, in Cleveland. At the time the complaint was served Mr. Day and myself were engaged in a lawsuit in the Common Pleas Court of Cuyahoga County, and it was only about two thirty in the afternoon that the Court, upon calling Mr. Fahy, consented to postpone the trial of that case until next Tuesday. As a result, we have had no chance, or very little chance, to familiarize ourselves with the issues in this proceeding, and with the facts which are the basis of the complaint.

We want to call your attention to the fact that the charges contained in the complaint relate solely to happenings which occurred in the State of Ohio, in six different communities, involving thirteen different plants, and there are specifically named in the complaint at least seventy-six different individual cases. We do not believe we are being fairly dealt with, and we do not believe that it is just to ask us to come to Washington when all of the complaints and all of the events and all of the witnesses and all of the people involved are all located within 100 miles of Cleveland, which would be a convenient place for the conduct of this hearing.

Therefore, we ask that you give us an opportunity to prepare ourselves in the defense of this case, and that the hearings be adjourned, to be resumed in Cleveland not earlier than two weeks from this date.

MR. FAHY: If the Board please, these same representations were made to me, in substance, on last Saturday by Mr. Patton. I explained to him at that time that it is ordinarily true, as the Board well knows, and all those who appear before the Board well know, that hearings are ordinarily conducted in the location where the controversy arises, but that there are occasional exceptions and hearings are conducted in part, if not in full, in Washington.

I also explained at the time these same negotiations were made to me, that the Republic Steel Corporation would be given the fullest opportunity to prepare and present its defense, that there were circumstances, however, under which, after mature consideration, the Board felt compelled to initiate this hearing in Washington at this time pursuant to the valid notice given.

I went so far as to talk with the Judge presiding over the trial of the case mentioned by Mr. Patton, and with Counsel for the plaintiff in that case, and upon my statement that the Board felt under the necessity of proceeding now in part, I understand that that case has been continued until next Tuesday. I agreed with counsel, Mr. Patton, and that agreement has since been incorporated in an order of the Board, for an extension of time within which the Republic Steel Corporation may file its answers, or other pleadings or motions which it may desire. And I assured him that notwithstanding the fact that the hearing would begin here and now, that I felt that the Board would, at the proper time, recess the hearing if Counsel felt that they had not had at that time an opportunity to prepare the case for the Republic Steel Corporation.

In view of all these circumstances, I ask the Board to overrule the present motion.

MR. PATTON: May I call to the Board's attention the fact that one of the chief things which will be required of Counsel for Republic Steel Corporation at this time is an opportunity to cross-examine the witnesses presented on behalf of the Board. That is a fundamental part of the defense of our case. And we do not believe we have been given an opportunity to familiarize ourselves with the facts stated in the complaint to an extent that would enable us to do real justice to our clients in the cross-examination of the witnesses who will be produced here by the Board.

For that reason, I reiterate our request for a continuance.

MR. FAHY: I will add just one more word, that in controversies of this kind arising under the National Labor Relations Act, the Board is well aware of the necessity of speedy hearing and disposition of the cases because of the nature of the controversy. That being true, and Counsel being assured that in the wisdom of the Board, as the case proceeds, it will be given opportunity to prepare its defense, I again ask that the Board overrule the motion at this time.

MR. VEACH: I think we are entitled to have stated for the record these circumstances which were mentioned by Counsel as a compelling factor for proceeding.

MR. DONALD WAKEFIELD SMITH: What would be the purpose of that?

MR. VEACH: I think to enable this Board to pass upon the motion.

MR. DONALD WAKEFIELD SMITH: The statement has merely been made that it is necessary to proceed at this time.

MR. EDWIN S. SMITH: The Board is aware that this is a long complaint covering a variety of matters. We agree with the suggestion made by the General Counsel for the Board that at a proper time it would be appropriate, in all probability, to grant an adjournment of these hearings in order that the Republic Steel Corporation have additional time within which to prepare its case.

There were certain reasons which seemed to Counsel for the Board, and to the Board, imperative why certain witnesses should appear at this time, which was the earliest time possible within the statutory limits, and why their testimony should be put on the record now and in Washington.

As to the suggestion that the hearings might more conveniently be held outside of Washington, we, like the company, are aware of the difficulties of transporting large numbers of witnesses to Washington. I think it is quite probable that a portion—perhaps a very large portion of the hearings—may be conducted outside of Washington, and possibly in Cleveland, as suggested by Counsel.

Under all of the circumstances, and because we felt very definitely that an urgent public interest did demand that these witnesses who are presently available should be put on at this time, we decided to proceed with the hearing.

And Mr. Fahy has explained, as you have, that the case in which you are interested there in Cleveland has been adjourned until next Tuesday morning, and the Board is going to make every effort to conclude with the testimony of its present witnesses before that time.

I hope it will not be necessary to have evening sessions, but in deference to the obligation which you are under there, if it develops that that is necessary in order for us to conclude our program with the present list of witnesses whom we have here under subpoena, we will do that.

Under all of these circumstances, the motion is overruled and we will proceed with the case.

MR. PATTON: May the record show that Republic objects to the overruling of its motion for a continuance and a transfer of the case.

Before we start there are one or two other things I would like to have cleared up. I understand that we are appearing here on your ruling without prejudice in any way by reason of our appearance, or the introduction of testimony, if the Board please, to our filing any motion that we desire prior to a date— And I do not know just what the exact date is.

MR. FAHY: August 4.

MR. PATTON: And that we have until August 4 to file an answer to the complaint?

MR. EDWIN S. SMITH: That is correct.

MR. PATTON: And that any proceedings that go on here are entirely without prejudice to any motion as to jurisdiction or anything else that we may desire to file?

MR. EDWIN S. SMITH: That is correct.

MR. DAY: If the Board please, I do not know the rules of the Board nor the procedure of the Board. This is the first time I have been here. I don't know whether it would be in order now for Republic to make a statement— that is, a general statement as to its provisions with relation to these charges. If that would meet with the approval of the Board we would like to make it.

MR. EDWIN S. SMITH: I see no objection to that. Mr. Fahy?

MR. FAHY: If the Board please, I understand Republic Steel Corporation is anxious that this phase of the hearing be held in Washington and proceed as rapidly as possible so that Counsel here may return to the Common Pleas Court in Cleveland in the case in which they were engaged there.

In view of the circumstances that we have just discussed, if this phase of the hearing is to be concluded within the next few days, I do feel we ought to go to the taking of testimony as rapidly as possible.

Counsel have reserved the right, with the approval of the Board, to file their pleadings and raise all questions of which they are advised they should raise. We cannot very well argue the case at this stage. Counsel for the Board does not desire to enter into a general statement. The purpose of the hearing is to take testimony.

MR. EDWIN S. SMITH: The Board is well aware of the necessity for speed in these proceedings under the circumstances which have been stated. I take it what you are now suggesting is a statement which would be in the nature of a preliminary oral answer, perhaps, in lieu of the formal answer which you have been given time to file?

MR. DAY: It would be a general statement of the position of Republic Steel with relation to the charges that have been made. And the complaint discloses that it has been filed on charges filed by the Steel Workers Organizing Committee. And, if it meets with the approval of the Board, and if it is in order, we would like to make a general statement as to our position in this whole transaction with relation to these charges.

MR. EDWIN S. SMITH: Mr. Fahy, do you see any objection?

MR. FAHY: If the Board please, I do. They have reserved until August 4, at their request and with the approval of the Board, the right to file their formal answer to the charge.

MR. DONALD WAKEFIELD SMITH: I do not think there should now be substituted an oral statement of their position. The statement was made by Counsel for the Respondent here that they were only served with this complaint four and a half days ago, and because of that it was impossible for them to sufficiently investigate the allegations made in that complaint for the purpose of interposing a defense. Now, cannot Counsel request the privilege of making a statement? I would like to know whether Counsel has investigated the matters mentioned in that complaint and would be in position to file an answer now?

MR. DAY: I do not think we would be in position to file an answer, but we are in position to make a general statement as to the position of Republic Steel Corporation with relation to these charges contained in this complaint.

MR. PRESSMAN: May it please the Board, on behalf of the Steel Workers Organizing Committee, I would like to protest against any such general statement now being made by Counsel for Republic Steel Corporation. I can see absolutely no point for it. This hearing has for its basis a record. That record will have those pleadings. At the proper time Counsel for Republic Steel Corporation can enter their answer, which will be the entire statement they can make with regard to the charges in the complaint. If at some future date Mr. Day, or some other member of Counsel, wishes to go on the witness stand and make a further statement, they have the opportunity to do so. I can see absolutely no point at the present time for such a general statement except possibly making a speech for the benefit of the newspaper correspondents sitting over there at the left. If any such speech is made, of course the Steel Workers Organizing Committee will have to have an opportunity to make an answer to whatever the Republic Steel Corporation will say.

It seems to me since we have witnesses available here today to present their testimony that that is all that need be done at the present time, in view of the arrangements which have been made between Counsel for the Board and Counsel for Republic Steel Corporation.

MR. FAHY: I just want to add, if the Board please that I am concerned with the request of Republic Stee Corporation that these hearings here permit them als to take care of their obligations in court in Cleveland o Tuesday. For that reason I am particularly anxiou that we proceed as rapidly as possible with the real purpose of the hearing here—that is, the taking of certai testimony.

MR. EDWIN S. SMITH: Since, at the request o Counsel, additional time has been given for filing th formal answer to the complaint, the Board does not fee that any good purpose would be served by an oral statement at this time. Therefore, we will proceed with th hearing.

MR. DAY: I want to make a statement, if I may before you proceed.

Mr. Pressman, Counsel for the C. I. O., at the ver outset of this hearing has seen fit to charge us with having in mind the making of a speech for the benefit of th newspapers. I made it a rule many years ago that whe any unfounded statement was made concerning the interest that I represented, to immediately meet the situation.

I want to say to this Board that our purpose in asking for an opportunity to make a statement had absolutel nothing to do with newspapers, or publicity.

MR. DONALD WAKEFIELD SMITH: I think w realize that. The only reason this ruling has been mad is because full opportunity has been given Counsel fo the Respondent to file an answer within a reasonabl time. We do not feel the rights of the Respondent ar in any wise prejudiced by this action.

MR. DAY: We bow to the ruling. However, I d want the record to show, and I want to take the tim to remark, that it seems to me inasmuch as the charges upon which this complaint was filed were presented by the C. I. O., it does not come with good grace for Counsel for the C. I. O. to object at the outset of this hearing to Republic making some statement in refutation and in answer to those charges.

MR. DONALD WAKEFIELD SMITH: Very well.

MR. DAY: If the Board please, do you have a rule excluding the witnesses such as we have in court? I think perhaps there are other witnesses who will testify upon the same subject. If that is the rule, then we will ask for an order of exclusion.

MR. EDWIN S. SMITH: That is not a rule of the Board.

STANLEY W. SWITTER a witness called for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hunt) Please state your full name.

A. Stanley W. Switter.

Q. Where do you live?

A. 313 First Street, Northeast, Massillon, Ohio.

Q. What is your occupation?

A. Chief of Police of the City of Massillon.

Q. When were you appointed?

A. September 1, 1935.

Q. What is the method by which the Chief of Police is appointed in Massillon?

A. He is appointed by the Mayor and Safety Director from the certified eligible list certified by the Civil Service Commission.

Q. Did you have to take a competitive examination before you were eligible for appointment?

A. Yes, sir.

Q. Have you had any special training, apart from your experience on the police force?

A. I attended the National Police Academy in Washington, D. C., under the direction of J. Edgar Hoover, for 3 months in 1937.

Q. That is under the Federal Bureau of Investigation?

A. Yes, sir.

Q. How long have you served on the police force at Massillon?

A. Since September of 1930.

Q. Were you at any time employed in the steel mill in Massillon, Ohio?

A. I worked in the steel mill in Massillon, Ohio, from 1919 up until 1930.

Q. Did the Republic Steel Corporation then own those mills?

A. It was the Central Steel and then the Central Alloy.

Q. Chief Switter, on Tuesday, May 25th, did a Mr. Carl Meyers come into your office?

MR. DONALD WAKEFIELD SMITH: May I interrupt?

If the photographers want to take the pictures of the witness they may do so, but I wish they would do it promptly so that the witness will not be bothered with a barrage of potential shots here.

Q. (By Mr. Hunt) On Tuesday morning, May 25th, did a Mr. Carl Meyers and another man come into your office to see you?

A. Yes, sir.

Q. Who is Mr. Carl Meyers?

A. He is general manager in charge of operations of the Canton-Massillon District, Republic Steel Corporation.

MR. DONALD WAKEFIELD SMITH: Mr. Hunt, may I inquire whether that question is directed to May 25, 1936?

MR. HUNT: It is May 25, 1937. My entire questioning concerns the events on May 25, 1937, and on.

Q. (By Mr. Hunt) What was the purpose of Mr. Meyers' visit?

MR. DAY: I object to that. I do not object to what he said.

Q. (By Mr. Hunt) Very well.

What did Mr. Meyers say to you on that occasion?

A. He told me they expected a strike at almost any time in the near future and wanted to know how the Police Department was able to handle the situation, and such information as to how we stood and how many men we had and how we would handle the situation.

Q. What did you say to Mr. Meyers?

A. I told him we were not prepared to handle any strike situation if it got real serious, and we had violence or trouble, as we had a small police department and we were not prepared for big fights such as taking place in other strikes.

Q. Did you agree to do anything that he requested, or was it just a general discussion of the strike situation?

A. It was just a general discussion. He assured me that there would not be any trouble in Massillon because they did not intend to operate that plant in case the strike was called, that the plant was so located that it would be a poor place to try to carry on with a strike in progress, and that they would shut down the plant.

MR. DAY: May I interrupt long enough to

ask Counsel if they will indicate to us in support of what charges this evidence is being offered?

MR. HUNT: Yes; in support of the general charges, I suppose. I am trying to develop the atmosphere under which the strike situation was handled, and to show the attempt of the Republic Steel Corporation directly through its officers, and indirectly with the Law and Order League, and through the socalled back-to-work-movement to intimidate and coerce the strikers.

MR. DAY: To intimidate and coerce the strikers in what respect?

MR. DONALD WAKEFIELD SMITH: I think that might be adduced by the witness.

MR. DAY: Then will the Board please take this testimony under and over our objection at this time?

MR. DONALD WAKEFIELD SMITH: You are filing a blanket objection?

MR. DAY: Yes. We will object to it upon the grounds it is not competent or admissible or relevant under any of the charges made in the complaint. And, without repeating the objection each time, may we have that objection to all of it? If any additional objection arises we will call the attention of the Board to it.

MR. DONALD WAKEFIELD SMITH: You may have the objection, but it is overruled.

MR. DAY: May we note an exception?

Q. (By Mr. Hunt) What did you tell Mr. Meyers when he told you the Republic Steel intended to close down the plant during the strike?

A. I told him I thought it was a good idea, and we would not have any trouble then.

Q. On Thursday, May 27th, did a group of men, including one Raymond Walters, come to your office to

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arrange for a meeting of men who wanted to go back to work?

MR. VEACH: I object.

A. Yes, sir.

Q. (By Mr. Hunt) What did they want to do?

MR. DAY: I object to that. I suppose if there was a conversation we are entitled to it. Of course, I don't know how technical this Board is in its rules, and if I am raising these questions at the outset improperly, I beg your pardon. This is the first time I have been before the Board.

MR. DONALD WAKEFIELD SMITH: I hope you will not compel us to be too technical.

MR. DAY: Ask him what was said:

MR. HUNT: I assure the Board I will get all of the conversation into the record that I can, every bit of it.

MR. DAY: Then, why don't you ask him what was said.

MR. EDWIN S. SMITH: I will say for the information of Respondent's Counsel, that the Act specifically provides the Board does not have to adhere strictly to the rules of evidence.

MR. DAY: I think that is true. And, in fairness to us, I think we should have the witness state the conversation, giving what was said as nearly as he can remember, rather than having Counsel say: "What was the purpose of the meeting? What did you go there for? What did you talk about?"

MR. EDWIN S. SMITH: It is as much to our interest as it is to yours, Mr. Day, to have the story presented in as logical a fashion as possible, and in as factual a fashion as possible. I am sure Mr. Hunt is trying to do that.

Q. (By Mr. Hunt) Will you please state what was said to you at that meeting with the Back-to-Work men?

A. They asked me if they could use the City Hall Auditorium to hold a meeting. I said yes. That was in the forenoon. They wanted to hold a meeting at one thirty in the afternoon.

MR. DAY: What was that again? I have been talking so much that I have forgotten the date myself.

MR. HUNT: That was Thursday, May 27th.

THE WITNESS: Later in the day—that is, before one-thirty—rumors got out that members of this group which represented the union drawn steel, were going to hold a vote to see whether they wanted to go back to work or not.

MR. DAY: We object to "rumors got out," and ask that that be excluded from the record.

MR. HUNT: May it please the Board, various rumors had reached the Chief, and his duty at times was to look into them. He is merely explaining his action as a reason for it in this particular case.

MR. EDWIN S. SMITH: You may proceed.

MR. DAY: We note an exception.

THE WITNESS: I investigated the rumors and saw there was quite a gang of picketers beginning to form around the City Building to find out what it was all about. They were up in the air about this voting business.

Q. (By Mr. Hunt) What voting business?

A. That was supposed to be conducted at this meeting in the City Hall auditorium that afternoon.

Q. To do what? Voting to do what?

A. To go back to work.

Q. You mean the men who came to see you asked to have a meeting and poll a vote to determine how many wanted to go back to work?

A. No, they did not ask about holding a vote. This rumor about holding a vote got out after I had given them permission to use the City Hall.

So to break up any trouble which might start through any such voting, I told them they could not conduct a voting there; that if any vote was conducted it would have to be conducted by the National Labor Relations Board, but that they could go on with that meeting, which they did.

Q. On Friday, May 28th, did you attend a meeting with several other people, at the Conrad Hotel in Massillon?

A. I did.

Q. So far as you know, who called that meeting?

A. Mr. Case, of the Chamber of Commerce, called the meeting.

Q. What position does Mr. Case hold in the Chamber of Commerce?

A. Secretary.

Q. Who else was present at that meeting whose names you recall at the moment?

A. E. J. Lester, Pep Bordner. That is what we know him as. There were twenty-five or thirty other local business men there. Mr. Case read a brief summary of what had taken place since the strike had been called, complaining about violations that had taken place on the picket lines and on various roads. He was very much alarmed about some of the conditions that were going on—pickets carrying clubs, blocking roads, stopping trucks, and numerous other complaints. And I was called upon to tell the situation as I saw it. So I got up and gave a brief talk about the strike situation and conditions as I saw them. I also told them that the complaint that they had had not been entered in the Police Department; that I rode the picket line morning and night and I didn't have any trouble getting through there, that they didn't bother me.

But I also warned them that they had no business down in this strike vicinity, that they would be wise if they stayed away from there.

Q. (By Mr. Donald Wakefield Smith) When was this strike called? What was the date? Do you recall that?

A. Tuesday, the 25th.

Q. (By Mr. Hunt) On Tuesday, June 1, did you pay a visit to Mr. Carl Meyers at the Hotel Onesto in Canton, Ohio?

A. I did.

Q. How did you happen to pay this visit to Mr. Meyers?

A. Dr. Carnes, who was treating Mr. Meyers, came to my house and asked me to go over to the hotel and talk to Mr. Meyers.

Q. Who is Dr. Carnes?

A. He is the company doctor.

Q. You say he was treating Mr. Meyers?

A. Yes, sir.

MR. PATTON: I object.

THE WITNESS: Mr. Meyers had not called me.

MR. PATTON: I object to that. What is the purpose.

Q. (By Mr. Hunt) Had Mr. Meyers been shot by a guard before?

MR. PATTON: I object to that.

MR. DONALD WAKEFIELD SMITH: The objection is overruled.

A. Yes.

Q. (By Mr. Hunt) By a company guard or by a striker?

A. By one of his company guards that was protecting his own home.

Q. Was anyone else with you when you went to see Mr. Meyers?

A. Just the doctor.

Q. What did Mr. Meyers say to you?

A. He wanted to know what we were doing in Massillon about getting the mill going, why we were not showing interest, and did we want the mill to operate over there or not, and what was the matter with the people of Massillon, that no one had called on him since he had been confined to his room.

Q. What did you say to Mr. Meyers?

A. I told him I didn't know nothing about what they were doing, that I had enough business of my own trying to take care of things.

Q. Did you tell him you thought you had the strike situation fairly well in hand at that time?

MR. PATTON: I object to the leading question.

Q. (By Mr. Hunt) Did you say anything in reply to Mr. Meyers when he asked you what the situation was, and why the people of Massillon were not doing anything?

A. I told him it was up to them to take care of their troubles over there; if they wanted a mill they would have to fight that out themselves.

Q. On Monday, June 7, were you called upon to quell a small riot in Massillon?

A. I was.

MR. DAY: What is that date again?

MR. HUNT: Monday, June 7.

Q. (By Mr. Hunt) Tell as briefly as you can what the cause of that riot was?

MR. DAY: I object to that. Can he tell what he saw?

Q. (By Mr. Hunt) Tell what you were informed by members of your force?

MR. HUNT: Do you object to that question?

MR. DAY: Yes.

MR. DONALD WAKEFIELD SMITH: It is customary for you, as Chief of Police, to receive reports from your officers? Is that true?

THE WITNESS: Yes; that is right.

MR. DONALD WAKEFIELD SMITH: Is the statement you are about to make based upon those reports?

THE WITNESS: That is right.

MR. DONALD WAKEFIELD SMITH: The objection is overruled.

MR. DAY: Were the reports in writing or were they oral?

MR. DONALD WAKEFIELD SMITH: That is not necessary.

MR. DAY: I object to everything, and I object to all of the testimony based upon these reports.

MR. DONALD WAKEFIELD SMITH: The objection is overruled.

MR. DAY: May we note an exception.

THE WITNESS: The desk sergeant came up into the council chamber where the council meeting was in progress and called me out and told me that there was a riot over in town. I told him to call out the department and concentrate all of the men who were working into that district, which he did. And the riot was soon broken up and the crowd was dispersed.

Q. (By Mr. Hunt) What did you find out to be the cause of the riot?

MR. DAY: I object to that.

MR. DONALD WAKEFIELD SMITH: The objection is overruled.

A. Some of the C. I. O.'s had attacked a man that had been going around with a petition getting signers on a back-to-work movement.

Q. (By Mr. Hunt) Was he badly injured?

A. I don't know. He left town.

Q. On Tuesday, June 8, did you quell another riot in connection with an injury received by one of the C. I. O. workers?

A. I did.

Q. Will you tell us on the basis of your objection what the cause of that small riot was?

MR. DAY: Same objection.

MR. DONALD WAKEFIELD SMITH: The objection is overruled.

MR. DAY: May we have an exception?

A. A fellow named Joe Martin, president of the C. I. O. Lodge there in Massillon, went down to union drawn steel to investigate some of the cars that were supposed to be taken out of the plant, and he got into an argument with one of the company guards, or two of the company guards, about trespassing on the property. The argument was whether he was on railroad property or on company property. And in the argument one of the guards is supposed to have been disarmed. Then he swung at Martin with a gas club, and in the rumpus the gas club was discharged, burning Martin in the back of the neck. A couple of hundred pickets gathered around there and things were getting edgy for a while. They wanted this crowd taken back out of the plant. And I advised them to file their proper charges against the man through court procedure instead of in violence.

Q. (By Mr. Hunt) Were any such charges filed?

A. Through their attorney having filed charges against the man and the company guard. And the next morning when I arrived at the office I took the warrant down to make the arrest and I found that the man had left through the night some time. I have not found him since.

Q. Did you make any efforts to reach him?

A. I talked to some of the officials of the company and they reassured me as soon as he showed up they would turn him over to me.

Q. On Tuesday, June 8, were the telephone wires to the main office of the Republic Steel plant cut by someone?

A. Yes, they were.

Q. Do you know by whom?

A. No.

Q. On Wednesday, June 9, did you go to see Mr. Carl Meyers at his room in the Hotel Onesto in Canton, Ohio?

A. I did.

Q. Who went with you?

A. The city solicitor, Richard Hardman, and Glen Lanham.

Q. Who is Mr. Lanham?

A. He is manager of the Erie Chevrolet Motor Company.

Q. How do you spell his name?

A. L-a-n-h-a-m.

Q. Who was with Mr. Carl Meyers?

A. A fellow by the name of Gordon Hesse.

Q. What was his position?

A. He is connected with the sales department.

Q. Of what?

A. Of Republic Steel Corporation.

MR. EDWIN S. SMITH: May I interrupt to ask this question? How did this meeting happen to take place? Did you ask to go over there, or were you asked to go over there?

THE WITNESS: Mr. Lanham came to my office and told me they wanted me over there and asked me if I would go along with him, that he was going over. And I agreed to go along and I took the City Solicitor with me.

Q. (By Mr. Hunt) At the beginning of this conference with Mr. Meyers, what did Mr. Meyers say to you?

A. He wanted to know what the hell was going on over there; were we going to allow the hoodlums to run things; and why they cut the telephone wires, and why the hell we didn't take action such as the Chicago police did and put them where they belonged.

Q. What did he say? Do you remember his exact words that he used in regard to the Chicago police?

A. He said they knew how to handle the situation, if we did not, and if we didn't wake up we wouldn't need what police force we had; we wouldn't need a chief of police, and we wouldn't need a city solicitor, and we wouldn't even have a first class post office; that Massillon would be a junction if that mill shut down, which it looked as if it would with the wires cut and they would have to evacuate the offices. And he got down to talking about evacuating the office.

Q. What did you say in reply to Mr. Meyers' remarks about the Chicago police?

A. I told him there was no comparison, that in their plant in Chicago they had only about 1,400 employees and Chicago had a hundred police on the scene to handle the situation, and 18 of them was put in the hospital, and if my 18 men would be put in the hospital I would be in poor shape.

Q. How many men were there on your force at that time?

A. There were eighteen of us.

Q. Did you say anything else to Mr. Meyers in regard to the Chicago police, or breaking up the strike in Massillon?

A. I told him it was not our job anywhere, that we wasn't a strike-breaking outfit, and, furthermore, that the mill was down in the county out of the city limits.

Q. Did Mr. Meyers at this conference discuss with you the problem of evacuating the men in the main office, or evacuating the main office of the plant and getting out certain employees and certain company records?

A. He did.

Q. And did you arrange with him as to the best methods of getting them out?

A. I did.

Q. What plan did you agree to? What did you agree to do?

A. To put what stuff they wanted in their automobiles and move out of the plant or out of the office. I assured them of safety through the picket lines, that they would not be bothered or molested, or their cars searched, or bothered in any way, which I did.

Q. At this conference with Mr. Meyers, did Mr. Meyers offer you arms and ammunition owned by the Republic Steel then situated in his main office?

A. He did.

Q. What did he say when he offered you the arms and ammunition?

A. He said it will be a start towards having some equipment which was badly needed, to help us in any situation that might arise.

Q. Did Mr. Meyers give you a letter to someone to arrange for getting them out, or to give you authority to remove the arms and ammunition?

A. He did. He gave me a letter to deliver to Raleigh France, who was in charge of the main office over there, instructing about the evacuation and about what he should give me.

Q. Did you proceed to take the employees and the records out, as you had planned with Mr. Meyers?

A. I did, at 4 o'clock in the afternoon.

Q. How did you arrange to remove the arms and ammunition?

A. We put them in the trunk of a car and hauled them out with the rest of the stuff.

Q. Were the arms and ammunition turned over to you at that time?

A. No, not until later that evening.

Q. Describe the circumstances under which they were turned over?

A. I met Raleigh France out at the Brookside Country Club, about 4 miles north of Route No. 30. I met him out there, and him and Lieutenant Adler turned the guns and ammunition over to me.

Q. Who was Lieutenant Adler?

A. A lieutenant of the company police.

Q. What time of day was it?

A. About 8 o'clock at night, shortly after dark.

Q. Why was it turned over so secretly?

MR. DAY: I object.

MR. HUNT: I will withdraw the question.

Q. (By Mr. Hunt) Did anyone say to you, or did Mr. Meyers or anyone else say to you that there was need for caution in accepting these arms and ammunition?

MR. PATTON: I object.

A. There was a little fidgetiness about it. We didn't know whether we might get into trouble by doing it or not.

Q. (By Mr. Hunt) Was that the reason for meeting after dark, to have the arms and ammunition turned over?

A. Yes. We didn't want to come out in the open and transfer them from one car to the other.

Q. On Friday, June 11, did you have another conference with Mr. Carl Meyers at the Hotel Onesto in Canton?

MR. EDWIN S. SMITH: After this matter of transferring the arms and ammunition at that time of night, which you say was due to the fact they did not want to have it come out in the open, are you assuming that from all the circumstances of the case, or was there anything said by anybody connected with the company suggesting this manner of transfer and for any reason that looked toward freedom?

THE WITNESS: Well, I was not very anxious to take the stuff from the company anyway, although I needed it for my department and I wanted to get it when I had a chance to get it for nothing, and I thought I had better grab onto it.

Q. (By Edwin S. Smith) Who made the arrangements to transfer at that time of night?

A. Raleigh France called me up from Canton and told me he would meet me anywhere I said and asked me where a good place would be. And we chewed around a little bit and then we decided on the Brookside Country Club, that that would be as good a place as any.

Q. (By Mr. Hunt) Chief Switter, on Friday, June 11, did you have another conference with Carl Meyers at the Hotel Onesto in Canton.

A. Yes, sir.

Q. Who was with you?

A. Richard Hardman, the city solicitor, and Robert Hoffman, city prosecutor, and Chief Deputy Sheriff France, of Canton, of Stark County.

Q. At that conference, did Mr. Meyers ask you to assist him in getting food into certain guards and maintenance men then inside the plant?

A. He did.

Q. How many guards were there?

A. About 16 guards.

Q. And about four maintenance men?

A. About sixteen guards and about four maintenance men.

Q. What did he say to you?

A. He said that they had about four or five days' supply of food in there, and that it was up to us to get some food in there, between the sheriff and I, and that the maintenance men were keeping the coke ovens hot; that if that battery of coke ovens was ruined it would be goodbye for Massillon, that they wouldn't ever start that plant again.

Q. The following day, on Saturday, June 12, did you go to C. I. O. headquarters to see what you could do about getting food into the plant?

MR. DAY: To the C. I. O.?

MR. HUNT: Yes; to the C. I. O.

A. Yes, I did.

Q. (By Mr. Hunt) Who was with you?

A. Richard Hardman and myself.

Q. When you got there did you see a man by the name of Marshall?

A. Yes.

Q. Did Mr. Marshall ask you to do anything?

MR. DAY: May we take this under objection also?

MR. EDWIN S. SMITH: The objection is overruled.

MR. DAY: An exception, please.

A. Mr. Marshall and the insurance agent were there trying to make some arrangements to get into the office.

Q. (By Mr. Hunt) Why did Mr. Marshall want to get into the office?

A. He is the man who takes care of the company relief and welfare and some insurance policy that they run, or something.

Q. Did the C. I. O. strikers object to his going into the office, or did they agree that he could go into the office?

MR. DAY: I do not want to be technical or to be persistent, but aren't we entitled to the conversation?

MR. EDWIN S. SMITH: I presume his answer will include his conversation.

Say, as nearly as you can recall, what was said by both sides.

THE WITNESS: Mr. Marshall and this insurance man wanted to get in to see the records that were left there, and the C. I. O. at this time agreed that they could go in if they would take a couple of pickets along with them; that they did not just like the idea of Mr. Marshall being a company man, going in and out of there without them knowing what was going on.

Q. (By Mr. Hunt) Did Mr. Marshall and this insurance man from the Metropolitan then go into the main office?

A. No, Mr. Marshall went over to his own little office, which is across the street from the main office. And I don't know whether they ever went in or not.

Q. Did you discuss with the pickets the problem of getting food into the plant to the sixteen guards and four maintenance men?

A. Yes, sir. We talked to them about the conditions and the circumstances of the coke ovens and the few men who were left in there, and that the plant was closed down, and tried to put some food in there. And they wouldn't listen to it at all. They said that they had men on the picket lines that could be there, who were capable of attending to those ovens, and those were the ones who should be hired instead of the foremen doing it; and they wouldn't stand for any food going into the plant.

Q. Why did they object to the foremen doing it apart from the fact that they were not strikers?

A. Because they had never done that kind of work before and they was the bosses of the job and not the fellows doing the work.

Q. After this meeting at the C. I. O. headquarters, did you return to your office?

A. I did.

Q. And did you then receive a telephone call from Mr. Carl Meyers?

A. Yes, sir.

Q. Did Mr. Carl Meyers seem a little angry?

A. Yes. He was very much put out about me authorizing the C. I. O. pickets to go on the company property and escort Mr. Marshall into the office. He demanded that I put Mr. Marshall into the office without being escorted by any pickets. I told him that I didn't know what I was going to do about it, that it seemed as though that was what the outfit settled on in the agreement that was reached.

And he demanded that I tell him right away what I was going to do. I told him we wasn't able to handle the situation and start an argument of that type, that we were supposed to keep things peaceful, and that if they did not want the relief taken care of, then let them wait until it was over and then do it.

He demanded that I give him a definite answer right away. And he hung up in a huff; and that was the end of that.

Q. When you agreed with the strikers to allow them to send in a picket or two with Mr. Marshall, your idea was that this was a concession they could well make in order to keep peace and prevent bloodshed?

MR. DAY: I object to that. I do not believe that would be a competent question before any board.

MR. EDWIN S. SMITH: He may ask the witness what his purpose was.

Q. (By Mr. Hunt) What was your purpose in yielding to the pickets' demand that they have a picket accompany Mr. Marshall?

A. I knew they were going to talk about getting food in there, and I thought if we might give a little they might give a little.

Q. You mean each side concede something?

A. That is right.

MR. DAY: May I ask the witness now whom he means by "we"?

THE WITNESS: The solicitor and I were trying to get the food into the plant.

Q. (By Mr. Hunt) After you finished your talk with Mr. Meyers, after you finished your telephone talk with Mr. Meyers, where did you go?

A. I went out to lunch over to town.

Q. You and the city solicitor?

A. That is right.

Q. Whom did you meet?

A. We met Mr. Case of the Chamber of Commerce.

Q. Did you tell Mr. Case of your telephone conversation with Mr. Meyers?

A. I did.

Q. What did Mr. Case say?

MR. DAY: I object to that.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: An exception, please.

Q. (By Mr. Hunt) What did Mr. Case say to you?

A. He said, "Wait until we get hold of J. Lester. I will have J. Lester call up Mr. Meyers and call him off for a few days until we know what we are going to do."

Q. You mentioned Mr. J. Lester several times. Who is Mr. J. Lester?

A. I think he is manager of the Massillon Rubber Company.

Q. Is he one of the spokesmen of the Law and Order League of Massillon?

A. He is.

Q. Did Mr. Case, to your knowledge, get in touch with Mr. Lester?

A. Yes, he did.

Q. What did Mr. Lester do?

MR. DAY: I object.

Q. (By Mr. Hunt) To your knowledge.

MR. EDWIN S. SMITH: The objection is overruled.

MR. DAY: An exception, please.

A. He went to a telephone some place and called up Mr. Meyers at Canton—that is, Mr. Carl Meyers. And then shortly he called back the restaurant where we were and he wanted to talk to the city solicitor. And he told him it was all right, that he could stall off for a few more days before he wanted our answer.

Q. (By Mr. Hunt) Then, on Sunday, June 13, did you attend the meeting at the Chamber of Commerce at which

Mr. J. Lester and Mr. Case and others of the Law and Order League were present?

A. I did.

Q. Did they talk about raising money to provide for extra police on the Massillon Police Force?

A. They did, yes.

Q. (By Mr. Edwin S. Smith) Why did you attend this meeting? Were you asked to go?

A. I was requested to be there; yes.

Q. By whom?

A. Mr. Case, of the Chamber of Commerce.

Q. (By Mr. Hunt) This group of men you met at the Chamber of Commerce were all active in the Law and Order League, were they?

A. Yes.

Q. What did they say in regard to raising money to put on extra police?

A. They wanted to know how much it would cost to put on these police, and how many we would need in order to maintain law and order, and so on, and how much equipment. They argued why the mayor would not appoint the police. And we threshed around for a couple of hours there and talked about the Monroe situation.

Q. What was said about the Monroe situation?

MR. DAY: Will you take this conversation also under the objection and exception?

MR. EDWIN S. SMITH: Yes.

Q. (By Mr. Hunt) Do you mean Monroe, Mich.?

A. That is right.

Q. What was said about Monroe, Mich.?

A. They said they done a good job up there; they smashed the picket lines up there and they deputized enough police to do it.

Q. Who said that?

A. It was said in the conversation there. There was seven or eight or more talking. I just couldn't recall who said that.

Q. Did others make similar remarks?

A. That turned out to be the main topic of conversation, because we decided to adjourn the meeting until the next morning, when they requested that I have the mayor and safety director and the city solicitor there.

Q. And the next morning you met with the mayor and the city solicitor and the safety director and the same group of men at the Chamber of Commerce?

A. That is right.

Q. What was discussed at that meeting while you were there?

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: May I have an exception?

A. They put the heat on the mayor about appointing some special police, and he argued that the city was broke and did not have the money to do it. And this group said they could raise the money.

Q. (By Mr. Hunt) How much money did they say they would raise?

A. We figured fifty men and the equipment would take about seven or eight thousand dollars for just a couple of weeks.

Q. (By Mr. Edwin S. Smith) Just before you ask another question there, let me ask this one: You say they put the heat on the mayor. What did you mean by that? What was said to the mayor?

A. They wanted to know why he would not appoint more police. And finally he agreed to appoint them.

Q. (By Mr. Hunt) They agreed to raise $8,000?

A. Yes.

Q. Which would pay for 50 policemen for 2 weeks?

A. And the equipment that was considered necessary to equip the department.

Q. When the mayor agreed to do that, did he make any condition?

A. Yes, he agreed if he took on the 50 police that not one of them would go to the picket line.

Q. Was that agreed to with enthusiasm?

MR. DAY: I object to that.

MR. HUNT: It is all right to describe enthusiasm, isn't it?

MR. DONALD WAKEFIELD SMITH: He is asking how it was.

MR. DAY: I object.

Q. (By Mr. Edwin S. Smith) What was the reaction on the part of the people?

A. They did not like it so well.

Q. (By Mr. Hunt) Did they say anything?

A. No, sir. We left them, and it was up to them to raise the money.

Q. Were there any company men present?

A. How is that?

Q. Were there any company men present, any leaders of the Back-to-Work Movement at this particular meeting?

A. Not that I know of.

Q. Was Mr. Gordon Hesse present?

A. No, sir.

Q. Or Mr. Carl Meyers?

A. No, sir.

Q. Or anyone from the union drawn steel?

A. No, sir.

Q. On June 14, or later the same day, did you have another meeting with Mr. Carl Meyers at the Hotel Onesto?

A. Yes. The mayor and the city solicitor and safety director and city prosecutor and myself went over to see Mr. Meyers and told him that we could not get the food in as we promised.

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: An exception, please.

Q. (By Mr. Hunt) Did you say to him that you could not get the food in as he had requested?

A. We told him we wasn't going to, that we wasn't bringing any food down to them, or to the pickets, either.

Q. Did you give any reason for not doing so?

A. Because we figured it was not our job; it was over in the county and it was not up to us to get food down to them. And then he lit on us and told us it was a funny thing that a little town like Monroe could build up a police department big enough to get their mill operating again and control the situation, and it was damned funny we couldn't do something. We left and he was in a huff then.

Q. Did he say to you that Massillon was going to become a prairie if they didn't get it?

MR. DAY: I object.

MR. EDWIN S. SMITH: The objection is overruled.

MR. DAY: An exception, if you please.

A. He said that Massillon would be a prairie and it wouldn't need a mayor or safety director, or any of us.

Q. (By Mr. Hunt) You mean he repeated more or less what he had said at the previous meeting?

A. That is right.

Q. Then nothing was decided upon at that meeting regarding food and getting food in?

A. We decided we wasn't going to have nothing to do with it.

Q. What did Mr. Meyers say in reply to that?

A. He said he would take care of it himself, that he wouldn't let those people starve.

Q. (By Mr. Donald Wakefield Smith) You have made several statements here that the company representative said that Massillon would be a prairie. How large a city is

Massillon, to your knowledge?

A. Thirty thousand.

Q. (By Mr. Hunt) How old a city is it, to your knowledge?

A. About 110 years old.

Q. It was there before the Republic Steel Company came in, to your knowledge?

A. Yes, sir.

Q. Now then, on Monday, June 21, was there more or less of a crowd assembled in front of the City Hall, of men who were in the back-to-work movement?

A. Yes, they stormed the City Hall and came into the lobby, about 300 of them.

Q. Did you speak to them, or did their leader speak to you?

A. They demanded a meeting with the mayor and I. The mayor came down to my office after me and we waited a few minutes until the city solicitor came, and then the three of us went upstairs and met a group of them and asked them to select a committee to come into the safety director's office and talk it over and find out what was on their minds. Then they was all up in the air about wanting to go back to work and wanting me to give them protection to go back to work.

Q. Was there a man named Nick Lincolnhaley who was the spokesman of the group?

A. Lincolnhaley and Paul Ryder seemed to be spokesmen.

MR. DAY: May we have the same record on this conversation? I object.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: An exception.

Q. (By Mr. Hunt) What did you say to these men in response to their request for protection to go back to work?

A. I told them they should not rush things, that they was getting all excited, but things would work out probably sooner or later. And they demanded then to know why I refused to accept this several thousand dollars that was supposed to have been raised for the special police.

Q. You mean the several thousand dollars that the Law and Order League promised to raise?

A. That is right.

Q. What did you say?

A. I told them it had never been raised. And they said, "If it is raised again will you accept it now?" I said no.

Q. Why did you say no?

A. Because I was not going to take on a gang of men to go down and break the picket lines.

Q. The picket line, as I understand it, surrounded the entrances to the plant. Is that right?

A. That is right.

Q. The plant is in the county?

A. That is right.

Q. The County of Stark?

A. That is right.

Q. The main office building is across a thoroughfare from the plant. Is that right?

A. Yes.

Q. And the main office is in the city limits?

A. That is right.

Q. And it is within your jurisdiction?

A. That is right.

Q. At this meeting in this back-to-work movement, did the mayor make any remarks?

A. They requested us—

Q. I say, did the mayor make any remarks to the men in your presence?

A. He talked to them and asked them to hold themselves down, that he did not want any bloodshed or trouble if it could be avoided.

Then, after that conference broke up, they demanded that we go out and speak to the balance of the group that was out in the lobby.

Q. And did you do so?

A. I did.

Q. What did you say to them?

A. I told them to hold themselves a few days to give the Mediation Board at Cleveland a chance to do something before they started any back-to-work movement, and I told them then and there that I wasn't going to take any fifty greenhorn men and go down to the picket line under no consideration.

Q. (By Mr. Donald Wakefield Smith) By the Mediation Board, you meant the Mediation Board appointed by the President of the United States?

A. Yes, sir.

Q. In order to break up these strikes?

A. That is right.

Q. (By Mr. Hunt) Did the mayor also address them again and speak to them?

A. He did.

Q. What did he say?

A. He asked them to be patient. He said, "Boys, we don't want any trouble or bloodshed down there." He said, "We don't want any trouble or bloodshed down there, because don't forget if you do it will be on both sides."

Q. After this meeting was over where did you go?

A. I went to Canton, Ohio.

Q. Who went with you?

A. The mayor and the city solicitor and myself.

Q. Whom did you go to see?

A. We went to see Colonel Lawler.

Q. Who is Colonel Lawler?

A. He is the National Guard observer in the Massillon district.

Q. What did you say to Colonel Lawler?

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: An exception, please.

Q. (By Mr. Hunt) What did you say to Colonel Lawler?

A. I asked about the objections in Canton as he was observing them. We went into quite a lengthy talk about law and order.

Q. In Canton or Massillon?

A. In Canton. Then we started to talk about the Massillon conditions and our own troubles, and I asked him to come over to Massillon from Canton to observe the situation over there and tell us what he thought of it.

Q. What did he say to you?

A. He said he had been over there personally and that his other observers had been over there, and that from his observations Massillon was in fine condition for having a strike situation there, that everything was pretty peaceful, and as peaceful as could be expected under such conditions, and he complimented us very highly on the way we had been handling the situation.

Q. Did you have any discussion on any other subject with Colonel Lawler?

A. We talked about technical violations that was on the way, and so on.

Q. Technical violations of what?

A. Of the pickets carrying clubs and sticks and the stones being piled around and roads being blocked, and so on.

Q. What did Colonel Lawler say to you with reference to technical violations of the law?

A. He said we couldn't just argue over every little technical point of the law when an emergency such as a strike condition arose; that it would be impossible.

Q. And he complimented you very highly on the way you handled the situation, you say?

A. He did.

Q. He said you had it well in hand?

A. He did.

Q. After you left Colonel Lawler did you attend a meeting at the City Council at Massillon?

A. I did.

Q. Was the subject of extra police discussed at this meeting of the City Council?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. I did. I asked the City Council to increase the police force, that I was using some of my men in the strike zone that I needed uptown.

Q. What was the action of the City Council on your request?

A. They was kind of cold on it. We went into a meeting in the City Solicitor's office after the council meeting with the council, a committee meeting. They told me not to get hot and bothered about it, it was down in the county, and it was up to the sheriff.

Q. Now, on Friday morning, June 25th, did a group of men including Mr. E. J. Lester and Mr. Case come to see the mayor at the City Hall with a petition?

A. Yes, sir; they did.

Q. And did they see you also?

A. Yes, sir; they did.

Q. Describe that meeting as best you can.

MR. DAY: Let the record show the same objection and exception. I dislike to keep doing this all the time, but I think it is necessary for the sake of the record.

MR. EDWIN S. SMITH: I think that the Reporter understands that when Counsel says same record, it means the objection is made, overruled, and exception taken.

MR. DAY: That is right, to the entire conversation.

Q. (By Mr. Hunt) This group that came with this petition, were most of this group members of the Law and Order League?

A. They were.

Q. They saw you, the mayor, and the city solicitor?

A. They requested the presence of the mayor, the city solicitor, and safety director, and the sheriff of Stark County and myself.

Q. In whose office did you meet?

A. In my office.

Q. Did anyone read this petition to you?

A. An attorney by the name of Elson Wessler.

MR. HUNT: Elson Wessler.

MR. DAY: Has one "s," hasn't it?

Q. (By Mr. Hunt) Who read the petition to you, Mr. Wessler?

A. Yes, sir.

MR. DAY: I want to say the reason that I am so familiar with this is I was born in Canton, Ohio.

MR. DONALD WAKEFIELD SMITH: I was just going to ask if Counsel for the Respondent—why he was so familiar with Counsel for the Law and Order League.

Q. (By Mr. Hunt) Did you ask Mr. Wesler to read this petition a second time.

A. I did. There were two captains of the National Guard came in, and I requested that they hear the petition, too, so they could make their report back to Colonel Lawler, who was still in charge at Canton.

Q. Is this a copy of the petition given to you by this group of citizens?

A. Yes, sir.

MR. HUNT: I would like to offer this in evidence.

MR. DAY: May I see it?

MR. HUNT: Yes.

MR. EDWIN S. SMITH: Any objection?

MR. DAY: Yes, there is an objection along the same lines to all of this, that is all.

MR. EDWIN S. SMITH: Very well, that is admitted as Board's Exhibit No. 2.

(Thereupon, the document above referred to was received in evidence and marked "Board's Exhibit No. 2")

Q. (By Mr. Hunt) When Mr. Wesler completed reading the petition for the second time, what happened?

A. Then Franklin Maier, another attorney, went into quite a long talk about the breakdown of law and order, and so on, in the City of Massillon, and demanded that we do something, that we were going to have to do something, and that the mayor had the authority to appoint special police, and that there was a State statute providing that even though the city was broke that the mayor had the power to borrow the money from the banks and put them on.

Q. Was any reference made to the $8,000 which the same law and order citizens agreed to raise some time before?

A. Yes, sir; we were accused again of not accepting the money and I told them the money never was raised, and they put up the same argument that it was, but Mr. Case came to my rescue and said it wasn't.

Q. That was Mr. Case, Secretary of the Chamber of Commerce?

A. That is right.

Q. He was present at the meeting where the money was to be raised?

A. Yes, sir.

Q. Did he say how much had been raised?

A. Only a few hundred dollars and that was returned to the ones who had sent it in.

Q. Did you state at this meeting where they were criticizing you, that you had arrested all men against whom warrants had been sworn out?

A. I told them we had a lot of cock and bull statements, the same as they did, and that there had been no breakdown in law enforcement, and that where we had affidavits and warrants we brought everybody in we had warrants and affidavits against.

Q. What do you mean you had cock and bull reports?

A. We had all kinds of reports of fellows being afraid to go home and being in fights, and being beat up, but only a few came in and actually signed affidavits and filed complaints which went on record.

Q. In that connection, so far as your recollection serves you, do the records in your office show that there was any increase in violations of law and order after the strike began over the period before the strike?

A. We had less arrests during the strike than what we call normal times.

Q. You had fewer arrests during the strike than in normal times?

A. That is right.

Q. Fewer arrests for violation of law and order?

A. That is right.

Q. Fewer arrests for violence?

A. That is right.

Q. And you arrested everyone who was actually charged with actual violence?

A. Where the officers saw them themselves, where they could file charges, and wherever anybody came in court and filed an affidavit an arrest was made.

Q. Now, after the reading of this petition, did you or the mayor agree to do anything in regard to the request for extra men?

A. We agreed to put on some more men; yes, sir.

Q. And special policemen?

A. Yes, sir.

Q. Was there any requests at this meeting for you to put on what they call "home guards"?

A. No.

Q. After this meeting was over where did you go? Did you arrange to quarter the National Guard expected in Canton or Massillon?

A. We met with Captain Marshall and Captain Donald, and Mr. Hardman, and I took them around to two or three different places to look over what might be suitable quarters for the troops if they came in there.

Q. Where did you decide to put them?

A. We decided to put them in the old lodging house the city used to have in one of the parks.

Q. It was agreed they would be quartered there?

A. That was the last I knew of them.

Q. On that evening when you returned to your home what time was it?

A. About five thirty.

Q. Did you receive two or three telephone calls from Mr. Gordon Hesse of Republic Steel Corporation?

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. I did.

Q. (By Mr. Hunt) What did Mr. Gordon Hesse say to you?

A. He said he had information there was going to be an invasion on the city by the Akron rubber workers and Canton C. I. O.'s.

Q. How many men did he say were going to invade the city?

A. Oh, it varied from five to ten thousand.

Q. Did he tell you where he got the information?

A. He said he got the information through the Canton office.

Q. The Canton office of the Republic Steel?

A. I suppose so.

MR. DONALD WAKEFIELD SMITH: About what date was this?

MR. HUNT: Friday, June 25th.

MR. EDWIN S. SMITH: We will recess for 5 minutes.

(Thereupon, at 11:35 o'clock a. m., a recess was taken until 11:40 o'clock a. m. of the same day.)

MR. EDWIN S. SMITH: The hearing will be in order.

Q. (By Mr. Hunt) Chief Switter, you were telling us that you had received two or three telephone calls from Mr. Gordon Hesse of the Republic Steel Corporation early Friday evening, June 25th, and that he said he had heard from the Canton office that there was to be an invasion by five or ten thousand men from Akron. What did you say in reply to that?

A. I told him it sounded like more bull we had heard about other invasions, and he said he could not afford to take a chance, and kept demanding to know what we were going to do. I told him there wasn't much we could do if 5,000 men came into town. He said we have got to do something, and I said we will wait until they come, and then he called me back again in a few minutes and said, "What are you going to do about it?" and I said, "Well, I can call out the police department and stand by to see what happens."

Q. Did you do that?

A. I did. I ordered the police department called out and I went on down to the office myself, and Hesse stated he would have his gang over to back me up.

Q. When did he tell you that, over the telephone?

A. Over the telephone; that is right.

Q. Then you went down to your office in the City Hall?

A. That is right.

Q. And called out your force?

A. I had ordered them called out before I left home.

Q. All right, then what happened after that?

A. When I got down to the City Hall there were 200 men standing around.

Q. Were some of them the invaders?

A. No, they was all local fellows, mill men, and so on.

Q. Then, did someone ask you to put in a three alarm signal for the American Legion?

A. Yes, a fellow named Paul Ryder.

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

Q. (By Mr. Hunt) Is that the fellow in the back-to-work movement that was made some time before?

A. That is right.

Q. What did you say?

A. I said I didn't have any authority to call out the Legion. He said he would call somebody who did have authority to call them out, so I identified him to the fire chief, who did put on the signal for the American Legion, which has an organization there that comes out for any floods or fires or any civic movements of that type.

Q. When he put in the alarm the American Legion appeared?

A. That is right.

Q. Did anyone else appear?

A. Oh, some of the Legion boys appeared and wanted to know what it was all about and what was going on.

Q. Did anybody else besides the Legion show up at the City Hall when the alarm was put in?

A. Oh, there was hundreds of people ganged around there then.

Q. There was a big crowd in front of the City Hall?

A. Yes, it grew to a couple thousand.

MR. EDWIN S. SMITH: How many Legion people came?

THE WITNESS: I don't know how many. I didn't look out the window at them.

MR. EDWIN S. SMITH: Were they armed, these Legion people?

THE WITNESS: No.

Q. (By Mr. Hunt) Were most of these people in the crowd of 2,000 or more, were they members of the American Legion?

MR. DAY: He said he didn't go out and look.

Q. (By Mr. Hunt) Or were they curiosity seekers?

A. There were all kinds of people, curiosity seekers wondering what the alarm was for, and so on.

MR. EDWIN S. SMITH: How do you know what the composition of the crowd was? Did you get reports? Did you say you didn't go out and look?

THE WITNESS: I didn't at that time. I stayed in the office. The telephones were quite busy and there was a crowd in my office, Gordon Hesse, young Ryder, J. Lester, and—

Q. (By Mr. Hunt) That is Mr. Gordon Hesse of the Republic Steel?

A. That is right.

Q. Mr. Ryder of the back-to-work movement?

A. That is right.

Q. Who was the other man you mentioned?

A. J. Lester.

Q. Mr. J. Lester of the Law and Order League?

A. That is right.

MR. DONALD WAKEFIELD SMITH: Did you see the crowd from the window of your office?

THE WITNESS: No, later I went out and talked to them.

Q. (By Mr. Hunt) All right, when these men were in your office what happened then, what did they do?

A. Why, Gordon Hesse grabbed the telephone and called up the Canton office of the Republic Steel and wanted them to send somebody over to see the enthusiasm that Massillon was showing and what a crowd was backing up the Massillon gang to go back to work, and they told him, "Why, we have already been over and saw the enthusiasm."

MR. DAY: I object to this man testifying about some man on the other end of the telephone told Gordon Hesse. I think perhaps that is going a little too far in any place.

Q. (By Mr. Hunt) Then after—

MR. EDWIN S. SMITH (Interposing): I think that is a proper objection. How do you know what was said to Mr. Gordon Hesse?

Q. (By Mr. Hunt) How do you know?

A. He told us himself?

Q. He informed you men had been over from the Republic Steel to see the crowd?

A. That is right.

Q. Over the telephone did you actually hear him tell Mr. Gordon Hesse they had been over to see the enthusiasm?

A. I did.

Q. Of the back-to-work movement?

A. I did.

Q. Did Mr. J. Lester say anything to you at this time?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

Q. (By Mr. Hunt) Did Mr. J. Lester say anything to you at this time? I would like to know what court that would be objectionable in.

A. He wanted to know if I wanted him to go home and get his shotgun.

Q. Did he seem to be pretty excited? What was his general manner?

A. He was pretty nervous, and said he would go home and get it if I thought he would need it or I would need it.

MR. DONALD WAKEFIELD SMITH: Did he say why he thought you would need it?

THE WITNESS: No.

Q. (By Mr. Hunt) Did you go out to address the crowd at this time?

A. Not then, the photographer from the local newspaper came around.

Q. Why did he come around.

MR. DAY: I object to the form of the question.

MR. HUNT: I withdraw the question.

MR. DONALD WAKEFIELD SMITH: He is rephrasing his question.

Q. (By Mr. Hunt) Did anybody, to your knowledge, ask the photographer to come?

A. No, he was in my office and asked what it was all about and I told him I didn't know, and then Gordon Hesse asked him to take a picture of the crowd.

Q. Why did Gordon Hesse want a picture?

MR. DAY: I object to that.

MR. HUNT: I will reframe my question.

Q. (By Mr. Hunt) Did Mr. Gordon Hesse say why he wanted a picture of the crowd?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. He said it would be great to have a picture showing the enthusiasm of the group.

Q. (By Mr. Hunt) Showing what?

A. Showing the Republic Company in Massillon wanted the steel mill there.

Q. To your knowledge, was the picture taken?

A. I don't know. I understand it was. I didn't ever see it.

Q. When you went out to see the crowd what was the general—Before you went out to see the crowd did you get any word from the National Guard that there was no threat of an invasion whatsoever?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. I did, there was two officers of the National Guard came in and wanted to know what was going on, and I told them, and they reported to me that their intelligence division could find no trace of any mass movement on Massillon and for God's sake to break up that crowd before something happened if I possibly could, which I did. I went out and talked to them and thanked them for having been willing to back me up on any invasion on the city and asked them to disperse and go home.

MR. EDWIN S. SMITH: I am not clear as to when the National Guard appeared on the scene. Was it before or after this conference in which you were told there was to be an invasion?

MR. HUNT: The National Guard moved in later. There were two National Guard officers there.

MR. EDWIN S. SMITH: The troops weren't there at this time?

MR. HUNT: The troops weren't there at this time; no, sir.

MR. EDWIN S. SMITH: All right, go ahead.

MR. DONALD WAKEFIELD SMITH: May I ask the witness if the troops were there at the time the two officers came into your office?

THE WITNESS: No, they were not.

Q. (By Mr. Hunt) When you went out and addressed the crowd did you feel the crowd was highly excited?

A. Yes, sir; anything could have happened then. They were in a bad frame of mind.

Q. What did you mean, "anything could have happened"?

A. If any suggestion had been made about going down to the picket lines, or any pickets had shown up around there I would have just hated to have been there myself, it would have been too bad.

MR. DONALD WAKEFIELD SMITH: May I inquire what was the distance from the picket line—that is, the plant—to the point where this crowd was assembled?

THE WITNESS: Well, to the Union Drawn Steel it would have been about a half or three-quarters of a mile, and to the Republic plant about a mile and a half.

Q. (By Mr. Hunt) Did any members of the American Legion tell you or say to you that they resented being called out in that manner?

MR. DAY: I object to that. I do not see how that could possibly be competent what some of the American Legion members said to someone else.

MR. EDWIN S. SMITH: No, he asked if anybody told him.

MR. DAY: Note an exception.

Q. (By Mr. Hunt) Yes, did any member of the American Legion call out to say that he personally resented being called out?

A. Yes, several came to me and wanted to know why they were called out, on whose authority they were called out, and, furthermore they had no part in any strike movements or strikes and they didn't mind going out to help with fires and floods or anything like that, but that they didn't want to get mixed up in any strike controversy.

MR. DONALD WAKEFIELD SMITH: Do you know who called them out?

THE WITNESS: Paul Ryder informed me he had authority from somebody in the Legion, I don't know who, and he said it was all right to call out the Legion, and I identified him to the fire chief as having had authority to call the Legion out. Who he got it from I don't know.

MR. EDWIN S. SMITH: Just a moment on this appearance of the Legion. What about the fire signal that brings out the Legion? How often has that been resorted to, in your experience?

THE WITNESS: Oh, a couple of times. We have a wild river up there that goes on a rampage every once in a while and they come out and help rescue people and the like of that. I think we used them once or twice in the last couple of years.

Q. (By Mr. Hunt) On or about June 27th or 28th did you take on ten extra men on your police force?

A. I did.

Q. How were they selected?

A. Why, I asked the Civil Service Commission to certify me a list of eligible men. They did, and the list consisted of seven men. I took six of them, because the seventh one had formerly worked at the Republic Steel, and I didn't take him, and then I picked four other boys of neutral feelings. One was a school teacher on vacation, one worked on a printing press, and a couple other boys came off ice trucks.

Q. Then on Wednesday, June 30th, did Mr. Lincolnhaley and Mr. Ryder of the back-to-work movement, and Mr. E. W. Case of the Law and Order League see you regarding the registration of people who wanted to go back to work?

A. They did.

Q. What did they say to you?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. They wanted to know why my officers had chased their group away and broke them up on the corner, that they were forming quite a group down town. There was an old bank building that was vacant that they intended to use to register fellows wanting to go back to work, and there was a group of pickets forming over on the other side of the street, and my officers dispersed both crowds and kept them all moving, and this committee came over to me and wanted to know what it was all about, and then I wanted to know what it was all about, and they said that they were registering the help that wanted to go back to work. I told them, "You have been saying you represent 2,300 people. What do you want to register again for?" And they said that they had lost that list, it had been taken away from them, and they didn't have it any more, and then there was some urgent call came to me at that time that I had to leave the office, so I ran out with Mr. Hardman and we left them there, and on the way out they said, "Can we register?" and I said I didn't care if they wanted to register, but I didn't think it was a good idea to be down on the ground floor especially, and later I learned they went up and started to register at the Chamber of Commerce office on the eighth floor of the Ohio Merchants Bank Building.

Q. When did the National Guard move in again at Massillon?

A. The night of July 1st.

Q. Where were they quartered?

A. Two companies quartered at the Pearl Street School overlooking the mill and viaduct, and the other two companies quartered in the Republic Steel office.

Q. The main office of the Republic Steel Company?

A. That is right.

Q. Did you say you had arranged to quarter the National Guard in the municipal lodging house?

A. I had.

Q. Did you know of this arrangement to quarter the two companies of the National Guard in the main office of the Republic Steel Corporation?

A. No, I didn't.

Q. When you say "quarter," you mean the men slept there as well as being there during the day?

A. That is right.

Q. All right.

Now, in the early morning before dawn of July 2d, did you issue orders to your department to escort some company guards and arms and ammunition into the Union Drawn Steel?

A. I did.

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

Q. (By Mr. Hunt) Who requested you to furnish a police escort to these guards?

A. Mr. Creighton of the Union Drawn Steel.

Q. What position has Mr. Creighton in the Union Drawn Steel?

A. General manager, I believe.

Q. And you agreed to furnish an escort?

A. Yes, sir.

Q. What did your escort consist of?

A. I sent two cruising cars, two men in a car, to identify them to let them through.

Q. This was the day after the National Guard arrived?

A. Yes, sir.

Q. How many company guards were escorted by your police?

A. About ten, supposed to be two carloads of them.

Q. Did any of these company guards give any members of your police force any ammunition?

A. They gave a few cans of gas to Patrolman Moore.

Q. To anybody else?

A. Not that I know of. Patrolman Moore was in one car and he got some gas. I don't know how much.

MR. EDWIN S. SMITH: What do you mean cans of gas? What kind?

THE WITNESS: Tear gas, nauseating gas, candles or jumpers, I don't know what they were, whether jumpers or candles.

BY MR. HUNT:

Q. Officer Moore accepted them?

A. He did.

Q. Did he bring them to the police department?

A. No, carried them in the cruiser then.

Q. What is a cruiser?

A. The City Police car.

Q. As far as you know, they remained in the City Police car?

A. That is right.

Q. Now, on July 4 did General William Moreland of the Ohio National Guard come to see you?

A. Yes, sir; he did.

Q. What did General Moreland say to you?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. He said he wanted to have a meeting with some of the city officials shortly, and then he would submit plans to them as to what we could do to take over the situation after the troops left, that the troops weren't going to be there forever.

BY MR. HUNT:

Q. Did you accordingly arrange a meeting for General Moreland and the city officials?

A. I did, the next day.

Q. At this meeting, what did the General say?

A. He told us that the troops weren't going to be there forever, and that if we wanted the steel mill there we would have to be prepared to take over the situation when the troops left there.

Q. What did he mean when he said if you wanted the steel mill there?

MR. DAY: I don't think that is a proper question.

BY MR. HUNT:

Q. Did he amplify his remark?

A. He said the steel mill was the last one they opened, and if we didn't keep it opened it was up to us and we would lose it.

Q. Did General Moreland urge you to swear in a home guard?

A. He suggested deputizing a group of men from the plant to be known as home guard that would work on their own time, and would patrol their respective precincts after they had finished work.

Q. Would they receive pay for this?

A. Not from the city, no.

Q. From anybody else?

A. They were working in the plant.

Q. These men were to be recruited from the Republic Steel plant?

A. That is right.

Q. Were they to carry guns?

A. They were to be deputized as special officers and privileged to carry guns.

Q. Did you agree to do this?

A. No, I didn't.

MR. EDWIN S. SMITH: What about this phrase, "home guard"? Did you ever have occasion before to deputize people known as home guards, or were you ever asked to deputize people known as home guards?

THE WITNESS: Along back some years ago during the war there was a company of home guards formed there that looked after the city some twenty-odd years ago, I guess, during the war, and they kind of looked after the city somewhat. That was before my time.

MR. EDWIN S. SMITH: Whose suggestion was it these people be called home guards; do you recall?

THE WITNESS: That was the phrase used by Marlin. I do not know where it originated from or anything.

BY MR. HUNT:

Q. Now, what did you say to the General regarding having some plan to handle this situation after the National Guard left?

A. I told him that we would have to put on fifty or sixty men or build the department up to fifty or sixty men if we wanted to keep up or cope with the situation at all, that there ought to be at least twenty men on each turn, and he suggested that that ought to be about right, but with fifty or sixty men at my command at all times, and with the assistance of the home guards we could control the city and we ought to get along pretty good.

Q. Did you agree to that at this time?

A. No, that was only a suggestion at that meeting, and we were supposed to think it over and give it some consideration and the meeting broke up.

Q. The next morning, July 6, were you present at Canton, at a meeting with the city officials of Canton, where the city officials of Canton and Massillon were present, held in the mayor's office?

A. I was.

Q. What was discussed at that meeting?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. They wanted to deputize all the city police in Canton and Massillon so there would be no more boundaries or buck passing, so you could go over the county line.

BY MR. HUNT:

Q. You mean deputize in what way?

A. Give us a deputy sheriff's commission so we could go out in the county and would not be confined to maintaining law and order in the city any more.

Q. Did you support this proposition?

A. No, I didn't.

Q. Did you oppose it?

A. I was hired to take care of the City of Massillon and not the county, and I was being paid by the City of Massillon.

MR. DONALD WAKEFIELD SMITH: May I inquire if the troops were in Massillon?

THE WITNESS: Yes, they were.

MR. DONALD WAKEFIELD SMITH: Are you familiar with the laws of the State of Ohio regarding the calling of troops by the Governor?

THE WITNESS: Not clearly. Somewhat.

MR. DONALD WAKEFIELD SMITH: Is it true the laws of the State of Ohio provide where the Governor calls out the troops to cover the situation, those troops are then under the technical command of the sheriff of the particular county?

THE WITNESS: That is right, I think.

MR. DONALD WAKEFIELD SMITH: That being the case, was that discussion brought up at the Canton meeting?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: It was not then mentioned the sheriff of the county would have jurisdiction over the National Guard in that county at all times?

THE WITNESS: I don't quite get your question.

MR. DONALD WAKEFIELD SMITH: The point I am making, you said they were trying to deputize the police as deputy sheriffs. If the sheriff of Stark County had technical command over the National Guard, both in Canton and in Massillon, why would it be necessary to deputize certain persons in Canton and Massillon to go out?

MR. DAY: I don't believe the troops are technically or actually under the command of the sheriff. They are sent to assist the sheriff.

MR. DONALD WAKEFIELD SMITH: Of course I was asking the witness whether or not they were. The witness says he thinks they were, and I was predicating my question on that statement by the witness.

THE WITNESS: The sheriff can request the assistance of the troops.

MR. DONALD WAKEFIELD SMITH: Yes.

THE WITNESS: And then, as I understand it, when they come in they give him any assistance he needs.

MR. DONALD WAKEFIELD SMITH: Can he order them to do certain things?

THE WITNESS: I don't know whether he can order them, but he can ask them generally to cooperate.

MR. DAY: That is about right.

BY MR. HUNT:

Q. Was it finally agreed that the Massillon and Canton police should be deputized and put on the sheriff's force?

A. No, not to be put on the sheriff's force but to have a deputy sheriff's commission so you can go out in the county and do work such as the sheriffs needed.

Q. That afternoon, the afternoon of July 6, did a Captain Harry Curley come into your office?

A. Yes, sir; he did.

Q. Who is Captain Harry Curley?

A. Oh, he is a retired contractor there, a former army man. He served in the Spanish-American War, and somewhat in the World War, I guess.

Q. What did Captain Curley say to you?

MR. DAY: I object.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. He asked me if he could be of any assistance to me, he understood I had my hands full, and he said he would be glad to help me any time he could.

BY MR. HUNT:

Q. Did he offer to help you pick any man to put on your police force?

A. He said if I thought I needed some men he could help me round up some.

Q. What did you say to him?

A. I told him if I needed men I would let him know.

Q. Later that afternoon did you receive a visit from two other men?

A. Yes, sir; I did.

Q. Who were they?

A. A fellow named Ralph Pepperer and Perry Angstedt.

Q. Who were Pepperer and Angstedt?

A. Ralph Pepperer was superintendent of Billet Shops of Republic Steel.

Q. Who is Angstedt?

A. Angstedt is chief accountant.

Q. Of what?

A. Republic Steel Corporation.

Q. What did he say to you?

MR. DAY: The same objection.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. They wanted to know if I was going to deputize the home guard and they brought a list of names up to me that I could pick some off of.

BY MR. HUNT:

Q. A list of names for home guards or special police?

A. Special police and home guards. They had the name for the special police, quite a list of them, and they also wanted to know if we wasn't going to appoint the home guards.

Q. Was this list I show to you, this list they gave you, was that a list of men in the Republic Steel plant?

A. Yes, they knew all the men and would recommend them.

Q. Is this the list they gave you?

A. That is right.

Q. Are these the badge numbers of the workers in the steel plant?

A. That is right.

MR. EDWIN S. SMITH: Do you intend to introduce that?

MR. HUNT: I will offer it in evidence.

MR. DAY: We take it under objection.

BY MR. HUNT:

Q. Did you agree to take on men from that list as home guards?

A. No, we didn't do anything definite right then. We kept the list and they talked about why not, because they said Canton was doing it, and I said I didn't think Canton was, so they called the office over in Canton.

Q. What office in Canton?

A. Republic Steel.

MR. DONALD WAKEFIELD SMITH: Do you object to the introduction of Exhibit 3?

MR. DAY: Yes. It goes into the record as

Board's Exhibit No. 3?

MR. DONALD WAKEFIELD SMITH: Yes, it may be so admitted.

(The document referred to was received in evidence and marked as "Board's Exhibit No. 3.")

BY MR. HUNT:

Q. You said you didn't believe they were doing it in Canton, then what happened?

A. They called the Canton office.

Q. The office of the Republic Steel Corporation?

A. Yes, sir.

Q. And after that telephone message was ended, what did Mr. Angstedt say to you?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. Why he said that they informed him that the city solicitor of Canton was down in the plant then swearing them in.

BY MR. HUNT:

Q. You still refused to take these home guards?

A. That is right.

Q. Now, that evening, the evening of July 6, did you receive another visit from General Marlin of the National Guard?

A. I did.

Q. What did General Marlin say to you?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. He wanted to know why we were backing down, and why we had not shown some signs of life in getting this group of men sworn in and getting ready to take over.

BY MR. HUNT:

Q. Where was this meeting with General Marlin?

A. In my office.

Q. You say he asked why you didn't show signs of life and take these men on? What men did he mean?

A. The mill men they certified to me.

Q. You mean for the home guard?

A. No, for the special police and home guard, both.

Q. What is the difference between special police and home guard?

A. Special police would be under my jurisdiction and on the ctiy payroll. The home guards would not.

Q. The home guards would be under your jurisdiction, would they not?

A. That is right, without compensation.

Q. That is the only major difference?

A. That is right.

MR. DONALD WAKEFIELD SMITH: This list, now, which was handed to you and which has been introduced as Board's Exhibit 3, was a list of home guards or special police?

THE WITNESS: Special police.

BY MR. HUNT:

Q. At the time they gave you this list, did Mr. Pepperer offer to give you a list of further names for home guards?

A. Yes, sir; he said there would be more.

Q. Now, getting back to General Marlin's visit to you on the evening of July 6, did you tell General Marlin you were trying to get neutral men to put on your police force?

A. I did, and told him it was slow picking.

Q. And did General Marlin say to you it was no time to look for neutral men?

MR. DAY: I object.

MR. DONALD WAKEFIELD SMITH: It is a proper question.

MR. DAY: Exception.

BY MR. HUNT:

Q. Did General Marlin say to you it was no time to look for neutral men?

A. Yes, he said this is no time to pick up neutral men, and you have to be ready to take this situation over, and he said I demand you have some plan to certify to me by tomorrow noon so I can report to the Governor.

MR. DONALD WAKEFIELD SMITH: Had there been any disturbance whatsoever during all this time?

THE WITNESS: Not to amount to anything.

MR. DONALD WAKEFIELD SMITH: Was the disturbance of such character it could be handled by your force without the aid of the National Guard?

THE WITNESS: Before they tried to open the plant?

MR. DONALD WAKEFIELD SMITH: I mean before they tried to open the plant.

THE WITNESS: That is right.

MR. DONALD WAKEFIELD SMITH: Did General Marlin at any time describe to you the reason why the home guard would be necessary?

THE WITNESS: Because the troops would not be there forever, and the plant was open now and the men were going to work and we would have to be able to take over when the troops left.

BY MR. HUNT:

Q. This was the evening of July 6 when General Marlin told you it was no time for neutral men for your police force?

A. That is right.

Q. At that time were two companies of National Guards quartered in the main office of the Republic Steel Corporation?

A. Yes, sir.

Q. Did you have any talk at all with General Marlin? Did General Marlin speak to you about any conversation he had had with officials of the Republic Steel?

MR. DAY: Same objection for the record.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

BY MR. HUNT:

Q. Did you agree to have a plan by the following day at noon as he requested?

A. No, I don't think I did. We went out in a huff. He went his way and I went mine.

Q. The General was in a huff?

A. He certainly was.

MR. DAY: So was the Chief.

MR. HUNT: So was the Chief?

MR. DAY: So was the Chief.

MR. HUNT: I don't blame him.

MR. PATTON: You would not.

MR. EDWIN S. SMITH: Counsel, let us get on to business.

MR. DAY: All right.

BY MR. HUNT:

Q. On the morning of July 5th did a committee from the Law and Order League come to you to see you at your office?

A. No, they came to the mayor's office.

Q. Was the mayor there?

A. Yes, sir; he was.

Q. Who else was there?

A. I don't know. He came down after me and we took the city solicitor and went back upstairs to the mayor's office again.

Q. Was Mr. J. Lester in this group?

A. He was.

Q. Was Mr. Case in this group?

A. He was.

Q. Was Mr. Gordon Hesse in this group?

A. No.

Q. Was Mr. Ryder or Mr. Lincolnhaler in that group?

A. No, it was kind of a different group.

Q. Just the Law and Order Group?

A. The Law and Order Group. As I remember, there was Lester, Tom Poe, Captain of the Salvation Army, and Rev. Grant of the First—

Q. That is enough.

MR. DONALD WAKEFIELD SMITH: May I make one inquiry: To your knowledge, were there any striking employees of Republic Steel Company in that law and order group?

THE WITNESS: Not to my knowledge.

MR. DONALD WAKEFIELD SMITH: To your knowledge, were any members of the Republic Steel Company in that group?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: To your knowledge, were any members of the Republic Steel members of the law and order group?

THE WITNESS: Not that I know of.

BY MR. HUNT:

Q. What did this group say to you, the mayor, and city solicitor while you were all together?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. They demanded we do something about this situation, and say why we had been passing the buck and why we refused to take the special police. They just climbed all over us and demanded some action be taken and threatened to impeach us, talked about getting rid of the mayor. They talked about getting rid of the city solicitor and everybody else, and they wanted something done, wanted some action.

BY MR. HUNT:

Q. Were you asked by some of the members why Republic Steel men had been discriminated against in adding to your police force?

A. There was something said we could get plenty of men there, and I told them I didn't want those men, that if I was going to have any special police I wanted to have men on neutral sides that had no argument in the strike.

Q. What was the reply?

A. They said the steel mill was at stake, the City of Massillon was at stake, as far as industry goes, and we would lose the biggest of our industry.

Q. Did they ask you at this meeting if you would accept the assistance of Captain Curley in picking men to add to your police force?

A. Yes, they said Captain Curley knew where to get men and he could help pick the men.

Q. Did you finally agree to take on men right away?

A. No, it got pretty hot in there for the next hour or so.

Q. What do you mean, it got pretty hot?

A. Why, they were climbing on us to take on these men, and wanting a showdown and wanting to know why and fighting with us and asking all kinds of things, and saying all kinds of things against us, why we had done the way we did, and why we had not taken these things, and why we would not consent to it.

Q. Chief Switter, I have asked you so far merely a few questions about isolated meetings and conversations in the strike situation, but weren't you subject to constant pressure throughout the day and night, and spent many a sleepless night trying to handle the situation?

MR. DAY: Objection.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. I did. I worked, sixteen, eighteen, and twenty hours a day ever since the strike broke, and one time none of the department went home for four days and nights, four nights, only excepting a few hours sleep in the cruising car, and I slept on the office force, [floor] and the whole department the same way, even the new rookies.

Q. So you were pretty tired at the meeting of this Law and Order Committee on July 7th?

A. We were pretty well pounded down by that time.

Q. By whom?

A. The law and order and the back-to-work movement.

Q. And by the Republic Steel Corporation?

MR. DAY: We object to that.

MR. HUNT: When I speak of the Republic Steel Corporation, I mean the officials of the corporation.

MR. DAY: He didn't say that until you suggested it.

THE WITNESS: They laid off of us for the last couple of days.

MR. DONALD WAKEFIELD SMITH: By that you mean the officials of the corporation?

THE WITNESS: That is right.

BY MR. HUNT:

Q. What did you finally tell the group that you would do about putting on these extra police?

A. I told them that was up to the mayor and the chief executives of the city to make that decision, and they got after the old boy pretty hot and he kind of weakened for the time being and asked me again why we should do. Then they jumped on me and I told them I would give them the works, I would give them what they wanted, I would appoint the whole damn outfit, give them all the guns they wanted and let them go to it, it is coming, and God damn let them have it. They could not resist it any longer. They could not resist the pressure of law and order any longer.

Q. You could see what was coming?

A. That there was going to be a battle and bloodshed all around as soon as they put guns in those rookies' hands, and we had been fighting against bloodshed all the time.

MR. EDWIN S. SMITH: You mean by that, these people bringing pressure on you were inviting bloodshed?

THE WITNESS: I knew they was.

MR. EDWIN S. SMITH: Why did you think they wished to invite bloodshed?

THE WITNESS: Because you can't take rookies and go down around the picket lines with men inside the plant former employees working against the strikers.

MR. EDWIN S. SMITH: Didn't you raise arguments of that sort?

THE WITNESS: I kept raising and raising arguments, and kept passing the buck until at last I decided they wanted it and let them have it.

MR. EDWIN S. SMITH: What would be their reply to that kind of argument, you didn't want employees of the plant down there trying to preserve law and order?

THE WITNESS: How is that?

MR. EDWIN S. SMITH: I understood you said to them you thought it would be a bad thing to have people who were employees of the plant down there trying to preserve law and order as far as activities of the picket line were concerned. Isn't that what you said?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: What was the answer of the law and order people to this argument?

THE WITNESS: That these men they had picked would be good, fair, square, level-headed fellows, and they would not be for one side or the other.

BY MR. HUNT:

Q. Did one of this committee at this time state to you in the other part of this meeting of July 7th—did one of them say there was only a one-sided strike?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. If that was said, I don't know who said it any more.

BY MR. HUNT:

Q. So you weren't thinking trouble was going to come?

A. I certainly did.

MR. DONALD WAKEFIELD SMITH: Did any trouble come until that sort of thing was done?

THE WITNESS: No, there was no trouble for a couple of days.

MR. DONALD WAKEFIELD SMITH: In other words, if they had followed your advice, in your opinion, no trouble would have come?

THE WITNESS: That is right.

BY MR. HUNT:

Q. Well, when you agreed to put these men on did you receive an invitation to a luncheon from these gentlemen?

A. We did. They told us there would be a meeting of the local manufacturers at the Y. W. C. A. that noon, and we were requested to attend, which we did, the safety director, the mayor, city solicitor, and myself.

MR. DAY: Is this the 7th of July?

MR. HUNT: This is the 7th of July.

MR. DAY: Thank you.

BY MR. HUNT:

Q. What happened at that lunch?

MR. DAY: Same objection.

MR. DONALD WAKEFIELD SMITH: Overruled.

MR. DAY: Exception.

A. Captain Curley was there and probably fifteen or twenty representatives of the different manufacturing plants.

MR. EDWIN S. SMITH: I am not clear about what you did about this offer of Captain Curley to pick your men?

THE WITNESS: That wasn't done until this noonday luncheon, and Captain Curley went to this noonday luncheon and he requested these different manufacturers that were there to sign up any able-bodied men that would be likely to make police officers, special police officers.

BY MR. HUNT:

Q. Was Mr. J. Lester there?

A. He was.

Q. Mr. J. Lester was an officer in the Law and Order League?

A. That is right.

Q. What did Mr. J. Lester say?

A. When Captain Curley asked him to send men from the different plants and to give him a rough idea of how many men could be sent, why, some of them asked they could only send two or three and J. Lester could not send any because he employs all women at his little rubber factory there.

Q. Was Carl Meyers, of the Republic Steel Corporation, at this luncheon?

A. He was.

Q. Did he make a speech?

A. Yes, sir; he lit on the mayor and the city solicitor and I with all fours.

Q. What did he say?

A. He said he had not thought a hell of a lot of us up until now, and he thought we was beginning to get on the right track now and go along and do something.

Q. Was there any time that Captain Curley said he wished the men to appear so he could pick them out?

A. He requested they all be there at 3 o'clock.

Q. Where, in the Y. M. C. A.?

A. At police headquarters.

Q. Did these men appear at police headquarters?

A. At 3 o'clock there was sixty or seventy men in the lobby.

Q. Did you recognize the faces of most of them?

A. I did.

Q. Were they Republic Steel employees, so far as you could tell?

A. A good many of them.

Q. Did Captain Curley then proceed to pick out these men?

A. We looked them over together and formed a line, and lined them up and asked that all under 30 years old step forward, which they did, and chased them away, and then picked out the ones that had large families and chased them away, and had about thirty or forty left.

Q. And of these thirty-odd men would you say that nearly all of them were Republic Steel employees?

A. The biggest part of them was.

Q. Did you make a list of the men on your force including the rookies and these men sworn in?

A. I did.

Q. These men were taken on as special police?

A. That is right.

Q. That is, they received compensation?

A. That is right.

Q. Is this a copy of the names of men on your police force including the rookies and ten men you mentioned you swore in from neutral sources and civil service and also these special force?

A. Yes, sir; that is a list.

MR. HUNT: I would like to offer this in evidence.

MR. DAY: We will take it under objection.

MR. EDWIN S. SMITH: It is admitted as Board's Exhibit No. 4.

(Thereupon, the list above referred to was received in evidence and marked as "Board's Exhibit No. 4.")

BY MR. HUNT:

Q. Now, was there any delay in swearing these men in?

A. There was a hold-up, the bondsman didn't show up and Curley had to contact Gordon Hesse and he told him to arrange for getting the bondsman to come over from Canton to bond the group of men.

MR. DAY: Same objection to that conversation.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

THE WITNESS: Our others had personal bonds by property owners locally.

BY MR. HUNT:

Q. To your knowledge, did Gordon Hesse arrange for bondsmen for these police?

A. As far as I know, that is who Captain Curley said he was talking to, wanted to speed them up so they could swear them in.

Q. Gordon Hesse is an official of the Republic Steel Corporation?

A. He is connected with it in some way.

Q. Did the National Guard leave Massillon on the 8th and 9th of July?

A. That is right.

Q. Were there any incidents of violence during those two days?

A. Only one little scrap.

Q. The next day was July 10th; was there any particular violence on Saturday?

A. No, we took it over on Saturday. We took it over on Friday, Friday the guards stood by, and we took it over ourselves on Friday and the guards moved out Friday afternoon.

Q. How did you arrange for arming these new special policemen?

A. I bought thirty new sidearms for them and four dozen new nightsticks and that was all the equipment we bought.

Q. Did you equip them immediately as soon as you received these guns and nightsticks?

A. No, I was kind of slow doing that. I strung it out a couple of days, looking the different ones over before I turned arms over to them.

MR. EDWIN S. SMITH: These purchases were made out of the funds of the police department?

THE WITNESS: No, we just ordered them. There were no funds there. I don't know who is going to pay for them.

BY MR. HUNT:

Q. Had you furnished all these men with arms by Sunday?

A. I believe they all had arms by then.

Q. That is Sunday, July 11th?

A. That is right.

Q. On Sunday, July 11th, what did you do in the early afternoon around 2 o'clock?

A. Two o'clock, I taken Captain Curley and went down and changed shifts at the mill. The mill changed shifts at 3 o'clock and at that hour we would have forty-some men working on the police department. That is, we work twenty men on a shift and the shifts lap over an hour and a half, and when the new shift changes we would have forty men on.

Q. That is in all?

A. In all.

MR. EDWIN S. SMITH: What was Captain

Curley's position? Was he an adviser or deputized? What was his status?

THE WITNESS: He was just helping out. When I told him he should be sworn in he said oh, no, he didn't want to be sworn in; he would just help a few days until I could get going, and then he would step out of the picture.

BY MR. HUNT:

Q. He wasn't sworn in by you, as far as you know, and he wasn't sworn in by the sheriff of the county?

A. That is right.

Q. Go ahead.

A. We went down and changed shifts at the mill at 3 o'clock so the afternoon shift came in and the morning shift came out and the afternoon went along in fine shape, no trouble at all. So then, there was a large mass meeting of the C. I. O. at Sippo Park about a half a mile from the steel plant, and we went around there.

Q. About what time was that?

A. About 3 o'clock or a little after.

Q. Did you notice anything that indicated disorder?

A. No, they had quite a few people there, a loudspeaker going, a lot of traffic, a lot of cars parked around there, and we rode around and made several trips around there and went back around the mill and looked that over and went down to the Union Drawn Steel plant and checked that over, and saw the men were on their jobs and went back up and looked the mass meeting over again and by that time it was about 5 o'clock, time for supper, and Captain Curley says, "I will go see that the night shift changes all right." He said, "You better get away and get some rest and recreation. You have been at it too long. It is getting you down." I said, "That is fine, thanks old boy, if you will look after it I am gone." So I went home and cleaned up a bit and that evening I went away with my wife and some other couple and went out in the country twelve or fourteen miles, had a few beers and lunch.

Q. What time did you leave Massillon with your wife and your friends?

A. It was approximately nine-thirty, because the boy friend we went with, he runs a gas station, and he had to close that up before we could get started, and he closed at 9 o'clock, and before we could get ready it was about nine-thirty.

Q. When did you return to Massillon?

A. One o'clock or a little after.

Q. Did you notice anything unusual in the streets when you came in?

A. Yes, sir; I noticed there was a lot of cars and a lot of people around the streets which was very unusual for that hour.

Q. What did you do?

A. Swung over by the City Hall where police headquarters is located and saw a thousand or fifteen hundred people storming around there and knew something had happened.

MR. DAY: I beg your pardon. What time did he say he got back?

MR. HUNT: About 1 o'clock.

MR. DAY: Thank you.

THE WITNESS: And I loaded my wife into a cruising car and had them take her home and went into headquarters to see what had happened, and began to get the different stories.

BY MR. HUNT:

Q. Were you present when the fighting started, when the firing started at strike headquarters between your police and the C. I. O. workers?

A. No, I wasn't.

Q. Did you get reports as when it started?

A. The trouble started between ten-thirty and eleven o'clock, as I got it.

Q. Were you informed by Captain Curley that he had raised the normal guard which was usually stationed about fifty feet in front of the strike headquarters, from six men to twenty men?

A. Yes, sir; I was informed of that.

Q. What reason did he give you for raising the number from six to twenty that night?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. Because he got rumors from a source he didn't want to disclose that the pickets were going to crash the line and stop them from going into the mill at the 11 o'clock shift.

BY MR. HUNT:

Q. Had you heard any rumors before you left Massillon at 9:30?

A. No, I had not.

Q. And Captain Curley has not told you the source of these rumors he received at 9:30 when he determined to raise the source to twenty men?

A. That is right.

Q. Did Captain Curley tell you that when his ammunition ran out in the middle of the fighting that he sent to the Union Drawn Steel for additional ammunition for the police?

MR. DAY: I object to that.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: Exception.

A. He did.

BY MR. HUNT:

Q. Did he say he got it?

A. Yes, sir.

Q. Did anyone else, any of your police officers tell you they had sent to the Union Drawn Steel for ammunition?

MR. DAY: Same objection.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

A. Patrolman Moore told me he used up everything we had and that he sent a fellow named Gray, I believe, who was a foreman in the Indure plant of the Republic Steel Company, and he sent him down for more gas shells.

Q. You say Gray is a foreman in the Indure plant?

A. That is right.

Q. And Moore sent him down for gas shells?

A. Yes, sir.

Q. That is in addition to Captain Curley?

A. Yes, sir.

MR. DONALD WAKEFIELD SMITH: You say they sent them down for more gas shells, as I recall, you said these special additional policemen were equipped only with side arms and nightsticks?

THE WITNESS: That is true.

MR. DONALD WAKEFIELD SMITH: No gas was issued for them?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: At the time you departed at 9:30 at night had any gas been issued to them?

THE WITNESS: No, the older heads in the cruising cars had the gas, and as I get it, the whole outfit was concentrated up in the strike zone some time that night and everything was taken up there, all our gas, gas guns, and machine guns and everything was concentrated up there, I guess.

BY MR. HUNT:

Q. Captain Curley had no authority from you whatsoever to raise the normal number of guards from six to twenty. Is that right?

A. No.

MR. DAY: I object.

MR. EDWIN S. SMITH: On that point, when-you go away, as you did that evening, you leave the police department in charge of someone. Who normally takes that position?

THE WITNESS: There is no promoted men in the department at all. We have no ranking officers. The older heads, I knew they could take care of themselves. Of course, Captain Curley came into the picture and he was more or less looking out for these new rookies, but the older heads were taking care of themselves in cruising cars. They were handling traffic, and so on.

MR. DONALD WAKEFIELD SMITH: Was it your understanding that Captain Curley, when you left, that he was to take charge of everybody in the place at the time?

THE WITNESS: No, nothing was said. Things were quiet and they were having this meeting and it didn't look like anything was going to happen. It didn't look like there was to be anything. It went off on the afternoon shift all right and we did not figure anything was going to happen that night.

MR. DONALD WAKEFIELD SMITH: Is it fair to say that you didn't regard this as a matter of delegation of authority to Captain Curley. You merely thought nothing would happen and he would be around there?

THE WITNESS: That is right, he was going to see the new rookies went on the post standing in front of C. I. O. headquarters and there was a viaduct and a couple of men to be posted under the other end of the viaduct, and a couple other roads supposed to be blocked so no traffic would come through. And that is the way it was supposed to be handled, and he was just going to see the men were on their posts and what he could do, but I don't know.

MR. DONALD WAKEFIELD SMITH: How

far is C. I. O. headquarters from the picket line?

THE WITNESS: Near a good city block, or a block and a half.

BY MR. HUNT:

Q. Now, of these twenty men, would you say seventeen or eighteen of these new rookies were taken on—

A. (Interposing) I guess there was only a couple of oldtimers around there.

Q. In other words, most of the men present were or had been immediately before their appointment employees of the Republic Steel Corporation, as far as you know?

A. That is right.

Q. Now, you told us that Captain Curley and Officer Moore, each one on his own account, sent for ammunition at the Union Drawn Steel Company during the fight?

A. That is right.

Q. So far as you know, is the Union Drawn Steel Company a subsidiary of Republic Steel Corporation?

A. That is right.

MR. HUNT: If the Board please, I think this would be a good time to recess.

MR. EDWIN S. SMITH: We will take a recess in a few moments, but I would like to ask the witness one or two questions.

MR. HUNT: All right sir.

MR. EDWIN S. SMITH: I would like to ask this question, about the steps you finally took to enlarge the police force in the way you did in response to your knowledge of the needs of the police force in regard to law and order as you saw it, or did you take those steps because of the pressure exerted by the various groups you have described?

THE WITNESS: On account of the pressure by these groups pressing for action. You could not fight it any longer.

MR. EDWIN S. SMITH: You had no reason to believe if you had been left alone to discharge your duties you could not have preserved law and order in that situation?

THE WITNESS: Well, we was getting along O. K. up until then. The whole argument was about the mill. The breakdown of law and order in the city, not one of these new men were put out where these homes were supposed to have had windows broken out of and men taken out and attacked. The whole outfit was concentrated in the strike zone.

MR. EDWIN S. SMITH: We will adjourn until 2 o'clock.

(Whereupon, at 12:50 o'clock p. m., the hearing was adjourned until 2 o'clock p. m. of the same day.)

After Recess

Thereupon, at 2 o'clock p. m., the hearing was resumed pursuant to recess.

MR. EDWIN S. SMITH: Are you ready to proceed, Mr. Hunt?

MR. HUNT: I have a few more questions of Chief Switter.

STANLEY W. SWITTER

resumed the witness stand and, having been previously sworn, testified on behalf of the National Labor Relations Board as follows:

Direct Examination (Resumed)

BY MR. HUNT:

Q. Chief Switter, in your opinion, on basis of all your experience throughout this strike situation in Massillon, do you think you could have handled the situation so that there would have been no bloodshed, as did happen on the night of July 11th, if you had not been subjected to the pressure of individuals such as Carl Meyers, Mr. J. Lester, Mr. Paul Ryder, and others representing their respective organizations?

MR. DAY: I object.

MR. EDWIN S. SMITH: The objection is overruled.

MR. DAY: An exception, please.

A. I do.

BY MR. HUNT:

Q. Was that pressure brought on you continuously almost from the very beginning of the strike?

A. It was.

MR. DAY: The same objection.

MR. EDWIN S. SMITH: Objection overruled.

MR. DAY: An exception, please.

BY MR. HUNT:

Q. You have testified only to the high lights of that pressure here?

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

A. That is right.

BY MR. HUNT:

Q. And it took not only your ordinary working hours but many hours besides that to deal with the situation?

MR. DAY: I object.

MR. EDWIN S. SMITH: Objection overruled.

A. It did.

BY MR. HUNT:

Q. When you finally consented at the meeting of July 7th to the putting on of the men you realized that the result of that might be the massacre that occurred on the evening of July 11th?

MR. DAY: I object. If the Board please, I think there ought to be some limit to the leading questions that can be asked. Those last four questions are very leading.

MR. HUNT: I shall rephrase the question.

MR. EDWIN S. SMITH: The witness already testified to the fact that in his judgment that violence was likely to follow as a result of putting into effect the measures urged upon him to take, which he did take. That being the case, I don't know that it is necessary.

MR. HUNT: I merely wanted to make clear the Chief's own position throughout the entire strike situation and his desire to avoid trouble.

BY MR. HUNT:

Q. Chief Switter, was your purpose and were your efforts directed toward maintaining peace and preventing bloodshed?

A. Yes, sir.

Q. For that purpose you tried to put men on your police force who were neutral?

A. That is right.

Q. And you think if you had carried out your own policies without the pressure you would have succeeded?

MR. DAY: Let the record show that the Respondent objects to all of those questions; that every one of them suggests the answer. While we realize this Board does not enforce the rules applied to courts, yet we think there ought to be some restriction on the right to ask those kinds of questions, as the answer to every one is suggested.

MR. EDWIN S. SMITH: It seems to me the questions are in the nature of questions directed as a summation of the witness' point of view as expressed in answer to some specific questions. I see no objection to them upon that ground.

MR. DAY: An exception, please.

MR. HUNT: That is all I have of this witness.

Cross Examination

BY MR. DAY:

Q. Chief Switter, this morning you answered a great many questions and told who were present upon certain days and certain dates and at certain times. How were you able to bear all of that in your memory?

A. By going over it with my attorney.

Q. Who is your attorney?

A. Mr. Hunt.

Q. He is your attorney?

A. He is the man who is handling the case.

Q. How long have you been in Washington?

A. Since last Friday.

Q. And this is Wednesday?

A. Yes.

Q. Friday, Saturday, Sunday, Monday, and Tuesday before the hearing started?

A. Yes, sir.

Q. And you have been in conference with Mr. Hunt during a large part of that time?

A. Yes.

Q. And with whom else?

MR. HUNT: I object.

MR. DAY: It is proper cross-examination.

MR. HUNT: I object. I see nothing material to that question.

MR. DAY: It is material when the witness goes on the stand to show with whom he has conferred, and to whom he has talked. I don't know of any case where that has ever been ruled out in any ordinary practice.

MR. HUNT: I submit it is one of the oldest questions there is to ask somebody whom did he talk to, or did he talk to his attorney. Of course he has. To ask with whom else he has talked I think is immaterial.

MR. DONALD WAKEFIELD SMITH: I think

it is as much a privileged communication what this witness said to Mr. Hunt as it is a privileged communication with regard to your clients and what did they say to you.

MR. DAY: I am not asking what they said.

MR. DONALD WAKEFIELD SMITH: You are asking whom he talked to.

MR. DAY: But it has never been the rule, if the Board please. Whom he talked to is not privileged.

MR. EDWIN S. SMITH: I see no objection to your asking the question. Go ahead.

THE WITNESS: What is the question?

BY MR. DAY:

Q. I will ask this question, Mr. Switter: You have been here ever since Friday?

A. That is right.

Q. And you say you have been in conference with your attorney, Mr. Hunt?

A. That is right.

Q. What other lawyers have you been talking to?

A. No others.

Q. Did you talk to Mr. Pressman?

A. No.

Q. Have you talked to him at all?

A. No.

Q. Has he been present at any conference?

A. No.

Q. Did you know any of the lawyers of the C. I. O.?

A. No.

Q. Have you seen any of them?

A. No.

Q. Who else was present at these talks besides Mr. Hunt?

MR. DONALD WAKEFIELD SMITH: He said nobody.

BY MR. DAY:

Q. Do you mean you and Mr. Hunt met alone every time? Do you mean your meeting was with Mr. Hunt alone every time?

A. And Mr. Hardman and Mr. Crier.

Q. He is the city solicitor—that is, Mr. Hardman is the city solicitor? A. Yes, sir.

Q. And Mr. Crier is the Mayor of Massillon; is that right?

A. Yes, sir.

Q. Where have you been stopping since you have been here?

MR. HUNT: I object to that. I will state to the Board that these witnesses have all been subject to sufficient pressure and should not be subjected to further pressure from Republic Steel Corporation or anybody else.

MR. DAY: There has been no pressure on them by the Republic Steel Corporation, and I resent that statement.

MR. HUNT: I object to their divulging their whereabouts at this time.

MR. EDWIN S. SMITH: Objection sustained.

MR. DAY: I want to say that no pressure has been put on this witness by Republic or anybody representing Republic.

BY MR. DAY:

Q. Who has been Chief of Police of Massillon since you have left?

A. Robert E. Smith has been appointed acting chief.

Q. And Mr. Lysic has been—Who is law director?

A. Robert Hoffman, assistant prosecutor.

Q. How much longer do you expect to stay here?

MR. HUNT: I object to that.

MR. EDWIN S. SMITH: The objection is sustained.

MR. DAY: An exception, please.

BY MR. DAY:

Q. How long have you been a member of the force?

A. Since 1930.

Q. In what capacity were you at first?

A. Five years as a patrolman.

Q. You became chief when?

A. September 1, 1935.

Q. Under the present mayor?

A. No, sir.

Q. Who was the mayor?

A. Mr. Loomback.

Q. And then you kept on and stayed over as chief of police under the present mayor?

A. I have a civil service appointment for life.

Q. How old are you?

A. Thirty-five.

Q. You worked in the Central Steel Company how long?

A. Off and on since 1919 up to 1930, when I went on the police force, outside of a few years when I was running around the country.

Q. During that time you worked at Central Steel it had guards and policemen taking care of its property, did it not?

A. Yes, sir.

Q. Can you give the Board some idea, first, as to the number of plants Republic has in Massillon?

A. The number of plants?

Q. Yes; the number of manufacturing plants or factories?

A. Two—Republic Steel Corporation and Union Drawn Steel.

Q. Do you know how many men are employed at the Republic plant under normal business?

A. I have heard figures anywhere from 2,200 up to 3,600.

Q. And Union Drawn employs how many men?

A. Four hundred to four hundred and fifty.

Q. Can you give the Board some idea as to the amount of space that is covered—first, by the Republic plant over there, and how extensive and how large it is?

A. In acres?

Q. In any way you want to put it.

A. No; I couldn't say.

Q. It is quite a large plant, isn't it?

A. It is.

Q. And is Union Drawn a fairly good sized plant also?

A. It is a smaller plant down in the hole there.

May I have that map, please?

I think it may be of value to the Board if we were to use this map that I have here.

May I step up to the bench?

MR. EDWIN S. SMITH: Do you want this put in as an exhibit?

MR. DAY: Yes, sir; we will put it in as an exhibit.

Q. (By Mr. Day) Chief Switter, will you please look at this map? I am not so very familiar with it, but I think this is north (indicating)?

A. Yes, sir.

Q. And this is south?

A. Yes, sir.

Q. And that would be east (indicating)?

A. Yes, sir.

Q. And this would be west?

A. That is right.

Q. And here is Erie Street?

A. That is right.

Q. And there is the viaduct?

A. Yes, sir.

Q. And this Oberlin Avenue, and this is Cleveland Avenue?

A. Yes, sir.

Q. Now, will you please tell the Board where the Republic plants are located?

A. Down through here (indicating) is the Republic Steel plant.

Q. That is where it is marked "sheet division"?

A. Yes. That is just at the beginning of the viaduct.

Q. At the end of this viaduct here (indicating)?

A. Yes. No. 1 gate leads right in here to the sheet mill (indicating).

Q. There is the No. 1 gate right there (indicating)?

A. Yes, sir.

Q. And No. 2 gate is right there; is that right?

A. Yes, right across from the main office.

Q. Where is the Union Drawn? Is that shown on there?

A. No. That is on Third Street, Southwest.

Q. That does not appear on this map?

A. No, sir.

Q. Where is the C. I. O. headquarters?

A. Right here in Cleveland Avenue.

Q. Right here, marked C. I. O.?

A. Yes, it is just back from the main office.

Q. In other words, the C. I. O. is right here (indicating), marked "C. I. O."?

A. Yes, sir.

MR. DAY: And the Board will note the relative distance there to the entrance, Nos. 1 and 2.

Q. (By Mr. Day) How far is all of this from the City Hall?

A. About a mile and a half.

Q. (By Mr. Edwin S. Smith) What are these figures here? Do they represent feet?

MR. DAY: The scale is what?

THE WITNESS: One inch to one hundred feet. This down here is your road leading to your blast furnace and coke ovens.

Q. (By Mr. Day) Will you show the members of the Board the county line?

A. The county lines comes up here along the river and starts in through the center of the viaduct, and Oberlin Road right straight through to Duncan Street here. This is a short piece of Duncan. It goes out along Pennoc Avenue and then here (indicating).

Q. This is the district office of the Corporation, isn't it?

A. Yes, sir.

Q. That is inside the city?

A. Everything north of this corporation line is in the city (indicating).

Q. And the office would be in the city?

A. That is right.

Q. And the sheet division plant itself would be in the county, would it not?

A. That is right.

MR. DAY: Unless the Board wants to see that, I will mark it and leave it.

Q. (By Mr. Donald Wakefield Smith) I would like to ask this question since looking at the map: Then the only section of the Republic Steel which is within the city limits is that office?

A. That is right—outside of the Union Drawn Steel.

Q. Did you, as Chief of Police of Massillon, have any jurisdiction over any of this territory here other than the part which I believe you say is north of the county line, which includes the office?

A. That is right. Everything north of this county line belongs to the sheriff. That is the county.

Q. Will you please show us on the map where the picketing occurred?

A. All along this gate, starting at the end of the bridge, No. 1 gate, all along the Republic fence here up to No. 2 gate, clear out here on Oberlin Road, and clean out to Ninth Street, down through to the blast furnace.

Q. Then, as you have indicated, is it correct to say that the picketing was not within the city limits but was outside of the jurisdiction of the city?

A. There were some pickets along the front of the main office.

Q. Were most of the pickets along the front of the main office?

A. There were possibly at times ten, fifteen, or twenty in front of the main office.

Q. Where was the access to the plant?

A. No. 2 gate here.

Q. No 2 gate?

A. Or the No. 1 gate.

Q. The main accesses to the plant were not within the city limits?

A. Absolutely not.

Q. (By Mr. Day) If a man lived over in this part of Massillon (indicating on map) would he have to come down Erie Street and then across the viaduct?

A. That is right.

Q. And the viaduct is within the city?

A. Half of it is.

Q. That is, down to here (indicating on map) it is within the city?

A. Yes, sir.

Q. It is half within the city?

A. Yes, sir.

Q. And half out?

A. Yes, sir. The county line comes up here (indicating on map). This is the sewage disposal plant belonging to the city down here (indicating), and then the county line comes up here to the river.

Q. Is this (indicating) the C. I. O. headquarters in the city?

A. Yes, sir. That is known as Columbia Heights.

Q. A great many workers who live over in Columbia Heights would go to work down Cleveland Street and then go in to entrance No. 2, wouldn't they?

A. Very few. The main road, as used, would be coming in Duncan Street or in Sixth Street.

Q. Duncan Street is in the city?

A. Yes.

Q. And Cleveland Street is within the city from there on?

A. It is from right here.

Q. You mean from the back of the office?

A. That dotted line is the county line. This is Cleveland Avenue right here (indicating) coming into Cleveland Road.

Q. That is all in the city, then, is it?

A. Yes. That abuts right into Oberlin Road.

Q. Cleveland Avenue and North Oberlin Avenue are in the city limits?

A. That is right.

Q. And this territory up here in and about the C. I. O. headquarters is within the city?

A. All of it.

MR. EDWIN S. SMITH: Do you want that marked?

MR. DAY: Yes. May I have it marked as Respondent's Exhibit No. 1?

MR. EDWIN S. SMITH: It will be admitted as Respondent's Exhibit No. 1, if there is no objection.

MR. HUNT: No objection.

MR. EDWIN S. SMITH: It is admitted.

(The map thereupon referred to was received in evidence and marked as "Respondent's Exhibit No. 1.")

Q. (By Mr. Day) How many members of the police force did you have before there was any talk of a strike or anything of the kind?

A. There were eighteen of us altogether.

Q. That is, day and night and everything?

A. That is right.

Q What were the shifts?

A. Eight hours.

Q. Three shifts of eight hours each?

A. Yes.

Q. That would be only six to a shift; is that right?

A. That is right.

Q. Did some stay in the office—that is, did some of each shift stay in the office and some go outside?

A. Yes, sir. There were five of us used in the office—myself, my identification man, and three desk men.

Q. That is, five out of the eighteen?

A. That is right.

Q. That leaves thirteen.

A. Thirteen patrolmen.

Q. Thirteen patrolmen in three shifts would be four in one shift, four in another shift, and five on the third shift?

A. That is right.

Q. You did not mean to say that that would be enough to deal with serious trouble out there at the mills, did you?

A. No, sir.

Q. And you do not?

A. No, sir.

Q. In other words, if serious trouble occurred at the mills you did not have enough policemen under your command to deal with it, did you?

A. That is right.

Q. And you realized that from the time the strike trouble started, did you not?

A. That is right.

Q. What effort did you, yourself, make to get more policemen?

A. How is that. I didn't understand you.

Q. What effort did you, yourself, make to get more policemen?

A. I talked to the City Council.

Q. Can you give us the date of that?

A. It was along in June some time.

Q. You were very good on dates this morning. Let us get some important dates. The troops came on what date?

A. July 1.

Q. And the men went back to work on what date?

A. July 2.

Q. And the big trouble you were telling us about was on Sunday, July—what? Was it July 11th?

A. The 11th. Do you mean the battle?

Q. Yes. That was Sunday, July 11th, wasn't it?

A. That is right.

Q. And the troops that came in on July 1st left Massillon on what date?

A. About the 8th and 9th.

Q. The 8th and 9th?

A. Yes, sir.

Q. That would be on Thursday and Friday?

A. That is right.

Q. The mills in the Massillon district were shut down for a very considerable time, were they not?

A. They were shut down when they worked up the hot metal after the 25th of May. Within about a week they were completely down, and they were down until they opened up on July 2d.

Q. Union Drawn was down, and the sheet mill was down?

A. Everything was down.

Q. And, of course, it was quieter for you while the mills were down than it was when the men started to go to work, was it?

MR. HUNT: I object.

MR. DAY: What is the objection now?

MR. HUNT: It is a leading question.

MR. DAY: But this is cross-examination. I have a right to ask leading questions.

MR. EDWIN S. SMITH: Go ahead. You may ask a leading question.

Q. (By Mr. Day) Do you understand the question?

A. What is the question?

Q. I say, as chief of police it was a quieter period for you up to the time the men started to go back to work than it was after they started to go back to work?

A. Well, it wasn't very quiet when these pow-wows and meetings were going on. I was running around sixteen and eighteen hours a day lots of days.

Q. Then it wasn't so quiet, was it?

A. The city was but it wasn't for me.

Q. Was it quiet out around the mill?

A. Yes.

Q. You testified sometimes there were four days when you never went home at all?

A. That is right.

Q. And you slept on the floor of the office?

A. That is right.

Q. And you were working sixteen to eighteen hours a day?

A. That is right.

Q. When was that? Was that before the troops came in or after they came in?

A. A few days previous to the troops coming into

Massillon. It was when the troops came into Stark County. They had us truck out load blocks on every road leading into the city.

Q. While the mills were shut down they had pickets out at Union Drawn, didn't they?

A. Yes.

Q. And while the mills were shut down, out at the sheet mill, didn't they?

A. Yes.

Q. You frequently saw those pickets, didn't you?

A. Practically every day.

Q. And they were armed with baseball bats and clubs and stones, were they not?

A. They carried clubs for quite some time.

Q. They were real clubs, weren't they?

A. Some of them were.

Q. And baseball bats?

A. Most anything.

Q Baseball bats and billiard cues?

A. There were all kinds of clubs.

Q. Any gas pipe?

A. No, I didn't see any gas pipe.

Q. Did you ever take up any of those clubs and weapons?

A. No, not until the latter part of it. They were taken up by the troops, most of them.

Q. And brought into your office?

A. No, I don't know what became of them.

Q. Did you see them after the troops took them up?

A. No, I did not.

Q. Did you ever see any collection of bats and clubs and sticks that were taken from the strikers by the police or the troops at any time?

A. Yes, the morning that the troops returned after the battle they gathered up some that I think eventually landed in my office.

Q. Where are they?

A. They are still there, I guess.

Q. And they consist of what?

A. All kinds of clubs, sticks, and so on.

Q. (By Mr. Donald Wakefield Smith) May I ask a question right there? Who brought them to your office?

A. One of my officers and a couple of the National Guard, when they picked up a bunch of fellows who were at Union Drawn Mill. They used to have a little trailer down there, and when they searched that trailer they found several sticks and clubs hid under the cushions and what not of the trailer.

Q. (By Mr. Day) Which one of your officers brought in those clubs with the National Guardsmen?

A. I believe his name was John Pattit.

Q. Did you see stones out on the picket line when you would go out along there?

A. They used to have the letters "C. I. O." made there. They used to have letters "C. I. O." made of stones and whitewashed.

Q. Didn't you see stones they had gathered up, too?

A. There were stones lying along the road.

Q. (By Mr. Edwin S. Smith) It is natural for stones to be along the road at that point?

A. No, it is a paved road along there, and then off the edge of the paved road is dirt, where the stones were.

Q. (By Mr. Day) The stones were right where the pickets were, were they not?

A. That is right.

Q. And they had the stones and the clubs and the sticks there, didn't they?

A. That is right.

Q. Chief, when you went around there and saw these various weapons you knew or believed they were there to be used by the pickets, if necessary, did you not?

A. In my own mind I knew what they was for. I had been around picket lines before.

Q. And that was before the troops came, wasn't it?

A. That is right.

Q. And that was before the men started to go back to work, isn't it?

A. That is right.

Q. And that was while Union Drawn and the Sheet Mill were both shut down, wasn't it?

A. Yes, sir.

Q. Did you notice also that pickets in large numbers were congregating around the various picket posts and gates and entrances to the mills there?

A. I used to count them.

Q. What was the result of your count?

A. Sometimes along the line from the bridge down of the blast furnace it would be as high as 150 or 160.

Q. If I might step up here to the bench again, I wish you would just show the members of the Board on this map where they had picket lines along the blast furnace as high as 150 or 160?

A. Starting at No. 1 gate here at the end of the viaduct, running across to Oberlin Road, clean out to Ninth Street, Southwest, and from Ninth Street, Southwest, down here about another mile or so where the blast furnace and coke oven entrance is.

Q. A solid line of pickets?

A. No. They was grouped here and there.

Q. I did not mean they were standing shoulder to shoulder; but they did string along over that distance, didn't they?

A. They were stretched out, I should say, over three or four miles.

Q. (By Mr. Donald Wakefield Smith) There were 150 or 160 of them over three or four miles?

A. Yes, sir.

Q. One hundred and fifty pickets?

A. That is right.

Q. (By Mr. Day) Did you ever see how many congregated around C. I. O. Hall down here (indicating on map)?

A. At various times when they would be having meetings or a change of shifts there would be different numbers of men there.

Q. How many men did you see there at one time, or approximately how many?

A. Over a couple of hundred.

Q. A couple of hundred at C. I. O. headquarters?

A. At change of shift, or something like that.

Q. (By Mr. Donald Wakefield Smith) Was that the average number that was there?

A. I would say so.

Q. (By Mr. Edwin S. Smith) These persons at C. I. O. headquarters were not pickets, were they?

A. Yes, they were pickets changing shifts.

Q. Changing shifts of the pickets?

A. They would change on the shifts, the same as if they were working in the mill.

Q. (By Mr. Day) While you are up here, Chief Switter, directing your attention back to Erie Street right at the beginning of the viaduct, was there a restaurant or saloon up here somewheres?

A. Yes, right at the corner of the bridge here (indicating).

Q. That was a restaurant and saloon?

A. Yes.

Q. I will put "R. & S." here (indicating).

A. There was another one across the street, but that folded up in the meantime.

Q. What did you find as to whether or not that was a frequent meeting place or hang-out, if I might use that expression for that C. I. O.?

A. No, that wasn't a hang-out for them particularly.

It was a hang-out for all mill men.

Q. There is a filling station over here, isn't there (indicating)?

A. That is right.

Q. And a filling station over here (indicating)?

A. That is right.

Q. (By Mr. Donald Wakefield Smith) Just before leaving that, extending over this territory of three or four miles you said there were 150 witnesses?

MR. DAY: Pickets, not witnesses. They may all be witnesses, at that.

Q. (By Mr. Donald Wakefield Smith) Will you please look at this map and state whether or not any of those 150 pickets were within the city limits of the City of Massillon?

A. They used to be sometimes as high as ten or fifteen or twenty along from Cleveland Avenue past the main office and down under this overhead bridge. The Pennsylvania Railroad crosses under there.

Q. Where you indicated there they were not within the city limits of Massillon? Is that right?

A. That is right.

Q. (By Mr. Day) Some were in the city and some were in the county ? That is right, isn't it, Chief?

A. Yes.

Q. You had some disturbances there before the troops came in? You were telling this morning about some men who go into some kind of a fracas. What was that you were telling us about? Was that some guard down at the Republic?

A. One of the pickets and a couple of the guards tangled down at the Union Drawn Mill.

Q. When was that? You are so good about dates will you please just tell us that date?

A. That was along the first part of June. I would say it was a little over a week after the strike.

Q. Who were the strikers involved in that episode?

A. That was a whole bunch, part of the Union Drawn Steel and part of the Republic Steel.

Q. Strikers or guards?

A. What do you mean?

Q. I mean, were they strikers at the Union Drawn and strikers at the Republic Steel that were involved in that fracas?

A. Yes.

Q. And they had some trouble with the guards, did they?

A. That is right.

Q. What did they do with the guard?

A. They disarmed him, I heard.

Q. Anything else?

A. No.

Q. Did they beat him up?

A. No.

Q. Was a man named Morton involved in that?

A. Yes.

Q. You know Morton, do you?

A. Yes.

Q. Joe Morton?

A. Yes.

Q. What has he got to do with the C. I. O.?

A. He is president of the local lodge.

Q. He is under indictment for obstructing the United States mails in the federal courts, isn't he?

A. That is right.

MR. HUNT: I object to that. I don't know that that is within the knowledge of the witness.

MR. DAY: He testified to many things this morning not within his personal knowledge.

MR. EDWIN S. SMITH: The witness has answered the question. Let it stand.

Q. (By Mr. Day) Who is head of the other C. I. O.

lodge down there?

A. A fellow named Kenneth Stead, I believe.

Q. He is also under indictment for obstructing the United States mails, isn't he?

MR. HUNT: I object upon the same grounds.

MR. EDWIN S. SMITH: He may answer.

Q. (By Mr. Day) He is, is he not?

A. Yes, sir.

Q. Did you ever go down to C. I. O. headquarters one time with a man named Chester Adams and a C. I. O. man named Joe Morton?

A. Chester Adams, you say?

Q. Yes, Chester Adams.

A. What was it about?

Q. Do you remember a man named Chester Adams drove off the Republic property onto Oberlin Road and he was waved on by a number of men and stopped, and then you, Chief of Police Switter, stepped onto the running board on the lefthand side of his car, and Joe Morton, president of the C. I. O. and New Deal Lodge, jumped on Adams' running board on the righthand side of his car?

MR. DONALD WAKEFIELD SMITH: Are you doing that for the purpose of refreshing his recollection instead of testifying? I presume that is the purpose of telling him that.

MR. DAY: I am cross-examining the witness.

MR. DONALD WAKEFIELD SMITH: Yes, I know.

MR. DAY: I can ask him anything I want to on cross examination.

MR. DONALD WAKEFIELD SMITH: Consistent with correctness.

MR. DAY: I can read him statement after statement out of any paper I have under any rule of cross examination known to the rule.

MR. EDWIN S. SMITH: All right, go ahead.

MR. DAY: And, if I may make the suggestion, I can refresh the recollection of the witness on cross examination.

MR. DONALD WAKEFIELD SMITH: That is true.

MR. DAY: Then I have a right to press him further after he says he doesn't remember, to see whether he really does or does not. I am not bound by his answer.

MR. EDWIN S. SMITH: Well, ask him the question.

MR. DAY: I have.

MR. EDWIN S. SMITH: Let him answer.

MR. DAY: I wish he would. I am asking him to answer.

THE WITNESS: I don't recall the incident.

Q. (By Mr. Day) You say you did not jump on the running board of a car driven by a man named Adams? You jumped on one running board and Joe Morton, president of the C. I. O. New Deal Lodge of Massillon, jumped on the other, and that the car was driven down to C. I. O. headquarters and you went along down with them, with Morton, to C. I. O. headquarters? Will you say you did not do it?

A. I do not recall the man's name or the incident you are talking about.

Q. Regardless of the name, did you get on the car or ride on the car—that is, get on the car of any man with Joe Morton and go down to C. I. O. headquarters?

A. I was down to C. I. O. headquarters a number of times.

Q. I am not asking you about that. I am speaking about a specific time.

A. Yes, I went down to C. I. O. headquarters with numerous men they had taken out of the mill.

Q. Taken out of the mill for what purpose?

A. They was quitting, coming out of the mill after they had been in there for a week or so.

Q. Men who had been working in the mill?

A. That is right.

Q. And you took them down to C. I. O. headquarters?

A. I went along with them to see what it was all about.

Q. To see what it was all about?

A. Yes.

Q. Why did you take them down there to see what it was all about?

A. I went along with them.

Q. In whose car?

A. Any car that happened to be going down there.

Q. Was it your car sometimes?

A. No, I never took anybody down in my own car.

Q. Whose car was it?

A. You are trying to get at the times when I escorted the men out of the mill.

Q. And took them down to C. I. O. headquarters.

A. I went along with them. I didn't take them down there.

Q. You went down to see what it was all about?

A. They were requested to go to C. I. O. headquarters—working men.

Q. Who requested them to go to C. I. O. headquarters?

A. Morton and Thomas and employee members of the C. I. O.

Q. Morton was the head of the New Deal Lodge of the C. I. O.?

A. That is right.

Q. And Thomas was the head of the pickets?

A. He was some officer there.

Q. He was captain of the pickets the night of the riot, or one of them, wasn't he?

A. I don't know.

Q. And you went at Morton's request and took men who had been working in Republic Mills down to C. I. O. headquarters? Is that right?

A. At the request of Raleigh Francke. He agreed to it.

Q. Every time?

A. Yes.

Q. Did you pick up those men outside of the city or inside the city?

A. I used to go down to the county to get them.

Q. You used to go down to the county to get them?

A. Yes.

Q. At that time you were acting Chief of Police of Massillon? Is that right?

A. Yes.

Q. Have you any other explanation to give of your conduct in that regard?

A. I was doing all I could to keep peace and order.

Q. And your idea of keeping peace and order was to take a man who had been working in Republic Steel, at the suggestion, let us say, of Joe Morton, and take him down to C. I. O. headquarters, you being the Chief of Police of Massillon? Is that right?

A. We went into the Republic Steel Corporation and talked to Raleigh Francke about the condition of getting the men out of the mill.

Q. Did you get any men out of the mill you took to their own homes?

A. I didn't have to.

Q. Did you?

A. No.

Q. Then, all of the men you helped get out of the mill you took to C. I. O. headquarters?

A. No.

MR. EDWIN S. SMITH: It seems to me it is immaterial where he took the men. I don't get the point of the question.

MR. DAY: If he took them to C. I. O. headquarters it shows interest on his part in the C. I. O. cause, it seems to me, and shows some species or degree of allegiance to the C. I. O.

MR. HUNT: The witness already testified on every occasion he had the permission of Raleigh France, who apparently was in charge of the main office of Republic Steel. Perhaps Counsel wants to bring up Mr. Raleigh Francke.

MR. EDWIN S. SMITH: Perhaps you can bring out who those men were.

MR. DAY: Yes.

Q. (By Mr. Day) Who were they?

A. They were laborers in the mill. The first day that the mill requested me to take this group of men out through the picket line they were afraid to come out. I made arrangements to meet them and escort them through the picket lines at the request of the mill corporation—that is, at the request of the steel corporation.

Q. Where did you take them?

A. We brought some thirty-five or forty out that were salaried men and company men that the C. I. O. was not interested in, and there were three truckdrivers coming out that were eligible for C. I. O. membership and one of them was not. The C. I. O. wanted to talk to any members that were eligible to belong to their organization.

Q. Yes; go ahead.

A. And they requested that they come to C. I. O. headquarters and said they wanted to talk to them. They also asked me to go along so that there would be assurances that there was no harm or no trouble coming to them.

Q. How many of those men?

A. Three of them.

Q. Do you remember who they were?

A. Butch Holt was one.

Q. Who is another one? Who else?

A I think another was Shaneybrook. I think there were three truckdrivers of the steel company.

Q. Did Joe Morton go along with you on any of those expeditions?

A. He was at C. I. O. hall. I don't know whether he went along or not.

Q. What happened to these men after they got to the hall?

A. They asked for the conditions in the mill. One of them was asked if he was not a member of the C. I O., and he said yes.

Q. Did you stay there and listen?

A. I stayed there with them all of the time.

Q. About how long did you stay with them?

A. I would say we were talking about a half hour.

Q. Then where did you go?

A. I went home.

Q. Did you understand there was a condition if you took the men out of the mill they were to go to C. I. O. headquarters?

A. No.

Q. Was there any condition imposed by the pickets if they let you get a man out of the mill he would go to C. I. O. headquarters, or you would take him to C. I. O. headquarters?

A. They wanted to talk to them, yes.

Q. In other words, if a man got out of the mill or came out of the mill under protection, the C. I. O. wanted to talk to him? Is that right?

A. If he was a laborer or in their class.

Q. And then you saw to it the C. I. O. got the chance to get to them?

A. I saw no harm came to any of them.

Q. Outside of that did you see those men went to the C. I. O.?

A. No. They was all willing and they all knew before they came out of the mill they was wanted to be talked to at the C. I. O. headquarters.

Q. How do you know that?

A. That was the arrangement that was made.

Q. With the C. I. O.?

A. Yes; with Raleigh Francke and Joe Morton.

Q. (By Mr. Edwin S. Smith) Who was Raleigh Francke?

A. He is the man in charge there of the operations in Massillon, or was in charge of the plant.

Q. For the Republic Company?

A. That is right.

Q. (By Mr. Day) Do you mean Mr. Raleigh Francke of the Republic Company, was a party to an arrangement that any man who left the work in the Republic plant there, and was taken out, or should go to or give a chance to the C. I. O. to talk to him? Is that right?

A. He wasn't very enthused over it.

Q. I don't imagine he should be.

A. But he agreed it was the best thing to do.

Q. (By Mr. Edwin S. Smith) Let me establish the status of these men a little better. Were these people, to your knowledge, C. I. O. sympathizers within the plant and decided they wanted to leave the plant and quit their work at the plant? Is that who they were?

A. No, they were closing down the plant. The company was getting out.

Q. I still don't quite understand the situation.

A. The work was finished and they was closing down the plant and getting all of the men out of the plant and evacuating the plant.

Q. What was to be feared as regards these people going through the picket line?

A. A lot of them that went into the mill and stayed in thought they was going to be beat up and hurt if they came out of the mill.

Q. (By Mr. Day) By whom?

A. By the pickets.

Q. With the clubs and stones and baseball bats you saw there? Is that right?

A. That is right.

Q. Because they thought if they got out of the mill they might be beaten up by these clubs and stones and baseball bats, what arrangement did you make with the C. I. O. about their coming out?

A. If they came out no harm would come to any of them.

Q. But the C. I. O. would get a chance to talk to them? Is that right?

A. That is right.

Q. At C. I. O. hall?

A. That is right.

Q. And you took them there?

A. No, sir; I didn't take them; they went of their own free will and I went along.

Q. And you went along?

A. Yes.

Q. You were just then acting chief of police?

A. Yes.

Q. And some part of it was outside of the city?

A. Yes, sir.

Q. I want to ask you some questions about this Law and Order League there in Massillon. The head of that was a man named J. G. Lester?

A. Yes, sir.

Q. His first name is Jay, isn't it?

A. Jonathan, or something like that.

Q. Isn't his first name Jay?

A. No, it is Jonathan. He is known as Jay. They all call him Jay Lester.

Q. What is his business?

A. He has a little rubber factory there.

Q. He has no connection with Republic Steel Corporation that you know anything about, has he?

A. Not that I know anything about.

Q. Who else is on that Law and Order League Committee, or who else is in that Law and Order League in Massillon? I mean prominent in it. I do not mean all of the members.

A. Mr. Lanham, who distributes Erie Chevrolet.

Q. And no connection with Republic Steel, so far as you know?

A. No.

Q. Who else? Name some. Name a couple more.

A. Tom Poe.

Q. What is his business?

A. Well driller.

Q. And he has no connection with Republic, so far as you know?

A. No.

Q. Name another one.

A. Reverend Hacks.

Q. He is a minister of what church?

A. I couldn't tell you.

Q. He has no connection with Republic Steel, so far as you know?

A. That is right.

Q. That Law and Order League, through a committee, met with you numerous times, didn't they?

A. Yes.

Q. They were afraid of trouble; that is right?

A. Yes.

Q. They were afraid of trouble out at the mills, were they not?

A. They seemed to be.

Q. And they were afraid of trouble with the C. I. O.? And the pickets would be mixed in it, weren't they?

A. They seemed to be afraid something was going to happen.

Q. And they wanted more police protection, didn't they?

A. They wanted the mills opened, I guess.

Q. Didn't they want more police protection also?

A. Well, I had been arguing for more police for the last couple of years.

Q. Right on your remark about wanting the mills opened, there were a great many men in Massillon who wanted to go back to work, were there not?

A. There seemed to be.

Q. You know that, don't you, Chief?

A. I know—I have no way of knowing outside of these groups that I met. I couldn't meet many of them.

Q. Don't you know, as a matter of fact, of your own knowledge and observation as chief of police and who was out on the job there every day, or nearly every day, that after that strike started there were many men who had formerly worked for Republic Steel who wanted to go back to work? Isn't that right?

A. I met some occasionally, yes.

Q. When the mills opened up a great many of them went back to work, didn't they?

A. That is right.

Q. Do you know how many?

A. I heard up to about 2,000.

Q. In the sheet mill?

A. No, altogether.

Q. That is, 2,000 in the sheet mill and Union Drawn?

A. That is right.

Q. Do you know how many men they had to work there?

A. I had all of the figures from 3,200 to 3,600.

Q. When they opened up under the protection of the troops there were 2,000 men who wanted to go back to work? Is that right? Or they went back to work?

A. Evidently.

Q. Those were men who lived in Massillon, weren't they?

A. Massillon and all around there.

Q. And they were men who had families in Massillon, weren't they?

A. Yes.

Q. And they owned homes in Massillon, didn't they?

A. Yes.

Q. And, so far as you know, a great many of them were good citizens in Massillon?

A. Yes.

Q. And you know many of them personally?

A. Yes.

Q. And know them to be hard working and high grade men?

A. Yes.

Q. And, for all you know, law-abiding men?

A. Yes, sir.

Q. Did the Law and Order League want to do something to get those men back to work?

A. Yes, sir.

Q. Did the Law and Order League tell you they had the right to work if they wanted to work?

A. Not right at that time; until the Governor declared they had a right to work.

Q. But the Law and Order League, you say, wanted to get the men back to work?

A. Yes.

Q. And they wanted you to furnish more adequate police protection so that they could go back to work?

A. That is right.

Q. And you say the leading men in that Law and Order League were not connected with Republic, so far as you know?

A. That is right.

Q. They were good citizens—Jay Lester and Tom Poe and others were upright, law-abiding citizens of Massillon, weren't they?

A. I don't know. They caused me an awful lot of trouble.

Q. They might have caused you a lot of trouble and still be up-right citizens?

A. It depends on how you put it.

Q. You would not say they were not upright citizens because they caused you trouble?

A. They would not say nothing about the men.

Q. How many times do you think they came to see you?

A. There was somebody in my office practically every day.

Q. And they had how many mass meetings or luncheon meetings?

A. They had a couple or two or three luncheons.

Q. They were right out in the open, weren't they?

A. Sometimes.

Q. The luncheon meetings were right out in the open? There was nothing secret about them?

A. There was a group up in the dining room, the private dining room.

Q. It was all written up in the newspapers as to what happened?

A. No, I don't think so, not all of it.

Q. And speeches were made?

A. Yes.

Q. And you made a speech?

A. Yes.

Q. And the mayor made a speech?

A. I don't believe he did.

Q. Did Mr. Hardman make any speeches?

A. I don't believe so.

Q. The object of all that was to get more adequate protection and more policemen?

A. Yes. They were talking about police.

Q. When did you go before the Council yourself to ask for additional policemen?

A. It was some time in June.

Q. Was that at a regular meeting of the Council?

A. Yes, sir.

Q. What did you say to the Council? What did you ask them to give you?

A. I asked them to give me some more men, that I was using up a man on each shift down to the Republic Steel office, my contact man who kept me informed as to what was going on on the picket line, and I told them that left me with four men uptown on one shift and three on the other, and three on another.

Q. And the Council would not give you any more men?

A. That is right.

Q. I want you to tell us something more of the proposition of raising the $8,000 to equip policemen, or something of the kind; that was suggested at the meeting of the Law and Order League, or the Chamber of Commerce?

A. Yes.

Q. Which was it, was it the Chamber of Commerce or the Law and Order League?

A. Both combined.

Q. Did they combine at the meeting?

A. Yes, they were some of the members of the Chamber of Commerce and Law and Order League using the Chamber of Commerce office.

Q. Who was the head of the Chamber of Commerce in Massillon?

A. I am acquainted with Mr. Case.

Q. He is the secretary?

A. Yes.

Q. What is his business outside of being secretary of the Chamber of Commerce? Has he any other job or is that a full time job?

A. A whole-time job.

Q. He is a good citizen?

A. Yes.

Q. He is of up-right character?

A. Yes.

Q. He was interested in this movement?

A. Yes.

Q. I could not understand from your testimony this morning whether they got the $8,000 or got any of it. Did they get it?

A. They never got it.

Q. They never raised the $8,000?

A. They only got a few hundred dollars of it.

Q. Did you ever agree to accept the $8,000?

A. We agreed to, the mayor did, and to appoint the police but not to send them to the picket line.

Q. Major Curley—or is it Major Curley or Captain Curley?

A. Captain Curley.

Q. How long have you known him?

A. Quite a few years.

Q. He is in the contracting business?

A. No, he is retired.

Q. You said this morning he used to be an officer in the regular army, didn't you?

A. He served in the Spanish-American War and a little bit in the World War, I guess.

Q. He is a good citizen over there in Massillon, so far as you know?

A. So far as I know, he is all right.

Q. Did you get into touch with him first or did he get into touch with you?

A. He came to my office first.

Q. You did not call him first?

A. No.

Q. You did not talk to him first?

A. No.

Q. But you did know he was a man who had a good military record?

A. He should have. He was on pension as a captain or something.

Q. And had been in both wars—that is, in the Spanish-American War and in the World War?

A. That is right.

Q. You knew Mr. Case, as far as you knew, had no connection with Republic, did he?

A. No.

Q. And, so far as you know, Captain Curley had no connection with Republic, did he?

A. No.

Q. You say there was great pressure brought on you to have the new policemen sworn in or deputized?

A. That is right.

Q. And you say you finally gave in to that pressure?

A. That is right.

Q. And you said this afternoon in answer to a question by Mr. Hunt that you think you could have handled the situation if it had not been for the pressure. Is that right?

A. Yes, sir.

Q. That all depended on what happened out there, isn't it?

A. How is that?

Q. That would have depended on what happened out there, wouldn't it?

A. That is right.

Q. And when you told Mr. Hunt you could handle this situation if it had not been for this pressure, of course in fairness you wish to be understood as saying you could handle the situation you had in mind, omitting what might happen out there? Is that right?

A. That is right.

Q. These last meetings which were held in the mayor's office when there was extra pressure brought to bear upon you, or extra persuasion that you have additional policemen, were attended by members of the Law and Order League?

A. Yes, sir.

Q. And the Chamber of Commerce?

A. Mr. Case, of the Chamber of Commerce, was there.

Q. And I think you told Mr. Hunt this morning, or I so understood you, that Mr. Meyers wasn't there at those last meetings? Is that right?

A. He was there at the afternoon luncheon.

Q. When was that?

A. That was about June 7, I guess.

Q. There were meetings held after that when he was not present; is that right?

A. No. That day we had had the meeting in the mayor's office and then the luncheon at noon and then when all of the factories were requested to send down men, that was the last meeting.

Q. Was Mr. Meyers there at that meeting?

A. Yes.

Q. Many of these talks you had with Mr. Meyers was in the Hotel Onesto in Canton, weren't they?

A. Yes.

Q. Wasn't that largely due to the fact that Mr. Meyers himself had been injured?

A. He had been injured and that is where their headquarters were for the Canton-Massillon district.

Q. They had some rooms up in the Onesto Hotel?

A. Yes.

Q. (By Mr. Edwin S. Smith) Just a minute, please. When you say that is where their headquarters were, whom do you mean by "their"?

A. Republic Steel Corporation had temporary offices up there.

Q. (By Mr. Day) In the Hotel Onesto?

A. Yes.

Q. At that time the offices of the company were being picketed over in Massillon, were they not?

A. Yes, sir.

Q. And the pickets were around the Massillon office?

A. Yes, sir.

Q. If I might get up here near the bench again, the Massillon office is right over here, isn't it (indicating on map)?

A. Yes, sir.

Q. And that was picketed?

A. Yes, sir.

Q. And Mr. Meyers and those other men could not get in there if they wanted to, unless they ran the picket line?

A. That is right.

Q. What was the situation as to Union Drawn?

A. Just the same.

Q. That was picketed, too?

A. Yes, sir.

Q. Was it your judgment, Chief, that they had a temporary headquarters over at the Hotel Onesto in Canton because they could not get into their regular place? Is that right?

A. It was the same way in Canton, yes.

Q. And it was the same way down in Canton, wasn't it?

A. Yes.

Q. They had the Berger Works picketed, and the Tin Plate picketed, and Republic had to have an office somewhere, so they went up to the Hotel Onesto?

A. Yes.

Q. And you had various talks with Carl Meyers upon the subject of what you would be able to do to cope with any trouble if it sprung up there in Massillon?

A. Yes.

Q. Was Mr. Francke, of the sheriff's office, there, sometimes?

MR. DAY: I say to the Board now, as I said this morning, as to my familiarity, that I was born in Canton and lived there for many, many years, and I know these people down there. I know one member of the Board felt that I had been down there sleuthing around.

MR. DONALD WAKEFIELD SMITH: I didn't indicate that.

Q. (By Mr. Day) Was Mr. Francke there at any time?

A. Just once.

Q. Without going through the thing over and over again, those discussions you had with Mr. Carl Meyers, and perhaps the sheriff and perhaps Mr. Francke, deputy sheriff, were along the line of what the law enforcement officers would be able to do to cope with the situation if violence started up? Wasn't that it?

A. Yes.

Q. You said something this morning about getting some ammunition out at the Brookside Club, or somewheres?

A. Yes, sir.

Q. Was it ammunition or tear gas, or what?

A. Three shotguns, six combination shells, three gas guns, and about ninety gas projectiles.

Q. What did you do with them?

A. Took them back to headquarters.

Q. Did you lock them up?

A. Yes.

Q. Were they used in the Saturday night and Sunday night fight?

A. Yes.

Q. You accepted them, did you?

A. Yes.

Q. As chief of police?

A. Yes.

Q. You thought you might need them? Is that right?

A. Yes. We could stand a lot of equipment there.

Q. Didn't you think when you accepted those arms that you needed them?

A. I didn't know whether we would need them for this particular case or not, but I knew we needed such equipment.

Q. Do you mean to say you would accept them to be used at any future time?

A. We could use them at any time.

Q. About what date was that? What was the date when you accepted the arms and ammunition?

A. I think it was June 9.

Q. June 9th? Is that right?

A. I am pretty sure it was.

Q. That was long before the men went back to work and long before the troops came in, wasn't it?

A. Yes.

Q. You had some talk with Mr. Carl Meyers about getting some food into the men in one of the Massillon plants, didn't you?

A. Yes, sir.

Q. Just where were those men?

A. They were in the Republic Steel division.

Q. Coke ovens?

A. Yes.

Q. Had they been there all of the time?

A. Right.

Q. Mr. Carl Meyers wanted you to give him some protection to get the food in to those men? Is that right?

A. That is right.

Q. Did he tell you they needed the food?

A. He said they would. They had enough to last them four or five days.

Q. And after that they would not have any?

A. That is right.

Q. Do you know how many men were in there without food, or did Mr. Meyers tell you how many were in there without food?

A. About twenty—sixteen guards and four maintenance men.

Q. He told you there were about twenty in there in the Republic plant with food for four or five days?

A. Yes.

Q. And that they wouldn't have any?

A. Yes.

Q. And he wanted police protection to get the food in there to those men?

A. He wanted Mr. Francke and I to get the food in there.

Q. And you went to the C. I. O. and talked to the C. I. O. about it, did you?

A. Yes, sir.

Q. And the C. I. O. objected to it, didn't they?

A. They said they had maintenance men who could do that work who could have passes to come in and out.

Q. And you knew those men in there who had only four or five days' food, if they tried to go out the picket line would be liable to get into serious trouble, didn't you?

A. That is the way the picket lines are.

Q. You knew that, didn't you?

A. Yes, sir.

A. That is the way picket lines are.

Q. Well, you knew that, did you not?

A. Yes.

Q. And, notwithstanding that fact, you went to C. I. O. and asked them whether they would agree that the men might have food taken in, is that right?

A. That's right.

Q. Now, you did that to keep peace, I suppose, is that right?

A. The only thing to do.

Q. Well, did you care what happened to the men in there?

A. They could come out.

Q. Well, if they came out they would be stoned by the pickets, wouldn't they?

A. No.

Q. Well, what would happen to them if they came out and ran the picket line?

A. I took every man out of that plant that wanted to come out without any trouble at all.

Q. Oh, you were willing to take them out, is that right?

A. If they wanted to come out.

Q. But you were not willing to take food in to them?

A. That's right.

Q. Because C. I. O. would not agree to it, is that right?

A. I wasn't taking food to nobody.

Q. My question was you were not willing to take food in to them because the C. I. O. would not agree to that, is that right?

A. I wasn't starting no trouble down there by putting food into the plant.

Q. Well, if C. I. O. had agreed to it, you would have taken the food in, would you not?

A. No, they could have shipped it in any way they wanted to.

Q. If C. I. O. had agreed to it?

A. That's right.

Q. What happened to those men, do you know?

A. I don't know; I guess they got food in there some way.

Q. And you did not help them?

A. No, sir.

Q. You had helped to take men over to C. I. O. after they got out of the Republic plant, but you would not help get food in to men who in four or five days might be starving, in that plant, would you?

A. No, it wasn't like that.

Q. Well, why was that? Why was that?

MR. DONALD WAKEFIELD SMITH: Did you do that because in your opinion it would preserve the peace better to leave the thing in a condition of status quo?

THE WITNESS: That's right.

BY MR. DAY:

Q. Well, there was not any general disturbance at that time, was there?

A. What do you mean?

Q. Well, there was not any general rioting around at that time, was there?

A. No, everything was going pretty smooth.

Q. Were you willing to have men starve in there to preserve the status quo?

A. They didn't have to starve in there.

Q. Well, answer my question. My question is were you willing at that time to have them starve in there to preserve what the member of the Board has said was the status quo?

A. No.

Q. Do you understand the question?

A. No.

MR. DAY: Read the question.

(The question was read by the Reporter as follows:

"Q. Well, answer my question. My question is were you willing at that time to have them starve in there to preserve what the member of the Board has said was the status quo?")

A. They didn't have to starve in there; I knew they wasn't going to starve.

BY MR. DAY:

Q. Oh, you knew they were not?

A. Yes.

Q. All right. Now, there was a matter brought up to you about getting some records out of the office of the Republic Steel Company, was there not?

A. Yes, sir.

Q. Who took that up with you?

A. Carl Meyers.

Q. And Carl Meyers said that there was some records in the office of Republic Steel Company that Republic Steel Company wanted to get out, is that right?

A. That's right.

Q. Did he say what records they were, or did he describe them to any extent at all?

A. No, he didn't.

Q. Did he say that the insurance company had something to do with the records?

A. No.

Q. Well, now, you talked about a Mr. Marshall this morning. I understood you said he had something to do with an insurance company, is that right?

A. Mr. Marshall has the relief policies, or something; he handles the relief in the mill.

Q. Well, was he mixed up with the records at all?

A. Yes, he handles all mill relief, when anybody gets sick, or dies, or something like that.

Q. Now, the records, did you understand that they were in this office, too, that is shown on this map here (referring to large map)?

A. Them records that Marshall was concerned about belonged in the office at all times; they was supposed to be left there.

Q. And the records that Mr. Carl Meyers wanted, were they in that office, too?

A. No, they were taken out when the office was evacuated.

Q. When the Republic folks wanted you to give them police protection to get their corporate records out, did you go to C. I. O. again?

A. No.

Q. Did you take that up with C. I. O.?

A. No, sir.

Q. Who did you take that up with?

A. Nobody.

Q. You did not help them get the records out, did you?

A. Yes, sir.

Q. Did you get the records out?

A. Yes, sir.

Q. Well, I did not understand you to tell that to Mr. Hunt this morning.

A. He—

Q. You went in there—oh, you took some C. I. O. men there with you, did you not, that was it?

A. No, sir.

Q. Did you not say this morning that you wanted to take some C. I. O. men into that office with you?

A. No.

Q. Well, what did you do? Tell us all about it, so that if I have it wrong you may set me right, and tell us what the right of it is.

A. When they wanted to evacuate the office and move everybody out of there, and the records, they was afraid that the pickets would bother them.

Q. Yes.

A. They might get the records, the company records away from them.

Q. Yes.

A. And I told them to load them in their cars, and that they would all come out of the office when they was going to evacuate it without any trouble at all, which they did; but then, after the office was evacuated and Carl Meyers turned—not Carl Meyers—but Raleigh Franks turned the keys to the main office over to me, and says, "That's your building now; look out for it."

Q. All right.

A. I—then there was some records, the insurance records that stayed in there, that—that Marshall would have to refer to from one time to another, him and this insurance man, and that's when Marshall wanted to go in the office; then he wanted to get these records or look up these records from time to time. The C. I. O. didn't want him to go in without—

Q. How do you know the C. I. O. didn't want them to?

A. Because I was over at the office of the C. I. O. when Marshall was there asking him.

Q. And C. I. O. did not want to have that happen, is that right?

A. They didn't want Marshall to go in there unless they went along with him.

Q. What did you say to that?

A. I asked Marshall what he thought about it, and he said he did not know—guess it was all right—so, as far as I knew, he agreed to do it, and he left; but then—I don't know what happened after that, I guess he never went in.

Q. Now, you have testified this morning about some talks with the National Guardsmen. You said you talked to General Marlin. Is that right?

A. That's right.

Q. When did you first talk to him,—or about when?

A. Along the latter part of June, I think, I talked to him on the telephone when he arrived in Canton with his troops, and made Canton his headquarters.

Q. Did the troops arrive at Canton before they went over to Massillon?

A. That's right.

Q. They were there first?

A. Yes, sir.

Q. Was Canton opened up before Massillon?

A. That's right.

MR. DONALD WAKEFIELD SMITH: I do not believe there has been a statement in the record yet as to how far Canton is from Massillon actually.

MR. DAY: Eight miles.

MR. DONALD WAKEFIELD SMITH: Eight miles?

MR. DAY: Is that right, Chief?

THE WITNESS: That's right.

MR. DONALD WAKEFIELD SMITH: That is right?

MR. DAY: Yes.

BY MR. DAY:

Q. You had some talk with General Marlin about some extra policemen, didn't you?

A. Yes, sir.

Q. Will you give us the date of that again, Chief?

A. July 4.

Q. July 4, and that took place where?

A. In my office.

Q. Was anybody else there beside you and the General?

A. One of his men; I don't know what his rating was.

Q. What did the General say to you upon the subject of having more troops, or more policemen, I mean—not more troops.

A. He wanted to know—he wanted to meet the steel officials who would have the authority to put on additional police, and wanted me to arrange for a meeting the next day.

Q. Were the troops in Massillon at that time when you talked to General Marlin?

A. Yes.

Q. In a personal conference?

A. Yes.

Q. Was the time coming there when the troops were going to be taken out?

A. Yes, sir.

Q. And he was talking to you about what provision should be made by way of police protection?

A. Yes.

Q. Or law enforcing protection after the troops went out, is that right?

A. That is right.

Q. Had the men gone back to work then?

A. Yes, sir.

Q. Now, of course, when the men went back to work, that made the situation more acute, more serious out there at the mills, did it not?

A. No, everything was going pretty good.

Q. I know, but when the men—in your mind, at least, there was more reason to apprehend danger when the men were actually in there working, and strikers on the outside, than when the mills were down and there were strikers on the outside, that is right? Is that right?

A. Yes, the tension was greater whenever the shifts went in.

Q. And he wanted to have you get some additional policemen, is that right?

A. That is right.

Q. Now, General Marlin was in command of the National Guard there, as far as you know?

A. Yes, sir.

Q. How many times did you talk to him on that subject?

A. About three times.

Q. Now, when did you get the additional policemen? What date?

A. Along about the eighth and ninth, I think, something like that.

Q. And they were—

A. Seventh, eighth and ninth, along there.

Q. And you say some of them were working for the Republic Steel Company, is that right?

A. Yes, sir.

Q. Were they working for Republic at that time?

A. Yes, sir.

Q. Did you know those men?

A. Yes, most of them; I knew a lot of them.

Q. Well, were most of them Massillon men?

A. I think they were, I think there was one from Navarre.

Q. One from Navarre and the rest of them from Massillon?

A. A couple from out in the country.

Q. There were some from Massillon, some from out in the country, and some from Navarre, a little town near Massillon?

A. Yes.

Q. And you knew most of those men?

A. Yes.

Q. And there w policemen that were sworn in that came in from other shops, is that right?

A. Yes, a few of them.

Q. Did you let go all of the men under 30, and let go the men that had large families, and take the rest of them, is that right?

A. That's right.

Q. And they were sworn in as special policemen?

A. Yes, sir, that's right.

Q. Who swore them in, the City Law Director?

A. Solicitor.

Q. The City Solicitor?

A. Yes, sir.

Q. So you had about how many policemen all together, then?

A. I think that made about 68.

Q. Sixty-eight all together?

A. Something like that.

Q. And Major Curley—or Captain Curley—he did not have any official designation, did he?

A. That's right.

Q. He was not sworn in as anything?

A. That's right.

Q. But he was assisting you?

A. That's right.

Q. And about how many days before the riot, or the fight on Saturday night,—Sunday night, of the eleventh,—was it that you swore these men in and Curley came into the picture?

A. It was about four or five days.

Q. On the Sunday of the fight, July 11th, there had been a big mass meeting of C. I. O. at Oak Knoll Park, had there not?

A. Sunday afternoon, yes.

Q. Can you show the members of the Board, if it is on here, where Oak Knoll Park is (referring to large map), or about where it is?

A. (Indicating) It would be right out in here.

Q. Out in here (indicating)?

A. Yes.

Q. Well, would that be in the city or in the county?

A. City.

Q. That is in the city?

A. Uh-huh.

Q. Yes.

MR. DONALD WAKEFIELD SMITH: What was that date again?

MR. DAY: That is the Sunday, the 11th of July.

MR. DONALD WAKEFIELD SMITH: I see.

MR. DAY: The night of the fight.

Q. (By Mr. Day) Did they ask you for a permit to hold that meeting?

A. Yes, they asked me if they could have one.

Q. And you granted it?

A. Yes, I said they could have one.

Q. How many other permits had you granted to hold large C. I. O. meetings?

A. One other one.

Q. Where was that held?

A. Sippo Park.

Q. And when?

A. About July 6th or 7th, I think.

Q. Sippo Park is outside of the city, is it not?

A. No, sir, it is on the Lincoln Highway.

Q. That is in the city?

A. On the east side coming in from Canton.

Q. That is in the city, too?

A. Yes, sir.

MR. EDWIN S. SMITH: Excuse me. Was that a peaceful meeting?

THE WITNESS: Yes, sir.

MR. EDWIN S. SMITH: No disturbances reported?

THE WITNESS: That's right.

MR. DONALD WAKEFIELD SMITH: Have you ever denied any permits to any other organization such as the Law and Order League to hold meetings within the city limits?

THE WITNESS: A few weeks before that, on a Saturday afternoon, the Back-to-Work Movement was going to hold a meeting. That was the Saturday following the big meeting at the City Hall, when that crowd gathered around there, and on the advice of two National Guardsmen, two captains, the three of us requested the Back-to-Work Committee to cancel that meeting that they had scheduled for that Saturday afternoon in the park.

MR. DONALD WAKEFIELD SMITH: I see. Then the only reason you denied a permit there was because you feared bloodshed by reason of that meeting?

THE WITNESS: Things were pretty hot and we knew that there might be trouble, and the National Guardsmen and myself, we tried to talk these fellows into it, to just call their meeting off. Just after talking to them, they thought maybe it was the best thing to do, and the Committee got busy and cancelled the meeting.

Q. (By Mr. Day) Now, let me ask you a few questions about that.

You permitted the C. I. O. to have a meeting at Sippo Park on about July 6th?

A. Yes, sir.

Q. And you permitted a meeting at Oak Knoll Park on Sunday, July 11th, that is right, is it not?

A. Yes.

Q. And you just said to one of the members of the Board that you and some of the National Guardsmen persuaded the Back-to-Work Movement not to have a meeting for fear of bloodshed?

A. That's right.

Q. Well, did you think the bloodshed would take place at the meeting of the Back-to-Work people?

A. I thought there was a possibility there of plenty of trouble.

Q. Then you thought there was a possibility that if the Back-to-Work Movement people had a meeting, the C.

I. O. would come in and there would be a fight and there would be blood shed, is that right?

A. That's right.

MR. DONALD WAKEFIELD SMITH: Did you have any fear when the C. I. O. had a meeting that the Back-to-Work persons would come in and make a raid upon the C. I. O. meeting?

THE WITNESS: The troops were there then, I didn't care; they had enough men to handle the situation.

Q. (By Mr. Day) When was it that the Back-to-Work Movement wanted to have a meeting?

A. The day following the ruckus, or about the 25th of June.

Q. Yes. Now, did you hear any of the speakers who spoke at the Oak Knoll meeting on the afternoon of Sunday, July 11th?

A. No, sir.

Q. How large a meeting did they have?

A. Oh, I don't know; from riding around the park and looking in, it looked like they probably had four or five hundred in there.

Q. Who spoke, do you know?

A. I don't know.

Q. Were any reports carried to you as to anything that was said at that meeting?

A. There was some stories, yes.

Q. Were any stories carried to you that everybody at the meeting was to be on the picket line at 11 o'clock that night when the shift came out of the mill?

A. No, sir.

Q. Anything like that?

A. No, sir.

Q. Was any report carried to you that the men who were at that meeting should go by themselves and as many more as they could get, and be on the job at the mill that night, at eleven o'clock?

A. No, sir.

Q. Now you went out of town that day—that night, did you not?

A. Yes, sir.

Q. You had been working very hard?

A. Yes, sir.

Q. And you went out with your wife and some of your friends and you went out in the country and had a little lunch?

A. Yes, sir.

Q. And when you went, before you went, you had a talk with Captain Curley?

A. Not since I left him at five o'clock.

Q. Well, five o'clock?

A. Yes, sir.

Q. And you did not anticipate any trouble?

A. No, sir.

Q. And, so far as you know, he did not?

A. That's right.

Q. So far as you know, nobody did, is that right?

A. That's right.

Q. And you went away, about half past nine, and you came back about what time?

A. About eleven o'clock.

Q. And the whole trouble was over when you got back there?

A. That's right.

Q. I am not criticizing you for going at all—do not misunderstand me—but when you did get back the trouble was all over, was it not?

A. Yes, sir.

Q. And, of course, you did not see any of the trouble?

A. That's right.

Q. Did you go to the scene of the fight afterwards?

A. Yes, sir.

Q. Did your officers make written reports to you and the Chief of Police of Massillon as to what occurred that night?

A. I had one report when I left from Officer Slinger.

Q. Have you got it with you?

A. No, sir.

MR. DONALD WAKEFIELD SMITH: Pardon me.

Was he one of the permanent officers, or was he one of your—

THE WITNESS: He was one of the permanent officers, yes, sir.

Q. (By Mr. Day) Did you get any other reports?

A. Nothing but verbal reports.

Q. And I think you said in the early part of my cross examination—I will not press it again—but somebody brought in some arms and things that had been collected that night,—ball-bats, and such?

A. There was some brought in, yes.

Q. Were there any arrests made, do you know, in connection with that fight that Sunday night?

A. There was about 160 of them run in.

Q. About 160 of them?

A. Yes.

Q. Were those strikers?

A. Strikers and everybody.

Q. Well, were most of them strikers?

A. A good many of them.

Q. How long after this thing happened were they run in, as you say?

A. Oh, they were hauling them down in truck loads when I got there.

Q. Did Mr. Hardman, the City Solicitor, have charge of the City's end of that?

A. He questioned a good many of them.

Q. Well, what happened to them?

A. Most of them signed waivers, and was released.

Q. That is, signed waivers and agreed to appear?

A. No, they signed waivers releasing them and releasing the city from any suit.

Q. Well, were there any preliminary hearings held on any of them?

A. There was charges placed against some of them.

Q. Are the charges still pending, do you know?

A. I don't know what the outcome of that has been, since we have been away.

Q. I see. You have not any personal knowledge of that?

A. That's right.

Q. Now, some of your old officers, if I may use that expression, were out there that night, were they not?

A. Yes, sir.

Q. Was Officer Moore out there that night?

A. He was in on some of it.

Q. What is his first name?

A. Wilbur.

Q. And he has been a member of your force for how long?

A. I think he has got about 12 years in—

Q. Well, is he in charge when you go away?

A. No.

Q. What is the name of the man that is in charge now?

A. Robert E. Smith.

Q. Was he out there?

A. I don't think so; he was out of the office.

Q. Well, there were some rookies—as you call them—out there, and some of your old fellows out there, were there not?

A. That's right.

Q. It was not all rookies, was it?

A. No, sir.

Q. Can you give the Board some idea as to how many of the old fellows were out there that night when this trouble took place?

A. The report I had, that there was only about two of them.

Q. Where were the rest of them?

A. I don't know where they were at.

Q. Well, Moore was one of them, is that right?

A. I don't know Moore was out there.

Q. Did you hear a report about the entrance to the viaduct having been blockaded that night by C. I. O. automobiles?

A. I have a complete report of that by Officer Slinger.

Q. Have you got it with you?

A. No, sir.

Q. Where it is?

A. In my office.

Q. Of course I cannot ask you about that now, but I want to step up here again, if I may, and—(referring to map on desk) did that relate to the blockading? Did that relate to the blockading of the entrance of the viaduct?

A. Yes, sir.

Q. By piling up some cars?

A. I believe there was supposed to have been a couple of cars jammed up in here, coming off of Erie Street, and jammed up right in there (indicating on map).

Q. Yes, by the C. I. O.?

A. I don't know whether it was by the C. I. O. or not, but there was two cars, I understand, jammed up in there, and that they had a party on that end of the bridge.

Q. Yes, before they had the other party down here at C. I. O. headquarters?

A. That's right.

Q. And you got a report on that from Officer Slinger?

A. Yes, sir.

Q. There was one other episode I wanted to ask you about.

MR. EDWIN S. SMITH: Excuse me. We will recess.

MR. DAY: Yes.

MR. EDWIN S. SMITH: For a few minutes.

MR. DAY: Thank you.

(Whereupon a short recess was had.)

MR. EDWIN S. SMITH: Are you ready, gentlemen? All right to resume now?

MR. DAY: Yes, all right.

MR. EDWIN S. SMITH: All right; fine.

MR. DAY: Are you ready?

MR. EDWIN S. SMITH: Go ahead. Quiet, please.

BY MR. DAY:

Q. Chief, you testified this morning about a talk with General Marlin about getting policemen and home guards, and in which you said something about neutrals, and he made some remark about putting neutrals on, or those who were not neutral. Did you get the impression that General Marlin had in mind that the situation was so acute, and trouble was so imminent that you ought to take anybody you could get?

A. That's right.

Q. Do you know about an injunction being granted down in Stark County?

A. Yes, sir.

Q. No—the temporary restraining order being granted against the strikers ?

A. Yes, sir.

Q. And you know it was granted by the Common Pleas Court of Stark County, by Judge Graham?

A. Yes, sir.

Q. And that was granted about when, Chief, can you tell us about when?

A. No, I couldn't tell you just when that come out.

Q. Did the pickets, or strikers, beat any men up,—that charges were brought?

A. Yes, sir.

Q. About how many?

A. Two or three that I know of.

Q. Well, were there others beaten up that no charges were made concerning, if you know?

A. Well, a couple of reports to that effect.

Q. Two or three were beaten up,—and were charges made with relation to them?

A. Yes, sir.

Q. And then there were perhaps two or three more that you heard about?

A. Yes, sir.

Q. That no charges were made concerning, is that right?

A. That is right.

Q. Do you know anything about any attempts being made to interfere with trains down in and around Massillon by the strikers,—mail trains?

A. No.

Q. That did not happen in Massillon, in any event?

A. No mail trains, no—you mean mail trucks?

Q. Well, was there any interference with mail trucks in Massillon?

A. Yes.

Q. By the strikers?

A. Yes, sir.

Q. Will you tell the Board about that, please,—interference with United States mail trucks.

A. The pickets blocked mail from going down into the Republic plant, and they blocked it from going down to the Union Draw.

MR. KOVNER: Just one moment, please.

May it please the Board, I am not quite sure, exactly, of the status of the attorney for the Organization that filed the charges, whether I have to come in and cross examine this witness after counsel for the Republic is through, or whether I may intervene at this moment; but I do like to raise the objection, if it is in order, that I do not think counsel has, as yet, laid a basis for indicating whether the Chief here was personally present at the time, supposedly, that these trucks were stopped, and whether it is a basis of reports, whether written or oral, or otherwise—

MR. DAY: I thought the Board said this morning—I am sure it was stated that the Chief was permitted to testify not only to things that he actually saw, but to matters that were brought to his attention.

BY MR. DAY:

Q. Now, did you get some reports about interference with mail trucks?

A. Yes, sir.

Q. About how many occasions, or instances?

A. Oh, probably three or four.

Q. By C. I. O.—

MR. EDWIN S. SMITH: When—

BY MR. DAY:

Q. —by strikers?

MR. EDWIN S. SMITH: Go ahead, let him answer that question.

A. Yes, sir.

MR. EDWIN S. SMITH: I was going to ask you when these interferences or alleged interferences took place.

THE WITNESS: Early in the strike, while there were quite a few men still in the mill.

MR. EDWIN S. SMITH: Could you give approximately the dates?

THE WITNESS: Oh, I would say May 25, within that next week, I would say from about the 28th on up until June 5 or 6, somewhere like that.

MR. EDWIN S. SMITH: I take it Counsel that what you are seeking to prove by introduction of evidence on this point is the state of mind of the strikers as it bears on the question of law and order?

MR. DAY: Yes.

MR. EDWIN S. SMITH: In that connection it would seem to me pretty pertinent that these events to which the witness refers apparently were over some time since. I do not know whether they were stopped by court order, or what the situation was, but I should think it would not be necessary to go into details—

MR. DAY: I am not going to go into details.

MR. EDWIN S. SMITH: Oh, I see.

MR. DAY: That is all I am going to ask about it.

BY MR. DAY:

Q. Now, was there some interference with freight trains also, not mail trains, but freight trains going into those plants?

A. I don't know anything about the trains. I didn't have anything to do with that. The railroad police was taking care of that.

Q. You have no knowledge of that?

A. That is right.

Q. There was one other occurrence I wanted to ask you about, and then I am through. What is the date of the occurrence when they rang the alarm, and the American Legion responded? What was the date of that?

A. I think that was on June 25, something like that.

Q. And the rumor reached Massillon that there were five to ten thousand rubber workers from Akron going down?

A. Yes.

Q. Is that right?

A. That's right.

MR. DONALD WAKEFIELD SMITH: Do you know the source of that rumor?

THE WITNESS: From Gordon Hesse calling me is the information I had on it.

MR. DONALD WAKEFIEDD SMITH: And

Gordon Hesse is who, again?

THE WITNESS: He is connected with the sales department or the good will man, or something like that.

MR. DONALD WAKEFIELD SMITH: He works for the Republic Steel Corporation?

THE WITNESS: That's right.

MR. DONALD WAKEFIELD SMITH: And he is the man who told you this?

THE WITNESS: Yes.

BY MR. DAY:

Q. Well, now, shortly before that, or was it shortly before that that there was an invasion of Youngstown and Mahoning Counties, right near Massillon, of rubber workers from Akron?

MR. KOVNER: An objection, may it please the Board. I do not see how the Chief of Police of Massillon could have any knowledge of what happened at Akron.

MR. DAY: The Chief of Police of Massillon has not been testifying from matters only within his own knowledge.

MR. KOVNER: If the Chief is to be permitted to testify to those matters, I certainly think Counsel ought to indicate on what basis he has gotten the information which he is reporting, whether it is from newspapers printed in Massillon, and copies ~~which he says—~~

MR. DAY: No, there is no such—

MR. KOVNER: —which are completely controlled by the minority league, or whether they were from other sources, but certainly should not be permitted to address the question—

MR. DAY: The reason I asked that question is this: There was an attempt made this morning, I think by Counsel, and I am not criticizing him for doing it, to create the impression that the rumor that the rubber workers might be coming was thrown out by somebody connected with the Republic Steel Corporation without any foundation.

I respectfully suggest, perhaps that might have been in the mind of one of the members of the Board just now.

That being true, it seems to me it is within the latitude of the examination, as it has been conducted thus far, to ask this Chief if he does not know that at about that time there was an actual invasion of Youngstown by rubber workers from Akron, C. I. O. rubber workers.

MR. EDWIN S. SMITH: I think it is appropriate for you to ask the Chief what information he had or did not have on which he based his judgment as to how serious this threat was.

BY MR. DAY:

Q. Did you know anything about the Youngstown situation at this time?

A. Yes, sir.

Q. Well, was the rubber invasion, if I may use that word, of Youngstown, before this or after this.

A. Before that.

Q. Before that?

A. Yes.

MR. KOVNER: Well, just one moment, please—

MR. DAY: Well, go ahead—I am not saying anything.

MR. KOVNER: Counsel yet has not, I think, asked a question of the Chief as to whether he knew anything about the so-called invasion. The answer was yes. Counsel then assume there was an invasion. I think we first ought to find out whether there was any such invasion, and exactly what information the Chief had as to the invasion.

MR. DAY: I do not think that is the purpose at all.

MR. EDWIN S. SMITH: I took it from something said this morning that there was no invasion.

MR. DAY: Well there was no invasion of Canton.

MR. EDWIN S. SMITH: That is what I understand, of Massillon.

MR. DAY: Of Massillon, I think that is true; but the fact that there had been an invasion of Youngstown, and the Chief of Police knew it, and it was known generally, might have some bearing on preparations made there, and might give some basis for what happened, and might, in the minds of Your Honors give some answer to the suggestion that this is all thrown up by Republic Steel Corporation just to create trouble there.

MR. EDWIN S. SMITH: I take it that the Chief has answered your question?

MR. DAY: I think he has.

MR. EDWIN S. SMITH: He said he did know—

MR. DAY: Yes.

MR. EDWIN S. SMITH: —there was some invasion of some sort at Youngstown.

MR. DAY: Yes.

MR. EDWIN S. SMITH: But he evidently did not take the rumors seriously as they applied to Massillon.

BY MR. DAY:

Q. Now, then, somebody called out the American Legion, is that right?

A. That is right.

Q. That was a man named Ryder?

A. That's right.

Q. What is his business, do you know?

A. He worked down in the mill.

Q. Down in the Republic?

A. Yes, sir.

Q. Who is the other man that you told us about, kind of a funny name—I will not say a funny name—an unusual name, that will be better. You told Mr. Hunt about him.

A. Lincolnhaley.

Q. I do not mean a funny name; I withdraw that. Was he a Republic man also?

A. Yes, sir, but where did he come in at?

Q. I do not know. Did he have anything to do with calling out the American Legion?

A. No.

Q. Well, anyhow, they rang the bell and the American Legion responded, is that right?

A. Yes, sir, that's right.

Q. And a great crowd of people congregated, is that right?

A. That is right.

Q. Where did they congregate?

A. Around the City Hall.

Q. That was how far from these plants?

A. A mile and a half.

Q. A mile and a half?

A. Yes.

Q. And then when it developed that there was no invasion of rubber workers, there was no harm done, and nobody was hurt, and the crowd dispersed, is that right?

A. That's right.

MR. DAY: Anything else? I think that is all.

MR. EDWIN S. SMITH: I would like to ask the witness one or two questions in connection with this Back-to-Work Movement.

BY MR. EDWIN S. SMITH:

Q. In how many instances were you approached by individual workers at the Republic plants that they wished to return to work, and they wanted police protection and were doubtful that they could get adequate protection, or something to that effect?

A. How do you mean? Before the plant opened?

Q. Before the plant opened.

A. Oh, there was no individuals coming, it was general groups, and parties, meetings, the Law & Order, wanting protection and right to work and so forth.

Q. Were there groups of workers and business men and so forth, or what kind of groups were they?

A. Well, the one of three hundred and some come to the City Hall, were all Back-to-Work Movement, that was one large group.

Q. Those were three hundred workers?

A. Yes, sir, and then early in the strike period a group from the Union Drawn Company wanted to know about going back to work, and there was nothing definite about that group. They wanted to know if they could show that the majority wanted to go back to work what action we would take, and how we stood; but that was too early in the strike—which we didn't know much about the set-up then, didn't know what it was going to be.

Q. Were these three hundred talking in terms of the majority, of a block, or talking just about themselves?

A. Oh, they talked as though they represented the majority of the mill workers. They was a group that was supposed to have 3200 signers, or something like that.

MR. EDWIN S. SMITH: Go ahead.

MR. DAY: Well, there is one more question I want to clear up.

MR. EDWIN S. SMITH: Go ahead.

BY MR. DAY:

Q. Do you know, and if you do not know, of course, you cannot tell us,—that the injunction suit that was filed in Canton was filed in behalf of the men who wanted to go back to work, and not on behalf of Republic Steel Corporation?

A. I don't know how that was handled.

Q. All right, all right.

Redirect Examination

BY MR. HUNT:

Q. Chief Switter, from whom did you get reports about the interference with the United States mails?

A. From the postmaster.

Q. Did anyone tell you that the reason why the C. I. O. interfered with these mails was because they were carrying something other than regular mail?

MR. DAY: Oh, I object to that.

BY MR. HUNT:

Q. That they were attempting to carry food into the plant?

MR. DAY: I object.

MR. EDWIN S. SMITH: I think that is an appropriate question since the matter has been brought up.

MR. DAY: Well, the form of it seems to me to be—

MR. PATTON: Always suggesting the answer in his question.

BY MR. HUNT:

Q. Were you informed that one reason why there was interference with mail trucks was that they were carrying food into the plant?

A. Yes.

Q. Who told you that?

A. Why, the pickets.

Q. They told you that was the reason they interfered?

A. Yes, sir.

Q. Now, did someone tell you that the Chief of Police of North Canton rode in the mail truck to get through the picket line in Canton, to make sure that he would get through?

A. How is that?

Q. Did someone tell you that the Chief of Police of North Canton rode with the mail truck to put him through the picket line?

A. No, the postmaster and Carl Meyers, that is the postmaster of Massillon, and also Carl Meyers told me that there was a police captain in Canton who rode the mail trucks in with a machine gun, saw that the mail trucks went through there.

Q. Did you investigate that statement?

A. I did, I talked to Chief Mandibar about it.

Q. Who is Chief Mandibar?

A. Chief of police of Canton.

Q. What did he say?

A. He said that there was nothing to it, that his men were not riding the mail trucks; but that they were sending the cruiser down following the mail trucks and that the mail trucks was going through.

Q. It was just said that some clubs and sticks were brought in by your officers after the fight of Sunday night, July 11, is that right?

A. Yes, sir.

Q. Were any guns, revolvers and anything of that sort brought in?

A. No, sir.

Q. None were found at strike headquarters?

A. No, sir.

Q. None were found on any of the 160-odd men who were arrested?

A. There was one had a knife in his pocket that was charged with being a concealed weapon because it had an extra long blade on it.

Q. Was that the only weapon of that kind found?

A. That's right.

Q. And there was no guns of any sort in the 160-odd men arrested?

A. That's right.

Q. I just want to make sure of one other thing, one or two more things.

You say that at the meeting, this lunch on July 7, where there were members of the Law & Order League present—

A. Yes, sir.

Q. —Carl Meyers was present?

A. Yes, sir.

Q. He criticized you and the other city officials for not showing more activity up to that time?

A. That's right.

Q. And he said—what else did he say?

A. He said he was glad to see that they were finally on the right track and were going to do something.

Q. At these various conferences with Mr. Meyers, did he talk only of preserving law and order and giving protection, or did he speak about opening up the mills?

A. He talked about getting the mills opened, and that if we did not get the mills open that Massillon would be a prairie in the junction of Route 21 and Route 30.

MR. DONALD WAKEFIELD SMITH: Mr. Meyers said that, you say?

THE WITNESS: Yes, sir.

Q. (By Mr. Hunt) You testified that about two thousand men went back to work when the mills were finally opened?

A. Yes, sir.

Q. How do you know that?

A. That's what they told me down at the mill.

Q. Who is that?

A. Raleigh France.

Q. Who else?

A. That's all.

Q. And Raleigh France is the gentleman in charge of the main office, is that it?

A. That's right.

Q. And he told you there were two thousand back?

A. That's right.

MR. HUNT: I believe that is all.

MR. DONALD WAKEFIELD SMITH: May I ask this question.

Q. (By Mr. Donald Wakefield Smith) You testified that Mr. Meyers of the Republic Steel Corporation had told you that if there were not proper action in this matter, which, in his opinion was proper action, it would make a prairie of Massillon. Had anybody from the Law & Order League ever said that to you?

A. No.

Q. You stated that to your knowledge there were no employees of the Republic Steel Corporation members of the Law & Order League, is that correct?

A. That is right.

Q. You stated, as I recall, that the principal and chief member of the Law & Order League was an officer of a bank, is that correct? You said some person, as I recall, connected with a bank.

A. No, that morning that Law & Order League was in there there were two bankers in there.

Q. I see. The bankers were there with the Law & Order League?

A. That's right.

Q. I believe you said that one of them operated a small rubber factory in Massillon, is that correct?

A. Yes.

Q. And that several others were operating stores in Massillon, is that correct?

A. No, one operated a rubber factory, one was a well-drilling outfit.

Q. They were business men in Massillon?

A. Yes.

Q. Is that correct?

A. That's right.

Q. Did any one from the Law & Order League indicate to you, or tell you, that their major interest in the matter of your giving additional police protection was because of their economic interest in the community, or because of their desire to prevent bloodshed?

A. Well, run mostly along the losing of $40,000 a day on the pay roll.

MR. DONALD WAKEFIELD SMITH: That is all.

MR. HUNT: I have just one more question, if I may, or a few more.

Q. (By Mr. Hunt) When Mr. Pepper gave you this list of names, I think it was the afternoon of July 6th, of men in the Republic Steel plant who would be available as special police, did he indicate that they were going to give up their jobs permanently, or just have a leave of absence from the Republic Steel plant?

A. It was a leave of absence as long as I needed them.

Q. Just one more question.

Did these men—these 30-odd special police that you swore in on July 7th,—were most of them Republic Steel men?

A. They were.

Q. Now, then, did that include some foremen of the Republic Steel plant?

A. Yes.

Q. Was there a man by the name of Temperly sworn in?

A. Temperly.

Q. Yes.

A. Yes, sir.

Q. Was he a foreman, to your knowledge?

A. I don't know what Temperly does any more.

Q. A man named Henderson, William F. Henderson, was he sworn in?

A. Yes.

Q. Was he a foreman, as far as you know?

A. He was some kind of a boss in the billet shed.

MR. HUNT: That is all.

MR. EDWIN S. SMITH: Any further questions?

MR. DAY: Just a couple.

Are you through, Mr. Hunt?

MR. HUNT: I am through.

Recross Examination

Q. (By Mr. Day) Did I understand you to say that some pickets had told you that they had stopped the mails because food would go in?

A. Yes, sir.

Q. That they had done that themselves?

A. Who do you mean?

Q. Well, did the pickets tell you that they, themselves, had stopped the mail because food had gone in, or was going in?

A. Why, they didn't say they had stopped it. When I got there, why, the complaint had been sent in, called to my attention by the postmaster, and I went down with the mail truck, and saw that the mail truck went through on numerous occasions, and then, eventually, the complaints began to come from the postmaster too frequently to be running down there every day or so, and I told the postmaster to report it to his inspector in Cincinnati and see what they was going to do about it, and request a meeting with the post office inspector in charge of our district.

Q. What pickets told you that the mails had been stopped because they were carrying food into the plant?

A. I believe it was a fellow named Herb Laughlin.

Q. Who else?

A. I think Lee Cox.

Q. Anybody else?

A. That is all I can remember.

Q. Do you remember the railroads put on extra policemen to protect that property?

A. Yes.

Q. How many extra policemen did the railroads put on? Do you remember that?

A. The Baltimore & Ohio, I think, had about ten men around that time.

Q. Any other roads? How about the Pennsylvania?

A. The Pennsylvania had a few, but I don't remember how many.

Q. Do you know whether the strikers had attempted to damage the railroad property?

A. One day they pulled a rail off on the Baltimore & Ohio.

Q. The strikers pulled a rail on the Baltimore & Ohio?

MR. PRESSMAN: Just a minute, please. I would like to have the witness indicate at this time if he knows of his own personal knowledge that the strikers pulled a rail on the Baltimore & Ohio.

Q. (By Mr. Day) Was that reported to you as chief of police?

A. No, sir. I talked to a railroad policeman about it.

Q. Did they report it to you?

A. No; he just told me about it.

Q. That a rail had been pulled?

MR. PRESSMAN: Just a minute, please. I

certainly think it is one thing for the Board to exercise discretion as to the witness testifying of his own personal knowledge to things as against a situation where it involves evidence which may prove to be something that involves some serious offense where names are being mentioned.

MR. EDWIN S. SMITH: I think you are entirely right with regard to that, Mr. Pressman. I think the only admissible testimony on this whole point is the Chief of Police knew of his own knowledge as to any of these activities, and that, I take it, from the point of view of showing whether his knowledge meant to him that it was necessary to put on extra police at this later date.

MR. DAY: That is all.

MR. PRESSMAN: I have one or two questions I would like to ask.

Q. (By Mr. Pressman) You indicated that about 150 or 160 men were arrested following the incident of the evening of July 11th?

A. Yes, sir.

Q. When you returned from your trip about 1 o'clock, I understand—was it 1 o'clock in the morning?

A. Yes, sir.

Q. On July 12th?

A. That is right.

Q. Were there about 150 or 160 men who had been arrested at that time in the city jail?

A. In the city jail, and we sent some to the county jail in Canton and some to the city jail in Canton. We couldn't handle all of them.

Q. Was that all done under your direction, as to where they were being sent?

A. When I got there and saw the boys and how they were jammed and how they were jamming them into the jail, I saw they could not be handled and I started them on the way to Canton to relieve the congestion in our jail.

Q. Who had arrested all of these men?

A. I don't know. The soldiers had herded up a bunch of men, and the sheriff's outfit had gathered up a bunch of them, and they were all brought down to police headquarters.

Q. With regard to those men who were in your city jail, who took over the procedure of seeing that there were either warrants or affidavits or some charge against these men? Was it your department or was it some other department of the city?

A. It was up to our department. But the city solicitor and city prosecutor went about and questioned them and handled releases and the charges.

Q. How many of the 150 or 160 men were in your city jail other than those who had been distributed to the other places?

A. How is that?

Q. I say, Chief, how many of the 150 odd men who were arrested were located in your city jail?

A. I guess when it was all over we had fifty or sixty in there.

Q. Of the 150 or 160 men who had been arrested do you know against how many charges were finally placed?

A. Not exactly.

Q. About how many?

A. I would say probably ten or twelve.

Q. Of 150 or 160 arrested there were only ten or twelve who actually had charges placed against them?

A. That is right.

MR. PRESSMAN: That is all.

MR. HUNT: I have nothing further.

MR. DAY: That is all I have.

MR. EDWIN S. SMITH: Thank you very much.
(Witness excused.)

RICHARD B. HARDMAN

was called as a witness upon and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hunt) What is your full name?

A. Richard B. Hardman.

Q. Where do you live?

A. 922 Fourth Street, Northeast, Massillon, Ohio.

Q. What is your occupation?

A. Lawyer.

Q. Are you at present City Solicitor of the City of Massillon, Ohio?

A. Yes, sir; I am.

Q. When were you appointed?

A. About January 30, 1936.

Q. Is that an appointive or an elective office?

A. It is an elective office.

Q. How did you come to be appointed?

A. The attorney who was elected died and the mayor appointed me to fill his place.

Q. Are you a candidate in the Republican primaries for election this coming month?

MR. DAY: Does that make any difference?

MR. HUNT: I don't object.

A. I don't know whether I am a candidate or not, but I took out a petition. I might put it that way.

Q. (By Mr. Hunt) You are a Republican?

A. That is correct.

Q. Mr. Hardman, were you present at a meeting with Mr. Carl Meyers and Mr. Gordon Hesse at the Hotel

Onesto on June 9th?

A. I was.

Q. Who else was present?

A. Mr. Lanham and the Chief of Police of Massillon, Ohio, was there.

Q. Will you describe what happened at that meeting?

A. We went up into the hotel room and Mr. Meyers began asking us what the people of Massillon were doing about the strike, what the police department was able to do, and what the business men were doing about it, whether or not they were interested in keeping the steel plant there. And he went on to say that if the steel plant moved out that they would not need a chief of police and they would not need a mayor and would not need a city solicitor.

Q. Did Mr. Meyers make a remark that if the plant moved out there would be grass growing in the streets?

MR. DAY: I object to leading questions all of the time.

MR. EDWIN S. SMITH: This is confirmatory, I take it, of what the previous witness has said.

MR. HUNT: That is right, sir. It is merely corroborative.

May he answer the question?

MR. EDWIN S. SMITH: You may answer the question.

A. He did.

Q. (By Mr. Hunt) Did Mr. Meyers make any remark about the Chicago police and how they handled the situation in Chicago?

A. Well, that matter came up in the general discussion and Mr. Meyers pointed out what a fine job the police of Chicago had done. And the Chief then broke in. Do you want his exact words?

Q. Yes.

A. He said, "Why, God damn it, if the Police Department of Massillon went down there and got into a battle with the pickets and they put 18 of them into the hospital, the same as they did in Chicago, I wouldn't even have a department."

Q. What else was discussed by Mr. Meyers and yourself at this meeting?

A. The matter of getting the office employees out of the office. They had been confined in there since the 26th of May.

Q. Was there anything said about getting the office records as well as some of the employees out of there?

A. Yes, sir.

Q. What was arranged about that?

A. They arranged to put the office records in trunks on the cars, and then the Chief was to escort the cars out.

Q. Did Mr. Carl Meyers offer to give Chief Switter the company arms and ammunition that were then located in the main office of the plant?

MR. DAY: If the Board please, may we transgress upon the patience of the Board and once more raise the question? We are entitled to have this witness asked what was said. Every question he asks is something like: Did Carl Meyers say this; did Carl Meyers say that; did someone else say that? Granting and conceding that according to the rules of this Board you are not bound by the rules of evidence in courts, we just appeal to your sense of fair play here.

MR. HUNT: When I asked the last question I asked did Mr. Carl Meyers offer the gift of ammunition. I certainly can question about that very specifically.

MR. DAY: You cannot ask that question of your own witness under any possible rule ever announced by any court anywhere. And if you ever practiced law you know it.

MR. EDWIN S. SMITH: Let us not have any further colloquy today.

MR. DAY: I do not like to interrupt. I do ask of the Board, in fairness to us, to require that Counsel ask the witness what was said. What did Mr. Meyers say? What did the Chief say? Otherwise, I submit, and with all due respect to this Board—and I have respect for it—it is not fair to us to go the other way.

MR. EDWIN S. SMITH: It seems to me perfectly proper to go into the question of what Mr. Meyers said on the subject of ammunition, if the witness knows about it.

Q. (By Mr. Hunt) Did Mr. Meyers say anything to you with regard to company ammunition?

A. He did.

Q. What did he say?

A. In the discussion of the size of the police department of Massillon, Ohio, and what they were equipped with, and the taking out of these employees from the Republic Steel division, it was mentioned that there were some arms and ammunition in there. And I believe Mr. Meyers said they could lock them up in the vault there but they wouldn't do anybody any good there. And he said he would give them to the police department of Massillon, and that that would be a nucleus for this equipment that the Chief had been talking about.

Q. How was it arranged to give them to the Chief, or were arrangements made for the transfer of this ammunition to the Chief of Police?

A. Yes, they were.

Q. What was done? What were those arrangements?

A. Mr. Meyers called in the stenographer and dictated a letter addressed to Mr. France, authorizing Mr. France to turn those over to the Chief of Police.

Q. Were you present at another meeting with Mr. Carl Meyers on June 11th?

A. Yes, sir.

Q. Who was with you?

A. The Chief of Police. Do you mean who went with me from Massillon?

Q. Yes.

A. The Chief of the Massillon Police Department and the police prosecutor and myself.

Q. Please describe what happened at that meeting?

A. Well, we met Mr. France, who was the Chief deputy of the sheriff's office of Stark County, and we went up to Mr. Meyers' hotel room, and Mr. Meyers then discussed the matter of running some food into the Republic plant.

Q. Did he tell you why he wanted the food ran in and why it was important to run in the food?

A. He said there were some employees in there, that they had about sixteen policemen and four maintenance men and the blast furnace, and that they were running low on food and wanted to make sure the food got in before they ran out.

Q. Did Mr. Meyers make any further statements concerning the strike situation?

A. Well, he said if the blast furnace cooled off and went down he would be God damned if he would open it because it would cost too much money; that the biggest investment was there and it would cost too much to reheat those coke ovens.

Q. Was there any plan arrived at for getting in the food?

A. I suggested at that meeting that they use a little strategy to get it in, and if the Republic Steel Company could afford to run a truck in there and leave a truck in there that they probably would not get it out again, but they could load that truck with food and probably make a surprise visit down there and get the truck in.

Q. How was your suggestion received?

A. Well, they said they would think it over. And then the Chief said he would see what he could do about getting the food in one way or another.

Q. The following day did you go out to strike headquarters with Chief Switter? I mean the C. I. O. headquarters?

A. Yes, I did.

Q. On that occasion did you meet a Mr. Marshall?

A. Yes. Mr. Marshall was there at the C. I. O. headquarters.

Q. Will you describe what your relations with Mr. Marshall were on that occasion?

A. Mr. Marshall has charge of the relief and the insurance department at the Massillon branch of the Republic Steel, and he had with him a gentleman who he said represented the Metropolitan, and they wanted to go into the main office to get certain records which they claimed the Metropolitan Insurance Company did not have, and they said they were at the strike headquarters to try to negotiate to get in. So the Chief stepped into the picture, then, and they finally agreed that Mr. Marshall could go into the Republic Steel main office with this man from the Metropolitan accompanied by two pickets.

Q. Did you discuss the question with Mr. Morton, or any of the other strike leaders, of getting food into the guards and maintenance men?

A. Then Mr. Marshall and this gentleman representing the Metropolitan left and we discussed the matter; yes, sir.

Q. What was the result?

A. Well, we did not get very far. I argued with

Morton that the Republic Steel had always maintained guards there, and that the guards had been in the habit of passing in and out, and, as I understood it, they were not eligible to become C. I. O. members anyway, and so far as the four maintenance men were concerned, they needed them—that is, Republic Steel needed them in there to keep the blast furnace and coke ovens, or whatever they were, warmed up. And Morton refused to do anything about it. He said C. I. O. had plenty of men who could keep those ovens going and that he did not want any food ran in there?

Q. And did he offer to supply any men to keep them going?

A. Yes, he did. He said he could supply men and they would be good men.

Q. After this meeting at C. I. O. headquarters, where did you go?

A. We went back down town to the City Hall.

Q. Were you in Chief Switter's office at the time of the telephone conversation he described having with Mr. Carl Meyers?

A. I was.

Q. After that conversation was over what did Chief Switter say to you?

A. Well, the Chief said that Carl Meyers had just called up and climbed all over him because he wanted those two pickets to go in with Mr. Marshall and he would not let the pickets go in and would not let them set foot on his property.

Q. Where did you go after that?

A. After that we started out to lunch.

Q. Did you meet a Mr. Case, of the Massillon Chamber of Commerce?

A. Yes, sir; we did.

MR. DAY: Will the Board take these conversations under the same ruling that we had when the same questions were asked of Chief Switter?

MR. EDWIN S. SMITH: You mean under the objection?

MR. DAY: Under the objection and exception.

MR. EDWIN S. SMITH: Yes.

MR. DAY: Except the conversation.

MR. EDWIN S. SMITH: All right.

MR. DAY: And then I will not have to interrupt.

MR. EDWIN S. SMITH: All right.

MR. DAY: If there is any additional objection I will state it.

Q. (By Mr. Hunt) Did you hear Chief Switter tell Mr. Case about his telephone conversation?

A. I did.

Q. What did Mr. Case say?

A. Before the Chief and Mr. Meyers were through talking over the telephone I thought that there was some difficulty there. And when the Chief said, "I will call you back later." When we met Mr. Case we told Case what had happened and he said he could get in touch with Mr. Lester, and Mr. Lester could no doubt fix it up.

Q. So far as you know, did Mr. Case get in touch with Mr. Lester?

A. He did.

Q. Did you see Mr. Lester?

A. I did.

Q. When?

A. Immediately after that we went into Bender's Restaurant and Mr. Lester was in there. Mr. Case talked to him about the thing we were up against, and Mr. Lester suggested he could fix it up, or he thought he could, and then he left the restaurant.

Q. Did you receive a telephone call a few minutes later from Mr. Lester?

A. I did.

Q. What did Mr. Lester say to you?

A. We were seated at the table and the cashier came back and said I was wanted on the telephone. And I went up there, and it was Lester. And he said he had talked to Mr. Meyers.

Q. What Mr. Meyers was that? Do you mean Mr. Carl Meyers?

A. Yes, I mean Mr. Carl Meyers. And Mr. Meyers said it would be all right for a few days, that he would wait for a few days for the answer.

Q. On June 14th, were you present at an early morning meeting at the Chamber of Commerce by members of the Law and Order League?

A. I was.

Q. Was the mayor and Chief Switter with you?

A. They were.

Q. What was discussed at this meeting?

A. The matter of putting on additional police on the regular police force, although they were to be called special officers.

Q. How many men did the Law and Order people want put on?

A. They wanted fifty men put on. The City of Massillon has an ordinance that says that in case of exigency or emergency the mayor can appont additional police. And there is also a State statute in the case of riot or emergency that the mayor can appoint additional police. They felt that we would need fifty men to adequately police the town. But I got into the argument then and explained about the city's finances and the attitude that the business men had always taken towards the city's finances, and I wanted to know where the money was coming from. They said they would raise some money that could be used to equip these men and pay them.

Q. How much money did they indicate they would raise?

A. They asked the Chief how much it would take to employ these men. He had that figured out. He had it already figured out and I think the figure was $8,300.

Q. Was anything said as to how they were going to raise the money?

A. By popular subscription from the business men.

Q. So far as you know was this money ever raised?

A. No, it was not.

Q. (By Mr. Donald Wakefield Smith) Who said that it would be raised by popular subscription from the business men?

A. I don't know just exactly who said it. There were fifteen or twenty of them there. But that was the understanding, that they would get it and get the business men to contribute. The mayor also said that all of the men who were put on would have to be examined by the Chief and go through the Chief, but that he would not consent to any of them being used to break up the picket line.

Q. That was Mayor Crier's statement?

A. Yes.

Q. On that same date did you have another meeting with Mr. Carl Meyers at the Hotel Onesto in Canton?

A. We did.

Q. Please describe what happened on that occasion?

A. I went up to the floor that the offices were on. Instead of going into the room we originally had these conferences in, they showed us into another room. We wasted a very considerable length of time, and finally Mr. Meyers came in. The Chief and the mayor stated they could not get the food down there, that they would not take it down, that they would not take the responsibility, and that they did not want any trouble over it, that the Republic plant, if they wanted the food run in, was out of the county and it was up to the sheriff to get this food in if they wanted it in.

Q. Did Mr. Meyers speak of how the police in Monroe, Michigan, had handled their situation?

A. Well, first, he said he would not let his men down, that he would get the food in anyway. And then he said, "Look what the people of Monroe did, how they handled the strike situation."

Q. Did he say anything else?

A. Oh, we talked about what it meant to Massillon, if Massillon would lose that plant, and there was danger of its being lost.

Q. What else did he say?

A. Well, he said that if the plant was lost, that the people of Massillon and the officials would be responsible for losing it; that he thought they were not taking any interest in it and in seeing that the plant was reopened.

Q. That the people and the officials were not taking any interest in getting it reopened?

A. That is correct.

Q. Did you arrive at any particular conclusion or agreement to do anything at this meeting with Mr. Meyers?

A. No. Mr. Meyers appeared a little bit hostile to them, telling him that the plant was in the county and that they could not get the food in. After they talked a few minutes longer, we left. We did not arrive at any conclusion at all.

MR. EDWIN S. SMITH: Just a minute, please. What is the answer to all of this pressure being brought to bear on the Massillon police, or the Massillon parties, to handle this situation, if the Massillon plant was over the county line or was within the county jurisdiction?

THE WITNESS: I don't know. They asked them to bring in this food.

MR. EDWIN S. SMITH: You don't know why

they were appealing to you rather than to the county authorities?

THE WITNESS: Well, the sheriff had one deputy down there on a motorcycle on each shift. I am sure the deputies were working 12-hour shifts, and they had just one deputy down there on each shift on a motorcycle, and they kept appealing to the city. I don't know why.

MR. EDWIN S. SMITH: If the plant was in the county wouldn't you presume the natural place for these people to go to would be the county if they thought there was not adequate protection?

THE WITNESS: I would think so. But, then, of course, the sheriff had his hands full.

Q. (By Mr. Hunt) Is there an organization in Massillon known as the Trades and Labor Council?

A. There is.

Q. What is it?

A. As I understand it, it is an association made up of a couple of delegates from each craft, like the Machinist's Union which contributes two or three members, and the Carpenters' Local which contributes two or three members, and all of the different craft unions.

Q. Is that an American Federation of Labor organization?

A. It is.

Q. Did a fairly large crowd come from this Trades and Labor Council to the city hall to see you and the mayor some time in June, about June 15th?

A. They did.

MR. DAY: We object to that.

Q. (By Mr Hunt) How many were there in the crowd?

MR. DAY: We object to that.

MR. EDWIN S. SMITH: Upon what ground?

MR. DAY: What connection is there between the craft unions affiliated with the American Federation of Labor coming to see the mayor and the Republic Steel Corporation?

MR. EDWIN S. SMITH: I can't see any yet, but I presume he has some point in introducing this.

MR. DAY: Will you take it under objection and exception?

MR. EDWIN S. SMITH: Yes.

Q. (By Mr. Hunt) How many men came down from the Trades and Labor Council on that occasion?

A. Oh, there was a couple of hundred men. There was about two hundred.

Q. Did they have any leaders who spoke to you, or who talked to the mayor?

A. They did.

Q. What did they say to you?

MR. DAY: We object to what they said.

Q. (By Mr. Hunt) What did they say?

A. I was present at a meeting of the boxing commission of the City of Massillon, and they were going to put on some boxing shows in the City Hall. I heard this noise out in the hall and looked out and saw this couple of hundred men. Pretty soon the mayor showed up and said that these fellows wanted to talk to him and myself. I showed them into the Council chamber. They sat down and as soon as I was through I went in there. When I got there they got up and read a resolution that they had adopted that night protesting the addition to the Massillon police force, or putting on any additional officers. And I believe the resolution stated that there was no break-down of the law and order in the City of Massillon.

Q. Did you address the group?

A. After they presented this resolution they said if the city officials had any statement to make that they would receive it then, or, if they wanted to—that is, if the City officials wanted to, they could wait for a few days and think it over and then make a statement. I got up and said our position was clear and we had already decided upon what we were going to do, and that I could not and would not stand there and say we were not going to put on any additional police because we had already picked some off of the civil service list. I also said in the case of emergency the mayor had the right to appoint them, and no doubt he would have the right; or he would appoint some to control the downtown district, and that we would not send them down to crack the picket line.

Q. Did you make any further remarks on that occasion?

A. Well, they asked me if I considered there was any breakdown of the law and order, and I said I had been asked to serve on a committee, or go to the Governor and ask the Governor if he would give some protection to Massillon. I said in my imaginary interview with the Governor that he would ask me what had happened in Massillon, and I would be forced to state that some men had been told not to go near the picket line, and some C. I. O. men were told not to go to places where non-strikers were gathered, that there was a blast of dynamite set off that did not hurt anybody, and that telephone cables had been cut and there had been a few beatings of men on which men had been arrested and tried; and that the Governor would then tell me to go home and wait until I got some trouble and then come down to see him.

MR. HUNT: That is the reason why I brought in the question of the Trades and Labor Council.

MR. EDWIN S. SMITH: Is this a convenient time for us to adjourn?

MR. HUNT: I think so.

MR. EDWIN S. SMITH: Very well, then. We will adjourn now and meet tomorrow morning at 10 o'clock.

(Thereupon, at 4:37 o'clock p. m., July 21, 1937, an adjournment was taken until Thursday, July 22, 1937, at 10 o'clock a. m.)

Auditorium of the Public Health Service Building, Constitution Avenue between Nineteenth and Twentieth Streets, Washington, D. C., Thursday, July 22, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

Mr. Edwin S. Smith, Member of the Board,
Mr. Donald Wakefield Smith, Member of the Board.

Appearances:

Charles Fahy, Esq., General Counsel, Robert B. Watts, Esq., Associate General Counsel, Mark Lauter, Esq., Lawrence Hunt, Esq., Oscar Grossman, Esq., and Joseph M. Hoskins, Esq., Counsel appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young & Veach, (1420 Union Trust Building, Cleveland, Ohio), and Thomas F. Patton, Esq., (Republic Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

Lee Pressman, Esq., (50 Broadway, New York City), appearing for the Steel Workers Organizing Committee.

PROCEEDINGS

MR. EDWIN S. SMITH: Are you ready to proceed, gentlemen?

MR. DAY: If the Board please, in order to save the record, I would like to make a motion at this time to strike from the Record the testimony of Chief

Switter upon the ground it does not tend to establish any charge set forth in the complaint, or to prove any violation of the National Labor Relations Act.

I take it that motion will be overruled?

MR. EDWIN S. SMITH: It is denied, yes.

MR. DAY: I would like to make that motion applicable to each conversation and each episode and each incident related by the Chief.

Then, there are one or two questions that we want to ask the Chief. I don't know whether we would better ask them before Mr. Hunt finishes with Mr. Hardman.

MR. EDWIN S. SMITH: Mr. Hunt says that he would like to make a preliminary statement for the record. After that would you prefer, Mr. Hunt, to have the Chief go on?

MR. HUNT: I would be perfectly willing to have the Chief go on.

But I would like to make a statement regarding a small part of his testimony yesterday, when he said that I was his attorney. My only relation with Chief Switter has been that of attorney for the National Labor Relations Board. I first met Chief Switter on Monday, July 12th, and at that time and ever since my only connection with him has been as attorney for the Board.

MR. DAY: We accept that statement. Of course, we never made the claim that Mr. Hunt is the personal attorney for the Chief.

MR. EDWIN S. SMITH: Chief Switter, will you please resume the stand.

STANLEY W. SWITTER

resumed the witness stand, and, having been previously sworn, testified on behalf of the National Labor Relations Board as follows:

Cross Examination (Resumed)

Q. (By Mr. Day) Chief Switter, I want to ask you whether at a meeting at the Conrad Hotel in Massillon about May 28th, shortly after the strike began, attended by some members of what is called the Law and Order League, you made a statement or speech in which you said:

> "I know there have been law violations committed in many ways. What can I do? I have been out on the picket lines and there has been nothing there but niggers, Wops, and communists. If I had the authority I would clean up the whole damn bunch. They ought to be run out of Massillon. They are nothing but a lot of law violators. There is not a decent man or a good citizen on the entire picket line."

Did you say any of that?

A. No, sir; not that way; no, sir.

Q. You say "not that way." Did you say it in any other way?

A. I said that I knew practically all of those fellows on the picket line, and I knew and worked with them, and I also said there was a lot of foreigners there and a lot of Negroes there, and they were walking around with sticks and clubs. And I said they had taken that over down there, and that there was nothing we could do about it.

Q. Did you say there were Wops and Communists?

A. No.

Q. Did you say if you had the authority you would clean up the whole bunch?

A. No.

Q. That they ought to be run out of Massillon?

A. No, sir.

Q. You did attend the meeting at the Conrad Hotel along about May 28th, didn't you?

A. Yes.

Q. Was that in the evening?

A. Yes, sir.

Q. Was that attended by some of these Law and Order people?

A. Yes, sir.

Q. So the meeting did take place but you did not say the things I am asking you about? Is that right?

A. That is right.

Q. Do you remember attending a meeting at a church along about Sunday, June 6th?

A. Yes, sir.

Q. Do you remember making some remarks at that meeting?

A. Yes, sir.

Q. Did you at that time say the C. I. O. was a communistic organization?

A. No, I said there were communistic moves on and in it.

Q. Communistic moves on and in?

A. On and in.

Q. On and in the C. I. O.?

A. Yes, sir.

Q. Did you say at that time that the pickets were a bad bunch, that you would like to see them run out of Massillon?

A. No, sir. The statement was made at that time— There was a lot of speaking that day, and I said something to the effect that there was so many wanted to go back to work that they might, if they proved how many wanted to go back to work, and what they wanted to do, and then we could do something about it; but until we knowed where we was at there was nothing we could do about it.

Q. Did you say anything to the effect that if the majority of the men wanted to go back to work, you would lead them down to the mill yourself?

A. I said if the majority of the people in Massillon wanted to go to work, that they could go to work. I didn't see any reason why they could not.

Q. The day that the American Legion was called out, did you make a speech that day?

A. To that group that night to disperse them.

Q. At that time did you say if any rubber workers came down from Akron you would deal with them?

A. I said there was nobody coming in and take the city over.

MR. DAY: That is all.

MR. DONALD WAKEFIELD SMITH: Since this witness is on the stand I would like to ask him a couple of questions.

Q. (By Mr. Donald Wakefield Smith) I believe you testified yesterday that the American Legion was called out by an alarm being given, not by you but by some member of the American Legion in Massillon. Is that true?

A. I don't know whether he was a member of the Legion or not.

Q. You don't know whether he was a member of the Legion or not?

A. No, sir.

Q. As I recall it, you said they subsequently dispersed because they found nothing had occurred?

A. That is right.

Q. Then, in your opinion, the alarm which was given was a false alarm. Is that true?

A. Yes.

Q. There is another question that I would like to ask: You made the statement yesterday, as I recall your testimony, that Mr. Meyers, of the Republic Steel Corporation, had stated in your presence that if certain things were not done that the plant would not open and it would make a prairie of Massillon. That is true, isn't it?

A. That is right.

Q. I believe certain statements were made by Mr.

Meyers, in your presence, that the grass would grow on the streets of Massillon if certain things were not done. Is that true?

A. That is right.

Q. During any of those conferences at which you were present and at which Mr. Meyers, of the Republic Steel Corporation, made those statements, to your personal knowledge was any member of the Law and Order League present?

A. No.

Q. There is one other question that I would like to ask. A lot of questions have been directed here at what your duty might have been. As Chief of Police of the City of Massillon, what was your duty?

A. To maintain law and order.

Q. Was it your duty to assist in the reopening of the Republic Steel Corporation plant at Massillon?

A. No.

Q. Did you so consider it?

A. No.

MR. DONALD WAKEFIELD SMITH: That is all.

Q. (By Mr. Day) By the way, Chief Switter, are the special policemen still on the job?

A. So far as I know, they are.

Q. That was the situation when you left town, about a week ago?

A. Yes, sir.

Q. By the way, Chief, does your family know where you are?

MR. HUNT: I object.

MR. EDWIN S. SMITH: I think that objection should be sustained.

MR. DAY: An exception, please.

Q. (By Mr. Day) Does the City of Massillon know where you are?

MR. HUNT: I object.

MR. EDWIN S. SMITH: Same ruling.

MR. DAY: An exception, please.

That is all I have.

Q. (By Mr. Donald Wakefield Smith) Just one more question, Chief: You say on this day when you were out of the city when this disturbance occurred at the C. I. O. headquarters, and I believe it was on July 11th, that a Captain Curley, who had no connection with the Police Department but was formerly an army officer, had apparently assumed charge. Is that correct?

A. That is right.

Q. To your personal knowledge, has Captain Curley ever been employed by the Republic Steel Corporation?

A. I don't know.

Q. To your personal knowledge, has he ever had any connection with the Republic Steel Corporation?

A. Not that I know of.

Q. To your personal knowledge, is he a stockholder in the Republic Steel Corporation?

A. Not that I know of.

MR. DONALD WAKEFIELD SMITH: That is all.

MR. DAY: That is all.

(Witness excused.)

RICHARD B. HARDMAN

thereupon resumed the witness stand, and, having been previously sworn, testified on behalf of the National Labor Relations Board as follows:

Direct Examination (resumed)

Q. (By Mr. Hunt) Mr. Hardman, I think we stopped your testimony yesterday at some question about the Trades and Labor Council, at a meeting on Monday, June

15th. On the following Monday were you present at a meeting of back-to-work committee at the City Hall?

A. I was.

Q. Were any other officials of the City present?

MR. DAY: What is the date of this, if you can give it?

MR. HUNT: It was the following Monday, June 21st.

Q. (By Mr. Hunt) Were there other city officials present?

A. There was Chief of Police Switter, the mayor, and the safety service director, Mr. Charles Snyder.

Q. Was there any spokesman for this committee?

A. Well, we were down in the Chief's office.

MR. DAY: Without interrupting further, may I have the same record that we had yesterday on this?

MR. EDWIN S. SMITH: The same arrangement.

MR. DAY: An objection to all of it and to each part of it, which is overruled and an exception is noted?

MR. EDWIN S. SMITH: Yes.

THE WITNESS: We were down in the Chief's office, and when I came into the City Hall I noticed this crowd on the first floor. I went to the Chief's office to find out what the crowd was up for, and he said they were requesting a conference with us. So we got the mayor and we [went] up there. After we got upstairs and I saw how many there were, I suggested to them that we meet with a committee rather than with the whole crowd. So they appointed a committee and we went into the Safety Service Director's office with this committee. I believe the leaders of that committee were Nick Lincolnhaley and Paul Ryder and a fellow named Becker, and young Immel. I don't know what his first name is.

Q. (By Mr. Hunt) What took place? Will you please tell the Board what took place that you observed at this meeting?

A. Well, they demanded protection down there at the picket line. They said they intended to go back to work and they wanted protection to go into and out of the plant. I told them that the plant was in the county, and felt that they should go to see the sheriff at the same time. Then they accused us of passing the buck, and they talked about not enforcing law and order and wanted to know why we turned down the $8,300 that the Chamber of Commerce was going to raise. Then the mayor said we were probably a little foolish to get all excited about it, that the plants would probably open within a few days, that there was no use going down there and having trouble and a battle and somebody getting hurt and losing more time than they would if they would not go down.

After that they asked us to come out and make a statement, or they asked the mayor and the chief of police to go out in the hall and make a statement. The Chief told them that he could not take any untrained men. The Mayor said that he wanted them to wait for a few days until the Mediation Board in Cleveland had reached some conclusion. He also said he did not want any bloodshed because it would react the same way on both sides, that if the non-strikers went down there probably some of them would be hurt and probably some of the pickets would be hurt; and he wanted peace and order.

Q. On that same day did you go to Canton and have a conference with someone?

A. Well, before they left that meeting they talked to me about helping them, as I understood it, and writing a letter to the Governor—that is, to Governor Davey. We discussed that in there but we did not reach any conclusion. Then, after they left we immediately went to Canton to see the Governor's National Guard observer there, who was Colonel E. P. Lawler.

Q. What took place at your conference with Colonel Lawler?

A. We had considerable trouble in finding Colonel Lawler at first. We finally found him up in Chief Vandebaugh's office, the office of the Chief of Police. We talked to Colonel Lawler about what we were up against, the Law and Order League, and so on, and the back-to-work movement. And then we asked him if he would not come over and look over the situation and see what it appeared to be like to him. Colonel Lawler said there was no need for him to come over because he had already been over, that he had ridden around the picket lines and around the City of Massillon and he didn't see anything to be alarmed about. Then the Colonel and I had a discussion about technical legal violations, and the meeting broke up.

Q. What did the Colonel say, so far as you can remember, about technical violations?

A. Well, he said in times of emergency like we were facing, both there and in Canton, that you could not be concerned with a lot of technical violations that were not hurting anybody, that if you did your jail would be full and you would never get any place.

Q. On that same date, did you attend a meeting at the City Council in Massillon?

A. I did.

Q. What other city officials were present?

A. Do you mean at the regular public meeting? There were a good many of them there.

Q. A meeting of the City Council when you discussed the strike discussion.

A. After the regular Council meeting, the Council adjourned to my office, and the Chief was there, and we discussed the matter there of putting on additional police. They immediately jumped us about not having the funds to spend, and they said there was no reason for the Chief to get all excited about it; to begin with, the plant was in the county and it was up to the sheriff to do something about it.

Q. On the morning of June 25th, were you present at a meeting of a group of Law and Order League people of Massillon at the City Hall?

A. I was.

Q. Will you tell the Board what happened at that meeting?

A. Well, they came over early Friday morning—that is, a couple of representatives, and informed us that they wanted to see us at 11 o'clock, and they would have the chief deputy or the sheriff there. The sheriff did not appear, but his chief deputy did. The Chief of Police was there, and the Mayor, the Safety Service Director, the City Prosecutor, and myself, representing the city. Then there was Mr. J. G. Lester, and Mr. Case, Mr. Homer Welch, a newspaper reporter, two attorneys, Franklin Maier, and Elson Wefler.

Q. Will you please tell the Board what took place at that meeting?

A. Well, they had a petition drawn up in quite flowerly language. The only reason I did not laugh when they read it was out of respect for Mr. Wefler, who read the petition. When he got about half way through with it two officers from the National Guard arrived, and the Chief suggested that they reread the petition to them. So the petition was re-read to them. And after that was over, Maier gave a little speech to the Mayor about law enforcement, and about how he had it straight that the Republic was going to move out of Massillon if something wasn't done about it.

MR. DAY: This man is Mr. Maier. This is not Mr. Carl Meyers. The Board understands that, I suppose.

MR. DONALD WAKEFIELD SMITH: I was

going to ask whether it was Mr. Maier or Mr. Meyers.

THE WITNESS: It is Mr. Maier.

MR. DAY: The lawyer spells his name M-a-i-e-r.

THE WITNESS: I don't think they even know each other, so far as that goes.

Mr. Maier also stated that they refused to take $8,300 that the business men had raised, when Mr. Case very graciously came to our rescue and said no, that it had not been raised. The meeting broke up and we were given to understand that we were to think it over.

MR. EDWIN S. SMITH: What amused you so much about this petition?

THE WITNESS: It had an excerpt in there from an opinion of the Supreme Court of the State of Ohio. With all due respect to the Court, it said, "Like a storm in the night the strike broke."

MR. HUNT: That is on the second page.

Q. (By Mr. Hunt) At this meeting, were there any further comments by Mr. Maier on the situation?

A. I don't recall any right now. He and I got into an argument about some of the things that were in that petition; and also when he wound up his speech by saying that the City of Massillon was losing a pay roll of $40,000 a day, I then stated that smoked the situation out and showed me it was not the Law and Order League, but it was merely a matter to protect the business men.

Q. Did Mr. Maier make any reference at all to the Republic Steel Corporation?

A. Not except that he had it straight that if something was not done they were going to move out of Massillon.

Q. He said what?

A. That he had it straight that if something wasn't done the Republic was going to move their plant out of Massillon.

Q. After this meeting was over, what did you do? I mean at the conclusion of this meeting?

A. The Chief and I got an automobile. The National Guard officers explained why they were there, that they were looking for quarters. So we got an automobile and drove them around looking for a place to quarter their troops. We first took them to the old Elks Home, but that was not satisfactory; and we took them to the Y. M. C. A., but they were a little bit afraid of the damage that might be done there. We finally took them to the old city lodging house, and they believed that was the place that they would accept.

Q. Were you present at the City Hall that evening, the evening of June 25th? Were you in the City Hall in your office?

A. I went to the City Hall that night.

Q. Will you describe what you observed and what you did the evening of June 25th?

A. Well, about 6:30 in the evening I got a telephone call from the City Prosecutor. He said that I was wanted at the City Hall immediately, that there was a threatened invasion of the City of Massillon by some rubber workers. I wanted to know what was being done, whether they would send anybody out north of town in the direction of Akron to give an alarm if anybody did come in. And he said, I believe, that they had sent someone up there. And he told me that they expected to be down town right away.

I did not go down town right away because I felt that it was not a situation to be alarmed about, that if there was any invasion that before I could get there the highway patrol or the Akron police department, or somebody, would notify us that the rubber workers, or whoever it was who were supposed to come were coming.

At any rate, I drove down town about 7 o'clock, and as I reached the business district there were quite a few people standing up and down the street and the atmosphere was very tense. In fact, it seemed to me so tense that I did not park my car in the business district, but I drove it out a little bit into the residential district so that if there was any trouble the car would not be damaged. Then I went to the City Hall and in the corridor I met Switter and Gordon Hesse.

Q. Who is Gordon Hesse?

A. He is a resident of Massillon, I believe, and an employee of the Republic Steel.

> MR. DONALD WAKEFIELD SMITH: May I interpose a question. In your opinion was the assembly of that large crowd the result of the Legion alarm that was given for the American Legion on that night?
>
> THE WITNESS: No, because most of the crowd was there before the alarm was given for the Legion.

Q. (By Mr. Hunt) Will you continue.

A. Well, we went back in the Chief's office to discuss the matter, and Hesse was more or less in favor of sending a group of the assembly out to the north of town, and between the Chief and I we decided the men better stay around the city hall where we could keep an eye on them. I didn't feel it was a good thing for the city to send men north of town that didn't belong there and have them stopping cars and interfering with people. So, we kept that group down town, and along about that time, that was about eight o'clock, a man showed up from the American Legion and called me from the Chief's office and asked me what I thought about the thing, and I told him I thought it was a lot of hocum.

Q. A lot of what?

A. A lot of hocum and there wasn't anything to it, so he said there was some men at the American Legion home and they didn't feel very good about this thing.

> MR. DAY: We have a new reporter here now, and may the record show objection is made to all these conversations, which is overruled and exception taken.

MR. EDWIN S. SMITH: Let the record so show.

Q. (By Mr. Hunt) What do you mean when you said there was a lot of hocum?

A. Well, I didn't think there was anything to it.

MR. EDWIN S. SMITH: May I ask about this invasion? You didn't think there was anything to it?

THE WITNESS: I was convinced if there was an invasion we would know about it because in Ohio we have highway patrol, and it is a radio patrol, and I knew if there was any mass movement any place out of Akron, after that situation in Youngstown, the whole state would know about it.

MR. EDWIN S. SMITH: When you first heard of this alleged invasion, who was the person that principally described this at this meeting, do you recall?

THE WITNESS: Well, Gordon Hesse talked about it most.

MR. EDWIN S. SMITH: Do you recall what he said, what information he seemed to have about it?

THE WITNESS: He didn't seem to have much information about it except that he got a tip from some place that they were coming and he sort of had the Chief in the middle. He felt if he didn't do something about it, and they did come down, he would be on the spot, and if he kept the men there and they didn't come, he would still be on the spot.

MR. EDWIN S. SMITH: Did he say how many men were coming?

THE WITNESS: No, it was supposed to be quite a crowd.

MR. DONALD WAKEFIELD SMITH: Did Gordon Hesse describe who had made this statement that there was going to be an invasion?

THE WITNESS: No, I didn't hear him.

Q. (By Mr. Hunt) Was a picture taken of the crowd at any time to your knowledge?

A. There was.

Q. At whose instance?

A. Why, at Mr. Hesse's instance, and there was a newspaper man there. He wasn't taking any pictures. I didn't even know whether he had his camera there at the time. After Hesse talked to him, I later went upstairs in the City Hall into my office, and when I went there and looked out the window I saw this newspaper man taking pictures of the crowd out of the window.

Q. Did you hear Mr. Hesse say anything about taking pictures?

A. I heard him talk to a newspaper reporter about it.

Q. What did Mr. Hesse say?

A. Oh, he said it would be a good thing to have a picture.

Q. Did he say why it was a good thing to have a picture?

A. So they could show the Republic Steel there was still some interest in Massillon and some life there.

MR. DONALD WAKEFIELD SMITH: But that it had not yet become a prairie, is that true?

Q. (By Mr. Hunt) How was the crowd dispersed?

A. Well, along about,—I don't know the exact time, ten or eleven o'clock, the same two National Guard officers appeared on the scene and wanted to know what that crowd was doing out there and the Chief told them, and they suggested he send the crowd home, and so he went out and talked to the crowd and they dispersed.

Q. Did you have any conversation with Mr. Lincolnhaley and Mr. E. W. Case regarding registration of any men wanting to go back to work?

A. I didn't have any conversation with him, but I heard,—

Q. (Interposing) Were you present at any conference regarding that, their desire to register men wanting to go back to work?

A. Well, that morning, whatever day it was, I came down town, and I had some business at the bank and went in the bank, and as I came in behind the steel grille, there, the girl who was on duty to let you in and go out pointed out the window and wanted to know what that crowd was doing over there, said, "What is that crowd of hoodlums doing in town at this time of the morning?" So, I went to the City Hall and went in to the Chief's office and about that time Lincolnhaley and another fellow came in and wanted to know why their men had been ordered to move on, that they had rented the Union National Bank Building to register the men who wanted to go back to work.

MR. EDWIN S. SMITH: Who is Nick Lincolnhaley?

THE WITNESS: He is Chairman of the Back-to-Work Movement.

MR. EDWIN S. SMITH: Is he an employee of the Public [Republic] Steel?

THE WITNESS: Yes, sir.

MR. EDWIN S. SMITH: Had you known him before these episodes you mentioned?

THE WITNESS: No, I had never known him until about the 21st of June. I knew who he was, but I don't think he knew who I was.

MR. EDWIN S. SMITH: You mean you knew who he was in connection with the Back-to-Work Movement?

THE WITNESS: We got acquainted about the 21st of June, but prior to that time I knew who he was.

MR. EDWIN S. SMITH: What did you know about him?

THE WITNESS: Oh, nothing, he ran a park out of town.

MR. EDWIN S. SMITH: I thought you said he was an employee of Republic Steel?

THE WITNESS: He is, but he and his wife runs this park.

MR. EDWIN S. SMITH: Do you know what his job in the Republic Steel is?

THE WITNESS: No.

Q. (By Mr. Hunt) All right, continue, Mr. Hardman.

A. After the Chief said,—a couple officers came in and said they had broken up the crowd and wanted to know if there were any orders, and Lincolnhaley wanted to know why their men had been ordered to move on, and the Chief said they could not have any registration there because it was going to lead to trouble in his opinion, so they put Case on the spot and asked if they could register in his office, and he said yes.

Q. What was Mr. Case's office?

A. The Chamber of Commerce.

Q. Were you present at a meeting in Canton, Ohio, on July 6 in the mayor's office in Canton?

A. I was.

Q. Who else was present?

A. The mayor of Canton and his Safety Director, the mayor of North Canton and his marshal, the Chief of Police of Canton, Chief Deputy of the Sheriff's office, Mayor Crier, Chief Switter, Safety Director of Massillon, and myself.

Q. What was discussed at this conference?

A. The matter of deputizing men was discussed, deputizing the Massillon police force so they would be deputy sheriffs.

Q. Was it finally agreed these men would be deputized?

A. It was.

Q. Did you support this proposal?

A. Well, I personally didn't support it, because I felt that if the city police of Massillon were deputized then it would be up to them to take care of the west end of the county and I put that up to the sheriff, the sheriff himself was there, and I asked the sheriff if that meant we had to look after our own back yard, and he either didn't understand me or he wanted to put me off and he said, "This won't be any back-slapping proposition." He didn't say any "back", he said "back-slapping," and that is about all that happened. It was agreed the men would be deputized, and we left.

Q. On the afternoon of the same day were you present at a conference in Chief of Police Switter's office in Massillon?

A. Before I answer that, there was a Colonel of the National Guard at the meeting.

What was your question?

Q. Were you present at a conference in Chief Switter's office in Massillon that same day when two other men were present?

A. I don't recall.

Q. I will ask it in a different way.

Were you present at a conference in Chief of Police Switter's office when the matter of taking on men and adding men to the police force arose and was discussed?

A. Yes, sir; I was.

Q. Who was present?

A. Chief of Police of the city of Massillon, Mr. Pepperer and Harry Angstadt and myself.

Q. Who is Mr. Pepperer?

A. He is an employee of Republic.

Q. Do you know what position he holds?

A. No, I don't know.

Q. Who is Mr. Angstadt?

A. He is an employee of Republic.

Q. Do you know what position he holds?

A. I believe he is called the Works Accountant there in the Massillon plant.

Q. Describe what took place at that conference.

A. Well, they had a list there of men's names and they knew we wanted men to put on the police force, and they had a list of men's names that they wanted us to take on, or pick men from, there, and I went over the list and I knew quite a few of them that were on the list, and I said there [was] only a few on there that would be satisfactory.

Then, they wanted to know about putting on the Home Guard, men who were to be deputized and work in the mill during the day and serve in their own neighborhood at night, and we refused to consider that, and they said that they were doing it in Canton and wanted to know why we would not do it.

Q. Did they say anything else regarding the matter of the Home Guards?

A. No, that is about all that was said.

Q. There was no further argument in regard to putting on men in Canton?

A. Well, they called up Canton and found out that Canton, according to information they got over the telephone, that Canton was putting them on.

Q. And who did they call in Canton?

A. Why, they called the Republic Steel Company office.

MR. EDWIN S. SMITH: Just a minute, Mr. Hunt. You say you knew some of these men proposed as special police, and you didn't want them. Why, in a general way, was that?

THE WITNESS: Well, I didn't feel that they,—it takes a certain temperament to be a police officer, and I didn't feel that those men on the list were capable of holding down that position under an emergency like that.

MR. EDWIN S. SMITH: What would have been wrong, in your judgment, with their temperament?

THE WITNESS: Too excitable.

MR. EDWIN S. SMITH: Too excitable?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: Go ahead.

Q. (By Mr. Hunt) You say that they called Canton at the Republic Steel office. Who do you mean by that?

A. I believe Mr. Angstadt put the call in.

Q. Were you present at a meeting in the City Hall on the morning of July 7th with certain members of the Law & Order League?

A. I was.

Q. Were any other city officials present?

A. There were.

Q. Who were they?

A. The mayor of Massillon, and the Chief of Police.

Q. Who was the chief spokesman, if there was one, of the Law & Order League?

A. Well, Mr. Lester talked the loudest.

Q. Will you describe what took place, as fully as you can at that meeting?

A. Well, the minute I got into the City Hall that morning, the mayor grabbed me and took me into his office. On the way in he said the Law & Order League was there and wanted me to be present. So, they opened the conversation, or opened the discussion by saying that they wanted fifty men for Home Guards put on who were to be sworn in and privileged to carry guns. They were to work during the day and sort of act as policemen in their neighborhoods after working hours. I refused to take them, and they then said they wanted to know why we were discriminating against Republic men, and I told them we weren't discriminating against them as long as they were qualified, and they wanted to know what I meant by qualified, whether they had to own property or have money in the bank, or what, and I told them I felt they ought to have some intelligence and be cool headed and so forth, and then they jumped on me about that and I said, well, I didn't have any police cars and I didn't have any executive authority and the whole thing is going to mean nothing to me. I sort of lost my head at that point and I said, "If you have got anybody that you feel can handle the job better than I can, you can have them." So, then, one of the members of the Law & Order League jumped me again and said I did have something to do with it, that I was acting more or less as spokesman for the group and that I was liable to be sued about that, that I was hedging on this question of putting on men and all throughout the discussion and I maintained the men would have to be qualified and I never did give in about taking them on.

MR. DONALD WAKEFIELD SMITH: Do you recall the particular member of the Law & Order League that made that statement?

THE WITNESS: That was Tom Poe.

MR. DONALD WAKEFIELD SMITH: Is he connected with the Republic Steel?

THE WITNESS: No, sir.

MR. DONALD WAKEFIELD SMITH: Do you recall whether Mr. Haley was there?

THE WITNESS: No, sir; there wasn't anybody there connected with the Republic Steel Company.

Q. (By Mr. Hunt) Will you continue stating what you started to say?

A. Well, Lester got quite indignant toward the mayor, shouting and yelling, and finally the mayor told him to be a little quiet, that he would hate to hang a gun on him as he might shoot somebody or himself.

MR. DAY: Who said that?

THE WITNESS: The mayor to Lester; and they kept pounding about the 50 policemen and the Chief said he didn't care, they could put them on if they wanted to, to put on 75 or 100, that there would be a blow up as the result of it, and let them come.

Q. (By Mr. Hunt) Now that same day were you present at a luncheon at the Y. W. C. A. with several men?

A. I was.

Q. Do you recall what city officials were present besides yourself?

A. The mayor was there, Chief of Police, and Safety Service Director.

Q. Who was some of the other people present?

A. Oh, I just don't remember all of them, but I know Lester was there and Captain Curley was there.

Q. Was that Captain Harry Curley?

A. That is right.

Q. Were there any representatives from the leading manufacturing concerns of the town there?

A. There were.

Q. Was Mr. Carl Meyers of the Republic Steel Company present?

A. He was.

Q. Describe what took place at that luncheon.

A. Well, I don't know who opened the luncheon and described what was going on, but, anyway, Curley got up and talked and he talked against putting on those Home Guards, and then he suggested if they would all send a few men around the City Hall about three o'clock that afternoon that we might get enough to augment the police force.

Q. Did Mr. Carl Meyers make a speech at that luncheon?

A. He did.

Q. What did he say?

A. Oh, he said he was glad to see the mayor and chief had wakened up and that they had been asleep for some time, and I don't remember his exact words, but he roasted them pretty heavily.

Q. What do you mean "roasted them pretty heavily," for what?

A. Well, he felt they had not been doing their duty and so forth and so on.

MR. DONALD WAKEFIELD SMITH: Did he make any statement other than that with regard to the opening of the Republic Steel plant?

THE WITNESS: I don't recall about that. The only exact words I do remember he used, he said he loved Massillon and loved the Republic Steel Corporation.

MR. DONALD WAKEFIELD SMITH: Did he go any further and say if the Republic Steel Corporation closed that Massillon would become a prairie?

THE WITNESS: I don't think he made that statement.

MR. DONALD WAKEFIELD SMITH: But he did make some statement, did he, with regard to the closing of the plant and the fact it should reopen?

THE WITNESS: I don't believe he did. He dwelt more on the fact the mayor and chief had not enforced the law, that they had been asleep and had not been doing their duty.

MR. DONALD WAKEFIELD SMITH: As I recall, you stated at that conference several prominent business men were there.

THE WITNESS: They were all industrialists.

MR. DONALD WAKEFIELD SMITH: Were they members of the Law & Order League, to your knowledge?

THE WITNESS: I don't believe any of those present at the meeting, outside of Mr. Lester and Mr. Poe, were really members of the Law & Order League. I believe they were more or less roped in.

MR. DONALD WAKEFIELD SMITH: But

there were members of the Law & Order League present at that meeting?

THE WITNESS: Yes.

Q. (By Mr. Hunt) Did Mr. Meyers ever make the remark about Massillon becoming a prairie if the mills were not opened? Did you ever hear him make that remark?

A. I did.

Q. Where was that?

A. Why, that was over in the Onesto Hotel.

MR. DAY: You told about that yesterday, didn't you?

THE WITNESS: I believe I testified that.

Q. (By Mr. Hunt) You say Captain Curley made a speech at this meeting and attacked the idea of Home Guards?

A. He did.

Q. What else did he say?

A. He suggested that they all send men down to the City Hall about three o'clock and he would examine them.

Q. And who is "they all" ?

A. All the gentlemen who were present. They all agreed to send them down except Lester, and he said they didn't have anybody but old women in his plant.

Q. Were you in the City Hall at three o'clock that afternoon?

A. I was.

Q. Was there a group of men down there?

A. There was quite a large group arriving.

Q. Did Captain Curley pick out of this group any men for the extra police force?

A. He did.

Q. About how many?

A. Why, he picked about thirty or thirty-five.

Q. Who swore in these men?

A. I did.

Q. Do you know if these men had to be covered by bond? Is that right?

A. That is right.

Q. Do you know who underwrote those bonds?

A. I know the company that signed the bonds, that acted as surety, but I don't know who underwrote them.

Q. Do you know who paid the premium on these bonds?

A. No, sir; I do not.

MR. EDWIN S. SMITH: Had you by that time given up the exercise of your discretion as to the type of people that ought to be engaged for this work?

THE WITNESS: Well, at that time, in my position, I have neither executive power or police power, and when I looked out in the hall and saw that gang there, I thought I would let it go, and if they asked my advice on anything I would be there to give it, and the only reason I stayed there was to administer the oath and write up the bonds. That is the only reason I stayed there that afternoon.

Q. (By Mr. Hunt) Do you know the name of the local agency that wrote the bonds?

A. It was the Derr, Smith, Lane Agency of Canton that underwrote the bonds.

Q. Were you present on the evening of July 11th when the shooting took place?

A. No, I wasn't.

Q. About how many men were arrested as a result of this shooting on July 11th?

A. There were about 165 men. There were 143 that were run through the police blotter, but there were perhaps 20 more that they had no record of them when I [came] to examine them.

Q. How many of these 165 men were charged with carrying weapons?

A. One.

Q. One?

A. That is correct.

Q. What was he charged with carrying?

A. He was charged with carrying a knife, I believe the blade on it was about three and a half or four inches long.

Q. Did you examine these men to find out if any of them were subject to deportation as aliens, not having the right to be in this country?

A. I did.

Q. And how many of this 165 men did you find were subject to deportation?

A. Well, I didn't find any that I could say were subject to deportation, but I found about five that I suspected were subject to deportation.

Q. Was there any official from the Labor Department present when you were examining these men?

A. There was.

Q. Who was he?

A. Mr. Weatherby, of the Bureau of Immigration, with offices in Youngstown, Ohio.

Q. How long did he remain during this examination?

A. He was around there a while. I could not say how long. He came into the room where I was examining these persons and he heard me examine two of them, and he called me out in the hall and asked me what I thought about it, asked how many I had examined, I had probably examined 40 or fifty by that time, and he wanted to know what I thought, and I said I didn't believe we were going to get anything, and I didn't see any reason for him staying, "I am taking all the information down."

MR. EDWIN S. SMITH: Do you know any reason why he was over there?

THE WITNESS: Why, I don't know, except what I heard.

MR. EDWIN S. SMITH: Well, tell us what you heard.

MR. DAY: We object to that.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Exception.

THE WITNESS: Looking over some men over there and some suggestion that they came to Massillon to find out what was going on there.

MR. EDWIN S. SMITH: When did he arrive, just the night of these arrests?

THE WITNESS: No, he arrived, I believe it was, let's see, Tuesday, the 13th, in the afternoon; that was the second day after the arrests.

MR. DONALD WAKEFIELD SMITH: May I just ask a question there.

As a result of your examination of these various individuals, and as a result of any examination of the immigration inspector, was any warrant of arrest, pursuant to Section 19 of the Immigration Act, issued by the Secretary of Labor against these alleged aliens?

THE WITNESS: Not up until the time I left for Washington.

Q. (By Mr. Hunt) Was it the custom when somebody was arrested to examine him to see if he was subject to deportation? Had you done it before?

A. I have since last October.

Q. Were you simply carrying out the procedure in this case, or was there any other reason why you examined these men?

A. Well, we would have done it anyways, but the Law & Order League had been complaining that a good many of these men weren't in the United States legally, and they should be deported, and so forth, and I felt that I ought to at least satisfy myself just what their status was.

Q. And you found five or six you felt might possibly be subject to deportation out of the total of about 165?

A. I am assuming now that they told me the truth in the examination.

MR. HUNT: That is all.

Cross Examination

Q. (By Mr. Day) Are you a native of Massillon?

A. I was born in Cleveland, but I had all my schooling in Massillon.

Q. Is it City Solicitor they call you?

A. That is correct.

Q. How long have you been City Solicitor?

A. Since January 30, 1936.

Q. And you took quite an active part in representing the city in connection with the strike situation?

A. I did.

Q. You were the law officer of the city?

A. That is correct.

Q. And you acted in connection with the Chief of Police and the mayor?

A. That is correct.

Q. Now the mills closed down when in Massillon?

A. The mills were closed down the night of May 25th, although I didn't know about the strike until the following morning.

Q. And the strike took place the next day?

A. The strike took place about ten or eleven o'clock on May 25th, ten or eleven o'clock in the evening.

Q. Were there any men in the mills at all after that?

A. There were some men in the mill, I imagine a couple hundred men were in there.

Q. And all the rest had gone out?

A. And all the rest had gone out.

Q. And when did the picket line form?

A. The picket line formed,—this, of course, is hearsay, too.

Q. I just want your best knowledge and recollection of it.

A. The picket line formed at ten or eleven o'clock on May 25th.

Q. And when did you first go out and look at the picket line?

A. I went out the morning of the 26th. The Chief called me at home and said he wanted to see me right away and I must have gotten in his office about eight thirty, and he informed me we had a strike on, and we talked about various matters there, other things, and he asked me if I would like to see the picket line, and I said, "Yes," and we went down and looked at it, looked it over.

Q. What did you observe about the picket line that first day? About how many were on it?

A. I would say probably a couple hundred men the first day.

Q. Was that number increased or decreased as time went on?

A. That number decreased. Of course it varied. One day we counted them and counted 165 men.

Q. And as you went out to the picket line that day, did you do so also other days after that?

A. A good many days I went out.

Q. These pickets were armed, weren't they?

A. They had clubs, if you call that an arm.

Q. Well, some of them had ball-bats, didn't they?

A. There were a few of these small ball-bats like boys use, and then there were some broom sticks and some willow sticks.

Q. Were there stones around there?

A. There were stones, yes.

Q. And that situation with the mills closed down, except for the men you have told us about, and the picket line established, kept on until when?

A. That kept on until about the time the court issued an injunction, and then that situation began to decrease, and when the troops came in they cleared the whole thing up.

Q. Can you give us an idea, or can you give the Board an idea as to just about when it was the Common Pleas Court issued that injunction?

A. I think it was about June 21st, 24th, or 25th, or right along in there.

Q. I asked the Chief this question and he could not answer it: Do you have knowledge of the fact that that injunction was granted by the court?

A. That was a temporary—

Q. A restraining order?

A. Yes.

Q. It is still in effect?

A. Yes.

Q. I understand the case has been heard on the merits, but there has been no decision on the merits yet?

A. If it has, it has been since last Thursday.

Q. If it has, it has been since last Thursday, you say?

A. Yes.

Q. Do you know that suit for an injunction was brought not by Republic Steel Corporation but by a group of men wanting to go back to work?

A. As I understood the suit, it was brought by some men who were located in the plant.

Q. Don't you know it was brought by men in the plant, and men outside the plant, also, who wanted to go back to work?

A. I just understood it was men in the plant. In other words, it was brought by someone other than the Republic.

Q. By the men?

A. Yes.

Q. (By Mr. Donald Wakefield Smith) Do you know who the attorney in that suit was for the men?

A. Adolph Unger and Frank T. Bow.

Q. (By Mr. Day) So far as you know, neither Mr. Unger nor Mr. Bow is counsel, or ever has been counsel for Republic? That is right, isn't it?

A. Yes.

Q. (By Mr. Donald Wakefield Smith) Have they ever been counsel for the Law and Order League, to your knowledge?

A. Not in Massillon, but Mr. Unger has been prominent in the Law and Order League in Canton.

Q. (By Mr. Day) In this Law and Order League, is it an actual league, or is it just a group of citizens who joined together in connection with this strike situation?

A. I would say it was a group of citizens who joined together in connection with the strike.

Q. There wasn't any league before the strike?

A. No.

Q. So far as you know, the leading members of that league haven't any connection with Republic, have they?

A. None at all.

Q. And you have lived in Massillon for many years?

A. Yes.

Q. The leading members of that league are responsible citizens, are they not?

A. Well, they own property there. But, as I told one of them after the meeting, if I had gone into his private office and performed the way that he performed in the mayor's office, or the way they performed in there, that I would certainly be thrown out.

Q. Prior to the strike, they were responsible citizens, so far as you know?

A. So far as I know, they are responsible and had a business there, or owned property, or something like that.

Q. Now, as to the Chamber of Commerce. The secretary of that is Mr. Case? Is that right?

A. That is right.

Q. And he has no connection with Republic, so far as you know?

A. None at all. By "no connection," I mean that he is not employed.

Q. And he was a law-abiding, responsible citizen before the strike?

A. Yes; he still is.

Q. He still is?

A. Yes.

Q. You have talked about some statements being made there by Carl Meyers and by Mr. Lester and by various persons. Isn't it a fact the feeling was running pretty high there in Massillon during this strike situation?

A. That is right.

Q. And you told the Board about delegations, so-called Law and Order League coming to see you, and the Chamber of Commerce coming to see you, and Carl Meyers talking to you. Did anybody from the C. I. O. come to see you and the Mayor?

A. I never attended any meeting with the Mayor and the C. I. O. I have been in the Chief's office when they have been in there.

Q. And who would come in representing the C. I. O. at the Chief's office when you were there?

A. Usually Joe Morton was there.

Q. He is under indictment now, isn't he?

A. That is right.

Q. For obstructing the United States mails?

A. That is right.

Q. And that is an indictment returned by the United States District Court Grand Jury?

A. Yes.

MR. PRESSMAN: I would like to have those questions and answers stricken from the record. I do not feel that this witness here has any personal knowledge with respect to that when it apparently occurred, as Counsel said, in the United States District Court in Cleveland.

MR. DAY: We have not been held to personal knowledge in any of these examinations.

MR. PRESSMAN: May it please the Board, as I stated yesterday, it is one thing for a witness to indicate information, but where it reflects upon an individual who may be involved in some serious situation I think we ought to be held to strict adherence to the rules of evidence.

MR. DAY: If the Board please, they have gone into the personnel of the Law and Order League, and they have stated that Mr. Lester, the head of that Law and Order League, made some rather extreme statements, and they indicated that he was not responsible, at least in this situation. Now, then, haven't we the right to show that the C. I. O. man who went there and conferred with these same city officials happens to now be under indictment by a United States Grand Jury, as tending to show what kind of a man he is?

Q. (By Edwin S. Smith) How much do you know of your own personal knowledge as to the questions Counsel has asked you?

A. If I can be permitted to explain how I know he is under indictment—

MR. PRESSMAN: May we take this off the record?

MR. DAY: No, no, let's have all of it on the record.

MR. EDWIN S. SMITH: It will be on the record. Go ahead.

THE WITNESS: Two United States Marshals came into the Police Department while I was there and asked if we knew where they could get in touch with Joe Martin, that they had a capias for his arrest.

Q. (By Mr. Day) How long ago was that?

A. That was on the 14th or 15th of this month. We left on the 15th. It was probably the day before.

MR. DONALD WAKEFIELD SMITH: I think, Mr. Day, under our system of Government, a man under indictment is supposed to be innocent until proven guilty, just the same as the Republic Steel Company in this case is innocent until proven guilty.

MR. DAY: I think that is true. But I think when the other side is permitted to show that Mr. Lester was a man who owned property, that he happened to be the president of a manufacturing concern, and that members of this Board themselves brought out the fact that some members of the Law and Order League were bankers and business men, we have the right to show that the spokesman who brought these charges happens to be a C. I. O. man who is now under indictment

MR. PRESSMAN: Before Counsel talks on the record with regard to the character of anyone, affecting individuals of the C. I. O. who are witnesses, and addressing the question to a witness who has no information of his own personal knowledge with regard to that, it shows that the testimony of this witness is clearly incompetent at the present moment.

MR. EDWIN S. SMITH: Mr. Pressman and Mr. Day, so far as I am concerned, my interest in these questions has been confined as to whether or not the witness, or the previous witness to whom such questions were addressed, had knowledge that there had been alleged activities by strikers in connection with interference with the mails. It seemed to me that that evidence had a certain pertinence as it helped to paint the picture of whether or not there was a situation of violations and one requiring extraordinary precautions as to law and order.

My own questions yesterday directed to the time when these episodes took place, and I think indicated, so far as I was concerned, that that was an important part of that whole picture.

MR. DAY: I can readily understand that.

MR. EDWIN S. SMITH: And how much need there was for extraordinary precaution. But I really think on the score of trying to impugn the particular individuals and representatives of the C. I. O., that the testimony is not appropriate. As the other Board member points out, the men are simply under indictment at the present time.

MR. DAY: That is true.

MR. EDWIN S. SMITH: I would prefer to see the whole hearing get moving, and let's drop this episode. The witness has testified he knew this particular individual is under indictment.

MR. PRESSMAN: The witness did not indicate that he knew.

MR. DAY: You know it, don't you?

MR. PRESSMAN: Do you want to go on the stand?

MR. DAY: No; I am asking you.

MR. PRESSMAN: I am not on trial.

MR. EDWIN S. SMITH: Just a minute, please. It seems to me entirely futile that this whole proceeding should resolve itself into a question of whether or not that man is under indictment. He is either under indictment or is not under indictment; and I don't know which.

MR. PRESSMAN: This witness does not have any personal information with regard to that situation.

MR. EDWIN S. SMITH: I would rather not see it tried out, so to speak, at any great length here, as to whether or not he has personal knowledge. If he does not have personal knowledge as to whether this man was indicted I wish he would say so.

Do you know whether or not he is under indictment?

THE WITNESS: Well, that is a hard question to answer, Your Honor. I read it in the newspapers and I talked to the United States Marshal.

MR. PRESSMAN: That is all hearsay.

MR. DAY: He knows the Marshal.

MR. EDWIN S. SMITH: By hearsay, he knows the man is under indictment. Let's let it go at that.

BY MR. DAY:

Q. Who else came down and talked to the Chief of Police in your presence in behalf of the C. I. O.?

A. There were some men, and I don't know their names—Elmer Jordan has been in, and a man named Thomas. Those were about the only men whose names I recall.

Q. How often would they come in?

A. They did not come in very often. They had the idea we were against them.

Q. They thought you were against them?

A. That is what they said.

Q. Have you any idea how they ever got that impression?

A. Well, the Chief had had some pretty serious talks with them.

Q. Did you hear some of those talks?

A. Only about what they said about him telling them to stop blockading the roads and telling them to behave themselves and so on.

Q. Were they blockading the roads?

A. They had a plank across one of the roads at the start.

Q. And you saw that?

A. I did.

BY MR. DONALD WAKEFIELD SMITH:

Q. Was that within the city limits?

A. Yes, sir. But they removed it.

BY MR. DAY:

Q. It was not very long after the strike was declared that the matter of the men going back to work came up, was it? Or when did that come up?

A. Oh, I would say about a week or so later. There were about a dozen men showed up one day in the Chief's office and said they would like to introduce themselves, that they were the ones who wanted to go back to work. And they did not seem to have any program, or anything like that.

Q. They were men, so far as you could find out, who used to work for Republic?

A. That is right.

Q. And they were being held out?

A. Yes.

Q. And they wanted to go back to work?

A. They said they wanted to go to work.

BY MR. EDWIN S. SMITH:

Q. Do you remember the names of any of those men?

A. No, I do not.

BY MR. DAY:

Q. Of course, you knew from the situation out there that they could not go back to work so long as the pickets were there, without violence?

A. I knew this, that Republic was not open and until Republic showed some indication that they were going to open nobody could go back.

Q. When did this episode as to getting the food into the Republic plant, or office, come up?

A. That was along about June 11th.

Q. And you were consulted about that?

A. I was.

Q. And you suggested that Republic try to get the food in there by means of a truck?

A. That is right.

Q. Did you talk to any of the C. I. O. men about that proposition, or were you present when the talk took place?

A. I was.

Q. Who was with you? Was the Chief there?

A. Yes, the Chief.

Q. What was the attitude of the C. I. O. men about food going in?

A. Very antagonistic.

Q. Who expressed that attitude?

MR. DONALD WAKEFIELD SMITH: Just a minute, please. Well, that question is all right.

MR. DAY: Thank you.

A. Morton was the principal speaker.

BY MR. DAY:

Q. The same Morton?

A. Yes, that is correct.

Q. Who else?

A. He did practically all of the talking.

Q. What happened about getting the food in?

A. They got food in but how they got it in I don't know.

Q. Was Morton, the C. I. O. men, advised that there was only food enough in there to keep those men going for about five days?

A. Not that I know of.

Q. You were not there when that took place?

A. I was there all during the conference, yes.

Q. You talked about Carl Meyers, or you talked to Carl Meyers at various times at the Hotel Onesto, didn't you?

A. On three different occasions.

Q. Was that after Mr. Meyers was injured?

A. It was.

Q. And it was difficult or impossible for him to get out?

A. Mr. Meyers was able to get around. There was no question about that when I saw him.

Q. He was injured?

A. I knew he was shot; yes, sir.

Q. Shortly after the strike began?

A. Yes, but not seriously.

Q. And you talked to Mr. Meyers?

A. Yes.

Q. And you talked to Mr. Meyers about police protection for Massillon, didn't you?

A. Most of the talking—

Q. Answer the question, please. Did you talk to him about adequate police protection for Massillon?

A. It was discussed, yes.

Q. And you talked to him about protecting the men if they wanted to go back to work, didn't you?

A. Yes, I believe we did.

BY MR. DONALD WAKEFIELD SMITH:

Q. Who originated that conversation? Was it Mr. Meyers or you?

A. Mr. Meyers.

BY MR. DAY:

Q. How soon did you find out there were a great many men in Massillon who worked for Republic who wanted to go back to work?

A. About the 21st of June.

Q. At that time was there a delegation of them that came down to the City Hall?

A. There was.

Q. About how many of them?

A. Anywhere from 300 to 400.

Q. Did you know some of them?

A. Yes.

Q. Were they men you had known over the years in Massillon?

A. They were.

Q. Men who owned their homes?

A. That is correct.

Q. And had wives and children living there?

A. That is correct.

Q. And had been good citizens?

A. That is right.

BY MR. DONALD WAKEFIELD SMITH:

Q. Did they indicate in any way that they represented the desire of the majority of the employees of the Republic Steel?

A. Well, they said they did.

BY MR. DAY:

Q. As to the desires of the majority of the Republic Steel, when the plants were open how many did go back at Union Drawn?

A. As I understand it, there are about 350. I am not positive as to that figure.

Q. How many went back at the sheet mill?

A. The Republic seemed to take its time about getting the men in there; but when we left I think there were 2,300 men back there.

Q. Back to work?

A. Yes.

BY MR. DONALD WAKEFIELD SMITH:

Q. You have no personal knowledge whether the men there now are former employees of the Republic, have you?

A. No, sir.

Q. So far as you know, they may be persons who never worked in that plant before for Republic? Is that true?

A. That is true.

BY MR. DAY:

Q. Have you any knowledge along the same lines as to how many men there were on the picket line who never worked for Republic before and never had anything to do with Republic?

A. I will say this, that that question was raised when the strike broke. In going over the picket line most of the faces were familiar.

Q. A lot of them were not?

A. I would not say a lot of them.

Q. You haven't any knowledge that the men who went back to work for Republic were not employees of Republic?

A. No.

Q. You have no knowledge there were any?

A. No.

Q. That is something that Republic would know and you haven't knowledge of it?

BY MR. DONALD WAKEFIELD SMITH:

Q. Just a minute. Would you know the face of every picket?

A. I knew a good many of them.

Q. But you did not know all of them?

A. No, I would not know all of them.

BY MR. DAY:

Q. There were some of them you had never seen around Massillon before, weren't they?

A. I would not say that I had not seen them around there before. I would say that they were not familiar.

BY MR. DONALD WAKEFIELD SMITH:

Q. Massillon is a town of 30,000, isn't it?

A. That is right.

MR. DAY: I am not implying that he knows everybody in Massillon, but I am implying he didn't know everybody on the picket line.

By the way, although the Board has ruled on this, to preserve the record I want to ask this question;

BY MR. DAY:

Q. You got here when?

A. Friday, July 16th.

Q. And you came at the instance of Mr. Hunt, Counsel over there?

A. Mr. Hunt and Mr. Lauter.

Q. Mr. Who?

A. Mr. Lauter.

Q. They are both Counsel for the National Labor Relations Board?

A. Yes.

Q. And you have been here ever since?

A. Yes.

Q. I will not ask you where you are because they would not let me ask you that.

Has your family been able to communicate with you during all of that time?

MR. HUNT: I object to that.

MR. EDWIN S. SMITH: Objection sustained.

MR. DAY: An exception, please.

BY MR. DAY:

Q. Has the City of Massillon been able to communicate with you during all of that time?

MR. HUNT: I object to that.

MR. EDWIN S. SMITH: Same ruling.

MR. DAY: An exception please.

BY MR. DAY:

Q. Who is running the City of Massillon now, with all you three men down here?

A. I don't know. We left so soon that I didn't find out.

Q. You don't know?

A. No.

Q. You have not found out since?

A. No, sir.

Q. What made you leave so precipitously?

MR. HUNT: I object.

MR. EDWIN S. SMITH: Objection sustained.

MR. DAY: An exception, please.

BY MR. DAY:

Q. Do you remember going to a meeting at the Conrad Hotel about the 28th of May? I think it was in the evening?

A. I do.

Q. Some of the Law and Order League were there?

A. That is right.

Q. Did Chief Switter make some remarks?

A. He did.

Q. In the course of those remarks did he in words or in substance say this: "I know that the law has been violated in many ways."

A. I don't remember him making that statement.

Q. Will you say that he did not?

A. I would.

Q. Did he say in substance this: "What can I do?"

A. I know that he did say, "What can I do with my force of 18 men and my equipment?"

Q. Did he in words or in substance say this: "I have been out along the picket line and there are a lot of niggers, Wops, and communists."

A. He didn't say anything about communists. I am pretty sure about that.

Q. Did he say anything about the others?

A. That there was some niggers and some foreigners there.

Q. Did he say in words or in substance on that occasion: "If I had authority I would clean up the whole blank bunch"?

A. No, he did not.

Q. Did he say that they ought to be run out of Massillon?

A. No, he did not.

Q. Did he say: "There is not a decent man or a good citizen in the entire picket line"?

A. No, he did not.

Q. About how many persons were present when the Chief did make his speech?

A. Oh, there were probably twenty-five there.

Q. Can you name a few of them?

A. Mr. Case and Mr. Lester, and C. E. Boyd.

Q. Is that all you can remember?

A. I can remember Mr. Lester and Mr. Boyd because before the meeting ever started they engaged me in an argument about the freedom of the roads, and I was kind of worked up about it. I believe Mr. Crawford was there.

BY MR. EDWIN S. SMITH:

Q. Who is Mr. Boyd?

A. He is an attorney.

Q. What was the matter with the roads at that time?

A. They complained, or Mr. Lester complained, that every time he wanted to go through the strike area with his automobile that his automobile was stopped and the pickets would ask him who he was and where he was going. And he said he was an American citizen, and a taxpayer, and that it was a public road and he had a right to go there if he pleased.

BY MR. DAY:

Q. So far as you know, he was all of those, wasn't he?

A. Well, I don't know whether he paid his taxes or not. Nobody does any more.

Q. You haven't brought down here any record tending to show that he does not pay his taxes, have you?

A. No, I have not.

Q. At this meeting here when this resolution or petition was brought down, you say that rather amused you.

A. That is right.

Q. You had a hard time to keep from laughing?

A. Yes.

MR. EDWIN S. SMITH: Before you go into that petition at any length, we will recess for a few minutes.

(Thereupon, a short recess was taken, after which the following occurred):

BY MR. DAY:

Q. Mr. Hardman, you were telling about the arrests that were made after the trouble on Sunday night, July 11th.

A. Yes, sir.

Q. About what time were those arrests made? Do you know that?

A. Of course, the only information as to this that I had is what the men told me themselves, that the arrests were made at any time a little before 11 o'clock,—that is, 11 p. m., until the next morning at perhaps 8 o'clock.

Q. Eight o'clock, you say?

A. Yes.

Q. And while you were not there at the time of the fight—that is, at the time the fight occurred, you did find out that it started at about what time?

A. About 11 o'clock.

Q. And at what time was it over? Do you know that?

A. No.

Q. You were not there?

A. No.

Q. Where were you at the time? I am not suggesting that you were there, but were you in Massillon?

A. No, I was not. My wife was away on a vacation and I thought things were quiet, and I would go to see her, and I was away.

Q. There is no objection to that, of course. Now, about your police force. You had a strike over there at Massillon, and it was a pretty serious strike, wasn't it?

A. It was a big strike.

Q. And you had men that wanted to go back to work, didn't you?

A. We did.

Q. And you had men on the picket line?

A. We did.

Q. And you knew, did you not, or you believed that if there was a meeting between the men who wanted to go back to work and the picket line that there would be trouble? That is right, isn't it?

A. We did.

Q. When the back-to-work movement was organized and they wanted to have a meeting, I think those who were instrumental in that project were discouraged from having the meeting, were they not?

A. They were called in and consulted about that. The fact of the matter is that one of the members of the back-to-work committee went up to the park to assist in the discouragement.

Q. What you had in mind was that if they had these back-to-work meetings and the pickets found out about it, that there might be trouble?

A. That is right—at that particular time.

Q. And that trouble would come from the resistance by the pickets of the movement, of the back-to-work movement? That is right, isn't it?

A. That is right.

Q. And you said this morning that you thought the trouble might result in bloodshed, or that bloodshed would come by the resistance from the pickets to the men who wanted to go back to work?

A. Well, it would come from both sides. I would not commit myself on it that it would come from the resistance of the pickets.

Q. And the large number of men who wanted to go back to work had worked there before?

A. There were quite a few in the crowd that I knew were employed at the Republic.

Q. And they were men you told about a few minutes ago?

A. That is right.

Q. I do not want to ask you about them again. You had an inadequate police force to meet this situation, did you?

A. That is correct.

Q. There is no question about that, is there, Mr. Hardman?

A. I don't think so. For some time the Chief has been trying to get the police force built up.

Q. In Massillon?

A. Yes.

Q. Before this trouble happened?

A. Yes.

Q. You did not have much of a police force, with those 30,000 people there, and with the mills, even without a strike?

A. No; I will admit we did not.

Q. With only 18 men?

A. Yes.

Q. And five out of the eighteen working inside?

A. Yes.

Q. And that left thirteen?

A. Yes.

Q. And the Chief said yesterday they had one shift of five men and two shifts of four men each?

A. Yes.

Q. So you believed they ought to have more policemen to meet this emergency, didn't you?

A. That is right.

Q. And you said there was an emergency?

A. Yes.

Q. And the emergency was due to the fact that there was a strike and the pickets and the men wanting to go back to work?

A. Yes.

Q. Did you take the stand at these various conferences—and I will not go over all of them—that there should be an increase in the police force?

A. I believe I did, subject to certain limitations, and that the men had to be qualified, and they should be used downtown, and not that somebody should crack the picket line. That is the expression we used over and over again.

Q. What did you mean by that?

A. Go down and drive the pickets out.

Q. Go down and get into a battle with the pickets?

A. Yes.

BY MR. DONALD WAKEFIELD SMITH:

Q. Peaceful picketing is permitted under the law of the State of Ohio to your knowledge, isn't it?

A. To my knowledge, it is.

BY MR. DAY:

Q. Some suggestion has been made about the injunction hearing in Canton. I would like to read into the record the journal entry in that case. The injunction has now been made perpetual.

MR. HUNT: What is that?

MR. DAY: I would like to read into the record the journal entry in the case of Mr. Samuel H. Smith et al. v. Amalgamated Association of Iron, Steel, and Tin Workers of North America, et al.

Mr. Hardman said the situation changed somewhat after a preliminary injunction was granted. I would like to read the permanent injunction that has now been granted. We do not know the exact date, but we have a copy of it. I would like to read it in the record.

MR. HUNT: Is that a certified copy?

MR. DAY: Yes, it is.

MR. HUNT: What is the purpose of reading it into the record?

MR. DAY: To show the nature of the injunction that was granted, and as tending to show the situation that existed which, after a full hearing, made the granting of the injunction necessary and proper.

MR. HUNT: What has that to do with the strike situation in Massillon?

MR. DAY: It has a great deal to do with it. It deals with the strike situation in Massillon.

MR. HUNT: What has that to do with the duties of the City Solicitor of Massillon?

MR. DAY: It is not only a question in this case of what the duties of the City Solicitor are.

MR. HUNT: I submit that on direct examination the subject of this injunction suit was not raised. It seems to be quite far from anything brought out on direct, and I object.

MR. EDWIN S. SMITH: Is it your purpose to put in this entire decree?

MR. DAY: The injunction part of it. There is only a page or two.

MR. EDWIN S. SMITH: Why don't you simply introduce it in the record?

MR. DAY: I would like to read it for the Board so that the Board may have it in mind as we go along taking the testimony..

MR. EDWIN S. SMITH: Well, go ahead.

MR. DAY: I will read it:

"S. H. Smith et al.,
Plaintiffs,
v.
Amalgamated Association of
Iron, Steel & Tin Workers
of North America, et al.,
Defendants."

MR. DONALD WAKEFIELD SMITH: Are you reading from a properly certified copy of the court record?

MR. DAY: That is what I am reading from. I certainly do not want to read anything that is not properly certified.

MR. DONALD WAKEFIELD SMITH: I do not accuse you of that.

MR. DAY: I only saw it a couple of minutes ago myself.

MR. DONALD WAKEFIELD SMITH: To your knowledge, is this the signature of the clerk of the court?

MR. DAY: I don't know the signature of the clerk of the court down in Canton, Ohio.

MR. DONALD WAKEFIELD SMITH: I think it is quite important if you are reading something into the record, to know that it is a true, correct copy.

MR. DAY: If it purports to be certified it is admissible in any court.

MR. DONALD WAKEFIELD SMITH: Not in this court unless it is a true and correct copy.

MR. DAY: It appears to be certified by the clerk of the court of Stark County.

MR. HUNT: Is there a notary's certificate?

MR. DAY: When you ask if I know his signature, of course, I do not know it.

MR. EDWIN S. SMITH: Can you defer the reading of that for just a moment?

MR. DAY: Certainly.

MR. EDWIN S. SMITH: We just received a message which requires the Board to recess for a few minutes.

(Thereupon, a short recess was taken, after which the following occurred):

MR. HUNT: I would like to make a statement about that paper.

This injunction decree related to Canton, as I understand it, and was brought by a man in the Canton plant and referred only to the Republic Steel Corporation in Canton. But we are discussing now Massillon and not Canton.

MR. DAY: It is county wide. The injunction was a county-wide injunction, and I think the record included evidence as to both Canton and Massillon, didn't it? It was a county-wide injunction.

MR. EDWIN S. SMITH: I would think if the injunction applied primarily to Canton, and was brought by Canton workers, that the company might prefer to introduce it in connection with hearings that might be held on the Canton situation.

MR. DAY: This was a county-wide injunction.

MR. DONALD WAKEFIELD SMITH: Does it specifically name Canton and Massillon plants?

MR. DAY: The second one says: "From obstructing any streets, or highways within the County of Stark, or within the City of Canton, Ohio, or interfering with persons in the lawful use of said streets and highways."

MR. EDWIN S. SMITH: Was it brought by a group of Canton workers?

MR. DAY: Yes, it was.

MR. EDWIN S. SMITH: Don't you think it would be advisable to defer it until that time?

MR. DAY: I think it is county wide.

MR. EDWIN S. SMITH: Well, you may go ahead. We have said you may read it.

MR. DAY: I will read it:

"State of Ohio,
Stark County, ss:

In the Court of Common Pleas
Case No.

S. H. Smith, et al.,
Plaintiffs,
vs.
Amalgamated Association of

Iron, Steel & Tin Workers
of North America, et al.,
Defendants.

Journal Entry

"This day this cause came on to be heard upon the petition of the plaintiffs, answer of the defendants, and the evidence, and was submitted to the court. On consideration whereof the Court find on the issues joined for the plaintiffs that the plaintiffs are entitled to work in the plant of the employer, the Republic Steel Corporation, without interference from the defendants, their agents, members or employees or person associated with them, or their aiders and abettors.

"It is therefore considered and decreed that the defendants, and each of them, be and they are hereby perpetually enjoined:

"(1) From arming, or permitting any of their pickets being armed with clubs, pipes, baseball bats, blackjacks, knives, guns or other weapons;

"(2) From obstructing any streets, or highways within the county of Stark, or within the city of Canton, Ohio, or interfering with persons in the lawful use of said streets and highways;

"(3) From inducing by intimidation, threats, abuse or violence, any person who is now, or may hereafter become an employee of the Republic Steel Corporation, to leave plaintiffs' employ; and from preventing, by intimidation, threats, abuse or violence, any person from entering into employment with the Republic Steel Corporation, in the County of Stark;

"(4) Said defendants are further restrained from in any manner interfering with the rights of the plaintiffs and those similarly situated from entering the plant of the employer for the purpose of working, or in any manner interfering or preventing those now in the plant to leave said plant; and said defendants are restrained from interfering with the free access of the plaintiffs and those similarly situated to the employer's premises, and with their free return to their homes, boarding places or other places to which they may desire to go.

"(5) From damaging any of the property of the plaintiffs, or those whom they represent.

"Coming now to the question of fixing and determining the number of pickets that may be on duty at any time during the continuation of this strike; the Court fixes the number as follows:

"At any of the gates and entrances of the plants of the Republic Steel Corporation in or near the City of Canton, Ohio, and such other places which afford ingress and egress to the employees, there shall be not more than six (6) pickets, except at the main gate on 8th Street, N. E. in the City of Canton, Ohio, near the office, where there may be ten (10) pickets.

"As to the number of pickets at other points outside those above enumerated no special rule can be laid down in detail, but at no place or point may the number be so great as to prevent access to the plants, or in itself to constitute a threat of physical force. This order with respect to the number of defendants' agents or pickets can be amended when necessity is made to appear.

"It is further considered that plaintiffs recover from the said defendants, their costs herein expended, taxes at——————Dollars.

(Signed) George N. Graham,
Judge."

And it is certified.

MR. EDWIN S. SMITH: I think it is quite obvious that pertains only to the Canton situation.

MR. DAY: I do not want to say professionally, but we have reasons to believe that the case was county wide.

MR. EDWIN S. SMITH: Obviously, I cannot decide that point here. I agree with Mr. Smith that specific reference as to pickets seems to refer only to the Canton situation.

BY MR. DAY:

Q. Now, about this meeting when there was a rumor that the rubber workers from Akron were coming down.

MR. HUNT: Is this document offered as an exhibit?

MR. DAY: I will offer it as an exhibit. We would better have it marked first.

MR. EDWIN S. SMITH: I think Counsel wants a minute to examine that document.

MR. HUNT: Yes, I would like to do that.

Is this admitted in evidence? I would like to ask for a ruling on the record.

MR. EDWIN S. SMITH: Do I understand you object?

MR. HUNT: No, I do not object.

MR. EDWIN S. SMITH: It may be admitted.

(The document referred to was thereupon received in evidence and marked "Respondent's Exhibit No. 2.")

BY MR. DAY:

Q. Coming now to the assembly of persons in Massillon in response to the rumor that the rubber workers were going to come from Akron, what was the date of that?

A. That was June 25th, I believe.

Q. What time of day was it?

A. They called me about 6:30 in the evening. About 7 o'clock the first alarm was rung.

Q. Who called you?

A. The City Prosecutor.

Q. Of what?

A. Of Massillon.

Q. The City Prosecutor?

A. That is correct.

Q. You have a municipal court over there, have you not? I am just trying to figure out the difference between the City Prosecutor and the City Solicitor.

A. I appointed him to take care of the police work.

Q. He is in your office?

A. Yes.

Q. He is one of your assistants?

A. Yes, sir.

Q. He first told you about it?

A. Yes.

Q. There was a fire alarm?

A. Yes.

Q. Did the bell ring?

A. Yes.

Q. Did the American Legion turn out?

A. Some of them did.

Q. Some of them?

A. Yes.

Q. I think you said in answer to Mr. Hunt, that others were there before the bell was rung?

A. That is correct.

Q. Where did they come from?

A. I don't know.

Q. They came before the bell was rung?

A. That is right.

Q. How many were there before the bell was rung—that is, the American Legion signal?

A. I would say there were around 400 men out in front of the police department.

BY MR. DONALD WAKEFIELD SMITH:

Q. Did you recognize any of those men as being employees of the Republic Steel Corporation?

A. Oh, yes.

BY MR. DAY:

Q. There were a lot of them who were not Republic Steel employees, were there not?

A. I couldn't answer that. There were some of them. I don't know whether they are employed, but there were some there I know are employed by Republic.

Q. Before that there were widespread newspaper accounts as to an invasion of Youngstown by the rubber workers?

A. Yes.

Q. And that was published in the newspapers?

A. Yes.

Q. In Youngstown?

A. Yes.

Q. And in Canton and Massillon?

A. Yes.

Q. And, so far as you know, they were available to readers in Canton and Massillon?

A. Yes.

Q. Did the Chief make a speech that day?

A. He made two of them.

Q. Did he make them to the crowd both times?

A. Yes.

Q. What did he say?

A. Well, I don't know what he said the first time. He said something about they didn't have any definite news as to what was going on, that it was more or less indefinite. Then I went inside. The second time I was back in the office with the National Guard officers when he went out and addressed the crowd and dispersed.

Q. You didn't see any reason why the rubber workers from Akron should have a right to invade Massillon, did you?

A. No.

Q. If they had invaded Massillon you would have been in favor of repelling them?

A. Absolutely. My idea was not to send anybody north of town, not to create a battle there, that if they did come in there were only two places they would come, and one would be the Union Drawn Steel Mill and the other would be the Republic, and in either place they could be surrounded and handled.

Q. If the rubber workers came from Akron down into your town you would be in favor of fighting it out?

A. I was in favor of arresting them and putting them in jail.

Q. Did you know whether or not for some time there has been a group of rubber workers in Akron who have been going around visiting the surrounding cities and causing and creating violence?

A. Not since the Youngstown episode.

Q. I want to ask you this question: At any rate, at the time the crowd was dispersed and no damage was done? Is that right?

A. That is right.

Q. I want to ask you about the morning meeting before the policemen were selected. That took place in your office or in the mayor's office?

A. In the mayor's office.

Q. At that meeting was it finally decided to have special police?

A. That is right.

Q. Carl Meyers was not at that meeting, was he?

A. No, he was not.

Q. At the luncheon meeting, where the statement was made that it had finally been decided that extra policemen would be added, and when Carl Meyers made a speech, that was at a luncheon following the morning meeting at which he was not present, wasn't it?

A. That is correct.

Q. And Captain Curley and yourself selected the policemen? Is that right?

A. I didn't have anything to do with it.

Q. You swore them in?

A. I swore them in.

Q. You were there when they were selected?

A. I looked out a few times and saw them being selected, and I would go back into the office and I waited until they had them all ready.

Q. You said you did not believe an excitable man should be put on that kind of an emergency police force?

A. That is right.

Q. You ought to have a man with a cool head to take care of almost any emergency?

A. Yes.

Q. Did you communicate this idea to Captain Curley or anybody?

A. I didn't say anything to Captain Curley.

Q. Did you see the men who were selected for this service?

A. I did.

BY MR. DONALD WAKEFIELD SMITH:

Q. As to the employment of these special police, did you think that by reason of the fact they were employees of the Republic Steel Corporation it might aggravate their excitement?

A. I felt that way but I did not refuse to take a man who I would consider as being level-headed, or I wouldn't refuse, had I been permitted to pick them.

Q. Even if he worked for Republic?

A. Even if he worked for Republic. But I would have preferred men who did not work for Republic.

BY MR. DAY:

Q. If anything had broken out on that picket line before the troops came, unless you had extra policemen Massillon could not have dealt with the situation, could it?

A. I did not feel we could have dealt with it, no—if anything had broken out.

Q. And it would be just a question of something breaking out, of whether something did break out or did not break out?

A. That is right. It did not look like anything would break at that time.

Q. And the sheriff, what was his attitude about this whole subject of police protection, and so on; what was the attitude of Joe Nist, the sheriff of Stark County?

A. Of course, he made the statement he wanted to enforce the law. And most of the time he had one man on a motorcycle down there.

Q. He did not have many men, did he?

A. No, he was trying to add them, the same as we did.

Q. In other words, he did not have men enough, and you did not have men enough?

A. That is right.

Q. On the night of the riot, or the fight, or whatever it may have been, or the trouble there, you found out that there were some regular policemen from Massillon who were there with some of these men; is that right?

A. That is right. I could not tell you how many on each side. I was prepared to investigate that on Thursday when I left for Washington.

Q. You did not complete that investigation?

A. I went down there the Monday after it started and the place was so full up with gas I couldn't do much about it. And I knew I had to clean out the jail and get rid of these 160 men so I decided it was best to do that.

Q. Did you make an investigation to the extent of talking to your policemen as to what occurred?

MR. HUNT: I object to that. Mr. Hardman was not present. I did not question on this on direct.

MR. DAY: I don't think that makes any difference.

MR. EDWIN S. SMITH: I think if he talked with the policemen he may testify on that point.

MR. DONALD WAKEFIELD SMITH: What incident is this that you are referring to?

MR. DAY: Sunday, July 11th.

MR. DONALD WAKEFIELD SMITH: And he said he was out of town.

MR. DAY: Yes, he was out of town.

BY MR. DAY:

Q. Have you completed your investigation on that?

A. No, sir; I have not.

Q. Until you complete your investigation would you rather not testify about it?

A. That is correct, because I have conflicting reports.

Q. All right, then. I will not ask you about it.

BY MR. DONALD WAKEFIELD SMITH:

Q. Your investigation into this incident has to do only with your prosecution of these individuals, doesn't it?

A. No. I am going to attempt to find out, if I can, from the officers and from all the surrounding facts just how it started, so that if the city is ever involved in it in the future the city will be prepared to meet it.

Q. Now, you are going ahead with that investigation when you get back home?

A. That is right.

Q. I see. As a lawyer, I was going to ask you about it, but now I will not ask about it.

A. I can't give you any definite information.

Q. I have read this petition and read the signatures, and, Mr. Hardman, it is quite difficult for me to see anything to laugh at about this.

MR. EDWIN S. SMITH: What is that petition?

MR. DAY: This is a petition to the mayor, sheriff, and Chief of Police, introduced in evidence by the opposing side.

MR. EDWIN S. SMITH: He has testified to the particular section about which you asked. If you want to question him about the whole thing—

MR. DAY (Interposing): I would like to question him about the whole thing.

MR. EDWIN S. SMITH: We don't have to stop and listen to the whole document. Let him read it.

MR. DAY: I wanted to ask if certain things are true. It says, "without specific indictment as to the responsibility therefor, private property in Massillon is no longer inviolate, destruction of private property has taken place with impunity, acts of vandalism has occurred." Those are generalities.

BY MR. DAY:

Q. "Telephone cables have been cut," is that right?

A. There was one telephone cable cut and the police line was cut, or pulled down.

Q. Did you discover who did it?

A. Never discovered them.

MR. DONALD WAKEFIELD SMITH: It is a petition signed by whom?

MR. DAY: It is a petition to the Mayor and Chief of Police and Sheriff of Stark County, and it is signed by a great number of individuals and institutions, and I will acquaint the Board with it.

MR. EDWIN S. SMITH: One or two will be sufficient.

MR. DAY: I will do so.

MR. EDWIN S. SMITH: All right.

BY MR. DAY:

Q. Was that telephone cable running into the Republic Steel Company that was cut?

A. It was; yes, sir.

MR. EDWIN S. SMITH: Will you read the first part prior to the telephone cable cutting?

MR. DAY: (Reading) "Without specific indictment as to the responsibility therefor, private property in Massillon is no longer inviolate, destruction of private property has taken place with impunity, acts of vandalism have already occurred, telephone cables have been cut."

MR. EDWIN S. SMITH: I would like to ask Mr. Hardman what he thinks of those general characterizations?

THE WITNESS: They weren't true. They were not true.

BY MR. DAY:

Q. Now, getting down to specific characterizations, or statements: "Telephone cables have been cut, explosives have been transported about the city"—

A. (Interposing) That isn't so. They can't prove.

Q. Dynamiting has been resorted to.

A. There was a blast of dynamite set off outside the city limits.

Q. They blew up a culvert.

A. That occurred after this petition was presented. Somebody dropped a stick of dynamite in the culvert there. I believe it was about June 30th.

MR. DONALD WAKEFIELD SMITH: You say this was outside the city limits, anyway? It would not be in the jurisdiction of the police at the time of the City of Massillon?

THE WITNESS: Both occurred outside.

BY MR. DAY:

Q. If somebody blew up something ten or fifteen feet outside of the City of Massillon, you would be more or less concerned with it, would you not?

A. I would.

MR. DONALD WAKEFIELD SMITH: Was it ten feet outside of the city limits, to your knowledge, or quite a distance?

THE WITNESS: The big blast was quite a distance outside the city. The little blast was probably ten or fifteen feet outside the city.

MR. DONALD WAKEFIELD SMITH: That didn't occur on the 4th of July?

THE WITNESS: It occurred around about that time, because some of the people thought it was a big firecracker.

MR. DONALD WAKEFIELD SMITH: It seems the principal incident in connection with the explosion occurred subsequent to the petition?

THE WITNESS: The first occurred prior.

MR. EDWIN S. SMITH: The first explosion occurred prior?

THE WITNESS: Yes.

BY MR. DAY:

Q. "Men armed with clubs have forcefully restrained entrance of workers and others to plants"?

A. There were pickets with clubs.

Q. And some of them in the city limits?

A. Very few.

Q. Mail has been interrupted. That was true, wasn't it?

A. That was true.

Q. That is what I am asking you.

A. That is a long story.

Q. If it is true it doesn't make any difference how long a story it is, does it?

A. There are certain factors. When I say it is true, it doesn't tell the whole story.

Q. It says citizens have been searched and other citizens have been dragged from their homes and beaten, and the general safety of the city is in peril.

A. None that I know of.

Q. Was people dragged from their homes?

A. Not that I know of.

Q. Were men beaten up?

A. That is right.

Q. Joe Morton was in that?

A. I do not believe Joe Morton was in that.

Q. Was there another Morton down there?

A. There were two of them.

Q. The quotations from the Supreme Court of Ohio decision kind of provoked some mirth.

A. That is right.

Q. Is that because you laugh generally at its decisions, or this particular one?

A. I said with all due respect to the Supreme Court, I knew no bank would buy a lawsuit such as that as they were trying to shove over.

Q. The Massillon Welfare Association is the first signature on the petition.

A. I never saw the signatures. I heard people were asked to sign.

MR. DONALD WAKEFIELD SMITH: Asked to sign by whom?

THE WITNESS: Somebody circulated that, the Law and Order League.

BY MR. DAY:

Q. Do you at this time, right now, on that witness stand, make the charge or statement that some individual or organization signed this statement under compulsion without knowing what was in it?

A. I would not say under compulsion. I would say they did not know what was in it. That is the rumor that came to me.

Q. That is the rumor that came to you?

A. That is the rumor that came to me; yes, sir.

MR. EDWIN S. SMITH: You say there were no signatures?

THE WITNESS: I never saw anything but the typewriting.

MR. EDWIN S. SMITH: What did you see?

THE WITNESS: What he has there.

MR. EDWIN S. SMITH: Were there signatures on it, would you say?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: Do you know there was an original?

THE WITNESS: Just what I have been told.

MR. DAY: A petition was introduced by Counsel on the other side of the table. They offered it. We don't know. Maybe Mr. Hunt knows.

MR. EDWIN S. SMITH: You never saw the petition but you did see the petition in typewritten form?

THE WITNESS: I saw it in typewritten form in the Chief of Police's office.

MR. EDWIN S. SMITH: There were no signatures appended to it at that time?

THE WITNESS: The copy I saw was typewritten.

MR. EDWIN S. SMITH: That was not the original with the signatures?

THE WITNESS: No, I don't know whether they had the original.

MR. EDWIN S. SMITH: The fact is whether or not there were signatures he has never seen them.

MR. DAY: It has been offered in evidence by the other side. They think it is genuine.

MR. DONALD WAKEFIELD SMITH: Do you think it isn't?

MR. DAY: I think it is. The Board raised the question. I did not.

MR. DONALD WAKEFIELD SMITH: Let Mr. Hunt tell us.

MR. HUNT: This is a copy of the petition given to the Chief of Police, the only copy that he knew of at the time when he handed it over to me in his office. The original, he does not know where it is, but thinks probably Mr. Case of the Chamber of Commerce may have it.

MR. EDWIN S. SMITH: Was this a copy made by the Chief?

MR. HUNT: No, given to the Chief by this committee, and he in turn gave it to me. That copy was presented to the chief and turned over to me. He said this was the only copy he had.

MR. EDWIN S. SMITH: Mr. Hardman, will you leave the stand and let us recall the Chief and find out about the petition?

THE WITNESS: Yes.

(Witness temporarily excused.)

STANLEY W. SWITTER

was thereupon recalled as a witness for the National Labor Relations Board, and, having been previously sworn, testified further as follows:

Direct Examination

BY MR. EDWIN S. SMITH:

Q. Have you examined this exhibit which Counsel holds?

A. Yes.

Q. Do the typewritten signatures correspond, as far you recall, with the written signatures you saw on the original petition?

A. Yes.

Q. Have you examined it from that point of view?

A. Yes, they had several copies and gave one to me and one to the Mayor and one to the Chief Deputy Sheriff France.

Q. This original petition,—the names now appear in typewriting on this copy, but on the original petition they were written in ink?

A. Yes.

Q. I ask you again, to the best of your recollection, were the same names on the original petition that now appear here?

A. Yes.

MR. EDWIN S. SMITH: I think that is sufficient.

MR. DAY: I may have the right to cross-examine Mr. Hardman about it?

MR. DONALD WAKEFIELD SMITH: Are you questioning its authenticity?

MR. DAY: No, I have never questioned its authenticity.

MR. DONALD WAKEFIELD SMITH: Why cross-examine?

MR. DAY: To examine him upon the proposition there was something about it that made him laugh.

MR. DONALD WAKEFIELD SMITH: That is not proper cross-examination.

MR. EDWIN S. SMITH: I think I should handle this since I started ruling on it.

MR. DAY: I wish you would.

MR. EDWIN S. SMITH: Mr. Day, the purpose of recalling the Chief was to find out what he knew about this copy of the petition. I intended immediately to recall Mr. Hardman.

MR. DONALD WAKEFIELD SMITH: I beg your pardon, I thought you wanted to cross-examine this witness.

MR. DAY: I have cross-examined the Chief as much as I want to. Unless he says something new I am through with the Chief.

(Witness excused.)

RICHARD B. HARDMAN

thereupon resumed the stand on behalf of the National Labor Relations Board, and, having been previously sworn, testified further as follows:

Cross Examination (Continued)

BY MR. DAY:

Q. The names on that petition are some of the oldest and best citizens in Massillon, aren't they?

A. They are some of the oldest; yes, sir.

Q. And some of the best?

A. And some of the best, also.

Q. The Massillon Welfare Association signed it.

A. I don't know whether they did or not. As far as I know, as I said before, I didn't know under what circumstances.

Q. The Massillon Kiwanis Club; the Board of Lady Managers of the Massillon City Hospital; the Chairman of the Retail Trades Division, Massillon Chamber of Commerce; the Massillon Grocery and Meat Dealers Association; American Legion, and it says, "A motion was duly made and seconded that we enter into this petition believing that it sets forth the duties of our law enforcement officers, asking that they carry out their duties, and because this petition does not take issue with the questions involved between employers and employees. The executive committee of the Massillon Post No. 221, the American Legion, by C. W. Brown, Chairman."

Does that make you laugh?

A. You misunderstood about the laughing part of it. That was up in the original petition.

Q. You don't laugh at the signatures?

A. They weren't read to us.

MR. DONALD WAKEFIELD SMITH: Explain why you laughed.

THE WITNESS: Let me have the petition.

MR. DAY: Yes, you can have the petition.

THE WITNESS: You probably want to get some of these things anyway, and you are glad to give it to me.

BY MR. DAY:

Q. I am glad to give it to you anyhow if you want it.

A. There is a statement in here that the mayor should put on additional police and pay them, and the only way that I thought at the time, or I knew at the time, was that this thing was highly impracticable, and that it was a grandstand play, and that morning I accused them of it.

Q. Accused who?

A. Franklin Maier.

Q. He is a lawyer for what?

A. The back-to-work movement.

MR. EDWIN S. SMITH: That is spelled M-a-i-e-r?

MR. DAY: That is right. That isn't the one you have in mind?

THE WITNESS: I smiled at the statement "Like a storm in the night season," and also the fact that dynamite was being transported throughout the city. I defy them to prove it.

BY MR. DAY:

Q. Right now you are only laughing or—you are neither laughing nor smiling or doing anything of that kind at the signers of that petition?

A. Not at the signers; no, sir.

MR. EDWIN S. SMITH: What was the nature of the rumors that reached you as to how some of these signatures were obtained?

THE WITNESS: The same way signatures are obtained to any petition, you just go up and ask a man if he will sign a petition, and he don't read it, and signs it. That is common knowledge that people do it.

MR. EDWIN S. SMITH: Were certain rumors brought to you in connection with any signatures of any individuals or organizations, or did it simply have reference to the general method of obtaining signatures?

THE WITNESS: Just the general method.

BY MR. DAY:

Q. Can you name any signer whose signature was procured to that petition by just going up and asking him to sign it?

A. Not to my own knowledge.

MR. DAY: That is all.

Redirect Examination

BY MR. HUNT:

Q. But this particular statement that I am about to read from the petition causing you to smile: "Recent statements and announcements from the officials charged by law with the duty of preserving peace within the city are indicative of the intention to continue to disregard the present emergency."

A. That is right.

Q. Did you laugh at that?

A. Well, I can't say I laughed at that particular statement.

Q. Did you have the intention to continue to disregard the present emergency?

A. No, sir; we never had disregarded it.

Q. You stated that you had an inadequate force to deal with the strike situation if any serious trouble arose; is that right?

A. That is correct.

Q. But until the night of July 11th you did deal with the situation adequately, didn't you, as a matter of fact?

A. That is correct.

MR. HUNT: That is all.

MR. DONALD WAKEFIELD SMITH: May I see the petition?

MR. DAY: That is all.

MR. DONALD WAKEFIELD SMITH: Mr. Hardman, may I ask you to look at the names on that petition, if you please? Just look them over.

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: I think you have gone far enough on the question I desire to ask. To your knowledge, are any of the individuals who signed that petition, or alleged to have signed that petition, members of the Law and Order League?

THE WITNESS: Well, I will have to look at the signatures again to be sure.

There are some, yes.

MR. DONALD WAKEFIELD SMITH: Is the name of Mr. Haley contained on that petition?

MR. DAY: I believe the party the Board is referring to is Lincolnhaley.

MR. DONALD WAKEFIELD SMITH: Some are members of the Law and Order League?

THE WITNESS: Some of these are women signers whose husbands are members.

MR. DONALD WAKEFIELD SMITH: Are there any women signers whose husbands are employees of the Republic Steel?

THE WITNESS: There are.

MR. PRESSMAN: May I have one or two questions?

MR. EDWIN S. SMITH: Yes, sir; but I would like to interpose one question first.

Mr. Hardman, you seem to be a very candid and very intelligent witness:

THE WITNESS: Thank you.

MR. EDWIN S. SMITH: For that reason I want to ask you a rather general question. Before I do so

I want to make a statement before I ask the question. There has been quite a lot of testimony and talk about the back-to-work movement, the fact that employees of Republic Steel Corporation desired to return to the jobs, in what numbers, we don't know, but there have been statements a considerable number of employees wished to return to their jobs.

Now, in connection with the back-to-work movement, I think we should understand the Board is only concerned with the question whether the Republic Steel Corporation itself, or through agencies working with it, took such steps to bring people back to their jobs as might constitute unfair labor practices under the Act. Now, you can't testify specifically as to certain matters, I know, in which the Board is interested as to whether these things really occurred, but having in your mind the background of the Board's interest in these facts, I would like you to state what impression this whole back-to-work and Law and Order movement made on you in this sense, did it strike you as something that sprang from pressure put on these people by workers, or individual workers anxious to return to their jobs because deprived of a livelihood, or whatever reason, or did it strike you as a movement that had part of its impetus from some other source?

The reason I ask that is particularly you testified in response to some questions you thought these people were interested in the $40,000 pay roll. I would like for you to comment on that.

THE WITNESS: I would like to say that my opinion of the back-to-work movement is that it was more or less spontaneous, but I have always felt the business men's movement was not purely spontaneous.

MR. EDWIN S. SMITH: You have felt—

THE WITNESS (Interposing): That the back-to-work movement had no connection with the Republic Steel Corporation. That is, I suppose, they were talking to officials of Republic and asking when the plant was going to reopen, and when they could go back to work, but I don't assume the Republic was putting pressure on them.

MR. EDWIN S. SMITH: You have no evidence of Republic officials talking to them?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: The business men movement you think had other motives and not a disinterested desire not to see people deprived of work?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: How would you characterize their motives?

THE WITNESS: The fact they had it started that Republic would move out. I don't know who told them that, but that was the statement that was made, and they were continually statements unless something was done we would lose the backbone of our industry, and so forth and so on.

MR. EDWIN S. SMITH: In other words, you think they were fearful the industry would be lost and that would have economic repercussions on their business?

THE WITNESS: Yes, sir.

MR. EDWIN S. SMITH: That is all.

Recross Examination

Q. (By Mr. Pressman) Mr. Hardman, in response to a question by Mr. Day you indicated that one visit of yours around the picket lines you noticed the first or second day of the strike men ranging from 100 to 165. Were they all located at one place, or ranged around at various entrances?

A. They were ranged around the entire plant.

Q. Over how much an area?

A. Two and a half to three miles.

Q. About how many entrances were there?

A. Well, there were really three entrances, but there were some vacant stretches, by vacant I mean there was no fence and a man could have gone in and out from there.

Q. In connection with any of your visits to the picket lines what would you say was the largest number of pickets that you saw stationed in any one place, excluding any of these emergency situations in connection with the riot and things of that description?

A. I would say there would be about 20 at one place.

Q. That would be the most collected at any one place?

A. That would be the most collected at any one place.

Q. Before you indicated you would prefer not to be questioned in connection with the riot that occurred the night of July 11th, but I would like to ask you one or two questions as to your examination of the 160 men in the jail following the night of July 11th. I assume you have completed your investigation with regard to those men?

A. That is correct.

Q. Who were in jail at that time. As I remember, you mentioned on Monday, July 12th, you determined rather than investigate the situation at the place of the riot that you would prefer to return and question the people who were in the jail and that there were about 150 to 165 men in the various jails, city and county jails, men who had been arrested in connection with that riot. For how long a period were those 150 to 165 men in the jails?

A. Some of them, I don't know just when they came in. I testified they came in jail anywhere from one o'clock the night of the 11th, until eight o'clock the next morning, the 12th. Then we began releasing them as fast as we could on Monday and there were some in there Thursday morning, there were four in there Thursday morning. We worked until two thirty o'clock Monday, to one o'clock Tuesday and one o'clock Wednesday.

Q. Did any counsel purporting to represent these men appear before you?

A. They did.

Q. To see them?

A. Yes, sir.

Q. Did they see them?

A. I don't know.

MR. DAY: I don't want to be technical, but what could that have to do with Republic?

MR. PRESSMAN: I would like to show it anyway.

MR. EDWIN S. SMITH: Let us hear him.

MR. DAY: I beg your pardon.

MR. PRESSMAN: It is only intended to complete the picture surrounding the situation in Massillon as to the treatment the strikers received in connection with their activities, which we understand they were entitled to carry out under the National Labor Relations Act, or any other law of the station and nation, and that the activities of the police and local authorities was part and parcel of the entire picture of what occurred in these localities.

MR. DAY: This is a matter between the governing officers of the City of Massillon and the strikers entirely.

MR. EDWIN S. SMITH: We have gone pretty liberally into the whole situation in the town as it affected the town. I am willing to have Mr. Pressman ask it.

MR. DAY: All right, note an exception.

Q. (By Mr. Pressman) In connection with the 150 men, taking that arbitrary figure, who were examined, you said yesterday only about 15 were actually charged subsequently following your examination.

A. I don't believe I testified to the figure.

Q. About how many were actually charged?

A. About ten.

Q. About ten out of the 150?

A. That is right.

Q. With regard to arrest, would you say that they were arrested when you examined them and they told you, on the scene of the riot, or where?

A. Assuming they were telling the truth, they were arrested at places other than the scene of the riot.

Q. Such as what?

A. In houses, in a few blocks of the riot.

Q. Was there anything to indicate they had been shown warrants at their houses to pick them up?

A. None of them had been shown warrants.

Q. None of them had been shown warrants. Did the men indicate to you which persons had done the arresting?

A. They did.

MR. DAY: I object to that.

MR. EDWIN S. SMITH: Overruled.

MR. DAY: Note an exception.

Q. (By Mr. Pressman) Who were these people that had arrested these men?

A. Why, most of them were arrested by the sheriff's office or National Guard.

Q. Had any of them been arrested by a special police that were put on the police force?

A. Some had.

Q. When you examined all these 150 to 165 men with regard to this and released them, did you find any basis whatsoever for the fact that they had been arrested?

A. Well, the only basis that I could find from my examination of them was that they had either been adjacent to the scene of the riot, or had been around there or lived close.

Q. No other justification than that they had been at the scene?

A. You see what happened there. This is another indictment on taking untrained men. Ordinarily when we have a big riot like that the prisoners are brought in and the officer that brings them in signs an affidavit against them and makes out a report at the time. For some reason or other the men were brought in that night in wholesale lots. The officers could not identify many of them, and only a few, that is, our own officers, could identify them, and it was a mess to determine from the police records where they had been arrested, or why. Most of that was learned by questioning the individual.

Q. Would you say as a result of these men that had been thrown in jail in wholesale lots by the men of the National Guard, special police, and sheriff's men that had done the arresting, that they had acted in accordance with the rights of these men who were arrested?

A. Well, that is a pretty hard question to answer because there had been a riot there that night and they were simply preventing any recurrence of that the same day or night.

Q. Was it necessary to prevent that recurrence to go into men's homes and arrest them?

MR. DAY: I object to that. I think this has gone beyond any proper limit. He has asked this man who wasn't there,—

MR. EDWIN S. SMITH: (Interposing) I think it is all pertaining to the record, and my only question would be is Mr. Hardman embarrassed by any of these questions while he is still in the midst of his investigation.

THE WITNESS: I will admit I am embarrassed because I really don't know.

MR. PRESSMAN: I will discontinue it if it is embarassing to Mr. Hardman.

MR. DAY: All right, that is all.

THE WITNESS: Anything further?

MR. EDWIN S. SMITH: That is all. Thank you Mr. Hardman.

(Witness Excused)

MR. EDWIN S. SMITH: Mr. Hunt, would you rather put your next witness on and let him testify until one o'clock, or adjourn for an hour at this point?

MR. HUNT: I think it might be well to put him on and adjourn at one o'clock.

MR. EDWIN S. SMITH: All right.

HENRY W. KRIER

a witness called for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hunt) What is your full name?

A. Henry W. Krier.

Q. Where do you live?

A. Massillon, Ohio.

Q. What is your occupation?

A. Mayor.

Q. When were you elected mayor of Massillon?

A. The fall of 1935.

Q. How old are you?

A. Sixty-four.

Q. Are you married?

A. Sure.

Q. Have you any children?

A. Yes, sir.

Q. Any grandchildren?

A. Yes, sir.

Q. Have you any great grandchildren?

A. Yes, sir.

Q. Sixty-four?

A. Sixty-four going on sixty-five.

Q. Where were you born?

A. Massillon.

Q. What is your political party?

A. Republican.

MR. HUNT: May it please the Board, I am going to ask some questions that may seem somewhat irrelevant.

MR. DAY: Don't mind that, that won't astonish us at all.

MR. HUNT: Thank you. They are more or less necessary in showing the type of man who was Mayor of Massillon at the time of unusual emergency and will explain his answers later on.

Q. (By Mr. Hunt) Mayor Krier, when did you start to work to earn your living?

A. When I was 12 years old.

Q. What did you do?

A. Carried brick in a brick yard.

Q. How much did you earn?

A. Forty cents a day.

Q. Did you stop going to school then?

A. Yes, sir.

Q. Did you ever go into business for yourself?

A. Oh, yes.

Q. Tell us about that.

A. Well, what do you want, from 12 years up?

Q. No, from the time you went into business for yourself.

A. From the time I went into business for myself?

Q. Yes.

A. The time I went in for myself I started what we call a tea route, selling teas, coffee, spices and extracts on a wagon.

Q. You sold tea on a tea wagon?

A. Sold tea, coffee, extracts and spices.

Q. All right.

A. There was a fellow wanted to sell a grocery on Tremont Street, and I didn't have any money, only this old wagon, so he had about three hundred dollars' stock and he told me if I would take it he would take it out in groceries and give me a chance at it. I done that and I kept my tea route, but I brought my wife down there and she would get the kids ready for school and she would take care of it and I would go on the route and I kept that until my business increased and until I quit the tea business and just had the grocery store, and finally, I put in a meat market, too, and I was very prosperous and done well in my time.

Q. How prosperous did you finally become?

A. I imagine $65,000 or $70,000.

Q. When was that?

A. It would be 1927, along in there, 1928.

Q. Then what happened?

MR. DAY: Do you think that is necessary? I don't want to object too much.

Q. (By Mr. Hunt) Then what happened?

MR. EDWIN S. SMITH: I take it Mr. Hunt is asking these questions for a particular reason.

MR. HUNT: I am.

MR. EDWIN S. SMITH: At least it is an interesting story.

THE WITNESS: That isn't all. I can give my whole life's history.

Q. (By Mr. Hunt) Then what else?

A. Of course I credited poor people too much and I could not say.

Q. What do you mean?

A. Well, during the depression,—

MR. EDWIN S. SMITH: (Interposing) Mr.

Mayor, I think some of the people are having difficulty in hearing you. Can you raise your voice a little bit?

THE WITNESS: I will try. I trusted the people that could not pay me and that naturally sunk me.

Q. (By Mr. Hunt) You were sunk in your business because you gave credit to poor people?

A. Yes, sir.

Q. You gave them groceries and they didn't pay for them, is that correct?

A. At that time they could not pay for them.

Q. Did you go into bankruptcy?

A. No, sir.

Q. Why didn't you?

A. I thought I could get out without beating anybody.

Q. How did you pay your creditors?

A. I made an arrangement with them I would turn over every thing to them.

Q. How much are you paying them now?

A. I am paying them still $40 a month out of my salary.

Q. What does your salary amount to?

A. Two hundred dollars a month.

MR. HUNT: The relevancy of these questions will appear later in the testimony, at least the last part.

Q. (By Mr. Hunt) Now Mayor Krier, were you present on or about June 14 at a meeting of the Chamber of Commerce?

A. Yes, sir.

Q. Were any other city officials present?

A. Yes, sir, the Chief, Mr. Hardman, and, I believe, Charley Snyder, the service director, was there.

Q. What was discussed at that meeting?

A. Well, it was putting on 50 extra police.

Q. All right, go ahead and tell us about that.

A. They thought they were needing them for protection on account of at that time people were excited and fearing everything. They were excited and they thought we needed fifty extra police and I told them we didn't have the money to put them on, and they agreed that they would pay them if we would put them on, and then I agreed. I would put on fifty extra policemen to take care of the situation, but I would not send one down to the picket line. I meant I didn't want to tackle the picket line.

Q. Who were the persons referred to when you say "they."

A. Well, there was Mr. Lester and Mr. Case, but there was quite a few there. Of course, I can't just remember so well as the younger fellows can.

Q. Now, later that day were you at a conference at the Hotel Onesto in Canton, Ohio?

A. Yes, sir; after that the Chief told me he wanted me to go along over to the Hotel and meet Mr. Meyers.

Q. That is Mr. Carl Meyers?

A. Yes, sir; I think that is the name, Carl.

Q. Did you see Mr. Carl Meyers?

A. After we were there a while, not very long, but we seen him.

Q. What did he say?

A. He asked us if we would try to get foot into,—I think he said he had 16 guards or police and four other men in there. I told him I didn't like that job because I was afeared there would be bloodshed and I would sooner have peace and no blood, and I would not do that.

Q. What did Mr. Meyers say to you?

A. Well, he said a lot I can't remember so well, among a crowd like that, but he said if the plant didn't get started Massillon would be ruined.

Q. He said what?

A. Massillon would be ruined if they could not get the plant started.

Q. Do you remember anything else Mr. Meyers said to you?

A. That is all I can remember. He said more but I just can't remember what the conversation was.

Q. I see.

A. There was plenty said, but I just don't remember it.

Q. Now, on June 15 were you present with a group representing the Trades & Labor Council at a meeting?

A. Yes, sir.

Q. Tell us what took place.

A. Well, I just got home about nine o'clock and some of them called me up and asked me if I would meet them a moment and I told them "Sure." I had no way to get down. "If you will come and get me I will come down." And so they came and got me and when I got down there, there was about 200, I imagine, and Mr. Hardman, the City Solicitor, was in a boxing commission in the City Hall and I went and got him and told him there was a group of men that would like to meet us, so he came out and they read a resolution there protesting against me putting on any more policemen. I told them, "Gentlemen, I just agreed that I would not put on more policemen." I said, "If we get them I will sure put them on, but I will guarantee you we won't take any to break the picket line." And I said, "All I hope and pray for is no bloodshed, all I want is peace and no bloodshed."

Q. Did you refer to the Mediation Board in Cleveland?

A. Yes; well, that was a different group, they didn't ask me anything about that.

Q. Do you remember addressing a Back-to-Work Committee about June 21st?

A. Yes, sir.

Q. Who were present? What city officials were present besides yourself?

A. Well, there was I and the Chief and the Prosecuting Attorney and Charley Snyder, the Service Director, and I am not sure if Hoffman was or not.

Q. What did this Back-to-Work Committee want to see you about?

A. They thought I wasn't giving them protection enough and wanted more protection. I asked them, "Gentlemen, don't be so hasty. Why not wait until we hear from the Board at Cleveland, and I hope they will do something.", I said, "Gentlemen, remember if we start such things it won't be one-sided, there will be bloodshed on both sides." I said, "Be patient a few days."

Q. Do you remember hearing Chief Switter make a speech?

A. Yes, sir; he made one ahead of me.

Q. What did he say?

A. He told them practically the same thing, to be peaceful for a few days until we heard from the Board.

Q. Where did you go after this meeting with the Back-to-Work Committee?

A. The Chief got me and we went over to see Mr. Lawler.

MR. EDWIN S. SMITH: Who were the chief spokesmen at the Back-to-Work meeting?

THE WITNESS: Why, Mr. Lester.

MR. EDWIN S. SMITH: I am apparently under some misapprehension. This was not the meeting of the Republic employees that wanted to go back to work?

THE WITNESS: Yes, this was a meeting of the men wanting to go back to work.

MR. EDWIN S. SMITH: This was Lester?

THE WITNESS: I believe it was that man Lincolnhaley, I would not say. I think he done most of the speaking, but it was a group of working men that wanted to go back to work.

MR. EDWIN S. SMITH: You don't recall any other speakers, particularly?

THE WITNESS: Not particularly.

Q. (By Mr. Hunt) After that you went to see a man by the name of Lawler?

A. Yes, sir.

Q. Who is he?

A. Well, he is an observer of the National Guard's camp, and I heard he was a nice man and I thought we would go over there and see if he could give us some advice.

Q. Who is "we"?

A. I, the Chief, the Prosecuting Attorney, and, I believe, Charley Snyder was along that day. We thought we could get some advice about how to handle this thing.

Q. What happened at that meeting with Colonel Lawler?

A. He explained how the camp was going along, he was doing fine, and I asked him, I said, "Well, Mr. Lawler, if you have a little time can you come over and go over our situation a little bit," and he said, "Well, I have been over there. It is fine. There is no trouble over there. I can't see why it isn't fine. It is very fine." He said to me, "Of course you have little ups and downs." And I said, "Yes, we sure have." He said, "You must give and take, you know you must not pick up every little thing against the law, like blocking the road, or something like that." He said, "If you go along that line on that we could have peace."

Q. About this time did you receive within the space of two or three days several hundred identical letters?

A. Yes, sir.

MR. EDWIN S. SMITH: If you are going to introduce them as an exhibit I think we had better recess at this time.

MR. HUNT: Very well.

MR. EDWIN S. SMITH: It is one o'clock the regular time, and we will adjourn until two.

(Whereupon, at 1:00 o'clock p. m., the hearing was adjourned until 2:00 o'clock p. m. of the same day.)

After Recess

Thereupon, at 2 o'clock p. m., the hearing was resumed, pursuant to recess.

MR. EDWIN S. SMITH: Are you ready to proceed, gentlemen?

MR. DAY: In order to preserve the record, may I make the same motion as to the testimony of Mr. Hardman, to strike out each and every conversation and episode separately and collectively on the ground they do not support any charge in the bill of complaint or any violation of the Wagner Act.

MR. EDWIN S. SMITH: The motion is denied.

MR. DAY: And I understand the testimony of Mayor Krier will be taken under the same general understanding as to every conversation and every episode?

MR. EDWIN S. SMITH: Yes.

MR. DAY: Thank you very much.

HENRY W. KRIER

resumed the witness stand, and, having been previously sworn, testified further as follows on behalf of the National Labor Relations Board:

Direct Examination (Resumed)

Q. (By Mr. Hunt) Mayor Krier, just before we left for lunch I started to ask you whether you had received several hundred letters on or about June 21st, or, let us say, to June 25th?

A. Yes, sir.

Q. Did you?

A. Yes, sir.

Q. Were these letters all addressed identically?

A. Yes, sir.

Q. Are these three letters that I now show you some of the letters which you received?

A. Yes, sir.

Q. These letters were all printed letters on little slips like this (indicating), were they?

A. Yes, sir.

Q. And they were addressed to you?

A. Yes, sir.

MR. HUNT: I would like to read one.

MR. DAY: Let me see them first, if you please.

We object to the admission of them upon the ground that they are not shown to have been put out by the Respondent, or by anyone connected with the Respondent, and they have no bearing upon any issue here.

MR. EDWIN S. SMITH: I take it you intend to offer these in evidence?

MR. HUNT: Yes, I do.

MR. DAY: Do you intend to show that the Republic Steel Corporation had anything to do with the circulation of them?

MR. HUNT: I intend to offer these in evidence to show the pressure from whatever source upon the Mayor to do more than he was doing. If I read one of these letters it will indicate the pressure to which he was put, and as to his not doing his duty and as indicative of the atmosphere under which the Mayor and the other city officials were working.

MR. EDWIN S. SMITH: Why don't you read one, if they are all of the same type, and let the Board see one of them.

MR. HUNT: Shall I read it?

MR. EDWIN S. SMITH: Go ahead.

MR. HUNT: (Reading):

"Hon. Henry W. Krier:
Mayor of Massillon:

"Many hundreds of us want to go to work. Several thousand more of us citizens and voters want them to go to work; we are prevented from working due to you, as Mayor, not protecting us from the lawless striking element; you, by not doing your duty, are responsible for thousands of children and mothers going hungry. If you do not do your duty this term we shall see to it that you are not re-elected.

Name "Frank Heyard
Address "Republic Corp."

MR. EDWIN S. SMITH: It may be admitted as an exhibit.

MR. DAY: And we note an objection and exception.

MR. EDWIN S. SMITH: I wish you would inquire of the witness whether the envelopes in which these letters were received are apparently as uniform as these which you have shown us.

Q. (By Mr. Hunt) Were the envelopes as uniform as these?

A. Yes, they were all alike.

Q. And you received how many of them, about?

A. Some of them came four or five in an envelope from a family, or something like that. I got about 400, I guess, of the slips. Sometimes they would come four and five in an envelope.

Q. And the envelopes were all addressed identically?

A. Yes.

MR. EDWIN S. SMITH: I didn't hear how many you said you got?

THE WITNESS: I got about four or five hundred of the slips.

MR. EDWIN S. SMITH: And how many of the envelopes?

THE WITNESS: I would say fifty.

MR. EDWIN S. SMITH: Did you get all of them at the same time?

THE WITNESS: No, sir; it took two or three days.

MR. HUNT: We are introducing three exhibits numbered separately here, Board's Exhibit 5, containing ten of these slips; Board's Exhibit 6, containing one slip, and Board's Exhibit 7, containing five slips.

MR. EDWIN S. SMITH: Is that an arbitrary arrangement of the slips in the envelopes?

MR. HUNT: No, it is not. It is exactly as they were received.

MR. EDWIN S. SMITH: Very well. They are admitted.

(The envelopes and contents above referred to were received in evidence and marked "Board's Exhibits 5, 6, and 7.")

Q. (By Mr. Hunt) Mayor, when you received this letter stating that you were not doing your duty and making thousands of children and mothers go hungry, how did you feel?

A. I felt very badly because all of my life I tried to help the poor wherever I could. I didn't think that was very nice.

Q. Did you recognize any of the signers of these letters?

A. A few of them; yes.

Q. What were they doing?

A. I recognized only one man that was in the whole crowd there at the City Hall. It was only one man.

Q. Was he in the Law and Order League?

A. No, he was in the back-to-work. There was just one.

Q. Did you see one of these letters before you received all of these letters?

A. Yes, sir. A night or two before then Robert Siffron, I believe it is, secretary of the Trades Labor, stopped at my house about 10 o'clock at night, I imagine, and he asked me if I had seen one, and I told him no. He said I was to receive about 2,000 to 2,500, to be delivered on my desk. I told him I didn't see anything. He said, "Well, Mayor, we will take care of that bottom. We will help you all we can.

Q. The bottom what?

A. That says about re-elected.

MR. DAY: What was this man's name?

THE WITNESS: Robert Siffron.

Q. (By Mr. Hunt) On June 25th were you visited by a group of the Law and Order League at the City Hall?

A. Yes, sir.

Q. What happened then?

A. Well, they came in with a petition. Mr. Wefler read it, and Frank Maier had a little talking to do. He said, I wasn't taking care of the law by leaving them carry sticks and keeping the roads blockaded, and all that kind of stuff. I told him I thought I was doing everything possible that I could do. And he just went on and raised the devil about it. That is all.

Q. Did they read a petition to you?

A. They read it to us all.

Q. Did they say anything more?

A. I looked at the petition. Roughly it was all signed up with names and stuff.

Q. Did you say anything more to them?

A. I don't just remember. I believe, though, I told them this: I told them I was doing everything in my power to keep peace and no blood. I didn't want to start anything if I could help it.

Q. On or about July 5th did you ever talk with a General Marlin?

A. Yes, sir.

Q. What was the occasion of your talking to him?

A. The Chief called me on July 4th and he told me they wanted me down at the City Hall on July 5th. So I went down and went in, and Mr. Marlin and the Chief and I were in there. And he wanted us to put on deputies rather than home guards, and other policemen, too, enough to take care of the situation when they left. He warned us that they may only be there one day, or they might be there two; he didn't know—so we had better take care of it as fast as possible.

Q. What else did he say?

A. He said if we didn't we would be in an awful shape because he didn't know when they would pull out the troops.

Q. What did he mean by being in an awful shape?

A. That we would not be able to handle the situation.

Q. Did he say anything else?

A. He said more.

Q. Is that all that he said that you can remember?

A. That is all I can remember; yes, sir.

Q. Were you present at a conference with a group from the Law and Order League at the City Hall on the morning of July 7th?

A. Yes, sir.

Q. Were there other city officials present?

A. Yes, Mr. Hardman and the Chief.

Q. Who were some of the members of this Law and Order group who were present?

A. Lester—that is, J. G. Lester; Mr. Case, Tom Poe, and, I believe, Albert Walsh, the banker, was there. There were quite a few of them.

Q. Tell us all that you can remember of that conference?

A. They wanted us to put on these deputies and other policemen, enough to take care of the situation they said. And we argued and argued and argued, and we talked about putting on home guards. And I told them the reason I did not want to put on home guards on either side.

Q. What do you mean by you did not want to put them on either side?

A. I did not want to put on either strikers or go-backs because there would be too much friction there if I did.

Q. You mean you did not want to appoint strikers on the home guards and you did not want to appoint back-to-work men on the home guards?

A. Yes, because there would be too much friction. But they couldn't see it. And they kept after me and after me until I agreed I would.

MR. DONALD WAKEFIELD SMITH: They kept after you to do what?

THE WITNESS: To put on the home guards.

MR. DONALD WAKEFIELD SMITH: I understand that. But you said you did not want to put on strikers or back-to-work men.

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: Were they trying to get you to put on men from either of these classes?

THE WITNESS: They told me first to put on home guards, and then deputize them and let them carry guns in their neighborhoods.

MR. DONALD WAKEFIELD SMITH: The men working at the plant would be deputized as home guards under that proposal?

THE WITNESS: Yes, and they would carry

guns to take care of their neighborhoods.

Q. (By Mr. Hunt) Mayor Krier, Mr. Meyers of the Republic Steel Corporation was present, wasn't he?

A. Not at that meeting, he was not.

MR. EDWIN S. SMITH: So that the sole use for the home guards was to be this, that these men were to have arms to protect—

THE WITNESS: To protect the neighborhood.

MR. EDWIN S. SMITH: To protect their neighborhoods?

THE WITNESS: Yes, in which they lived.

Q. What excuse was offered for that kind of protection?

A. I suppose so that the other side, the C. I. O. would not harm them, or molest them.

Q. You mean in case that members of the strikers were to attack any of these people in their homes they would be armed so as to resist them or arrest them?

A. To arrest them and bring them down.

Q. Was there any proposal to add not only home guards but special policemen?

A. Yes, sir. They wanted us to put on special policemen, too. And the Chief blew up and he said, "All right. We will put them on from both sides." He said, "You are looking for it, so let it come."

Q. (By Mr. Edwin S. Smith) What did he mean by putting them on on both sides?

A. The Chief said he would put both of them on.

Q. Back-to-work men and the strikers?

A. Yes.

Q. (By Mr. Hunt) Did he say anything else?

A. That is all I can remember.

Q. (By Mr. Edwin S. Smith) Was there any showing made to you as to the danger that would happen to these men in their own homes that made it necessary to take this very unusual step of appointing and deputizing home guards to protect their own neighborhoods?

A. I never saw any. At least I didn't think it was necessary. Of course, I don't know what threats might have been made on the outside; but I didn't see any, and I didn't see any reason why to put them on. I thought we should put on police by the city and not to take either side, because there was too much friction there on either side.

Q. (By Mr. Hunt) At this meeting at the City Hall did you go to a luncheon at the Y. W. C. A.?

A. Yes.

Q. And some other city official was present?

A. Yes, Mr. Hardman, the Chief and I, and the Safety Director.

Q. Was Captain Curley present?

A. Yes. That was the first meeting at which I had seen him.

Q. Were there some leading manufacturers of the town present?

A. Yes, sir.

Q. Was Mr. Carl Meyers present?

A. Yes, sir.

Q. What took place at this luncheon?

A. Well, in the first place, Tom Poe spoke a little and talked this matter over with the policemen, and Harry Curley made a speech that the manufacturers would furnish us with men. Harry Curley said he could get them. He asked the manufacturers there. I think there was some there from the Aluminum Works, and I believe the National Steel Castings, and Mr. Meyers was there from the Republic Steel, and Mr. Lester, who runs the rubber works, and there might have been one or two more there.

MR. DONALD WAKEFIELD SMITH: Was it your impression then from that conference that the Republic Steel Corporation would participate in the payment of special officers for the use?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: I mean the Republic Steel along with these other manufacturers you mentioned?

THE WITNESS: They were suppesed to do this after they were done working. The Central Steel was not supposed to pay anything.

Q. (By Mr. Hunt) Did Mr. Carl Meyers make a speech?

A. Yes, Mr. Carl Meyers made a speech.

Q. What did he say?

A. He didn't recommend the teeth very hard for a start. He said we just didn't do our duty, and he thought from now on it appeared to look as though we were going to be all right.

Q. In your opinion as Mayor, Mr. Krier, do you think you handled the strike situation well and had it under control from the beginning of the strike up until the night of July 11th, when the fight occurred?

A. I thought so, yes; I had done my best. I thought we had it under control. We did not have a whole lot of trouble.

Q. Do you think you could have done even better if you had not been subjected to various forms of pressure by various organizations and individuals?

A. Do you mean while the shop was shut down?

Q. Yes.

A. There was no trouble while the shop was shut down. But you mean when they opened it?

Q. Yes.

A. Yes. We could have handled it as well as we could with the guards.

Q. Do you think you did a pretty good job up until the night of July 11th?

A. Yes. Of course we had the guards. When the plant opened up the guards were there.

Q. What guards?

A. The National Guards.

Q. After the guards left the city, was the city quiet for two or three days after that?

A. Yes, the city was quiet for two or three days until something broke out.

MR. HUNT: That is all.

Cross Examination

Q. (By Mr. Day) Mayor, I would like to ask you some questions. As I understood you, you said a little while ago that there was not very serious trouble until after the men started to go back to work. Is that right?

A. Yes. I mean until after this trouble came on on July 11th.

Q. If there had been a clash between the men going back to work and the pickets at any time you did not have policemen enough to handle that situation, did you?

A. If it was as hot as it was, you know.

Q. As long as there was no clash you did not need any more policemen?

A. As long as it did not get too bad.

Q. If there wasn't a clash between the pickets and the men wanting to go back to work; but if there had been a clash between the pickets and the men wanting to go back to work you could not handle it with your policemen?

A. Like it was on the 11th?

Q. Yes.

A. No; we had the guards there then, you see.

Q. If there had been any clash between any number of pickets and men going back to work you could not have handled that with your four or five policemen?

A. No, not with the small number of policemen. But with these extra we could have handled a good big crowd.

Q. (By Mr. Edwin S. Smith) What do you mean by the extra?

A. We had put on the extra police.

Q. (By Mr. Day) You had talked to Mr. Carl Meyers about getting food in to some men working there in the plant, hadn't you?

A. Yes.

Q. And you were afraid if they tried to take food in there that there would be bloodshed?

A. I was afeared we had no right, in the first place, and I thought if we took it in there we would have plenty of bloodshed; yes, sir.

Q. By that you mean if somebody had tried to take food into the plant, to drive it in there in a truck, for instance, to the men who were working in the plant, there would be bloodshed because the pickets would try to stop it?

A. I was afeared of that, yes.

Q. And that would come from the pickets stopping the men from taking the food into the plant?

A. I imagine it would.

Q. You said also if the back-to-work movement was encouraged so that the men started to go back to work, you were afraid of trouble, or bloodshed?

A. Yes.

Q. And that was because of the pickets, too, wasn't it?

A. Sure.

Q. You were not out at the scene of the riot?

A. No, sir.

Q. On the night—

A. No, sir; I wasn't out hardly at all.

Q. I want to complete the record. That was on the night of July 11th. That was Sunday night.

My attention is called by Mr. Patton to this.

That is all I care to ask the Mayor at this time. But at this time, with the Board's permission, I would like to reserve the right to recall any or all of the witnesses who have already testified—that is, for further cross examination if that becomes necessary somewhere in the hearing. I do not mean now and I do not mean at this hearing. But we have been called upon to examine these witnesses upon fairly short notice, and we would like to cross examine them if the occasion arises—that is, some time before the hearing is concluded.

That is all of the Mayor now.

MR. HUNT: I merely submit to the Board if this request is granted, there is the question as to whether the witnesses should be called as witnesses for the Respondent or as witnesses of the Board.

MR. DAY: I would not think that would be necessary.

MR. EDWIN S. SMITH: I think that that whole matter might well be left in abeyance for the present, and at the proper time if a request is made by the company for the recall of their witnesses, a ruling can be made as to whether that privilege will be granted, and under what condition.

MR. DAY: May the record show now that we ask the privilege of calling any one or more of these three witnesses for further cross examination, for the reasons stated?

MR. EDWIN S. SMITH: The Board will reserve decision on that request.

MR. DAY: And may we have the same motion to strike the testimony of the Mayor upon the same grounds as in the case of the motion as to Mr. Hardman's testimony and the testimony of Chief Switter?

MR. EDWIN S. SMITH: The motion is denied.

MR. DAY: An exception, please.

Redirect Examination

Q. (By Mr. Hunt) Mayor Krier, you said you did not believe it to be your duty to see to it that food got into the guards and maintenance men in the Republic plant? Why didn't you?

A. It was outside of the city.

Q. It was outside of the city?

A. Yes.

Q. And, therefore, it was not your job to do it?

A. No, it wasn't my job.

MR. HUNT: That is all.

MR. EDWIN S. SMITH: Are there any further questions?

MR. DAY: No further questions.

MR. EDWIN S. SMITH: Are you through with these three witnesses from Massillon?

MR. HUNT: I am.

MR. EDWIN S. SMITH: I just want to say to each and all of you that the Board appreciates the cooperation and the courage that the three of you have shown in coming here to testify in these proceedings.

(Witness excused.)

MR. LAUTER: I will call Mr. Hardesty.

FRANK HARDESTY

was thereupon called as a witness for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) Will you please state your full name?

A. Frank Hardesty.

Q. Where do you reside?

A. 2228 Eighth Street, Canton, Ohio.

Q. Have you been associated with the Steel Workers Organizing Committee?

A. That is right.

Q. When did you become associated with them?

A. Last August.

Q. August of 1936?

A. Yes, sir.

Q. In what capacity did you become associated with the Steel Workers Organizing Committee?

A. I started in as an organizer first, and then was promoted to sub-regional director in January.

Q. Sub-regional director for what?

A. Steel Workers Organizing Committee.

Q. Does that refer to any particular area?

A. That is for the Canton-Massillon area.

Q. Will you describe what your duties are as sub-regional director for the Canton-Massillon area?

A. My duties are to enlist membership in the campaign and see that the organization as a whole is directed properly—whichever duties that might be.

Q. Did a strike occur at the Massillion plant this year?

A. That is right.

Q. When did that strike take place?

A. The evening of May 25th.

Q. Is that strike still on?

A. It is.

Q. Are you familiar with the strike headquarters on Cleveland Avenue?

A. I am.

Q. In connection with your duties as sub-regional director, have you had occasion to visit those headquarters?

A. Many times, yes.

Q. Did you visit those headquarters on July 11, 1937?

A. Yes, sir.

Q. About what time did you arrive there?

A. About 9:45 Sunday evening.

Q. Will you describe what you saw there when you got there at 9:45?

MR. DAY: Now, will you take this on the same record? This is going to relate to that Sunday affair?

MR. HUNT: That is correct.

MR. DAY: Can that be taken under the same objection as to each conversation and episode and incident?

MR. EDWIN S. SMITH: The same record.

THE WITNESS: At 9:45 Sunday evening I arrived at the Massillon headquarters. As usual, I saw several men who were pickets around the headquarters, and nothing more than the ordinary.

Q. (By Mr. Lauter) With whom did you arrive at the headquarters there? Did you come alone?

A. No.

Q. With whom did you go there?

A. Harold Ruttenberg.

Q. Anybody else?

A. Martin J. Beckner.

Q. Will you state what the name of the lodge is that has its strike headquarters on Cleveland Avenue?

A. That is the New Deal Lodge, Local No. 1124.

Q. Will you proceed with what you were telling us before?

A. I arrived at Massillon at about 9:45 Sunday evening. When I drove up there I noticed as usual there were quite a few pickets around there.

Q. How many would you say there were around there?

A. At that time I would say somewhere around fifty or sixty. I got out and talked to some of the fellows. I went in the large room where they had to feed the pickets, and there was music in there. There were four or five young fellows in there playing music and entertaining the pickets and having a very good time. I walked out and I saw one of the organizers, Tod Cooley. He asked me if I wanted to go down with him and get a drink of Coca-Cola. And we went down there to a soft drink stand and got a Coca-Cola and we stayed there five or ten minutes, and then we started back. When we came out of the building it immediately started to rain very hard, and we got up on somebody's porch, although I don't know whose it was. We got up out of the rain on the porch until it slacked up, which was possibly six or eight or ten minutes after, or something like that.

After it quit raining we came to strike headquarters. And the music and things were going on as usual. Naturally, I talked to some of the fellows. I went into the office for a little while and talked to some of the boys in there. Then I came out onto the street again and then someone said something about a little trouble over at the viaduct.

Q. About how far from strike headquarters is the viaduct?

A. I would say it is possibly half or three-quarters of a mile. I would say a half mile or maybe a little further.

Q. About what time was this?

A. This was about 10:30. Naturally, being interested in keeping down any trouble, Mr. Ruttenberg and myself got into my car and we attempted to drive over the viaduct. When we got over on Erie Street we found quite a few automobiles lined up along there and noticed some policemen waving their clubs and things around, so we decided that it was going to be too much trouble to go up there, so we proceeded to turn around and go back to strike headquarters.

When we arrived this time, of course, that was coming near the time that the pickets changed their shifts, and there were more men there. I suppose there were possibly

125 or 150 men there at that time. So we got out and walked back.

Q. What time did they change the shifts?

A. Eleven o'clock.

Q. (By Mr. Edwin S. Smith) When you speak of the 125 or 150 men, do you mean both inside or outside the strike headquarters?

A. Yes.

Q. The total number?

A. Yes, a total of about 125 there.

I got out and talked to some of the boys again. The music was still going on. I went into the office of the headquarters, and it was kind of warm in there, so I came back out onto the street again. When I came back onto the street and stood around, I talked for a few minutes, and there was a car across the street.

Q. Before you get to that, did you notice any police around strike headquarters?

A. Yes, I did. I noticed quite a few when I got back from the trip over to the viaduct. There were quite a few more than usual to be gathered there. I suppose there were somewhere in the neighborhood of twenty to twenty five.

Q. Will you describe the position of the policemen?

A. They were lined across the street, most of them, and there were two fellows sitting around on the sides of the bank, or there were a few fellows sitting around on the banks in vacant lots.

Q. They were strung across the street?

A. Yes, they were strung across the street, most of them.

MR. EDWIN S. SMITH: Were there usually some police around the place?

THE WITNESS: There was most generally a couple of them around there. But this evening there was some place in the neighborhood, I presume, of twenty to twenty-five. There was a car drove up on the opposite side of the street and he had his lights on, some one of the policemen shouted at him to take his lights off, which he did do.

After he had taken his lights off it was a matter of only just a few seconds until I heard someone shout again, "Break them up. Let them have it."

And they started to shoot. However, I didn't move immediately, because, not being used to riots and things of that kind, I really thought they were just shooting dummies. I thought it was more or less of a bluff. But it wasn't very long until I found they were really shooting bullets. I started to move. I retreated up the street.

Q. (By Mr. Hunt) When you say they were shooting bullets, to whom do you refer?

A. The policemen.

Q. Where were they from C. I. O. headquarters?

A. They were about fifty feet down the street towards the steel plant. I saw a policeman go down like this (illustrating) and start to shoot. At first I couldn't really believe they were shooting real bullets into a crowd of men like that, until I really heard the bullets flying and the bullets flying off the buildings. At that time I thought it was time for me to retreat up the street, which I did.

MR. EDWIN S. SMITH: Let me get this straight. Was this crowd of men standing between you and the policemen, and you were in back of them?

THE WITNESS: No, I was right in and more or less mixed with the men. There were some of the fellows who were behind me and some of them were in front of me. We started to move up the street. I had not moved very far at all until one fellow hollered he had gotten shot in the shoulder, and he threw his hand over his shoulder.

MR. EDWIN S. SMITH: What did he say?

THE WITNESS: He said, "They got me. I am shot." There were three or four friends with him, and they grabbed hold of him and took him along with them.

Q. Let me understand this. You were running up Cleveland Avenue?

A. We were running up the street from the mill, up Cleveland Avenue. I had not run very far until I saw another man lying on his face with his hands outstretched, motionless, who had been shot by the policemen, and from the way he was lying there, there was no doubt, or I thought he was dead, and I guess it did turn out that he was dead. So we kept running up the street until we found an opening in the fence, where we darted and ran down the side of the building until we came to an alley parallel with Cleveland. We ran across that until we crossed McKinley Avenue. And I circled back to Cleveland Avenue and was over on the street, and one street further over than Cleveland Avenue. I don't know the names of the streets over there.

After I got there, Martin Beckner and another fellow drove up and Mr. Beckner was hanging on the running board of the car, and he stopped and we got into the car and went back to Canton.

Q. Will you describe the kind of building it is that is used at strike headquarters?

A. It is a frame two-story building. It has, I believe, six rooms altogether downstairs. There is a large room in front that we used to feed the pickets in.

Q. What side of the building is that on?

A. That is on the side furthest from the mill.

Q. Away from the mill?

A. Yes. Then there is another small room and the kitchen. We had the ladies cook in the kitchen. Of course, on the other side of the hall we have an office in front, and then there is a room that is used for storage. It is furnished. In the middle room it is furnished. And then there is another room back of that.

Q. How many doors are there in the front of this building?

A. Three.

Q. Where does the center door lead to?

A. Upstairs.

Q. And the other two doors lead to the rooms on both sides of the building?

A. That is right.

Q. You visit those strike headquarters occasionally in connection with your duties there?

A. Yes.

Q. Do you know how many men died as the result of the strike fracas?

A. Three.

Q. Do you know whether or not they were C. I. O. members?

A. That is right. That is, it has been reported to me that they were C. I. O. men. I did not take occasion to check up on it myself.

Q. Did you on the evening of July 11th at any time see any shooting at C. I. O. headquarters?

A. I did not.

Q. Did you see any persons other than police using any weapons?

A. I did not.

MR. EDWIN S. SMITH: My sense of geography is a little mixed. I would like to have the witness go over the main points of this story with the map that was introduced as Respondent's Exhibit No. 1.

MR. LAUTER: If the Board please, there will be later a complete description of it. I do not mind going into it now, but this witness as sub-regional director visits the headquarters occasionally.

MR. EDWIN S. SMITH: Will you at some time show us exactly where the police were stationed and where the strikers were?

MR. LAUTER: Yes.

Cross Examination

Q. (By Mr. Day) Where do you live?

A. No. 2228 Eighth Street, Northwest, Canton, Ohio.

Q. How long have you lived there?

A. I have lived there about 22 or 23 years.

Q. You are what on the S. W. O. C.?

A. A Sub-Regional Director.

Q. What are your duties and what is a Sub-Regional Director?

A. My duties as Sub-Regional Director are to take care of that area in soliciting membership, and taking care of lodges set up, and taking care of anything that might come within my district.

Q. What is your district?

A. The Canton and Massillon area, which extends possibly from fifty to seventy-five miles around there.

Q. Did you ever work for Republic?

A. No, sir.

Q. Where did you work in Canton?

A. At one time for the Timken Roller Bearing Company.

Q. How long ago was that?

A. About a year ago.

Q. How long have you been a labor organizer?

A. About a year.

Q. You have been very active in this strike, haven't you?

A. Oh, in taking care of my duties, yes.

Q. Whether in taking care of your duties or not, you have been very active, have you not?

A. When there is a strike on a fellow has to keep plenty active.

Q. Do you recall attending a meeting in Canton that was attended by some mayors and police chiefs some time before the Sunday night trouble in Massillon, and a request was made of you to disarm the pickets in your district?

A. I remember attending a meeting.

Q. Did you have a request made, or do you remember a request was made of you to disarm the C. I. O. pickets?

A. Not necessarily, no.

Q. Not necessarily. I am asking you whether you remember you were present at a meeting when a request was made of you that you disarm the pickets in your region?

A. Well, I attempted to enter into an agreement whereby if the Republic Steel Corporation saw that the men on the inside of the plant were disarmed and the non-strikers were disarmed, that we would disarm the pickets on our line.

Q. Now, I will ask you this question: Was a request made of you by the law enforcing officers of Canton and Massillon that you see to it that your pickets were disarmed, and, as you say, you would not do it, that this was not a pink tea strike?

A. No; I don't remember saying that.

Q. Will you say under cath that you did not say that?

A. I don't remember whether I said it or not.

Q. How is that?

A. I don't remember whether I said it or not.

Q. If you don't know you will neither affirm nor deny it? Is that right?

A. I would not say that I did or that I did not.

Q. Do you recall also making a statement to one of the Canton papers reporters that if the police force in Canton were increased by adding citizens to the personnel that you would see to it that the Akron Rubber workers would come down and invade Canton and Massillon?

A. No.

Q. Did you make that statement to any newspaper reporter?

A. No.

Q. Did you ever make that statement to anybody?

A. No.

Q. What time did you get to Massillon on the night of July 11th?

A. About 9:45.

Q. Were you alone?

A. No.

Q. Who was with you?

A. Harold Ruttenberg and Martin Beckner.

Q. That afternoon you had been at Oak Knoll Park?

A. Yes.

Q. And there was a mass meeting there?

A. Yes.

Q. What time did it start?

A. About 3 o'clock.

Q. What time was it over?

A. I would say some place in the neighborhood of 4:30 or a quarter of five.

Q. Did you speak?

A. Yes.

Q. Did Joe Morton speak?

A. Yes.

Q. I will ask you whether or not in that speech Joe Morton said in words or in substance that the only thing for the C. I. O. men to do was to fight?

A. I wouldn't say that he said that.

Q. Would you say he did not?

A. No.

Q. I will ask you whether or not in that speech Jo Morton asked the C. I. O. members who were present a the mass meeting to be on the picket line at Massillon at 11 o'clock that night?

A. To my knowledge he did not say 11 o'clock.

Q. Did he ask the men to be in the picket line?

A. He naturally said the men ought to be in the picket line to help support the strike, that you could not win a strike off the picket line.

Q. What time did Republic change shifts that night?

A. Eleven o'clock

Q. It was the 11 o'clock shift, wasn't it?

A. Do you mean the pickets?

Q. Yes.

A. Yes, they changed at 11 o'clock.

Q. And there was a change of shift of workers in the Republic at 11 o'clock, wasn't there?

A. No, sir; I couldn't say about that.

Q. You don't know about that?

A. No.

Q. You don't know anything about that?

A. If it did change at 11 o'clock they changed the time, because I know when we used to be over there before they changed not at 11 o'clock.

Q. Did you see the trouble at the beginning of the viaduct that night?

A. I did not.

Q. Did you notice some automobiles were jammed together and blocked the viaduct for a while?

A. No.

Q. Did you hear about that?

A. I heard there was a little trouble over there.

Q. Where were you when you heard that?

A. At strike headquarters.

Q. Where were you when the trouble started that you have told this gentleman about?

I did not get his name.

MR. LAUTER: My name is Lauter.

A. I was standing right in front on the cement steps in front of the strike headquarters.

MR. DAY: Will you mark this as Respondent's exhibit?

MR. LAUTER: If they are being offered in evidence I would like to see them.

MR. DAY: I have not offered them yet.

MR. LAUTER: If you mark them for identification—

MR. DAY: You can see them. I am going to ask to have it marked.

MR. LAUTER: I am just suggesting that I noticed the procedure has been to offer them directly in evidence.

MR. EDWIN S. SMITH: They may be marked for identification.

MR. LAUTER: I am suggesting for that reason that I might see them before.

(The photograph referred to was marked for identification as "Respondent's Exhibit No. 3.")

MR. DAY: Is there any objection to showing this to the witness?

MR. LAUTER: Is it the same picture?

MR. DAY: Yes, it is.

MR. LAUTER: There is no objection.

MR. DAY: I think this might help the Board a little bit.

Q. (By Mr. Day) There is a picture. Do you recognize the office?

A. Yes, I know where the office is.

Q. Where are C. I. O. headquarters?

A. C. I. O. headquarters are right there (indicating).

Q. That building with the white patch on it there?

A. Yes. This is it.

Q. About how far is the C. I. O. headquarters from that office in feet?

A. I don't know.

Q. About how far?

A. I would say it is about two and a half city blocks.

Q. When the trouble started did I understand you to say that you were inside the building, or outside?

A. No, I was standing right up on these steps right in front of there.

Q. How many steps are there?

A. I think there are about three down to there (indicating).

Q. (By Mr. Edwin S. Smith) You are now describing the steps in front of the strike headquarters?

A. Yes. I think there are about three steps there. I was standing on this cement porch out in front.

Q. (By Mr. Day) Who were standing there with you?

A. There were so many I could not attempt to tell you.

Q. Name some of them.

A. Well, I don't know any of them. Harold Ruttenberg was standing in the door.

Q. (By Mr. Edwin S. Smith) Are you now offering this in evidence or are you prepared to do so?

MR. DAY: I offer it in evidence. I think it ought to be in evidence.

MR. LAUTER: There is no objection to admitting the exhibit in evidence, except that I want to point out that it is a rather unusual view of the C. I. O. that is being offered at this time.

MR. DAY: It is what?

MR. LAUTER: It is a rather unusual view of C. I. O. headquarters being offered at this time.

MR. EDWIN S. SMITH: Will you please explain what you mean by that?

MR. LAUTER: The building to which we are going to refer, or about which we are going to hear considerable testimony, I assume, is the small building a little to the right of the center of the picture, and the photograph here rather distorts the front of it and makes the street seem a great deal wider than it is.

MR. DAY: You claim that it was taken for the purpose of distorting something?

MR. LAUTER: I say it is an unusual photograph, and I call it to the attention of the Board.

MR. DAY: It seems that we cannot do anything without having some suggestion about bad faith or distortion.

MR. EDWIN S. SMITH: I think your statement goes entirely beyond anything having to do with the proceedings in this case. And also may I request you to adopt a somewhat less threatening tone towards this witness than you have used?

Q. (By Mr. Day) How many were on the steps there?

A. I suppose there were in the neighborhood of twenty-five or thirty or forty.

Q. Had you been inside the hall before that?

A. Yes.

Q. When did you first arrive at the hall?

A. I first arrived at the hall at 9:45.

Q. How long did you stay then?

A. I stayed until about 10:30.

Q. Who else was there when you were inside the hall?

A. Well, there was a fellow named Kessler and Mathias.

Q. How do you spell that?

A. Well, your guess on that is as good as mine.

Q. Who else?

A. Harold Ruttenberg and Joe Morton.

Q. And there were several others?

A. Yes.

Q. About how many?

A. I would say five or six in there.

Q. About how many were around the headquarters?

A. At 10:30?

Q. When you were there at the time you were telling about now.

MR. LAUTER: If the Board please, I would like to have the time fixed. It was about time to change the pickets, and, naturally, and necessarily, the crowd increased.

MR. DAY: I am asking him how many there were.

MR. LAUTER: If the Board please, I would like the time to be fixed. Time is rather important in this hearing, and I would like to have him fix time.

MR. EDWIN S. SMITH: I think that is proper. We must get that chronologically.

Q. (By Mr. Day) At nine forty-five you say you were inside of the house?

A. Yes.

Q. How many were there then?

A. I would say possibly fifty or sixty.

Q. How long did you stay there before the trouble started?

A. What trouble are you speaking of? We had two different little flare-ups. One was over at the viaduct.

Q. You did not see the one at the viaduct?

A. No.

Q. Then we will forget that. What time was the other flare-up?

A. Just a few minutes before 11.

Q. How many were there at that time?

A. I would estimate there were possibly 125.

Q. And had you been in the C. I. O. headquarters, or about C. I. O. headquarters all of the time from 9:45 until a little before 11, or did you leave and then come back?

A. We left to attempt to go to the viaduct to see what the trouble was over there. When we got to Erie Street it was so suggested, and I noticed there were policemen up there, so I thought the best thing for me to do was to come around and come back.

Q. (By Mr. Donald Wakefield Smith) Erie Street is not the street which leads from the strike headquarters to the office of the Republic Steel?

A. No, sir; that is the main street that the viaduct runs off of.

MR. LAUTER: For the information of the Board, the street the strike headquarters were on was Cleveland Avenue. Erie Street is a parallel street.

Q. (By Mr. Day) You say the trouble started at C. I. O. headquarters and you were out on the steps?

A. Yes.

Q. With four or five men?

A. I didn't say with four or five men.

Q. How many were there?

A. I would say right on the steps there there were possibly fifteen, twenty, or twenty-five. I couldn't estimate how many there were.

Q. But outside the building?

A. Yes.

Q. You were standing close together?

A. Yes, we were standing rather close, yes.

Q. Can you name me any more of those than you have named?

A. No.

Q. Then what did you say happened?

A. There was a fellow drove up in an automobile.

Q. Where did he drive from?

A. His car was headed, or his lights were headed towards the mill, and I suppose he came in from Cleveland Avenue. What I noticed particularly was that the lights were shining on the policemen down there, and I suppose they were more or less frightened, being new men. They acted kind of nervous, anyway.

Q. You mean the policemen did?

A. Yes. And one of them shouted "Take the lights off."

Q. One of the policemen did?

A. Yes; which he did.

Q. Where were the policemen with reference to the C. I. O. hall?

A. Lined up across the street about 50 feet down Cleveland Avenue, and some were sitting across the sidewalks.

Q. When you say down Cleveland Avenue—

A. I mean towards the mill.

Q. Can you indicate on this picture where they were?

A. Very close, I imagine. They were down about here.

MR. EDWIN S. SMITH: Will you mark that with a pencil?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: I think it would be more material if instead of using this picture we would use the map which is in evidence.

Q. (By Mr. Day) Here is C. I. O. headquarters over here (indicating), where it says "C. I. O. 4193." Do you see that?

A. Yes, sir.

Q. District office here (indicating), Cleveland Avenue here (indicating). Oakland Avenue here (indicating). I suppose that is still Cleveland Avenue?

A. I guess so.

Q. Were you on the steps of the C. I. O. headquarters house?

A. Yes, sir.

Q. And where were the policemen?

A. Where were the policemen?

Q. Yes.

A. Well, I presume that this is possibly a block, or half a block.

MR. LAUTER: At this point I also want to point out this about the map: The lines that are extended across this map indicates presumably a section of the city plot blocks and are also not the best possible descriptions of that area there. I have been to that area, and I have some familiarity with it, and this map, for the same reason as that picture, is not a very good means by which this witness or any other witness can describe that place.

MR. DAY: We would be very glad if you would bring in another map or picture.

MR. LAUTER: Unfortunately this incident took place so recently that we have not had an opportunity to prepare maps.

MR. DAY: All right.

MR. LAUTER: And I would prefer this witness and other witnesses to testify from their knowledge, and not from maps with which they are unfamiliar, or from pictures with which they are unfamiliar.

MR. DAY: As far as we are concerned, we had the pictures made,—

MR. LAUTER: (Interposing) I believe we can get an adequate picture from the eye witnesses of what happened there.

MR. EDWIN S. SMITH: Where were the police, to the best of your recollection, this side of this place on Cleveland Avenue?

MR. LAUTER: May I point out the mill is in this area, right through here (indicating).

MR. EDWIN S. SMITH: Is this a street running through here (indicating)?

MR. LAUTER: It is not a street, and that is precisely the point I am making.

MR. DAY: I don't think it appears as a street.

MR. LAUTER: That looks no different than any of these other marks here which clearly appear there to be streets, and I want to register my objection now to the use of the map at this time.

MR. EDWIN S. SMITH: Let us dispense with the map if it is not sufficient for the witness to identify where these things took place.

Q. (By Mr. Day) What did you say happened? You say a man came down Cleveland Avenue in an automobile and the lights were shining on the policemen, is that right?

A. That is right. I presume he came down Cleveland Avenue. His car was headed that way.

Q. Were you on the steps?

A. Yes, sir.

Q. Then what happened?

A. One of the policemen shouted to him to cut his lights off, which he did.

Q. Where was his car?

A. Along the curb.

Q. How far from C. I. O. headquarters?

A. Across the street.

Q. Across Cleveland Avenue?

A. Yes.

MR. EDWIN S. SMITH: Had the car come to a stop?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: His lights were on and the policemen made him cut them off?

THE WITNESS: Yes.

Q. (By Mr. Day) What did you see?

A. I saw the fellow cut his lights off when they holloaed at him.

Q. All right. Then what happened?

A. It was only a few seconds after that until one of the policemen holloaed, "Let them have it, break it down."

Q. Was that one of the policemen about fifty feet away?

A. I would say it was in the neighborhood of fifty feet. I didn't particularly measure it, I would think it would measure about fifty feet.

Q. About fifty feet from the point where this group of men were assembled?

A. Yes, sir.

Q. What happened next?

A. I saw the policemen drop down and start shooting.

Q. How many did you see drop down?

A. I saw one.

Q. Did you notice how he was dressed, or anything?

A. No, I could not say how he was dressed.

Q. You just saw one policeman drop down and start shooting?

A. That is all I saw.

Q. Did he start to shoot before or after he dropped down?

A. He started to shoot when he dropped down.

Q. Then what happened?

A. Well, I stood there a few seconds to determine whether he was shooting real bullets or not, and I thought they were dummies, and I thought it was a bluff, but when I found out it wasn't I thought I would do well to move.

Q. Where did you go?

A. I ran up Cleveland Avenue.

Q. In what direction?

A. Away from the mill.

Q. How far did you run?

A. About fifty yards until I came to an opening in the fence.

Q. While you were running you didn't see anything that happened?

A. Oh, yes.

Q. Were you running with your face towards the scene or away from the scene?

A. Why, I could see what was happening in front of me.

Q. Were there other men running with you?

A. Yes, sir.

Q. Where did you go?

A. I ran through the fence until I hit an alley parallel with Cleveland Avenue and ran out that alley.

Q. Where did you run?

A. Ran to McKinley Avenue and circled back and when Mr. Beckner came along hanging on the running board of a car and picked me up.

Q. And then you went back to Canton?

A. Yes, sir.

Q. How long do you suppose you were actually on the scene of the trouble after the first shots were fired?

A. Not a great length of time. I was around in the neighborhood. I would say around there possibly three quarters of an hour.

Q. What were you doing during that three quarters of an hour?

A. Keeping out of the way of bullets, mostly.

Q. Did you see any other shooting besides the first shooting?

A. Yes, sir.

Q. Where did those shots come from?

A. The policemen.

Q. At the same place?

A. No, a little further down.

Q. How far away?

A. Oh, they were on the strike-picket line.

Q. Then you went back to Canton?

A. Yes, sir.

Q. Isn't it a fact that the first shots fired in that trouble were fired by the C. I. O. men themselves from a point on the steps in front of the C. I. O. headquarters?

A. It is not a fact.

Q. It is not a fact that some of the policemen, especially Captain Curley, came up close to the C. I. O. headquarters where the C. I. O. men were assembled and asked the crowd to disperse, calling their attention to the rule announced by the Court in the order of injunction granted? Isn't it a fact that after that these police and Captain Curley,—

MR. DONALD WAKEFIELD SMITH: (Interposing) What ruling of court are you referring to there?

MR. DAY: The ruling of the Common Pleas Court.

MR. DONALD WAKEFIELD SMITH: In regard to the injunction in Canton?

MR. DAY: It was a county-wide injunction.

MR. DONALD WAKEFIELD SMITH: Was this presumed to be picketing in front of union headquarters? As I recall that injunction, so far as picketing was concerned, it didn't prevent a peaceful assembly.

THE WITNESS: That injunction didn't apply to Massillon.

MR. DONALD WAKEFIELD SMITH: I would be interested to know that.

THE WITNESS: The injunction was for Canton. They tried to have Massillon included and the Judge, Judge Graham, would not allow Massillon to be combined in this.

MR. DAY: That is not our information. We haven't accurate information, but we will get it and put it in the record.

MR. DONALD WAKEFIELD SMITH: I think

the wording of the injunction did not prohibit peaceful assemblying.

Q. (By Mr. Day) Didn't he ask the crowd to disperse?

A. I didn't hear him.

Q. Wasn't he greeted with a shower of stones?

A. No, sir.

Q. Wasn't it a fact that four or five shots were fired from the front of the C. I. O. headquarters by C. I. O. men?

A. Absolutely not.

Q. Weren't you there when the shots were fired?

A. There were no shots fired from the C. I. O.

MR. DAY: That is all.

MR. EDWIN S. SMITH: Do you know Captain Curley?

THE WITNESS: No, sir.

MR. EDWIN S. SMITH: Was he pointed out any time that night?

THE WITNESS: I could not identify Captain Curley. Some one told me he was there; yes, sir.

MR. EDWIN S. SMITH: Did anybody that might be Captain Curley or anybody else make any such remark that you heard?

THE WITNESS: No, sir, he did not.

Q. (By Mr. Day) Are you under arrest now in connection with the riot?

A. Am I under arrest?

Q. Yes.

A. Not to my knowledge.

Q. Were you arrested in connection with the riot, either at Canton or Massillon?

A. No, I was picked up by some National Guards when I was absolutely doing nothing and slammed in jail.

Q. Where was that, in Massillon or Canton?

A. Canton.

Q. Is that charge still pending against you?

A. I don't think it is.

Redirect Examination

Q. (By Mr. Lauter) You testified about an agreement to disarm. What do you mean? Describe precisely what you mean, what kind of weapons did the C. I. O. have in their possession?

A. What are you referring to?

Q. You testified on cross examination there was an agreement to disarm by those inside the plant.

A. That is right, Colonel Lawler and the sheriff,—

Q. (Interposing) I am not interested about going to the extent of explaining all that.

MR. EDWIN S. SMITH: Suppose we let him do that.

THE WITNESS: They called a meeting at the request of the Mayor and Colonel Lawler, and we came to the Mayor's office. The Mayor was present, the sheriff was present, the Chief of Police and the Safety Director, and Paul Know, and I think Bert Tennyson.

MR. EDWIN S. SMITH: Who are Paul Know and Bert Tennyson?

THE WITNESS: Paul Know and Bert Tennyson are attorneys, and we met there to try to work out some kind of proposition that would be satisfactory to everybody in regard to picketing, and we had noticed from observation that the pickets on the inside of the mill, the workmen on the inside of the mill, they would rush to the picket line and they carried clubs, stones and rocks and everything else, and the non-strikers were carrying clubs, and, I think even went so far as to carry guns on them, so we assembled there and tried to work out some way to get rid of this thing. So we agreed when the mill men inside would disarm of their weapons and non-strikers would disarm all their weapons we would be willing to do anything they would do and the mayor had agreed to disarm.

MR. DAY: Was this the Mayor of Canton or Massillon?

THE WITNESS: Canton, and he agreed to disarm all the union strikers and Colonel Lawler took it upon himself to go inside the mill and see that everybody laid down their slingshots. There were slingshots that shot steel balls.

MR. EDWIN S. SMITH: Did they shoot at pickets?

THE WITNESS: Yes, and we secured one of those slingshots. It looked almost perfect, like it was made by a machine and I should say you could shoot a steel ball a mile with it, and I think Colonel Lawler has that in his possession yet. So, he went in to see them lay down their arms, but the meeting broke up and there wasn't anything agreed by anybody. There wasn't anything accomplished because the two attorneys told the mayor he had his chin out too far and there wasn't any agreement of any kind and nothing done.

MR. EDWIN S. SMITH: You said something about the men inside the mill marching toward the picket line?

THE WITNESS: Yes.

MR. EDWIN S. SMITH: What do you mean by that?

THE WITNESS: About every evening, and sometimes in the morning, there would be 150 or 200.

MR. DAY: Is this Canton or Massillon?

THE WITNESS: Canton.

MR. EDWIN S. SMITH: Where did this shooting with slingshots take place, at Massillon or Canton?

THE WITNESS: No, that came out of Canton.

MR. EDWIN S. SMITH: You are not testifying about Massillon?

THE WITNESS: No, sir.

Recross Examination

Q. (By Mr. Day) You live in Canton?

A. Yes, sir.

Q. And you spent most of your time in Canton during the strike?

A. Oh, I would not say that. I spent time in Canton and Massillon, and, of course, at Carlton.

Q And you were over at Massillon the afternoon of that Sunday, weren't you?

A. Yes, sir.

Q. Did you go close to the headquarters after the meeting?

A. Yes, sir.

Q. You came back at nine thirty?

A. Yes, sir.

Q. Did you expect something to happen?

A. No, sir.

MR. DAY: That is all.

MR. DONALD WAKEFIELD SMITH: May I ask a couple of questions, please.

Do you know Mr. Haley in Massillon?

MR. DAY: His full name is Lincolnhaley.

THE WITNESS: I don't know the gentleman, but I heard a lot of talk about him.

MR. DONALD WAKEFIELD SMITH: You don't know him when you see him?

THE WITNESS: No, sir.

MR. DONALD WAKEFIELD SMITH: May I ask this question. You say there were about 125 pickets, we won't say pickets, but 125 persons in front of strike headquarters, in front of strike headquarters at about ten forty-five when the shooting started?

THE WITNESS: It started later than ten forty-five. I would say it was around five minutes of eleven.

MR. DONALD WAKEFIELD SMITH: I will follow with this question. Was it customary for pickets to assemble at strike headquarters immediately prior to the change in the picket shift?

THE WITNESS: That is right.

MR. DONALD WAKEFIELD SMITH: Was that the reason there was 125 persons there at that time?

THE WITNESS: That is right.

MR. DONALD WAKEFIELD SMITH: Another question. How long a period of time elapsed from the time this police officer said to the driver of the car which was coming toward them to take the lights off until the shooting started?

THE WITNESS: Well, as well as I could estimate between half a minute and a minute.

MR. DONALD WAKEFIELD SMITH: Did it appear to you as though that might have been a prearranged signal?

THE WITNESS: Well, I could not say that. I would not want to say that.

MR. DONALD WAKEFIELD SMITH: That is all.

MR. DAY: That is all.

(Witness excused.)

MARTIN J. BECKNER

a witness called for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) State your name.

A. Martin J. Beckner.

Q. Where do you live?

A. 1549 Harrisburg Road, Northeast, Massillon, Ohio.

Q. Have you been employed by the Republic Steel Corporation?

A. Yes; about nine years.

Q. When did you start work for them?

A. 1925.

Q. How long did you work for them?

A. Until 1931, and left the employment of the Republic Steel Corporation to go into business for myself. I was re-employed by them in 1933 and in June of 1935 I was discharged because of the strike at the Republic Steel Corporation, and on January 1, 1936, was re-employed in the Canton Tin Plate Company of the Republic Steel and I am working there at the present time.

MR. DAY: What did you say?

THE WITNESS: I am working there at the present time.

Q. (By Mr. Lauter) You mean what?

A. I am still employed there.

Q. You consider yourself an employee of the plant?

A. Yes, sir.

Q. You went on strike?

A. Yes, sir.

Q. When?

A. May 25, 1937.

Q. Have you been associated with the Steel Workers Organizing Committee?

A. Yes, sir.

Q. When did you join the Steel Workers Organizing Committee?

A. September, 1936.

Q. Do you hold any position in that organization?

A. Yes, sir, I am vice-president of All Nations Lodge No. 1200, and president of the Stark County Council for industrial organization.

Q. Are you familiar with the strike headquarters in Massillon, Ohio?

A. Yes, sir.

Q. Located on Cleveland Avenue?

A. Cleveland Street.

Q. Well, it goes by both names. Did you visit headquarters on Cleveland Avenue on July 11, 1937?

A. Yes, sir.

Q. Who was with you?

A. Frank Hardesty and Harold Ruttenberg.

Q. When did you arrive there?

A. About a quarter of ten.

Q. What did you see when you got there?

A. At the time 50 or 60 strikers or sympathizers were around headquarters, and some of them were eating in the office, and a man sitting at the telephone desk, I believe his name was Tom Workum, president of the Massillon Local, and several members of the lodge and Mr. Hardesty and myself.

Q. What happened after nine forty-five?

A. I was talking to some of the men and some of them said it was about time for the scabs to go into the mill and I asked how many carloads went in and they told me they didn't know, and I asked one to take me down on Erie Street, so I could get an estimate and take it back to the lodge in Canton.

Q. What happened?

A. I went down and it was a little early, and I asked a fellow to go with me and get a glass of beer, and while we were in there we heard a crash and there was cars lined up in the street and these special policemen were shooting tear gas and pistols and machine guns up the street and I left the scene.

Q. Erie Street is located how far from strike headquarters?

A. It is some distance.

Q. You then returned to strike headquarters?

A. Yes, sir.

Q. What did you see when you got back?

A. There were more pickets there. It was getting close to time to change shifts. The shift at Canton changed at 12 o'clock. I went on into headquarters and asked Harold Ruttenberg what time it was and he said it was about ten thirty. I stepped back out the door, and I noticed these police were down there, quite a few of them.

Q. Where were the policemen?

A. About fifty feet south.

Q. The police were between the plant and strike headquarters, is that right?

A. Yes, sir.

Q. Did you notice anything about how they were arranged?

A. I noticed there were quite a few more than usual and they were deployed across the street.

Q. What?

A. They were deployed across the street, and some spread out and some closer than others, and I noticed there was something unusual about them, and after watching a little bit I noticed they all had guns, but up until that time they only had clubs.

Q. Did you know what the usual number of police around the strike headquarters were about that time?

A. Sure, five or six.

Q. How many did you notice on July 11th?

A. I estimated between 25 and 30.

Q. Did it strike you that they were conducting themselves in any particular fashion or manner?

A. Yes, it appeared they were nervous, acting like men expecting something, and from the way they were acting I went into headquarters and asked the president of the Massillon lodge if that was their usual method of conducting themselves.

Q. What happened inside headquarters?

A. We started discussing it then, and Mr. Harold Ruttenberg and myself and Mr. Claude Cooley, and we decided that these men were new men and we had better ask the pickets outside to go home.

Q. About what time did you change pickets at the plant?

A. Eleven o'clock. So the president of the Massillon Lodge stepped out to tell these men to go home, and when he went out the door I stepped outside the door and stood on the step and Harold Ruttenberg was standing in the doorway.

Q. What happened?

A. A car pulled up across the street and two men came out and Bill Henderson,—

Q. (Interposing) Bill Henderson was a policeman?

A. Yes, sir.

Q. Who was he?

A. He was a chipper foreman in the Massillon plant.

Q. He was a special policeman on the line you saw there on July 11th?

A. Yes, sir.

MR. EDWIN S. SMITH: You mean a foreman in the chipper department?

THE WITNESS: Yes.

Q. (By Mr. Lauter) Explain what happened.

A. They started forward.

Q. Who started forward?

A. Mr. Henderson and the other policeman.

Q. Do you know who the other person was?

A. They came forward toward the car. I didn't know who the other man was, but they told the driver to put those damn lights out or they would shoot them out.

Q. Where was that car located?

A. It was across the street, about fifty feet further down.

Q. A little further down?

A. Yes, sir.

Q. Right across the street?

A. Yes, sir.

Q. Then what happened?

A. The man switched out the lights and these two officers started back toward the line of police and someone in the crowd of pickets yelled "Whoopee," or something.

Q. What is that?

A. These two officers started back toward the line of police ~~and~~ somebody in the crowd yelled "whoopee," or something.

MR. DAY: They yelled whoopee?

THE WITNESS: Yes, whoopee; and these officers immediately dropped to the ground and someone said "break them down and let them have it," and the shooting started about fifty feet down from the strike headquarters on the southwest corner.

Q. (By Mr. Lauter) Was there shooting by anybody else?

A. Shotguns, machine guns and bullets from these special policemen located south of the strike headquarters.

Q. At any time you were on the scene did you see any shooting from C. I. O. headquarters?

A. There was not.

Q. During the entire evening did you see or hear any shooting by any of the C. I. O. men?

A. No, sir.

Q. Did you see any shooting by anyone else besides the police?

A. I did not.

Q. Describe what happened after the shooting started.

A. When they started shooting I went around strike headquarters on the north side of the building until I came to a lane.

Q. Were you running around?

A. Until I came to a lane running parallel with Cleveland Street, and I went up the lane to McKinley Avenue and turned west and came out on Cleveland Avenue again and seen some people from Canton in a car with two women and I told them to get the women out.

Q. Why did you tell them to get the women out?

A. Because I didn't want to see the women shot.

Q. What did they do?

A. They started up the street.

Q. What did you do?

A. I started over to—I went toward the Massillon headquarters and saw a man lying face down in the street and every once in a while the police were shooting gas shells, and I said, "Let's get that fellow out," and we carried him up to the corner of Cleveland Street and McKinley Avenue and a car came up with two men and two women in it.

Q. Did you recognize or notice how this man was dressed?

A. The only thing I could recognize was he had on a brown coat.

Q. All right.

A. We stopped the car and put the man in it and asked them to take him to the Massillon City Hospital, and a second man had fallen and we picked this man up and he had been hurt in the shoulder.

MR. DONALD WAKEFIELD SMITH: Was that in the front or back of the shoulder?

THE WITNESS: I could not tell, but he was able to walk, and by this time the special police started shooting at us and we started to McKinley Avenue.

Q. (By Mr. Lauter) When you put this man in the car, where did you put him?

A. In the back seat.

Q. Laid him on the back seat?

A. That is right.

Q. What happened to the second man?

A. He was still with us and the special policemen were lined up on the west side of the street and some were still coming up Cleveland Street shooting gas shells and buckshot and these other policemen lined up across from strike headquarters and every once in a while you could hear the gas guns and these special policemen went on up to another street running parallel with Cleveland Street and I seen this car with the Canton people in it and asked them to take Mr. Wilson—that was the name of the man that had been shot, and another car came along and I stepped on the running board and I got on it and we drove back to Canton.

MR. DONALD WAKEFIELD SMITH: This shooting occurred while you were running away?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: Was anybody else running away with you?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: The shooting was still going on?

THE WITNESS: Yes.

MR. LAUTER: That is all.

Cross Examination

Q. (By Mr. Day) You live at Canton?

A. Yes, sir.

Q. Were you at the meeting at Massillon?

A. No, sir.

Q. Had you been to Massillon the day before?

A. No, sir.

Q. Why were you going over there Sunday night?

A. It was my duty to help get out the strike bulletin, and I went to get all the information I could.

Q. How often would you go to Massillon?

A. Sometimes twice a day and some days I didn't go at all.

Q. How often would you go to Massillon at night?

A. Whenever I got an opportunity for a ride.

Q. You went with Mr. Hardesty and Mr. Ruttenberg?

A. That is right.

Q. The first trouble which you saw was down at the beginning of the viaduct?

A. The trouble I seen was on Erie Street.

Q. Almost at the entrance of the viaduct on Erie Street?

A. No, sir; something like fifteen or twenty feet.

MR. DAY: May I use this map for the purpose of showing where the viaduct is and Erie Street?

MR. EDWIN S. SMITH: Yes, sir.

Q. (By Mr. Day) Mr. Witness, will you step here. This is Erie Street here (indicating).

A. That is right.

Q. Here is the beginning of the viaduct running into Oberlin Avenue (indicating)?

A. Yes, sir.

Q. Where was the trouble?

A. In Erie Street, three doors above the car.

Q. You weren't there when the cars got jammed into the opening of the viaduct?

A. No, sir.

Q. That happened, that was before you got there?

A. Yes, sir.

Q. And the trouble was up Erie Street?

A. Yes, sir.

Q. You say these policemen were shooting tear gas into the crowd?

A. Yes, sir.

Q. Nobody was injured, were they?

A. No, sir; not to my knowledge.

Q. Then you went on to strike headquarters?

A. Yes, sir.

Q. I understood when you got back to strike headquarters you were with Hardesty when the trouble started.

A. When the shooting started I didn't know where Mr. Hardesty was standing.

Q. Just where were you?

A. I was on the steps, the first step just outside the door of strike headquarters.

Q. How many men were with you?

A. Just the exact number?

Q. About how many?

A. Between one hundred and seventy-five.

Q. How many were assembled together in front of the strike headquarters there in one bunch?

A. Almost all the pickets, changing shifts were lined up. You could hardly say.

Q. Can you give us any idea how many were with you?

A. I had my back turned to them.

Q. Was Ruttenberg with you?

A. He was at my left shoulder.

Q. Was Hardesty there?

A. I don't know just where he was standing.

Q. Where were the police?

A. Fifty feet up the street.

Q. And you say they opened fire after something had occurred about putting out the lights, and you say they had a machine gun?

A. I would say it was a machine gun.

Q. What do you base that on?

A. The way it was shooting.

Q. How far were these men standing from the gun?

A. About 50 feet.

Q. How many were standing there when that machine gun began to fire?

A. Between 150 and 200.

Q. In one assembly?

A. They were on the street; yes, sir.

Q. Was anybody shot at that time?

A. I was in such a hurry I didn't notice.

Q. You didn't notice?

A. No, sir.

Q. You say 50 feet away the machine gun was firing and there was also machine guns and pistols being fired?

A. That is right.

Q. There wasn't any obstruction between the machine gun and the assembly of men in the C. I. O.?

A. There wasn't, the machine gun was shooting towards the doorway.

Q. Were your men in front of the doorway?

A. Mr. Ruttenberg was in the doorway. I was on the steps.

Q. How many rounds did the machine gun shoot?

A. I don't know.

Q. How long were you there before you started away?

A. About one minute.

Q. About one minute?

A. Yes, sir.

Q. Prior to that time you saw a man named Henderson?

A. Yes, sir.

Q. A special policeman?

A. Yes, sir.

Q. And he had been a foreman for the Republic Steel?

A. The last time I talked with him he was still a foreman.

Q. And with Henderson was another man?

A. Yes, sir.

Q. How were they dressed?

A. They both had blue shirts on. I didn't notice their hats. I noticed their hips and they both carried guns.

Q. Were those men standing up?

A. Yes, sir.

Q. Were they walking?

A. Yes, they were walking toward the car across the street from headquarters.

Q. As these two men, one whom you recognize as Henderson, were walking, were they getting closer to C. I. O. headquarters?

A. Coming closer on the opposite side of the street.

Q. You say one of these men said something.

A. He told him to turn off the lights.

Q. Was that Henderson or the other man?

A. I don't know.

Q. And somebody in the pickets somewhere yelled "Yippee?"

A. Yes, sir.

Q. Then they started firing?

A. Before the Yippee they started down the street and said, "Let them have it."

Q. And you ran away?

A. I ran as soon as it happened.

Q. Where did you go.

A. I went around the north side of strike headquarters to a lane running north and south, and I ran up that lane about 220 yards.

Q. Where was it you noticed the man lying on the street with the brown coat on?

A. About 200 yards back down the street.

Q. How long would you say it was after the firing that you saw him?

A. Four or five minutes.

Q. When did you notice the man shot in the shoulder?

A. When we were carrying the man by.

Q. Then you finally got in the car and went to Canton?

A. Yes, sir; that is right.

Q. I will ask you if it is not a fact the first shots fired were fired by C. I. O. men off the C. I. O. steps?

A. That is impossible.

Q. That isn't so?

A. That is impossible. That isn't so.

MR. DAY: That is all.

MR. EDWIN S. SMITH: Why wasn't it possible?

THE WITNESS: I was standing on the steps and Mr. Ruttenberg was standing in the doorway.

Q. (By Mr. Day) Was there any firing by anybody in and about the strike headquarters?

A. By the special policemen.

Q. Any firing from the other side at all?

A. No, sir; no guns on the other side.

MR. DAY: All right; that is all.

MR. EDWIN S. SMITH: Did you recognize Captain Curley among these special policemen?

THE WITNESS: I did not know Captain Curley.

MR. EDWIN S. SMITH: Did anyone make a speech as described by Counsel when he was questioning the last witness?

THE WITNESS: What speech?

MR. EDWIN S. SMITH: To disperse.

THE WITNESS: The only thing Captain Curley said was to turn out the lights.

Redirect Examination

Q. (By Mr. Lauter) I am not entirely sure that I understood where the yell came from to break it up and let them have it.

A. It came from the policemen.

MR. LAUTER: That is all.

(Witness excused.)

MR. EDWIN S. SMITH: We will recess for 5 minutes.

(Thereupon, at 3:45 o'clock p. m., the hearing was recessed until 3:50 o'clock p. m. of the same day.)

WALTER A. MEYER

was thereupon called as a witness for the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) What is your name?

A. Walter A. Meyer.

Q. Where do you reside?

A. Worcester Street, Navarre.

Q. Are you an employee of the Republic Steel in Massillon?

4 A. Yes, sir.

Q. What kind of work?

A. Rougher.

Q. R-o-u-g-h-e-r?

A. Rougher.

Q. Are you married?

A. Yes, sir.

Q. Have you any children?

A. Yes.

Q. How many?

A. Three.

Q. Three children?

A. Yes, sir.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join?

A. October or November, 1936. It was either October or else November, 1936.

Q. Do you recall July 11, 1937?

A. Yes, sir.

Q. That was a Sunday; is that right?

A. Yes, sir.

Q. Did you go to Sippo Park on that day?

A. Yes, sir.

Q. Describe what happened during the afternoon of July 11, 1937?

MR. DAY: We will take this all under objection and exception.

MR. EDWIN S. SMITH: Very well.

THE WITNESS: On July 11th—

MR. DAY (Interposing): Sippo Park is in Canton?

MR. LAUTER: That is right.

THE WITNESS: On July 11th my wife and I started up to Massillon to hear the—

MR. DAY: I can't hear a word the witness says.

MR. EDWIN S. SMITH: If the witness would only speak a little louder.

MR. DAY: Did he say Sippo Park in Canton?

MR. LAUTER: That is right. I would like this witness to speak a little louder.

THE WITNESS: On July 11th, on Sunday afternoon, we had a mass meeting at the Oak Knoll Park, and my wife and I went to that meeting and after the meeting I met Mr. and Mrs. Wincek.

BY MR. LAUTER:

Q. When did you arrive at the meeting?

A. Two o'clock. The meeting lasted until 4 o'clock Sunday afternoon, and then I asked Mr. Wincek if he would go along with us to the meeting in Canton at 7:30 in Sippo Park, and he said sure.

Q. That is Mr. and Mrs. Wincek?

A. Yes, sir.

Q. That is Wincek?

A. And my wife and I drove home after the meeting, and Mr. and Mrs. Wincek came down to our house after the meeting, and they left their car at the house and got in our car, and my wife and I and Mr. and Mrs. Wincek drove over to Sippo Park in Canton to attend that meeting at 7:30, but it rained all the while we were going over and it didn't look as though there was going to be a meeting, and people were running out of the rain, and we drove up on Mahoning Road near Sippo Park and it poured down rain, and it rained for probably a hour an hour or so after we got there, and after the rain had let up it was still misting a little bit and it seemed the people gathered back to hear the mass meeting.

Q. This meeting was scheduled to take place at 7:30?

A. Yes, sir.

Q. About what time did it actually take place?

A. I think around 8 or 8:30.

Q. What happened after that?

A. We seen these people walking toward the park to hear this meeting, and me and my wife and Mr. and Mrs. Wincek got out of the car and walked to Sippo Park and the meeting lasted, I would say, until 10 o'clock. After the meeting we got in our car and I didn't know just where we were going, and we drove down Mahoning Road until we got to East Tuscaranas Street, and Mr. Wincek said after we got down toward East Tuscaranas Street, "If you will stop at the 'Trail' beer joint, I will buy each one a small drink." I said that is more than I can do because I am broke, so I drove down there and we each drank a small beer, and after we did that we went out and got in our car.

Q. Who got in the car?

A. Mr. and Mrs. Wincek and my wife and myself.

Q. What happened after that?

A. We started toward home. We were driving along slow and it was either my wife or Mrs. Wincek mentioned something about going over to the C. I. O. headquarters at Massillon to get a bowl of soup.

Q. Get a bowl of soup where?

A. At C. I. O. headquarters.

Q. Is that in Massillon on Cleveland Avenue?

A. Yes, sir.

Q. Why were you going over to get a bowl of soup? Did you generally go over there to get a bowl of soup?

A. No, sir; I never took my wife over there. I read so much about riots, I always told my wife I didn't think it was a place for a woman to be.

Q. What did she say? Did you go over there?

A. It was mentioned about getting the bowl of soup but she didn't say anything much. After we went out in the evenings we always stopped and got a bowl of soup or lunch or something before we turned in for home, but this evening I was broke and Mr. Wincek didn't have much money either, and when they mentioned about getting the bowl of soup at C. I. O. headquarters on Cleveland Avenue at Massillon we figured it would be a good place to go and get something to eat before we went home, so we all agreed to do so and we drove over there and we drove down Cleveland Avenue north and pulled right directly across from C. I. O. headquarters and parked.

Q. You say you pulled down Cleveland Avenue from the north. Is that going in the direction of the mill?

A. Yes, sir.

Q. And where did you pull in?

A. I parked right directly across from C. I. O. headquarters.

Q. On what side of the street?

A. On the righthand side of the street.

Q. Facing the mill?

A. The west side.

Q. The west side?

A. It would not be facing the mill.

Q. In the direction of the mill; is that right?

A. The mill is directly south, in my estimation, from Cleveland Avenue, and the C. I. O. headquarters is on the east side of the street, and I parked directly across the street, which is the west side.

Q. Directly across the street from C. I. O. headquarters?

A. Yes, sir; and I pulled in there to park and I noticed there was a fireplug back of me, so I pulled up six or eight feet from it and parked. We were there for some time and quite a few people were standing around there talking and having a good time, and we were discussing whether we wanted to go in and get a bowl of soup or go back home.

Q. Who were you discussing this with?

A. My wife and Mr. and Mrs. Wincek.

Q. Who were in the car?

A. Yes, sir. So while I was discussing that with them, I seen a car coming down Cleveland Avenue and passed our car and pulled in directly ahead of us and passed the fireplug and parked directly ahead of us.

Q. Was that on the same side of the street you were?

A. The same side of the street, and I judge it was 20 feet between my car and this man's car. The man pulled up and he shut his motor off and I heard the cops holler "Turn them lights off." I don't think the man heard the cops when they called the first time. Well, the man was getting out of the car, and he stepped on the pavement, and they hollered a second time, "Turn those lights off or we will shoot them off," so the man reached in and shut them lights off, and he started toward the C. I. O. headquarters and there were so many people standing around there I could not tell how far he went, and I didn't pay any more attention to him.

Q. Did you notice the number of people there in the crowd around C. I. O. headquarters?

A. I would surmise around 200 people.

Q. Was any police around there?

A. I would say at least 25 lined across the street, just about fifty or sixty feet ahead of my car on Cleveland Avenue.

Q. Did you notice any of the policemen you knew?

A. Dale Kriger.

Q. How do you spell his name?

A. I don't know.

Q. Dale Kriger?

A. Yes, sir.

Q. And he is one of the special policemen?

A. Yes, sir.

Q. Did you know anything about him?

A. He used to be a time spotter in the hot mill.

Q. Dale Kriger was a policeman who used to be a time spotter in the Massillon mill?

A. Yes, sir.

MR. EDWIN S. SMITH: What is a time spotter?

THE WITNESS: We have cards over there. Every day we punch our own cards, but we used to have time spotters, but each man now takes care of his own card. He takes the card out of the rack and punches it and puts it back. Before they had these regulations we used to just go into work and the time spotter would come through the mill and check our badge numbers and names, and that was what Dale Kriger was doing at that time.

MR. EDWIN S. SMITH: You say you recognized him among these policemen who were standing there that night?

THE WITNESS: Yes.

BY MR. LAUTER:

Q. At the time you are presently discussing, was the windows of your car up or down?

A. Down. All the windows were down.

Q. Will you describe what happened after that?

A. Well, we sat there with the windows all down and after this man left that car I turned around toward Mr. and Mrs. Wincek and my wife, and asked them the last time what they intended to do, if they wanted to go in and get a bowl of soup or if they wanted to go back home. While they were arguing about it, at that time I heard the motor start in the car ahead of me and I looked around quick and seen his bright lights were on, and without warning there were two shots fired, and the shots sounded as though they hit the car ahead of us, and I surmised that they were shooting at the man's lights because they had said before they were going to shoot the lights off, and just at that time the shots were fired, it all happened, I heard the cops holler "the God damn hunkies asked for it." "Let us give it to them."

Q. "The God damn hunkies asked for it, let us give it to them."

A. "Let's give it to them." It was just like hail storm hit my car, sounded like machine guns and shotguns, it sounded like the 4th of July, or something, at the lake, and I seen all the people just pick up and run and run around corners, anywhere they could go, and after that, why, the shooting kind of quieted down.

Q. At the time the shooting started what did the occupants of your car do?

A. I told them to duck.

Q. Did they duck?

A. Yes, I say they ducked.

Q. Did you duck?

A. You bet your life.

Q. Go on.

A. After the first volley was over the people pretty well cleared the street in front of headquarters and it quieted down after the first volley, and I raised up and started my motor up; I figured I had better get out of it, and just as I raised up there was a tear gas bomb dropped about six feet ahead of my car and right away I hollered at Mr. and Mrs. Wincek to roll them windows up and roll them windows up as soon as possible, and attempted to start and get away from there, and just as I done that the second volley came and the second time I told them to duck and stay ducked, and I went down myself, and we laid there until the second volley was over, and I said to Mr. Wincek "we have got to get out of here one way or another," so I raised up high enough that I could see out with my left eye, and I put my car in low gear and pulled up about eight feet, and I cut my wheels real short and the third volley came and I didn't stop, and I hit the car back of me and I backed up the street all through the third volley and backed into an alley, and the third volley was over the minute I backed into the alley. I shot in low gear and went up the street in high speed and I drove up there pretty near a block, and I seen at least a dozen men standing around there, and I think there was a couple more there, and I seen two men holding one man between them, and somebody hollered "Take this man to the hospital."

Q. By the time you got to that corner were your wife and Mr. and Mrs. Wincek still in the car?

A. Yes, sir.

Q. Go ahead.

A. I stopped my car and I told my wife and Mr. and Mrs. Wincek to get out on the street in order that we would have room to take these men to the hospital. These two men were holding one man, and we loaded this man in the back seat, and one man sat down on the back seat and held this wounded man's head.

Q. Was the man who held his head wounded?

A. No.

Q. Go ahead.

A. But there was the man got on the front seat, and he said he got shot in his right shoulder. He was holding his hand on his right shoulder while I was going to the hospital.

While we were driving up to the hospital this man lying on the back seat was moaning and suffering terribly. He said, "Boys, I am dying." I rushed the man up to the hospital at high speed. We put him on a stretcher up there and took them up on the second floor on the elevator. I helped lift the man on the bed and pulled his pants off. Right away I rushed out of there and I figured maybe the rest of them might be in danger down there.

Q. When you say the rest of them whom do you mean?

A. My wife and Mr. and Mrs. Wincek. And I rushed down to my car and beat it right back to where I left my wife and Mr. and Mrs. Wincek. When I got there my wife and Mr. and Mrs. Wincek were not there. There were some other men standing there at the corner. Mr. Joe Morton picked up a tear gas shell that landed right on the corner there and up along the street. I was standing there looking at that, and Mr. Wincek hollered up the street and said, "Hey, Walt! I am up here." So I went in my car and drove on up the street and I picked up my wife and Mr. and Mrs. Wincek.

From there I drove clear up Massillon, up on State Street where Mr. and Mrs. Wincek lived. When I got up there Mr. Wincek said, "My car is down at your house." We must have been a little excited at the time. I turned down around and drove back down to Navarre, and Mr. and Mrs. Wincek took their car and went back home to Massillon.

Q. Do you know whether or not the man you took in your car, who was lying in your back seat, died?

A. Yes. I went up to C. I. O. headquarters on East Main Street in Massillon the next day, and some of the boys up there came up to me and told me, "You know that fellow you took to the hospital last night?" and I said "Yes." They said, "Well, that fellow died this morning."

Q. Will you describe the condition of your car after the shooting?

A. When I got home that night I shut the key off in my motor. The motor continued running. I could not figure why the motor did not stop. Mr. Wincek said, "I bet you have got holes in your radiator." I just happened to think it would be no wonder, with all of the shots that hit our car, that there would be holes in my radiator. The car ran for at least a second and finally died away. From curiosity I drove around back of the house and took my garden hose and stuck it in the top of the radiator, and water just gushed out all of the radiator. The windshield was all shattered from being shot. I don't think there were any rifle shots or machine gun shots hit our car. It was practically all buckshot. It shattered the windshield and the body over the windshield, and the body down along the sides of the windshield, and both fenders. The left windshield was shattered.

Q. When you say the left windshield was shattered, you mean the left plate on the lefthand side of the car?

A. Yes, the left door window. I counted ten shots that went through the radiator that landed back of the motor up against the dashboard, I would call it. We stayed there a little bit and talked about that, and Mr. Wincek said, "I am going on home." So he went on home.

Q. During all of the time that you were there did you see any shots come from C. I. O. headquarters?

A. No, sir; none whatever. I didn't see no flashes; and I didn't see no shots, and I didn't see anybody whatsoever have a gun.

Q. Did you see anybody shooting except the police?

A. No, sir.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. You ducked down most of the time while the shooting was going on, didn't you?

A. Not all of the time.

Q. Most all of the time, I say?

A. At the first and second volley I did. I did quite a bit of ducking.

Q. I can't quite understand what direction on Cleveland Avenue you were going. Will you please come up here and show us on the map.

A. Yes, sir.

Q. Here is Erie Street in Massillon.

A. Yes, sir.

Q. And here is the beginning of the viaduct (indicating).

A. Yes, sir.

Q. And the viaduct runs down here.

A. Yes, sir.

Q. And here is Oberlin Avenue?

A. Yes, sir.

Q. And that is the sheet mill there, isn't it?

A. Yes.

Q. And here is Cleveland Avenue coming up here and running down here, and over here is C. I. O. headquarters?

A. Yes, sir.

Q. You can get a general idea by looking at this map?

A. Yes, sir.

Q. Just talk a little louder, please, so that the Reporter can get what you are saying.

A. Yes; I understand that part of it, so far as you have went.

Q. You went to a mass meeting at Oak Knoll Park or Sippo Park?

A. Oak Knoll Park.

Q. Then you went to the park at Canton?

A. I went home first. That meeting at Oak Knoll Park was scheduled at 2 o'clock and lasted until 4 o'clock in the afternoon. Then my wife and I went home and ate supper, and we stayed around there until probably 7 o'clock.

Q. You live in Navarre?

A. Yes, sir.

Q. About how far from Oak Knoll Park is that?

A. I would judge it would be about 5 miles.

Q. Then you drove down to Menisitto Park in Canton? Is that right?

A. About 7 o'clock that evening.

Q. That is about how far from Navarre, the way you drove?

A. Ten miles.

Q. Then after that you went in to some place and got a couple of beers?

A. Yes, after the meeting was over.

Q. Then you decided you wanted a bowl of soup?

A. Yes.

Q. And you thought the best way to get that bowl of soup was at C. I. O. headquarters?

A. Yes.

Q. When you came down in front of C. I. O. headquarters you were on Cleveland Street?

A. Yes.

Q. Which way were you coming?

A. South.

Q. You were going down the way my hand is here (indicating on map)?

A. Yes. I didn't understand these other streets. I could not say what streets I came through.

Q. This is Cleveland Avenue.

A. This street I came out.

Q. How far did you go before you came to a stop?

A. I would say just directly across from C. I. O. headquarters.

Q. About what time of night was that?

A. Around 10:30.

Q. It was after dark, wasn't it?

A. Yes.

Q. What are the lights around there?

A. They seemed to be lights on the main building.

Q. On the office building?

A. Yes. But I can't tell just where they were located.

Q. Were there any lights right in front of C. I. O. headquarters?

A. Yes. There was a pole I would say about 20 feet south of C. I. O. headquarters.

MR. LAUTER: If the Board please, at this time I would like to point out that while this witness could observe the lights in the district office building from where he was in the car opposite C. I. O. headquarters, on this map that would be virtually impossible.

MR. DAY: We are just using this map for a rough idea to expedite matters.

MR. EDWIN S. SMITH: It seems to establish directions, namely, that he was going south on Cleveland Avenue.

Let him proceed.

BY MR. DAY:

Q. You stopped where?

A. Right here.

Q. Did you turn off your lights, or did you leave them on?

A. I turned the lights off.

Q. How long did you and Mr. Wincek and your wives sit out there debating about whether you would get a bowl of soup before any trouble started?

A. Ten or fifteen minutes we sat there before this other car pulled up and parked.

Q. Why did you sit there that long before you went to get the bowl of soup?

A. We had no place to go outside of going home, and we were in no hurry.

Q. You drove over here to get a bowl of soup but you sat out there ten or fifteen minutes?

A. In our car.

Q. Was that other car going south also that you told us about?

A. Yes, sir.

Q. That came down and went past you?

A. Yes.

Q. Did they come to a stop also?

A. It came past me and there was a fire plug right in front of me, and it coasted down and parked just past the fire plug up close to where that light was.

Q. Did you see the man get out of that car?

A. Yes.

Q. Where did he go?

A. Towards the C. I. O. headquarters.

Q. Did he come out again?

A. I didn't pay no attention to the man after he left his car.

Q. Then the last you saw of the car it was standing there without anybody in it?

A. No, sir. I turned around and was talking to my wife and Mr. and Mrs. Wincek, I would say, for three or four minutes, and all at once I heard the motor started.

Q. I understand that. A man came down in the other car and stopped in front of you?

A. Yes.

Q. So he would be in front of you further south on Cleveland Street?

A. Yes.

Q. You say he got out of the car and went into C.I.O. headquarters?

A. I don't know whether he went in or not. He went towards C. I. O. headquarters.

Q. Was anybody else in the car?

A. Three or four men were in it. I saw them get out of the car.

Q. Did all of them get out of the car?

A. Yes.

Q. And the car was empty?

A. Yes.

Q. Did you ever see any of the men come back to the car again?

A. I didn't see the men come back, but I saw the man after he was in the car.

Q. He got back in the car?

A. Yes.

Q. How many men came back and got into the car?

A. Just one.

Q. Did he get in the front seat?

A. Yes.

Q. How much of a crowd was over around C. I. O. headquarters?

A. I judge around 200.

Q. Were they out in front and all around?

A. Out on the street and up on the sidewalk, up on the steps and standing in the doorways.

Q. About 200?

A. Yes, sir.

Q. Up to that time had you seen the policemen?

A. Yes, sir.

Q. Where were they?

A. Right down in here some place (indicating on map).

Q. About how many of them?

A. I judge from what I could see it was around fifteen.

Q. Around fifteen policemen?

A. Yes.

Q. And about 200 men around here?

A. Yes.

Q. Then the policemen would be in front of the car that was in front of you?

A. Yes, sir.

Q. What was the next thing that happened?

A. When I looked around, the motor started in that car and the man turned on his lights.

Q. He had turned the lights off before that, had he?

A. Yes. I surmised the man wanted to leave and go home.

Q. Now, I guess we have the map well enough. After he turned on his lights what happened?

A. After he turned on his lights without warning I heard two shots.

Q. Was there anything said by anybody before the two shots were fired?

A. Not that I could hear.

Q. Not a word?

A. No, sir.

Q. Then would you say it is your recollection that after the man turned on his lights there were two shots before anything was said at all by anybody? Is that right?

A. No. Before he got out of the car the cops had warned him to turn them lights out.

Q. Before he got out?

A. Yes; the first time.

Q. After the cops warned him to turn out the lights he got out of the car?

A. Yes.

Q. Did he turn his lights out then?

A. No, he did not at the time.

Q. He left them off [on]?

A. I don't think the man understood what the cops were hollering about.

Q. He left them on?

A. He stepped out on the pavement and the cops hollered a second time "Turn them lights off or we will shoot them off." The man rushed in and turned them off.

Q. The first time?

A. Yes.

Q. Then did the man go towards C. I. O. headquarters after that?

A. Yes.

Q. Then did he come back?

A. He came back some time but I did not see him come back.

Q. Did you see the man in the car?

A. Yes.

Q. With the lights on?

A. I heard the motor start and seen his lights.

Q. Then what happened?

A. At the time he turned them lights on it wasn't a half a minute or a second—I would say a second—until two shots were fired.

Q. Was there anything said by anybody before you heard those two shots fired?

A. No, sir.

Q. When the shots were fired you and your wife and the other man and his wife were in your car?

A. Yes.

Q. Did you duck down then?

A. Yes.

Q. How far did you duck down? Did you duck down far enough to get out of the range of the bullets?

A. Hardly. The other man sitting alongside of me laid over toward me, and I had to lay over the top of him.

Q. You ducked down as far as you could?

A. As far as possible, as far as I could duck down.

Q. How long did you stay ducked down?

A. Until the first volley of shots was over.

Q. Then, after the first volley of shots was over, you got up again? Is that right?

A. Yes.

Q. What happened then?

A. I started up my motor. The minute I started up my motor the second volley of shots started.

Q. And then did you duck down again?

A. And there was a tear gas bomb dropped six feet in front of my car.

Q. Did you duck again?

A. Yes. And I said, "roll up those windows".

Q. Did you stay until the second volley was over?

A. Yes.

Q. Then you ducked down while the second volley was fired?

A. Yes.

Q. Then did you duck?

A. Yes.

Q. And got up again?

A. Yes. And I told the rest of them to stay down, and I stayed.

Q. All of the time your car was standing still?

A. The third volley, I was backing my car.

Q. You were backing your car away from the curb?

A. I pulled up 8 feet because there was a car parked practically back of me, and I had to pull up in order to get out of there. I pulled up 8 feet and gave my wheels a real short turn to the left, and backed out of there, and missed that car in the back. And it hit my fender and mashed my fender in the back, the right rear fender.

Q. Then you drove away and picked up this man and took this man to the hospital?

A. I backed up an alley a half a block away and backed in that alley during the third volley of shots, and put my car in low gear and drove away about a block and seen all of these men, and seen the two men holding this man who was wounded.

Q. You told us about that?

A. Yes.

Q. And you put him in your car?

A. Yes.

Q. And drove him to the hospital?

A. Yes.

Q. And you heard afterwards the man died?

A. Yes.

Q. You recognized Dale Kriger as one of the special policemen?

A. Yes.

Q. And there were about 15 of them?

A. Yes.

Q. And you worked for Republic when Dale Kriger worked for that company?

A. I don't know when he started. I started working for Republic sometime in the fall of 1925.

Q. How long did you keep working for them?

A. I worked there up until the strike was called.

Q. Then you joined the C. I. O. last fall?

A. Yes.

Q. And when the C. I. O. called the strike you went out?

A. When the C. I. O. called the strike it was my night off. I wasn't supposed to work that night.

Q. When did you arrive in Washington?

A. Tuesday morning.

MR. LAUTER: If the Board please, I do not think that is entirely relevant. I object to this line of inquiry being gone into as all of these other witnesses are here in Washington and we do not want to have a barrage of reporters in the locality of those witnesses, and we do not want the locality of those people disclosed at this time.

MR. DAY: I do not want the locality.

Q. (By Mr. Day) You got here Tuesday?

A. Yes.

Q. And you have conferred with Counsel for the Labor Board, haven't you?

A. Yes.

MR. DAY: I think that is all.

Redirect Examination

BY MR. LAUTER:

Q. Did you ever see me before Monday of this week?

A. Yes, sir.

Q. I say, did you ever see me before Monday of this week, or was Monday the first time?

A. Monday was the first time.

Q. When you were over there, what was the reason you wanted the windows in the car—

A. The way that car was smoked from that gas bomb, it came up towards the car there and the odor came in our car. We either had to get out of the car and run and take a chance of getting shot down, or else suffocate in the car.

MR. LAUTER: That is all.

MR. DAY: That is all.

BY MR. DONALD WAKEFIELD SMITH:

Q. May I ask you this question: These 15 policemen, which you say were along across the street, or approximately 15—was there any crowd behind those policemen?

A. No, sir.

Q. Were there any persons over there—

A. Do you mean south of headquarters?

Q. Yes.

A. No, sir; not that I had seen.

Q. Do you know a Mr. Haley?

A. No, sir.

Q. Mr. J. Lester?

A. I do not.

MR. DONALD WAKEFIELD SMITH: That is all.

MR. LAUTER: That is all for this witness.

(Witness excused.)

HARRY JONES

was thereupon called as a witness for the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Will you please state your name?

A. Harry Jones.

Q. Mr. Jones, where do you reside?

A. East Greenville, Ohio.

Q. Are you employed at the Republic Steel Corporation plant?

A. Yes, sir.

Q. In Massillon?

A. In Massillon, Ohio.

Q. How long have you worked for Republic Steel?

A. Around 12 years.

Q. Did you work continuously for them?

A. Yes, sir; I have.

Q. What is the nature of your work?

A. Inspector.

Q. That is not a foreman's job, is it?

A. No, sir.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join?

A. Oh, it was last September, 1936.

Q. Are you familiar with the strike headquarters in

Cleveland Avenue, Massillon?

A. I am.

Q. Have you visited the headquarters?

A. I have.

Q. On July 11, 1937—Well, first off, Mr. Jones, do you recall that day?

A. Yes, sir.

Q. Will you describe what you did in the afternoon of that day?

MR. DAY: Is that important, what he was doing in the afternoon?

MR. EDWIN S. SMITH: I do not know.

MR. LAUTER: If the Board please, it is highly improbable that a man, or men, conducting themselves the way they were, such as Mr. Meyer and Mr. Jones on that day, would be the type of persons who would be conspiring together to get killed or do any killing on that day. I think the nature of what they were doing, since they were family men, is relevant in this proceeding. And it will not take very long to get a brief statement of what they were doing. It also clears up the type of witness we have for these things.

BY MR. LAUTER:

Q. Will you please continue with your discussion of what you were doing?

A. On Sunday afternoon, July 11th?

Q. Yes.

A. I went down to Oak Knoll Park, Massillon, to a mass meeting, a C. I. O. meeting. I suppose I was there about 2 hours. Then I went home and had supper. After supper I got the wife and two children and thought I would go for a little drive. So I had a nephew living there in North Lawrence, Ohio—that is 3 miles north of East Greenville, Ohio, and I thought I would take a ride over and see him a minute. So I drove over to North Lawrence and pulled up to his house, and there was no one there. So I continued on my drive and went up through North Lawrence, Ohio, to the next cross-road. I turned to the right and I drove down No. 93 route, that is, leading back towards the Lincoln Highway towards home.

So I pulled down to a little town named Beach Grove. I had a friend there, so I stopped and talked to him a minute. And he asked me if I wanted some carrots, and I said yes, that is what I am after. So I went and got some carrots for the children. The children like them. I talked a minute or two and then drove up the Lincoln Highway and turned right and drove on up home.

I parked the machine and came down to the house and played with the children and talked to the wife for a while. So I went over and talked to my brother-in-law. While we were talking it started to rain, so I says to him, "What do you say we go down and get a bunch and go down and go on the picket line?" And he said, "All right".

So we sat there a while and the rain stopped, and we got into the machine and then went down to Winkow's pool room in East Greenville, Ohio, a beer parlor and candy store. So we sat there and talked for a while and talked to a few of the boys. They didn't feel like going in on a Sunday night. So then one boy came in there and we talked to him, and he would not go. So then I decided I would go down and go groundhogging. A man promised to buy me some gas if I would come down, and I could go groundhogging. So I drove down and pulled up right across the street from headquarters.

Q. Who was it you were planning on going groundhogging with?

A. I had planned on a night before earlier in the week.

Q. When were you going to go? Was it the next day?

A. The next morning.

Q. The next morning, you say?

A. Yes. So I pulled up across from headquarters and parked my machine. My brother-in-law and another young fellow were along. My brother-in-law holloaed someone said "Turn out the lights".

Q. Just a minute. When you pulled up in your car where did you stop?

A. Right across the street from headquarters.

Q. On the other side of the street?

A. Right across the street.

Q. Was that in front of the fire hydrant or back of it?

A. It was just in front of it.

Q. Go ahead.

A. My brother-in-law said, "Someone holloaed to turn the lights off". I turned off the lights. He said, "You better turn them on dim".

Q. By the way, are you little hard of hearing?

A. A little, yes.

Q. Go ahead.

A. That is the reason I didn't hear him. But my brother-in-law heard him and he told me.

Q. Why are you hard of hearing?

A. It is from the army. I am a World War veteran.

So I got out of the left side of the car and turned them on. And my brother-in-law and the other fellow got out on the right. I suppose I took two steps, far enough to open the door and shut it, and I looked down and seen the policemen. I turned around and got in the car and pulled the dim lights on. When I went to pull the dim tney just flickered, and I pushed them back.

Q. When you say flickered, you mean the lights flickered?

A. They flickered, so I got out of the other side of the car. I reached in and turned the lights off, and I stood back from the car. Just as I got back from the car the shooting started.

Q. With respect to where the car was and where you were, where were the police?

A. They were right ahead, I would say 50 or 60 feet, or something like that.

Q. Did you notice the position of the police?

A. Yes, I did.

Q. What was their position?

A. It was just there they were lined and cross the street.

Q. Go ahead.

A. When they started to shooting, I jumped in a doorway. I stood there for about a second, or about a minute, I suppose, until the first volley was over. And I got down and went around the corner and faced the police. I waved my hand and I holloaed "For Christ's sake, stop shooting until I get my machine out of here".

So I ran back to the car and jumped into the car and put the keys in and turned the keys on and started the motor. And then I went to pull on the dim lights, and it flickered. As she flickered a shot hit the windshield and glass flew in my face, and I ducked. So I laid down between the seat and the gearshift and the brake for maybe a minute or so until I worked my body up onto the seat and kept my head down. I got hold of the door. I opened the door and got around on the rear bumper and stood on the rear bumper with my head awhile down like that (illustrating).

While standing on the bumper the gas shells and shots started flying and tears started rolling down my cheeks, and I started feeling a little sick in my stomach. I looked up and see some more flashes and I ducked. I got a foot braced and I made a leap.

I ran from door to door until I got up to the last building. I was kind of dry and out of wind, and the lady standing there I asked to give me drink of water, and she did. And I went up to the next street. I think they call it Fourth Street. There I met my two buddies, and I said—

Q. You mean the men in the car? They were your buddies?

A. No, they were not in the car.

Q. When you say your buddies, do you mean the men in the car with you?

A. Yes, the man in the car with me. I met them up at the corner of Fourth. So I said, "Let's get out of here". So we crossed one street and up the street they call Duncan.

Q. Let me ask you this question: At any time you were there did you see any man around C. I. O. headquarters do any shooting?

A. No, sir; I did not. I had my back to them when I was on the bumper, and when I was over there in the doorway I didn't see them.

Q. Did you see any shooting by anybody but the police?

A. I couldn't say that. I seen a few flashes once when I looked up, but I ducked quick.

Q. Then you went up the street?

A. I walked up the street quite a little bit, I would say about a quarter of a mile, and there is a sort of restaurant there, so I said, "Let's go in and call up and get a machine down here". So I suppose maybe we waited 20 minutes or a half hour, or something like that, I suppose, and two boys came down with the machine. So I said, "Let's go down to headquarters and see if I can get my automobile".

So we went down to headquarters. I did not see the Chief around there. So we talked a little and I thought I would go down and see if I could find some cops to find my car. So I drove South Erie Street down to the factory. I went to stop, and the cops holloaed "Move on". So I moved on up the street I suppose maybe fifty yards, or a hundred yards, or something like that. And I seen a cop who was a little piece off and I told him to stop, I would like to go back up and see him, and maybe one of them would go over and get my machine for me. So I stopped and talked to him for a minute, and then while I was talking—this was a deputy—there was another deputized police came up and he got pretty huffy with me. I told him what I was after. Just then there was another one came up and handed him something black. What it was I don't know. And it was round.

Q. As to these special policemen you just testified you saw, do you know any of them?

A. One by name, Herb Hose.

Q. Do you know any others?

A. Simon.

Q. Simon?

A. Yes.

Q. Who are they?

A. One of them works over in the coal room department of the Republic.

Q. In Massillon?

A. Yes.

Q. Who was that?

A. Hose.

Q. What does Simon do?

A. He works over in the Stainless Steel Corporation in Massillon, Ohio.

Q. Go ahead.

A. They did not give me no satisfaction, so I drove down the street aways and turned around and went back up. I thought maybe I could see Chief Switter and maybe he could get my machine.

While I was standing there there was a truck pulled up and Chief Switter and a cop by the name of Johnson, a regular cop, they looked over towards me and said, "You are the fellow we want". So he came over and grabbed me and said, "Come along with me". I said "O. K." And I walked in with them.

Q. You were out there on the street outside of the police headquarters when this happened?

A. Yes.

Q. What did you see going on there?

A. There was a truck pulled up with a bunch of men in it.

Q. What kind of truck?

A. Something like an army truck.

Q. And you went inside the police station?

A. I was standing there when the truck stopped. The cop came over and said, "You are the man I want".

Q. Why didn't you protest your arrest?

A. I always figured they got the law, and maybe if I protested I might get blackjacked or something like that. So I just went along.

Q. Go ahead.

A. I went in there and they searched me and found a pocketknife on me.

Q. A pocketknife?

A. Yes.

Q. How long was the blade of that knife?

A. I judge the blade was 3 inches or a little better. I would say somewhere along there.

Q. A knife that you carried usually?

A. I carry it when I go hunting and fishing.

Q. How long did you have that knife?

A. I judge 4 years or 5 years.

Q. So far as you know nobody was stabbed the night of July 11th?

A. No, sir; not with that knife. I didn't even know I had it.

Q. What happened after you got into the police station?

A. They searched me and took the knife from me and took me over and put me in jail.

Q. What time did you get into jail?

A. I would say around 3 o'clock in the morning.

Q. That was Monday, July 12?

A. July 12; yes, sir.

Q. Did you eat that day?

A. Sir?

Q. Did you eat that day?

A. No, sir; I didn't have a bite to eat.

MR. DAY: I object to whether he ate or not.

MR. LAUTER: I would like to show the treatment those arrested on that day received.

MR. DAY: Note a special exception on that, please.

BY MR. LAUTER:

Q. Did anybody offer you any food?

A. No, sir; not then. I was in getting questioned. So I wasn't offered a bite of food then. They were taking the food in when I was going out to be questioned. I judge from the time I was in there until the following morning it was from 7 o'clock before I [got a] bite to eat.

Q. When did you get a bite to eat?

A. The following morning, Tuesday morning.

Q. Did you ever recover your car?

A. Yes, sir.

Q. Did you examine your car?

A. Yes, sir.

Q. Will you describe the condition of your car?

A. There was a bullet hole through the windshield and a lot of buckshot in the windshield, a bullet hole through the right headlight, and the radiator on the inside was all full of holes, and the outside where the buckshot hit is dinged, and the hood on the left side is all spotted from where the buckshot hit and knocked the paint off.

Q. Did you have to pay anything to get your car back?

A. Yes, $4.

Q. Why?

A. Three dollars for towing it and a dollar for storage.

Q. What was the dollar for storage for?

A. They charged 50 cents a day for keeping the car in the garage.

Q. You mean you were in jail two days and your car was out there and damaged?

A. Yes.

Q. And you were charged $4 to get it back?

A. Yes.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. You were charged with carrying concealed weapons, weren't you?

A. Yes, sir.

Q. And you gave bond?

A. Yes, sir. I did not.

Q. Well, a bond was given for you?

A. Yes, sir.

Q. Has there been a hearing on that charge?

A. No, sir.

BY MR. DONALD WAKEFIELD SMITH:

Q. Do you know whether there will be a hearing on that charge?

A. There was supposed to be one Tuesday morning.

Q. The charge has not been dismissed?

A. No, sir.

BY MR. DAY:

Q. Did you go to the Oak Knoll meeting first?

A. Oak Knoll?

Q. You went there first?

A. Yes.

Q. Then you went to North Lawrence?

A. I went home.

Q. East Greenville?

A. Yes.

Q. Then you went on to North Lawrence?

A. I ate supper first.

Q. Then you came back and stopped in a beer parlor near East Greenville?

A. I went to Bowdi.

Q. How do you spell that?

A. B-o-w-d-i.

Q. Where did you pick up the other two boys?

A. Just a minute please. It is North Lawrence. I want to change that town there.

BY MR. EDWIN S. SMITH:

Q. It used to be Bowdi but now it is North Lawrence?

A. Yes, it is North Lawrence.

BY MR. DAY:

Q. Where did you pick up the other two men?

A. East Greenville, Ohio.

Q. Who were they?

A. Leon Graybille and another fellow.

Q. Are they C. I. O. men?

A. Yes, sir.

Q. You had some talk about going down and going on the picket line?

A. Yes.

Q. Then you had some talk about going out hunting groundhogs?

A. Yes.

Q. Where did all of this talk take place? Was it in the place where you had this beer?

A. We didn't have no beer.

Q. What did you have?

A. We didn't have nothing. We were just sitting there talking.

Q. Did you talk about hunting groundhogs in that place?

A. About getting six men to go down on the picket line and form a full picket.

Q. When in relation to that did you talk about hunting groundhogs?

A. After we couldn't get the six men to go down on the picket line, I said, "We will go down. A man promised me to fill my tank to go groundhog hunting at any time I came down".

Q. Were you going on the picket line that night and then go out hunting groundhogs?

A. No, after we couldn't get the six men we didn't bother about it.

Q. Did you give up the idea of groundhog hunting?

A. The picket line.

Q. You were going to go hunting groundhogs?

A. Yes.

Q. When?

A. In the morning.

Q. What time?

A. I judge four or five o'clock, or something like that, according to the destination we were going to.

Q. What do you hunt groundhogs with?

A. With rifles or a shotgun.

Q. Did you have any rifle with you?

A. No.

Q. Or any shotgun with you?

A. No.

Q. Were you going to go back home and get your rifles and shotguns and then go groundhog hunting?

A. Yes.

Q. This knife they took off of you in the police station was just a pocketknife?

A. Yes.

Q. That was a knife you used when you went hunting and fishing?

A. Yes.

Q. How many blades did it have?

A. One.

Q. How long?

A. Maybe 3 inches.

Q. Has the Massilion police got that now?

A. Yes, sir.

Q. You stopped in front of the C. I. O. headquarters?

A. Yes, sir

Q. And your car was facing south on Cleveland Street?

A. Yes, sir.

Q. And there were three of you in the car?

A. Yes, sir.

Q. How many in the front seat?

A. Two of us.

Q. You and who else?

A. Leon Graybull.

Q. And the other man in the back seat?

A. Yes.

Q. When you first stopped did you put out your lights?

A. Someone holloaed, my brother-in-law said, "Turn out the lights", and I turned them out.

Q. Then what happened?

A. He said, "You better turn them on dim".

Q. Then what did you do?

A. Turned them on dim. My buddy got out of the car on the right side. I was going to get out on the left to go to the C. I. O. headquarters and see the men.

Q. What happened then?

A. Then I seen the cops was in front of me. I turned around and got back in the car and I went out the other side. I went to pull the dims, and they flickered a second, and I pushed them back on dim. I got out of the car, and he said, "Turn them off". So I reached in and turned them off altogether.

Q. Then what happened?

A. Then the shooting started and I jumped.

Q. Where did you go when the shooting started?

A. The doorway right straight across the street from C. I. O. headquarters.

Q. And you did not see the shooting, you saw a flash or two but you did not see any shooting, did you?

A. I didn't see much of the shooting.

Q. Did you see any of the shooting at any time?

A. I seen a lot of the gas shells, the tear gas.

Q. You told all you remember about that?

A. All except the bullet that hit the windshield and I was in it.

Q. And you can understand my questions from where I stand here?

A. Yes.

Q. You can hear me all right?

A. Yes.

MR. DAY: That is all.

Redirect Examination

BY MR. LAUTER:

Q. From the time you got down to C. I. O. headquarters in your car, did you see it again until you paid the $4.00 for it?

A. No, sir.

Q. Were there any concealed weapons in that car?

A. No, sir.

Q. The police would have found them?

A. Yes, sir.

MR. LAUTER: That is all.

MR. DONALD WAKEFIELD SMITH: Did you hear any shooting whatsoever before the bullet hit the windshield?

THE WITNESS: Yes, sir.

MR. DONALD WAKEFIELD SMITH: You did hear some shooting?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: What was that?

THE WITNESS: It sounded like buckshots peppering.

MR. DONALD WAKEFIELD SMITH: That was the only thing you heard before—

THE WITNESS: That was before I jumped into the doorway.

MR. DONALD WAKEFIELD SMITH: And your car was facing south on Cleveland Street?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: And, as you have described it, is it true that most of the damage to your car was to the front of your car?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: As you jumped out of the car, I believe you testified that you climbed on the back bumper of your car?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: And then the gas shell came?

THE WITNESS: Quite a few of them.

MR. DONALD WAKEFIELD SMITH: At that time were you in a position to see any persons running away from the scene of the shooting?

THE WITNESS: I didn't pay much attention. I had my head down.

MR. DONALD WAKEFIELD SMITH: From there you jumped to doors along Cleveland Street until you got up the street?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: At that time were you in position to see any persons running away from the scene of the shooting?

THE WITNESS: Yes; while I was running.

MR. DONALD WAKEFIELD SMITH: While you were going from one doorway to another?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: And as you stood for a time when you were running away from the shooting, did you hear any shooting at that time?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: Then you did hear shooting at a time when persons were running away from the scene of the original shooting?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: Do you know Captain Curley?

THE WITNESS: I know him when I see him.

MR. DONALD WAKEFIELD SMITH: Did you see Captain Curley there? At the time the shooting started?

THE WITNESS: I don't understand your question.

MR. DONALD WAKEFIELD SMITH: Did you see anything which, in your opinion, would provoke the shooting or did provoke the shooting?

THE WITNESS: Just how do you mean?

MR. DONALD WAKEFIELD SMITH: Was there any rioting?

THE WITNESS: I didn't notice any.

MR. DONALD WAKEFIELD SMITH: That is all.

MR. DAY: May I make a few motions to preserve the record?

MR. EDWIN S. SMITH: Yes, Mr. Day.

MR. DAY: I would like to make the same objections and the same record as to the testimony of witnesses Hardesty, Beckner, and Meyer.

And I would like to make the same motion, which I think was overruled, and the same exception in each case.

I would like to make the same request for the opportunity for further cross-examination of each and all of those witnesses.

MR. EDWIN S. SMITH: The same ruling.

We will adjourn at this time until ten o'clock in the morning.

(Thereupon, at 5:00 o'clock p. m., July 22, 1937, an adjournment was taken until Friday, July 23, 1937, at 10 o'clock a. m.)

Auditorium of the Public Health Service Building, Constitution Avenue between Nineteenth and Twentieth Streets, Washington, D. C., Friday, July 23, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

Mr. Edwin S. Smith, Member of the Board,
Mr. Donald Wakefield Smith, Member of the Board.

Appearances:

Charles Fahy, Esq., General Counsel, Robert B. Watts, Esq., Associate General Counsel, Mark Lauter, Esq., Lawrence Hunt, Esq., Oscar Grossman, Esq., and Joseph M. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young & Veach (1420 Union Trust Building, Cleveland, Ohio), and Thomas F. Patton, Esq. (Republic Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

Lee Pressman, Esq. (50 Broadway, New York City), appearing for the Steel Workers Organizing Committee.

PROCEEDINGS

MR. EDWIN S. SMITH: You may proceed, gentlemen.

MR. LAUTER: I would like to call Mr. John Veto.

JOHN VETO

was thereupon called as a witness for the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Will you please state your full name?

A. John Veto.

Q. Where do you reside?

A. 725 Bernard Street.

Q. In Massillon, Ohio?

A. Yes, sir.

Q. How old are you?

A. Twenty-two.

Q. Are you single?

A. Yes, sir.

Q. You have been employed by the Republic Steel Corporation?

A. Yes, sir.

Q. In what capacity?

A. As third ladle man.

Q. In the open hearth?

A. Yes, sir.

Q. Have you any other business?

A. Yes, sir. I have a coal business.

Q. You have a coal business, you say?

A. Yes, sir.

Q. Do you deliver coal yourself?

A. I have two men working for me. Sometimes I have one and sometimes I have two men working for me.

Q. How do they deliver the coal?

A. They deliver by truck. And I buy these carloads.

Q. You buy by carloads?

A. Yes, sir.

Q. And they deliver by truck?

A. Yes, sir.

Q. Who owns the truck?

A. I do.

Q. That is in addition to the work you have been doing at Republic Steel Corporation?

A. Yes, sir.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join?

A. Last January.

Q. January of 1937?

A. Yes, sir.

Q. To what lodge do you belong?

A. Massillon Lodge No. 1124.

Q. Do you remember July 11, 1937?

A. Yes, sir.

Q. What were you doing in the afternoon of July 11, 1937?

A. Well, at 3 o'clock I left home. When I left home I went up Walnut.

Q. You went up Walnut Street?

A. Yes; I went up Walnut Street and I reached Eleventh Street, and I went to get some orders for coal, and as I reached Eleventh and Walnut I saw about twelve people over there, and I got a few.

Q. You got a few orders?

A. Yes.

Q. Then what?

A. It was around 4:30 when I quit and went home, and back up a short way.

Q. You what?

A. I cut through a short way.

Q. You took a short way home?

A. Yes. I went through Eleventh and reached the Massillon football field. Around there there is a place where there is a viaduct. And when I reached there I try to go through there.

MR. DAY: May we have the same record on this witness?

MR. EDWIN S. SMITH: Yes; the same record.

THE WITNESS: And there were the special policemen. And he told me I couldn't get through. And I said why.

BY MR. LAUTER:

Q. Couldn't get through where?

A. Through the viaduct. I told him why? He said, "Well, somebody threw nails on the floor here, and somebody got a nail in his tire last night." I told him I didn't have any nails to throw. I convinced him and he let me go through. I told him I didn't have any nails to throw on the road and he let me go through. And when I reached the corner of Cleveland Avenue and Oberlin Road I believe a guy asked me what time it was, and I had the same watch and I took it out, and it was 2 minutes before 5 o'clock.

Q. You were at Cleveland and Oberlin?

A. Yes, sir.

Q. Is the mill near there?

A. Yes, the mill is right there.

Q. Right there, you say?

A. Yes, sir; it is.

Q. That is where one of the entrances to the mill is?

A. Yes, the main gate.

Q. Where is the C. I. O. headquarters?

A On Cleveland Avenue north.

Q. North of where you just described you were?

A. Yes.

Q. Go ahead.

A. I was going north.

Q. You were going north on what?

A. On Cleveland Avenue. When I reached 200 feet from C. I. O. headquarters there were two special police over there, one sitting on a folding chair and the other one sitting on a straight chair there.

Q. One was on a straight chair?

A. Yes.

Q. And one was on a folding chair?

A. Yes. They were talking. I was between 2½ and 3 feet away from them.

Q. What direction were these men, sitting in the chairs, facing?

A. North, toward C. I. O. headquarters. So I came back.

Q. Were their backs to the mill?

A. Yes.

Q. Well, go ahead.

A. I heard one of them say, "We are going to clean them up tonight."

Q. "We are going to clean them up tonight"?

A. Yes, sir.

Q. Do you know who said that?

A. Yes.

Q. How do you know?

A. Because he turned around and I recognized him as Bill Henderson, a chipper foreman in the mill.

Q. What did you do after that?

A. Then he turned around and he was kind of surprised, and he told me "Where is the chipper job?" I told him I didn't have any job that day; I wasn't on duty. And he said all right. And I went straight home.

Q. When you say "All right," and that you went straight home, where did you go?

A. Past C. I. O. headquarters to McKinley Avenue, Duncan Street—

Q. You went to Duncan Street?

A. Up Cleveland, and I reached McKinley, and from McKinley I turned and went straight out Duncan Street, and I reached Beb Street, and I reached Overlook Avenue, and I went home.

Q. This all took place in the neighborhood of 5 o'clock?

A. Yes.

Q. What did you do after that?

A. Then I had dinner with my family.

Q. With whom do you live?

A. My father and mother, and I have a little brother.

Q. What happened after that?

A. I ate dinner and I read the newspaper and I pitched a horseshoe game with my neighbor.

Q. You pitched a horseshoe game with your neighbor?

A. Yes.

Q. What did you do after that?

A. The neighbor there, or the neighbor's wife, she came out to the door and said, "It is 6 o'clock. It is time to quit." And the neighbor, he went in.

Q. The neighbor, with whom you were pitching horseshoes, went in?

A. Yes, sir. And then I quit. And I washed my hands and I went out to C. I. O. headquarters.

Q. You went out to C. I. O. headquarters?

A. Yes.

Q. About what time was that?

A. Eight o'clock.

Q. It was about 8 o'clock?

A. Yes; when I went from my house. When I reached the corner of Cleveland Avenue and McKinley Avenue I found a friend of mine.

Q. How far in Cleveland and McKinley Avenue from C. I. O. headquarters?

A. It is about a block.

Q. Is it about a block away?

A. Yes, sir.

Q. Then what?

A. I told him, "Where you been?" He said, "Well, I don't have to go. They have a lot of fun over there. They play music." I said, "Yes?" And then I said, "Are you going home?" and he said, "Yes." And I went up to C. I. O. headquarters.

Q. You say you went up to C. I. O. headquarters?

A. Yes.

Q. Then what?

A. When I reached there they were playing music right there on the sidewalk.

Q. Why did you go to C. I. O. headquarters that night?

A. I went there every night at 8 o'clock.

Q. It was the custom for you to go?

A. Yes. In the afternoon I got around the house to attend to my business, and at 8 o'clock I go down to C. I. O. headquarters and stay there generally until about 11 o'clock.

Q. You generally stay there until about 11 o'clock?

A. Yes, sir.

Q. Until about 11 o'clock?

A. Yes, sir. When I reached there they were playing music and the people were dancing on the streets, and I danced, too. And we had a lot of fun.

Then the rain came and a lot of people went into the kitchen, and a lot of others were on the other side of the hall where we have the office. We have three doors over there.

Q. Are you familiar with that building?

A. Yes, sir.

Q. Please describe your building. What kind of a building is it?

A. It is kind of a rectangular affair.

Q. Is it a brick building?

A. No, sir; it is not.

Q. Is it a wooden building?

A. Yes; with three doors on the one side and a big window on the south side, and two on the north side.

Q. Are those windows separated, or are they close together?

A. The north window, there are two windows together, and on the south side it is one.

Q. How many rooms are there on the bottom floor of the building?

A. On the bottom floor of this building on this side of the office—

Q. When you say "this side," do you mean the north side or do you mean the south side nearest the mill?

A. The south side nearest the mill. The office and the back room there, and another back room.

Q. On the side away from the mill?

A. On the north side there is a big hall there; and then there is a little room between and the kitchen.

Q. Go ahead with your story. You were having a lot of fun?

A. Yes.

Q. Then what?

A. Then the rain came.

Q. Then what?

A. Some people went on the north side of the hall inside and a few people went on the south side of the hall.

Q. You mean into the room on the south side of the hall?

A. Yes. Then the rain came and the music was playing in there.

Q. In where?

A. In the hall.

Q. Where?

A. Down on the north side.

Q. Then what?

A. We were talking together and having a lot of fun. Then the rain stopped and all of the people went out again, and the music went out again and the people went on the street just the same as they did before. I sat right there, or I stood right there on the platform. Here is the doorway (indicating), and I had one foot on the doorway and one on that step, on the first step.

Q. One on the doorway and one on the step below?

A. Yes.

Q. Then what?

A. There was a guy, and I think he is around here. And on the bottom step was a guy named Ruttenberg. On the floor there we had a large tile work and concrete work. And I believe Frank Hardesty was there. He was right on the sidewalk.

I kept waiting around there and hearing the music. When I turned around on the south side there were 12 police over there. They was talking together. Pretty soon another car came and let three more out. As soon as the three more came they all went together and talked together. I don't know what they were talking about. Then another car came and let three more down.

Q. Three more what?

A. Three more special policemen. The fourth car came down there and it was a Massillon police car. The second car was the private car that carried the special police.

Q. Then what?

A. Well, I stood there, you see, and there were two police on the corner of Cleveland and Oberlin Avenue—that is, near the plant, and they were coming up toward the north where the other police were. They began to spread from this point here (indicating), across the street to the other yard.

Q. When you say the other yard, you mean the plot of ground on the other side of the street?

A. Yes.

Q. And they lined up? Is that what you mean?

A. Yes; they lined up. And then a car came up there with their lights on.

Q. A car came up with a light on?

A. Yes; from the north coming south, and they had the lights toward the police there. While the light was flashing I saw a machine on the other side of the road, on the police side.

Q. You mean on the side of the road nearest there from C. I. O. headquarters?

A. Yes, where the police lined up.

Q. There on the other side?

A. Yes.

Q. Then what?

A. Two cops stood up and they went forward, and I heard them say, "Shut them lights off."

Q. You say two cops went forward?

A. Yes.

Q. From where?

A. From their line.

Q. From their line of police?

A. Yes. They said "Shut them lights off there." Well, the car shut them lights off. But before those two cops came up I want to tell you another thing. There came a cop named Fellabom, and he came up from the police line and went to a meat market. There was a meat the east end of the city where we met the police cruiser, and Mr. McCarroll and I rode in the police cruiser to the Republic Steel Corporation plant at Eighth Street, Northeast. There we reported to the office of Mr. Gubbins.

Q. Do you know his full name?

A. I am sorry, I do not recall his initials. They are on some of my data. His title is assistant treasurer, I believe, of the Steel Corporation.

Q. Assistant Treasurer of the Republic Steel Corporation?

A. Yes, Assistant Treasurer of the Republic Steel Corporation. He is also an officer of the subsidiary there, the Burger Manufacturing Company.

We entered Mr. Gubbins' office. There there was Attorney David Day, and there were Mr. Gubbins and several other persons whose names I do not now recall.

Q. Mr. Cope is associated with the law firm of which Mr. David Day is one of the senior partners? Is that correct?

A. Yes.

Q. Both Mr. Cope and Mr. Day were out at the Republic Steel Corporation plant?

A. No, sir; Mr. Cope was not at the plant. Mr. day was there.

Q. Mr. Cope arranged for it?

A. That is right.

Q. What happened when you got there?

A. We greeted the gentlemen and then we proceeded into another room where there were several clerks.

Q. You say you greeted these gentlemen?

A. Yes.

Q. Who else was there?

A. So far as names I can recall in this room there were only Mr. Day and Mr. Gubbins. Then there was one there who served as chief clerk, Mr. Speis.

Q. Chief clerk of the Republic Steel Corporation?

A. I cannot say that is his title, but he seemed to be acting in that capacity and he helped me with the work which I did.

They had on hand the bond forms of the City of Canton, a considerable stack of them. And the bond forms all the names of these applications for special police appointments typed on them. My work was then in executing these bonds. I would sign those bonds for them and put the seal of the bonding company on it. Then I had to get from each individual a signed application.

These several clerks around assisted me in doing that, and they really got the signatures on these forms for me and filled in such data as I considered essential. Then, the applications were signed by the person who was being appointed a special policeman.

Q. Were the persons being appointed as special policemen there at the plant?

A. Yes, sir.

Q. Where were they?

A. I could not say where all of them were. These signatures were procured for me on my application and on the bonds by the different clerks around there.

Q. They were outside in the outer office and around there?

A. I judge so. I didn't see them. I saw a few but not all of the persons who signed.

Q. I mean a few of them.

A. Yes.

Q. And their names were on these applications?

A. That is right.

Q. They had been typed in before you got there?

A. Not on the applications but on the bond forms.

Q. On the bond forms?

A. Yes. I took my supply of applications out to the office. The Steel Company did not have those. Then, when these applications were signed I put the bonding company name and the bonding company seal on the bond. And Mr. McCarroll told me he was going out to swear in these persons.

Q. What was Mr. McCarroll's position?

A. Police prosecutor or assistant city solicitor.

Q. Of the City of Canton?

A. Yes, of the City of Canton.

Q. What else happened out there at the Republic plant?

A. Mr. Gubbins came in from time to time and looked at these applications and bond forms and discussed with Mr. Speis and with certain gentlemen there, whose names I do not recall, but who were evidently foremen or superintendents, or some such position, the characteristics of these persons. And I recall a number of them where the names had already been typed in on the bonds, and Mr. Gubbins said, after he discussed the characteristics with the men, "You'd better throw that one out. He is hot-headed." I remember he spoke in reference to one of them like that. "We don't want him in this bunch of men because we only want level-headed persons. They are going to be responsible for lives and property and we don't want lives and property destroyed."

Q. This was on July 5th?

A. This was on July 5th.

Q. What happened?

A. When we completed that job, which I guess was about 4 o'clock, we called the police cruiser and left the plant. Mr. Gubbins signed each one of these applications on the back. I was supposed to have an indemnifying agreement form, but I could not find it in my office, it being closed, and the girls were not there. So I asked Mr. Gubbins to sign each one of these individual applications as a makeshift for the indemnity agreement, for the agreement form I did not have at that time. I arranged with Mr. Gubbins that I would present the appropriate form of indemnifying agreement later for his signature.

Q. That is, the Republic plant was going to indemnify for any loss occasioned by the actions of any of these deputy policemen?

A. Yes. In brief, the Steel Corporation would indemnify the Fidelity and Casualty Company for any loss which they might sustain on account of having acted as surety on these bonds.

BY MR. DONALD WAKEFIELD SMITH:

Q. Did they so sign such an indemnity agreement?

A. Yes. It was later signed when I had the appropriate form and handed it to them.

Q. To your knowledge, was that signed by the Republic Steel Corporation, by officers of the Republic Steel Corporation?

A. It was signed by Mr. Gubbins as assistant treasurer of the Republic Steel Corporation.

MR. LAUTER: If the Board please, I intend to go into that in a few minutes.

May I ask the Reporter to mark this document for identification?

(The document referred to was thereupon marked for identification "Board's Exhibit No. 9".)

MR. LAUTER: And will you mark this one as No. 10?

(The document referred to was thereupon marked for identification "Board's Exhibit No. 10.")

MR. LAUTER: And will you please mark this one as Board's Exhibit No. 11, for identification?

(The document referred to was thereupon marked for identification "Board's Exhibit No. 11.")

BY MR. LAUTER:

Q. Mr. Smith, I hand you Board's Exhibit No. 9, for identification, and I will ask you whether or not you have ever seen a form like that before?

A. This is the application for public official bond of 5,000 or less. It is furnished in our supplies as agents of The Fidelity & Casualty Company of New York. It is known as the short form. I used this in bonding all of these individuals.

Q. When you say "all of these individuals," Mr. Smith, you mean at the Canton plant?

A. Yes, I mean at the Canton plant—with a few exceptions, where my supply ran out and I had some forms essentially the same but having a double sheet instead of a single sheet, and more data on it; that is, there were more questions on it, but the sense of it was the same.

MR. LAUTER: If the Board please, I offer this in evidence as Board's Exhibit No. 9, without the pencil notations that appear on the exhibit.

MR. DAY: The same objections generally to it.

MR. EDWIN S. SMITH: It may be admitted.

(The document previously marked for identification as "Board's Exhibit No. 9," was received in evidence.)

BY MR. LAUTER:

Q. Mr. Smith, will you please state for the record what items on this form, Board's Exhibit No. 9, you filled out when you were at the Republic Steel Corporation's plant in Canton, Ohio, on July 5th?

A. About each individual who was to be bonded as a special policeman I was careful to have the correct name of the applicant, his age, and his address. Of course, all of the other information about the amount of bond required, and the date, would be the same in every case.

MR. EDWIN S. SMITH: May we see this?

BY MR. LAUTER:

Q. Yes. Besides the notations which you made on the front side of Board's Exhibit No. 9, Mr. Smith, was there any notation of any kind made by anyone on the reverse side of this exhibit, or on sheets similar to this exhibit?

A. As I mentioned before, these signatures were witnessed, I think, either by myself or Mr. Speis, whom I mentioned previously. And then Mr. Gubbins signed underneath—Republic Steel Corporation, by.

Q. He put down "Republic Steel Corporation, by"?

A. Whatever his initials are.

Q. By Mr. Gubbins?

A. Yes.

Q. Assistant treasurer?

A. Yes.

Q. What was the reason he put that down on these application forms?

A. I was substituting that for the indemnity bond which I did not have.

Q. That was your assurance that Republic Steel Corporation would indemnify The Fidelity & Casualty Company ?

A. That is correct.

Q. And you did not have the indemnity agreement at that time?

A. That is correct.

Q. Mr. Smith, I hand you Board's Exhibit No. 10, for identification, and I will ask you if you have ever seen a copy of that before?

A. This is the printed bond form used by the City of Canton, and it was used in the situation I just spoke about in bonding these special police.

Q. Was that used at the Republic Steel Corporation plant that day?

A. Yes, it was. It was the usual form; "the principal and the surety are firmly bound to the City of Canton," and so on, and the sum in this case, as it was filled in is $500.

Q. What was the part filled in?

A. "The City of Canton binds that 'we will and truly bind ourselves.'" It is the usual form. This is only a faithful performance of duty bond. It goes on to say about the faithful performance of duties, and so on, and that this obligation shall be voided. That is the usual wording there for a bond of this nature.

Q. Were all of the bonds that were made out in Canton July 5th for $500?

A. Yes, sir.

MR. LAUTER: If the Board pleases, since the stenographer took the notes at the time this was offered, it was offered for identification, has left the room, I should like the record to show that Board's Exhibit No. 10, for identification, is being offered at this time and consists of two documents, one a long printed sheet, and the other a small card with the words "Private Police Commission" on top of it.

MR. DAY: The same record on it, please.

MR. EDWIN S. SMITH: It may be admitted.

(The document heretofore marked for identification "Board's Exhibit 10," was received in evidence.)

BY MR. LAUTER:

Q. What was your understanding as to the amount which your firm was to receive for each of the bonds that was made out?

A. Ten dollars.

Q. For each $500 bond?

A. Right.

Q. (Indicating) Now, I show you the Board's Exhibit No. 10, and make reference to the small yellow card, the words "Private Police Commission." Can you explain what that is?

A. This is the card that was discussed by Mr. McCarroll, the police prosecutor of the City of Canton. He said to Mr. Gubbins, "I don't have the cards which are to be furnished to each of these individual policemen who are being bonded." He said, "They are in the Mayor's office and they will be made up from the bonds when the bonds are filed and can be picked up there by someone from your office.''

And this card, as I understand it, is one which was given to what is called the private police. ''This is to certify that the Mayor of the City of Canton appoints so and so private police officer under ordinance number so and so.'' He gives the name and number of the ordinance. ''This private officer to be under the direction and control of the Chief of Police of the City of Canton.''

Q. Have you made out bonds for private policemen before for various industrial concerns in Canton?

A. Yes, it is quite a common occurrence.

Q. Who generally pays for such policemen, do you know?

A The employer.

Q. The employer?

A. Yes.

MR. DONALD WAKEFIELD SMITH: May I see that, Mr. Lauter, please?

(Mr. Lauter hands exhibit to Mr. Donald Wakefield Smith.)

BY MR. LAUTER:

Q. Describe what else took place at that conference on July 5th?

A. Let us see—unless my memory be refreshed, I don't recall any other thing.

Q. You filled out these bonds, and you went home?

A. Yes.

Q. That was July 5th?

A. Yes, that is the way I completed it, I think.

Q. (Indicating) I hand you Board's Exhibit No. 11, for identification, and ask you to describe for the record what that is?

A. This is a carbon copy.

Q. An original carbon copy?

A. Yes. This was made at the same time that the invoice was made to the Republic Steel Corporation for these bonds, which I executed on July 5th for special policemen, and it shows bonds executed for 56 employees at Canton, and 27 employees in Massillon, Ohio, and this is dated July 6th, and it was made in our office at that time, and on the back of this we have attached a list of the names arranged alphabetically, and the report numbers which we gave these bonds, so as to identify them on the records—on our records and on the company records.

This list, Canton, begins with Bauman and ends with Zorn.

Q. The column on the first side, deals with Canton; is that right?

A. Yes.

Q. And this is the list which you sent in to The Fidelity & Casualty Company of New York; is that correct?

A. Yes, through their Cleveland office.

Q. Through their Cleveland office?

A. Yes.

MR. LAUTER: I offer this in evidence as Board's Exhibit No. 11.

MR. DAY: May I have the same record, please?

MR. EDWIN S. SMTIH: It is admitted.

(The document heretofore marked for identification "Board's Exhibit No. 11", was received in evidence.)

BY MR. LAUTER:

Q. Now, that was July 5th that you discussed this; is that right?

A. Yes, that is right.

Q. This was made out on July 6th (referring to Board's Exhibit No. 11)?

A. Correct.

Q. And Board's Exhibit No. 11 refers not only to

Canton police, but also to Massillon police; is that correct?

A. That is true.

Q. Your invoice covers both types of special police?

A. We billed them all at once, yes.

Q. When did you issue bonds on the Massillon police?

A. On the day following, the 6th of July.

Q. How did you happen to issue bonds to the Massillon police?

A. Along in the afternoon—between 3 and 4 o'clock—I had been out of my office and came in, and the telephone operator there told me that I should call Attorney David Day.

Q. Now, you are referring to July 6th?

A. July 6th. This is my own office down in the Millet Building in Canton.

Q. Yes.

A. I got Mr. Day on the wire and he asked me if I could go to Massillon to sign some more special police bonds, and I told him I could, and so he said, "Well, Mr. Gubbins and I are driving over, and we will call for you very soon". Mr. Gubbins arrived at my office, and shortly his car came by with another gentleman driving—Mr. Robinson was his name—and we got into the car there in front of my office.

Q. In Canton?

A. In Canton. And they drove down to the next intersection, Tuscarawas Street, and Mr. Day came along and got in with us and we went to Massillon, to the City Hall there, and went into the police station, and Mr. Day inquired at the desk—the desk sergeant, for Captain Curley, and a gentleman came forward and introduced himself as Curley. I don't remember whether he used the title, and then he took us along the hall toward the rear of the building to the office of the Chief of Police whose name, I believe, was Switter, and introduced us there.

The Chief greeted us rather curtly, I thought—didn't spend much time in welcoming us, and he told us that we didn't—oh, I didn't state that as we went in there, there were a crowd of men, several men in the hall, rather wide hall.

Q. That is the hall downstairs in the police station?

A. Yes, downstairs in the police station.

So, the Chief said to us, "You don't need to use my office for this matter." When Captain Curley had mentioned to him what we came for, to bond the special policemen. So he said, "You may go down and use the room further down the hall where there are tables to write on." So, we followed Captain Curley down there, went into this room, and there we found the City Solicitor, Mr. Hardman, and, as I recall it, Mr. Hardman had the bonds, which in this case, as I recall, were mimeographed, or multigraphed, instead of being printed, and they were made out for a thousand dollars each. There were 27, I think, men gathered there, who were to be bonded as special policemen, and we proceeded to prepare the applications.

I didn't have the clerical help that I had out at the Republic. As I recall the procedure, Mr. Hardman, or someone would pass out these bond forms upon which the name had already been typed of the applicant to be appointed as a policeman, and then I took the position at a table about here (indicating), and Mr. Gubbins sat across the table—

Q. This is Mr. Gubbins, of the Republic Steel Corporation?

A. Yes, of the Republic Steel Corporation, sat across the table, and then there was another chair there. As these applicants to be appointed as police would come down the line, each holding in his hand his bond, I would take the bond and ask him the essential questions on the application, and have him sign the bond, and sign my application, and then Mr. Gubbins had been handed a list, I believe, by Captain Curley, or someone, he was sitting over there—

Q. Let us get that straight: What did you say just then?

A. Mr. Gubbins had been handed a list of these persons who were to be bonded as special police.

MR. EDWIN S. SMITH: Just a moment, if I may interrupt.

You say you asked these men as they came along the essential questions. Just what questions did you ask them?

THE WITNESS: I discussed that a while ago in connection with the application that was filled out at the Canton office.

BY MR. LAUTER:

Q. You are referring to the essential questions on Board's Exhibit No. 9?

A. Yes—that would be name and address of applicant, and age, and because the other questions were the same in all cases—

MR. DONALD WAKEFIELD SMITH: May I see that paper?

MR. LAUTER: Certainly (handing paper to Mr. Donald Wakefield Smith).

MR. DONALD WAKEFIELD SMITH: Before you ask a question, Mr. Lauter,—I notice on the back of Board's Exhibit No. 9 this question: "Shall you be engaged in any other business or employment during your term of office?"

Did you ask them those questions?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: It also says, "If so, state the business and employment and your probable income therefrom."

Did you ask that question?

THE WITNESS: No.

MR. DONALD WAKEFIELD SMITH: Was it

pertinent to you whether or not these special policemen were employed by the Republic Steel Corporation?

THE WITNESS: No.

(Thereupon, a paper was marked for identification as "Board's Exhibit No. 12.")

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 12, for identification, and ask you whether or not this is the mimeographed form to which you referred before as having been used at Massillon?

A. That looks to me to be the same form. I notice it is made out in the amount of a thousand dollars, which is the amount of the bond we signed at Massillon.

Q. How much were you to receive for each one of the bonds at Massillon?

A. Ten dollars for each bond.

We proceeded to execute them—

Q. Please talk a little louder.

A. I said, we proceeded, as I have just described—we proceeded to execute those bonds in the same way as we did the day preceding in Canton, with the exception that in these cases Mr. Gubbins, as I say, sat across the table, and he would inquire of each applicant as he came along, "Do you work for the Republic Steel?" and if the man answered yes, the applicant answered yes, then he would inquire, "What is your badge number?"

Q. This is Mr. Gubbins?

A. Yes.

Q. Of the Republic Steel Corporation?

A. Yes.

Q. Sitting at the table in the Massillon Police Station would be inquiring from these men whether they were Republic Steel Corporation employees?

A. Yes.

Q. And their badge number?

A. Yes.

MR. EDWIN S. SMITH: May I ask a question here? Was there a discussion at Massillon, except as you said took place at Canton, as to the qualification of these men?

THE WITNESS: Not in my hearing. As I said, I did not have the clerical assistance over there as I did in the other place, and I was quite busy with these signatures, and there might have been such a discussion between Captain Curley and Mr. Gubbins, and some of the others, that I did not overhear.

MR. EDWIN S. SMITH: You heard nothing of that sort?

THE WITNESS: I heard nothing. I remember later that Mr. Gubbins said to me, as we came out after finishing this transaction, and he said, "Did you ever see a finer looking bunch of men?" and I had to agree with him, because they were a very, very—well, they were big fellows, and clear-eyed, and real honest-to-goodness men they looked to me; I would have liked to have had them in the army.

BY MR. LAUTER:

Q. You would have liked to have had them in the army?

A. Yes.

Q. You do not know whether Captain Curley is a retired captain in the army, do you?

A. Well, not—well, I have heard it said, yes, that he is a retired captain.

MR. LAUTER: If the Board please, I am not sure that the record shows that I actually made an offer of Board's Exhibit 12, for identification. I would like to do so at this time, and, if there is no objection to the admission of it, have a ruling on it.

MR. DAY: I would like to have the same record on it.

MR. EDWIN S. SMITH: It is admitted.

(The document heretofore marked for identification as "Board's Exhibit No. 12," was received in evidence.)

MR. LAUTER: And that goes for the exhibits which have been introduced today.

MR. EDWIN S. SMITH: Yes.

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 13, for identification, and ask you to identify that document.

MR. LAUTER: And for the record, I wish to state that that consists of a white sheet with names typewritten on it, and attached to it a yellow card.

A. In making the record of the different bonds and policies which we issued, we kept a card file.

BY MR. LAUTER:

Q. Is that the form in which you kept the card file, folded up that way?

A. Yes, we kept it in a file that will accommodate a card of this size, and, of course, in the same cabinet where it cannot be destroyed. It is our—

Q. What is the reason for keeping them in that particular form?

A. Well, we find it a convenient form, and we, a great many times, have to refer to these different records, and then, another thing is that these policies expire after some term. In this case, the premium charge would pay for one year.

Q. The premium for the policies that you issued at Canton, and Massillon, would be good for a year; is that right?

A. Yes. Of course, that $10 is for each bond, is the minimum premium, and we cannot charge less, and it would pay the premium upon a bond of this size which we issued for one year.

MR. EDWIN S. SMITH: Why was the minimum

premium used in this case? Why was that figure adopted by you?

THE WITNESS: Well, it is in the book. We use a bond manual for reference, and those rates are made by Casualty and Surety Bureau, and each agent is furnished with a printed list of classifications and rates, and we use them.

MR. EDWIN S. SMITH: Do you have a special rate for bonding policemen?

THE WITNESS: Yes, there is a page in the manual.

MR. EDWIN S. SMITH: And this premium to which you refer falls within the classification, within the range for bonding policemen; is that correct?

THE WITNESS: Exactly. These are police bonds, the same form as if a man were on a force.

MR. EDWIN S. SMITH: Is the application which was introduced here the application for a bond, the same as is used for police bonds, regularly?

THE WITNESS: Precisely.

MR. LAUTER: I offer in evidence as Board's Exhibit No. 13 the two documents previously referred to as Board's Exhibit No. 13, for identification.

MR. DAY: The same record, please.

MR. EDWIN S. SMITH: It is admitted.

(The documents referred to were marked "Board's Exhibits 13-A and 13-B," and received in evidence.)

MR. EDWIN S. SMITH: Could I see that exhibit, please?

MR. LAUTER: Yes (handing paper to Mr. Edwin S. Smith).

(A paper was thereupon marked for identification as "Board's Exhibits 14-A and 14-B.")

BY MR. LAUTER:

Q. I hand you Board's Exhibits Nos. 14-A and 14-B, for identification, and ask you whether or not you have ever seen them before?

A. Yes, this is a copy of my letter in which I transmitted a form such as this, which is a form—

Q. You say "such as this." You mean Board's Exhibit 14-B, for identification?

A. Yes, known as the General Indemnity Agreement —among our supplies sent from The Fidelity & Casualty Company of New York, which is a copy we used in writing the police bonds which have been under discussion. As I said before, I didn't have this form at hand when I signed the special police bonds, so I asked the Cleveland office to furnish me with these forms, talked with them over long-distance telephone, and they did, in the course of time. I took this—a form similar to this—

Q. Similar to Board's Exhibit 14-B?

A. Yes—to Mr. Gubbin's office, out at the Republic Steel Corporation, and he signed "Republic Steel Corporation," by whatever his initials are, Gubbins, Assistant Treasurer.

MR. LAUTER: Before you go into a further description of what goes into this document, I want to be sure that I get it admitted in evidence as Board's Exhibits Nos. 14-A and 14-B.

MR. DAY: May I have the same record?

MR. EDWIN S. SMITH: It is admitted.

(The documents heretofore marked for identification "Board's Exhibits 14-A and 14-B," were received in evidence.)

BY MR. LAUTER:

Q. Now, you stated, or started to state something about that contract of indemnity being signed, referring now to Board's Exhibit 14-B.

A. A carbon copy of my letter transmitting it to the Cleveland office is dated July 13, and that was the same day that I went to Mr. Gubbins' office at the Republic Steel Corporation in Canton, and got him to sign it, as over the line full name of indemnitor.

Q. Are there any other lines on Board's Exhibit 14-A?

A. Yes; there is a line for the signature of a principal.

Q. And was that line filled out?

A. That line was not filled out. We indicated on the first page of this form, Board's Exhibit 14—

Q. 14-A you are referring to?

A. —that there were various principals.

Q. Do you remember the language which you used in filling out that form?

A. I am sorry, but I don't think I can quote it exactly.

Q. I mean the substance of it.

A. Various principals for whom bonds were executed on July 5th and 6th, and then we proceeded to get the signatures and have the corporate verification.

Q. The corporate verification is on the last page?

A. On the last page. That was filled in by a notary in Mr. Gubbins' office who was Miss Meyers, and she put her notarial seal on there. It was forwarded on the same day to the Cleveland office of the Fidelity & Casualty Company of New York.

Q. On page 2 of Board's Exhibit 14-A there is a space for the full name of the principal. Can you recall what was put in there in substance?

A. It was left blank.

Q. It was left blank?

A. Yes, sir.

Q. And the only reference in the indemnity to the employees who were employed at the Republic plant for whom you had issued bonds was covered by the statement on the first page?

A. That is right.

Q. This contract of indemnity obligates the Republic Steel Corporation to pay? Is that correct?

A. Yes. It is known as an indemnifying agreement.

MR. DAY: It shows what it is. You have offered it in evidence, have you not?

MR. LAUTER: I just thought we would have some description of it. It is not being read at this time. It is in the record and does speak for itself, and if there is any objection on that question, I will withdraw the question.

MR. DAY: We are not strenuous about it; but it is an ordinary indemnity bond.

BY MR. LAUTER:

Q. I show you Board's Exhibit No. 11 and I will ask you when that was sent to the Republic Company.

A. To the best of my knowledge, the date it was mailed, on July 6th. I couldn't say definitely it was mailed at that time, but it was mailed some time in the neighborhood of that date. There might have been a slip of a day in getting those things off.

Q. I call your attention to the statement contained on Board's Exhibit No. 11, "Special Police Bonds—

56 employees at Canton—$10. ea. $500. lyr $560.00
27 employees at Massillon— 10. ea. 1000. lyr 270.00"
Making a total of $830.00.

Is that the sum which you had billed the Republic Steel Corporation for these?

A. That is right. That was a carbon copy made at the same time as the original invoice. The original invoice was torn off at the perforation.

Q. There was a perforated sheet attached to Board's Exhibit No. 11, was there?

A. Yes, sir.

Q. And it was sent to the Republic Steel Corporation?

A. Yes, sir.

Q. Have you been paid for these special deputy bonds?

A. The last time I noticed the account it was not paid. It had not had time, I suppose, to go through all of the necessary channels.

Q. You have never had any difficulty in getting paid from Republic before, have you?

A. Never.

Q. You do not anticipate any now?

A. No, sir.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. Mr. Smith, these officers were special policemen of the City of Canton and of the City of Massillon? Is that right?

A. Yes, sir. They were qualified as special policemen in those cities.

Q. Were they appointed by the mayors of those cities?

A. Yes, sir; they were appointed by the mayors.

Q. And the City Law Officer of Canton was present when the Caanton transaction was discussed, and the City Law Officer of Massillon when the Massillon transaction was discussed, is that right?

A. When we completed the transaction.

Q. Mr. McCarroll was there for Canton, and Mr. Hardman was there for Massillon?

A. Yes.

Q. And the bonds were $500 in connection with the Canton officers, and $1,000 in connection with the Massillon officers?

A. That is right.

Q. And the bonds were conditioned upon the faithful performance of the duties of the office by the special officers, is that right?

A. Yes, sir.

Q. And your surety company signed up the bonds?

A. Yes.

Q. And Republic signed up the indemnity bond running to your surety company?

A. Yes, sir.

Q. And I understood you to say that was not an unusual thing, is that right?

A. No; it is quite a common practice.

Q. Did you see the Canton officers? You told about seeing the Massillon officers, did you see the Canton officers?

A. Only a few. I did not see all of them. I saw some of them. As I say, I had a good bit of clerical help out at the Republic office, and we had a number of them and we wanted to run them through fast, and these boys were going out and getting these signatures and bringing the signed applications to me.

Q. And I think you did say, but I will ask you the question again,—the Massillon officers whom you saw you say were good-sized fellows?

A. Yes.

Q. They looked like trustworthy, real honest-to-God men, if I might use that expression?

A. They were splendid physical types, and they had all of the appearances of being gentlemen.

Q. And when you said a moment ago, which brought the laugh from the audience—and I suppose it is in the record—that they were splendid physical types, you did not mean to imply that they were anything other than splendid from any aspect that you saw?

A. No. I did not want to commit myself in too general a way about it; that is, I do not think I am competent to read character quite as far as your question indicates.

Q. Well, they were a good looking set of men?

A. Yes. I would size them up as being good fellows.

They made a favorable general impression on me. That is what I am trying to suggest.

MR. DAY: That is all.

Redirect Examination

BY MR. LAUTER:

Q. I am not sure that I understand why $500 bonds were issued in Canton and $1000 bonds in Massillon. Is there any reason for that?

A. I cannot explain it. It is the way the bonds were filled in. It is what evidently the officials of the city asked for. That is as much as I know.

Q. Do you know whether or not a $1000 bond is necessary in the State of Ohio before you can carry a weapon?

A. Yes. A concealed weapon bond, as we call them, is made out, so far as my knowledge goes, invariable for $1000. But these were not concealed weapon bonds.

Q. You testified on direct about the usual practice of issuing bonds for the employer and the persons you were covering.

A. Yes.

Q. On cross examination there was some discussion of the fact that the City Prosecutor was there and you were there at the time the men were being sworn in. That was referred to as the usual practice, is that right?

A. Well, as I understand it, even a notary public could swear in a person as a policeman.

Q. What I am getting at is this: Isn't it the usual practice for the employer or the city to pay for the special policemen—to your knowledge? When you have issued bonds who has paid for them?

A. For special police, the employer paid.

Q. And is he generally on the payroll of the employer?

A. Yes.

MR. LAUTER: That is all.

MR. DAY: That is all.

MR. DONALD WAKEFIELD SMITH: I just want to make one point clear, and I am not quite clear on it. As I recall your testimony, you stated, did you not, that you would not have bonded these individuals had not the Republic Steel Corporation itself served as an indemnifier?

THE WITNESS: That was in connection with my testimony about the conversation with Attorney Cope. The only way my authority would extend to the execution of those bonds would be that I would be indemnified, or that the surety company would be indemnified, because I was forbidden to execute such bonds at the time of a strike without having an indemnity for the surety.

MR. DONALD WAKEFIELD SMITH: There is one other thing I would like to ask about. A minute ago I asked you in connection with Board's Exhibit No. 13 whether you had asked certain questions with regard to the employment of these particular individuals who were being bonded. You were aware that there was a strike situation existing both in Canton and in Massillon?

THE WITNESS: Yes.

MR. DONALD WAKEFIELD SMITH: Did you think that the element of risk under the terms of the bond would be greater if these particular individuals were employees of the Republic Steel Corporation, where the strike was occurring?

THE WITNESS: I can't say that I reasoned the thing out that closely. I would say that my opinion would be that it would depend upon the individual who was bonded, the temperament and the character of that person, more than it would where he was employed.

MR. DONALD WAKEFIELD SMITH: But, in any event, the Republic Steel Corporation did indemnify the surety company, that is true?

THE WITNESS: That is true; yes.

MR. DONALD WAKEFIELD SMITH: Just one more question. You made a statement that when you and Mr. Gubbins walked into the office, or walked into the Massillon police station, Mr. Gubbins asked for Captain Curley. That is true, isn't it?

THE WITNESS: That is true. Mr. Gubbins, or Mr. Day,—I am not sure which.

MR. DONALD WAKEFIELD SMITH: Do you know why he asked for Captain Curley rather than asking for the Chief of Police or the City Solicitor?

THE WITNESS: No, I don't know.

MR. DONALD WAKEFIELD SMITH: Do you know Captain Curley, I mean, did you at that time?

THE WITNESS: That was the first time I had seen him, to my knowledge.

MR. DONALD WAKEFIELD SMITH: That is all.

MR. EDWIN S. SMITH: I have just one or two questions.

BY MR. EDWIN S. SMITH:

Q. In making out these bonds for special policemen, do you ordinarily require more information from the individuals to be bonded than you asked for in this instance?

A. If an individual should come in and had no indemnifier, and he were a lone risk and we had to consider him separate and apart of an indemnifier, and pass on his qualifications without any indemnity to the surety, we would be very careful and we would look up his references, and we would make a much greater effort to be accurate in all those things than we would when there is an indemnifier, naturally, because if an employer is willing to employ or is willing to sign an indemnity agreement for a man, it shows that that employer has confidence in him or he would not be willing to risk that much money on him.

Q. You felt you were virtually assuming no risk?

A. That is true.

Q. It was for that reason, despite the fact that they were to serve as special policemen in circumstances which might surround their job, particularly at that time of the strike? It was for that reason you made no further inquiries as to the type of individuals they were, or as to their property or financial status, and what not?

A. Such as saying that some person you had a great deal of confidence in would tell you that some one that you wanted to hire was in every respect competent, and you would not go any further because you had confidence in the person who recommended him.

Q. Have you ever bonded special police before under circumstances similar to these?

A. Our office has,—I did not happen to handle the transaction—several years ago in the steel strike, but my partner, Mr. Duerr, handled it at that time.

Q. When was that?

A. I think that was 1920 or along about that time when we had a strike in Canton.

Q. When you were speaking about what was customary in the way of corporations acting as indemnifiers, what special police you were referring to whatever knowledge you had in your other experience in 1920? Is that correct?

A. 1920, and I think we had other experiences with indemnifiers, but I cannot recall the names of the interested parties now.

Q. With special police also?

A. Yes, with special police. That is, it wasn't anything that was a puzzle to me at the time, for I knew there were precedents for it.

Q. Does the term "special police," in your vocabulary, and in the vocabulary of your company, mean police hired as these men were, and deputized by the employer, or does it also include a man serving as company guard and that sort of person? Just what do you mean by "special police"?

A. Special police are police employed by an employer other than the city or regular occupation; that is, they are guarding property or doing some service for an employer, such as the night watchmen. We have quite a number of those on our list who are acting as night watchmen for different properties. And they are usually qualified as special police. We use the words "special" and "private" to distinguish between a man who is on a regular police force and who is paid by the city. We distinguish between the regular police force and the private police force by that word "private" and "special."

Q. You understood the special duties of these special police were to protect the property of the Republic Steel Corporation?

A. I was trying to recall definitely enough to make some statement about it, but I cannot recall it very definitely. I didn't have any question that these men appointed in Canton, for instance, were going to be used, if the occasion required, to protect the homes, perhaps, of working men who went back to work.

Q. Where did you get that impression?

A. I was just saying the reason I did not state it before in my story was, I cannot quite collect myself as to where I got that impression, whether it came from some conversation in the mill office, or where it came from. I am sorry I cannot clear that up, but I cannot. I do have some impression that these men might be used, or I did have some impression that these men might be used to protect the property of the men who went back to work. There had been some damage done to property of men who were in the mill working at that time.

Q. Do you recall how Captain Curley was described to you when you met him? Was he asked for by any title, or simply as Captain Curley?

A. They spoke of him as Captain Curley.

Q. He was the person asked for when you went into the station at the City Hall?

A. To the best of my recollection, that is so. It is possible since Mr. Day and Mr. Gubbins were ahead of me, that they asked for somebody else first, and that person was not present.

Q. Your first contact was with Captain Curley?

A. Yes. He ushered us back to the Chief's office.

Q. Did he stay there?

A. Yes, he was there.

Q. Did he seem to exercise any special function in the selection of the men? You say you don't recall much conversation about the qualifications of these men?

A. No, I was occupied. I would say most of these men were recommended by Captain Curley. But I wouldn't want to be pressed on that too far because I can't recall every one.

Q. The selection process had obviously been gone through before the men came in?

A. Yes, that is true.

Q. I mean, there were no men rejected; everybody who was there was bonded? Is that right?

A. That is my recollection. We did not throw out any in Massillon, but we did there in the Canton office.

BY MR. LAUTER:

Q. Have you ever bonded any special policemen for use by the city before?

A. As I understand it, all special policemen are under the direction of the Chief of Police and the Mayor.

Q. I mean special police for the city and used by the city?

A. I don't recall.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

MR. LAUTER: If the Board please, I believe the time for the filing of an answer has been extended, as appears from the Board's Exhibit No. 1.

MR. DAY: Before you do that, Mr. Lauter, may I interrupt for just a moment?

May the record show in accordance with the rulings thus far that the testimony of each of the witnesses has been admitted over the objection and subject to the exception of the Respondent; the objection being based upon the ground that the evidence does not tend to support any charge of the complaint, or show any violation of the Act. The objection and exception relate to each conversation, incident, and episode detailed by each witness. The objection was overruled and we have the exception. And we make a motion to strike on identically the same grounds, and that is overruled and we have an exception. And we make the same objection and exception to all of the exhibits offered by the Board, and that is overruled and we have an exception.

MR. EDWIN S. SMITH: Yes.

MR. DAY: Thank you.

MR. EDWIN S. SMITH: In other words, you may have your record all brass-bound in those respects, if you wish it.

MR. DAY: Thank you.

MR. LAUTER: I merely wish to call attention to the fact that as a part of Board's Exhibit No. 1, there is an order extending the time to answer until August 4, I believe. And I should like to adjourn this hearing until August 4, on five days' notice to Counsel for the Respondent Company, and for the Steel Workers Organizing Committee.

MR. DAY: I would like to make this statement, that on August 4 I personally have to take a deposition in a case having nothing to do with the Republic at all, but a client of ours in a very important case who is now up in Hessel, Mich. It will be necessary for us to go up there and take that deposition. It has been definitely set for August 4th.

If some later date could be set than August 4th I will appreciate it very much because really we are committed, so far as August 4th is concerned, and it would be very embarrassing and almost impossible to change that date.

MR. EDWIN S. SMITH: When would you expect to be back from this trip?

MR. DAY: I would be through probably on the 4th or 5th. We figured on going up and going over the case on the 2d and 3d, and taking his deposition on the 4th. And it might last longer than that.

MR. EDWIN S. SMITH: Suppose we set the adjourned hearing for the 6th?

MR. DAY: I am afraid I could not get back by that time. Could the Board make it the following Monday, or make it the 11th, or can you give us more time? Frankly, this is something we wanted to talk over with the Board.

MR. EDWIN S. SMITH: I suggest rather than discussing the matter further on the record that we might perhaps adjourn to the ante-room for a few minutes regarding possible arrangements.

(Thereupon a short recess was taken, after which the following occurred:)

MR. DAY: If the Board please, Mr. Patton calls my attention to the fact that in saving the record, which the Board said was brass-bound, I forgot to make an additional ground that none of the evidence, or any episode or conversation or incident related by any witness or exhibit, tends to connect Republic Steel Corporation with any charge in the complaint or violation of the Act.

May I have that as an additional ground?

MR. EDWIN S. SMITH: It may be so noted.

I take it the record does show that the several motions made by the Company has been denied.

MR. DAY: Yes, and overruled, and an exception noted.

MR. EDWIN S. SMITH: And the exception is noted.

On the matter of the adjournment, I would like to have the record state that in deference to the Board's desire to proceed promptly with what necessarily appears to be a rather lengthy case, and with deference also to the commitments of Counsel for the Respondent Company, we will adjourn this hearing until the date of Monday, August 9th; and the place of reconvening will be indicated by notice to the Company and the Union not less than 5 days before the time of hearing.

I hope that will be satisfactory.

(Thereupon, at 3:15 o'clock p. m., July 23, 1937, an adjournment was taken until Monday, August 9, 1937.)

Courtroom No. 3,
Stark County Courthouse,
Canton, Ohio,
Monday, August 9, 1937.

The above-entitled matter came on for hearing, pursuant to notice, at 10 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Lawrence Hunt, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

H. C. Pontius, Esq., of the firm of Lynch, Day, Pontius and Lynch (Canton, Ohio), and Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Day, Young, & Veach (1420 Union Trust Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing in the Republic Steel Corporation and Steel Workers Organizing Committee is now resumed.

Let me say to all spectators that there will not be any smoking in here, and neither will there be any outbursts of laughter, or any noise of any kind. Now, keep that in mind, or you will just have to be put out.

You may proceed.

MR. LAUTER: If you please, Mr. Examiner, I should like to introduce as Board's exhibit next in number, the order designating the Trial Examiner.

TRIAL EXAMINER LINDSAY: What number is that?

MR. LAUTER: That will be No. 15.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 15 is received in evidence.

(Thereupon, the document referred to was marked

"Board's Exhibit No. 15," and received in evidence.)

MR. LAUTER: If it please the Trial Examiner, I should like to substitute Board's Exhibit No. 1 for the copies of the charge and order permitting filing of charge with the Board, to the Board, two separate documents, the originals of those documents which I did not have at the commencement of the hearing, at this time.

I wish to explain that those documents were issued at the time of the Washington hearing, but I was unable to find them in the files,—they had not been located.

MR. DAY: They are marked?

MR. LAUTER: They are.

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: The substitution for Board's Exhibit No. 1 may be granted, and those exhibits received in its place.

(The documents referred to were thereupon substituted for Board's Exhibit No. 1, and received in evidence as Board's Exhibit 1.)

MR. LAUTER: If you please, Mr. Trial Examiner, I should like to incorporate, as a part of Board's Exhibit No. 1, the answer of Respondent, Republic Steel Corporation, in this proceeding. The answer is dated August 2, 1937.

I do not imagine there is any objection to that?

MR. DAY: No objection to that.

TRIAL EXAMINER LINDSAY: Received in evidence as part of Board's Exhibit No. 1.

(The answer referred to was received in evidence as a part of Board's Exhibit No. 1.)

MR. LAUTER: Take the stand, Mr. Porter.

HOWARD PORTER

a witness called for and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

MR. DAY: What is your name, please?

THE WITNESS: Howard Porter.

TRIAL EXAMINER LINDSAY: May I suggest to the attorneys on both sides that when you are putting a witness on the witness stand you give his full name, so that we will get it, all of us.

MR. LAUTER: Yes.

TRIAL EXAMINER LINDSAY: And spell it, also.

MR. LAUTER: Yes, that is my plan.

Direct Examination

BY MR. LAUTER:

Q. Mr. Porter, where do you reside?

A. 108 North Bluff Street, Butler, Pa.

MR. DAY: We can hardly hear.

MR. LAUTER: Speak up as loud as you can.

TRIAL EXAMINER LINDSAY: Talk up so that everyone can hear you.

THE WITNESS: Yes, sir.

BY MR. LAUTER:

Q. What is your occupation at the present time?

A. I am a paid organizer for the Steel Workers Organizing Committee.

Q. How long have you been a paid organizer for the Steel Workers Organizing Committee?

A. Since July 20, 1936.

Q. Have you been employed in the steel mills?

A. I have been employed at the Portsmouth Works, Wheeling Steel Corporation, for about 14 years.

Q. What area were you assigned as an organizer for the Steel Workers Organizing Committee?

A. I was assigned to the Canton-Massillon area.

Q. When did you come to that area?

A. I came into that area on July 23, 1936.

Q. What are the duties of an organizer for the S. W. O. C.?

A. The duties of an organizer is to contact steel workers, interest them in the organization, meet committees from different departments, and set up local lodges in the mill.

MR. DAY: May I interrupt just a moment?

(There was a discussion off the record on the subject of the noise created by the fan.)

BY MR. LAUTER:

Q. When you came to Canton, the Canton-Massillon area, where did you set up your headquarters?

A. We set our headquarters up at the Northern Hotel.

Q. Northern Hotel?

A. Yes.

Q. Is that located in Canton?

A. Canton; yes, sir.

Q. Thereafter, you commenced your duties as an organizer in this area?

A. Yes, sir.

Q. Now, precisely what distance did you cover in this area?

A. I covered Canton for about 30 days, and then I went to Massillon to work altogether, to work out of the Canton office.

Q. I see. When you say the Canton office, what are you referring to?

A. We established headquarters at 117 North—I cannot remember the street now.

Q. Is that Walnut Street?

A. Walnut Street, East Walnut.

Q. Those are the headquarters of the S. W. O. C. in Canton; is that correct?

A. Yes, that is correct.

Q. Did you do your organizing on foot, or use an automobile, or what?

A. I drove a car most of the time, because the fellows lived out of town that I had to see.

Q. I see. Have you ever been trailed?

A. I was trailed quite often.

Q. By whom?

A. By a car with license No. E-12.

Q. Will you describe when you first noticed you were being trailed?

A. It was just about a week after I came into Canton, another organizer, Mr. Price, went out—

Q. Mr. Price?

A. Mr. Price, Cortland Price, went out to make a call, and he came back into the hotel, he said, "I am being followed."

MR. DAY: Now, I object to that, what he said, on the ground it will be hearsay, and should not be admitted in this hearing as evidence.

TRIAL EXAMINER LINDSAY: Any objection—

MR. LAUTER: I would like to state, Mr. Trial Examiner, it has already been observed in this record that the ordinary rules of record do not apply, and under the Board's procedure I want to make a further observation with respect to this particular objection, that this is a report of conversation held and falls outside of the hearsay rule.

TRIAL EXAMINER LINDSAY: I will overrule the objection and let the record show an exception.

(Exception by Respondent.)

BY MR. LAUTER:

Q. Proceed.

A. Mr. Price came back into the hotel and told me, he said, "I am being followed."

MR. DAY: So that we may have an understanding, this entire conversation is under our objection and exception.

TRIAL EXAMINER LINDSAY: Yes, always, certainly.

MR. DAY: All right, without having to interrupt again.

TRIAL EXAMINER LINDSAY: We will admit the entire conversation, because I do not know what it is going to be.

MR. DAY: I see.

TRIAL EXAMINER LINDSAY: I am talking about this particular testimony—

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: —which he gives in answer to this question.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: But when you object, you will note, when you follow the proceedings in just a few moments, that I will always reserve an exception for you whether you ask it or not.

MR. DAY: All right, thank you.

TRIAL EXAMINER LINDSAY: Because I assume you will ask it.

MR. DAY: Thank you very much.

BY MR. LAUTER:

Q. Proceed.

A. And then Mr. Price took me out and showed me these two men in this car, license E-12, that was following him.

I got out and started out, Mr. Price was with me, and they followed us practically all over Canton, and they kept that up for possibly three or four months; every time an organizer would step out of the hotel, or out of the office, this same car, E-12, would be following us. It followed us on practically every time we would go out.

MR. DAY: E-12, did he say?

MR. VEACH: E-12.

BY MR. LAUTER:

Q. Did you determine how many people were in the car that was following you?

A. There was always two, it was a coupe, 1935 Ford coupe.

Q. They would always follow you in an automobile?

A. No, at times when we would leave the hotel and go out to breakfast, lunch, or dinner, if we were walking, or making a contact, walking, they would always follow us then, because they always parked across from the hotel, and watched the car when we were in there. I have had them follow me into the restaurant, back to the hotel, on the elevator, upstairs, and back down again.

Q. Did you determine where the two men who were in car license No. E-12 stayed in Canton?

A. They stayed in the Northern Hotel, a room below me, that fifth floor.

Q. Would they trail you around the hotel, also?

A. They would always watch us in the hotel, or in the lobby, or any place that they could get in to watch us.

Q. In connection with your organizing activity now, did you ever have occasion to go to Louisville, Ohio?

A. Yes, sir; I went quite a few times to contact the men out there. Mr. Sweeney and I, who was an organizer at that time, went to Louisville one afternoon to make some contacts. We got out toward Louisville, and got off the main road, up a lane, and we stopped to inquire where a fellow lived. Mr. Sweeney went in to—

Q. Who is Mr. Sweeney?

A. Mr. Sweeney is an organizer.

Q. What is his full name, do you know?

A. Guy L. Sweeney.

Q. Yes.

A. And while Mr. Sweeney was in making the inquiry in regard to where this fellow lived, I turned my car around, and when I turned my car around I seen this same car with license No. E-12 setting back down the lane, on the side of the road, and Mr. Sweeney came out, and he told me that he seen the same car.

Q. When you say "E-12," is that an Ohio license?

A. Ohio license.

Q. What year?

A. 1936.

And as I started my car and got out the lane, this same car went by me, going in the other direction.

When we got out toward the end of the lane, there was another car drove in, and backed into sort of a side road, just a bridge over a creek there, into a corn field, with about half of the car sticking out in the lane, and E-12, this license No. E-12, turned around behind me, came right in behind me, and I had a car in front of me, and one behind me, and just fortunately that I found a road leading off to the right through a corn field and got out of the way.

There was about five men in this sedan.

Q. In connection with your organizing work, do you hold meetings with the men?

A. When we came to Canton to start organizing there seemed to be a lot of terrorism among the workers. They were afraid to talk to an organizer publicly. They were afraid somebody would see them and report it to the boss. They knew that if the boss found out that they were organizing they would probably get into trouble.

MR. DAY: We object to that part of the answer as to terrorism, and the men being afraid, upon the ground it is a conclusion of the witness. We ask that it be stricken out.

BY TRIAL EXAMINER LINDSAY:

Q. Were these men to whom you are referring, who were afraid, with you, Mr. Porter?

A. How is that?

Q. Were these other men you were talking about being afraid, Mr. Porter, with you?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: I will overrule the objection and let the record show an exception.

BY MR. LAUTER:

Q. You testified the men were afraid of being contacted by an organizer for the Steel Workers Organizing Committee. Will you explain the foundation for that remark?

MR. DAY: May we make the same record, please?

TRIAL EXAMINER LINDSAY: Do you mean you are making another objection to this question?

MR. DAY: Yes, Your Honor.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. DAY: The purpose of saying "same record" is that when the Court has passed upon an objection and overruled it, and we have noted an exception, or the Court has allowed us an exception and then questions put and answered that we think are subject to the same objection, with the Court's permission we say "Same record" in order to save time, that meaning that an objection is made to the question, is overruled, and an exception noted. I don't think it is any particular practice in Ohio, but perhaps it will save time.

TRIAL EXAMINER LINDSAY: I thoroughly understand what you are getting at, but I wanted it stated in the record so that those who read the record will know what you are talking about.

BY MR. LAUTER:

Q. Will you answer the question, please?

A. What is the question?

(Question read as follows:

"Q. You testified the men were afraid of being contacted by an organizer for the Steel Workers Organizing Committee. Will you explain the foundation for that remark?")

A. On several occasions I have talked with steel workers, both in Canton and in Massillon, and they have told me not to come back to their homes inasmuch as they were afraid I was being watched, and they were being watched, and they did not want the boss, or the superintendent, to know that they were talking to an organizer. So we had to resort to holding meetings out of town after night, out in corn fields, in parks, and different places where we thought nobody was watching us, before we could get the men to meet. After we got that system started with the meetings out of town at different places, we had some very nice meetings.

BY MR. LAUTER:

Q. Do you know Mr. Laughlin?

A. Yes, sir.

Q. Did you ever have any conversation with him with respect to your organizing activities?

A. Yes, sir; quite a bit.

Q. Will you describe the conversation and tell what the conversation was?

MR. DAY: We object at this time for the same reasons already started.

Will you identify Mr. Laughlin and show who he is?

BY MR. LAUTER:

Q. Will you state who Mr. Laughlin is?

A. He is a steel worker and works in the Massillon Republic plant.

Q. Go ahead, please.

MR. DAY: We would like to object to this.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Will you proceed, please.

A. Mr. Laughlin is a steel worker I met in Sippo Park one evening about 7 o'clock. He told me that he was very much interested in the organization. We arranged a meeting after midnight of the same night for the 18-inch Bar Mill. We met and we had quite a number of men there. During the time of that meeting this same car, license E-12, had either followed me or found out that we were meeting in that park. They followed Mr. Laughlin home and found out where he lived. And after that this same car would watch Mr. Laughlin's house quite a bit.

Q. You say would watch his house? When you say that, what do you mean?

MR. DAY: We move the part about the car watching Mr. Laughlin's house be stricken out because unless this witness saw it it would be hearsay or conjecture on his part.

BY MR. LAUTER:

Q. Did you see it?

A. Absolutely. I have seen him sit in front of Mr. Laughlin's house for at least six hours at a time.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Have you ever been trailed or followed by anybody else except car E-12?

A. Yes, I have been followed by a Ford car, a Ford coach, about a 1930 model, in Massillon, and also by a Chevrolet sedan, about a 1935 model, in Massillon.

Q. When did you notice you were being followed by those two cars?

A. About two weeks after I went to Massillon to work in that field.

Q. What aroused your attention?

A. The mere fact that they were always round close to where I was at.

Q. How many men followed you in these cars?

A. In the Ford car, in the Ford coach, there was always two men, and in the Chevrolet sedan there were never less than four.

Q. Will you describe what your experience in connection with their trailing you or following you was?

A. On several occasions this old Ford car followed me, and I would always—

Q. What kind of a car did you drive?

A. I drove a Ford V-8. This car they drove was a slow car. They would follow me around in Massillon in making contacts. In other words, they would watch me so that I would not get to see any steel workers, because I did not want to get any steel worker in trouble. On one occasion I just wanted to be positive that they were following me, so I took them out around the mill.

Q. What mill do you refer to?

A. The mill at the Massillon plant, the Republic Steel Corporation.

Q. Where?

A. In Massillon, Ohio.

Q. What mill in Massillon of the Republic Steel Corporation are you referring to?

A. The Central Steel.

Q. Is that known as the Union Drawn?

A. No, that is the Central, the big plant.

Q. The Central Alloy Steel plant of Massillon?

A. Yes, sir. I took them out around the plant, which is about six or eight miles, on a dirt road, and very dusty. I did not drive very fast, to see if they were following me; and they did. They followed me two or three hours that afternoon. I could not stop to make any contacts because I did not want to let them see who I was talking to.

Q. You are testifying that you were followed by a Ford coupe and a Chevrolet sedan?

A. Yes.

Q. Did you ever follow them?

A. I followed the Chevrolet one time. He had been trailing me quite a bit, and I thought I knew who these fellows were in the Chevrolet, and I wanted to verify just who they were. So I was at Hecks Corners, just a little bit out of Massillon. I came out and just as I got into the car they drove by in the Chevrolet sedan. There were five of them in the car. They turned around and gave me several hard looks. So I just thought I would follow them to see where they went, and I did. I followed them and the car went on into the Union Drawn plant at Massillon.

Q. How is the Union Drawn plant connected with the Republic Steel Corporation?

A. It is a subsidiary, so far as I know.

Q. It is one of the Republic Steel plants?

A. Yes.

Q. And located where?

A. At Massillon.

Q. You say you followed them to the plant?

A. Yes. And they went into the gate and I turned off.

Q. On another occasion, had you seen the two men, or on any other occasions had you seen the two men whom you say were in the car that followed you?

A. Yes, on several occasions I seen the one fellow who drove the Chevrolet sedan. He was a watchman in the Union Drawn plant there. I seen him in uniform different times while passing out steel labor and hand bills, because he would always come down to the gate where we were at and talk.

Q. A watchman in uniform?

A. Yes.

Q. One of the company police of the Union Drawn plant of the Republic Steel Corporation?

A. Yes, sir.

Q. You identified him when you went there to pass out hand bills?

A. Yes.

Q. He was one of the men in the Chevrolet or in the Ford?

A. He was in the Ford and in the Chevrolet.

Q. You said there were two men who followed you in that Ford coupe. Is that correct?

A. Yes, the Ford coach.

Q. Did you ever see the other man?

A. I seen him inside the plant.

Q. Did you ever see him in uniform?

A. Yes.

Q. Was there anything peculiar about the manner of their dress, or their appearance, when they followed you?

A. Yes. When they followed me in this old Ford they always had a day or two growth of beard and their clothes were not so good. I thought it was very peculiar because I knew they could afford better than what they had on.

Q. They did not have on uniforms when they followed you in the car?

A. No, they were in plain clothes.

Q. Was there anything peculiar about the way they drove the old Ford?

A. Yes. On several occasions I thought their purpose was to wreck this old car, inasmuch as it wasn't much of a car.

Q. Do you know where Navarre is?

A. That is out of Massillon, about three miles.

Q. And you were then trailed by these two men?

A. Yes, sir.

Q. Describe the circumstances of that.

A. That was on the 23d of December, in the afternoon. I was parked at South Erie Street. As I came out of a pool room, after putting some cards up there, I noticed these two men, and as I started out, out South Erie Street, they started out behind me, and I drove slow to see if they would follow me out, and they did, all the way to Reamer's Service Station.

Q. And why did you drive slowly?

A. I drove slowly to see if they would follow me, and I had made a complaint to Sheriff Nist.

Q. Who is Sheriff Nist?

A. He is the sheriff of this county, Stark County.

Q. Yes, and he told you what?

A. He told me that if they were following me out of Massillon, that he would have them picked up, and that was one of the reasons that I had been driving slow, to see if they would follow me.

Q. Go ahead.

A. I drove into Reamer's Filling Station, and they stopped just east of that station.

Q. Why did you stop at Reamer's Filling Station?

A. Mr. Reamer is a friend of mine and I wanted to show him just what was happening.

Q. Yes.

A. And I went and called the sheriff.

Q. Sheriff Nist?

A. Yes, Sheriff Nist; I called the sheriff's office, and I got hold of a deputy sheriff, and I told him what the trouble was. I said, "I will stay here and see if I cannot get a trailer to pick them up."

Q. Did you call any other office?

A. I called our office.

Q. What office?

A. The Canton office of the S. W. O. C.

Q. What did you tell them?

A. To see if they could send a couple of men out,—that there was men following me and had been following me around all the afternoon.

Q. Did they send anybody out?

A. Yes, sir,—three men, Mr. Sweeney, Mr. Gent, and Mr. Cope.

Q. What happened after that?

A. I stayed in the station and watched these two men sitting in the car.

Q. About how long did you stay in the station watching the car?

A. About twenty minutes.

Q. What happened then?

A. After that, the car came along with the three organizers in it.

Q. What did they do?

A. They came into the station and I showed them these two men, and they stayed in there about five minutes, and the men drove off.

Q. You say the men drove up from the S. W. O. C. and stayed there about five minutes, and the two men drove off?

A. Yes.

Q. What happened then, after that?

A. I asked Mr. Sweeney who was driving the car to follow them and see where they went.

Q. Did Mr. Sweeney follow them?

A. Yes, he started out to.

Q. What about the other men?

A. The sheriff's cruiser drove into the station.

Q. Yes.

A. Just as they drove into the station, I was talking to the deputy sheriffs, and I told them they went down that way (indicating). And just about that time they came back to the filling station.

Q. You say, "They came back to the filling station"; you are referring to the two men who were following you?

A. Yes.

Q. To whom did you point them out?

A. To the sheriff's deputy.

Q. What happened then?

A. The deputy sheriff went around and pulled these two men that had been following me, into the station.

Q. What happened then?

A. He searched them, and their car, and asked them for their names, and what they were doing.

Q. Did the men tell him their names?

MR. DAY: Did this witness hear this conversation?

BY MR. LAUTER:

Q. Did you hear this conversation?

A. Yes, sir.

Q. Go ahead.

A. After the deputy sheriff arrested them, he took them in to the county jail, and they told their names, or what they gave as their names.

Q. Do you recall the names that they gave?

A. Long and McAllister.

Q. What happened after that?

A. The deputy sheriff asked me if I wanted to file charges against them.

Q. Yes.

A. I told him yes, that I would, just as soon as I got back to the office.

Q. What happened then?

A. I went back to Canton, and I contacted the men, that is, Mr. Cope of the S. W. O. C. Committee, and went to the district attorney's office and asked him what charges I could prefer against these two men, and he told us there was not any law covering it, and so I could not prefer charges against them. And so, I went to the county jail and told Mr. Kellner that he would have to turn them loose.

Q. Have you seen either of these two men at any time subsequent to the occasion you are referring to, when they were picked up—incidentally, can you tell me approximately when that was that they were picked up?

A. The 23rd of December.

Q. 1936?

A. Yes.

Q. Now, answer my question as to whether or not you saw them at any time subsequent to that date?

A. Subsequent?

Q. Yes, — at any time subsequent to that date, when they were picked up.

A. I just don't get your question.

TRIAL EXAMINER LINDSAY: After.

THE WITNESS: Yes, I have seen them several times after that. At one time that I remember, it was at a fish fry given by the employees of the Union Drawn Plant, given at Eagle's Hall.

BY MR. LAUTER:

Q. Where is that?

A. Massillon, Ohio.

Q. Yes.

A. I had got four tickets to the fish fry, and I went to the fish fry accompanied by Mr. Hardesty, Mr. Mitchell, and Mr. Elmer Jordan. At the minute I got into the fish fry, I seen McAllister and Long and they followed me all around during the time I was in the fish fry. One of them followed me so close that he stepped upon my heels. I did not get a chance to talk to anybody.

At one time McAllister and Long were accompanied by two other fellows, and they all followed me to a small room back of the main hall.

So I knew I was going to get into trouble if I stayed there. And so I got the other two boys and told them that I expected trouble if I stayed there, and they followed me out. Mr. Hardesty and Mr. Jordan got out all right. Mr. McAllister and Mr. Long blocked the doorway of the office on the way out. I had to pass them. They were doing that to cause trouble, to start trouble with the prospect of giving me a good beating.

Q. Did you finally leave the fish fry?

A. I had to, and on the way downstairs, these fellows, Long and McAllister, got on the elevator and they followed me clear to the car, accompanied by 15 or 20 of their men.

Q. And you went off?

A. Yes, sir.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. You are now an organizer for the Steel Workers Organizing Committee?

A. Yes, sir.

Q. And what connection has that Committee with the C. I. O.?

A. It is an affiliate of the C. I. O.

Q. How long have you been an organizer?

A. I have been an organizer since the 20th of July, 1936,—a paid organizer.

Q. And what was your business before that?

A. I was a steel worker.

Q. With what company?

A. The Wheeling Steel Company, Portsmouth, Ohio.

Q. For how long?

A. About 14 years.

Q. Continuously?

A. Yes, sir.

Q. You worked at Portsmouth?

A. Yes, sir.

Q. How did you happen to come to the Canton-Massillon district?

A. I was sent here by Mr. Golden.

Q. Mr. who?

A. Mr. Clinton S. Golden.

Q. Who is he?

A. He is attorney of the Northeastern Steel Workers Organizing Committee.

Q. You came here at his instance?

A. Yes.

Q. And when?

A. The 23rd of July.

Q. 1936?

A. Yes.

Q. How long did you stay here?

A. Until the 3rd of February, 1937.

Q. Did you leave here?

A. Yes, sir.

Q. Where did you go from here?

A. I was sent to Aliquippa.

Q. Down in Pennsylvania?

A. Yes, sir.

Q. And how long did you stay there?

A. Until about three weeks ago, and then I was sent to Buffalo.

Q. And then you did not come back to this Canton-Massillon area, after you left—was it February 3rd?

A. February 3, 1937.

Q. But you came on here to carry on your work for the S. W. O. C. Committee?

A. Yes, sir.

Q. And that is the work you did while you were here?

A. Yes, sir.

Q. And did you let it be known generally that you were a worker for the S. W. O. C.?

A. Yes, sir,—everybody that I contacted.

Q. You made no attempt to keep hidden the fact that you were an organizer for the S. W. O. C.?

A. No, sir.

Q. And you established an office where here in Canton?

A. 117 Walnut Street, Northeast.

Q. When did you open up that office?

A. I cannot tell you the exact date.

Q. About when?

A. It was in September, I believe, about a month and a half after I came here.

Q. 1936?

A. Yes.

Q. And was that office there when you left?

A. Yes.

Q. It had been there continuously?

A. Yes, sir.

Q. Who else was with you?

A. Cortland H. Price.

Q. Now what was that first name?

A. "Cortland."

Q. Where did he come from?

A. Portsmouth, Ohio.

Q. And what other men?

A. Elmer Cope.

Q. Where did he come from?

A. Warren, Ohio.

Q. Who else?

A. Lee Hall.

Q. Where did he come from?

A. He was a director of the State of Ohio, and came in to instruct us as to what to do.

Q. Where were his headquarters?

A. At Columbus, at that time.

Q. But during recent months, that is the Hall that was elected in Warren or Niles or somewhere?

A. No, sir, that is not the same one.

Q. Oh, you know the Hall that I have in mind, and this man is not the same one?

A. That is right.

Q. Where is he now?

A. I think, in Cleveland.

Q. Did anybody else come?

A. No, sir.

Q. And then you started organizing your union?

A. Yes, sir.

Q. These two men that you told Mr. Lauter about, you say they started to trail you?

A. Yes, sir.

Q. And they would trail you into restaurants?

A. Yes, sir.

Q. You would get into an elevator, and they would get in right behind you, would they?

A. Yes, sir.

Q. And did they make any efforts to disguise the fact that they were following you?

A. At times they did not make any efforts to disguise that fact, and at other times they tried to keep it hidden.

Q. How many times did they get into an elevator with you?

A. On several occasions.

Q. And on any of those occasions, did you have any conversations with them?

A. Only one time did I have any conversation with them.

Q. How long was that after they started trailing you?

A. About a week.

Q. And they kept right on trailing you, after that?

A. Oh, yes.

Q. I could not understand from your testimony whether the men who gave their names as "Long" and "McAllister" were the same men who trailed you in car E-12, or different men?

A. They were different men.

Q. The complaint you made to Sheriff Nist, that related to Long and McAllister?

A. Yes.

Q. You did not make any complaint to Sheriff Nist about the E-12 men?

A. Yes, sir.

Q. I wish you would describe these E-12 men—you will understand what I mean by "E-12"?

A. Yes.

Q. Take them now, one at a time.

A. The driver of the car was a fellow that was slender, and looked to be about 45 years old, and he had what looked to me to be a bad arm, a stiff arm.

Q. Right or left?

A. Left. The other man was a man about 180 pounds, light-complected, and wore glasses.

Q. What color of hair did the first man have, with the bad arm, as you said?

A. He had light brown hair, as I remember.

Q. Did I understand that they trailed you for a while, and then somebody else started to trail you?

A. They trailed me at the same time that this Long and McAllister did; one would drive it a while, and then the other.

Q. You talked about a man that had a Ford car, and somebody that had a Chevrolet sedan; were those the same men?

A. The Long man drove the Ford, and McAllister drove the Chevrolet.

Q. Then they did not go together?

A. Whenever they drove the Ford, Long drove.

Q. And, the other way around?

A. Yes.

Q. But, the two E-12 men did not drive that car?

A. No, sir; they drove the Ford coupe.

Q. You complained to the sheriff on the 23rd of September, 1936?

A. No, sir; I complained before that.

Q. What time of day would you say it was, on September 23rd, 1936?

A. Around three o'clock in the afternoon.

Q. And you have been doing field work here since about February, 1937?

A. No, sir,—I have been back visiting several times.

Q. And you have told us all here, Mr. Lauter and the Examiner, and the rest of us, of all the activities of these men?

A. Yes, sir.

MR. DAY: At this time, the Respondent moves the Court to exclude the testimony of this witness upon the ground that there is nothing at this time to connect it with the Respondent, or to make the Respondent responsible for it, or to show that the Respondent had knowledge of it.

TRIAL EXAMINER LINDSAY: The motion is overruled; let the record show an exception.

MR. LAUTER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: If you gentlemen want a five minute recess, I will give it to you.

(Whereupon a short recess was taken.)

TRIAL EXAMINER LINDSAY: Tomorrow morning we will have a larger hearing room, I am informed. It will be right across the hall in courtroom No. 1. Tomorrow morning the hearing will begin at 9:30.

You may proceed, Mr. Lauter.

MR. LAUTER: I will call Mr. Sweany.

GUY L. SWEANY

a witness called by and on behalf of the National Labor Relations Board, and, being first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Please state your name.

A. Guy L. Sweany.

Q. Where do you reside?

A. No. 430 Wolfe Court, Northwest, Canton.

Q. You have been employed as a steel worker?

A. Yes.

Q. Where?

A. Republic Steel Corporation, Canton plant.

Q. For how long a period have you been employed?

A. I worked there several times. The last occasion was from 1925 to 1935.

Q. What kind of work have you done?

A. I was a feeder on the 8-inch Bar Mill.

Q. Have you done any organizing work for the Steel Workers Organizing Committee?

A. I have.

Q. When did you start doing organizing work for them?

A. I started about the first of July, 1936, as a volunteer organizer.

Q. And you also worked as a paid organizer?

A. I did.

Q. When did you start work as a paid organizer?

A. August 1, 1936.

Q. At the present time, what are you engaged in doing?

A. Organizing work for the Steel Workers Organizing Committee.

Q. Do you know Mr. Howard Porter, who has been a witness in this proceeding?

A. I do.

Q. When did you first meet him?

A. I met him in the latter part of July, 1936.

Q. In connection with your organization work, did you cooperate with him?

A. I did.

Q. I asked what your activities were, I believe?

A. Our work was to make individual contacts with steel workers, and on many occasions I went with Mr. Porter and made individual contacts at home and met small groups at various places, not too public, in the country, and so on.

Q. You say not too public?

A. Yes.

Q. Where did you have meetings that were public?

A. The men were afraid the company would find out they were meeting with organizers, or signing application cards, and they would lose their jobs.

MR. DAY: I move to strike that out as hearsay, and as a conclusion.

MR. LAUTER: I will consent that the answer be stricken.

BY MR. LAUTER:

Q. State whether or not you had any conversations with any of the men you contacted?

A. Yes.

Q. And state what those conversations were with respect to your organizing activities, and their attitude in being contacted?

A. All of the men were willing to sign applications, but many of them expressed the fear that the company would find it out. We reassured them—

MR. DAY: I move to strike that out.

BY TRIAL EXAMINER LINDSAY:

Q. Did they make these statements to you?

A. They did.

TRIAL EXAMINER LINDSAY: The motion is overruled. You may have an exception.

BY MR. LAUTER:

Q. Have you ever been trailed?

A. I have.

Q. By whom have you been trailed?

A. I have been trailed by a Ford car with license E-12 on several occasions. I was also trailed by another car, the license number of which I did not get.

Q. You heard Mr. Porter testify about being trailed on a trip that he took into the country to see somebody about joining the Steel Workers Organizing Committee?

A. I heard part of his testimony.

Q. Did you accompany Mr. Porter on that trip?

A. I accompanied Mr. Porter on a trip to Louisville.

Q. Will you describe what occurred on that trip to Louisville?

A. When we were going out near Louisville to contact a man who lived at a farm house near Louisville—

MR. DAY: May I interrupt? I don't know what the rule of the Examiner will be as to the exclusion of witnesses.

MR. LAUTER: If you please, Mr. Examiner, there has already been an application by Mr. Day to exclude witnesses—that is, at the hearing in Washington. And I believe he was advised at that time by Mr. Smith, who was Acting Chairman of the Board, that there would be no exclusion of witnesses at this hearing.

MR. DAY: That is right.

MR. LAUTER: I assume the Trial Examiner will follow the same ruling set by the Chairman of the Board in that respect.

TRIAL EXAMINER LINDSAY: As I understand it, there was a refusal to exclude witnesses?

MR. LAUTER: Yes, Mr. Examiner. All of the witnesses were permitted to remain in the hearing room during all of the testimony.

TRIAL EXAMINER LINDSAY: Oh, yes; surely they will be permitted to remain in the courtroom.

MR. DAY: May the record show the application?

TRIAL EXAMINER LINDSAY: The record will show you have made such a request and the request has been denied. You may have an exception.

MR. DAY: Thank you.

BY MR. LAUTER:

Q. Will you please continue with your experience on the occasions you accompanied Mr. Porter out to Louisville?

A. The address of this man was R. D. Louisville, and we did not know exactly where it was, so we inquired at a farm house about where this man lived. While I was on the porch talking to the lady at the house, I observed that E-12 stopped in the road very near the house; when I came back to the car, in the meantime, Mr. Porter had turned the car around and headed it in the same direction we came from. I told him our friend E-12 was with us, and he said he had seen it.

Just then the car drove out of the ditch and onto the road, or highway, and passed us.

We started to drive back, and just then we saw ahead of us another car, a black sedan, with four or five men in this car. It had backed off the highway with the front wheels on the highway. It looked like a trap. We discovered a lane to the right that we thought we could drive on. We turned to the right on the road and escaped these two cars.

Q. Do you know Mr. Schleppi?

A. I do.

Q. Did you ever go out with him while you were organizing?

A. I did, on several occasions.

Q. Were you ever trailed when you were out with him?

A. On one occasion I recall we were trailed when I was with Mr. Schleppi.

Q. Will you describe that, please?

A. We were leaving the office, or headquarters, at No. 117 Walnut to take a Mr. Gent to his hotel. After we had taken Mr. Gent home we were going to make a call out at North Canton. As I stopped at the hotel, I observed a car stopping quite a ways back, and I said to Mr. Schleppi, "you better watch this car in the rear. He is acting suspicious."

We drove on to the corner and stopped again, and again he stopped. I turned to the right on Cleveland Avenue and I said, "Observe the license number. He may be following us." He said, "No, I don't think so. The license number is E-12."

I told him, "That is the man who has followed us on many occasions. We will have to drive around town a bit to lose him."

We turned to the right on Second or Third Street and made several right turns down town before we came back onto Cleveland Avenue, and headed north for North Canton.

Q. Had you observed the E-12 on other occasions?

A. I had on many occasions. I noticed the car parked on the lot across the street from the Northern Hotel, where the organizers were staying, which was temporary headquarters when they first came to town. There were always two men in the car, and they kept the car near the sidewalk, and as soon as the organizers would get into the car to drive away they would immediately follow.

On another occasion I noticed the driver of this car and the man with him came into the restaurant where I was eating, and one sat on each side of me. They ordered no food but just read the newspaper until I was through and left the restaurant.

Q. Did you receive a call, or were you present when a call for Mr. Porter came on September 23d, at headquarters of the Steel Workers Organizing Committee?

A. I was. Mr. Gent received the call.

Q. Did you have any conversation with Mr. Gent about the telephone call?

A. While Mr. Gent was talking to me, he said, "Porter is in trouble at Massillon," and then said, "Where is Reamer's Filling Station?" I said, "Never mind inquiring from Mr. Porter. I know where it is. What is up?"

He said, "Well, there have been men following him all day over there and they now have him cornered, or spotted, at this filling station. We better go over there."

We all three got into my car and drove to this filling station, which is on the road to Navarre near Navarre, Ohio.

Q. Who got into the car and went with you?

A. Mr. Gent and Mr. Cope.

Q. Describe what happened when you got to Reamer's Filling Station?

A. When we got there Mr. Porter pointed out the two men. They were sitting in a Ford car, a Model A Ford car, near the entrance to the filling station off the highway. He said, "There they are. They have been sitting there for some time." He said, "I am expecting the deputies and expected them several minutes ago."

We waited in the filling station about five or ten minutes, and then these people drove away in the Model A Ford. Mr. Porter said, "You better get into your car and see where they are going. I expect the deputies any minute."

I got into the car and started in the same direction they went, and I noticed they were turning around and coming back, so I backed my car to the filling station and turned around. And just then two of the deputy sheriffs arrived.

I parked my car and when I walked up to where they were, the deputies were asking them questions.

Q. Did you have any conversation with either of the men in the car at that time?

A. The only conversation I recall was that I asked the men if they worked for the Republic Steel, and one of them answered yes.

Q. What happened after that?

A. After that the deputies took them with them to Canton. I don't know what happened after they arrived there.

Q. When you started organizing, did you hold meetings, or secret meetings? I mean open meetings or secret meetings? What was your experience?

A. We held secret meetings.

Q. Why did you do that?

A. Because the men were afraid to attend open meetings.

Q. When you say they were afraid, you say that for the record—

MR. DAY: I move to strike out on the same ground—that is, when he said they were afraid.

MR. LAUTER: I consent to it being stricken from the record.

BY MR. LAUTER:

Q. State what conversation you had with the men you were organizing?

MR. DAY: I object as incompetent, irrelevant, and immaterial, and it has no bearing upon any issue involved in these proceedings.

TRIAL EXAMINER LINDSAY: The first one

is consented to, so there is no necessity to rule thereon.

You are now objecting to a further question. That objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Will you proceed, please?

A. As we were making individual contacts, all of the men said that they had to be careful, that "if the company finds we belong to the union we will lose our jobs." So when we asked them to come to the meetings, they would say, "Where will it be and who will be there? Unless it is a secret meeting we will not attend."

So we held secret meetings in the country and in homes.

Q. Did you tell the men you were being followed?

A. I did not.

Q. Why didn't you?

A. I felt this would further terrorize the men.

Q. Did you have a conversation with some one who was a former member of the Amalgamated at the time you were organizing?

A. I don't understand the question.

Q. Did you have a conversation with some one in which he expressed fear as to your coming to his house?

MR. DAY: I object to that.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Did you hear the question? Do you want it repeated?

TRIAL EXAMINER LINDSAY: Mr. Reporter, will you please read the question?

(Question read as follows:

"Q. Did you have a conversation with some one in which he expressed fear as to your coming to his house?")

THE WITNESS: One man I called on who was a friend of mine who had been active in organization work before, told me he was expecting me to call.

MR. DAY: We object to that on the ground it is incompetent, irrelevant, and immaterial.

BY TRIAL EXAMINER LINDSAY:

Q. You had this conversation with him yourself, did you?

A. I did.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

THE WITNESS: I asked this man why he was expecting me, and he said the superintendent told him he could expect a call from an organizer soon, and he better watch his foot.

This man was not very anxious that I remain at his house. He said he was in favor of organized labor but he had to be careful, and for the present he would like to take no share in the organization.

Q. Do you know Mr. Thomas Pastorious?

A. Yes, sir.

Q. Who is Mr. Pastorious?

A. Mr. Pastorious is an employe of the Republic Steel Corporation.

Q. Did you ever visit him or contact him in connection with your organization work?

A. I did.

Q. With whom did you go to see him?

A. Kenneth Poorman.

Q. Will you describe your experience in contacting Mr. Pastorious?

MR. DAY: I object upon the ground it is not binding upon the Respondent. The Respondent is not shown to have knowledge of it, and I object as incompetent, irrelevant and immaterial and as having no bearing on any complaint involved in this case.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Please proceed.

A. Kenneth Poorman was with me, and I contacted Mr. Pastorious at his home and asked him if he was interested in the organization, and he said, "No, I am a foreman now and as a foreman I am supposed to quash all talk of organization in the shop."

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. Did you work with Mr. Porter while he was here?

A. Yes.

Q. He left in February, 1937?

A. I don't recall exactly.

Q. When was it you had this talk with Pastorious?

A. In the latter part of 1936 or early in 1937.

Q. As to these men who were following you in the car, were there ever more than two in the car?

A. The black sedan had four or five in it on various occasions. The driver of the E-12 and one other person was all that was in that car.

Q. Just two of them?

A. Yes.

Q. How many were in your car that was being followed?

A. Sometimes just Mr. Porter and I, sometimes I was alone, and on other occasions I was with Mr. Price in his car.

Q. Did you ever have more than two in your car when only two were following you?

A. Not that I recall. There may have been three.

Q. And these instances you have been describing, occurred in 1936?

A. That is right.

MR. DAY: That is all.

MR. LAUTER: That is all.

MR. DAY: May we make the same motion to strike out this testimony as we made with relation to the testimony of the Witness Porter, and on the same grounds?

TRIAL EXAMINER LINDSAY: Yes. And your motion is denied. Let the record show an exception.

(Witness excused.)

MR. LAUTER: I will call Chief Deputy France.

R. R. FRANCE

a witness called for and on behalf of the National Labor Relations Board, after being first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Will you please state your name?

A. R. R. France.

Q. Where do you reside?

A. Alliance, Ohio.

Q. What is your occupation?

A. Chief deputy sheriff:

Q. How long have you been chief deputy sheriff?

A. Three years.

Q. Were you chief deputy sheriff on September 23, 1936?

A. I was.

MR. LAUTER: I will ask you to mark these papers for identification.

(The documents above referred to were thereupon marked for identification "Board's Exhibits 16 and 17.")

BY MR. LAUTER:

Q. Mr. France, I hand you Board's Exhibits, for identification, 16 and 17, and ask you to identify them?

A. Those are releases issued by Deputy Ted Koellner for two men by the names of Harold McCallister and Morris Long, that he had brought in for some reason or other.

MR. LAUTER: I offer these in evidence as Board's Exhibits 16 and 17.

MR. DAY: We object on the ground they have no relevancy or bearing upon any issue presented by the complaint. That is the only objection we make at this time.

TRIAL EXAMINER LINDSAY: The objection is overruled. Board's Exhibits 16 and 17 are received in evidence. Let the record show an exception.

(The documents previously marked for identification "Board's Exhibits 16 and 17," were received in evidence.)

BY MR. LAUTER:

Q. You are the Chief Deputy Sheriff for Stark County, Ohio? Is that correct?

A. That is correct.

MR. LAUTER: That is all.

(Witness excused.)

WALTER P. KOELLNER

a witness called for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Please state your name.

A. Walter P. Koellner.

Q. It should be apparent, but I will ask you what your occupation is?

A. Officer, City of Canton Police Department.

Q. Where do you reside?

A. 1812 Ninth Street, Southwest, Canton, Ohio.

Q. How long have you been an officer on the Canton Police Force?

A. Since May 1, 1937.

Q. On September 23, 1936, what was your occupation?

A. I was Deputy Sheriff of Stark County under Joseph T. Nist.

Q. Do you recall September 23, 1936?

A. I do.

Q. Did anything unusual occur on that date in connection with your duties?

A. I received a complaint from a person known as Porter. I believe his name was Howard Porter. He said he believed himself to be in danger of bodily harm, or his automobile or property, at Navarre, at that time.

Q. What did you do about it?

A. I asked the cruiser working the west end, known as No. 2, to call into the office, which they did. I told them to contact the complainant at Reamer's Filling Station, Navarre, Ohio.

Q. Had Mr. Porter located where he was on that day when he complained?

A. I don't know. I wasn't there.

Q. How did you know to send him out to Reamer's Filling Station?

A. That is what he told me in his complaint, that he was at Reamer's Filling Station in Navarre.

Q. What took place on the basis of this complaint? Will you state that for the record?

A. I don't understand your question.

Q. What took place after you heard this complaint from Mr. Porter, and you advised your superior to send out a cruiser? Do you know what took place after that?

A. The cruiser men, of which Deputy Ronk was in charge, contacted Mr. Porter and they were informed that a car had followed him—that is, Mr. Porter said that.

MR. DAY: Did this witness hear this at all?

BY MR. LAUTER:

Q. State how much of this you know as a result of your own conversation with some one?

A. At the time the men were brought to the county jail on the charge of suspicion, the cruiser men informed me that Mr. Porter and someone else connected with him was going to file charges against these men.

Q. Whom did you have that conversation with who gave you the information you are now speaking of?

A. Deputy Ronk.

Q. What else did Deputy Ronk have to say?

MR. DAY: We object upon the ground it would be clearly hearsay. Even though the rules of evidence that apply in courts do not apply here, we suggest respectfully to the Examiner this would be nothing but absolute hearsay. If Mr. Ronk is available he can testify to it.

BY TRIAL EXAMINER LINDSAY:

Q. As I understand this, the other officer brought those men back to the jail where you were located?

A. That is right.

Q. And at that time the man who brought in those men talked to you about the whole thing that was done at the time the arrest was made? Is that correct?

A. That is right.

Q. And you saw these two men brought in?

A. I did.

Q. And you talked to these two men?

A. I did.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Will you state what your conversation was with Mr. Ronk?

A. Deputy Ronk said that he contacted these men and asked who they were and what their business was and why they were following this car, as the complainant had stated. They informed Deputy Ronk that it was none of his business, upon which he searched the men and the car and brought them into the county jail and told me they did not wish to give them any information whatsoever at the time they were picked up.

Q. Did you have any conversation with these two men who were brought in?

A. I did.

Q. Will you state for the record what that conversation was?

MR. DAY: I object to that upon the ground there is no evidence tending to show that the conversation was known to the Respondent, and no evidence tending to connect the two men with the Respondent.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. LAUTER:

Q. Will you answer the question, please?

A. Will you repeat your question?

Q. Did you have any conversation with these two men who were brought in?

A. I asked these two men who they were. At first they refused to tell me who they were, or what their business was. I put one man in one location and another in another location in the jail for some approximately fifteen to twenty minutes, at which time I talked to them separately. Mr. McCallister told me he was an employe of the Republic Steel and that he was a plant policeman at the Union

Drawn Mill in Massillon, and that he had business following this car.

I then put the question to Mr. Long, and he admitted the same. I brought the two together and they both admitted they were employed by the Republic Steel as policemen.

Q. When you say they had business following the car—

A. They told me that it was special work assigned to them.

Q. Special work assigned to them as policemen at the Republic Steel Corporation?

A. Yes, sir.

Q. I hand you Board's Exhibits 16 and 17 and ask you whether or not you have ever seen them before?

A. Yes, sir. I typed those out and had the men sign them at the time they were released.

Q. You typed out personally Board's Exhibits 16 and 17?

A. Yes. I was unable to find any waivers at that time in the office, so I typed those out.

Q. And you had the men sign these waivers?

A. I did.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. Those blue papers there are waivers by Long and McCallister of any claim against the sheriff? I mean by reason of the confinement of the men in the county jail?

A. That is right.

MR. DAY: Does the Court want to see one of them?

TRIAL EXAMINER LINDSAY: Yes, I would like to see one.

BY MR. DAY:

Q. And is it the custom for the sheriff's office to take that kind of release or waiver?

A. It is.

Q. No charges were preferred against these men?

A. That is right. We had no charges.

Q. How long did they stay in the county jail?

A. Roughly, I would say an hour or an hour and a half.

Q. And the complaint that was made against them by Mr. Porter was that they were following him and he was afraid there might be some damage done to him or to his car?

A. That is right.

Q. There was no charge of damage actually involved at any time?

A. That is right.

Q. There was no charge that there had been damage?

A. No.

Q. Either to him or to his car?

A. No.

Q. And this was back in September, 1936?

A. That is right.

MR. DAY: That is all.

May we make the same motion to strike out the testimony of this witness, on the same ground?

TRIAL EXAMINER LINDSAY: Yes. And the motion is denied. Let the record show an exception.

MR. LAUTER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: It is so near 12 o'clock that I do not think we would better start with another witness. We will reconvene at 1:15.

(Thereupon at 11:50 o'clock a. m., a recess was taken until 1:15 o'clock p. m. of the same day.)

Afternoon Session

(The hearing was thereupon resumed at 1:20 o'clock p. m., pursuant to the taking of the recess.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. HUNT: I will call Mr. Kirkland.

EDWARD KIRKLAND

a witness called by and on behalf of the National Labor Relations Board, and being first duly sworn, testified as follows:

Direct Examination

BY MR. HUNT:

Q. Please state your name.

A. Edward Kirkland.

Q. Mr. Kirkland, where do you live?

A. 1407 Fulton Road, Northwest, Canton, Ohio.

Q. What is your occupation?

A. Steel worker, Republic Steel Corporation, tin mill division.

Q. How long have you been employed by the Republic Steel Corporation?

A. Well, I have been employed by the Republic Steel ever since it has been in operation in Canton. When they bought out the Central Steel I was working then. I started to work in 1907, with the company—that is, their predecessors—and continued on until the present date—30 years.

Q. How long have you been working in the tin mill division?

A. Since December, 1930.

Q. What is your position in the tin mill?

A. Roller.

Q. Roller?

A. Yes, sir.

Q. Were you employed in June, July, and August of 1933, employed in the tin mill division?

A. Yes.

Q. Do you know of a plan of representation of employes which operated in the tin mill division?

A. Yes, sir.

Q. Will you tell the Court, please, as fully as you can, how you first came to know of this plan of employes' representation?

A. Well, the plan was presented to us by—or the company had asked us if we cared to take up a plan of this sort—that is, the Davey Company—we were working for the Davey Company at that time—they asked us if we cared to take up a plan of this sort. They wanted us to consider it.

Q. Who asked you?

A. The Davey Company, the people who owned the plant.

Q. And was there any particular individual who asked you?

A. If I am not mistaken, Bill Davey was the spokesman—he was head of the company at that time.

Q. Did they ask you individually?

A. No, as a body, and then there was a committee appointed to draft a constitution, and that was presented to the men for their approval.

Q. Who appointed the committee?

A. Well, nobody in particular; this committee was a committee of the Mutual Benefit Society, and that same committee were the ones who drafted this constitution for our company union.

Q. Who requested this Mutual Benefit Society committee—was there any individual requested?

A. No, there was no individual. They being the only ones in existence, naturally they would be the ones to start this thing going.

Q. Who suggested that they start this going?

A. Nobody in particular that I know of, except that this committee took it upon themselves.

Q. You say you were asked as to whether you wanted to take up this plan at a meeting?

A. Yes, at a general meeting.

Q. A general meeting of whom?

A. Of the employes.

Q. Did any company official address this meeting?

A. Yes.

Q. Which one?

A. Mr. William Davey.

Q. At that time the tin mill was part of the Canton Tin Plate Corporation?

A. Yes; it was the Canton Tin Plate Corporation.

Q. After you drafted this constitution—the committee drafted this constitution—there was submitted to the employes for their approval this constitution?

A. Yes, it was submitted to the employes.

Q. Did the employes vote in favor of the plan?

A. Well, according to the constitution we had a primary election in which we nominated members to constitute a committee to govern this plant.

Q. But was the plan submitted to a vote of the employes?

A. No, the plan itself was not.

Q. It was not?

A. Not that I know of. It might have been—I don't remember.

Q. You say certain men were voted on as representatives?

A. No; all the employes in the mill were given nomination blanks and asked to vote on them, and they could vote on any name they cared to.

Q. And after that did you hold an election?

A. Yes.

Q. How was that held?

A. The same way. A list of the nominees was posted up in the plant where the men could see the men who were to be voted for—twice the number of men to be voted for as were to be elected, I believe.

Q. And how many were elected?

A. Well, there were fourteen altogether, in all the departments.

Q. In all the departments?

A. Yes.

Q. That is, of the employes of the company, were they?

A. Yes.

Q. Were there any restrictions or qualifications as to their election?

A. Yes.

Q. Do you recall what they were?

A. Well, they had to be American citizens.

Q. Naturalized?

A. Well, naturalized or native born.

Q. Any other qualifications?

A. Well, I don't know, I know they had to be American citizens.

Q. You say ballots were passed out among the men?

A. Yes.

Q. How were they passed out?

A. Well, they were passed out by this committee that drafted this constitution. They were the nucleus around which this thing was started, there being no other committee.

Q. Well, how were the ballots voted; what did they do with the ballots—take them home with them?

A. Oh, no, they voted them right in the plant.

Q. Who supplied the ballot boxes?

A. The employes in the plant. We conducted the whole thing. The company had nothing to do with the ballots or the ballot boxes.

MR. HUNT: Will you kindly mark this, Mr. Reporter, as Board's Exhibit No. 18?

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 18.")

BY MR. HUNT:

Q. I offer you this Board's Exhibit No. 18, Mr. Kirkland; will you tell us what it is?

A. That is the constitution and by-laws of the representative plan.

Q. And in what year was that passed?

A. I believe it was in 1933, when we started that thing, if I am not mistaken.

MR. HUNT: I would like to offer this in evidence, Mr. Examiner. (Handing document to Counsel for the Respondent.)

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 18 is received in evidence.

(The document previously marked for identification "Board's Exhibit No. 18," was received in evidence.)

BY MR. HUNT:

Q. How did you receive one of those books?

A. Each one of our committee that was elected received one of those.

Q. From whom did you receive it?

A. We had them printed.

Q. You had them printed, yourself?

A. Well, no, they were printed by the committee (Laughter from audience).

TRIAL EXAMINER LINDSAY: I don't want that, back there.

BY MR. HUNT:

Q. How were those books passed out among the employes?

A. They were not passed among the employes, that I know of.

Q. You mean only the employes received those books?

A. As near as I know, anyone could have had one.

Q. You do not know whether they were passed out?

A. I do not know.

Q. As far as you know, they were not passed out among the men?

A. Not that I know of.

Q. Where did you hold your meetings?

A. We held our meeting in the company office.

Q. In the company office where?

A. Inside the company grounds. It is on the second floor of the general office, the Canton Tin Plate Corporation.

Q. Did you hold your meetings there until recently?

A. We held our meetings there until the 30th of April.

Q. The 30th of April, when?

A. It was the 30th of April of this year, or until the Wagner Act forbade the meetings any more.

No, no, we held the meetings there until the strike was called. Excuse me.

Q. At the company office?

A. Yes, sir. I think May 8th was the last meeting we had in the company office.

Q. Did you receive any compensation for performing your duties as a company representative?

A. We did.

Q. What did you receive?

A. A dollar an hour.

Q. From whom did you receive that?

A. From the company, the Canton Tin Plate Corporation.

Q. Were there any dues?

A. No, sir.

Q. There were no dues?

A. No, sir.

Q. When did you hold the election for representative? How often do you hold the election for representative?

A. Once a year.

Q. When? What month?

A. In August.

Q. How were they conducted?

A. Well, as I said before, we had ballots printed and distributed among the employes for the primary, in which they gave the names of the persons they wanted to be nominated; and then those names were counted and the ones receiving the highest number of votes were the ones nominated.

Two weeks later the election was held for the election of those nominated candidates.

Q. How did you elect the officers of your organization?

A. When we had our first meeting at the beginning of the year we elected our officers at our first meeting.

Q. Were you an officer of this organization?

A. I was.

Q. What was your position?

A. Secretary.

Q. How long did you hold that position?

A. Ever since the plan was organized.

Q. In 1933?

A. Four years.

Q. You are still secretary of the Employes Representation Plan?

A. Yes, sir.

Q. What committees did you have? Did you have any standing committees to deal with problems?

A. Yes, we had three or four standing committees.

Q. Do you recall what they were?

A. I cannot give the names of them exactly. We had a committee on wages and we had a committee on sanitation, and one on applications. I don't know what the names of them are. They are all in that book.

Q. Did these committees meet regularly?

A. These were just committees that were appointed from the whole committee. There were no separate meetings of those committees.

Q. They never held any meetings?

A. Not separately, no. There were no committee meetings held except on special cases when rate matters were brought up, when a committee would be appointed for that particular matter. That always met, as a whole—that is, that committee met as a whole.

Q. In other words, these committees were just appointed to deal with any particular problems that arose?

A. Yes.

Q. Did you ever meet with the employers' representatives?

A. Our plan called for a meeting with them every two months, every second month, and we did that with a representative body appointed from the company. For quite a long while we insisted that they meet every second month.

Q. How many were on this committee from the company?

A. Five or six of them.

Q. What sort of things did you discuss in those joint meetings?

A. They were just general discussions. If there was something in particular that they wanted brought up, or that we wanted brought up, we would discuss those things.

Q. Do you recall any votes being taken at those joint meetings?

A. No.

Q. You never voted?

A. No, sir; not at those meetings. They were just general discussion meetings. We had them in there just for that purpose.

Q. When you say "general discussion meetings," you mean discussions concerning what?

A. Discussions concerning the working conditions, the work, and other things like that. That was a part of the plan, and we carried out that part of it. I really don't think it was absolutely necessary for that committee to meet every two months, but they did. We asked them to.

Q. They never settled anything? Did they ever settle anything by vote?

A. No.

Q. Or did they ever settle anything in any other way?

A. No, it was just a discussion.

Q. Just a discussion or just a talk?

A. Yes, sir.

Q. Were you paid also for attending those meetings?

A. Those were our regular meetings. They were at our regular meetings. Not at any special meetings did they ever call those fellows in; it was at our regular meetings every second month.

Q. And no votes were being taken at those meetings?

A. No, sir.

Q. What sort of problems did you take up at the other meetings, the meetings when you just met alone?

A. We had asked all of the men in the employ if they had any grievances to present them to the committee in writing so that we could take them up and appoint committees to meet with the management to have them settled.

Q. How did you ask the men to do this?

A. To write their grievances on paper, and sign it, and give it to us—any one of the committee.

Q. How did you tell the men in the plant to write their grievances?

A. We put up a notice to the effect that any of the men in the various departments that had any grievances that they could present them to the committee without any fear of any interference on the part of the company, that they need not be afraid of their jobs in any way, that there would be no danger of their signing their names to any grievances they wished to present.

Q. Why did you tell them they need not be afraid of the company?

A. You know how it is, or anybody knows how it is between the company and the employes. There are men who have an idea that anything they do for their own benefit may be detrimental to their own good sometimes, and you have to convince them that nothing like that will occur before they will agree to do things like that.

Q. At these regular meetings of your Representation Body, did anybody else attend these meetings—that is, anybody from the management apart from the management representatives?

A. Except when we would call Mr. Davey, either Jim or Sam Davey. We would call them in sometimes and settle a grievance there without appointing a committee. If either one of them would happen to be around the plant we would call them into the meeting and have it settled there rather than appointing a committee to confer with them perhaps the following week.

Q. What do you mean by "settlement"?

A. Settle the disputes. When we had a grievance to settle on something concerning wages or hours, or conditions of work, we always appointed a committee to meet with the management the following week to talk over those grievances and make some sort of a settlement that would be satisfactory to both the management and the employes.

Q. Do you recall any particular matter of importance that you settled in this manner?

A. Quite a good many.

Q. Tell us one.

A. One was wages at the cold rolls. There was a grievance there. The men thought they were not getting enough. We took it up with the company and the company adjusted it very amiably to themselves and to the men of the cold rolls. That was one. That was quite apart.

Q. When was that?

A. It might have been in 1934, or something like that.

Q. Since last August, do you recall any similar matter of importance?

A. Well, yes.

Q. What is it?

A. There was a matter that we brought up with the Republic. Our hourly men were receiving less money than in some of the other departments of the Republic, and they asked us to take it up with the Republic officials to see whether we could not have those wages adjusted with the wages of the other departments of the Republic. And they very agreeably made the change and brought their wages up even with the wages of the men in the other departments.

Q. Do you recall any other instances last year?

A. I cannot think of anything now.

Q. That is the only time you remember taking anything up of particular importance since Republic has been in there?

A. Yes, anything of any great importance at all. There were a few minor things that were brought up, but I can't recall now.

Q. That is the only thing you can recall?

A. That is about the only thing I can think of now.

Q. As secretary, did you keep minutes of all these meetings?

A. I did.

Q. Were these minutes distributed among the representatives?

A. Well, the minutes were read at each one of the meetings. They were open for anybody to look at.

Q. Were any copies made of them?

A. There were no copies distributed in the mills—that is, no copies were made and tacked up.

Q. No copies were put on the bulletin board?

A. No, sir.

Q. No copies were distributed among the representatives?

A. Among the representatives?

Q. Yes.

A. No, sir. The books were always open for inspection to anybody who wanted to see them.

Q. But unless somebody asked to see them, there was no other way of seeing the minutes?

A. No. Nobody ever asked to see them. If they had made a request we could easily enough have had them put up on the board.

Q. But they never were, during the whole four years you were secretary?

A. No, sir.

Q. Did you ever have any general membership meetings under this Employes Representation Plan?

A. I don't know what you mean.

Q. Did you ever have any meetings of all the men who had signed up as members of this Employes Representation Plan?

A. We have had all of the members there many, many times. Do you mean members of the committee?

Q. No, not of the committee, but meetings of all the employes in the plant who had signed membership cards?

A. We have never had any membership cards signed.

Q. You did not?

A. No, not in our plant.

Q. Just how did you know they were members? How did you know who you were representing if you did not have any membership cards?

A. All of our employes knew of our plan, and the vast majority of them approved of it by the vote they gave.

Q. Approved of what?

A. Of our representation plan—that is, of our committee representing them in collective bargaining.

Q. I asked you a little while ago if that plan itself had ever been actually voted upon? I mean if that plan itself was ever submitted to an actual vote of the employes?

A. The plan was never submitted for an actual vote—not that I know of.

Q. Then how did the employes approve of it?

A. By their voting. That is the only way I know.

Q. Voting for what?

A. For the committee.

Q. When was the last election held?

A. Last August.

Q. Do you know how many men voted?

A. About 61 percent.

Q. Sixty-one percent voted?

A. Yes.

Q. That is, 61 percent of the total employes?

A. Yes.

Q. How do you know that?

A. I have a record of it.

Q. Where?

A. I have it right here in my pocket, if you want it. I just found it the other day. There it is (indicating). That will give you an idea. I just found that offhand. That is the Nominations.

Q. For the nominations?

A. Yes, it is for the nominations.

Q. When are you supposed to have nominations?

A. It should be now.

Q. What do you mean by "now"?

A. It should have been the first of this month. Our fiscal year ends next Saturday.

Q. Did you have a vote within the last week or so?

A. No, there has not been any vote.

Q. Why not?

A. I don't know. I don't know why there has been no vote. There have been no plans made for the continuation of this committee.

Q. In other words, you failed to hold a primary election? Is that right?

A. That is right.

Q. Do you know why?

A. I haven't any idea. We never asked about it, in the first place.

Q. Never asked whom?

A. Never asked anybody; that is, never asked the officials whether or not they wanted to continue the plan.

Q. What officials?

A. The officials of the Republic Steel Corporation.

Q. You say you have not asked them whether they want the plan continued or not?

A. No, sir.

Q. Do you intend to ask them whether or not they want to continue the plan?

A. If we had been continuing the plan for the last four years under the company plan we would naturally want to know whether they want it continued, wouldn't they? Here is the idea. We should have discontinued the plan on the 30th of April, but we continued it without any charge whatsoever, without any remuneration from the company, until the end of this fiscal year.

Q. Who will determine when and if an election will be held?

A. I don't know. I don't think there will be any.

Q. What is that?

A. I don't think there will be any, as far as that is concerned. I don't know anything about that part of it. This plan was adopted under the Davey Company and it was continued by the Republic Steel Corporation until the end of this year. We know nothing of any plan that might be made after that time.

MR. HUNT: Will you please mark this Exhibit 19, for identification.

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 19.")

BY MR. HUNT:

Q. I hand you Board's Exhibit No. 19, for identification. Will you please tell us what it is?

A. That is the minutes of May 8, 1937.

Q. Of what?

A. Of our committee meeting.

Q. Of the Employes Representation?

A. Yes.

Q. Is that your handwriting?

A. Yes, it is.

MR. HUNT: I would like to offer this in evidence. Is there any objection?

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 19 is received in evidence.

(The document previously marked for identification "Board's Exhibit No. 19," was received in evidence.)

BY MR. HUNT:

Q. Mr. Kirkland, in these minutes of May 8, 1937, I notice the following three sentences:

"Mr. Morrow made a motion that the committee resign. The motion was seconded by Mr. Louies. After much discussion, for and against it, the motion was put to a vote. Three members voted for the motion, and six voted against it. The motion was lost."

Did Mr. Morrow speak in favor of this motion?

A. Yes, naturally.

Q. What did Mr. Morrow say?

A. Well, for one thing, because Mr. Wagner's Ac had been passed, we thought it was not necessary for th committee to function any longer; and, another thing, h did not think that we were getting anywhere with ou committee. Well, in fact, we were not doing anything. S he thought: What is the use of continuing our meetings—we might as well resign and get it over with.

Q. He said he did not think you were getting anywhere; did he say getting anywhere with whom, or wit what?

A. Well, there really was not much to do any more in the way of grievances, and so forth, and we really jus went there, most of the time, and had our little forma meeting, and said our little piece, and went home agai and nobody brought any grievances to us, and we fel there was not much use in continuing.

Q. How long had this state of affairs continued wher you just met and talked over your little piece and wen home?

A. Well, after the 30th of April, when the Wagne Act became effective, we thought it would be a good time t resign, and Mr. Davey asked us if we would not continu until the end of the year.

Q. Mr. Davey was present at that meeting?

A. No, but at another one, and he asked us to continue on, and we said we would.

Q. Did he say why he wanted you to continue on?

A. No—just to have somebody to take up any grievances that might come up, until the end of the fiscal year

Q. Now, you say you did not do much at these meetings; how long had you been running along that way without doing very much?

A. Oh, perhaps for the last five or six meetings.

Q. Previous to this meeting?

A. No, we had continued our meetings every month.

Q. Well, previous to this meeting, how long had you been going along without doing very much of anything?

A. Oh, perhaps a couple of months.

Q. And, previous to that, how long had you been meeting without doing anything?

A. Well, there were some questions brought up about the openers, and the openers to the opening floor, and that was settled with Mr. Davey satisfactory to the men, and the special committee appointed to take that matter up with Mr. Davey, but there were not very many things brought up at our regular meeting.

Q. You say there were not very many things brought up?

A. No, nothing much that we needed particularly in that meeting. There would be some things brought up with the committee, individually; we had members of the committee on different turns in the mill, and if there were any things that came up they were taken up with the different members of the committee.

Q. Did they ever report to the committee?

A. Oh, yes.

Q. What sort of things?

A. Well, on the opening floor, one of the shear men went to Mr. Davey and had that matter settled, with the men on the shearing floor and the opening floor.

Q. You say Mr. Davey asked you to continue to the end of the fiscal year.

A. Yes.

Q. Was that the reason it was voted down?

A. Well, that is the reason I voted, and I presume that was the reason the rest of them voted that way, too.

Q. At Mr. Davey's request you voted that way, to continue to the end of the year?

A. Yes.

Q. Did Mr. Davey request anybody that way, in you presence?

A. Well, he did not request anybody, but three them voted for and six of them voted against.

Q. When did the committee report that?

A. At the meeting before that.

Q. Will you look through here (indicating), and se if you can find Mr. Davey's request?

A. I cannot see it in here; perhaps it was not recorded. That is May, isn't it?

Q. Yes.

A. Well, it would be before that.

No, I cannot find it. I probably did not record it.

Q. You do not recall—or do you recall—that he mad such a request of the committee?

A. Oh, yes, I remember it quite well.

Q. Was it a request made before the whole commit tee?

A. Oh, yes, he never met with any one of the com mittee; he always met with the committee as a whole ex cept that we had a special committee appointed for grie ances, maybe.

Q. Was it at the meeting before, or two months be fore, or eight months before, or what?

A. Well, I think it was. Mr. Sam Davey met wit our committee at this time.

Q. When—on the 10th of April?

A. In the conversation at that time—I cannot say fo sure whether it was at that particular time, but in our con versation with him, we told him we had thought of resign ing, but he asked us if we would not continue until th end of the year. We probably did not record that par ticular conversation.

Q. You mentioned April 30th. You mentioned tha as the time that the Wagner Act was passed.

A. I mean the date it became effective.

Q. Did you mean the date it became effective or the date the Supreme Court sustained its constitutionality?

A. That may be.

Q. Isn't there some difference?

A. There may be.

Q. In your minutes of May 8th, you also have this statement: "Mr. Sam Davey introduced Frank Geltz, Chairman, and Mr. Cox, vice-chairman. Mr. Geltz presented a plan that had been worked out by the representative body, a plan called the Employes Association, and it was given to each member, and each part was discussed and explained by Mr. Geltz. After the retirements of Mr. Geltz and Mr. Cox, our committee met and considered the plan, at the call of the president."

Will you describe, as fully as you can, what took place at this meeting—who were present?

A. At this meeting?

Q. Yes.

A. Mr. Geltz and Mr. Cox.

Q. Mr. Sam Davey was present?

A. Mr. Sam Davey was present before this.

Q. Well—

A. (Interposing) He had been present with our committee, before this, and when Mr. Geltz began to talk and explain the plan, or before that, Mr. Davey retired.

Q. But Mr. Davey did introduce them to you?

A. Oh, yes, he wanted to know if we wanted to meet them, and we said yes, and they happened to be downstairs, and he brought them up.

Q. Were there any other officials of the company present before Mr. Geltz began to explain?

A. Mr. Coldrin, and Mr. Lohnies.

Q. Did Mr. Coldrin or Mr. Lohnies say anything to you?

A. Well, they just came there and gave us a general greeting, or talk.

Q. Did either of them give you a general greeting, or talk?

A. Just a little talk about conditions.

Q. Who gave the talk, Mr. Lohnies or Mr. Coldrin?

A. None of them, in particular. They both greeted us, when they came in. Mr. Coldrin did not say anything when he came in, but they just greeted us, like they would on other occasions, just to say "How do you do"?

Q. Mr. Davey was with them at that time?

A. We had asked Mr. Davey to come in.

Q. As I understand it, before Mr. Geltz began to explain this, Mr. Lohnies and Mr. Coldrin, from the company, and Mr. Sam Davey, were all present?

A. No, they retired before Mr. Geltz started.

Q. But, they were all with you before Mr. Geltz started?

A. Yes, they just dropped in—I don't think they had been there five minutes before that. And we suspended our business to allow those men to say what they had to say.

Q. Do you know whether the Employes Representation Association had any membership cards?

A. I am not sure; I heard they had.

Q. Who told you they had?

A. Well, they said they had.

Q. Who?

A. The committee?

Q. What committee?

A. Well, this general committee of which Mr. Geltz was the chairman. That is all I know about that committee.

Q. Did Mr. Geltz tell you they had any membership cards for their association?

A. Yes, he did.

Q. Did he tell you what kind of cards they were?

A. If I remember rightly, they were white cards. I am not sure about that—I think it is a white card. That is, it was an application card for a man to sign.

Q. Did he tell you why the name had been changed from the Representative Plan to Association?

A. He did explain that, but it has been some time back, and I cannot remember what he did say concerning the change to "Association."

Q. At the time he explained this, were there any members signed up in this association, that you know of?

A. I do not know of any, except that they said they were.

Q. Who is "they"—Mr. Geltz

A. When I say "they," I mean this committee, Mr. Davey and Mr. Geltz.

Q. Did he say who had signed up?

A. I cannot say; they said they had got a number from the Allied Plant.

MR. HUNT: Mr. Reporter, will you kindly mark this as Board's Exhibit No. 20, for identification?

(The document was thereupon marked for identification as "Board's Exhibit No. 20.")

BY MR. HUNT:

Q. I give you Board's Exhibit No. 20; will you please identify it?

A. Well, I have seen one of them. They were given to us to distribute.

Q. Did you distribute cards like these?

A. Yes, in our plant.

MR. HUNT: I would like to introduce this card in evidence, if I may (handing card to Counsel).

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 20 is received in evidence.

(The document previously marked for identifica-

tion "Board's Exhibit No. 20," was received in evidence.)

BY MR. HUNT:

Q. It reads, in part: "I hereby subscribe blank dollars to help defray legal fees and expenses incurred by reason of employes' petition to Common Pleas Court for restraining order and injunction with respect to the C. I. O., with respect to their unlawful interference going to and from our work."

And, in the lefthand corner, "The date," and in the righthand corner, "Signed."

Where did you first see these cards?

A. They were left on the desk of Mr. Gene Thomas.

Q. Who is Mr. Gene Thomas?

A. Superintendent in our plant.

Q. And you distributed these, yourself?

A. I did; I just handed them out to the men. That is, I did not distribute all of them, but distributed them on my turn, and the other committee men distributed them in their turns.

Q. But you distributed them for their signatures?

A. I just handed them to them. Did not ask them to sign them. I just said, "This is self-explanatory; you can do what you please." I made no explanation whatever—just gave it to them.

Q. Did you explain to them what these were for?

A. No, because we knew very little about it, ourselves. It was not explained to us what it was for. The cards were just given to us.

Q. You say you knew very little about it; did you know about the Employes' petition to the Common Pleas Court?

A. All we knew was what we heard.

Q. From where?

A. Just general talk; I asked about it when the cards were first mentioned, and nobody seemed to know anything about it at that time.

Q. I am asking you now about this restraining order and injunction; you knew what that was about, did you not?

A. I did not know what it was.

Q. You did not know it was an order brought here in Canton?

A. No.

Q. You did not?

A. I knew absolutely nothing. That injunction is an employes' injunction. I didn't know about that.

Q. Did you know about an injunction brought against the C. I. O.?

A. Yes, I did, because I happened to be at one day's trial, or one morning's trial. That was a permanent injunction.

Q. Do you know whether or not that was an employes' injunction?

A. I do not.

MR. HUNT: That is all.

Cross Examination

BY MR. DAY:

Q. Mr. Kirkland, did you say that you are still with the Republic Steel Corporation?

A. Yes.

Q. What did you say your occupation is?

A. Roller.

Q. What plant?

A. Canton Tin Plate.

Q. That is located here in Canton?

A. Yes.

Q. And that plant has been in Trenton many years? You know that?

A. About 36 years.

Q. You started with Republic about 30 years ago? I mean you started working in that plant about 30 years ago?

A. Not in the Canton Tin Plate.

Q. Where did you start?

A. I started with the Stark Rolling Mill Company in 1907. And the Republic, of course, bought that after the Central Steel had bought it. Republic bought it from Central Steel, and I continued to work for them from 1907 to the present time.

Q. You started out with the old Stark Rolling Mill?

A. Yes.

Q. And when Central bought it you kept right on there?

A. Yes.

Q. And then when Central Steel—

A. Republic bought it from Central Steel.

Q. And you kept right on when Republic bought it from Central Steel?

A. Yes.

Q. You said something about the Daveys.

A. Yes.

Q. Was that the family that had quite a number of brothers in the steel business?

A. Yes.

Q. Five or six brothers?

A. Yes.

Q. You say that in 1933 that this Canton Tin Plate plant belonged to the Daveys?

A. Yes.

Q. They ran the Canton Tin Plate Company?

A. They owned it.

Q. I notice this book that was offered in evidence says, "Canton Tin Plate Corporation."

A. Yes.

Q. That was the Davey Company, wasn't it?

A. Yes.

Q. At that time the company was not connected with Republic Steel Corporation in any way?

A. No, sir.

Q. Or with Central Steel?

A. No, sir.

Q. Or United Alloy?

A. It was an independent plant.

Q. And it was at that time, as I understood you, that this Employes Representation Plan was commenced? Is that right?

A. It was.

Q. When did Republic acquire the Canton Tin Plate plant?

A. I think it was along about the 28th or 30th of June, 1936.

Q. Then there was a period of about 3 years, then, when the Employes Plan was in effect?

A. Yes.

Q. Before the Republic Steel Corporation came into the picture at all?

A. Yes.

Q. After Republic Steel Corporation came into the picture, did some of the Daveys stay with Republic, and are some of the Daveys with Republic now?

A. They are. Mr. Sam Davey and Mr. John Davey remained.

Q. They are still with Republic?

A. Yes, sir.

Q. Are they connected with the Canton Tin Plate?

A. Sam is the manager of the Canton Tin Plate. Jim is at the South Plant.

Q. Right now for Republic?

A. Yes.

Q. So what you have described in answer to questions put to you by Mr. Hunt as to the organization of the Employes Representation plan, and so on, was a couple of years before Republic Steel Corporation came into the picture at all?

A. Yes, sir.

Q. And this (indicating) is one of the constitutions of the old plan under the Davey regime? Is that right?

A. It is.

Q. And I think you said that you had one of these books as a member of the committee?

A. Yes, sir.

Q. And did the other members of the committee have the same kind of books?

A. Yes, sir.

Q. Do you know whether or not books of this kind containing the constitution, or the plan, itself, was available to anybody who wanted them?

A. Yes, sir.

Q. That is, anybody at work at the Canton Tin Plate, if he wanted any one of these books could have obtained one?

A. Yes, sir. And we did give them to some of the men who are not members—that is, some who had asked for them. We had several we could give to them if they had wanted them.

Q. How was this plan conducted in the first instance? By the men? Perhaps you would better turn around so the Trial Examiner can hear you.

A. Really, I don't know. I don't know just how it was. I know that that committee that was the Committee of the Mutual Benefit Society are the ones who drafted this constitution and presented it to us for our consideration.

Q. What was the Mutual Benefit Society?

A. That was a benefit society that we had within our own plant for benefits of sickness and accident and death that was not covered by the State Compensation.

Q. Was that an employes' organization?

A. Yes, sir.

Q. Strictly?

A. Yes.

Q. And it had a committee?

A. Yes.

Q. And this plan of representation was prepared by that committee? Is that right?

A. Yes, sir.

Q. Were you a member of that committee?

A. No, sir.

Q. How many were on that committee? Do you know that?

A. I don't know. It was probably eight or ten.

Q. Then, just what did that committee have to do with getting up this constitution, or this plan, rather?

A. It just considered that that committee was as good as any other committee to draft the constitution and by-laws. There had to be a start somewhere.

Q. After that committee had drafted the constitution and by-laws, then how soon after that was the election held?

A. Well, I don't know just now. When that constitution and by-laws was presented, I think it was some time in June, probably.

Q. In June of 1933?

A. Yes, sir; in August is when we had our first election.

Q. Have you any recollection as to how the plan was presented to the men?

A. Really, I do not.

Q. Was it presented to them by any method other than the election, if you know?

A. I couldn't say that.

Q. You don't remember about that?

A. I don't remember.

Q. I think you said that there was a primary election first.

A. Yes, sir.

Q. A nominating election?

A. Yes, sir.

Q. And then how many men were picked out at the nominating election?

A. Twice as many as were needed to be elected. That would be twenty-eight. And fourteen were elected.

Q. Then you elected fourteen?

A. Yes.

Q. Was that for the whole Tin Plate?

A. Yes, that was for the whole Tin Plate, and every department.

Q. How many men were working in the whole Tin Plate in every department at that time?

A. I believe about seven hundred and something. Maybe 720 or 730.

Q. And did those 720 or 730 nominate fourteen men and then elect seven men?

A. They wrote in their names in the nomination.

Q. Do you know how many men voted in the first election—that is, the nominating election?

A. No, sir.

Q. Have you any figures to show that?

A. No, I haven't any figures to show that. There probably are figures but I do not have them. I just happened to have that last figure. That was the nominating for the last election.

Q. That was for the last election?

A. Yes, that was for the nomination.

Q. Did substantially all of the men vote, or did 75 percent to 80 percent, or what would you say?

A. I remember at the last election before this that there were 81 percent. I remember that.

Q. While we are on the subject, Mr. Kirkland, you say "Before this." And you refer to an election in August, 1936? Is that right?

A. Yes.

Q. And then about 61 percent voted?

A. That is right.

Q. And you had an election once a year?

A. Yes.

Q. And your recollection would be that in August of 1935 there were about 81 percent?

A. Yes, sir.

Q. Can you give us an idea as to how many there were in August, 1934?

A. I cannot give you any idea as to the percentages in any of the years.

Q. Was it as high as 81 percent, or 80 percent, in 1934?

A. It ran pretty high.

Q. How about 1933?

A. 1933 was the first.

Q. 1933 was the first year?

A. Yes, 1933 was the first year, and it ran pretty good. Of course, you must understand the plan was new and probably quite a number of them did not vote on them at all.

MR. DAY: If there is no objection, I will give this back to you, Mr. Kirkland, unless Counsel wants it.

It has not been marked, Your Honor.

BY MR. DAY:

Q. As to the election itself, did the men conduct the election?

A. Yes, the men conducted the election exclusively. There were no company people connected with it in one way or the other.

Q. Did the company print the ballots or do any of that?

A. Yes, the company stood the expense of printing the ballots.

Q. What other expenses did the company stand, if you know?

A. That is all.

Q. Just printing the ballots?

A. That was all there was.

Q. What kind of election machinery did you have? What kind of booths did you have? Where did you vote?

A. Right in the plant. We gave them the ballots and they came out and put them into the ballot box.

Q. There was a regular ballot box?

A. Yes, a regular square ballot box.

Q. Was there a fair opportunity for the men to vote for whomever they wanted to vote?

A. I think it was as fair as you could find in any political election, or probably fairer.

Q. Did the men do their own counting?

A. We had a committee of men who did the counting.

Q. And the company had nothing whatever to do with that? Is that right?

A. We had one company man in. Mr. G. Thomas was in on the counting of it; that is, he was in to oversee it. He did not do any of the counting. We had five or six tellers on the counting of the ballots.

Q. Please tell the Court whether or not it is a fact the first election that was held in August, 1933, was held by the men and conducted by the men, with the company out of it?

A. Yes, sir.

Q. Is that true also of the election in 1936?

A. It was true of all of the elections.

Q. That would include 1933, 1934, 1935, and 1936? Is that right?

A. Yes, that is right.

Q. These men who were selected were called what?

A. Employe representatives.

Q. Were you one of them?

A. I was.

Q. After they were elected, did they start to function?

A. Immediately.

Q. And they would sometimes meet with the company, would they?

A. Once every two months.

Q. How often did your committee meet?

A. Every second week of each month.

Q. And, as I understand it, the committee was composed of the men who were elected? Is that right?

A. Yes, sir.

Q. Once every two months?

A. No. The committee met once a month.

Q. Once a month?

A. Every second week of the month; but every two months we had a meeting of the committee appointed by the management to come in with us.

Q. That was every second month?

A. Yes.

Q. And you discussed various matters with the committee from the management?

A. Yes.

Q. That went along from August, 1933, up until quite recently, didn't it?

A. Well, yes.

Q. Did it work all right?

A. I think it did. We never had any complaints of our committee, that I know of.

Q. Did the plan that the men had there work out all right with the company?

A. It surely did.

Q. Throughout this period of time?

A. Yes, sir.

Q. And did it work out all right with the company up until about the time of the strike?

MR. HUNT: I object.

MR. DAY: I think that is a fair question.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

BY MR. DAY:

Q. What is your answer?

A. Pretty much so; yes, sir. There were very few minor differences.

Q. I imagine there were differences from time to time?

A. Yes, there were.

Q. Were they worked out?

A. Well, they were not always worked out, no.

Q. What kind of differences were they?

A. There was just one particular incident that did not work out satisfactorily to the men. I believe it was in 1935 when there was a raise given to the men. The men receiving 82.5 cents an hour were to receive a 7 percent raise, and men receiving less than 82 cents were to receive 5½ cents an hour raise. The 5½ cents an hour proposition worked out all right, but when it came to our roughers and patchers it seemed that the rate they gave was a little too high for the roughers and patchers and they objected to it. They thought they ought to have gotten a little better raise than they did. They took it up with the company, and they went to work with their engineering department, and figured it out, and they said they thought the adjustment was perfectly satisfactory. But that is as far as we got.

Q. That was back in 1935?

A. I believe it was.

Q. Outside of that it worked along all right?

A. It did very good.

Q. Then, I want you to tell the Court whether or not this Representation Plan worked out all right as between the company and the men until the C. I. O. came out into this district?

MR. HUNT: I object to the question. He is testifying to something entirely out of his knowledge. If he is asking his opinion, that is another matter.

MR. DAY: I am asking his opinion.

THE WITNESS: It would have to be an opinion because I couldn't know definitely.

BY MR. DAY:

Q. What is your answer?

A. I know when the C. I. O. became very active, of course, there were some differences there, and there naturally would be.

Q. To your knowledge, Mr. Kirkland, when did the C. I. O. come into this territory? Approximately when?

A. Well, really, I don't know. It slipped in so easily that it was there before I knew it.

Q. Well, it was some time in 1936, was it?

A. Well, probably. Yes, it was in 1936.

Q. You were asked about a grievance. How were grievances handled under the plan you have been telling us about?

A. Well, any department that had a grievance would present that grievance in writing with the persons who had the grievance sign their names to it as an individual or as a committee.

Q. And they would present it to whom?

A. To our committee, to any one of our committee men, and that committee man then would bring it before our body at our regular meeting, and we would discuss it, a committee would be appointed to meet with the management, and we would try to get the matter ironed out.

Q. During this period of time were some grievances handled in that manner?

A. In fact, all of them were handled that way. All of the grievances were handled in that way.

Q. You said something about when the Wagner Act became effective, and I think you also said you had in mind when the Supreme Court held the Wagner Act constitutional.

A. I mean on the 30th of April.

Q. The 30th of April of this year?

A. Yes, sir.

Q. Was there any change made in what the company did after that time?

A. Yes, sir.

Q. What was it? Tell the Court about that.

A. Well, the company ceased to pay the committee. They said it was not constitutional and was unlawful to pay the committee after that time, and that was the end of that.

Q. And you did not hold any election after that time, did you?

A. No, no election. Our election would not be until this August.

Q. What was the company paying the committee prior to April 30th?

A. A dollar an hour.

Q. That was a dollar an hour for time spent in what manner?

A. For time spent in our regular meetings and time spent in our special committee meetings when we went to the company with grievances.

Q. And that dollar an hour was paid to the members of your committee?

A. Yes.

Q. And was it paid in addition to the money made on company work at the plant?

A. No, sir. If we were called from our work at the plant then somebody else received the money we would have received at the plant, and we got just a dollar an hour.

Q. You got a dollar an hour for the time you spent in conferring with the company?

A. Yes, sir.

Q. For the time you would spend on your own committee meetings, did you receive any money?

A. At our regular meetings.

Q. You got a dollar an hour for that?

A. Yes.

Q. Do I understand that if you were called from your regular work to attend the meetings, then you got a dollar an hour for the time you spent at the meeting; is that right?

A. Yes, sir.

Q. Do I understand you correctly to say that when you were called upon to meet that somebody else took your jobs?

A. Yes, and received the money for it.

Q. And they would receive the money for it?

A. Yes.

Q. You were asked about a meeting on May 8th, I think it was.

A. Yes.

Q. That was May 8, 1937. And Mr. Hunt read in a part of the minutes. I notice you reported that a dance that was held was a great success.

A. Yes.

Q. Did the committee have to do with affairs of that kind?

A. Yes, the committee had all to do with it. The committee paid the expenses of it. The company had absolutely nothing to do with it.

Q. Mr. Morrow made a motion that the committee resign, and the motion was seconded by Mr. Louies. I understand that was voted down. Is that right?

A. Yes.

Q. Then the committee did not resign at that time?

A. No, sir.

Q. And no election has been held since then?

A. No, sir.

Q. You were asked about Mr. Davey appearing at one of these meetings and asking the committee to stay on until the end of the year.

A. Yes, sir.

Q. Was that Mr. Sam Davey?

A. Yes, that was Mr. Sam Davey.

Q. And you were asked whether or not there was any reference to that fact in the minutes—that is, whether the minutes showed Mr. Davey had been there.

A. The minutes showed Mr. Davey was there but it does not show that he made that request.

Q. Did you make the minutes?

A. Yes.

Q. Did you have any object in not showing Mr. Davey was there and made the request?

A. I would not have. There were a lot of things that went on during the hearing that I did not put down in the minutes.

Q. When Mr. Hunt asked you what took place you told him just now that Mr. Davey made that request?

A. Yes, sir.

Q. Did Mr. Davey say why he made that request?

A. He just said he would like to have us continue on because our committee had done a good work in the way of adjusting grievances between the men and the company, and he asked us to kindly continue on to the end of our fiscal year just for that same purpose.

Q. Was your committee the only committee that was acting in connection with grievances and things of that kind at that time?

A. That is right.

Q. And had it been for three or four years?

A. Yes, since the beginning.

Q. Back in 1933?

A. Yes, sir.

Q. You were asked about a green card, Board Exhibit No. 20, about subscribing money to defray the legal expenses in connection with a lawsuit. You have found out since, if you did not know at that time, that that was a lawsuit brought by the men against the Steel Workers Organizing Committee and C. I. O.?

A. Yes, sir.

Q. Against the strikers?

A. Yes.

Q. And tried in the Court of Stark County?

A. Yes.

MR. DAY: And I will say we have offered in evidence down before the Labor Board the permanent judgment and injunction that was granted.

BY MR. DAY:

Q. And was that handed around to the men? Is that right?

A. Yes, sir.

Q. And they were asked to subscribe to help defray the legal expenses?

A. They were only asked. They were not even asked; they were just given this and I told everyone I gave it to that the card was self-explanatory.

Q. Nobody was asked or solicited to contribute?

A. No, sir; nobody was asked or solicited to contribute.

Q. But they were handed around?

A. Yes, that is right.

Q. And if they wanted to give it was all right?

A. Yes.

Q. And if they did not want to give, it was all right?

A. That is it, exactly.

MR. DAY: I think that is all.

Redirect Examination

BY MR. HUNT:

Q. You say you were paid for the time spent in attendance at meetings of this organization?

A. Yes, we were.

Q. When these meetings were held outside of your regular working hours were [you] paid by separate check by the company, or was that included in your pay check?

A. No, that was a separate check.

Q. You were paid by separate check by the company?

A. Yes.

Q. For attendance at meetings outside of hours?

A. Yes, sir.

Q. Your committee or your organization arrived at some decision and took it up with the management, and the management refused, was there any right of appeal to the management?

A. I just don't get your question.

Q. If the company refused to grant a request of your committee, what could you do?

A. We could carry our grievances as far as the United States Supreme Court, if necessary.

Q. How many times did you do that?

A. We never thought it was necessary to do it in any time.

Q. In other words, when the company did refuse that was the end of it so far as you were concerned?

A. Yes, sir.

Q. When the men voted at these elections, did they vote during their working hours?

A. They did.

Q. Did their wages go on just the same while they were voting?

A. Surely. It took only a minute or two to vote.

Q. Did you supervise any of these elections, or take any part?

A. I did.

Q. How long did it take these elections to run off?

A. A whole day.

Q. A whole day?

A. For three turns, starting with the three 8-hour turns, for 24 hours a day.

Q. And the company paid you for your services in helping in that election?

A. Yes, sir.

Q. Were these elections always held on company property?

A. They were.

Q. And on company time? Were they held on company time?

A. We, of the committee, would lose our regular time and we would have to be paid somewhere.

Q. The men voted while they were at work?

A. Yes, the men voted while they were at work. It took only a minute or two to put those votes into the box.

Q. I think you said at one time there was 81 percent voted in the election for representatives?

A. Yes.

Q. And the last election it was 61 percent?

A. I believe so. That was the nominations.

Q. So far as you know, Mr. Kirkland, when did the C. I. O. start organizing in the tin mill?

A. Really, I don't know. I know it was some time in 1936. I don't know just when it was.

Q. When did it first come to your attention?

A. It just slipped in.

Q. When did it first come to your attention?

A. I can't give you any date at all. I really wouldn't know.

Q. When did you first know of the C. I. O. When did you first definitely know, that you can remember?

A. I first knew of the C. I. O. before I knew there were any members in our company. I don't know just when that was.

Q. When do you recall definitely knowing?

A. I don't know. I suppose it would be along about the middle of the month or about the middle of the year, 1936, or somewhere along in there.

Q. By the middle of the year, do you mean August or September?

A. It may have been before then. It might have been before that time. I wouldn't be able to state definitely. I would hear of it every now and then. I would hear that the C. I. O. was starting to organize the men. Of course, I never keep track of any date or any definite period.

Q. In your opinion, did the C. I. O. ever at any time ever represent or have control of a majority of the men in the tin mill?

A. They claimed they did; that is all I know.

Q. What is your opinion?

A. My opinion is that they had the majority. That is just my opinion. I have no definite data on that at all.

Q. That was after the last election?

A. That was after the last election.

MR. HUNT: That is all.

Recross Examination

BY MR. DAY:

Q. There was one thing I did not ask you about. This minute of the meeting of May 8, 1937, refers to some plan presented by a Mr. Frank Geltz. Was any action ever taken on that?

A. None.

Q. That never amounted to anything?

A. Not so far as we were concerned, it wasn't.

Q. Your statement that at some time you thought the C. I. O. had a majority is just based upon your own opinion?

A. Yes. I have no definite facts on it at all.

BY TRIAL EXAMINER LINDSAY:

Q. Who is Mr. Geltz?

A. He is an employe of the Republic Steel Corporation. That is all I know.

Q. Is he an official of the company?

A. No, he is one of the employes.

Q. Who is Mr. Thomas?

A. G. Thomas is our assistant superintendent of the tin mill.

Q. You said that at the election Gene Thomas was there as a supervisor?

A. He just sat in. He didn't do any of the counting of the votes.

Q. But he sat in and saw that the election was conducted the way it should be? Is that the idea?

A. That is the idea exactly.

Q. Would you classify G. Thomas as an official of the company?

A. Well, he is one of the foremen.

Q. How much money per hour were you making in 1933?

A. Well, we were not paid by the hour.

Q. You were paid a salary?

A. No, sir; we are tonnage people and our salaries varied very much.

Q. About how much was it in April per hour?

A. I don't know. About $1.50, or maybe a little more.

Q. How many hours a day would you work?

A. Eight.

Q. When you had these meetings every other month with the company, who called the meeting?

A. I did.

Q. You called it at whose suggestion?

A. At the suggestion of the president.

Q. The president of what?

A. Of our company.

Q. How did you get word to the officials of the company that you were going to meet?

A. The officials of the company had nothing to do with it.

Q. I thought you said on your direct examination that at those meetings every second month you met with the officials of the company?

A. That is in our constitution. They knew they were to be.

Q. Then the officials of the company did have something to do with the meeting? Isn't that right?

A. Only as a part of our constitution.

Q. They were at the meeting?

A. Yes, they were.

Q. They would have a right to make motions? Isn't that right?

A. Not that I know of.

Q. Would they have any right to make suggestions to your committee?

A. Yes.

Q. And they did that?

A. That is what we had them there for.

Q. And you would usually follow those suggestions?

A. If they were to our benefit we did; yes, sir.

Q. And in many cases you did follow their suggestions?

A. Naturally we would; yes, sir; because most all of the suggestions that the Daveys gave us were good ones.

Q. And both of the Daveys who came on into the new corporation are officials of the Republic Steel Corporation? Is that right?

A. Yes, sir.

Q. So it was a complete continuation of one corporation up to the time that it was included in the new corporation, or bought by the new corporation and carried right on straight through? Isn't that right?

A. Except they did not meet every second month.

Q. I am not talking about the meeting. I am talking about the company.

A. It was just a continuation; yes, sir.

Q. When the new company was formed, or, rather, when it took over the other steel corporation, the Republic Steel Corporation went right on and carried right on with this particular union? Isn't that right?

A. Yes.

Q. Which you call the company union?

A. Yes. It was never changed.

Q. That was never changed?

A. It was never changed.

Q. Some of the officials of the old corporation are now officials of the Republic Steel Corporation?

A. Yes, sir.

Q. And the Daveys, both Sam and William, took an active part in the union activities, didn't they, and made suggestions?

A. Not William.

Q. Which ones did?

A. Sam and Jim. William left altogether and went to Cleveland.

Q. Sam and Jim came on with the new corporation?

A. Yes, sir.

Q. So that the company union, as you call it, continued right on into the Republic Steel Corporation?

A It did.

Q. You did not resign as a member of that committee?

You are still active; isn't that right?

A. Yes, sir.

Q. Who was it who asked you to remain on the committee after you decided that you wished to resign?

A. Mr. Sam Davey.

MR. TRIAL EXAMINER LINDSAY: That is all.

MR. DAY: I want to ask one question to try to clear up something. I don't know whether Your Honor had in mind that the Canton Tin Plate Mill continued on after it became Republic.

TRIAL EXAMINER LINDSAY: No; it was taken over by Republic.

MR. DAY: It was purchased by Republic.

TRIAL EXAMINER LINDSAY: I understand that.

MR. DAY: I thought what you had in mind was that the Representation Plan kept on going.

TRIAL EXAMINER LINDSAY: The union to which he belonged did keep going right straight along.

MR. DAY: It kept going on. But if you had in mind that the transactions between the Canton Sheet Tin Plate and Republic was one by which the Canton Sheet Tin Plate kept on going, of course, it wasn't that.

TRIAL EXAMINER LINDSAY: It became a part of Republic.

MR. DAY: The Republic bought it.

Redirect Examination

BY MR. HUNT:

Q. Your organization had an agreement with Davey brothers when the Canton Tin Plate Corporation was in existence?

A. Plenty of them.

Q. Did you have an agreement such as the Amalgamated Tin, Steel, and Iron Association would have?

A. I don't understand the question. You asked about an agreement?

Q. Yes.

A. Yes, we had an agreement. We signed an agreement every year.

Q. You had a signed agreement covering your wage schedule?

A. Yes.

Q. What else?

A. Our wages and conditions of work and all of those things that are contained in the Amalgamated Association agreement, except that they did not recognize the union as the bargaining agency.

Q. Did the Canton Tin Plate Company recognize your organization as a bargaining unit?

A. Yes.

Q. It did?

A. Yes.

Q. When the Republic Corporation came in did you have such an agreement with them?

A. No.

Q. The Republic Steel Corporation did not recognize even your organization for bargaining purposes?

A. Oh, yes, they recognized our representative committee as the bargaining agent, yes.

Q. They would not enter into such an agreement as the Canton Tin Plate Corporation did?

A. No.

Q. Were you ever told why not?

A. We were only told that they never signed any agreements with anybody. That is all we were told.

Q. The Republic never signed any agreement with anybody?

A. No.

Q. Do you mean agreements of the sort that the Canton Tin Plate Corporation had signed?

A. Yes.

Q. The parties were different but that agreement was the same as the proposed agreement by the Amalgamated Association of Steel, Tin, and Iron Workers?

A. The same agreement with the exception of the bargaining unit.

Q. Just to make sure and to repeat, the Canton Tin Plate Corporation did sign one of these agreements?

A. Yes.

Q. And the Republic Steel Corporation refused to sign an agreement?

A. Yes.

Q. Did you request any of the officials of the Republic Steel Corporation to sign such an agreement?

A. We presented it to them.

Q. Through whom?

A. Mr. Sam Davey.

Q. You asked Mr. Sam Davey to take up the agreement with the corporation?

A. Yes, sir.

Q. When was that?

A. The last of June, which was the end of the scale year.

Q. Did Mr. Sam Davey report to you on that?

A. He did.

Q. What did he say?

A. He said the company would not sign the agreement.

Q. Did he say what reason, if any, was given by the company?

A. Only that they did not sign agreements with employes.

Recross Examination

BY MR. DAY:

Q. As I understand you, you had a written agreement with the old Canton Tin Plate?

A. Yes, sir.

Q. And then your organization asked for an agreement after Republic took over Canton Tin Plate?

A. Yes, sir.

Q. And that was about June, 1936?

A. That was the last of June.

Q. And Republic would not make a signed agreement with your organization?

A. That is right.

MR. DAY: That is all.

TRIAL EXMINER LINDSAY: We will take a short recess at this point.

(Thereupon, a short recess was taken, after which the following occurred:)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. LAUTER: Mr. Bratt?

WILLIAM J. BRATT

a witness called for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Please state your name.

A. William J. Bratt.

Q. Where do you reside?

A. R. D. 7, Canton.

Q. Do you work in the steel mills?

A. I did; I worked from 1926 up until the strike, two years ago, when I lost my job.

Q. That was in 1935?

A. Yes, sir.

Q. For whom were you working?

A. For the 8-inch Mill.

Q. Where?

A. The old alloy division.

Q. Down here at Canton?

A. Yes.

Q. What did you do?

A. I was a strander, in the mill.

Q. While you were working in the 8-inch mill, was the Employes' Representation Plan in existence then?

A. Yes.

Q. When was that?

A. In 1933.

Q. Do you recall what month that was?

A. Pardon?

Q. Do you recall what month that was?

A. I think it was in June.

Q. What was the first notice you had of the Employes' Representation Plan, that it had been started?

A. The first notice I seen was a notice pasted on the bulletin board by the mill, that they was going to have such a plan.

Q. For the record, I will ask: The Tin Plate is one mill?

A. Yes.

Q. And the Alloy is another?

A. Yes.

Q. Two separate mills?

A. Yes.

Q. And the Employes' Representation Plan in which I am interested was the one in the Alloy Mill.

A. Yes.

Q. Did any voting take place in 1933?

A. Yes.

Q. How did you know that voting was going to take place?

A. Well, when I first heard anything about the voting for the nominations, my fellow workmen told me they was going to have nominations.

Q. Where did the voting for the nominations take place?

A. In the mill yard.

Q. Where in the mill yard?

A. Down in the mill yard.

Q. Did they have an election?

A. Yes, sir.

Q. Were you elected a representative?

A. Yes, sir.

Q. And that was in the Employes' Representation Plan, under the Alloy Division; is that right?

A. Yes, sir.

MR. LAUTER: Mr. Reporter, will you please mark this (indicating), for identification as Board's Exhibit No. 21?

(The document thereupon referred to was marked for identification as "Board's Exhibit No. 21.")

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 21, for identifica-ion, and ask you whether or not you have ever seen a copy f it before?

A. Yes, sir. That is a copy of the by-laws.

Q. When did you first see a copy of the by-laws?

A. We got this handed to us out of the pay window when we got our check.

Q. The pay window?

A. Yes, the pay window on Eighth Street.

MR. LAUTER: I offer this in evidence.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 21 is received in evidence.

(The document previously marked for identifica-

tion was marked as an exhibit, and received in evidence as Board's Exhibit 21.)

BY MR. LAUTER:

Q. Now, will you describe the voting that took place in 1933 by the representatives?

A. Well, we had ballots and ballot boxes and we were stationed in various places around the plant, and held the election, and the men that held the election, when I—

Q. You were in the 8-inch Mill?

A. Yes.

Q. Where was the balloting for your mill?

A. That was in what used to be old time office.

Q. Were booths set up for the purpose?

A. Yes, sir.

Q. You voted in these booths?

A. Yes, sir.

Q. Is there a general body set up under this plan?

A. Yes, sir.

Q. And what is the general body?

A. All the representatives of the different committees.

Q. Does that compose all the representatives who were elected?

A. Yes.

Q. And that constitutes the general body?

A. Yes.

Q. How often does the general body meet?

A. Every two months.

Q. Where would it meet?

A. For a while we met up in the Eighth Street office and later over to where the employment is, on Carnahan Avenue.

Q. Who else was present at the meetings of the general body, besides the elected representatives under the plan?

A. Myron Phillips.

Q. Who is Myron Phillips?

A. He was the head man of the representatives at that time?

Q. The by-laws provide for a management representative; is that correct?

A. Yes.

Q. Was Myron Phillips the management representative in 1933?

A. Yes.

Q. Did he attend the meetings of the general body at that time?

A. He used to sit in at the meetings.

Q. In addition to your being a member of the general body, were you on any committees of the representation plan?

A. Yes.

Q. What committee?

A. Committee No. 2, wages.

Q. Where did they hold their meetings?

A. In the same place as the others.

Q. The same as the general body plan?

A. Yes.

Q. How many members were there on committee No. 2, the wage committee?

A. Five of them, at one time.

Q. Five?

A. Yes, sir.

Q. Five what?

A. Well, we were supposed to represent the men.

Q. And there were also joint committees?

A. Yes.

Q. Who constituted the joint committees?

A. They had the same amount of representatives.

Q. What do you mean by "they"?

A. I mean the other five men on the other committee that would meet with us.

Q. Who were they?

A. They were men from the office force, and one thing and another, around through the plant.

Q. Were they employe representatives or company representatives?

A. They were company representatives.

Q. The joint committee was composed of five company representatives?

A. Yes, sir.

Q. And five employes' representatives; is that right?

A. Yes.

Q. And that was true of the general wage committee, as well as other committees?

A. Yes, sir.

Q. Were minutes taken of the meetings of the general body?

A. Yes, sir.

Q. Did you ever get any copies of the minutes?

A. Yes, sir.

Q. In what form did they come to you?

A. In a typewritten form.

Q. What did you do with them?

A. I put them up on the bulletin board.

Q. Where is that located?

A. In the stock house, at the 8-inch mill.

Q. What sort of a board is that?

A. A square board, with glass in front of it, and a lock on it.

Q. Who had the key to it?

A. I did.

Q. Did you open it and post the minutes?

A. Yes, sir.

Q. The minutes of the general body?

A. Yes.

Q. And of the wage committee; is that correct?

A. Yes, sir.

Q. Well, while you attended these meetings, did you get paid?

A. Yes, sir.

Q. And some of the meetings took place within your regular working hours?

A. Yes, sir.

Q. And some took place out of your regular working hours?

A. Yes, sir.

Q. How did you get paid—by check?

A. Yes.

Q. When the meetings were held in your regular working hours, did you get paid by a separate check?

A. Yes, sir.

Q. And when the meetings were held outside of your regular working hours, was that by separate check?

A. Well, we got our pay and also a check for the representatives.

MR. LAUTER: Mr. Reporter, will you please mark this Board's Exhibit No. 22, for identification?

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 22.")

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 22, for identification, and ask you what that is?

A. That is the stub ticket of my pay check.

Q. That is, the check was attached to that?

A. Yes.

Q. And what are the words written on that?

A. It says "Representatives pay."

MR. LAUTER: I offer that in evidence as Board's Exhibit No. 22.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 22 is received in evidence.

(The document previously marked for identifica-

tion "Board's Exhibit No. 22," was marked as an exhibit and received.)

BY MR. LAUTER:

Q. Did you get a dollar an hour, or your average wages?

A. I got my average wages; we worked on the tonnage basis, and also regular.

MR. LAUTER: Mr. Reporter, will you kindly mark this for identification as Board's Exhibit No. 23?

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 23.")

BY MR. LAUTER:

Q. The Republic Steel Corporation's Plan for Employes' Representation, dated June, 1933, and known as Board's Exhibit No. 21—was that ever amended?

A. Yes, sir.

Q. I hand you Board's Exhibit No. 23, for identification, and ask you if you will please describe that document and state whether you have ever seen it before?

A. Yes, I have seen that before.

Q. And when did you see it?

A. When I was a representative.

Q. Who gave it to you?

A. I got the book after the amendment was made, at the office, when I got my pay, the same place I got the other.

MR. LAUTER: I wish the record to show that I now offer in evidence Board's Exhibit No. 23, which includes a book known as the Plan of the Employes' Representation, established in June, 1933, and amended in June, 1934, and also containing a typewritten sheet attached to it, on which there is some typewritten matter.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 23 is received in evidence.

(The document previously marked for identification as "Board's Exhibit No. 23," was received in evidence.)

BY MR. LAUTER:

Q. Now, under this plan, as amended, general body meetings were also held; is that correct?

A. Yes, sir.

Q. And you attended these general body meetings?

A. Yes, sir.

Q. What transpired at these meetings, do you know?

A. Well, everything in general about wages, working conditions, and such stuff as that.

Q. And were certain matters taken up at the wage committee meetings?

A. Yes, sir.

Q. And were these matters referred to the management?

A. Yes, sir.

Q. Through whom were they taken to the management?

A. Mr. Myron Phillips used to take some of them to the management.

Q. Would there be a report back to the committee of what action was taken by the management?

A. Yes, sir.

Q. In some cases the request was rejected?

A. Yes, sir.

Q. On some of them that was true?

A. Yes, sir; on quite a few of them.

Q. And there was nothing you could do about that?

A. No, sir.

Q. Do you recall the election of representatives in June, 1934?

A. Yes, sir.

Q. Where did that take place?

A. Different places on the property.

MR. LAUTER: Mr. Reporter, will you please mark this for identification as Board's Exhibit No. 24.

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 24.")

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 24, for identification, and ask you if you have seen that before?

A. Yes, sir; that is a sample of the ballot.

Q. Where did you get that?

A. At the meeting before we took the ballot boxes.

MR. LAUTER: I offer in evidence Board's Exhibit No. 24.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 24 is received in evidence.

(The document previously marked for identification as Board's Exhibit No. 24, was received in evidence.)

BY MR. LAUTER:

Q. Will you describe the 1934 election of representatives?

A. In 1934 I was a representative and we met over at the office on Cornahan Avenue and took our ballots and ballot boxes and went out on the post, and held our election. I had another man with me to help me, and we went up there and set up booths and took the vote. We had a sheet with the men's numbers on, and as they would come in to vote, we would check them off.

Q. Where did you get that sheet?

A. It was given to me over at our headquarters.

Q. Where?

A. Where we held our meetings; we all gathered there before we went out.

Q. What happened at the booths?

A. Well, a man would go into the booth and drop in the ballots, and as they came out we would check their names off.

Q. Was anybody else with you?

A. The fellow that was with me also checked them.

Q. Did he have a list?

A. Yes, we both did. There was a fellow there—I do not know who he was, but he would say: "Did this man vote?" and he would go out and, pretty soon, the man would come in and vote.

Q. Were you paid your expenses at the time you acted at the election?

A. Yes.

Q. Did you receive any other benefits?

A. We received our eats and smokes.

Q. Who furnished you with them?

A. Well, we went to the restaurant for them.

Q. Where?

A. Down in the mill yard.

Q. How were you able to get it there?

A. Well, it was a regular restaurant; of course, any other time we would have to pay for it.

Q. But, at this time, you did not pay for it; that was arranged for you?

A. Yes.

Q. How long did you stay at the booths?

A. It was going along for 24 hours while the turns were going on, and we counted the votes the next day.

Q. Were there any dues paid in under the Employees' Representation Plan?

A. Not as far as I know.

Q. Who paid for the cost of operation of this plan?

A. As far as I know, it was the company.

Q. There were ballots printed?

A. Yes, sir.

Q. There were minutes typed?

A. Yes, sir.

Q. And they were mailed to you?

A. Yes, sir; through the company's mail.

Q. There were notices of the meetings?

A. Yes.

Q. And you spent time that way, and were paid for it?

A. Yes, sir.

Q. And there were notices of the general body meetings, and special meetings of the general body, and also the special No. 2 wage committee?

A. Yes, sir.

Q. There was an annual conference provided for in the by-laws?

A. Yes, sir.

Q. Was any ever held?

A. Yes, sir.

Q. Where was that held?

A. Out at the country club, between here and Massillon.

Q. Do you recall the name of it?

A. No, sir; not now.

Q. Did you have anything to do with it?

A. Yes, sir.

Q. Who was present?

A. Quite a few of the officials of the company, Mr. Girder, and Mr. Portz.

Q. Did that cost you anything?

A. Nothing.

Q. Were there any other such occasions?

A. Yes, sir; we had a blow-out at the Iron Club, on Georgetown Road.

Q. That was limited to the employees and management?

A. Yes, sir.

MR. LAUTER: May I have this marked for identification as Board's Exhibit No. 25, Mr. Reporter?

(The document referred to was thereupon marked for identification as Board's Exhibit No. 25.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 25, for identification, and ask you when you received that?

A. In April, 1934.

Q. How did it come to you?

A. In the United States mail.

Q. Did it come to you in a Republic envelope?

A. Yes, sir.

MR. LAUTER: I offer in evidence as Board's Exhibit No. 25 this document I just had marked for identification.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 25 is received in evidence.

(The document previously marked for identification as "Board's Exhibit No. 25," was received in evidence.)

BY MR. LAUTER:

Q. Who is Mr. Eugene R. Roderick?

A. A roller in the 8-inch mill.

Q. Do you know that he was an employe representative?

A. He was chairman of the general body.

Q. During what year?

A. 1933-1934—well, that was while I was there.

MR. LAUTER: Mr. Reporter, will you please mark this for identification as Board's Exhibit No. 26?

(The document referred to was thereupon marked for identification as Board's Exhibit No. 26.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 26, for identification, and ask you when you received that?

A. Well, I could not just say when I received that, but it came to me through the mail.

Q. Was it in 1933 or 1934?

A. 1934, I think.

Q. How did you get that?

A. Through the mail.

Q. That was mailed to you?

A. Yes, sir.

Q. From the American Iron & Steel Institute; is that where it came from?

A. Yes, sir; that is what it says on the bottom of the page.

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 26.

MR. DAY: We object to this as being put out by the Iron & Steel Institute.

MR. LAUTER: That is correct. I call your attention to page 56 of that document, which contains a statement by Mr. Roderick concerning which there has been testimony by this witness, that he was chairman of the general body at the time the witness received this document.

TRIAL EXAMINER LINDSAY: May I see that?

MR. DAY: Certainly (handing document to the Examiner).

TRIAL EXAMINER LINDSAY: Are you just offering that one page, Mr. Lauter?

MR. LAUTER: I am offering the whole document as having been received by this witness, and I will call your attention to the particular pages—66 and 67.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception. Board's Exhibit No. 26 is received in evidence.

(The document previously marked for identifica-

tion as "Board's Exhibit No. 26," was received in evidence.)

MR. LAUTER: That is all with this witness.

Cross Examination

BY MR. DAY:

Q. You were elected a member of the committee in 1933?

A. Yes, sir.

Q. And were you re-elected again in 1934?

A. How is that?

Q. Were you re-elected in 1934?

A. No, sir.

Q. You were elected for one year?

A. One year.

Q. And you quit your employment in 1935?

A. I did not quit. I was fired for some reason, but I do not know what.

Q. What part of 1935 was it?

A. It was in June.

Q. At the time of the strike out here at the Berger plant?

A. Yes.

Q. And you have not worked for Republic since?

A. No, sir.

Q. How many men were elected at the time you were elected in 1933?

A. I think there were about twenty.

Q. Altogether?

A. In the Republic division, and the Stark division—not the Cantor Culver Sheet.

Q. You worked in the alloy?

A. Yes.

Q. That used to be the United Alloy plant?

A. Yes, sir.

Q. And that went in with Central Steel, and they called it the Central Alloy?

A. Yes, sir.

Q. And did you make a campaign—that is, there were men nominated first?

A. Yes, sir.

Q. And there were half of the number nominated, elected?

A. Yes, sir.

Q. And you were one of those elected?

A. Yes, sir.

Q. Did you make a campaign?

A. No, I did not. I did not ask nobody to vote for me.

Q. But, anyhow, of the fourteen, you were one of the seven that was left?

A. I was voted in; yes, sir.

Q. And you were there one year?

A. Yes, sir.

Q. And the voting booths were installed around through the plant?

A. Yes, sir; at different places.

Q. Were they regular booths, as in any election?

A. Yes, sir.

Q. Did the men go in there and make out their ballot?

A. Yes, sir.

Q. Just like they have out in the precinct booths?

A. Yes, sir; with a lock on it.

Q. And I think you identified this (indicating) as being one of the ballots?

A. Yes, sir.

Q. I will read part of this:

"Nomination ballot for employe representatives. Directions to voters.

"This ballot is issued to qualified voters to nominate candidates for employee representatives.

> "The voter, by using this ballot, approves the holding of nominations and elections as stated in the posted notice issued by the Employes' Committee on Rules, Ways, and Means, under the Plan of Employe Representation at this plant, and expresses his desire that those elected shall represent him in collective bargaining, and for the other purposes stated in the notice."

You were asked about this magazine, "Republic"?

A. Yes, sir.

Q. I notice you have photographs of the various employe representatives; were you on that (indicating)?

A. Yes, sir; my picture is right in there (indicating).

Q. Where?

A. Right there (indicating).

Q. Oh, right there on page 4?

A. Yes—you will always know me when you see me.

Q. All right.

And now, attached to the Employe Plan of Representation, adopted in 1933, and amended in 1934, there is this statement of June 5, 1934, that was sent out to all the employes of the Republic Steel Corporation; is that right?

A. I guess that is right.

Q. And you are—

A. (Interposing) That is my name (indicating).

Q. And that is a mimeograph of your signature, I suppose?

A. Yes, sir.

Q. You were told something about getting eats and smokes, without paying for them?

A. Yes, sir.

Q. That is when you had the election, as I understand?

A. Yes, sir.

Q. And you were one of the tellers?

A. Yes, sir.

Q. That is, you helped conduct the election?

A. Yes, sir.

Q. How many hours were you on the job?

A. Long enough to get hungry, and wanting to get something to eat.

Q. You got your eats and your smokes and they did not cost you anything?

A. That is right.

Q. And, one time, you went out to the country club between Canton and Massillon?

A. Yes, sir.

Q. And that was an employe gathering?

A. Yes, sir.

Q. And some of the officials of the company were there?

A. Yes, sir.

Q. Including Mr. Girder?

A. Yes, sir.

Q. And you did not have to pay anything for that?

A. Yes, sir.

Q. And at another time you went out to the Arion Club?

A. Yes, sir.

Q. Who was there?

A. Mr. Portz.

Q. And Myron Phillips was there?

A. Yes, sir.

Q. And he has since died?

A. Yes, sir; at the last meeting.

Q. At the meeting?

A. No, sir; on his way home.

Q. And at that meeting you did not have to pay for anything?

A. No, sir.

MR. DAY: I would like to call the Court's particular attention to this,—but I do not care to read it into the record.

TRIAL EXAMINER LINDSAY: That is all right.

MR. DAY: And in this particular exhibit (indicating), I would like to read the statement of Mr. Girder into the record.

TRIAL EXAMINER LINDSAY: What did you want to read in (examining document)?

MR. DAY: The statement of Mr. Girder.

TRIAL EXAMINER LINDSAY: I cannot see that it will do any good, Mr. Day.

MR. DAY: All right, but I will direct the Court's particular attention to it.

TRIAL EXAMINER LINDSAY: All right.

BY MR. DAY:

Q. One more question about your pay—when you took time off on these meetings, how were you paid?

A. Just according to what I would be making on my job.

Q. That is, you were getting the same pay?

A. The same pay as my fellow workmen, doing my regular job.

Q. And the same pay you would have got if you had stayed on the job and not gone to the meeting?

A. Yes.

MR. DAY: That is all.

Redirect Examination

BY MR. LAUTER:

Q. I think you testified that you were fired in 1935?

A. Yes.

Q. And you were not rehired?

A. That is right. I was sick with rheumatism, and when the doctor told me that I could go back to work they told me that I did not have no job, and when I asked them why, they told me I was unwilling to go along with the job, that I was too stubborn—what he meant by that, I do not know.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused).

MR. LAUTER: Mr. William Gottscheck.

WILLIAM GOTTSCHECK a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Please state your name?

A. William Gottscheck.

Q. Where do you reside?

A. 817 Union Avenue, Southwest, Canton.

Q. Do you work for the Republic Steel Corporation?

A. Yes, sir.

Q. What plant?

A. The old Allied Plant.

Q. And are you still working there now?

A. Yes, sir.

Q. What is your job there?

A. First helper.

Q. Is that in any particular mill?

A. The Open Hearth department.

Q. When did you start working for Republic?

A. 1922 or 1923—I cannot just recall.

Q. Are you familiar with the Employes Representation Plan of the Allied?

A. Yes, sir.

Q. And were you elected a representative?

A. Yes, sir.

Q. When were you elected a representative?

A. In 1934.

Q. And have you been re-elected, in 1935-1936?

A. Yes, sir.

Q. Will you describe the voting which took place at the time you were elected in 1934-1935, or 1936; where was the voting held?

A. The voting was held in each department.

Q. And was the voting done on company time?

A. Yes, sir.

Q. And on company property?

A. Yes, sir.

Q. And you lost no time for the time you spent voting; is that right?

A. Yes, sir.

Q. Were you also a member of Wage Committee No. 2?

A. Yes, sir.

Q. What transpired at this meeting?

A. That was the committee for wages and employment working conditions, No. 2 committee.

Q. In addition to the standing committee, was there also a joint committee?

A. Yes.

Q. Were these minutes distributed to you as a representative?

A. Not of No. 2 committee.

Q. But of the general body?

A. Yes.

Q. Are you able to identify Board's Exhibit No. 23?

A. Not this part (indicating). This part here, I do.

Q. But you can identify the green book?

A. Yes.

Q. Which is the Plan of Employe Representative?

A. Yes.

Q. Known as Board's Exhibit No. 23? Is that correct?

A. Yes.

Q. But you have not seen the typewritten material which is attached to it?

A. No, sir.

Q. The question I am going to ask you is this: Was the operation of the plan, in 1935, 1936, and 1937, substantially the same as it was in 1934?

A. 1935, 1936, and 1937?

Q. Yes.

A. As far as I know.

Q. That is, the meetings were held in the same place?

A. Yes.

Q. Did you receive copies of the minutes?

A. Yes.

Q. You were paid for attending the meetings?

A. Yes.

Q. The minutes of the meetings were distributed to you?

A. Yes.

Q. And you posted them?

A. Yes.

Q. Substantially the same happened after July 5th, 1935, as before? Is that correct?

A. Yes, sir.

Q. Do you know Mr. Lohneis?

A. Yes, sir.

Q. Who is Mr. Lohneis?

A. He was a company representative?

Q. Was he present at the meeting of the general body?

A. Not when we had any discussion.

Q. But he was present at the meetings; is that correct?

A. After the meetings.

MR. DAY: I did not understand your answer.

THE WITNESS: After the meetings.

BY MR. DAY:

Q. And what was the answer before that?

A. Not during the meetings.

BY MR. LAUTER:

Q. Were the meetings to be addressed by Mr. Bortz?

A. Yes, sir.

Q. Have they ever been addressed by Mr. Meyers?

A. Yes, sir.

Q. That is, Mr. Carl Meyers?

A. Yes, sir.

Q. What is his position?

A. So far as I know, he was assistant to Mr. Bortz.

Q. Are you familiar with the Employes Representation Association?

A. I know some little about it.

Q. Tell me what little you know about it?

A. It was a plan that was being formed by the representatives when they heard that the Wagner Act was going to come into effect.

Q. Were there discussions at the general body meetings prior to the Wagner Act being upheld?

A. Yes.

Q. Concerning the formation of a new organization?

A. Yes.

Q. To be known as the Employes Representatives Association?

A. I don't know as to that name.

Q. It had not been given a name yet? Is that right?

A. Yes.

Q. A name was given to it subsequently?

A. I couldn't tell you.

Q. You did have discussions about this new organization?

A. Yes.

Q. Then the decision was upheld?

A. Yes.

Q. I mean the decision upheld the Wagner Act?

A. Yes.

Q. Then there was discussions about the new organization?

A. Yes.

Q. And then that new association was called the Employe Representatives Association; isn't that correct?

A. Yes, sir.

Q. Was there also a discussion as to the amount of dues to be paid in this new organization?

A. There was some discussion.

Q. Did you arrive at some decision as to how much dues were to be paid?

A. No, sir.

Q. You do know that certain membership cards and application cards were printed? Is that correct?

A. Yes.

Q. And the authority to print those cards and application blanks was given at meetings of the general body of the Employe Representatives Plan?

MR. DAY: Just a minute, please. I realize, of course, that the rules of evidence that apply in court do not apply here. Perhaps he has a right to ask leading questions if the Examiner permits him to do so; but it seems to me it would be better to ask what was heard and what was said instead of suggesting all of these things.

MR. LAUTER: That is more or less true but it does expedite matters.

TRIAL EXAMINER LINDSAY: No doubt he could get all of that by asking the other questions.

MR. DAY: It expedites but it does more than that. I want, respectfully, to suggest that it sort of conveys to the witness the answer.

MR. LAUTER: I think I have very infrequently violated any rules of evidence in this respect. But I will accept the suggestion of Counsel for the Company.

MR. DAY: Thank you very much.

BY MR. LAUTER:

Q. Will you tell me what transpired at the meetings subsequent to the Act being upheld, with respect to any membership cards? Was there any discussion? Tell me what happened at the meetings?

A. I don't remember offhand.

Q. But membership cards were printed?

A. Yes, sir.

Q. Were application blanks printed?

A. There were application blanks printed.

Q. Did you discuss either the blanks or cards at any meeting of the general body?

A. Not to my knowledge.

Q. Did you discuss the fact you were going to print some sort of membership card?

A. Yes.

Q. And subsequently they were printed? Is that correct?

A. Yes, sir.

Q. I don't know whether the record shows clearly who Mr. Bortz is. Do you know what his position is?

A. I don't know. So far as I know, he was general manager of the two plants.

Q. By that you mean Canton and Massillon? Is that correct?

Yes.

MR. LAUTER: That is all.

MR. DAY: That is all.

BY TRIAL EXAMINER LINDSAY:

Q. How do you spell Mr. Bortz' name?

MR. LAUTER: It is B-o-r-t-z, I believe.

TRIAL EXAMINER LINDSAY: Is there any cross-examination?

MR. DAY: No, Your Honor.

TRIAL EXAMINER LINDSAY: Then, the witness may be excused.

(Witness excused).

MR. LAUTER: I will call Mr. Cox.

JOSEPH M. COX a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. What is your full name?

A. Joseph M. Cox.

Q. Mr. Cox, where do you reside?

A. Cottage No. 9, Meyers Lake.

Q. Are you employed by Republic Steel Corporation?

A. Yes, sir.

Q. When did you start to work for them?

A. In 1909, in November.

Q. Have you worked for them continuously?

A. Until 1919; and from 1923 on.

Q. That is, from 1923 to 1937 you have worked for Republic Steel Corporation?

A. Yes, sir.

Q. In what capacity have you worked for them?

A. I ran an election charging machine in the open hearth department.

Q. Are you familiar with the Employes Representation Plan?

A. From 1933 on; yes, sir—that is, part of 1933.

Q. Were you elected a representative under that plan?

A. I was.

Q. When were you elected a representative?

A. For the year 1935-1936, and 1936-1937.

Q. Will you identify Board's Exhibits 21 and 23?

A. Employes Representation Plan, 1933. That is that one (indicating). And this is the one amended in 1934.

Q. And that is Board's Exhibit No. 23; is that correct?

A. That is right; yes, sir.

Q. When did you receive a copy of Board's Exhibit No. 21? Tell me where you received it, and when?

A. From the Open Hearth representative.

Q. That was in the plant; is that correct?

A. Yes, sir.

Q. When did you receive a copy of Board's Exhibit No. 23?

A. From the same gentleman.

Q. A representative?

A. Yes, sir.

Q. In the plant?

A. Yes, sir.

Q. Were you one of the officers in the plant?

A. Yes, sir.

Q. What position did you hold?

A. Vice-chairman.

Q. When were you elected vice-chairman?

A. June 15, 1936.

Q. Who are some of the other officers in the plan, in June, 1936?

A. Frank Geltz was chairman and R. J. Lilley was secretary.

Q. And you attended the general body meetings under the plan?

A. Once a month.

Q. Where were they held?

A. Industrial Relations Building on Belden Avenue.

Q. How long would they last?

A. From 1 o'clock in the afternoon until away into the night—that is, 7 or 8 o'clock.

Q. And you got paid for attending those meetings?

A. In the years 1935 and 1936; yes, sir.

Q. What were your duties as vice-chairman of the plan?

A. As vice-chairman I filled in whenever the chairman was not there, and I also took the chair while he was making a speech, or addressing the board, or the general body.

Q. The minutes of those meetings were taken by Mr. Lilley?

A. Yes, sir.

Q. Were you a member of any of the committees set up under the plan?

A. Both years; in the first year, No. 1 committee.

Q. The first year means 1935 and 1936? By the first year you mean 1935 and 1936?

A. Yes. No. 1 committee, rules and ways and means.

Q. Where did they hold their meetings?

A. The Industrial Relations Building on Belden Avenue.

Q. What were the activities of the No. 1 committee?

A. They made rules and regulations for the rest of the general body to abide by in the elections, and they were judges of elections.

Q. Approximately how long would those meetings last?

A. Six or seven hours, sometimes, and sometimes less than that.

Q. Were you paid for attending those meetings?

A. Yes.

Q. You were paid by the company?

A. Yes, sir.

Q. You were also a member of the No. 2 committee, the Wage Committee?

A. Yes,—1936-1937. I was chairman.

Q. Were you chairman of the committee?

A. Yes.

Q. Will you describe the duties of the chairman and what the activities of that committee were in 1936-1937?

A. The chairman of No. 2 committee, Wages and Hours and Working Conditions. I was also a member of No. 2 joint committee.

Q. Tell me what happened at the standing committee?

A. If we had any petitions put in by the employes or the representatives, they were referred to us, meaning No. 2 committee, and we immediately assigned them through to a joint committee.

Q. Did you ever take any vote on any of the grievances?

A. In the year 1936-1937; no, sir.

Q. What was the reason that in 1936-1937 you never took a vote in the No. 2 wage committee?

A. We never had occasion to do it.

Q. You mean a grievance was never presented to you?

A. That is correct. We had one grievance in the whole year.

Q. One grievance in the whole year 1936-1937?

A. Yes, from June, 1936, to June 15, 1937.

Q. What happened to that grievance?

A. It was withdrawn by the men, themselves.

Q. So you never voted on any grievance at all?

A. That is right.

Q. Were there any joint committee meetings on wage conditions?

A. Once a month.

Q. Who attended those?

A. Five employe representatives and five officials of the company, superintendents, office men, and so on.

Q. Do you know whether or not they voted on any grievances?

A. I attended every meeting.

Q. Did they ever vote?

A. Not to my knowledge.

Q. No vote was ever taken?

A. No, sir.

Q. Do you know what happened on any of the other joint committees?

A. Only by hearsay; no.

Q. Did they ever vote? As vice-chairman of the plan, did you ever hear there was a vote?

A. In the year 1935-1936 I heard they had a vote. That was hearsay.

Q. Do you know what the outcome of that vote of the joint committee was?

A. Well, it was a six to four vote there.

Q. It was?

A. Yes. That was hearsay and not of my own knowledge.

Q. I understand that. Were there any five to five votes?

A. I understood there was, yes.

Q. How often did you hear there was a six-to-four vote?

A. Once or twice, anyway. I have no record for it.

Q. You were vice-chairman and you would know what was happening in the organization, wouldn't you? I mean, you heard what was happening in the organization?

A. You understand I was vice-chairman in the year 1936-1937.

Q. This was while you were representative on the general body?

A. Yes. I have heard that.

Q. You would have heard there were tie votes in the joint committee meetings?

A. That is right.

Q. And on one or two occasions there was a six-to-four vote?

A. By hearsay, yes.

Q. Is that when the company representatives voted with the employe representatives, or vice-versa?

A. Both ways, if I am not mistaken.

Q. That is one time the employe representative joined the other five?

A. That is right.

Q. And one time it was the other way?

A. Yes.

Q. And the other times were tie votes?

A. By hearsay,—yes, sir.

Q. Do you recall meetings that were held in Cleveland in the office of the Republic Steel Corporation with respect to the formation of a new organization?

A. I was elected a delegate to Cleveland and I was up there to a meeting; yes, sir.

Q. When was the first meeting that you attended at Cleveland?

A. March 8, 1937, if I am not mistaken.

Q. Did you attend any meeting in December, 1936?

A. In December?

Q. Yes.

MR. DAY: You mean in Cleveland?

MR. LAUTER: Yes, that is right.

BY MR. LAUTER:

Q. Or was the March meeting the first meeting that you recall?

A. I believe the March meeting was the first one I was a delegate to up here.

Q. But who were the other delegates?

A. Frank Geltz.

Q. Were there any others?

A. From Canton?

Q. Yes.

A. No. That is in the steel division. The subsidiaries may have had them, but I am just talking about the Steel Division.

Q. Frank Geltz and you were the delegates to the Cleveland meeting?

A. Yes.

Q. Did you go to the meeting?

A. Yes.

Q. Whom did you find there?

A. At the Cleveland meeting I met everybody. Eventually, at the different meetings I met Tom Girdler and Charley White.

Q. Did you ever meet any of the other delegates to the meetings?

A. Yes, sir.

Q. From where did they come?

A. Chicago, Ill.; Moline, Ill., and, in fact, all of the Northern States of the Republic Steel—Buffalo, New York, and Youngstown.

Q. And how many delegates were there?

A. Eighteen from ten districts.

Q. Were you addressed by any of the company officials at any of the meetings, or at this particular meeting in Cleveland—that is, the first one you attended?

A. We talked to them. We immediately went together and elected a chairman of these 18 delegates.

Q. Who was the chairman?

A. Harry Grimm, of Cleveland.

Q. When was that? Well, where was he from?

A. A dock worker from Cleveland.

Q. Were there any other officers elected?

A. Yes.

Q. Who were they?

A. Ed O'Connell of Buffalo, N. Y.

Q. How long did that first meeting last?

A. Until 8 o'clock in the evening.

Q. When did it start?

A. Nine o'clock in the morning.

Q. And you were in constant attendance at this meeting?

A. Yes, with the exception of lunch.

Q. Tell me what happened from 9 o'clock in the morning until 8 o'clock at night, in substance?

A. We had a body of 18 men there, and we elected a temporary chairman and a recording secretary and immediately we began to lay our by-laws out and see what they looked out, to see if they were all alike in the different districts.

Q. When you refer to the by-laws, you refer to the by-laws under the Employe Representative Plan?

A. That is right. And we seen where some of them had a little something better in them than we had, and maybe we had a little something better than they had, and we discussed that.

That meeting was also a wage-increase meeting, if I am not mistaken, and also at the same meeting I think our vacation plan came out of it. In fact, we did stay over until March 9th to thresh that out with the officials of the company.

Q. You mean the meeting lasted more than one day?

A. Two days; yes, sir; March 8th and March 9th.

Q. What happened on March 9th?

A. They gave us our agreement and our vacation plan we were arguing about the day before. They agreed to give a one-year man three days, and on up until a 15-year man got 10 days, if I am not mistaken. The company agreed to that and stated that the year previous 49 percent of the men got a vacation, but under this plan that we brought back to Canton 80 percent of the men would get a vacation.

Q. Who took you to the meeting in Cleveland?

A. I went up with Frank Geltz and Mr. Lohneis, if I am not mistaken.

Q. Did you drive up with Mr. Lohneis?

A. We drove up in his car, if I am not mistaken.

Q. At these meetings was there a central council set up?

A. Yes, there was.

Q. What was the central council to be?

A. Any argument we could not settle locally.

Q. Organizationally, what was it to be? Were there any delegates?

A. Yes, that is right, one or two men to each district, according to the size of the district.

Q. What do you mean by that?

A. Canton has two men, Pittsburgh two men, Youngstown two men, and Grant Crossing had only one delegate. They only employ a couple of hundred men there.

Q. How often were you supposed to meet?

A. Twice a year.

Q. In what months?

A. July and January.

Q. The first meeting you referred to was some time in March, 1937?

A. That is right.

Q. Your next meeting was to be some time in July?

A. That is right.

Q. As a matter of fact, you had a meeting before that, did you, or didn't you?

A. We did.

Q. Will you describe the next meeting that you attended?

A. It was some time about the 8th of April, if I am not mistaken.

Q. Did you ever discuss the formation of a new organization at any of these meetings?

A. Among the delegates?

Q. Yes.

A. Yes, sir. Among the delegates; yes, sir.

Q. Is that organization called the Employe Representative Association?

A. We left that to each locality to take care of their own,—That is, what they cared to call it.

Q. You mean the specific name was left to the specific localities?

A. Yes, whatever they wished to call it.

Q. What do they call it in Canton?

A. E. R. A.

Q. Employes Representative Association; is that right?

A. Yes.

Q. You say the next meeting was held in May—that is, the second meeting?

Well, let me ask you this question. Did you attend the meeting that was held after April 12th, the day the Supreme Court upheld the Wagner Act?

A. I know I attended one previous to the 12th of April.

Q. Did you attend any after that time?

A. What is the question?

Q. Did you attend any meeting after April 12th?

A. I believe I did one, if I am not mistaken.

Q. There was a meeting in May, wasn't there?

A. I think there was.

Q. Either the latter part of April or the first of May?

A. It was some time in April, up near the 8th of April, if I am not mistaken, and then again towards the latter part of April. It may not have been May, after all.

Q. And you attended as a delegate?

A. Every meeting, yes, that was called I was there.

Q. Are you still a delegate?

A. No, sir.

Q. How does it happen that you are no longer a delegate?

A. There is a new organization that elected delegates and sent them to Cleveland.

Q. What is the name of that new organization?

A. The Steel Workers Union, if I am not mistaken.

Q. The Steel Workers Union of America?

A. If I am not mistaken.

Q. And the delegates they elected supplanted you and Mr. Geitz? It that correct?

A. Yes, that is correct.

Q. So the Employe Representative Association is no longer active? Or is it active? Let me ask you that.

A. I do not attend no meetings, personally, myself.

Q. Have you been called to any meetings?

A. No, sir.

Q. Do you know whether or not any meetings have been held?

A. I have been to this new one. Three weeks ago yesterday I was to an organizing meeting.

Q. Of what?

A. Of the United Steel Workers, or Union Steel Workers, or whatever it is.

Q. But I am referring to the Employe Representative Association.

A. I have not been to that.

Q. You do not know anything about it?

A. Not since the strike.

Q. Is the Employes Representative Plan still in existence?

A. What do you mean?

Q. The plan that was set up?

A. No, sir.

Q. Has it been formally dissolved, so far as you know?

A. So far as I know, it has.

Q. Do you know about any meetings in the plant conducted by representatives under the plan with respect to the new organization?

A. Speaking of my own department, the Open Hearth?

Q. That is right.

A. I went around and talked to the men individually, and also talked to them in a body after working hours.

Q. And you spoke to them about joining the Employe Representative Association?

A. I asked them if they wished to. I handed them an application and asked them if they wished to sign it, but if they did not it was all right; it was immaterial to me. They had elected me a representative and I was doing my duty, or what I figured was my duty—going around with the new organization and asking them if they wanted to sign it, and if they did not it was all right.

Q. Were there membership cards given out by the Employes Association?

A. Membership cards were given out by the employes.

Q. By the Employe Representative Association, or the E. R. A.?

A. Yes. I passed a hat and got a donation.

Q. Have you got a copy of that card?

A. Indeed I have.

Q. You are a member?

A. Yes.

Q. And you do have a membership card?

A. I have a membership card.

Q. Do you have it with you?

A. Yes.

Q. May I see it?

A. Yes.

Q. You don't mind parting with this, do you?

A. So long as I get it back.

Q. We will take a photostat copy and give you back the original.

A. O. K.

MR. LAUTER: I will ask that this be marked Board's Exhibit No. 27, for identification.

(The document referred to was thereupon marked for identification as Board's Exhibit No. 27.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 27, for identification, and ask you to describe it and tell me when you first received a copy of it?

A. The date on here is fourth month, twenty-fourth day, 1937.

Q. And this is your membership card?

A. Yes, sir.

Q. The membership card of Joseph M. Cox?

A. That is right—in the E. R. A.

MR. LAUTER: I offer that in evidence as Board's Exhibit No. 27.

MR. DAY: I have no objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 27 is received in evidence.

(The document referred to previously marked for identification as "Board's Exhibit No. 27," was received in evidence.)

TRIAL EXAMINER LINDSAY: May I see that Exhibit 27, Mr. Lauter?

MR. LAUTER: Yes, certainly; here it is.

Will you please mark this Board's Exhibit No. 28, for identification?

(The document referred to was thereupon marked for identification as Board's Exhibit No. 28.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 28, for identification, and ask you to state when you first received it?

A. I had a typewritten copy that I took from Canton to Cleveland that looks like this.

Q. When you say you have a typewritten carbon copy that looks like this, you did get a copy like this, too, didn't you?

A. Yes, I did.

Q. And you received that from whom?

A. Mr. O'Connell.

Q. Who was Mr. O'Connell?

A. Secretary, Central Council of Employe Representatives, at Cleveland, a Buffalo employe.

Q. Mr. O'Connell is an employe of the Republic?

A. Yes.

Q. At the Buffalo plant?

A. Yes.

Q. And he was one of the delegates at the Cleveland meeting? Is that right?

A. Yes, and the secretary.

Q. And he sent you this draft? Is that correct?

A. I received one of these; yes, sir. I had one and I received one. I took one with me and eventually I got one mailed to me.

MR. LAUTER: I offer this in evidence as Board's Exhibit No. 28.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 28 is received in evidence.

(The document previously marked for identification as Board's Exhibit No. 28, was received in evidence.)

MR. LAUTER: I will ask that this be marked Board's Exhibit No. 29, Mr. Reporter.

(The document referred to was thereupon marked for identification as Board's Exhibit No. 29.)

BY MR. LAUTER:

Q. I now hand you Board's Exhibit No. 29, for identification, and ask you whether or not you ever saw a copy of that before?

A. I have.

Q. When did you see it?

A. It is the plan of the E. R. A.

Q. You say you did receive a copy of it?

A. Yes, I did have a copy of it. It is the plan of the E. R. A.

MR. LAUTER: I offer this in evidence as Board's Exhibit No. 29.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: It will be received as Board's Exhibit No. 29.

(The document previously marked for identification as Board's Exhibit No. 29, was received in evidence.)

MR. LAUTER: That is all.

MR. DAY: No cross-examination.

MR. LAUTER: May I make this suggestion, Mr. Trial Examiner? It is now 4:40 and the next witness will take some time, I think, and will involve the introduction or the identification of minutes which I think will protract the proceedings. I would prefer not to begin with a new witness at this time if it can be avoided. I think Counsel for the Company will join in this request.

TRIAL EXAMINER LINDSAY: Very well, then. We will adjourn until 9:30 tomorrow morning.

MR. LAUTER: And, Mr. Trial Examiner, may I make this request, that you announce at the present time that the subpoenas which have been issued are still in force.

TRIAL EXAMINER LINDSAY: Yes. Anyone

who has received a subpoena is under the jurisdiction of the Board until he has been finally released by the attorneys who had the subpoena issued. In other words, you are here for the Board under the Board's subpoena, and the attorneys will have to release you.

The same thing applies to anyone subpoenaed by the Respondent.

The hearing tomorrow morning will be in courtroom No. 1, just across the hall.

(Thereupon, at 4:40 o'clock p. m., August 9, 1937, an adjournment was taken until Tuesday, August 10, 1937, at 9:30 o'clock a. m.)

Courtroom No. 1, Stark County Courthouse, Canton, Ohio,
Tuesday, August 10, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Lawrence Hunt, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

H. C. Pontius, Esq., of the firm of Messrs. Lynch, Day, Pontius and Lynch (Canton, Ohio), and Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young & Veach (1420 Union Trust Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: Gentlemen, the hearing is now called to order.

MR. LAUTER: I would like to call Mr. Lilly.

RAYMOND J. LILLY

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Will you please state your full name?

A. Raymond J. Lilly.

Q. Where do you reside?

A. 1429 Gibbs Avenue, Northeast, Canton, Ohio.

Q. Are you employed by the Republic Steel Corporation?

A. Yes, sir.

Q. In what plant?

A. In the Steel Division, Alloy Plant.

Q. How long have you been employed at the Republic Steel Corporation plant?

A. About 13 years.

Q. In what capacity?

A. First helper, electric furnace.

Q. Are you familiar with the Employes' Representation Plan at that plant?

A. Yes, sir.

Q. Are you an officer under the plan?

A. Yes, sir.

Q. What position do you hold under the plan?

A. Secretary.

Q. When did you become secretary?

A. In June, 1934.

Q. And you continued to be secretary for the duration of the Plan?

A. Yes, sir.

MR. LAUTER: I will ask that these two pages be marked for identification as Board's Exhibit No. 30.

(The documents referred to were thereupon marked for identification as "Board's Exhibit No. 30.")

BY MR. LAUTER:

Q. I now hand you Board's Exhibit No. 30, for identification, consisting of the General Body of Employe Representatives, Canton, Minutes of a Special Meeting, March 5, 1937, consisting of two pages. Will you please identify them.

A. Those are the minutes of the general body meeting, the special general body meeting for that date.

Q. And the date is March 5, 1937?

A. Yes, sir.

MR. LAUTER: I offer this in evidence as Board's Exhibit No. 30.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: They will be received as Board's Exhibit No. 30.

(The documents previously marked for identification as Board's Exhibit No. 30, were received in evidence.)

BY MR. LAUTER:

Q. Mr. Lilly, I now hand you Board's Exhibit No. 30, for identification, consisting of two pages, and I will ask you if you will identify it.

(The documents referred to were thereupon marked for identification as "Board's Exhibit No. 31.")

A. Those are the minutes of a special meeting of the general body of employe representatives, held May 28, 1937.

Q. Board's Exhibits 30 and 31, for identification, are minutes which were prepared by you? Is that correct?

A. Yes, sir.

MR. LAUTER: I now offer in evidence Board's Exhibit No. 31.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 31 is received in evidence.

(The documents previously marked for identification "Board's Exhibit No. 31," were received in evidence.)

MR. LAUTER: That is all for this witness.

MR. DAY: That is all.

(Witness excused.)

MR. LAUTER: Mr. Downard.

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Vol. III

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 14

REPUBLIC STEEL CORPORATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD AND
STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 7, 1940.

CERTIORARI GRANTED MAY 20, 1940.

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	Direct Ex.	Cross Ex.	Redirect Ex.	Recross Ex.
Charles Bernard Fagan				2090
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HOMER DOWNARD

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. What is your full name?

A. Homer Downard.

Q. Where do you reside?

A. 2142 Fourth Street, Northeast.

Q. Are you employed at the Republic Steel Corporation?

A. Yes, sir.

Q. When did you begin working there?

A. In October, 1926.

Q. And until when did you work?

A. Until the 25th of May, 1937.

Q. What happened on the 25th of May?

A. A strike was called.

Q. Is that strike still on?

A. Yes, sir.

Q. Are you connected with the local lodge of the S. W. O. C.?

A. I am.

Q. What is the name of it?

A. All Nations Lodge, No. 1200.

Q. What is the nature of the work you have been doing at the Republic Steel Corporation?

A. Boiler operator or boiler fireman.

Q. And in what division or plant have you been working?

A. At the Canton Tin Plate.

Q. When did your organizing activities of the C. I. O. begin in that plant?

A. Around about August, 1936.

Q. And did you become actively engaged in organizing that plant?

A. I did.

Q. By January, 1937, approximately what percentage of the employes of the Tin Plate were organized in the C. I. O.?

A. Around 75 or 80 percent.

Q. Do you know Jim Doyle?

A. I do.

Q. Who is he?

A. He was an electrician out there, and about last December they made him a master mechanic, along with some other jobs.

Q. Do you recall a conversation with him about January, 1937?

A. I do.

Q. Will you state the content of that conversation?

MR. DAY: I object to that.

TRIAL EXAMINER LINDSAY: The objection is overruled, and let the record show an exception.

THE WITNESS: I went to work on Wednesday morning, and just as I got down to the boiler house I met him, and he said, "Hello, you God damn C. I. O.'er." And I said, "What are you referring to?" And he said, "What were you doing over at the Berger gates yesterday, or Tuesday?"

Q. When he stated "Berger gates", to what was he referring?

A. To the gates over at the Berger plant.

Q. You say this occurred sometime in January, 1937; is that right?

A. The 13th of January.

Q. How do you remember that?

A. Because I happened to be off on Mondays and Tuesdays.

Q. And this was Wednesday?

A. Yes, sir.

Q. Go ahead.

A. I said, "I went over there to see if I could not get men interested in the organization". And he said, "Do you think you are doing right?" And I said, "Yes, sir; I think I am doing right." And he said, "Did you sign up many?" And I said, "Yes, sir; I signed up quite a few." And he said, "The only thing I can say to you is that you had better watch your step."

MR. DAY: I move to exclude that conversation on the ground that no connection has been shown with the Respondent, and that the Respondent had no knowledge of it.

TRIAL EXAMINER LINDSAY: The motion is denied, and let the record show an exception.

BY MR. LAUTER:

Q. Who is Gene Thomas?

A. Superintendent of the Canton Tin Plate.

Did you have a conversation with him sometime in January, 1937?

A. I did.

Q. Will you state the substance of that?

MR. DAY: May we have the same record on that?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: Thank you.

THE WITNESS: He came down to the boiler house on Saturday—I only had one boiler on. He said, "I want to talk to you." And I said, "You can talk to me at any time or place. As far as I am concerned, I know what you are going to talk to me about before you come down." And I said, "You are going to talk to me about why I have become so active in organized labor." And he said, "Yes, that is what I am talking to you about."

And he said, "Do you think you are doing right?" And I said, "Yes, I think I have as much right to belong to organized labor as anyone else has." And he said, "Do you know what you are going to do?" And I said, "Yes, I do; we are going to put this organization across." And he said, "No; I will tell you what you are going to do—you are going to eventually shut down this plant, and that will put not only me but everyone else out of work, and unless you quit you will shut down the Tin Plate plant."

BY MR. LAUTER:

Q. Was the plant ever shut down?

A. Yes, sir.

Q. That is the Tin Plate?

A. Yes, sir.

Q. When?

A. On the 5th of May.

Q. This year?

A. Yes, sir.

Q. For how long was it shut down?

A. For two weeks.

Q. Do you remember whether it ever resumed operations?

A. Yes, sir; it did, on the 25th of May.

Q. Was that the day you called the strike?

A. Yes, sir.

Q. Do you know Mr. Tebay?

A. Yes, sir.

Q. Did you ever have any conversation with him?

A. I did.

Q. At the Blue Moon cafe?

A. Yes, sir.

Q. Where is that located

A. 1202 Belden Avenue, Northeast.

Q. Who else was there?

A. Martin Becker, Joe Morton, Guy Sweany, and Guy Johns.

Q. Will you state the substance of that conversation?

MR. DAY: I object to that.

TRIAL EXAMINER LINDSAY: The objection is overruled; let the record show an exception.

THE WITNESS: Well, we were sitting in there, and he come in there, and Mr. Becker called him over to where he and I were seated.

MR. DAY: Who is this man?

MR. LAUTER: Tebay.

MR. DAY: Is there any identification who Tebay is?

MR. LAUTER: We will clear that up as conversation goes along.

BY MR. LAUTER:

Q. If counsel wishes to know—who is Mr. Tebay; do you know his full name?

A. Tebay is all that I ever heard.

Q. Is he an employe of the Republic Steel?

A. He is.

Q. Do you know whether he is active in the organization of the union plan?

A. He is one of the active workers.

Q. Will you continue your conversation at the Blue Moon Cafe?

A. Mr. Becker said to him, "How are you getting along with your organization?"

Q. Who is Mr. Becker?

A. Secretary of the lodge, All Nations Lodge, No. 1200.

Q. Go ahead.

A. And I asked him how he was getting along with the new organization, which he was trying to set up, and he said, "Oh, I am getting along fine." And I said, "Who is paying for this organization?" and he said, "The company is talking about buying an automobile and chancing it off at so much a chance, and of course that money will be used for that." And he said, "I have been working eight hours and getting paid for sixteen hours."

And he said, "When we get this organization functioning—"

Q. What organization?

A. This new Representative Plan that was organized after the Wagner Act was established.

Q. Have you any indication of what the name was of this new outfit?

A. The Company Representative Plan.

Q. Go ahead.

A. He said, "I am working eight hours and getting paid for sixteen hours." And then he said, "After we get this set up, this new union, they are going to give me $100 for my work in helping to get it organized." And I said, "Well, that is not such bad money." And he said, "By the way, I want you fellows to do one thing." He said, "I do not want you to have any strike, or anything, until after I sell a radio, because they are going to chance off a radio and I am going to sell them one, and I will get a nice commission out of that."

About that time he turned to Mr. Becker and said, "Who the hell is this fellow they call Downard?" And Mr. Becker said, "That is him, right there." And I guess he realized he had said something he hadn't ought to, because he turned and went away.

MR. DAY: May I have the same record with reference to this testimony?

TRIAL EXAMINER LINDSAY: Yes, the motion to strike is denied, and the record will show an exception.

BY MR. LAUTER:

Q. Who is Mr. Allen?

A. An employe of Republic Steel.

Q. Does he have any official capacity in connection with the Employes Representative Plan?

A. He did at the time the company union was a company union, yes, he did.

Q. Mr. Tebay testified he was a representative under the Plan; is that right?

A. Yes.

Q. Did you have a conversation with Mr. Tebay, Mr. Allen, and some other representatives sometime in May?

A. I did.

Q. Will you please state for the record the substance of that conversation?

MR. DAY: May we have the same record?

TRIAL EXAMINER LINDSAY: The same record, and the same ruling.

BY MR. LAUTER:

Q. What is your answer?

A. They came over to the boiler house one night sometime between 12 o'clock and 1 o'clock in the morning. There were in the neighborhood of twelve or fifteen of them. They came over and came in down at the boiler house, and Allen acted as spokesman. At the time they came in he said, "I suppose you know who we are and what we are here for." I said, "I have got a good idea as to who you are and what you want. As I understand it, you are a bunch of has been company representatives."

And he said, "Yes, we are over here to talk to you." By that time a man who I later learned was Geltz said, "We came over here to talk to you, but we are not going to mince words with you." I said, "That suits me fine. I don't want you to mince words. What is it you want?"

He said, "I want you to understand that strike or no strike we are going to work." I said, "If you are going to do that it was hardly worth while to come over here to talk to me." He said, "We came over to ask you to call your dogs off." I said, "I have put no goods out and I am not calling them off."

He said, "This idea of five or six hundred men trying to keep three or four thousand men out of work is not right." I said, "I will have you to understand right now that there is no one in Canton Tin Plate figuring on calling four or five thousand men out of work. And, to tell you the truth of the matter, I don't know whether there is going to be a strike, but if there would be one it is not going to be called upon the Canton Tin Plate."

Q. Mr. Downard, what is your position with the All Nations Lodge?

A. I am the president.

Q. You testified before that Tebay expected to get $100?

A. That is exactly his statement in the Blue Moon.

Q. Did he say from whom he would receive it?

A. He said from the company.

Q. You said Tebay was getting 16 hours for every 8 hours?

A. That is exactly what he told us in the Blue Moon.

Q. Did he say what he was getting it for?

A. For forming this new union.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. What is your position with the lodge?

A. I am the president.

Q. What is the name of the lodge?

A. All Nations Lodge No. 1200.

Q. How long have you been president?

A. Since about the 1st of February, 1937.

Q. When was the lodge organized?

A. About the 1st of February, 1937.

Q. Who are the other officers of the lodge?

A. Mr. Beckner is the vice-president; John Johns, financial secretary; S. I. Smith, recording secretary; Kenneth Poorman, outer guard; Ross Mangus, inner guard.

Q. And that is the lodge of what union organization?

A. The lodge of the C. I. O.

Q. Is that a lodge of the C. I. O. or the Committee for Industrial Organization?

A. Yes, sir.

Q. How long have you been affiliated with the C. I. O.?

A. I beg your pardon?

Q. How long have you been affiliated with the C. I. O.?

A. This All Nations Lodge?

Q. I say, how long have you been connected or affiliated with the C. I. O.?

A. Ever since the C. I. O. started, so far as that would go, since the C. I. O. became an organization.

Q. When did the C. I. O. start?

A. Start to become an organization?

Q. Yes, in this part of the country, in Canton or Massillon or around in this district?

A. Along about July, 1936.

Q. Who first interested you in this New Deal lodge?

A. Well, about the first man that I came into contact with was Mr. Price.

Q. Who is he?

A. He was an organizer.

Q. Where is his home?

A. In Portsmouth, I believe.

Q. Who else?

A. Mr. Porter.

Q. He is also from Portsmouth?

A. Yes, sir.

Q. Is there any connection between your lodge and the Steel Workers Organizing Committee?

A. Yes, sir.

Q. What is that connection?

A. It is the S. W. O. C. That is the Steel Workers Organizing Committee, or the C. I. O. They are practically about the same time, except that the S. W. O. C. is the Steel Organizing Committee.

Q. Is your lodge a lodge of the Amalgamated Association of Steel and Tin Plate Workers of North America?

A. Yes.

Q. You said it was also a lodge of the C. I. O. What did you mean by that?

A. It is the C. I. O. They went under that name.

Q. What do you understand the C. I. O. is?

A. Committee on Industrial Organization.

Q. What is it the way you understand it?

A. Why, it is an organization, a labor organization.

Q. What kind of a labor organization? Just tell the Examiner what is your idea or conception of the Committee for Industrial Organization, commonly known as the C. I. O.? You say it is a labor organization. What kind of a labor organization do you understand it to be?

A. It is a labor organization, the best labor organization that was ever gotten out.

Q. All right. Do you know anything else about it besides that?

A. Well, I would not care if I didn't know anything more about it than that.

Q. Whether you care or not, Mr. Downard, will you please tell me if you know anything more about it, as to the nature or the character of the organization? Will you please tell us that?

A. Certainly there is a lot to it.

Q. Tell us something.

A. It gives a man the right to organize, to belong to an organization.

Q. How many men belong to the C. I. O., as such, in this district here?

A. Do you mean here in Canton?

Q. Yes.

A. You mean just the Republic Steel?

Q. Well, I will say the Republic Steel, yes.

A. Around 4,000.

Q. You think they all belong to the C. I. O.?

A. I do.

Q. You think that your organization is part of the C. I. O.; is that right?

A. Certainly I think it is the C. I. O.

Q. Do you think the C. I. O. is a general labor organization itself?

A. I certainly do.

Q. With all these members belonging to it; is that right?

A. Yes, sir. It doesn't make any difference whether they belong or whether they do not; if you sign a card you join the C. I. O.

Q. And that is your notion today?

A. What is that?

Q. That is all you know about it?

A. What more is there to know?

Q. You have told us all you know about it, haven't you?

A. I have told you it was the greatest organization that was ever gotten together.

Q. I know you have told us that. But you have told us all you know about the nature of the organization and the set-up of the Committee for Industrial Organization, commonly known as the C. I. O., haven't you? If you have not, do you know anything more about the structure or nature of it? If you do, will you tell us?

A. I think I made it very clear as to what I have told you.

Q. You have been very active in the strike, haven't you?

A. I have been.

Q. Where is Bandie's Hall?

A. 1208 Beldon Avenue, Northeast.

Q. What is Bandie's Hall?

A. Just a hall, the headquarters.

Q. The headquarters of what?

A. Of the C. I. O., the strike headquarters.

Q. And the men have been taken down there and beaten, haven't they?

A. Not that I know of.

Q. Did you hear of that? Did you ever hear they had been?

A. I heard of it but I never saw any of it.

Q. About how many times did you hear, since the strike began, that men have been taken to Bandie's Hall and beaten?

A. I have heard of it.

Q. About how many times, approximately, have you heard of it, is my question.

A. I don't know. I will say several times. But I never saw any of it.

Q. Did you ever investigate to find out whether or not men had been taken down there and beaten?

A. I did not.

Q. You heard about it after the strike had begun, did you?

A. Yes.

Q. And you were the president of the New Deal lodge, weren't you?

A. I was president of the All Nations Lodge.

Q. Then I have that mixed up.

Was Bandie's Hall the headquarters of the All Nations Lodge, too?

A. It was the headquarters and the only headquarters of the All Nations Lodge.

Q. After you had heard that men had been taken down to Bandie's Hall, the headquarters of the All Nations Lodge, and beaten up, you, as president of the lodge, did not make any investigation to find out whether or not that was true?

A. I am telling you that if you had heard as many things in the last 3 months as I have, you would not bother about many things you hear about.

Q. You didn't think that was worth bothering about?

A. That was because—

Q. Answer the question and then explain, please.

A. Because no man came to me directly and told me anything about it.

Q. Nobody of your own crowd came directly to you? Is that what you mean?

A. That is exactly what I mean.

Q. Then it is your position that as president of this lodge that you would not investigate to find out whether or not men had been taken down there and beaten unless some of your own men came directly to you and told you?

A. Certainly, because before I started to investigate anything I would want to know if there is anything to it.

Q. You want your own men to tell you about it?

A. Yes.

Q. Men have been kidnapped and taken down to Bandie's Hall?

A. Not that I know of.

Q. You have heard of it, haven't you?

A. Yes.

Q. How many times have you heard of that? How many times have you heard men have been kidnapped and taken down to Bandie's Hall?

A. I have heard rumors of it.

Q. How many times have you heard rumors of it?

A. Maybe three or four or a half dozen times I have heard it.

Q. Three or four or a half dozen times?

A. Yes.

Q. You were president of the lodge all of the time?

A. Yes.

Q. Did you investigate that?

A. No.

Q. Why not?

A. Because I didn't suppose there was anything to investigate about it.

Q. Do you mean to say that while this strike was going on, and you were president of this lodge, if somebody told you men had been kidnapped and taken down to that headquarters there wasn't anything for you to investigate? Is that right?

A. No, because it was always a bunch of sympathizers around there to pull something like that, and not our men. I was interested in our own men. There was none of our own men did anything like that.

Q. Were you interested enough in your own men to find out whether or not they had ever done any such thing?

A. If they asked me to go see about it, I would have gone and looked.

Q. You mean if the men who were accused of kidnapping a man told you, then you would have investigated it?

A. I would have went to see about it.

Q. Do you mean to say that if the men who did the beating had come to you and told you they had taken men in and beat men, you would investigate?

A. Nobody came and told me they beat anybody up.

Q. You would not investigate until they did?

A. I will have to be sure, yes.

Q. Was that the way to make you sure, to have your men themselves tell you about it?

A. I would want to know for sure before I would go and investigate something I didn't know anything about.

Q. In order to be sure did you want the men involved, or accused of it, to tell you about it?

A. No one ever came and asked me to do any investigating.

Q. All right.

Now, did you ever know a man by the name of Betz?

A. Yes.

Q. Did you attend the meeting, or the hearing, against the Amalgamated Association?

A. Some of it I did.

Q. The injunction case?

A. Some of it I did.

Q. Tried in this courthouse?

A. Yes.

Q. I don't know whether it was in this courtroom or not, but it was in one of these rooms?

A. Yes, in some of them.

Q. Before Judge Graham?

A. Yes.

Q. Did you testify, yourself?

A. A little bit.

Q. Were you one of the defendants?

A. Yes, sir.

Q. I will ask you if it is not a fact that on or about the 18th of June, 1937—that is, of this year—you yourself was present at Bandie's Hall when a man named Milton J. Betz was brought there in an automobile?

A. He was down there on one occasion, I know.

Q. Was he brought there to the hall in an automobile when you were there?

A. I don't know how he was brought there. I saw him there.

Q. Were you there when he came in?

A. I was not.

Q. Were you there while he was there?

A. I was there a short time.

Q. Was Mr. Beckner there?

A. I couldn't tell you whether he was or not.

Q. Was Johnny Johns there?

A. I don't know.

Q. Was Freddie Grouer there?

A. I couldn't answer that.

Q. Do you know him?

A. Yes.

Q. Who was he?

A. An employe of Republic Steel.

Q. And a member of your organization?

A. Yes, sir.

Q. I will ask you whether or not it is a fact that on or about the 18th of June this man Betz was forcibly kidnapped, put into an automobile and taken to Bandie's Hall, and whether you were not there at the time he was brought in?

A. I was not there at the time that he was brought in.

Q. And isn't it a fact in your presence somebody said to Betz, "I see you are back for more. We are going to fix you this time."

A. I heard no such statement.

Q. Will you swear nobody said it in your presence?

A. I absolutely will.

Q. Then didn't you, Downard, accuse Betz of being a stool pigeon for Sam Davey?

A. I did at one time, but I don't remember whether at that particular time or not.

Q. How many times was Betz brought down to Bandie's Hall?

A. I don't know.

Q. Was it more than once?

A. He came down there one day to join the organization.

Q. Was that before this time I am asking you about, or after?

A. That was before that time that you are speaking there now, I guess.

Q. I understood you to say a little while ago you were not sure what time it was.

A. I said he was down there but I do not remember exactly when it was.

Q. This instance I am asking you about occurred on the 18th of June, 1937. That was last June 18th. And didn't you at that time accuse Betz of being a stool pigeon for Sam Davey?

A. I made that statement but I do not remember when it was. He was down there one day to join the union and he came in there, and I said, "You are nothing but a stool pigeon for Sam Davey."

Q. Now you say you remember making that statement, but you don't remember when it was?

A. I do not.

Q. Then, if you don't remember when it was might you have made that statement on June 18, 1937?

A. I don't know. I remember making that statement, all right.

Q. But you will not say when you made it?

A. I will not because I may not have there.

Q. And you will not say that you did not make it on June 18th, will you?

A. I will not say when I made it, but I made that statement.

Q. Did the police come in the time Betz was taken to Bandie's Hall on June 18th?

A. If they did I didn't see them.

Q. Do you know a man named McGaughey?

A. I do not.

Q. Do you remember the time you were down at Bandie's Hall and Betz was there and that there was a man in there who was stripped to the waist?

A. I didn't see it.

Q. And that the men in Bandie's Hall were putting signs on him?

A. I didn't see it.

Q. And they were going to make him walk the streets partly stripped, with the sign on him saying, "scab," or something of the kind?

A. I didn't see it.

Q. Was Johnny Johns, the secretary of your lodge, there the day they brought Betz down?

A. I don't know.

TRIAL EXAMINER LINDSAY: Just a moment, please. May I see the complaint and answer.

MR. LAUTER: Here it is, Your Honor.

BY MR. DAY:

Q. Will you answer the question, please? Was Johnny Johns, the secretary of your lodge, there the day they brought Betz down?

A. I don't know.

Q. Do you know a man named Dan Allen?

A. Yes.

TRIAL EXAMINER LINDSAY: I understand, Mr. Day, that these men named are employes of the Republic Steel?

MR. DAY: I am advised that they are.

BY MR. DAY:

Q. Dan Allen was taken down to Bandie's Hall, wasn't he?

MR. LAUTER: If the Examiner please, I want to object upon the ground it is incompetent, irrelevant, and immaterial, and on the further ground that it is outside of the scope of the cross-examination. None of the material Counsel for the Company is now going into was brought out on direct examination. I believe he is going too far afield with respect to this witness, considering the questions he is now asking.

MR. DAY: This man is the head of one of the lodges here. He testified generally, I think, to his willingness to obey the law, and so on. I think it is clearly proper cross-examination under court rules, and I think it would be proper cross-examination anywhere.

TRIAL EXAMINER LINDSAY: Yes, I think you have a right to cross-examine a witness.

MR. LAUTER: Do I understand, Mr. Examiner, that your ruling is that Counsel for the Company may proceed along this line of inquiry?

TRIAL EXAMINER LINDSAY: Well, for the time being.

MR. LAUTER: I want to note my objection on the record. May I have an exception?

TRIAL EXAMINER LINDSAY: Yes.

(Exception noted for board.)

BY MR. DAY:

Q. Dan Allen was taken down there and beaten up, wasn't he?

A. Not to my knowledge he wasn't beaten up.

Q. When Betz was brought in was he taken down to the basement?

A. I don't know. I stated I saw Betz down there on one occasion.

Q. Was he in the basement when you saw him?

A. He was downstairs talking there.

Q. Downstairs?

A. Yes.

Q. Let's get that a little more definitely defined. How many floors has Bandie's Hall?

A. Well, there are one, two.

Q. Is there a basement?

A. There is a downstairs there.

Q. Is your downstairs there on the ground level or below the ground level?

A. It is below the ground level.

Q. You know what a basement is, don't you?

A. Yes, I know what a basement is.

Q. Isn't the ground floor what you and I ordinarily would understand to be a basement?

A. It might be.

Q. Wouldn't you call it a basement?

A. I will call it a basement out there; yes.

Q. That is where Betz was?

A. Betz was out there on one occasion, because I saw him there and I was talking to him. He wanted to join the union.

Q. Did you ever see Allen in the basement?

A. I did not.

Q. How many rooms are there in the basement there?

A. Three.

Q. Was there a room there known as the torture chamber?

A. If there was I never saw it.

Q. Was there a room used to take the men into and beat them up?

MR. LAUTER: If the Examiner please, I want to renew my objection. I think it is entirely outside of the scope of the examination and highly improper.

TRIAL EXAMINER LINDSAY: I think the last two questions go a little too far.

MR. LAUTER: I move the answer be stricken.

MR. DAY: Do you mean about the torture chamber?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: That will be stricken from the record.

BY MR. DAY:

Q. On the night of June 18th you say you did not see the police come there?

A. I did not. They may have been around there.

Q. Did you hear afterwards that they had been there?

A. Yes, I heard them say the police were down there. But they were there every day.

Q. Did you hear afterwards that the police took quite a number of men out of Bandie's Hall that had been taken in there by your men? Did you hear that?

A. No, I don't know that I did.

Q. You don't know that you did? But will you swear you did not hear it?

A. I have heard a lot of things but I don't know whether I heard it on that particular June 18th, or not.

Q. My question is now whether you will swear you did not hear on the night of June 18th, the night I am talking about, the police came down there and took out quite a number of men that had been taken down there by your lodge men to Bandie's Hall?

A. I heard such stuff here, or such statements on this stand, yes, when this injunction case was on.

Q. Didn't you hear it before that?

A. No.

Q. Are you sure?

A. I don't think I heard it.

Q. You say you don't think you heard it?

A. The police, so far as that goes, were down there every day.

Q. Never mind about that. You say now you don't think you heard of it. Will you swear you did not hear it?

A. I did not hear it. I did not see it.

Q. I am not asking you what you saw, I am asking you now whether you will swear on that witness stand that you did not hear that along about the time I am talking about, June 18, 1937, the police came down to Bandie's Hall and took out a considerable number of men who had been taken down there by your lodge men, or C. I. O. men. Now, did you hear it or didn't you?

A. I heard it here on this stand.

Q. Did you hear it before?

A. I don't believe I heard it before. I don't remember whether I heard it before, or not.

Q. That is as far as you will go—you don't remember; is that right?

A. Yes, sir.

Q. This was only about two months ago, wasn't it?

A. I have heard a lot of things in two months.

Q. And you have forgotten a lot of things in two months, too?

A. Yes, and there is a lot I wanted to forget, so far as that goes.

MR. LAUTER: I will ask that the remark be stricken from the record. I think Counsel for the Company will consent to that.

MR. DAY: I think sometimes in trying cases those remarks are made.

BY MR. DAY:

Q. I would like to ask you now about your talk with Jim Doyle.

A. Yes, sir.

Q. That was back in January, 1937?

A. Yes, sir.

Q. Before your lodge was organized?

A. Before the lodge was organized.

Q. Then, were you active in this work, before the lodge was organized?

A. I was.

Q. Did Jim Doyle work at Republic?

A. Yes, sir.

Q. What was his job, do you know?

A. He was chief electrician, and later he was made master mechanic in the Tin Plate Division.

Q. In the Tin Plate Division?

A. Yes, sir.

Q. You testified a little bit about a man named Tebay.

A. Yes.

Q. Who was Tebay?

A. Tebay is an employee at Republic Steel.

Q. In what capacity?

A. Well, I don't know what his job is.

Q. And your talks were with him back in January, and February, or later than that?

A. No—my talks with him was around the first of May.

Q. And you were working at Republic Steel, and you did not know what his job is?

A. That is right.

Q. Gene Thomas was what?

A. The superintendent of the Canton Tin Plate.

Q. About what date did you talk to Gene Thomas?

A. Well, it would be some place around the 26th or 27th of January.

Q. And where did you talk to him?

A. In the boiler house.

Q. And at what time?

A. It was in the afternoon, possibly between one or two o'clock.

Q. Was there anybody else there?

A. There was not.

Q. Just you and Thomas?

A. Yes, sir.

Q. Since the strike started, did you ever go over with a body of men, or accompany a body of men to Youngstown, Mahoning County, Ohio?

A. I did not. I have been to Youngstown two or three times, but I never went over there with a group of men.

Q. You were never involved in that group of men who went over to Youngstown?

A. I was not.

MR. DAY: I think that is all.

MR. LAUTER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will have a short recess now.

(There was a short recess taken).

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. HUNT: Mr. Martin J. Beckner.

MARTIN J. BECKNER a witness called for and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HUNT:

Q. Please state your name.

A. Martin J. Beckner.

Q. Where do you live?

A. 1549 Harrisburg Road, Northeast.

Q. Were you an employe of the Republic Steel Corporation at the time the strike was called on May 26th?

A. I was.

Q. When did you first join the Republic Steel Corporation?

A. In August, 1925.

Q. How long did you work with the organization?

A. I worked with Republic Steel until 1931, when I left, and was reemployed by Republic Steel in 1933, and then I was discharged in 1935, because I belonged to the Union, and that was out on strike.

Q. In what division did you work in the Republic Steel, from 1925 to 1931?

A. In the Stark Division.

Q. And from 1931 to 1933 what was your job?

A. I was out of there, and taking pictures, working for myself at that time.

Q. From 1933 to 1935 what did you do?

A. I worked in the Stark Division as a heater helper.

Q. Why were you discharged in 1935?

A. For belonging to the union that was out on strike.

Q. Will you please state the circumstances connected with your discharge?

A. On the day of the strike I went to work and worked about one and one-half hours until they got another man to work on my work—the work was hard and they could not get every man to do it. And I worked about an hour and a half and Mr. Russ Horne told me to stop in his office on the way out, and I did, and he told me he did not want union workers there, that we were trouble workers, and that I would have to leave, and I did leave and never went back.

Q. What union was that that you belonged to?

A. The Amalgamated Association of Iron and Tin Workers of North America.

Q. Were you employed by the Association when an election was held for company employe representatives in 1933?

A. I was.

Q. Did you vote at that election?

A. I voted by force, yes.

Q. In 1933?

A. I voted in 1933 willingly.

Q. Did you vote in the 1934 election?

A. I was forced to vote in that election.

Q. Will you please explain what you mean by that?

A. The day of the election I had not gone down to the polls to vote, and the booths closed about 4 o'clock, and Mr. Russ Horne came over to me, in the division where I was working, and told me I had to go to vote, that I had not been checked on. And I told him I did not want to vote, and he called in Mr. Bill Dickerson and told him that I had to go up to vote, and for him to take my place. And I went out and went into the voting booth and picked up the ballot which they gave me, and dropped it into the box but I did not mark it.

The next day, about a week later, Mr. Horne took me into the office and asked me if I had been forced to vote or coerced in any way, and he told me to go back to the mill, that some of them were making statements that they had been compelled to vote.

MR. DAY: What was that last?

THE WITNESS: Some of them were making statements that they had been compelled to vote.

BY MR. HUNT:

Q. What was his statement?

A. I was told—

MR. DAY: I would like to ask a question about this conversation:

Did it take place in 1934?

THE WITNESS: Yes.

MR. DAY: Then, I object to it, Your Honor; it is outside of anything in the complaint.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. DAY: On the same general grounds?

TRIAL EXAMINER LINDSAY: Yes.

(Exception noted for respondent.)

BY MR. HUNT:

Q. You say you were employed by the Canton Tin Plate Division?

A. Yes, sir; on January 1, 1936.

Q. How did you become employed at that time?

A. Mr. Jim Davey told me at one time that if I ever wanted a job in the Canton Tin Plate to let him know; and so I called him up and he said to come on over. And I went over there, and I was sent to see Mr. Gene Thomas. And he said to me, "Now, we know about your record with the Republic Steel, and we don't want you to try any organization work here."

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you become a member?

A. I signed a card, first, in September, 1936, and I found out that that card was lost, and I signed another card on December 14, 1936.

Q. Are you an officer in the local lodge?

A. Yes, sir.

Q. What is your position?

A. Vice-president of All Nations Lodge, No. 1200.

Q. Did you try to organize the mill as soon as you joined the C. I. O.?

A. Yes, sir.

Q. And you have been very active throughout?

A. Yes, sir.

Q. Why did you join the C. I. O. when you promised Mr. Thomas that you would not?

A. I promised Mr. Thomas that I would not organize the Canton Tin Plate, because it was always understood that the Davey brothers treated their employes fairly, but when Republic Steel tied—when they had a Plan, I knew it was necessary to have an organization in there, to protect the workers; and so I tried to organize.

Q. You mean that the Republic Steel was not fair to its employes?

A. I knew the Republic Steel was not fair.

Q. Were you successful in organizing the men in your mill?

A. Yes, sir.

Q. Suppose you tell us some of the times when you tried to organize?

A. In January, the first week, a group of us went over to Republic Steel to the Berger gates, Beldon Avenue, Northeast, in Canton, and tried to sign up men in that division. We were successful in signing up quite a few.

We went back, and I was working in the floating crew.

We were successful in signing up 100 percent of that division. Word got around about that, and Mr. Gene Thomas came and told us that he was taking the floating crew off because the men were complaining. And he said, "I want you fellows to know that it is not because you men are so well organized." And some of the men were put in different places, and the rest were put on floating, regardless of our seniority in the mill. And that meant that we would get a one-half rate, when the others were getting the full rate.

Q. Did you ever try to post bills there?

A. Yes, sir.

Q. When?

A. In February I was putting out bills at the Canton Tin Plate, and Gene Thomas came back and asked me if it was not pretty cold to be out there putting out bills and wasting my time, and I said that it was pretty cold but I was not wasting my time. And so I went on in.

Q. Did you have any further talk with him about this?

A. Yes, sir.

Q. When?

A. The next day, right at the Republic Steel gates, at No. 7 mill, I was putting out bills, and Mr. Gene Thomas came along and said, "Why are you not working?" And I said, "Why?" and he said he wanted to have a talk with me. And he said, "Beckner, you do not seem to be the same sort of fellow, the kind of fellow that would be messing around with a bunch of radicals." And I told him that I did not realize that I was a radical, and he said, "Don't you realize that the Republic Steel will be closed down and won't operate any more, that Republic Steel will be shut down and when you come back to work a lot of these older men will be let go when they go back to work. The Republic Steel won't keep those men on."

And I told him that I felt that that was the main reason for us to organize, that the Republic Steel was there, and we had no contract to go by. He said it was the policy of the Davey Brothers to take care of their people. But he said, "I do not believe they will be able to take care of these older men if the plant is shut down."

Q. Did you feel that you were personally discriminated against because of your activities?

MR. DAY: I object to that.

MR. HUNT: I will withdraw that question.

MR. DAY: All right.

BY MR. HUNT:

Q. Were you ever demoted, or given a job that did not pay as well as the one you had, while you were working in the tin plate?

A. Yes, sir.

Q. Will you tell us the time or times that that occurred?

A. Yes, sir. The first time I was on a floating crew, on a job that did not pay half as much.

Another time I was [on] another job, and worked two days, and it was a fairly good job, and one day the roller did join the union and the next day I was taken off and put on another job in the mill, known to be the poorest job in the crew. They were all older men.

I worked in that mill a little over a week, and by that time nearly everybody had joined the union. The next day Mr. Thomas came down and said that the floating crew was operating, but it would be impossible for him to put me on again because there were two men there who did not belong to the union.

Q. And all these shifts resulted in loss of pay, and all because you were trying to organize?

A. Yes, sir; in fact, they sent me home while I was still floating, and told me to come back, and that the mill would be shut down for a week.

Q. Were you ever told to stay away from any organizers of the C. I. O. men?

A. After I had been over at the Berger gates, and had come to work, I was talking to the heater of No. 7, I think, and Mr. Gene Thomas came up and said, "Beckner, I want you to quit talking to the men about the union. I want you to go down to your job, and stay there, and not talk to the men."

Q. Who told you that?

A. Mr. Gene Thomas.

Q. Who is he?

A. He is the superintendent of the Canton Tin Plate.

Q. Did you attend a meeting of the lodge, at Massillon, on May 11th?

A. Yes, sir.

Q. Describe what happened at that meeting?

A. Mr. Nick Haley got up and told what a wonderful job the representatives were doing, or the men, and about the raise they had got, and how the Republic Steel had granted on, and lots of other things, and I got tired of hearing it, and I finally went up on the stand and said that I would like to say a few words, myself.

TRIAL EXAMINER LINDSAY: Off the record.

(There was a discussion off the record.)

BY MR. HUNT:

Q. You had reached the point in your testimony of saying that you went up on to the platform at this Massillon meeting, and then what occurred?

A. I said that I would like to say a few words, myself.

Q. And then what happened?

A. Joe Morton spoke and told us to sit down, and that we would not be allowed to speak, and I refused to leave the platform until I had been allowed to say what I thought about this meeting. They finally gave me a chance.

MR. DAY: What was the date of that meeting?

THE WITNESS: May 11th.

TRIAL EXAMINER LINDSAY: 1937?

THE WITNESS: Yes, sir.

BY MR. HUNT:

Q. Go ahead.

A. I told them that I felt that any time the company felt that it was worth paying a bunch of men to go to the meeting to be organized, there was a nigger in the wood pile somewhere, and it was time for the organization to wake up, and it was time for them to belong to a real organization that was really doing things.

The men listened, and I understand they did not get any members in that meeting that night, although they had passed the cards around.

Q. For what?

A. For the Employes' Representative Association.

Q. Then, what happened?

A. I left the meeting before it was completely over, because I did not care to hear any more of it.

Q. Did you attend, or attempt to attend, a meeting here in Canton, thereafter?

A. Yes, sir; on May 23d, a meeting was called by Republic Steel, Canton, Ohio, for the purpose of setting up an Association. A number of the members of the Alloy Steel were present, the president of our local—that is, myself, and then Mr. Frank Chuckle, the head of the shipping department, drove up on the outside, and Mr. Richards sent in to us and told us to come on down, that he was going down to his department.

Q. You say this meeting was called—how was it?

A. Notice was put on the bulletin board, by the representatives, or foremen, and all were supposed to attend the meeting.

Q. Did you see that notice?

A. No, sir.

Q. Then you heard by word of mouth?

A. Yes.

Q. Then you left the main office?

A. We started to go down to the plant, with the rest of the men, and four policemen came down there and they were lined up, across the entrance, to stop us.

Q. Where was this meeting?

A. In the Republic Steel, the Alloy Division, at Eighth Street.

Q. Where were these policemen lined up?

A. Across the entrance gate.

Q. Were they Canton policemen?

A. They were Republic Steel policemen.

Q. And they were lined up across the entrance to the building?

A. Yes, sir.

Q. And this company representative was who?

A. Mr. Snarley.

Q. And he was standing there?

A. Yes.

Q. What happened?

A. Mr. Snarley would not allow us to go through.

Q. Did he give you any reason?

A. He did not; he picked out the men he would let in, but he would not let Mr. Downard or myself into that meeting.

Q. Were the four company policemen armed?

A. Yes, sir.

Q. Were you in the mill on May 5, 1937?

A. Yes, sir.

Q. Which mill?

A. The Canton Tin Plate.

Q. What did you observe that day?

A. Notice was put on the bulletin board that the mill would be shut down until further notice, and that later in the week we should call Mr. Thomas and find out when they were to resume operations.

Q. Did you call up later?

A. Yes, sir; on Saturday morning.

Q. What did he say?

A. I asked him when the mill would start up, and he told me he did not believe the mills would start up until we got rid of that union.

Q. Did he say anything more?

A. Not at that time.

Q. And did the Canton Tin Plate start up?

A. Yes, on May 25, 1937.

Q. Did you have any talk with anybody as to how long the mills would continue?

A. Mr. Gene Thomas came to me and said, "It looks like the Tin Plate had made a mistake,—the rest of the mill is going to resume, but I do not think the Tin Plate will ever resume again." And he felt that it was all the fault of the men organizing, because we had 90 percent of the organization of the Tin Plate at that time.

Q. Do you know a Mr. William Tebay?

A. Yes, sir.

Q. Did you have a conversation with him at the Blue Moon Cafe?

A. Yes, sir; I had three conversations with him.

Q. Tell us, please, what they were—when was the first one?

A. We met him, one evening, in the Blue Moon Cafe, and with him was a man by the name of Dick Fontaine.

Q. When was that?

A. In the early part of May, about the 4th.

MR. DAY: May we have the same record on that?

TRIAL EXAMINER LINDSAY: Yes, and let the record show an exception.

(Exception noted for Respondent)

BY MR. HUNT:

Q. And what occurred?

A. Mr. Tebay was telling me what a wonderful organization it was, and he finally went into details and I said it would be better if I had more witnesses here. And I called Mr. Downard, Mike Sweany, and his brother, and one or two others, and asked them to meet me in the Blue Moon Cafe, the next night. And so they joined me there, the next night, and Mr. Tebay joined us.

MR. DAY (interposing): Your Honor, may we have the same record?

TRIAL EXAMINER LINDSAY: Yes, your objection is overruled, and the record will show an exception.

(Exception noted for Respondent.)

BY MR. HUNT:

Q. Go on.

A. And I asked Mr. Tebay how he was doing, and he said, "We are doing pretty good." And I told them it did not make any difference whether they joined the other union, or not. And then he told me—I said, "You are not doing this on your own time." And he said, "No, I am getting paid 16 hours for 8 hours' work." And I said, "You do not work, and do that, both?" And he said, "No, there is another fellow on my job, and, besides, there will be another $100 for me when they hold another plant election."

And he said, "I don't want you to do anything more about it to spoil it, because I am going to sell the company a radio, and an electric refrigerator, and also an automobile, to get money to finance this new organization."

And I asked him if he could sell enough tickets, and he said, "Oh, yes, and if we cannot sell enough tickets the foreman will sell them for us." And then, later on, I called Mr. Tebay from the Steel Workers' office on Walnut Street, and he said—

MR. DAY: May we have the same record, Your Honor?

TRIAL EXAMINER LINDSAY: Yes, the record

will show that your objection is overruled, and an exception noted.

(Exception noted for Respondent)

BY MR. HUNT:

Q. Go on.

A. And I asked him if he remembered the conversation we had at the Blue Moon Cafe, the conversation that he had with me, with respect to the Employes' Representative Association.

MR. DAY: May the record show at this time that we object to certain conversations between the Witness Downard and one Jim Doyle, and the Witness Downard and one Tebay, and also certain conversations between the Witness Beckner and one Tebay, on the ground there is no evidence to connect the Respondent with the conversations to show any authority on the part of either Tebay or Doyle to speak for the Respondents, and there is no evidence of any knowledge or authorization on the part of the Respondent. I understand our objection is overruled?

TRIAL EXAMINER LINDSAY: Yes, the objection is overruled. Let the record show an exception.

(Exception noted for Respondent.)

BY MR. HUNT:

Q. I think you were saying you telephoned Mr. Tebay shortly after this second conversation with him in the Blue Moon Cafe?

A. Yes.

Q. What did you say to him?

A. I asked if he remembered the conversation he had with me in the Blue Moon Cafe in which he told about the amount of money he was going to make in aiding in organizing the Employes' Association and the Plan election.

He said yes, he did. And he even repeated a part of it over the telephone.

Q. Do you know what Bandie's Hall is?

A. Yes.

Q. What is Bandie's Hall?

A. The upper part of Bandie's Hall is run as a saloon, run by John Bandie. The rear is a Hungarian meeting hall. The basement has a small hall and two small rooms and is used for meetings of different societies, Hungarian and Polish.

Q. Were you there on June 18th?

A. I certainly was.

Q. Did several policemen come to Bandie's Hall on that date?

A. Officer Jones and ~~Officer~~ Vernosky came to the hall that day, and I called Police Headquarters asking for him.

Q. You mean on June 18th you called the police yourself and asked them to come to the hall?

A. Yes, I did.

Q. Why did you ask them to come there?

A. A good many sympathizers of our strike, after T. K. Harris had set up a so-called Law and Order League, and Monk Stewart, at the Republic Steel, had started a back-to-work movement.

Q. You say at the instance of Republic Steel?

A. At the instance of Republic Steel Monk Stewart had started a back-to-work movement.

Q. You say at the instance of Republic Steel. What do you mean?

MR. DAY: I object.

MR. HUNT: I will withdraw the question.

BY MR. HUNT:

Q. Will you proceed, please.

A. They started a movement to go back to work, and these sympathizers found out where they were meeting to start back to work, and they went up there and were picking them up and bringing them into our headquarters.

In order to avoid injury to anybody I called the Police

Department and asked them to send the cruisers there and take these men out. I aided them in getting the people through the crowd.

There was Monk Stewart and a man by the name of Betz, a man with Betz, and another fellow, and a man named John Allen who that day after being brought down there by these sympathizers asked us to leave him join the union. We have a membership card showing he asked.

Q. In other words, Mr. Allen, Mr. Betz, and Monk Stewart were escorted in safety by the police out of the meeting at your headquarters?

A. Yes, sir.

Q. Were any of these men beaten up?

A. Some of them had been beaten up.

Q. When were they beaten up?

A. That I don't know.

Q. Were they beaten up while you were there?

A. No, sir.

Q. Had they been beaten up a short time before, or a long time before?

A. It was possible they were beaten up a short time before.

Q. Was Stewart beaten up?

A. No, sir.

Q. Did you see Mr. Allen?

A. Yes, sir.

Q. Had anything been done to Allen that you could observe?

A. No, sir. Allen and I were talking on the outside of the headquarters. He asked me if it would be possible for him to come down and join our union. He was sitting in a car at the rear of Bandie's Hall. And I told him we were taking everybody in to the union that wanted to join.

Q. Was he inside the building?

A. He went inside the building and signed a membership card and came back out.

Q. And the police escorted all of these men at your request?

A. Yes, sir; all excepting John Allen, who left by himself in his own car.

MR. HUNT: You may take the witness.

Cross Examination

BY MR. PONTIUS:

Q. You have been vice-president of this lodge since its organization, haven't you?

A. No, sir.

Q. How long have you been vice-president?

A. I believe I was elected vice-president in March after the man who had been vice-president resigned because he did not feel that he was able to do the job.

Q. Do I understand you to say that this man Tebay was a member of your lodge?

A. Yes.

Q. And the conversation you have related here to the Examiner was with this man Tebay?

A. Yes, sir.

Q. When did you begin to picket these plants?

A. To picket?

Q. Yes.

A. Do you mean since the strike?

Q. When did you begin to picket them?

A. We started to picket on the night of May 25, 1937.

Q. And you were one of the defendants in the injunction case [which] was tried in this room, weren't you?

A. Yes, sir.

Q. And a permanent order was made against what you were doing? Isn't that right?

A. A permanent injunction was granted.

Q. It was granted here; isn't that true?

A. Yes, it was granted.

TRIAL EXAMINER LINDSAY: That was a State Court injunction?

MR. PONTIUS: Yes, by the Common Pleas Judge of this Court, in this courtroom.

THE WITNESS: Yes, that is right.

BY MR. PONTIUS:

Q. And you were here?

A. Yes, sir.

Q. And you heard it?

A. Yes, sir.

Q. You remember the night of June 18th, don't you?

A. Yes.

Q. You were down to Bandie's Hall on that evening?

A. Yes.

Q. In charge of operations there?

A. No.

Q. Who was in charge there?

A. The man who was picket commander at different times during the day was in charge. I took the responsibility upon myself to call the police down there to that hall because I didn't want any trouble.

Q. You called the police?

A. Yes.

Q. What police did you talk to?

A. Officer Jones and I talked to the desk sergeant at Police Headquarters, or the clerk. The first two officers to arrive were Officers Jones and Vernosky, whose statements are in the same book that you have there.

Q. You say you called Police Headquarters and asked them to come down there?

A. Yes, sir.

Q. Whom did you talk to?

A. Whoever was at the desk at that time.

Q. What time of night did you call Police Headquarters?

A. I called Police Headquarters first in the afternoon.

Q. Why did you call them in the afternoon?

A. Because at that time the crowd had started to gather. There were some men there and I believe it was around 4:30 or 5 o'clock.

Q. Why did you call at that time?

A. There were some men brought into our headquarters by sympathizers and I called the police to come down and get them.

Q. Who was there?

A. The first I saw was Mr. Stewart. He was sitting on the outside. When I seen him and knew what kind of trouble maker he was, I thought it was time to call the police to take him out.

Q. You called the police?

A. Yes.

Q. About 4:30?

A. Yes. Just the exact time I don't know.

Q. Don't you know it was later than that that Stewart was taken down there?

A. I don't know the time. I wasn't watching the watch.

Q. When you saw Mr. Stewart there you called Police Headquarters?

A. Yes.

Q. Do you know Jerry Burchfield?

A. Yes.

Q. What connection has he with your organization?

A. He is a member of the Steel Workers Organizing Committee. He is a member of our lodge.

Q. Were any specific duties assigned to him on June 18th?

A. He was a picket.

Q. He was a picket?

A. Yes.

Q. Under the direction of the captain of pickets?

A. When his turn came to come on duty, yes. Before it was his turn to be on duty, no.

Q. Was he down there that night?

A. Not that I know of. There were about three to four thousand men around there at that time.

Q. You do know Dan Allen?

A. Yes.

Q. You saw Dan Allen down there?

A. I talked to him.

Q. And he came in voluntarily, did he?

A. He was there by himself and talked to me.

Q. He was practically unconscious when he was brought there, wasn't he?

A. He was not.

Q. He had been hit on the head with a club and was brought there?

A. No, sir; he had not been hit by anybody.

Q. He had not?

A. No.

Q. He voluntarily signed up a C. I. O. card?

A. Yes.

Q. Wasn't he stripped down there in your presence?

MR. HUNT: I object to that.

THE WITNESS: Mr. Hunt, I would like to answer that question, if you please.

MR. HUNT: Well, go ahead.

TRIAL EXAMINER LINDSAY: Let him answer.

THE WITNESS: Mr. Dan Allen was there. He seen a couple of cards there of the men that they signed with T. K. Harris rats on them. And he took off his shirt and hat and he had John Johns beside him when he did it.

BY MR. PONTIUS:

Q. Wasn't the man practically unconscious and you took off his shirt?

A. He was not. And a half dozen newspaper reporters were there who can prove that. There was a man from the Philadelphia "Inquirer" and two men from the Akron "Times-Press," Ed Heinkie and a man by the name of Ashcraft.

MR. HUNT: I object to the manner in which these questions are asked.

MR. PONTIUS: I am sorry.

THE WITNESS: There were some men there from the Cleveland "Press," or Cleveland "Plain Dealer," but I don't know their names.

TRIAL EXAMINER LINDSAY: Where is this injunction?

MR. DAY: At Washington we offered a certified copy of the permanent injunction against Smith, et al., against the Amalgamated. I think the plaintiff's name was Smith.

MR. HUNT: Does the record show the objection I just made to the manner of those questions?

TRIAL EXAMINER LINDSAY: Yes. And I believe the Judge apologized.

THE WITNESS: Mr. Allen asked the photographers to take that picture.

BY MR. PONTIUS:

Q. Have you finished your answer to that last question I asked?

A. Mr. Dan Allen asked these newspaper photographers to take the picture.

Q. Have you given the names of the photographers, all of them?

A. I don't know the names of the photographers, but I do know the names of two of the reporters who were there. One was Mr. Ashcraft and the other was Edward Heinkie, of the Akron "Times-Press."

Q. Was it daylight or dark at that time?

A. It was evening.

Q. Was it daylight or dark?

A. It was still daylight.

Q. It was not after night?

A. No.

Q. You are under indictment over in Youngstown for carrying concealed weapons?

MR. HUNT: I object to that as immaterial.

TRIAL EXAMINER LINDSAY: The objection is sustained.

BY MR. PONTIUS:

Q. You had been so active in this matter that you did go to Youngstown, didn't you?

A. I went over to Youngstown in the capacity of president of the Stark County Council of Industrial Unions to get news for a news bulletin we were going to get out. I called the sheriff of Stark County before leaving to find out if it was wise to go over there and if the roads were not blocked. I heard the National Guard were in there and they didn't want outsiders. He said it was all right. I talked to Sheriff Nist, of Stark County.

Q. And you were carrying a gun with you?

A. I did not carry a gun.

Q. On this night of June 18th you say some sympathizers brought some men down there?

A. Yes, sir.

Q. Who were those sympathizers?

A. People who worked in other plants in Canton. If I knew them all I would be glad to meet those fellows who brought them down there.

Q. Can you name any one of them?

A. No, sir.

Q. You would not tell us if you did know them, would you?

A. I don't think I would have to.

MR. HUNT: I object to that.

TRIAL EXAMINER LINDSAY: I will sustain the objection.

BY MR. PONTIUS:

Q. What part of this building were you in that night?

A. I was at several parts of the building and I was also outside.

Q. Were you in the basement of this building?

A. Sometimes.

Q. What were you doing outside?

A. I would go outside to get some air and look around and talk to the men on picket duty. I often go outside.

Q. Do you know Charles McGaughey?

A. No, sir.

Q. Did you see him down there that night?

A. If I seen him I wouldn't know him.

Q. Did you see anybody down in that basement that night who had all of his clothes stripped off of him?

A. No, sir.

Q. And stripped off at your orders?

A. That is a damn lie, and you know it.

Q. Do you know Phillip Schaurer?

A. No, sir.

Q. A fellow who had been a deputy sheriff?

A. I know of him. He lost his commission for his action that night.

Q. You tore off his badge that night, didn't you?

A. I did not.

Q. In that hall?

A. I did not.

Q. Did you see anybody tear it off?

A. I did not.

Q. How is that?

A. No, sir; I did not.

Q. This Milton Betz was in there, wasn't he?

A. Yes, sir.

Q. He had been in that hall before?

A. Yes, he had. He had signed up in the union in that hall. I signed him up.

Q. And he had been beaten up in that hall down there?

A. Not to my knowledge.

Q. You had heard about it?

A. I had heard talk about it afterwards, but I didn't know of it being done.

Q. Did you know who beat him up?

A. I didn't find out who beat him up, but I knew why he was beat up.

Q. You did not find out who beat him up?

A. No, sir.

Q. Was that some more of your sympathizers?

A. Whether it was a sympathizer or not, Betz had it coming to him because he slapped a woman's face and threw some cards at her.

Q. Were you down there one night when your men brought in a man and his wife, Mr. Clark?

A. Yes.

Q. They had been attacked and their machine broken up?

A. They had not been attacked and their machine broken up. And they signed a statement to that effect.

Q. You typed that statement?

A. No.

Q. Your wife typed that statement?

A. My wife does not typewrite.

Q. Who did typewrite that statement?

A. I don't know.

Q. They were kidnapped out on the highway?

A. Those people came in there because they asked to be brought to headquarters. And I can prove that.

MR. HUNT: Again I object to the manner in which these questions are being asked. This is a fact-finding body.

TRIAL EXAMINER LINDSAY: Yes.

And, Judge, I don't want the names of such as his wife brought in. If you want to come in with proof later on and show that, that is a different thing.

THE WITNESS: Your Honor, I would like my wife brought into this case. They threatened to blow up my home, this Republic Steel, and it was a man by the name of Brown from their employment office who did it.

BY MR. PONTIUS:

Q. What was that?

A. A man named Brown, from your employment office, called my home.

Q. What is his first name?

A. I don't know.

Q. Whom did he talk to?

A. First, to the people I was renting from, and then my wife.

MR. HUNT: I object. This is hearsay.

MR. PONTIUS: He volunteered that. It is hearsay all of the way through.

MR. HUNT: I will withdraw my objection.

BY MR. PONTIUS:

Q. You say Mr. Brown called your wife?

A. That is the name he gave to Mrs. Burg, the lady I was renting from at the time.

Q. Of course, you have not planned any blowing up of homes?

A. I have not.

Q. Or blowing up of any railroad tracks?

A. No, sir.

Q. Or furnishing any dynamite to any of these fellows?

A. I have not.

Q. Do you know of any man that was beaten up in Bandie's Hall on the night of June 18th?

A. I do not know of any man who was beaten up in Bandie's Hall on the night of June 18th.

Q. Do you know of any man who was beaten up and brought into that hall that night?

A. I know a man who had been hit and brought in. I don't know anybody who had been beaten up.

Q. Who was hit?

A. I don't know his name. He was this man Schaurer, as you called him. He had been hit.

Q. Do you know where he had been hit?

A. It looked to me like he had been hit around the face.

Q. Do you know where he was brought from?

A. No. Later I heard he was brought from Martindale Road.

Q. Do you know where these other men were brought from?

A. I heard Dan Allen say he had been out on Martindale Road.

Q. Did you know any others brought in there?

A. Some others claimed they had been brought there. I understood Monk Stewart took them out there to take them to work. They were all armed.

Q. How do you know that?

A. The police found guns on several of them.

Q. What police?

A. The Canton City police.

Q. What Canton City police?

A. Officers Jones and Vernosky and several others down there. But they were not turned in. They were not filed against because the Republic kept it from being done, like they do everything else in this town, like the murders in Massillon on the 11th day of May when my buddies were shot.

Q. Did your men have any clubs and assault anybody on the Meyersdale Road that night?

A. No, sir; they did not.

Q. How do you know that?

A. We did not allow any of our pickets to carry clubs, and they were not carrying them. If any of our pickets were out there they were not our men if they had clubs.

Q. If Dan Allen was assaulted and struck over the head with a club it was by somebody connected with the Republic, I suppose?

A. Dan Allen had not been struck over the head by a club when he came to our headquarters.

Q. How do you know that?

A. There was nothing wrong with him. He came in and asked if he could join the union and asked if the photographers could take the picture.

Q. Down at that hall while some of these other men were brought in there, and all of the sympathizers were there, I will ask you if you, yourself, did not say in their presence, "We are going to get Dan Allen tonight"?

A. I did not, because Dan Allen was already there. It wasn't necessary for me to say anything about Dan Allen.

Q. After the policemen had taken Stewart and these other men away from there, Dan Allen was brought into the hall?

A. No, Dan Allen was there. There was another police cruiser in front, and the cruisers were there when we were taking the pictures Dan Allen wanted taken.

Q. When Allen was brought there by these sympathizers—

TRIAL EXAMINER LINDSAY: Just a minute, please. I think the testimony shows that Dan Allen came there by himself.

MR. PONTIUS: Of course this is cross-examination. That was this man's statement.

TRIAL EXAMINER LINDSAY: But don't misquote the testimony on cross-examination.

BY MR. PONTIUS:

Q. I will ask you if that is a fact, if at your direction on that night the sympathizers who were with Dan Allen when he came to the hall were not told they they should not stop with him there until the police officers went, that they should drive on around and bring him back later?

A. When I see Dan Allen he was in his own car. There was no one in the car but himself. I talked to Dan Allen. There was nothing wrong with him. He asked to join the union and we left him. And he said because of the things he done he would like to have his picture taken with those signs on him. He took off his shirt and he asked the photographers to take them and they took it. And he left, and that was the last I seen of him.

Q. I will ask you if you did not hold Dan Allen—you, yourself—until 2 o'clock that night?

A. I did not. And no one else did. He left that place, and he left by his own free will by himself.

Q. What time of night was it when this man and wife were taken to Bandie's Hall?

A. I don't know. I didn't look at my watch or a clock. It wasn't a habit of mine to look at a watch or clock. I didn't have any.

Q. What is your best recollection on that?

A. I have no recollection of the time. All I remember is that I remember the man was sick and they got him some coffee and he went home. And I believe he lived on Harrisburg Road.

Q. And they came there voluntarily, did they?

A. Yes, sir.

Q. Did Stewart come there voluntarily that night?

A. I don't know. He was sitting on a bench by himself when I talked to him. I asked him what he was doing there, and I went and called the police to get him out.

Q. Was he attacked there in your presence at all?

A. No.

Q. Were his glasses taken away?

A. Yes, and they were given back to him.

Q. Who took his glasses away?

A. I don't know.

Q. Some of your sympathizers?

A. I don't know so I couldn't say.

Q. How do you know they were taken away from him?

A. Because they were handed to me to give back to him when he was in the police car, and they were handed back to him at that time.

Q. How did it happen that there were so many of your sympathizers, as you call them, up on Martindale Road on that night?

A. As I said before, the people in Canton who had any brains at all were up there to stop this so-called Law and Order League from causing trouble.

Q. That is hardly an answer to the question.

A. It is a truthful answer.

Q. How does it happen that there were so many of your sympathizers, as you call them, up on Martindale Road on that night?

A. That is how it happened, that they knew this so-called Law and Order League were trying to do things. And I myself went to the City Hall to ask them to try to stop them before they did it.

Q. That afternoon a great many people were at the Mayor's office?

A. A few people.

Q. How many were there?

A. From Massillon about a hundred, about seventy-five to eighty union men from Massillon were there because they thought they were starting a march on our people, and they were going to warn us. I went in the back door of the City Hall and into the Mayor's office. Mr. Stewart and several others were sitting there in a circle. I said this was a strike, and if they wanted to go to work why not wait until the Labor Board had a chance to come down and hold an election. Stewart said they were able to take care of things, that the Republic Steel was behind them.

Q. That is what somebody said?

A. Yes, right in the City Hall. And there were six or seven fellows with them.

Q. There is a great deal of feeling between you and the officers of the C. I. O., and these men who wanted to go back to work?

A. No. There is a great deal of pity.

Q. Pity for you?

A. No, pity for them, for their ignorance of taking away the only chance they ever had of getting a good living.

Q. They are not getting a good living now?

A. No.

Q. You have not answered the question as to how many sympathizers were on Martindale Road that night. Do you know how that happened?

A. They went there and they went there that night because they wanted to.

Q. On your orders?

A. No. They didn't need no orders.

Q. And they had clubs there?

A. Not that I know of.

Q. Did you hear about their having clubs there?

A. No.

Q. Did you hear about their meeting anybody there?

A. Yes.

Q. What did you hear?

A. I heard they met a great many stool pigeons of Republic Steel.

Q. Who were those stool pigeons?

A. Monk Stewart—

Q. And men who wanted to go to work?

A. No. And he always did ride on the fellows who worked with him.

Q. There is a good deal of feeling between you and Monk Stewart?

A. There isn't any man trying to ride on a bunch of men like he is.

Q. That is your idea?

A. That is not only my idea but it is the idea of a good many others.

Q. As vice-president of your union you had your meetings down in Bandie's Hall?

A. Yes, sir; we do.

Q. And you had meetings at which you advised these pickets what to do?

A. We had meetings where I told these men they ought to use their own judgment. They were not children any more. They didn't have to be told.

Q. You advised them what to do, then, didn't you?

A. No. Just to use their own judgment. They knew what to do.

Q. You say none of them had any clubs?

A. Some of our pickets had clubs around the picket line. Of course they did. They needed them as a matter of self-defense when they were shot at by a bunch of thugs inside the plant.

Q. And they had guns?

A. No.

Q. Revolvers?

A. They did not. Why don't you ask the police? Get your records there and you will see none of them were arrested for carrying concealed weapons on the picket line. You have the record there.

Q. Your organization today has revolvers and guns here in town?

A. Our organization today has not.

Q. You have them in one place in town?

A. We haven't them at any place in town.

Q. And you would give them to your pickets at night, didn't you?

A. We didn't give them to our pickets at any time.

Q. And you collected them again in the morning?

A. We don't do anything of the sort.

MR. HUNT: I object to this general line of inquiry. I don't see that it is especially relevant or material.

TRIAL EXAMINER LINDSAY: I think, Judge, you are going a little far afield on some of those things.

BY MR. PONTIUS:

Q. I just want to ask you one more question, Mr. Beckner, if I may: You recall the incidents of these men being picked up by the Canton City Police with dynamite in their car?

A. No.

Q. You don't recall anything about that?

A. I do not.

Q. You know nothing about that?

A. I do not.

MR. PONTIUS: That is all.

THE WITNESS: There is one thing I want to say before I leave the stand. I would like to bring that out. The Republic Steel policemen shot across the banks of East Creek at our pickets, and into a house in which people were sleeping across the road, and they shot at our pickets by the American Bridge Company Works from the Republic Steel property.

MR. HUNT: If the Examiner please, would this be a convenient place to recess for lunch?

TRIAL EXAMINER LINDSAY: We will recess at this time until 1:15.

(Thereupon, at 11:50 o'clock a. m., a recess was taken until 1:15 o'clock p. m. of the same day.)

AFTERNOON SESSION

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. HUNT: Mr. Examiner, I would like to have Mike Ugranovich take the stand, please.

MIKE UGRANOVICH

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HUNT:

Q. State your name.

A. Mike Ugranovich.

Q. Where do you live?

A. 1743 Superior Street, Northeast, Canton, Ohio.

Q. Now, you will have to speak up as loud as you can, so that we will all hear what you say.

When did you enter the employ of the Republic Steel Corporation?

A. In 1934.

Q. Did you go out on strike in 1935?

A. Yes, I do.

Q. Did you get your job back after the strike was over?

A. No, I was get fired at that time. They fired me off the job for about a month.

Q. Who fired you?

A. Mr. Hopkins.

Q. Who is he?

A. Superintendent of the grinding department and the shipping department.

Q. What is your position in the mill?

A. I am a grinder.

Q. You say you were fired for about a month?

A. Yes.

Q. Did he say anything to you when he fired you?

A. I went to the office and ask when I would go back to work and he give me a discharge paper, and he say to me: "You got job on the picket line, and I cannot use you any more."

MR. DAY: When was this?

MR. HUNT: 1935.

MR. DAY: We object to it because this man's name is not mentioned in the complaint as one who was improperly dismissed from employment.

TRIAL EXAMINER LINDSAY: That does not eliminate him from testifying.

MR. DAY: No, but this was in 1935.

TRIAL EXAMINER LINDSAY: I will overrule the objection and let the record proceed.

(Exception noted for Respondent.)

BY MR. HUNT:

Q. What did you do after that?

A. I was going on employment two or three times, and I went to the main office to see Mr. Baxter.

Q. Who is he?

A. He was superintendent all over on the mills.

Q. Yes?

A. I saw him about it and he asked me whether I was on the picket line, and I told him yes, I was, and he asked me: "How long have you been in this country?" And I told him, I said, "About 20 years." And he said, "Are you still crazy?" And I said, "I don't know if I am; I am on the picket line." And he said, "I will give you your job back if you do not do that any more."

Q. Was there anybody else there?

A. Mr. Hopkins and me and Mr. Baxter.

Q. What did he say about taking you back?

A. He told me I would have to stick with the company. He got me my job back when I promised not to go on the picket line.

Q. Did you attend any safety meetings in your plant or mill?

A. Yes.

Q. What were they about?

A. They have a little shaker, where they have wheels for grinding, and every once in a while sometimes once, and sometimes twice in a month they called a safety meeting about safety chutes and next thing vote for company union, with a petition to sign. If a man don't sign he don't last very long on the job.

TRIAL EXAMINER LINDSAY: What was that last; I did not hear it.

THE WITNESS: If a man don't sign he don't last very long on a job.

BY MR. HUNT:

Q. And who said that to you in the daytime?

A. Mr. Hopkins, in the daytime, and if it was at night the foreman.

Q. Do you remember anything Mr. Hopkins said?

A. He said, "Don't belong to the outside union; you got to stick with the company union." And he said: "If I find any more men outside, he cannot work for me."

Q. Will you please repeat that?

A. He said to us if he find any man belong to the outside union, he cannot work for him.

MR. DAY: Who said that?

MR. HUNT: I will ask him.

BY MR. HUNT:

Q. This was Superintendent Hopkins?

A. Yes.

Q. When—do you remember any particular time?

A. It was around December, 1936. He was in that meeting twice—almost two weeks.

Q. Were you ever asked to sign a petition while you were in that mill?

A. Yes.

Q. What was the petition about?

A. The petition was about some kind of a union inside, a company union, but I don't know all about it, but it was an inside union. That was in December. There was one of them right after the new year.

Q. Right after the new year?

A. Yes.

Q. In January?

A. Yes.

Q. What was that?

A. A petition to sign—was everybody satisfied.

Q. He asked you to sign that petition?

A. Hopkins come around, and passed out the petition, and asked us to sign it.

Q. Did he say anything about it?

A. The only thing was about the union and the C. I. O. "If you fellows are foolish enough," he said, "to spend your money outside you better keep your money in your pocket." And he said that the company union "you don't have to spend anything."

Q. Do you remember anything else?

A. He said about safety chutes, and supposed to be inside, and not outside.

Q. Were you discharged from the company?

A. Yes.

Q. When was that?

A. In 1937, the 11th of February.

Q. Will you tell us about your discharge,—what happened?

A. Well, I don't know what was happen. I was come down on my job, and the foreman come over and told me, "You go and see Hopkins."

Q. Who told you that?

A. The foreman, Gene Thomas.

Q. And who was Hopkins?

A. The superintendent.

Q. All right. And he said what?

A. And he asked me if I have my goggles and badge, and to lay them down on the desk.

Q. Why was that?

A. Well—a desk, like this (indicating).

Q. Did the goggles belong to the company?

A. Yes.

Q. Did you always wear goggles?

A. Yes, everybody in that department.

I said, "What is going on, Mr. Hopkins?" And he said, "You have got some slow work, five and six weeks on a job. You have worked for almost three years doing my work." And he said, "Don't you mind that strike, in 1935?" And I said, "Yes, sir." And he said, "I give you a chance, that time, and still, now, there is something else, outside, some kind of a name, C. I. O.—and you are in it already."

Q. Is that all?

A. Yes.

MR. HUNT: That is all.

Cross Examination

BY MR. DAY:

Q. Do you belong to the C. I. O. lodge?

A. Yes, I do.

Q. What C. I. O. lodge do you belong to?

A. What C. I. O.?

Q. What lodge?

A. The C. I. O.

Q. I know it is the C. I. O., but do you belong to some lodge of the C. I. O.?

A. I don't know what you mean. C. I. O. you hear about it, and you try to ask me what it is. I don't know. You ought to know better than I do.

Q. Where do you live?

A. 1743 Superior Street, Canton, Ohio, Northeast.

Q. Do you belong to some union here? I don't mean the C. I. O.?

A. I did once before and dropped out of that and take the C. I. O. How do you like that?

Q. I like it all right.

A. Well, like it or not.

Q. Do you belong to some local lodge of the C. I. O.? That is what I am trying to find out.

A. Maybe you know better than I do. I just tell you C. I. O. That is all I know. I signed for it and I am in it yet.

Q. You were here this morning when Mr. Downard testified, were you not?

A. Yes.

Q. And when Mr. Beckner testified?

A. Yes.

Q. You heard those two men testify?

A. I don't know anything about those fellows' case.

Q. Do you belong to the same lodge they belong to?

A. You are trying to find out from me. Why don't you find out from those fellows?

Q. You were a grinder, weren't you?

A. Yes.

Q. What kind of work does a grinder do?

A. Grinds steel.

Q. Just tell the Court in a general way how it is done?

A. How is it done?

Q. Yes.

A. How could I show you with my empty arms? I don't have that wheel under my arms. How could I?

Q. What do you grind with? What kind of a tool do you use?

A. What do you mean?

Q. I mean, when you do the grinding what kind of a tool do you use?

A. There are different grinders.

Q. Can't you tell?

A. They have a small grinder, a small wheel, and you have got some of them with 26-inch wheels and 24-inch wheels, a stem grinder, and so on.

Q. Can you give the Court any idea how the grinding work is performed? Can you give the Examiner any idea as to that?

A. I can't give you how that is. There is a seam some place and it cracks, and you do that.

Q. And that was your job?

A. Yes.

Q. You were laid off in February, 1937?

A. Yes.

Q. And you came to work intoxicated that day, didn't you?

A. Who?

Q. You.

A. No.

Q. Isn't it a fact that on February 8th when you were laid off, or, if you say the 11th, in any event, the day you were laid off in February, 1937, you came to work intoxicated?

A. No, sir.

Q. Isn't that why you were laid off?

A. No. I am not laid off on account intoxicated. You can ask Mr. Hopkins when he laid me off.

Q. Listen to my question, please. And had you not come to work intoxicated many times before that?

A. Who? Me?

Q. Yes, you.

A. No.

Q. And weren't you warned before this to stop your drinking and not to come to work intoxicated?

A. That is not it. I want to tell you something. I have stopped it. I have people in Canton who will say I was off of booze 28 months and never touched it.

Q. You were off the booze 28 months?

A. Yes, and I have a hundred people right here in Court to prove it—citizens of Canton.

Q. Now, answer my question, please.

A. I will answer you what it is.

Q. Have you not come to work many times intoxicated before this date?

A. No.

Q. Have you not been warned not to come around intoxicated again?

A. No.

Q. And weren't you doing this grinding work and at the time you were discharged isn't it a fact that with the tool you used instead of getting a straight line you would dodge around and go in circles and make spirals?

A. Oh, no. That was the grinder's fault, that is not me. That machine is supposed to have three belts. That is a high-speed machine. And he didn't have only one.

Q. Who took you off the job, or, as you say, discharged you? What man did that?

A. George.

Q. Who was that?

A. George Gene, the No. 3 foreman.

Q. And then you went to see Mr. Hopkins?

A. Yes.

Q. Isn't it a fact that on many pay days, or after many pay days before this day in February of this year before you were laid off that you had been off?

A. Do I what?

Q. You had been off two and three and more days at a time after pay day?

A. I was nine weeks off on account of sickness, and I had my own doctor.

Q. Then I will ask you this question directly: Isn't it a fact that from August, 1936, until the time you were laid off in February, 1937, that there were at least six or eight pay days during that time when you would not show up for work for two or three or more days after pay day? Isn't that true?

A. No, that ain't true. I don't care what anybody says, that isn't true. The only time I am sick. We have a rule if a guy is sick and can't come out to work, to use the telephone and call up. When I was sick I used a doctor, and when I came back from the doctor I have to bring a slip to show what is the matter with me, or any man working in the mill.

Q. I am not talking about when you were sick.

A. That is what it was.

Q. Isn't it a fact you laid off?

A. No, it is not.

Q. Wait until I finish the question, please.

Isn't it a fact you laid off after these pay days because you had been drinking?

A. No.

Q. Weren't you in the habit of going out and filling up on labor [liquor] after pay days?

A. No.

Q. You say no?

A. That ain't true. I don't know who wrote that down.

Q. You were laid off in February, 1937?

A. Yes.

Q. What have you been doing since then? Have you been doing anything?

A. Oh, I tried to do something, a living. I can't do nothing. I got a job a couple of days to make my living.

Q. Where have you worked since you were laid off last February?

A. I worked about nine days.

Q. Where?

A. In Pittsburgh, Pa.

Q. For what company?

A. American Steel Foundry Company.

Q. How long did you work there?

A. Nine days.

Q. When was that? In what month was it?

A. In April.

Q. In April of this year?

A. Yes.

Q. Did you work anywhere else since February except there?

A. No, sir.

Q. Did you try to work anywhere else?

A. Yes, sure I tried. I still go after work.

Q. Did you ever live in Allensport, Pa?

A. Who?

Q. You.

A. In Allensport, Pa.?

Q. Yes.

A. No.

Q. Did you live in Allenport, Pa.?

A. I live in Stockport, Pa., not in Allenport.

Q. Do you know where Allenport is?

A. I know. I passed it a lot of times.

Q. How far is Stockport from Allenport?

A. It is Stockdale. It is only 5 cents fare.

Q. How long did you live in Stockdale?

A. Five years.

Q. When was that?

A. Five years.

Q. But when was it?

A. I came in the last part of 1928.

Q. Have you been on the picket line since the strike started?

A. No.

Q. Have you been acting as a picket in the strike at all?

A. Here?

Q. Yes.

A. Sure.

Q. In Canton?

A. Sure.

Q. Since the strike started?

A. Sure.

MR. DAY: That is all.

MR. HUNT: That is all.

(Witness excused.)

MR. HUNT: I would like to call Mr. Sabri Shaban.

SABRI SHABAN

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HUNT:

Q. Please state your name.

A. Sabri Shaban.

Q. Where do you live?

A. 548 Winfield Way, Northeast.

Q. When did you first start to work for the Republic Steel Corporation?

A. In 1933, on June 27th.

Q. What was your job?

A. Chipper.

Q. How long did you work?

A. I worked about eight or nine months, until 1934, March 29th.

Q. And then you left the company?

A. Yes, I left the company. I talked to Mr. Hopkins, my superintendent, I had to go across the water for a vacation.

Q. You went across the water for a vacation?

A. Yes.

Q. What do you mean by across the water?

A. I have to go to the Old Country.

Q. To the Old Country, you say?

A. Yes. And I was talking to Mr. Hopkins.

MR. DAY: We want to object to this.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception noted for Respondent.)

THE WITNESS: And he promised me, "When you come back I will give you a job."

BY MR. HUNT:

Q. "When you come back I will give you a job."

A. I go over there and I stay very long because I run out of money and I stay back there. I come back here and I come and see him and he no give me a job the first time. The second time when I come was October 25th and I saw him.

Q. You saw Mr. Hopkins on October 25th in what year?

A. 1936.

Q. You saw Mr. Hopkins then?

A. Yes; I went in the office and there was an employment man give me a piece of paper, and I go in the shop and see Mr. Hopkins.

Q. The employment man told you to see Mr. Hopkins?

A. Yes, and he give me a pass to go inside and I go in the office and see Mr. Hopkins and take a chair and sit down. Mr. Hopkins was over there, and the assistant superintendent, John, was here, and I sit here (indicating).

Q. You saw Mr. Hopkins?

A. Yes.

Q. And who was the assistant superintendent?

A. John.

Q. He was assistant superintendent?

A. Yes, he was assistant superintendent, and he is in the office, too. And he said to me, "I am going to give you a job but if you listen to me"—

I said, "What, Mr. Hopkins, you say?" He said, "If you listen to me what I am going to say to you," and I said, "That is all right, Mr. Hopkins, because I know I have no penny in my pocket. I ain't have no penny." He said, "You will listen to me, I am going to give you a job."

"All right, Mr. Hopkins, I have to listen. I am going to listen, sure." And he say, "You belong to a union?" and I say "No."

"Do you belong to the C. I. O.," and I say "No."

"If somebody go on the road and stop you, or something like that, what are you going to say?" And I just figure and I sit two or three minutes just like that (illustrating). He said, "What are you going to say to me now?" I say, "I know I no have to sign my name because I am hungry." He said, "If you listen to me that way I am going to give you a job right now." I said, "All right, Mr. Hopkins."

And he gave me a job. He gave me the badge and punch card and paper and everything. So then I go back and he gave me badge, and I go home, and on the 29th of October he sent me to work.

Q. The 29th of October you started to work?

A. He told me to go to work. The 25th he hired me and on the 29th I go to work.

Q. When were you discharged?

A. April 27th.

Q. Did anything happen before that time?

A. About three or four days before that I walk in and I am still working, and I have Steel Working paper in my pocket.

Q. You had what?

A. Steel Worker paper in my pocket.

Q. Was that a newspaper?

A. Yes, a newspaper for steel workers. And I was forgetting it.

Q. How it that?

A. I was forgetting it was in my pocket.

Q. Which pocket was it in?

A. In my right pocket.

Q. And it was folded in your back pocket?

A. No, I no fold it, but it was behind me some place, and he see that.

Q. He saw it where?

A. He saw it in the pocket. That is, Mr. Hopkins did, and he take it out. He said, "Where you get this?"

Q. Will you repeat that, please?

A. Mr. Hopkins say, "This is Steel Workers paper in your pocket."

Q. Mr. Hopkins said this was the Steel Workers paper in your pocket?

A. Yes.

Q. And he pulled it out?

A. Yes. And he threw it away. And he said, "Listen to me what I will say to you."

Q. What did he say? You will have to speak louder.

A. He said, "Why you no listen to me when I say I would give you a job?" And he throw away that paper and didn't say nothing that time.

In three or four days he called me in the office and he say, "You no listen to me that time when I was talking to you and I give you a job and you belong to C. I. O. now." And he said, "Give me my badge." I said, "Mr. Hopkins, maybe I no give you the badge."

He said, "You have to leave the badge here." And I take out the badge from my cap and he give me the slip.

MR. HUNT: That is all.

Cross Examination

BY MR. DAY:

Q. Just a minute, please. You say you were a chipper?

A. Yes.

Q. What does a chipper do?

A. A couple of fellows work on that chain and the crane and bring the billets. They will be there and the foreman come around the work and he say, "Do this. Do that." And you and me is partners and we have to take a hammer like that and take off the chip.

Q. I don't think I understand you very well. A billet is how long?

A. 190 inch, and it is four by four, or five by five, or six by six.

Q. Four by four inches?

A. Four by four come up more long, and five by five more short, and eight by eight come a little more short.

Q. When you say four by four you mean inches, don't you?

A. Yes, inches, four by four. You call them inches.

Q. It is so wide and so thick (indicating)?

A. Yes. Some are round and some square and some long ones and some short ones.

Q. How long is the billet and about how many feet long is it?

A. Oh, it is from here to over there, from here to the table, about that thick (indicating), and about that thick (indicating), and any kind.

Q. Now, as to the chipper, what kind of a tool do you use to do the chipping?

A. Just a hammer and chisel.

Q. And you use the hammer and chisel to do what?

A. To take off the chips.

Q. If there is any defect or chip in the billet, you use that to get it out?

A. No, just one take it out or two or three or five, or whatever it is.

Q. Maybe I can get that better from some other witness. I think perhaps I would better try it that way.

In what plant did you work?

A. Republic Steel.

Q. Did you work in Canton Republic Steel?

A. Yes.

Q. What plant of Canton Republic Steel?

A. Plant B.

Q. Who was your foreman?

A. My foreman was called Bill.

Q. Do you know what his last name was?

A. No, sir; because he was changed.

Q. You were laid off, or, as you say, you were discharged April 27th of this year?

A. Yes.

Q. When had you gone back to work before that time?

A. When I was at work?

Q. Yes. You told us about a talk you had with Mr. Hopkins, as I understood it.

A. Yes.

Q. And you say he gave you a job?

A. On the 25th he gave you a job.

Q. When was that?

A. October, 1936.

Q. That was last October?

A. Yes.

Q. Then you had worked from October until April?

A. Yes.

Q. You worked for Republic Steel before that, had you not?

A. Yes.

Q. How long before that?

A. 1933 I got the job, June 27th.

Q. Is that when you started or when you quit?

A. No, it was when I started, and I quit in 1934.

Q. You quit in 1934?

A. Yes.

Q. Where did you go then?

A. I go on vacation.

Q. You went to the Old Country?

A. Yes.

Q. You crossed the water?

A. Yes. And I was talking with him and ask him if he no give me a job I no go. He promised me to give me my job back, you see.

Q. At any rate, you went to the Old Country?

A. Yes.

Q. How long did you stay there?

A. About two years.

Q. Then you come back and got your job back?

A. I got the job back.

Q. In October, 1936?

A. Yes, after six months.

Q. How many chippers were there working along on the same kind of work you were working on?

A. Sometimes 150, sometimes 200 in a shift.

Q. The number of chippers that the company had working depended upon the amount of work that the company had to do, didn't it?

A. Yes.

Q. And do you know whether or not when you were laid off any others were? Do you know whether or not when you were laid off in April, a few months ago, there were other chippers laid off, also?

A. They laid off some. I know they hire some later, and they hired me.

Q. When they laid you off last April they also laid off other chippers, didn't they?

A. They hire me October 25th.

TRIAL EXAMINER LINDSAY: He still does not understand the question.

The question is: When you were laid off in April were there any other fellows working with you who were also laid off?

THE WITNESS: No, not all of them. Some were.

BY MR. DAY:

Q. Not all, but some?

A. Yes, some that were behind me. After two or three weeks they hired a lot of people.

Q. I mean on the same day that you went out?

A. Yes, the same day when I go out. And the same day when I go in, I got the job in 1936, April 25th.

Q. I guess you mean October.

A. I mean October. And he hired a chipper after two or three weeks from that. They hired over eighty or ninety people. And at that time when I got the job, after two or three weeks, he give the jobs to somebody.

Q. But you got the job?

A. Yes.

Q. You just told the Judge sitting up there that when you were laid off in April some other men were laid off with you?

A. Not all but a few others.

Q. Do you know what I mean when I talk about length of service? Do you know what I mean?

A. No.

Q. Do you know that the company keeps a record of the number of months that the different men work for them? Do you know that?

A. No.

Q. And, do you know that when men are laid off that the company takes into consideration the amount of time they have worked there?

TRIAL EXAMINER LINDSAY: Oh, I think that is unfair cross examination.

MR. DAY: I do not know any other way to put it, Your Honor; I don't want to take any unfair advantage of him.

TRIAL EXAMINER LINDSAY: Well, you show it by your own evidence, because you have your evidence, and why produce it from this witness?

MR. DAY: Well, then, I won't ask him.

TRIAL EXAMINER LINDSAY: No, I think it is unfair.

BY MR. DAY:

Q. After you were laid off in April, did you work for a short time for the Canton Culvert Company?

A. Yes, about four days and one and one-half hours.

Q. And the Canton Culvert Company is a part of the Republic Steel?

A. Yes.

Q. How long after you were laid off was it that you worked for the Canton Culvert Company?

A. Oh, a short time.

Q. Do you know whether or not the Canton Culvert job was just a rush job and that when the job was finished the men were laid off again?

A. I don't know.

TRIAL EXAMINER LINDSAY: You have all your records on that, and this man does not understand English very well, and I think it is unfair.

MR. DAY: All right; I am perfectly willing to do that.

That is all.

MR. HUNT: That is all.

(Witness excused.)

MR. LAUTER: If the Examiner please, there has been a witness subpoenaed, and I do not know whether they are here or not, the Fidelity & Casualty Company; they have been subpoenaed, and I wonder if their representative is in the court room.

TRIAL EXAMINER LINDSAY: We will take a ten minute recess, and you can make an investigation.

MR. LAUTER: Well, we are not intending to call him at this time, but merely trying to find out if he is here. We are willing to go ahead.

TRIAL EXAMINER LINDSAY: All right.

MR. HUNT: Mr. Will S. Wright, please take the stand.

WILL S. WRIGHT

was thereupon called as a witness for the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HUNT:

Q. Your name is Will S. Wright?

A. Yes.

Q. Where do you live?

A. 1834 Berger Place.

Q. That is in Canton?

A. Yes, sir.

Q. Were you at one time employed by the Republic Steel Corporation?

A. Yes, sir.

Q. What was your job?

A. I was a chipper in the mill.

Q. What mill?

A. In plant B, in the 28 Department.

Q. When did you first enter the employ of the Republic Steel Company?

A. In 1922.

Q. And how long did you work?

A. I worked about three months.

Q. Why did you join the Republic Steel Company at that time?

A. Mr. Ake came to Midland, Pennsylvania, in 1922, and began to round up men to work during the strike.

Q. During the strike here in Canton?

A. Yes, sir. He told me and Duke Bell, if we got up men to come over here to work,—and Mr. Ake got in Midland, Pennsylvania, about eleven o'clock on that day, and it got around in town. The law found that there was a man going to carry men out of town, you know, for chipper. And Mr. Ake got into the car and went to East Liverpool, and he told us before he left: "I will be back here in the morning, early. You all be sure to have the men ready."

Q. Yes.

A. And the next morning, me and Duke Bell had the men ready early. And, on the platform Mr. Ake told me and Mr. Bell: "Now, I want to tell you all: You all want a good job—"

MR. DAY: If the Court please, this was back in 1922.

MR. HUNT: I assure the Court it will be tied up with the rest.

TRIAL EXAMINER LINDSAY: I will overrule the objection, and you may have an exception.

Proceed.

(Exception noted for respondent.)

BY MR. HUNT:

Q. What did Mr. Ake tell you then?

A. He says: "I want you fellows to go over there and work." And he says: "If you fellows go over there and stick with us through this strike, you will have preference, if you will have to come back, you will have a preference for a job, as long as you do not do anything out of the way with the Company."

MR. DAY: In order to preserve the record, I move to strike from the record that conversation about something that happened in 1922, before the Republic Steel had anything at all to do with it, and not being connected with it, at any time.

TRIAL EXAMINER LINDSAY: Your motion to strike is denied, and let the record show an exception.

(Exception noted for respondent.)

BY MR. HUNT:

Q. Who is Mr. Ake?

A. I think he is superintendent in the department.

Q. Superintendent of what?

A. Of the Alloy Steel, or of the Republic Steel.

Q. He is head of the employment department of Republic Steel?

A. Yes, sir, as far as I know.

Q. When did you start working again for the corporation?

A. When I came back in 1933.

Q. And how long did you work at Republic Steel at that time?

A. From 1933 up to 1935.

Q. Did you leave the corporation at that time?

A. No, sir; I was discharged.

Q. Why were you discharged from the corporation at that time?

A. Well, it happened to be a strike, right over in the

Berger Department, and I was out on the picket line with the boys.

Q. Did you try to get back to work after the strike?

A. Oh, I went back to work. The strike was over on a Saturday, and the men that worked in the Chipper Department, all went back on a Sunday morning to get our badges, and so forth, and so that we would be notified to go back to work.

And I went over there on Sunday morning, and Hopkins was assistant superintendent, and he told me: "You had better go and come back, and we will call you in a couple of days." And so I went home, and I thought he would let me know in a couple of days, and I called Mr. Hopkins up on the telephone, and I said: "Hey, Mr. Hopkins, what is the matter? We are not working—Mr. Johnson said he would let us know, and there ain't nobody let me know."

And he said: "All right, come out tonight at twelve o'clock, on the night turn." And so I went out, and I was getting my hammer, and so forth, and Johnson said: "What are you doing here tonight? Have you got an order from Mr. Hopkins?"

And I said: "No, I was talking to Mr. Hopkins, and he said to come over tonight at 12 o'clock." And he said, "You can go back and get an order from Hopkins." And I said, "I don't have to lie; he told me to come on out here." And he said, "You go back and get an order from Mr. Hopkins." And I said, "All right." And when the time expired, I got sore about it and I went back over there to see Mr. Hopkins. And he said, "Bill, if you want to work here, you have to stick with the company. You can not have one foot over here, and one over there, and expect the company to stick with you. You are depending on the company for your living, aren't you?" And I said: "Yes."

Q. This was back in 1925?

A. Yes, sir, back in 1925.

And so, while I did not get no job back, the C. I. O. come on out. During 1936, I think it was, a fellow by the name of "Williams" saw me and said: "What is the matter, Will; you ain't working?"

Q. Who is Williams?

A. Well, all us fellows calls him a snitcher—a fellow who sneaks around and reports back, that is, that you are doing things that are not right,—he carries the report back and when the time comes, of course, off you go.

MR. DAY: I object to the conversation between this man Williams and this witness.

TRIAL EXAMINER LINDSAY: I will overrule the objection and let the record show an exception.

(Exception noted for respondent.)

BY MR. HUNT:

Q. Was Williams an employee of the Republic Steel?

A. Yes, sir, he was a chipper.

Q. And when you say he was, you mean that he was at that time an employee?

A. Yes, sir, he was working.

Q. What did he suggest to you?

A. He told me: "If you want to work, I will see if I can not get you back to work." And he said: "Do you want to work?" And I said: "Yes, I have off, now, about nine months, and I think I feel like I should go to work."

And he said: "You be here tomorrow morning at Gus' Pool Room." And I said: "All right."

But I did not think much of it, because I did not think he had any influence, but I thought he was just a working man like me, and I did not see him the next morning.

Q. How did you miss seeing him?

A. Well, I was having a little fun that night, and I overslept, and about the next night I saw him, and he say: "You are a hell of a man; you say you were going to be here, and you did not show up."

"Well," I said, "I was having a little fun last night, and I overslept." And he said: "You be sure to go over there tomorrow." And I said. "O. K." And I went over there and Mr. Ake saw me and he give me a note.

Q. And who is Mr. Ake, again?

A. That is the superintendent of employment.

Q. Is that the same Mr. Ake who talked to you in 1922?

A. Yes, sir, the same young fellow.

Q. All right.

A. And so I went over to the chipper department with the note, and went in there and Mr. Hopkins was sitting in there, in the office, and he looked up and say: "Hey, you back?" And I said: "Yes, sir, right back here." And he said: "Sit down." And he said: "Now, what are you going to do this time; are you going to stick with the company, or not?" And I said: "Well, Mr. Hopkins, I would like to work, and if sticking with the company means work, that is just what I got."

And he said: "Well, I told you before you must stick with the company, but I am going to give you your job back, if you stick with the company." And I said: "Thank you; I will stick with the company."

And meantime, I have stuck with the company, working every day, except Sundays, and when I was sick.

Q. Did you ever have any complaint about your work after you came back?

A. No, sir.

TRIAL EXAMINER LINDSAY: Are you still with the company?

THE WITNESS: No, sir; I ain't with the company. I been away.

TRIAL EXAMINER LINDSAY: All right.

BY MR. HUNT:

Q. Did you ever attend any safety meetings?

MR. DAY: I object to that, on the ground that it is immaterial and has no bearing to the charge.

TRIAL EXAMINER LINDSAY: I will overrule the objection and let the record show an exception.

(Exception noted for the respondent.)

BY MR. HUNT:

Q. Go on.

A. They talked about safety provisions, and chutes, and walking around on scrap, and so forth, and he said: "You fellows know, you don't want to mess around with no outside union, because if you want to work, you cannot be tied up with no unions."

Q. Who spoke at these daytime meetings?

A. When I was on days, it was Mr. Hopkins who would speak. And, lots of times, Johnson would speak.

Q. Who is Johnson?

A. He is foreman. Sometimes Charlie, the bed foreman would speak.

Q. Did you ever hear Mr. Hopkins say anything about an outside union?

A. Well, just at the meeting he would say: "You fellows don't want to be messed up with no outside union, because it is no benefit to be tied up with no outside union, if you want to work."

Q. Were you discharged by the Republic Steel Corporation?

A. Sure—that is who I was working for.

Q. Well, tell us the circumstances leading up to your discharge, as well as you can remember.

A. Before I got discharged, the C. I. O. was circulating out northeast there, and I met Mr. Beckner in a pool room out northeast.

Q. Who is he?

A. The vice-president, I think, now, of the local. And he was talking to some of the boys, and he said: "Here, how about your signing up in the C. I. O.?" And I took one of the cards up in my hands and looked at it. I am not educated, but I looked at it anyhow, and I said: "Oh, no; you wait until pay day. I might join pay day."

Well, Williams was a snitcher,—the big snitcher!—and he was standing there at the moment, and looking around, and after Mr. Beckner left, I said to Williams: "Say, Williams, what about that?"

MR. DAY: I want to object to this.

TRIAL EXAMINER LINDSAY: Objection is overruled, and let the record show an exception.

(Exception noted for the respondent.)

BY MR. HUNT:

Q. Go on.

A. And he said: "Well, I tell you; if you ain't signed you better not sign if you want work, because the damn C. I. O. ain't no good, if you want your job."

And I said: "O. K." Then about a week or two after that Mr. Beckner was out northeast, and he challenged myself and a couple of the fellows named "Otis" and a couple of Portugese, and he asked us what we are going to do, and Williams was standing there at a bar, and looking around, and Williams sneaked on out, and, about two days after that, the axe was falling, and they were cutting off the men, and I was called into the office.

Q. Into whose office?

A. Mr. Hopkins.

Q. What took place then?

A. Mr. Hopkins was sitting down and he got into a conversation with the boys and he said: "The old men are kicking."

Q. Were there some other fellows there with you?

A. Yes, the boys that got laid off.

Q. With you?

A. Yes, sir.

Q. All right.

A. And he said: "The old men are raising Cain; they ain't making enough hours, and so on," to make it all right for the old fellows.

And I said: "All right." But I stayed there, because I had a message and I said: "Mr. Hopkins, you say you are cutting off new men?" And he said: "Yes." And I said: "Mr. Hopkins, I started to work in 1922."

And he said: "You say you were laid off once, wasn't you?" And I said: "Yes."

And he said: "You know, I told you before, when I taken you back here, that you had to stay on the right side of the fence if you wanted to work for the company, that you could not have one foot over here, and one over there, if you wanted to work for the company." And so, he taken my badge and my goggles, and wanted my key to the locker, but I told him I did not save no key, that one of the other boys had it. And he told me to go over to the employment office, and they told me: "You will have to go over to the Berger gate tomorrow and get your check at four o'clock."

Q. Did you say anything to Mr. Hopkins in reply, when he said about keeping on the right side of the fence?

A. Yes; I said: "Mr. Hopkins, when Mr. Ake brought us boys from Pennsylvania, he told me and Mr. Bell down there on the platform, that we was entitled to a job there as long as we worked right with the company, that even if they laid off any men, we would have a job with the company."

And he said: "Mr. Ake ain't running this, now. I am running this, now."

Q. What did you say about being on the right side of the fence?

A. I told him: "Well, I am on the right side of the fence when I work." And he said: "You are not dumb; you know what I mean." And so I just walked on out.

MR. HUNT: That is all.

Cross Examination

BY MR. DAY:

Q. What was the name of the company back in 1922 when you started to work for it, do you remember?

A. It was the Alloyed, wasn't it?

MR. DAY: What was the name of it, in 1922?

MR. VEACH: The United Alloy.

BY MR. DAY:

Q. You came here what month?

A. I cannot tell you definitely.

Q. You did not stay very long, did you?

A. About three months, and I was taken sick and was in the hospital.

Q. You came back in 1922, again, didn't you?

A. That was when I started.

Q. And you stayed here about three months?

A. Yes.

Q. And then, you were sick?

A. Yes, and went away.

Q. And in what year did you come back again?

A. I came back in 1933—didn't you hear me just say that?

Q. How many years were you away, from 1922 to 1933?

A. That is what I said.

Q. You were away eleven years?

A. Well, I guess probably, if you figure it that way.

Q. Didn't you come here in 1922, and stay a short time and then leave, and did you not come back in 1925?

A. In 1925?

Q. Yes.

A. I don't have no reference of working in 1925.

Q. But, were you not off from 1925 to 1933, a period of eight years?

A. I was not working here then.

Q. Where were you?

A. I was in Pennsylvania, some; and some in the south—I don't have to tell you every where I was, do I?

Q. I am trying to find out how long you were here at Republic Steel, and how long you were away.

A. Well—

Q. (Interposing) You came back and started to work in 1933 again?

A. Yes.

Q. And worked until some time in 1935?

A. Yes.

Q. And did you not come back in 1936 and leave?

A. No, I did not leave;—I am still here.

Q. Well, listen to my questions, now, and try to answer them.

A. I am answering them, the best I can.

Q. I am asking you whether you did not leave in 1936 and then come back again.

A. Leave?

Q. Yes.

TRIAL EXAMINER LINDSAY: He means "quit".

THE WITNESS: I was fired;—you know I must have left.

MR. DAY: I think this witness knows what I mean, your Honor.

TRIAL EXAMINER LINDSAY: I think you are partially to blame, when you did not say "the company."

BY MR. DAY:

Q. Did you not leave the employ of the company on October 3, 1936, for a short time, and then come back again on October 21, 1936?

A. I was laid off here in 1936; the last strike here, I was laid off nine months. No, no; that was last year I was laid off.

Q. Well, can you tell us when you came back and started the last time?

A. I was off about nine months.

Q. You left the company this last time on the 27th of April?

A. They had discharged me.

Q. All right. Now, at that time, you started to work for the company last October, did you not; is that right?

A. Yes, sir, I started to work—

Q. Last October?

A. I do not know what month it was, but I started to work for them.

Q. In 1936?

A. Yes.

Q. In the fall of 1936?

A. I am not sure what month it was.

Q. And you worked from that time on, in 1936, and until the 27th of April of this year?

A. Yes.

Q. And you were discharged, were you not?

A. Sure.

Q. Now, what day in April, 1937—when you say you were discharged, there were some other chippers discharged at the same time, were there not?

A. You heard me say, a few minutes ago.

Q. Well, I am asking you about it again, now.

A. Yes, there were some men discharged.

Q. And, as I understand it, you and some other men were called into Mr. Hopkins' office?

A. We were all sent there.

Q. And you were all discharged?

A. Sure.

Q. How many of you went into Mr. Hopkins' office and were discharged at the same time?

A. I don't know; I was uneasy, myself, and I was not counting them.

Q. Well, about how many were in Mr. Hopkins' office, and were discharged, at the same time?

A. I do not know.

Q. Well, can you give us an idea—were there a dozen?

A. I do not know—that is my idea, and then I know I am right.

Q. Listen to this question, because this is a serious matter.

A. Yes, I know it is, if I don't answer right.

Q. I don't expect you to tell the Judge how many men were laid off, but I do expect you to say about how many were laid off at that time.

A. Well, I will tell the Judge that I do not know; isn't that all right?

TRIAL EXAMINER LINDSAY: Well, if you have not any idea.

THE WITNESS: I have not any idea.

BY MR. DAY:

Q. And do you know whether or not the men who were kept on the job as chippers at that time had been working continuously there longer than you had?

A. Not all of them, no.

Q. You do not know about that?

A. I know some of the men on the job,—knew they had hired them since I was.

Q. You knew the work had to go on?

A. Sure; the work had to go on.

Q. And did Mr. Hopkins tell you that some of the men were kicking?

A. Yes.

Q. Did Mr. Hopkins tell you that?

A. Yes, he mentioned that in the room, in the office there.

MR. DAY: That is all.

MR. HUNT: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will take a short recess.

(Whereupon a short recess was taken.)

VICTOR ARIAS

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Please state your name.

A. Victor Arias.

Q. Where do you live?

A. 1810 Eighth Street, Northeast.

Q. Have you been employed by the Republic Steel Corporation plant?

A. Yes, sir.

Q. When did you start working there?

A. I don't recall whether it was 1930 or 1931.

Q. Have you worked continuously since then?

A. Off and on until 1927.

Q. Since 1927?

A. I worked since then up until 1936 when I was laid off.

Q. For approximately 9 years; is that correct?

A. Yes.

Q. In what mill did you work?

A. The chipping department, what they call the plate mill.

Q. What they call the plate mill?

A. Yes.

Q. Where is that mill located?

A. Plant A.

Q. Is that in Canton?

A. Republic Steel, Canton, Alloy District.

Q. Are you a member of the C. I. O.?

A. Yes.

Q. When did you join?

A. The latter part of July, 1936.

Q. Do you recall the Berger strike?

A. Yes, sir.

Q. Were you active in that strike?

A. Yes, sir.

Q. Were you reemployed after that strike?

A. They held me back about two or three weeks. I can't recall the exact dates. Then they called me to work after that.

Q. Who called you to work?

A. The superintendent, Ott Ellasser.

Q. Approximately when were you called back?

A. I think I was held off about two or three weeks, although I am not sure.

Q. Do you remember a conversation when you were called back?

A. Yes.

Q. State the nature of that conversation.

A. When I first reported for work I came to the foreman and asked him—

BY TRIAL EXAMINER LINDSAY:

Q. What date was this? Try to fix the date, please.

A. I don't know when that strike was on. It was in June, some time.

Q. What year?

A. 1936.

BY MR. LAUTER:

Q. 1935, wasn't it?

A. Yes, it was 1935. I reported to work. The foreman said, "You will have to see the superintendent."

So I went to see the superintendent. He said, "Vic, you were pretty active during the strike." I said, "Yes, there is no use of my denying it any more.'' He said, ''That is bad on your card.'' I said, ''I can't help it. It is done. Maybe it is for the good, or maybe for the bad.'' He said, ''You may stay home. I will call you whenever I need you.''

So I waited and I didn't make any other effort to be reinstated. Two or three weeks later he called me back and I started to work.

Q. How long did you work after that?

A. I worked until August 2, 1936. On August 2d I got my vacation. After I got my vacation I got word I should stay home and they would call me whenever they needed me.

Q. Do you recall when the C. I. O. came into this area?

A. Yes.

Q. Approximately when was that?

A. In June.

Q. What year?

A. 1936.

Q. Did you become active at that time?

A. There was a committee, one from Youngstown and one from Scranton, Pa., representing the C. I. O. They wanted to get information towards the sentiment on the organizing problem in Canton, so they called upon me to see if I could help them out, which I did. Then I saw they got things straightened out. There was Porter and Price.

Q. Who was Porter?

A. An organizer of the C. I. O. from Portsmouth, Ohio.

Q. Who was Price?

A. The same organizer.

Q. You mean another organizer from the same place?

A. Yes, another organizer from Portsmouth, Ohio.

They called upon me to see if I could help them out due to the fact that I knew most of the men—well, not most of the men, but a bigger percentage of the men who worked in the Republic—to see if I could help them out.

We held meetings out on farms. The first meeting was in the latter part of July, 1936. I got 25 cards, and that week I signed up eight men.

Q. Where did you conduct your organizing activities?

A. Out in the street.

Q. Near the plant?

A. Yes, near the plant and wherever I could get hold of them.

Q. How often did you have this work, or how often did you do your organizing?

A. As I was working, I have done it as leisure hours, maybe an hour or two a day.

Q. Are you working in the Alloy Division? Is that correct?

A. Yes.

Q. At that time in 1936 was there any other organizer in that plant?

A. No, sir.

Q. You were the only organizer?

A. I was the only organizer.

Q. You were the first organizer?

A. Yes, sir.

Q. In August, 1936, you testified you were laid off?

A. Yes.

Q. Will you describe the circumstances around your being laid off, or discharged?

A. Well, they was kind enough to give me my vacation before they let me go. I got my vacation August 2d and reported back to work August 9th, 1936. I had met Dave Carnes, my foreman. He said, "Vic, I don't know what you are up to at the present time, but you better see Ott."

Q. See who?

A. Ott Ellaser, the superintendent. So I went up to see Ott. It happened that Ott was on his vacation. Then

I went up to see Bob Graham, his assistant. I said, "Bob, why are they holding me out?" He said, "Vic, I haven't the slightest idea." I said, "Is it anything concerning my work?" He said, "No, not that I know of. There are activities that you are in that I don't know about, or exactly what it is. You will have to see Ott."

So I waited until Ott came back and I got in contact with him. He said, "Vic, you are in Dutch. I don't think I can do anything for you." I said, "Aren't you man enough to tell me what I am in?" He said, "No. You might come back some other day and perhaps I can tell you and straighten things out."

So I paid him another visit and I got the same answer. I told him, "Aren't you man enough to tell me what I am up to? I worked for the company as long as I did, and, so far as I know, my work was satisfactory, and you are not man enough to tell me what I have done." He said, "I am sorry for my part." I said, "I hate to go away and leave a job because I have parents who depend upon me to live, and I have worked here so long a time I hate to leave the job."

Q. Will you speak louder?

A. I told him, "I hate to leave the place, I have been working here so long, and I had this job." He said, "I am sorry, but I can't do anything for you."

Q. Did you have any other conversation with Ott?

A. That is all I had.

Q. Who is Frank Geltz?

A. Chairman of the Representative Committee.

Q. Did you have any conversation with him after you had been laid off?

A. I left town. I was in California trying to get a job for the last 8 months. And I was walking the streets, on Eighth Street, Northeast.

Q. And that was in Canton?

A. Yes. Then Frank asked me, "Vic, what is the matter you are not working?" And I told him.

BY MR. DAY:

Q. When was this?

A. This was in April, 1936.

BY MR. LAUTER:

Q. 1936 or 1937?

A. It was April, 1937. It was the latter part of April. I arrived about the 9th. I think it was the latter part of April.

MR. DAY: We would like to object to the conversation between this witness and Geltz. It does not bind the company.

TRIAL EXAMINER LINDSAY: Your objection is overruled. Let the record show an exception.

(Exception noted for Respondent.)

THE WITNESS: Frank was a good friend of mine when we worked together. I was a mill inspector for a long time. He sort of took a liking to me. We had very deep conversations with each other.

He said ,"Vic, I am going to see if I can do something. I will get some of the other representatives to go to see if we can straighten things out for you."

So I met him on the street, and I think it was about five or six days later, and he said, "Vic, I was up there"—

MR. DAY: The same objection.

TRIAL EXAMINER LINDSAY: The same ruling. Let the record show an exception.

(Exception noted for Respondent.)

THE WITNESS: He said, "Vic, I was up to see Ott, your superintendent, and he told me you had a police record—that is, a company police record." I said, "I haven't the least idea of anything I have done." He said, "I went to see Ake, the employment manager in the employment office, and he told me that on your record you talked too much."

I said, "Talked too much?" He said, "Yes, you talked too much."

I said, "You can imagine yourself what I spoke around there since the time you have been there. The conversation on labor, perhaps, it might be we would develop some discussions on politics or something of the kind. That is the only language I used around there." So that is as far as I got with Geltz. He said he couldn't do anything else.

Q. During the period of approximately nine years that you worked before you were discharged, were you ever complimented for your work?

A. Yes, sir.

Q. What was the nature of the work you were doing when you began to work in 1926—was it, or was it 1927?

A. I started in 1926. I started in the Lamberton Mill.

Q. What kind of work?

A. Shear labor.

Q. Did you ever receive any promotions while you were with the company?

A. I worked there for five years, I think it was. And I was an inspector before that. Before 1937 I worked for Bob Graham, the superintendent. They asked Bob, "I wonder if I can get Vic out of the plate mill and have him inspect in my department." He asked Ott and Ott agreed. So I went in there and worked as a grinder, and then from grinder I went as table inspector.

Q. You were promoted to table inspector?

A. Yes.

Q. Then what?

A. From table inspector I went in charge of the chipping bed. I was inspecting and took care of the men.

Q. Are you familiar with the Employes Representative Plan in the Canton plant of Republic Steel Corporation?

A. Yes, sir.

Q. And have you been employed there when they were holding any elections under that Plan?

A. Yes.

Q. Have you voted in any of the elections?

A. I voted until 1936.

Q. Were you ever told to go to vote?

A. Yes.

Q. Who told you?

A. Ott Ellaser.

Q. What did he tell you?

A. He came around and said, "Vic, did you vote?" And it was before 1936. And I said, "Yes."

In 1936, when he came along, he came in and said, "Vic, did you vote?" And I said, "No, I will think about it." It was about 4 o'clock when he came around, and he said, "Vic, did you vote?" and I said, "I will think about it."

He said it is up to you. It is for your own good. I said, "For my own good I will think about it." But I did not vote.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. Mr. Arias, you were laid off in August, 1936?

A. Yes, August 2d.

Q. What have you been doing since that time?

A. I have got a job, when I arrived here from California. I am working at a plant in Canton.

Q. You are now?

A. Yes.

Q. For what plant?

TRIAL EXAMINER LINDSAY: Just a minute, please. If he does not want to divulge that information he does not have to do so.

THE WITNESS: If it is not necessary I will not do it.

MR. DAY: I am just wondering whether on some phases of this part of the complaint the Respondent would not have the right to show this man has been employed.

TRIAL EXAMINER LINDSAY: When it comes to that question that will be taken care of so that the company will not in any way be jeopardized.

MR. DAY: I shall not press the question.

MR. LAUTER: May I make this suggestion? I will object formally, for the record, to the identification of the company; but if Counsel for the Company wishes to inquire into his earnings I have no objection to that since I can realize that would be highly material if the company is required to pay the back pay lost.

TRIAL EXAMINER LINDSAY: He may go into that angle of it, but not the name of the company by whom he is now employed.

MR. DAY: Regardless of the name of the company, and you will understand I do not ask you to give the name of the company for which you are working, under the ruling of the Court, but how long have you worked for that company?

THE WITNESS: Three months the 24th of this month.

BY MR. DAY:

Q. What compensation are you receiving from that company?

A. Forty-five cents an hour.

Q. How many hours are you working?

A. Eight hours. We have a little bonus, which depends upon the ability of our work.

Q. When you were an organizer for the C. I. O., did you receive some compensation?

A. No, sir.

Q. No compensation?

A. No, sir.

Q. Then the only job you have had since August, 1936, when you left, or were laid off at Republic, is the job you are telling us about?

A. Yes, sir.

Q. And you have received no compensation from anybody else?

A. No, sir.

Q. Are you a chipper?

A. No, sir.

Q. Were you an inspector?

A. Yes, sir.

Q. In August, 1936, when you were laid off, were you an inspector?

A. Yes, sir. Pardon me, I was an inspector, and an inspector has to take charge of a group of men—that is, eight or twelve, depending upon the work.

Q. What kind of work did those men do that you took charge of?

A. They were chippers.

Q. Will you give us some idea as to what a chipper does?

A. It all depends on what he chips. There are certain types of steel, round and square, and there are seams in the billet, or the bar, which has to be taken out. The inspector marks them and the chipper with the hammer and chisel digs them out.

Q. And you were the inspector who marked places where ~~that~~ kind of work was to be performed? Is that right?

A. Yes, sir.

Q. When did you start to work before August, 1936?

A. Before August?

Q. Yes, the last time.

A. It was in June, 1927.

Q. And you had been there continuously all of the time?

A. Yes, sir.

Q. How many turns were there at the plant when you were laid off?

A. It would depend upon the amount of work. We had two or three, depending upon the work.

Q. Two or three, you say?

A. Yes.

Q. And those turns were of how long duration?

A. Eight hours.

Q. What time of day and what time of night did they start, and what time did they finish?

A. Eight until four, four until twelve, and twelve until eight.

Q. When you were laid off did you know whether or not any other men working on the same turn that you were working on were laid off at the same time?

A. No, sir; not in the position I held. There were only two men who did that kind of work, and sometimes three.

Q. The inspector's work?

A. Yes.

Q. At that time you were laid off, did you know whether or not any of the chippers who had been working on your work were laid off at the same time?

A. No.

Q. You don't know?

A. No.

Q. You were away how long before you came back?

A. Approximately eight months.

Q. You had talked about a vacation?

A. Yes.

Q. And you said you came back and your job wasn't there?

A. After a week.

Q. A week?

A. Yes, we got a week for five years' service.

Q. You don't know whether any of the other chippers were laid off at the same time you were?

A. No, I don't know.

Q. Had you been active in this recent strike?

A. As I was working, I didn't have much chance.

Q. You have been working the last three months?

A. I was working. And I wish I wasn't working.

Q. Regardless of what you wish, you have been on the job working?

A. Yes.

BY TRIAL EXAMINER LINDSAY:

Q. I understand you to say that you did go back to work on the 9th day of August.

A. I reported back to work.

Q. That was at the end of your week's vacation?

A. Yes.

Q. And it was then that you were discharged?

A. Yes.

Q. So, in effect, you were discharged on August 9th and not August 2d? Is that right?

A. Being that they paid that week of vacation, I suppose I was discharged August 9th. I don't know what effect that would be. But the card at the employment office shows I was discharged August 2d.

Q. Were you ever called in and criticized for poor workmanship when you were working there?

A. No, sir.

TRIAL EXAMINER LINDSAY: That is all.

THE WITNESS: May I have a remark to make?

TRIAL EXAMINER LINDSAY: Yes.

THE WITNESS: After I was, in the 1935 strike our foreman, or my foreman, made a statement. He said, "We want to play ball with you. We got a job for you as a checker; but you will have to report the activities of all the men." I said, "Dave you know better than that, that I wouldn't take anything like that. I am a working man. I want to work on the men's side."

BY TRIAL EXAMINER LINDSAY:

Q. Who was Dave?

A. Dave Carnes.

Q. How many days a week are you working over at this other place?

A. It depends upon the work. We have been working five days a week, sometimes four and sometimes three.

Q. Over an average of thirty days, or one month, about how many days would you work? You have been there three months, you say?

A. I work five days a week, and one week I worked a day and a half, but last week it was three days.

Q. Offhand, can you tell me how much money you have earned over there?

A. I cannot; but I can get a note off the company.

Q. Can you furnish that to Mr. Lauter within the next couple of days?

A. I will do that.

TRIAL EXAMINER LINDSAY: That is all.

(Witness excused.)

ROSS SCHWARTZ

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Please state your full name?

A. Ross Schwartz.

Q. Where do you live?

A. 604 Schwalm Avenue, Northeast.

Q. In Canton?

A. Yes.

Q. Are you an employe of the Republic Steel Corporation?

A. Yes.

Q. When did you start working there?

A. I started working there in 1931, in that plant. It was under the Daveys at that time.

Q. And did you continue to work for it after Republic Steel Corporation took it over?

A. Yes, sir.

Q. What kind of work have you been doing?

A. I am a heater in the hot mill.

Q. In what mill is that?

A. In the old Canton Tin Plate.

Q. That is the Canton Tin Plate?

A. Yes.

Q. Now a part of Republic?

A. Yes.

Q. Are you a member of the C. I. O.

A. I do.

Q. I say, Mr. Schwartz, are you a member of the C.I.O.?

A. Yes, I am.

Q. When did you join?

A. August, 1936.

Q. Do you know Mr. Jim Davey?

A. I sure do.

Q. Who was he?

A. He was our superintendent at the Canton Tin Plate at one time.

Q. You say you do know Mr. Jim Davey?

A. Yes. He used to be our superintendent at the Canton Tin Plate, but Republic took it over and I think they switched him down to the South End Mill.

Q. Did you have a conversation with Jim Davey in December, 1936?

A. Yes, I did.

Q. State what that conversation was?

MR. DAY: Just a minute, please. Will you fix the time and place?

MR. LAUTER: It was fixed as December, 1936.

MR. DAY: Where?

BY MR. LAUTER:

Q. Where did you have this conversation? Go ahead and tell the conversation and during the course of it tell where it was held.

MR. DAY: Fix where it was held.

TRIAL EXAMINER LINDSAY: Let's not argue about it.

MR. DAY: All right.

THE WITNESS: I was going down town one day, and going out Tuscarawas Street and Young Avenue, Mr. Jim Davey came along in his automobile from towards town and blowed his horn to me to stop. I stopped and he turned his automobile across the street to where I was at, and as he did he opened the door of the car for me to get in. I got inside the car and he started down with me. He said, "Ross, Timken Roller Bearing men are holding a meeting at the German Hall this afternoon, and I would like to have you go and have you get in on it and find out what you can and let me know what you find out." I said I don't know whether I can get in on it.

MR. DAY: I want to object upon the ground it does not relate to anything in the complaint and the charges made here. There is nothing to show it is binding upon the Respondent, or was authorized by Respondent.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

THE WITNESS: I went to the meeting. I met one organizer, Sweany, and I explained things to him. He told me to call him after the meeting and tell him how things were going. I did.

The first time I couldn't get him, but the second time I got him at his home.

BY MR. LAUTER:

Q. Whom did you call?

A. Jim Davey, the superintendent at the South End at the present time, I think. The second time I called him I got him and told him.

MR. DAY: May we have the same objection and exception on the same ground to this conversation?

TRIAL EXAMINER LINDSAY: Yes. The objection is overruled. Let the record show an exception.

(Exception noted for Respondent.)

THE WITNESS: He asked me over the telephone was they talking about a sit-down strike. I told him no. They had a big crowd there and they was wanting their charter.

He said, "All right, Ross. You keep in touch with them and let me know what to do."

I said, "All right." Then, probably a month after that, I was over at the Berger Plant putting on cards and trying to get signers. It was along in January, I believe.

Q. Signers for what?

A. The C. I. O. organization.

Q. Proceed, please.

A. Our assistant superintendent, Gene Thomas, drove around there and seen us putting out these cards and trying to get signers. Some time after that I met Mr. Jim Davey in the Canton Tin Plate Restaurant, and I said to him—

MR. DAY: I make the same objection on the same ground.

TRIAL EXAMINER LINDSAY: You mean Mr. Davey does not have anything to do with the company?

MR. DAY: I think he had something to do with the company, but I do not think this has anything to do with the charges in the complaint.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception noted for Respondent.)

THE WITNESS: He also told me the day I got out of his automobile on Market Street, "I will keep your nose clean and take care of you."

But when I am in the restaurant, I said, "You are very nearly a stranger." He said, "Yes, but I know everything that is going on."

I said, "Well, I told you the truth, didn't I?" And he came over and patted me on the back and said, "Ross, get away from it."

And I figured that he meant the C. I. O. when he talked to me like that.

BY TRIAL EXAMINER LINDSAY:

Q. You are talking about Jim Davey?

A. Yes.

After the strike was called Mr. Gene Thomas, the assistant superintendent, told me the plant would never start up again.

MR. LAUTER: That is all.

MR. DAY: That is all.

BY TRIAL EXAMINER LINDSAY:

Q. Are you working at the plant?

A. Not at the present time. I have not been since the strike was called.

TRIAL EXAMINER LINDSAY: That is all.

(Witness excused.)

KENNETH POORMAN

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HOSKINS:

Q. Please state your name.

A. Kenneth Poorman.

Q. Where do you live?

A. 1704 Harrisburg Road, Northeast.

Q. Is that in Canton, Ohio?

A. Yes.

Q. Are you married?

A. Yes.

Q. Do you have any children?

A. Two.

Q. Have you ever worked for the Republic Steel Corporation or any of its subsidiaries?

A. Yes, sir; I have.

Q. When did you start to work for them?

A. 1932.

Q. Who was it you worked for, then?

A. How is that?

Q. Who was it you worked for, then?

A. The Davey brothers at the Canton Tin Plate.

Q. What was your job at that time?

A. Catcher helper.

Q. How long did you remain at the Canton Tin Plate?

A. Approximately five years, or a little better.

Q. In others words, you were there after the Republic Steel Corporation acquired it?

A. I was.

Q. Do you belong to the C. I. O.?

A. I do.

Q. When did you join the C. I. O.?

A. December 14, 1936.

Q. Did you tell the company about the fact at the time you had joined the C. I. O.?

A. I did not.

Q. When did the company or its representatives find out that you were a C. I. O. man?

A. We had occasion to go over in front of the Berger gates to try to sign up new members for our union in January. That was the forepart of January.

Q. That was January, 1937?

A. Yes. And while we were in the act of signing up members, Gene Thomas, the assistant superintendent, was driving around watching us.

Q. Why was it you kept secret from the company, or attempted to keep secret from them the fact that you were a member of the C. I. O.?

MR. DAY: Objected to as immaterial and irrelevant.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception noted for respondent.)

BY MR. HOSKINS:

Q. What is the answer?

A. I had no reason whatever to withhold it or keep it a secret myself, but being as everybody else did it I just naturally did it, too.

Q. After you became a member of the C. I. O., did you do any active organization work, or did you accompany anybody when they did any organization work?

A. I did.

Q. Who was that?

A. Guy L. Sweany.

Q. You would accompany Mr. Sweany as he would go around to see men about joining the C. I. O.?

A. Yes.

Q. Ordinarily, did you call on foremen or just ordinary working men?

A. Ordinary working men.

Q. Did you have occasion to call on any of the foremen?

A. Once.

Q. When was that?

A. That was around January.

Q. January of 1937?

A. Yes.

Q. Do you know his name?

A. Thomas Pastorius.

Q. Where did you call on him? Was it at his home or down at the plant?

A. At his home.

Q. What did Mr. Pastorius say when you suggested to him that he might join the C. I. O.?

MR. DAY: I object to that upon the ground there is no evidence connecting the Respondent with it, or that it was within the knowledge of the Respondent, or any authority from the Respondent.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

You may proceed with the examination of the witness.

(Exception noted for Respondent.)

THE WITNESS: Mr. Pastorius at that time stated that he could not join a union because he was a boss. He said he had orders to quash any union talk that might arise in his department.

BY MR. HOSKINS:

Q. While you were working, do you remember of any meeting to which you were called in the plant at which unionism was discussed?

A. I recall one meeting that was held in October, 1936. It was called a safety meeting. First, they started out discussing the new insurance plan.

Q. Who started out discussing that?

A. James Davey.

Q. Who is James Davey?

A. At that time he was superintendent of the Canton Tin Plate.

Q. How many men were at this meeting?

A. There were approximately 150 to 200 men.

Q. Did that include all of the men who were working at the time, or only part of them?

A. Yes, all of the men on the turn.

Q. Will you continue on with what Mr. Davey had to say?

A. Mr. Davey said "This is an old and obsolete mill. The Warren mill is of a newer type."

He stated further that if we were to keep out of labor trouble— He said, "There are certain types of iron that had to be made in this type of mill," meaning the older type of mill. He said, "If we stay out of labor troubles this can be the mill to operate."

Q. Did he amplify what he meant by labor trouble?

A. Well, he stated that he knew there was an organizer in the mill and that he would not raise his finger to do anything against this organizer. But he said if we insisted in getting ourselves into a bunch of outside labor trouble that he would resign and leave the mill.

Q. You just stated he said if you insisted upon getting into labor trouble he would resign and leave the mill?

A. Yes.

Q. As a matter of fact, did he leave that particular mill?

A. Yes.

Q. Where is he located now?

A. Superintendent in the South Division.

Q. Since the first of the year, or the latter part of last year, have you worked steadily? By that, I mean five days a week, or six days a week, or whatever you were accustomed to work?

A. Since what time?

Q. We will fix the time as the latter part of last year.

A. From around December our work has been poor.

Q. What do you mean by "our work has been poor"?

A. We have worked three or four days, and then we would have a week off occasionally, and it was climaxed on May 5th by a two weeks lay-off. At the end of this lay-off I went back to work for six and six and a half hours, and then I came out on strike.

Q. That was on May 25th?

A. Yes.

Q. Prior to this period to which you just referred, you had been in this mill for 5 years?

A. I had.

Q. Was it customary for the men to be laid off three or four days a week at a time like that?

A. It was not except for one year during the depression when the banks failed. It was for that year.

Q. Other than that year had you worked steadily for each week?

A. We had.

Q. At the time of this two weeks' lay-off that you mentioned, commencing May 5, 1937, to your knowledge were most of the men in your department members of the C. I. O.?

A. From my estimation I would say there were 75 to 80 percent organized.

Q. Seventy-five to eighty percent of the men you worked with were members of the C. I. O.?

A. That is right.

Q. Do you think of any other occasion prior to the time of the strike wherein unionism was mentioned to you by any of your superiors down there?

A. Yes. It was either in the latter part of April or the forepart of May that I happened to pick up a little booklet lying on a pile of iron. I cannot recall the name of the booklet outside of the fact that on the back page of the book, or the cover of the book, it had "Ten thousand dollars reward for any statement found in this book to be untrue," or something to that effect.

Q. You say this booklet was lying on a pile of iron?

A. Yes.

Q. Do you mean in the mill?

A. Yes.

Q. And you picked it up when? Was it while you were working?

A. During my spell.

Q. What do you mean by that?

A. In the mill a helper takes 20 minutes and another man takes 25 minutes. They help each other out.

Q. And it was during this spell you picked it up?

A. Yes.

Q. Go ahead, please.

A. So I sat down on one of the benches in the shear department and was reading it. Mr. Gene Thomas came up behind me and said, "Well, I see you are trying to broaden your views." I said, "Yes. It is a good thing to look at both sides."

Q. You say Gene Thomas came up behind you?

A. Yes.

Q. Who is Gene Thomas?

A. The assistant superintendent.

Q. Did you know Mr. Thomas very well at that time?

A. I did.

Q. How long had you known him?

A. Ever since I had worked there.

Q. Were you on what you might call friendly terms?

A. Yes.

Q. Did you call each other by your first names?

A. I always called him Gene, and he called me Kenneth.

Q. You were saying what he said to you?

A. I said, "Yes, it is a good thing to get both sides of the story."

So he patted me on the back and says, "Well, go to it."

In the meantime in between heats I finally finished reading the booklet. After I had finished reading the booklet I was standing waiting for my part to come around again and Thomas came up to me again and asked me what

I thought about it. I said, "Well, it is just like religion to me. You hear a preacher talk and he can make you believe in his religion. You can hear a priest talk and he will make you believe his religion is the right one. To me it is so much bunk. When you believe in something with all your heart you are not so apt to be changed by reading or hearing somebody else besides the story."

And he said, "Well, I hope you are right." And he walked away from me; and from that time on he was distant. He never spoke to me as he usually had.

MR. HOSKINS: That is all.

MR. DAY: No questions.

(Witness excused.)

PHILIP CAMERON

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. GROSSMAN:

Q. Please state your name.

A. Philip Cameron.

Q. What is your address?

A. 115 Rex Avenue, Northeast.

Q. You are employed by the Republic Steel Corporation?

A. I am.

Q. How long have you been in the employ of the Republic Steel Corporation?

A. Since August, 1937.

Q. And you worked continuously from then until the time of the strike?

A. About.

Q. Are you a member of the C. I. O.?

A. I was.

Q. Mr. Cameron, do you remember at any time while you were working in the mill being approached by somebody and being asked to join the Employes Representative Association?

A. I do.

Q. Will you state for the record just what transpired at that time?

A. Dan Allen came to me.

Q. Who was he?

A. A representative of the company union.

MR. PONTIUS: We object to describing Dan Allen.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception noted for Respondent.)

THE WITNESS: He came around with a white card with some kind of a union. I don't know the name of it. He asked me if I would sign it.

BY MR. GROSSMAN:

Q. About when was that?

A. That was around about the 15th of April, or along in there some place, just when the first noise of the strike was around there. I told him I did not want to sign it, or wouldn't sign it.

He said, "Do you think the other will get you any more than this?" I said, "I don't know anything about it."

He said, "Cameron, I don't like to report this to the company that you won't sign. You better take this card and think it over," and I did.

He came back in a couple of days to find out what I felt about it. I told him I didn't think any further about it than I did before. "I won't sign it."

Q. And you did not sign it?

A. No.

Q. On the 25th, the day the strike was called, did you go out on strike?

A. No. I was on my way to work. I didn't know the strike was called. I was on my way to work and couldn't get in it.

Q. You were on the turn that was off?

A. I was coming in on the 12 o'clock turn.

Q. Therefore, you did not go in?

A. No.

Q. Thereafter, did you ever seek reinstatement at the mill, or try to get work again?

A. I did. I got in very bad shape and lost my home over it, and I went back and asked Frank Pierce. He is the superintendent of maintenance out there—millwrights, wreckers, locomotives, and railroads in general. When I went in and asked him he said, "Cameron, you belonged to the C. I. O., did you not?" I said, "Yes, I did."

He said, "You was quite active in the shop, wasn't you?" I said, "Only with the men I worked with. I never asked nobody to sign a card, only we talked."

He said, "Those men down there just won't work with you and I can't and won't force them to do it."

Q. Did he say anything to you at that time about the C. I. O. sending people into the mill?

A. Yes. He said, "I imagine the C. I. O. would be glad to have a few of you fellows get in there." I said, "I don't know anything about that. There was nothing said to me. There was nobody said anything about that to me. I need the job, and I want the job. I need the work." That is all I know about it. I don't know nothing about that at all.

Q. Is Mr. Pierce the gentleman who can hire and discharge you if he wants to?

A. In his department we go to George Ake, the man who does the hiring, and he gives you a slip and sends you to Mr. Pierce. If Mr. Pierce signs it you go to work. If not, you do not.

Q. If Mr. Pierce does not like your work—

A. He is the only man can fire you.

Q. After this meeting with Mr. Pierce, did you leave the mill?

A. Yes.

Q. Did you ever return to seek the job again?

A. I returned the second time the following Monday.

Q. What prompted you to return if you had been refused once before?

A. I thought he was only trying to punish me.

Q. Will you tell the Court what happened in that second meeting you had with Mr. Pierce?

A. I went back again and asked him if he would not put me to work. He said, "No. They won't work with you." I said, "Mr. Pierce, I don't ask you to go down where I did work. Give me work. Give me some other job. Put me on labor." He said, "I can't do it. I haven't anything to do with the labor. I can't put you down with the other fellows."

Q. Is that all that happened at that meeting?

A. Yes.

Q. Did you ever again seek reemployment?

A. I went back about a week later.

Q. And whom did you see then?

A. Frank Pierce, again.

Q. What happened then?

A. I walked in and said, "Mr. Pierce, did you get me a job yet?" And he said, "No, I am not looking for any." And he said, "The day after this strike was called, when you did not come back for your work, your job was filled." And I said, "How did this happen; I could not get in through the pickets, and I would not come in."

And he said, "We have not been hiring any new help. We have not needed any." And I said, "Mr. Pierce, somebody is a damn liar, because I have a friend in there, today, that has got the same job that I was on." And he said, "Well, you were not here when we needed you."

Q. That is what he said?

A. Yes.

Q. This friend of yours, was he hired about a week after you were called?

A. Yes.

Q. Did you ever try to see any of his superiors?

A. Yes, sir.

Q. Who?

A. Mr. Richardson.

Q. Who is he?

A. I believe he is the general superintendent, or something.

Q. And did you go to see him?

A. Yes. And he said, "Oh, you are the helper down in No. 35?" And I said, "Yes." And he said, "I will talk to Pierce."

Q. And you never did get back?

A. No.

Q. You never did get back?

A. No, sir.

MR. GROSSMAN: That is all.

MR. DAY: That is all.

(Witness excused.)

MR. HOSKINS: I will call Sammy Stokes.

SAMMY STOKES

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HOSKINS:

Q. Please state your name?

A. Sammy Stokes.

Q. Where do you live?

A. 1311½ West Tuscarawas Street, Canton.

Q. Have you ever worked for the Republic Steel?

A. I have.

Q. When did you start to work for them?

A. June, 1933.

Q. What were you hired as?

A. As a grinder.

Q. How long did you work with them?

A. Up until the time of the strike.

Q. Are you a member of the C. I. O.?

A. I am.

Q. When did you join the C. I. O.?

A. November, 1936.

Q. And were you an active member of the C. I. O.?

A. Not at the present time. I became active about March, 1937.

Q. You say "Not at the present time"; do you mean at the time you joined?

A. Yes,—not at the time I joined.

Q. Did the company learn that you were a C. I. O. man?

A. They did.

Q. When was it they first found that out?

A. They first found that out the latter part of April.

Q. 1937?

A. Yes.

Q. Were you accustomed to wearing your C. I. O. button around the mill?

A. Yes, sir.

Q. When did you start to work out there?

A. In May, 1937.

Q. Did any of your superiors notice that button on you?

A. Yes.

Q. Who?

A. Well, the superintendent, Mr. Hopkins—he come down while I was working and asked to look at it, and the other foreman, Bill Hurley, and Joe Gentry, my foreman, they looked at it.

Q. Did any of them make any comment about it?

A. They said they had never seen any such button before.

Q. While you were on duty, did you attend any meetings at which the union was discussed?

A. Yes.

Q. When?

A. On the first or second of May we were supposed to meet in the main office.

Q. How were you notified of this meeting?

A. They brought a sign down and pasted it on the bulletin board.

Q. How did that sign read?

A. "No work for the grinders tomorrow morning; a meeting in the main office."

Q. And was this notice signed by anybody?

A. Yes, sir; by Ed Hopkins.

Q. And you have just stated that he was superintendent there?

A. Yes.

Q. Did you go to this meeting?

A. Yes, sir; I did.

Q. Will you tell us what happened there?

A. Well, the meeting was supposed to be held in the main office.

Q. Before you continue with that, let me ask you this: Was this meeting called for the grinders or for all the employees?

A. I was told by the foreman, George Snarley, that this meeting was for all the employees who wanted to come, but it was really held for only the 12-inch mill.

Q. All right.

A. I learned that they had changed the place of the meeting, down into the 12-inch mill.

Q. Did you learn why?

A. There were too many men there who had their buttons on, so that the representatives decided to hold it down in the 12-inch mill.

Q. Why—did you learn why they did that?

A. George Snarley told me that there were too many C. I. O. men there.

Q. All right, go on.

A. And so I went down to the main entrance of the gate, and George Snarley was standing there with the fellows, and I had my button on, and he said, "All right, Sammy; come on in," and he told me why they had moved it.

Q. You say they moved it because, as you learned, there were too many men wearing buttons?

A. Yes.

Q. What was the effect of changing it to the 12-inch mill?

A. That was to keep the men out that did not wear the buttons.

Q. How would they keep them out?

A. George Snarley would identify them as they came up to the gate, and if they did not wear the button the company police would keep them out.

Q. All right.

A. And so I went down to the 12-inch mill, and William Dunn, an old company representative—

MR. DAY: Who is that?

THE WITNESS: William Dunn.

He began to make his speech. He got up on a pile of steel in the 12-inch mill, and he says, "Well, I am going to present this union plan to all of the fellows." And he wanted us to sign up for it, and there was a lot of fellows there from Seattle, and we all objected to it, and a fellow by the name of Eugene Williams got up on a pile of steel and told us about what this company union would mean, and I asked to speak—

BY MR. HOSKINS:

Q. Just a minute. Who was this Eugene Williams?

A. He was the company's "stool," a fellow who would go around and get all he could and then go and tell it to the company.

Q. What was he?

A. He was a chipper.

Q. How many men were at this company meeting?

A. About seventy-five.

Q. How many men worked in the 12-inch mill, to the best of your recollection?

A. About six hundred.

Q. All right—you were testifying that you asked permission to speak.

A. Yes.

Q. And did you get permission to speak?

A. Yes, I got up on the stand and started to defend the C. I. O., but somebody wanted to draw a knife on me, and I did not have a chance to say very much.

Q. How long did you stay at the meeting?

A. About 3 hours.

Q. Did all of those 75 men remain that whole time?

A. No, sir.

Q. How many of them were there when you left?

A. About 25 men.

Q. Did you have any other meetings that were held in that mill, or in that office?

A. Yes; we had a meeting in the mill, in the 35-inch mill.

Q. When was that?

A. That was after the meeting in the 12-inch mill.

Q. How long after?

A. The following Thursday.

Q. What time of the day was this meeting held?

A. About 1 o'clock.

Q. Did you know that meeting was going to be held?

A. Well, they just sent some fellow down from the chipper bed, and told all the foremen, and chippers, that there was going to be a meeting in the middle of the building, and so everybody quit work and went up to the meeting.

Q. About how many men were at this meeting?

A. Oh, about 300.

Q. About 300?

A. Yes.

Q. Who spoke at this meeting, Mr. Stokes?

A. William Dunn.

Q. What did he have to say?

A. Oh, he just got up on the transfer, and said he was calling this meeting to explain this union plan to them, and he told the fellows that the company was expecting a strike, and he wanted them all to sign a paper that they will work, and those that would sign the paper, when caught, on the outside, when the strike was called, that they should meet at the public square, and they would prepare a way for them to go into the mill; and so he said, "I am going to pass out these blank pieces of paper, and I want you to sign them." And the meeting was over—nobody said anything.

Q. Do I understand they passed out blank pieces of paper at this meeting and wanted the men to sign them?

A. Yes.

Q. Now, at this meeting, the foremen and the men attended?

A. Yes.

Q. Did the foremen attend?

A. Yes.

Q. Which one?

A. Joe Gentry.

Q. Who is he?

A. He is my foreman.

Q. Who else?

A. Bill Hurley.

Q. Is he a foreman?

A. Yes.

Q. And do you know any others?

A No, but the chipper boss was there.

Q. And how long did that meeting last?

A. About 15 or 20 minutes.

Q. And, the following day, were you docked for this meeting?

A. No, sir.

Q. You were paid for the time it took for you to attend it?

A. Yes, sir.

Q. Did you have any conversation in the mill with anyone concerning the union?

A. Well, they would come down and have a meeting, and tell us about these representative plans.

Q. Did anyone approach you personally a.. talk to you about a meeting?

A. Sure; I think it was the day before the strike.

Q. When was the strike?

A. On the 25th of May.

Q. In other words, this conversation you are going to tell us about was on the 24th of May?

A. Yes.

Q. Who came down to talk to you?

A. This Gene Williams.

Q. What time of the day was it?

A. Right after dinner.

Q. Were you working at the time?

A. Yes.

Q. Can you please tell us what he had to say?

MR. DAY: I object to that.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception noted for Respondent.)

THE WITNESS: Well, he come down and he said, "I want to talk to you about this union plan of ours." And I said, "I do not have time; I have to work." And I had some special steel in the bed that I was supposed to get out. And he said, "Oh, to hell with the work; I came down here to talk to you."

BY MR. HOPKINS:

Q. Did your foreman see him approach?

A. Yes.

Q. Did anyone else see him?

A. Yes.

Q. Who?

A. Mr. Hopkins saw him.

I did not want to talk to him because I figured they wanted to get rid of me, anyhow. And so I just stopped work, and he started telling me about this union plan, and what the company thought the men should do. And I started to tell him about the C. I. O. And he said, "I am an old man. I know all about that." He said that the C. I. O. did not mean the colored man any good. He says, "You remember what the A. F. of L. got." And I tried to defend the A. F. of L. and the C. I. O., and told him what I thought about it, and so we finally got through talking, and he went back up.

Q. And you knew that your foreman stood there—how long did this man stay at your machine, talking to you?

A. About an hour and a half.

Q. And you stated that Mr. Hopkins came out of his office and stood there watching—how long did he stay there?

A. Just as long as Williams did.

Q. After he went back did you go back to work?

A. Well, I started to work, and, here comes Williams down again. I thought it was going to be that they would make a speech to me, and he said, "I come down to talk to you." And I said, "I have got to get to work." And he said, "Oh, to hell with the work. I come down to talk with you."

And he started talking about this union plan, and he said that he believed in a real union, and he said: "The C. I. O. is not right." And he said, "What is the use of paying your dues out, $1.50 a month, to some outsider when you can have a union of your own, here in the mill?"

And he said, "I want you to get all the men together, and we will have a meeting." And I said, "What makes you think I could do that?" And he says, "You have got a lot of influence over the men and you know you have." And I said, "No, I do not know that." And he said, "You get your men together, and I don't care what you call it, but we will have a meeting about the union, and we will not present the C. I. O. Plan, but just this Union Plan of ours." And I said, "I can't get them together on that basis. There is no way to get them together unless I let them come on the C. I. O."

We talked about it for a while, and he said, "If we call the meeting I will agree to the C. I. O. being discussed, and if the majority wants this Union Plan of ours we will all join up and sign up on it, but if the majority wants the C. I. O. we will all go down there and sign up for the C. I. O."

And it was getting late, and some of the fellows were coming in for the late turn, and one fellow stopped and said—

MR. DAY: Who is this man?

THE WITNESS: Waverly Davis.

MR. DAY: I object to that testimony.

TRIAL EXAMINER LINDSAY: Was he employed there?

THE WITNESS: Yes.

TRIAL EXAMINER LINDSAY: I will overrule the objection and let the record show an exception.

(Exception noted for respondent.)

THE WITNESS: And so he said, "No, the company does not like the C. I. O."

And I said, "No, that is not right." And about that time the whistle blowed, and I walked away.

BY MR. HOSKINS:

Q. While William Dunn was speaking, did Superintendent Hopkins still remain out in the mill?

A. Yes.

Q. Was it a customary practice of theirs to watch the men?

A. Yes, sir.

Q. Had you ever seen them do it before?

A. No, sir.

Q. Were you docked for that time?

A. No, sir; I was paid for that time.

Q. Have you ever been reported for violation of company rules?

A. I have.

Q. When was the first time you were reported?

A. It must have been about the latter part of 1933 or the first part of 1934.

Q. And was that a serious violation?

A. No. I quit a little early and went out to the wash house and took a shower. I had to go in to see Mr. Hopkins, and we had a little argument about it, and he finally agreed that I could go out every evening and wash up.

Q. Was that the only time you were reported?

A. No, sir.

Q. When was the first time you were reported?

A. Well, along in the first part of April there was a disagreement. Mr. Hopkins wanted to lay off some grinders, and we objected, and all 35 men went up to the office, and he said he would not do anything about it, and I told him he would, and, so, he finally agreed to meet all the men down at the shanty, a place where we keep all the grinders, and he finally said he would not lay any of the men off until we had a meeting, and after that I was watched and reported for everything I did. If I went out to the wash house for more than 5 minutes I was reported, and my foreman told me about it, and it did not make any difference—you cannot stop a man from talking.

Q. And for how long a period, a day, was it that you were reported?

A. Well, if I went outside I was reported.

Q. Has your foreman ever said that he liked your work?

A. He told me I was a good worker, that I did twice as much as any other worker.

Q. Did Mr. Dunn explain to you how this other union would operate?

A. Yes, we went into all of that. He told me they wanted a separate union for each department.

Q. How many departments are there down there?

A. About 43 departments, or unions.

Q. There are 43 departments, and that meant a separate union in each department?

MR. DAY: Was this in the meeting, or a separate conversation?

THE WITNESS: In the meeting.

BY MR. HOSKINS:

Q. Would these separate unions have any relationship to each other?

MR. DAY: I object to that, as leading.

TRIAL EXAMINER LINDSAY: Yes, that is leading.

BY MR. HOSKINS:

Q. Well, if you will tell us the rest of the plan of organization, as Mr. Dunn gave it to you?

A. Well, he said we would have a union, in the 35-inch plant, in the blooming mill, the 12-inch mill, and the plate mill, and the open hearth, and in fact all the departments could have separate unions, and once a month we would meet in a mass session, and go over and explain what we wanted in these different departments and unions.

Q. Now, I believe you testified that you were working on the day the strike was called?

A. Yes.

Q. Have you been back to the mill to try to get your job since then?

A. No, I have not.

Q. Have you been contacted since, about going back to work?

A. Yes.

Q. By whom?

A. By Garcia Epps.

Q. Will you spell that?

A. G-a-r-c-i-a E-p-p-s.

Q. Is Garcia Epps working there now?

A. Yes.

MR. DAY: I make the same objection, with reference to this testimony.

TRIAL EXAMINER LINDSAY: What does that man do?

THE WITNESS: He is a grinder.

TRIAL EXAMINER LINDSAY: And he works at the plant?

THE WITNESS: Yes.

TRIAL EXAMINER LINDSAY: The objection is overruled and let the record show an exception.

(Exception noted for respondent.)

BY MR. HOSKINS:

Q. Now, go on.

A. Well, he told me, "Mr. Hopkins wants you to come back to work." And I said, "The strike is still on, and until it is settled up I won't go back." And he said, "Well, if you want your job, you know what to do."

Q. Have you been contacted by anybody else?

A. Yes.

Q. By whom?

A. Andy Bodizar.

Q. Spell that.

A. A-n-d-y B-o-d-i-z-a-r.

Q. What did he have to say to you?

A. He said, "I went back to the mill and started to work," and I said, "You did?" And he said, "Yes, they do not have many men there and Hopkins told me that if I saw any of the men outside that did not carry clubs and sticks, to tell them to come back, all but one man, and that is Sammy Stokes."

MR. HOSKINS: That is all.

Cross Examination

BY MR. PONTIUS:

Q. You were carrying clubs and sticks, were you not?

A. No.

Q. You went out on strike?

A. Yes.

Q. There was quite a good deal of effort there among the men in that plant to keep the other men from going out on a strike?

A. I would say so.

Q. What?

A. I would say so.

Q. And these conversations you have related, just before the strike took place, related to that fact, did they not?

A. To what fact?

Q. The fact that they did not want you to go out on strike?

A. They did not want us to be in the C. I. O.

Q. They did not want you to go out on strike; isn't that so?

A. They said they were expecting a strike.

Q. And you were expecting a strike, too?

A. No—how was I to expect a strike?

Q. Were not these talks with you to keep you from having a strike?

A. It was to keep me from organizing these fellows.

Q. But you were not an organizer, were you?

A. No.

Q. But they were afraid that you might organize them?

A. Yes, they was afraid.

Q. This conversation, on the 24th of May, you say that Mr. Hopkins stood there and watched you for how long a time?

A. About 3 hours.

Q. How far away from you?

A. Oh, about 100 feet.

Q. And about 3 hours?

A. Yes, sir.

Q. And watched you and another colored gentleman talking there?

A. Yes, for an hour and a half.

Q. And you say he was watching you?

A. Yes.

Q. Did you say anything to him about it?

A. No, why should I?

Q. Did you?

A. No.

Q. You did not go and talk to him?

A. No.

Q. Who was this other gentleman you were talking to, besides this colored gentleman?

A. William Dunn.

Q. He is a white man?

A. Yes.

Q. And he talked to you for about an hour and a half?

A. Yes.

Q. And then it was time to quit?

A. Well, the whistle was blowing.

Q. And you quit?

A. Yes—I did not get paid for overtime.

Q. What position does this Dunn hold there?

A. Well, he is a company representative.

Q. What do you mean by that?

A. He was elected as a company representative.

Q. That is, as a representative of the men that voted?

A. Employes' Representative.

Q. That is right?

A. Yes, the same as a company representative.

Q. The same?

A. Yes, because they put him in power, he must have been.

Q. That is your conclusion?

A. Sure.

Q. Did you attend that election, or vote at it?

A. I don't think I voted.

Q. When was the election had, at which Mr. Dunn was elected representative?

A. That election was held, I think, in June or July, 1936.

Q. Yes, sir—and you worked there from June of 1933 on, did you not?

A. Yes.

Q. And you knew that the men in that shop had a representative?

A. Yes, because I was alternate representative.

Q. Yes—and you voted at those elections before 1936, did you not?

A. Yes, I did.

Q. And in 1934 and in 1935 you voted?

A. Yes.

Q. That was a body of the men in the shop, was it not?

A. Sure, it was.

Q. Did you ever get one of these booklets that is in evidence here?

A. What booklet?

Q. About the representative plan.

A. I do not know which one you are talking about.

Q. Did you ever see a booklet about that organization?

A. Yes.

Q. And you read it?

A. I don't know if I read it.

Q. But you were an alternate?

A. Yes.

Q. What year were you elected?

A. I was not elected—I was an alternate.

Q. Were you not elected?

A. No, I was an alternate.

Q. But, I say, they put up 12 men and elected six, did they not?

A. No, they elected four out of my department.

Q. And you were chosen as one of the alternates—that worked pretty good, didn't it?

A. No.

Q. Did not work good at all?

A. No.

Q. What was wrong with it?

A. There was always some misunderstanding about it, some complaint.

Q. Who was president of the organization?

A. I don't know.

Q. Did you not have any meetings?

A. I did not attend any.

Q. Were the meetings called, to your knowledge?

A. There were meetings called, but I was not supposed to go, anyhow.

Q. Why not?

A. Because I was an alternate, and all the other four were the ones who were supposed to go.

Q. Who were the regular men in your department, when you were an alternate?

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A. Raymond Switzer, Paul Baum, William Dunn, and George Snurley.

Q. Were any of those colored boys?

A. No—the company did not want them.

Q. Why do you say that?

A. They run the election the way they wanted it.

Q. Didn't they vote?

A. Yes, but they counted the votes.

Q. Did not the men count them?

A. What men?

Q. The representatives in the shop.

A. The men that were chosen representatives one year—

Q. They counted the votes the following year?

A. Yes.

Q. And you claim the elections were not honestly made?

A. No—

Q. Why?

A. Because we went over there and they were counting them about five times to see if they should make it come out all right.

Q. And the results were posted?

A. Afterwards but there was only one vote between him and Johnson. There was something screwy about that, but they would not even re-count them.

Q. You joined the C. I. O. when?

A. In November.

Q. When was it that you had your button on?

A. In May.

Q. May of this year?

A. Yes, sir.

Q. And you wear your button while you are at work, or you did?

A. Yes, sir.

Q. And you conclude that because you were seen there with your button that you got the worst of it; is that right?

A. I know I did.

Q. You worked during the strike?

A. Yes, sir; I did, under fear.

Q. If you went outside they had a right to call you down?

A. A fellow does not have any right to go to the lavatory, does he?

Q. You said if you went outside you would be reported?

A. Yes.

Q. By whom?

A. By those stool pigeons—it is full of them there.

Q. Who are some of them ?

A. One was Eugene Williams.

Q. Can you name any more?

A. I would not care to—I do not know any more.

Q. And after the strike came on you went out on the picket line?

A. Yes, sir.

Q. With headquarters at Bandy's Hall?

A. Yes, sir.

Q. And you say you never carried a club?

A. No—never did.

Q. Did you have any weapon of any kind?

A. No.

Q. Did you have a blackjack?

A. No, I wished that I had had one.

Q. Why?

A. I might have had a chance to use one.

Q. On whom—on men called to go to work?

A. (No response.)

Q. Did you have a razor in your pocket?

A. I had a razor to shave with but not to carry around in my pocket.

MR. PONTIUS: That is all.

Redirect Examination

BY MR. HOSKINS:

Q. Mr. Stokes, did you carry a razor with you at any time?

A. No, never.

MR. HOSKINS: That is all.

Recross Examination

BY MR. PONTIUS:

Q. You were a captain on the picket lines, were you not?

A. I was.

Q. And you knew Officer Jones?

A. I did.

Q. And while you were on the picket lines you had some trouble with Jones, did you not?

A. No, I did not have any trouble with him.

Q. He arrested you for resisting an officer, did he not?

A. That is what I was charged with.

TRIAL EXAMINER LINDSAY: Just a minute; was there a conviction here?

MR. PONTIUS: It is still open, as I understand it.

TRIAL EXAMINER LINDSAY: That is an improper question unless there has been a conviction, and I do not want such questions asked. He may be asked if he had trouble with him, and leave the rest alone.

MR. DAY: May we make our offer for the record?

TRIAL EXAMINER LINDSAY: Off the record.

(There was a discussion off the record.)

BY MR. PONTIUS:

Q. You remember that the Common Pleas Court of this county granted an injunction—you remember that, don't you?

A. Yes.

Q. And it was after that injunction was granted that you had trouble with the police officer?

A. It was not; it was on the same day. They were reading that injunction out of the main office.

Q. The same day?

A. Yes, sir.

Q. And after they read it out there?

A. No, sir; they were still in conference.

Q. You mean they went inside to read it?

A. Yes.

Q. Didn't they read it to the men?

A. To the men?

Q. To the men on the picket line.

A. Why, they don't think enough of a picket.

Q. Didn't they read it to you?

A. No.

Q. They went inside of the office?

A. Yes, because I let them in; I was picket captain.

Q. And you let them in?

A. Yes, they always drove up.

Q. At any rate, something happened there—

TRIAL EXAMINER LINDSAY: Just a minute, Judge.

MR. PONTIUS: I beg your pardon.

BY MR. PONTIUS:

Q. What happened on that occasion?

A. They was over at the office reading.

Q. Who?

A. Mayor Secomb and Sheriff Nist, and a couple of

National Guard officials, and T. K. Harris, a representative of the Law and Order League.

Q. What happened, if anything, between you and the policemen?

A. Well, Jones was friendly to me, and so I was standing out there, and I seen him coming out, and I said, "What's the matter, did the cruiser car leave you, Jones?" And he said, "Yes," and he kept on walking, and there was some fellow behind some bushes, and he started pulling him out from behind those bushes, and he come down over the road and, by me being captain, I says, "What are you taking him in for, Jones?" And he said, "He had a slingshot, and you see it (indicating)?" And I said, "Yes." And I walked across Eighth Street, and I said, "Give me the slingshot." And he did, and I handed it back to the fellow. And he walked over and took this fellow over and then he come back after me and he said, "I am supposed to arrest you, too, Stokes."

And I said, "For what?" And he said, "I don't know—that is orders." And I went over and Captain Goshon was there, and I said, "What are you arresting me for?" And he said, "I don't know; when I get orders I have got to follow them." And I said, "I guess you are going to take me up," and he said "Yes."

And I said, "I wish they would hurry and get the patrol wagon here, I have never rode in one before."

And so they took me to the desk, and charged me with interfering with an officer.

Q. And that is all there was to it?

A. Yes.

MR. PONTIUS: That is all.

MR. HOSKINS: Mr. Trial Examiner, for the purpose of the record, I would like to move that all of the testimony just taken in connection with the arrest of this witness be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that was my ruling to you on that.

MR. PONTIUS: We note an exception.

TRIAL EXAMINER LINDSAY: Yes.

(Exception noted for respondent.)

MR. HOSKINS: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: I think we will adjourn until tomorrow morning at 9:30.

MR. LAUTER: May I request, once more, whether or not the representative of the Fidelity & Casualty Company is here, and if he is I would like to see him as soon as we adjourn; and may I have the same announcement with regard to the witnesses?

TRIAL EXAMINER LINDSAY: Yes; any witness who has been subpoenaed, and who has not taken the witness stand, or who has taken the witness stand, but has not been released, is still under the order of the court and must be here.

(Whereupon, at 4:20 o'clock p.m., August 10, 1937, the hearing was adjourned until August 11, 1937, at 9:30 o'clock a. m.)

Courtroom No. 1, Stark County Courthouse, Canton, Ohio,
Wednesday, August 11, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Lawrence Hunt. Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the

National Labor Relations Board.

H. C. Pontius, Esq., of the firm of Messrs. Lynch, Day, Pontius & Lynch (Canton, Ohio), and Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young & Veach (1420 Union Trust Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is now called to order.

MR. HUNT: I should like to recall Sabri Shaban.

SABRI SHABAN

was thereupon recalled as a witness for and on behalf of the National Labor Relations Board, and, having been previously sworn, testified further as follows:

Direct Examination

BY MR. HUNT:

Q. Your name is Sabri Shaban?

A. Yes, sir.

Q. After you were discharged from the Republic Steel Corporation, as you testified, did you work any place else?

A. No.

Q. Did you work at all since the time you left Republic Steel Corporation?

A. No, no place.

Q. Didn't you testify yesterday that you worked for a few days at the Canton Culvert Company?

A. I worked four days 1½ hour.

Q. How much were you paid for that time?

A. Fifty-nine cents an hour.

Q. Did you receive a check for the total amount that you were paid?

A. About $25.

Q. You received a check for $25?

A. Yes.

Q. Have you worked anywhere else?

A. No.

Q. That is the only place you have worked?

A. Yes.

Q. That is the only pay that you have received for work since you left the Republic Steel?

A. Yes, sir.

Q. How much did you receive at Republic Steel while you were working there? How much did you receive an hour at Republic Steel?

A. Do you mean pay?

Q. Yes; how much pay did you receive per hour?

A. Fifty-nine cents.

Q. At Republic Steel?

A. Yes.

Q. It was 59 cents an hour?

A. Yes.

Q. How many hours did you work?

A. Thirty-three and a half.

Q. Thirty-three and a half hours a week?

A. I work four days and one hour and a half, 33½ hours.

Q. But that was at the Canton Culvert Company?

A. Yes.

Q. Before that, with the Republic Steel Corporation, how much did you earn?

A. Before that I was no place.

Q. I mean with the Republic Steel Corporation before you were discharged?

A. I wasn't no place.

BY TRIAL EXAMINER LINDSAY:

Q. You did work for the Republic Steel Corporation; isn't that right?

A. Yes, sir.

Q. That is what he means. How much an hour did you make while you were working up there at Republic Steel?

A. Before this last time, you mean?

Q. From the time you went to work in October until April. As I remember your testimony yesterday, you went back to work in October, 1936.

A. Yes.

Q. And worked until April, 1937?

A. Yes.

Q. That is right, isn't it?

A. Yes, sir.

Q. While you were working at Republic Steel, from October, 1936, to April, 1937, how much an hour did you make?

A. Fifty-one cents an hour. And the last pay I got 62 cents an hour.

Q. Sixty-two cents an hour was the pay you were receiving when you left there?

A. Yes, sir.

Q. How did it happen that you got an increase from 51 cents an hour to 62 cents an hour?

A. They raised it.

Q. They raised your pay for you?

A. Yes.

Q. When did you get your last raise in pay?

A. I don't know when it was.

Q. About when was it?

A. Right after the New Year, I think.

Q. Right after the first of the year 1937?

A. Yes.

Q. Probably in January or February?

A. February.

Q. The complete raise from fifty cents and something an hour to sixty cents and something an hour was all at one time, was it?

A. No, it was about three times.

Q. You received three different raises?

A. Yes.

Q. Between the first of January, 1937, and April?

A. The first raise was in 1936.

Q. The first raise, you say, was in 1936?

A. Yes.

Q. And you got two raises in 1937? Is that right?

A. Yes.

TRIAL EXAMINER LINDSAY: Does that cover what you are getting at, Mr. Hunt?

MR. HUNT: I think I might ask how many hours he worked and what his average was.

TRIAL EXAMINER LINDSAY: Just take it slowly with him.

BY MR. HUNT:

Q. How many hours a day did you work?

A. Eight hours.

Q. Eight hours a day?

A. Yes.

Q. How many days a week?

A. Sometimes five, sometimes six, sometimes four, sometimes three.

Q. You don't remember how many? Sometimes five, sometimes six days?

A. Yes, sir.

Q. And sometimes less than five days a week?

A. Yes, sir.

MR. HUNT: I am through with the witness.

TRIAL EXAMINER LINDSAY: Are there any questions?

Cross Examination

BY MR. DAY:

Q. The Canton Culvert Company, where you worked for a few days, is a part of the Republic Steel Corporation, isn't it?

A. About four days.

Q. That is a part of Republic Steel Corporation, isn't it?

A. Yes.

MR. DAY: That is all.

MR. HUNT: May it please the Board, it may be necessary to get some records on his work to figure out how much he has actually earned in comparison with previous earnings.

TRIAL EXAMINER LINDSAY: Do you mean while he was at Republic Steel?

MR. HUNT: Yes, because it is obvious from his testimony we cannot find out today.

TRIAL EXAMINER LINDSAY: Mr. Shaban, you are under the order of the Court, until you are released by the attorneys, as they may want to call you again. So, before you leave here, go and talk to Mr. Hunt or Mr. Lauter.

(Witness excused.)

MR. HUNT: I will call Mr. Will Wright back to the stand.

WILL S. WRIGHT

was thereupon recalled as a witness for and on behalf of the National Labor Relations Board, and, having been previously sworn, testified further as follows:

Direct Examination

BY MR. HUNT:

Q. Mr. Wright, have you worked anywhere since you left the Republic Steel Corporation?

A. No, sir; not a day.

Q. And you have earned nothing whatever?

A. No.

MR. HUNT: That is all.

MR. DAY: That is all.

TRIAL EXAMINER LINDSAY: What were you getting per hour when you left the Republic Steel?

THE WITNESS: Well, us chippers were paid rates; some days we were paid 78 cents, some days 80 cents, and some days 90 cents.

TRIAL EXAMINER LINDSAY: The rate was based on the amount of work you did?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: Was that rate increased at any time while you were there?

THE WITNESS: It was increased a little.

TRIAL EXAMINER LINDSAY: Do you know when the last increase was?

THE WITNESS: I do not know the exact date, but it was increased.

TRIAL EXAMINER LINDSAY: Would you know about what month or what year the last increase was?

THE WITNESS: The last increase was in 1937.

TRIAL EXAMINER LINDSAY: In 1937?

THE WITNESS: Yes.

TRIAL EXAMINER LINDSAY: Would you have any idea what month that increase was?

THE WITNESS: No, sir; that has slipped my memory.

TRIAL EXAMINER LINDSAY: Do you think it was in January, 1937, or February?

THE WITNESS: I think it was one of those months.

TRIAL EXAMINER LINDSAY: And when that increase in rates was given, you also got that increase, with the rest of the chippers?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: That is all.

BY MR. HUNT:

Q. How many hours—how many days a week did you work?

A. Some weeks we got three days, sometimes four days or five days, and some weeks six days.

MR. HUNT: That is all.

TRIAL EXAMINER LINDSAY: What was that rate based on, do you know?

THE WITNESS: The rate was based on a kind of tonnage, they say; the average, or something—you know you had to do so much work and you got the rate for that.

TRIAL EXAMINER LINDSAY: Then, you had a work schedule to go by; is that right?

THE WITNESS: Yes.

TRIAL EXAMINER LINDSAY: And who would tell you or inform you about that rate schedule?

THE WITNESS: It would be put on the board. If you worked tomorrow, you would see what your average was for today.

TRIAL EXAMINER LINDSAY: Can you give me some idea of what the company expected for a day's work?

THE WITNESS: No, sir; I cannot.

TRIAL EXAMINER LINDSAY: Can you give me some idea of what that schedule said you had to do?

THE WITNESS: Well, you know, Judge, if you did not do nothing you just got paid that hour rate.

TRIAL EXAMINER LINDSAY: You mean, if

they did not have any work for you to do, they would put you on an hour rate?

THE WITNESS: No; you got so much an hour and so much rate, and if you done so much work they added that to the hour rate.

TRIAL EXAMINER LINDSAY: If you fell below your scheduled work rate, then you would not get that rate, but you would just get the hourly pay?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: I understand, now.

BY MR. HUNT:

Q. In other words, you got a flat rate, plus tonnage?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: What was that "plus tonnage"?

THE WITNESS: That averaged about 67½ cents.

TRIAL EXAMINER LINDSAY: What was that 67½ cents—what did that amount to?

THE WITNESS: A day?

TRIAL EXAMINER LINDSAY: Yes.

THE WITNESS: Well, I am not so hot in figures; it would take me a little time to tell you that.

TRIAL EXAMINER LINDSAY: But, you say that some days you got 70 cents?

THE WITNESS: Yes, sir; and sometimes as high as 91 cents an hour.

TRIAL EXAMINER LINDSAY: That was added on to your hourly pay?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: Now, what would happen if you fell below your work schedule for thirty or forty days?

THE WITNESS: Well, you would get a little jacking up from the office about not working so well.

They would ask you why you did not keep it up.

TRIAL EXAMINER LINDSAY: Were you ever called in and bawled out for not working so well?

THE WITNESS: No, sir; I was working in No. 2 group, and I was called—

TRIAL EXAMINER LINDSAY: You, alone?

THE WITNESS: No, sir.

TRIAL EXAMINER LINDSAY: The whole group?

THE WITNESS: Yes, and he askd us why we was not making as much as the other group, and the boys explained that we had a marker that was a little tight, and he held us back a little back.

TRIAL EXAMINER LINDSAY: That would be the inspector?

THE WITNESS: Yes, and they changed that inspector.

TRIAL EXAMINER LINDSAY: So, they did not blame any one individual in that group?

THE WITNESS: No sir. They have ten men working in the group and what they made, those ten men got paid for it.

TRIAL EXAMINER LINDSAY: Then, as a matter of fact, the blame was on the inspector?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: Were you ever called in for poor workmanship?

THE WITNESS: No, sir; I never was. I worked anywhere they told me, whether it was chipping or piling the floor, or even keeping files. They would ask me preference to keep the files at night, and I would just leave the hammer down, and do that, because I just figured it was always best to do what the boss asked us to do. Of course, the chipper got better rates.

TRIAL EXAMINER LINDSAY: All right, that is all.

(Witness excused.)

MR. HUNT: I will call Michael Ugranovich.

MICHAEL UGRANOVICH

was thereupon recalled as a witness by and on behalf of the National Labor Relations Board, and, having been previously sworn, testified further as follows:

Direct Examination

BY MR. HUNT:

Q. After you left the Republic Steel Corporation, did you work anywhere else?

A. Yes, sir.

Q. Whereabouts did you work?

A. In Pittsburgh.

Q. Whereabouts in Pittsburgh?

A. Thirty-sixth Street.

Q. What was the name of the company you worked for?

A. The American Steel Foundry.

Q. How much did you earn?

A. I did work on the grinder job for about nine days, and made a little more.

Q. How much did you earn on the grinder's job?

A. We were paid 62½ cents, and we made a little bonus.

Q. You earned 62½ cents an hour; that was your flat rate?

A. Yes, but we got a bonus.

Q. And with the bonus you got a little more?

A. Yes.

Q. How many hours a day did you work?

A. Eight.

Q. And you worked nine days?

A. Yes.

Q. And besides the 62½ cents, you got a bonus each day?

A. Yes, it would average $1.40.

Q. $1.40 a day?

A. Yes.

Q. Did you work any after you finished your work as a grinder?

A. I did a labor job, because the company moved the tools out, and so I was getting, every second day, eight-hour work on loading tools to be taken away.

Q. Did you remember—do you remember, now, the total work you were paid as grinder?

A. I got $56 or $57 on the grinder job, and on the first job where I started.

Q. About $56 or $57 for grinding?

A. Yes. After that I got $28, and the last pay I drawed was $26 and something.

Q. You were paid $56 and $57 the first time?

A. Yes.

Q. Was that the check?

A. Yes.

Q. In 1937 you were paid $28?

A. Yes.

Q. That was for these odd jobs you were doing?

A. Where I was laboring. We were paid 62½ cents. And we didn't have no bonus.

Q. You were paid by check $28?

A. Yes.

Q. The third time you received the pay check for $26?

A. Yes. They only take out a dollar for social security. That is all they charge. I have no insurance or anything else.

Q. Were those the only checks which you received for your work from this company in Pittsburgh?

A. That is all I did.

Q. What else have you done? Did you work anywhere else?

A. No.

Q. You have never worked anywhere else?

A. I did some work, but if I go into a different State they ask you "where you come from?" and when you say, "Ohio," there is no job. And that is mostly what you get.

Q. How much were you earning when you left the Republic Steel Corporation, or just before you left the Republic Steel Corporation?

A. I couldn't tell you. We were working some bonus.

Q. Were you paid a flat rate of so much per hour?

A. We did sometimes. I know it was by the hour. It was 52½ cents when I started, and then there was a couple of raises.

Q. When were the raises?

A. It was raised some time last year. It was raised 5 cents. I believe that was this year, 1937.

Q. Do you remember last year when you got a raise?

A. I don't know exactly, you see. I know that we was getting more by the hour, but I don't know exactly what it was.

Q. Do you remember when this second raise was given? Do you remember when you got that?

A. The second raise was five cents.

Q. Do you remember when that was?

A. In January some time. I can't agree, to tell you the truth, as to when it was, but I know it was a five-cent raise.

Q. When you left Republic Steel you were earning 62 cents an hour, you say?

A. No, I don't know, to put it exactly what it was, for the reason that we were working bonus.

Q. But you were paid a flat rate of so much per hour, were you not?

A. Yes.

Q. And then a bonus of so much besides that?

A. Yes. We had so much per hour besides bonus.

Q. How much per hour was it?

A. I couldn't say exactly what it was when I left. I know what I was making by the day, the average. I know what we were making.

Q. What were you making?

A. About $6.75, or close to $7 a day. The highest I did make was $7.41.

Q. That was the flat rate of so much per hour plus your bonus?

A. With the bonus, and everything.

Q. Do you remember how much you were supposed to get per hour?

A. No. I can't agree with that. I can't tell that. I haven't any memory about that.

Q. Did the amount of your bonus vary from day to day, or did it change from day to day?

A. Yes. Sometimes we would get good steel and make it more, and sometimes we would get scrappy steel and it would make it less. That is the way we would work.

Q. Do you remember how many hours a week you worked?

A. Forty hours a week.

Q. Forty hours a week?

A. Yes.

Q. How many hours a day?

A. Eight.

Q. You worked five days a week?

A. Yes.

Q. Steadily with the Republic Steel?

A. Sometimes. We were getting a little slack probably in the summer time and only worked four days, and once in a while, and once in a while five days; but more we were getting five days.

Q. So with the Republic Steel Corporation you averaged five days a week?

A. Yes.

Q. Eight hours a day?

A. Yes.

Cross Examination

BY MR. DAY:

Q. There were a good many days, were there not—

A. That is what I said.

Q. Wait until I finish the question, please.

There were a great many days, especially after pay days, when you did not show up at all, were there not?

MR. LAUTER: I object to that. I don't see that it is material.

MR. DAY: He has testified to that.

MR. HUNT: That question has been raised and answered.

TRIAL EXAMINER LINDSAY: I think, as a matter of [fact] you went into that yesterday quite thoroughly.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: You may ask him any questions on the days that he did work.

MR. DAY: We have his record, anyway.

MR. HUNT: That is all.

(Witness excused.)

MR. LAUTER: I should like to recall Mr. Victor Arias.

VICTOR ARIAS

was thereupon recalled as a witness by and on behalf of the National Labor Relations Board, and, having been previously sworn, testified further as follows:

Direct Examination

BY MR. LAUTER:

Q. Mr. Arias, since you have been discharged from the Republic Steel Corporation have you been employed?

A. Yes, sir. Yesterday I did not want to reveal the name of the company I worked for, but the Paper Repository made it pretty clear where I was working.

Q. What was the name of the company?

A. York Ice Machine Company.

Q. When did you start working for them?

A. May 24, 1937.

Q. How long have you been employed by them? Was it since then?

A. Yes.

Q. How long did you work in May?

A. One week.

Q. What was your rate of pay?

A. Forty-five cents an hour.

Q. How many hours a day?

A. Eight hours.

Q. How many days a week?

A. Five days.

Q. For one week what was your pay?

A. Eighteen dollars.

Q. How many weeks did you work in May?

A. One.

Q. How many weeks did you work in June?

A. Three.

Q. Three weeks would be $54 for June?

A. Yes.

Q. How many weeks in July did you work?

A. Four weeks.

Q. How much would that be? Would that be $72?

A. Yes.

Q. How many weeks in August did you work?

A. Three days one week and the week we are in, one day.

Q. $10.80 for last week?

A. Yes.

Q. And $3.60 for this week?

A. Yes.

Q. And the total of all the sums you have gotten and have given me now would be the total sums of all that you have earned since you have been discharged from Republic Steel? Is that correct?

A. Yes. There is an additional sum of five or six dollars of bonus that I made.

Q. While working for the York Ice Company you made some five or six dollars bonus?

A. Yes.

Q. If that is added to everything enumerated, that would be your total earnings since you have been discharged?

A. Yes.

Q. While you were at Republic, prior to the time of your discharge, and directly prior to the time of your discharge, how much did you earn?

A. $0.685 an hour.

Q. How many hours a day did you work?

A. Eight.

Q. How many days a week?

A. Five.

Q. Did you work regularly a 40-hour week?

A. I did not work a 40-hour week. They work 36, or whatever they could make, but they made it up during the year by working 48 hours a week.

Q. So your average would be 40 hours a week?

A. Yes. There was an additional bonus that we got also, and it approximately averaged about 90 cents an hour.

MR. LAUTER: I will ask to have the question and answer read.

(The last question and answer were read by the Reporter.)

BY MR. LAUTER:

Q. That does not seem to tie in with the question that I asked. You averaged about 40 hours a week; is that right?

A. Yes.

Q. What was your hourly rate?

A. Eight hours a day.

Q. I mean your hourly rate?

A. Sixty-eight and a half cents.

Q. How much did you earn as a result of having your bonus tacked onto that?

A. Approximately 90 cents an hour.

Q. Approximately 90 cents an hour?

A. In the neighborhood of 90 cents an hour. It went up and down so that you couldn't tell exactly.

Q. But it was in the neighborhood of 90 cents an hour?

A. Yes, sir.

Q. When you worked over the 40-hour week, did you get paid overtime?

A. No.

Q. There was no time and a half for overtime?

A. No.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. You are still working now?

A. Yes.

Q. I understood you to say that yesterday?

A. Yes, sir.

Q. And that is for this York Ice Company?

A. Yes.

MR. DAY: That is all.

BY TRIAL EXAMINER LINDSAY:

Q. Were you subpoenaed by the Government?

A. Yes, sir.

Q. I might call the attention of the witness to the fact that Section 8, subdivision (4), of the National Labor Relations Act, reads as follows:

> "To discharge or otherwise discriminate against any employe because he has filed charges, or given testimony under this Act is a violation of the Wagner Act."

That is all.

(Witness excused.)

MR. GROSSMAN: I would like to call Mr. Frank Cutshall.

FRANK CUTSHALL

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. GROSSMAN:

Q. Your name is Frank Cutshall?

A. Yes.

Q. And your address?

A. No. 1446 Struble Avenue.

Q. That is in Canton, Ohio?

A. Yes.

Q. You are employed by the Republic Steel Corporation, are you?

A. Yes.

Q. When did you first enter the employ of the Republic Steel Corporation?

A. March 16, 1934.

Q. And you worked continuously until the period of the strike, did you?

A. Yes.

Q. You are a member of the C. I. O.?

A. Yes.

Q. Do you remember some time early this year being approached within the mill and being asked to join the Employees' Representative Association?

A. Yes, sir.

Q. Will you state for the record what occurred at that time?

A. Mr. Schnerly was an Employes' Representative and a foreman out there.

MR. DAY: We would like to object to this conversation on the ground that there is nothing connecting the Respondent with it. There is no evidence of knowledge or authorization on the part of the Respondent.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception noted for respondent.)

BY MR. GROSSMAN:

Q. Will you please proceed, Mr. Cutshall.

A. He handed me a card and asked me to sign it. I asked him what it was and he said it was for a new union that they were forming.

I asked him where he got the cards, and who furnished the cards, and he told me that the Representatives had thrown in together and had paid for the cards.

I told him as an excuse I did not have time to sign it then, and he said, "You can sign it and bring it in tomorrow."

Q. Did you sign it?

A. I did not.

Q. Do you remember some time after that a series of group meetings being called within the mill?

A. Yes, very frequently the chippers would be called in in groups of anywhere from four to probably eight or nine at a time.

Q. Who would call in these men?

A. They would be called in by the chipping foreman, or bed foreman, George Johnson.

Q. He is the chipping foreman, is he?

A. Yes.

Q. And he would call these men in?

A. At the request of Mr. Eichelberger, the turn foreman.

Q. They would call these men into these meetings off of these jobs? Is that the idea?

A. Yes.

Q. How many of these men would be called into one group, did you say?

A. There might be four at one time, and again there might be six, and there might be a dozen.

Q. How long would these meetings last?

A. Twenty minutes to a half hour.

Q. When these men came out from these meetings, or returned to their work, did you notice anything unusual about their persons?

A. They had cards occasionally that you could see, and they would show them to you.

Q. What kind of cards were they?

A. Cards that they were dishing out here to sign up for the company union.

Q. Were they the same cards that had been presented to you by Mr. Schnerly some time before?

A. Yes.

Q. Did any of these men ever talk to you about what occurred in these meetings?

A. Yes.

Q. Will you state what they said?

MR. DAY: I would like to know who these men were.

BY MR. GROSSMAN:

Q. Do you know any of the men who came out of these meetings?

A. I know them as men that I worked with, to locate them. I can't tell you their names. Most of them are very hard names to learn.

Q. Will you give us the general trend of conversation as these men came out?

MR. DAY: May we have the same objection to this as to the other questions?

TRIAL EXAMINER LINDSAY: Yes. I shall sustain that objection unless you show where these people worked, and in what plant they worked.

BY MR. GROSSMAN:

Q. Were these men who were coming out of these meetings called away from their work in the Republic Steel mill where you were working?

A. Yes.

Q. In the very department you were working in?

A. Yes.

Q. And they returned to work in those various departments?

A. They worked under me. I inspected the steel for them.

Q. You were their inspector?

A. Yes.

Q. When they came in from these meetings did you get the general trend of conversation as to what occurred at that meeting?

MR. DAY: May we have our objection for the reasons already stated?

TRIAL EXAMINER LINDSAY: The objection is overruled now. Let the record show an exception.

(Exception noted for respondent.)

TRIAL EXAMINER LINDSAY: But what meeting are you talking about now?

MR. GROSSMAN: The series of group meetings held in the plant.

BY MR. GROSSMAN:

Q. When was that, Mr. Cutshall?

A. In March, in the early part of March, or the middle of March, or somewhere along in there.

Q. It would not have been in May, or somewhere along in there?

A. They were in May, yes.

Q. Was that the early part of May or the latter part of May?

A. Well, I would say anywhere from the middle to the latter part. It went over a period of a week or more.

Q. And these meetings are the series of group meetings you testified about a little while ago?

A. Yes, sir.

Q. Do you remember any meeting some time after these series of group meetings held in the mill?

A. Yes.

Q. You do remember those?

A. Yes.

Q. Will you state for the record how you got notice of that meeting?

A. It was 11 o'clock. I came to work and was working 12 to 8. They notified us that there was going to be a meeting in the bar mill; they were going to close down the department and everybody was to go over and we was to get paid for the time we would be over there at that meeting. They said they were holding these meetings for each particular turn, the three turns.

At one o'clock this was scheduled to take place and they blew the whistle, and the crane men, the chippers, and grinders, and everybody employed in the plant, or practically so, attended.

Q. You mean the whole department was shut down?

A. Yes, the whole department was shut down.

Q. And you all went over to attend this meeting?

A. That is right.

Q. Who asked you to go to this meeting?

A. George Johnson was the one that personally notified me to go.

Q. Who is George Johnson?

A. He is the boss of the chippers.

Q. When you say "boss," do you mean foreman?

A. The foreman.

Q. And you attended this meeting?

A. Yes.

Q. Approximately how many men were there at this meeting?

A. Oh, about 400.

Q. Who addressed you at that meeting?

A. I believe it was Mr. Dan Allen. I was not very well acquainted with him at that time. Everybody was talking as to who was conducting the meetings, and that it was the company representatives. And I was told that it was Dan Allen. I didn't know the man at the time.

Q. What was the substance of the talk at this meeting?

A. They were forming a union for the employes of this division of Republic Steel, and they did not want any outside union.

They wanted to make preparations if a strike was called to meet up near the square and make a rush for it and go down in a body, and so on.

Q. What was the,rush going to be for?

A. They were anticipating the strike. They asked approval of the men, or some of the men in this group; but they didn't ask me, or anybody in general. They would pick out the men they wanted to speak. For instance, they knew the men they were asking the questions. They never asked me anything.

MR. DAY: I ask that be excluded, that they knew the men they were asking the questions.

TRIAL EXAMINER LINDSAY: Yes, that should be stricken.

BY MR. GROSSMAN:

Q. How long did this meeting last, Mr. Cutshall?

A. Only 20 minutes to a half an hour.

Q. And were you paid for the time that you spent at this meeting?

A. Yes, sir.

Q. There was not any deduction at all in your pay slip?

A. No, sir.

Q. Do you remember any other meeting at all after that?

A. There was one they called for our department, on a Sunday afternoon, at the main office.

Q. How did you get notice of that meeting?

A. It was told to me, and posted on the bulletin board—that is, the board where they recorded the tonnage.

Q. That was the board where they recorded the wage and tonnage totals?

A. Yes, sir.

Q. Did you attend that meeting?

A. I did.

Q. Can you fix the date of that meeting, or approximately fix it—how much after the last meeting was it?

A. I think only three or four days.

MR. DAY: I don't think he fixed the date for the last meeting.

BY MR. GROSSMAN:

Q. Do you remember approximately when the last meeting was?

A. About the 20th of May, I think.

Q. And this second meeting was when?

A. This second meeting, I would say, was the 20th of May.

Q. And the first one was how much earlier than that?

A. I would say about the 16th or 17th—just a few days between.

Q. Did you attend this second meeting?

A. Yes, I did.

Q. Will you state for the record what transpired then?

A. There—

TRIAL EXAMINER LINDSAY: Off the record.

(There was a discussion off the record.)

BY MR. GROSSMAN:

Q. Will you state for the record where the first meeting was held?

A. In the Bar Mill, 12-inch, just across the street or alley from the plant where I worked.

Q. But that was on the Republic Steel property?

A. It was.

Q. Now, getting to this second meeting you attended, did you go to that meeting alone?

A. No, I left down here with Homer Downard, and Martin Beckner.

Q. And who was Homer Downard?

A. President of local lodge No. 1200.

Q. And who was Mr. Beckner?

A. Vice-president of local lodge No. 1200.

Q. Where was this meeting to be held?

A. In the main office, on Twelfth Street.

Q. And you, accompanied by these two men, walked up to this office?

A. Yes, sir.

Q. And what happened?

A. They announced that the meeting was no longer to be held there but was to be down in the Bar Mill.

Q. And did all three of you go there?

A. No, we got as far as the gate. George Schnerly was standing there with three or four policemen, and he was O. K.ing the men that could enter. They refused to let Beckner and Downard enter, but they could not very well keep me out, because that was the particular department that I worked in.

Q. Did they give any reason for not permitting Beckner and Downard to enter?

A. No.

Q. But they permitted you to enter?

A. Yes, sir.

Q. Can you tell what occurred at that meeting?

A. Well, the meeting was held, and it started about 1, and then again about 3, and a man by the name of Dunn—

Q. Do you have his first name?

A. William Dunn, I think.

Q. All right.

A. And he stepped up to me and said, "We have a stranger in our midst"—They were looking out for C. I. O. men.

I introduced myself and told him that he was a very poor Employes' Representative to not [know] me who had been working in that department for 3½ years, and I also showed him my button of the C. I. O.

The meeting proceeded, and he announced why he had called the meeting, for the purpose of forming an Employes' Union among the employes in this particular plant here in Canton, not to include Massillon, and not to include any of the other plants, or any other Republic mill; and he would say: "The union is what we want, isn't it?" and he would point down to me and say "Isn't that right, Mr. C. I. O.?" He did not remember my name, I guess.

And I would say, "Yes, I guess so." And he would say, "The idea is so that we can get better working conditions and better pay. Isn't that right, Mr. C. I. O.?"

And he would say, "We want this union, just among ourselves here, and we do not want to mix into any more troubles." And I objected, as many more did, in the meeting, and the meeting became very disorderly at that time.

Q. Was anything more said about the C. I. O. at that meeting?

A. Yes, this Mr. Dunn threw down to me this pamphlet, "Join the C. I. O. and build up Soviet America." I think that was the wording on that pamphlet. And he asked me if I had ever read that and I told him I read sufficient of it to connect it with the steel spy system. I understand they were printed at $2 a thousand, if you could find the address of the publisher.

Q. Did you stay at that meeting much longer, Mr. Cutshall?

A. Well, he asked Mr. Allen to tell us about John L. Lewis, and he said that John L. Lewis busted up their unions in the coal fields in Pennsylvania, and left them holding the bag, and after I had listened to this line of conversation for probably twenty minutes to half an hour, I asked many of the C. I. O. men to leave, and I guess there was approximately two dozen who left with me, and the rest of the men stayed.

Q. Let us go back a few minutes, Mr. Cutshall, for the sake of the record: Do you remember this series of group meetings we referred to a few minutes ago?

A. Yes.

Q. And do you remember the general trend of conversation of the men as they came out of these meetings?

A. Oh, yes, they all came out with broad smiles on their faces—

MR. DAY: I make the same objection to this testimony, on the same grounds as before.

TRIAL EXAMINER LINDSAY: The objection is overruled, as stated before, and the record may show an exception.

(Exception noted for respondent.)

BY MR. GROSSMAN:

Q. Proceed.

A. Usually they would come out with smiles on their faces, and with their card, and show it to me, and then shove it down in their pocket. And I would say "What have you ot to say?" And they would say, "Well, it was always the same old story—produce more steel and tell us about the unions."

Q. Do you know Sammy Stokes, Mr. Cutshall?

A. Yes, sir.

Q. Who is he?

A. A grinder and chipper in that department.

Q. Did he attend this meeting on May 20th that you referred to a few minutes ago?

A. Yes, sir.

Q. While you were working in the mill, and during that time, did you let it become known that you were a member of the C. I. O.?

A. I made it very plain to many of them.

Q. Where did you tell these men that you were a member of the C. I. O.?

A. Well, on occasions that I recall, I let some of the foremen know that I was a member of the C. I. O., when we would go over to the restaurant to dinner.

Q. Shortly before the strike were you demoted?

A. I was.

Q. Can you fix the date of that?

A. Well, say the 15th of May.

Q. About the 15th of May?

A. Yes, about that.

Q. What sort of a job were you given?

A. Well, I was given an inspection job, a marker's job, on the scarfing beds, out in the yard.

Q. Had you ever held that job before?

A. No.

Q. Did that job pay the same rate of pay as your other job?

A. No.

Q. How much less per day did it pay?

A. Approximately one dollar or a dollar and a half differences in the wages.

Q. What was your average pay per day?

A. On this job?

Q. On your regular job.

A. Well, it would run about 88 cents an hour.

Q. About 88 cents an hour?

A. Yes.

Q. How much would this other job pay, that you had been demoted to, per hour?

A. Seventy-six—that is, there was a tonnage proposition, you understand.

MR. GROSSMAN: That is all.

Cross Examination

BY MR. DAY:

Q. Mr. Cutshall, when did you say you joined the C. I. O.?

A. I did not say.

Q. When did you join the C. I. O.?

A. In August, 1936.

Q. How soon after that did you make it known down at the mill where you worked that you belonged to the C. I. O.?

A. You mean generally, or to individuals?

Q. Well, let us say generally?

A. Generally, two weeks before the strike.

Q. When did you make it known individually that you belonged to the C. I. O.?

A. From the day that I signed up.

Q. When did you make it known to your boss, or your foreman, or men occupying jobs of that kind?

A. Oh, I told them individually—let me see— four or five months ago.

Q. Four or five months ago?

A. That is right.

Q. That would be some time in March or April, then?

A. Yes—to everybody.

Q. And you did stay working for Republic up until the time of the strike, did you not?

A. Yes.

Q. Right along?

A. Yes.

Q. Have you been active since the strike started?

A. Active in what?

Q. Active in the strike?

A. Yes.

Q. Have you been out on the picket line?

A. I have been on duty, one duty or another.

Q. Have you been in and around Bandie's Hall?

A. Absolutely.

Q. Before you testified today, did you talk your testimony over with Mr. Beckner?

A. No, sir.

Q. I don't mean the lawyers here—leave them out—but any members—Mr. Downard or Mr. Beckner?

A. No, sir.

Q. No C. I. O. man?

A. No, sir.

Q. Do you know of employes of Republic being taken down to Bandie's Hall by C. I. O. men?

A. I do not know of any of them being taken down there; I have seen some of them down there.

Q. Do you know of any of them being taken down there in automobiles?

A. No, I do not know how they got there, or anything like that. I have a desk down there in Bandie's Hall, but I did not know how any man got in there at all.

Q. What work do you do at that desk?

A. Just merely keep the pickets' time.

Q. Whereabouts is that desk in Bandie's Hall?

A. In the basement.

Q. In the basement?

A. Yes.

Q. I have never seen Bandie's Hall, and so I do not know about the basement; does the basement have windows in it?

A. Yes, sir.

MR. GROSSMAN: I object, Mr. Examiner, as outside of the scope of the direct examination and has no relevancy.

MR. DAY: It may be somewhat beyond the scope of the direct examination, but it seems to me it is relevant to the complaint and answer.

TRIAL EXAMINER LINDSAY: You may proceed, if you don't go too far.

MR. GROSSMAN: May I have an exception?

TRIAL EXAMINER LINDSAY: Yes, let the record show an exception.

(Exception noted for board.)

BY MR. DAY:

Q. Do you know of employes of Republic being brought down to Bandie's Hall and being beaten there?

A. I have no way of knowing whether they were employed at Republic Steel, or not, but they were steel men.

Q. Have you ever seen any of them get beaten?

A. I have seen a couple of them getting socked in the nose.

Q. Have you ever seen that?

A. I have never seen it, myself, but I know that they have been, and I would go out and try to quiet it down, but I have never seen it, myself.

Q. But you heard about it?

A. Yes, from hearing about it.

Q. How many times would you say, from your best recollection, men have been socked in the nose at Bandie's Hall?

A. Well, I have heard about the same man being socked in the nose about a thousand times.

Q. Was he a Republic man, or one of your men?

A. I would not know.

Q. Well, the same man that was socked in the nose a thousand times—

A. I mean that I heard the story about a thousand times, not that the man was socked in the nose a thousand times.

Q. During the course of the story did you get the name of that man who got socked in the nose?

A. I was not particularly interested in that.

TRIAL EXAMINER LINDSAY: Will you put in your questions that he heard he got socked in the nose; there is no evidence that he knows.

BY MR. DAY:

Q. Did you hear that he got socked in the nose?

A. Yes, sir.

Q. Who was the man?

A. I never heard his name.

Q. Do you know whether he was one of your own men or of Republic Steel?

A. I do not know; a man is just a man to me.

Q. Even though he works for Republic Steel?

A. Well, no.

(Laughter and clapping.)

TRIAL EXAMINER LINDSAY: Wait a minute! If there is any clapping here that is one thing I will not tolerate. These are federal hearings and they demand the same respect as any other hearing, in fact, a lot more. It should not be necessary for me to call the attention of anyone in this hearing in regard to the violation of a court rule.

BY MR. DAY:

Q. Do you mean to say that you do not know whether this man that got the sock in the nose was a Republic Steel man?

A. No; there would be no way of my telling that.

Q. Was there more than one man that you heard got socked in the nose down there?

A. Many, many of them; you heard every place you go.

Q. Are you an officer of that lodge?

A. I am a trustee of that lodge.

Q. And as a trustee, did you make any investigation to determine the facts as to men being socked in the nose, down at Bandie's Hall?

A. Nothing more than trying to quiet the situation down, if I heard of it.

Q. Did you ever know of a man being taken down to Bandie's Hall and stripped of all or part of his clothing?

A. I did not see any of that.

Q. Did you hear of it?

A. Oh, yes, I heard of it here, yesterday.

Q. Well, did you hear of it any other time?

A. I don't recall.

Q. Did you not hear it any other time?

A. I don't recall.

Q. Did you ever hear of Dan Allen?

A. Yes.

Q. Were you there when he was taken down—

MR. GROSSMAN: I object to this line of inquiry; it is outside of the scope of direct examination.

MR. DAY: I think it is within the scope of the issues.

TRIAL EXAMINER LINDSAY: Yes, I think you have the right to ask.

MR. GROSSMAN: And may I have an exception, if Your Honor please.

TRIAL EXAMINER LINDSAY: Yes, let the record show an exception noted.

(Exception noted for Board.)

BY MR. DAY:

Q. Go ahead.

A. When I first seen Dan Allen, he was standing in the back yard with his hands up like this (indicating), and a sign pinned on him, "T. K. Harrison, Scab." And a photographer was snapping his picture. Immediately after that the boys shook hands with him, and I shook hands with him, on the understanding that he voluntarily signed up with the C. I. O., and signed the statement that it was voluntary, and that he was not asked. And I will say also that he went out under his own steam.

Q. Do you know that after he went out under his own steam he was in the hospital for about 11 days?

TRIAL EXAMINER LINDSAY: Wait a minute; I don't think that is a fair question.

THE WITNESS: He was there in very good shape.

MR. DAY: I would respectfully suggest that, in view of his statement that he went out under his own steam, we have the right to ask if he knew that he was in the hospital.

TRIAL EXAMINER LINDSAY: Well, you will have your own case and you can ask those questions and put those things in; I wish you would not go into them.

MR. DAY: All right. Any time the Examiner wants to stop me, I know you will.

TRIAL EXAMINER LINDSAY: I sure will.

MR. DAY: All right.

BY MR. DAY:

Q. Do you know of any other men being brought down there to Bandie's Hall and beaten up?

A. Any other man?

Q. Yes, besides the man you heard got the punch on the nose.

A. There was a man, I think, that brought whiskey into the mill and had a gun on him, and he said he was called up by the foreman, and the crane men and electricians who told him to bring whiskey into the mill, and I guess the boys met him with about twenty or thirty half pints of whiskey, and he was taken into the mill to Mr. Clark, and he decided he would not go on into the mill, anyway, with the whiskey.

Q. And what happened to the whiskey?

A. Well, the police took one pint of it along with the revolver, to headquarters, when they took the man up.

Q. What happened to the rest of the whiskey?

A. I would not know; it was not brought to headquarters at all.

Q. I will ask you if on or about the 29th of May, 1937, you, together with all the other men, invited or asked an employe of Republic, a foreign fellow, to go with you to Bandie's Hall, and upon his refusal to go with you the foremen, one of whom was you, jumped out of the car, and you threatened this employe of Republic with a brick; did you do that?

MR. GROSSMAN: I object to that question. First, to the form of the question, and, secondly, because it is outside of the scope of the direct examination.

MR. DAY: What is the matter with the form of it?

TRIAL EXAMINER LINDSAY: The objection is overruled, and let the record show an exception.

BY MR. DAY:

Q. Do you understand the question?

A. I think that I do.

The man said he would come over and sign up. He had come out of the mill, and he said he would come over and sign up immediately. He said he wanted to sign up—that is what he told the boys and the pickets—and he continued on down the street, and they came over and talked to me about it, and I said let's go over and talk to the man, and we will see if he can give us any information. And wherever he was, down on the corner, he threatened us, and I personally picked up a brick and would have thrown it if he had continued his threat to throw a brick at me.

Q. How many men were there?

A. Just the one man.

Q. Were you driving your car that day?

A. Yes.

Q. Do you remember the license number?

A. I have got it in my pocket, I think.

Q. Will you let me have it?

A. Is that the one you have got?

Q. That is what I want to find out.

A. Well, what is your license number?

Q. I am asking you the question.

A. It is M-190-S.

Q. Did a policeman come up to the scene there, while this was going on?

A. Yes, a cruiser came around the corner.

Q. And a policeman?

A. Yes.

Q. There was a policeman in the cruiser, wasn't there?

A. Oh, rather, I suppose so.

Q. Did the policeman say anything?

A. Nothing.

Q. I want to ask you now, Mr. Cutshall, something about these meetings in the mill; these group meetings that took place. First, in what department did you work?

A. I worked in the chipping bed, in the inspection department of the chipping beds.

Q. What plant?

A. Plant B.

Q. What is plant B? What do you make there?

A. They make the chip and steel and grind.

Q. Is that plant B of the Alloy Department?

A. That is right.

Q. Is the Alloy Department separate from the Tin Plate Department?

A. Yes.

Q. Mr. Downard worked in what department? Is that the Tin Plate Department?

A. That is what I understand.

Q. And Mr. Beckner worked where?

A. I think he worked in the Tin Plate, too.

Q. And you worked in Alloy?

A. Yes.

Q. At these group meetings that you talked about, who would be there? Would the foremen be there?

A. It was usually Johnson. He was the foreman of the chippers on the beds, and he would call these men and tell them to go into this wash room. That is where they always held these little meetings; or sometimes they would be in Hopkins' office.

Q. How many at a time would be there?

A. As I said a little while ago, they seemed to pick the number of men, in my estimation, and it would probably be two men who were union and about four men that might be on the fence, or with the company.

Q. These men at the meetings were all men who worked at the mill?

A. I guess so.

Q. Were any of the officers of the company there?

A. What do you mean?

Q. What was the highest man who was there at any of these meetings?

A. At those small meetings it would be just that foreman and George Schnerly. Both of them were foremen, so far as that is concerned.

Q. At these series of group meetings, the highest man working for the company who was there would be a foreman; is that right?

A. Yes.

MR. DAY: The Respondent moves to strike from the record the testimony of this witness as to group meetings and what occurred there, upon the ground the record now shows that the company was not represented by anyone having authority.

TRIAL EXAMINER LINDSAY: Do you take it that none of the foremen have any authority?

MR. DAY: I would not think they would have authority to bind the company in this kind of proceeding; no, sir.

TRIAL EXAMINER LINDSAY: Do you know what authority they did have?

MR. DAY: I suppose each man has authority over his separate department.

TRIAL EXAMINER LINDSAY: I understand there is some testimony here to show that a foreman does have the right to discharge a man.

MR. DAY: Even then I want to make the record.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception noted for Respondent.)

TRIAL EXAMINER LINDSAY: At this time we will take a short recess.

(Thereupon, a short recess was taken, after which the following occurred.)

TRIAL EXAMINER LINDSAY: We will resume, gentlemen.

BY MR. DAY:

Q. Mr. Cutshall, you testified before the recess about the man in the automobile and the brick.

Did you have any other occurrences of that kind?

A. Did I have any?

Q. Did you take part in any of them?

A. They were very minor, if I took part in any.

Q. Are there any that you remember?

A. Not in particular.

Q. By that do you mean there is nothing that you now remember, or something that you do remember but that you do not consider important?

A. There is nothing that I remember at this time.

Q. In your direct examination you testified as to a meeting held in the bar mill, plant B, and I think you said it was shortly before May 20th. I think you said the second meeting you told about was May 20th. And the other one was a few days before that. Is that right?

A. Which one came first?

Q. You were telling about one when Dan Allen spoke. Was that the first meeting or the second one, or is that the general meeting?

A. That was the second.

Q. Where was the meeting? You told about two meetings.

A. It started in the bar mill and ended out in the yard.

Q. Is that the first meeting?

A. Yes, sir.

Q. That was the meeting of the employes of what plant, or what department?

A. The plant B.

Q. Of just Plant B?

A. That is right.

Q. How many men attended that meeting?

A. I would say approximately four hundred.

Q. Was that the meeting that Mr. Downard and Mr. Becker tried to get into but did not get into?

A. No.

Q. Then we have the same one in mind.

I am going to ask you about the other meeting—not the one relating to Beckner and Downard.

Where was that meeting held?

A. In the bar mill.

Q. Who was the highest officer of the company there at that meeting?

A. I don't know of any foreman being there. I didn't see any. Dan Allen and this Dunn were there.

Q. Dan Allen was not a foreman, was he?

A. Not that I know of.

Q. Was Dunn a foreman?

A. I don't know what he did.

Q. Then, is it your best recollection that there were just men there at that meeting?

A. Nothing more. I heard Allen was some kind of a straw boss or a minor foreman.

Q. But outside of that, when you simply heard he was some kind of a straw boss—

A. That is right.

Q. —outside of that, Mr. Cutshall, there were just employes there? Is that right?

A. Yes.

MR. DAY: We move to strike out the testimony as to what occurred at that meeting on the grounds already stated with relation to the series of group meetings.

BY TRIAL EXAMINER LINDSAY:

Q. These meetings to which you have been referring were meetings held by this so-called company union? Is that right?

A. That is right. And we were being paid for the time we were over there at that meeting, and at those small group meetings, but not at the one in the afternoon which was to take place at the main office and was later transferred to the bar mill. That was the meeting which Downard and Beckner were not permitted to attend.

TRIAL EXAMINER LINDSAY: I shall deny the motion and let the record show an exception.

(Exception noted for Respondent.)

BY MR. DAY:

Q. As to that meeting when four hundred were there that we have been referring to, how long did that last?

A. Twenty minutes to half an hour.

Q. At that time it was generally known that you were C. I. O., wasn't it?

A. Yes.

Q. And there were other C. I. O. men there?

A. Yes.

Q. When did you start to wear your C. I. O. buttons out to the plant?

A. I did not start to wear mine until three or four days before the strike was called.

Q. When did the boys generally start to wear their C. I. O. buttons?

A. After I wore mine.

Q. You were the first one?

A. In that department, I believe.

Q. You came out with your button and the rest of them put on their buttons?

A. That is right.

Q. I want to ask you about the Sunday meeting which was about the 20th day of May, which was about five days before the strike.

A. That is right.

Q. That was the meeting of the employes of what department?

A. Well, it was supposed to be chippers, grinders, inspectors, cranemen, and so on, at Plant B.

Q. Mr. Downard did not work at Plant B, did he?

A. No, sir.

Q. And neither did Mr. Beckner?

A. No.

Q. They worked at the Canton Tin Plate?

A. Yes.

Q. And you say that that meeting was fixed to be held first at the office?

A. Yes.

Q. And then it was changed to down in the mill; is that right?

A. That is right.

Q. And you worked in the mill?

A. Yes.

Q. You were in the department for which the meeting was called? Is that right?

A. Yes.

Q. How many men from your department were there there?

A. I would say 100 to 150.

Q. How large is the office?

A. It was not in the office, it was out in the mill.

Q. I mean this meeting place in the office. Was it in the office or just in the office building?

A. The Sunday meeting was held right out in the mill.

Q. I understand it was; but you stated it was intended first to hold it in the office.

A. That is right.

Q. Whose office was it?

A. It was supposed to be in the main office of the Republic Steel.

Q. How large a place is that?

A. I was never in it. The building is pretty large.

Q. You don't know how large the office itself is?

A. No.

Q. At any rate, there were about 150 men in your department for which the meeting was called?

A. Yes.

When they transferred that meeting there weren't more than 25 started down there. They came in after I was down in the bar mill.

Q. About 150 came there from your department?

A. Altogether it was approximately 100 to 150. But 75 of them, we will say, came after I came, and after they transferred it from the main office down over the hill.

Q. You went down with Beckner and Downard?

A. That is right.

Q. And you say Schnerly was there?

A. Yes.

Q. Was Schnerly in your department?

A. Yes.

Q. And you say there were a couple of company police standing there?

A. Yes.

Q. And you went there and went into the meeting?

A. Yes. He hesitated for a while to make up his mind as to whether he would let me in.

Q. At any rate, he let you in?

A. Yes.

Q. But he did not let in Beckner and Downard?

A. No.

Q. They did not belong to that department?

A. Just to the Republic Steel.

Q. How is that?

A. Not to that department but to the Republic Steel.

Q. They belonged to Tin Plate?

A. Yes, which is part of Republic Steel.

Q. But it was not a part of your department for which the meeting was being held, was it?

A. No. They did not hold meetings that way. They did not hold general meetings.

Q. Were there quite a number of men from the Tin Plate plant that tried to get into this meeting of Plant B?

A. I only know of Downard and Beckner.

Q. They were the only ones you saw?

A. They were the ones I happened to see. There were probably many more around; I don't know.

Q. If there was any concerted action upon the part of any men over at the Tin Plate to get into this meeting, you did not see that, did you?

A. No, I did not see it.

Q. About how long did that meeting last?

A. As I told you I left after it was in progress about 20 minutes to a half hour, and it continued I don't know how long.

Q. That was the meeting that was addressed by Mr. Dunn?

A. And Mr. Allen.

Q. That is Mr. Dan Allen that we have been referring to?

A. I suppose so. I have only heard of one of them.

Q. And Dan Allen made a speech, did he?

A. Well, he denounced John L. Lewis.

Q. He denounced John L. Lewis?

A. That was the biggest part of his speech.

Q. And the date of that was about May 20th?

A. Yes, about that.

Q. And there were some C. I. O. men there; is that right?

A. At that particular meeting I think there were about 50 percent.

Q. And they were right there when Mr. Dunn denounced John L. Lewis?

A. Yes, that is when the meeting went into confusion.

Q. About how long after that was it that you saw Dan Allen come down, or got down in some way to Bandie's Hall and said he wanted to join the C. I. O., and they had the picture taken—not the picture, but the signs on him? About how long after that was it?

A. I would say a month.

Q. About a month?

A. Yes

Q. Had you seen Dan Allen at all in the meantime?

A. No, sir.

Q. Do you know what his activities were in the meantime?

A. No, sir.

MR. DAY: I think that is all.

Redirect Examination

BY MR. GROSSMAN:

Q. Mr. Cutshall, can your foreman fire you, or could he if he wanted to, or discharge you?

A. Yes, sir.

Q. He could?

A. Yes.

Q. A little while ago you stated—

MR. DAY: Of course we object to this. He is simply giving his opinion on that.

BY MR. GROSSMAN:

Q. Did he have the right to fire people?

MR. DAY: We object to that.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception noted for Respondent.)

BY MR. GROSSMAN:

Q. When you attend this Sunday meeting, you stated that you were not paid for the time you spent there. You were not working Sundays, were you?

A. No, sir.

Q. The earlier meeting with 400 in attendance, do you recall that?

A. Yes.

Q. Were you working at the time that meeting was called?

A. Yes.

Q. Were you paid for the time you spent at that meeting?

A. Yes.

MR. GROSSMAN: That is all.

Recross Examination

BY MR. DAY:

Q. Just a minute, please.

Don't you know that the most the foreman could do is to recommend discharge, and then the matter has to be passed upon by the higher officer or superintendent?

A. I don't know that that is the case.

Q. And at the last meeting you were telling me about a little while ago, the Sunday meeting, what was the highest officer of the company that was there that day?

A. Well, the highest that I know of was Mr. Dunn.

Q. And he is what?

A. I believe him to be some kind of an under-foreman or straw boss, as they are sometimes called.

MR. DAY: I would like to make the same motion to strike with relation to what occurred at that meeting as was made to the other meetings and the series of meetings.

TRIAL EXAMINER LINDSAY: The motion is denied. Let the record show an exception.

MR. DAY: That is all.

MR. GROSSMAN: That is all.

(Witness excused.)

MOESSES RAFAILEDES

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Your name is Moesses Rafailedes?

A. Yes, sir.

MR. LAUTER: For the benefit of everybody and so that we will be sure the newspaper men have it, it is spelled M-o-e-s-s-e-s R-a-f-a-i-l-e-d-e-s. Is that correct?

THE WITNESS: Yes.

BY MR. LAUTER:

Q. Where do you reside?
A. 1735 Berger Place.

Q. Is that in Canton?
A. Yes.

Q. You have been employed at the Republic Steel Corporation?
A. Yes, sir.

Q. When did you start working there?
A. The first time I started in 1916 in October.

Q. You started in October, 1916?
A. Yes.

Q. And how long did you work there?
A. I worked there until 1919.

Q. You worked there until 1919?
A. Yes.

Q. Then after that what did you do?
A. I went on vacation in October, 1920, to the Old Country.

Q. Did you come back from the Old Country?
A. Yes.

Q. Did you go to work for Republic Steel Corporation again?
A. Yes, sir.

Q. When did you go to work for the Republic Steel Corporation again?
A. November 27, 1920.

Q. You say it was November 27, 1920?
A. Yes, sir.

Q. Have you worked for Republic Steel Corporation steadily since then?
A. Yes, sir.

Q. Until when did you work? When did you stop working?

A. 1937, May 29th.

Q. You are sure of that date, are you?

A. Yes.

Q. You are sure it was May 29th?

A. Yes.

Q. What kind of work did you do in the mill?

A. Crane man operator.

Q. Is that the kind of work you were doing when you were discharged?

A. On the same job. I was there before. I was a head chain man before. In 1922 crane operator.

Q. In what division of the plant?

A. No. 24 Department, the electrician department.

Q. What mill was that?

A. The 8-inch mill, 8-inch stock house.

Q. Is that in Canton?

A. Yes.

Q. The Canton mill?

A. Yes.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join the C. I. O.?

A. March 27, 1937.

Q. What turn were you working in May, let us say?

A. I worked when the strike was called. The four to twelve turn I was working.

Q. Do you know when the strike was called?

A. About 9:30.

Q. What day?

A. The same night, May 25th.

Q. When did you leave the plant?

A. The 29th.

Q. Four days later?

A. Yes, sir.

Q. How does it happen that you left the plant four days later? Now, before you start, let me ask you to talk very, very slowly so that we can all understand you.

A. I just tried to come on out at 12 o'clock I wanted to quit my job. My foreman says, "You wait until tomorrow morning at 8 o'clock."

Q. What did you do?

A. When 8 o'clock came I wanted to quit.

Q. Eight o'clock the next morning?

A. Yes. He said, "You work on until 4 o'clock. There are no cranemen now."

Q. He said "There are no cranemen now," and for you to work on until 4 o'clock?

A. Yes. He said, "Work on until 4 o'clock. There are no cranemen."

So I worked until 4 o'clock and came into the office and told him I wanted to go home.

Q. You told your boss you wanted to go home?

A. Yes.

Q. Who was the boss?

A. Mr. Yodius.

Q. Mr. Yodius was the foreman over you?

A. He was boss, yes.

Q. What did he say?

A. He said, "You can't go home." And I said, "I can go home, my family may be scared and get sick." I don't listen to foreman. I go up the hill.

Q. You did not listen to the foreman?

A. Yes, that's right.

Q. You went up the hill?

A. Yes, and the policemen told me "You can go out." I don't know who is giving the order to the policemen.

Q. What did you say after you went up the hill to the mill policeman?

A. "No got order, you can't go out."

Q. After he said you couldn't go out, what did you do?

A. I go back to the mill and tell the boss, and I said that, and he said, "You work on a couple of days longer and see what is going to happen."

MR. DAY: We did not get that answer.

MR. LAUTER: He said to wait a couple of days to see what would happen.

BY MR. LAUTER:

Q. Is that right?

A. Yes.

Q. Who was the foreman you came back to?

A. Mr. Yodius.

Q. What then?

A. I stayed on the next days and I worked on, and I waited to see what would happen.

Q. Go ahead. What happened?

A. Friday night somebody told me, some of my friends in the mill, "Your family have been coming up the hill three days."

Q. "Your family has been coming up the hill three days"?

A. Yes.

MR. DAY: We move to strike that out. It does not tend to support any charges in the complaint, and it does not in any way connect the Respondent with the conversation.

TRIAL EXAMINER LINDSAY: The objection is overruled. The record may show an exception.

You may tell your story.

(Exception noted for respondent.)

BY MR. LAUTER:

Q. Who told you your family was coming to the plant to see you?

A. Some Greek fellows told me.

Q. Who?

A. Forcas Casiodas.

Q. Where was he? Was he in the plant?

A. Yes.

Q. How did he know your family was coming to see you?

A. He would come up the hill and see my wife down the hill.

Q. He would come up the hill?

A. Yes.

Q. And from there he could see your wife?

A. Yes. She came three days and the policeman didn't let me know.

Q. What policeman didn't let you know?

A. Republic Steel.

Q. They did not let you know that your wife came to see you?

A. That is right. At 7 o'clock Friday I got the chief of police and said, "How long have you known me in this plant?"

Q. You asked "How long are you going to hold me in this plant?"

A. No, I said, "How long have you known me in this plant?" He said, "About 21 years."

Q. Have you been there that long?

A. Since 1916 up to date.

Q. What did you say to the policeman?

A. He said, "Your wife no come up here." I said, "I prove my wife come up here."

Q. You said that to the policeman?

A. Yes. And a lot of office men were down there, too.

Q. A lot of officers?

A. No, not officers, no policemen, but office men. He said, "Tomorrow morning I will let you come on down to see your people."

Q. The policeman said that?

A. Yes.

Q. That was Saturday morning?

A. Yes. And I say "All right." Saturday morning at 6 o'clock I get up and go down to the office and up the hill, and I tell the policeman down there, and he said, "Your wife no come here." I said, "What is the reason my wife can't come in here. She come three days and you don't let her in?" He said, "No, your wife no come here."

Q. He told you again that your wife did not come there?

A. Yes.

Q. This was Saturday morning?

A. Yes.

Q. You had been in the plant since Tuesday? Is that right?

A. Yes.

Q. Go ahead.

A. Another policeman told me and told him, "Your wife was here."

Q. Another policeman told him?

A. Told me. The policeman marked the directions down there.

Q. In that book with your name? Your name was there?

A. Yes, my name and my wife's name were in this book, yes.

Q. What does the book show? What is this book for?

A. The policeman refer to who is coming and who is going out.

Q. What happened Saturday morning? To whom did you speak?

A. The policeman down there.

Q. Did you give his name? Do you know his name?

A. No, I didn't know his name.

Q. What did you tell him?

A. I told him, "This is my wife's name." He said, "I don't know about it."

Q. "Here is my wife's name"?

A. Yes.

Q. Were you pointing to something?

A. Yes. I told the policeman.

Q. What were you pointing to?

A. The policeman.

Q. You said "Here is my wife's name"?

A. Yes.

Q. Where?

A. Saturday morning.

Q. Was it in this book?

A. Yes.

Q. And what did he say?

A. He said, "I don't know. I had boss and I can't let you know about it. Excuse me."

Q. He said he couldn't let you know about it?

A. Yes.

Q. And to excuse him?

A. Yes.

Q. What else happened on Saturday?

A. At 10 o'clock I came on down and called on my plant boss.

Q. Who is that?

A. Mr. Yodius and Alvin Johnson and Mr. Whitehouse.

Q. Who is Mr. Whitehouse?

A. The superintendent of the electricians.

Q. What happened?

A. I saw him down there, and at the bottom of the hill I saw my son.

Q. You went to the hill and saw your son?

A. My son started to cry and said, "Come on daddy. what are you staying for?"

I cry myself now. Then he says, "My mother was very scared and sick."

BY MR. DAY:

Q. What was that he said?

A. Mr. Whitehouse says, "Mr. Yodius, what is the matter?" He said, "Your father makes lots of money here. What are you worrying about your father for?"

BY MR. LAUTER:

Q. Mr. Whitehouse said that to your son?

A. Mr. Yodius said it to him, "Why do you worry about your father? He makes lots of money." My son say, "I don't care about the money, I want to see my father."

And they take me back to the mill then, my boss, and talked and said, "You can go."

I told Mr. Whitehouse in 1932 he scared my wife and family. They wasn't sick.

"Do you know Mr. Johnson how long I have that trouble?" I say; and he said yes. And I say, "Well, let me go out and give me the orders."

Q. You said you wanted to go out and you wanted him to give the order to go out?

A. Yes.

Q. Did he give the order to go out?

A. No.

Q. Did you go out finally?

A. Yes.

Q. How did you happen to get out of the plant?

A. He says, "You wait and I will call up the policeman and send your kids home." I said, "No, I go down and see my kids myself. I am going to talk to them."

I got up the hill and talked to my kids. The policeman don't let me talk my language.

Q. The policeman wouldn't let you talk your language?

A. No. He said, "Talk in English." I said "This is a school boy, he doesn't understand my English. That is why I talk in my own language." And then he said, "Then, all right."

I got a couple of candy and sent the kid home. I told him to tell my priest.

Q. You told your kid to tell the priest?

A. Yes.

Q. To do what?

A. To bring two policemen to come down and take me out of the plant.

Q. Did your priest come to the plant?

A. Yes, two came on down on Saturday.

Q. What is the priest's name?

A. James Matokos. And the priest came on down there and the company police say, "You can't take Moesses home."

Q. You said that to the priest?

A. No, the chief of police. The priest said he could take Moesses home. He would help Moesses home. And he said, "How are you going to take Moesses home?" He said, "You can't help Moesses home. You better take care of the Moesses' home in the house."

Q. What happened when the priest came there? Start back beginning at the start and go over it very, very slowly. The priest came to the Republic plant?

A. Yes, he came.

Q. In the Republic plant?

A. Yes.

Q. What happened there?

A. He told my boss, and the chief of police said—

Q. Just a minute, please. To whom did your priest speak?

A. The chief of police.

Q. What did your priest say to the chief of police?

A. He said, "Give it Moesses. I will take him home."

Q. That is what the priest said?

A. Yes.

Q. Did the chief of police say anything?

A. "You can't help Moesses home. You better take care of the Moesses' home in the house." And then my priest said, "I am taking [care] of the Moesses' home. I can't do anything."

Q. Just a minute, please. He said, "I can't do nothing more"? Was that it?

A. Yes. Then the chief of police said, "If I give you this man now, if this man is killed what is the security?"

Q. "If I give you this man to take home"?

A. Yes, and if somebody killed him will you be security.

Q. Who said that?

A. The chief of police.

Q. "If somebody killed him will you be security"?

A. He said, "I will be security if somebody kills him."

Q. Who said that?

A. The priest. They gave him the order and came out and they said, "Go down and take your clothes."

Q. Who said that?

A. My boss.

Q. Who was that?

A. Mr. Yodius.

Q. He told you to take your clothes and leave?

A. Yodius.

Q. He told you to take your clothes and leave the mill?

A. I told him there was a good place for my clothes at the mill, and they will stay down there.

Q. Are they still there?

A. Yes. I just came out with the priest.

Q. And you left the plant?

A. Yes.

Q. When did you leave the plant?

A. Saturday, 2:30.

Q. How long do you generally work in the mill? How many hours a day?

A. I worked 8 hours a day. My job would be an easy job.

Q. You worked 8 hours a day? Is that right?

A. Yes.

Q. The strike took place on May 25th? Is that right?

A. Yes.

Q. And you left the plant May 29th?

A. Yes.

Q. Did you work 8 hours a day during that time?

A. Yes, I worked 8 hours a day during that time.

Q. How many hours a day did you work? Just how many hours did you work?

A. Just my job, maybe two hours or three hours a day.

Q. You mean during the time you were there in the plant from May 25th to May 29th you were working two or three hours a day?

A. Yes. My job was easy.

Q. How much did you get paid for?

A. Fourteen hours a day.

Q. You got paid for 14 hours a day?

A. Yes.

Q. During the time you were in the plant?

A. Yes.

Cross Examination

BY MR. PONTIUS:

Q. The strike came on on the 25th of May?

A. Yes, sir.

Q. What time?

A. Nine-thirty.

Q. Nine-thirty at night?

A. Yes, sir.

Q. And you had gone on on the 4 o'clock turn that day, had you?

A. Four-thirty.

Q. And you were working when that strike came on?

A. Yes, sir.

Q. What plant did you work in?

A. The 8-inch mill.

Q. And you were a crane operator?

A. Yes, sir.

Q. And a great many men remained in the plant, did they not—lots of men remained in the 8-inch mill?

MR. LAUTER: I object to the question as not being within the personal knowledge of this witness.

TRIAL EXAMINER LINDSAY: I will sustain the objection.

(Exception noted for respondent.)

BY MR. PONTIUS:

Q. To your knowledge—

You worked on until 12 o'clock that night, didn't you?

A. Yes, sir.

Q. And, at that time, did you look outside of the plant?

A. I cannot go outside of the plant—a lot of men came down.

Q. I don't understand.

A. A lot of the men called the bosses, and every one with his suitcases, coming to work.

Q. Was that about 12 o'clock?

A. No, about 6 o'clock.

Q. I ask you if, at 12 o'clock, you looked outside of the plant?

A. At 12 o'clock I quit my job and go down to the boss' office to get my time card, and my foreman says, Please you stay until tomorrow morning.

Q. And you stayed, didn't you?

A. Yes, sir.

Q. Did you sleep there that night?

A. No, sir.

Q. What did you do there that night?

A. I just run all over the plant.

Q. And then you went to work again, the next morning?

A. Yes.

Q. And how long did you work that day?

A. At 8 o'clock I want to go home, and he said, you work till 4 o'clock.

Q. And you worked that day, did you?

A. Yes, sir.

Q. You worked from 8 to 4 that day, didn't you?

A. At 4 o'clock I told my boss I want to go home, and he said, no, you cannot go home.

Q. Did you look out around the plant at that time?

A. Yes, at 4 o'clock I go out to the police station.

Q. What did you see there?

A. Nothing, long lines.

Q. Did you see the picket line there?

A. No.

Q. You said, when you did come out, the policeman asked your priest if he would guarantee your getting home in safety?

A. Yes, sir.

Q. And the priest said he would guarantee it?

A. Yes, sir.

Q. That was because there were a lot of pickets there, wasn't it?

MR. LAUTER: I object to that question.

TRIAL EXAMINER LINDSAY: Yes, that is objectionable.

BY MR. PONTIUS:

Q. Well, you did see a picket line out there?

A. Yes, everybody make me shake hands.

Q. That is, they were glad you came out of the plant; is that right?

A. Yes, sir.

Q. Did you recognize any of those men out there that shook hands with you?

A. Yes, sir; there was the union, my brothers.

Q. Who were they?

A. I don't know if they were C. I. O., but they were my brothers.

Q. What entrance of the plant did you leave when you went with the priest?

TRIAL EXAMINER LINDSAY: What gate?

THE WITNESS: Up to the police station—out of the main gate.

BY MR. PONTIUS:

Q. During this time that you remained in this plant, you said you walked all around there; weren't there a number of men there?

MR. LAUTER: If your Honor please, this question has been asked before, and I have objected, and you have ruled on it, as to the number of men in that plant.

MR. PONTIUS: The point is that this man was there, and others.

TRIAL EXAMINER LINDSAY: The objection is sustained.

BY MR. PONTIUS:

Q. Were there other men in the plant while you were there?

A. Yes, in the rest room.

Q. You were not the only man in that plant during this period, were you?

A. I cannot understand you.

Q. Were there other men in the plant when you were there?

A. Yes, sir.

Q. And were there other men working in that plant while you were there?

A. Yes, sir.

Q. Now, had there been any threats at your home, while you were in that plant, that scared your wife?

A. No, sir.

Q. How do you know that?

A. My wife told me—don't bother nobody.

Q. That anybody bothered her?

A. Yes. They called the strike, that is all.

Q. During this time, to your knowledge, were men going in and out of that plant—do you understand me?

A. No.

Q. Were workmen going in and out of that plant, coming to work and going away from work, during that time?

A. I do not expect that—I just understand there was to be a strike.

Q. Isn't it a fact that this foreman did not want you to leave; he was afraid you might get hurt?

MR. LAUTER: I object to the question.

TRIAL EXAMINER LINDSAY: He may answer the question.

THE WITNESS: My foreman had the crane men short, and he wanted to keep me in the shop.

BY MR. PONTIUS:

Q. Wasn't he afraid you might get beaten up?

A. No, no, he don't afraid of me.

Q. Why not?

A. Nobody can kill me, anyhow; everybody my friend.

Q. Did he know you were a C. I. O. man?

A. No—right away he would fire me if he know.

Q. You did not wear your button there?

A. No, I keep it inside my shirt.

Q. He did not know you had any connection with the C. I. O., did he?

A. No.

MR. PONTIUS: That is all.

MR. LAUTER: That is all.

TRIAL EXAMINER LINDSAY: Just one other question: These policemen who stopped you from going out of the plant, were they policemen of the City of Canton?

THE WITNESS: Of the Republic Steel, I think, Republic Steel policemen.

TRIAL EXAMINER LINDSAY: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will adjourn until 1:30.

(Whereupon, at 11:55 o'clock a. m., a recess was taken until 1:30 o'clock p. m. of the same day.)

Afternoon Session

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. LAUTER: Leo Cox.

LEO COX

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Where do you reside, Mr. Cox?

A. Massillon, Ohio.

Q. Whereabouts in Massillon?

A. 1025 South Erie.

Q. Have you been employed by the Republic Steel Corporation?

A. Yes, sir.

Q. When did you start working for them?

A. 1922 the first time.

Q. You have worked continuously after that?

A. No, until 1924.

Q. Speak up, now.

A. 1924—'34—'24.

Q. And after 1924 you worked for them again?

A. Came back in 1929.

Q. And you have worked steadily since then?

A. Yes, sir.

Q. Where is the plant located?

A. Columbia Heights, Massillon, Ohio.

Q. What kind of work have you done?

A. Charging machine operator.

Q. And is that the nature of the work that you were doing when you stopped working for them?

A. Yes, sir.

Q. When did you stop working for them?

A. May 25th.

Q. What happened then?

A. Then we went on strike.

Q. I see. Now, you are a member of the C. I. O.?

A. Yes, sir.

Q. When did you join?

A. September 4, 1936.

Q. Are you familiar with the Employes' Representation Plan at Massillon?

A. Yes, sir.

Q. That is at the Massillon plant?

A. Yes, sir.

Q. Of the Republic Steel Corporation?

A. Yes, sir.

Q. What was the first notice that you had that a Plan was being organized there?

A. Oh, I think it was circulated around from mouth to mouth in the beginning. That is about the first notice we had.

(There was a discussion off the record.)

TRIAL EXAMINER LINDSAY: I was just telling the Reporter that I want all the exhibits here in the courtroom during the sessions.

(There was a short recess taken.)

BY MR. LAUTER:

Q. Before we continue with this line of inquiry, Mr. Cox, will you state how long you have been a steel worker?

A. Well, about 22 years.

MR. LAUTER: Mark this, please.

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 32.")

BY MR. LAUTER:

Q. And you testified that there was some talk in the plant about the formation of the Employes' Representation Plan?

A. Yes, sir.

Q. Well, did a vote take place on the formation of the Plan?

A. Later on it did, yes.

Q. Did it take place in the plant?

A. Down between the 12 and 18-inch mills.

Q. I see.

I hand you Board's Exhibit, for identification, No. 32, and ask you if you have ever seen it before? Describe what it is.

A. "Plan of Employes' Representation, June, 1933."

Q. Now, did you ever receive a copy of that in the plant?

A. I did receive one, but I don't know where I got it at.

Q. Did you get it in the plant?

A. Yes.

MR. LAUTER: I offer this in evidence as Board's Exhibit No. 32.

TRIAL EXAMINER LINDSAY: No objection? Board's Exhibit No. 32 is received in evidence.

(The document previously marked for identification as "Board's Exhibit No. 32," was received in evidence.)

MR. LAUTER: Mark this, please.

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 33.")

MR. LAUTER: Do I understand that there is no objection to the admission of that?

MR. DAY: That is right.

TRIAL EXAMINER LINDSAY: Which one is that? 32?

MR. PONTIUS: Thirty-two.

TRIAL EXAMINER LINDSAY: Thirty-two is already in.

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 33, for identification, and ask you if you have ever seen that before, and I will ask you to describe what it is?

A. That is the same thing, only it has been amended in 1934.

Q. Do you remember how you got that?

A. I think there was a bunch of them laying on the recorder's desk.

Q. The recorder's desk where?

A. On the 18-inch mill.

Q. That is where you got it?

A. I think that is where I picked it up.

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 33.

May I point out for the record that this exhibit consists of a green book, and also attached to it a white sheet of paper with some typewritten or mimeographed material on it.

TRIAL EXAMINER LINDSAY: No objection.

Board's Exhibit No. 33 is received in evidence.

(The document previously marked for identification as "Board's Exhibit No. 33," was received in evidence.)

BY MR. LAUTER:

Q. Now, did you vote at any time on the acceptance or rejection of the Employes' Representation Plan?

A. Twice, I believe.

Q. Did you vote—

TRIAL EXAMINER LINDSAY: A little louder.

BY MR. LAUTER:

Q. Did you vote for representatives under that Plan?

A. Well, the first time we didn't vote at all. We had about five votes.

Q. When was that?

A. That was in the nomination in '33.

Q. That was voting for representatives?

A. Yes, sir.

Q. In accordance with Board's Exhibit 32, is that right?

A. Yes.

Q. You didn't vote then?

A. No, sir.

Q. Now, you refer to another vote. When did that take place?

A. Well, that was in '35 and in '36.

Q. Those were votes held in the plant?

A. Yes, sir.

Q. Now, I asked you before whether or not you voted or whether a vote was held on accepting or rejecting the Plan. Was there such a vote?

A. No, there was no vote on that.

Q. The only vote that you know about is the vote on the representatives; is that correct?

A. Yes, sir.

Q. So that the employes automatically became members by voting for representatives; is that correct?

A. That is correct.

Q. Now, will you tell me where the vote took place in 1933?

A. Well, they had the booths set up down in between the 10 and 18-inch mill, and the fellows would vote down there. We all belong to the A. F. of L. at that time, and they wouldn't be—I think it was about five fellows went in there in the nomination. And then the election time came on, they had moved the booths up into the pipe shop, and then some of the fellows from there went up there and voted, and some even went home and changed clothes and came back and voted.

Q. Who is Mr. Kelvey? Do you know him?

A. That is the chief electrician.

Q. What is his full name, do you know?

A. James Kelvey.

Q. Were any of the men ever urged to vote on any of these elections, to your knowledge?

A. Yes, I guess there was plenty of them.

Q. Well, to your knowledge. I don't want your guess. I want you to tell me what you know.

A. Yes, sir.

MR. DAY: I object to that. I take it we are entitled to a conversation, if he heard it, and who did the talking.

BY MR. LAUTER:

Q. Will you state for the record any conversation that you heard with respect to voting under this Plan, and when that took place and where it took place?

A. Well, there was—you mean for forcing you to vote, you mean?

Q. Did you have any conversation with Mr. Kelvey?

A. Well, he asked me if I voted, and I told him no.

Q. Yes.

A. And he said, "You better go up and vote."

Q. Did you hear Kelvey tell any other men the same thing?

A. Yes.

Q. When was that?

A. The same night.

Q. What year was that?

A. 1933.

Q. Elections for representatives under this Plan?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: Just a moment. Just so the record is straight, do you withdraw your objection after he gave you the conversation? Is that right?

MR. DAY: Well, if the conversation was with an officer, but if the conversation is with Mr. Somebody, who is the chief electrician, why, I would like to object to it.

TRIAL EXAMINER LINDSAY: All right. Your objection is overruled and let the record show an exception.

(Exception noted for Respondent.)

BY MR. LAUTER:

Q. Now, are you a member of the general body?

A. Yes, sir.

Q. How many members of the general body were there under this plan?

A. Twenty-one.

Q. Do they hold meetings?

A. Yes.

Q. Where were these meetings held?

A. In the Industrial Building at Massillon.

Q. You mean the Industrial Building that is part of the Republic Steel?

A. Yes, sir.

Q. How often do they hold meetings there?

A. The General Body once a month unless there was a special meeting.

Q. Did you attend the meetings?

A. Yes, sir.

Q. When did they generally start?

A. Oh, about 9 o'clock in the morning.

Q. Approximately how long did these General Body meetings last?

A. Until four or five o'clock in the evening.

MR. DAY: May we ask when he was a member of the General Body?

MR. LAUTER: I am prepared to ask him that.

BY MR. LAUTER:

Q. Were you a representative under this Plan?

A. Yes, sir.

Q. When were you elected?

A. 1935 and 1936.

Q. That is for the years 1935 to 1936, and 1936 to 1937?

A. Yes, sir.

Q. Under this Plan would you automatically, as a representative, become a member of the General Body?

A. Yes, sir.

Q. You attended the General Body meetings; is that correct?

A. Yes, sir.

Q. I hand you Board's Exhibit No. 34, for identification, and ask you what that is and whether you have ever seen it before.

A. I have seen it before and that is a schedule for dates of meetings of the different committees and General Body.

Q. Is this a schedule of meetings for the various committees in the General Body under the Republic Steel Corporation's Employes' Representative Committee of Massillon?

A. Yes, sir.

MR. LAUTER: I offer this in evidence as Board's Exhibit No. 34.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 34 received in evidence.

(The document referred to was marked as "Board's Exhibit No. 34," and received in evidence.)

BY MR. LAUTER:

Q. Were you paid for attending the meetings of the General Body?

A. Yes, sir.

Q. By whom were you paid?

A. Republic Steel.

Q. For attending the meetings of the General Body that were held in the plant; is that correct?

A. Yes, sir.

Q. Where were the meetings of the General Body held?

A. Held in the Industrial Building.

Q. Were you also a member of any of the committees that were set up under this Plan?

A. For the first year member of No. 4 committee.

Q. When you say first year you mean 1935?

A. Yes.

Q. You were a member of what committee?

A. Of No. 4 committee.

Q. What is the nature of No. 4 committee?

A. Appeals.

Q. Appeals.

A. No. 4 is a committee that, if No. 2 committee could not settle the grievance and the wage question, it was passed to No. 4, and No. 4 tried to settle them, then.

Q. Now, Mr. Cox, No. 4 committee, to which you refer, of which you were a member, was a standing committee; is that correct?

A. Yes.

Q. Were there also joint committees?

A. Joint committees, too.

Q. What was the joint committee composed of?

A. Five officials of the company.

Q. Along with the employe representatives?

A. Yes.

Q. That is five officials of the company known as the company representatives?

A. Yes.

Q. They sat in with No. 4 with the joint committee?

A. Yes.

Q. Did you get paid for attending the meetings of the joint as well as the standing committee?

A. Yes.

Q. In addition to the pay which you got for attending the General Body meetings?

A. Yes.

Q. Did you hold any office in No. 4 committee?

A. I was chairman of the No. 4 committee.

Q. For the years 1935 and 1936?

A. Yes.

Q. You were elected representative for the years 1936 and 1937?

A. Yes.

Q. Did you hold any office?

A. Chairman of No. 3 committee.

Q. What is No. 3 committee?

A. Health, sanitation, and safety.

Q. What were the activities of that No. 3 committee?

A. Well, they were supposed to see that things were taken care of as to safety and sanitation. It was up to them to look into things to that effect.

Q. Now, the days on which the meetings were to be held for the various committees are set forth in a mimeographed sheet known as Board's Exhibit No. 34; is that correct?

A. Yes.

Q. And that was made up at the beginning of that year that you were to serve; is that correct?

A. When your term started.

Q. How long, on the average, were these safety meetings, or meetings of the No. 3 committee?

A. About two hours.

Q. How much did you get for attending?

A. Three hours.

Q. How is it that when the meeting lasted two hours you would get paid for three hours?

A. That was a ruling the General Body had made and took it up with the management to have nothing less than two hours.

Q. So that even when you attended for less than three hours, or namely, two hours, you would get three hours' pay?

A. Yes, sir.

Q. I hand you Board's Exhibit No. 35, for identification, and ask you to describe it?

A. That was a special meeting at the Industrial Building for the purpose of organization.

Q. And what is the document that I handed you known as Board's Exhibit No. 35 for identification?

A. Well, that was sent to me through the mail to be there. That was after election time, they were going to organize committees.

Q. This is a notice sent to you through the company mail? How did you receive this?

A. I don't know whether that was company mail or whether I got a notice.

Q. That was mailed to you?

A. Mailed to me.

MR. LAUTER: I offer this in evidence as Board's Exhibit No. 35.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: May I see that?

(Document handed to Trial Examiner.)

TRIAL EXAMINER LINDSAY: Board's Exhibit 35 received in evidence.

(The document referred to was marked as Board's Exhibit No. 35, and received in evidence.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit 36, for identification. State whether or not you received that?

A. Yes, sir.

Q. Where did you receive that?

A. I received them every month at my home.

Q. This is a notice of a joint committee meeting No. 3?

A. Yes, sir.

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 36.

TRIAL EXAMINER LINDSAY: Any objection?

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 36 received in evidence.

(The document referred to was marked as Board's Exhibit 36, and received in evidence.)

BY MR. LAUTER:

Q. Now, you were a member of the joint committee and chairman of the standing committee of No. 3; is that correct?

A. Yes.

Q. And as a member of the joint committee you received this notice every month?

A. Yes, sir.

Q. Whenever the schedule provided for meetings?

A. That is the way it should be.

Q. I hand you Board's Exhibit 37, for identification, and ask you to state whether you received that?

A. Yes.

Q. What is it?

A. For the meeting of the committee.

Q. Is it a notice of the standing committee No. 4, Appeals Committee?

A. Yes.

MR. LAUTER: I offer it in evidence as Exhibit No. 37. Apparently there is no objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 37 received in evidence.

(The document referred to was marked as Board's Exhibit No. 37, and received in evidence.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit 38, for identification, and ask whether or not you received that notice of meeting of the General Body of Employe Representatives?

A. Yes, I received that.

MR. LAUTER: I offer it in evidence as Exhibit No. 38. Apparently there is no objection to that.

TRIAL EXAMINER LINDSAY: Received in evidence.

(The document referred to was marked as Board's Exhibit No. 38, and received in evidence.)

BY MR. LAUTER:

Q. You described before voting which took place in the plant in connection with the representatives?

A. Yes.

Q. Were voting booths used at that election?

A. Yes, sir.

Q. Do you know who constructed those voting booths?

A. Carpenters of the Republic Steel.

Q. Were there bulletin boards at the Republic Steel plant at Massillon?

A. Yes, sir.

Q. Have you access to those bulletin boards?

A. Yes, sir.

Q. Did you have the key to those bulletin boards?

A. Yes, sir.

Q. How does it happen that you had a key to the bulletin board?

A. Well, the fellow who was the representative before I was, he gave me the key to it.

Q. What would you do with it?

A. Well, the minutes, post the minutes, sometimes we would get some safety bulletins, we would post them and lock them up, the front was of glass.

Q. Who was Mr. George Lohneis?

A. That is the plant, Republic Management representative.

Q. Management representative under this Plan?

A. Yes.

Q. Did he attend the meetings?

A. No, he did not.

Q. Was he present at any of the meetings?

A. After the meetings were over he was.

Q. Did he send out the notices of the meetings?

A. Yes, sir.

Q. He attended meetings of both of the bodies of various committees?

MR. DAY: I object to that. He did not say that.

MR. LAUTER: I am asking him, did he attend?

MR. DAY: He has already answered.

TRIAL EXAMINER LINDSAY: Overruled.

MR. DAY: He has already answered the question.

TRIAL EXAMINER LINDSAY: I have already ruled on it. Proceed with the examination.

MR. LAUTER: Will you read the question?

(Question read.)

BY MR. LAUTER:

Q. Did he attend the meetings of the General Body?

A. After the meetings were over he attended them.

Q. Is that equally true of the committees of which you were a member?

A. Yes, sir.

Q. I hand you Board's Exhibit 39, for identification, and ask you to state whether or not you received that copy of the minutes of November 7, 1936?

A. Yes, sir.

Q. How did you receive a copy of the minutes?

A. Through the mail.

Q. Do you generally receive copies of the minutes?

A. Yes, sir.

MR. LAUTER: I offer it in evidence as Board's Exhibit 39.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit 39 received in evidence.

(The document referred to was marked as Board's Exhibit 39, and received in evidence.)

BY MR. LAUTER:

Q. You said that Mr. Lohneis was called in after the meetings; is that right?

A. That is right.

Q. Do you recall any occasion when he was called in after the meeting?

A. Well, he was pretty near always called in after meetings if he was present in Massillon.

Q. Were any requests ever made from him with respect to grievances?

A. The majority of times there was.

Q. Do you recall any of those incidents?

A. Well, some was on wages and someone dissatisfied with the boss.

Q. When you presented a grievance to Mr. Lohneis, who was the management representative under this Plan, did he act on it?

A. Yes, sir.

Q. What would he do?

A. Well, he would take it up and try to get it fixed around and get things working for us providing it was not money matters, buildings, things like that.

Q. What would he do where there were money matters involved?

A. He would take it up with the other executives.

Q. At these meetings there were always minutes taken?

A. Yes, sir.

Q. Who took the minutes?

A. The secretary.

Q. Of either the committee or General Body?

A. Each committee had a secretary of its own, and the General Body had none.

Q. Who got up the minutes?

A. We sent them in to Mr. Lohneis' office and we would receive them from Mr. Lohneis.

Q. You received mimeographed minutes from Mr. Lohneis' office, the management representative?

A. Yes, sir.

Q. Were there any dues paid at Massillon?

A. No, sir.

Q. Who paid for operating the Plan?

A. Republic Steel.

Q. They paid for printing the by-laws?

A. Yes, sir.

Q. They paid for sending out all notices?

A. Yes, sir.

Q. They paid for you attending meetings?

A. Yes, sir.

Q. Paid for the time you spent handling grievances?

A. Yes, sir.

Q. I hand you Board's Exhibit No. 40, for identification, and ask you to state whether or not you received that copy through the mail here?

A. I did.

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 40.

MR. DAY: I do not think there will be any objection. He is looking at it.

TRIAL EXAMINER LINDSAY: All right.

MR. DAY: There will be no objection, anyhow; no objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit 40 received in evidence.

(The document referred to was marked as Board's Exhibit No. 40, and received in evidence.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 41, for identification, and ask you whether or not you have seen that before?

A. Yes, sir.

Q. What is it?

A. Statement showing how many hours we had on duty, and how many hours we have off duty.

Q. Did you receive this from the Republic Steel Corporation?

A. Yes, sir.

Q. Massillon plant?

A. Yes, sir.

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 41.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 41 is received in evidence.

(The document referred to was marked as Board's Exhibit No. 41, and received in evidence.)

BY MR. LAUTER:

Q. Referring to Board's Exhibit No. 41, I call your attention to the notations on the front of the exhibit, the face of the exhibit, in ink. There are numerals "3-3-3" and "8" in two columns on Board's Exhibit No. 41. Will you describe what they are?

A. Well, them 3-3-3's is for like two of them was a meeting and one was a meeting with the superintendent maybe in his office. Them is the 3 hours we got for attending the meetings.

Q. What is the "8" for?

A. The "8" is hours. More than likely was had a General Body meeting.

Q. What is the date in which the 8 appears next to?

A. Fifteen.

Q. I hand you Board's Exhibit No. 42, for identification, and ask you what that is?

A. That is the same as the other one.

Q. What is it?

A. Showing the off duty and on duty, 8 hours.

Q. Did that generally come along with your pay check?

A. Yes, sir; if you had any extra time like that.

MR. LAUTER: Offer it in evidence as Board's Exhibit No. 42.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: All right. No objection. Board's Exhibit 42 is received in evidence.

(The document referred to was marked as Board's Exhibit No. 42, and received in evidence.)

MR. LAUTER: Mark these, please.

(The documents referred to were marked for identification as "Board's Exhibits 43, 44, and 45.")

BY MR. LAUTER:

Q. I hand you Board's Exhibits, for identification, Nos. 43, 44, and 45. Will you describe what they are?

A. Application blanks for the employes to fill out with the representatives, when you have a case, instead of having it verbal. Why, instead of having it verbal they filled it in blank form.

Q. Those forms are supplied by the Republic Steel Corporation?

A. Yes, sir.

Q. To the representatives under the plan; is that right?

A. Yes, that is right.

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 43, also Board's Exhibits 44 and 45.

(There was a discussion off the record between Mr. Lauter and Mr. Day.)

MR. LAUTER: I will state for the record that all of these forms are being offered as blanks, and any written material on these are not intended to be offered in evidence in this case.

MR. DAY: Then there is no objection.

TRIAL EXAMINER LINDSAY: Board's Exhibits 43, 44, and 45 are received in evidence.

(The documents previously marked for identification "Board's Exhibits 43, 44, and 45," were received in evidence.)

MR. LAUTER: Mark this, please.

(The document referred to was thereupon marked for identification as Board's Exhibit 46.)

BY MR. LAUTER:

Q. I call your attention to Board's Exhibit No. 40, and the following statement contained in the minutes of September 22, 1936: "In reply to request for general wage increase for employes of the Massillon district, Mr. Bortz discussed this item in detail and stated it was impossible for the management to grant this request. He also stated that when all conditions warrant, that this item will be given consideration."

Was Mr. Bortz at that meeting of September 22, 1936?

A. He was called in after the meeting was over.

Q. What did he have to say?

A. Well, he said we was rated a little higher in Massillon than they were in the rest of the mills in the districts at that time. They couldn't afford to go and give the men a raise.

Q. When Mr. Bortz said that they could not afford to give the men a raise that ended the matter?

A. For the time being, yes.

Q. I call your attention to Board's Exhibit No. 39, minutes of September—of November 7, 1936, and the statement contained therein, that "Mr. E. A. Bortz, district management of the Central Alloy District, Republic Steel Corporation, announced today to the General Body representatives, that effective November 16, 1936, wage rates will be increased 5½ cents per hour in the lower wage brackets."

Was that announcement made at the meeting?

A. Yes, it was made at the meeting.

Q. Made by Mr. Bortz; is that correct?

A. Yes, sir.

Q. Do you know whether or not local newspapers carried the announcement of that increase before the employe representatives knew about it?

A. There was some kick about that over there because they hollered about the newspapers having it before the representatives had it.

Q. They knew before you did that you were getting a wage increase?

A. Yes.

TRIAL EXAMINER LINDSAY: Did you offer Board's Exhibit 46?

MR. LAUTER: Not yet. I am coming to it.

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 46, for identification, and ask you to describe what that is?

A. That is the general conference of the Employes' Representatives of the Republic Steel.

Q. Is that an annual conference?

A. An annual conference.

Q. There is a provision for an annual conference made in the by-laws of the Employe Representation Plan?

A. Yes, sir.

Q. And this is a picture of the annual conference?

A. Yes.

Q. Where was it held?

A. Brookside Country Club.

MR. DAY: What year?

MR. LAUTER: What did you say?

MR. DAY: Did you say '36?

MR. LAUTER: I think he did.

I offer it in evidence as Board's Exhibit No. 46.

BY MR. LAUTER:

Q. Did you say that was the annual conference in 1936?

A. In 1936—'37 that was.

TRIAL EXAMINER LINDSAY: Mr. Lauter, I thought you had Board's Exhibit 46 right there.

MR. LAUTER: No. 39 and 40.

TRIAL EXAMINER LINDSAY: Oh, all right.

MR. DAY: When was this?

BY MR. LAUTER:

Q. When did that annual conference take place; do you recall?

A. I think that was in '37.

Q. In '37?

A. Yes.

MR. DAY: There is no objection to the exhibit.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 46 is received in evidence.

(The document previously marked for identification "Board's Exhibit No. 46," was received in evidence.)

BY MR. LAUTER:

Q. Were the employe representatives under the Plan present at this annual conference?

A. Yes, sir.

Q. And were some of the management representatives?

A. Yes, they were there, too.

Q. And some of the officials of the company?

A. Yes.

Q. Including Mr. Cole Meyers?

A. Yes.

Q. And Mr. Voss?

A. Yes.

Q. Who paid for the cost of the conference?

A. The Repubic Steel, I guess.

Q. Was there a banquet in connection with that conference?

A. Yes, sir.

Q. Do you know about a conference or meeting, or meetings, that were held in Cleveland in connection with an Employes' Representation Plan?

A. I know of it, yes.

Q. Were any delegates elected; do you know?

A. Two.

Q. Were they selected from your Employes Representation Plan?

A. Yes, sir.

Q. Who were the delegates that were elected?

A. Nate Brown and Nick Lincolnhaley.

MR. LAUTER: Mark this, please.

(The document referred to was thereupon marked for identification as Board's Exhibit No. 47.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit 47, for identification, and ask you when you received that?

A. Received that at the General Body meeting of the Employes Representation Plan.

Q. Of the Employes' Representation Plan?

A. Yes, sir.

MR. LAUTER: Offer it in evidence as Board's Exhibit No. 47.

MR. DAY: When was it?

BY MR. LAUTER:

Q. When did you receive that, do you recall?

A. What year was it?

Q. Did you receive that this year or last year or the year before?

A. Either the last of '36 or the first of '37.

Q. Let me show you that exhibit again.

TRIAL EXAMINER LINDSAY: Any objection to 47?

BY MR. LAUTER:

Q. Do you recall when you received that?

MR. DAY: No.

TRIAL EXAMINER LINDSAY: Exhibit No. 47 is received in evidence.

(The document previously marked for identification as Board's Exhibit 47, was received in evidence.)

A. '37.

BY MR. LAUTER:

Q. You are sure it was in '37?

A. Yes.

MR. LAUTER: Do you want to see it any further?

MR. DAY: No.

MR. LAUTER: Do you want to see it?

TRIAL EXAMINER LINDSAY: No.

MR. LAUTER: I offer it in evidence. Does the record show it was received?

THE REPORTER: Yes.

MR. PONTIUS: What is it, please?

BY MR. LAUTER:

Q. Say what it is.

TRIAL EXAMINER LINDSAY: That is 47.

MR. LAUTER: It says here, "Plan of Employes' Representation Plan, Massillon Plant, as amended April 22, 1937."

Mark this, please.

(The document referred to was marked for identification as "Board's Exhibit No. 48.")

BY MR. LAUTER:

Q. Do you recall whether or not in 1937 the General Body considered at one of their meetings any petitions?

A. Well, there was some petitions out there through the mill down there.

Q. What kind of petitions were they?

A. Well, there was a petition that came up from the Bloomingdale to the General Body that—a strike situation. Didn't want to have—that is, they had the fellows—

MR. DAY: Was that in writing? Have you got the petition?

BY MR. LAUTER:

Q. Was that a petition in written form?

A. It was at that time.

Q. Where was it presented?

A. At the General Body meeting.

Q. What action did the General Body take?

A. Well, the General Body didn't like the heading of that petition.

Q. What was the heading of that petition, in substance, if you don't remember the exact words?

A. Well, it says, "We, the undersigned, are satisfied with our present plan, and do not want any interference from the outside, C. I. O.," or something on the order of that there.

Q. What action did the General Body take?

A. Well, there was a few fellows in the General Body had stepped up and made remarks that they didn't like the heading on that petition.

Q. What objection did they make to the heading?

A. About the C. I. O.

Q. What happened?

A. Well, they talked around there a while, and the first thing they decided they would draw up a new heading and leave the wording "C. I. O." out.

Q. What happened to the petition with the wording "C. I. O." out?

A. I don't know what happened to that petition.

Q. Was it circulated after that?

A. No, I don't believe it was.

Q. You don't know what action was taken by the General Body?

A. They had—the only action I know is this new heading that they put on this other petition.

Q. I see.

Now, I hand you Board's Exhibit 48, for identification, and ask you whether or not have you ever seen a copy of that before?

A. Yes, sir.

Q. When did you see a copy of that?

A. In the Industrial Building.

Q. When did you see it for the first time in the Industrial Building?

A. What is that?

Q. Was that some time this year?

A. Yes, that was around about the time the Wagner Act went into effect.

MR. LAUTER: I see. I offer it in evidence as Board's Exhibit No. 48.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: No objection. Exhibit 48 is received in evidence.

(The document previously marked for identification as Board's Exhibit No. 48, was received in evidence.)

BY MR. LAUTER:

Q. Do you recall a meeting after the **Wagner Act** was upheld at which Mr. Cole Meyers spoke?

A. Yes, I remember a meeting there. He was present at the time.

Q. Where was that meeting held?

A. In the Industrial Building.

Q. Tell me what he said.

A. Well, there was talking about the **Wagner Act,** and said they couldn't finance our stationery or even come down to a room, and couldn't appropriate no money to pay the representatives. There was a discussion there of how to raise money.

Q. What was the discussion?

A. One of the representatives suggested about to raffle off an automobile to raise money enough to pay for stationery and expenses of the representatives, and the other fellows spoke up, and he says, well, he says, "We ain't allowed to raffle off cars." He says, "You even get fired if they catch you with baseball tickets." Meyers says, "I don't know what the hell goes on down there the way you guys are selling things."

Q. Mr. Meyers then left?

A. Yes.

Q. Did he say where he was going?

A. He was going to Canton.

Q. Did he say why?

A. Well, he had a meeting over here in Canton, too.

Q. A meeting over in Canton?

A. Yes.

Q. A general body meeting?

A. A general body meeting.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. You were asked about some notice of a wage increase coming out in the newspapers. Coming out in the newspapers before the General Body was advised of it?

A. Yes, that is so.

Q. Well, the wage increase, of course, applied to many more men working for the Massillon plant than were members of the General Body, didn't it?

A. Oh, yes.

Q. Was it a wage increase for the whole plant or for a subdivision of the plant, or what?

A. Well, it was a general wage increase.

Q. At the Massillon plant?

A. At all plants.

Q. At all plants?

A. Yes.

Q. And that was announced in the newspapers before your General Body at the Massillon plant was told of it; is that right?

A. Yes, sir.

Q. That is the general Republic wage increase; is that right?

A. That is right. The public knew all about it before the representatives knew about it.

Q. Well, but all Republic?

A. Yes, the whole Republic was given a general increase.

Q. Now, you were asked also about some minutes that were mimeographed over at the company office. Those minutes were minutes of the meetings of your General Body?

A. General Body.

Q. And were they kept by your secretary?

A. Yes.

Q. Who was your secretary?

A. Nate Brown.

Q. And after he took the minutes they were sent over to the company office and they were there mimeographed; is that right?

A. That is right.

Q. And then were copies mimeographed and sent to—

A. Each representative in—

Q. Each representative of the General Body?

A. Yes.

Q. Of whom there are about twenty, did you say, over in Massillon?

A. Twenty-one.

Q. On this matter of payment when you attended meetings, I would like to clear that up. Suppose you were working, actively working, when you were called to a meeting.

A. Yes.

Q. How were you paid, then, for the time that you spent in the meeting?

A. Three hours.

Q. Three hours?

A. Yes, sir.

Now, if somebody took your place, did he get paid for your time?

A. Yes, sir.

Q. And you got just the same then yourself as you would have if you had stayed on the job?

A. No, that sometimes varies. We never got paid for the 3 hours we put in there what the actual 3 hours of them days would make. Our time was always taken from the two weeks before, the equivalent of what we had drawed the two weeks, we would get our two hours out of it that way, but the actual day you wouldn't get your 3 hours.

Q. Well, would you get paid more or less, depending on whether you were working at the time you were called to the meeting?

A. Sometimes it is more.

Q. Well, now just explain how that was. I don't understand your answer. Maybe it is my fault, but just explain that.

A. Well, I work on a tonnage basis and an hourly basis.

Q. Yes.

A. Well, maybe today I might make $10, $11.

Q. Yes.

A. Tomorrow I might make $8. Well, maybe these three hours I would be off I might make $3 or $4 in them three hours, but that is the actual day on that—actual day may be the two weeks before that. My time wouldn't average that.

Q. When you went to the meeting, then, of the General Body, how much would you get for the three hours you spent there?

A. Eight hours.

Q. How much?

A. Eight hours. How many hours, you say?

Q. No. How much would you be paid? Suppose you went to a meeting and stayed there two hours, how much would you be paid for it?

A. Three hours.

Q. Three hours?

A. Yes.

Q. For that two hours?

A. Yes.

Q. Now, would you get more money or less money, depending on whether you were actually working at the time the meeting was held?

A. Sometimes you would and sometimes you wouldn't.

Q. Well, now, explain that to me, please.

A. Well, just as I say, if, when the three hours' time down there, you might change a roughing mill, and that takes an hour and a half to—an hour and a half to pretty near two hours to change a roughing mill to line up the other mills. Well, you would be making your 55 cents an hour. That is all you would be making. Well, these three hours that I had spent at the meeting I would draw from the two weeks—that is, the average on the other two weeks. Well, then, I would make more money in them three hours than what I did if I would have been working.

Q. I see. Sometimes you would make more and sometimes you would make less?

A. Yes.

Q. Depending on what you were doing when you were called?

A. Yes.

MR. DAY: I think that is all.

TRIAL EXAMINER LINDSAY: We will take a short recess.

(There was a short recess taken.)

(Witness excused.)

TRIAL EXAMINER LINDSAY: The hearing has been called to order.

RUSSELL ECKROAD

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HUNT:

Q. State your name.

A. Russell Eckroad.

Q. Where do you live, Mr. Eckroad?

A. 3027 Lincoln Way, West, Massillon.

Q. Give us your place of residence again. Speak a little louder.

A. 3027 Lincoln Way, West. Massillon.

Q. Mr. Eckroad, when did you first enter the employ of the Republic Steel Corporation?

A. Well, the first time I entered the employ of the Republic Steel Corporation was in about 1919.

Q. In what plant?

A. I worked in the time office for about a year and a half.

Q. In Massillon?

A. Yes.

Q. Continue.

A. Then I left the time office and was off for about three months and then I went back and I went into the heat treating department. I worked there about seven months and then left and went to St. Louis, Mo., on a job down there, and then I was down there about a year and came back here in 1923, and joined up with the Republic—not the Republic at that time, but the Central Alloy.

Q. That was in Massillon?

A. Yes.

Q. What was your job?

A. Well, I started out as a drag on the shears.

Q. A drag on the shears?

A. Yes.

Q. What was your next position with Republic?

A. After I had worked on there for some time I went to the superintendent and asked him if I could get on the hot mills and he said that he would see about it, and finally I got on the hot mills as a doubler.

Q. As a doubler?

A. Yes. Then as time went on I advanced to a matcher.

Q. You were advanced to a matcher?

A. Yes, matcher. Then as time went on I was advanced to extra rougher.

Q. To an extra rougher?

A. Yes. And I extra roughed for quite a few years, and then they give me a job as steady head rougher.

Q. Is that a promotion from extra rougher?

A. Yes.

Q. You became head rougher?

A. Yes, sir.

Q. Is head rougher sort of a head operator of a small crew?

A. The head rougher is the operator that has charge over the crew of the mill that he works on.

Q. Are you a member of the C. I. O.?

A. Yes.

Q. When did you join the C. I. O.?

A. I joined the C. I. O. on or about November 15, 1936.

Q. And did you ever at any time have a talk with David Lewis regarding the C. I. O.?

A. Yes. One day I went into Mr. Lewis' office.

Q. Who is Mr. Lewis?

A. Mr. Lewis is our turn foreman.

Q. Turn foreman of what mill?

A. Of the hot mill.

Q. What did Mr. Lewis say to you?

MR. DAY: I would like to object to this conversation on the ground that it does not connect the Respondent; it does not appear that Mr. Lewis had any authority to act for or in behalf of the Respondent.

TRIAL EXAMINER LINDSAY: Mr. Lewis was a foreman?

THE WITNESS: Yes.

TRIAL EXAMINER LINDSAY: Objection overruled. The record may show an exception noted.

(Exception noted for Respondent.)

BY MR. HUNT:

Q. Is a turn foreman the lowest form of foreman, or is it a pretty high form of foreman?

A. Well, the turn foreman is not the lowest foreman of the mill. There is another foreman, what they call a heater foreman. He also looks after different things on the mill.

Q. Now, the turn foreman is in charge of all the men on a certain shift?

A. Yes.

Q. For example, a shift of eight hours he is the head of all the men on that shift?

A. Yes, he has all of the responsibility of that shift.

Q. What did Foreman Lewis say to you?

A. Well, I went over after a piece of chalk and Mr. Lewis and I got to talking, and Mr. Lewis says, the question came up about the C. I. O., and Mr. Lewis says, "Well, Mr. Girdler will never sign the contract with the C. I. O.," and then it led on to some other things, about one thing in general that had happened up town at a union hall, and he says something about that, and I says to him, "Why, how do you know that?" He says, "That is all right how I know that." He says, "We know things down here 10 minutes after they happen up town no matter where it is."

Q. What did he mean by that? Did he explain?

A. He did not explain himself on that question, no.

Q. Did he say anything else about what Mr. Girdler would or would not do?

A. Well, not at that time.

Q. I see.

MR. DAY: We move to strike out that conversation for the reasons stated in the objection to it.

TRIAL EXAMINER LINDSAY: The motion is overruled. Let the record show an exception.

(Exception noted for Respondent.)

BY MR. HUNT:

Q. Do you know whether or not a petition was circulated among you a few weeks after that conversation with Mr. Lewis?

A. Yes, there was a circulation, or a petition circulated through the mill. It was a company union petition.

Q. By a "company union petition," you mean a petition circulated by the employes' representatives?

A. Employes' representatives of the company union. We were supposed to sign their name to it, read it and sign their name to it, and when it come down through the mill, why, only about two men, about two or three men on our end of the mill, on our roughing end signed it out of about sixty or sixty-five men. Well, then, they turned around and took it over to the office, and Mr. Lewis came on to the mill, and he says to me, "What is the matter with you fellows?"

MR. DAY: I would like to have the same objection to this line of questions.

TRIAL EXAMINER LINDSAY: Same ruling. Let the record show an exception.

(Exception noted for Respondent.)

THE WITNESS: "What is the matter with you fellows, you do not want to sign this petition? Everybody up above has signed it." Well, I says, "I did not sign it," and I says, "The rest of them did not sign it." "Well," he says, "should I bring it down again?" "Well," I says, "it is immaterial to me what you do." So he went back over to the office and about 20 minutes later he brought the petition around again. Well, then, the roughers on three of the mills signed it. When I looked at the petition I seen their names on it, so I thought, well, if they signed it I might as well sign it, too, so I went ahead and signed it.

BY MR. HUNT:

Q. Do you remember, in substance, how this petition was headed?

A. It was headed something, "We, the undersigned, are satisfied with the Representation Plan and the wage and hours and conditions of the mill."

Q. What did Mr. Lewis say to you when he asked you to sign this?

A. "Well," he said to me, he says, "Well," he says, "if you boys don't sign this the result of it will be that we won't work very long." He says "Our orders will last us, what we got, will last us about a month and a half. Then,'' he says, ''if we don't sign this thing up and straighten it out like all the rest of th plants are doing that when the company man went out on the road at the end of the month he did not know whether he would get us any more orders or not.''

Q. What else did he say?

A. That is about all he said to me.

Q. Were you present near the end of April at a meeting of head operators in your mill?

A. Yes.

Q. Were you one of those head operators?

A. Yes.

Q. How many were there at this meeting, about?

A. Well, there was about 28, I judge.

Q. Where did you meet?

A. We met in the superintendent of the mill's office.

Q. What is his name?

A. Mr. Alvin Smith.

Q. Were there any other superintendents, or foremen, present?

A. Mr. Andrew Evans, sheet mill superintendent.

Q. Who else?

A. Foreman, Mr. Dave Lewis.

Q. Did Superintendent Smith speak to you at all?

A. He give a talk in general to the men that were in the office, and he gave a general talk, and he said that we were only working black sheet orders, and that they were not very good orders, and that things were slackening up, and that the prices they had to pay to get steel here from Cleveland, and then ship it back on the lake fronts again, why, it would not hardly pay to operate the plant.

Q. What else did he say?

A. Well, he said that he thought that everybody was satisfied with the company representation plan, and that if the C. I. O. organization would come in there that there was still a good chance of not working.

Q. The men stood a good chance of not working if the C. I. O. went in there?

A. Yes, and if we did work we would only work a day or two a week.

Q. If the C. I. O. got in?

A. Yes.

Q. Did he explain that any further, what he meant?

A. Well, no, no.

Q. All he said that if the C. I. O. got in there that what?

A. He said if the C. I. O. got in there that possibly it would shut down the plant. If it did not we would only work one or two days a week after that.

Q. I see.

Did Mr. Evans make a speech?

A. Mr. Evans got up and just asked if he wanted to say anything, and he said no. "Mr. Smith has covered about everything that I can think of."

Q. Did your foreman, Mr. Lewis, speak to you?

A. Yes.

Q. What did he say?

A. Mr. Lewis got up and he says, "Boys," he says, "we all been working good. We have all been drawing nice pay." He says, "We all been enjoying our pays, buying a lot of different things, buying new automobiles, buying new homes, and having lots of fun." He says, "If this thing happens, if C. I. O. comes in here, and there is a strike in this plant, and this plant shuts down, a lot of you boys are going to lose your homes, your automobiles, and you won't know where your next bite is coming from."

MR. HUNT: That is all.

Cross Examination

BY MR. DAY:

Q. Do you think what he said was true?

MR. HUNT: I ask that question be made more definite.

MR. DAY: He stated what he said, and I asked him if he thought what he said was true.

MR. HUNT: Which particular remark?

MR. DAY: Well, the whole remark.

MR. HUNT: He made several different remarks.

MR. DAY: No, you just said what Mr. Lewis said. The stenographer has it. Now, I am asking you whether you think that was true.

MR. HUNT: Mr. Examiner—

TRIAL EXAMINER LINDSAY: That is all right.

A. No, I do not think it is true.

BY MR. DAY:

Q. You do not think it was true?

A. No.

MR. DAY: That is all.

(Witness excused.)

ELMER JORDAN

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. State your name.

A. Elmer Jordan.

Q. Mr. Jordan, where do you reside?

A. 905 West Main Street, Massillon, Ohio.

Q. What is your present occupation?

A. C. I. O. organizer.

Q. In what area are you an organizer?

A. Massillon district.

Q. Massillon district?

A. Yes, sir.

A. I want you to speak up and answer the questions. What was your answer to my last question, Massillon district?

A. Massillon district; yes, sir.

Q. Have you been employed by Republic Steel Corporation?

A. I have.

Q. What plant?

A. Massillon plant.

Q. How long did you work there?

A. I started there in February, 1933.

Q. How long did you work?

A. Up until April, 1937.

Q. What kind of work did you do while you were in the mill?

A. I worked on different jobs. I ended up in the sheet inspection—helper in the sheet inspection department.

Q. Do you know Mr. Alvin Smith?

A. I do.

Q. Who is Mr. Alvin Smith?

A. General superintendent of the sheet division.

Q. At the Massillon plant?

A. At the Massillon plant.

Q. Have you ever had any conversation with him?

A. I have. September of 1936, I just do not remember the exact date.

Q. Suppose you state what the substance of that conversation was with Mr. Alvin Smith?

A. Mr. Charles Chase, assistant superintendent of the sheet division, came up to me after work one evening at 3 o'clock and said Alvin Smith wanted to see me in the office, so I went into Mr. Smith's office and he spoke to me. He said, "What connections do you have with this C. I. O.?" I said, "What is the C. I. O.?"

MR. DAY: I did not hear your answer?

THE WITNESS: I said, "What is the C. I. O.?"

back to him. He said, "Why, that is an organization of John L. Lewis'." I said, "Who is he?" He said, "He is president of the United Mine Workers." I said, "I never knew of him myself." That is the words I give back to him because at that time if you ever said you knew him you would have got fired.

BY MR. HUNT:

Q. Did you know who John L. Lewis was?

A. Yes.

Q. Did you know what the C. I. O. was?

A. I did. I belonged to it. There was only about two or three of us who did.

Q. And that is why you told him you did not know what it was? A. Yes.

Q. Where did this conversation occur?

A. Down in his office.

Q. Was there any further conversation between you and Mr. Smith?

A. He said, "And Mr. Jordan, you know as well as I know that the steel industries cannot be organized." He said, "The Republic Steel Corporation has too much money for a thing like that to come in here." He said, "You might organize the brick layers and carpenters, they are just a hand full of men, but you will never touch Republic Steel. You know what happened down here a few years ago to the men who took an active part in the organization. They lost their jobs. I think the best thing for you to do is lay off." I said, "Mr. Smith, I have nothing to do with it." So I went out of the office.

Q. Have you had any further conversations with Mr. Smith?

A. In about November he called me down in his office again.

Q. Suppose you state what the conversation was about at the time you spoke to Mr. Smith?

A. He said, "Your work is getting awful dissatisfactory.'' He said, ''You are not on the job. The foreman up there''—

Q. A little louder, please.

A. Your foreman is complaining about you not working right, talking to the men too much. He said, ''You are going to leave the C. I. O. alone or you are not going to have a job here.'' ''In other words,'' he said, ''if they did, if they asked for recognition, we will shut this plant down because we are operating now at cost.'' He said, ''We are only running this mill to keep jobs here for men.'' He said, ''You know [we] are opening a big strip mill at Cleveland, Ohio.'' He said, ''There will be a chance for some of you men to take a job.'' He said, ''When that mill gets operating this mill will shut down.'' So I did not pay any attention, I walked out of the office. About February he again—Mr. Chase told me to go down into Alvin Smith's office after working hours.

Q. Is this the same Mr. Chase?

A. Yes. Mr. Chase, assistant superintendent, Mr. Charles Chase. And Mr. Smith called me in, he says, ''I see that you never listened to me when I told you the first time, did you?''

MR. DAY: I did not understand that. A little louder.

A. He said, ''I see that you did not listen to me when I told you before.'' I said, ''I do not know what you are talking about.'' He said, ''Well, I see you are one of the active men in the C. I. O. and you have guts enough to go in front of the mill and pass out papers and then come in and take your job.'' ''I do, I absolutely have,'' I said. ''I did not get paid for it. I am doing it for the benefit of the men in this plant.'' He said, ''This plant is going to be shut down. The orders are getting low. We are going to shut this plant down. It seems you are all going to be out of a job.'' He said, ''Mr. Chase thinks a lot of you. We were talking here the other day and we were figuring on putting you on an inspection job, which you are entitled to." He said, "If you keep this thing up that you are doing now I cannot give you a job. And, in other words," he said, "we were talking about transferring you into the stainless steel department." I said, "That is where you get rid of them all. We had that in 1934." "No," he said, "you have got the wrong opinion. I mean everything I said. We were figuring on giving you that job." I said, "There are men in the department that have been there 10 years and they are still helping, and on my job there are men come in last year that are inspecting today, and then you mean to put me into an inspecting job with men there for 10 years still helping on those jobs." I said, "I would not accept. Now," I said, "I am going to tell you, I belong to the C. I. O., I belonged to it since the 29th day of May, 1936, and the department I am working in is 98 percent organized, your whole plant is 85 percent organized at this present time." I said, "Now, what are you going to do about it?" He did not say any more and I walked out.

Q. Did you ever attend a meeting called by Mr. Smith?

A. I did.

Q. Where was that meeting held?

A. That meeting was held over in Truck Garage, back of the clock house.

Q. Is that the truck garage of the Republic Plant at Massillon?

A. At Massillon. One morning we were on the 11 to 7 shift. As we come out from our shift, we went into the clock house. Mr. Chase, and I think it was Andy Evans, was standing at the clock house.

Q. Day shift or night shift?

A. Night shift. Our foreman told us to get off 15 minutes early. We did not know what it was about. We went into the clock house, and they told us to go into the garage, and Mr. Smith got up on the stool there, or a box, it was, and he had a C. I. O. membership card, and he read this card off, that I accept membership in the Amalgamated Association. Now, he said, "Boys, I want to tell you one thing, the coal miners, the Mine Workers of America, they will assess them five or ten dollars and take everything out of their pay that they want. That is what will happen to you. They are a bunch of grafters, communists, and they are reds." He said, "The first thing you can do if you want to hold your job is lay off of this organization." He said, "In other words, this company has been running in the red for the last 3 years, merely making expenses." He said, "Up in Monroe, Mich., that plant they took over," he said, "they can operate iron for half the cost they operate it here and save shipping costs." Well, then, he said how much money the company lost in these things. I just had a book there in my pocket that I had got off of the C. I. O. that gives the profits and wages of the steel companies of the United States, which was supposed to be Government "tactics", and I read it off.

Q. You say they were Government statistics?

A. Yes. I read these out to him and he got pretty sore. I said, "If Tom Girdler can receive $144,000 a year we at least ought to get a raise." Well, he said, "Tom Girdler deserves his $144,000 a year. I already worked for 15 cents an hour." I said, "You ain't working for 15 cents an hour today." He said, "I worked myself up to the position I am sitting in." I said, "That is what I am trying to do today. I am just working."

MR. DAY: I did not hear the latter part of that answer. Will the Reporter please read it.

(Answer read.)

A. (Continued) I said to him, "A dozen eggs cost me the same price they cost you when you walk into a grocery store." And I said, "Your rollers are making $25 and $30 a day, and they cost me the same thing they cost them." I said, "And none of these men can live under the same conditions.'' He said, ''Do you mean to say you want these rollers cut?'' I said, ''No, we do not want the rollers cut, we want ourselves raised.'' The argument went on and there was a little laughter and the meeting broke up.

BY MR. HUNT:

Q. All the things you testified to took place in Massillon?

A. Yes.

Cross Examination

BY MR. DAY:

Q. What was your job when you were talking to Mr. Smith in the last visit?

A. My job was only an employee at the Republic Steel Corporation.

Q. In what capacity?

A. Helper in the sheet mill.

Q. You said rollers were making $30 a day?

A. Sure.

Q. Did you think they were earning it?

A. They were earning it, absolutely. I did not say they did not earn it.

Q. Why were you complaining that the rollers were making $30 a day?

A. I know rollers that made $30 a day and they did not have anything. If I made $3.52 a day I could not make a living on that. We should receive more money for our work.

Q. These rollers started at the bottom, did they not, some of them?

A. Some of them.

Q. And worked their way up?

A. Yes.

Q. You do not say now they do not earn $30 a day?

A. No. I do not say the rollers should be cut, but if I say a roller receives $30 a day we should receive just wages that we could make an honest living on.

Q. How long have you been working for the Republic Steel Corporation?

A. Since 1933.

Q. Since 1933?

A. Yes.

Q. And this talk took place when?

A. In 1937.

Q. You had only been there about three or four years?

A. Yes, there were some there for six months that went up above me.

Q. Where did you work before you worked for Republic?

A. I worked for the N. O. P. & L.

Q. That is the street car company?

A. Yes.

Q. In what capacity?

A. In the barn.

Q. In the barn?

A. Yes.

Q. Had you ever been a steel worker before that?

A. No.

Q. You had never been a steel worker until you started for Republic in 1933; is that right?

A. Uh-huh.

Q. And you were in there kicking because you weren't making more money; is that right?

A. That is right.

Q. You started out as an organizer for the C. I. O. when?

A. In the latter part of April in 1937.

Q. You were one of the first over there in Massillon; weren't you?

A. Signed up in the C. I. O., I was.

Q. Who signed you up?

A. Why, Howard Porter from Portsmouth, Ohio.

Q. Who else signed up at that time with you?

MR. LAUTER: Just a minute.

TRIAL EXAMINER LINDSAY: That is immaterial.

BY MR. DAY:

Q. Well, how many men?

TRIAL EXAMINER LINDSAY: Just a minute.

BY MR. DAY:

Q. Never mind the names. How many men?

MR. LAUTER: Well—

A. I don't know how many they signed up. They signed me up in my own home by myself.

MR. LAUTER: Let the record show—I assume you are consenting to withdrawing that question?

MR. DAY: No, I do not consent to it. The Court sustained the objection to it.

MR. LAUTER: Well, I had made an objection. I was on my feet and I hadn't a chance—may I make a formal objection for the record to the particular question that asked for the names of the others who joined the C. I. O.?

MR. DAY: The record shows that it is sustained, as I understand.

TRIAL EXAMINER LINDSAY: That is sustained, yes.

MR. DAY: And we except.

BY MR. DAY:

Q. Without giving the names, how many joined the C. I. O. at that time out of your Massillon plant?

A. I couldn't tell you how many joined the C. I. O. at that time. I signed up at the house, myself.

Q. Well, how many became organizers of the C. I. O. at the time that you became an organizer?

A. Why, I don't think anybody did. I quit the Massillon plant and came over to Canton and asked Mr. Hardesty for a job and he gave it to me.

Q. And you got your job as a C. I. O. organizer from Hardesty?

A. I did.

Q. Hardesty was here in Canton?

A. Yes, sir.

Q. And he was the head of the S. W. O. C., wasn't he?

A. He was regional director.

Q. But you kept on working in the Massillon mill?

A. I did not. I quit the plant two weeks before I got this job.

Q. Well, you started out as a C. I. O. organizer in April of what year?

A. Of this year.

Q. Of 1937?

A. Yes, sir.

Q. Now, when was it you had the talk with Mr. Smith, when he said—

A. In February of 1937.

Q. Well, at that time you had joined the C. I. O., hadn't you?

A. I absolutely had.

Q. You were an organizer?

A. I was not an organizer.

Q. I see. When did you join the C. I. O.?

A. The 29th day of July, 1936.

Q. Were you one of the first Massillon men that joined the C. I. O.?

A. I couldn't tell you whether I was the first. I was one of these that just came in about that time.

Q. You kept back that you joined the C. I. O. a secret how long over there at Massillon?

MR. LAUTER: I object to the form of the question.

MR. DAY: What is the matter with the form of the question? This is cross examination?

MR. LAUTER: I object to the form of the question. May we have a ruling on it, please?

MR. DAY: If the Court please—

TRIAL EXAMINER LINDSAY: Your objection is overruled. Let the record show an exception.

(Exception noted for the board.)

MR. DAY: Now read him the question.

(The question was read as above recorded.)

A. I didn't keep it a secret no time with the men. I signed lots of men up myself.

BY MR. DAY:

Q. You kept it a secret from the officers of the company, didn't you?

A. Why should I go in and tell them?

Q. Never mind why you should. My question is, you kept it a secret from the officers of the company, didn't you?

MR. LAUTER: I want to object to the form of the question as calling for a conclusion.

MR. DAY: If the Court please, this is cross examination.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception noted for the board.)

BY MR. DAY:

Q. You kept it a secret from the officers of the company, didn't you?

A. I did.

Q. You kept it a secret from your foreman, didn't you?

A. Not very well, until he knew it anyhow.

Q. What is that?

A. Not very long until they knew it.

Q. Now, this Mr. Smith that you are talking about, what was he, an assistant superintendent?

A. Mr. Smith is a general superintendent.

Q. You kept it a secret from him, didn't you?

A. Well, I never—he never spoke to me until the time I was called to his office. I wouldn't know why I should go and tell him why I belonged to the C. I. O.

Q. You didn't tell Chase about it either, did you?

A. No, I never talked to Chase before that.

MR. LAUTER: I am sorry to interrupt. If it please the Examiner, may I have an objection to this type of question. It is the third time it is asked. I would like the record to note my objection.

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: I am sorry for interrupting.

TRIAL EXAMINER LINDSAY: That is all right. The objection is overruled. Let the record show an exception.

(Exception noted for the board.)

MR. DAY: I just want to address the Examiner now and say that if Counsel for the Labor Board has the impression that you cannot ask a leading question on cross examination—

TRIAL EXAMINER LINDSAY: Oh, no. Let's not go into that.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: You ask as many leading ones as he does.

MR. DAY: I haven't had a chance, yet, because I have been cross examining all the time. I haven't had a chance to lead my own witnesses.

TRIAL EXAMINER LINDSAY: All right. Just go ahead.

MR. DAY: All right. I will go ahead.

BY MR. DAY:

Q. When was it you had the talk with Smith?

A. Smith?

Q. Yes?

A. Well, I had a couple of different talks with him?

Q. When was it that he talked about the C. I. O.?

A. That was September of 1936.

Q. You belonged to the C. I. O., didn't you?

A. Why, I certainly did.

Q. And drawing Republic money then, weren't you?

A. I absolutely was.

Q. Yes. And you told him that you never heard of the C. I. O., didn't you?

A. Sure, I did.

Q. And that was a falsehood, wasn't it?

A. It was a falsehood. It was only that I keep my job at the present time.

Q. Well, you had heard of the C. I. O., hadn't you?

A. I did. I belonged to it.

Q. Well, that was a falsehood to say that you never heard of it, wasn't it?

A. Why should I tell a superintendent?

Q. Never mind why you should or why you shouldn't. It was a falsehood, wasn't it? Wasn't it?

A. It was a falsehood. It was protection of my job at that present time. The way I feel—

Q. And then he mentioned the name of John L. Lewis; isn't that right?

A. Yes, he did.

Q. You said, "Who is John L. Lewis?"

A. I did. I did. That is what I said.

Q. And then you said you had never heard of John L. Lewis?

A. I absolutely said that.

Q. Well, you had heard of him, hadn't you?

A. Sure did.

Q. That was a falsehood, too, wasn't it?

A. I had to be false.

Q. You had to be false?

A. Uh-huh.

Q. In order to do what?

A. To stay on the job, because I had seen what happened to guys a couple of years before that.

Q. To stay on your job and work in secret for the C. I. O.; is that right?

A. No, not work in secret. The C. I. O. didn't give me five cents.

Q. Do you know any other men over in the mill that were working secretly for C. I. O.?

MR. LAUTER: I object to that question.

A. I do not.

TRIAL EXAMINER LINDSAY: Sustained.

BY MR. DAY:

Q. Well, without attempting to give me names were there, to your knowledge, any other men working secretly for the C. I. O. in the mill?

A. There was nobody working secretly already, the C. I. O., myself neither.

Q. All right. And then in February, 1937, after you had talked several times to Mr. Smith, and you told him, "I belong to the C. I. O."; didn't you?

A. I did.

Q. Had you talked to Frank Hardesty about your organizing job over in Canton before you said that?

A. No, I did not.

Q. Well, how soon after you said that, "I belong to the C. I. O.", did you get your organizing job through Frank Hardesty?

A. Well, it was February, March. I didn't quit until April in the mill, then I didn't get my job when I quit, either.

Q. How long did you stay over in the Republic plant after you told Mr. Smith that you had joined the C. I. O.?

A. I stayed there until April, but I got very little work.

Q. For about a month?

A. More than a month.

Q. And then you got the organizing job, is that right?

A. That is right.

Q. And you left Republic?

A. Right. I quit Republic two weeks before I got the organizing job.

Q. Did you know you were going to get it?

A. No, I didn't.

Q. Had you talked to Frank Hardesty about it?

TRIAL EXAMINER LINDSAY: That is immaterial.

A. No, I didn't talk to Frank.

TRIAL EXAMINER LINDSAY: Let's not go into that.

BY MR. DAY:

Q. What is the lodge you belong to over in Massillon?

A. New Deal Lodge, 1124.

Q. Are you an officer of it?

A. I was president of the lodge.

Q. For how long?

A. Until April.

Q. Until April?

A. Yes, sir.

Q. Starting when?

A. Starting in last November.

Q. Last November?

A. Yes, got the charter in December, I think.

Q. And then you quit being president of it when you took over your organizing job?

A. I did.

Q. Where were you the night of July 11, 1937?

A. In my home at Massillon, Ohio.

MR. LAUTER: I am objecting to the interrogation with respect to July 11. There has been no testimony under direct examination of this witness with respect to that event.

MR. DAY: I asked him that question because July 11—

TRIAL EXAMINER LINDSAY: I will sustain that objection as to where he was on July the 11th.

MR. DAY: Well, I want—

TRIAL EXAMINER LINDSAY: You may have an exception.

MR. DAY: Unless the Examiner has in mind what happened July 11th.

TRIAL EXAMINER LINDSAY: That is immaterial. If you want to get into it, you know how to get into it.

BY MR. DAY:

Q. Well, were you there the night of the riot?

MR. LAUTER: I object to the question. The question is along the same line of inquiry.

TRIAL EXAMINER LINDSAY: The way the question is put, I will sustain the objection.

BY MR. DAY:

Q. Were you there at C. I. O. headquarters the night of July 11th, when the trouble occurred between the police and some of the strikers and pickets?

MR. LAUTER: If it please the Examiner, it is perfectly obvious that Counsel for the Company is continuing along this line of inquiry, and I am going to ask that he be restrained from continuing any further with this witness. Now, he knows the reason why. It is a perfectly clear rule of evidence that you cannot cross examine a witness on something that has not been brought out on direct examination.

MR. DAY: Now, just a moment on that. The rules of the Board, Mr. Examiner—I am addressing you—the Board provides that the ordinary rules of evidence in court do not apply.

TRIAL EXAMINER LINDSAY: Well, I know the rules of the Board just as well as you do, so I think—

MR. DAY: I have no doubt of that, sir.

TRIAL EXAMINER LINDSAY: We won't argue that point at all.

MR. DAY: If we are going to be bound—

TRIAL EXAMINER LINDSAY: That is all right. Let's not argue about it.

MR. DAY: I don't want to argue. I would like to suggest—

TRIAL EXAMINER LINDSAY: Give me a chance to rule, and then you can talk all you want to after I rule.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception. If you gentlemen will just wait a minute.

(Exception noted for the Board.)

MR. DAY: All right. I beg your pardon. Read the question to the witness, please.

(The record was read as above recorded.)

MR. LAUTER: Do I understand that there has been a ruling on my objection, Mr. Examiner?

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: I would like to point out that the two previous questions to which my objections were sustained were directly along the same line of inquiry. I want to note my objection on that general basis again for the record.

TRIAL EXAMINER LINDSAY: Well, I think not, Mr. Lauter. Your objections were not sustained on that order at all.

MR. LAUTER: I am sorry. I didn't hear what you said.

TRIAL EXAMINER LINDSAY: I say your objections were not sustained for that particular reason.

MR. LAUTER: I see.

MR. DAY: Now, will you read the question?

(The question was again read as above recorded.)

A. I was not.

BY MR. DAY:

Q. Did you go over to Youngstown, Ohio, when there was trouble over there? Were you there?

MR. LAUTER: I object—

A. No, I wasn't.

MR. LAUTER—first, on the ground that no time has been fixed; secondly, on the ground it is outside of the scope of cross examination.

TRIAL EXAMINER LINDSAY: I will sustain that objection. Let the record show an exception.

(Exception noted for the respondent.)

BY MR. DAY:

Q. Did you go over to Youngstown when some rubber workers came down from Akron?

MR. LAUTER: Again I ask the time to be fixed.

MR. DAY: Wait a minute until I finish my question.

MR. LAUTER: I am sorry. I thought you had finished.

BY MR. DAY:

Q. (Continuing) Some time in May or June, 1937?

MR. LAUTER: One second. I object. I am going to object to this question on the ground it is outside of the scope of cross examination.

TRIAL EXAMINER LINDSAY: I will overrule your objection. Let the record show an exception.

(Exception noted for the Board.)

(The question was read as above recorded.)

A. I don't know whether there was any rubber workers that went down to Youngstown, but I was in Youngstown in June of 1937.

BY MR. DAY:

Q. At the time there was some trouble over there?

A. I don't think there was any trouble there when I was there.

Q. No trouble when you were there?

A. No. I didn't see any trouble.

Q. I see.

MR. DAY: Now, Mr. Lauter, will you step up here, please?

(There was a discussion off the record.)

MR. DAY: I think that is all.

(Witness excused.)

JOE MORTON

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Your name is Joe Morton?

A. Joe Morton.

Q. Mr. Morton, where do you reside?

A. 1244 Johnson Street, Southeast, Massillon, Ohio.

Q. Have you been employed by the Republic Steel Corporation at the Massillon plant?

A. I am.

Q. When did you start working for them?

A. In May of 1928.

Q. How long did you work for them?

A. Up until the 25th day of May, 1937.

Q. In what capacity did you work for them?

A. As a catcher in the hot mill.

Q. Are you a member of the C. I. O.?

A. I am.

Q. When did you join?

A. About December the 15th, 1936.

Q. Do you hold any office in the lodge at Massillon?

A. I am the president of the lodge in Massillon.

Q. What is the name of the local?

A. New Deal Lodge, 1124.

Q. You are president at the present time?

A. I am.

Q. Did you attend a meeting held in the Massillon main office auditorium on May 11, 1937?

A. I did.

Q. What time of the day did that meeting take place?

A. About seven or seven thirty.

Q. Will you describe what happened at that meeting?

A. Well, at that meeting Nick Lincolnhaley—

Q. Who is Nick Lincolnhaley?

A. Nick Lincolnhaley is the chairman of the company union.

Q. You mean the Employees' Representation Plan?

A. The Employees' Representation Plan, yes, sir.

Q. At Massillon?

A. At Massillon.

MR. PONTIUS: What is that date? May 11, 1937?

MR. LAUTER: That is right.

A. (Continuing) And Nick Lincolnhaley addressed the meeting, and his main topic was that the Employees' Representation Plan had been so good, so successful in cooperating with the employees in the company in getting the present wage increases. And they also passed out literature—not literature, but cards, membership cards to be signed by the members or the employees of the Republic Steel in that hall. As far as I know, they didn't get any signers. And then—

BY MR. LAUTER:

Q. Just one second. I hand you Board's Exhibit No. 48 and ask you whether or not that is a card similar to the ones which they passed out on May 11, 1937?

A. They did.

Q. At the meeting?

A. Yes, sir.

Q. Now continue your description of what took place at the meeting.

A. When Nick Lincolnhaley got through talking and hit the C. I. O., that the C. I. O. was not a fit organization to belong to, that if the Republic Steel was forced to recognize the C. I. O., that they would have to close down the plant on account of the high cost of operation, and that being an old mill, Massillon would be without the Republic Steel.

Q. Did Nick Lincolnhaley hold any office in the Employees' Representation Plan?

A. He is the chairman of the Employees' Representation Plan.

Q. 1936 and 1937?

A. 1937 I know he was. I am not sure of 1936.

Q. I see. Now continue on and tell me what happened at that meeting.

A. After Nick Lincolnhaley got through talking, he introduced Nate Brown.

Q. Who is Nate Brown?

A. He is secretary of the Employees' Representation Plan in Massillon. And Nate Brown got through talking, why, I asked for the floor. They didn't recognize me when I asked for the floor, so I just went up and took the floor. They had a loudspeaker system there. There was about 2500 people in the auditorium at that time, and I told the people there that the statements that Nick Lincolnhaley made were false, and that the Employees' Representation Plan didn't get us the recent wage increase, but the C. I. O. did. And before we got this increase the United States Steel had recognized the C. I. O. and they had given an increase there. Ours followed immediately afterward. But there wasn't—that wasn't on account of the Employees' Representation Plan, and that as far as I knew, why, they couldn't prove any representative any too honest for me in the place. And I left the stand at that time and Nick Lincolnhaley —

Q. What did you mean when you said "they couldn't prove any of the representatives too honest for me?"

A. Because any time that I ever went to a representative, I was turned down flat.

Q. Did you make any statement at that meeting with respect to any of the representatives?

A. I did.

Q. What representative?

A. Lon Rutherford.

Q. What did you say?

A. Well, to get the story right, when Nick Lincolnhaley asked me to prove that any representative had been dishonest, I told him, "You asked for it, and you are getting it." So I got back up there and I proved it to him. I asked Mr. Lon Rutherford to get ready to deny any statement that I made. I says, "If Mr. Lon Rutherford thinks he is honest about this, he will deny it." I made the statement, Mr. Lon Rutherford, representative at the sheets division, the hot mill, what had taken place about six months earlier between me and the management, and Rutherford—and how Rutherford had turned us down. And after I got through talking I asked Rutherford to get up and deny the statements, and Rutherford would not get up and deny the statements.

Q. Was Rutherford there?

A. Rutherford was there.

Q. Now, was there any discussion at that meeting at which Board's Exhibit No. 48 was distributed concerning dues under the Employes' Representation Association?

A. There was.

Q. What was stated with respect to that matter?

A. It was stated that the dues would be 50 cents for three months.

Q. How long did that meeting last?

A. Why, we was there about two hours.

Q. Who is Mr. Alvin E. Smith?

A. Mr. Alvin E. Smith is hot mill superintendent.

Q. Did he attend a meeting in March of this year?

A. He did.

Q. Where was that meeting held?

A. That meeting was held in the garage connected with the clock house in the sheet division.

Q. That is part of the Republic plant?

A. Part of the Republic place.

Q. Will you describe that meeting, please?

A. At that meeting Mr. Smith presided, and his topic was that he didn't want any of the members there to join the C. I. O., or to join any outside organization, that the Employes' Representation Plan had been very successful there, and that we had gotten our recent wage increases through the Employes' Representative Plan, and that if the C. I. O. had to be recognized by the Republic Steel they would close down before they would recognize the C. I. O. The high cost of operating under a union contract would not let them work. He also stated that he would hate like hell to see grass growing in the streets of Massillon.

Q. Who is Mr. David Lewis?

A. David Lewis is the hot mill turn foreman.

Q. Who is Mr. Hayden Bright?

A. Mr. Hayden Bright is the hot mill turn foreman.

Q. Did you ever have any conversations with them?

A. I have.

Q. Tell me what the conversations were that you had with them?

MR. PONTIUS: When? When?

BY MR. LAUTER:

Q. Fix the time.

A. Well, the time I could say was anywhere from December until the strike was called, and quite a number of times.

Q. You had quite a number of conversations with these men?

A. Quite a number of conversations. It would be impossible to fix the time of any one of them. Mr. Hayden Bright and Mr. Lewis seen me on various occasions talking to men in the mill while they were off duty, and when he would see me talking to a man, and figured that I was talking union to him, they would immediately contact me and ask me to leave the men alone. "Don't talk union to him." Sometimes I wasn't talking union to them; there was times that I was talking union. But they also stated it was part of their jobs—

MR. DAY: Now, may me have an objection—

THE WITNESS: —to break up this—

TRIAL EXAMINER LINDSAY: What is that?

MR. DAY: I would like to have an objection to his talk with Mr. Lewis and with Mr. Hayden Bright on the grounds that we have already stated.

TRIAL EXAMINER LINDSAY: Yes. Objection overruled. Let the record show an exception.

(Exception noted for respondent.)

A. Mr. Lewis and Mr. Bright were on two different turns, one turn relieved us and the other turn we relieved; and it was at these changes of turns that they would see me talking with the men. They would contact me and tell me not to talk union to the men. And they said that it was part of their jobs to break up this union, this C. I. O. movement here in the Republic Steel, because, "We got to do that. If the C. I. O. gets in here our jobs are done."

BY MR. LAUTER:

Q. Now, do you know a millwright whose first name is Paul?

A. I do.

Q. What is his full name?

A. Paul Irwin.

Q. Irwin?

A. I-r-w-i-n.

Q. Did you have any conversation with him on May 20, 1937?

A. I did.

Q. State for the record what the substance of that conversation was?

MR. PONTIUS: Object to the conversation.

TRIAL EXAMINER LINDSAY: Objection is overruled. Let the record show an exception. Proceed with the examination of this witness.

(Exception noted for Respondent.)

A. About 7:30 p. m., May 20th, I was on my relief. My buddy was working, and I had a 15-minute still. I went back and sit down on a pile of sheet iron. Paul came over there and sit down beside me and patted me on the back. "Well," he said, "I guess the mill is going down about 9, 10 o'clock tonight." I says, "What do you mean going down?" "Well," he says, "they are just closing down, that is all." I said, "How do you know?" "Well," he says, "I am a millwright," and he says, "there is a lot of things that I know that I have to know beforehand." And at 9 o'clock that night the mills did close down.

BY MR. LAUTER:

Q. Had there been any talk about shut down of the mill prior to May 20, 1937?

A. Not that kind of a shut down.

Q. Well, you testified before about a conversation at which some foremen said the mill would be shut down before they would recognize the C. I. O.; is that correct?

A. That is correct.

MR. PONTIUS: I object to that. He didn't say that. I ask the answer be stricken out.

TRIAL EXAMINER LINDSAY: Just a minute. I didn't catch that on account of the door closing.

(Record read.)

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception. That is in the testimony.

(Exception noted for Respondent.)

BY MR. LAUTER:

Q. Now, on May 20, 1937, the mill did shut down; is that correct?

A. It did.

Q. Who was Mr. David Lewis?

A. Mr. David Lewis was the hot mill turn foreman.

Q. Did you have any conversations subsequent to May 20, 1937, with him?

A. I did. It was either on the 21st or the 22nd of May, about 6 p. m. I was walking down Main Street West, and I met Mr. Lewis, before the Lincoln Theatre. I stopped and talked with Mr. Lewis, and Mr. Lewis says, "Well, I guess"—

MR. PONTIUS: We object to that conversation on the same ground.

TRIAL EXAMINER LINDSAY: Yes, and the objection is overruled, and let the record show an exception.

A. Mr. Lewis said, "I guess you will have enough of this strike when the company gets done with you." I said, "What do you mean 'when the company gets done with me'"? He says, "When we get through starving you out." "Why," he said, "You won't want to strike."

BY MR. LAUTER:

Q. I want to revert for a moment to this meeting of May 11th. When did you arrive at the meeting?

A. I was there about 6:30.

Q. When you came there was there anyone in the hall?

A. Not that I know of, because there was a bunch of men outside, and I asked them if they could get them, and they said, "You can't get in yet."

Q. Well, finally, you did get into the hall that night?

A. We did.

Q. Were you among the first to get in?

A. I was among the first to get in.

Q. Describe what you saw inside?

A. When I went inside there was practically the whole office force was seated, a lot of men seated that I don't believe I seen working in Republic Steel down there, although I don't possibly know all of them that worked there. And when the men got inside and followed me in, we all had to stand. I finally went in another room and got a chair and sat down.

Q. Now, on the platform during this meeting, you mentioned that Mr. Lincolnhaley, who was the chairman of the Employes' Representation Plan, was there?

A. Yes, he was.

Q. And Nate Brown, the secretary?

A. Yes, sir.

Q. Was there any other representative on the platform?

A. I think there were nine other representatives besides them.

Q. I see.

MR. LAUTER: That is all.

Cross Examination

BY MR. PONTIUS:

Q. Now, you are Joseph Morton?

A. Right.

Q. Where do you live, Mr. Morton?

A. 1244 Johnson Street, Southeast, Massillon.

Q. How long have you lived in Massillon?

A. Why, oh, lived there about 11 years. I was away from there for a year.

Q. Where did you live before you went to Massillon?

A. At Edena, Ohio.

Q. Edena?

A. Edena.

Q. How long have you been a steel worker?

A. For about 10 years.

Q. Where?

A. Massillon.

Q. In the Republic plant?

A. In the Eaton Spring, the Union Drawn Steel, and the Republic Steel.

Q. How long have you been employed at the Republic Steel plant?

A. About 9 years.

Q. In what capacity?

A. Catcher.

Q. In any particular mill there?

A. I have been with one crew, but we went from No. 8 to No. 5 mill, the only change that was made.

Q. I see.

Now, you are the president of the lodge in Massillon?

A. Yes, sir.

Q. What is the name of that lodge?

A. New Deal Lodge, 1124.

Q. How long have you been president of that lodge?

A. Since April, 1937.

Q. When did you join the C. I. O.?

A. About December 15th.

Q. How did you come to join them? I mean, who was the men that got you to join?

A. I looked for a man for a week before I found one to join.

Q. That is, you hunted somebody up to join?

A. Yes, had to.

Q. I see. Who did you find, finally?

A. I don't know the name of the man. He gave me a card and I signed it and took it down to the next meeting. He told me when the next meeting would be.

Q. The next meeting in Massillon?

A. Yes. December 19th.

Q. That is, there was no one in your department that had belonged to the C. I. O. at that time; is that right?

A. Well—

Q. That you knew about?

A. That I knew about?

Q. That you knew about?

A. No, they was afraid to say it. If anybody let it out they would have got fired.

MR. PONTIUS: Now, I ask that latter part of the answer be stricken out.

TRIAL EXAMINER LINDSAY: Yes, that should be stricken.

MR. PONTIUS: Irresponsive.

BY MR. PONTIUS:

Q. You didn't get fired, did you?

A. No, I didn't get fired.

Q. You worked up until the time of the strike, didn't you?

A. That is right.

Q. Yes, sir. And some of the officials knew you belonged to the C. I. O.?

A. Yes, sir.

Q. Didn't they?

A. And the superintendent also threatened to fire me.

Q. But you weren't fired, were you?

A. I was not fired.

Q. What superintendent threatened to fire you?

A. Andy Evans.

Q. Andy Evans?

A. Yes.

Q. When did he threaten to fire you?

A. When I passed the pickler, one of the colored picklers motioned for me to go over there, and I went over there, and he said, "When is that colored dance going to be?" And I told him when the colored dance was going to be, and I walked away. Andy Evans come down. And he says, "What the hell were you doing up there talking to that big nigger?" I says, "He is not a nigger, he is a colored man." "Well," he says, "what were you up there talking to him for?" I says, "Because he asked me to go over there." "What did you say?" "Well," I said, "about the dance." He says, "you are sure you wasn't talking about the union?" I says, "No." "You are a damn liar," he says, "you are getting fired right here," and I said, "Well, if you want to fire me now is the time to fire me," and I said, "I don't believe you got the guts to do it." He said, "Well, you know that, too," he said. And he didn't fire me.

MR. PONTIUS: I asked the question, Your Honor, when he had threatened to fire him, and this response was given, and I ask it be stricken out.

TRIAL EXAMINER LINDSAY: The answer will remain. You asked for it.

MR. PONTIUS: I said, "When was that?"

TRIAL EXAMINER LINDSAY: Just a minute, now.

BY MR. PONTIUS:

Q. When was that? That is the question?

A. About the middle of April.

Q. And you continued to work up until what time?

A. Up until the 25th of May.

Q. Yes, sir. Until the strike was called?

A. That is right.

Q. You worked at your job all of that time?

A. All of that time; yes, sir.

Q. Yes, sir.

So, although they knew you were a C. I. O. they didn't fire you, did they?

A. No, they didn't.

Q. No.

A. But they made it plenty tough for me nearly all the time that I was in there.

MR. PONTIUS: Well, I ask that the latter part of that answer be stricken out as irresponsive.

TRIAL EXAMINER LINDSAY: I will leave it stand.

MR. PONTIUS: Exception.

(Exception noted for Respondent.)

BY MR. PONTIUS:

Q. In what way did they make it tough for you?

A. Well, when Nate came around and they seen my nick with a little more smoke than there should be on, come around and say "Get that nick down there. You are going to get out of that place." I would get the nick down. They would come around a little later and would find a piece of scrap iron on—how it got on there I don't know. Before they knew that I was the president of the local none of that stuff ever happened. I was complimented on my work, but after that I was called down to the office and told that my work wasn't satisfactory, and that the men were kicking because I belonged to the C. I. O. And they continued to make it tough for me.

When they saw me walk away from the mill, the superintendent, if he saw me, he would come up to me and tell me, "Why don't you get back on your job, loafing around back here?"

Q. You had never done that before, had you?

A. I did that for 9 years and it was never brought up to me like that before.

Q. Never brought up to you before then?

A. Never was.

Q. Who were some of these men that did these things to you? Who were they?

A. Mr. Andy Evans and Dave Lewis.

Q. What connection did they have with the Republic Steel?

A. Why, Andy Evans was the hot mill superintendent and Dave Lewis was the turn foreman, and when he would come out to work—

Q. Yes.

A. —when he didn't have no authority over me at all he would be there an hour early and see me walk away from the people, he would give me hell for it, when my turn foreman wouldn't do it.

Q. And it is a fact that these men that worked with you complained about you, wasn't that true?

A. That is not true.

Q. How do you know that?

A. Because I confronted these men and asked them if they complained about me, that I was willing to quit the mill and quit the Republic Steel Corporation if they didn't like my work. They says, "Anybody that told you that is a damn liar and we are sticking with you."

Q. So the men that worked with you stuck with you, then?

A. They stuck with me until the strike.

Q. And what this man Lewis said to you wasn't true at all?

A. What Lewis said to me?

Q. Yes.

A. Absolutely, it wasn't true.

Q. It wasn't true, no.

Now, going to this meeting of May 11th. That was after they knew you were chairman of the C. I. O., wasn't it?

A. That is right.

Q. Going to that meeting, everybody in the plant were notified to be there, were they?

A. All except those out on vacation.

Q. Well, all the men that were working then were notified to be at this meeting?

A. I don't know. I was on my vacation at that time.

Q. Well, you got notice of the meeting, didn't you?

A. Yes, one of the men came up and told me about it.

Q. Yes, sir. And you went to the meeting?

A. I did.

Q. And men who had been representatives of the Employes' Representation Plan were notified; is that right?

A. That is right.

Q. Yes, sir.

Now, you knew about this Employes' Representation Plan, didn't you?

A. I knew a little bit too much about that. That is why I wanted to get rid of it.

Q. You knew about it, didn't you?

A. Sure, I did.

Q. You had one of their constitutions and by-laws, hadn't you?

A. That is right.

Q. Yes, sir.

Did you ever make a complaint in there about anything in that shop?

A. I made several of them but I never saw anything come of them after I made them.

Q. Yes.

MR. PONTIUS: Now, I ask that that latter part of the answer be stricken out as irresponsive.

TRIAL EXAMINER LINDSAY: Yes, that may be stricken.

BY MR. PONTIUS:

Q. You made several written complaints, you say?

A. Yes.

Q. About conditions in that plant?

A. Yes.

Q. Is that right?

A. Yes.

Q. When did you make the first one?

A. The first one I made about six months before the strike come on. I gave it to Lon Rutherford, a representative in our department.

Q. Yes, sir. When did you make another complaint in writing?

A. Another complaint was made about two weeks later.

Q. Yes.

A. About the same complaint.

Q. In writing?

A. That is right.

Q. Yes, sir. And he was the representative?

A. He was the representative.

Q. Yes, sir.

Now, didn't you know that if you got no action on that, that you could take an appeal to the committee that had charge of appeals? Didn't you know that?

A. Listen. If you knew how that committee was, when you watched it, you wouldn't see—

Q. Didn't you know that your constitution and by-laws provided for that?

A. For a company union, you mean that I would try to follow that stuff up?

Q. Well, you made a written complaint, didn't you?

A. Sure, I made a written complaint.

Q. Yes.

A. I went so high in the later part as to complain to Mr. Cole Meyers and Lohneis there. Still didn't get no response.

Q. No response on these written complaints that you made?

A. Absolutely not.

Q. Didn't you know that there was a committee of the workmen known as the Appeals Committee?

MR. LAUTER: If it please the Examiner, I want to point out that the procedure under this Plan is adequately described in the booklet. I am afraid Counsel for the Company himself is not sufficiently informed in respect to the manner in which appeals are taken. Appeals are taken by members by representatives and not by men who are not representatives under that Plan.

MR. PONTIUS: I don't think that is true at all.

MR. LAUTER: Well, now—

MR. PONTIUS: I beg your pardon about that.

MR. TRIAL EXAMINER LINDSAY: We are not going to argue about that but let me see that thing a minute.

MR. LAUTER: All right, suppose we do.

MR. PONTIUS: There are three of them here.

MR. LAUTER: You will find a reference to a No. 2 committee and a No. 4 committee; No. 2 is a wage committee and No. 4 is appeals committee.

TRIAL EXAMINER LINDSAY: Yes. I will sustain that objection.

MR. PONTIUS: If the Court please—pardon me.

TRIAL EXAMINER LINDSAY: You may have an exception.

(Exception noted for Respondent.)

MR. PONTIUS: On page 7, the latter part of the page.

TRIAL EXAMINER LINDSAY: Yes.

MR. PONTIUS: I don't mean to take the time, but I thought that was clear at the bottom of that page there.

BY MR. PONTIUS:

Q. Well, at any rate, Mr. Cox, you saw in here today, Leo Cox?

A. Yes, sir.

Q. Who was the C. I. O. man in that plant; you knew that, didn't you?

A. I didn't know it at the time.

Q. You didn't know it?

A. Not until after the strike was called.

Q. Until after the strike was called?

A. That is right.

Q. Wasn't he the chairman of the appeals committee?

A. I do not know.

Q. You didn't know that?

A. I didn't know Mr. Cox was chairman in the appeals committee because when I wanted to carry that case higher Lon Rutherford said, "I will take care of it for you. No use for you to bother yourself about it." And I let him take care of it.

Q. That was Lon Rutherford?

A. Yes, sir.

Q. What position did he have over there?

A. He was a representative of the hot mill department.

Q. I see.

Now, you had a talk with Paul Irwin some time?

A. Yes, sir.

Q. Who is he?

A. He is a millwright.

Q. Do I understand you to say that the plant was closed on the 20th of May over there?

A. I believe it was.

Q. What?

A. I believe—I believe it was May 20th, 9:30 p. m., or 9 o'clock.

Q. Was it closed in Massillon before the strike was called?

A. It was. Our department was down completely.

Q. Yes, sir. Now, as a matter of fact, that Massillon mill is an old mill, isn't it, Mr. Morton?

A. No, it is not an old mill. That mill there about 5 years ago was put up, the latest hot mill in the country.

Q. Yes, sir. So that when this man Linconhaley said to you that it was an old mill that wasn't true, was it?

A. Not about the hot mill it wasn't true.

Q. Well, how about the rest of the plant? Wasn't that an old plant over there?

A. About the rest of the plant?

MR. LAUTER: Now, one second. If it please the Examiner, as far as I know, I asked no questions on direct examination which would qualify this witness as an expert on steel mills, whether it was an old mill or a new mill. I am objecting to this line of inquiry.

MR. PONTIUS: It is cross-examination, and this man—

MR. LAUTER: Certainly those who own the steel mill would be able to bring in plenty of evidence as to whether or not the mills are old or new.

MR. PONTIUS: He testified about some conversation concerning this.

MR. LAUTER: Not his expert opinion as to whether it is old or new. You are asking him about his opinion. I just want a ruling on my objection, if you please.

TRIAL EXAMINER LINDSAY: I will overrule your objection. Let the record show an exception.

(Exception noted for Board.)

(The record was read as above recorded.)

A. The blast furnace and the coke oven was new, and the end roll department was new, and the sheet mill was modern, and about the rest of the plants I can't tell you much about them.

BY MR. PONTIUS:

Q. This conversation that you have related that you had with Mr. Lincolnhaley, did that take place at this meeting that night?

A. That is right.

Q. That is the only conversation you ever had with him, or any talk from him; is that right?

A. That is all. That is the first time that I have talked with Nick Lincolnhaley.

Q. Yes, sir. And what took place at that meeting, May 11th, is what you are referring to when you say that this gentleman made certain statements; is that right?

A. That is right.

Q. Now, who else made some statements the night of that meeting?

A. Nate Brown praised the company union.

Q. What?

A. Nate Brown praised the company union, and he says that he wouldn't join the C. I. O.

Q. I am not asking you what they said. I am trying to find out who you say made statements before that meeting?

A. I don't know. There was quite a number of them.

Q. Well, can you name anybody else? Now, you have named two.

A. Well, there is one boy there they called Red Mix, and another one, Theodore Jones.

Q. Yes.

A. And that is all I have seen. I left the meeting.

Q. How many people were there and heard whatever they said?

A. About 2,500 people.

Q. Employes and others of the Republic Steel?

A. I don't know if they were employes or not.

Q. They were there in some hall in the office building; is that right?

A. They were in the office auditorium.

Q. Office auditorium?

A. Yes, sir.

Q. At the Republic Steel Plant at Massillon?

A. Yes, sir.

Q. And then did you make a talk there that night?

A. I did.

Q. And any other people talk for the C. I. O.?

A. Martin Beckner.

Q. Martin Beckner?

A. That is right.

Q. And any others?

A. No.

Q. Were these 2,500 people there when you talked?

A. They were.

Q. And when Beckner talked?

A. They were.

Q. And then you and Beckner left before the meeting was over; is that right?

A. That is right.

Q. Yes, sir.

Now, you had a talk with some hot mill foreman after the strike was on; is that right?

A. No, sir.

Q. Who was it you talked with up on Main Street, or some place there on the street?

A. That was before the strike. That was a shut down. About—

Q. That was after the plant was shut down?

A. About the 20th, 21st, or 22d of May.

Q. Was anybody with you when you had your talk with this man?

A. No, Dave Lewis and I were there alone.

Q. Where did that talk take place?

A. Before the Lincoln Theatre in Massillon.

Q. Who is Dave Lewis?

A. Dave Lewis is a hot mill turn foreman.

Q. Now, what did he say to you on that conversation?

A. He said that when the company got through with us, we would have enough, that they would starve us out; we wouldn't want a strike after they got through with us.

Q. Is he a C. I. O. man, too?

A. I wouldn't have him in the C. I. O.?

Q. What?

A. We wouldn't let him in the C. I. O.

Q. So that you exclude certain people from the C. I. O.; is that right?

A. He is a foreman. He couldn't belong to the C. I. O.

Q. Oh. He said that when the company "got through with us," meaning himself, too, did he?

A. No. "With you boys, the C. I. O."

Q. Oh, "with you boys"?

A. Yes. That is just the extent of the conversation what I stated to you.

Q. Let's get what he said and not your interpretations of what he said. What did he say?

A. Well, now, how can I remember what he said when I was talking to him for 10 minutes there.

Q. Well, give us the best recollection you have of what he said?

A. Well, I gave you what I know that he told me, that when the company got through with us that we wouldn't want a strike; we would be starved out, and we would have enough of striking. That was when the shut down was.

Q. That was his language, as near as you can recall it?

A. Absolutely.

Q. He was out of work, too, at that time, wasn't he?

A. I don't know whether he was or not.

Q. He was not working, was he?

A. I was on my vacation. How do I know?

MR. LAUTER: I object to the question as having already been answered.

TRIAL EXAMINER LINDSAY: Yes, the objection to that question is sustained. The records of the company ought to show whether he was working or not.

BY MR. PONTIUS:

Q. Well, you said the mill was closed the night of May 20th; is that right?

A. That is right.

Q. Was anybody working down there, to your knowledge, after the 20th of May?

MR. LAUTER: I object to the question.

TRIAL EXAMINER LINDSAY: The objection is sustained.

BY MR. PONTIUS:

Q. Now, you have related some conversation with Alven E. Smith. Who is he?

A. He is the superintendent over the whole sheet division.

Q. When did you have a talk with him?

A. When he was holding that meeting.

Q. Oh, he was one of these men at this meeting?

A. Yes, he was the big man at that meeting.

Q. And he made a speech from the platform there, did he?

A. Yes, there was sort of a bench there that he talked off of.

Q. I see. Did he say something about the company not making any money in Massillon?

A. Yes; he said they were going in debt in Massillon.

Q. Yes, sir.

Now, Lewis and Bright are two foremen there in the shop, are they?

A. That is right.

Q. Yes, sir. And your testimony with respect to what they said to you, when did that take place, the conversation with them?

A. Anywhere from December up until the strike conditions, almost.

Q. Yes, sir. Were they both foremen of yours?

A. No, none of them were my foremen.

Q. Where did you talk to them?

A. Anywhere that they seen me in the mill that they figured I was talking union to a man, they would talk to me.

Q. And they said that it was part of their job to break up the union; is that right?

A. That is right. They talked very confidential with me, if you want to know that part of it.

Q. They talked very confidential with you?

A. You bet. They figured I would break. They said, "When the strike comes you are going to be in here working."

Q. They said, "When the strike comes you are going to be in here working''?

A. Yes, Dave Lewis told me ''when that strike comes on you are going to be one of the first men in here to work. You know it, Joe, you are not the kind of man to stick out for a union.'' He was confidential and I think he believed it.

Q. You deceived him?

A. Absolutely. Why shouldn't I?

Q. You deceived him all the time?

A. Deceived him on what?

Q. As to your activities at that time.

A. No, he knew what my activities were.

Q. He knew that you were working for the C. I. O. at that time?

A. I was not working for the C. I. O. I was president of the lodge and I was working for the lodge. I was not getting anything for my work. That was part of my duties as president of the lodge.

MR. DAY: I object to the latter part of the answer. It is not responsive to the question.

TRIAL EXAMINER LINDSAY: Read the question.

(Question read.)

TRIAL EXAMINER LINDSAY: The answer is responsive. It may stand. You may have an exception if you wish.

(Exception noted for Respondent.)

BY MR. PONTIUS:

Q. That is, they were very confidential with you and at that time they knew that you were president of the C. I. O. organization?

A. That is right.

Q. What?

A. Yes, sir.

Q. Had you told them that you were president of the C. I. O.?

A. The newspapers told them that; I did not have to tell them. They let me know the very next day.

Q. And at the same time they were confidential with you and said that you were the kind of fellow that they wanted to keep in the plant; is [that] right?

A. No, they did not say that I was the kind of a fellow they wanted to keep in the plant, but I was the kind of a fellow that would not stick to the union and I would be the first one in the plant.

Q. You would not stick with the union?

A. I would not stick with the union.

Q. Do you know if they had any reason to say that?

A. I do not know unless they judged everybody by themselves.

Q. What kind of men are they?

MR. LAUTER: I object to that question. It is obviously improper.

TRIAL EXAMINER LINDSAY: Oh, yes, it is going too far.

MR. PONTIUS: That is all.

TRIAL EXAMINER LINDSAY: Mr. Lauter and Mr. Day, come up to the bench.

(Thereupon, Counsel conferred with the Examiner at the bench.)

(Witness excused.)

TEFIK TAHIR

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. GROSSMAN:

Q. Your name is Tefik Tahir?

A. Tefik Tahir.

Q. What is your address?

A. 726 Bebb Avenue, Southwest.

Q. Massillon?

A. Yes.

Q. Massillon, Ohio?

A. Yes.

Q. Are you an employe of the Republic Steel Corporation?

A. Yes.

Q. When did you start to work for the Republic Steel?

A. 1923, the first time.

Q. 1923.

A. Yes.

Q. Did you work continuously?

A. I worked until 1929.

MR. PONTIUS: Pardon the interruption. I did not get his last name.

MR. GROSSMAN: Tahir, T-a-h-i-r.

TRIAL EXAMINER LINDSAY: What is the first name?

THE WITNESS: Tefik, T-e-f-i-k, and the last name, T-a-h-i-r.

BY MR. GROSSMAN:

Q. After you left the Republic Steel in 1929, when did you return to work?

A. I come back in 1934, on January 10th.

Q. Was this at the Massillon Plant?

A. Yes.

Q. 1934. Then, did you work continuously up until the day of the strike?

A. On the day of the strike.

Q. Which was on May 29, 1937?

A. Yes.

Q. I hand you Board's Exhibit 49, for identification; did you ever see that piece of paper before, Mr. Tahir?

A. Yes, I saw this paper on July 17th. Mrs. find it under the door.

MR. GROSSMAN: I offer this paper as Board's Exhibit No. 49.

MR. PONTIUS: We object to this at the present state of the record.

TRIAL EXAMINER LINDSAY: May I see that?

MR. GROSSMAN: Yes.

(The document was thereupon handed to the Trial Examiner.)

TRIAL EXAMINER LINDSAY: You have an objection in the record on this?

MR. PONTIUS: Yes, we object to it on the present state of the record.

MR. GROSSMAN: Well, in a few moments we will explain who the gentleman who signed that is.

MR. DAY: Do you say you are going to prove who signed it?

MR. GROSSMAN: His name appears on the record.

MR. DAY: I do not think that would make it competent.

MR. GROSSMAN: May I have a ruling on it?

TRIAL EXAMINER LINDSAY: Yes. The objection is overruled. Received in evidence. Let the record show an exception.

MR. DAY: Let the record show we object to it.

TRIAL EXAMINER LINDSAY: I have already done that.

(Exception noted for Respondent.)

MR. DAY: I want to state the grounds of the objection into the record. Nothing to connect it with the Respondent, to show that the Respondent had knowledge of it—

MR. GROSSMAN: We will also show who signed it.

MR. DAY: Wait a minute. —authorized it, or to show who actually did sign it.

TRIAL EXAMINER LINDSAY: Well, the ruling still stands.

MR. DAY: Exception.

(The document referred to was marked as Board's Exhibit No. 49, and received in evidence.)

BY MR. GROSSMAN:

Q. I read you Board's Exhibit No. 49. "Taffy: Report to work Sunday morning, tomorrow, at 7 a. m. if you want your job. See Sam Christ also. Price per C. S." Do you know who "C. S." is?

MR. PONTIUS: We object to that.

THE WITNESS: Chuck.

TRIAL EXAMINER LINDSAY: Just a minute. Objection overruled. Let the record show an exception. Now go on.

(Exception noted for Respondent.)

BY MR. GROSSMAN:

Q. Who is "C. S."?

A. Chuck Schmeling or Shirley.

Q. Who is Chuck Shirley?

A. He works with me.

Q. Who is Mr. Price?

A. Assistant superintendent.

Q. Assistant superintendent of what department?

A. Open hearth.

Q. At the Republic Steel Corporation?

A. Yes.

Q. Did you ever see that handwriting before?

A. Yes.

Q. Is that Chuck Shirley's handwriting?

A. Yes.

Q. Where did you see his handwriting before?

A. Well, he write every night all the time when we work, daytimes, nighttimes, how we work down there.

Q. Does he write a schedule?

A. He makes all the reports, keeps number and time, everything he fix. Because I know that all the time he use these two initials "C. S.," Chuck Schmeling or Shirley.

MR. DAY: No cross-examination. We move now, for the reasons stated, to exclude that exhibit.

MR. GROSSMAN: That is all.

TRIAL EXAMINER LINDSAY: The motion is overruled. Let the record show an exception.

(Exception noted for Respondent.)

(Witness excused).

SAM CHRIST a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. GROSSMAN:

Q. Your name is Sam Christ?

A. Yes.

Q. And your address, Mr. Christ?

A. 563 Neal Avenue.

Q. Is that in Massillon, Ohio?

A. That is in Massillon, Ohio.

Q. Are you an employe of the Republic Steel Corporation?

A. Yes.

Q. When did you start to work for the Republic Steel Corporation?

A. In 1923.

Q. Have you worked continuously up until the time of the strike?

A. Yes.

Q. You have worked for Republic Steel Company 14 years, then?

A. Yes.

Q. I hand you Board's Exhibit 50, for identification. Did you see this paper before, Mr. Christ?

A. I was away that day. My wife she found it under the porch.

Q. Did you ever see that before you came into this courtroom?

A. Yes.

Q. Is that the paper your wife gave you?

A. That is the same one.

MR. GROSSMAN: I offer this in evidence as Board's Exhibit No. 50.

MR. DAY: We object to it as the same grounds as we objected to Exhibit No. 49.

TRIAL EXAMINER LINDSAY: Is that the same, in substance?

MR. GROSSMAN: Same thing.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

(Exception noted for Respondent.)

TRIAL EXAMINER LINDSAY: Board's Exhibit 50 received in evidence.

(The document referred to was thereupon marked "Board's Exhibit 50," and received in evidence.)

BY MR. GROSSMAN:

Q. I hand you Board's Exhibit No. 50, Mr. Christ, and I read the same to you: "Sam: Report to work at the pits on July 18th, 1937, Sunday morning, at 7 o'clock, if you want your job. Price per C. S."

A. Yes.

Q. Do you know who C. S. is?

A. Chuck.

Q. Who is Chuck?

A. A fellow, he is a recorder in the pit.

Q. He is a recorder in the pit at the open hearth?

A. Yes.

Q. Of the Massillon plant of the Republic Steel?

A. Yes.

Q. Who is Mr. Price?

A. That is the assistant superintendent of the company.

Q. Mr. Price is assistant superintendent of the open hearth?

A. Yes.

Q. Of the Republic Steel?

A. Yes.

Q. Do you recognize that handwriting?

A. Many times I seen that, I know it is Chuck's writing.

Q. That is Chuck's handwriting?

A. Yes.

Q. You have seen Chuck's handwriting before?

A. Yes.

Q. That would you say is his handwriting?

A. During the time we was working.

Q. Did you ever see Chuck or Mr. Price at the strike?

A. No.

Q. Never did?

A. No.

TRIAL EXAMINER LINDSAY: Any cross-examination?

MR. DAY: I move to strike out the last exhibit on the same ground upon which our motion was made on Exhibit 49.

TRIAL EXAMINER LINDSAY: Motion denied. Let the record show an exception.

(Exception noted for Respondent.)

TRIAL EXAMINER LINDSAY: We will adjourn until 9:30 in the morning.

(Whereupon, at 4:15 o'clock p. m., August 11,

1937, the hearing was adjourned until August 12, 1937, at 9:30 o'clock a. m.)

Courtroom No. 1, Stark County Courthouse, Canton, Ohio,
Thursday, August 12, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

JOHN T. LINDSAY: Trial Examiner.

Appearances:

Mark Lauter, Esq., Lawrence Hunt, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

H. C. Pontius, Esq., of the firm of Messrs. Lynch, Day, Pontius & Lynch (Canton, Ohio), and Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young and Veach (1420 Union Trust Building, Cleveland, Ohio), appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. LAUTER: Sherman Ebbert.

SHERMAN EBBERT

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. State your name, please.

A. Sherman Ebbert.

Q. Where do you reside, Mr. Ebbert?

A. 710 Erie Street, South, Massillon.

Q. Is that Massillon, Ohio?

A. Yes, sir.

Q. Have you been employed at the Republic Steel Corporation plant in Massillon?

A. Yes, sir.

Q. When did you start working for them?

A. In June, about June 20, 1933.

Q. And what kind of work have you been doing?

A. Well, when I started, I first started as a scrap breaker on the chipping board and then became chainman, and then I got to be a burner, and from there I went to cold saw operating.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join?

A. About April 28th or 29th, I forget.

Q. 1937?

A. Yes, sir.

Q. How long did you work for the Republic Steel Corporation?

A. About four years, a little better than four years.

Q. Was there a strike in the Massillon plant?

A. Yes, sir.

Q. When was the strike?

A. Twenty-fifth of May, on Tuesday night at 11 o'clock.

Q. On the 25th of May what turn were you working?

A. Seven to three, daytime.

TRIAL EXAMINER LINDSAY: Will you talk a little louder?

BY MR. LAUTER:

Q. Seven to three, daytime?

A. Yes, sir.

Q. Did you go to work that day?

A. Yes, sir.

Q. Did you go to work the next day?

A. No, sir.

Q. Did you go to work on July 12th?

A. Yes, sir.

Q. Describe the circumstances of your returning to work?

A. The assistant superintendent, one of the chipper foremen, came after me on July 11th.

Q. Who were they, by name?

A. William Hirshberger is assistant superintendent.

Q. William Hirshberger?

A. Yes, sir; and Harry Hilbert is the chipper foreman.

MR. DAY: Harry who?

THE WITNESS: Harry Hilbert.

BY MR. LAUTER:

Q. H-i-b-e-r-t?

A. Yes.

Q. Go ahead.

A. And they asked me to go to work and I asked them if it was on my own job, and they told me yes, so I said all right, and I returned to work. Then on Monday, July 12th, about 2:45, one of the boys by the name of Ralph Ebberly—

Q. What position does Ralph Ebberly have?

A. He is what they call a head loader.

MR. DAY: We want to object to the conversation between him and a head loader on the ground that he has no authority to talk for the Respondent, and no knowledge, no authorization, no connection with the Respondent.

TRIAL EXAMINER LINDSAY: He works out there, does he not?

MR. DAY: He works out there. I suppose he works out there, of course.

TRIAL EXAMINER LINDSAY: We will have to find that out. Objection overruled, and let the record show an exception.

(Exception noted for Respondent.)

MR. LAUTER: Mark this.

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 51.")

BY MR. LAUTER:

Q. Is Mr. Ralph Ebberly a head loader at the Massillon plant?

A. Yes, sir.

Q. I hand you Board's Exhibit No. 51, for identification, and ask you whether or not you have ever seen a copy of that before?

A. Yes, sir.

Q. Where did you see a copy of that?

A. Why, one that Ralph Ebberly gave me.

Q. Ralph Ebberly gave you a copy of this?

A. Yes.

Q. Where did he give you a copy of this?

A. In the locker room.

Q. At the plant in Massillon?

A. Yes, sir.

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 51.

MR. DAY: We want to object to that.

TRIAL EXAMINER LINDSAY: Do you want to state any reasons?

MR. DAY: There is no evidence connecting it with the Respondent, showing any knowledge on this part of the Respondent, any authorization.

TRIAL EXAMINER LINDSAY: Objection overruled. Board's Exhibit No. 51 received in evidence. Let the record show an exception.

(Exception noted for Respondent.)

(The document previously marked for identification as Board's Exhibit No. 51, was received in evidence.)

BY MR. LAUTER:

Q. Will you state the substance of the conversation which you had with Mr. Ebberly?

A. He handed me one of those cards and asked me if I wanted to join it, and I looked it over and told him that I would think it over at that time, and then later on in the—just before 7 o'clock, which was lunch time, why I happened into the office, and he was in there, and he asked me what I thought about it, and I told him, I asked him what he thought about it, and he said he thought it was all right because it was a union amongst the employes, only it was to keep out any other outside union, and I asked him if it was compulsory, and he said yes, it is. He said, "If you do not join it we will throw you over the fence." So I forgot about it right at the time being.

MR. DAY: May we move to strike out the conversation on the same grounds that was the basis of the objection.

TRIAL EXAMINER LINDSAY: The motion is denied. Let the record show an exception.

(Exception noted for Respondent.)

A. (Continuing) I told him that I would still think it over. Well, then, along about 9, 9:30, 10 o'clock sometime, I just don't remember when, in the evening before I went home from work, he came over to the cold saws where I worked, and he got to talking about it again, and our argument got pretty hot, although I did not say right out that it was a company union, why, I give him a pretty good idea.

MR.DAY: May we have the same objection to this additional conversation, please?

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

(Exception noted for Respondent.)

A. Although it was my idea it was nothing more than a company union, I gave him an idea that was what it was, although I didn't say right out what it was, so that was the end of the trouble for that evening.

The next afternoon, then, at 3 o'clock, when I went to work, I was working around the saws, and this Ralph Ebberly came over to me and asked me if I wanted to—

MR. DAY: May we have the same objection to this conversation?

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

(Exception noted for Respondent.)

A. (Continuing) He asked me if I wanted to join the union, and I said no, so he turned around and walked back out, and went across to the office, and about five, ten minutes later fifteen or twenty men came over to my place of work and it consisted of Ralph Ebberly and Paul Hoffman.

BY MR. LAUTER:

Q. Who is Paul Hoffman?

A. Paul Hoffman is what we call head piler, or pile foreman.

Q. Did he have any position under the old Employes' Representative Plan?

A. He was employe representative.

Q. Will you state what happened between you and Paul Hoffman, Ralph Ebberly, and the other men who came to see you there?

MR. DAY: May we have the same objection?

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. He says, "Sherman, the boys say you have got to join this union, or else," and I dropped my work and I turned around to him and I said, "Or else what?" And he said, "Or else we won't work with you." I said, "Well, you boys just suit yourselves about it. That don't worry me a bit." They asked me why I did not want to join it, and I told them that it was no good, a company union. I asked them who was giving them their authority to vote me out of a job if I did not join, and he said, "Well, we are taking that onto ourselves," and I said, "Well, I don't want to join." And we had a few other words, I don't just recall what they were, and he started to getting mad. He said, "We do not want to argue with you. We want to know whether you want to join this or not." And I said, "No, I am not going to join it." So they turned around and walked out to the office, and I stuck around the saws there for a few minutes, and I decided to see Mr. Peppard, who is the general superintendent of that plant, of that department, and as I walked through the crowd Paul Hoffman had a pad of paper and a pencil, and they were getting up a petition to the effect that they would not work with me unless I signed their union card, so I just walked on through the crowd. There was a whole bunch of men who were in to see me and went on into Mr. Peppard's office, and I started to saying something to Mr. Peppard, I don't remember what it was, but anyway he interrupted me, and he said, "I understand you are having some trouble with the boys." And I said, "Yes, they claim they won't work with me unless I join their union." And he asked me why I did not want to join, and I told him I did not think it was any good. I told him I did not belong to any union then and I did not want to belong to any. I told him that they had accused me of belonging to a union but nobody could show me where I ever paid anything into a union. I did not say I did not belong to a union, I just said nobody could show me where I had ever paid anything into a union. "Well," he said, "the boys said they won't work with you unless you sign the union card." He said, "By God, we are going to work around here, and I ain't going to let no one man hold up the work." He said, "Now, you can go home and think it over. When you decide to do what the boys want you to do you can come back and go to work." I said, "All right." And I got up and walked out and went to the locker.

BY MR. LAUTER:

Q. You mentioned Mr. Peppard's name. Will you state for the record who he is?

A. He is general superintendent of that department.

Q. Go on.

A. And as I entered the locker room there was one of the boys who was in the gang who came over to see me, and he says, "What do you think?" He says, "What do you think?"

MR. DAY: May I have the same objection on the same grounds to this conversation?

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

(Exception noted for Respondent.)

A. (Continuing) I says, "What do you think?" He says, "Why don't you want to join it?" I says, "Because, listen," I says, "I don't want nobody telling me what I am going to do and what I ain't going to do." "Well," he says, "they are not trying to tell you what you are going to do and what you are not going to do." I says, "Yes", they are telling me that I am going to join this union or else I am not going to work." He says, "Well, I guess you are right." I says, "Sure, I am right."

So I think I unlocked my locker; I was going to get ready to go home. Harry Miller, assistant superintendent, came out and called me back into the office, and somebody must have heard what I said to this one boy; and went in and reported to Mr. Peppard. Anyway, whenever I got in to see Mr. Peppard again, he says, "I understand that you don't want to join this against your will." I said, "I don't." I said, "I don't want anything to do with it." I says, "For that reason I don't want to join it." So he says, "Well," he says, "I will tell you what you do." He says, "You go back out in the locker room, wait a few minutes," and he says, "I will talk it over with the boys and see what I can do with them." So I went back out in the locker room, sat around a few minutes, and pretty soon Larry Miller came out the second time, called me in, and I went back in to Mr. Peppard, and Mr. Peppard says, well, he says, "I have got it straightened out for the time being." He says, "You can go back over and go to work," but he says, "Come out tomorrow." He says, "I don't know what the boys will have in mind tomorrow." But he says, "You come out tomorrow, anyway."

So I went back over and went to work. Well, in about—well, it was pretty close to 11 o'clock when this Ralph Ebberly came over to me, and I was grinding a saw blade, talking to the turn foreman about grinding the saw blade, and Ralph Ebberly punched me in the back and called me around the corner from the turn foreman, and he says, "The boys have decided they don't"—

MR. DAY: May I have the same objection on the same grounds?

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception noted for Respondent.)

A. (Continuing) He punched me in the back. He called me around the corner. He says, "The boys have decided they don't want you to come out to work tomorrow." I says, "Well, you tell the boys I will be out to work tomorrow." I says, "I was told to come out here by Mr. Peppard." He says, "Well, you will have to fight it out with the boys, then."

So the next day I signed a union card and took it up to Paul Hoffman, handed it to him rather than to have any more trouble.

BY MR. LAUTER:

Q. When you say "the union card," are you referring to a card similar to Board's Exhibit No. 51?

A. Yes.

Q. Go ahead.

A. And, well, that was the end of the trouble except that I have been running those cold saws for practically nearly four years, and we just moved up to our present position in No. 2½ shed. We just moved up there, oh, maybe about a year ago. And they have a way of checking up on what we do by the number of square inches we saw. And I have sawed anywhere from 400 to 2,400 square inches in one turn without a helper.

Q. Well, before you go into that, Mr. Ebbert, I wonder if you would state for the record how long you remained in the mill after you came back to work subsequent to the strike?

A. From July 12th to August 6th.

Q. August 6th?

A. Yes.

Q. Just a couple of days ago?

A. Yes.

Q. You were left in the mill, then?

A. Yes, sir.

Q. You left voluntarily?

A. Yes.

Q. Why did you leave?

A. Well, I didn't like the condition of the way they was pushing things around there.

MR. LAUTER: That is all.

MR. DAY: I move the last answer be stricken out.

TRIAL EXAMINER LINDSAY: Motion overruled.

MR. DAY: Exception.

TRIAL EXAMINER LINDSAY: The last answer will stand and let the record show an exception.

(Exception noted for Respondent.)

MR. DAY: No cross-examination.

TRIAL EXAMINER LINDSAY: All right.

(Witness excused.)

VERNE F. HOLDERMAN

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HUNT:

Q. The name is what? What is your full name?

A. Verne, V-e-r-n-e.

Q. Your middle initial?

A. F.

Q. And the last name?

A. Holderman, H-o-l-d-e-r-m-a-n.

Q. Where do you live, Mr. Holderman?

A. 236 State Street, Northeast, Massillon.

Q. When did you first enter the employ of the Republic Steel Corporation?

A. In the year 1925, in the spring.

Q. Now, what was your position?

A. At the time I was working in the sheet mill.

Q. A little louder, please.

A. At that time a catcher in a sheet mill.

Q. As a catcher in the sheet mill?

A. Yes.

Q. What particular plant did you work in?

A. Massillon plant, the Central Alloy.

Q. It was then the Central Alloy Company?

A. I think it was at that time the Central Alloy.

Q. What mill or division of the plant did you work in?

A. The sheet mill division.

Q. The sheet mill division?

A. Sheet mill division.

Q. How long did you work with the Central Alloy?

A. Until the latter part of 1929, I think somewhere in between there they merged with Canton.

Q. They merged with Canton?

A. The Central Steel and the Central Alloy of Canton merged into the Central Alloy.

Q. Then did you leave the company in 1929?

A. I did, for about eight months. I—the sheet mill—

MR. DAY: May I interrupt?

A. —was going very slow.

MR. DAY: Your Honor, I dislike to do this, but in order to preserve the record of the last witness, may I move to exclude all over the conversations on the additional ground that those conversations do not tend to support any charge in the complaint?

TRIAL EXAMINER LINDSAY: Motion overruled. Let the record show an exception.

(Exception noted for respondent.)

TRIAL EXAMINER LINDSAY: This is off the record.)

(There was a discussion off the record.)

TRIAL EXAMINER LINDSAY: All right. Proceed.

BY MR. HUNT:

Q. You say you worked until 1929 with the Central Alloy Steel in Massillon and then left and returned after nine months?

A. Approximately nine months, eight or nine months.

Q. Yes.

A. I think it was in February of 1930.

Q. Did you go back to work in Massillon at that time?

A. I did, in the strip division of the Stanley Steel.

Q. Was that then a part of the Republic Steel, so far as you know?

A. It was.

Q. How long did you work when you returned in 1930?

A. I worked for two years in the strip division and then I was transferred to the sheet division.

Q. What was your job in the strip division?

A. Well, in general, flunky, I should say.

Q. A flunky?

A. Yes, laborer.

Q. Well, what was your job when you were transferred?

A. To the sheet mill?

Q. Yes.

A. I was transferred in there as a sweeper.

Q. As a sweeper? How long did you work in the sheet mill?

A. Four years, up until the present time

Q. Until when?

A. Until the night of May 25, 1937.

Q. That was the night the strike was called?

A. Yes, the strike was called.

Q. Were you also a sweeper?

A. No, I was promoted to helping on a machine. From there I was promoted to operating a machine.

Q. You received two promotions in the course of the last four or five years?

A. I did. I received those promotions very soon after I entered the place, very soon after I entered the department, and I have been on the same job for approximately, I would say, three and a half years.

Q. So far as you know, your record as a workman is a good one?

A. I think it is.

Q. Have you ever received any compliments on your work?

A. I have.

Q. From whom?

A. Mr. Sludecker, Mr. Lynch, Mr. Ashbocker.

Q. Are you a member of the C. I. O.?

A. I am.

Q. When did you join the C. I. O.?

A. October, 1936.

Q. Do you know of the Employes' Representative Association?

A. I do.

Q. When was it first called to your attention?

A. Shortly after the A. F. of L. made their attempt to organize in 1933.

Q. What was that?

A. I say, shortly after the A. F. of L. made their attempt to organize in 1933.

Q. Well, I am now asking about the Employes' Representative Association as distinct from the Employes' Representative Plan, the Association.

A. The Association?

Q. Yes.

A. The Association is a Plan that was sponsored just before the strike was called, and an attempt made to have a union of their own.

MR. DAY: I would like to object to all evidence upon this line upon the ground that it does not tend to support any allegation in the complaint, or connect the Respondent with it.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

(Exception noted for respondent.)

BY MR. HUNT:

Q. When was the Association first called to your attention?

A. About two weeks before the strike. Well, on the 11th they had a meeting. I attended a meeting of the Association. That was the first I think it was called to my attention.

Q. Were you ever asked to sign a card?

A. Yes.

Q. Membership card?

A. I was.

Q. Who asked you to sign one?

A. William Schott, the night foreman.

Q. William Schott?

A. William Schott.

Q. How do you spell it?

A. I think it is—I am not certain whether it is with a "c" or an "h," S-h-o-t-t, or S-c-h-o-t-t.

Q. S-c-h-o-t-t?

A. I think that is it.

Q. He is a night turn foreman?

A. Night turn foreman.

Q. Do you remember about when he asked you to sign this card?

A. I would say two weeks—two or three weeks before—about two weeks before the strike, approximately.

Q. Was the card like this Board's Exhibit No. 51?

A. Yes.

Q. I just handed you a card which is, in appearance, very much like Board's Exhibit No. 51, and very much like Board's Exhibit No. 48, both of them being about identical in size, of about the same size, a slight difference. Was it like Board's Exhibit No. 48?

A. Well, they are much the same. It was.

Q. Will you just read it?

A. I believe this is the card here (indicating).

Q. Will you read the heading on that card?

A. "Employes' Representatives Association."

Q. Was it for the Employes' Representatives Association that you were given a card?

A. It was.

Q. Your foreman asked you to sign this card?

A. He did.

Q. Did he say anything to you at the time?

A. Pardon?

Q. Did he say anything to you at the time about the Association?

A. Yes, he told me that if at that time there were enough members signed up he felt that it would avert a strike.

Q. Did he say anything else?

A. He said a lot, but I don't remember all of it.

Q. About when was this?

A. About two weeks before the strike.

Q. About two weeks before the strike. Did you attend the meeting of the employes in the plant on or about May 11, 1937?

A. I did.

Q. Were you paid during the time you attended that meeting?

A. I was.

Q. Paid your regular wages?

A. My regular wages.

Q. How long were you away from your work when you were at that meeting?

A. Four hours, from 7 o'clock in the evening until 11.

Q. Do you know what the purpose of the meeting was?

A. To sponsor this Employes' Association, Representatives' Association.

Q. Who presided at that meeting?

A. Nick Lincolnhaley.

Q. A little louder, please.

A. Nick Lincolnhaley.

Q. Will you describe briefly what took place at that meeting?

A. Well, when I entered the hall I imagine there was somewhere in the neighborhood of 2,000 men there. Nick Lincolnhaley was—spoke over a loudspeaking—over a microphone, and gave what he thought was the plan to the employes. I remember Joe Morton getting up and giving a talk, also Martin Beckner.

Q. Now, you told me that you have been complimented on your work; is that right?

A. I have.

Q. And I don't recall the names of the men who complimented you. Who were they?

A. Mr. Sludecker, shop superintendent.

Q. Mr. Sludecker. He is the shop superintendent, you say?

A. Yes.

Q. Who else?

A. Harry Ashbocker. He is the general foreman.

Q. General foreman of your department?

A. Of our department. And Bob Lynch.

Q. Who is Mr. Bob Lynch?

A. Bob Lynch is, I believe, assistant superintendent and a road man, trouble shooter they call him.

Q. Do you recall about what time of the year they complimented you on your work?

A. No, I can't recall that. I have had several compliments on my work.

Q. Was it within the last year?

A. It was, some of them.

Q. Did you go out on strike on May 25th, the night of May 25th?

A. I did.

Q. Did you try to get back to work?

A. I did.

Q. When?

A. June 6th—or, July 6th, I contacted Mr. Sludecker in an effort to get back.

Q. Now, Mr. Sludecker is who, again?

A. The shop superintendent.

Q. Will you describe just as fully as you wish, and slowly as you can, all of the events leading up and surrounding your attempt to get back to work? Just tell us slowly and clearly as you can.

A. On the night of July 6th I went to Mr. Sludecker's home, and I asked him when I was to be returned to work. He told me that he did not know, that they were not operating the department under a schedule, that they had lost a lot of business during the strike, and that I should call Mr. Davey on the following day. .

Q. Who is Mr. Davey?

A. Mr. Jim Davey, the divisional superintendent over Canton South End Division, and the Massillon Stainless Steel.

Q. Of the Massillon Stainless Steel?

A. Yes, sir.

Q. Go ahead.

A. I should get in touch with Mr. Davey and he would tell me when to come back to work. The following day I made an effort to contact Mr. Davey over the phone but was informed that he was not in the plant. I again talked to Mr. Sludecker, and Mr. Sludecker informed me that Mr. Davey had given word to any one calling in should be informed that they would be called when needed.

Q. All right. That was about July 7th or 8th?

A. That was July 7th.

Q. All right. Then what did you do?

A. After Mr. Sludecker had told me that I let it go until the following Saturday.

The following Saturday I called up and I got in contact with Mr. Davey. Mr. Davey first asked me where I had been on July 2d. I told him that I had no way of knowing that the plant was going to open, that nobody had come and told me to come to work. He said, "Well, that puts you in a bad position and me in a bad position, naturally thinking when you did not return with the other boys on July 2d we did not think you wanted to work."

Q. May I interrupt there just a moment. Do you recall what date the National Guard came into Massillon?

A. No, I don't.

Q. Do you recall July 2d at all, the day itself, apart from being told that you ought to come back to work then?

A. Do I recall it they came in on July 2d?

Q. Do you recall July 2d itself, anything that happened on July 2d?

A. I could not especially.

Q. Do you know about when the National Gaurd came into Massillon?

A. I think it was somewhere around July 2d.

Q. Do you know whether many men attempted to go back to work at or about July 2d?

A. Well, the paper stated there were about twice as many as did, I think.

MR. DAY: I move that be stricken out.

TRIAL EXAMINER LINDSAY: Just read the last answer.

(Last answer read.)

MR. HUNT: I am willing to withdraw my question.

BY MR. HUNT:

Q. All right, now, we get down to July 7th or 8th, rather, the following Saturday, and you called Mr. Davey on the telephone and he asked you if you tried to get back on July 2d, and you said no, that you knew nothing about it; is that approximately right?

A. Yes.

Q. Then what happened?

A. After I called Mr. Davey?

Q. Yes, at that time.

A. I let it go again. In the meantime there had been another man that was in the same circumstances as myself, had not been called back to work, and we kept in touch with each other, to see if there was anything come up.

Q. What was the name of this other man?

A. Harold Detterline.

Q. How do you spell Detterline, D-e-t-e-r-l-i-n-e?

A. D-e-t-t-e-r-l-i-n-e.

Q. All right. Harold Detterline.

A. Harold told me that—

MR. DAY: We want to object to what Harold told him.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

BY MR. HUNT:

Q. Who is Harold Detterline?

A. Harold Detterline does the same job I do, operates the machine.

Q. At that time he had not gone back to work?

A. At that time he had not gone back to work.

Q. And you kept in touch with him about what?

A. About going back. He was trying to get back to work, too, and he told me that the boys in the mill had taken a vote to keep us out.

Q. To keep both of you out?

A. That is right. So we got in contact with John Staugh.

Q. How do you spell Staugh's last name?

A. S-t-a-u-g-h.

Q. He is the turn foreman?

A. He is the turn foreman. And John Staugh told Harold—

MR. DAY: I want to object to this. This, as I understand, when a man named Detterline told the witness what a man named Staugh told him.

TRIAL EXAMINER LINDSAY: I understand. State your objection and I will rule on it.

MR. DAY: We object to this on the grounds already stated, that the other party to the conversation with the witness is not connected with the Republic Steel so as to make the Republic responsible for what he said; he had no knowledge or authority. In addition to that, this witness is about to state something that a man named Detterline told him that a man named Staugh told Detterline.

TRIAL EXAMINER LINDSAY: I will overrule the objection. Let the record show an exception. Proceed.

MR. DAY: Exception.

(Exception noted for Respondent.)

A. Detterline told me that John Staugh personally said he would contact the men in an effort to get him back to work, which he did.

BY MR. HUNT:

Q. Contact what men?

A. The men in the stainless division, the men who had previously voted him out of a job.

Q. You spoke about men voting you out of a job. Do you mean foremen, superintendents, vice-presidents?

A. No, I mean the men who worked, the helpers and the operators on the machine at that time.

Q. They voted?

A. They voted.

Q. All right. Go on.

A. John Staugh did contact the men, or, at least, Detterline went back to work on the 23d of July, and he told me that he was going back to work on July 22d. The evening of July 22d. On the 23d I called in and I wanted a show down of some sort or another, and I called him and tried to get in contact with Mr. Davey.

Q. Mr. Jim Davey?

A. Mr. Jim Davey.

Q. He is the division superintendent of the Stainless Division?

A. Division superintendent.

Q. Division superintendent; all right.

A. Instead of getting Mr. Davey, I got Mr. Sludecker again.

Q. The shop superintendent?

A. Shop superintendent. Mr. Sludecker told me Davey had made arrangements for me to come in at a quarter to three.

Q. Made an appointment for you at 2:45 that afternoon?

A. 2:45.

Q. Has it been your experience that definite appointments are made to these men?

A. I had never heard of it before. It seemed an unusual thing. The usual thing would have been to come in some time during the afternoon and see Mr. Davey.

Q. All right, go on.

A. At 2:45 I was in the shop, five minutes until three Mr. Davey came up and started talking. He asked me what I wanted. I said I wanted to go back to work. He asked me where I had been on July 2d. I said I thought we had gone over that before, that I had not been notified to return to work on July 2d. About that time the men were gathering over—through a door I could see the department where I worked. I saw both turns gathering over there. Very shortly, there was no whistle blown that night, they did not blow a whistle to quit, but very shortly George Chapman, an operator in the Stainless Division, he was a helper before, he came over accompanied by about a dozen of those men, and he informed me that the men had taken a vote and they refused to work with me.

Q. Was anybody else with you at the time, standing with you when he came there?

A. When he came over Mr. Davey walked about six paces away and stood waiting for them to finish.

Q. Chapman told you that the men had taken a vote as to whether they wanted you back there or not?

A. They did.

Q. Whether they wanted you reemployed?

A. Chapman told me that.

Q. The men voted no?

A. The men voted no.

Q. Was that on the crew on which you worked?

A. That was supposedly both crews.

Q. So the men voted as to whether or not you were to be reemployed by the Republic Steel Corporation; is that right?

A. That is so.

Q. Well, when Mr. Chapman told you that what did you do?

A. I immediately went over to Mr. Davey and I said, "Well, Mr. Davey, the men have voted me out of a job." He said, "I am sorry." I said, "Do you intend to let that decision stand?" He said, "There is nothing I can do about it." I said, "Aren't you the superintendent, Mr. Davey, any more?" He said, "I am." I said, "Yet you cannot do anything about it?" He said, "If I went over those men's vote I would lose my job."

Q. Will you repeat that again, I did not quite hear.

A. I asked Mr. Davey, I told Mr. Davey that the men had voted me out of a job.

Q. All right.

A. And he said he was sorry. I asked Mr. Davey if he intended to let that decision stand. He said he did, that there was nothing he could do about it. I asked him if he was still the superintendent of the division, and he said he was, but if he went over those men's heads, he would lose his job.

Q. Is that all he said?

A. That is the gist of it.

Q. When did you say you first started with Republic Steel, 1930, was it?

A. When I came back the first time?

Q. Yes.

A. I think it was in February of 1930.

Q. Since that time have you ever known the employes to vote on whether or not the Republic Steel Corporation should employ a man or not?

A. I have never known of it before.

MR. HUNT: That is all.

Cross Examination

BY MR. DAY:

Q. Mr. Holderman, when you had this last talk with Mr. Davey, that you have just told us about—

A. Yes, sir.

Q. —was anybody there besides you and Mr. Davey within range of your talk?

A. There was not.

Q. The Massillon mill, after it has been closed down, after the strike started, opened up again on July 2d, did it not?

A. I think it did.

Q. Where were you then?

A. I was in Massillon.

Q. You did not know that the mill had opened up?

A. Not until the paper came out that evening.

Q. That same evening on July 2d?

A. Yes, sir.

Q. What time of the day did the mill open up?

A. I suppose in the morning.

Q. When was it after you saw the Massillon paper of July 2d that you contacted—I did not get the name of that man.

A. Sludecker.

Q. Sludecker.

A. That was July 6th.

Q. July 6th?

A. Yes, sir.

MR. DAY: I think that is all. I would like to make a motion to strike out the testimony of this witness on the grounds set forth in the objection to it.

TRIAL EXAMINER LINDSAY: Motion overruled. Let the record show an exception.

(Exception noted for Respondent.)

(Witness excused.)

GEORGE TAYLOR ALLEN

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HOSKINS:

Q. Will you state your full name, please?

A. George Taylor Allen.

Q. Will you spell that for us, Mr. Allen?

A. The last name?

Q. All the way through.

A. G-e-o-r-g-e T-a-y-l-o-r A-l-l-e-n.

Q. Whereabouts do you reside, Mr. Allen?

A. 16 Penn Avenue, Southeast, Massillon, Ohio.

Q. Have you ever worked for the Republic Steel Corporation?

A. I have.

Q. When did you start to work for them?

A. I started in 1925 for the Federal Steel.

Q. How long have you worked for them?

A. Twelve years.

Q. In other words, you have worked up until 1937 some time?

A. Yes.

Q. Do you remember the day of May 25, 1937?

A. I do.

Q. Did you go to work on that day?

A. I started to.

Q. Will you explain what you mean by you started to?

A. Well, I was working the midnight turn—that is, from 11 to 7. When I got down to the gate I found the strike was on and I came back home.

Q. Now, at the time of this strike you mentioned, what was your job in the mill?

A. Crane man.

Q. What salary does that pay?

A. $6.24 at the present time.

Q. $6.24?

A. A day.

Q. How many days a week were you working at that time?

A. Well, before the strike on a 40-hour basis.

Q. A 40-hour basis?

A. Forty-hour basis.

Q. Now, prior to the strike had you ever been laid off?

A. Not more than two days at a time.

Q. What would that two days at a time be for?

A. Once when I was hooking, I sort of left an iron down on the wood blocks, and one of the chains picked the wood block up and slid off of the wood block.

Q. How long ago was that, Mr. Allen?

A. Been 2 years ago.

Q. Been 2 years ago. Have you ever signed up with the C. I. O.?

A. I signed a card with the C. I. O.

Q. When was that?

A. Early part of May I think.

Q. 1937?

A. 1937.

Q. You testified you started to work on May 25th and found that the strike was in progress, so you remained out on strike. Since that day have you been contacted by anyone with reference to going back to work?

A. Not until July 8th.

Q. Who contacted you at that time?

A. My foreman.

Q. What is this man's name?

A. Slim Royer.

Q. How do you spell that?

A. R-o-y-e-r.

Q. R-o-y-e-r?

A. I believe it is.

Q. You say he contacted you in person, or on the phone, or how?

A. He called me.

Q. What did he have to say when he called you?

A. He asked me to come out to work.

Q. Did he specify a time to come back to work?

A. After he got my answer, I told him I would, he said, "Come up tonight at 11 o'clock."

Q. Did you go out?

A. I did.

Q. Did you report for work?

A. I worked that night.

Q. Did you work that night?

A. Yes.

Q. After you went into the mill, then, that night, were you approached by anyone with reference to a union, or to signing up in a union?

A. Not the first night, but during the second week after I returned to work.

Q. Will you tell us about that now in your own words?

MR. DAY: We object to all evidence on the subject of this so-called new union upon the ground that there is nothing in the complaint upon that subject.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

(Exception noted for Respondent.)

BY MR. HOSKINS:

Q. Will you tell us just what happened there, Mr. Allen?

A. Well, about the middle of the second week after I had started to work Thomas Burkett—

Q. Who is Thomas Burkett?

A. He is a machinist.

Q. He is a machinist?

A. Yes.

Q. Does he have any other duties other than running a machine that you know of?

A. He does not run a machine, he repairs them.

Q. Other than repairing the machine.

A. Well, he checks the crane men's time at night.

Q. He checks the crane men's time?

A. Yes.

Q. I believe you testified that you are a crane man?

A. Yes.

Q. All right, go ahead.

A. He said, one afternoon when I was reporting for work, he he asked me, he said he had a card there he wanted me to sign. I said, "What kind of a card?" He said a card to this new union we are getting up here. He says, "The Employes Association," or something like that.

Q. Pardon me, Mr. Allen. Right now I show you Board's Exhibit No. 51 and ask you if the card he handed you resembled that card?

A. That is it.

Q. That is a copy of the card he handed you?

A. That he presented to me.

Q. Thank you.

A. I told him I would think it over as it was about time for me to go up in the crane, so I left him.

Q. Did he explain to you at that time what the benefits of this new union would be?

A. He said that they would see to me keeping my job, and that they would have a meeting and elect their officers and they would give us some kind of entertainments as much as once a month.

Q. All right. I believe you testified that you would think it over, and you left him at that time?

A. Yes.

Q. Did he approach you at any other time regarding it?

A. The next afternoon.

Q. What happened on that occasion?

A. Well, he asked me if I was ready to sign that card. I told him that I had not made up my mind yet. He said, "Well, if you do not sign this card," he said, "the men are going to refuse to work with you and the foreman is not going to do anything about it." I said, "Well, I will leave you know in a few days just what I am going to do about it." He did not say anything more at that time about the card.

Q. Did he indicate at that time how many men in the shop had signed the card at that time?

A. Yes, he said all of the crane men had signed the card with the exception of myself.

Q. Were you approached by anyone else regarding the card?

A. Well, the motor inspector.

Q. Who is the motor inspector?

A. Don Lyman, Lyman I think it is.

Q. Will you spell that?

A. L-y-

Q. L-y-m-a-n?

A. Lyman, I think it is, something else in there.

Q. You say he was a motor inspector?

A. Yes.

Q. Will you explain his job as it affects you a little more in detail before you tell us about him?

A. This motor inspector, this Don, acts in the capacity of foreman in his absence. Of course we are supposed to take orders from the motor inspector at all times.

Q. Then, do I understand you correctly that on your job you take orders from this Don Lyman all the time?

A. Yes.

Q. All the time?

A. All the time, any time.

Q. Will you tell us what he said to you?

A. He came up in the cab one evening, and he said, "George, I heard you had not signed up with this Association, this new union." He said, "I would like to give you a piece of advice. If you want to keep this job you better get in touch with somebody the next two or three days and sign this card, otherwise you will be out of here and you won't know how it happened." So I did not give him any answer then and he went on about his work, and I went on about mine. So the week following that they had a meeting at their office where we deposit our cards in going to work.

Q. You say they had a meeting. Who do you mean by "they"?

A. Two motor inspectors, one machinist, about eleven cranemen.

Q. Are those the men that were working in the same part of the mill in which you were then working?

A. Well, about five of them I could identify their faces, but the others I didn't know.

Q. Wait a minute. You say five of these men, I believe that added up to fifteen men you mentioned.

A. Yes.

Q. Five of them you could not identify their faces?

A. Yes.

Q. The others you did not recognize at all?

A. No.

Q. How long prior to the strike had you worked in that particular department?

A. About eleven years out of the twelve.

Q. About eleven years?

A. Eleven years and nine months.

Q. Will you tell us about this meeting?

A. Well, when I come in—

MR. DAY: May I have an objection to this on the same ground?

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

(Exception noted for Respondent.)

TRIAL EXAMINER LINDSAY: Just a moment, will you hand me that complaint? It is right among the exhibits.

(The complaint was handed to the Trial Examiner.)

A. When I got into the office to deposit my card.

BY MR. HOSKINS:

Q. What time of the day was this?

A. About a quarter to three.

Q. Thank you.

A. He says, "Hang around a little bit, George."

Q. Who said that?

A. Don.

Q. That is the Don Lyman that you have mentioned?

A. Yes. I said all right. So I just walked to the rear of the office there and stood up by a desk, and after the cranemen began to change turns, why, he told two or three of them to stick around, and after they gathered up there, about 15 of them, some of those stayed that he asked and some did not. "Well," he says, "now, I have been around today and I have asked all of the crane men and told them about you not signing this card, and then they had a little meeting." He said, "Now, there are two things about it." "You are either going to sign this card and line up with us, or you are going to get out on a picket line with the C. I. O." I told him I didn't know whether I had to do either. He says, "Well, what do you men say about it?" That time Thomas Burkett interfered and he told the fellows he wanted them to listen what I had to say about it why I did not want to sign the card. Well, then, I told them why I did not want to sign the card, and then he said we are just acting as a committee. The real committee is on the outside. One of the motor men, motor inspector, spoke up and he said, "Do you want to run No. 4 crane? If you do you better sign this damn card." I didn't say anything to him because Thomas Burkett was talking at the time. Then after he got through talking Don said again, "All right, fellows, what are you going to do about it?" He said, "Are you going to take a vote on it or not?" Somebody in the bunch said, "Well, we will take a vote." Well, they didn't say anything about not working with me, they just said they were going to take a vote on my signing the card. He said, "All those that want him to work say 'yes', all those that don't want him to work write 'no' on the paper." They passed slips of paper around, and after they passed the paper around, they called on John Irwin to count the ballots.

Q. Who is John Irwin?

A. He is what you call a steel foreman. He weighs up the iron and has charge of the hookers, such things as that, and they called on John Irwin to count the ballots, and he come in and he said, "You know what it is all about, John," and he counted the ballots, and there were three voted yes, and the twelve voted no.

Q. Did you get a chance to count these ballots?

A. No, I didn't count the ballots. I was in the place but I didn't count the ballots. I noticed that there was not a man in the room that worked with me. Quite a few of them did the same class of work that I was doing. There was not a man in the room that worked with me, not even the fellow that ran the object crane. He was not in the room. Some of them worked on the next crane from me, but on different turns.

Q. Do I understand you correctly that not a single one of these votes that was cast, was cast by a man that worked with you?

A. Yes, some of them worked on the same crane but opposite turn.

Q. What happened after Mr. Irwin counted the ballots?

A. He said fifteen no's and three yes.

Q. Fifteen no's?

A. Fifteen not to work—I mean twelve voted not to work and three for him to work.

Q. Then what?

A. After he passed the ballots around, why, I walked out of the office, and as I was passing out, Don said, "Don't go up in that crane. We have another man in your place." So I went then to the superintendent of the hot mill.

Q. Who is the superintendent of the hot mill?

A. A. E. Smith, I believe his name, Andy Smith.

Q. Yes.

A. Andy Evans, superintendent of the hot mill.

Q. This is Andy Evans?

A. Yes.

Q. All right.

A. I told him I would like—I told him they had taken my job and I would like to get my money. He said, "Well, George, I don't have anything to do about giving you your money." He say, "You will have to see Al Harris."

Q. What was that name again?

A. Al Harris.

Q. Who is Al Harris?

A. He is the foreman over the crane men and the millwrights.

Q. Did you see Mr. Harris?

A. I went to his office, and he wasn't in, so by that time I asked Slim—that was my foreman, Slim Royer—

Q. Yes.

A. —about it. He said I would have to see Mr. Kelvey.

Q. Mr. Kelvey?

A. Jim Kelvey.

Q. Who is Mr. Kelvey?

A. He is the head foreman over the electricians.

Q. Did you see Mr. Kelvey?

A. Yes, I went down to Mr. Kelvey's office and told him that they had taken my job and I would like to get my money.

Q. Did you tell him why they had taken your job?

A. He asked me why. I told him, well they had taken it because I wouldn't sign that card. He say, "What card?" I said "The card to this union they are getting up." He said, "Well, I can't do anything about that." He say, "I give you a quit slip if you want to quit." I said, "No, I don't want to quit. They have taken the job, put another man on it." He say, "Well, the only thing I can do is give you a quit slip if you want to quit. I can't give you your money." I said, "No, I don't want to quit." He say, "Well, I will investigate it and see into it." So I said, "How long would it take?" He said, "Oh, two or three days."

Q. What was the date of that you were in Mr. Kelvey's office there?

A. July 27th.

Q. Have you heard from him since then?

A. Not from him.

MR. HOSKINS: That is all.

TRIAL EXAMINER LINDSAY: Any cross-examination?

MR. DAY: We would like to make a motion—that is all—to strike out his testimony on the ground that it does not tend to support any charge made in the complaint, and on the ground that the conversations do not appear to be with anybody authorized or having authority to speak in behalf of the Respondent.

TRIAL EXAMINER LINDSAY: Your motion is denied, and let the record show an exception.

(Exception noted for Respondent.)

TRIAL EXAMINER LINDSAY: Off the record.

(There was a discussion off the record.)

MR. LAUTER: May we have a short recess?

TRIAL EXAMINER LINDSAY: Oh, yes.

MR. LAUTER: It is about 11 o'clock.

TRIAL EXAMINER LINDSAY: We will have a short recess.

(There was a short recess taken.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. HUNT: Mr. Peter Mouyios.

PETER MOUYIOS

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HUNT:

Q. Now, Mr. Mouyios, where do you live?

A. Massillon, 621 Bebb Avenue.

TRIAL EXAMINER LINDSAY: You will have to talk louder. We can't hear a thing.

THE WITNESS: 621 Bebb Avenue, Massillon.

BY MR. HUNT:

Q. Were you an employe of the Republic Steel Corporation?

A. I was.

Q. When did you start to work with the Republic Steel Corporation?

A. April 1, 1933-1934.

Q. April 1, 1934?

A. Yes, sir.

Q. Were you a steel worker before that?

A. No, sir.

Q. When you entered the employ of the Republic Steel

Corporation, were you given any—well, were you given a copy of this booklet (indicating)?

A. Yes, sir.

Q. You had better look at it.

A. Employes' Representation.

Q. Will you identify that? What does it say?

A. That is Employes' Representation book.

Q. A little louder, please.

A. Employes' Representation.

Q. You were given that booklet?

A. Yes, at the gate.

Q. Whereabouts?

A. At the gate.

Q. At the gate?

A. Yes.

Q. When you started to work?

A. Yes, sir.

Q. Were you given anything else?

A. Give my badge, time card.

MR. HUNT: For the sake of the record, I would like to note that the booklet that he was given is Board's Exhibit No. 32.

BY MR. HUNT:

Q. Were you given any card to sign with that booklet?

A. No, sir.

Q. What mill or plant did you work in?

A. In the billet sheds.

Q. In the billet sheds?

A. Yes.

Q. What was your job?

A. Chipper.

Q. Chipper.

Have you ever been reprimanded for bad work?

A. No, sir.

Q. So far as you know you have had a good record as a workman?

A. Yes, sir.

Q. You have been a chipper from the very start?

A. No, I worked 3 months there and I got laid off; that is the first time, in 1934.

Q. You will have to repeat your answer because I can't hear you.

A. Yes.

Q. What did you say?

A. Well, I started in 1934, April 1, I got laid off in June.

Q. You were told why you were laid off then?

A. I didn't know. They just laid off, and that is all.

Q. You weren't told that it was because of bad work?

A. No. He said they didn't have no orders. That is what they said.

Q. Who told you that?

A. Mr. Peppard.

Q. Who is Mr. Peppard?

A. Superintendent of billet sheds.

Q. He told you that they just had no work?

A. Yes, they didn't have no orders; they had to lay some men off.

Q. Now, were other men laid off at that time, to your knowledge?

A. Yes, sir.

Q. Your foreman has never criticized you for bad work?

A. No, sir.

Q. Your superintendent has never criticized you for bad work?

A. No.

Q. All right.

Now, were you present at a meeting held in the pipe shop?

A. Yes, sir.

Q. Of the billet sheds about the first week in April of this year?

A. Yes, sir.

Q. Who was chairman of that meeting?

A. Mr. Peppard.

Q. Who else were present?

A. Carl Meyers.

Q. Who?

A. Carl Meyers.

Q. Who is Carl Meyers?

A. District manager. I know I just heard them say. I don't know who he is.

Q. Who else?

A. Mr. McConnell.

Q. Who is Mr. McConnell?

A. I guess he is higher than Peppard. I don't know what position he holds there.

Q. He is higher than Peppard. You meant in the Massillon plant?

A. Yes, in the Massillon plant.

Q. And anybody else?

A. Nick Lincolnhaley.

Q. Who is Nick Lincolnhaley?

A. That is the head—that is the head of the company representatives.

Q. You mean that he is head of the Employes Representative Association?

A. Yes, sir.

Q. Do you know whether the Association was called then the Employes' Representative Plan?

A. Well, they always call it Employes' Representative. I don't know anything about it, anything else.

Q. All right.

At this meeting were there a lot of employes present?

A. Yes, the whole shift.

Q. The whole shift?

A. Yes.

Q. The whole turn?

A. The whole turn, one turn.

Q. Do you know about how many men are employed on your turn?

A. Well, I couldn't say, probably got a couple of hundred men in the chipper beds.

Q. When was that held? I mean what time of the day?

A. I believe it was 7 o'clock in the morning.

Q. Do you work on the night shift?

A. Eleven to seven.

Q. You work eleven to seven?

A. Yes.

Q. That is 11 o'clock at night until 7 in the morning?

A. Eleven o'clock at night until 7 in the morning.

Q. How were you notified of this meeting?

A. Well, the time we was relieved by the other fellows there we started to go out and punch our cards, and we seen men stringing out there along the road.

Q. I am sorry. You will have to speak louder because nobody can hear you. I can't hear you. I am a little deaf.

A. When we quit working there and started to go out to punch our cards, there was men stringing out, bosses stringing out the chipper beds there, and they told us to go out into the pipe shop, they had a meeting there. We went to the pipe shop there and we found all these—everybody was in there. Mr. Peppard, Mr. McConnell, Mr. Meyer, Mr. Lincolnhaley, George Pappas, and Happy North.

Q. Who is Happy North?

A. That is our representative.

Q. Yes. All right. Who was the chairman of the meeting?

A. Mr. Peppard.

Q. Did he say anything at this meeting?

A. He just introduced us Mr. Carl Meyers. He told us he is the speaker.

Q. Did he say anything else?

A. He told us about the company representatives, was standing a little farther from the other side there on the righthand side.

Q. What did he tell you about the company representatives?

A. He told us about the company representatives, anything we have to say he says we have to tell them and they tell him.

Q. Anything you had to say?

A. Any complaints we had to make we should go to our representatives and make the complaints and then them fellows went to Mr. Peppard.

Q. All right. Do you remember how long this meeting lasted?

A. About 15 minutes. I don't know just exactly how long it lasted.

Q. You say he introduced Mr. Carl Meyers?

A. Yes, sir.

Q. Mr. Carl Meyers made a speech?

A. Yes, sir.

Q. What did Mr. Carl Meyers say?

A. Mr. Carl Meyers, he told us that the company could not give us 90 cents an hour that we asked for. He says we should leave the thing the way it was because it was bad for our part, for the chippers. He says there was some groups there that he paid more than—they averaged more than 90 cents, so he says if he give us 90 cents a straight rate without no bonus, why, the other fellows that was making 95 cents, they had got mad and have trouble again. So he says to leave the thing the way it was, and, furthermore, he says, "The company don't need this mill over there."

Q. He said what?

A. "The company don't need that mill over there."

Q. Yes.

A. He says, "The company don't need this mill over here, that it is only a branch." He says, "Can make the steel in another places," but he says, "I will tell you what I will do." He says, "I will put two more of that clean carbon, two more furnaces of clean carbon just to keep this place going, to accommodate Massillon and you fellows so you won't lose your jobs."

Q. Mr. Meyers said he would put in two more—

A. Two more furnaces of clean carbon. I don't know what kind of steel that is, what he told us in speech.

Q. Just to accommodate Massillon and you fellows?

A. And us so we don't lose our jobs.

Q. Now, you speak about the fact that he wouldn't give you 90 cents an hour. Had you asked—had the chippers asked to have 90 cents an hour?

A. Yes.

Q. When was that?

A. Oh, it was about a week before that.

Q. Did you see Mr. Meyers, then?

A. No, he was not in that room I was in, not the first meeting.

Q. You were asking for a flat hourly rate of 90 cents an hour; is that right?

A. Yes.

Q. And then Mr. Meyers said that the company would not pay you that rate an hour?

A. No, he said it would be unfair to pay us 90 cents an hour.

Q. You asked for 90 cents an hour, did you not?

A. Yes.

Q. He said it would be unfair to give you 90 cents an hour?

A. Yes.

Q. Did you think it would be unfair to give you 90 cents an hour?

A. I don't know; that is what he thought.

Q. Were you ever asked to join the Employes' Representative Association?

A. Yes, sir.

Q. Do you remember about when that was?

A. The 3d day of May.

Q. This year?

A. Yes, sir; 1937.

Q. Who asked you to join?

A. Happy North.

Q. Who is Happy?

A. Representative, company representative.

Q. When did he ask you?

A. The 3d day of May.

Q. Were you at work?

A. Yes, where I was working there.

Q. Tell us just as fully as you can what happened when you were asked?

MR. DAY: I want to make the same objection to this conversation as was made to the other conversation; same reason.

TRIAL EXAMINER LINDSAY: Objection overruled; the record may show an exception.

(Exception noted for Respondent.)

MR. DAY: All conversations with this man North; is that his name?

MR. HUNT: North.

MR. DAY: Who is he?

MR. HUNT: He is one of the employes' representatives.

BY MR. HUNT:

Q. Who is Happy North?

A. Company representative.

Q. He is one of the representatives?

A. Represented us.

TRIAL EXAMINER LINDSAY: Do you still have another objection? I overruled one.

MR. DAY: No.

BY MR. HUNT:

Q. Will you tell us just as fully as you can what happened when Happy North asked you to sign one of these cards?

A. I was working there, and it was about 1 o'clock, and Happy North come to me and he says, "What union you want to represent you?" I told him "I didn't want no union to represent me." "Well," he says, "well, I got a card here. I am going to fill out for you." I told him, "You can fill her out, but I am not going to sign." "Well," he says, "I will sign it for you." I told him, "If you going to sign it, you go ahead and sign. I am not going to sign." So he filled out the card and tried to give me that stuff, and I told him I didn't want it. I told him hand it to the fellow beside there, I said, hand it to him. There was another fellow standing beside him, and he handed it to him and that fellow had that card until the other day when I went in and got it.

Q. Was the card he asked you to sign like this (indicating)?

MR. DAY: Is that an exhibit?

MR. HUNT: Yes, I am just about to mention that.

BY MR. HUNT:

Q. This is Board's Exhibit No. 48.
A. Yes, sir.

Q. A card like that?
A. Yes, sir.

Q. Well, now, did you see him sign the card?
A. I did.

Q. And this is what he gave the other man?

A. Yes, sir; that is what he tried to give me and I told him to give to the other man.

Q. You mean he tore from this card this slip?

A. Yes, he tore off that big slip and took it in the office. I don't know what he done with it.

Q. He signed it himself with your name; is that right?
A. Yes.

Q. After you had refused to sign it yourself?
A. Yes, sir.

Q. Is that your signature?
A. No, sir.

Q. Well, suppose we have you write on the back of this to see what your signature is like.

(Witness writes his name.)

TRIAL EXAMINER LINDSAY: May I see that?

MR. HUNT: Yes, Board's Exhibit 48.

(The document was handed to the Examiner.)

TRIAL EXAMINER LINDSAY: Read a few questions back.

(The record was read.)

TRIAL EXAMINER LINDSAY: All right.

BY MR. HUNT:

Q. Do you identify this as the card which you have just been testifying about?

A. Yes, sir.

MR. HUNT: Mark this.

(The document referred to was thereupon marked for identification as "Board's Exhibit 52.")

BY MR. HUNT:

Q. You identify this, then, that has just been marked Board's Exhibit 52?

A. Yes, sir.

MR. HUNT: I would like to offer this in evidence.

THE WITNESS: Yes, sir.

MR. HUNT: Any objection?

MR. DAY: No, I don't think so.

TRIAL EXAMINER LINDSAY: Board's Exhibit 52 may be received in evidence.

(The document previously marked for identification as Board's Exhibit No. 52, was received in evidence.)

MR. HUNT: For the record, I would like to state that Mr. Mouyios has written his name on the back of Board's Exhibit No. 52, as just requested by me.

TRIAL EXAMINER LINDSAY: May I see it?

(Document was handed to the Trial Examiner.)

TRIAL EXAMINER LINDSAY: I would like to

have him write his name on a separate piece of paper.

BY MR. HUNT:

Q. Will you write your name on this separate piece of paper?

A. Yes, sir.

Q. Any place.

(Witness writes his signature.)

MR. DAY: May I see that card again, please?

MR. HUNT: Yes.

(Document was handed to Counsel.)

MR. HUNT: Mark this.

(The document referred to was thereupon marked for identification as "Board's Exhibit No. 53.")

BY MR. HUNT:

Q. Will you identify Board's Exhibit No. 53; what is that?

A. That is my name on there.

Q. You have just written your name at my request?

A. Yes.

MR. DAY: May we inquire the purpose of offering this exhibit?

TRIAL EXAMINER LINDSAY: What is that?

MR. DAY: May we inquire the purpose of offering this exhibit?

TRIAL EXAMINER LINDSAY: Comparison of signatures.

MR. DAY: All right.

MR. HUNT: I would like to offer in evidence Board's Exhibit No. 53, if there is no objection.

MR. DAY: For that purpose, there is no objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 53 may be received in evidence.

(The document previously marked for identification as Board's Exhibit No. 53, was received in evidence.)

BY MR. HUNT:

Q. Now, after he signed that you testified that you did not want it, and he gave it to somebody else?

A. Yes.

Q. And then Happy North did that?

A. Yes.

Q. Well, now, when North was talking to you trying to get you to sign this card, was anybody standing nearby?

A. Yes, the foreman was standing 25 feet away watching us to see what we was doing there.

Q. Your foreman?

A. Yes.

Q. Was standing about 25 feet away?

A. Yes, on his desk. He has got a little desk where he does the writing.

Q. What is the name of your foreman?

A. Left is his first name; I don't know his last name.

Q. Was the last name Hilbert?

A. I guess.

Q. You are sure of that?

A. I am sure of that. I know him by the name of Lefty, Lefty Hilbert.

Q. Spelled H-i-l-b-e-r-t?

A. I could not spell it.

Q. You pronounce it Lefty Hilbert?

A. Yes.

Q. When he was standing there was he watching you or was he working?

A. He was standing there watching me to see what I was doing.

Q. He saw you from the time North came up to you and asked you to sign?

A. Until North left.

Q. Until the time North left you?

A. Yes.

Q. About what time of the day was that?

A. That was about 1 o'clock in the afternoon.

Q. Did anything else happen of interest to you that day?

A. Yes. About 2:30 Lefty come to me where I was working there and he told me to go and see Mr. Peppard.

Q. Who told you?

A. Lefty told me to go and see Mr. Peppard.

Q. That is about an hour and a half—

A. About 2:30.

Q. That is about an hour and a half after you refused to sign, your foreman came up to you?

A. Yes.

Q. He told you to do what?

A. He told me to go up and see Mr. Peppard. He said, "I know he is going to lay you off," he says, "but I cannot help it."

Q. Who is Mr. Peppard?

A. Superintendent of the billet sheds.

Q. The foreman said to you what?

A. The foreman told me to go and see Mr. Peppard, I know he is going to lay you off, but I cannot help it.

Q. Did you go to see Mr. Peppard?

A. Yes, sir. I went in his office. Mr. Peppard was in there. I asked him why he was laying me off. First thing he asked me, "You come here in 1935?" I told him yes. I told him why he was laying me off. I said, "There is a lot of younger men in the billet sheds than me and you lay me off and keep those fellows working." Well, he took a little book out and turned it over, and he looked at it and he said, "Well, I cannot help that."

Q. You say there were men younger in point of service?

A. Yes; I told Mr. Peppard I could take him down there and show him the men that was younger than me in there and he said he could not help that.

Q. That was in answer to what was said about laying off men who were employed since 1935; is that right?

A. Yes.

MR. HUNT: That is all.

Cross Examination

BY MR. DAY:

Q. Mr. Mouyios, you were laid off on May—

A. Third.

Q. —3d, of this year?

A. Yes, sir; 1937.

Q. You belonged to C. I. O.?

A. Not at that time.

Q. You joined since?

A. I did.

Q. When did you join the C. I. O.?

A. About a week after I got laid off.

Q. Have you been taking your turn on the picket line?

A. I have.

Q. You were a chipper?

A. Yes, sir.

Q. Do you know that between April 22d of this year and May 7th of this year there were approximately 184 chippers laid off?

A. I know it.

MR. HUNT: I object to that. I don't know that it is within his knowledge. If they want to prove it, the company can submit its records.

MR. DAY: I think that is true, but I think I can ask him on cross-examination if he knows that to be a fact.

TRIAL EXAMINER LINDSAY: Oh, you may go ahead.

A. Yes, sir.

BY MR. DAY:

Q. And your date was May 3d?

A. Yes, sir.

MR. DAY: I think that is all.

Redirect Examination

BY MR. HUNT:

Q. How do you know it was 184?

MR. DAY: I said approximately.

BY MR. HUNT:

Q. Approximately 184 chippers were laid off.

A. I don't know how many were laid off, but I know they laid off chippers.

Q. You just know they were laying off chippers?

A. Yes, but I didn't say how many were laid off.

Q. And you were told they were men who were employed since 1935?

A. Yes.

Recross Examination

BY MR. DAY:

Q. So you want your testimony to show you do not know there were 184, but there was some laid off when you were?

A. Yes.

MR. DAY: I will accept that qualification of his testimony.

TRIAL EXAMINER LINDSAY: This is off the record.

(There was a discussion off the record.)

(Witness excused.)

MR. LAUTER: It is near 12 o'clock. Shall we take a recess before the next witness, about five to twelve?

TRIAL EXAMINER LINDSAY: All right. We will adjourn until a quarter of two today. Is that all right. Will that give you plenty of time?

(Whereupon, at 11:55 o'clock a. m., a recess was taken until 1:45 o'clock p. m. of the same day.)

Afternoon Session.

TRIAL EXAMINER LINDSAY: The hearing will come to order.

MR. HUNT: I would like to recall Peter Mouyois to the stand.

Peter Mouyois.

TRIAL EXAMINER LINDSAY: Did you say you sent for him?

MR. HUNT: I have sent for him, yes.

TRIAL EXAMINER LINDSAY: Do you know about how long it will take?

MR. HUNT: I haven't any idea of where he has gone, but I have sent two messengers out for him, so probably he will be back in half an hour. We will proceed with other witnesses, however.

TRIAL EXAMINER LINDSAY: All right.

MR. GROSSMAN: Charles Mossop.

TRIAL EXAMINER LINDSAY: Do you have his last name? Will you spell it out?

MR. GROSSMAN: M-o-s-s-o-p.

CHARLES MOSSOP

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. GROSSMAN:

Q. What is your address, Mr. Mossop?

A. R. F. D. 1, Massillon.

Q. Massillon, Ohio?

A. Yes, sir.

Q. Are you an employe of the Republic Steel Corporation?

A. Yes, sir.

Q. When did you first enter the employ of the Republic Steel Corporation?

A. August, 1915.

Q. 1915?

A. Yes, sir.

Q. Was that at Massillon, Ohio?

A. That was in Massillon.

Q. Well, the Republic Steel didn't own it, then. What was its name, then?

A. Peerless Drawn Steel.

Q. Peerless Drawn Steel. And that was subsequently merged with the Union Drawn Steel?

A. Yes, sir.

Q. And eventually taken over by Republic Steel?

A. Yes.

Q. What is your position in the mill? What do you do, Mr. Mossop?

A. Pipe fitter.

Q. Pipe fitter?

A. Yes, sir.

Q. Do you remember some time in April of this year being asked to join an association in the mill?

A. Yes, sir.

Q. Will you state for the record, in substance, what occurred at that meeting?

A. Well, I was going through the boiler house on my way to make a repair on a boiler, and there was four men at the boiler house stopped me, presented me with a card. I asked them what it was. Why, they said they didn't know. I said, "Where did you get the cards?" "Why, Earl Willy gave them to us." "Well, what are they?" "I don't know. All we know is Earl Willy gave us the cards and told us to get them signed."

Q. Who was Earl Willy?

A. Earl Willy, he does some millwright work, some work in the machine shop, and is a stockholder of the company.

Q. Were you ever asked to sign that card again?

A. Yes, about a week later my foreman, Otto Hense, asked me to sign this card.

Q. Your foreman, Otto Hense?

A. Yes, sir.

Q. Asked you to sign a card?

A. Yes. And I didn't sign it. It was right after the whistle blew at 7 o'clock in the morning. So I went back in the machine shop, talked to him about 9 o'clock, and he asked me to sign again. Then I said—he said, "I got the rest of the boys to sign," he says, "you are the only one that hasn't signed." And he mentioned two that he got to sign, Dutch Domer and Eddie King. He said, "Come on, sign it." He said, "It don't mean anything. It don't mean a thing." So I said, "All right, I will sign it."

Q. Do you remember the name of that association, Mr. Mossop?

A. Well, the same day they asked me to sign these cards, just about quitting time, one of those men came in and handed me a blank, although I hadn't signed the card, and it said, "Security League."

MR. DAY: What?

THE WITNESS: Security League.

BY MR. GROSSMAN:

Q. Did you get a card, too?

A. No.

Q. Just a badge?

A. Just a badge.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join the C. I. O.?

A. In March of 1937.

MR. DAY: I move to strike out that conversation on the ground that there has been no connection showing authority on the part of the Respondent, or any knowledge on the part of the Respondent.

TRIAL EXAMINER LINDSAY: Motion denied, and let the record show an exception.

(Exception noted for Respondent.)

BY MR. GROSSMAN:

Q. On May 25th, when the strike was called, did you go out on strike, Mr. Mossop?

A. Yes, sir.

Q. You did?

A. I went to the plant and they told me there was a strike on there, was picket.

Q. You mean you were on the off-turn that day?

A. I was on the off-turn. I worked all days, I never worked any night turns.

Q. I see. And did you gain admission to the mill that day?

A. No.

Q. You didn't?

A. No. They told me there was a picket line set up, and I turned around and went back home.

Q. Did you ever, after the strike was started, seek reemployment at the mill or try to get your job again?

A. Yes, sir.

Q. When did you try to get that job?

A. July 2d.

Q. What did you do then?

A. I called my foreman and told him I was coming in to work the next day.

Q. Your foreman is Otto Hense?

A. Yes, sir.

Q. What did he say?

A. Well, he said, "We are not doing much. We are just cleaning up. Our Mr. Stern will call you up in a few days."

Q. Who is Mr. Stern?

A. The employment man.

Q. The employment man?

A. Yes.

Q. You mean the employment manager at the Union Drawn Steel plant?

A. Yes.

Q. Did you hear from them?

A. No. I called—I called Mr. Stern on the night of the 6th. He said, "I will call you the next day." So I drove down to the foreman's house, Otto Hense, on Kent Street, and talked to him. And he said, "You go down and see Mr. Stern today." He said, "I am pretty sure he will give you a pass. You got to have a pass from him before you can get in."

So the next day would be the 7th of July, I called, when Stern was to call me—he didn't call me up until 4 o'clock, and I called him. I just don't remember just what he said, whether he said, "We will call you," at the present time. I think that is what he said on the 7th of July. If I remember right it was "I will check up and I will call you."

Q. Did you ever hear from Mr. Stern after that?

A. On the 15th of July I called his office.

Q. You called at his office?

A. Yes.

Q. Well, had he requested you to call?

A. No. No, I went in and talked to him. He said, didn't have very much business, and he said, "We will call you when we need you." That was—I left the office, then. So then I went back on the 3d of August. So I went in his office, and I asked him, "How is chances of getting my job back?" He said, "No." I said, "Well," I said, "how is chances of getting my job back?" Well, he said, "I don't know any more than when you was here the other time." He said—I said, "What are you holding me out for?" He didn't answer. I said, "Couldn't be on account of my work. I always took an interest in my work and kept it up. Still he didn't answer. Oh, I said, "I guess it is because I belong to the C. I. O., done a little talking, I tried to sign up a couple of members, and I asked one fellow before the strike if he wants to sign up and went after him." "Well," he said, "this wouldn't be a pleasant place for you to work, anyhow. A few of the boys are sore at you because you joined the union."

Q. He said, "This wouldn't be a pleasant place for you to work in"?

A. Yes. I said—I said, "I didn't know I had any enemies here." Before, when he finished, he said, "This is an awful mess." And I said, "I didn't know I had any enemies here." He didn't answer. I said, "Well, by that you mean you are not going to call me back?" He said, "We will call you when we want you."

Q. And he has not called you yet, has he?

A. He hasn't called me yet.

Q. In the 22 years that you worked at that plant, were you ever called in for unsatisfactory work, or anything like that?

A. No, absolutely not.

Q. Never had any complaint lodged against you at all?

A. No.

Q. Mr. Mossop, just another question. You said you were a steam fitter in the Union Drawn Steel plant?

A. Yes, sir.

Q. Were you the only steam fitter there?

A. I am the only steam fitter in the plant.

Q. To your knowledge, is there another man doing steam fitting work there now?

A. I have been told, and I am fairly well sure that he is. I can name the man if you wish me to. Name the man, name his name.

Q. No, it is not necessary to name the man, but yo were the only man there before the strike?

A. Yes, sir.

MR. GROSSMAN: All right, that is all.

MR. DAY: That is all.

(Witness excused.)

PETER DeMOS

a witness called by and on behalf of the National Labor Re lations Board, and, having been first duly sworn, testifie as follows:

Direct Examination

BY MR. HOSKINS:

Q. Your name is Peter Demos?

A. Yes.

TRIAL EXAMINER LINDSAY: How do yo spell that?

MR. HOSKINS: D-e-m-o-s. The first name i Peter.

BY MR. HOSKINS:

Q. Where do you live?

A. 503 Perry Street, Southeast, Canton, Ohio.

Q. Have you ever worked for the Republic Steel Cor poration?

A. Yes, sir.

Q. How many times?

A. Four different periods.

Q. Four different periods. Will you tell us when th first time you went to work was?

A. The first time it was on June, 1933, about the 27t day of June.

Q. At what plant was that?

A. The Canton plant.

Q. The Canton plant. How long did you work at tha time?

A. About three months a half.

Q. About three months a half. When was the next time you went to work for Republic?

A. It was the 15th of March, the next year, 1934.

Q. The 15th of March, 1934?

A. Yes, sir.

Q. Was that also at the Canton plant?

A. No, in Massillon.

Q. That was in Massillon. How long did you work in Massillon at that time?

A. Up to the last day of June, 1934.

Q. Then your next period of employment—

A. It was the next year, 1935, 10th of January.

Q. Where was that?

A. In Massillon.

Q. That was in Massillon. Your last period of employment?

A. Last period 25th or 26th day of November, 1935. I do not remember exactly the date, but I remember it was Thanksgiving Day, the day I was hired.

Q. Are you a member of the C. I. O.?

A. Yes.

Q. When did you join?

A. Last March.

Q. Last March. Do you remember that was before or after Easter Sunday?

A. It was before that.

Q. It was before Easter Sunday?

A. Yes.

Q. Now, in March of last year was there a meeting in your plant?

A. Yes.

Q. What was the purpose of this meeting?

A. We were at work and we were told to lay our tools down in groups, ten men at a time.

Q. Who told you to lay your tools down?

A. Our foreman.

Q. What is his name?

A. His first name is George.

Q. His first name is George?

A. I do not know his last name.

Q. Will you tell us what transpired after that?

A. Each group of ten laid down and go into Mr. Peppard's office.

Q. Who is Mr. Peppard?

A. He is superintendent of the billet steel department.

Q. Do you know his first name?

A. Ralph.

Q. Ralph Peppard?

A. We went into his office and we were met by the representatives of the Employes' Representation Plan, there were four or five of them.

Q. Do you know any of their names?

A. One of them.

Q. What was his name?

A. George Pappas.

Q. How do you spell that?

A. P-a-p-p-a-s.

Q. What transpired when you came into the meeting room?

A. As soon as we got into this room we have our badge number taken down on a piece of paper.

Q. You had your badge numbers taken down on a piece of paper?

A. Written down upon a piece of paper by one of them.

Q. By one of the representatives?

A. Yes.

Q. How did they take your badge numbers down, do you wear your badges?

A. We wear our badges at work.

Q. Go ahead.

A. Then one of them, they explained to us what was the purpose they called us in, they called us, they want us to sign either a petition or resolution, but they told us orally, I didn't see anything written.

Q. Just go a little slower, will you?

A. He says, "We called you boys in here to sign, so that with your signature fixed opposite your badge number, that you are satisfied with the kind of representation, employes' representation we got this kind in the plant." And I asked him, "Is there any other paper to sign for those who do not approve or are not satisfied with this employes' representation plan?" They laughed at me and told me there was none. So I say, "What is the use, then, tell us to sign something as long as we cannot approve it or disapprove it? You might as well take our badge numbers and write our names down yourself and make it 100 percent unanimous. Well," I told them furthermore, "this Representation Plan was not of my own choice." At the same time I say to this Plan they did not ask me if I like it or not.

TRIAL EXAMINER LINDSAY: Just a little slower.

THE WITNESS: That time when we had elections they handed me a ballot and told me to go and vote in primaries for candidates and in the elections, you know, for representative.

BY MR. HOSKINS:

Q. Do you mean by that that when this Employes' Representation Plan was placed into effect, you had no choice in the matter?

A. No.

Q. I mean, it was just put in there?

A. Yes.

Q. All right.

A. Well, they say we—anyhow, he says we have to get your signatures down by signing this paper, one of them told us. It was George Pappas. This does not mean you lose your right to belong to any other union that you wish, for instance, the National Federation of Labor, or C. I. O. You can join them, but first you must sign here that you are satisfied with this plan.

Q. You could sign this paper stating that you were satisfied with the present Plan of Representation and still belong to the C. I. O., he told you?

A. If you wish, he said, but it does not stop you from belonging to the other.

Q. You said this was explained to you when you went in; how was it explained? Did they read to you anything from the paper which you were to sign?

A. I don't think so; I think it was only explained orally.

Q. Was it explained in English?

A. And in Greek.

Q. In Greek?

A. Yes.

Q. Who explained it in Greek?

A. George Pappas.

Q. That is the representative you just mentioned?

A. Yes.

Q. You stated when you came into the room they took down your badge numbers?

A. Yes.

Q. And then they explained the purpose of the meeting and asked you to sign the paper?

A. Yes.

Q. And was the paper which you were to sign the same paper upon which your badge number appeared?

A. Yes.

Q. Does it follow that if you refused to sign, your badge number would remain on that paper without your signature?

A. Yes.

Q. As I understand it, they likewise told you they had no cases for you to sign to express the disapproval?

A. Yes.

Q. Did you sign the paper?

A. Yes, under protest.

Q. You signed under protest. Did you hear any more about this petition which you signed?

A. It was a week or two weeks later we saw in the local papers a news item that the employes of the Republic Steel Corporation, Massillon, rejected the C. I. O., and copies of this resolution, or petition, were sent to the local authorities and to the State authorities to show that the employes were satisfied with the Representation Plan and they did not desire any outside interference from an outside union.

Q. How long were you in this meeting that you have just spoken about?

A. Five or ten minutes.

Q. Five or ten minutes. Was there any deduction in your pay for that time that you were in there?

A. No.

Q. Did you attend the meeting on Easter Sunday of that year?

A. Yes.

Q. Will you tell us about that meeting?

A. Yes. We—a week later since we signed that paper, that we approve, we are satisfied with this representation, we were again sent to Mr. Peppard's office by our foreman, and again we were met by this Representation, Employes' Representation Plan representatives.

Q. You say you were again met by them? Was it the same group of representatives who were present at the previous meeting?

A. Yes.

Q. All right.

A. We were told that each group, because we work in groups in our department, ten men in each group, were to elect one to represent this ten men.

Q. How many groups are there in your department?

A. I think fifty-five or sixty.

Q. Fifty-five or sixty groups of ten men each?

A. Probably more than that.

Q. All right.

A. And those were to be elected by each group to meet the next Sunday, Easter Sunday, at Mr. McConnell's office.

Q. Who is Mr. McConnell?

A. General manager of the Massillon plant.

Q. Do you know his first name or initials?

A. I don't know his first name or his second.

Q. All right.

A. So all of the groups elected one man to represent them. I was one of—my group elected me to represent them at this meeting. That next Sunday was Easter Sunday we went into Mr. McConnell's office.

Q. In other words, the meeting of the representatives selected by these groups was held in Mr. McConnell's office?

A. Yes.

Q. What happened that day?

A. We went up there about 10 o'clock in the morning. Mr. Peppard was there and introduced us to Mr. McConnell. I did not know Mr. McConnell before.

Q. I think you have explained that Mr. Peppard is the superintendent of the billet department. The representatives that were elected—

A. The representatives that reside in Massillon, they got together before the meeting and elected a spokesman to speak in behalf of them. They elected one to speak in behalf of all of us representatives.

Q. What was the purpose of this Easter Sunday meeting?

A. The purpose was to express our complaints or grievances we had on wages.

Q. All right.

A. As soon as the meeting started Mr. Peppard introduced Mr. McConnell and asked us what the trouble was, you men come to Mr. Peppard's office and complain about your wages. "Now, I am here today and you can tell me what it is all about." The man who was elected to speak in behalf of us, he told Mr. McConnell, and he says, "The first term of our meeting is that employes' representatives be put out of this hall," because they were also present, I think four or five of them. Mr. George Pappas was there, too. Mr. McConnell refused to yield to that and so our spokesman said, "The meeting is off in that case, and everybody rose up and reached for their hats and coats, ready to go out." At that time I got up and stopped them from walking out. I said, "We come up here to talk about wages and not representation."

Q. Slower and louder.

A. I got up and I told them not to walk out because the subject we called for at that meeting was the subject of wages and not of representation, and those representatives had as much right to be there as you have, because they were employes of the same corporation, the Republic Steel Corporation. The boys agreed to that, but the man who was our spokesman demanded that those representatives remain in the hall during the meeting, but shall not talk or take part in any of the deliberations of our meeting.

Q. It was demanded that the representatives, if they remained, that they were not to take part in the discussion; is that right?

A. Yes, in the discussion. To this, Mr. McConnell yielded.

Q. A little slower and a little louder.

A. Then we told Mr. McConnell what was our grievances and we all agreed that we were instructed by our respective groups to demand 90 cents an hour, flat hourly rate, instead of this bonus system instead of the elimination of the bonus system. Mr. McConnell said, "Do you all agree?" because not all spoke, a few spoke and made the same demand. They all said yes in one vote, but Mr. Peppard said, "Let us take a vote to that." So Mr. Peppard got a piece of paper in his hand and a pencil, and he started from the front row. He said anyone who is in here will just call his badge number and his name, and say what was the—

Q. Try to talk a little louder and slower.

A. Well, the first man said, "My badge number is so and so, and my name is so and so, and my respective group instructed me"—

Q. Without bothering too much about the details in this meeting, what was the outcome? What did Mr. Peppard do?

A. They all voted for 90 cents an hour, flat hourly rate, and elimination of the bonus system.

Q. What did the company agree to do then?

A. Mr. Peppard and Mr. McConnell spoke about that and said, "We cannot promise you anything right now because we have superiors. As we are your bosses we have others who are above us and we have to consult them before we promise you anything."

Q. And what was agreed on between the management and the men after the outcome of your request?

A. Yes; agreed upon to let us know in a week or ten days.

Q. Did they let you know in a week or ten days?

A. Yes.

Q. Will you tell us how they let you know?

A. Yes. We were working. We were told by our foreman to lay our tools down and to go to a hall. There was an old pipes up, it was equipped with temporary wooden benches for our convenience. We sat down, about 250 or

300, I don't remember exactly how many. It was our turn.

Q. Who spoke at that meeting?

A. Mr. Peppard was there and Mr. McConnell. They introduced to us Mr. Carl Meyers.

Q. Who is Carl Meyers?

A. He was introduced to us as the assistant general manager of the Massillon plant.

Q. What did Mr. Meyers have to say to you?

A. Mr. Meyers spoke to us and asked us what was our grievances, the company was paying good wages, there is a good system of wages, and they are all satisfied except the billets department. He said, "What is the matter with you, I would like to know that? I want someone to talk to me and tell me what it is all about." Nobody spoke, nobody answered him, they all remained silent. He again spoke, he said, "Isn't anyone going to speak to me?"

Q. Did anyone speak to him?

A. Yes.

Q. Who?

A. I asked the permission to talk to Mr. Meyers, and I told him the same thing we told Mr. Peppard and Mr. McConnell in the previous meeting.

Q. What was the final result of that meeting?

A. Mr. Carl Meyers promised to us that he will agree on pay day we will receive more than 90 cents an hour on our pay checks.

Q. And as you left that meeting that day, did anything unusual transpire that you remember?

A. Yes.

Q. Will you tell us what that was?

A. On my way from the hall, from the meeting place to my work, I was confronted by someone who asked my badge number.

Q. Who was this man who confronted you and asked you your badge number?

A. His name is Whitie Taylor.

Q. Who is he?

A. Well, he is an inspector in our department.

Q. He is an inspector in your department?

A. Yes.

Q. Does he have any other connections down there that you know of?

A. Well, I was questioned about this fellow by other employes to be careful because we were told he was a company spy.

Q. You were cautioned to be careful?

MR. DAY: We move that be stricken out.

TRIAL EXAMINER LINDSAY: What was that? I didn't catch that.

(Answer read.)

TRIAL EXAMINER LINDSAY: It may remain, and you may have an exception.

(Exception noted for Respondent.)

BY MR. HOSKINS:

Q. You say that Taylor asked you for your badge number?

A. Yes.

Q. Did you have any conversation with him at that time?

A. Yes. I ask him why. He told me, he says—

MR. DAY: We have this same objection on the same ground stated? Between any conversation with Whitie Taylor?

TRIAL EXAMINER LINDSAY: Yes, and the ruling will be the same.

(Exception noted for Respondent.)

A. I asked him why. I asked him why he was asking me my badge number. He said that he liked me and he liked what I said in that meeting to Mr. Carl Meyers, and if he meets me down town he would treat me to a glass of beer.

BY MR. HOSKINS:

Q. He was going to treat you to a glass of beer when he met you down town?

A. Yes. I told him, "Listen, my friend, I don't wear my badge down town, and you see me every day. You recognize my face. You can recognize it down town. Because I know why you asked me for by badge number, but I don't care. Here it is," And I gave it to him.

Q. All right.

After that time, Mr. Demos, and while you were still working, were you ever approached in the mill, or any place else, and requested to join any union?

A. Yes.

Q. And who approached you?

A. Charles Pappas.

Q. You have already told us about George Pappas? He is an employe representative?

A. Yes.

Q. About when was that that he approached you?

A. Oh, it was the last day of April, 1937.

Q. All right. Where were you at the time?

A. I was working.

Q. You were working?

A. Yes

Q. Will you tell us how he approached you and what transpired afterwards?

A. He was still on the railroad track that goes through the plant where the chipper bed is, and he waved at me to go to him. So I went and ask him what he want from me. He tell me, he says, "Pete, you are a leader."

Q. You are a what?

A. A leader, he says, among the employes.

Q. You are a leader here?

A. Yes. He says, "You can talk to them and you can make them to listen to you. And I will tell you something." He says, "In this plant now is a new union is going to be formed that will not be the old union as we know it financed by the corporation, but a new union into which we pay dues." He said, "About $2 a year instead of paying $12 to any outside union like the C. I. O., or American Federation of Labor, or any other union, we pay only $2. We finance our business."

MR. DAY: Will you read that last answer?

(Answer read.)

MR. DAY: I want to object on the ground that there is nothing in the complaint to justify this conversation?

TRIAL EXAMINER LINDSAY: That what?

MR. DAY: Nothing to connect this conversation or this conversation or this man with the company, and the evidence does not relate to any charges set forth in the complaint.

TRIAL EXAMINER LINDSAY: You mean referring to this new union?

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: Well, I will overrule your objection and let the record show an exception. I again might invite your attention to paragraph 27 of the complaint.

MR. DAY: We have examined paragraph 27.

TRIAL EXAMINER LINDSAY: All right.

MR. HOSKINS: Will you read Mr. Demos the latter part of his answer.

(Record read.)

BY MR. HOSKINS:

Q. Do you have anything else to say at this time?

A. Yes. He said to me that in Canton, in Warren, in Buffalo, and other areas where the Republic Steel Corporation operates steel plants, they all join this union 100 percent. And he told me if we wouldn't do the same thing in here they are going to close down this place, and where others will be working in the other plants full time, will be remain idle in here holding the bag.

Q. Did he invite you to join this new union?

A. Yes. He told me, "You must sign this," because he says, "you will be sorry if you don't sign. And if anything happens to you don't you come back and tell me that I did not warn you."

Q. Did he state whether this new union had the approval of the company, or not?

MR. DAY: I object to that question, Mr. Hoskins.

MR. HOSKINS: I will be glad to withdraw the question.

BY MR. HOSKINS:

Q. Did he give you any indication of the size of this new union?

A. What do you mean?

Q. Did he give you any indication of the size of this new union, how many men will be in it?

A. He tell me they will be 100 percent.

Q. What was your final answer to him?

A. I told him that I will not sign, regardless of what will happens to me. I say, "Every year for four years now I am laid off. I work sort of a period of three or four months and then I remain idle the remaining of the year, and if the same things happens to me this year I am used to it. I won't sign."

MR. PONTIUS: I didn't get that.

MR. HOSKINS: Do you want it read? Will you read that, please?

(Answer read.)

BY MR. HOSKINS:

Q. Were you, as a matter of fact, discharged subsequent to this time?

A. No.

Q. Did you continue working up until the period of the strike?

A. No.

Q. Well, then, you were discharged. Did you quit?

A. I was laid off.

Q. All right. When did that transpire?

A. It was the fourth or the fifth day of last May.

Q. Will you give us the circumstances surrounding your being discharged or laid off, as you put it?

A. Yes.

Q. On that day?

A. I was working night turn from 11 o'clock until 7 in the morning. About 7 in the morning my foreman approached me and he told me, he says, "Mr. Peppard wants to see you at his office." I went to Mr. Peppard's office. I found Mr. Peppard sitting there with his assistant, and when he saw me, he says, "Peter Demos?" I says, "Yes, that is my name." He says, "Pete, I am sorry, but we going to lay you off." I said, "I expected that." Mr. Peppard say, "Pete, listen here. This is not what you think." "Well," I say, "what do you mean by that? I was approached and asked to sign a company—a union, and because I refused then that is what I get." Mr. Peppard told me that is not so, they had to lay off men on account of business getting slack a little. "Well," I said, "Mr. Peppard, I don't think I am a bad workman. You had no complaints about me whatsoever." He admitted that. He says, "Yes, Pete, you are a good worker, and I haven't had no reports on you, no complaints from any foreman or anything."

I say, "Why then you discriminate against me?" He said, "I am not discriminating against you, but here it is." And he pulled from his desk a paper, and he had the names on it, and he says, "Here it is. You were hired on the 25th or 26th " I don't remember exactly the day he told me, of November, 1935. And he says, "You are the younger man in here. That is why I have to lay you off." Being he has nothing else to say, I left.

Q. To your knowledge, were there any men who continued working who had been hired after you had been?

A. Yes, many.

Q. Can you give us any of their names?

A. Yes. There were at least—I know three men who were remained to work up until the time of the strike, though they were my juniors in the service. One of them, his name Pete Fecundas. Another one is Charley Martenez.

Q. Are there any others?

A. Pete Ognerevich. I don't know—I have the name down here. I took his name down, and I know the date he was hired after me. Ognerevich.

Q. Will you read that aloud?

A. It is Peter O-g-n-e-r-e-v-i-c-h.

Q. All right. Now, Mr. Demos, at the time of this conversation when Mr. Peppard told you that he had to let you go, did he offer you any promise of re-employment?

A. Yes. He said, "If we start to re-hire any men, you will be considered. So you leave your address in here and name, and we call you when we need you."

Q. Did he ever call you?

A. No.

Q. Do you know of anyone who has been employed in your department since you were laid off?

A. Yes.

Q. Do you know his name?

A. I don't know their names.

Q. Did you ever return to the mill after that date to try to get your job back?

A. Yes, as soon as I was told that they hired some new men or old laid-off employes—I don't know what they were—I went to see Mr. Peppard. I went into Mr. Peppard's office and told him about it. He said, "Nothing doing right now, but we call you when we need you."

Q. Are you working at the present time, Mr. Demos?

A. Yes.

Q. Without mentioning the name of your employer, what is your position?

A. I am a common laborer now.

Q. You are a common laborer?

A. Yes.

Q. Are you earning more or less money than you earned when you were with Republic?

A. Yes.

Q. How much do you make now?

MR. DAY: We want to object.

A. About $5 a day.

MR. DAY: This man is not named in the complaint as one who was improperly discharged. At least, I think that is a correct statement.

MR. HOSKINS: Counsel is correct, and I consent to the withdrawal of the question.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: Then you withdraw your objection?

MR. DAY: What is that?

TRIAL EXAMINER LINDSAY: Then you withdraw your objection on this, now that it is withdrawn?

MR. DAY: Oh, yes.

BY MR. HOSKINS:

Q. Do you desire to return to work at the Republic?

A. Not after working at this place where I am working now.

Q. Why not?

A. Because my employer, my new employers, they deal with me in fairness, to which I was unaccustomed when I was working with the Republic Steel Corporation.

MR. HOSKINS: That is all.

MR. DAY: What is that last answer?

(Answer read.)

MR. DAY: No cross-examination.

(Witness excused.)

MR. HUNT: I would like to recall Peter Mouyios to the stand.

PETER MOUYIOS

was thereupon recalled as a witness by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified further as follows:

Direct Examination

BY MR. HUNT:

Q. Mr. Mouyios, you left the employ of the Republic Steel Corporation, as I understand it, on May 3d?

A. Yes, sir.

Q. Have you worked anywhere else since that time?

A. No, sir.

Q. You have earned nothing else since that time?

A. No, sir.

Q. Do you recall how much you were paid, what your earnings were when you worked with the Republic Steel Corporation?

A. Sixty-two and one-half cents an hour.

Q. Sixty-two and one-half cents an hour?

A. Yes.

Q. Did you receive any bonus in addition to that?

A. Yes, sir.

Q. Do you recall how much that was?

A. That runs us 71, 72 cents an hour.

Q. Your bonus?

A. Bonus and all.

Q. The bonus and all?

A. Bonus and day rate.

Q. In other words, the bonus amounts to 7 or 8 or 9 cents an hour?

A. I don't know what it amounted to. That is drawn every day, 72, 73 cents an hour, bonus and day work.

Q. You were paid at an hourly rate, flat rate of 62½ cents an hour?

A. Yes.

Q. How many hours did you work?

A. Eight hours.

Q. How many days a week?

A. Five.

Q. Five days a week?

A. Yes, sir.

Q. Did your bonus vary, change from time to time, or was it a certain set sum?

A. Well, sometimes we would have 70 cents, sometimes we would have 72 cents, sometimes 75. That runs up every day. That runs up to 72 cents an hour.

Q. Now, the 72 cents included your 62½ cents an hour?

A. Yes, and bonus.

Q. Now, just the bonus itself?

A. I couldn't tell you. I don't know how much.

Q. You have no record?

A. I have no record of bonus, how much the bonus run.

Q. Did you work steadily 8 hours a day for 5 days a week before you left the company?

A. Well, before that meeting was called we used to work 48 hours a week and get paid $52, but after that meeting we work three and four hours and they sent us home.

Q. Three or four hours a day?

A. Yes.

Q. What meeting are you referring to?

A. That meeting Mr. Meyers was called over there.

Q. When was that?

A. That was the first part of April.

Q. After that you worked only three or four hours a day?

A. Yes.

Q. How many days a week did you work?

A. Five days a week.

Q. You don't recall the exact number of hours each day you worked?

A. No.

Q. That changed from time to time?

A. Yes.

MR. HUNT: That is all.

Cross Examination

BY MR. DAY:

Q. You were a chipper, were you not?

A. Yes, sir.

Q. And when the furnaces slacked down there was less chipping work to do, wasn't there?

A. Well, that must be.

Q. What?

A. That is what they tell me, they didn't have no more work. They sent us home.

MR. DAY: That is all.

(Witness excused.)

MR. LAUTER: Do you want to step up, Mr. Day?

TRIAL EXAMINER LINDSAY: Off the record.

(There was a discussion off the record.)

MR. LAUTER: I wish at this time, if it pleases the Examiner, to state for the record that the hearing in this case will be adjourned. I am requesting that it be adjourned until a week from tomorrow, which is a Friday. Now, the exact date is August 20th, 1937.

TRIAL EXAMINER LINDSAY: The adjournment will be granted until August 20, 1937, and the case will be adjourned to Youngstown, Ohio. At the present time we have not located a building there. That will be taken care of some time between now and the 20th, and I request that the attorney representing the Board, Mr. Lauter, give notice to the attorneys representing the Respondent as to the place of the hearing. I think that notice should be at least two or three days preceding the date of the reconvening at Youngstown.

Do you think you can do that, Mr. Lauter?

MR. LAUTER: Yes. We plan to leave immediately for Youngstown, and as soon as we make arrangements I will give even more notice, if I can.

MR. DAY: Will it be in the morning, Friday morning?

TRIAL EXAMINER LINDSAY: Ten o'clock, Friday morning. That arrangement of notice will be satisfactory?

MR. DAY: Oh, yes.

TRIAL EXAMINER LINDSAY: To both you and Judge Pontius?

MR. LAUTER: I will be glad to personally notify Mr. Day at his Cleveland office.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: That type of a notice will be satisfactory?

MR. DAY: Oh, yes.

MR. LAUTER: I will call him on the phone.

(Whereupon, at 2:30 o'clock p. m., August 12, 1937, the hearing was adjourned to August 20, 1937, in Youngstown, Ohio, at 10 o'clock a. m.)

Courtroom No. 6, Mahoning County Courthouse, Youngstown, Ohio, Friday, August 20, 1927

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before

JOHN T. LINDSAY, Trial Examiner

Appearances:

Mark Lauter, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young & Veach (1420 Union Trust Building, Cleveland, Ohio), and T. F. Patton, Esq., Republic Building, Cleveland, Ohio, David E. Jones, Esq., and Charles F. Smith, Esq., (Canton, Ohio), appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

We are having considerable noise in this room and I want everyone to understand that I do not tolerate any demonstrations from anyone in this court. We must have it absolutely quiet, and I hope everyone will respect that order.

MR. LAUTER: I will call Mr. Gallagher.

TRIAL EXAMINER LINDSAY: I want each witness when they come up here to talk up so we can hear them.

JOSEPH FRANCIS GALLAGHER

was thereupon called as a witness for and on behalf of the National Labor Relations Board, and, having been duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. What is your full name, Mr. Gallagher?

A. Joseph Francis Gallagher.

Q. Where do you reside?

A. 162 Elm Street, Struthers, Ohio.

Q. Have you ever worked for the Republic Steel Corporation?

A. I have.

Q. Have you worked at the Youngstown plant?

A. Yes.

Q. When did you start working for them?

A. I started working for them either June or July or August of 1933.

MR. SMITH: I did not get the year.

TRIAL EXAMINER LINDSAY: July or August, 1933.

BY MR. LAUTER:

Q. When did you say you began working for the Republic Steel Corporation?

A. July or August of the year 1933.

Q. How long did you work for them?

A. A period of—I worked for them until January 6th, 1937.

Q. What kind of work did you do for Republic Steel Corporation?

A. I was employed as electrician, electric work.

Q. In what department was that?

A. I beg your pardon?

Q. I say, in what department were you working as an electrician?

A. The electric department, which I was employed by the electric department, but I was working in the electric weld, too—of the Republic Iron & Steel department.

Q. Are you a member of the C. I. O.?

A. I am.

Q. When did you join?

A. I joined the C. I. O. in the latter part of July of 1936, or the early part of August of 1936.

Q. Will you describe the circumstances surrounding your cessation of work for the Republic Steel Corporation on January 6, 1937?

A. On January 6, 1937, I was working from eleven to seven. My regular work was, when I went out on the job, to make my rounds, and inspect my work, and if everything was O. K., why, it was my duty—was to answer the whistle, in case of trouble, why, they wanted me to blow the whistle for me,—everything was all right after I would make my rounds, and there was a shanty, a control booth there, that I always sat in under, in cold weather. And I went in there and sat down for a while, and then I came out and got my lunch, and I went back in and sat down, and I was in there about 15 or 20 minutes, the second time I had returned to the shanty, and the whistle blowed. And my call was fifth on the mill. I went out the door—

Q. You say your call was fifth,—what do you mean?

A. Five whistle calls.

Q. I see.

A. They blowed the whistle five blasts, in order to engage the electrician in case of trouble to the mill.

Q. Yes.

A. When the whistle started to blow five, I left the shanty immediately, and would have been at the whistle before the whistle had stopped blowing, if it had not been for the police, and also the superintendent of the electric department there, to stop me, and ask me where I was going.

Q. You say police; are you referring to the plant police of the Republic Steel Corporation?

A. I refer to the plant police, yes.

Q. Go ahead.

A. And the superintendent says; "Joe, I had Mr. Walker blow that whistle for you."

Q. Who is Mr. Walker?

A. Mr. Walker is the superintendent of the electric weld tube mill, and I don't believe the man ever blowed the whistle in the five years or four years I was there.

MR. DAY: I move that the last be stricken out.

BY MR. LAUTER:

Q. Did you ever see —

MR. DAY: Wait a moment.

MR. LAUTER: All right.

TRIAL EXAMINER LINDSAY: Yes, that last is stricken.

BY MR. LAUTER:

Q. Did you ever see Mr. Walker blow the whistle when you were there?

A. No.

Q. Go ahead.

A. I never saw Mr. Walker blow—and my superintendent, Mr. Graff, says to me: "Joe, I had Mr. Walker blow that whistle for you." I says, "What is it for Johnny?" and he says: "Well, you have been sleeping in there; you can go ahead home until I send for you." I says: "Well, you have got to give me a better answer than that, Johnny, before I ever accept it."

He says: "What other answer do you want?" I said: "I either want my money or I want a definite answer one way or the other."

He says: "Well, Joe, I know you couldn't have been sleeping for you answered the whistle too soon, but," he says, "If I was you, I would go ahead on home."

I said: "No, I won't go home until I get a definite answer; it is either getting my time or telling me when to come back out, or something like that. This thing of sending a man home until you send for him," I says, "it don't go with me; it might go with someone else."

So Johnny and I discussed the problem for 15 or 20 minutes.

MR. DAY: Let me have Johnny's last name.

THE WITNESS: Johnny Graff.

MR. DAY: Is he your superintendent, did you say?

THE WITNESS: He is the superintendent of the electric department.

MR. DAY: All right.

(Answer resumed) We discussed it for 15 or 20 minutes, and I decided to go ahead home and come out and see him in the morning.

And when I returned to see him in the morning, the police would not let me in to see Mr. Graff in the morning. So I never got the opportunity to see Mr. Graff from that time until—until my pay expired, until pay day.

So I went to the employment—to the main office for my money, and instead of receiving my money at the employment office I received a slip,—instead of receiving my money at the paymaster's, I received a slip to the employment office.

I went to the employment office, and the employment office referred me back to Graff for an O. K. on—before I could get my money.

So I surmised that the O. K. was in question in case I had some tools checked out, and so forth, and so on, like that. So I went down and saw Graff, and he O. K.'d my slip, and I went up and got my money, and they haven't sent for me yet.

BY MR. LAUTER:

Q. When you left the mill, how did you go out, did you go out the mill door?

A. Whenever I went out to leave the mill, they sent two officers with me. Sergeant Fitzgerald was one of the officers that was there. He sent these officers over to me while I changed clothes, and then I came back to ring my card,—my card out, the officers came with me, and instead of letting me—the way I always went out of the mill—down through the mill and out,—instead of letting me walk down through the mill and out, the officers took me out the side door, down through the alley, and put me in their car, and took me off the company premises.

Q. You mentioned before that you have joined the C. I. O.?

A. I have.

Q. That was some time back in July or August of 1936?

A. Right.

Q. Were you active in the C. I. O. after you joined it?

A. Yes.

Q. What was the nature of your activities?

A. The nature of my activities was attending meetings. That was the only active part I had taken in the organization.

Q. What else did you do?

A. When they called a meeting I attended the meeting.

Q. Were you one of the first members to join the C. I. O.?

A. I was either one of the first five, or the first seven; I wouldn't say which, in the Youngstown territory.

Q. Where were the meetings held in the C. I. O.?

A. The meetings at that time were held, as a rule, in Truck Drivers' Hall, on East Federal Street, over the A. & P. Store.

Q. Did you attend those meetings?

A. I attended all of those meetings that I possibly could. If there was a meeting held when I was off duty, at work, I attended the meeting.

Q. Were there many people at those meetings at the beginning?

A. Well, when we started out, four or five, maybe.

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That is the way they started out, around August or September; but the meetings kept gradually going up, and building up, until the Truck Drivers' Hall was not large enough to take care of them.

Then we—we engaged a Roumanian Hall, on Poland Avenue.

Q. Have you ever been followed to any of those meetings?

A. I have been followed to the meetings and followed away from them. I couldn't say followed to the meetings, but I have been followed away from the meetings but I—

Q. Describe just what you mean when you say you were followed.

A. Well, whenever there was a meeting scheduled, or anything like that, as a rule there would be some of the Republic officers placed right around the meeting hall.

Q. When you say Republic officers, do you mean officials of the company, or mill police?

A. Mill police.

Q. Do you know who they were?

A. I know them all to see them, practically come in and out the gates at different times and around the plant.

One of them in particular was Snyder; as a rule he was always on that—on that kind of work. It seems as though he was assigned permanent to that kind of work.

Q. Did he follow you often?

A. Yes, he followed me considerable times, just the number of times I couldn't say offhand.

Q. Did he follow you in his mill policeman's uniform?

A. No.

Q. Or in plain clothes?

A. Plain clothes.

Q. When was the first time that you noticed him following you?

A. The first time—

Q. If you noticed anything?

A. I couldn't tell you; I can't give you the date, or anything.

Q. No, tell me the first time that you can remember.

A. Well, the first time Snyder actually followed me was after I became an organizer for the S. W. O. C. When I left the Terminal Building,—he followed Burke down through Poland Avenue, and up through Pine Hall, and up through—

Q. Just one second. When did you become a paid organizer for the S. W. O. C.?

A. I became a paid organizer for the S. W. O. C. on February 1, 1937.

Q. Who is Burke that you just referred to? Who is he?

A. Burke was a paid organizer on the staff.

Q. You say you were followed from the Terminal Building; where is that?

A. The S. W. O. C. Headquarters was located in the Terminal Building.

Q. Where was the first day that you were followed?

A. February 1, 1937.

Q. That was when you became an organizer?

A. That's when I became an organizer.

Q. Who were you followed by?

A. Followed by Snyder.

Q. He was the mill policeman that you referred to before?

A. Yes.

Q. He was in plain clothes when he followed you?

A. Yes.

Q. Go ahead.

A. Whenever we started out to make private, individual contacts, why, there would be one of those mill police cars right in back of us, as a rule, and especially Mr.

Snyder's car. As a rule, he seemed to be the man that was stationed up here, and notified the rest of them elsewhere what direction we were in, or what part of town we were going to work in.

Q. Where did they follow you?

A. Well, they followed me—anywhere in town that we would go they would follow me. If I left the house at eight o'clock, and got into the Terminal Building at nine o'clock, why, they would be with me until ten or eleven o'clock that night, or whatever time I would return, as a rule.

Q. Where would you go in connection with your organizing activities? Where would you be going?

A. I would be going out to make some individual contacts, persons I knew in the mill who would be interested in organized labor, I would go out to see them.

Q. As far as you know, Mr. Gallagher, would that interfere with your making contacts?

A. Yes.

Q. Who else followed you?

A. Mr. Parker.

Q. Who is he?

A. He was one of the Republic spies.

Q. Well, now—

A. Or officers, police, whatever you want to call them, whether we call them spies or not.

Q. When they followed you, did they follow you together, Burke and Snyder, or alone?

A. Well, as a rule—no, I couldn't say I ever saw the two of them together, but as a rule there was always three or four in the car. I never paid much attention to those gentlemen, just who they were. In fact, I wasn't very much interested in them, as far as I was concerned it didn't seem to bother me.

Q. Do you know the license number of the car that was following you?

A. Yes.

Q. What was the license number?

A. H-763-V was the car that done most of the following in 1937.

Q. Did you take down the license number of the car following you?

A. Yes, I did.

Q. Did you write in—

A. I wrote into Columbus to see who the license to that car—to be sure whether the license number of that car was issued to Parker or probably issued to Snyder, or who it was issued to, and that is what I received back.

(The document referred to was thereupon marked for identification as Board's Exhibit No. 54.)

BY MR. LAUTER:

Q. Handing you Board's Exhibit No. 54 for identification I ask you whether or not this is the reply to the inquiry which you made concerning who owned H-763-V?

A. I do, yes.

Q. That is the reply you got?

A. That is the reply I received.

MR. LAUTER: I offer that in evidence as Board's Exhibit No. 54.

TRIAL EXAMINER LINDSAY: That is received.

MR. DAY: I don't suppose it would be properly admissible according to rules of evidence, but we do not object to it now.

TRIAL EXAMINER LINDSAY: What is it?

MR. DAY: Just a letter.

TRIAL EXAMINER LINDSAY: Then you at this time have no objections?

MR. DAY: No, because I think the records undoubtedly would show just what that letter shows, so we do not object to it.

TRIAL EXAMINER LINDSAY: All right, Board's Exhibit 54 is received in evidence.

(The document previously marked for identification as Board's Exhibit 54 was received in evidence.)

BY MR. LAUTER:

Q. Do you recall a meeting held in truck drivers' hall sometime in December, 1936?

A. I do.

Q. Did you attend that meeting?

A. I did.

Q. Were you followed when you went to that meeting?

A. I beg your pardon?

Q. Were you followed when you went to that meeting? Were you followed?

A. We were not followed at that meeting, but when we arrived to attend the meeting, there was a car load of company officers, Republic policemen there, especially Snyder. Snyder is the one I identified there at the time. Whenever Burke and I went to go up into the hall the four of them was sitting there in the car.

Q. Did you have any conversation with them?

A. I had no conversation at all, but Mr. Burke—I heard Mr. Burke having a conversation with them, he says "You better get going, rats," and the reply from them was "We are here to stay if we have to shoot our way through it. You'se better get going."

Q. Have you ever spoken to Mr. Parker on any occasion?

A. No, never spoken to Mr. Parker.

Q. Have you seen him at the mill?

A. I have seen him at the mill any number of times.

Q. In police uniform?

A. Police uniform.

Q. Mr. Snyder also?

A. With police badge on.

Q. Is that true of Snyder also?

A. Also.

Q. Did you speak to Parker at any time since you went to this meeting in December?

A. No, I never spoke to any of the officers.

MR. LAUTER: That is all.

Cross Examination

BY MR. DAY:

Q. Mr. Gallagher, when did you first start as organizer for the CIO?

A. February 6, 1937.

Q. That is after you quit the Republic?

A. I was fired from Republic January 6, 1937, and I started to organize for the SWOC on the 1st of February, 1937.

Q. You have been an organizer ever since?

A. I have been an organizer ever since.

Q. You are an organizer now?

A. I am an organizer now.

Q. And have you any office or place of business or headquarters or anything of that kind?

A. I am located in Room 302, Terminal Building.

Q. Here in Youngstown?

A. Here in Youngstown.

Q. And how many CIO organizers are there here now?

A. Right now there is—

MR. LAUTER: Just one second, I object to that question. I don't see as it is material to the issues in this case.

TRIAL EXAMINER LINDSAY: Yes, that objection is sustained.

MR. DAY: Exception.

TRIAL EXAMINER LINDSAY: Let the record

show an exception.

BY MR. DAY:

Q. When did you start work for CIO?

A. I started work for CIO on the 1st of February, 1937.

Q. When did you join the CIO?

A. I joined the CIO July or August, 1936.

Q. And you were one of the first members of the CIO?

A. I was one of the first five or six or seven members—either the fifth or seventh member of the CIO in the Youngstown area.

Q. From August, 1936, until January, 1937, were you active worker for the CIO?

A. Active worker?

Q. Yes.

A. Not no worker, I attended the meetings and so forth.

Q. Were you trying to get members?

A. Absolutely not. I wasn't out soliciting members or anything.

Q. Was it generally known, after July, 1936, that you belonged to the CIO?

A. Why certainly it was, through the mill, yes.

Q. And you stayed working for the Republic until January?

A. I stayed working for the Republic Iron & Steel until January 6.

Q. What department did you work in?

A. I worked in the electric department of the electric weld tube.

Q. What plant is that?

A. That is the Lansingville plant, commonly known in this district as the Lansingville plant.

Q. How do you spell that?

A. L-a-n-v-s- —

MR. DAY: I am not trying—

TRIAL EXAMINER LINDSAY: You know how to spell it.

MR. DAY: No, I don't. Frankly, this is the first time I have heard of it, that is the reason I asked him to spell it.

THE WITNESS: Well, it is commonly known as the Lansingville plant or the Hazelton plant, either one.

Q. When did you start to have meetings in these halls, first the truck drivers' hall, meetings?

A. Offhand I couldn't just tell you when the first meeting was, a couple of months after July or August.

Q. That would make it about September or October, 1936?

A. November, something like that.

Q. How often would you say those meetings in truck drivers' hall were held?

A. As a rule they were one a week.

Q. How largely were they attended?

A. Well, in the beginning they wasn't very well attended, five or six, maybe ten or twelve, all depends. Sometimes we had more members than others, on the right turn, the day turn off duty, they had a better turn-out.

Q. How many did finally come to the meetings, in the truck drivers' hall?

A. Well, eventually it grew to the hall wasn't capable of handling.

Q. How many could the hall handle?

A. I would estimate 300 or 400.

Q. Then you moved down to Roumanian Hall?

A. Down to Roumanian Hall, right.

Q. How large meetings did you have there?

A. Well, the hall would not handle those either, the hall wasn't large enough to handle the meetings there.

Q. About how many hundred did you have there?

A. Well, we had seven or eight or a thousand, as many as the hall could hold, and then packed outside on the sidewalk.

Q. This talk that you had January 6th, 1937, was with your superintendent, Johnny Graft?

A. Right.

Q. Where did the talk take place?

A. Right in front of the control pulpit, where I was underneath, when I come out.

Q. About what time of the day was it?

A. It happened to be in the morning—about one—quarter after one, quarter to one that took place, about ten to one.

Q. Was there a flood threatened, or a flood condition in the plant at that time?

A. There was, two nights before, either January 4th or January 5th.

Q. What was the extent of the flood, or the danger of the flood?

A. The danger of the flood in our department?

Q. Yes.

A. Was no danger at all.

Q. Well, what was the danger of the flood to the plant generally?

A. The danger to the plant generally, why it was dangerous, it would shut it down, it was in danger of shutting the plant down.

Q. Was there a flood?

A. There was a flood on the fourth and fifth, yes.

Q. Of what?

A. Of January.

Q. And what body of water flooded? Where did the water come from?

A. From the sky.

Q. Was it rain?

A. Yes, wasn't anything else outside of rain.

Q. Well, it wasn't a river condition or anything of that kind? It was a flood condition due to the rain, is that right?

A. Right.

Q. Now, wasn't the Mahoning River at that time up to such a height that it was expected to flood its banks?

MR. LAUTER: May I object to that question? Outside of the scope of cross examination.

MR. DAY: It might be outside of the scope; that is a condition that existed at the time he left.

TRIAL EXAMINER LINDSAY: I will overrule your objection. Let the record show an exception.

BY MR. DAY:

Q. Well, were you warned about not being on the job, on the 5th of January, by your foreman or boss?

A. Absolutely not. I was never warned about not being on the job. I never had a complaint from one of my foremen.

Q. You were not warned by your foremen or boss about not being on the job, the night of January 5th?

A. The night of January 5th I stood there and talked to Mr. Graft and Eddie Baer, which is the assistant chief electrician there—Johnny Graft's assistant—Eddie is his assistant—I stood there and talked to both of them down there and Johnny says to me: "Joe," he says, "I would like to see you be on your toes tonight," he says, "we are kind of expecting water." I says, "Johnny, I will be on"—

Q. What night was that?

A. The night of the 5th.

Q. What time of the night of the 5th was this you had the talk?

A. I would judge two o'clock in the morning.

Q. You talked to Johnny Graft at home?

A. Johnny Graft and Ed. Baer.

Q. Anyone else there?

A. No, no one else there.

Q. Well, the danger of the flood was in connection with the Mahoning River, wasn't it?

A. There was no danger in connection with our department, of flood.

Q. Well, I mean the plant generally?

A. The plant generally—I am not speaking for the plant in general, I know the plant in general, but I am not speaking for it.

Q. Where is the plant located, in connection with the Mahoning River?

A. It is along the river banks.

Q. Right up to the bank?

A. The department I am in—that I was employed in was 500 feet or 1000 feet away from the banks.

Q. How near was the nearest part of the Republic plant to the Mahoning River?

A. Well, their property runs right to the river bank.

Q. Right to the river bank?

A. Right.

Q. These men that followed you, you say that didn't bother you very much?

A. I never spoke to any of them. The other boys used to have trouble with them, that is, antagonize them, calling them rats and so forth, like that; but personally, myself, I never let on that I saw them.

Q. You never had any contact with them?

A. No, sir, never had any contact—no arguments with them whatever.

Q. What was the work you did in the plant?

A. Electric work.

Q. Just what kind of electric work?

A. Maintenance work, to answer whistles, in case of break-down or anything like that, why, I was to get out and get it going, to operating.

Q. That is, they sounded a whistle?

A. They sounded a whistle, I was to answer.

Q. You were to answer?

A. My whistle was five.

Q. If anything was broken down in the plant, that needed repair, you were there to fix it up?

A. That is right.

Q. Is it or is it not a fact that you were discharged by the Republic because you went into the shanty at the time and went to sleep?

A. It is not a fact.

MR. DAY: That is all.

THE WITNESS: That is a lie.

MR. DAY: That is all.

THE WITNESS: A bare-faced lie.

MR. LAUTER: That is all.

THE WITNESS: I stayed in the shanty for ever since it was built, when there is nothing to be done, no work to be done, I sit in that shanty. That shanty had been there for three years and I—there was never a word said.

TRIAL EXAMINER LINDSAY: That is all.

(Witness excused.)

CHARLES BERNARD FAGAN

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) What is your full name?

A. Charles Bernard Fagan.

Q. Where do you live?

A. 1807½ Point View Avenue.

Q. Have you been employed by the Republic?

A. Yes, sir.

Q. Where did you work?

A. I worked in the foundry.

Q. What plant?

A. Lansingville Plant, Youngstown.

Q. When did you start working there?

A. I started working in Republic in 1928.

Q. Have you worked continuously since then?

A. I worked from 1928 continuously until the 13th day of March, 1937.

Q. What was your wage on the 13th day of March, 12th day of March, 1937, do you recall?

A. I was making 84½ cents an hour, I think.

Q. How many days a week did you work?

A. Six days a week.

Q. Did you get time and a half for overtime?

A. No, sir.

Q. That is, above 48 hours?

A. No, sir, not at that time. Just straight time. That was before they got them arrangements.

Q. What kind of work did you do in the foundry?

A. I started work first as helper in the foundry, finally I got up until I was second-class molder. On the 12th of March I was second-class molder for Republic Steel.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join?

A. I joined the C. I. O. the 1st of November, 1936.

Q. Have you been active in C. I. O.?

A. Yes, sir.

Q. What do your activities consist of?

A. Well, in November and December we were kind of scared to go along and let anybody know we were in the C. I. O., but gradually as we thought the time was right for organization labor in Youngstown, I started out with Organizers Burke and Gallagher generally.

Q. You say you worked with Gallagher?

A. Burke and Gallagher, both organizers.

Q. For S. W. O. C.?

A. Yes, sir.

Q. Go ahead.

A. I was with Burke lots of times, I worked with Gallagher lots of times, right up until the day the strike was called. I was in contact with them all the time.

Q. You say you worked until March 13th?

A. Worked until March 13th.

Q. Have you held any office in the S. W. O. C.?

A. I was a member of the Grievance Committee, elected March 12th. Right now, Financial Secretary of the Local.

Q. When were you elected Financial Secretary of the Local?

A. I was elected Financial Secretary the 17th day of May. The 15th or 17th day of May.

Q. That was one of the lodges?

A. 1331—Republic Lodge 1331.

Q. Is that the lodge in this area, Youngstown District?

A. Yes, sir.

Q. You say you worked until March 13th, what happened March 13th?

A. March 13th was my day off, I was giving a little birthday party for my boy, one of the fellow workers came up and said, "Did you hear the bad news?" I thought somebody dropped dead, I said, "No, what is it?" He says, "They have closed the foundry," he says, "You are fired."

Q. What else happened?

A. Well, that kind of put the bug on the party, didn't make me feel very good.

Q. What did you do after that? After you heard the foundry had been closed.

A. Well, on Monday morning I went down to see Mr. McCoy.

Q. When was that?

A. That was the 15th of March.

Q. 15th of March? Yes?

A. I went down to see Mr. McCoy, we asked him—I was nine years in the place, I thought instead of getting a discharge slip right away I should have been given some consideration, got a job somewhere else in the plant.

Q. Who was Mr. McCoy?

A. Mr. McCoy is the District Manager of the Youngstown District.

Q. McCoy?

A. McCoy.

Q. What is his position?

A. He is Management Representative or something in the Youngstown District, I don't exactly know the title.

Q. Management Representative, under Employees Representative Plan?

A. No, sir, I don't know what his position, he is in the office. I went up to talk to him.

Q. Is he active in connection with employment relations at the plant?

A. Yes, sir.

Q. Go ahead, what happened there?

A. I went up to see Mr. McCoy. He asked me what else I could do besides molder, so I told him I could run a crane. So he told us to come back in a couple of days, he would look around meantime to see if he could place us some place. So I went down, went down to look for a job at Columbiana, all over the country, trying to get a job all over this part of the state, finally I got into town again, I went into Republic Steel, thought I would go down to get my tools.

Q. You say "we", whom do you mean by "we"?

A. There was four or five of us.

Q. Who was the others?

A. Thomas Waite, Jimmy Waite, Mike Baker.

Q. Who is Thomas Waite?

A. President of local 1331.

Q. When was he elected president?

A. The 12th of March.

Q. That was the day before the foundry shut down?

A. Yes, sir.

Q. You were elected member of the grievance committee?

A. I was elected member of the grievance committee the same night.

Q. That was also the day before the foundry shut down?

A. Yes, sir.

Q. Both you and he were in the foundry?

A. Yes.

Q. Go ahead.

A. The next day we went down to get our tools, we just got down the steps, the policeman came down and said, "What are you doing?" I says, "I am going down to get my tools." So he asked me my name, he asked the other fellows their names too, and he checked off that list he had there, he says, "O. K., you can go across." So two policemen escorted us over there right to where the boss was and on the way Mr. Sponsler, the assistant, says "You cannot get through, out there." Said we wanted a discharge slip. We said, "We don't want a discharge slip, we figure we don't get our money until pay day." Taking a job some place in the plant. I says, "That don't mean a thing." He says, "If you don't take that, you will have to be rehired, to get a job."

Q. You mean rehired as a new man?

A. Yes, sir.

Q. Go ahead.

A. We took the slips then, nothing else to do, couldn't refuse them after that, whether to see Mr. Black, got our tools. I got my tools, came back out of there. I came up the steps.

Q. Who is Mr. Black?

A. Mr. Black was foreman of the foundry.

Q. Did you have any conversation with him?

A. No, sir, I just asked him what it was all about. He says I knew as much as he knew, so I come out of there, I went down to see Mr. McCoy on Wednesday the 13th of March and he told me, he says, "Well," he said he would try to get me a job. Well, in the meantime, I was around looking for a job, finally I went back to see Mr. McCoy two or three weeks after, and he gave me a job in the labor gang.

Q. Well, tell me about your work in the labor gang.

A. I worked in the labor gang, the first week I worked pretty good, then the second or third week they sent me down to the coke works.

Q. Is the pay the same in the labor gang as in the foundry?

A. No, sir, it was only $5 a day. They got a 10 per cent increase on the 16th day of March. The pay was only $5 when I went into the labor gang.

Q. Is that less than you got in the foundry?

A. Yes, sir.

Q. Go ahead.

A. I started on the labor gang, worked in the labor gang, then they sent me down to the coke works. I worked in the coke works for a week, that was, and Mr. Manley came down one day, I asked for a better job.

Q. Who was Mr. Manley?

A. Master mechanic there in the mechanical end.

Q. Yes.

A. I asked Mr. Manley for a better job. He said he didn't have anything for me. Even the crane men were getting higher than the five, during this time I was in the labor gang. Well, I asked him for a job, he said he couldn't do nothing for me, so he went up—I was working with a lead special, when Manley went up about an hour after this boss, labor gang foreman of the coke works, he came up to me and he said, "Are you 8870?" I said, "Yes." He said, "Is your name Charles Fagan?" I says, "Yes." He said, "That is all I want to know." I says, "What about it?" He says, "That is all." So a couple of days after I went down in the coke works and he told me he didn't need me. So I went in the labor gang again, Mr. Sewickley, he only asked from then on—I only got one, sometimes two days a week.

Q. You mentioned something about crane man's job before. Did you ever apply for a job of that kind?

A. Yes, I seen Mr. Grant.

Q. Who is Mr. Grant?

A. Mr. Grant is the lead special superintendent.

Q. And tell what happened?

A. I went down to see Mr. Grant. I told him I had nine years' service in the foundry. He told me, he said, "They aren't hiring anybody at the time, only some old fellows that had been there for twenty years were hired there as boys," I says, "Don't you think I should get a job here too?" "I have been here nine years." He told me to go to see Ed. Baer. Ed. Baer told me, he says, "Why, why did he send you to me? Why didn't he hire you?" That is the same experience I had with those men, I went back two or three times, it was always the same, no work for me.

Q. How long did you work for Republic?

A. From 1928 until 1937.

Q. And were you entitled to vacation?

A. Yes, sir.

Q. Did you get a vacation?

A. I was only working one day a week in the labor gang, I looked the vacation slips up, my name wasn't on it, so then I went in to see Mr. Sewickley, he said he would see what he could do about it, so I went in to see him, and he told me to wait a few days, so then I went on up to see, to get my check, when I was supposed to take my vacation on the 24th of May, 23rd or 24th day of May, I went on wanting to take my vacation and went over to the window, to get my check, the guy says, "There ain't no check for you." He said, "There is none here." He says, "You better go to see Mr. McCoy." Then I went up and seen Mr. McCoy. Mr. McCoy told me he looked it up and he said I was entitled to a vacation. He asked me about my record, he said my record was as clear as an old maid's kiss, that is the words he used, so I got my vacation two days before the strike.

Q. Now, have you earned anything since you stopped working on the labor gang? Have you earned anything?

A. No, sir.

Q. But you want your job back at Republic?

A. Yes, sir.

Q. Did you know Mr. Gallagher?

A. Yes, sir.

Q. Who is he?

A. He is a paid organizer for the SWOC.

Q. Have you ever gone around organizing with him?

A. Yes, sir.

Q. Have you ever been followed when you were organizing?

A. Yes, sir.

Q. Do you know who followed?

A. I was followed by Parker.

Q. Who is Parker?

A. Parker is a Republic policeman.

Q. How do you know?

A. I seen him down there.

Q. You have seen him in uniform?

A. Yes, sir.

Q. Describe his actions when you were followed.

A. One night I was pretty active after January and February, I was pretty active, I used to go out every night, and invariably you turn around and there they were.

Q. You say "there they were". Who was there?

A. The guys following us, Republic policemen.

Q. Do you recall whether or not they were accompanied by anybody else?

A. Well, there was usually three or four of them in the car, never any less than two of them.

Q. Do you recall any particular occasion on which you were followed?

A. Yes, I was at the meeting in Roumanian Hall one night, we come out of the Roumanian Hall and Joe Gallagher and I and this Lookabaugh got in the car, we turned around ready to go home when I noticed this car following us, so we stopped and they stopped right behind us, so I says to Joe, "There is a corner up there, we will stop on the corner and they will have to stop or go in front of us, then we will know they are following us." So we stopped on the corner, and they parked ahead of us. I said to the other men, "They are following us." They followed us all around town, up to Brownley Woods, we went in a beer garden there and had a glass of beer, we went in there and stayed and when we came out they were gone.

Q. Were you ever followed by car H-763-V?

A. That was the car following.

Q. On the occasion you just told us about?

A. Yes, sir, there is an old Nash used to follow us, but I don't know the number of it, never bothered.

Q. Do you know who was in the car?

A. No, I just know that it was Republic police.

Q. How did you know?

A. Well, I have seen him in the mill.

Q. You have seen him in the mill in uniform?

A. Yes, sir.

Q. Followed you in an old Nash?

A. Yes, sir.

MR. LAUTER: That's all.

Cross Examination

BY MR. DAY:

Q. When did you join CIO?

A. I joined CIO in November, 1936.

Q. When did you start work for CIO?

A. I started work for CIO in January or February. I didn't start work for them, I wasn't a trade organizer. I started to help them.

Q. In January and February, 1937?

A. Yes, sir.

Q. And when was it that you were followed?

A. I was followed every night I went out with Burke or Gallagher, I was followed.

Q. During what time?

A. Between January and February, all the time from the middle of January right through February.

Q. In 1937?

A. Yes, sir.

Q. You started to work at the Republic in 1928?

A. Yes, sir.

Q. As a molder?

A. Yes, sir—No, sir, as a helper.

Q. Well, then you did work as a moulder later, didn't you?

A. Yes, sir.

Q. In the foundry there?

A. Yes, sir.

Q. And about how many men were employed in the foundry?

A. 12 men.

Q. And you from March 5, 1928, up until March 13, 1937?

A. Yes, sir.

Q. Did you work in the foundry all the time?

A. Yes, sir.

Q. Then the foundry was closed down, was it not?

A. Yes, sir.

Q. And has been closed down ever since?

A. Yes, sir.

Q. And were all the other men in there laid off at the same time you were?

A. Yes, sir.

Q. About 14 men?

A. There was 14 men laid off. The rest of the molders got their job back a week after, different jobs.

Q. Different jobs?

A. Yes.

Q. When you were laid off, when they closed the foundry down last March, were you told or asked to go to the employment office to ask for other work?

A. I went up and seen Mr. McCoy and he told me to come back.

Q. How soon after the foundry closed down and you were laid off, did you talk to McCoy?

A. I talked to him two days after the foundry was closed down.

Q. Then did you get back, get other work?

A. Yes, sir.

Q. And what other work did you start out at?

A. I started out in the labor gang.

Q. If you were laid off when the foundry closed down on the 13th of last March, when was it you started work on the labor gang?

A. I just don't remember the date, a week or couple weeks later.

Q. How long did you work in the labor gang?

A. I worked in the labor gang up until two days before the strike was called, I worked temporarily, one day a week or two days a week.

Q. But you were working for Republic up until a couple of days before the strike was called?

A. Well, I still considered myself an employee of the Republic Steel.

Q. But you were working there?

A. I was working there, yes.

Q. And up until about the time or a couple of days before the strike was called?

A. Yes, I took my vacation two days before the strike was called.

Q. When was it that you started to work as a paid organizer for the CIO?

A. I never was a paid organizer for CIO.

Q. You are not now?

A. No, sir.

Q. Nor these other men that were laid off with you, did they apply for other jobs too?

TRIAL EXAMINER LINDSAY: I don't think, Mr. Day, you should go into that.

MR. DAY: All right, I do not think it is important. Well, I think it might be important as they are tending to show no discrimination in the case of this particular man. This man is named in the complaint.

TRIAL EXAMINER LINDSAY: Well, I know that, but as a matter of fact, you can bring those men in yourself, to show what they did.

MR. DAY: Well, even if that is so—

TRIAL EXAMINER LINDSAY: Well, my ruling is that you are not to go into that, so just proceed.

MR. DAY: Well, then just let me note an exception, to save the record.

TRIAL EXAMINER LINDSAY: Yes, you may have an exception.

MR. DAY: Note an exception to the sustaining of the objection to the question, whether others that were laid off at the same time he was, that was permitted, whether the others applied for work. I guess that is all.

(The record was read to the Examiner.)

Redirect Examination

BY MR. LAUTER:

Q. You worked in the foundry, is that right?

A. Yes, sir.

Q. How many worked in the foundry?

A. 14.

Q. How many were members of the CIO?

A. 12.

Q. How long had that foundry been going?

A. That foundry has been going, the boss says the foundry has been going for 20 to 30 years.

MR. LAUTER: That's all.

MR. DAY: That's all.

TRIAL EXAMINER LINDSAY: We may have a ten minute recess. (Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. HOSKINS: Call Mr. Thomas White.

THOMAS WHITE

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HOSKINS:

Q. Will you state your full name, Mr. White?

A. Thomas White.

Q. Where do you live?

A. 1939 Point View Avenue.

Q. Will you talk just as loud as you can and as slowly as you can, so that everybody may hear you?

A. Yes, sir.

Q. Is that in Youngstown?

A. That is in Youngstown.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes, sir, I have.

Q. When did you first start to work for them?

A. About 1930.

Q. About 1930?

A. Yes.

Q. What was your first job there, Mr. White?

A. My first job there was in the electric work building, in a building in the electric weld, I had to construct most of the machinery in the electric weld.

Q. You helped to construct most of the machines in the electric weld?

A. Yes, sir.

Q. How long were you in that work?

A. Between nine months and one year, personally.

Q. Between nine months and one year?

A. Yes, sir.

Q. Then what was your next job?

A. I was transferred then to the foundry.

Q. You were transferred to the foundry?

A. Yes, sir.

Q. What was your job in the foundry?

A. I was a molder.

Q. A molder?

A. Yes, sir.

Q. What class molder?

A. I was a first-class molder.

Q. You were a first-class molder?

A. Yes, sir.

Q. Do you belong to the C. I. O.?

A. I do.

Q. When did you join the C. I. O.?

A. I joined it the 3rd of November.

Q. Is that—

A. 1936.

Q. That is 1936?

A. Yes, sir.

Q. Were you an active member after you joined it?

A. I certainly was.

Q. Describe what you mean by active.

A. I went from house to house signing up men who were employed in the Republic; I went from house to house signing these men into the C. I. O.

Q. Have you ever held any office in the local lodges of the C. I. O.?

A. Yes, sir, I am President.

Q. You are President of what lodge?

A. 1331 Republic Lodge.

Q. When were you elected President?

A. I was elected President on the 12th of March.

Q. The 12th of March of 1937?

A. Yes, sir.

Q. On the 12th of March, 1937, were you working in the foundry?

A. I certainly was.

Q. How many men worked in the foundry at that time?

A. There was 14 men in the foundry at that time.

Q. How many of those men were C. I. O. members?

A. There was 12 men that was C. I. O. members of the 14.

Q. 12 of the 14 men in the foundry were C. I. O. members?

A. Yes.

Q. What was your rate of pay on March 12?

A. Ninety-two and a half cents an hour.

Q. Ninety-two and a half cents an hour?

A. Ninety-two and a half cents an hour.

Q. How many hours a week were you working?

A. Forty-eight hours.

Q. Forty-eight hours a week?

A. Yes.

Q. Were you being paid extra for extra time?

A. I was not.

Q. Do you remember March 13, 1937?

A. Distinctly.

Q. What took place on that date, Mr. White?

A. On March 13 I was working from 10 o'clock to 6:30. It was my regular turn, No. 5. About three o'clock we had the molds almost ready for pouring when Mr. Manley—

Q. Who is Mr. Manley?

A. Mr. Manley,—he is master mechanic of the mechanical end. He came over there at three o'clock and told us: "Boys, I have bad news for you. Our foundry is being closed down for good."

I then asked him what it was all about. He told me that he had got his orders, and that he had to carry them out.

Q. Now, you say that Mr. Manley is master mechanic; was he in direct charge of your work?

A. Yes, sir, he was over the mechanical end.

Q. He was over the mechanical end?

A. Yes, and the foundry was under that.

Q. As I understand, you stated that he stated all he knew was that he had his orders from up above, and was carrying them out?

A. Yes, that's right.

Q. To your knowledge, a man who is in direct charge of work, that is at the Republic Steel Corporation, if work was being closed out, would he know the reasons for it?

MR. DAY: Oh, I object to that. I object—

MR. HOSKINS: Very well, I will consent to withdraw it.

TRIAL EXAMINER LINDSAY: Yes, the objection is sustained.

BY MR. HOSKINS:

Q. Was Mr. Manley actively engaged in supervising your department?

A. Yes, sir.

Q. Now, you made another statement there that you had the molds all ready, or something like that?

A That is right.

Q. How long had it taken you to get those molds ready?

A. It had taken us from 10 o'clock until 2:30.

Q. From 10 o'clock in the morning until 2:30 o'clock in the afternoon?

A. Yes, sir.

Q. How many men had worked on those?

A. Six men had worked on these molds.

Q. What would have been the next operation with reference to these molds?

A. The next operation would have been to have closed these molds up, and then cast them.

Q. How long would that have taken?

A. That would have taken us from then until around six o'clock.

Q. Did you cast the molds that afternoon?

A. No, we did not. We were told to knock the molds out, and never mind casting them at all, that we were through.

Q. This was about three o'clock, I believe, you said, when Mr. Manley came in?

A. Yes, sir.

Q. And what did you do after that?

A. After he told us that the foundry was being closed down, we knocked the molds out, got the boxes all together, and put them in place, put all the tools in the shanty, and by that time it was after six o'clock.

Q. Now, you stated, I believe, that this was on March 13th?

A. This was on March 13th.

Q. And I believe that a few moments ago you said that you were elected President of Local 1331 on March 12?

A. That is right. I was elected President on March 12th and I was fired on the 13th.

Q. Now, on March 13th, was there a public announcement, to your knowledge, of the fact that you had been elected President of the lodge?

A. Yes, sir, in the Youngstown Vindicator, on March 13th, my name appeared there along with the other officers of the lodge.

Q. Were you the first president of this lodge?

A. I was.

Q. Had it just been created?

A. It certainly was.

Q. Now, when did you go back to the mill after March 13th? When was the next time you went down there?

A. On March 13 I went back on a Monday, which was the 15th.

Q. Who did you see on that date?

A. Previous to going down there, I had gone to see Mr. McCoy.

Q. You say, "Previous to going down there?"

A. Previous to going down to the miil, I went to see Mr. McCoy in the morning.

Q. At the mill?

A. That was down at Market Street, at the office.

Q. I see. Did you see Mr. McCoy?

A. I did.

Q. Tell the conversation that took place with Mr. McCoy.

A. There was six of us went down to see Mr. McCoy; I was one of them.

Q. Who were the others?

A. There was Charles Fagan, James White, Mike Bakes, Tony Navy, and myself.

Q. Now, this Charles Fagan that you mentioned, is that the Charles Fagan who has just testified?

A. Yes, sir.

Q. Did he work in the foundry also?

A. He did.

Q. These other men that were with you, they were men who worked in the foundry?

A. They were employed in the foundry.

Q. Now, will you go on with your conversation, please?

A. On the Monday, I was to see Mr. McCoy. Mr. McCoy then asked us how long we had worked there, what else we could do besides molding. And I told him about my previous experience in the electric weld, and he said he would have to look around and see what he could do for us, but he informed us that we would have to be hired through general labor, and from there we would have to try and find ourselves a better job.

Q. What do you mean? Or, what is the significance of having to be hired through general labor?

A. It was surprising to me, that he said that, because, usually, we were allowed to go around and look for a job for ourselves, a better job at the rate that, or near it as possible, that we were receiving, when we were discharged; that when he said we would be hired through general labor he led me to understand that that was the procedure that had been adopted by the company.

Q. To be hired through general labor, does that mean if you went back to work you would have to be hired as a new man?

A. I took that.

Q. All right. Was anything else said to you, by Mr. McCoy?

A. Mr. McCoy told us to come back in two or three days, and, in the meantime, he would look around.

Q. Did you see anybody else on March 15th, at the mill?

A. No, I did not.

Q. When you left Mr. McCoy's office, where did you go?

A. I went outside to look for a job. I went outside of the city altogether to look for a job.

Q. When was the next time that you returned to the mill?

A. I returned to the mill around three o'clock.

Q. On what date?

A. On the 15th of March.

Q. On that same Monday?

A. Yes, sir.

Q. Who did you see that afternoon?

A. I went down the steps, at the foot bridge entrance, and we got down to the bottom of the steps, and the policeman there stopped us, asked us where we were going?

We told him we were going for our tools. He took our check numbers, and checked them along with a slip he had in the office there, and then he sent two policemen with us to get the tools.

We went over to see Mr. Black, that was our foreman in the foundry.

Q. Mr. Black is the foreman in the foundry?

A. Yes, sir.

On the way over there, Mr. Sponcellar—

Q. Who is Mr. Sponcellar?

A. He is assistant master mechanic, I think, I understand, on the Hazelton side, the blast furnace. He stopped us there and give us our discharge slips there.

I told him, I says: "What is wrong?" I says: "I want to wait until pay day and in the meantime look around."

He said: "I have my orders. You take these slips, and go and get your money."

Q. You say he stopped you and made you your discharge slips. Where were you when he stopped you?

A. I was halfway between the foot bridge, on the other side of the river, and Mr. Black's shanty.

Q. Where were you? Were you in the office, or were you in the open property?

A. We were in open property, right on the railroad tracks.

Q. And at that time, if I remember correctly, you were on your way to see Mr. Black?

A. That is right.

Q. And being escorted by two company police?

A. That's right.

Q. Will you tell us a little bit more in detail Mr. Sponcellar's actions, as he gave you these discharge slips?

A. Mr. Sponcellar came up to us and handed us these discharge slips. I asked him, I says: "What is wrong?" I says: "I don't think that's fair to give us our discharge slips now. Why can't you let it lay until pay day, until we look around and see if we can get another job?"

He says: "I can't help it." He says: "That's their —"

Q. Then you took your discharge slips?

A. I first of all went over to Black, and I was escorted to where my tools were. After getting my tools together, I was escorted back again to the mill gate, and left out.

Q. To your knowledge, in the plant when work is closed down, is it customary to discharge a man on the following day, or the same day—

A. No, it is not.

Q. —or do they have a different procedure?

A. They usually—I never before knew where a man was discharged before the work was finished. He usually was allowed to retain his pay slip, or his time card, or to go around there and try and get another job.

Q. You say, retain his pay slip or his time card. What is the value of retaining that? What does that permit him to do?

A. That permits him to go into the mill at any time that that card indicates.

Q. And without that, you cannot go into the mill?

A. You cannot.

Q. Now, if a man that has that, to your knowledge, is it quite all right for him to go around and contact the various foremen and supervisors?

A. Yes, sir.

Q. Did you see anyone else on that day regarding your job?

A. I was coming out, and at the foreman's shanty there. We had our tools, and our overalls. I asked the policeman there if I could see Mr. Manley. He told me I wouldn't be allowed to see Mr. Manley, and I had to wait in the shanty until Mr. Fagan had come back.

He had already gone to look for Mr. Manley. I asked to see Mr. Manley, as I said, and I was told I wouldn't be allowed to see him, I had to wait there until they found Fagan.

Q. Did you get to see Mr. Manley?

A. I did not.

Q. Did you return to the mill at any time after that date?

A. I went down to see Mr. McCoy, down at the Market Street office, some time later, and Mr. McCoy gave me a job in the labor gang.

He sent me down to Mr. Rose, the employment man, and in the meantime I told Mr. Rose there that I thought I would—I was not being treated fairly, and I was going to look around for another job.

Q. Just a moment, Mr. White.

You stated that Mr. McCoy gave you a job on the labor gang?

A. Yes, sir.

Q. How does that job compare in salary to the job that you had as a first-class molder?

A. As a first-class molder I was receiving $7.40 a day, and to be hired as a laborer would give me $5 a day.

Q. Did you accept that job?

A. I did not.

Q. What was the conversation you were just about to state you had with Mr. Rose?

A. I asked Mr. Rose if that wasn't a better job, if there wasn't a better job, that I considered with my years service in the company that I was entitled to a better job. He gave me the slip to start, and I didn't accept it.

Q. Was that the last time that you saw Mr. McCoy?

A. No, sir. About six or seven weeks—about three or four weeks after that, at a place where I was working was a—work was beginning to get slack, and I went to see Mr. McCoy, and I told Mr. McCoy I had been working out of town, and that I would like to go back into the Republic.

He said that there was one fellow he would have to see before I could be rehired.

I never asked him who it was, but he told me that, he told me to call him up in two days then. I called him up in a couple of days, and he told me he couldn't take me in their plant.

Q. At that time did Mr. McCoy know you were a member of the C. I. O.?

A. He certainly did.

When I went to Mr. McCoy, I told Mr. McCoy: "I wasn't up here on any false pretenses, I wanted to put my cards on the table." I explained to him I was president of the Republic lodge, 1331.

Mr. McCoy said he was not interested in that, that he was there to see that men were hired, if there was a place for him.

Q. You stated that he said he would have to see someone else?

A. Yes, sir.

Q. What was the outcome of your conversation with him? By that, I mean, were you to come back, or were you to call, or was he to call you, or what?

A. I had to call him in two days, he said.

Q. Did you call him?

A. I called him in two days later, and Mr. McCoy informed me that there was nothing for me.

Q. Now, going back a bit, Mr. White.

Do you remember ever having been called into the office of Mr. Manley?

A. Mr. Manley?

Q. Pardon me, let me finish my question—at which time Mr. Manley spoke to you about your C. I. O. activities?

A. Mr. Manley never called me into the office once.

Q. You stated a few minutes ago that this place where you were working, after you were given your discharge slip at the Republic Steel Corporation, the work was beginning to get slack there.

How long after you were given your discharge slip on March 13th or March 15th, how long was it after that time you located another job?

A. I was laid off—I was discharged on the 13th, and I found a job on the 15th, and started on the 16th.

Q. What was the nature of your work there? Were you still doing molding?

A. Yes, sir.

Q. Now, how long have you worked since that date, up until the present date?

A. Where I am now? I worked for six weeks before the strike, and since the strike I went back there on August 2nd.

Q. On August 2nd. Are you working at the present time?

A. Yes, sir.

Q. What is your salary, or wage, where you are now working?

A. A dollar an hour.

Q. Do you know how much money you have earned since you were given your discharge at that time at the Republic Steel Corporation?

A. No, approximately, I do not.

Q. Well, you were making, you said, a dollar an hour?

A. Yes.

Q. How many hours a week were you working?

A. We were working an average of 40 hours a week.

Q. Working an average of 40 hours a week, you say?

A. Yes, sir.

Q. You worked six weeks before the strike was called?

A. Yes, sir.

Q. And you went back to work August 2nd?

A. Yes, sir.

Q. Do you want your job back—

A. Yes, I—

Q. —at the Republic Steel Corporation?

A. I certainly do.

MR. HOSKINS: That is all.

Cross Examination

Q. (By Mr. Day) When did you join the C. I. O.?

A. About November 3, 1936.

Q. Were you active?

A. Yes, sir.

Q. And you were the president of the C. I. O. lodge, 1331, is that right?

A. That's right.

Q. Republic?

A. Yes, sir.

Q. When were you elected to that office?

A. On March 12, 1936.

Q. And you have been active during these strikes?

A. How?

MR. HOSKINS: I object to that question. I would ask counsel for the other side to state what he means by "active."

MR. DAY: Oh, I think he understands what "active" means. It is not a word that needs any particular definition, it seems to me.

MR. HOSKINS: I would like to further object to the question on the ground that the direct examination was limited to the time up until the strike, and I ask that the cross examination be limited to the same period.

MR. DAY: This is one of the men who—

TRIAL EXAMINER LINDSAY: Yes, I understand.

MR. DAY: —who asked to be reinstated. We think we have the right, especially in view of our answer.

TRIAL EXAMINER LINDSAY: I think I will overrule the objection and let the record show an exception.

Q. (By Mr. Day) You have been active during the strike?

A. Yes.

Q. And you have been out on the picket line?

A. No, I haven't.

Q. Have you been a captain of the picket?

A. No, sir.

Q. What have you to do with picketing, anything?

A. I directed the pickets.

Q. You direct the picketing?

A. Yes.

Q. And as head of your—

A. Organization.

Q. —organization or lodge?

A. Yes, sir.

Q. And that is true since the beginning of the strike, is that right?

A. Yes, sir.

Q. Now, you know Mr. Fagan that testified here just before you?

A. Yes, sir.

Q. Was he active in the strike, on the picket line, do you know?

A. He was an officer of the lodge, and therefore couldn't be active on the picket line.

MR. HOSKINS: I object, your Honor, to this line of questioning.

I do not see that it has any bearing whatsoever.

TRIAL EXAMINER LINDSAY: I will sustain the objection as to anyone else except this man who is on the witness stand.

MR. DAY: Then I would like to recall Mr. Fagan for further questioning.

TRIAL EXAMINER LINDSAY: You have that right.

MR. DAY: When I get through with this witness.

TRIAL EXAMINER LINDSAY: You may.

Q. (By Mr. Day) You worked in the foundry as a molder, did you not, sir?

A. Yes, sir.

Q. And you quit work there on March 13th?

A. I was discharged on the 13th of March.

Q. Now, whether you were discharged or not—

A. Well, that's my meaning.

Q. —you quit working there on March 13th?

A. I couldn't do anything else when I was discharged.

Q. But that was the last day you worked there?

A. March 13th.

Q. March 13th?

A. Yes, sir.

Q. And you were one of how many molders, about?

A. There was seven molders, and seven helpers.

Q. In that foundry?

A. Yes, sir.

Q. And they all quit work at the same time?

A. They were all discharged at the same time.

Q. Well, whether they were all discharged or not, that was the last day they worked, was it not?

A. Yes, sir.

Q. And after that, were you told to go to the employment office about other work?

A. I wasn't told.

Q. Well, you went and saw Mr. McCoy, did you not?

A. That's right.

Q. What day did you see Mr. McCoy?

A. On the 15th.

Q. In his office?

A. Yes, sir.

Q. And you said there were other men there?

A. There was.

Q. About how many?

A. There was six of us altogether.

Q. And he talked to you, and them, about other work, is that right?

A. That's right.

Q. At that time did you tell Mr. McCoy you had formerly worked as a millwright?

A. Yes, sir.

Q. Was there any talk about you taking a job as a millwright?

A. There was no talk. He said he would see what he could do for us—but there was no talk. He never said anything about giving me a job as a millwright. He said that he would look around and see what he could do for us.

Q. Now, what does a millwright do?

A. Well, when I was in the millwrighting gang, I was in the break-down gang—for any break-down, or any millwright was supposed to go and fix it.

Q. But you did tell Mr. McCoy that you had been a millwright?

A. No.

Q. How?

A. I did not. I told Mr. McCoy I had a little experience at it with my previous job in the electric weld.

Q. Now, did you talk with Mr. McCoy at all about your previous experience? That is, as a millwright?

A. Yes, sir.

Q. Well now, what was that talk? Let us have it.

A. He asked me about—whether I had been a millwright, and I told him I had worked in the electric weld, and put up new machinery, and built, and that was my experience as far as millwrighting was concerned.

Q. You did not do any further work for the Republic Steel Corporation then, did you, after that?

A. No, sir.

Q. But you started to work for another company, did you not?

A. That's right.

Q. Now, what other company was it?

MR. HOSKINS: I object to that question, your Honor.

TRIAL EXAMINER LINDSAY: The objection is sustained.

MR. DAY: I want to be heard on that especially.

TRIAL EXAMINER LINDSAY: Well —

MR. DAY: We do not know who or what the other company is, how can we check up on how much money this man made?

TRIAL EXAMINER LINDSAY: That will be produced for you, Mr. Day, and my ruling on your objection still stands.

MR. DAY: Note an exception.

TRIAL EXAMINER LINDSAY: Let the record show an exception.

Q. (By Mr. Day) And you started to work for this other company on what day?

A. On the 16th.

Q. Of May?

A. 16th of —

Q. Of March?

A. Yes.

Q. Of this year?

A. Yes.

Q. And you worked up until when?

A. I worked up until the day of the strike.

Q. Up until the day of the strike?

A. Yes.

Q. That was May 25 or 26?

A. Yes, sir.

Q. Now, when the strike was called here, the plant, the Youngstown plant, except for some men, maintenance men, and so forth, closed down, did it not?

A. Yes, sir.

Q. And it was closed down until some time in June?

A. That's right.

Q. That is right?

A. Yes.

Q. It was shut down except for some maintenance men and some men that were down there?

A. That's right.

Q. All right. Now then, during that time you were working in connection with the strike, is that right?

A. That's right.

Q. And you say you came back and talked to Mr. McCoy about coming back to the Republic Steel Corporation?

A. That's right.

Q. And at that time you told him that you were connected with the C. I. O.?

A. That's right.

Q. You came right out and said you didn't want to have anything secret about it, that you were a C. I. O. man?

A. I told him I was president of the C. I. O. lodge.

Q. Of the lodge?

A. That's right.

Q. And he said that did not make any difference?

A. That's right.

Q. What else did he say?

A. He said then that he would—had to see one man before I could be put back to work.

Q. And he said that after you told him you were president of the C. I. O. lodge?

A. That's right.

Q. And you did not hear from him since?

A. No.

Q. You have not heard from him since?

A. No, sir.

Q. Is that right?

A. That's right.

Q. And now you are working for another company?

A. That's right.

Q. And you started on August 2nd?

A. That's right.

Q. And you were off, because of the strike, from May 26th until August 2nd?

A. That's right.

Q. When you left this other plant on May 26th, where you were working, did the plant close down, the other plant, or did you just leave to come back to get into the strike?

A. That's right.

Q. You left because you wanted to come here to the strike, is that right?

A. I left because I was president of the C. I. O. Republic Lodge.

Q. And you left so you could be back here in the strike?

A. Yes, sir.

Q. As president of your lodge?

A. Yes, sir.

MR. DAY: I think that is all.

MR. HOSKINS: That is all.

TRIAL EXAMINER LINDSAY: You may be excused.

(Witness excused.)

MR. HOSKINS: I will call Mr. Emil Waters.

MR. DAY: May I ask— I do not know when is the proper time to do it, but I would like to ask Mr. Fagan just one or two questions.

Is he here now?

MR. FAGAN: Yes.

MR. DAY: May I do that now?

TRIAL EXAMINER LINDSAY: Yes.

CHARLES BERNARD FAGAN

a witness recalled by and on behalf of the Respondent, and having been previously duly sworn, testified further as follows:

Recross Examination

BY MR. DAY:

Q. Mr. Fagan, are you an officer of the lodge?

A. Yes, sir.

Q. The lodge No. —

A. 1331, Republic Lodge, Youngstown.

Q. The same one of which the last witness was president?

A. Yes, sir.

Q. What officer are you?

A. I am Financial Secretary.

Q. Have you been active in the strike?

A. My job is Financial Secretary, it is to collect dues, and see that it is turned over to Pittsburgh, and I carried out my job.

Q. I did not understand that part about collecting dues.

A. I collect dues and see that the dues are returned to the main office where they belong; that is my job.

Q. You have been doing that since the strike started?

A. Yes.

Q. And you have been an officer of this lodge right along?

A. Since May 15th.

Q. And the lodge, of course, is one of the lodges that is on strike?

A. That's right.

MR. DAY: That is all.

(Witness excused.)

EMIL WALTERS

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. HOSKINS:

Q. Will you state your full name, Mr. Walters?

A. Emil Walters.

THE REPORTER: Is that spelled W-a-l-t-e-r-s?

THE WITNESS: W-a-l-t-e-r-s.

BY MR. HOSKINS:

Q. Will you spell your first name?

A. E-m-i-l.

Q. Where do you live, Mr. Walters?

A. 3145 Winona Drive.

Q. Is that in Youngstown?

A. In Youngstown.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes, sir.

Q. When did you first start to work for them?

A. Why, I believe it was in January, 1935, that I started there.

Q. What was your job in the Republic Steel Corporation?

A. Machinist.

Q. That was in the Youngstown Division of the Republic Steel Corporation?

A. Yes.

Q. While you were working, do you remember being called to any meetings in the plant at which unionism was discussed?

A. Yes. I was called to a meeting at the planer table in the machine shop, that is a machine in the machine shop.

Q. About when was it?

A. I would say that was about the middle of April.

Q. You said you were called over to the planer table; who called you?

A. Why, we had started to work, it was shortly after our turn starts at seven o'clock in the morning,—shortly after eleven o'clock I was working down there on a machine in the machine shop, and I—our foreman, Frank Whitaker, he came down and says: "Walters, there is a meeting taking place back at the planer table; go up there."

So, I says, "All right." Well, I walked up to the planer table, and there was a lot of the men gathered there.

I worked at the far end of the machine shop, and I am about the last man who he would come down to down there, and they were all up there but me when I got there.

And Mr. Manley, our master mechanic, he was up on this planer table, and prepared to give us a talk about organizing. He says that: "You know what we are gathered here for," he said, "talking about this organizing going on on the outside," he said, "this C. I. O." He says: "Fellows," he said, "I will tell you all we want—"

MR. DAY: May we have an objection to this conversation as to this meeting on the ground it is not shown that any officer was there who had authority to represent the Respondent, or that the Respondent had knowledge of what occurred?

TRIAL EXAMINER LINDSAY: Might I ask—I did not catch the name of the man who is giving—

MR. HOSKINS: In answer to the objection, I would like to state that—

TRIAL EXAMINER LINDSAY: Just a moment. I would like to have the name of the man who is giving the talk.

MR. HOSKINS: That is what I was going to say, it was Mr. William Manley.

TRIAL EXAMINER LINDSAY: William Manley?

MR. HOSKINS: And it has been testified that he was master mechanic.

TRIAL EXAMINER LINDSAY: The objection is overruled; let the record show an exception for the Respondent.

BY MR. HOSKINS:

Q. Go ahead.

A. So he said, "We are gathered here, talking about this. I know this talk going on about this organization," he says, "on the outside."

Q. Just a moment, Mr Walters. Is this Mr. Manley now that was doing all of the talking?

A. Mr. Manley, our master mechanic; and he said: "Fellows, all they want is your dollar. Then later on," he says, "they will sell you out. You have been sold out before," he said. "There has never been a strike won in this valley, and this ain't going to be won here, either. All they want is your dollar."

He says, "Now, our representative plan that we have here," he says, "I know conditions as they were years ago, here, and I know them as they are now, and I know we have improved them through our representative plan, and," he said, "So do some of you older men here, you know that conditions are a lot better than they were, and I think the representative plan is much better for you men, and for all of us," he says, "than an outside organization coming down here." He said, "Now," he says, "I called in the President of your organization out here," he said, "Mr. Tom White" —and he named two other fellows—that he called in to his office—but I don't remember the name of the other two, but I remember the name of White—and he says, "I told him— Now, Tom, you know you have worked here for a number of years." He says, "All they want is your money." He says, "Then they will sell you out." He says, "That's what will happen." And he says, "White at that time was supposed to have told him, 'I have got my price, too.' "

Now, that's what the master mechanic told us that White said, that he had had his price, too, and he talked more about what the representative plan could do, that men in there would represent us with our grievances that we had better than an outside man could belonging to an outside union, and that closed the meeting.

We turned around and walked away.

MR. DAY: Now, I move to strike out the witness' account of what transpired at the meeting for the reason stated in the objection made to that same subject.

TRIAL EXAMINER LINDSAY: Your motion to strike is denied. Let the record show an exception.

And Mr. Attorney, may I ask you a question? Off the record.

(Thereupon a discussion was had off the record.)

TRIAL EXAMINER LINDSAY: On the record.

What was the date of this meeting?

MR. HOSKINS: The middle of April, 1937.

TRIAL EXAMINER LINDSAY: This meeting we are talking about was about the middle of April, 1937?

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: Proceed.

BY MR. HOSKINS:

Q. Mr. Walters, at that time did Mr. Manley state what would happen to a man if he joined the Union?

A. Yes, he did.

He stated: "Now, I told Mr. White if you don't cut out this Union talk"—Mr. White of the two men he had called in to his office, he says, "I told him," he says, "now, if you don't cut out this Union talk, I will fire you."

He says, "That goes for every one of you," motioning his hand out at all of us like that (witness indicates).

Q. How long did this meeting last, Mr. Walters?

A. I would say it lasted oh, 15 to 20 minutes.

Q. About how many men would you say were there?

A. Why, they called in the blacksmiths, on that turn, and the machine shop, and the engine house gang, the fellows that worked out in the engine house. I would say there was about all told, between 35 and 45 or 50, 50 men, something like that.

Q. Were you paid for the time that you spent at that meeting?

A. Yes.

Q. All right. Were you called to any other meetings, while you were working?

A. Yes, I was. About three weeks to a month later than that, why—

Q. Let us see, then, that would be about the middle of May?

A. Yes.

Q. I see.

A. Around about the middle of May, why, the foreman came down again after we had started to work this night.

Q. Was that the same foreman, Mr. Whitaker?

A. The same foreman, Frank Whitaker. He came down and said: "Walters, there is another meeting going on up here at the planer table. Shut down your machine and go up there."

I said: "All right." And I went up to the planer table, and all the men were gathered around there, and a man I had never seen before around there myself, was up on the planer table, dressed up in good clothes. I was later told that his name was Butler, Assistant Master Mechanic.

He said: "Fellows, we are gathered here"—

MR. DAY: May we have an objection to this conversation on the same grounds as stated in our objection to the conversation in the middle of April?

TRIAL EXAMINER LINDSAY: Yes.

The objection is overruled. Let the record show an exception for the Respondent.

Proceed with the examination of this witness.

BY MR. HOSKINS:

Q. Go ahead.

MR. HOSKINS: Will the Reporter please read the last part of the answer where the witness left off?

(Thereupon the last answer of the witness was read by the Reporter.)

A. He called this meeting here, and said: "Come on, I am in a hurry, I am busy, I want to get back over there." He pointed toward the master mechanic. And then I went over there, and he said, "I am going to introduce a fellow that some of you fellows know." And he introduced Mr. Jones. He was dressed up, too.

Q. Do you know Mr. Jones' first name?

A. I have heard it many times.

Q. Well—

A. But I just can't think of it now.

Q. Do you know what Mr. Jones' job was around the plant?

A. Well, supposed to be some kind of a pusher, or assistant foreman in a pipe gang, or something like that.

MR. DAY: I object to that "supposed to be some kind of a something."

TRIAL EXAMINER LINDSAY: Yes, I will permit that to be stricken, unless you know of your own knowledge what he is doing.

MR. HOSKINS: Repeat the last question.

(Last question read by the Reporter.)

BY MR. HOSKINS:

Q. Do you know of your own knowledge what his job is?

A. Well, I have did work when he has come in for—in the machine shop—where this work was, at one time, and I was told by him that he was foreman, assistant foreman, of some kind.

Q. Very well.

A. I don't remember just what he said, but it was over a pipe gang, or something.

Q. You said that Mr. Butler introduced Mr. Jones?

A. He introduced this Mr. Jones, and Mr. Butler immediately left, he said he had to go back over there, and he waved his hands toward the mechanics' office.

Mr. Jones started out talking about this outside organization, organizing men. He said: "We can have an organization of our own in here. We don't need this C. I. O.," he said. "All they want is your dollar. We have an organization here. Our representative plan is good enough for us, and," he said, "I have some cards here for you fellows to sign that want to work. You fellows that want to hold your jobs, sign these cards."

Q. Now, just a moment, Mr. Walters.

MR. HOSKINS: I ask that this be marked for identification Board's Exhibit 55.

(The document referred to was thereupon marked for identification as Board's Exhibit No. 55.)

BY MR. HOSKINS:

Q. Did you receive one of the cards that he said he had there?

A. Yes, I did.

Q. (Indicating) I show you Board's Exhibit No. 55, consisting of two cards, with perforated edges, the cards are separated. Is that card similar to the one you got that night, Mr. Walters?

A. Yes, it is.

MR. HOSKINS: I offer in evidence Board's Exhibit No. 55 (handing exhibit to counsel).

MR. DAY: We object to it on the ground it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: May I see it?

MR. HOSKINS: Certainly (handing exhibit to the Trial Examiner).

MR. DAY: And further that there is no evidence to connect this with the Respondent, or to show that it was authorized by the Respondent, or issued with the knowledge or consent of the Respondent.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception, and Board's Exhibit No. 55 is received in evidence.

(The document previously marked for identification as Board's Exhibit No. 55 was received in evidence.)

MR. HOSKINS: I would like to ask the Reporter to read to Mr. Walters the last part of his testimony before I introduce the exhibit.

(Last part of the answer of the witness read by the Reporter.)

BY MR. HOSKINS:

Q. Now, Mr. Walters, did Mr. Jones have anything else to say?

A. Oh, he talked more on the representative plan, and told how conditions were before they had the representative plan, and how they are now, and how much they have improved, and made conditions better for the men in general, and closed the meeting, handed out cards, though, before he did,—reached in his pocket and pulled out a bunch of these cards.

Q. Are you referring to the cards contained on Board's Exhibit No. 55? A. Yes.

Q. Thank you.

A. Pulled these cards out, and handed to some of the men around him close there. One of them—one of the bosses' sons there, not our boss, but another foreman in the plant, he gathered them, and distributed them amongst the men that were gathered there, and I got one of them.

As the print was awful fine, to read in a shop where the lights are up here where you can't read very good, it doesn't give you enough light, it was pretty hard to read all that was printed, but I managed to make out that it was for collective hours, and bargaining, as to wages. In other words, it was a Union card that I was signing, something that Mr. Manley said that he would not tolerate.

Manley warned us that if we talked Union around the shop he would fire us. Still there was a man being allowed to come around and solicit for members in a Union.

Q. When had Mr. Manley warned you that if you talked Union around the shop that he would fire you?

MR. DAY: I object to the question on the same ground that was heretofore made to this conversation.

TRIAL EXAMINER LINDSAY: The objection is overruled and the record may show an exception for the Respondent.

(Exception for Respondent.)

BY MR. HOSKINS:

Q. Was that at the meeting in April that you have just testified to?

A. Yes, he told us then that that meant all of us, that he would fire us.

Q. At this meeting early in May, or the middle of May, that you have just related, how many men were present at that time, would you say?

A. Well, I would say about the same amount, they called in the three departments.

Q. That was the same number that was in attendance at the April meeting?

A. Yes.

Q. How long did that meeting last?

A. Oh, I would say 15 or 20 minutes.

Q. Were you paid for the time spent at that meeting?

A. Yes, I was.

Q. Did you attend any other meetings?

A. Yes, I did. Two days later they called another meeting.

Q. This is two days later?

A. Two days later than the second meeting, they called another meeting.

Our foreman come down and said to me: "Tonight is another meeting," in kind of a joking way, "another black hand meeting," and laughed.

I said: "Where is this one at?" He said: "In the office this time, in the machine shop office."

So I went up there, and the men were all there that could get in the office. The office is very small, the tool rooms. I suppose all told you could get about 30 men in there. The rest were outside gathered around the office and in the doorway.

I managed to get in there, and there was an office desk in there, and there was a petition lying on the desk, about so long, and about that wide (indicating), and on this petition,—a fellow "ribbed" me, and he said: "Read the petition there."

I picked up the petition, and I read it, and it says—we are putting our signatures down on this petition, and it was to be presented to the Mayor of Youngstown, Mayor Evans, to give him the right—that we were giving him—that we are asking him for the right to send down police and give those fellows that want to go outside and hold their jobs the right to go and work and have police protection.

MR. DAY: I want to object to that on the ground that it is incompetent, irrelevant and immaterial, and there is nothing to show that it was authorized by the Respondent or that it took place with the knowledge of the Respondent.

TRIAL EXAMINER LINDSAY: The objection is overruled, and let the record show an exception for the Respondent.

(Exception for the Respondent.)

BY MR. HOSKINS:

Q. Go ahead.

A. So Mr. Jones, in the meantime—he was in his work clothes this night, and he had another man with him that was dressed up, a tall fellow that I had never seen before.

Q. Was that the same Jones that you had referred to previously?

A. Yes, this was the same Jones that Butler had introduced just a couple of nights previous.

I said to Mr. Jones—he was talking about inside organization, the representative plan, when I walked in there, and I waited until he was through talking, and I said to Mr. Jones—

MR. DAY: I have the same objection to this conversation as before stated, and on the same grounds.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception for the Respondent.

(Exception for the Respondent.)

BY MR. HOSKINS:

Q. Go ahead.

A. I said: "What is this meeting called about, Mr. Jones?" "Jonesy," I said to him. He said: "Why, there is the petition, read it."

I said: "I have read it." He said: "Well, that's what it means. Sign that petition," he said, "so we can get the Mayor to send police down here, and you fellows that want to hold your jobs, and want your work, have a right to go to work. The Mayor will see that you get police protection. When we get this petition made out, we will send it to him."

I said: "What is the idea of all of these meetings?" I said: "This is the third one. You have got me all worked up. It is getting on my nerves. A man can't come to work without being called to a meeting. I am getting tired of it. A week or so ago I got a letter from the Company stating the fact that I didn't have to sign nothing to work there. I didn't have to belong to or join any Union to work there. I didn't have to sign nothing whatever. Instead, you turn around," I says,—"Mr. Manley had a meeting and told us he would not tolerate any Union activities in the plant whatever, and then you turn around and call two meetings. So, what is this but a Company Union?"

Q. Go a little bit slower, will you, Mr. Walters?

A. I said: "What is this but a Company Union?" I said: "Where a man signs that, or any of the other cards, you are handing out here, you are signing for the Company Union, and the Wagner Law, outlaws that. We can join a Union of our own choosing." I said: "We don't want to be told what is good for us. We know what is good for us."

He said: "You don't know what the hell you are talking about." I said: "The hell I don't." I said: "Mr. Manley said he wouldn't tolerate any soliciting in the shop whatever, any Union talk, he would fire us if we did, and then you have a right to come here—what is it but a Company Union?"

He said: "You don't know what the hell you are talking about." So he got mad.

And there was others in there, and it come up an argument.

A man that's been there for years, he said: "Why don't the Company do a little something?" And another man took up the argument, amongst the men in there, and it got so that Mr. Jones couldn't answer him fast enough. He got mad, and I walked out of there, and I don't know what took place.

I was told later on that he said: "To hell with you all."

MR. DAY: I object to what took place after the witness walked out.

MR. HOSKINS: Yes, I consent to that.

TRIAL EXAMINER LINDSAY: Yes, that may be stricken.

BY MR. HOSKINS:

Q. At these three meetings, did you see any of the foremen present?

A. Yes, the foremen of those departments were there.

Q. Did you recognize several foremen?

A. Yes, I recognized a foreman from the boiler shop, our foreman, and a man that has charge of the engine house gang. I don't recall their names, though.

Q. Now, this last meeting that you have just spoken of, you said it was two days after the second meeting?

A. Yes, it was.

Q. Did you attend any more meetings?

A. Yes, and then a long one about a week before the strike, why, there was another meeting called.

Q. What day was the strike, do you know?

A. On the 26th day of May, why, the foreman come down to me one morning, about three o'clock.

Q. Is this the same foreman?

A. Same foreman, Whitaker, one morning about three o'clock, this Frank Whitaker came down to me, and said: "Walters, there is going to be a district meeting for the mechanical department at the district office."

I said: "Where is the district office?" He said: "Up on Market Street, the Republic office." I said: "Where is that office?" He said: "You know where the employment office is?" I said: "Yes."

He said: "You pass it going down to the employment office, the building on the right." He said: "You will see a lot of men there, and that will be the place, eight o'clock tomorrow morning."

I said: "Is it compulsory to attend?" He said: "Manley wants to see you all there." That is the master mechanic. So I said: "All right. That is eight o'clock." So I went up to that meeting the next evening. I was there a little early. I walked around the men gathered there. We went in, and it was a man sitting at the desk there, by the name of Smith.

Q. Just a moment, Mr. Walters. You say this was at the district office. Do you mean by that the district office of the Republic Steel Corporation?

A. Yes, right where the foreman said it was. So, after all of the men that could get in there were in there, I would say about 200 in there, maybe a little more, why this fellow called the meeting to order, at the desk, the fellow named Smith, and he introduced a man that I know in the machine shop by the name of Bill Cummings, he worked in the tool room, to start off the meeting, and they had a microphone there that you could talk to, so it would sound loud, and everyone could hear it. I don't know whether the wires led outside the building or not, but there was a mike there anyway, and Mr. Cummings spoke through this mike. We heard what was said.

MR. DAY: I would like to object to what took place at this meeting upon the same grounds as stated in our objection as to what took place in other meetings as related by this same witness.

TRIAL EXAMINER LINDSAY: May I ask, Mr. Hoskins, were all of these meetings held at plants of the Republic Steel Corporation?

MR. HOSKINS: All on Company property.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception by Respondent.)

BY MR. HOSKINS:

Q. Go ahead.

A. So Bill Cummings, he started talking about the representative plan, how much better he thought it was for us than any outside Union could give us.

He said: "If I had any grievances," he said, "I have been with the Company for years"—he is an older fellow—he said: "Well, I would rather take it up with men like Al Greer, and Shorty Anderson,"—they were two machinists on the day turn—"Fellows I have known for years, I would rather have them handle my grievances than an outside Union, a stranger that I wouldn't know, I wouldn't know how he would represent me, he wouldn't know my line of work. I would much rather have men in here that I would knew," he said, "this outside Union here," he said, "they are not for you or me."

So he went on and talked for a while more about the representative plan, how much it had improved since the start of it, but we didn't need no outside Union in there, and when he finished talking, why, they introduced another speaker. I don't recall his name.

TRIAL EXAMINER LINDSAY: Off the record.

(There was a discussion off the record.)

TRIAL EXAMINER LINDSAY: On the record.

We are going to continue until about one o'clock, and then have a recess for noon.

MR. HOSKINS: Will you please read the last part of the witness' answer?

(Last part of the witness' answer read by the Reporter.)

BY MR. HOSKINS:

Q. Go ahead.

A. Yes, that's right. They introduced a speaker, and he talked about the representative plan, and he also talked about the coal fields, and the C. I. O., and John L. Lewis. He mentioned their names, and he said: "They are not for you, they will do to you fellows just like they did to the fellows in the coal fields. They will double your dues—they will double your dues. You can't stop them once you sign their cause, then they can do as they please."

MR. LAUTER: If you please, Mr. Examiner, at this time I should like that this witness step down from the stand so we can put on a witness who has been subpoenaed to testify about certain data and who, as I understand it, is receiving medical treatment at this time, and I will try to finish with him as quickly as I can.

TRIAL EXAMINER LINDSAY: Request is granted, and you are to remain for further examination. You may step down.

JOHN GOEST

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. What is your full name?

A. John Goest.

Q. Where do you reside, Mr. Goest?

A. 302 East Judson.

Q. You are employed by the Republic Steel Corporation?

A. Yes, sir.

Q. At what plant have you been employed?

A. 20 years, since March 1st, 1917.

Q. What plant have you been working at?

A. Youngstown Coke Plant.

Q. What kind of work have you been doing?

A. Brick-layer.

Q. Just speak up as loudly as you can.

A. Brick layer.

Q. Have you worked steadily since 1917?

A. With the exception of a few weeks during the strike in 1919 I was out.

Q. In what capacity did you work?

A. At brick-layer.

Q. What department?

A. Masonry.

Q. Masonry department?

A. Yes, sir.

(Thereupon the document was marked for identification as Board's Exhibit No. 56.)

Q. I hand you Board's Exhibit No. 56 for identification and ask you to state what that is.

A. That is the by-laws of the Republic Steel Workers representation plan, was in effect in 1933.

MR. LAUTER: I will offer this in evidence as Board's Exhibit No. 56.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit 56 is received in evidence.

(The document previously marked for identification as Board's Exhibit No. 56, was received in evidence.)

Q. When was the first time that you heard about the plan of employee representation of the Youngstown district?

A. It was sometime in June, I went out to work one morning and I was handed one of those by-laws and there was posters throughout the plant.

MR. DAY: June, what year?

THE WITNESS: 1933.

Q. You were handed one of the by-laws similar to Board's Exhibit 56?

A. Yes, sir.

Q. Yes? And you say you saw some posters on the board?

A. Yes, notifying that they were going to put such a plan in effect, there would be nominations and elections at a stated date, I just don't remember the date.

Q. Now, who handed you the copy of the by-laws?

A. The foreman.

Q. The foreman in your department?

A. Yes, sir.

Q. And were similar copies of the by-laws given to other employees? Did you notice?

A. I think so.

Q. Now, after that were nominations and elections held in the plant?

A. Yes, sir.

Q. And were there nominations and elections for representatives under the plan?

A. Yes, sir.

Q. Did they take place in the plant?

A. Yes, sir.

Q. They were voted—Have you voted at any of those elections?

A. Yes, sir, I voted at every one.

Q. Would you describe where they took place and what happened?

A. Well, they were—the balloting was out in booths that was placed throughout the plant, and we were permitted to vote in turn, that is, not to shut the shop down, we were ordered to go up there and vote in numbers, you know, they would not shut the job down, keep so many men at work. They never went to vote in a body.

Q. When you went to vote somebody replaced you?

A. Not in our department. I don't know how about the others. They could afford to let some of us go and would still continue laying brick.

Q. You didn't lose time or pay for going to vote?

A. No, sir.

Q. There were both nominations and elections held on separate dates, is that it?

A. Yes, sir.

Q. Do you recall who was elected chairman of the plan, first year?

A. Mart Murphy, I believe.

Q. Was he re-elected on subsequent elections?

A. Yes, sir.

Q. That is, 1934 and 1935?

A. And 1936.

Q. And 1936?

A. Yes, sir.

Q. He has been chairman of the plan ever since its initiation, is that correct?

A. Yes, sir.

Q. Under the plan have there been any general meetings for members?

A. Not that I know of.

Q. Have there been members of the General Body?

A. Yes, sir.

Q. What is the General Body?

A. It is composed of the representatives from the different departments. They meet once a month.

Q. Where do they meet?

A. Well, there was a room provided for us in the old office at the Hazelton Furnace, for a number of years.

(The document was thereupon marked for identification as Board's Exhibit No. 57.)

Q. That is on the plant property, is that correct?

A. Yes, sir.

Q. I hand you Board's Exhibit No. 57 for identification and ask you to state what that is, please?

A. That is a schedule furnished by the management of the meetings of the representatives.

Q. And is that prepared by the management?

A. Yes, sir.

Q. That is mimeographed on this ditto machine?

A. Yes, sir.

Q. Board's Exhibit No. 57, for 1936 and 1937, was that handed to you personally?

A. Yes, sir.

MR. LAUTER: I offer this in evidence as Board's Exhibit 57.

MR. DAY: No objection.

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 57.

TRIAL EXAMINER LINDSAY: Any objection?

MR. DAY: It is all right.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 57 is received in evidence.

(The document previously marked for identification as Board's Exhibit No. 57 was received in evidence.)

BY MR. LAUTER:

Q. Were you ever elected a representative under the plan?

A. Yes, sir.

Q. In what years were you elected representative?

A. 1934 and '35 and '36.

Q. That is, you served from 1934 to 1935, and 1935 to 1936?

A. Yes, sir.

Q. You attended meetings of the General Body?

A. Yes, sir.

Q. Did you get paid for attending those meetings?

A. Yes, sir.

Q. And those meetings that you specified were held on plant property; is that correct?

A. Yes, sir.

Q. Were you also a member of any of the committees?

A. No. 2 committee.

Q. What is No. 2 committee?

A. Well, it is supposed to be for wages, working schedule, working conditions et cetera.

Q. Where were meetings of the No. 2 committee held?

A. At the same place as the General Body meetings.

Q. That is, in the plant?

A. Yes, sir.

(The document was thereupon marked for identification as Board's Exhibit No. 58.)

Q. I hand you Board's Exhibit No. 58 for identification, and ask you to state what that is.

A. That was the results of the election of 1936.

Q. Is that the year in which you were elected a representative?

A. I was elected that year too, yes.

Q. And this is the result of the election, is that correct?

A. Yes, sir.

MR. LAUTER: I offer in evidence Board's Exhibit No. 58.

TRIAL EXAMINER LINDSAY: Any objection?

MR. DAY: No.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 58 is received in evidence.

(The document previously marked for identification as Board's Exhibit No. 58, was received in evidence.)

Q. Did you receive copies of the minutes of the meetings of the General Body?

A. Yes, sir.

Q. How did you receive those minutes?

A. Well, they generally came through the mail, delivered at the cap department, at the plant.

Q. Right in the plant?

A. Yes, sir.

Q. And those minutes were dittoed by the company, is that correct?

A. As far as I know, yes.

Q. Who took the minutes of the meetings of the General Body?

A. The Secretary.

Q. What was his name?

A. Well, Joe Smith was secretary in 1936, I believe.

Q. What did you do with the minutes when you received them, of the General Body?

A. I just took them home and filed them.

Q. Well, was there any way of communicating what happened at the meeting, to the men, by the posting of the minutes?

A. I never posted them, I had no place to post them.

Weren't any bulletin boards available, I don't think.

Q. Well, was there a request made for bulletin boards, for posting minutes?

A. Yes, requests were made for bulletin boards several times, but we never got any in our department.

Q. Any membership cards in the employees' representation plan?

A. No.

Q. Was membership automatic in the organization when you voted for representative?

A. Sir?

Q. Is membership automatic when you vote for representative?

A. Yes, sir.

Q. Who is the management representative under the plan, in the Youngstown district?

A. Mr. McCoy.

Q. Did he attend the meetings?

A. Well, he was at the meetings but not while they were in session.

Q. Will you describe a meeting of the No. 2 committee that you attended?

A. Well, it was composed of five employees' representatives and five of the management's representatives.

Q. You are referring now, to a joint committee, is that right?

A. Yes, joint committee.

Q. There was also a standing committee No. 2?

A. Yes, standing committee.

Q. How many employees was that composed of?

A. Five.

Q. Five employee representatives?

A. Yes.

Q. And the joint committee was composed of five employee representatives?

A. Yes.

Q. And the joint committee was composed of five employee representatives with five management representatives?

A. Yes, sir.

Q. What was discussed at the No. 2 joint committee?

A. Joint committee?

Q. Yes.

A. Well, we generally had cases to discuss on wages, generally wages.

Q. Were minutes of those meetings also gotten up by the company?

A. Yes, sir.

(The documents were marked for identification as Board's Exhibits Nos. 59 and 60.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 59 for identification and ask you whether or not these are the minutes of the first regular meeting of the joint committee No. 2, August 17, 1934?

A. Yes, sir.

MR. LAUTER: I offer these minutes in evidence as Board's Exhibit No. 59.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 59 is received in evidence.

(The document previously marked for identification as Board's Exhibit No. 59, was received in evidence.)

MR. DAY: I understand this is a copy that this man received as a member of the General Body.

MR. LAUTER: As a member of the Joint Committee No. 2.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 59 is received in evidence.

BY MR. LAUTER:

Q. I call your attention to the statement in Board's Exhibit 59 that the committee was not able to agree upon choice of the officers, and adjourned. Will you describe what took place August 17, 1934, referred to in Board's Exhibit No. 59?

A. Was that joint committee meeting No. 2?

Q. That is correct.

A. Well, at the first meeting, why it is the general custom to elect officers. Well, we tried to make an election at that. We balloted and balloted and we couldn't get to any conclusion. We balloted until it was dark. At that time they had no lighting facilities, because they had had a fire in that building, we was holding our meeting, so we adjourned until a later date.

Q. You say you balloted and balloted, how does it happen that you weren't able to decide upon a selection for chairman?

A. Well, it appeared that they wanted the chairmanship and we wanted the chairmanship and we balloted—

Q. When you say "they" tell me whom you refer to?

A. The management, I would say.

Q. The company representatives on the Joint No. 2 Committee meeting?

A. Yes, sir.

Q. What happened?

A. Well, we just voted until we couldn't vote any longer, so we adjourned the meeting.

Q. What happened at each vote?

A. Five—

Q. Because there were five management representatives and five employee representatives?

A. Yes.

Q. You balloted until dark? Did you meet again after that?

A. I think one week later.

Q. What happened then?

A. Well, we gave them the election.

Q. When you say you gave them the election, you mean you permitted them to have the chairmanship, is that correct?

A. Yes, sir.

Q. Why was it particularly important to have the chairmanship of that committee?

A. Well, maybe the management could tell that. They put up a pretty bitter battle for it. I couldn't say, unless there would be something in the procedure that they could gain some benefit from it.

Q. Was there some sort of procedure with respect to making motions?

A. Well, sometimes they could entertain a motion to cut the ballots down to two ballots, that is the balloting on wage cases.

Q. You mean where there was a five to five tie?

A. Yes.

Q. They would cut down the ballots to two ballots?

A. Two ballots.

Q. I hand you Board's Exhibit No. 60 for identification, and ask you whether or not this is a case which was presented to the chairman and members of the Joint Committee No. 2. and referred to here as having been filed March 20, 1936?

A. Yes, sir.

Q. And is this a copy which you received?

A. Yes, sir.

MR. LAUTER: I offer that as Board's Exhibit 60.

(The document was thereupon marked for identification as Board's Exhibit No. 61.)

MR. DAY: We object to this Board's Exhibit 60 upon the ground it does not tend to support any charge in the complaint. It is irrelevant and immaterial and incompetent.

TRIAL EXAMINER LINDSAY: May I see it, please?

MR. DAY: It has no bearing on any issue presented here.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show the exception. Board's Exhibit 60 is received in evidence.

MR. DAY: What is the date?

TRIAL EXAMINER LINDSAY: This is 1936?

MR. LAUTER: The exhibit itself is not needed, except March 20, 1936, it was filed.

Q. I call your attention to the pencil notations at the bottom of Board's Exhibit 60, which states: "Motion present rate be retained, vote five yes, five no. Motion, rate be raised to sixty cents per hour, five yes, five no," will you explain what that means?

MR. DAY: I object to that, on the same ground we objected to the exhibit.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

(The document previously marked for identification as Board's Exhibit No. 60 was received in evidence.)

A. Why, the way that thing came about, why we would consider the cases and discuss them and then finally one of the members on either side would make a motion. If it was us, we would probably make a motion to grant the request.

Q. You say "us"—you mean the employee representatives?

A. Yes. Well, then when we would count the ballots they would generally be five and five, and then on the next ballot why someone of the management representatives would make a motion that the rate be retained and of course—

Q. That is, the old rate, before the request?

A. Yes, and then the ballot would probably be the same, five and five. That is the way they did, on that one.

Q. Did that happen on most of them, that way?

A. Well, quite a few.

Q. Do you recall the exact number that were taken up in joint committee No. 2?

A. No, I have no idea.

Q. Will you describe how grievances were handled under the employees representation plan?

A. Well, when the men had grievances they first went to the superintendent, and told him the grievance, and he in turn took it up with the management. And he would generally come back and tell us that they would not go along with it, so then we would take it up with No. 2 committee, ask to have it taken up with No. 2 committee. Of course, we would file that in writing, to Mr. McCoy. And in a few days, why we would get notice that it was being turned over to the No. 2 committee, and the first meeting that came along, why we would handle the case.

Q. That is, Plant Committee No. 2?

A. Joint Committee No. 2.

Q. Joint Committee No. 2? I hand you Board's Exhibit 61 for identification, and ask you whether or not these are the forms supplied by the company which you used in handling grievances?

A. Yes, sir.

MR. LAUTER: I offer in evidence Board's Exhibit No. 61.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: No objection?

MR. DAY: Well, we object on the ground they haven't any relevancy to any issue presented here. We do not object on the ground they are copies.

TRIAL EXAMINER LINDSAY: The objection is overruled, let the record show an exception. Board's Exhibit 61 received in evidence.

(The document previously marked for identifica-

tion as Board's Exhibit 61, was received in evidence.)

Q. (By Mr. Lauter) Do you know whether or not the management representatives had any notice of the character of the grievances that were taken up at the Joint Committee Meeting No. 2?

A. No, I don't. I would not know.

Q. Will you describe their actions at the meetings?

A. Well, sometimes the battle would get pretty hot, and then others, other times they would appear—offer very little resistance, they would just sit mum and ballot, and then vote their way, five against us.

Q. After it was taken up with No. 2 Committee, you had the five to five tie, what would happen to the case?

A. Well, you still had a chance to appeal it to No. 4 committee.

Q. Did you ever take a case up with the No. 4 committee?

A. Yes, sir.

Q. Will you describe what happened there?

A. Well, it was the same thing, five to five, tie.

Q. So that you did not get anywhere with the grievances?

A. Not with No. 4 committee.

Q. Were there any dues ever paid into the plan by the members?

A. No.

Q. Who paid for the expenses in connection with the operation of the plan?

A. Well, as far as my expenses were concerned, the company paid me. I just got paid for the hours I lost from my work, attending meetings.

Q. I refer also to the printing of the by-laws, printing of minutes.

A. As far as I know.

Q. Furnishing booths, ballots, tally sheets, taking photographs of the representatives?

A. As far as I know.

Q. Time lost while these photographs were being taken?

A. Yes, sir.

Q. Time lost while you were out voting?

A. Yes, sir.

Q. Time lost at annual conferences?

A. Yes, sir.

Q. Banquets were furnished at annual conferences?

A. Yes, sir.

Q. Paid for by the company, is that correct?

A. Yes, sir.

(The documents were thereupon marked for identification as Board's Exhibits Nos. 62, 63, and 64.)

Q. (By Mr. Lauter) Who is Mr. Quinby? Was he a representative under the plan?

A. Yes, he was a representative in 1933, I believe.

Q. 1933 and 1934? You were first elected representative in 1934 and 1935, is that correct?

A. Yes.

Q. Do you recall a wage increase for brick-layers which you took up?

A. Which I took up?

Q. Which he took up?

A. Well, he was supposed to have taken it up, I don't know.

Q. Did you ever have up a request?

A. Yes, I took it up.

Q. Will you describe what happened to that request?

A. Well, I followed the usual procedure and then I finally got a meeting with Mr. Levantry.

Q. Who is Mr. Levantry?

A. He was assistant manager I guess at that time, probably district manager now.

Q. Yes.

A. Of course, we asked for Ohio Works rate, and we only got the Sheet and Tube rate.

MR. DAY: I object to that on the ground incompetent, irrelevant and immaterial; it has no bearing on any issue in this case.

TRIAL EXAMINER LINDSAY: The objection overruled, let the record show an exception.

Q. (By Mr. Lauter) Go ahead.

A. We asked for the Ohio Works rate.

Q. By "Ohio Works rate" you are referring to the Carnegie-Illinois plan?

A. Yes.

Q. Go ahead.

A. We finally got an adjustment to the Sheet and Tube level.

Q. Will you state what conversation took place? Which resulted in your finally getting the Sheet and Tube and not getting the Ohio rate?

A. Mr. Levantry said—

MR. DAY: Note the same objection.

TRIAL EXAMINER LINDSAY: The same ruling. Objection is overruled. Let the record show an exception.

A. As long as they were meeting the Sheet and Tube level they were meeting the valley rate, it wasn't necessary that they should have to pay a higher rate in the valley.

Q. Do you know whether or not any explanation was made to employees representatives under the Ohio Works Plan with respect to the character of the wages they were to receive as brick-layers?

MR. DAY: Object to that.

TRIAL EXAMINER LINDSAY: I just don't get the connection there.

(The last question was read by the Reporter.)

TRIAL EXAMINER LINDSAY: Off the record.

TRIAL EXAMINER LINDSAY: What plan are you referring to?

MR. LAUTER: Referring to conversation had between Mr. Goest and their representatives, representing under the Ohio Works Plan, the compensation which he was to get.

TRIAL EXAMINER LINDSAY: That is part of the Republic Steel?

MR. LAUTER: No part of the Republic Steel.

MR. DAY: No, Carnegie.

TRIAL EXAMINER LINDSAY: I will sustain that objection.

Q. (By Mr. Lauter) I hand you Board's Exhibit No. 62 for identification and ask you whether or not they are minutes of the regular meeting of the General Body, of February 5, 1937?

A. Yes.

Q. They are?

A. Yes.

Q. I hand you Board's Exhibit No. 64 for identification, and ask you whether or not they are minutes of the special meeting of the General Body March 5, 1937?

A. Yes, sir.

Q. I hand you Board's Exhibit No. 63 for identification, and ask you whether or not they are minutes of the special meeting of the General Body on February 26, 1937?

A. Yes, sir.

Q. Are Board's Exhibit 62 for identification, 63 for identification, and 64 for identification, copies of minutes which you personally received?

A. Yes, sir.

MR. LAUTER: I offer in evidence, as Board's Exhibit 62, 63, 64.

MR. DAY: We object to exhibit No. 62; on the ground it is incompetent, irrelevant and immaterial and has no relation to any issue here involved, or any charge presented in the complaint.

TRIAL EXAMINER LINDSAY: The objection to Board's Exhibit 62 is overruled, and let the record show an exception, and Board's Exhibit 62 is received in evidence. Are there any objections to 63 and 64?

MR. DAY: Yes, the same ground.

TRIAL EXAMINER LINDSAY: All obje are overruled to 63 and 64 and let the record sh exception. Board's Exhibit 63 and 64 are recei evidence.

(The documents previously marked for iden tion as Board's Exhibits Nos. 62, 63 and 64 we ceived in evidence.)

MR. LAUTER: May I note for the record am offering these last three exhibits without the notations made by my worthy associate, Mr. Hos

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: The offer is being made wi those.

(The document was thereupon marked for id cation as Board's Exhibit No. 65.)

Q. (By Mr. Lauter) I hand you Board's Exhib 65 for identification, and ask you whether or not it minutes of a special meeting of the General Body of 15, 1937?

A. Yes, sir.

MR. DAY: Leave this off the record if you to.

MR. DAY: The exhibits were marked with cil mark.

MR. LAUTER: The record shows the offe made without the pencil notations.

TRIAL EXAMINER LINDSAY: If the rec states that the pencil notations on those exhibi not a part of the exhibits, then that covers it.

MR. DAY: Well, we would like to ask the Ex er to request counsel, in offering these exhibi erase pencil marks on it.

TRIAL EXAMINER LINDSAY: You are r ing to pencil marks on the side?

MR. DAY: Yes. They ought to be erased off; no part of the minutes.

MR. LAUTER: I think the record is perfectly clear.

TRIAL EXAMINER LINDSAY: Yes, it doesn't make any difference.

MR. DAY: Note an exception to the overruling of the request to strike—to erase the pencil marks on both exhibits.

Q. (By Mr. Lauter) Board's Exhibit No. 65 for identification is a copy of the minutes that you personally received, is that correct?

A. Yes.

MR. LAUTER: I offer in evidence Board's Exhibit 65.

MR. DAY: We object to this exhibit on the ground already stated with relation to the last three or four exhibits offered and received.

TRIAL EXAMINER LINDSAY: The objection is overruled. Board's Exhibit 65 is received in evidence.

(The document previously marked for identification as Board's Exhibit 65 was received in evidence.)

MR. LAUTER: May I call to your attention, Mr. Trial Examiner, the following passage in Board's Exhibit 65: "The General Body suggests and recommends the following: (1) a change of the plan whereby they would not be dominated by the management."

Q. (By Mr. Lauter) Now, you were elected a representative in 1935, is that correct?

A. Yes, '34, '35 and '36.

Q. In the election of 1935 to '36, was that election contested?

A. Yes, sir.

Q. Who ran against you?

A. I think Leszinsky, I think the name is.

Q. Was one of your opponents for election as representative Joseph O'Hara?

A. Yes, sir.

Q. At what election was that, if you recall?

A. That must have been 1935.

Q. 1935?

A. Yes.

Q. Will you describe the election of 1935, any special circumstances that attended that election?

A. Well, the contest was getting pretty hot, and some of the boys told me that I was going to lose out, that O'Hara was running around through the mill during working hours, getting votes.

MR. DAY: I move that be stricken out as hearsay; incompetent, irrelevant and immaterial and hasn't any bearing on any issue presented by the complaint and the answer.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

Q. Go ahead.

A. And he would have a chance to leave his job, they gave him permission to leave his job to go around among the men to solicit votes.

MR. DAY: The same objection, the same ground.

TRIAL EXAMINER LINDSAY: The same ruling.

MR. DAY: Exception.

Q. (By Mr. Lauter) Were you given permission to go around the plant to solicit votes?

A. No, I wasn't.

Q. Did you have any conversation with Mr. O'Hara after that?

A. Yes, he told me that.

Q. The election of 1935?

MR. DAY: Object to conversation with Mr. O'Hara.

MR. LAUTER: If you please, I would like to finish the question before objection is made.

MR. DAY: All right.

Q. Did you have any conversation with Mr. O'Hara after the election of representatives in 1935, at which time you were elected representative?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: There was one objection made by Mr. Day, I haven't ruled on. The objection is overruled. Let the record show an exception.

Q. (By Mr. Lauter) State what the conversation with Mr. O'Hara was?

A. Mr. O'Hara stated that he was gave permission to go around and solicit votes.

MR. DAY: I move to strike that out, incompetent, irrelevant, immaterial, no evidence connecting it with the respondent.

TRIAL EXAMINER LINDSAY: The motion is denied. Let the record show an exception.

Q. Did he state by whom he was given permission?

A. I guess the foreman.

Q. The foreman?

MR. DAY: The same objection.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

Q. Have you attended any of the annual conferences provided for in the by-laws?

A. Yes, sir.

Q. What is an annual conference that takes place?

A. Well, it is supposed to be a general meeting of all the representatives, the employees representatives and the management representatives.

Q. And is there a banquet given in connection with the annual conference?

A. Yes, as a rule.

Q. You have already testified that was paid for by the company, is that correct?

A. Yes, sir.

Q. What, of a business nature, under the plan, wa considered at the annual conference?

A. Well, they generally make amendments to the con stitution—try to.

Q. At the annual conferences you attended, were an amendments made to the constitution?

A. Yes, the first one I think there was.

Q. Were there any amendments made to it in sub sequent annual conferences that you attended?

A. I just don't remember. I don't think.

Q. Do you know whether or not there were an equa number of votes for the management and for employees a the annual conference?

A. I think so.

Q. So that a tie vote might quite effectively stop an amendments thereto?

MR. DAY: Object to the form of the question.

MR. LAUTER: I will change the form. Withdra the question.

Q. (By Mr. Lauter) How many employees represen tatives were there, and management representatives, at th annual conference?

A. I couldn't say, I didn't count.

Q. Didn't know? Do you know whether or not the were in equal number?

A. No, I couldn't say.

Q. Were you a member of the No. 2 committee at al times while you were a representative?

A. Yes, sir.

Q. At any time were you removed as member of the committee?

A. Yes, sir.

Q. Describe the circumstances and when it took place

A. I think it took place in the meeting of November 1936.

Q. Will you please state what took place.

A. Well, it was a meeting of the General Body Meeting, and the motion was made that the chairman, Mart Murphy, change the No. 2—change all of the committees.

TRIAL EXAMINER LINDSAY: Would you gentlemen like a five minute recess?

MR. LAUTER: I would just as soon continue on and finish up with this witness.

A. And of course the motion was seconded and carried, and that gave the chairman the permission to change the committees.

Q. Will you describe what happened after that?

A. And when the committees were changed, I was taken off of No. 2 committee.

Q. Did you say anything about the fact that you were taken off No. 2 committee?

A. Sir?

Q. Did you say anything about the fact that you were taken off?

A. I talked to Mart about it.

Q. What did he say?

A. He said—

MR. DAY: I object to this conversation.

A. He replaced me—

TRIAL EXAMINER LINDSAY: Objection overruled and let the record show an exception.

A. He said he had replaced me with no thought of injuring my feelings, just to place another man on, the man that wanted a change.

Q. Did you say anything to Mr. Murphy?

A. Oh, yes, I told Mr. Murphy I didn't think he did it in the interests of the men and the mill.

Q. Why didn't you think it was in the interests of the men and the mill?

MR. DAY: Objection.

TRIAL EXAMINER LINDSAY: Overruled: Let the record show an exception.

A. Because I tried to do the best for the men that I could.

Q. What happened after that?

A. Well, then at the next meeting why we argued it out on the floor and I made a motion that the committees would remain as they were appointed in the first place, and that motion carried, so they replaced us back on the committees.

(The documents were thereupon marked for identification as Board's Exhibits Nos. 66, 67, 68, and 69.)

Q. I hand you Board's Exhibit 66 for identification and ask you whether or not they were the minutes of a regular meeting of the General Body March 25, 1937?

A. Yes, sir.

Q. I hand you Board's Exhibit 67 for identification and ask you whether or not they were minutes of a special meeting of the General Body of April 19, 1937?

A. Yes.

Q. I hand you Board's Exhibit 68 for identification and ask you whether or not they are the minutes of the meeting of the employee representatives of the Central Council, Northern Steel plants?

A. Yes, sir.

Q. I hand you Board's Exhibit No. 69 for identification and ask you whether or not they are the minutes of a special meeting dated March 18, 1937, Republic Steel Corporation, Cleveland, Ohio, Joint Committee of the representatives of the Northern Steel plants and their subsidiaries?

A. Yes, sir.

Q. Now, are the last four named Board's Exhibits for identification copies of minutes which you personally received?

A. Yes, sir.

MR. LAUTER: I offer in evidence as Board's Exhibits 66, 67, 68 and 69. I wish the record to show that I am offering these last named exhibits without the pencil notations on said exhibits.

MR. DAY: I would like to make the same objection to each of these exhibits as we made to other exhibits of minutes recently received.

TRIAL EXAMINER LINDSAY: The same as you made to exhibits 62 and 63 and so forth?

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception. Exhibit Nos. 66, 67, 68 and 69 are received in evidence.

(The documents previously marked for identification as Board's Exhibits 66, 67, 68 and 69 were received in evidence.)

BY MR. LAUTER:

Q. Now, I call your attention, Mr. Goest, to a statement contained in Board's Exhibit 66: "Chairman Murphy and John Goest attended meeting at Cleveland March 18 when the management announced that policy concerning the following items."

MR. DAY: May I ask a question? Did this man attend these meetings himself?

MR. LAUTER: That is right. As a matter of fact, that is my next question.

Q. Did you attend meetings at Cleveland?

A. Yes, sir.

Q. Will you describe how you knew for the first time there were going to be meetings in Cleveland?

A. Well, Mr. Elliott came into our General Cap Body meeting.

Q. Who is Mr. Elliott?

A. He was district manager.

Q. Of the Youngstown plant?

A. Yes, sir.

Q. Youngstown area?

A. Yes, sir.

Q. Go ahead.

A. And he explained there was two men being sent from each one of the several units, and asked that the Youngstown district furnish two delegates to attend that meeting in Cleveland. It was supposed to be for wages and discussing a vacation plan.

Q. Yes.

A. So we asked for an election for those two delegates and I happened to be one of the men elected and Mart Murphy was the other.

Q. You both went to the meeting?

A. We both attended.

Q. How did you go there?

A. Went on the train.

Q. Were expenses paid?

A. Yes.

Q. By the company?

A. Yes, sir.

Q. All expenses paid while you were in Cleveland?

A. Yes, sir.

Q. I call your attention to Board's Exhibit 69, a statement contained therein: "At this point a motion was made and seconded that all of the representatives of both steel and subsidiaries back the management in opposition to all outside labor organizations, and this motion was carried unanimously."

A. Yes, sir.

Q. Was that motion made while you were present?

A. Yes, sir.

Q. You were at the meeting at which that took place?

A. Yes, sir.

Q. Will you describe what took place at the first meeting you attended in Cleveland? When and where it was held, who was present, what time it took place?

A. It was held in the Republic Building, Cleveland, Ohio, and there was, I think, some eighteen members of the different units, employees representatives, and then there was some of the management, I couldn't just name them. Mr. Levantry was there, Mr. McCoy, Mr. Voss.

Q. Other officials of the Republic Steel Corporation were present?

A. Mr. White. Yes, sir.

Q. How long did those meetings last?

A. Well, we left here on the morning train and it lasted all day. Then they were held over until the next day. That was the first meeting, held over into the second day.

Q. And did you attend any of the meetings in Cleveland, apart from the first one you went to?

A. Yes, sir.

Q. What happened at those meetings?

A. Well, the next meeting I think was called to revise the representative plan to conform to the Wagner Act.

Q. Will you describe what took place at that meeting?

MR. DAY: We object to his characterization of the meeting and move that be stricken out. That would be just his own conclusion, as to why it was called.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

A. So of course we went to the meeting and we took along with us those little blue books.

Q. Are you referring to the by-laws?

A. By-laws.

Q. And the employee representation plan?

A. Yes, sir.

Q. You had a copy when you went to the Cleveland meeting?

A. Yes, sir.

Q. Did other representatives have copies of their by-laws?

A. Yes, sir.

Q. What did you do with the by-laws, at the time?

A. We just read through them, and the ones that we thought contained the best—that would get the workingman the most, that is what they dictated into the new plan.

TRIAL EXAMINER LINDSAY: Off the record.

(There was a discussion off the record.)

(Thereupon the document referred to was marked for identification as Board's Exhibit 70.)

BY MR. LAUTER:

Q. I hand you here Board's Exhibit No. 70 for identification, and ask you whether this is the proposed revision of the plan of employee representation which you worked on at the Cleveland meeting?

A. (Witness examines exhibit) Yes.

Q. Is that your personal copy?

A. Yes.

Q. Are the personal notations on Board's Exhibit 70, for identification, pencil revisions which you personally inserted?

A. Yes.

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 70 (handing to counsel).

(Counsel for the Respondent examines exhibit.)

MR. DAY: We object to it on the same grounds that we have made the subject of objection to other exhibits recently offered and received.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception, and Board's Exhibit No. 70 is received in evidence.

(Exception by Respondent.)

(The document previously marked for identification as Board's Exhibit No. 70 was received in evidence.)

BY MR. LAUTER:

Q. From whom did you receive Board's Exhibit No. 70, Mr. Guest?

A. It came through the mail in the same way, I think.

Q. It came through the mail?

A. Yes.

Q. To you?

A. Yes.

Q. Do you know whether or not it came as is stated here on the letter of transmittal?

A. Yes, it came from Buffalo, special delivery.

Q. Came from Mr. O'Connell?

A. Yes, special delivery.

Q. Who is he?

A. I think he was the Secretary of the Council that met up there.

Q. The Central Council?

A. Yes, Central Council.

Q. Was there a discussion about the C. I. O. at this Cleveland meeting?

A. Where?

Q. Was there a discussion about the C. I. O. at this Cleveland meeting?

A. Yes, it was discussed.

Q. And what did they say?

MR. DAY: I object.

TRIAL EXAMINER LINDSAY: The objection is overruled.

MR. DAY: Let the record show I object on the ground that the—

THE WITNESS: Well, they pointed out—

MR. DAY: Wait a moment.

—that there is no evidence that the meeting was attended by any officer of the Respondent, and that anything that was said was said with the knowledge or consent or authority of the Respondent.

MR. LAUTER: May I say something.

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: There is testimony already that Mr. Voss, Director of Industrial Relations, Mr. White, a Vice-President of the Company, and a number of other officers were present at these Cleveland meetings at one time or another.

TRIAL EXAMINER LINDSAY: The objection is overruled.

MR. DAY: Let the record show that there is no evidence that they were present at this particular meeting.

TRIAL EXAMINER LINDSAY: What is that?

MR. DAY: There is no evidence that they were present at the time of this discussion that this witness is being asked to detail, at the time that it took place.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception for the Respondent.

(Exception for Respondent.)

BY MR. LAUTER:

Q. Mr. Guest, do you know whether any officials of the Republic were present at the Cleveland meeting that you are now referring to?

A. Yes.

Q. Who were the officials that were present?

A. Mr. White.

Q. Is he Vice-President of the Company?

A. Yes, sir.

Q. How many meetings did you attend in Cleveland?

A. I think it was four. I am not positive, three or four.

Q. Do you know whether or not any other meetings were held in Cleveland?

A. Yes.

Q. In addition to the four which you attended?

A. Yes, there was a meeting held afterwards that I did not attend.

Q. How did it happen that you did not attend the last meeting that you are referring to just now?

A. Well, I couldn't say, but there was someone else taken up there in my place.

Q. Who was taken in your place?

A. Mr. Hughes, I believe.

Q. Now, was any explanation ever made to you by anyone about why Mr. Hughes was taken instead of you?

A. No.

Q. Were you not one of the delegates that was elected to go?

A. Yes, I was elected to go.

Q. How does it happen that you did not go to the last meeting?

A. I couldn't say any further than I have stated. I was not notified there was a meeting going on, but I learned afterwards from Mr. Hughes that he attended the meeting.

Q. Who generally told you that there were going to be meetings in Cleveland?

A. Well, we generally were notified either by phone, or a written notice.

Q. Did Mart Murphy ever notify you?

A. Yes.

Q. He did not notify you of the last meeting?

A. No, not this time.

Q. Instead took Mr. Hughes?

A. Yes.

Q. I asked you before what was said at the previous meeting about which you were testifying, with respect to the C. I. O.

MR. DAY: I object.

A. They just talked the advantages of the representative plan.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception for the Respondent.

(Exception by Respondent.)

BY MR. LAUTER:

Q. Repeat your answer.

A. They just pointed out the advantage of the representative plan over that of the C. I. O.

Q. Now, following the meeting of March 15, 1937, and subsequent to the meetings of the Central Council in Cleveland, were you ever instructed to go back among the men to inquire about how they felt about the plan?

A. Yes, sir.

Q. What did you do about that?

MR. DAY: Well now, who instructed him?

BY MR. LAUTER:

Q. Who instructed you? Or what was the instruction?

A. Well, we were holding a meeting, and Mr. Chairman—the Chairman, Mr. Murphy, told us—

Q. What did you do?

A. —to go out among the men and find out how they felt on the representative plan.

Q. Did you go out among the men?

A. Yes, I worked eight hours.

Q. Did you get paid for those eight hours?

A. Yes, sir.

Q. At the time you went out among the men to find out how they felt about the employees' representative plan, were you given any copies of Board's Exhibit No. 55 (showing paper to witness)?

A. Yes, sir.

Q. Will you describe what conversation there was, if any, at the time you were handed these membership cards?

MR. DAY: With whom?

BY MR. LAUTER:

Q. And also by whom the conversation was, and where?

A. Well, we were just asked to try and interest the men in that, to accept—

Q. Who told you that?

A. The Chairman.

Q. Mr. Murphy?

A. Yes, sir.

Q. And he told you this at a meeting of the general body?

A. Yes, sir.

Q. How many cards did you get?

A. Thirty-three.

Q. How does it happen that you only got thirty-three?

A. Well, that was all they had.

Q. How?

A. That is, that was all that was allotted to the department.

Q. Was any explanation made of the fact that you only got thirty-three?

A. Well, it was they were financing the thing themselves.

Q. You say financing the thing themselves. Where did the funds come from to print those cards, do you know?

A. Yes, I can tell you. There was $12.71 in the treasury, I believe, from a stag party.

Q. Yes.

A. It was a special fund—I don't think they had any special—it was just a special fund they had from a stag party.

Q. And as a result of that stag party they collected $12.71?

A. $12.71, profits.

Q. And they had the cards printed from the funds of that party?

A. Yes.

Q. There were more men worked in your department than thirty-three, is that correct?

A. Yes, sir.

Q. You went around the plant for eight hours trying to get men to sign up?

A. No, that's a mistake.

Q. What did you do?

A. I just went around for the eight hours inquiring how the men felt and keeping the old representative plan.

Q. I see.

A. And this was another occasion when I was handed the yellow cards.

Q. It was another occasion when you were handed the yellow cards?

A. I never spent no time of my own or of the Company's, not with the yellow cards.

Q. I see. Do you know whether or not those were taken around the plant?

A. Yes.

Q. You saw them?

A. Yes, sir.

Q. Do you recall a so-called Mayor's petition?

A. Yes, sir.

Q. Describe what it was.

MR. DAY: We object to that on the ground it is improper, irrelevant and immaterial, and has no bearing on any issue presented in this case.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception for the Respondent.)

(Exception on behalf of the Respondent.)

A. The first I heard of the petition to the Mayor, I was called at my home. I was off that day, and I was notified there was a petition down in the office waiting on me, and I asked their clerk that called me on the phone to read it to me. So he read it off, and I said: "Can't it go until tomorrow? I will be working tomorrow," I said.

He said: "No, we are in a hurry to get it signed."

Q. Who was the clerk that called you?

A. Mr. Sweeney.

Q. Was that the clerk of the electric department?

A. Yes.

Q. Go ahead.

A. He said, "Well, if you don't want to take it around, if you will designate someone else, why, we will give it to him."

So I asked him to read it to me, and he read it to me, and after I heard of it on the phone, I thought I would go down and handle it myself.

So I went down and read it myself, and looked at it, and I went around the plant with it, in my department, on my own time. The Company didn't pay me.

Q. Did you have any objection to the language in the petition?

A. Yes, there was one part I objected to.

MR. DAY: I object to the question on the ground it is incompetent, irrelevant and immaterial, whether the witness had any objection to it himself or not.

MR. LAUTER: I will withdraw the question.

TRIAL EXAMINER LINDSAY: Well, I think—

MR. LAUTER: I say, I will withdraw the question.

BY MR. LAUTER:

Q. What was the language of the petition, do you recall?

A. Well, I just can't recall the wording of it, but there was parts of it, as far as not wanting to strike, and continuing with our work, I was in accord—but there was a part in there that said we were satisfied with our present conditions, that was the part that I did not agree with.

MR. DAY: I move that last be stricken out on the ground it is immaterial whether he did or did not agree with it.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception for the Respondent.

(Exception by Respondent.)

BY MR. LAUTER:

Q. What was the reason that you left your home on a day when you were not working to go down to the plant?

A. Well, I was the representative and I—the boys had stuck by me for the three years, and I thought I would go down there and handle that complaint—or that petition

—myself, and I would get a better understanding on what was going on.

Q. Did Mr. Leventry ever address a meeting some time in May, 1937, at which you were present?

A. Yes, I heard Mr. Leventry at several meetings.

Q. Will you describe what happened at these meetings at which Mr. Leventry was present—

MR. DAY: Fix the time.

BY MR. LAUTER:

Q. And fix the time as closely as you can, where it was, and the time of day.

A. Well, I have heard Mr. Leventry discuss wages with us, and on several occasions, other things.

I don't know of any special occasion.

Q. Did he ever discuss with you the Independent Federation of Public Employees, at any meeting at which you were present?

A. No.

Q. Do you recall a meeting some time in May, 1937, at which he spoke?

A. He was at several meetings.

Q. With the representatives of the plant?

A. He was at several meetings in May.

Q. Do you recall the evening that the C. I. O. met to put a strike vote?

A. Yes, sir.

Q. Was there a meeting on the E. R. P. on that same night?

A. Yes.

Q. Did Mr. Leventry speak at that meeting?

A. I believe he did.

Q. Will you tell us what he said, in substance, at that time?

A. Well now, I think the way it came about that Mr. Leventry—there was a motion made to invite Mr. Leventry to that meeting. After the meeting was well under way there was some discussion arose that they thought Mr.

Leventry could be called in, and there was a motion made and seconded, and carried, to invite Mr. Leventry to come over and speak to us.

Q. Did he come?

A. Yes.

Q. Well, tell me what he said.

A. Well, I think the discussion was that—on the floor, they had argued it out—that the time was ripe now that they would have to do something to prevent the strike, and they had an idea if they could get out in the plant among the men that they could prevent the strike, that is, if the representatives would be allowed permission to go out in the plant among the men on that turn, starting right there at 10 o'clock, that it may prevent the strike. And I think that was what Mr. Leventry was called into the meeting for.

Q. Did the representatives vote to circulate through the plant?

A. Yes, sir.

Q. And did they?

A. I think they did. I didn't—I went home.

Q. Did you return to work the next day?

A. I returned to work the next morning.

Q. Did you discuss with any of the representatives whether or not they did circulate through the plant?

A. I actually saw some of them when I was going in, some of the men that was at the meeting the night before, but I can't say whether they had been at the plant all night, I didn't inquire, I didn't bother. I just saw them still going around with the yellow cards.

Q. Did they tell you whether or not production was stopped when they spoke?

MR. DAY: I object to that.

A. I think it was.

Q. The last question was whether or not they told you whether production was stopped when they spoke in the various departments throughout the plant?

A. No.

Q. Did they tell you?

A. No, they didn't tell me.

TRIAL EXAMINER LINDSAY: Do you withdraw that objection Mr. Day?

MR. DAY: Yes.

BY MR. LAUTER:

Q. Handing you Board's Exhibit Nos. 71 and 72, for identification, and I will ask you whether or not these are Republic bulletins of the Republic Steel Corporation, and subsidiaries, dated April, 1935, and April, 1936, respectively, and I ask you to state whether you received them personally, and when?

A. Yes, I received those, I think, at the other convention—at the convention.

Q. At the annual conferences held under the plan?

A. Yes, sir.

Q. These are your personal copies?

A. Yes.

Q. Is that correct?

A. Yes.

MR. LAUTER: I offer these in evidence as Board's Exhibits 71 and 72.

MR. DAY: We object on the ground that they are incompetent, irrelevant and immaterial, and have no bearing on any issue presented in this hearing.

TRIAL EXAMINER LINDSAY: May I see those?

MR. LAUTER: Certainly (handing papers to the Trial Examiner).

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception, and Board's Exhibits Nos. 71 and 72 are received in evidence.

(Exception by Respondent.)

(The documents above referred to were thereupon marked and received in evidence as Board's Exhibits Nos. 71 and 72.)

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 73, and ask you whether or not that is a program of the annual conference under the plan of employee representation for the Republic Steel Corporation, Youngstown District, April 7, 1936 (indicating)?

A. Yes, sir.

Q. (Indicating) I hand you Board's Exhibit No. 74 for identification, and ask you whether or not it is a statement enumerating the cases, delegates that should come to the Central Council, and also the number of such delegates which each case was entitled to?

A. Yes, sir.

MR. LAUTER: I offer these in evidence as Board's Exhibits Nos. 73 and 74.

MR. DAY: I make the objection on the same grounds as we introduced to the last two exhibits.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception for the Respondent.

(Exception by Respondent.)

TRIAL EXAMINER LINDSAY: Board's Exhibits Nos. 73 and 74 are received in evidence.

(The documents above referred to were thereupon marked and received in evidence as Board's Exhibits Nos. 73 and 74.)

TRIAL EXAMINER LINDSAY: Are you through with this witness?

MR. LAUTER: Just a few more questions.

BY MR. LAUTER:

Q. I hand you Board's Exhibit No. 75 for identification, and ask you whether or not this is a notice which you received from R. N. McCoy, concerning the first annual conference of employee representatives?

A. Yes, sir.

MR. LAUTER: I offer in evidence this paper as Board's Exhibit No. 75.

MR. DAY: We object on the same grounds as were stated in our objection to Board's Exhibits Nos. 74, 73 and 72—the other exhibits.

TRIAL EXAMINER LINDSAY: The objection is overruled. The record may show an exception for the Respondent. Board's Exhibit No. 75 is received in evidence.

(Exception on behalf of the Respondent.)

(The document above referred to was thereupon marked and received in evidence as Board's Exhibit No. 75.)

BY MR. LAUTER:

Q. Do you recall a meeting on May 19, 1937, in the old office building of the Republic Steel Corporation?

A. Yes, sir.

Q. Did you attend that meeting?

A. Yes, I think I did.

Q. Was Mr. Mart Murphy present?

A. Yes, sir.

Q. Was he Chairman under the employees' representation plan?

A. Yes, sir.

Q. Did he speak at that meeting?

A. Yes.

Q. Please state what was said.

MR. DAY: I object unless there was some officer of the Respondent there at that time.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception for the Respondent.

(Exception on behalf of the Respondent.)

BY MR. LAUTER:

Q. Well, go ahead.

A. It is pretty hard to recall what he said.

Q. Now, just state the substance, in a general way, what he said.

A. He spoke thoroughly on the representation plan being better than the C. I. O., in most of his talks.

Q. How did you get notice of that meeting?

A. I think there was a bulletin posted on a board, I think that's where it was. There was a bulletin board,—a notice posted.

Q. Who was Mr. Johnson?

A. He is the superintendent of the masonry department.

Q. Is that superintendent of the department you are working in?

A. Yes, sir.

Q. Did he tell you about the meeting?

A. No, he didn't tell me.

Q. Did he tell any of the other bricklayers about that meeting?

A. Yes, he helped some of the other fellows to attend.

Q. To attend this meeting?

A. Yes.

Q. It was held on May 19?

A. 1937, yes.

Q. In the Republic Office Building, is that correct?

A. Yes.

Q. And will you tell what took place with respect to the Independent Federation of Employees, if anything?

MR. DAY: I object.

A. Is that the meeting that Mr. Smith was elected at?

BY MR. LAUTER:

Q. A meeting at which Mr. Smith was elected.

A. Well, Mr. Chairman—

MR. DAY: We object to this.

THE WITNESS: Chairman Murphy opened—

MR. DAY: Wait a moment.

TRIAL EXAMINER LINDSAY: Wait just a moment.

MR. DAY: Unless you claim there was somebody there with authority to represent the Respondent, or something of that kind.

MR. LAUTER: If it please the Trial Examiner, this is a meeting held on Company property, and the persons who attend it are employees of the Republic Steel Corporation given notice by a foreman, either through special messenger delivered to them or by posters which were posted on this property.

I think that is sufficient basis for introducing evidence.

TRIAL EXAMINER LINDSAY: Yes, the objection is overruled. Let the record show an exception.

(Exception on behalf of the Respondent.)

BY MR. LAUTER:

Q. As to the officers of the Republic, were any officers of the Employees Federation elected at that meeting?

A. Yes, sir.

Q. Was Mr. J. L. Smith elected Chairman?

A. Yes, sir.

Q. And there were several other officers elected?

A. Yes, sir.

Q. How long did that meeting last?

A. Just a couple of hours, I guess.

Q. Approximately how many people were there?

A. I would say around 300, 350.

Q. What time of day did that take place?

A. Eight o'clock that night.

Q. Did Mr. Murphy speak?

A. Yes, sir.

Q. What did he say?

MR. DAY: I object on the same ground that I have already stated.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception for the

Respondent.

(Exception on behalf of the Respondent.)

A. Well, he told us the purpose of the meeting was to form this new federation, employees federation, but that wouldn't have nothing to do with the bargaining, but that would be to back up the present representative plan, and he asked that any member of the representative plan not to run for any office in this new organization that were electing officers for—

Q. Any mention made of the C. I. O.?

A. Well, I guess there was talk of the C. I. O.

Q. What did he say about the C. I. O.?

A. Well, I guess probably thought that we could get along better with our own representation, that "if you look back into the coal fields of Pennsylvania, and see the shacks and hovels that the miners are living in that you won't want nothing to do with John L. Lewis, or his crowd."

Q. What else was said by Mr. Murphy?

A. Well, that practically summed up the whole thing. It was just a routine of one thing after the other.

Q. He spoke against the C. I. O. at that meeting?

A. Yes.

MR. DAY: I object to whether he spoke against it.

BY MR. LAUTER:

Q. Did he speak against the C. I. O. at that meeting?

A. Yes, sir.

Q. Who else spoke at that meeting?

A. I think Mr. McBride.

Q. Who is he?

A. I don't know what he does down there.

Q. Is he an employee of the Republic Steel Corporation?

A. Yes.

Q. What did he have to say?

MR. DAY: Same objection and for the same reasons.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception for the Respondent.

(Exception by Respondent.)

BY MR. LAUTER:

Q. Go ahead.

A. He quoted from a pamphlet that he had in his hand, which was afterwards passed out, copies of it were passed out among the men present there, and I think it was a pamphlet that has "C. I. O." across the front, or something to that effect.

Q. What did he have to say?

A. Well, he just went on to say that some of the officers of the C. I. O. were Communists and in the employ of the International of Russia, and a lot of other stuff like that.

Q. Did anybody else speak?

A. I just don't recollect anybody else.

Q. (Indicating) I hand you Board's Exhibit No. 76 for identification, and ask you whether or not that is a copy of a pamphlet that was passed out on the meeting at May 19 that you have just been testifying about?

A. Yes.

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 76.

MR. DAY: We object on the ground that it is incompetent and irrelevant and immaterial, and there is no evidence connecting it with the Respondents in any way, and it has no bearing on any issue involved in this hearing.

TRIAL EXAMINER LINDSAY: May I see that?

(Mr. Day hands exhibit to the Trial Examiner.)

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception on behalf of the Respondent. Board's Exhibit No. 76 is received in evidence.

(Exception by Respondent.)

(The document above referred to was marked and received in evidence as Board's Exhibit No. 76.)

MR. LAUTER: That is all for this witness.

MR. DAY: Off the record.

TRIAL EXAMINER LINDSAY: Off the record.

(There was a discussion off the record.)

TRIAL EXAMINER LINDSAY: All right, you may proceed.

Cross Examination

MR. DAY:

Q. Mr. Goest, this last meeting that you were telling out, when there was a speech made by a Mr. McBride, d Mr. Murphy, that was a meeting of the men that rked there?

A. Yes.

Q. In the plant, was it not?

A. Yes, as far as I know.

Q. There was nobody there around the company's ofers, at that time?

A. Not that I saw.

Q. No?

A. I didn't see any.

Q. About how many men were there?

A. Well, within the building, I would say around 300, d there was quite a few outside.

Q. And there was a discussion of some new organizan, or something of that kind?

A. Yes, sir.

Q. Then supposedly, so far as you know by the men mselves—

MR. LAUTER: I object to the form of the question.

MR. DAY: Why, it is cross-examination.

MR. LAUTER: I object to the form of the question whether it was supposedly by the men calls for a conclusion.

MR. DAY: You can call for a conclusion in cross-examination if you want to.

MR. LAUTER: I just want a ruling on my objection; that is all I am asking for.

TRIAL EXAMINER LINDSAY: I will overrule the objection; let the record show an exception.

(Exception by Respondent.)

BY MR. DAY:

Q. You also told about a meeting that I think was held in May about the time that the C. I. O. was going to have a strike vote; do you remember that?

A. Yes, sir.

Q. And at that meeting I understood you to say that some of the men present felt that they thought that you might hold off a strike if they ever got a chance to talk or circulate around among the men, is that right?

A. Yes.

Q. That was a meeting of what body?

A. Well, it was a general body, mainly of the representatives.

Q. About how many were present at that time?

A. Well, just the representatives were there, but there were 31.

Q. And the representatives were the men who were elected by the employees, were they not?

A. Yes, sir.

Q. Elected in the manner that you have told us about?

A. Yes, sir.

Q. And somebody suggested that Mr. Leventry come over, and he came over?

A. Yes, sir.

Q. You were asked something about money spent for a banquet. Now, how often did the general body attend a dinner or—a dinner?

A. Just once a year.

Q. Once a year?

A. Yes.

Q. Where was that held?

A. Well, there was—I think the two I attended to, was out in the Youngstown Club, and one in the Tod Hotel, I think.

Q. Were some of the officers of the company there?

A. Yes, sir.

Q. Once a year then you were there?

A. Yes.

Q. There were about three, while you were on the Board?

A. Yes, that—

Q. Is that right?

A. Yes, sir.

Q. And you men were not charged anything for that?

A. No.

Q. You were asked about pay for time lost when you attended meetings of this general body. How were you paid?

A. I was paid from the time I left my job until the meeting was over.

Q. Were you paid just the same as you would have been if you had been on the job?

A. The same hourly rate.

Q. That is, you got just the same money?

A. Just the same amount of money as if I had stayed on the job.

Q. As if you had stayed on the job?

A. Yes.

Q. I think you said something about the fact, this morning, that when elections were held that the work kept right on going, is that right?

A. In my department it did, and I guess that was all done in a lot of the departments, because it is very hard to shut them all down to vote.

Q. That is, the elections were so conducted that the work kept right on going in your department while the men were voting?

A. Yes.

Q. These minutes that you testified you received copies of,—a great many exhibits here—

A. Yes.

Q. They appeared to have been mimeographed?

A. Yes, I guess they were.

Q. Is it not a fact that the Secretary first put down the minutes of the meeting, and afterwards they were mimeographed by the Company, and then the copies sent out to the men?

A. I am sure I couldn't say.

Q. You were never Secretary yourself?

A. No, sir.

Q. Well, you had a Secretary, did you not?

A. Yes, sir.

Q. Did you see him there making notes and minutes?

A. Oh, yes, I saw him making pencil notes.

Q. Now, who was that Secretary?

A. Well, I worked there—well, there were several secretaries, Joe Smith was Secretary of the general body for 1936.

Q. Who was the Secretary of the Committee that you were a member of?

A. Ralph Mondora, I believe.

Q. You were asked about one election for a Chairman where you voted all day, and it was a tie?

A. Yes, sir.

Q. Do you know whether or not it is a fact that some of the company representatives were chairmen of some committees, and some of the men's representatives were chairmen of other committees?

A. I don't quite get the question.

Q. Well, do you know whether or not the chairmanship of these various committees was divided up so that the company men were chairmen of some committees, and the men's men were chairmen of other committees?

A. Yes, I know that.

Q. That is a fact, is it not?

A. Yes.

Q. The method of handling grievances under the employee representative plan, as I understand it, was that the men could present a grievance to a committee, is that right?

A. Yes, sir.

Q. Was that this committee that you belong to?

A. Yes, sir.

Q. And that was called what?

A. No. 2.

Q. No. 2?

A. Yes.

Q. Was that kind of a grievance committee?

A. Grievance of wages and working conditions, working schedules.

Q. And if the men, or the representatives of the men wanted a raise in wages, or something of that kind, then the method to present that to the company, was to have it presented through this committee, was it not?

A. It was first handled by the superintendent, and then by the management's representative, and then it came back to us, to another committee.

Q. First it was handled by the—

A. Superintendent.

Q. —by the superintendent?

A. Superintendent of the department of the men that had the grievance

Q. And then by the company representative?

A. Yes, sir.

Q. And then it came back to your committee?

A. The No. 2 committee.

Q. And then the representatives of the men on that committee would vote on it?

A. Yes, sir.

Q. And the representatives of the company would vote on it?

A. Yes, sir.

Q. And the voting on it was just a means of seeing whether the company would do it or would not do it, was it not?

A. Yes, sir.

Q. And it was just a means by which the men could ask the company to do it, was it not?

A. Yes.

Q. I notice that there is some exhibit here that shows a vote when you were elected to the general body. That was just a vote of the men in your department, was it not?

A. Yes, sir.

Q. And, as I understood you, there were nominations first, is that right?

A. Nominations are first.

Q. And the nominees were selected by the men?

A. Yes, sir.

Q. And then from the nominees the men selected the members, is that right?

A. Yes, sir.

Q. And you were selected by the men in your department for three years, or four years?

A. Three years.

Q. What was the date, as nearly as you can fix it, of this discussion about a petition to the Mayor? Fix it the best you can; I will not hold you to it exactly.

A. Well, it would be about along the last week, just a few days before the strike, along about the 22nd, it was on a Saturday.

Q. But it was before the strike was declared?

A. Yes, sir,—the petition I had reference to was before the strike was declared.

MR. DAY: I think that is all.

TRIAL EXAMINER LINDSAY: It is now 25

minutes to two, and we will adjourn until quarter to three.

(Whereupon, at 1:35 o'clock p. m., a recess was taken until 2:45 o'clock p. m. of the same day.)

AFTERNOON SESSION

TRIAL EXAMINER LINDSAY: The meeting is called to order.

MR. HOSKINS: I would like to state for the record that Mr. Walters is being recalled as a witness, having yielded the chair in order that Mr. Goest might testify. Mr. Goest being under a doctor's care.

EMIL WALTERS

a witness recalled by and on behalf of the National Labor Relations Board, and, having been previously duly sworn, testified as follows:

Direct Examination

BY MR. HOSKINS:

Q. Mr. Walters, at the time you yielded the chair to Mr. Goest, I believe you were telling us about this meeting to which you were called in the District office, I believe you had fixed the date of that meeting as about in the week before the strike; that you had stated the strike was on May 26th; you had told us about one or two of the gentlemen who spoke. I believe at the time you were telling the speech or remarks that were made by one gentleman whom you could not identify, but if I remember correctly, followed Mr. Cummings, is that right?

A. Yes, sir, that is right.

Q. Will you pick up the end there, as best you can remember, where you left off, and continue on with what this gentleman had to say?

A. Why, yes, this man that I don't—

MR. DAY: Well, we want the same objection that we had before, to anything being said by this man, whom he has not even identified.

THE WITNESS: I don't recall the name of this man.

MR. HOSKINS: Just a moment.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

A. I don't recall the name of this man, is the reason I can't identify him. He was introduced, the same as Mr. Cummings was, and he talked about the coal miners being —having dues raised on them, and he said the same thing would be done with us, we couldn't stop them. And he talked on the company representative plan and in fact practically the same thing that had been talked about in the previous meetings we have had, favored the company union.

In the meantime, I got up and asked if I could have something to say, and I was told to wait a minute, and as he went on and talked, I got up again and wanted to know if I could have something to say, and I was motioned down, so when he got through I got up again, see?

So this Mr. Smith at the desk, he says, "What is it you want to say?" I says, "Well, can I speak a few words on this subject of unionizing?" He says, "Why, yes, go ahead. Don't make it long, cut it short," he says. I says, "All right." So they let me speak. I told them that I belonged to the CIO, I had just joined it, I had only belonged to it about two weeks, and my reason for joining it, I thought it was the best organization, I didn't think the company representative plan was as good as this was, because it was outside, and the outside union not dominated by the company. And in regards to what Mr. Cummings had said, that we would be represented by strangers and men that would not understand our work. I wanted to correct that. And I asked what plan that Mr. Cummings wanted to impress on our men that that would be the case, because amongst our men that belonged to the union, we would vote the majority rule, we would vote on the men to represent us in our grievances. Mr. Cummings wanted to impress the employees that they would be entire strangers to us, all would be strangers, nobody would know them. They would come in there not knowing our line of work, not knowing our grievances, what our grievances was about, that was representing us; in fact, he was condemning the outside union, he wanted to make that clear. These union men would vote the same as they were voted before in the representative plan, majority rule. If we voted on the men that was in favor of the order, in favor of the majority, were in favor of certain principles and changes, why that stood, that we would vote on men we wanted in our respective departments, and they would not be no total strangers come in to take up our grievances. I wanted to make that clear on them things. I said I couldn't understand all of this propaganda they were stirring up over this unionizing. I says "All we are doing is wanting to join a union that is an outside company, don't concern the company financially or anything, we would support it ourselves, that I didn't see why they should interfere and try to tell us to stick to this company union, and that they would raise our dues, all this and that—I couldn't understand why they interfered. Then they passed out a pamphlet also when they come to this meeting, one of the exhibits they had here.

Q. Just a moment, Mr. Walker, I show you Board's Exhibit No. 76, is that the pamphlet to which you refer?

A. That is the pamphlet.

Q. You say now they passed that out; will you explain that little bit more clearly?

A. Why, as we entered this office building there, the district office, why the man stood there at the door, the way he handed these pamphlets as we walked in, I got one of them and I looked it over, looked through it, didn't study it, but I just looked through it, looked at the heading of it, some of it, some of the pages, put it in my pocket.

Q. Was one of those given to each man that came to this meeting?

A. I would not swear to that. I know there was a man there handing it—he had it in his hand, he handed one to the fellows before me, I had taken one. When I sat down I noticed other fellows had them in their hands, looking at them. I don't know whether everybody got one or not. That is the pamphlet there. While I was talking I thought of this pamphlet stirring up all of this propaganda, I said this pamphlet was just propaganda, they do this every time anything good turns up for labor, ever since I can remember, since I have been big enough to work, every time anything had turned up looked good for labor, it was shouted down as communistic, it was absolutely good for nothing, wanted us to believe they weren't what would be good for us, all this and that.

MR. DAY: Is this a speech you are telling about?

THE WITNESS: Yes, I says "This is nothing but propaganda." I says, "They might just as well have Roosevelt's picture on there as John L. Lewis, because he is for labor." So I had my say, and while I was talking to them, I asked—Mr. Smith asked me several times, "Now, cut it short, cut it short." He wanted me to stop talking.

I said, "Labor has to organize, that is their only salvation," I says, "Everybody else is organized. Businessmen are organized, doctors and lawyers, manufacturers, chamber of commerce, they are all organized, have their orders. Labor don't holler and shout when they organize, to keep them from organizing, we don't see why they should shout when we want to organize. I gave them an instance about a farmer with some eggs coming into the store wanting to sell a couple baskets of eggs. He was on his way home and rather than take them home why he made another stop there at this store and he said he would like to unload them.

MR. DAY: I object. I object on the ground there is no materiality to what this man said, at least it is certain detail, as he is now giving it—

TRIAL EXAMINER LINDSAY: Well, he is reciting a speech that he made. I think I will overrule your objection. Let the record show an exception.

A. (Continuing) I was just telling them what I was saying, my view on it was that we were organizing and we didn't want no interference, and that this farmer selling eggs, why the farmer said—the groceryman said to him, "I don't want to buy any more eggs," he says, "I believe I have enough on hand." And he says, "Well, I have to take that home." "Well," he says, "what will you take for them?" The farmer says, "Well, what will you give me for them?" At that time there was a sign on the window "Eggs Strictly Fresh, 38 cents a dozen." He said to the farmer "Well, I will give you sixteen cents for it." And with that the farmer looked down at the mouth—I wish I had had a little money, rather than let the groceryman get them for sixteen cents and then bill them for 38 cents, I would have bought them myself, if I had the money. So the farmer unloaded the eggs there. I gave them that instance of excess profit the businessman use in their dealings, we have no way of stopping that because we are just customers, we only deal there, we have to pay top price, they are in a position they can demand any kind of a—they can make a price and get it. I was just giving that as an instance why labor had to get organized, that was their only salvation, everybody else was organized. Then I quit talking.

Q. How long did you talk, do you know?

A. I don't know, I got started, they tried to stop me two or three times.

Q. About how long?

A. I would say about ten or fifteen minutes.

Q. Do you have any idea how long these other gentlemen had already talked?

A. Well, I guess they talked 15 to 20 minutes apiece.

Q. There were three of them had talked before you got the floor?

A. Two—Cummings and this other man that I don't remember his name.

Q. How about Mr. Smith?

A. Smith, well he just spoke briefly, he introduced these other speakers.

Q. What happened when you yielded the floor?

A. When I what?

Q. When you finished speaking, what happened next?

A. Well, then I went over and set down and as I walked over to sit down why there was a lot of commotion over to one side of the room and a fellow hollered, "Now I am glad that I took this job." He come over there and planked his fist down on the desk that was there, and he says, "I turned down this job."

Q. Who was this fellow, do you know?

A. Mart Murphy.

Q. Do you know what Mart Murphy does?

A. Why, he is the representative there at the head of the representative organization of the company.

Q. At Republic Steel?

A. Yes.

Q. All right then.

A. He says, "I turned down this job, was offered to me, but I turned it down." He says, "I didn't want it, but since I have heard this young man speaking, speaking on the wages and the dues being raised, that was all a lot of propaganda, I am glad I took this," he said, "the young man has been misinformed."

He says, "They will raise his dues, he will have to pay them, he can't stop them."

Then he went on to talk about the representative plan. He told about this pamphlet too. He says, "That is Roosevelt's picture. That is just as good as Roosevelt's picture," he says, "he is a Communist of the worst type and he should be run out of this country, him and his CIO." That is just what he said. And I wanted to get up and the man sitting next to me, fellow by the name of Kilmar shoved me down, he says, "Sit down, you had your say, don't bring things out of order," but I wanted to call him for claiming Roosevelt a Communist, it hit me where I couldn't take it.

Then he went on, talked about the representative plan, also about coal miners, and one time he was on a strike in 1919 at Republic plant, and they didn't get nothing, and nobody else would get anything for going out on strike. He said, "You will be out of money" and so will he and he didn't see why we had a good cause to strike because they were paying good wages, the representative plan was all right and the only thing for us, and he didn't approve of strangers coming in and representing us, in fact he talked on the representative plan in general, then he wound up—and oh, before he wound up, he says, "You fellows that want to hold your job, sign these cards." One time in his speech he said. Another time in his speech he said, "You fellows that want to work, sign the cards," and there was two types of cards on the table. I stood right beside the table when I seen the cards, one was a yellow card handed to me, a regular machine shop—the other card was never handed to me, but it was right there right aside, of the yellow cards.

Q. Well, Mr. Walters, at this point I would like to show you Board's Exhibit No. 5. Is that the yellow card to which you make reference?

A. Yes, that is the yellow card.

Q. At the same time I would like to show you Board's Exhibit for identification 77, I ask you if that Board's Exhibit for identification No. 77, is similar to the other colored card you made reference to?

(The document referred to was thereupon marked for identification as Board's Exhibit No. 77.)

A. Yes.

MR. HOSKINS: I would like at this time to offer Board's Exhibit No. 77 into evidence.

MR. DAY: I want to object to this because it is incompetent, irrelevant and immaterial, has no bearing on any issue involved here.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception. Board's Exhibit 77 is received in evidence.

(The document previously marked for identification as Board's Exhibit No. 77 was received in evidence.)

Q. Will you continue on with your recounting of what Mr. Murphy was saying?

A. Mr. Murphy also repeated the statement that Mr. Manley made at the machine table, "that if you are out on strike five days without the foreman's consent you were off duty more than five days, through this strike or any other reason, you were subject for rehiring. In fact, you were automatically fired."

Q. You say Mr. Manley had made that same statement?

A. He made that same statement. I wanted to mention that.

Q. When was that? At this meeting you have testified of earlier, at which Mr. Manley spoke?

A. Yes, the first meeting Mr. Manley called at the machine shop, on the planing table.

Q. Mr. Murphy made the same statement?

A. Mr. Murphy made the same report—the same statement, he says, "You fellows know this, that the company has a rule that they will not take you back after five days' lost time without the consent of your foreman, regardless why you were off, strike or any other reasons, five days exempted you from the place. That is, they rehire you. That is the only way you could get back, and you fellows that want your jobs and you fellows that want to work, sign these cards." He made that remark. If he made it once he made it two or three times in his speech, mentioned this card and this company union.

Q. And how many men were at this meeting, Mr. Walters?

A. Well, I would say it was 200 or 225 could get into the room. All of the seats were taken and a lot of them were standing, a few were on the outside looking in the windows, they had the windows up and there was some of them there looking in the windows.

Q. You have testified this meeting was held in the district office of Republic Steel Company?

A. Yes, district office.

MR. HOSKINS: That is all.

MR. DAY: I move to strike out all of the conversations and incidents related by this witness, upon the grounds set forth in the objections to the questions involving the same conversations.

TRIAL EXAMINER LINDSAY: The motion is denied. Let the record show an exception.

Cross Examination

BY MR. DAY:

Q. When did you join the CIO?

A. Oh, I don't remember exactly the date, but it was about two weeks before the strike.

Q. It took you quite a while to make up your mind, didn't it?

A. Well, I will tell you, it was a case of being afraid of losing my job, I got a family of five children, and I know what is for expenses and everything to me, and I didn't want to go in too soon, I was afraid that being I was a new man there, that is what I considered new one, only having about two and a half years' service, I figured, "Well, pass the buck onto the newer men hired and blame them for everything that is not right down in their shops." I just figured I will just keep mum.

I was asked to sign union cards in the plant, CIO cards, by men in there. I don't know whether they were paid organizers or not. Those men approached me, asked me what I thought of the CIO. I told them, "Well, I believe in the union all right, but I wouldn't join in here."

He says, "Why?" I says, "Well, Mr. Manley had said he would not tolerate any union activities in the plant, in no soliciting members." I says, "You know, you are subject to being fired, for going around like this." "Well," he says, "I know I am, but I don't think they know I am doing it." I says, "Listen, I am in favor of the union outside of the company, but I will not sign in here. If I sign, I will sign of my own good free will and I will go up to the office."

But after they had called the second meeting that Jones spoke of, that burned me up, then I made my decision "I am going to join now, they are trying to tell me every which way what to do, I am making my own mind up, I am going to be down in the morning." That morning when I quit work, before I went home, I went to the union office and joined. I also told about the meetings they had previous.

Q. Do you belong to the lodge?

A. I joined the CIO.

Q. Were you active in the strike, on the picket line?

A. No, no.

MR. HOSKINS: I object to that question.

TRIAL EXAMINER LINDSAY: Why?

MR. HOSKINS: Outside of the scope of the direct examination. It has no place with this witness.

TRIAL EXAMINER LINDSAY: Well, I will overrule the objection. The record may show an exception.

(The last question and answer read by the Reporter.)

A. No.

Q. Did you take any part in the strike at all?

A. No, I didn't.

Q. What?

A. No, I didn't.

Q. What?

A. No, I didn't.

Q. You did nothing at all?

A. No, sir, I am just a member, I just figured, "Well, I know I won't be back until the strike is called off." I figured I wouldn't want to sneak back in, swim the river or anything else. I was a union man at heart, I had no intention of going back and being classed as a strike breaker or scab. I just figured I would go down on my way down a lot of times, I stopped my car, got out and talked to the fellows I knew were on the picket line, talked amongst them.

Q. But you took no part in the strike yourself?

A. No part at all. I attended the meetings.

Q. You quit the Republic when?

A. Why, the night of the strike.

Q. The 26th of May?

A. I was on my way to work, and when I got over there to where we go down the bridge, down the steps, why there was a good sized crowd there.

Q. The strike was the 26th of May. When was it you made this speech that you are telling us about?

A. Oh, I would say that was about four or five days or a week before the strike.

Q. Then you kept on working there after that until the plant was shut down and the strike came?

A. Well, I only worked two or three days after that.

Q. Well, you were working when the strike came, because you went back that morning, that is right, isn't it?

A. I didn't go back in the morning. I work at night.

Q. Well, you went back to work, at the time the strike was called?

A. I didn't know it was called until I got back to the shop.

Q. You went back to work after that meeting at which you made the speech, didn't you?

A. Yes, sir.

Q. You worked several days after that?

A. Yes, sir.

Q. Before the strike was called?

A. Yes, sir.

Q. This meeting that was held was the meeting of the men, wasn't it?

A. What meeting was that?

Q. Well, this meeting where you made the speech and Bill Cummings made a speech?

A. I was told to come there. I was told I wanted to be seen there.

Q. When you got there it was a meeting of men who worked for Republic, wasn't it?

A. Yes, the foremen were there too.

Q. Who is Bill Cummings?

A. Why, he is just another machinist, as far as I know. He is in the tool room.

Q. Bill made a speech, said he thought the men ought to be represented by a man named Anderson or a man named Greer?

A. He would rather be represented by men like that, than a stranger, yes.

Q. Who is Anderson?

A. He is another machinist down there on the day turn.

Q. How long did he work there, do you know?

A. I couldn't say.

Q. And who is Greer?

A. Greer? Why, I am just telling you what I was told about him, that he was another machinist there, of course I know that.

Q. Has he worked there a long time, do you know?

A. From what I am told he was a foreman, that was all, in another department of the company.

Q. How many years did you work for Republic, before the strike?

A. A little over two years.

Q. And these men Anderson and Greer, that Bill Cummings said he would rather have represent him than some fellows from the outside, were men that had worked there for sometime, as far as you know?

A. As far as I knew they were.

Q. Mr. Manley, is that his name?

A. Bill Manley, that is the master mechanic.

Q. He is master mechanic?

A. Yes, sir.

Q. What does a master mechanic do, different from the men themselves?

A. Well, he is higher up, to my belief, than a superintendent. He is over everybody. He has full charge.

Q. You think the master mechanic is ahead of the superintendent?

A. Yes, sir, I do.

Q. And had full charge?

A. I understand wherever I have been the master mechanic was considered that whatever he said, if the rest was undecided about some certain job or anything, why that went, that is, master mechanic.

Q. Then was Manley and Jones, a man named Smith, a man named Butler and Bill Cummings, there may have been some more, but those men made speeches at these meetings?

A. Yes, they did.

Q. And these were meetings of the men, and they were discussing the representative plan, weren't they?

A. Yes, they were.

Q. And there was some discussion of CIO?

A. Yes, they were.

Q. And you went there and took part in the discussion along with the other men?

A. Yes, I did.

MR. DAY: I guess that is all.

MR. HOSKINS: That is all.

JOSEPH FRANKLIN STEVENS

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your full name, Mr. Stevens?

A. Joseph Franklin Stevens.

Q. Where do you live?

A. 1921 Pointview Avenue.

Q. Talk as loud as you can, so all may hear you.

A. Yes, sir.

Q. Have you ever worked for Republic Steel Corporation?

A. Yes, sir.

Q. What [when] did you first start there?

A. May 7, 1936.

Q. And what was your job, when you first went to work?

A. I was helper in the masonry department.

Q. Were you subsequently changed to any other job?

A. Yes, sir, on the 14th day of the month I changed to the line gang.

Q. That is the 14th day of May?

A. Yes, sir.

Q. Did you get any other changes?

A. No, I haven't got any other changes, any other department, although I was promoted from helper on up to a linesman after I was changed.

Q. You were promoted from helper to linesman?

A. Yes.

Q. Do you belong to the CIO?

A. Yes, sir.

Q. When did you join the CIO?

A. March 1st, 1937.

Q. Have you ever belonged to any other unions?

A. Yes, sir.

Q. Which ones?

A. United Mine Workers of America, United Training Engineers of America.

Q. When did you join the United Mine Workers?

A. 1920.

Q. Now, while you were working in the mill do you recall ever having been called to any meetings in which unionism was discussed?

A. Yes, sir, I recall one meeting that there was a little yellow sign posted—piece of note paper put on the door, "Safety Meeting," that was a ruling we had, when that was put up, for us to report there, whatever hour it said to be there.

Q. You say it was put on the door?

A. On the door.

Q. Where?

A. On the line shop.

Q. That was in the mill?

A. Yes, sir.

Q. Do I understand you right, to say that it announced a Safety Meeting?

A. Safety Meeting, 2 o'clock.

Q. And about when was this?

A. Well, it was, the best I can recall it, two weeks before Easter.

Q. Now you say it was compulsory for you to go?

A. Yes, sir.

Q. You said two weeks before Easter, is that of this year?

A. Yes, sir.

Q. Well, now, did you go to this meeting?

A. Yes, we were all there, as far as I know, the whole gang.

Q. Will you tell what transpired at the meeting when you got there?

A. Well, it was supposed to be a safety meeting, but when we got there it was another meeting. When we got there the chief electrician—some of them say he was the chief electrician, some say he was superintendent of the electrical department, I can't say which—

Q. What is his name?

A. John Graft.

Q. John Graft?

A. Yes, sir.

Q. Is he your superior?

A. Yes, sir.

Q. All right.

A. He was making a speech to us, and he got up on top of a bus where we could all hear him, and I was very close, I could hear what the man said, and he got up and he scrambled around a few minutes before he could say anything and finally he said, "Men, I am here," he said, "in behalf of the ones that are interested in themselves and to try to convince the ones that are not interested in themselves, to be interested in themselves." He said, "This so-called SWOC, or some damn something or other," he says, "union"—

MR. DAY: I object to this conversation on the ground it is incompetent, irrelevant and immaterial, hasn't any bearing on any issue presented here, not connected with the respondents.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show the exception.

A. He said, "I don't believe that any of you men are conscious, that will mess up with this stuff, and" he says, "this so-called stuff," he said, "that they call the Big Chief John L. Lewis," and he says, "he has never done anything for the laboring class of people, all he has ever done," he says, "just run around and get the men's dollars," and he said, "a little something come up he will assess there an extra dollar to your dues," and he says, "he won't do anything, only get your money and go on with it," and he says, "you won't have any more than you have got, only you will be just out of a job or cause you a lot of trouble, you can't never get over, you lose friends." "Now," he says, "with the representative plan here, we have had it,"—he told how long, I didn't try to remember that part of it—he said "they have had the representative plan here quite a bit," and he said, "it has always give satisfaction." He said, "All of the grievances that we have ever had to settle, have been carried out and treated the men right." He said, "Of course, there are things going on that we have to keep to ourselves, that we can't bring out openly and explain to you men," but he said, "if any of the men have any grievance of any kind," he said, "if they will come to me," he said, "I will settle it with them, we will talk it out, I will reason with any man," he said, "I am not a man that won't reason with a man." He went on with a great long spiel of stuff, then he said, "Now, I want you men to study this over, I hate to see you men go wrong, I want you to study it over. I don't want any of this 'influence' stuff spread around about this SWOC, first one union and another, in among our men." He said, "I don't want it and ain't going to have it." And he thanked us and he stepped down.

Q. Did he say whether or not the company would ever recognize the CIO?

A. He said they would not. He brought that in, until he said "We are not going to sign no contract with no union," he said, "regardless if every man in here joins a union, we are not going to recognize it. We are not going to sign any contract,'' and he said, ''we are not going to have no closed shop or no collective bargaining,'' and he related different things that they aren't going to have, that I know that CIO didn't even require.

MR. DAY: This was John Graft that made this speech?

THE WITNESS: Yes, sir.

MR. DAY: And you have stated he was chief electrician down there.

THE WITNESS: Yes, sir.

Q. About how many men attended that meeting, would you say?

A. I would say approximately 50 men, I never counted them, but approximately that.

Q. How long did the men remain?

A. Let's see, from 2 o'clock until 3:30—until we got up and walked off and left him.

Q. Did anyone else speak?

A. No, sir.

Q. Did Mr. Grant speak the entire—

A. Yes, sir.

Q. — hour and a half? Were you paid your regular wages at that time?

A. Yes, sir.

Q. And did you have any other conversations with Mr. Grant?

A. Yes, about three days, I would not be positive that it was three days, but just three or four days before Easter, one of the assistant foremen—

Q. That is Easter of 1937?

A. Yes, sir, one of the assistant foremen, I don't know what his name is, they call him ''Mutt and Jeff''—he come out on the job and told me that Mr. Graft wanted to see me in the office. Well, I kidded around with him, I told him he didn't want to see me any worse than I wanted to see him. Now I just started off and I turned around and I said, "Do you mean that he wants me in the office, sure enough?" He is all the time kidding with us. He said, "Yes," he said, "he probably wants to give you a better job or something or other," he says, "you better go on up and see him," and I said, "all right." I went up, and when I got up there Mr. Graft wasn't there, but his clerk, Mr. Gregory was there, and he said he had been called to a meeting, he didn't say where, he said he had been called to a meeting, he would not be back until late, he would not get to see me that afternoon, I would have to go back. Well, I didn't go back until they notified me the next day, and the next day V. C. Drevis, the line superintendent.

Q: Is that in the electrical department?

A. Yes, sir, he came at the shop where I was at and told me that—he said, "Have you seen Grant today?" I said, "No". "Did you see him yesterday?" I says, "No." He says, "You had better go up, then, he wants to see you." I says, "All right." I went on up, I got up there, he took me off into—out of the inner office to the private office, just Grant and I alone, and he said, "Stevens," he said, "I understand"—

MR. DAY: I am objecting to this conversation on the grounds already stated.

TRIAL EXAMINER LINDSAY: Objection overruled. The record may show an exception.

A. "Stevens," he says, "I understand that you are not satisfied with this—with the way we handle things around here." "Well," I said, "well, yes and no." "I would like to have you explain yourself, what do you mean by not being satisfied?" "Well," he said, "my understanding is that you are not satisfied with your work." He said, "Ain't your work satisfactory?" I said, "My work is perfect, but the conditions in our department is not perfect at all." I said, "I don't like that." He said, "Well, what is the reason that you don't like it?" "Well, since I have been in the department here I started as a helper," which I did, and I said, "worked my way up to second line man.

Now we have got a batch of first line men getting first line men's pay in here and us second line men has to show them what to do, couldn't even burn a hole with a burning torch." He said, "Did you consult your foreman?" I says, "You are the man that hires and fires, you ought to know when you interview a man whether he can do line work or not." "Well," he says, "I will see about that," and he said, "if you are capable of doing the work," he says, "I will see that you get first line man's pay." He said, "Now, I understand," he said, "there is a lot of things going around here, this union stuff and one thing another, and" he said, "they tell me you belong to the union quite a bit." I said, "Yes, sir, all my life practically since I was old enough to go to work." He wanted to know where and I told him United Mine Workers of America, state of Tennessee, Kentucky, other states I worked in. He said, "Well," he said, "if you want protection of the union, why did you come north?" I said, "Because I am free born American citizen, I go where I damn please." "Well," he says, "I will tell you, Stevens," he says, "I don't appreciate that a bit," he said, "I would rather you keep your nose clean." I says, "What the hell do you mean, keep my nose clean?" I says, "You have got to explain yourself along that line too." "Well," he said, "that is just the way I have got of expressing it." "Well," I says, "your damned expressions don't mean anything to me. Your advice is just a slick place for me to slide up in, John," that is the way I said it. "Well," he said, "why don't you go back south," he said. "I can tell you the reason you didn't stay in the south," he said, "you come up here where you could make more money." I said, "Yes, I can make more money here, of course, I can, at this time." And I said, "The reason that I left the south and come north was to try to learn me a trade, complete my trade." He said, "Well, I believe if I was you, I would go back south." I says, "No, I am not going back south." He says, "Why don't you go back to the mine," he said, "can't you make any money in the mines?" I told him yes, I could. I told him different things that I had had the experience of in mines that are union, and he said, "Well," he said, "I worked in the mines too." Well, he threw a few questions to me, about the mines, and I commenced throwing them at him, and I found out very quick that he didn't know anything about mining, or anything about it.

He said, "Well, what did this union ever do you any good, this John L. Lewis stuff, that they have got going around here?" I told him of the time I was working for the Clearfield Cherokee Coal Company, Clearfield, Tennessee, we come out on strike for 60—we stood, we were getting 60 cents a ton for coal, we stood for higher wages, stayed out 18 months, went back at $1.19 a ton. He says, "Well, who did you have taking care of you all this time?" I said, "John L. Lewis and his union." Well, he says, "I am asking you to keep your nose clean," he says, "I don't want you to run around here signing up men inside of the plant," he said, "I am not going to have it."

Well, I just remarked about it, "I haven't signed them up on the inside of the plant, but I have on the outside." I says, "I have signed up several of them, and I am still signing them up." "I have got my cards out there now in the car to sign them up." I says, "I don't sign them up in here, but I will sign them up out there."

"Oh," he says, "you will be on strike, the first thing you know, you can't get a job anywhere, nobody will take care of you and you will be in worse shape than you have ever been" and I says, "Well, I will tell you, if they come to a strike, I will be one of the first men to go out of the gate, and I will try to take someone with me, if I am in here when the strike comes." And I walked out the door.

Q. How long were you in Grant's office at that time?

A. I would say 45 minutes.

Q. You say 25?

A. 45.

Q. Did you get paid for your time?

A. Yes, sir.

Q. Were you working, the day the strike was called?

A. No, sir, the strike was called at 11 o'clock at night and I was on the day shift.

Q. You stayed out on strike?

A. Yes, sir.

Q. Have you had any conversations with Mr. Grant since the strike started?

A. Yes, sir.

Q. Will you tell us about those?

MR. DAY: The same objection, and the same exception.

A. But on the 19th day of June—

TRIAL EXAMINER LINDSAY: Just a minute. Objection overruled. The record may show an exception.

A. On the 19th day of June, the night that the fight came, that they had their fight down there, my wife got a message from her mother that her father had heart attack, she awoke me crying and I just come in home, she woke me crying, "We got to go home," and so I took my wife and went south to visit my people and let her visit her people. That was on the 19th.

I came back, this is on the 12th. I went down and started—

Q. That is the 12th?

A. 12th of July, 1937

Q. All right.

A. I went down, started down to the office here at Market Street when I got back—I seen a bunch of men down there, didn't know what happened, looked like an army gathered up down there, so I dashed—

Q. Pardon me, Mr. Stevens. What prompted you to come back on the 12th?

A. Well, I seen in the Knoxville News-Sentinel Paper—Knoxville, Tennessee—where the strike was over, and it didn't relate who called it off or anything about it, just said the strike was all over with, all of the men had gone back to work.

I told my wife "Well, I am going back to Ohio," which I did. So when I seen the bunch of men down there at the office, I didn't go on down for you couldn't get near down there, I went on home, picks up the telephone and calls Mr. Grant. I first calls V. C. Drevis, line superintendent, and he said, "Well," he says, "I can't tell you nothing," he says, "give me your phone number and I can call you." I says, "What is the matter, you can't tell me nothing?" I said, "You are my foreman, ain't you?" He said, "Yes, but I have no authority;" I said, "Well, what is Grant's phone number?" And he gave me the phone number.

I called Grant and told him that I had just got back from down home and when did he want me to come to work. He said, "I haven't got anything for you."

I said, "You haven't got anything for me?" He said, "Yes." I said, "Well, when will you have anything for me?" He said, "I don't know." I said, "Well, I would like to have some definite answer, ain't I got no job?" He says, "I haven't got a damn thing for you." And he hung up the receiver.

And about two weeks ago, I will say around the 17th or 18th of August—no, the 16th or 17th of August was the last time—

Q. When did you say? Two weeks ago, about the 16th of August?

A. About two weeks ago, I started to say—I recall it was about the 17th if I ain't badly mistaken, I called Mr. Grant again, and when I called him I couldn't get him on the phone for a while, but the clerk told him who was waiting on him and he told me to hold on, please; while I held the phone, he come to the phone and he says, "Yes"—I told him who I was; I said, "Well, I have called you to see whether you are ever going to call me to work or not?"

He said, "No, you have no job," he says, "none of you guys out there have no job, you needn't hang around here, you might as well go somewhere else and get you a job." "Well," I says, "I want my clothes and tools so I can get to work somewhere." "Well," he says, "you can get your tools any time."

MR. DAY: I would like this conversation under the same objection and exception, for the same reason.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. He said, "You can get your tools any time." He says, "Just come on down and get them," which I did, I went down to get them, and when I went in at the gates I had to stand there approximately an hour before I could ever get a cop to go over with me to the line shop to get my tools.

Well, I went on over to the shop then and got my tools, brought them back, had to leave them at the line shop and go back up to the open hearth at the Center State Bridge at that entrance where Mr. Grant's office in there, and go in there to get an order for my tools.

Well, when I went in up there the cops wouldn't let me go in and get the order at all, they wouldn't let me see Grant at all.

So he went over and got the order and I had to wait there about 45 or 50 minutes it took him to go over and get the order and bring it back, then when he brought the order back I took the order back and went and got my tools.

Q. Then did you leave the mill?

A. Yes, sir.

MR. HOSKINS: That is all.

Cross Examination

Q. (By Mr. Day) When did you join the CIO here?

A. March 1st, 1937.

Q. And you say that there was a meeting called, a safety meeting about two weeks before Easter?

A. Yes, sir.

Q. And Mr. Grant talked about an hour and a half?

A. That was called, expect to be in the office for safety meeting, which the ruling was, the note said at 2 o'clock, which we were there at 2 o'clock.

Q. Do you mean to say that Mr. Grant talked an hour and a half without stopping?

A. I mean to say that we was there on the company's time waiting on this meeting from 3 o'clock—from 2 o'clock until 3:30.

Q. My question is, whether you mean to say that Mr. Grant talked for an hour and a half?

A. Mr. Grant started in a few minutes after we got there, I would say he talked a full hour and a half.

Q. Did anybody else talk besides him?

A. No, sir.

Q. Were there any questions asked and answered?

A. No, sir.

Q. Did anything take place besides Grant talking?

A. No, sir.

Q. That was a little before Easter?

A. Yes, sir.

Q. Then you talked to Mr. Grant when, after that?

A. The 12th of July.

Q. The 12th of July?

A. Yes, sir.

Q. Now, that was after the strike?

A. Yes, sir.

Q. How long did you work for Republic, up to the strike?

A. I worked 15 months up until the strike.

Q. Then when the strike came on the 26th of May, you were working at Republic, is that right?

A. Yes, sir.

Q. And when did you go down South to your old home in Tennessee?

A. The 19th day of June, the evening of June—I left here on that 10:10 train that night.

Q. Now, do you know when the mill opened up again?

A. No, sir, I couldn't say. I got this paper on July 8th.

Q. And that paper said that the strike was over?

A. Yes, sir.

Q. The Republic strike was over?

A. It said the strike was over, of the Republic Steel, and all men going back to work.

Q. That was a Knoxville paper?

A. Knoxville Sentinel paper—Knoxville News-Sentinel

Q. The plant shut down on the 26th and they stayed down until about the 25th of June; did you find that out afterwards?

A. Which they said.

Q. What is that?

A. Which the members of the lodge told me so.

Q. Yes; well, when did you come back to Youngstown from Tennessee?

A. We got back here from Tennessee?

Q. Yes, when was that?

A. The 12th day of July.

Q. The 12th day of July?

A. Yes.

Q. Then you got back about three weeks after the plant opened here?

A. Yes, sir.

Q. And then you telephoned to—you say you telephoned to Grant, didn't you?

A. Yes, sir.

Q. You asked for your job back?

A. I asked him when he was going to call me for work.

Q. And then he told you that he would let you know later?

A. He said, "I don't have anything for you now."

Q. "I don't have anything for you now?"

A. Yes. I said, "When would you have something for me then?"

Q. Yes.

A. "I would like to have an answer?" He said, "I haven't got a damn thing for you," and hung up.

Q. Yes. Now, you know a lot of men who had been out of work while the plants were down, during the strike, went back to work again when the plant opened about June 25th, didn't you?

A. No, I didn't know anything of the kind, I wasn't here.

Q. Well, you know it now.

A. I know there are lots of them back, I can't say when they went back.

Q. But you know a lot of them did go back?

A. Yes.

Q. And you know a lot of them did go back a few days after the plant opened, June the 25th?

A. No, sir, I don't know it at all.

Q. You were down South during all that time?

A. Yes, sir.

Q. Then you got your tools about two weeks ago, is that right?

A. I got my tools about either the 16th or 17th.

Q. Of August?

A. Of August.

MR. DAY: I think that is all.

MR. HOSKINS: That is all.

JAMES CLARENCE FARNER

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your name?

A. James Clarence Farner.

Q. Where do you live?

A. 376 South Jackson Street.

Q. 376 South Jackson Street?

A. Yes, sir.

Q. Will you try to talk just as loud as you can, so these gentlemen can hear you?

A. I will, but I don't think it is going to be very loud.

Q. Have you ever worked at Republic Steel Corporation?

A. Yes, sir.

Q. When did you go to work for them?

A. For the last time I think it was around December, latter part of December, 1929.

Q. Latter part of December, 1929?

A. Yes, sir.

Q. Had you worked for them previously?

A. Yes, sir.

Q. Will you tell us the periods at which you had worked?

A. I couldn't tell you just to be about definite on that, I just got an order to weld that much and then go some place else.

Q. Do you know how many years in toto you have worked there?

A. I believe it would be about 10 or 12, that is off and on, in and out.

Q. About 10 or 12, off and on? When you went back to work you stated in 1929?

A. Yes.

Q. What was your job at that time?

A. Welder.

Q. Welder in what department is that?

A. The electric.

Q. In the electric department, is that in Youngstown?

A. Yes, sir.

Q. Are you a member of the CIO?

A. Yes, sir.

Q. When did you join?

A. Around the 1st of March sometime.

Q. Around the first of March?

A. 1937.

Q. While you were working in the mill, did you have any conversation with Mr. John Grant regarding unionism?

A. Oh, yes.

Q. You know Mr. John Grant?

A. Yes, sir.

Q. Who is he?

A. Chief electrician for the corporation, maybe it is just for this Republic or Youngstown district, I don't know that.

Q. Was he your superior in your work?

A. Yes.

Q. Will you tell us about these conversations?

MR. DAY: May we have objection to this conversation on the same ground as we had to the conversations between the witness Stevens and Grant?

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show the exception.

MR. DAY: Any and all conversations between the two of them, on the same ground.

THE WITNESS: You want to have what the conversations were?

TRIAL EXAMINER LINDSAY: May I ask a question off the record?

Q. Mr. Farner, will you tell us as best you know, how—what the scope of authority possessed by Mr. Grant is?

MR. DAY: Object to the form of the question. It involves purely conclusion.

MR. HOSKINS: I will reshape the question, that is the only purpose:

Q. Do you know what the scope of Mr. Grant's aut ority is?

MR. DAY: Object.

A. I think I know as well as anybody.

TRIAL EXAMINER LINDSAY: Objection ov ruled. Let the record show an exception.

Q. Will you tell the Court?

A. He has authority to hire and fire him any—ar body in the electrical department and he operates the mai tenance crew, crane rebuilding crew, hiring three or fo welders all the time, a couple boiler makers and helpe and a line gang, and of course, all of the operations.

Q. Do you know approximately how many men a under his jurisdiction?

A. Well, I don't know that, no.

Q. Can you give us an estimate on the number them? Is it 10 or 100 or where would you place it?

A. I would think it must have been around 800 ar way on all turns, that is what I would think.

Q. You would place the figure at six or eight hu dred?

A. About six or eight hundred.

Q. You stated you did have a conversation with M Grant. Will you proceed to talk about the first one those?

A. I think the first one that—that is a closed car co versation, he called me in the office sometime about t days or two weeks before Easter and he started out fro selling himself to me in the first place, telling me wh good friends we had been over this period of years that have known him, and he asked me why I joined the CIC

Q. You were called into Mr. Grant's office?

A. Yes.

Q. If I understand you right, he stated that you ha been good friends for a number of years?

A. Yes.

Q. All right, now will you go ahead.

A. He asked me why I joined CIO, why I want to get myself mixed up with a bunch of cheap Bolsheviks. I says, "I don't know whether they are, John." "Well," he said, "if I gave you definite proof would you believe it?" I said, "I would have no reason not to."

MR. DAY: Talk louder.

A. He asked me if he could prove to me that they were governed by foreign powers, if I would believe it. I said, "I would believe it if they proved it to me, I would have to."

I gave him the reason for joining it, that everybody else in our department has joined it, there was several of them and they had contacted me outside the plant and asked me to join CIO and I imagine the biggest reason for my joining was just because they joined, but they were my friends, I worked with them, I just hopped on the wagon with them.

He said that he had—the reason everybody had joined it, just to be on with the other fellow, he went on ahead to try to sell me on the idea of the company union, what a wonderful thing it had always been, that is the representation plan, told me what a good thing it was at the Sheet & Tube years ago, what a good thing it had been for us here.

Of course, I couldn't agree with very much he said, and we went over that same thing for about an hour, 45 minutes to an hour anyway, and the whistle blew and he said he had to go. That just about covers the high points in that. But he did tell me that the company would never recognize the CIO.

Q. At the time of this conversation, Mr. Farner, did you hold any office in the local lodge of the SWOC?

A. Yes, I had been elected grievance committee.

Q. Was any reference made to that fact?

A. Yes, I asked him in the first place how he knew

I joined the CIO. Then he showed me this pamphlet that he had there.

Q. What sort of pamphlet was that?

A. One that was a pamphlet published by CIO, giving the names of their officers and their rank, just a general post of information, that is all.

Q. Had he had one of those with him at the time?

A. Yes, he had one of those on his hat there.

Q. Did Mr. Grant state to you what his duty was in connection with CIO?

A. Yes, he told me that he had been handed down from the shop and that if it was at all possible that the superintendents and the heads of each department were to head this thing off to save all our necks.

Q. How long did you say you were in his office?

A. 45 minutes to an hour, easy.

Q. Were you paid for that time?

A. Oh, yes.

Q. Did you ever attend any open meeting at which Mr. Grant spoke on approximately the same subject?

A. One.

Q. When was that?

A. That was sometime prior to the strike, I couldn't tell you the date.

Q. Well, approximately when? Was it after this conversation you had had?

A. Yes.

Q. With him, in his office?

A. Yes.

Q. About how long after that?

A. I told him a week or ten days, maybe two weeks.

Q. What date did you fix for this conversation in his office?

A. About a couple of weeks before Easter, I believe.

Q. When were you elected to this officer's position in the local lodge?

A. Well, that date I don't know either, the first closed meeting they had, the CIO had.

Q. All right, now will you tell us what happened at this open meeting at which Mr. Grant spoke?

MR. DAY: The same objection, on the same ground.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. Well, we had a notice posted on our bulletin, which was on the back of the door of the line shanty, people to go down, safety meeting at 2:30.

Q. You say this notice was posted on the door to the line shanty?

A. Yes, there is a bulletin board on the back of the door—they use it for a bulletin board.

Q. You say that called for a safety meeting?

A. Yes, might have been 2 o'clock.

Q. Is attendance at these safety meetings compulsory, or may you go or not?

A. Yes, sir, you had to be.

Q. That is compulsory?

A. Yes.

Q. Did you go to this meeting?

A. Yes.

Q. All right, will you tell us what took place?

A. We went in there, hung around for a little while.

MR. DAY: A little louder, please.

A. We got our tools put away, I imagine it took 10 or 15 minutes, waited for a little while for Mr. Grant, and he came in and they had a box out there arranged for him to stand on. He got up on there, he says, "Well, fellows," he says, "we are having a little trouble with this organization running through the plant, and I don't think it is any good for us," and words to that effect. He just went ahead to sell us the idea of the representation plan, all of this, some other organizations they called Republic Employees Organization, something like that—he said he would rather be represented by the men that we know, local men here, than to have John Lewis come in here in a matter of a few months, try to get a closed shop, check off system and he explained why it was no good for us. He said he would rather be represented by men that had been in Youngstown here for years, knew all about our conditions, all that.

Q. How long did that meeting last, Mr. Farner?

A. It lasted from 2 o'clock until 2:30. We had to walk out on him.

Q. About how many men were present at the meeting, would you say?

A. Well, I would say there were between fifty and a hundred, anyway, probably more.

Q. Did you get paid for the time?

A. Yes.

Q. Other than membership in the C. I. O., were any other safety measures discussed?

A. No, not at this meeting.

Q. Now, were you working on the day of the strike?

A. I worked on May 26th, yes.

Q. Did you go out on strike?

A. No, we were out.

Q. You were already out at the time?

A. Yes.

Q. Did you have any conversations with your foremen, or with Mr. Graft, or with any of the officials relative to going back to work?

A. I think it was June 6th or 7th, I called Vic Drebes up, and he told me I would have to call back in a few days.

Q. You told us a few moments ago who Vic Drebes was; will you repeat that?

A. He is the general line foreman.

Q. What was the conversation with Mr. Drebes?

A. I called him a little later. He told me he thought I should call Mr. Graft up, and that I could go back to work. I called him up and got no results. He thought we were licked.

So I thought I would. About nine o'clock I called Vic up, and he seemed kind of peeved. I know him well. I said, "What is the matter, did you get up on the wrong side of the bed?" He said: "No, I just got in bed, and you got me back out again." He said he was out all the night before, and the day, too.

So I went back—

MR. DAY: I cannot hear this witness.

TRIAL EXAMINER LINDSAY: Talk up loudly, so we can all hear you.

MR. DAY: What was the date of this talk now?

TRIAL EXAMINER LINDSAY: Around the 6th or the 7th.

MR. DAY: Of what month?

THE WITNESS: Of July.

Q. (By Mr. Lauter) Go ahead.

A. He told me I would have to call back in a couple of days. So I did call him back, and he discouraged me even going to see Mr. Graft. He said: "You can do so if you want to, but it won't do you any good." And I said: "You don't mind if I see him, do you?" He said: "No." So I did, I went down and tried to see Graft. He was not in, or he wouldn't come over, so they advised me to go to the pay station and call him up, which I did, and he told me, he says: "Well, Red, I don't have anything right now, we are not doing any of that kind of work, we don't need welders."

I said: "You have welders working in my place." He said: "Not altogether." He said he had borrowed a welder from the boiler shop a couple of times.

TRIAL EXAMINER LINDSAY: I think we will take a short recess.

(Thereupon a short recess was had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

Q. (By Mr. Lauter) I will ask the Reporter to check us up on the testimony.

(Last answer of the witness read by the Reporter.)

Q. (By Mr. Hoskins) Do you understand now where you were at the time of the recess?

A. Yes.

Q. Did you have any more conversations, or did that finish the conversation with Mr. Graft?

A. That did at that time.

Q. Did you have any more conversation with him?

A. I called him up once more after that.

Q. You called him up once more?

A. Yes.

Q. About when was that, Mr. Farner?

A. About 10 days ago, I guess.

Q. About 10 days ago?

A. Yes.

Q. What was the conversation on that occasion?

A. Well, he just gave me to understand that I didn't have any more job, that's all.

MR. DAY: I wish you would keep your voice up.

THE WITNESS: He just gave me to understand I didn't have any more job; he didn't just put it in that words, but it meant the same thing.

Q. (By Mr. Hoskins) Do you remember the words that he used?

A. Well, I asked him if he was through altogether. He said: "Well, I just wouldn't put it that way."

"Well," I said, "I can't get a job any place else. I went over to the Sheet & Tube, and I did have a job there, and I went back, and they said: 'Well, if we need you, we will call you some time.' "

I said: "Just what does that mean?" and then he said: "Why don't you—why don't they take you back at the Republic?" I said: "I don't know that. I would like to know myself", and I asked him if they had anything to do with my having a job there, because I came from the Republic, and he said: "Not altogether," and that's all I could get out of him.

MR. DAY: This is a Sheet & Tube man you are talking with now?

THE WITNESS: Yes, the Sheet & Tube Employment Agency.

MR. DAY: I object to that conversation.

TRIAL EXAMINER LINDSAY: I overrule the objection, and let the record show an exception for the Respondent.

(Exception on behalf of the Respondent.)

Q. (By Mr. Hoskins) Can you give us any more of the conversation with Mr. Graft over the telephone on that last occasion?

A. That's just about all. He would just tell you what he wanted to, and hang up, that's all.

Q. He did leave you to understand that you were through?

A. Yes, sir.

MR. HOSKINS: I believe that is all.

Cross Examination

Q. (By Mr. Day) Mr. Farner, when did you start to work for the Republic Steel Corporation?

A. The latter part of December, 1929, the last time.

Q. And did you work right along then up until the time of the strike?

A. I did.

Q. Are you a married man?

A. Yes, sir.

Q. Have you a wife and children?

A. Yes, sir.

Q. You went to work for the Republic Steel Corporation back in 1929?

A. Yes.

Q. And you worked right along up until the time of the strike?

A. Yes, sir.

Q. And when did the C. I. O. come in here, before the strike, about how long?

A. I couldn't tell you that.

Q. Well, it was a matter of some months, was it not?

A. I couldn't tell you that.

Q. And the C. I. O. called the strike?

A. Yes.

Q. And then you quit working for the Republic Steel Corporation?

A. Yes, I did.

Q. And you joined the C. I. O., you said, as I understood it, because a good many of the other fellows in your same line of work was joining the C. I. O.?

A. That's right.

Q. You hopped on the band wagon?

A. That's right.

Q. And how long before the strike did you hop on?

A. Around the first of March some time.

Q. A matter of a couple of months?

A. Something like that.

Q. Now, the strike was the 26th day of May?

A. That's right.

Q. And then you know the plant shut down?

A. Yes.

Q. Except for the maintenance men?

A. That's right.

Q. The plant went down on the 26th of May, and stayed down until about the 25th of June?

A. Right.

Q. And then you remember the plant opened up again on the 25th of June?

A. I heard that it did, yes.

Q. Well, you were here then?

A. I was here, yes.

Q. On the strike?

A. Yes.

Q. And were you on the picket line at times?

A. I was; I was on the picket line up until a couple of days before the riot.

Q. A couple of days before—

A. Before the riot, yes.

Q. — the riot?

A. Yes.

Q. And that was in June some time?

A. I believe the 19th, yes.

Q. And then when the plant opened up on the 22nd of June, or the 26th of June, a lot of men went back to work?

A. I imagine so.

Q. Well, you did not go back?

A. No.

Q. And it was not until the 6th or 7th of June—I mean July, — that you took up with the Company the subject of going back to work, is that right?

A. That's right.

Q. That was about two weeks after the plant opened up and a good many men did go back?

A. I suppose.

Q. And you talked to Mr. John Graft, and you asked if you had a job?

A. That's right.

Q. What did he tell you?

A. He didn't just tell me I didn't have a job; but he didn't give me my job back.

Q. Did he say anything about the number of men that had come back to work?

A. No.

Q. Did he ask you why you didn't come back about the 25th of June?

A. No, sir.

Q. And then you talked to him again just a short time ago, is that right?

A. Right.

Q. Now, you were asked whether you were paid during the time that you talked to Mr. Graft, and you said you were?

A. I was.

Q. As I understand it, by that you meant that you had a job, and you got paid for your work?

A. That's right.

Q. And you were not docked off anything for the time you spent talking to Graft, is that right?

A. That's right.

MR. DAY: That is all.

MR. HOSKINS: No further questions.

(Witness excused.)

RICHARD ELDER

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your full name please?

MR. DAY: May I ask this last witness just one question?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: Mr. Farner.

MR. HOSKINS: Take the stand, Mr. Farner.

JAMES CLARENCE FARNER

a witness recalled by and on behalf of the Respondents, and, having been previously duly sworn, testified further as follows:

Recross Examination

BY MR. DAY:

Q. When did you make it known that you had joined the C. I. O.?

A. Well, it was known the next morning; everybody knew about it.

Q. And you joined when?

A. Around the first of March.

Q. And you stayed at the plant working until the 25th of May or 26th?

A. That's right.

MR. DAY: That's all.

(Witness excused.)

Thereupon the witness, RICHARD ELDER, was recalled to the witness stand, and testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your name please?

A. Dick Elder.

Q. Dick Elder?

A. Yes.

Q. How do you spell that?

A. D-i-c-k Capital E-l-d-e-r.

Q. That is two words though, is it not?

A. Yes.

Q. Elder being the last name?

A. Yes, Dick Elder.

Q. Where do you live, Mr. Elder?

A. 309 Jackson Street.

Q. 309 Jackson Street?

A. Lowellville, Ohio.

Q. In Lowellville, Ohio?

A. Yes.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes, sir.

Q. How often have you worked there?

A. Oh, four or five different times.

Q. Four or five different times?

A. Yes.

Q. When was the last time you went back to work?

A. About—well, as nearly as I can figure out, I never kept any dates—as nearly as I can figure it, it is about eight years.

Q. About eight years ago?

A. About eight years.

Q. Do you know what the aggregate of all the years of service you have had down there would be, the total number of years you worked for the Republic Steel Corporation?

A. Oh, it would be in the neighborhood of 15 years, I guess.

Q. In the neighborhood of 15 years?

A. I think so.

Q. Now, when you went back to work eight years ago, what job were you placed in at that time?

A. Why, at that time I was first helper.

Q. First helper?

A. Yes.

Q. In what department?

A. In the open hearth.

Q. In what?

A. The open hearth.

Q. Is that in Youngstown?

A. That's in Youngstown.

Q. Did you keep that same job all the time?

A. No, I didn't.

Q. What was your next job?

A. They got a little slack, taking some furnaces off, and then I went back to second helper.

Q. Have you remained second helper since then?

A. No, I was back at first helper again.

Q. You went back to first helper, subsequently?

A. Yes, only second helper a few days, and then the furnaces went on, and I went to first helper again.

Q. Have you ever had a job down there at putting in a new furnace?

A. Yes, I put the bottom in a new furnace.

Q. Putting a bottom in a new furnace?

A. Yes.

Q. Do you know why you were selected for that job?

A. I don't know, 15 men on the floor, and they picked me out to put the bottom in, on our turn.

Q. Speak a little bit louder, Mr. Elder. I cannot hear you very well back here.

A. Yes.

Q. Now, what was your job there during the early part of 1937?

A. The early part?

Q. That is, January, February and March, were you second helper at that time, or first helper?

A. No, I was first helper.

Q. All right. Do you know George Putnam?

A. Yes, sir.

Q. Who is he?

A. He is the superintendent of the open hearth.

Q. Superintendent of the open hearth?

A. Yes.

Q. Do you know a Mr. Jones Cahill?

A. Yes.

Q. Who is he?

A. He is the superintendent of the open hearth.

Q. And do you belong to the C. I. O.?

A. Yes, sir.

Q. When did you join the C. I. O.?

A. I joined the C. I. O. on February 7, 1937.

Q. Have you ever held any office in the local lodge of the C. I. O.?

A. Yes, sir.

Q. What office?

A. Executive Committee.

Q. What is that?

A. Executive Committee.

Q. I see. What day were you elected or appointed to the Executive Committee, do you know?

A. The 12th day of March.

Q. The 12th day of March?

A. Yes.

Q. Now, at any time around that date, did you have any conversations with Mr. Cahill or Mr. Putnam regarding your membership in the C. I. O.?

A. On the 13th of March, Cahill and Putnam both came to me at my furnace, and said they had saw my name on the Executive Committee in the C. I. O. pamphlet or the C. I. O. lodge that had been throwed around, distributed.

And I said, I hadn't saw any of them and they said: "Well, your name is on there." "Well," I said, "I haven't saw any of them."

They said: "Do you belong to the C. I. O.?" I said: "Yes, I do.", and that's all that was said, they walked away and didn't say anything more to me.

Q. Did they say anything to you at a later time?

A. Three days later Mr. Putnam came to my furnace, at about three o'clock, and I was going to quit at three—he says: "On your way home," he said, "will you stop in my office, Dick?" "I would like to talk to you." I said: "All right, George."

I stopped in and went in, and George says: "Sit down, Dick." Well, I sat down, and he says, "Dick I always thought you was a good friend of mine." "Well," I says, "I always have been, George, and I am yet, as far as that's concerned."

"Well," he says, "it don't look like it when you joined the C. I. O." I said: "I don't see why that should make any difference." "I never was sore at you because you was a Company man; I don't know why you should be sore at me because I am a Union man."

"Well," he says, "I don't know, Dick," he says, "it don't look very good to me." I said: "I can't see why." "Well," he says, "you know, Dick—" "What are the men dissatisfied about up there?" I said: "Well, I will tell you, George, every time the tonnage is put up," I says, "they are all dissatisfied, but," I says, "they will—they won't say anything to you, some of them maybe do, but," I said, "most of them will holler around on the floor, but they won't say anything about it to you."

I said: "You know yourself that we ain't getting the tonnage that we should." I said: "Why not?" I said: "You know there aren't any scales in this plant; they always estimate it." He said: "I know, but we always give you good weight." I said: "I don't think so, and nobody else does."

He said: "Well, we have been trying to get a scale in there, and I think the money has been appropriated for it, but they haven't got it in there."

I said: "The men would be a lot better satisfied if we had it." So that's about all that was said. He said: "Dick, I just want to tell you that lots of times we have to let good men go that we don't like to lose, on account of Union activities, and," he said, "I just wanted to tell you that."

I said: "O. K., George, with me, if you want to let me go right now," I said, "that's your privilege."

He said: "No, I ain't going to fire you." He said: "That will be all."

So I went home.

Q. Now, this George Putnam was your superintendent?

A. Yes, sir, he was.

Q. After this conversation you have just told us about, did you attend any more meetings in the plant at which Unionism was brought up?

A. Yes, I did. I attended a meeting in the wash house, where Unionism was brought up very thoroughly.

Q. About when was this, Mr. Elder?

A. Well, as nearly as I can tell you, that must have been about—I would say it was practically a month before the strike.

Q. About a month before the strike?

A. Yes.

Q. And you say it was in the wash house?

A. In the wash house, yes.

Q. That is in the plant?

A. That's in the plant, yes.

Q. Will you tell us how you were summoned to this meeting, who spoke, and what was said?

MR. DAY: We object on the same grounds that we objected to similar conversations, already stated in the record.

TRIAL EXAMINER LINDSAY: The objection is overruled. The record may show an exception for the Respondent.

(Exception on behalf of the Respondent.)

A. The foreman came down by the furnaces, and told us all that we was all wanted up at the wash room, that there was a meeting on.

Q. Who was this foreman, Mr. Elder?

A. James Ball.

Q. James—

A. James Ball.

Q. This was while you were working?

A. This was after we had started to work at three o'clock in the afternoon, and they all went up to this meeting, and Mr. Putnam got up and spoke first. He said that there was nobody worked—he just wanted to inform us that there was nobody worked in that plant that planned to join any Union to work there, and he said furthermore, he didn't want anybody organizing anybody in the plant for the C. I. O., he said that that wouldn't be tolerated at all.

So he didn't have very much of a speech, that was about all he said, and Mr. Leventry spoke.

Q. Now, who was Mr. Leventry?

A. He was—well, I would say he was at that time the works manager of that department, the Youngstown District.

Q. You would say he was works manager?

A. I would say that was his position at that time.

Q. What did Mr. Leventry have to say?

A. And Mr. Leventry told us practically the same thing. He said they wouldn't tolerate any Union, and he says: "This Company will never sign up," he says, "we will shut the mill up and board it up before we will sign with the C. I. O." and that was about all that was said, and the meeting was dismissed, told us to all go back to our work.

Q. How long did that meeting last, Mr. Elder?

A. Didn't last over about 20 minutes.

Q. About how many men were in attendance, would you say?

A. Well, I would say there was around 75 men.

Q. Did you get paid for the time you spent at that meeting?

A. Yes, I did.

Q. Referring back for a moment to this time that you were in Mr. Putnam's office; how long were you in there, would you say?

A. Oh, I would say I was in there about half an hour.

Q. About half an hour?

A. Yes.

Q. Did you get paid for that time?

A. No, I was on my way home.

Q. You were on your way home?

A. That was after I was through working.

Q. Were you working on May 26th?

A. No, I wasn't.

Q. Was that your day off, or what?

A. I was off two days, two days before that, that day and the day before was our turn to be off.

Q. And the strike was called that day?

A. The strike was called when I was off, yes.

Q. Have you talked to anyone since that date regarding going back to work?

A. I talked to Putnam, George Putnam, our superintendent.

Q. When did you talk to him?

A. I talked to him on the phone on August 2nd.

Q. Did you call him or did you—did he call you?

A. I called him.

Q. What was that conversation?

A. I called him on the phone—of course, I knew his voice, who I was calling, I said: "Is that you, George?" He said: "Yes, who is this talking?" I said: "This is Dick." He says: "Oh, is that you?" I said: "Yes." He said: "How are you doing?" I said: "All right." I said: "How about going back to work?" He said: "No, Dick, you know what I told you when you joined the C. I. O." I said: "Yes." He said: "That still holds good."

So I hung up the receiver, and that's all that was said.

MR. HOSKINS: I believe that is all.

Cross Examination

Q. (By Mr. Day) You have worked for the Republic Steel Corporation off and on for 15 years?

A. Yes, sir.

Q. And you have worked up until the time of the strike?

A. Yes.

Q. For a stretch of eight years?

A. Yes, sir.

Q. And then last summer, the summer of 1936, the C. I. O. came out here, and started to organize, is that right?

A. I don't know what time the C. I. O. come in here; I guess it was around here, quite a long time before I knew anything of it.

Q. Well, anyhow, after you had worked here for about eight years, the C I. O. did come out here and did start to organize, and did call a strike on the 26th of May,—that is right, is it not?

A. Yes, sir.

Q. And then when the C. I. O. called the strike you stopped working out there, and the plant shut down for a while, did it not?

A. Yes, sir.

Q. You worked pretty continuously up until the time that the C. I. O. called the strike?

A. Yes.

Q. You are a married man?

A. Yes, sir.

Q. Children?

A. Yes, sir.

Q. Any grandchildren?

A. Yes, sir.

Q. Now, you worked up until the time of the strike?

A. Yes.

Q. Is that right?

A. Yes, sir.

Q. And you had a talk with Mr. Putnam about the C. I. O. when, for the first time?

A. Why, the 13th of March?

Q. Of March?

A. Yes, sir.

Q. Did you tell Mr. Putnam at that time that you would join the C. I. O.?

A. Yes, sir, I did.

Q. And you said to him: "If you want to let me go, George, it is O. K. with me?"

A. No, that was not that day; that was three days after that.

Q. That was three days after that?

A. When he called me into the office.

Q. That Mr. Putnam said to you there—

A. Yes, sir.

Q. But he knew back in March, at least, that you were C. I. O., a C. I. O. member, but you stayed right there until the strike on May 26th?

A. Yes, sir.

Q. Now, you were asked about being paid for some time, that is the time you spent talking to Mr. Putnam? You said you were paid for that one time, and not the other time?

A. Yes.

Q. By that, do you mean that you were not docked any time?

A. Oh, no, I was on my way home; I was through working.

Q. Both times, or just that one time?

A. Just the one time; the other time I was paid.

Q. You were paid?

A. I was on duty while we were talking.

Q. That is, you were paid just the same as if you had not talked?

A. That's right.

Q. You did not get any more or less?

A. No.

Q. Due to the fact that you did talk to him, is that right?

A. That's right.

Q. Now, the mill shut down on the 26th, and then it opened up again on the 25th of June. You were out on a strike then, were you?

A. Yes.

Q. When was it that you called up about your job?

A. The 2nd day of August.

Q. The 2nd day of August?

A. Of August.

Q. That is about six weeks after the—

A. Yes.

Q. —the mill opened up?

A. Yes.

Q. Were you here all the time?

A. I was here every day.

Q. Have you been out on the picket line some?

A. I was out, I wasn't picketing, I was around the picket lines, I called—I hauled sandwiches around to them, and coffee, at times.

Q. At different times?

A. At different times.

Q. Off and on?

A. Off and on, yes.

Q. And the first time that you talked about getting your job back, it was about six weeks after the plant opened up?

A. It was.

Q. And you knew that when the plant opened up, a lot of men went back to work right away?

A. Yes, sir.

MR. DAY: I think that is all.

MR. HOSKINS: Just a moment, Mr. Elder, one more question, please.

Redirect Examination

Q. (By Mr. Hoskins) How are you paid at the plant? By that I mean, are you paid by the hour's work, or the day's work, or the week's work?

A. We are paid on a tonnage basis.

Q. A tonnage basis?

A. Yes, sir.

Q. Do you have a flat hourly scale, in addition?

A. No, we haven't. We are paid on a tonnage basis, and then it is figured up into hourly rates, how much—whatever it makes an hour, from the tonnage.

Q. Now, at the time that you went to this one meeting that you have testified about where Mr. Leventry and Mr. Putnam spoke, was your whole plant down at that time? I mean, did all of them go to that meeting?

A. Well, there were a few left on the floor to look after furnaces, you know.

Q. I will put my question this way: Was there any production while that meeting was going on?

A. Oh, yes, just the same, just the same.

Q. Well now, you say: "Just the same?"

A. Yes.

Q. Full production?

A. Yes, they didn't slow the production any, because the furnaces—the gas was on the furnaces just the same.

Q. Then your job is what with reference to that production? I mean, what do you do as a first helper?

A. Well, it is my duty to look after the stove, and see what the gas—see that the gas is functioning right in it, and if anything is needed to be put inside, in this steel, while it is maturing, you know, melting. I have to do that, and so on like that. When the steel is ready to tap, I have to tap it out, just turn it out of the furnace.

MR. HOSKINS: That is all.

MR. DAY: That is all.

(Witness excused.)

MR. HOSKINS: I will call Mr. Simcox.

JERRY LEE SIMCOX

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your full name, please?

A. Jerry Lee Simcox.

Q. Where do you live, Mr. Simcox?

A. 2503 Shirley Road.

Q. Is that in Youngstown?

A. Yes, sir.

Q. Have you ever worked for the Republic Steel Corporation in Youngstown?

A. Yes, sir.

Q. When did you first start to work for them?

A. Started with Republic Steel in 1919; I worked off and on at Republic Steel since 1919.

Q. You say you have worked off and on; will you explain a little more fully what you mean by that?

A. Well, I worked there until just before the strike, around that time. In 1919 I left there and went in the Army. I put three years in the Army, came back and went to work back in Republic Steel again. I worked up into 1930, and I left the Republic Steel Company again and I came back around in 1933, or 1934, somewhere around there.

Q. Have you worked there steadily since that time?

A. Yes, sir.

Q. Do you belong to the C. I. O., Mr. Simcox?

A. Yes, sir.

Q. When did you join?

A. I joined C. I. O.—I signed a card around, I believe it was around the last of February, or the first of March.

Q. Have you ever been elected or appointed to any office in the local lodge of the C. I. O.?

A. Yes, sir, I was appointed as inside guard.

Q. When were you appointed inside guard?

A. Around the 12th of March.

Q. The 12th of March?

A. Yes, sir.

Q. Now, on or around that time, after you had been appointed inside guard, did you have any conversations with anyone in the mill about your membership in the C. I. O.?

A. Yes, sir, the superintendent of the open hearth in the Youngstown District,—and the assistant superintendent came down to me one morning about nine o'clock.

Q. Will you name those men, please?

A. Mr. Putnam is the superintendent, and Mr. George Cahill, assistant superintendent.

Q. Are they both your superiors?

A. Yes, sir.

Q. All right.

A. They came down to me, on my furnace, I was working on No. 6, as second helper I was working. They came around. I was in the pit, and dirty, so they finally left again, and I pulled my runner up, and they came back again, and I had mud all over my hands, and dirtied up pretty bad, mud on my face. They called me up and they said: "Simcox, I understand you are an executive of the C. I. O." I said: "Well, I guess maybe you might be right." He said: "How long have you been a member of the C. I. O.?" I said: "I don't know, maybe four or five months, maybe not that long, I don't know." I wasn't much interested in it. He said: "Simcox, how many followers have you got?" I said: "I wouldn't know, George, maybe three or four thousand." I didn't know whether he meant in the Republic Lodge, or the C. I. O. in general, so I just told him three or four thousand.

So they left where I was standing, and walked over to the side, and started a conversation amongst themselves, and I wasn't much interested in the conversation, so I went ahead about my work again.

So, that's all they said to me about the C. I. O.

Q. Did you have any conversation with either one of these men after this date?

MR. DAY: Will you fix the time of this conversation?

MR. HOSKINS: I am asking him if he had a conversation.

THE WITNESS: I did have a conversation.

MR. DAY: There was no time fixed for this talk.

MR. HOSKINS: Oh, I am sorry.

Q. (By Mr. Hoskins) Did you state the date, or approximately, when this conversation took place?

A. This was around, I judge around March 13th or 14th, something like that. It was right after we elected officers in the C. I. O., in our lodge.

Q. When were you elected an officer in the lodge?

A. March 13,—March 12th, I believe it was.

Q. March 12th?

A. Yes.

Q. All right.

A. It was right after that was when the pamphlet was passed out with the names of the Executive Board of the C. I. O. Lodge, that's 1331 Republic, and it also stated on that pamphlet, I believe, the next previous meeting, and gives the officers' names, and their positions. And I didn't know that pamphlet was out until after Mr. Cahill and Mr. Putnam had spoken to me about being a member, and somebody come around and says: "Why, your name is all over the bridge, on the pamphlet." That was the first I knew it was out myself, until then.

Q. Now, my last question was, to you, after this date did you have any conversation with either of these men, have any more conversation with them regarding your membership in the C. I. O.?

A. Well, it was afterwards, there, there was a little trouble on the floor there with first helpers, about when they had been taking the men off of the turns, they would take the oldest man, and shove them to the first helper. So that was about four weeks after the conversation had behind the furnace, so I met Mr. Cahill one day, and I cornered him about why I wasn't shoved up on this first helping turn.

Q. Wait a moment. Let us see if we can't fix the date. This was about four weeks after March 13th?

A. We were on day turn. The time he came behind the furnace, and spoke to me, about the C. I. O., and that was about a week we run on day turn. That would be four weeks, the way we worked there. That was on day turn then. That was about dinner time when I cornered him about the first helping job.

Q. This is Mr. Cahill that you are speaking of?

A. That was Mr. Cahill, the assistant superintendent of the open hearth, and I stopped him and I asked him about it.

He said: "Well, Simcox, I don't know, we usually take the oldest men." He says, when their turn comes. He said: "I don't know about you, later." I said: "What do you mean, Jonesy? Just explain to me what you mean." I said: "I am here for advancement, I don't expect to be a second helper all my life, I would like to be a first helper, and maybe some day I will go melting. I would like to step up. I want to know what is the matter. I would like to improve myself."

He said: "I don't know, the last two weeks your activities don't seem very good, in my estimation."

I tried to question him a little bit. I said: "What is it?" "My work around the furnace, isn't it satisfactory? Was the foreman kicking, or what?"

He said: "No, it is just your activities. I don't know." I said: "Do you think there is any chance of me ever being a first helper?" He said: "I don't know, Simcox, according to my estimation, I don't think there is."

So that's all he said, and he walked away from me.

Q. Do you remember any other meetings in the plant at which you and Unionism were discussed?

A. I remember of a meeting we had one day when we come to work at three o'clock.

Q. About when was this, Mr. Simcox?

A. I would judge that meeting was around about maybe 10 or 15 days before the strike was called, something like that; it was around there when they was holding the meeting.

Q. And the strike was called on what date?

A. I believe the strike was called in May.

Q. May when?

A. May 26th, I believe.

Q. This was when?

A. About 10 or 15 days before that.

Q. Tell us about this meeting? Where were you notified of it?

A. Well, the foreman came down to the floor, and he was notifying everybody, I guess, he was doing it that way.

He came up to me where I was working and he said: "Red, there is a meeting at four o'clock in the bath room." I says: "What kind of a meeting is it, John?" He said: "I don't know." I said: "I have quite a bit of work to do around the furnace." He said: "You will have to go up there, especially, anyway."

So I went up. We went in there, and everybody was sitting around. It was at four o'clock. We went around there, and pretty soon the assistant superintendent, and the superintendent, and Mr. Leventry, he came in.

So they called everybody to order, and told them to move up as close as they could. So I made it my business to get up there as close as I possibly could, because I was much interested in the meeting, and wanted to know what was going on.

Q. Let me have the identification of these men that you are mentioning, you said the assistant superintendent?

A. That is Jones Cahill.

Q. And the superintendent?

A. That is Mr. Putnam.

Q. Who is Mr. Leventry?

A. Mr. Leventry, I don't know what job he held at that time, but I think he holds a District Manager job at this time.

Q. You say these three gentlemen came in?

A. Yes.

Q. Go ahead.

A. And the first man to speak was Mr. Putnam. Mr. Putnam got up on a little bench there that we have for the men to change their clothes on when they sit down, and they have baskets in there, and he didn't talk very loud, I couldn't understand everything he was saying, he talked pretty low. So I tried to get as close as I could.

He said: "About the Company Union"—not Company Union—he said: "These Unions—" He said: "These inside Unions, and outside Unions," he says, "such as the C. I. O. and the S. W. O. C.," he says, "the Company absolutely will not recognize the C. I. O. or the S. W. O. C., or whatever you want to call it," he said.

He said: "We have treated our employees as near right," he says, "as we thought we could," and he says, "By the way things look now," he said, "I guess we will have to get a little hard on some of our employees." And he wouldn't look over in my direction. I was trying to get his attention, because I was figuring on asking him a question after the meeting was getting along. He kept on speaking, and he said: "The Republic Steel Corporation wouldn't sign no written agreements with the C. I. O., and," he said, "They wouldn't stand for any of their men doing Union activities on the Company's time inside of there for the C. I. O.," and he says if they hear of any man doing that that he would be subject to discharge.

So he went on, talked about a few more things, about scales, and the Company representation plan, what good they had done for the men, and how many slaggers they had got, for instance, on the floor.

So he closed the meeting, and turned it over to Mr. Leventry. Mr. Leventry took the floor and went practically on the same thing. He said: "The Republic Steel Corporation will not sign no agreement with the C. I. O., they will shut their plants down, and board them up first." He said that their orders from the main people in the Republic were to do that.

So they talked a little low, I couldn't get all that they were trying to say there, and finally they closed the meeting.

When I left the meeting I got on the outside there, and there was about 15 men lined up around me; I couldn't get down to my furnace. I wanted to know what was the matter. They said: "We want to sign cards on the C. I. O." I said: "I haven't any, but I have some in my car parked outside the mill. After work tonight I will sign you up, if you want to."

So that night, after work, I think, I signed up around 60 some cards.

Q. How long did this meeting last in the wash room?

A. The meeting lasted around about 20 or 25 minutes, I believe.

Q. How many men were present, would you say?

A. Well, I wouldn't know—there was a whole turn, that one individual turn, pit men, floor men, stack house men, slag yard men.

Q. Let us fix it as nearly as you can,—10, 50, or a hundred?

A. I would suggest around about 50 men.

Q. Did you get paid for the time that you spent at that meeting?

A. Yes, sir, that is, our time went on. I don't know about the tonnage, whether the tonnage raised up much after we went in there. I know there was a lot of heats had not been worked while we were in there.

Q. Were you working on May 26th, 1937?

A. No, I was off at the time. That was our two days off, I believe, on the 27th. We would be due out on the 27th, or 26th, at three o'clock. I believe we was due out on the 26th.

Q. Was the strike on when you were due back to work?

A. I came into town, and they told me about the strike being called, and I didn't go into work because I knew the strike was going to be called.

Q. Had you been back to work, or had any conversations with any of your superiors concerning your job, or trying to go back to work?

A. I tried to go to the employment office two different times. The first time I met a policeman between the two buildings before we got in where the employment office was, and I told him my check number, and he said: "Come back later."

So I went back two or three days afterwards, and there was three policemen there. They said: "What is your check number?" I said: "5521." They said: "What is your name?" I said: "Simcox." They said: "Oh, there is nothing in here for you. You get the hell out of here." So I moved away from there, and said nothing more about it.

MR. DAY: I move to strike that conversation out.

TRIAL EXAMINER LINDSAY: The motion is denied; let the record show an exception on behalf of the Respondent.

(Exception on behalf of the Respondent.)

Q. (By Mr. Hoskins) Now, have you called or talked with anyone else?

A. So I called in one day, and called for Mr. Putnam's office, and the telephone was answered, and a man says: "Who is this talking?" I said: "Simcox." He said: "What do you want?" I said: "I want to know if I have a job." He said: "No," and he hung up on me right away, didn't wait for any further conversation.

Q. Was that the last time you have talked—

A. Yes, that was the last time I have talked with them.

Q. When was that, would you say?

A. I would judge that was about a week or 10 days ago.

Q. About a week or 10 days ago?

A. Yes, sir.

MR. HOSKINS: That is all.

Cross Examination

Q. (By Mr. Day) When was it that you went back the first time? That is, when you saw the policeman?

A. That was about three days before I called up down at the mill.

Q. And you called up down at the mill about a week or 10 days ago—

A. Yes, sir.

Q. —was it about three days before that that you went back and saw the policeman?

A. That I was down at the Bessemer plant, tried to get into the employment office to register. That's what I understand we had to do, was register at the employment office.

Q. Was that the first time you tried to go back to work?

A. I tried to go back about a week before that. I went down and asked the man to go in and register. He asked my number. I told him the number, and he said: "Come back later."

Q. Was that the first time?

A. That was the first time, yes.

Q. Now, this is the 20th of August, a week or 10 days ago, we will say, was about the 10th of August?

A. Yes.

Q. That is the time you telephoned?

A. Yes, sir.

Q. Was it three or four days before that that you went down to the plant?

A. Yes, sir.

Q. Was it about a week before that that you went down the first time?

A. I judge about two days before that.

Q. Just a few days before that?

A. Just a few days before that.

Q. Then, would you say that it was some time after the 1st of August that you tried to go back the first time?

A. Well, I wouldn't be—I didn't just keep the date in mind.

Q. I know you did not, and I am just trying to get your best judgment, that is all.

Was it three weeks ago, or about three weeks ago? This is the 20th of August.

A. It was on or about that time, I believe.

Q. On or about. Of course, the plant closed down on the 26th of May and the strike was called?

A. Yes, sir.

Q. And then the plant opened up on the 25th of June?

A. Yes, sir.

Q. You were here at that time, were you?

A. Yes, sir.

Q. Were you out on a strike at that time?

A. Yes, sir; I am still out on a strike.

Q. Were you doing some picket duty from time to time?

A. Yes, sir.

Q. You know that quite a number of men did go back to work when the plant opened up about the 25th of June, do you not?

A. I don't know how many men went back. I didn't have a chance to get in there to find out, myself.

Q. I know you do not know how many, but you do know, and have heard, that quite a number did go back, at that time?

A. Yes, I have heard.

Q. You joined the C. I. O. when?

A. Around the last of February, or the first of March, somewhere around there.

Q. How long had you worked for Republic Steel Corporation before C. I. O. called the strike?

A. I started back to work in the Republic around '33, some time around '33 or '34.

Q. Did you work for years pretty steadily before C. I. O. called the strike?

A. No, we had slack times, and I was on the slag gang, in the open hearth there. We worked there maybe one or two days a week, there, a while, and then it was down to six, seven, eight furnaces.

Q. And you started to work for Republic Steel Corporation a good many years ago?

A. Yes, sir.

Q. You were a member of the Executive Committee of the C. I. O.?

A. Yes, sir.

Q. And you told Mr. Putnam and Mr. Cahill, the man you called Jonesy—what was his name, Cahill?

A. Jonesy Cahill, yes.

Q. Jonesy was his first name?

A. Yes.

Q. And Jonesy was his nickname?

A. Yes.

Q. And you told him and Mr. Putnam that you were a member of the C. I. O. for the first time about January, would you say?

A. Around about the 13th to 14th of March, when they questioned me about it.

Q. And you had your job at the Republic Steel Corporation up until the time of the strike?

A. Yes, sir.

MR. DAY: I think that is all.

MR. HOSKINS: No further questions.

MR. DAY: Wait a moment—that is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: Off the record.

(There was a discussion off the record.)

TRIAL EXAMINER LINDSAY: On the record.

MR. LAUTER: Mr. Examiner, will you make the announcement that witnesses under subpoena must come back?

TRIAL EXAMINER LINDSAY: Just a moment.

All those witnesses who are under subpoena must be here in the morning, and no witnesses excused from the court after they have testified until they have been excused by the attorney representing the Board.

Now, each witness who leaves the witness stand, will you just go and see the attorney and ask him if there is any reason you should come back or stay?

We will adjourn until 9:30 o'clock in the morning.

(Whereupon, at 5:00 o'clock p. m., August 20, 1937, the hearing was adjourned until August 21, 1937, at 9:30 o'clock a. m.)

Courtroom No. 6,
Mahoning County Courthouse,
Youngstown, Ohio
Saturday, August 2, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

JOHN T. LINDSAY, Trial Examiner.

Appearances:

MARK LAUTER, Esq.,
OSCAR GROSSMAN, Esq., and
JOSEPH A. HOSKINS, Esq.,
appearing for the National Labor Relations Board.

LUTHER DAY, Esq., and THOMAS F. VEACH, Esq., of the firm of Messrs. Day, Young & Veach (1420

Union Trust Building, Cleveland, Ohio), and

T. F. PATTON, Esq., Republic Building, Cleveland, Ohio.

DAVID E. JONES, Esq., and

CHARLES F. SMITH, Esq., (Canton, Ohio), appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. HOSKINS: Mr. Opalcih.

JOHN OPALCIH

a witness called for and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Hoskins) State your full name, please, Mr. Opalcih.

A. John Opalcih.

Q. Where do you live, Mr. Opalcih?

A. Wardwell Avenue.

Q. You will have to speak a little bit louder. I did not hear you.

A. Wardwell Avenue.

Q. Whereabouts on Wardwell Avenue?

A. 2955.

Q. 2955 Wardwell Avenue.

TRIAL EXAMINER LINDSAY: Try and raise your voice.

Q. (By Mr. Hoskins) Is that in Youngstown?

A. Yes.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes.

Q. When did you first start to work for them?

A. In 1915, August 15th.

Q. I did not hear the last part of your statement.

A. 1915.

Q. You started to work for the Republic Steel Corporation in 1915?

A. 1915.

Q. In what department?

A. That is plate mill, and bar mill, both mills.

Q. In the plate mill and the bar mill, both places?

A. Yes, sir.

Q. Is that here in Youngstown?

A. Yes.

Q. Your answer is "Yes" on that?

A. Yes, yes.

Q. Have you worked steadily for them since you first went to work?

A. Yes.

TRIAL EXAMINER LINDSAY: What was that last answer?

THE WITNESS: Yes.

TRIAL EXAMINER LINDSAY: Just talk right out; do not be afraid of it.

Q. (By Mr. Hoskins) Do you know a Mr. Warnock?

A. That's my superintendent.

Q. Mr. Warnock is your superintendent?

A. Yes.

TRIAL EXAMINER LINDSAY: How do you spell that?

MR. HOSKINS: Wa-r-n-i-c-k is the way I have it here.

MR. SMITH: Better have an "o" where you have an "i," I think.

MR. HOSKINS: W-a-r-n-o-c-k.

BY MR. HOSKINS:

Q. While you were working in the mill prior to the strike, did you have any conversations with Mr. Warnock regarding your membership in the C. I. O.?

A. Yes, there was 19—yes, that 25, he come in there down to me, in my place where I work, second floor.

Q. Just a moment, Mr. Opalcih. Where was this?

A. That is the 26th, the same day as is the strike.

Q. The 26th, the same day as the strike?

A. Yes.

Q. Then that would be the 26th of May?

A. May.

Q. You say he came into where you were working?

A. Yes.

Q. Was he alone?

A. He come in—I start at three o'clock in the afternoon.

Q. You start working at three o'clock?

A. Three o'clock in the afternoon.

Q. All right.

A. And he come in about 20 minutes after four. Mr. Warnock and his foreman, shift foreman.

Q. Who is this shift foreman?

A. He is Nick—Mr. Warnock's pusher, he is Nick. I don't know his last name, I couldn't tell you.

Q. Now you say they came in. What do you mean by that, they came into where you were working?

A. Yes, he came in over upstairs down to the transfer table where I work.

Q. You work at the transport table?

A. Yes, I work at the transfer table, I work like here (indicating), the controls here, and he come back over here in the door, like here (witness indicates), back of me. He said: "Oh, John, hello." I say: "Hello." I ain't got no time, because one man work, he is too busy. And he say: "Somebody told me you belong to the C. I. O." I say:

"Yes." He say: "All right, anythings trouble coming, I kick you down on the bridge, center street bridge."

Q. Who was it said that to you ?

A. His helper, Mr. Warnock's helper, and the shear foreman, standing back of him, he don't say nothing.

Q. Mr. Warnock—

A. Helper.

Q. Which one of them made the statement that you just related, was that Mr. Warnock or his helper?

A. Mr. Warnock.

Q. It was Mr. Warnock?

A. Yes.

Q. All right. Is that all he said?

A. That's all he say. I say: "Listen, Mr. Warnock, you can throw me now, if you want, no have to wait, you are superintendent. You can throw me out."

He say: "All right, you going to get yours." All right, 11 o'clock, I don't know nothing about a strike come. I passed 11 o'clock on the bridge, and a couple of guys over there—"Is finish—strike." Well, I am out.

Q. Then you left the mill that night at 11 o'clock and the strike was in process at that time?

A. Yes.

Q. Have you been back to the mills since then?

A. I no go in the mill, only I go couple times down because I live far away, I don't go any more because I have to take street car.

Q. Have you been back to try to get your job?

A. I no in over there, but pass couple of times on the picket line down at the Center Street Bridge. Well, I pass lots of times on the street level, Mr. Warnock no see me no time. Mr. Callahan, some other guys see me up on the bridge. Well, after I go up in the mills, I am going down there on the mill morning—that is 25th, isn't it?

Q. You say it was the same day they opened the mills?

A. Yes, the same day they opened the mills, that is Monday, they opened the mills.

Q. Is this when they opened the mills in June?

A. June.

Q. Monday the 25th?

A. Yes.

Q. All right.

A. He is open mill. Well, my boss, he say, "Daddy, if you go in the mill?" I say, "Well, I have to go, they open mill, everybody go, I go too." "Well," he say, "all right, come on, let's go."

I go in the mill. My boss goes inside, Mr. Warnock stay over there in the office, the door like here (indicating). He is stay over there, he look to me, I come over there, he jump to me like you know—just like you know a dog jump, want to bite you, he jump to me, "Didn't I tell you before to get the hell out of that bridge? Now, get the hell out of here, I don't want to see you."

Q. Who made this statement to you?

A. Mr. Warnock.

Q. Mr. Warnock, your superintendent?

A. Yes, superintendent.

Q. All right.

A. I get out, he is boss. If I stay down there he gets policeman, chase me up to jail, so I get out. I get out about 30 feet past the plate mill on the bridge, I pass down there and he come back to me, he say, "John, John, come back here."

Well, I come back again, he say, "Listen, you stay on the picket line," tell me this way and this way, I don't want to talk to nobody like that, he is a man, he told me anything, he say, "Come on in the office."

I say, "Listen, I have got enough, what you tell me right now, I don't go in the office. I will go home. You tell me first time to go and now you tell me anything you wanted and I didn't want it."

Q. What was it he told you?

A. Oh, I don't want to talk like that, there is too many peoples.

TRIAL EXAMINER LINDSAY: Tell us what he said.

THE WITNESS: Oh, he say, "God damn son-of-a-bitch you, I will tell you stay over there on the bridge on the strike, now you come in here, go and get the hell out of here."

I say, "Listen, I go there lots of times, like my boys."

He says, "Boys all right, not you," because boys got Republic union cards, only I don't take it. He mad for me.

And after that he say, "Well, get the hell out of here, any how, I don't want you."

I say—after that I say, "O. K."—I tell him o. k., he boss over there, he is going down to his office, office down on Center Street Bridge, he has got big office.

He is going back, he say, "Well, if you are wanted I will call you up." I don't go down there, he never call up to me.

Q. He has not called you yet?

A. No.

Q. Mr. Opalcih, do you belong to the C. I. O.?

A. Yes.

Q. When did you join?

A. 15th of May.

Q. The 15th of May? And this conversation that you related you had with Mr. Warnock while you were working, that was on the day of the strike?

A. That is on the same day.

Q. The 26th of May?

A. Yes, somebody told him, see? Some guys tell him, because any guys—he has got a couple of guys down in the mill, he is going over there to join that Republic Iron &

Steel union. Well, I tell him I don't want it. Only he gets mad for me.

Q. You say you were asked to join a union?

A. Yes.

Q. By whom?

A. He told me, "If you no join the union, well he throw me out." Couple of times he told me. I tell him I don't want to take no union.

Q. Who was it asked you to join this union?

A. Some guy over there, work on the stocker.

Q. What does the stocker do?

A. You know, charge him up, charge up steel in the furnace.

Q. Approximately, in time, when was it?

A. Before two weeks has passed in the mill, bar mill and plate mill, ask anybody there.

Q. I didn't understand that answer.

A. That guy is in the bar mill and plate mill, same superintendent in both mills, he talk to the guys, "Go ahead, stay in the union. If you don't, well you lose your job." Well, I tell him lots of times I didn't want it.

MR. DAY: Who is he talking to?

TRIAL EXAMINER LINDSAY: Off the record, Mr. Day.

(Discussion off the record.)

Q. Let me see if I can't clear up this last incident you have been telling us. You say this was a stocker who approached you to join?

A. Yes.

Q. Do you know his name?

A. Johnny Kology.

Q. You don't know how to spell that, do you?

A. No, I couldn't tell it.

Q. He is a stocker?

A. He is a stocker.

Q. What department does the stocker work in?

A. In the plate mill.

Q. In the plate mill?

A. In the plate mill, sometimes the same mill.

Q. Is he a foreman of any sort?

A. No, he is no foreman, just a workingman.

Q. Is he a representative under the employees representation plan?

A. No, he is no representative, he has got another one to bar mill.

Q. About when was this that he approached you to join the union?

A. About two weeks before the strike.

Q. About two weeks before the strike?

A. Before strike.

Q. Where were you when he approached you?

A. I am down there in the mill.

Q. You were down there working?

A. Working.

Q. Did he come up to your table where you were working?

A. Yes, he call to me where I work. He tell me, "John, stay in the union."

MR. DAY: I object to this conversation.

TRIAL EXAMINER LINDSAY: The objection is overruled, let the record show an exception. Off the record.

BY MR. HOSKINS:

Q. Did he tell you what the name of this union was?

A. He tell me that name, only I forget. I don't want it. He has got the other card.

Q. It was a yellow card?

A. Yes.

MR. DAY: I object to this conversation between this witness and the stocker, on the ground that there is no showing that the stocker was an agent or officer of the respondent, he had no authority to bind the respondent, or that the respondent had any knowledge.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

BY MR. HOSKINS:

Q. Mr. Opalcih, I show you Board's Exhibit 55, is that the kind of a card that he handed you?

A. That is the same one, he give it to you once, and he take one for himself, the same one.

Q. You say he gives you one part of it?

A. Yes.

Q. And keeps the other part himself?

A. You sign up—if you sign up.

Q. Did you sign one of these cards?

A. No, I don't want it.

Q. Well, when was it you stated you went to work in the Republic Steel?

A. 1913.

Q. 1913?

MR. HOSKINS: I believe that is all.

Cross Examination

BY MR. DAY:

Q. You say this yellow card, Board's Exhibit No. 55, is the kind of a card the stocker showed you?

A. Yes, that's the thing, the same card.

Q. How do you know it is the same card?

A. Same card, because he explained to me, and showed me right here, like you show me right now.

Q. Did you read it?

A. I read it, I say: "Johnny, I don't want it."

Q. My question is, did you read the card, what it said on it?

A. I ask him first, I say: "Johnny, what you mean that card, that's a C. I. O. card?" He say: "No that's a Company Union." I say: "I don't want it."

Q. I am asking you, how do you know this card here was the same kind of a card, just because it is yellow, is that the reason?

A. Yes, Johnny told me, Johnny told me that's a Company Union. Here is a guy—

Q. Listen to my question. Did you read the card?

A. I working,—I don't read the card. I just ask him what kind of a card. He say: "Republic Union." I say: "I don't want it."

Q. You have been out on the picket line, have you not?

A. Yes.

Q. And carrying a club out there?

A. Yes, sure.

Q. A ball bat?

A. Oh, I carry a stick—

Q. What kind of a club have you been carrying out there?

MR. HOSKINS: I object, your Honor.

A. I have been—

MR. DAY: Wait a moment, wait until the Court passes on the objection.

I think it is the same situation that we had presented down at Canton.

TRIAL EXAMINER LINDSAY: Yes, I think I will overrule the objection and let the record show an exception.

(Exception by Board.)

BY MR. DAY:

Q. What kind of a club were you carrying?

A. That's a club like if somebody come in and say: "Hit my kids—" You see, I have kids—don't cry anyhow.

Q. How?

A. If you hit little kids—my children—and they don't cry anyway, that little stick (witness indicates).

Q. A little stick about that long (indicating)?

A. Not—like finger (indicating)—that's all.

Q. You are indicating. How long was this stick that you carried?

A. Oh, I take it over there about four days.

Q. How long was it?

A. Oh, about—well, two feet.

Q. Two feet?

A. Yes.

Q. Was it made of wood?

A: Wood, a piece of wood.

Q. Did you carry anything else besides that?

A. Absolutely no.

Q. What?

A. Absolutely no.

Q. How many times have you been on the picket line?

A. Seven.

Q. Seven times?

A. Seven times.

Q. Since the strike began?

A. Yes, after strike, I say seven times, because I got no time to go in the picket line. Anybody tell me, go ahead, I got no time, because I got cow, and I got three acres ground, and I work on the ground.

Q. You got a cow?

A. Yes, I got hay, and I got no time to go on a picket line.

Q. Do you live on a farm ?

A. I live over at Stop 25 Sharon line.

Q. What is that?

A. I live over at Stop 25, Sharon line, that's six miles away.

Q. You have got a little farm out there of some kind, have you?

A. Yes, three acres ground.

Q. You joined the C. I. O. on about the 15th of May?

A. 15th of May.

Q. That is only 10 or 11 days before the strike?

A. 10 or 11 days before the strike, because I don't want to take it before, because I got a big family, I don't want it.

Q. You started to work for the Republic Steel Corporation in 1915?

A. In 1915.

Q. You worked there for about—right along, straight up to 1937?

A. Yes, sir.

Q. Over 20 years?

A. That's 22, straight years.

Q. And I suppose you worked part of the time, and you were off part of the time?

A. Always part time, no work, just I go lots of time, and there is depression, I work, I just make them the $450 for a year.

Q. During the depression?

A. Yes, and I stay home, I lay off.

Q. Then the C. I. O. came along this spring, and called a strike, did it not?

A. Yes.

Q. And about 10 days before the C. I. O. called the strike, you joined the C. I. O.?

A. I joined the C. I. O.

Q. When did you start to wear your button, right away?

A. No, I start the C. I. O., there is a meeting down there in Roumanian Hall on Poland Avenue, there was a meeting down there one day, one Sunday, and I go down there, and I hear talk, and I sign up.

Q. Well, did you tell your boss you had joined the C. I. O.?

A. Yes, he come in over there that time, he come over there where I work. He says: "John, somebody saw you, somebody told me you C. I. O. man?" I say: "Yes."

Q. How long was that before the strike?

A. That same day, that Monday.

Q. The same day of the strike?

A. Strike 11 o'clock, and he come in about 20 minutes after four.

Q. Did you wear your button before the strike?

A. No, I don't got button in the mill.

Q. You did not?

A. No, because I tell you the truth, I am scared.

Q. You were scared?

A. Sure, I was scared. If I go outside, I carry it.

Q. Were you scared out on the picket line when you had a club?

A. When the strike coming, I don't get scared.

Q. All right. Now, when the mill opened up about the 25th of June—

A. Yes.

Q. —the strike was still on, was it not?

A. When they open the mill, I hear in the paper, I see in the paper is open mill.

Q. Yes.

A. All right, my boys say: "Pa, here is in the paper is mill open tomorrow morning. What are you going to do?" I say: "Have to go, I think." Well, in the morning, he get up and take me over, and go ahead. All right, I go right to the mill.

Q. Did your boy work in the mill?

A. My boy just those couple same days—same days—that's Monday, makes—

Q. What mill—wait a moment—in what mill did your boy work?

A. In the plate mill, plate mill.

Q. In the same mill that you did, you say?

A. Yes.

Q. He did not join the C. I. O.?

A. No.

Q. He did not go out on strike?

A. No, he didn't go no place.

Q. The day the mill opened up, you went back with your boy?

A. Yes, I went to—I go down to the mill, and he throw me out. My boy coming home, he say: "Ma, Father lost the job. He take punch card out with him, and everything, he lost the job." And my mother raise me hell, what is matter, I no go to work, I lost the job, with seven kids and what the hell going to do? I say: "Five years before, I no work, I no die, I no die yet. You see I lost, I lost."

Q. Well, you worked for those seven kids up until the time the C. I. O. came to Youngstown, did you not?

A. What is that? All right.

MR. HOSKINS: I object to that, your Honor.

TRIAL EXAMINER LINDSAY: Yes, that objection is sustained. There is one other question in the record, Mr. Day. You should correct your question so as to comply with the witness' testimony. Now, your question asked if that was the day that he was carrying the club. The testimony that he gave showed that he had a stick two feet long and about as big around as his first finger. I would not call that a club.

MR. DAY: Well, the record may show that the club refers to the stick that is described by the witness.

BY MR. DAY:

Q. You never carried a ball bat?

A. I got no—nothing over there—I got no gun, no knife. I don't carry, because I got no gun to my house either, how long I live over there in Youngstown. I got property, and is given to me two years ago, I never buy down there, I don't bother this way.

MR. DAY: I guess that is all—wait a minute.

BY MR. DAY:

Q. Are you working now?

A. No, sir, he don't call me up, I don't go.

MR. HOSKINS: That is all.

(Witness excused.)

FELIX VOLEZISSI

a witness called for and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HOSKINS:

Q. State your full name.

A. Felix Volezissi.

TRIAL EXAMINER LINDSAY: Miss Reporter, will you please repeat that name and the spelling of it?

THE REPORTER: Felix—F-e-l-i-x—Volezissi—V-o-l-e-z-i-s-s-i.

BY MR. HOSKINS:

Q. Is that spelled correctly?

A. Yes.

Q. Mr. Volezissi, where do you live?

A. 2424 Shirley Road.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes, sir.

Q. When did you first start to work for them?

A. In 1915.

Q. In 1915?

A. Yes, sir.

Q. Have you worked for them steadily since 1915?

A. Yes, sir.

Q. What departments have you been in down there?

A. Master mechanic department.

Q. Is that the only one?

A. Yes, sir.

Q. You have been there the entire 22 years?

A. Yes, that's engine house, and pump house, belongs to master mechanic.

Q. Do you belong to the C. I. O.?

A. Yes.

Q. When did you join the C. I. O.?

A. Last April.

Q. The last part of—

A. Last April.

Q. The last part of April?

MR. DAY: No, he said last April.

(Answer read by Reporter.)

MR. HOSKINS: That is right. I am wrong.

BY MR. HOSKINS:

Q. Did you wear your button as soon as you joined?

A. Yes, sir.

Q. Do you remember May 26th, 1937?

A. What you say?

Q. Do you remember May 26th?

A. Yes.

Q. What happened on that date?

A. The strike.

Q. There was a strike?

A. Yes.

Q. Did you go to work on that day?

A. Yes, I work—I work from 11 o'clock, 11 to seven.

Q. You were supposed to work from 11 to seven?

A. Yes.

Q. Did you go to work at 11 o'clock?

A. I can't get in.

Q. You could not get in. Now, during the strike, were you in the picket line?

A. Yes, sir.

Q. Have you been back to the mill since that day, in order to get your job?

A. Yes, I come back—on the 28th of June.

Q. On the 28th of June?

A. Yes.

Q. Who did you see when you went to the mill?

A. Mr. Manley.

Q. Mr. Manley?

A. Yes.

Q. What is Mr. Manley's position, do you know?

A. Yes, he say he got nothing to do for me.

Q. No, what is his job down there? Who is Mr. Manley?

A. That's master mechanic.

Q. He is the master mechanic?

A. Yes.

Q. What was it he said to you?

A. He say—I was in his office, on the 28th when was open the gates, and had policeman on there.

Q. Wait a moment, you were in his office on the 28th?

A. Yes. He say: "You want to see me?" He say: "What I got to do for you?" I say: "You the boss."

Q. When he said to you: "What have I got to do for you?"

A. Yes.

Q. You said: "You are the boss?"

A. "You are the boss."

Q. All right.

A. He say: "You was on the picket line?" I say: "Yes." He say: "I send you on the picket line again."

Q. He said to you: "I will send you on the picket line again?"

A. Yes. He called up the policeman, and he chased me out.

Q. Then he called up the policeman? He had you chased out?

A. Yes.

Q. And you have worked there since 1915?

A. Yes.

Q. That is 22 years?

A. Well, I would think—I was off about 1915. I was off about five or six months. In 1917 I work all on the job, on the boiler house, and in 1917—1926, I worked in the boiler house. In 1926 to 1937 I work in the pump house.

MR. HOSKINS: That is all.

Cross Examination

BY MR. DAY:

Q. You worked from 1915 to 1937?

A. Yes.

Q. Here in Youngstown? All of that time?

A. All the time.

Q. Then the C. I. O. called a strike last May?

A. Yes.

Q. And the mill shut down?

A. Shut it down, yes.

Q. And since that time you have not worked at Republic?

A. No, sir.

Q. You joined the C. I. O. some time in April?

A. Yes, last April.

Q. And you wore your button from the time you joined?

A. Yes.

Q. And you had your job until the strike came, May 26th?

A. Yes.

Q. Can you give us some idea as to what day in April, or what time in April, you joined the C. I. O.? Was it the first of April, the middle of April, the last of April?

A. The last.

Q. The last of April?

A. Yes.

Q. Then you had been a member of the C. I. O. for about a month before the strike came?

A. Yes.

Q. Now, you say you were out on the picket line?

A. Yes, I was on picket line.

Q. Who was your picket captain?

A. I don't know what was the name.

Q. How often and how long were you on the picket line?

A. All the time.

Q. All the time?

A. Yes—what I got to tell you?

Q. What?

A. All the time I was on the picket line.

Q. At what plant?

A. I was any place.

Q. What?

A. Any place.

Q. Well, you were at different plants then, were you?

A. I was No. 5, I was 7.

Q. You say No. 5?

A. No. 7.

Q. No. 7, is it?

A. No. 7.

Q. Did you do some picketing up on Poland Avenue?

A. How?

Q. Did you do some picketing up on Poland Avenue?

A. No, Poland Avenue? Is all Poland Avenue?

Q. On Poland Avenue?

A. Yes.

Q. Did you do some picketing at Stop 5?

A. Yes.

MR. DAY: I think that is all.

MR. HOSKINS: That is all.

(Witness excused.)

MICHAEL KRILL

a witness called for and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HOSKINS:

Q. State your full name.

A. Michael Krill.

Q. Where do you live, Mr. Krill?

A. 229 Williamson.

MR. SMITH: I did not get your name.

THE REPORTER: Michael Krill, K-r-i-l-l.

Q. Your address you say is 229 Williamson?

A. Yes.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes.

Q. When did you first start to work for them?

TRIAL EXAMINER LINDSAY: Talk a little louder, Mr. Krill.

A. March, 1936.

TRIAL EXAMINER LINDSAY: That is better.

BY MR. HOSKINS:

Q. And in what department did you work, Mr. Krill?

A. I started in the mason gang, in the open hearth.

Q. The mason gang in the open hearth?

A. That's where I started.

Q. Did you keep that job all the time?

A. No.

Q. Where were you transferred to?

A. Inspection department. I worked there for a couple of weeks, and then I quit the mill for a couple of months.

Q. You worked in the inspection department for a couple of weeks?

A. Yes.

Q. And then you quit for a couple of months?

A. Yes.

Q. Then when did you go back?

A. I went back in July of 1936.

Q. You went back in July of 1936?

A. Yes.

Q. In what department did you go into then?

A. Galvanizing department.

Q. The galvanizing department?

A. Yes.

Q. What was the last day you worked in the galvanizing department ?

A. On May 26th.

Q. On May 26th?

A. Yes.

Q. Of this year?

A. Of this year.

Q. Now, this time while you were working in there, were you approached and asked to join any union in the plant?

A. Yes, just prior to the strike, about a week before the strike, I was working at my job, and a fellow come and said he was supposed to take my place while I went into the office. and so I went, and my turn foreman, and general foreman, was standing outside the office.

Q. Just a moment, who are your general foreman and your turn foreman?

A. Fisher is the turn foreman, and Linden is the general foreman.

Q. Fisher is the turn foreman and Linden is the general foreman?

A. Yes.

Q. How do you spell that?

A. I don't know how to spell it.

Q. All right.

A. Well, he told me to go inside the office, and I went in there and the representative was seated at the general foreman's desk.

Q. In what years were you elected representative?

A. 1934 and '35 and '36.

Q. What is this representative's name, do you know?

A. Amel Valley.

Q. How do you spell his name?

A. The first name is A-m-e-l.

Q. And the last name is Valley?

A. Valley. Well, he asked me if I wanted to join the independent federation.

MR. DAY: Who was talking?

MR. HOSKINS: I believe the witness has testified that the general foreman and the foreman.

Q. Is that right?

A. Yes, sir.

MR. DAY: Were [you] in this conversation?

MR. HOSKINS: No.

Q. You were instructed by them to go inside?

A. Yes, sir.

Q. And that this representative who was inside is the man carrying on the conversation, is that right?

A. That is right, the representative.

MR. DAY: Representative of what?

MR. HOSKINS: Under the employees representative plan.

MR. DAY: I object to that on the ground that the man with whom this witness had the conversation had no authority to represent the respondent, no evidence of knowledge or authorization on the part of the respondent; incompetent, irrelevant and immaterial; it has no bearing on any issue presented at this meeting.

TRIAL EXAMINER LINDSAY: May I ask, Mr.

Day? I understood that the man with whom he was talking was the foreman out there.

MR. DAY: No, he was the representative—member of the representative plan or something or other, that is what I understood. Is that right?

MR. HOSKINS: I believe the testimony will show that Mr. Krill was working, he was sent for and somebody else was placed on his job and that he was told by his foreman and general foreman to go in the office.

THE WITNESS: That is right.

MR. HOSKINS: In the office this employees representative was sitting and at the general foreman desk, and this representative and Mr. Krill are the two men in this conversation.

TRIAL EXAMINER LINDSAY: Who was the foreman sent him in?

MR. HOSKINS: It was a foreman and general foreman.

BY MR. HOSKINS:

Q. Is that not right?

A. That is right.

Q. Their names were—

A. Fisher was the turn foreman. Lindy was general foreman.

MR. DAY: He stated a man came to him and told him. He didn't say the foreman.

MR. HOSKINS: Didn't he also state that as he passed his general foreman and his turn foreman—

TRIAL EXAMINER LINDSAY: Let's not argue. The objection is overruled. Let the record show an exception.

BY MR. HOSKINS:

Q. All right, now, what was the conversation that went on in the office?

A. He asked me if I wanted to join the independent federation of the Republic employees.

Q. And what did you tell him?

A. I told him no.

Q. Did he show you any of the membership cards in this federation?

A. Yes.

MR. DAY: I do not want to interrupt, but has he stated the name of the man that he talked to?

MR. HOSKINS: Yes, sir, he has stated it in this record.

MR. DAY: What was his name?

MR. HOSKINS: Amel Valley.

MR. DAY: All right, I beg your pardon. I didn't get it.

BY MR. HOSKINS:

Q. I show you Board's Exhibit No. 77 and ask you if that is the kind of a card he showed you at that time?

A. That is the one.

Q. Was that all there was to the conversation?

A. No, he said there wasn't very much use talking to me about joining that, because he knew I was 100 per cent C. I. O., but he said he was supposed to talk to everyone in the plant. Then he told me I would be better off by joining that independent federation, though.

Q. And did you reply to that?

A. I says I would not join it.

Q. How long were you away from your job at that time, would you say?

A. Oh, about 15 minutes, I guess.

Q. Did you get docked for the time?

A. No.

Q. Do you belong to the C. I. O., Mr. Krill?

A. Yes.

Q. When did you join?

A. January, 1937.

Q. January of 1937?

A. Yes.

Q. Have you been fairly active in the C. I. O.?

A. Well, I have.

Q. Now, on May 26th, 1937, were you working that day?

A. Yes.

Q. On what turn were you working?

A. 7 to 3, day turn.

Q. 7 until 3?

A. Yes.

Q. And the strike was called that night, is that correct?

A. That is right.

Q. You stayed out on strike?

A. Yes.

Q. Have you returned to the mill since that date?

A. On June 28th.

Q. On June 28th you returned?

A. Yes.

Q. Will you tell us what transpired when you went down there?

A. Well, it was about 5:30 p. m. when I got down, or more, close to 6 o'clock, and I seen a general foreman and asked him when I should come out to work.

Q. Is that the Mr. Linden you have referred to?

A. Mr. Linden. Well, he didn't look pleased to see me. Well, he said I should come out at 7 o'clock that same day.

Well, I told him it was pretty late for me to go home, change clothes and get lunch and be back in time, and furthermore, that day I broke my glasses, but I told him I didn't want to work without them, I asked him if it would be all right if I could come on the following morning.

He said yes, just so I make it before the dead line. Well, I asked him if he knew when the dead line was going to be and he said no.

So the following morning I came out and he told me, "It is too late."

Q. What time did you get there the following morning?

A. I rang my card about 6:30, it was.

Q. Your card was in the rack?

A. Yes.

Q. And you rang it about 6:30?

A. About 6:30 in the morning.

Q. How soon after that did you see Mr. Linden?

A. I had to wait until about 10 minutes to 7 until he come.

Q. What was it he said to you, then?

A. He said it was too late. He said, "The dead line is already in effect," and I asked him if he knew that on the 28th, when the dead line was going to go into effect. He said, "Yes," but he didn't want to tell me.

Q. He stated that he had known, the night before, when the dead line would be?

A. Yes.

Q. But that he didn't want to tell you?

A. That is correct.

Q. Now, this morning he told you that the dead line had already gone into effect, and you were too late?

A. Yes.

Q. I see, what did you do?

A. Well, he told me I would have to get rehired. He told me to go down to the employment office and re-register. And then I went down to the employment office and re-registered that day. That following night I went out to work.

Q. Did you see anybody?

MR. DAY: I didn't understand, the following night he did what?

(The record was read by the Reporter.)

THE WITNESS: It was that same date, June 29.

MR. DAY: Went out to work?

THE WITNESS: I went out to work that night, too.

Q. When you went to the employment office, did you see anyone down there?

A. I seen Rose.

Q. Who is Rose?

A. Employment manager.

Q. Did you have any conversation with him?

A. Well, he looked at my pay stub and the assistant handed him a card that he looked at and he said, "That is all."

Q. Now, you see you went out to work again that night?

A. That night.

Q. Tell us the circumstances, will you?

A. This Ziegler, the turn foreman, he was going to put me to work until I told him my time card was not in the rack. Then he didn't know what to do, so he called up Linden, and Linden told him if my card was not there, to send me home.

Q. What time of the night was this?

A. That was 11 o'clock.

Q. 11 o'clock, and you went home at that time?

A. Yes.

Q. Was there any explanation given you why your card was not in the rack?

A. No explanation.

Q. All right. Did you go to the mill again after that date?

A. On July 1st I went to the employment office, but the police would not let us anyway close to it.

Q. All right, have you been back to the mill since then?

A. Well, I called up the boss in July—no—yes, I called up the boss a couple of times, Linden, and he told me that when they needed me they would send my number in to the employment office, to get rehired.

Q. I didn't understand you, did you say he would send it in, or he had sent it in?

A. He would.

Q. He would send it in? All right.

A. Then on July 30th the numbers were sent in for almost all of the fellows in our place, to get rehired.

Q. How do you know that?

A. I talked with most of the fellows personally.

MR. DAY: I move that be stricken out, what he learned from the fellows.

MR. HOSKINS: Well, just a minute, if I may.

Q. Did you learn whether your number had been turned in or not?

A. Yes.

Q. Who told you that?

A. Linden told me that.

Q. Mr. Linden told you your number had been turned in?

A. Yes.

TRIAL EXAMINER LINDSAY: I will overrule the objection. Let the record show an exception.

Q. All right. Now, I believe you stated you called Mr. Linden a couple of times?

A. Yes.

Q. And then were you down to the mill at any time? After that date?

A. Yes, on August 13th I went down there to get some clothes out of there, and Linden seen me and the first question he asked was if I was running out of groceries, coming back there, so I said no. There was a policeman with me, and they was talking—he said he had tried to get me back, he said he had turned my number in, he said I was o. k. as far as he knew, and then the policeman said, "Well, it has to pass through about five men before it is finally o. k.'d" He said, "They probably stopped it down around the employment office some place," and Linden said he called up Rose to find out what was wrong. He said Rose got mad as anything at him for trying to find out.

Q. Was any reference made to the effect that you had been picketing?

A. Yes, Linden asked me if I picketed. I said yes. I says, "Almost every day." He asked me if I carried a club. I said no. Well, he said they probably got my pictures, a lot of pictures down below in the main office.

Then we were talking about the time they short circuited a high power line down at the Bessemer plant, and the policeman and Linden agreed that perhaps they had probably had these for that.

Q. Was it generally known in the mill that you were a member of the C. I. O.?

A. Yes, practically everyone in my department knew it.

Q. Now, have you worked at all, since you went out on a strike?

A. Well, I started, I worked five days since last Saturday.

Q. You have worked five days since last Saturday?

A. Yes.

Q. Are those the only five days you have worked?

A. That is the only five.

Q. How much have you earned during those five days?

A. Close to $25.

Q. Close to $25?

A. Yes.

Q. Are you sure of that figure?

A. Well, it is around there, might be a little more.

Q. What is your rate of pay where you are working?

A. Where I am working, 62½ cents an hour.

Q. 62½ cents an hour?

A. Yes.

Q. How many hours a day are you working?

A. Eight.

Q. You are working eight, and you have worked five days, is that right?

A. Yes.

Q. Now, on May 26th, the last day you worked at Republic, what was your rate of pay down there?

A. I was getting 63½ cents an hour and bonus.

Q. 63½ cents an hour plus bonus?

A. Yes.

Q. How many hours a week were you working there?

A. I was working about 48.

Q. About 48? Now, this bonus, can you give us an average figure on your daily wage?

A. Well, my average with time and a half, with bonus, about $6.75 to $7 a day.

Q. $6.75 to $7 a day?

A. Yes.

Q. Now, do you want your job back at the Republic?

A. Yes.

MR. HOSKINS: That is all.

Cross Examination

BY MR. SMITH:

Q. Where had you worked, before starting with Republic, Mr. Krill?

A. Before I started for the Republic?

Q. Yes.

A. Well—

Q. I mean immediately before?

A. I believe Lembkes Ethical Drugs.

Q. How do you spell that?

A. Lembkes Ethical Drugs.

Q. I didn't get it.

A. Lembke Ethical Pharmacy, I believe was the name of it.

Q. That was a drug store, was it?

A. Yes.

Q. How old a man are you?

A. Well, I will be 21 on the 31st of this month.

Q. 21 on the 31st of this month?

A. Yes.

Q. And you started to work there when?

A. March, 1936.

Q. March of 1936?

A. Yes.

Q. Did you work there from that time up until the time of the strike?

A. No, not steady.

Q. Well, were you working any place else other than that, during that time?

A. No.

Q. Well, you were working there during the time they had work for you and up until the 26th of May?

A. I was working until the 26th of May.

Q. Yes.

A. Outside of two months.

Q. You say you joined the C. I. O. in January of 1937?

A. That is right.

Q. Did you hold any position in the lodge or in the C. I. O.?

A. No.

Q. Did you wear your button during that period?

A. No.

Q. You say it was generally known that you were a member of the C. I. O.?

A. Yes, among my fellow workers.

Q. Yes, but you had your employment regularly up until the C. I. O. called a strike?

A. Yes.

Q. Now, who was it that told you to go over to the superintendent's office there, at the time you talked with this man in the office about the union?

A. It was not the superintendent's office.

Q. Well, where was it, then, that you had this talk with him?

A. It was the general foreman's office.

Q. The general foreman's office?

A. Yes.

Q. Well, who was it came to you and told you to go over there?

A. A fellow worker, he said he had instructions from the foreman.

Q. Do you know what his name was?

A. No.

Q. Did he work in your department?

A. Yes.

Q. How many people worked in your department?

A. There wasn't many, about 25, I believe at the most.

Q. About 25? At the time you had this talk with him, you say he gave you a card?

A. Yes.

Q. And what was this man's name?

A. Valley, V-a-l-l-e-y, the representative.

Q. Can you fix the day on which this conversation took place?

A. Not exactly, but it was approximately one week before the strike.

Q. One week before?

A. Yes.

Q. When he presented the cards to you, did you read the cards through?

A. Well, I read it.

Q. You did read it?

A. Yes, I glanced over it, to see what it was about.

Q. And in reading it over at that time, do you mean that you took it in your own hands and read it, or did you just look at it when he showed it to you?

A. I took it in my own hands.

Q. Yes. What time of the day was this that this conversation took place?

A. I believe it was right in the afternoon one day.

Q. You were over there, you say, about 15 minutes?

A. Yes.

Q. I believe you stated that you had been active in connection with the C. I. O. after you had joined there?

A. Yes.

Q. What were your activities? What was it you were doing?

A. Well, I was a volunteer organizer, I signed up fellows for the C. I. O.

Q. Were you signing up men in the plant during the working hours, in the C. I. O.?

A. Not during working hours.

Q. Did you get paid for that work?

A. No.

Q. You say you were over there about 15 minutes and you were not docked at that time, were you?

A. I was not docked.

Q. You were on the picket line, were you?

A. Yes, sir.

Q. And how soon after the 26th, or was it on the 26th that you were on the picket line?

A. I went on down on the 26th, the night of the 26th of May.

Q. How long did you stay on the picket line?

A. I was on, almost every day.

Q. Were you on the picket line in July and after the mill had started to work?

A. Not after the mill started to work.

Q. You were not back on the picket line at all?

A. No.

Q. You haven't been since that time?

A. Not since.

Q. Now, you say you went down there on the 28th?

A. Yes.

Q. And your foreman told you that you could go to work?

A. Yes, that night.

Q. That night? Are you sure that was the 28th, Mr. Krill?

A. I believe it was, it was on a Monday.

Q. Well, you are certain of it being the 28th? Would you be sure that it was the 28th?

A. Yes, I am positive.

Q. Yes; well, isn't it a fact, then, that you didn't get back the next morning, but that you did get back on the 30th of June instead of the 29th?

A. No, I came back on the 29th.

Q. Now, you spoke to them at different times, and you were told that your name was on the record; that is, your card was in the wheel for registering in?

A. Yes.

Q. And you say Mr. Rose was the foreman over at the employment office?

A. He is employment manager.

Q. When was it that you were there?

A. The first time on July 1st.

Q. July 1st?

A. Yes—no, I was there, before, on June 29th, that was the first time.

Q. June 29th? You said something about that "they short-circuited the power house at the Bessemer"?

A. Yes.

Q. Was there something of that kind happened there?

A. It happened one night while I was picketing there.

Q. It did happen while you were picketing there?

A. Yes.

Q. I see.

MR. DAY: At this time we would like to re-open to the Court the question of our right to know where these men, whose names have been mentioned in the complaint as having been improperly discharged, have worked since they were discharged. Now, I want to discuss that very briefly. I know the ruling that your Honor made at Canton was that we were not entitled to that name.

TRIAL EXAMINER LINDSAY: Here is the situation, it is not necessary to discuss it. Aren't you willing to take the proof furnished to you by the chief attorney representing the Labor Board on those matters? Now, if you aren't willing to do that—this is off the record. I don't want any of this in the record, what I am saying.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Let the record show that the attorneys representing the Board and the attorneys representing the respondent—Mr. Day—you are willing to have that part go on the record, that the attorneys representing the respondent and the attorneys representing the Board will get together and be satisfied on the amount of earnings that have been made by each individual named in the complaint.

MR. DAY: That is right.

TRIAL EXAMINER LINDSAY: You have agreed to that?

MR. DAY: Now, of course, if we can't agree, then we will take the matter up with the Court again.

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: We will have a short recess.

MR. HOSKINS: Do I understand the cross examination is finished with this witness?

MR. DAY: Not quite.

TRIAL EXAMINER LINDSAY: Well, go ahead and finish.

MR. DAY: That is all.

(A short recess was taken.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. HOSKINS: Mr. Haren.

WILLIAM A. HAREN

a witness called for and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HOSKINS:

Q. Will you state your full name, please?

A. William A. Haren.

Q. I didn't hear you.

A. William.

Q. How do you spell that?

A. H-a-r-e-n.

Q. Where do you live, Mr. Haren?

A. 520½ Sixth Street, Struthers.

Q. 520½ on Sixth Street?

A. Yes.

Q. In Struthers?

A. Yes.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes, sir.

Q. When did you first start to work for them?

A. July, 1926.

Q. In July, 1926?

A. Yes, sir.

Q. What was your job down there?

A. Mixer crane man.

Q. A mixer crane man.

A. Yes.

Q. Do you belong to the C. I. O.?

A. Yes, sir.

Q. When did you join the C. I. O.?

A. August 6th, 1936.

Q. Have you worn your button around the mill?

A. Yes, sir.

Q. Is it generally known down there that you are a C. I. O. man?

A. Yes, sir.

Q. Do you know a Mr. Cahill?

A. Yes, sir.

Q. Who is Mr. Cahill?

A. Assistant superintendent at the open hearth.

Q. Assistant superintendent of the open hearth?

A. Yes.

TRIAL EXAMINER LINDSAY: What is that name, please?

MR. SMITH: Cahill.

BY MR. HOSKINS:

Q. Is that the division that you work in, the open hearth?

A. No, I am in the electric department.

Q. Does that come under the open hearth?

A. Yes, sir.

Q. Do you know Mr. Elliott?

A. I have seen him. I know him when I see him, is all.

Q. Do you know what his job is?

A. He was then at that time a District Manager.

Q. He was the District Manager?

A. Yes, sir.

Q. Do you remember having attended a meeting this year at which either of these gentlemen spoke?

A. Yes, sir.

Q. When was that?

A. Around in April, to the best of my knowledge.

Q. About when in April, can you fix the date for us?

A. It was around the 15th of April.

Q. About the 15th of April?

A. Yes, sir.

Q. Will you tell us the circumstances of this meeting? How you came to go to it, who called you to it?

A. Bill Spencer, the mixer operator come to me and told me that there was going to be a meeting at the Farewell Building—Welfare Building.

Q. You mean Bill Spencer?

A. Yes, sir.

Q. You say he is a mixer operator?

A. Mixer operator, yes, sir.

Q. What is a mixer operator?

A. He takes care of the metal, and ships metal down to the floor, and furnishes metal whenever they need it.

Q. Do you take orders from this man?

A. Yes, sir.

Q. He told you, you said, that there was to be a meeting at the Welfare Building?

A. Yes, sir.

Q. Did you go to this meeting?

A. Yes, sir.

Q. About what time of the day was it?

A. Around two o'clock in the evening.

Q. Around two o'clock in the evening, did you say?

A. Yes, sir.

Q. About how many men went to this meeting?

A. Between a hundred and two hundred men.

Q. Will you tell us what transpired when you got there?

MR. DAY: Fix the date of this, will you, please?

MR. HOSKINS: He fixed the date as the 15th, and the time, about two o'clock.

MR. DAY: All right, thank you.

BY MR. HOSKINS:

Q. Will you tell us what transpired when you got there?

A. Mr. Cahill walked in and introduced Mr. Elliott, got up on a bench, and said the District Manager was there to give us a talk concerning the C. I. O. and its activities for the past two or three weeks.

After Mr. Elliott got up on a bench, he directed his talk toward the C. I. O., mentioning the fellows that was hired to come there, never had worked in a mill that—

Q. Will you talk just a little bit louder, Mr. Haren?

A. I don't think I can.

He said that these fellows on the bridge that was organizing the men, they never had worked in the mill, and probably never would,—and then he referred us back to the 1919 strike, and he said these fellows would go just like they did. All these fellows wanted was just our dollar, and he wanted us to understand that we didn't have to join any Union at all to work for the Republic. He said there wasn't any of us there, hardly, but what had had a green card shoved in under our nose and told to sign it.

Q. You say a green card. Did he explain what he meant by a green card?

A. I don't think he did.

Q. You belong to the C. I. O., you testified?

A. Yes, sir.

Q. What color membership cards has the C. I. O.?

A. White and green.

Q. White and green?

A. Yes, sir.

Q. You mean two colors on one card, or two different colored cards?

A. Two different colored cards.

Q. In other words, there is a C. I. O. membership card which is green?

A. The first ones come out was white, and the next ones was green.

Q. All right. What else did he have to say?

A. After that, why he—

TRIAL EXAMINER LINDSAY: Go right ahead.

BY MR. HOSKINS:

Q. Did he mention the Employees Representation Plan at all?

A. Yes, he said the Employees Representatives had got us the Welfare Building and we was getting along fine. We should all act as one big family, try to get along. He said he had noticed that the Youngstown plant had not co-operated like the Cleveland plant, that they had gone along fine over there, and he thought that we should try and do the same thing. And then he mentioned the scales —about not having no scales and somebody made a holler about that, and everything was going to work out all right. He mentioned about enlarging the open hearth, No. 2 open hearth.

Q. Did he state whether or not the Company would ever sign with the C. I. O.?

A. He said the Company would never sign with the C. I. O. or any other outside organizations. He said: "Some of you fellows look at me as though as to say 'To hell they won't,' but," he says, "I say they might, but it would be a long, long struggle."

Q. About how long did this meeting last, Mr. Haren?

A. About 30 minutes.

Q. About thirty minutes?

A. Yes.

Q. Were you paid for the time you spent at that meeting?

A. Yes.

Q. Do you remember May 26th, 1937?

A. Yes, sir.

Q. Were you working on that day?

A. Yes, sir.

Q. What turn were you working?

A. Three to eleven.

Q. Three to eleven?

A. Yes.

Q. Did you leave the mill at eleven?

A. No, sir.

Q. Tell me why you did not leave the mill, will you?

A. Mr. Cahill come up and asked me to stay until they got rid of the hot metal, out of the mixer.

Q. Just a moment. What happened on this night, May 26th? What took place on that date?

A. The strike was called at 11 o'clock.

Q. And Mr. Cahill came up and asked you to—

A. Yes.

Q. Will you state that again? What did he ask you, again?

A. He asked me to stay until they got rid of the metal, the excess metal in the mixer. He said he would like for me to stay, and he would appreciate it very much if I would stay until they got rid of that excess metal. He said then I could go.

Q. Will you explain to the Trial Examiner the effect, or the value of getting rid of the excess hot metal? In other words, would that metal have been damaged if you had quit your work right then at the time?

A. Yes. I was of the understanding that if I hadn't got rid of it—if we hadn't stayed and got rid of that metal at that time, why, it would have froze in the mixer, and been spoiled.

Q. What time did you leave the mill?

A. Between six and seven o'clock the next morning.

Q. Six and seven o'clock on May 27th?

A. Yes, sir.

Q. Have you been back to the mill since that date, in order to get your job?

A. Yes, sir.

Q. When did you go back?

A. June 29th.

Q. On June 29th?

A. Yes, sir.

Q. What day of the week was that, do you know?

A. On Tuesday.

Q. On Tuesday?

A. Yes.

Q. Why did you pick that particular date to go back?

A. My brother worked down there, and he told me that—my brother had been down there and he told me that the dead line was set for Tuesday, and he said that if he was me, he would go down. So I went down Tuesday morning to see about it.

Q. Did you see anyone when you went down there, or have any conversation with anyone?

A. Yes, I punched my card between six and seven o'clock, went up to Charlie Ritchie's office.

Q. Who is Charlie Ritchie?

A. He is the foreman over the turn foreman.

Q. He is the foreman that is over the turn foreman?

A. Yes, sir.

Q. In other words, he is your foreman?

A. Yes, sir.

Q. All right. What conversation took place with Mr. Ritchie?

A. Mr. Ritchie, he—when I walked in, he asked me, he says to me, he says: "Well, Bill, what have you got to say for yourself?" "Well," I said, "I think it is all over." And he says: "Where is your club?" He says—I says: "I didn't have any club." He said: "Yes, you did, too." And we repeated that three or four times there, back and forth, and then he said to me, he says, "Well, Bill," he says, "you caused a lot of trouble around here. You have agitated, and," he says, "I don't know."

I says: "You have kept the agitator in the mill." We both had reference to the C. I. O.—at least I did.

MR. DAY: What was that last part of the answer about the agitator in the mill? What was that?

(Last answer read by the Reporter.)

BY MR. HOSKINS:

Q. What did you mean by "you kept the agitator in the mill"?

A. I meant that there was one of their foremens, to my knowledge, or at least the C. I. O. had his name on a board as a disloyal member, and he stayed in the mill.

Q. All right. Now, did you have any further conversation with Mr. Ritchie at this time?

A. And I told him that this fellow had his name on the book, and he said, "Oh," he said—"All of that bunch over there is crooked." He said: "Anybody could put your name on the book." And he says—well, he says: "I am going to hold you off for a few days," he says, "If I need you, I will call you."

I says—I raised to my feet then, I says, "That means that I am fired?" He said: "No, we don't fire anyone."

Q. He says: "No, we don't fire anyone?"

A. Yes, and I says: "O. K.," and walked out.

Q. Did you leave his office at that time?

A. Yes.

Q. Have you been back to the mill or talked with anyone since then?

A. Yes. I went to the mill. I stopped off at the mill, and a policeman told me I would have to register there, about two or three weeks later.

Q. What was this, two or three weeks later, you say?

A. Yes, sir.

Q. And that first date you fixed as June 29th, is that not right?

A. Yes, sir.

Q. Then after the policeman said you had to register, did you go to register?

A. Yes, I went up to register.

Q. Where did you go?

A. I went up to the employment offce.

Q. Who did you see at the employment office?

A. Mr. Rose.

Q. Did you have any conversation with Mr. Rose?

A. Well, I told him I wanted to register, and he said: "You want to register?" and I said: "Yes." He said: "What do you mean, register?" He says: "How long do you fellows think we are going to hold your jobs here,—forever?" "Didn't you know that the gates had opened two or three weeks ago?" He says—he says: "I have got a job here, and," he said, "when the gates opened, I liked to break my neck getting down here."

MR. DAY: Will you please read that answer?

(Last answer read by the Reporter.)

BY MR. HOSKINS:

Q. That was Mr. Rose that made that statement?

A. Yes, sir.

Q. Did you tell Mr. Rose at that time you had been to the mill two or three weeks earlier in order to get your job?

A. Yes, sir.

Q. Did he make any reply to that?

A. He didn't make no reply.

Q. All right. Did you have any further conversation in Mr. Rose's office?

A. No, sir.

Q. Where did you go when you left his office?

A. I went back and stopped off at the gate, the center street gate, entrance, and I told the cop there that I wanted to go in and see Mr. Graft, and he told me that nobody was allowed in, that I would have to wait.

He asked me had I registered, and I told him yes, and he said that I would have to go home then and wait until they called me. So I turned around, and Charlie Ritchie was talking to one of the electricians from the 40-inch mill, I don't know who he was, what his name was, and he said, "What do you want, Bill? What is on your mind?" and I told him I wanted to go back on the job. And he said: "Yes, and I wanted to get out of here for 30 days, but you stood up there on the bridge and wouldn't let me." And I told him there wasn't anything held against the salaried men at all. He said: "Yes, there was, too." He said: "If I had come out of—if I had come up on the bridge there," he said, "I would have had my head smashed."

MR. DAY: Who said that?

THE WITNESS: Charlie Ritchie.

MR. DAY: Who is Charlie Ritchie?

MR. HOSKINS: It has already been testified that he was a general foreman over the turn foremen.

MR. DAY: All right.

BY MR. HOSKINS:

Q. Did he say anything else at the time?

A. Well, he says: "There is nothing else I can do about it," he says, "you will just have to wait until time."

Q. Did you leave the mill then?

A. The cop told me I would have to get out then.

Q. Have you talked with anyone else since then?

A. Yes. I called Mr. Graft the following day.

Q. Who is Mr. Graft?

A. He is the chief electrician.

Q. He is the chief electrician?

A. Yes, sir.

Q. You say you called him the following day?

A. Yes, sir.

Q. Did you talk with him?

A. I talked with somebody, as I thought he was the secretary, or clerk, of Mr. Graft's, and he told me that Mr. Graft was not in, and he asked me to state my reasons for calling him, and I told him that I wanted to get back on the job, see. I told him that I had reported for work on the 29th; and he said, well, for me to call the next day at five o'clock and Mr. Graft would be in.

Q. That is, the secretary told you to call back the following day? That is, at five o'clock?

A. Yes.

Q. Did you call back the following day?

A. Yes.

Q. Did you talk with Mr. Graft?

A. When I called, Mr. Graft answered, and I told him who I was and told him what I wanted. "Well," he said, "we don't have anything for you, Bill." I says: "Yes, Mr. Graft, I reported for work on the 29th, and," I said, "Ritchie told me he would call me when he needed me." He says: "Well, we will notify you when we need you. We are all filled up."

Q. Previous to that he told you: "We don't have anything for you, Bill," is that what you said?

A. "We don't have anything for you."

Q. Have you worked at all since you went out on strike?

A. No, sir.

Q. You have not earned any money?

A. No, sir.

Q. What were you making on May 26th? What was your salary at that time?

A. Seventy-seven and a half cents an hour.

Q. Seventy-seven and a half cents an hour?

A. Yes, sir.

Q. Was there a bonus or tonnage on top of that?

A. No, sir.

Q. How many hours a week were you working?

A. Forty and forty-eight hours.

Q. What do you mean, forty and forty-eight hours?

A. Third and fourth week, the way it worked around, why, we would work 48 hours.

Q. The third and fourth week, every third and fourth week, you would work 48 hours?

A. Yes, sir.

Q. Do you want your job back at Republic Steel Corporation?

A. Yes, sir.

MR. HOSKINS: I believe that is all.

Cross Examination

BY MR. DAY:

Q. How do you spell your last name?

A. H-a-r-e-n.

Q. H-a-r-e-n.

A. Yes.

Q. You are William A. Haren?

A. Yes, sir.

Q. Is your badge number 5482?

A. 5482? No, sir.

Q. When you worked for Republic Steel Corporation, did you have any number?

A. Yes.

Q. What was it?

A. 5428.

Q. 5428?

A. Yes.

Q. I got it twisted around, 5428. I said 5482. Have you been quite active on the picket line?

A. Yes, sir.

Q. Were you carring a club on the picket line?

A. No, sir.

Q. What?

A. No, sir.

Q. Were you carrying anything?

A. No, sir.

Q. A stick?

A. No, sir.

Q. Now, I will ask you whether or not on June 10th of 1937, between the hours of 7 o'clock in the morning and

12 o'clock noon, you were not walking on the east side of the Center Street Bridge doing picket duty and carrying a club?

A. No, sir.

Q. You joined the CIO a way back in August?

A. Yes, sir.

Q. About a year ago?

A. Yes, sir.

Q. It was generally known that you belonged to CIO?

A. Yes, sir.

Q. And you stayed there in Republic and you worked until the strike was called by the CIO, is that right?

A. Yes, sir.

Q. And what was your work?

A. Crane man, mixer crane man, operated the crane.

Q. You operated the crane, in what kind of work?

A. Poured the metal into the mixer; picked up the ladles of metal off of the buggies and dumped them into the mixer.

Q. And in what department was that?

A. Electrical department.

Q. In the electrical department?

A. Yes, sir.

Q. And what was made in there?

A. What was made in what?

Q. Well, when you dumped the metal into the mixer, what came out of the mixer then? What was made or manufactured or produced?

A. It was hot metal and it stayed in there and bathed in the phosphate and sulphur until a certain temperature —until a certain point to where they wanted it for the furnaces.

Q. Work that you do was to operate a crane that dropped the hot metal into the mixer?

A. Yes, sir.

Q. That is all the work you did?

A. Yes, sir.

Q. How long did you work for the Republic before the strike?

A. July 1926 is when I went there.

Q. Did you go back to work on the day the strike was called, May 26th?

A. I was working 3 to 11.

Q. What?

A. I was working 3 to 11.

Q. And where did you find out a strike had been called?

A. The strike was announced over a sound car on the bridge.

Q. The strike was announced over a sound car on the bridge?

A. Yes, sir.

Q. Well, do you know whose sound car it was?

A. No, sir.

Q. That is the first you knew of a strike being called?

A. At that time.

Q. On May 26th?

A. Yes.

Q. And you say you talked to somebody on the 29th of June?

A. Yes, sir.

Q. Whom did you talk to that day?

A. The 29th of June? Was that the question?

Q. Yes.

A. I talked to Charlie Ritchie.

Q. Who is he?

A. Foreman there, the turn foreman, we call him general foreman.

Q. Where did you talk to Charlie Ritchie?

A. In his office.

Q. Anybody else there?

A. No.

Q. About what time of day was it?

A. Between 6 and 7 o'clock.

Q. Let's have that conversation again.

A. Mr. Ritchie called me in and he called one in at a time, called me in and said, "What is on your mind?"

Q. Let's stay right there. He called you in, and he was calling other men in one at a time, is that right?

A. Yes, sir.

Q. And when you came in, he says, "What is on your mind"?

A. Yes, "What have you got to say for yourself?"

Q. "What have you got to say for yourself"?

A. Yes.

Q. Yes, all right. Go ahead.

A. Well, I said. I think it is all over." He says,—

Q. Why do you hesitate so long?

A. I want to be sure of it.

Q. You want to be sure?

A. Yes, sir.

Q. Well, let me know when you are sure?

A. I will.

TRIAL EXAMINER LINDSAY: Now, Mr. Day, that is not necessary.

A. He says, "What is on your mind?" I says—I will get it, after while.

TRIAL EXAMINER LINDSAY: Take your time, you have plenty of it.

A. I told him I thought it was all over. And he asked me where was my club, and I told him that I didn't have any club, and we repeated that back and forth three or four times and he says, "Well, Bill," he said, "you had been an agitator in the mill, you have caused a lot of trouble." And I says, "No, I don't think so." I said, "You kept the agitator in the mill." I had reference to the CIO. And he said, "What do you mean?" "For instance, who?" And I said, "That would be telling."

Q. Have you gone over this story you are telling with anybody, before you came in here today?

A. Yes, sir.

Q. With whom?

A. My attorney.

Q. What? Who?

A. The attorneys.

Q. You mean the gentlemen representing the Labor Board?

A. Yes, sir.

Q. Go ahead.

A. And he says—I forget where I left off—I told him that he kept the agitators in the mill, and he says, "For instance, say who," and I told him that that would be telling, and he had reference to the CIO and I told him that at least one of them had signed a card that is, that his name was on the books there in our office and he said "That bunch is all crooked." He says, "Anybody could put your names on the book."

Q. Anything else?

A. He says, "Well, Bill," he says, "I think that I will let you go for a few days." He said, "When I need you, I will call you."

Q. The mill started work after the strike on the 25th of June, didn't it?

A. That is right.

Q. When did you register at the employment office?

A. Sometime in July, I would not say just when.

Q. Can you fix the date approximately?

A. Around the 15th of July, I believe.

Q. Were you irregular? Do you understand what that means? In your attendance at your shop, when you were working? I mean, did you stay off of the job from time to time, while you were working?

A. I was off sick one time.

Q. Only one time? About when was that?

A. About a month or two months before the strike.

Q. What turn were you working? What were your hours? On what turn, at the time the strike happened?

A. 3 to 11.

Q. What?

A. 3 to 11.

Q. 3 to 11? Did you ever work on 11 to 7 o'clock turn?

A. Yes, sir.

Q. And you haven't done any work since the strike?

A. No, sir.

Q. You have been more or less active on the picket line?

A. Yes, sir.

Q. On the picket line at different places?

A. No, sir.

Q. On the picket line up at Poland Avenue?

A. No, sir.

Q. What?

A. No, sir.

Q. Never been on the picket line on Poland Avenue?

A. No, sir.

Q. What?

A. No, sir.

Q. Have you ever been doing picket duty at stop 5?

A. No, sir.

Q. Where were you doing picket duty?

A. Center Street.

Q. Center Street?

A. Yes, sir.

Q. On the bridge?

A. Yes, sir.

MR. DAY: That is all.

Redirect Examination

Q. (By Mr. Hoskins) Mr. Haren, when was the first time you spoke to me about your case, do you remember?

A. June 29.

Q. June 29th?

A. Yes, sir.

Q. And that was where?

A. Over in the Ohio Hotel.

Q. Did you see any of the other attorneys for the Labor Board at that time?

MR. DAY: I didn't get that.

Q. Did you tell your story?

A. No, sir.

Q. To any other attorney for the Labor Board?

A. No, sir.

Q. When was the next time you saw me to speak to me? When is the first time you spoke—

A. Over in the Terminal Building.

Q. Sir?

A. Over in the Terminal Building.

Q. When?

A. Yesterday.

Q. Yesterday?

A. Yes, sir.

Q. Have you told your story to any other attorney for the Labor Board?

A. No, sir.

Q. Do you remember having written a letter to the Secretary of Labor?

A. Yes, sir.

Q. Asking what was being done about your position?

A. Yes, sir.

Q. Did you get a reply to that?

A. Yes, sir.

Q. Do you remember getting a card this week, asking you to see me?

A. I only got one yesterday.

Q. You got one yesterday?

A. Yes, sir.

Q. Asking you to see me?

A. Yes, sir.

MR. HOSKINS: That is all.

Recross Examination

Q. (By Mr. Day) Just wait a minute. It is altogether my fault, I was talking with my associates.

MR. DAY: What did he say about talking to counsel?

TRIAL EXAMINER LINDSAY: Well, you don't contend, Mr. Day, that he has not a right to talk to counsel, do you?

MR. DAY: No, I don't. I don't contend that at all.

TRIAL EXAMINER LINDSAY: As a matter of fact, a good attorney would not put a witness on the stand without talking to him.

MR. DAY: I absolutely agree with you on that.

TRIAL EXAMINER LINDSAY: All right.

Q. (By Mr. Day) You say you talked to the Labor Board lawyers in the Terminal Building?

A. I talked to Mr. Hoskins.

Q. In the Terminal Building?

A. Yes, sir.

Q. Whereabouts in the Terminal Building?

A. 302 Terminal Building, I believe.

Q. What?

A. 302 Terminal Building.

TRIAL EXAMINER LINDSAY: Well, we have gone into that far enough, now. Do you have any other questions on any other matter? If so, ask it. If not, we'll go ahead.

Q. What is that office, 302 in the Terminal Building?

MR. HOSKINS: I object.

TRIAL EXAMINER LINDSAY: I said we are not going into that question.

MR. DAY: All right, the question is sustained?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: Note an exception. That is all.

TRIAL EXAMINER LINDSAY: I see no purpose that will be served by such type of questions.

(Witness excused.)

HARRY RIGBY

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Mr. Rigby, will you state your full name?

A. Harry Rigby.

Q. Where do you live?

A. 2708 Shadowrun Road.

Q. 2708 Shadowrun Road?

A. Yes.

Q. Is that in Youngstown?

A. Yes, sir.

Q. Have you ever been employed by the Republic Steel Corporation?

A. Yes, sir.

Q. How long?

A. 26 years.

Q. For 26 years?

A. Yes, sir.

Q. 26 years?

A. Yes, sir.

Q. What was your job down there?

A. Electrician.

Q. In what department?

A. Electrical department.

Q. What division is that in? Does that come under the open hearth?

A. It comes under the open hearth, yes, sir?

Q. Do you belong to the CIO?

A. Yes, sir.

Q. When did you join the CIO?

A. In June.

Q. June of what year?

A. 1937.

Q. Were you working on May 26th, 1937?

A. Yes, sir.

Q. Is that the day the strike was called?

A. Yes, sir.

Q. Did you go out on strike?

A. Yes, sir.

Q. Were you approached by anyone either directly or by telephone and asked to return to work?

A. No, sir.

Q. Have you been to see anyone about going back to work?

A. No, sir.

Q. Have you been to see anyone about going back to work?

A. Yes, sir.

Q. When was the first time you talked with anyone about going back to work?

A. June 28th.

Q. On June 28th?

A. Yes, sir.

Q. What took place on that day?

A. Why, we went in there—well, there was a bunch of us altogether there at that time.

Q. You say "we" went in, will you describe just generally whom you mean by "we"?

A. Well, there was other inspectors at the same time.

Q. What prompted you to go in, on that date?

A. Well, a fellow come up to the house and says to me, "What do you say we go over to see the rest of the fellows, to see about going back to work?" I says, "All right." That was on the 25th, see. June 25th. I says. "All right, we will go over on Dickson Street, see about these other fellows going back to work." We stopped at another fellow's, and then from there we went up to Joe Voytko's place on Dickson Street.

Q. How many of you were there at Joe Voytko's place?

A. About six of us.

Q. About six of you?

A. Yes.

Q. Did you all do the same type of work, what you did in the mill?

A. Yes, sir.

Q. All right, what took place while you were there?

A. Well, all I says to them, I says, "We come up to see about going back to work," and they spoke up and says, "Well, we will go back on Monday."

Q. Now, this was on Friday, June 25th and you stated that you were at Joe Voytko's house?

A. Yes, sir, yes, sir.

Q. All right.

A. So while we was there, we was talking, talking about things there, why the telephone rang and Joe Voytko answered the phone and he come out on the grass and he says, "Kling is on the phone."

Q. Who is Kling?

A. Foreman.

Q. Is he your foreman?

A. Yes, sir.

Q. Do you know his first name?

A. M. J. Kling.

Q. M. J., is that right?

MR. DAY: What is the last name?

THE WITNESS: Kling.

Q. Did any of you talk with Mr. Kling, when he called on the phone?

A. Yes, sir.

Q. Who talked with him?

A. I did.

Q. All right, will you tell your conversation with him?

A. I says, "Hello." He says, "Who is this talking?" I says, "This is Rigby talking." He says, "Where is Joe?" I says, "He has made me the spokesman."

He says, "Why, I need a couple of men to come out to work today." "Well," I says, "we have all made the arrangements to come out on Monday." He says, "Who is 'all'?" I named him all of the fellows that was there. He says, "I need a couple of men out here to start the mill up."

All right, I says, "The mill ain't going to start up today," I says, "they are just going in," I says, "we are coming out on Monday."

He says to me, he says, "Well, then hang up now," and he says, "I will call back."

Well, we hung up, to see how the fellows felt about it, so I went outside, I says, "How do you feel about it? Are you going back now or going back on Monday?"

They says, "We will go back on Monday." I says, "All right, we will go back on Monday." We went back on Monday—

Q. Did Mr. Kling call back as he said he would?

A. I don't know whether it was Kling, or I don't know whether it was Graft, but I says—he says—just as soon as I said, "This don't sound to me like Kling." He says, "Yes, it is." It did not sound to me like that was Kling talking the second time.

Q. What did you tell him then?

A. I told him that we will be back on Monday.

Q. All right. Was there any other conversation?

A. Not then.

Q. Then you say you did go down there on Monday?

A. Yes, sir.

Q. Will you tell us what took place when you went down there?

A. We went down Monday with—we bunched the cars, went in on the machine.

Q. What time of the day was this?

A. This was early in the morning.

Q. About what time?

A. Well, about 6:45 when we punched our cards.

We walked down to the shanty and waited a little while down there and Kling came down and he says to us, "What is the matter with you fellows, are you running the mill?" I says, "No, we ain't running no mill. We come back for our jobs."

He says, "You fellows ain't got no jobs." And Yantsey spoke up, he says, "You better write out our slip to get our tools." We left and went away, then.

Q. Who is Yantsey that you mentioned?

A. That is one of the inspectors.

Q. Was he one of your fellow workmen?

A. Yes, sir.

Q. All right.

A. Kling went away and he came back shortly after that, and when he came back he wrote us a notice to get our personal tools out. We took our tools to Johnnie Graft's office.

Q. Who is Johnnie Graft?

A. He is head over Kling.

Q. He is ahead of Kling, you say?

A. Yes, sir.

Q. All right.

A. We waited on him, and Kling—Graft turned around and wrote us out a slip for—he wrote us his o. k. number on our personal property.

Q. Did you get your tools?

A. Yes, sir.

Q. Had you left the mill then?

A. Yes, sir.

Q. Have you ever been back since that date?

A. Yes, sir.

Q. When did you go back again?

A. Went back on June 13th—July 13th. It was July 13th.

Q. On July 13th? Were you accompanied by anyone at that time?

A. We were together in a body.

Q. Who all was in this body?

A. Me and Yantsey and Joe Voytko and his boy and Martin Potrensick.

Q. Whom did you see on that date?

A. On that day I seen Graft.

Q. You saw Graft?

A. Yes, sir.

Q. Will you tell us your conversation with Mr. Graft?

A. Well, I was the last one that seen him. The rest of them had seen him before me.

Q. What time of the day was it when you saw him?

A. About—along about 4 o'clock when I saw him.

Q. What time had you gotten there?

A. I got there at 10 o'clock in the morning.

Q. What did Mr. Graft have to say to you when you went in to see him?

A. Graft says to me, he says, "Rigby, they tell me you are a chronic kicker." I said, "Who told you that?" He says, "Charlie Ritchie told me that."

Q. Charlie Ritchie told him that?

A. Yes, told him that.

Q. Who is Charlie Ritchie?

A. He is foreman of the open hearth. I told him, I says, "I don't believe Charlie Ritchie told you any such a thing as that," I says, "I have known Charlie Ritchie a long time." He says, "I know you have."

He says, "Well," he says, "I ain't got no more to say to you." He says, "You go home and stay home until I call you." I am still waiting yet for a call.

Q. Did he mention anything about the fact that you had all been at Joe Voytko's house on Friday?

A. Well, he asked me what I was doing up there. I told him what I was doing up there.

Q. And you stated that he has not called you since that date?

A. He has not.

Q. Have you ever been back to see him since then?

A. I have tried my hardest to see him, but I can't get him.

Q. How many times did you try to see him?

A. I went down Monday, Tuesday, Wednesday, and Thursday, I think it was on July 26th, 27th, 28th, and 29th, I couldn't get him, and I called his clerk up from outside of the mill, and the clerk says, as soon as I told him—he says, "Who is this?" On the phone, I says, "It is Rigby," I says, "I would like to make an appointment with Mr. Graft."

He says, "Mr. Graft is very busy." "Well," I says, "when he gets rested up, tell him to call 38665," I says, "I will be here waiting."

He never called. I stayed there all day, that was five minutes after 11 o'clock in the morning.

Q. Have you talked to Mr. Kling since the last conversation?

A. Yes, sir, I went up to his house and had a talk with him.

Q. What was the conversation at his house?

A. I says to him, I says, "Kling, how does it come I am not back like the rest of the fellows are back?"

Q. When was it you went out to see Kling?

A. That was after the rest of the fellows had been down to see Graft.

Q. Let's see if we can fix the approximate dates.

A. I don't know just exactly.

Q. Was it in July?

A. It was in July, yes.

Q. About when in July, would you say?

A. Well, it was shortly after the fellow in the plate mill got his foot cut off.

Q. You don't know what date this fellow in the plate mill got his foot cut off?

A. No, sir, I don't know.

Q. All right, go ahead with your conversation.

A. I says, "How does it come I am not back, Kling?" He says, "I don't know." He says, "I thought sure you would be back as soon as that fellow in the plate mill got his foot cut off."

I says, "What have they got against me down there?" He says, "I ain't got nothing against you that I know of." And I have talked to these other inspectors that has been back all this time, they have seen Kling time and time again to go to see Graft to try to get me back, and there ain't nothing been done about it.

Q. Have you worked at all since you went out on strike?

A. I haven't worked a day.

Q. Have you earned any money whatever?

A. No, sir.

Q. What were you making when you were last working?

A. I was making 85 cents an hour.

Q. 85 cents an hour?

A. Yes, sir.

Q. Was there any bonus on tonnage, in addition to that?

A. No, sir.

Q. How many hours a week were you working?

A. 48 hours I was working.

Q. You were working 48 hours?

A. Yes, sir.

Q. Were you getting extra time?

A. Time and a half.

Q. Time and a half for how much?

A. All over 40.

Q. All over 40?

A. Yes, sir.

Q. Do you want your job back, down there?

A. Yes, sir.

MR. HOSKINS: I believe that is all.

Cross Examination

Q. (By Mr. Smith) Mr. Rigby, are you a member of the CIO?

A. Yes, sir.

Q. When did you join?

A. I joined in June.

Q. In June?

A. Yes, sir.

Q. That was what time in June?

A. I don't just remember what time in June.

Q. Early in June or before the middle of June?

A. Well, along in the last of June some place.

Q. Last of June?

A. Along in there some place.

Q. Then you didn't join CIO until after the strike had been in progress for three or four weeks?

A. No, sir.

Q. I see, and you went out at the time of the strike, at the time the strike was called by CIO?

A. I worked that day, on the 26th.

Q. Yes, that is your turn—did your turn end at 11 o'clock that night?

A. Yes, sir.

Q. And you went out at that time when your turn was finished, you went out with the other men who went out, and didn't go back?

A. Yes, sir.

Q. Now, do you remember the date on which the strike was called?

A. Yes, sir.

Q. What was it?

A. May 26th.

Q. Yes, do you remember the date when the great number of the men went back to work with the company, who notified them the mill would be opened?

A. Yes, sir.

Q. When was that?

A. June 25th.

Q. Yes, now on June 25th you say you were at somebody's house discussing the question of going back to work, is that correct?

A. Yes, sir.

Q. Now, I wish to get the name of that person, whose house was that?

A. Joe Voytko.

Q. How do you spell Voytko?

A. Joe Voytko, inspector down there.

Q. How do you spell it?

A. V-o-y-t-k-o.

Q. Oh, yes, Voytko. He was inspector down in your department?

A. Yes, sir.

Q. By the way, what department did you work in?

A. Electrical department.

Q. What did you do in the electrical department?

A. I am an inspector.

Q. Well, now, what were your duties in connection with that? Just tell us briefly.

A. My duties are, every time they blow the whistle five to come out and answer the call, get it fixed up.

Q. That is, if there is anything went wrong with the electrical equipment in the plant that came at least in your department, you were to repair it, is that correct?

A. Yes, sir.

Q. Now, did your duties cover more than the one mill, or was it in different mills down there?

A. Different mills.

Q. Yes, and you had a signal, did you, or call, something went wrong, why you went to a certain place and found out where the trouble was?

A. When the whistle blew.

Q. Then where would you go, when the whistle would blow?

A. Well, every inspector knows where the whistle is at, he goes and answers the call.

Q. I see, then the whistle would blow in whatever department it was that there was trouble, is that correct?

A. Yes, sir.

Q. It would not be one central place you would go to, to get your information?

A. No, sir.

Q. I see. Then you would go there and either repair or assist in repairing the damage that had been done or the fault that had happened there so they could go ahead with the operation?

A. Yes, sir.

Q. And how many years have you been employed by the Republic?

A. 26.

Q. 26? Now, while you were at Voytko's house over there, I understand that Mr. Kling called you by phone, is that what you said?

A. He didn't call me. He called Joe Voytko on the phone.

Q. Yes, and did you talk to him?

A. I talked to him.

Q. Did he ask Mr. Voytko if you were there?

A. No, sir.

Q. How did he know that you were there?

A. He didn't know until I went and talked over the phone.

Q. I see, then you talked over the phone, and what was it Mr. Kling said to you?

A. He told me he wanted a couple of men out here to start the mill.

Q. Yes.

A. And I told him then "These fellows here made up their plan to come out on a Monday."

Q. Yes, and what did you tell him as to your plan? What were you going to do, when he asked you to go out and go to work?

A. He didn't ask me my plan at all.

Q. Well, I know, but did you tell him that you would not come until Monday?

A. No, sir.

Q. Well, what was it you said about that the boys had made up their mind?

A. I told him the boys had made up their mind to come out on the Monday.

Q. How many people were there?

A. About five or six of us.

Q. Well, did they make up your minds, or did you make up your own mind?

A. No, we made it up before the phone rang.

Q. I see.

A. Before the phone call.

Q. Well, then you knew that on the day that the mill opened, that the foreman wanted you to come down there and go to work, didn't you, on the 25th of June?

A. No, sir, I didn't know it.

Q. Well, you knew it when you talked with him?

A. Yes.

Q. Yes, and you refused to go, and didn't go until the following Monday, did you?

A. I was afraid to go.

Q. I say, you didn't go until the following Monday, did you?

A. No, sir.

Q. Then you went down on the following Monday?

A. Yes, sir.

Q. Well, didn't Mr. Kling say this, or substantially this to you when you were talking, that if you didn't come down there that day, that he was going to have to get somebody else to take your job?

A. No.

Q. And that he wanted you that day instead of Monday?

A. Yes, sir.

Q. He told you then, didn't he?

A. Yes, sir.

Q. Yes. Now, when you went down there on the 28th, they called your attention to the fact that you had been called for this job and that you had refused to come, didn't they?

A. Yes, sir.

Q. And told you that on account of that fact they had to fill the job with somebody else?

A. They didn't say anything about telling it, they says "You ain't got no job."

Q. Now, after you had that conversation, then I understand you got a pass and took your tools from the plant? Is that correct?

A. Yes, sir.

Q. And then you had another conversation, I believe you said, on July 13th, is that correct?

A. Yes, sir.

Q. And that was with whom?

A. Johnny Graft.

Q. Johnny Graft? Now, did you work in his department?

A. Yes, sir.

Q. And is he a superior of Kling, or does he work under Kling?

A. Superior of Kling.

Q. What was Mr. Kling's job? Was he your foreman?

A. He was my foreman.

Q. How many people were under Mr. Kling, that was working in this department, besides yourself?

A. I can't tell you how many is under his control.

Q. A great many?

A. What did you say?

Q. Were there quite a number or just a few?

A. You mean his?

Q. Yes, that Mr. Kling was foreman of a certain number of employees, now how many were there of employees, of which he was foreman?

A. I don't know how many.

Q. Well, would you approximate it? Would there be 10 or more or less?

A. No, there is more than 10.

Q. More than 10? Now, in your conversation that you had with Mr. Graft on the 13th, did you tell him about Mr. Kling having called you and wanted you to go to work on the 25th?

A. No, sir.

Q. Didn't you say to him this, or substantially this: That you had been called to go back to work on the 25th and that you had refused to go, and that you knew that you had made a serious mistake in not doing it. Didn't you say something like that to Mr. Graft?

A. Well, the majority rules.

Q. I say, didn't you say something like that to Mr. Graft in this conversation that you had on July 13th?

A. I told him that I wanted to go back, sure.

Q. Yes, and that you told him that you felt you had made a mistake in not going back when Mr. Kling asked you to?

A. Absolutely, over the telephone.

Q. Yes, and you also said to him that you knew that it was your fault, and that you had made a mistake and you were sorry for it, didn't you?

A. I don't remember.

Q. You don't remember having had that conversation? Now you have been told there, you were told, were you not, that when the job developed that you were needed, that you would be sent for?

A. Yes.

Q. Yes, and now have you registered, yet, at the employment office since you went out on this strike?

A. No, sir.

Q. Do you have your CIO card with you?

A. No, sir.

Q. Can't you tell us more definitely when it was that you signed this card?

A. No, sir, it was in June.

Q. Well, was it before or after the 25th of June?

A. I couldn't tell you exactly.

Q. It was probably after Mr. Kling called you, or was it after you had gone up to the plant there on Monday?

A. I don't remember.

Q. What is your best judgment? It was the last of June, wasn't it?

A. I couldn't say.

Q. You couldn't say?

A. No, sir.

Q. A few moments ago when I asked you about going back, as to why you didn't go on the 25th, you said you were afraid to. Whom were you afraid of?

A. Afraid of the gang hanging down around there.

Q. Afraid of what?

A. Afraid of the bunch of men hanging around down there.

Q. Do you mean CIO men?

A. Well, I don't know who it is. I didn't have no automobile to go in, I had to walk in, if I wanted to go in.

Q. You weren't afraid of anybody connected with the company, when they asked you to come back, were you?

A. Can't never tell what is going to happen to you, when you are going back after a strike.

Q. There wasn't anybody connected with the company that you were afraid of, when they invited you back, and asked you to come back?

A. That is hard telling.

Q. You were afraid of the group of them that were hanging out in front of this entrance that you would have to go past, is that it?

A. Absolutely.

Q. Were there pickets in that group that were there?

A. I don't know, I wasn't down there.

Q. You weren't down?

A. No, sir.

Q. Well, you knew there was a gang down there, did you?

A. Absolutely, I knew there was a gang down there.

Q. Well, on that situation, you say you were afraid on Friday, on the 25th, but you were not afraid on the 28th when you went down?

A. How is that?

Q. I say that you were not afraid on the 28th when you went down, were you?

A. The 28th of what?

Q. June.

A. No, I went in the car.

Q. You went in the car?

A. Yes, sir.

Q. You were in the car with some other men?

A. Yes, sir.

Q. Is that the idea?

A. Yes, sir.

Q. From between the 25th and the 28th, had you signed the CIO—your membership—CIO membership?

MR. HOSKINS: Your Honor, I object to continuing on the question regarding the date.

TRIAL EXAMINER LINDSAY: Yes.

MR. HOSKINS: The man has already testified.

TRIAL EXAMINER LINDSAY: We have gone far enough, Mr. Smith, now, as to this. I do not see as it makes any difference under the law, he had a right to join any union of his own free will under Section 7 of the Act.

MR. SMITH: I am not questioning his right to do it. We are just wanting to know when it was done.

MR. HOSKINS: Oh, he has testified three times that he doesn't know the date when he signed.

TRIAL EXAMINER LINDSAY: Yes, that is far enough. I will sustain the objection. Let the record show an exception.

MR. SMITH: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: I think we will adjourn until Monday morning, August 23rd, at 10 o'clock.

(Whereupon, at 12:45 o'clock p. m., August 21, 1937, the hearing was adjourned until August 23, 1937, at 10 o'clock a. m.)

Courtroom No. 6,
Mahoning County Courthouse,
Youngstown, Ohio
Monday, August 23, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

JOHN T. LINDSAY, Trial Examiner.

Appearances:

MARK LAUTER, Esq.,
OSCAR GROSSMAN, Esq., and
JOSEPH A. HOSKINS, Esq.,

appearing for the National Labor Relations Board.

LUTHER DAY, Esq., and THOMAS F. VEACH, Esq., the firm of Messrs. Day, Young & Veach (1420 Union Trust Building, Cleveland, Ohio), and

T. F. PATTON, Esq., Republic Building, Cleveland, Ohio,

DAVID E. JONES, Esq., and

CHARLES F. SMITH, Esq., of the firm of Messrs. Harrington, Huxley & Smith, (1200 Mahoning Bank Building, Youngstown, Ohio),

appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. HOSKINS: I will call Mr. Chismus.

BALARE CHISMUS

was thereupon called as a witness for and on behalf of the National Labor Relations Board, and, having been duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) State your full name?

A. Balare Chismus.

MR. DAY: How is that spelled?

MR. HOSKINS: B-a-l-a-r-e Capital C-h-i-s-m-u-s.

Q. (By Mr. Hoskins) Where do you live, Mr. Chismus?

A. I live on 1105 Poland Avenue.

Q. 1105 Poland Avenue?

A. Yes.

Q. Is that here in Youngstown?

A. Yes.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes, sir.

Q. When did you first start to work for them?

A. 18, May, 1936.

Q. The 18th of May, 1936?

A. Yes, 1936.

Q. What was your job there?

A. The first time I was hired on the open hearth, general labor.

Q. You were hired as a general laborer?

A. Yes.

Q. On the open hearth?

A. Yes.

Q. Now, you say the first time?

A. Yes.

Q. Did you have another job there?

A. And after Fall I get transfer to the bar mill.

Q. And that Fall, did you say?

A. Yes, that August, I think some time.

Q. Talk just a little bit more slowly and as loud as you can.

A. O. K. And after while I get transfer to the bar mill.

Q. What was your job in the bar mill?

A. I was laborer.

Q. What?

A. Labor.

Q. You worked as a laborer there?

A. Yes.

Q. Do you belong to the C. I. O.?

A. Yes.

Q. When did you join the C. I. O.?

A. I joined the C. I. O. after the strike was called.

Q. You joined it after the strike was called?

A. Yes.

Q. How long after the strike was called?

A. Oh, couple of days.

Q. A couple of days?

A. Yes.

Q. Do you know what date the strike was called?

A. The strike was called on the 26th, May.

Q. The strike was called on the 26th?

A. Yes.

Q. In other words, you joined the C.I.O. on the 28th—

A. May.

Q. All right. Have you been back to the mill since the strike was called?

A. Yes.

Q. In order to try to get your job?

A. Yes.

Q. What day did you go down?

A. The first day, 28, June, I think so.

Q. The 28th of June?

A. Yes.

Q. Who did you see when you went down that day?

A. The first time I seen my foreman.

Q. Who is your foreman?

A. Phil.

Q. Do you know his last name?

A. No, I don't know.

Q. Whereabouts did you see Phil, your foreman?

A. He was up there, at the department I working.

Q. He was up at the department where you worked?

A. Yes. When he say—he say: "You got to go to the office." I go up to the office. There was two boss over there.

JUDGE SMITH: I cannot hear you over here, Sir. I wish you would talk a little louder.

THE WITNESS: The first time he say—he say: "You got to go up to the employment—you got to go up to the office." I went up to the office. There was two boss over there.

Q. (By Mr. Hoskins) Who were these two bosses that were over there?

A. There was my boss and Mr. Calham.

Q. What was your boss' name?

A. Taffy.

Q. The other one was Calham, do you say?

A. Calham.

Q. What are their jobs? What are their titles?

A. What?

Q. Do you know their titles?

A. (No response.)

Q. You say your boss,—is he a foreman, or superintendent, or do you know?

A. My boss, Mr. Taffy, he is the night time boss.

Q. He is the night time boss?

A. Yes, and Calham, he is the three to eleven boss.

Q. And Mr. Calham is the three to eleven boss?

A. Yes.

Q. All right. Did you speak to either one of those men when you got up to the office?

A. Yes, I speak.

MR. DAY: What was the date of this?

THE WITNESS: 28th.

MR. HOSKINS: June 28th.

MR. DAY: June 28th.

Q. (By Mr. Hoskins) Which one did you speak to?

A. I speak to my boss and to Calham, too.

Q. You spoke to both of them?

A. Yes.

TRIAL EXAMINER LINDSAY: Pardon me, who was the other one you spoke to?

THE WITNESS: Calham.

MR. HOSKINS: C-a-l-h-a-m.

Q. (By Mr. Hoskins) What did you say to them?

A. In the first—he start me—he say: "Why"—

Q. What is that? Say it again.

A. He say to me: "Why you no come earlier?"

Q. Why didn't you come earlier?

A. Yes. I say: "I don't know that mill is open. I saw just couple of guys going over there, and I don't know."

Q. This was on June 28th, was it not?

A. Yes.

Q. All right. Then what did he say?

A. And he say, after that, he say, he got to wait for the big boss.

Q. Who was saying this? Was this Mr. Taffy?

A. Yes.

Q. He says: "You have to wait for the big boss?

A. Yes.

Q. Who was the big boss he was referring to?

A. Warning.

Q. Will you say it again?

A. Warning.

Q. Warning?

A. Yes.

Q. Was that all he had to say at that time?

A. He say: "Why did you monkey around the C.I.O.?"

Q. Why did you monkey around the C. I. O.?

A. Yes, and he say: "You was on Stop 5 on the picket line." I say I was no on the picket line.

MR. DAY: What was that again?

(Last answer read by the Reporter.)

THE WITNESS: I was no there.

Q. (By Mr. Hoskins) All right. Did you go to see this big boss?

A. And he say: "You got to go outside and wait, maybe the big boss come." I say: "What time the big boss come?" He say: "Eight o'clock." And I went outside, and the big bosses come and say—

Q. What time in the morning was this when you had talked to Mr. Taffy and Mr.—

A. It was about seven o'clock.

Q. It was about seven o'clock?

A. Yes.

Q. And he told you to wait outside an hour until the big boss came?

A. Yes.

Q. All right. Then did he come?

A. Then he come, and he say—I told him, I say: "My boss say I got to see you."

Q. What did he say?

A. And I told him everything, and he say: "Oh, I no got job for you now. If I need you, I call you, I call you up."

Q. He said to you: "I haven't got a job for you now?"

A. No.

Q. "If I need you, I will call you?"

A. Yes. He told me, if I got a phone? I say: "I no got a phone." He say: "If you no got a phone, maybe you come back in a couple of days again."

Q. He said for you to come back in a couple of days again?

A. Yes. And I go Wednesday morning, and I go up to the office, the bar—plane mill office.

Q. You went to the plane mill office?

A. And the bar mill.

Q. And the plane mill, that is the same as the bar mill?

A. Yes, and the day boss he say: "You have to go to the other office."

Q. By the day boss, who do you mean, Mr. Taffy?

A. No, another guy, I don't know his name,—because I wait eleven to seven.

Q. What was it he said?

A. I go up there, and the office is up there, the other office is on other side of the center bridge.

Q. That is, "by center bridge," do you mean Center Street Bridge?

A. Yes.

Q. All right. Did you go up there?

A. Yes, I go up there, and I wait a little bit, he come a little bit, he say: "I don't know what I going to do for you."

Q. Who did you see when you got up there?

A. Was nobody over there.

Q. Nobody?

A. Nobody in the office, and after while they come.

Q. They finally came, is that it?

A. Yes.

Q. Who did you see?

A. I saw Mr. Warning.

Q. You saw Mr. Warning again?

A. Yes.

Q. All right. What did he have to say?

A. He asked me—you know, I told you everything—and he say: "Oh, I can't give you a job now," he say, "You got to see the big boss."

I don't know who is the big boss.

Q. He wanted you to see another big boss?

A. Yes, and I don't know who is the big boss. I think so he is the big boss. I don't know, you know, bigger than him.

Q. All right. Then did you leave at that time?

A. Yes, and he say: "You got to come next Friday."

Q. Come next Friday?

A. Yes.

Q. Did you go back next Friday?

A. And I got back next Friday, and I was just up on the center bridge, and he saw me, he say: "You got to go on the employment office."

Q. Who said that?

A. Mr. Warning.

Q. He said that to you on the following Friday?

A. Yes.

Q. To go up to the employment office?

A. Yes.

Q. Did you go to the employment office?

A. I come back home. I went to the employment office. I went to see Mr. Rose, and Mr. Rose say: "There is nothing do now."

Q. Who is Mr. Rose?

A. He is the employment man.

Q. Mr. Rose is the employment man?

A. Yes.

Q. And he said to you now—

A. He says: "Nothing do now."

Q. —nothing doing now?

A. Yes. And I go after—after I go a couple of times, I can't go up there and see Mr. Rose, because there was a cops over there, and you can't see him over there, you can't go in there.

Q. Have you been back since then? Have you seen any of them since?

A. No.

Q. Have you been back trying to see any of them since then?

A. No.

Q. Since May 26th, 1937, have you worked for anybody else?

A. I have.

Q. You have worked outside of the mill?

A. Outside of the mill.

Q. You have worked outside of the mill?

A. Yes.

Q. Do you know how much money you have earned during that period?

A. I don't know exactly how much money I had.

Q. How much are you making? Are you working now?

A. Yes, I work.

Q. How much are you making? What is your rate of pay, do you know?

A. I got 48 cents an hour, that's all.

Q. You get 48 cents an hour?

A. Yes.

Q. How many hours a week are you working?

A. I work 40 hours.

Q. You are working 40 hours a week?

A. Yes.

Q. How many weeks have you been working? When did you start?

A. I think I got four weeks, now.

Q. You have had four weeks' work now?

A. Yes.

Q. Have you worked 40 hours each week?

A. No, the first time I worked I worked just three days that week. After a while I got four.

Q. Did you get paid by check?

A. Yes.

Q. Do you know what the amount of your first check was?

A. First check was $13.

Q. $13?

A. And some cents.

Q. What was the amount of your second check?

A. Second check was $12.

Q. $12?

A. Yes.

Q. And some cents?

A. Yes.

Q. You don't remember the exact cents?

A. No.

Q. Did you get a third check, then?

A. Yes.

Q. What was it?

A. It was $21.

Q. $21?

A. Yes, and some cents.

Q. Have you gotten another check since then?

A. Yes.

Q. How much was that?

A. I think it was $22.

Q. $22?

A. Yes.

Q. Have you earned anything else besides those amounts you have just told me?

A. No, nothing.

Q. Do you want your job back at Republic?

A. Yes, sir.

MR. HOSKINS: I believe that is all.

Cross Examination

Q. (By Mr. Day) What is your name?

A. Chismus.

Q. How do you spell it?

A. C-h-i-s-m-u-s.

Q. M-u-s? What work did you do?

A. Labor.

Q. What?

A. Labor.

Q. Were you a part of the plate mill shear crew?

A. On the bar mill shear crew.

Q. Bar mill shear crew? When did you start work for Republic?

A. The 18th of May, 1936.

Q. The 18th of May, 1936?

A. Yes.

Q. When did you join the CIO?

A. The 28th of May, 1937.

Q. After the strike?

A. After the strike, yes.

Q. You have been active on the picket line?

A. Yes.

TRIAL EXAMINER LINDSAY: Off the record.

TRIAL EXAMINER LINDSAY: I have ruled that you may not ask him. Now that is my ruling and let the record show an exception to it.

MR. DAY: That is right.

Q. (By Mr. Day) Well, were you involved in the trouble that took place on the night of June 10, 1937, at the Market Street Bridge?

MR. LAUTER: I object to that question, please.

MR. DAY: I think I have a right to ask that. He is one of these cases—

MR. LAUTER: The word "trouble" is entirely too indefinite.

Q. (By Mr. Day) Were you involved in a riot there?

MR. LAUTER: I object to that question, in that form.

TRIAL EXAMINER LINDSAY: Yes, I think I will sustain that objection. Note an exception.

Q. (By Mr. Day) Well, were you on or near or under the Market Street Bridge on the night of June 10th, 1937?

A. I was on the picket line.

Q. What?

A. Picket line.

Q. Picket line?

A. Yes.

Q. On the picket line on the—

A. Yes.

Q. —on the Market Street Bridge?

A. Yes.

Q. On the night of June 10th, 1937?

A. Yes.

Q. And were you at Stop 5 on the night of June 19th, 1937?

A. I no was there.

Q. What?

A. I no was there.

Q. Where were you that night?

A. I was home.

Q. Home?

A. Yes.

Q. From what time to what time were you home that night?

A. I don't know exactly what time I was home. I know I was home.

Q. Well, were you home there from 8 o'clock that night?

A. Yes.

Q. Until the next morning?

A. Yes.

Q. You have never registered at the employment office, have you?

A. No.

Q. Since the strike?

A. No.

Q. And the mill closed down on the 26th?

A. Yes.

Q. Of June?

A. Yes.

Q. And when was it you had this talk? On the 28th of June?

A. Yes, 28th and 30th, too. I have been there three times in the mill, Monday and Wednesday and Friday.

MR. DAY: I think that is all, except that what I have asked and has been excluded from the record, so I may not have any misunderstanding about it at any time, has been taken down by the Stenographer?

TRIAL EXAMINER LINDSAY: It is taken down, but it is not officially in the record.

MR. DAY: But the stenographer has it.

TRIAL EXAMINER LINDSAY: Oh, yes, absolutely.

MR. DAY: So that if we try to get it into the record, the stenographer will have it there.

TRIAL EXAMINER LINDSAY: That is entirely up to you.

MR. DAY: Just a minute. And will this appear on the written copy of the record that is given to us by the Stenographer?

TRIAL EXAMINER LINDSAY: No, not unless

you ask for it. If you ask for it they will write it up for you.

MR. DAY: Well, we ask for it right now.

TRIAL EXAMINER LINDSAY: Off the record.

MR. DAY: Well, now, may we at this time take an exception?

TRIAL EXAMINER LINDSAY: You already have an exception in the record.

MR. DAY: But I want an exception.

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: I want an exception to the action of the Examiner in excluding that from the record.

TRIAL EXAMINER LINDSAY: You may have —Listen, not to the action of the Examiner; you may have an exception to the ruling of the Examiner, the Trial Examiner.

MR. DAY: In excluding it from the record.

TRIAL EXAMINER LINDSAY: Yes, sir.

MR. DAY: All right, that is all.

ANTHONY MARTIN DE LONG

a witness called by and on behalf of the National Labor Relations Board, and, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your full name, please, Mr. DeLong?

A. Anthony Martin DeLong.

Q. Anthony Martin DeLong?

A. Yes.

Q. Where do you live?

A. 1101 South Avenue in this city.

Q. That is, in Youngstown?

A. Yes, sir.

Q. Have you ever worked for Republic Steel Corporation?

A. I have.

Q. When did you first start to work for them?

A. I am sure that it was April of 1934. And then I continued working until November about the 20th, I had to leave for something like six months and I came back in April somewhere around the 20th.

Q. 1935?

A. Yes, sir, but since then I worked steady.

Q. What was your last job from April 1935 on?

A. Well, I have been hooking up.

Q. Will you tell the Examiner what you mean by hooking up?

A. Well, I am a helper on the crane.

Q. And what department is that under?

A. Electric weld.

Q. That is the electric weld?

A. Yes, I call the crane. I tell the crane man what to do, then I have worked on different orders, different stock that is supposed to go out, and then different stock that is supposed to stay inside the mill. And then there is different things concerning that job. Well, I have to hook up lifts, then I have to go after the crane and unhook them.

Q. Was that your job all the time after April, 1935? Were you a hooker?

A. Yes, sir, I was on that job steady.

Q. What was that job paying in May this year? What was the base rate of pay?

A. That job was paying me about 62½ cents an hour, and then I was making a little bonus.

Q. How many hours a week were you working at that time?

A. I was working 48 hours a week.

Q. Were you getting in extra time for over-time?

A. Well, I was, yes.

Q. What was your average pay, can you approximate for us?

A. Well, on an average for a day I was making about $5.

Q. Do you belong to the CIO?

A. I have.

Q. When did you join?

A. I believe it was in May of this year.

Q. May of this year?

A. Yes, sir.

Q. Was that before or after the strike?

A. It was be—no, it was in April that I—that was in April.

Q. In April of this year that you joined?

A. Yes.

Q. Now, were you active in it after you joined?

A. Well, I was, I was active on it after I joined.

Q. Did you wear your button around the mill?

A. Yes, I did.

Q. Was it generally known around the mill that you were a CIO man?

A. Well, I believe it was known throughout the whole mill.

Q. Did you serve on the picket lines during the strike?

A. Yes, I have.

Q. Now, you were working on May 26th?

A. May 26th I was working on shift from 3 to 11.

Q. Did you go out on strike that night?

A. Yes, I did.

Q. Have you been back at any time since then to try to get your job, at the mill?

A. I have been back about—I have seen the bosses about five different times, trying to get my job back.

Q. When was the first time you saw anyone of your bosses, trying to get your job back?

A. It was on Wednesday the 28th, I seen—

Q. The 28th of what?

A. The 28th of June.

Q. June?

A. Yes. Well, since the 28th to July 20th, I believe I seen my bosses, I am sure I have seen my bosses five different times.

Q. Let's go back to the first one, and tell us who you saw each time and what was said?

A. Well, the first—

Q. Whom did you see on the 28th?

A. The first time that I went back for my job, I went down in the—to the employment office. Was about 3 o'clock in the afternoon and there was a short line. The day before that I was there but the line was very large and I understood that the office was going to close in an hour. Well, I knew that I couldn't stay in the line and be checked upon, so I thought it best to go.

Q. What do you mean by "in the line" there?

A. Well, they had a big—they had a line of men and everybody was taking their turn in rotation, who came first.

Q. Do you mean waiting to get into the employment office?

A. Yes, sir.

Q. I see.

A. Well, it was my turn to get my—to file in for my job, to ask for my job back and Mr. Rose, he asked me my name. I told him my name, Tony DeLong. And then he asked me my check number. I told him that was 2710 and he asked me for my check. Well, I told him that I lost it, which I did. And he had an assistant there was doing work for him, and checked up on the fies and the assistant called him over and he said—he said something to him and Mr. Rose come over and he said, "I don't believe there is anything here for you now."

He said, "We will call you when we need you." I asked him—well, I started off a little and then I come back and then I asked him how soon that would be? And he told me, he said, "I don't know," he said, "come back New Year's."

Q. Come back when?

A. New Year's. He told me to come back New Year's.

Well, the following day it was a Thursday, that was the 27th. Well, I called up Mr. Case—Roy Case.

Q. What is Mr. Case's job down there?

A. Mr. Case, he is a boss to Mr. Campbell. And as I understand, he is the superintendent down at the electric weld, the finishing floor.

I called up this Mr.—I called up Mr. Case and I believe that it was some kind of an apprentice that was working in his office that answered, I asked for Mr. Case. Well, he told me that Mr. Case was out and I asked him how soon he would be in and he told me within a short time.

Just then Mr. Case came in. Mr. Case answered on the phone, he said, "Hello," and I said, "Hello, Mr. Case, this is Tony DeLong."

Well, Mr. Case doesn't know my name and he didn't know my number then. And he said, "Well, what do you want?" I said, "How soon can I get back to work?"

Well, he told me, "I don't know," he said, "Why didn't you come in when the gates was opened?" I told him that I was out camping until Sunday and I figured that Monday it was unsafe to go to work and I thought it best to wait a while. Well—

Q. Now, this conversation was with Mr. Case, is that right?

A. It was. Over the phone.

Q. Over the phone? All right.

A. That does not include the times that I have seen him personally.

Q. Go ahead, I want you to tell them all and then—

THE WITNESS: What was the last?

(The record was read.)

THE WITNESS: I asked him how I could get my job back, and he told me the only way I could get my job back was being rehired.

So I hung up, then, and I didn't know what to do.

That was on a Thursday. So I waited a while and then I was walking—I was going to the employment office every day and then on July 3rd—

Q. (By Mr. Hoskins) Now, you say you were going to the employment office every day?

A. Yes, asking for my job.

Q. Did you see anyone, every day when you went down?

A. Yes, I went down, at times I snook around the cop and seen Mr. Rose, to see if my number was on the file, in there, because every time I asked the policeman, he told me that my number wasn't around. So on July 3rd I thought it best to see one of my bosses personally, that is Jack Campbell.

Q. Jack who?

A. Jack Campbell.

Q. What is his job, do you know?

A. He is under Mr. Case. I am sure that he is general foreman.

Q. Is that of the electric weld?

A. Yes, finishing foreman.

Q. Did you see Mr. Campbell?

A. Yes, I did, at noon that day, I knew that Mr. Campbell was going to come out for lunch.

Q. Is Mr. Campbell on a straight day turn all the time?

A. Yes, he is on—I don't know about now, but then he was.

Q. He was on straight day turn?

A. Yes.

Q. That is how you would know he would come out at noon?

A. Yes.

Q. All right.

A. Well, I waited out there for a while, and it was about 10 minutes after 12:00 that Mr. Campbell came outside.

I was standing at Stop 5 there, and I seen Mr. Campbell pull out, he had the green light.

I hollered at him, I hollered, "Hey, Jack, how is the chances of seeing you?" He said, "All right, come on out."

Q. You say he had a chance to pull out with the green light? Was he walking or in his car?

A. He was in a car.

Q. I see.

A. So he stopped and pulled up to the curb and I asked him, I said, "Jack, how is chances of getting back to work? I would like to get back to work."

And he said, "I don't know," he said, "The only way that you can get your job back is to keep going down to the employment office."

And he said, "What is your name?" I told him, "My name is Tony De Long." Jack Campbell knew me very well, to see me, but he didn't know my name. And he asked me my number and I told him that it was 2710.

So he told me, he said, "No," he said, "you have a clear record down at the electric weld," he said, "I liked your work and all that," he says, "but I don't know how you can get back in."

And I asked him, I said, "Well, who should I see?" He told me he didn't know, he said, "Try to see Roy if you can."

Q. Try to see Roy?

A. Roy Case, yes. And then he told me to keep walking down to the employment office, so I did, and I continued going down to the employment office until Thursday, that was the 6th. No, that was the 5th. That was the 5th. So—

Q. The 5th of July?

A. Yes, so I thought it best to go down, see Mr. Case in the steel mill.

Well, I went down to Stop 5 and a buddy of mine came out of mill, a friend, and I asked him if I could use his stub to get inside.

Well, he told me, he said, "If you get caught with my stub, I will get fired, I will lose my job."

So I told him, "I will give you my promise that if I get in there nobody ain't going to get your stub," so he said, "All right," he gave me his stub, and I was then inside and I walked past the policeman and he didn't bother me, I walked up to the electric weld, I went by the office and I seen that Mr. Case was busy.

Q. You say up to the electric weld. That is the department you worked in?

A. Yes.

Q. All right.

A. Went into the department by the office and seeing that Jack was busy, I thought I would wait outside for a little while.

Well, the friends came there by me, they asked me why I wasn't working. I told them I didn't know.

Q. Was Mr. Case in his office at this time?

A. Yes, he was, but he was busy and I didn't want to go in and bother him.

So I was waiting, I will tell you, it was somewhere around 3 o'clock, the shift was supposed to go home and another shift was going to start, so I thought it best to go in and talk to him even though I would have to bother him.

Well, I went in and I said, "Hello, Roy," and he said, "hello." And I asked him, "Roy," I says, "how is chances of getting my job back?" I said, "I am taking care of my mother and brother," and I says, "I have a little money saved, I would like to know when I can get back to work, so I would not use my money foolishly."

And he looked at me and he said, "Why didn't you come in when the gates was open?" I told him, I said, "I didn't want to take a chance because it was a little too dangerous, and then I was out camping, I didn't want to come in on a Thursday or Friday, whenever that day was that they first went in to work." I told him I thought it best to wait.

Well, he was telling me that I did wrong for doing a thing like that, and he told me that I should have come in earlier.

Well, for a while, there, I thought he was going to put me to work, he seemed to talk to me very nice, but then Mr.—

Q. This was Mr. Case that you were talking to?

A. Yes, I was talking to Mr. Case. Mr. Campbell was in the office at the same time.

Q. Now, who is Mr. Campbell, again?

A. Mr. Campbell is the general foreman, I am sure he is general foreman, that is what I understand.

Q. That is, he is your general foreman?

A. Yes.

Q. Yes, all right.

A. Well, he is general foreman of the whole three shifts.

Q. I see.

A. Well, Jack Campbell came running over, he was on the other side of the office, Mr. Case was sitting on the desk, and he said, "Roy," he said, "do you know who this boy is?"

He said, "No, I don't know who he is." He said, "His name is Tony DeLong."

Well, Mr. Case, he looked at me, his face changed suddenly—

His expressions on his face changed suddenly and he said, "No, there isn't anything in here for you." He said, "The mill is very slow, they are not working at all," and there they were, working a mile a minute, I know that.

I said: "Well, I can see that I am not wanted around here." He said: "Oh, yes, you are wanted around here. The men can use you. You are a good worker, and all that. The only thing you have to do is to keep walking down to the employment office."

He said that very plainly so I could understand that. Then I went outside again, and I run across a few buddies, —I don't know their last names or anything. We have nicknames around there. I ran across Bruno, he is the chief hooker. He put all the men to work. And then I ran across Yank, and Yank's brother, and a few other men. They came up there to me. They called me "Yanders" down there. They said: "Hey, Yanders, how come you are not working?" I said: "I don't know." I said: "I would like to get back to work, if I can. They won't have me to work." He said: "Gimineezy, we don't know why they won't put the guys to work. We are working seven days a week, and," they said, "everything is pretty steady down here, we have to work seven days a week."

Then I started to walking down toward the testers, and I walked up against Earl Cartright, my foreman. He called me "Shorty." He said: "Shorty, how come you are not working?" I told him: "I don't know." He said: "I don't know what is the matter, I sent your number in."

Q. Your foreman stated that?

A. Yes, it was my foreman. A few days before that, I can't recall what day it was but he sent a boy to my home, he said: "My buddy wants you to go down to the employment office," that my number was down there.

Q. Did you go down that day?

A. Yes, I went down to the employment office.

JUDGE SMITH: What day was that?

THE WITNESS: That was—

MR. HOSKINS: Wait a minute.

Q. (By Mr. Hoskins) What day was it that you went down and had this conversation with Mr. Case?

A. Mr. Case, that was the 5th, a Thursday.

Q. You think that was—

A. Yes,—there is the 4th of July.

Q. Do you remember what day the 4th was on?

A. Yes.

Q. What day?

A. Yes, the 4th.

Q. No, what day of the week?

A. Oh, it was on Wednesday.

Q. Was it on a Thursday that you went down there?

A. I am sure it was a Thursday.

Q. You are sure it was Thursday?

A. Yes.

Q. That is, irrespective of the date, you are sure it was Thursday that you were talking with Mr. Case?

A. Yes, I am sure it was Thursday.

Q. And then it had been how many days before that that this messenger—that this fellow came up to your house—

A. That was—that was before I had seen Mr. Case.

Q. Yes, you said it was two or three days before?

A. Yes, yes, it was before that.

Q. How many days before?

A. Oh, I believe it was—I believe it was the same date that I seen Jack Campbell, that was on the 3rd.

Q. Do you remember what day of the week it was?

A. That was a Tuesday.

Q. It was on a Tuesday?

A. Yes.

Q. You are sure it was Tuesday?

A. I am sure.

Q. And you are sure it was around the 4th of July?

A. Well, it wasn't the 4th.

Q. I mean, it was in that period of time right in there?

A. Yes, it was in that period.

Q. All right.

A. So I can't—I can't recall where I left off.

Q. I believe you had left Mr. Case's offices and were talking with your buddies.

A. Yes, and then I was going towards the testers, and my foreman, Earl Cartright, come up and said: "How come you are not working, Shorty?" I told him I was in the office, I asked for my job, and Roy Case, wouldn't give it to me, told me to go down to the employment office.

He scratched his head, he said: "I don't know. I sent your number into the office." He said "I don't know what is the matter, you didn't cause any trouble, did you?" And I told him "No."

So he walked away. He said: "I don't know, I will see what I can do." Well then, I was going out, and I ran across the foreman, that follows our turn, I can't recall his name.

Q. That is, in the electric weld also?

A. Yes.

Q. All right.

A. And I asked him—I said, "Can you use any good hookers? I want to get on my job real bad." Because I wanted to go to school, and I wanted to save a little more money so that I could go through school, and I thought it best if I would ask this man to put my name—to put me on, maybe he can put me on.

So he took my number, and he said he would see what he could do for me. Well, it was some time later that I seen the kid that worked for him out in the street, and I asked him, I said: "How come your foreman didn't get me on?" And he told me that his foreman told him that: "Let Earl Cartright take care of that kid. I don't want to have nothing to do with him." And then it gave me the smell that I just wasn't wanted around there. I knew that.

Well, that was the last that I seen of Roy Case, and then—

Q. That was on this Thursday that you were talking about?

A. Yes.

Q. You left the mill then?

A. I left the mill then.

Q. All right. When did you go back again, or when did you talk to him again?

A. I was walking down to the employment office, and that, every day. I tried to get back on my job, and I asked the policeman if he had my number. He told me he didn't, and then after that I seen Mr. Campbell,—I can't recall the dates after that.

Q. All right. Let us fix them as nearly as we can as you go along. How long after that did you see Mr. Campbell,—about how long?

A. Well, I will say about—

Q. You do not have to have it exactly. If you can, give us an approximation?

A. Well, I believe it was somewhere around the Tuesday of the following week, it was something like four days after that.

Q. Tuesday following the Thursday that you talked to Mr. Case?

A. Not—Mr. Campbell I seen after Mr. Case.

Q. I mean, it was on a Tuesday following that Thursday?

A. Yes.

Q. You saw Mr. Campbell on that Tuesday?

A. Yes.

Q. All right. What was your conversation with Mr. Campbell?

A. Well, I seen Mr. Campbell, and there wasn't much to that conversation, but I asked Mr. Campbell, I said: "Jack," I said, "I know the Company has something against me. They won't put me back to work."

MR. DAY: Was Campbell a foreman of some kind?

MR. HOSKINS: It has been testified that he was general foreman.

MR. DAY: All right.

A. (Answer resumed) When I was talking to Roy Case, I said, you come running over, and then you told Mr.

Case that my name was Tony DeLong, and then the expression changed on his face, and he wouldn't put me to work.

He said: "There isn't anything I can do for you. The only thing is for you to go to the employment office." I said: "Jack, this—this will try most everybody out, going after a job day after day." I said: "Why don't you tell me the truth? If I am fired, it is all right with me."

I don't know what took place after that, but, anyhow, that conversation wasn't very long.

Q. Whereabouts did this conversation take place?

A. About the same place, that I saw Jack Campbell.

Q. Where he was driving his car out at the green light?

A. Yes. And so I left that day, and I kept going down to the employment office, kept going down every day. Well, the policeman was telling me down there to come in the afternoon, probably my number will be down there in the afternoon. Well, I thought I would go down there twice a day.

Q. When you went down all these various days that you have told us about, did you get into the office to see anybody?

A. No, you couldn't get apast—you couldn't get apast the policeman.

Q. Tell us the procedure there, a little bit. You say you could not get past the policeman?

A. No, you couldn't get apast the policeman.

Q. Tell us just what would happen as you would approach the policeman.

A. Well, they had a few policemen, sometimes three, away from the employment office in a—I don't know whether you call it a hallway or not, but it was seated in a place, in a space between where you go into a building, whether a cafeteria, or what, I don't know.

They were seated there, and every man that wanted his job back would go up to the officer, and ask him for his job. The officer would have three or four lists with a lot of numbers on, and names, and then you would ask him whether your number was on these sheets. If it was, he would tell you to go into the employment office; if it was not, then he would tell you it isn't on, and then he would tell you to come back tomorrow.

Q. In other words, if your number was not on these lists, kept by the company police, that you could not get in to see Mr. Rose?

A. No, you couldn't.

Q. Is that right?

A. That's the only way you could get in to see him.

Q. All right.

A. Well, then, it continued like that for some days. I don't know—and I was getting tired of it, I was getting disgusted, and I thought I would go down and see Roy—not Roy Case—just Jack Campbell again.

So I went down there one day, and I waited about three hours for Jack Campbell, waited from about eleven until about twelve-thirty. And then I come back. I knew that he was going to come back. I knew that he was going to leave the shop somewhere around five o'clock. Well, then I come back about four, and then I left about—well, then I seen Jack about 15 or 20 minutes after five.

Q. Where did you wait all this time you were waiting?

A. Out on the street.

Q. The same place you had met him on, on two previous occasions?

A. Yes.

Q. You say you saw him about quarter to five?

A. Quarter after five.

Q. Quarter after five?

A. Yes.

Well, I seen him come out of the building, and I—not out of the building, but out of the plant—and I whistled at him, and he seen me, and I said: "Jack" and so he stopped, and I said: "Listen, how is chances taking a guy off the merry-go-round?" He said: "Just what do you mean?" I said: "Why don't you tell me that I can't get my job, or I can get it some time?" I said: "I am not in the spirit of looking for work, or anything else." I said: "I am disgusted." So he told me—"I don't know, you are not fired, we liked your work down there, and all that." I said: "No, that's not true." I said: "Somebody is lying."

He told me, he said: "No, nobody is lying." He said: "The only thing, you have to keep doing is, walking down to the employment office. You have to be rehired." I said: "That's a cheap way of telling somebody they are fired."

Well, he looked at me, and he said: "No, you are not fired." So I told him, I said: "Listen, Jack,"—and that was afterwards—I didn't tell him that I had a suit with the National Labor Board.

Q. Let me clear up one point there. Did I understand you to say that Mr. Campbell said in one breath: "You are not fired"—

A. That's what he told me.

Q. — and in the next he told you you would have to keep going to the employment office and be rehired?

A. Yes. So I told him—

Q. Now, about when was this conversation?

A. That was the last time I seen Jack Campbell. I will say that that was somewhere around—somewhere around the 10th.

Q. The 10th?

A. Yes.

Q. Of what month?

A. Of August.

Q. The 10th of August?

A. Or July.

Q. No, how long ago has it been in a period of weeks from today? How long back is it, about,—today is the 21st of August.

A. The 21st?

Q. The 23rd of August?

A. Well, it must be about four weeks; it is more than four weeks, I know that.

Q. It is more than four weeks?

A. It is more than four weeks.

Q. All right.

A. So I told Jack Campbell, I said: "Listen, Jack," I said, "I would like to look for work," I said, "because I need the job." I said: "If you will tell me I am not wanted around any place," I said, "every time, you don't have to come out and tell me I am fired, but you can give me a little hint I am not wanted around." I said: "Whatever I have against the Company I am willing to drop everything, if you tell me the truth."

He said: "No, you are not fired, Tony. Keep going down to the employment office."

Well, then, I didn't know what to do, to spit in his face, or what, because that's the feelings I had. I figured he was spitting in my face. And then—

Q. Is that the end of the conversation there?

A. That was, and that was the last time I seen Mr. Campbell, but I called him up one time after that.

Q. Did you talk with him on the telephone, when you called him up?

A. Yes, that was the time I was supposed to get a job through the steel door—

MR. DAY: What is that?

MR. HOSKINS: The steel door.

THE WITNESS: But I am coming to that later, I will mention that after.

Q. (By Mr. Hoskins) You left the mill on that date?

A. I wasn't even inside the mill; I was outside on the street.

Q. Have you been back to see anybody since then?

A. That was the last time I seen Jack Campbell. The next time I says I thought it best to see Mr. McCoy.

Q. Who is Mr. McCoy?

A. Mr. McCoy. I don't know, but anyhow, Mr. McCoy is somehow of a magnet for getting employment down at the Republic Steel.

Q. I did not hear you.

A. I understand Mr. McCoy is a sort of magnet for getting your job back at Republic Steel.

Q. Do you know him to see him?

A. Yes.

Q. Is he in this room?

A. Yes.

Q. Will you point him out?

A. The third man on the left-hand side (witness indicates).

Q. All right.

A. Well, this was after the 10th, I don't know, somewhere between the 14th and 21st, that I wanted to see Mr. McCoy. Well, every morning that I got past the policeman, I told him I wanted to go upstairs and see about my insurance. That's the only way I could get up to see the policeman.

Well, I seen Mr. McCoy's secretary, and I asked him if I could have an interview with Mr. McCoy. He said—he asked me my points about working, and I told him, and he told me somebody ought to tell me whether I am fired or not.

Q. That was the secretary that made that statement?

A. Yes. He said Mr. McCoy wasn't in today, he said he was in Cleveland. That was the beginning of the week. I can't recall that week, but it was about four or five days after the last time that I seen Mr. Campbell that I—no, it was about—well, say that it was four or five days after I seen Jack, after I seen Jack Campbell. I thought it best to see Mr. McCoy. I heard that he had all the influence of putting men back to work, and I knew that Mr. McCoy put men back to work.

Q. Did you eventually see Mr. McCoy?

A. I did. Well, that was the latter part of that week. I was going down to Mr. McCoy's office every day for about four days, and then, if I can recall very well, I believe it was a Thursday that I seen—that I got to see Mr. McCoy coming through.

Q. Just a moment, how many weeks ago, would that be, from today?

There is a calendar over there if that will help you any (indicating).

A. Well, the day—the date that I seen Mr. McCoy, I believe it was somewhere between 20th, and the 24th of August—not August.

Q. But July?

A. July.

Q. All right. Will you tell us your conversation with Mr. McCoy?

A. Yes, well, Mr. McCoy's secretary seen that I was coming down every morning and I wanted to go back to work. So he told me, he said: "The only way you can see Mr. McCoy is by coming down early in the morning." And I said: "What time would that be?" He said, "If you come here about seven-thirty or eight o'clock, and go through the hospital upstairs, you will get to see Mr. McCoy."

Q. What do you mean,—go through the hospital upstairs?

A. Well, I don't know, but the way he explained it to me, the doors were close to get into his office, and the only way I could get in to see Mr. McCoy was by going through the hospital, and then upstairs.

So I told him I would do it, but the next morning that I came down, it was somewhere around 15 after eight.

Q. Was that the next morning, you mean?

A. Yes.

Q. After you had talked with the secretary?

A. I talked to him every morning, but that was the last day that I seen Mr. McCoy.

Q. I see.

A. I talked to his secretary and asked him if I could get in to see Mr. McCoy. He said: "All right. Mr. McCoy is busy, but in a short time he won't be."

So I waited there for a little while, and he—

Q. You waited where, Mr. DeLong?

A. Well, in—I can't recall.

Q. In Mr. McCoy's outer office?

A. No, not in Mr. McCoy's office, but in Mr. McCoy's secretary's office. I waited in the office, and then the fellow came out, left—and Mr. McCoy's secretary stayed inside, and stayed inside about 10 minutes, and then he come out, and he said: "All right, Mr. DeLong, you can go in and see Mr. McCoy."

Q. Did you go in there?

A. Yes, I did.

I went inside, and I was a little excited, and I didn't know whether to tell Mr. McCoy whether I was a C. I. O. member or not. I thought the best thing to do was to try to lie out of it.

Q. Just a moment. Will you give us a little more fully the conversation? What were the opening remarks, do you remember?

A. Well, that's just what I was thinking, I haven't—well, later on, after I thought that—then I started to talk with Mr. McCoy.

Q. Go ahead. Give us the conversation.

A. Well, I thought it best not to say anything to Mr. McCoy. I believe if I told him I was a C. I. O. member I wouldn't get my job, because every man that was a C. I. O. man wasn't working.

MR. DAY: I move that be stricken out.

TRIAL EXAMINER LINDSAY: Read the answer, please.

(Last answer read by the Reporter.)

THE WITNESS: That is, every man that I have known.

MR. HOSKINS: Just a moment.

TRIAL EXAMINER LINDSAY: Your motion is denied.

Let the record show an exception.

MR. DAY: Exception.

Q. (By Mr. Hoskins) All right. Will you go ahead with your conversation?

A. Well, then, I went inside, and I said: "Good morning, Mr. McCoy." Mr. McCoy said: "Good morning." And I told him, I said, "Mr. McCoy, I would like to have my job back, if I can." Well, Mr. McCoy said—no, Mr. McCoy didn't say anything—I kept talking.

I said: "Mr. McCoy," I said, "I can't get my job back. I have been going for my job, and I don't know what is the matter." I said, "I didn't cause no trouble on the picket lines or anything." I didn't mention the picket lines either, that was later on.

No, your Honor, I am balled up, because—

TRIAL EXAMINER LINDSAY: That is all right. I realize that the events are quite old. Try and give it just as you know it.

THE WITNESS: Yes.

A. (Answer resumed) Well, I told Mr. McCoy that I wasn't a member of the C. I. O., and I would like to have my job back. And Mr. McCoy pointed his finger at me and he said: "Young man, you had come in here representing Mayo."

Q. Who is Mayo?

A. Mayo had something to do with the C. I. O. And I told him, I said: "Mr. McCoy, I don't understand you." He said: "You come in here to get information from me, and taking it over to Mayo concerning the affairs of the Company, and why you can't get back to work."

Well, I was excited. If you can recall that, Mr. McCoy—(witness addresses Mr. McCoy)—

TRIAL EXAMINER LINDSAY: No.

MR. HOSKINS: Never mind.

Q. Go ahead.

A. I was all excited, and I didn't know what to say. And I told Mr. McCoy that I wasn't a member of the C. I. O. I said: "I had nothing to do with the C. I. O."

He said: "I know you are a member of the C. I. O." I said: "Why, I don't know," I said, "but I am sure I am not a member of the C. I. O." Mr. McCoy said: "No, you filed a suit against the Company with the National Labor Board through the aides of the C. I. O."

And I told Mr. McCoy, I said: "Well, I lied a little here when I come in, but I guess I will have to tell you the truth now. The reason why I won't get my job—not the reason I won't get my job—but the reason why I filed suit with the National Labor Board was because I couldn't get my job back."

And then I also told Mr. McCoy that when I went for my job that first day, when I talked to Mr. Rose, I asked him for my job, and then I left for a short distance, and then I come back, and Mr. Rose told me to come back New Year's.

He said: "When you get on the stand, can you prove that statement?" And I told him, I said: "I don't know, but then I have been thinking there isn't anything I could prove that I have been doing."

So he told me to sit down. I sat for a while, and then Mr. McCoy showed me different kinds of pictures, I don't know how many; but there was one I laid a great importance on. It was a picture of different kind of ammunitions —ammunition, and all that, and then there was bombs and all various types of guns and all that. And Mr. McCoy said: "Here is what the pickets use on the picket lines. There is a collection that we have made. These are all from the pickets."

"Well," I said, "I don't know; I was on the picket line, but I didn't use any of that stuff." And he told me: "No," he said, "nobody uses that stuff, but still we get it from all the pickets."

And then I told Mr. McCoy I didn't have nothing to do with that stuff. He said: "No, you didn't have nothing to do with the picket line either. You didn't have nothing to do with the C. I. O."

And I told Mr. McCoy that I had nothing to do with that stuff. I was all excited there, and I didn't know what to say. I knew that I wouldn't get my job back.

So Mr. McCoy—Mr. McCoy told me different things, and things that I had liked,—Mr. McCoy gave me his experience in the Spanish American War,—if I can recall it very well,—and also on working on the railroad, and different construction jobs, and all that.

Q. Did Mr. McCoy say anything to you about your brother?

A. Yes, that was—that was—that was when I— did I come to that part—where Mr. McCoy said—

Yes, when I made the statement to Mr. McCoy that I wasn't a C. I. O. member, and that, and later on I told him the truth, and why I filed suit with the National Labor Board. Mr. McCoy mentioned my brother. He said: "Your brother was a strong member of the C. I. O., wasn't he?" I told Mr. McCoy, I said: "Well, he was a strong member, but he didn't cause no trouble. He done his duty on the picket line, and I believe it was no more than fair." So Mr. McCoy said: "He filed suit against the Company, and then he goes back to work." He said: "I wouldn't put a man like that to work." He said: "I don't see why they let him work."

Well, that was about all that he said about my brother.

Q. Now, what was the outcome of your conversation with Mr. McCoy that day?

A. Well, then,—where I was continuing on the pictures—well, Mr. McCoy started telling me about different things, and he showed me a knife on a picture that was in array with shotguns and all kind of bombs, and all that, and Mr. McCoy said: "Here is a knife here," he said, "that was used in the Spanish War, and," he said, "I had these knives myself." He said: "Probably you, Mr. DeLong, was carrying that knife on the picket line to cut Mr. McCoy's throat off."

I told Mr. McCoy that I wouldn't do a thing like that, and then he started telling me about different things, that I was a little too strong for him, that he wouldn't want to argue with me, that he could—that I could damage him up, and that, well, in relation to that, he told me that I was stronger, and he didn't want to mess around with young kids.

Then he said: "You are from around Cedar and Poland, aren't you?" And I told Mr. McCoy I wasn't from around Cedar and Poland, but I was from the South Side. He said: "Well, I don't know," he said, "but if you are from around there," he said, "those guys are plenty smart down there, they shouldn't be working in a mill."

And then I talked to a friend from around Cedar and Poland, and I mentioned that Mr. McCoy asked me if I was from around Cedar and Poland. He told me that one day Mr. McCoy was going down Poland Avenue—

Q. Wait a moment.

Is this a conversation that took place in Mr. McCoy's office that you are relating now?

A. No, this is with a friend.

Q. Let us finish up the conversation with Mr. McCoy in his office. Does that end it there?

A. No, then he told me about the knife, and he didn't want to argue with me.

Q. Did he say anything more about putting you back to work?

A. No, and then Mr. McCoy said: "Young man, I think you will have to be leaving, because there is somebody wants to see me." I said: "Mr. McCoy, I am willing to drop my case with the National Labor Board if I get my job back."

Mr. McCoy said: "You will have to wait until the case is over with the National Labor Board before you can go back to work." I said: "How soon can I see you again?"

"I don't know how soon that will be." Mr. McCoy told me he didn't know, he gave me his telephone number, and he told me I could call him up and ask him for the job, he would see me later then.

Q. Have you been back to the mill since then?

A. No, but I made a phone call.

Q. How?

A. I made a phone call. I was down to the mill, I tried to see Mr. McCoy after that, which was about three or four days after that. I had a job promised to me, and I was told if I could prove I have a clear record with the Republic Steel, I can get this job.

This job was down at the Youngstown Steel Door. It took place like this: I was in town one morning, and I ran across a friend, Mr. Shaw, from the Y. M. C. A., and he shook hands with me. He said: "What are you doing, Tony?" I said: "Oh, not very much." I said: "I am looking for work. I can't get no work." He said: "Why?" I said: "Well," I said, "I was down at the Republic Steel, I can't get my job back, and every place I go, I just can't tell them that I have a clear list, so—" Mr. Walker—not Mr. Walker—but what is the man from the Y. M. C. A.?

Q. Well, go ahead with your story.

A. He told me, he said: "How much do you weigh, Tony?" I said: "About 138,—135 pounds." He told me: "Well, if you weighed about 150 pounds I could get you a job. It is hard work."

I told him, I said: "Maybe it is hard work, I don't weigh enough, but still, I can't show I have a clear record at the Republic Steel." I said: "I would have to go down and go under a fictitious name." He said: "Wait, I will go over and see Mr. Shaw,"—not Mr. Shaw—well, it was

Mr. Shaw I was talking to—Mr. Getchey was the man that was going to send the man to the Steel Door and was supposed to go to work the following morning.

Q. Both men are connected with the Y. M. C. A.?

A. Yes, Mr. Shaw had something to do with the membership office, and Mr. Getchey has a lot to do with that. But then he told me that day—he told me he was President of the Foreman Club at the Y. M. C. A.

Q. Let us go back to the time you called Mr. Campbell.

A. No, that's later on I called him—that's after that.

Q. All right.

A. So he went over, and he talked to Mr. Getchey in the cafeteria there at the Y. M. C. A., and he told me, he said—he told him something, anyhow, but later on he come out and said: "Sit down, Tony, and Mr. Getchey will be out right away." Well, Mr. Getchey came out within half an hour, and he said: "Whose name is Tony DeLong?" There was two boys—

MR. DAY: Who was Mr. Getchey?

THE WITNESS: Mr. Getchey told me himself —I know Mr. Getchey since I am a little boy.

MR. DAY: I do not understand what Company he is with.

MR. HOSKINS: Mr. Getchey is with the Y. M. C. A.

THE WITNESS: He is with the Y. M. C. A.

MR. DAY: I cannot understand how this testimony is relevant.

MR. HOSKINS: Your Honor, it is merely introductory, leading up to a conversation that the witness said he had at a future date,—leading up to a conversation the witness had with Mr. Campbell.

TRIAL EXAMINER LINDSAY: Do you have an objection?

MR DAY: Yes, I object to the conversation.

Cross Examination

Q. (By Mr. Day) When did you join the CIO, Mr. Cain?

A. I believe that was the 12th or 13th of June.

Q. After the strike?

A. Yes.

Q. When did you first work for Republic?

A. Well, now, if you—I can't say that I worked for Republic, when I worked at Newton Steel, but I started at Newton Steel in '26, and I was sick for a few years, several years in—that I didn't do anything—I hired to Republic last October.

Q. And you worked up until the time of the strike?

A. Yes.

Q. Then you joined CIO after the strike was called?

A. Yes, yes.

Q. And the mill shut down on the 26th of May and opened up again on the 25th of June?

A. I think that is right.

Q. And on the 2nd of July Mr. Lafferty called you?

A. Yes.

Q. And asked you to come to work?

A. Yes.

Q. Well, now, was it after that, that the eight of you got together to discuss the matter?

A. Why, you see it was about ten or fifteen days before, they come and called on me and asked me to do this, and that very day I called one of the roll turners and we met that afternoon, after I had talked with Mr. Lafferty.

Q. Would that be the afternoon of July 2nd, the same day he called you?

A. Yes.

Q. And you decided not to go back to work?

A. No, we decided to meet the following Wednesday.

Q. And you met the following Wednesday?

A. Met the following Wednesday.

Q. Then you decided not to go back to work until when?

A. They all agreed, they decided they would not go back at the present time.

Q. Then did you meet again?

A. Met at my house on the following Wednesday from then.

Q. Did you decide again not to go back?

A. Well, there wasn't much done.

Q. Just got out under the trees at that time?

A. Yes, it was too hot to do much.

Q. So finally you got a letter?

A. The next day I got that letter, if you notice.

Q. After you had told Mr. Lafferty that you were not coming back, and after you had the three meetings between yourself and the other men?

A. Yes.

Q. You got this letter July 14th?

A. Yes.

Q. Saying your job at Republic had been discontinued?

A. Yes.

Q. That is all—By the way, you worked in the Warren plant or the Niles plant?

A. Warren.

Q. Warren plant?

A. Warren.

Q. Was the Warren plant closed or open, during the strike?

A. I never was near the place, I don't know.

Q. What?

A. I never was near them, I don't know.

Q. You don't know whether it was opened or closed?

A. No.

MR. DAY: All right, that is all.

Redirect Examination

Q. (By Mr. Grossman) Just a minute, Mr. Cain, referring for the moment to that telephone conversation you had with Mr. Lafferty on July 2nd, do you recall that now?

A. Oh, pretty much, yes.

Q. And did you tell Mr. Lafferty that you would call him back or that you were not coming back?

A. I told him I would call him back.

Q. You told him you would call him back?

A. Yes.

Q. Thank you.

MR. GROSSMAN: That is all.

MR. DAY: Did you ever call him back?

THE WITNESS: No, I didn't.

MR. DAY: That is all.

THE WITNESS: I think he knew all about the meetings, anyhow.

MR. DAY: That is all. I move to strike out the conversation between this witness and one Baldwin on the same ground set forth in the objections to the conversation.

TRIAL EXAMINER LINDSAY: The motion is denied. The record may show an exception.

(Witness excused.)

JOHN RIFFLE

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Grossman) What is your full name, Mr. Riffle?

A. John Riffle.

Q. John Riffle?

A. Yes, sir.

Q. Where do you reside, what is your address?

A. 2806 Youngstown Road, Warren, Ohio.

Q. When did you first start to work for the Republic Steel Corporation?

A. Was 1926, in October.

Q. In October?

A. Yes.

Q. 1926?

A. 1926.

Q. And did you work steadily then?

A. Steadily.

Q. Until when?

A. Until the 26th of May.

Q. Until the 26th of May?

A. Yes, 1937.

Q. And what happened then?

A. Well, they called out the strike.

Q. That was the day of the strike?

A. Yes.

Q. You left the mill?

A. Yes.

Q. What is your job, now, in the mill, Mr. Riffle? What did you do?

A. Why, we load box car, railroad car. That is my job, right along.

Q. You load the railroad cars?

A. Railroad car, trucks, anything, just to ship out of the mill.

Q. Do these railroad cars go outside of the mill?

A. Yes.

Q. Are you a member of the CIO?

A. Yes, I am a member now.

Q. When did you join?

A. It was on the 29th of May, the second day I came out of the mill.

Q. Did anybody ever ask you to join the Employees' Independent Association, Mr. Riffle?

A. Yes, that it was—representative of the company, Mike.

Q. What did you say his name was?

A. Mike Pesetta, something like that, I couldn't spell it.

Q. He was your Employee Representative?

A. Yes, he was representative, before.

Q. Now, about when was this that he asked you to join the Association?

A. Oh, it was about a couple of weeks before the strike broke, somewhere right along in there.

MR. DAY: You say about the early part of May?

THE WITNESS: Yes.

MR. DAY: I want to object to this conversation between this witness and—What is this man's name?

MR. GROSSMAN: Employee's Representative, Mike.

MR. DAY: Mike. On the same ground we objected to similar conversation between the witness Cain and one Baldwin, and to all conversation between them on this same general subject.

TRIAL EXAMINER LINDSAY: That objection is overruled. Let the record show an exception.

Q. Now, what did Mike say to you, Mr. Riffle?

A. Well, he say, "You better join the union to keep them inside union, and to keep CIO out."

Q. And this was while you were working in the mill?

A. Yes, when we were working, right in the car, and he run the truck, and we worked together all the time.

Q. Did he say anything else to you?

A. Why, he says I got a son down there works down there and he is roller, and he says, "How does it come as your son he has good job, join the union?" I say, "I have got nothing to do with him, he is married and he has living home, he has his own business." He said, "How is it your son has got such a good job, if you don't want to join the union? Good job if you don't want to join union.''

Q. I hand you Board's Exhibit 79, and ask you if that was the card Mr. Mike asked you to sign?

A. Well, I think it was something like that, yes. Yes, that was a card like that.

Q. That was a card like that?

A. Yes.

Q. Now, did you sign that card?

A. Yes, I signed one card was all.

Q. I didn't hear you.

A. I signed one out there in the mill.

Q. You signed one in the mill?

A. Yes, card was parcel post.

Q. Parcel post?

A. Yes, mailed it in.

Q. On the day the strike was called, what turn were you on?

A. I worked from 3 to 11 that day, was 11 o'clock, my eight hours is up, I am entitled to go home. We get through together, and the fellow what worked with me, we wanted to go and put for my stuff in the locker, and the boss got us and he say, "Who is working in this department?"

Q. Who is that boss?

A. Bill Thompson.

Q. Yes.

A. He say, "Who is in this department, he wants to protect his own job." He say, "He ain't got no job in this department."

Q. What did you do then?

A. Well, we just got excited, and didn't know what to do, I am getting very age, I don't want to lose job, I have got family, just walk around a couple of hours like, don't know what to do.

Q. Then did you go home?

A. No, after I stay in, and he say, "If you want anything to eat,'' he gave me tickets for 50 cents. I go to restaurant, never get anything.

Q. Just a minute, you stayed in the mill that night?

A. Yes.

Q. Did you sleep in the mill?

A. Yes, sleep in the mill.

Q. Where did you sleep?

A. Right on the floor behind the wall, I put a paper down, put my coat down, lay there a couple of hours.

Q. Slept on the floor?

A. Yes.

Q. The next morning, what happened?

A. Got up, walk around again, walk to the restaurant, he give me for 50 cents them tickets and I don't give me nothing, he give me one hamburger, one coffee and hamburger, was no fry, it was too quick, he had a lot of men there, he was busy; I ate that and after that I got sick, I never feel good at all, but this was about 10 o'clock, I go to the hospital, and the doctor told me, he said, ''If you no feel better, you come back in hour or hour and a half or two hours.'' I come back, that was about 1:30 or 2 o'clock and the doctor told me to—he say to the nurse, he say, ''You better send John home.'' ''He got nervous, he look like he get sick out of that mill.''

And Mr. McClain was in there, he say—he say, ''Johnny, did you want to go home?'' ''Yes,'' I say, ''I want to go home, I am afraid to go out through the picket line, I afraid somebody hurt me.'' ''Well,'' he say, ''I will take you home.''

Well, I go out home.

Q. Mr. McClain took you out?

A. That was the second day after strike.

Q. Who is Mr. McClain?

A. He is the safety man, down in the mill.

Q. He is what?

A. Safety man.

Q. Safety man?

A. Yes.

Q. Did you ever try to get your job back after that, Mr. Riffle?

A. Yes, afterwards, was the Government and soldiers and he says for protection for not to work, and I call up on the 28th of June and Thompson say he has got nothing to do yet.

Q. This was Bill Thompson on this?

A. Yes, he says: "I got nothing to do." He says: "I got all the men I need."

Well, I went again, and I called the 3rd of July; he says, same thing, call him again the 7th, he told me the same thing, and after I called him pretty nearly every week once, he says: "Nothing doing." He says he don't know when there is going to be anything for me.

Q. When was the last time you called him, you say?

A. Last time?

Q. Yes.

A. Well, I called him—when—Saturday a week ago.

Q. Saturday a week ago?

A. Yes, and I was—

Q. Have they taken on any new men in your department, do you know, Mr. Riffle?

A. Yes, he take new men on; that's why—

MR. DAY: I object, unless he knows.

Q. (By Mr. Grossman) To your knowledge, have they taken on any more men in your department?

MR. DAY: I object unless he shows from actual knowledge.

THE WITNESS: Another man, yes, three men going on—

TRIAL EXAMINER LINDSAY: Just a moment. Read the last few questions and answers.

(Record read.)

TRIAL EXAMINER LINDSAY: There are two objections there. They are both overruled.

Let the record show an exception.

(Exception by Respondent.)

Q. (By Mr. Grossman) Now, Mr. Riffle, you said there were three men taken back?

A. Yes, he working now, I think Wednesday, four weeks since he was on the job.

Q. These three men are working four weeks?

A. Yes.

Q. You stated a while ago that you were working in the mill for 11 years?

A. I worked since 1926. I broke all men in, 18 men in the gang. I am oldest man in the gang.

Q. These new men who were taken on, were they there for a shorter period than you?

A. These work a little bit over a year.

Q. They had worked a little bit over a year?

A. Some of them maybe about a year and a half now already.

MR. GROSSMAN: That is all.

Cross Examination

Q. (By Mr. Day) Mr. Riffle, how long had you worked for the Republic Steel Corporation?

A. Since '26.

Q. 1926?

A. Yes.

Q. Up until May, 1937?

A. Yes.

Q. And then the C. I. O. came in and you had a strike?

A. Yes, we went on strike.

Q. And you have been out of a job since then?

A. Yes.

Q. And you joined the C. I. O. after the strike started?

A. Yes, I got out on the 27th, and the 28th, after I join in C. I. O., second day what I came out.

Q. The second day after you went out on the strike you joined the C. I. O.?

A. Yes.

Q. Was the plant that you worked in down or not? Was it shut down?

A. Plants working.

Q. What?

A. You mean —

Q. What plant did you work in in Warren?

A. Which plants?

Q. What plant?

A. Cold strip.

Q. Was that shut down during the strike?

A. No.

Q. It was partly open, was it?

A. Eighteen men in the gang, nine men out, and nine at work.

Q. Nine at work?

A. Yes, eight of them work.

Q. How long did they stay?

A. Stay in today yet.

Q. How long did the men stay in and could not get out?

A. As long as they send the soldier. I don't know which day was that.

Q. You say after you had been there a day or two you were taken sick?

A. Yes, I was in one night, and I got sick, I had to go home.

Q. You said you were afraid to go home?

A. Yes.

Q. You were afraid of the pickets?

A. I was afraid of the pickets, and Mr. McClain let me out of the gates.

Q. And Mr. McClain is sitting back here, right over here (indicating)?

A. Yes, he is sitting back there.

Q. He took you home?

A. He took me out on the street.

Q. He drove you out in an automobile?

A. How?

Q. He drove you out in an automobile?

A. No, just ask leader on the picket line to no bother me.

Q. He asked the picket line leader not to bother you, and you went home?

A. I go home.

Q. Where did you live?

A. In Warren.

Q. Whereabouts in Warren?

A. 2806 Youngstown Road.

Q. 2806 Youngstown Road?

Just a moment.

This man that talked to you about the Union, what was his name? You have told us about this gentleman—what was his name? Mike Somebody?

A. Mike Pesetta.

THE REPORTER: How do you spell that? P-e-s-e-t-t-a?

THE WITNESS: No, that's not the right name? I don't know how to spell it.

Q. (By Mr. Day) Who was he? What does he do?

A. He runs tractor.

Q. How?

A. He runs tractor to push steel, to push them trucks.

Q. He was an employee at the mill?

A. Yes, and he was represent before, then, was Company Union before the Wagner Act upheld.

Q. He was the representative in the Company Union before the Wagner Act was upheld?

A. Yes.

MR. DAY: I guess that is all.

MR. GROSSMAN: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will have a short recess.

That is all, Mr. Riffle.

(Thereupon a short recess was had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. GROSSMAN: Mr. Lewis.

ALBERT N. LEWIS

was thereupon called as a witness for and on behalf of the National Labor Relations Board, and, having been duly sworn, testified as follows:

Direct Examination

TRIAL EXAMINER LINDSAY: Now talk right up so we can hear you.

THE WITNESS: Yes.

Q. (By Mr. Grossman) Will you state your full name, Mr. Lewis, please?

A. Albert N. Lewis.

Q. Albert N. Lewis?

A. Yes, sir.

Q. And your address?

A. 419—or 578 South Street—it was 419 Charles. I just moved.

Q. What is that?

A. 578 South Street, Southeast, Warren, Ohio.

MR. DAY: How do you spell his last name?

MR. GROSSMAN: L-e-w-i-s.

MR. DAY: Thank you.

Q. (By Mr. Grossman) When did you start to work for the Republic Steel Corporation?

A. May 12, 1929.

Q. At what plant was that?

A. Republic Steel, in Warren.

Q. The Warren plant?

A. Yes.

Q. What sort of work did you do?

A. Well, I was a loader in the shipping department, loaded box cars. Well, we loaded the cars and bundled up the stuff, and gondolas, and hooked them on, sometimes, loaded the gondolas, loaded trucks, anything that had to be shipped.

Q. Which department in the plant was that?

A. Cold strip.

Q. Cold strip shipping?

A. Yes.

Q Now, these box cars, they were railroad cars, were they?

A. Yes, sir.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join the C. I. O.?

A. May 27th.

Q. Of this year?

A. Yes, sir.

Q. You stated that you started to work for the Republic Steel Corporation in 1929. Did you work steadily then?

A. Yes, sir.

Q. Until this year?

A. Yes, sir.

Q. When did you stop working?

A. Well, I stopped on May 27, about two o'clock.

Q. When was the strike called?

A. May 26th.

Q. May 26th?

A. Yes, sir.

Q. What turn were you on?

A. Three to eleven.

Q. How?

A. Three to eleven.

Q. Did you go home at eleven o'clock that day?

A. No, sir.

Q. You did not?

A. No, sir.

Q. Why did you not go home?

A. Well, we worked until eleven o'clock, and put our tools away, and we started to go home, the four of us, and he told us: "You have to stay in here to protect your jobs." He said: "If you go home—"

Q. Who was this that said that?

A. Bill Thompson. He said: "If you go home, you won't have any more jobs in this department."

Q. And you stayed on?

A. I stayed in until the next day.

Q. Was it because of that, of what Mr. Thompson said?

A. Well, sure, I knowed if I went home I wouldn't have no job from what he told me.

Q. Did you sleep in the mill that night?

A. Yes, sir.

Q. Where did you sleep?

A. I slept on the floor.

Q. What happened the next morning?

A. The next morning I got up about—well, six o'clock, I guess, smoked a cigarette, and got an order and went to the restaurant, and waited in line, and all they had was hamburger sandwiches and coffee. I got two sandwiches and two cups of coffee, and went down and sat down on a box and ate them.

About half an hour after I ate them I began to get sick, and I vomited around all day, and about one o'clock I went to the boss and said: "Bill, let me go home," I said, "I am sick." He said: "Go to the hospital."

Q. This is Bill Thompson?

A. Yes. I went to the hospital, and they give me—Dr. Thomas said: "You are just nervous in your stomach, you are upset." He gave me a shot of medicine, I don't know what it was.

So I came back and walked around there, and the longer I stayed, I just began—I was nervous—so I just walked out, and started to walk out, and I see Willie Gooseman—

THE REPORTER: How do you spell that name?

THE WITNESS: I don't know just how he does spell his name.

And I met him, and I rode home with him.

Q. What hospital was that you went to? Was that the mill hospital?

A. The mill hospital.

Q. And Dr. Thomas, is he the man who is in charge of the mill hospital?

A. Yes, sir.

Q. And he sent you home?

A. He didn't send me home. He told me to go on back. I went on back on my job, and I stayed there about an hour, I guess, and then I walked out home. I didn't see Mr. Thompson at the time I went home. I told him—I told a couple of check men there, I said: "I am going home, I am sick."

So I started home. I met this Mr. Gooseman; he took me home.

Q. After you went home, did you feel better?

A. I went home, I was sick. My wife had supper, and I tried to eat, I couldn't, I vomited again, and I went to the doctor.

Q. And you were under the doctor's care?

A. Yes, sir.

Q. Were you ever approached in the mill and asked to join the Independent Employees' Association, Mr. Lewis?

A. I was.

Q. You were?

A. I was, yes, sir.

Q. Do you remember about when that was?

A. Well, it was about on or before July 23rd, around there some place, I have no dates.

Q. What date was that?

A. I say on or around July 23rd, something like that.

Q. July 23rd?

A. Yes.

Q. Of which year?

A. 1937.

Q. I asked you if you were ever approached in the mill?

A. Yes, sir.

Q. You were not in the mill on July 23rd?

A. No. Let me see—let me see—June, I guess—May or June.

Q. Now, you left the mill on May 27th, you have testified a while ago?

A. Yes.

Q. It was May 27th?

A. Yes.

Q. When were you asked to join the association in the mill?

A. Well, it was May—May—May—May 23rd, that's when, before the strike.

Q. May 23rd?

A. Now I got it.

Q. (Indicating) I hand you Board's Exhibits Nos. 78, 80 and 81, and ask you if you have ever seen those before, Mr. Lewis?

A. Yes, sir.

Q. Where did you see them?

A. I got one through the mill, I throwed it away. I saw one in the mill.

Q. Is this the card you were going to sign on May 23rd (indicating)?

A. Yes, sir, just like that; it wasn't that one.

Q. Well, that is a copy of it?

A. Yes.

MR. DAY: We want to object to this testimony on the same ground that we objected to the testimony of the other witnesses.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the Record show an exception.

(Exception by Respondent.)

Q. (By Mr. Grossman) Who was it that asked you to join the Independent Employees' Association?

A. Well, Mike Maggiamo asked me a couple of times to do it.

Q. What is his name?

A. Mike Maggiamo.

MR. GROSSMAN: M-a-g-g-i-a-m-o.

THE WITNESS: He is a Company representative?

Q. (By Mr. Grossman) You say he is a representative?

A. He is a Company representative, yes.

Q. He is a company representative?

A. Yes, sir, and he runs a truck down there, too.

Q. What did he say to you?

MR. DAY: I just want to object to this testimony on the same grounds as we objected to a similar conversation between Mike Maggiamo and another witness.

TRIAL EXAMINER LINDSAY: All right. The objection is overruled.

Let the record show an exception.

(Exception by Respondent.)

BY MR. GROSSMAN:

Q. You say he was a representative. Was he a representative of the Employees Representative Plan?

A. Yes, he is a representative in the cold mill there.

Q. In the cold mill?

A. Yes, sir.

Q. Was that the Company Union that you are talking about?

A. Yes, sir.

Q. What did he say to you when he talked to you on the 23rd of May?

A. He said: "Lewis, ain't you going to sign up that E. I. A. card?" or whatever it was. I said: "No, I don't want to sign it, Mike." He said: "You fellows have got a good job here, you want to protect it." That's all he said. I walked away.

Well, then, in the afternoon, I see Shorty Dishon.

MR. DAY: Who?

BY MR. GROSSMAN:

Q. Who is Shorty Dishon?

A. That's a fellow that works in our gang, one of our gang. Him and Thompson was in the conversation on the platform.

Q. Just a moment, I am sorry, just a moment. Mr. Thompson is your boss, Bill Thompson you are referring to?

A. Yes.

Q. Will you continue, please?

A. He was in a conversation on the platform with this Shorty Dishon, and I come out of the carpenter shop, I had some lumber, we was breaking a car. When I passed him he said in a grouchy way, he said: "Lewis, did you see Shorty?" I said: "No, I haven't, Bill," and went on.

Well, we finished breaking the car, and we went down to the bundling floor, it was about 20 minutes after, and Shorty, he called me out on the platform. He told me: "Lewis," he said, "you better join this thing. You got a good job here. You have to belong to either one, the C. I. O. or this here."

"Well," I said, "Shorty, I would rather leave it alone, and not bother with either one."

He said: "No, you have got to have one or the other to represent you." I said: "Well, I haven't got that card now," I said, "I throwed this card away."

MR. DAY: I didn't understand. Is this a talk between you and Thompson, or between you and Shorty?

THE WITNESS: This was between me and Shorty Dishon.

MR. DAY: I object on the grounds already stated.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

(Exception on behalf of Respondent.)

BY MR. GROSSMAN:

Q. Will you continue, Mr. Lewis, please?

A. Yes. I told him I throwed that card away. He said: "Well, I can get you a card." And I studied a little bit I said: "Well, if there is no other way out of it," I said, "O. K."

And he went in to Bill Thompson's office, and got a card, and brought it out under his apron, and gave it to me, and he took me out up back of the lumber shed, and I signed it up.

Q. He went to Bill Thompson's office to get the card, and then took you back of the lumber shed?

A. Yes, and afterwards he went back to Bill Thompson's office.

Q. After the strike—you left the mill on May 27th—did you ever try to go back to work again, Mr. Lewis?

A. Yes, sir.

Q. When was that?

A. Well, I called up the boss on the latter part of July, some time, along the last of July.

Q. Who was it you called?

A. Bill Thompson, my boss.

Q. Will you state for the record what transpired then?

A. I said: "Well, Bill, this is Albert Lewis." I said:

"I called you up to see if I have a job down there." He said: "I don't know, Lewis. I can't talk over the telephone." He said: "You come down and see me."

That was on Saturday, and Monday I went down to see him, then. So I went in and I said: "Hello, Bill." He said: "Hello." I said: "Well, Bill, I come down to see just how I stand," I said. "If I have got a job here or not, if I haven't got a job," I said, "I am going to look for another job some place." He said: "Well, if you can get another job," he said, "go ahead and take it," he said, "although I have nothing agin you, if you haven't been arrested, or nothing."

I said: "Well, I haven't been arrested." He said: "Well, you know, all the warrants haven't been sworn out yet." I said: "I know they haven't any for me." Well, he said, "Well, I have nothing for you to do now, I have nothing for you now."

Q. Did Mr. Thompson say anything to you about being rehired at that time?

A. Yes, sir, he said if I was rehired I would have to start in as a new man.

Q. Was there anything else that occurred during that conversation with Mr. Thompson?

A. Well, I asked him about my vacation there. Mr. Thompson was there, and he said: "Your vacation check is held up."

Q. Were you entitled to a vacation at that time?

A. Yes, sir, I asked for it a week before the strike.

Q. Who did you ask then?

A. I asked Bill Thompson for it.

Q. What did Mr. Thompson say?

A. He said he couldn't get it through that week for anybody. He said we would have to wait.

MR. JONES: Said what? I did not get your answer.

THE WITNESS: He said he couldn't get it

through that week, we would have to wait.

BY MR. GROSSMAN:

Q. And at this time when you asked him, the end of July, he said it was being held up?

A. Yes, sir.

Q. Did you try to contact Mr. Thompson after that?

A. I called him up a week after that, and I said: "Bill, anything doing?" He said: "Nothing doing yet, Lewis."

Q. Did you call him or any other official of the Company after that?

A. I didn't call him. My father-in-law went to my superintendent, Mr. Burke, and tried to get me back.

Q. When was this?

A. That was on—about August 13th.

Q. About August 13th?

A. Yes, somewhere around in there.

Q. Well, what prompted your father-in-law to go to Mr. Burke?

A. Sir?

Q. What prompted your father-in-law to go to Mr. Burke to try and get your job back?

A. Well, he knowed I was back on my rent, I would have to move, and I was going to move in with him, and he said: "Well—"

MR. DAY: I object to the conversation between himself and his father-in-law.

TRIAL EXAMINER LINDSAY: Yes, I will sustain that objection.

BY MR. GROSSMAN:

Q. Did your father-in-law work in the mill?

A. Yes, sir, he worked—I think he said he had seen Mr. McClain, or somebody down there, and they had to get Burke in—

Q. Who was Mr. McClain?

A. Well, Safety Director down there, I guess, he is a pretty good friend of Browning's.

Q. Who is Mr. Browning?

A. Mr. Browning is my father-in-law.

Q. Go ahead.

MR. DAY: I object unless this man went along. I do not think anything that he said is admissible in evidence.

THE WITNESS: No, but Mr. McClain got my father-in-law and Mr. Burke together.

MR. DAY: Well, but unless the witness was there—

TRIAL EXAMINER LINDSAY: Strike out that answer and I will sustain the objection.

BY MR. GROSSMAN:

Q. To your knowledge, Mr. Lewis, were any other men hired in your department during the time you were asking Mr. Thompson to take you back?

A. He hired—he took three men back before I asked him, three men younger than I am, that worked there about a year and a half, I should say.

Q. When were these men hired, after you had asked for your job the first time?

MR. DAY: He said before.

JUDGE SMITH: He said before.

MR. GROSSMAN: Before?

MR. DAY:Yes.

MR. GROSSMAN: I had not heard it.

TRIAL EXAMINER LINDSAY: Do you withdraw your objection?

MR. DAY: Why, yes, if he does not answer the question, I withdraw the objection.

MR. GROSSMAN: That is all.

Cross Examination

BY JUDGE SMITH:

Q. Now, your job, you say, was in the cold strip department, that is the shipping department of the cold strip department?

A. That's right.

Q. How many men were employed in that department?

A. Eighteen.

Q. Eighteen?

A. Yes.

Q. And Mr. Thompson was the boss, was he?

A. Yes, sir.

Q. And you had worked in that department from 1929 up to the time of the strike?

A. Yes, sir.

Q. Now, as I understood you, you were working on the turn, on the day of May 26th, from three to eleven o'clock?

A. That's right.

Q. And the strike was called for what hour?

A. It was called—I don't know—around six o'clock, I guess, that night. I know they had all the men out there.

Q. I know, but they were to walk out at what hour?

A. At eleven o'clock.

Q. At eleven o'clock?

A. Yes.

Q. That's the end of that turn?

A. Yes, sir.

Q. And you worked there until that time?

A. Yes, sir.

Q. Then you stayed in the mill until the following day?

A. Yes, sir.

Q. And you say that the next day, that staying in the mill, that you went over to breakfast, and you got sick after you ate your breakfast?

A. Yes, sir.

Q. Well, you have known Dr. Thomas there for a long time, have you not?

A. Yes, sir.

Q. The doctor there?

A. I have.

Q. He is known as a very excellent physician, is he not?

A. Yes, he is.

Q. And one of the first citizens of Warren, is he not?

A. I think he is.

Q. Then after seeing you, he gave you some medicine, and told you to go back, and that you would be all right in a little while?

A. Yes.

Q. You went back and waited there for a short time?

A. Yes, I would say,—

Q. And then walked out?

A. Yes, sir, out.

Q. Yes.

A. I would say an hour or so.

Q. Yes. About what time of the day was it when you left, then?

A. Well, I would say it was two o'clock.

Q. Two o'clock?

A. Yes, sir.

Q. And you joined the C. I. O. that day?

A. That evening.

Q. That evening?

A. Yes, sir.

Q. Somebody came out to your house to get you?

A. No, sir.

Q. Where did you join, then?

A. I went down to the headquarters.

Q. I see. Had anybody been out to see you, or called you, in regard to it, about you going down to headquarters?

A. No, sir.

Q. Who was the doctor that you went to see after you had gone home?

A. Dr. Rudolph.

Q. Was that after you had had your supper that you went to see him?

A. Yes, sir—well, I didn't eat—I just drank a cup of coffee, and I couldn't eat, I just started to eat, and I vomited up right away, and then I got ready and went to the doctor.

Q. And while you were out to the doctor, is that the time you went to the C. I. O. and joined?

A. I went afterwards.

Q. Were you active in the strike there after you had joined the C. I. O.?

A. Well, I was—I went down to the picket line a couple of days.

Q. It was just two days you were on there, or three?

A. I was on a couple of nights, and then I walked down one day, in front of the main gate.

Q. You were stationed at the main gate, you say?

A. Yes. sir.

Q. Was that right after you had joined that you went on the picket line for a couple of nights and a day?

A. No—

Q. Or at a later time?

A. I would say it was maybe a week or two afterwards.

Q. A week or two afterwards?

A. Yes.

Q. Were you requested to go on the picket line, or did you go down voluntarily?

A. I just walked down on my own accord.

Q. I see.

A. I walked down, and when I got ready to come home, I walked home.

Q. Now, this name—I did not quite get it—Mike somebody that you say talked to you in regard to the joining of this Employees—

A. It was Mike "Maggiama"—or "Maggiamer"—I can't just pronounce it.

Q. What did he do?

A. He run a tractor down there; he pushed the loads in the cars for us.

Q. He was one of the employees that was on this particular gang that was helping doing the work you were working at?

A. Yes, he was running a tractor for the same boss, there.

Q. Mr. Thompson was his foreman, too?

A. No, I think he came in under another foreman.

Q. I see.

A. I think he came under the electric department; I wouldn't say for certain.

Q. I see. You signed one of these applications, you say?

A. The E. I. A.?

Q. Yes.

A. Yes, sir.

Q. No, this Union—where is the one—(Counsel picks up exhibits)—(Indicating Exhibit 79). Is this the kind of an application that you signed at that time that you spoke of Shorty Somebody talking to you about it?

A. That's it.

Q. Well now, Shorty was—where did he work?

A. He worked right in our gang.

Q. Doing the same kind of work that you were doing?

A. Yes, sir; yes, sir.

Q. And his foreman was Bill Thompson?

A. Yes, sir.

Q. Now, you went out on the 27th, and you joined the C. I. O. the next day, and then later on went on the picket line.

Do you remember when it was that the men went back quite a number of the men went back, when the plant opened? Do you remember what day in June—

MR. GROSSMAN: I object.

A. Well, there was one guy—

MR. GROSSMAN: I think he testified, Mr. Examiner, that he joined the C. I. O. that very night, the 27th.

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: Change your question, please.

JUDGE SMITH: All right, I will withdraw the question as I have it, to make this sure.

BY JUDGE SMITH:

Q. You joined the C. I. O. the night of May 27th?

A. Yes, sir.

Q. And you were on the picket line some time subsequent to that time?

A. Not at that time; I would say it was a week.

Q. I say, some time after that?

A. After that.

Q. Some time subsequent to that?

A. Yes, sir.

Q. Do you remember when it was that a number of the men went back at the time that the Company opened the plant?

A. Well, there was only one went back in our gang at the time.

Q. You knew there were a number of employees did go back, and you know they were notified that the mill was opened, and they could come back at some time in June?

A. I was never notified.

Q. June 25th, don't you remember?

A. I don't know; I was never notified.

Q. Well, you knew that there were a number of people did go back, did you not?

A. I know the soldiers came there, I know that, and there was a bunch of them went back, I know that.

Q. And you know a number of the employees went back, too, do you not, on the 25th of June?

A. I only know of one of ours that went back.

Q. Do you know of any of the other gangs that went back?

A. No, sir, I didn't.

Q. But you knew that the Company was looking for the men and wanting the men to come back, did you not?

A. I sure did.

Q. Starting with the 25th of June?

A. I didn't know they wanted me to come back.

Q. Well, you did not try, did you, on the 26th of July?

A. No, sir, I didn't try.

Q. And from the time you went out on the 27th of May, until the 26th of July, you did not attempt to find out whether you had a job there or not, did you?

A. I didn't.

Q. And then on the 26th of July, if I am correct in regard to June 25th, which I think it is admitted is the date that the plant opened, there was 31 days there that you did not inquire about your job, even?

A. I didn't.

MR. GROSSMAN: I object, Mr. Examiner, there is not any such admission in the record. This is the Warren plant we are talking about.

JUDGE SMITH: I think it was the same time with all of these plants.

MR. GROSSMAN: No, the only statement in the record thus far is that the plant was opened at the time—

JUDGE SMITH: Well, the plant was opened at June 25th, you are willing to admit that, are you not?

TRIAL EXAMINER LINDSAY: I think the record will show that the plant at Warren never closed down, is that not right?

JUDGE SMITH: Well, there were about three men, employees, stayed in the plant.

(Loud general laughter in the Courtroom.)

JUDGE SMITH: I do not think that the record shows it, but I happen to know that to be a fact.

TRIAL EXAMINER LINDSAY: I think I will sustain the objection to that question,—to that line of arguing with the witness.

JUDGE SMITH: Well, I was not trying to argue with the witness. I was trying to find out what the witness knew about it.

BY JUDGE SMITH:

Q. You say there was one man of your gang went back on the 25th of June?

A. Yes, sir, they came out and got him.

Q. And it was not until the 26th of July that you made any inquiry about your job?

A. That's right.

Q. You say there were three men that went back, that they had taken on there, but that they went back prior to the time you made inquiry as to the job yourself?

A. Yes, sir, he had taken them back, and then I called up afterwards.

JUDGE SMITH: Yes. That is all.

MR. GROSSMAN: That is all, Mr. Lewis.

(Witness excused.)

MR. GROSSMAN: Mr. Green.

RICHARD GREEN

was thereupon called as a witness for and on behalf of the National Labor Relations Board, and, having been duly sworn, testified as follows:

TRIAL EXAMINER LINDSAY: William Green?

THE WITNESS: Richard Green.

Direct Examination

BY MR. GROSSMAN:

Q. State your full name, please.

A. Richard John Green.

Q. And your address, Mr. Green?

A. 859 Prospect Avenue, Warren, Ohio.

Q. When did you first start to work for the Republic Steel Corporation?

A. About April, 1928.

Q. Now, was your employment continuous?

A. No, I quit in October or November of that year, I believe, and then returned the 2nd day of January, 1929.

Q. You were re-employed in January, 1929?

A. Yes.

Q. Was your employment continuous after that?

A. Continuous after that.

Q. What plant of the Republic Steel Corporation did you work in?

A. In the Warren plant, the hot strip finishing department.

Q. What did you do in that department?

A. I was a breaker operator.

Q. Pardon?

A. I was a breaker operator.

Q. What does a breaker operator do?

A. A breaker is a machine that you straighten the steel, break the cross breaks out of it, and the scale off of it, and recoil the coils, sometimes.

Q. Are you a member of the C. I. O., Mr. Green?

A. I am.

Q. When did you join the C. I. O.?

A. March 2nd, 1937.

MR. DAY: 7th, did you say?

THE WITNESS: March 2nd.

MR. DAY: Thank you.

BY MR GROSSMAN:

Q. Do you recall a conversation with Mr. Paige on March 6th, 1937?

A. I do.

Q. Will you state, first, who Mr. Paige is, and then the substance of that conversation, please?

A. Mr. Paige is my foreman on day turn, in the hot strip finishing room.

Shortly before noon on March 6th there had been a meeting of the Company Employees Representative Plan in the foreman's office.

TRIAL EXAMINER LINDSAY: Let us have it quiet back there.

A. (Answer resumed) Mr. Paige came over from that meeting. He was very mad. He said: "I want to talk to you in the office right away," meaning the cutting machine office. We went over there, the cutting machine office was occupied, so he took me in a mechanic's shed adjoining that. We were all by ourselves.

BY MR. GROSSMAN:

Q. Just a little slower, please.

A. He said: "I called you in here, I want to ask you something. I want you to tell me the truth." I said: "I always have told you the truth, Ralph." He said: "I know that, that's why I called you in here." He said: "I hear your buddy, Jim Airwyke, is signing up members in the C. I. O." I said: "Yes, as a matter of fact, he signed me up."

He said: "What did you want to do that for?" I said: "We men around here are not satisfied with the Company Union Plan. As it is," I said, "we have no representation at all."

And he says: "You have been here long enough to know this Company's policy towards outside unions." He said: "You take my warning and get out of it, and everything will be O. K." He said: "I like you, and I don't want to see anything happen to you."

Q. Do you know what that policy was that Mr. Paige referred to?

A. It was a policy if you joined an outside union you were in danger of losing your job.

MR. DAY: Did anybody say that, or is that your conclusion?

THE WITNESS: I know that as a fact.

MR. DAY: I move that be stricken out, his own conclusion as to what the policy of the Company was.

TRIAL EXAMINER LINDSAY: Yes, that may be stricken.

BY MR. GROSSMAN:

Q. Did anybody ever tell you that at any time?

A. That was general knowledge around there.

MR. DAY: I move—

THE WITNESS: All the men felt that way, anyway.

MR. DAY: I move that be stricken out, that everybody felt that way.

BY MR. GROSSMAN:

Q. Did anybody tell you that at any time?

MR. DAY: I object; he can answer it yes or no.

A. Several of the members said that.

TRIAL EXAMINER LINDSAY: Just a moment.

He may state if he knows as to the general feeling of the men with whom he worked.

I will overrule your objection on that point and let the record show an exception.

MR. GROSSMAN: Read the question, please.

(Last question read by the Reporter.)

A. Yes.

MR. DAY: Let the record show the reason for the objection is that the Respondent cannot be bound by the feeling of the men at work as to what the Company's policy was.

TRIAL EXAMINER LINDSAY: If he knows, he may answer. The objection is overruled, let the record show an exception.

(Exception by Respondent.)

MR. GROSSMAN: Read the last question.

(Last question read by the Reporter.)

BY MR. GROSSMAN:

Q. Did Mr. Paige say anything else to you during that time, Mr. Green?

A. Yes. He asked me if I had been attending any C. I. O. meetings. I told him no, I hadn't attended any yet. He said: "Well, you will be safe if you stay away from them."

MR. DAY: What is the position of Mr. Paige?

MR. GROSSMAN: He is his foreman.

MR. DAY: I object to the testimony on the ground it is not shown that the witness had any authority to bind the Respondent, and no knowledge on the part of the Respondent, no authorization.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

(Exception by the Respondent.)

BY MR. GROSSMAN:

Q. Some time after that, Mr. Green, do you recall being called to the office of your superintendent about your work?

A. Yes, on March 20th, I worked—

Q. Will you explain—

A. —I had worked, eleven to seven turn, and then I had run some steel that didn't come up to their specifications.

Q. Will you explain everything that happened?

A. Well, I went home at seven in the morning, and went to bed. About ten o'clock in the morning a colored fellow that worked on the other breaker come up after me and said Mr. Paige had called him—and told him to get in touch with me, and get me down there right away, that Mr. Minahan, the superintendent, wanted to talk to me.

I went down, and I went in Mr. Minahan's office. Mr. Paige come in, and took me out to show me the steel. I explained to him that I hadn't been able to get it the way it should have been.

Q. Well, why was that?

A. As my rolls were worn in the machine, and I couldn't get it flat the way it was supposed to be, it was sort of wavy.

Q. Did you report that to the foreman?

A. My foreman knew it was coming out wavy, and he said he didn't think it hurt anything.

Q. Had that happened before?

A. Yes, it had happened before, they never call for 100% work, there were certain things they were allowed to pass.

Q. Do you mean, Mr. Green, that there were certain orders that you could run that did not have to be perfect?

A. Yes, they were going through other processes and they would, lots of times, take care of certain defects that we couldn't take care of.

Q. Did you understand that to be one of those operations?

A. I understood that to be one of those operations.

Q. What else did Mr. Minahan say to you?

A. Well, Mr. Paige and I went back into Mr. Minahan's private office. Mr. Minahan said: "Red, did you see that steel out there?" I said: "Yes." He said: "It is no damned good." I said: "That's so, I guess." He said: "I am going to have to lay you off, and seeing that you have been laid off twice before, I will have to let you go."

I said to him the first lay-off hadn't been my fault, and I explained the second. I explained the circumstances that

I wouldn't have lost no time because of it. He said: "That's all water over the dam, and I will have to let you go."

Q. What were the circumstances that you referred to?

A. One because there was some steel scratched going through the operator, and the operator was responsible for it, not me, and I took the lay-off rather than make trouble about it, at that time.

Q. How long was that?

A. Oh, that was three days.

Q. What were the circumstances of the other lay-off?

A. The other lay-off was because we refused to shovel coke one night. The other men refused, too, to go out and do it, and we went home. The next night we come out and they sent us home, and we stayed home indefinitely.

Q. Now, will you explain in detail what occurred before that second lay-off, when you were asked to shovel coke?

A. Well, both machines started work at 11 o'clock at night. The one machine—

Q. What was this, do you remember?

A. That was last spring about the time that—a year ago last spring about the time of the big flood.

Q. Will you fix the month?

A. It was in March, I believe.

Q. March, 1936?

A. Yes. We both started—all four men started working on the two machines. There wasn't very much work, and No. 1 breaker ran out of work about a half hour ahead of us, my machine. Mr. Roderick, the foreman, came around, told the two men on that machine, he says, "You go out and shovel coke."

They says, "Oh, we don't want to, get the other fellows to do that."

He came over and says, "You guys go out and shovel coke." We told him we didn't want to either, laughed about it, "He chases us out to shovel coke"—we didn't pay any attention to it. And the other man went out and went home, we went home too.

Q. You mean the other men who had been asked to shovel coke previously had gone home?

A. Yes.

Q. Who was your foreman that time?

A. Mr. Roderick.

Q. Roderick?

A. Yes.

Q. What happened after that?

A. We went home. Next night we come in but Mr. Roderick sent us home, he said, "Stay home until I send for you."

Q. What did you do after that?

A. That was around Friday night, I believe. We stayed home, come out Monday morning to see Mr. Minahan about it.

Q. Mr. Minahan was your superintendent?

A. He was our superintendent.

Q. Did you have a talk with Mr. Minahan?

A. Yes, we had a talk with him, told him he had asked the other men to go out, told the other men to go out, and he told us to go out, and because we didn't do it why he laid us off.

Mr. Minahan said if we would come in the next day and told him, we would not have lost any time over it at all.

Q. Now, getting back to this conversation about March 20th, with Mr. Minahan, did you mention this to him, in that talk?

A. Yes, I mentioned it to him. He said I should have taken all of those things up at that time. Well, I said, "I did take it up about shoveling the coke." And he said that other one that I was held responsible over the operator and I said it wasn't so, I didn't have anything to do with cracking that steel.

Q. Was anything else said to you at that meeting?

A. He said, "I could give you another chance, but you have been talking too much about the union, around here," he says, "if you were an ordinary sweeper, there would be some chance for you," he said, "if you had been any ordinary sweeper, there would have been some excuse for you, but you are more intelligent and should have known better."

Q. Is that the end of the conversation?

A. He come up and says, "As far as I am concerned, I am through with you."

I says, "You mean I am discharged?" And he says, "Yes." Then I left home and went home, then. And then later on I got in touch with Mr. Mayo, Regional Director of the CIO, and he secured the services of the Trumbull Lodge Committee, Trumbull Lodge No. 73, that is. And they got a meeting with the mill officials for James Airwyke and I. Mr. McClain, Mr. Minahan, Mr. Paige, Mr. Dunnavant were present for the company.

Q. State the title of these gentlemen you named.

A. I don't know what title Mr. McClain has. He has a lot of authority down there, I know that.

Q. He is a company official, is he?

A. Yes. Mr. Minahan was my superintendent. Mr. Paige was my foreman. Mr. Dunnavant was the superintendent of the Sheet and Tin Department.

The Trumbull Lodge Committee was there, Mr. Gracjier did most of the talking. Mr. Gracjier asked the reasons for my—

Q. Did you attend that meeting, Mr. Green?

A. Yes, I did, and Mr. Gracjier asked the reason for my discharge. They said I had been discharged for running a bad order, that I had the reputation for honesty around there, and Mr. Minahan thought that I had been laid twice before, and he was right in discharging me then.

And Mr. Gracjier asked Mr. Minahan what he meant by talking to me about the union when he discharged me.

Mr. Minahan admitted he should not have talked to me like that. I was the only one he talked like that to.

Q. Did he say he talked to you about the union?

A. Yes, and Mr. Gracjier asked Mr. Minahan if it was a set rule in his department that when a man was laid off three times, the man was discharged.

Mr. Minahan said no, only in certain cases.

Q. Did anything happen at that meeting?

A. I don't believe there was anything else, not that I can remember, not right now.

Q. Did you ever ask an Employee Representative to take your case up?

A. Yes, after this—it was before this meeting, I went to see the company employee representative. It was along just shortly after I was fired.

Q. About how long before this?

A. Well, it was about the last week in March, I went to see Mr. Glen Dugan, the company employee representative in our plant.

Mr. Dugan asked us if we had been attending any CIO meetings. I said, "Yes." Mr. Airwyke was with me.

"Well," he says, "I am afraid there is not much I can do for you, then, but I will try, and I will call you on the telephone when I have any news for you."

A week later he called and said Mr. Minahan would not even talk about our case, but Mr. Roderick had told him we were fired—I was fired for running a bad order, and he said that he could not understand the company's policy in putting statements in the paper that any man was free to join any union of his own choice and then when he did so, then they fired him for it.

Q. Did he say anything else to you?

A. That is about all Mr. Dugan said, I believe.

Q. Then after that you took the matter up with the Amalgamated Association?

A. With the Amalgamated Association, yes.

Q. After the Amalgamated Association had met with mill officials, what did you do?

A. Well, we just went home and waited, that is all we could do. They would not give them any answer on our case.

Finally, about April 24th, I believe it was, Mr. Reubendale said Mr. McClain would not take any promises.

Q. Who is he?

A. Reubendale is vice-president of the Trumbull Lodge. Said McClain would not make any promises, he might consider taking me back, but not James Airwyke or Arthur Scott.

That same day we told Mr. Gallagher from Youngstown also CIO that we had quit fooling around, we decided we would leave the Labor Board settle our case. The next Monday Mr. McClain called my mother-in-law on the telephone and told her to have me get in touch with him as soon as possible that he was very anxious to talk to me. I went down to the Republic Steel Mill main office, Mr. McClain was there. He took me in the office they use for this purpose there. He says, "I brought you in here to have a man to man talk with you."

He says, "I hate to see a young fellow like you get off on the wrong foot with the wrong crowd," he says, "I know more about you than you think. Mr. Sheldon who lives across the street from you—"

Q. What was that name?

A. Sheldon.

Q. Sheldon?

A. Yes, is a very good friend of Mr. McClain's and he said that she spoke very highly of me and he wanted to give me another chance.

He says, "Do you want to go back to work?" I says, "Yes, under certain conditions."

He says, "What are those conditions?" I says, "That I get my back pay."

He got very mad and said, "I will take you to the Labor Board and back four times before I give you your back pay." I said, "That is my conditions," and started to walk out.

He says, "Wait a minute, I want to talk some more with you." I stayed there, and he says, "There is no use you flying off the handle like this," he says, "you ought to let me call up Mr. Minahan and let him put you back to work."

I says, "No, I believe I have been unduly punished by being off six weeks now, as anyone else on that job that ever spoiled eight hours' work only got three days off, that was the most that anyone got." He says, "You don't think we ought to pay you for doing bad work, do you?" I says, "No, I am always willing to pay for my mistakes, but I think a week at the most would be enough for me to be laid off."

Q. Did Mr. McClain say anything to you about unions at that time?

A. Just that I was getting off on the wrong foot with the wrong crowd, that is about all he said about the unions, but I don't think he mentioned the unions by name.

And then he said, "If you change your mind, why," he says, "I see we can't agree," he says, "if you change your mind why let me know," and I went home, thought it over and about a week later I called Mr. McClain and told him that I would go back to work without back pay.

Q. When was that, do you remember?

A. That was around about the first week in May, I believe; around about the 3rd or 4th of May.

Q. Did you go back to work?

A. Well, I went down—I called and had made a meeting with Mr. McClain and he had Mr. Minahan come up to his office, he said he would like for us to talk it over together.

He went out and Mr. Minahan said he never had anything against me personally, that he took his orders from higher up. He said that if I would get back and promise not to talk about the union there that I would be taken back and we would get along all right. I said, "O. K., I will promise not to talk about the union any more."

Q. This talk was with Mr. Minahan ?

A. This talk was with Mr. Minahan.

Q. He is your superintendent, you said?

A. Superintendent. Mr. McClain then come back in and he says, "Have you fellows fixed up?" We says, "Yes." He says, "All right, you go over to the employment office and they will put you on, give you your card to get back to work," and he says, "your record will show 'lay-off' instead of 'discharge'."

I went over and got signed up and went home. Later on, then Mr. Paige, my foreman, came to my house three times before he finally found me at home. When he did so he said he wanted to have a little talk with me. He said I was to come in out there at 3 o'clock in the afternoon next day instead of 7 in the morning as I had been told at the employment office. He said, "I want you to come back there to work and be your old self and not have anything more to do with this union or anything else like that," and I said—

MR. DAY: I object to that conversation on the grounds already stated in previous objections to similar questions.

TRIAL EXAMINER LINDSAY: The objection is overruled, the record may show an exception.

A. He said, "If you had taken my warning in the first place you would have never gotten into this trouble."

I said, "Well, Red, I figured my goose was cooked the minute you knew I belonged to the C. I. O." He says, "No, if you had taken my warning, you would have been all o. k."

Q. This warning he referred to, was that the one he had given you March 6th?

A. That was the first time, the one on March 6th.

Q. And did you go back to work after that, Mr. Green?

A. Yes, I went back to work next day.

Q. And did you continue at work then?

A. Yes, I continued at work until May 26th. I was on the 3 to 11 turn that day, and I had heard that there was going to be a strike called that day and at 11 o'clock I went home and they never asked me to stay or anything, never said anything to me, never mentioned unions or anything like that from the time I went back in the mill.

I started out of the department, Mr. Paige followed me about ten feet behind me, never said anything to me, just followed me clear over into the sheet and tin department, I don't know what his idea was.

Q. You were on your way home then?

A. I was on my way home. I joined the hot mill men over there, and they were coming down through the mill, going to come over to the strip mill, going to try to get the other men in there to come out on the strike with them, and the track between the strip mill and the sheet and tin department, there was a couple hundred loyal workers and bosses drawn up there on one side of the track with sledge hammers and spikes, any weapon they could get their hands on, and the hot mill men came down through the sheet and tin department, come out there on one side of the tracks and they were stopped there, they seen that the gang was waiting on the other side for them.

And Mr. Ginert, superintendent of the hot strip department, yelled over at us and says, "Come on, you sons-of-bitches, we are waiting on you."

The hot mill men didn't want to have any trouble, so we talked it over and decided to get out of the mill, not to have any trouble in there, and I went out with them.

Q. Did you ever try to get your job back after that, Mr. Green?

A. Yes, on June 25th or 26th, I don't recall just which day it was, I went up to the Warner Hotel.

Q. Where is the Warner Hotel?

A. It is uptown in Warren, I heard if you went up there you could get a pass back into the miil, to get your job back.

Q. You say the Hotel Warner is in Warren?

A. Yes.

Q. It was—Was it possible to get into the mill without passes?

A. You had to have passes to get through the National Guard.

Q. The National Guard was stationed there?

A. Just come shortly before.

Q. You went into the hotel?

A. I went into the hotel, Mr. McClain was in the lobby there, he laughed at me, motioned to me like that (indicating), to get out. I didn't pay any attention to him, I went up—I asked another gentleman there where you find out about going back to work. He directed me up to the mezzanine floor. I went up there and Mr. Mulligan was there.

Q. Who is Mr. Mulligan?

A. He was chairman of the company employee representatives, I believe. He asked me my name and what department. I told him. He says, "You are on the ineligible list."

MR. DAY: I object to this conversation for the reasons already stated in objections to similar questions.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

A. He says, "You are not on the eligible list, you will have to see your foreman."

Q. Where was Mr. Mulligan on the mezzanine floor, when you went up there?

A. He was sitting at a little table there with several lists in front of him of the men that were to go back to work, I believe that is what it was.

Q. Did you see any men come upstairs?

A. There were two other men with me, Mr. St. Clair and Mr. Blanchard Bolton. When they would not give me a pass, Mr. Blanchard stepped up and told him, and says he had been on vacation at the time the strike was called and that therefore he hadn't been able to get back into the mill on account of the picket line.

Mr. Mulligan says, "Well, I will give you a pass down to see your boss then."

Mr. St. Clair, they refused to give him a pass. We left the hotel and that is all I done about it because I had heard that several men had gotten in touch with our superintendent, my superintendent down there, and he told them to go home, he would call them when he needed them, and he has not called them to this day.

Q. Have you done any work since the time you left the mill, Mr. Green?

A. Yes, I had one day as deputy sheriff.

Q. What other work have you done?

A. I have had two weeks with the American Welding Company as electric welder.

Q. How much do you earn there?

A. 57½ cents an hour right now.

Q. How many hours a week do you work?

A. 44½.

Q. 44½ hours a week?

A. Yes.

Q. What is your weekly pay check?

A. The one check I have gotten so far, one week, $26.41.

Q. Have you drawn a second one yet?

A. No, it is due me now.

Q. What were you earning at Republic Steel before, when you went back after your first discharge?

A. The one pay I worked ten days after I started the fifth of May, I averaged $9.50 a day.

Q. How many hours a week did you work?

A. 48 hours a week.

Q. Did you get time and a half for the excess?

A. Time and a half for the extra days.

MR. GROSSMAN: That is all.

Cross Examination

BY MR. DAY:

Q. Do you still belong to the CIO?

A. I do.

Q. You started to work for Republic in 1929?

A. I worked about six months prior to that, in 1928. Then I quit the job and come back to work January 2nd, 1929.

Q. You started out as buggyman on No. 2 hot strip mill?

A. Well, that was the job after I had been in there a couple of months. I was a hooker, to start with.

Q. Then were you later transferred to the hot strip finishing department as a breaker operator's helper?

A. Yes, I was.

Q. Then you became an operator?

A. I became an operator.

Q. You were laid off on March 19th? And 20th, 1936, for scratching some steel, weren't you?

A. It was—I was laid off, made to take the blame along with the operator

Q. Regardless of the blame and where the blame belonged, the reason assigned for laying you off was scratching?

A. Yes.

Q. Now, then, on October 3rd, 1936, or about that time, that was when the orders were given to shovel coke, is that right?

A. Yes, sir.

Q. And you refused to shovel the coke?

A. We refused because the other man had refused before us and he had told them first and let them go home and asked us.

Q. Regardless of the other men, you refused to shovel coke, didn't you?

A. Yes.

Q. You were laid off at that time, weren't you?

A. Yes. sir.

Q. Now, on March 20th, of this year, you were laid off again because it was said that you spoiled an order, is that right?

A. I was discharged on March 20th.

Q. And was that an order for Timken?

A. Order for Timken.

Q. Order of what?

A. There was two orders for Timken.

Q. Of what? What did the orders consist of?

A. Oh, some coils of steel.

Q. Coils of steel? That is March 20th of this year?

A. Yes, sir.

Q. After that you took the matter up with Mr. Mayo of the CIO?

A. I called up and Mr. Mayo was there and I asked him what I could do about it.

Q. Who is Mr. Mayo? What is his position with the CIO?

A. Regional director of the CIO.

Q. And this other man now, is what, Gracjier?

A. Gracjier.

Q. What is his position with the CIO?

A. He is business agent for the Trumbull Lodge No. 53.

Q. Then as I understand it, those two men, Mayo and Gracjier, had a meeting with some of the officials of Republic at the Warren plant?

A. Mr. Mayo wasn't in there, just Mr. Gracjier and the other officers of the Trumbull Lodge.

Q. And discussed your coming back?

A. Yes.

Q. You became a member of the CIO way back in March 2nd, 1937?

A. March 2nd, 1937.

Q. March 2nd, 1937?

A. March 2nd, yes.

Q. And it was generally known around the mill that you belonged to the CIO, was it?

A. Yes, I didn't hide it, not any after I told my foreman about it.

Q. And when the matter of your going back to work and being reinstated was discussed, you wanted your back pay, didn't you?

A. Yes, sir.

Q. You talked to Mr. McClain?

A. Mr. McClain.

Q. Mr. McClain told you, did he not, at that time, or some other time, that you didn't have to join any union?

A. Yes, sir, he did.

Q. He told you that in order to hold your job you didn't have to join any union?

A. Yes.

Q. When did Mr. McClain tell you that?

A. Along about the meeting when I wanted my back pay.

Q. Did he tell you that more than once?

A. No, I don't believe he did.

Q. Did he tell you that in the presence of Mr. Gracjier?

A. No, he didn't.

Q. Just you and McClain were there?

A. Just Mr. McClain and I.

Q. You recognize Mr. McClain sitting here?

A. I do, yes.

Q. With his shirt sleeves? And you wanted your back pay?

A. Yes, sir.

Q. And you didn't want to go back to work unless you got your back pay?

A. I wanted to go back to work, but I wanted my back pay too.

Q. That is right, and that is the remark you say that Mr. McClain said about going to the Labor Board and back, you could go to the Labor Board and back four times?

A. He says, "I will take you to the Labor Board and back four times."

Q. That had to do with you getting your back pay?

A. I don't know what it had to do with it, but I didn't mention Labor Board, I remember that much.

Q. But that was at the time you mentioned about getting your back pay?

A. Yes.

Q. So the difference between you was whether or not you should get your back pay for the time you were laid off, or whether or not you should not get it, wasn't it?

A. Yes.

Q. Then you went home and you thought about it a little bit and then you came back to work, is that right?

A. I came back and got in touch with Mr. McClain and he put me back to work.

Q. And that was about when?

A. That was—I started to work May 5th, I believe that was May 4th when he reinstated me.

Q. Then you worked right up until the strike?

A. Until the strike.

Q. You belonged to CIO all that time?

A. I belonged to CIO all that time.

Q. Well, when the strike came, did you go out on the strike?

A. I did.

Q. Have you been on the picket line?

A. Yes, several times.

Q. Have you used a car in connection with the strike?

A. I have. I hauled pickets and so forth.

Q. You have hauled pickets around?

A. Yes, sir.

Q. And haven't you hauled pickets that have been armed with ball bats and clubs and other weapons?

A. I couldn't say that I have.

Q. You couldn't say that you have?

A. No, because I didn't pay any attention to what they had. I just put them in the car and took them to where they were going.

Q. Do you mean when these men got into the car that you couldn't tell whether they had clubs or not?

A. They didn't, as a matter of fact, they didn't take their clubs home with them, if they had any.

Q. Where did they leave the clubs?

A. Just left them out in the fields, or wherever they were when they were on the picket line.

Q. Did you ever see them do that?

A. There was sticks and clubs around there.

Q. Where were the sticks and clubs that you saw out around the picket line?

A. Oh, I couldn't tell you, I was all over the picket line, any more than any other.

Q. Where were the sticks and clubs left, when they went home?

A. They just threw them down in the ditch or some place like that.

Q. And how many clubs and sticks have you seen thrown around in the ditch by the pickets before they went home?

A. Oh, I can't say as I have seen so many.

Q. Quite a number, wasn't there?

A. There was a few.

Q. Some ball bats?

A. I have seen a few ball bats.

Q. Billiard cues?

A. No, never seen billiard cues.

Q. Parts of billiard cues?

A. I have seen handles about that long, you might call them billiard cues, I don't know if they are.

Q. Well, you have played pool and billiards, haven't you?

A. I have never played pool and billiards.

Q. Well, you have seen billiard cues?

A. I have seen them, yes.

Q. These handles look like they might once have been part of a billiard cue or pool cue?

A. Well, something, polished wooden handles, I would have no—I don't know what they were.

Q. Did you see any gas pipe?

A. There was gas pipe around, different times.

Q. Pipe down in the ditch?

A. Yes, there was pipe in the ditch, just several pieces, not very many.

Q. Well, what kind of gas pipe was it?

A. Well, I don't know, steel, I suppose.

Q. How long was it?

A. Oh, anywhere around a foot and a half long, I suppose.

MR. GROSSMAN: Mr. Examiner, I object to this line of inquiry as outside of the scope of the direct examination.

MR. DAY: Oh, no.

TRIAL EXAMINER LINDSAY: I will overrule your objection. Let the record show an exception.

Q. What else have you seen except gas pipe and baseball bats and sticks, pieces of wood that might have been part of billiard cues, down in ditches, that were left there at night by the pickets?

A. I don't know as I have seen anything else of that form.

Q. How often would you drive pickets around in your car?

A. Well, while I was on duty, practically all day, on and off. Whenever pickets were to change turns, I always made a habit to go down there to go home, back up to the headquarters, take new ones out.

Q. How many trips do you suppose you would make, a day?

A. Oh, I would say every day 25 or 30 trips a day, maybe.

Q. And how many pickets would you take in your car at a time?

A. Four or five, as high as six.

Q. Do you mean to say that you don't remember whether at any time those pickets had these gas pipe and ball bats and things you have been telling me about?

A. I don't remember of them having any weapons in the car?

Q. When was it that you talked to somebody about getting your job back?

A. That was, I believe, June 28th.

Q. When did the mill open, up in Warren?

A. Well, the troops came in, well, that was Saturday, I think the troops came in on Tuesday before that.

Q. The troops came in on Tuesday?

A. But you had to have a pass to get through their lines. You couldn't just walk in and out.

Q. Before you could pass a troop line you had to have a pass?

A. You had to have a pass.

Q. When was it, if you can tell me—if you can't tell me accurately, tell me as closely as you can—when was it that the mill that you worked at Warren was opened up?

A. It was opened up when the troops came to town, I guess.

Q. And how long after that was it you went back and talked to someone?

A. Well, the troops stayed up there, about Tuesday, and it was on Saturday I went up to the Hotel Warner to see about it, to talk—

Q. That is, you waited from the Tuesday when the troops came in until Saturday before you went and asked for a job?

A. Well, at the time that—I didn't know until Saturday you could go back to work like that. I found out then.

Q. Did the mills open up on the same Tuesday that the troops came in?

A. Well, they—I don't know whether you would call them open or not. The men that had been shut in there came out, and some of them went back in.

Q. As a matter of fact, there had been a considerable number of men staying there in the mill during the strike before the troops came in, didn't they?

A. Oh, I would say under a thousand.

Q. You would say under a thousand?

A. Yes.

Q. But you were not in there to count them yourself?

A. No, but I knew how many men were out.

Q. Now, you told about seeing these—you coming down there, some men coming down the plant and there was some men who stayed in the plant at work, and they were armed with all kinds of things, you were telling us?

A. That was the night that the strike was called.

Q. Now, then, those were the men that were staying in the mill?

A. Those were the men that intended to stay in the mill and the bosses—half of them were bosses in there.

Q. Where were you then, in the mill or out of the mill?

A. I was in the mill, as I came out of my department, they were lined up outside with sledge hammers and so forth, I had to walk through them to come out.

Q. You walked through them?

A. I did.

Q. And got out?

A. I got out.

Q. There was another group of men that were coming or were doing something? What were they doing, you tell me.

A. They were coming through to try to get the other men to join them and then go alongside.

Q. Were those men armed with anything?

A. Not that I could see. They had their dinner buckets with them. They were all dirty, just finished up work.

Q. Just armed with dinner buckets?

A. That is all I could see. It was dark at that time.

Q. Just a minute, please. Were you ever a picket captain?

A. No, I never was.

Q. Were you a picket officer of any kind?

A. No. I am recording secretary in 1375, there.

Q. In the lodge?

A. Yes.

Q. You testified that Mr. McClain told you, upon one occasion, that it was not necessary for a man to belong to any union in order to hold his job?

A. He tried to make me believe that and I told him I didn't believe it.

Q. Well, he said that to you, didn't he?

A. Yes.

Q. Did he also say that it didn't make any difference to the company what union a man belonged to?

A. Yes, he said that.

MR. DAY: That's all.

MR. GROSSMAN: That is all.

TRIAL EXAMINER LINDSAY: We will take a short recess.

(Witness excused.)

(Thereupon a short recess was had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. GROSSMAN: Mr. Hite.

HALLIE PHILLIP HITE

was thereupon called as a witness for and on behalf of the National Labor Relations Board, and, having been duly sworn, testified as follows:

Direct Examination

BY MR. GROSSMAN:

Q. Will you state your full name, Mr. Hite?

A. Hallie Phillip Hite.

MR. DAY: What?

THE WITNESS: Hallie H-a-l-l-i-e Phillip P-h-i-l-l-i-p Hite H-i-t-e.

MR. DAY: Hallie, is that the first name?

THE WITNESS: Yes, sir.

MR. DAY: H-a-l-l-i-e, is that it?

THE WITNESS: Yes, sir.

BY MR. GROSSMAN:

Q. What is your address, Mr. Hite?

A. R. F. D. 5, Warren.

Q. Are you an employee of the Republic Steel Corporation?

A. Yes, sir.

Q. When did you start to work for the Corporation?

A. September, 1923.

Q. Which plant did you start to work for?

A. Trumbull Cliff Furnace.

Q. Is that in Warren?

A. Yes, sir.

Q. Have you been employed there until recently?

A. Yes, sir.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join?

A. May 27th, the day after the strike.

Q. May 27th, 1937?

A. Yes, sir.

Q. On the day of the strike, which was May 26th, I believe—

A. Yes, sir.

Q. —were you working in the mill that day?

A. Yes, sir.

Q. What turn were you on?

A. I went to work at eight o'clock that morning and worked until six o'clock that night. They worked us two hours overtime, dumping ore.

Q. And then did you leave the mill that night?

A. Yes, sir.

Q. Did you ever try to get your job back, Mr. Hite?

A. Yes, sir.

Q. When?

A. July 27th—or was it June 27th or 26th or 27th—it was either June 26th or 27th.

Q. What did you do by way of getting your job back?

A. I went to—well, Lavelle, he is an engineer at the Republic. He came out to my house and told me that the men was going back to work, and he said if we wanted our jobs we better go back. And I told him—

MR. DAY: Who said that?

THE WITNESS: I told him: "If the men are going back"—

MR. DAY: Who is the man that said that?

THE WITNESS: Johnny Lavelle, he is a locomotive engineer.

MR. DAY: I move that be stricken out on the ground it is incompetent, irrelevant and immaterial. He had no authority to represent the Respondent,—no knowledge upon the part of the Respondent.

TRIAL EXAMINER LINDSAY: That objection is overruled. Let the record show an exception.

(Exception by Respondent.)

BY MR. GROSSMAN:

Q. What did Mr. Lavelle say to you?

A. He told me that the rest of the men were going back in the mill. He said if we wanted our jobs, he said, we better go back.

I told him if the rest of the men were going back, I would go back too. So I thought—I went down to see my boss. I found he was at home that night, so I went down to see him, and I asked him—and I asked Mr. Kilcanney, and I told him what the fellows was going to do, they were figuring on coming back to work. And he said: "Well, if you go back to work," he said, "you have got to go back as a new man, rehire, that is, if they want to take you."

Q. Let me see if I get you right.

He said that if you went back to work you would be rehired, if they wanted to hire you?

A. Rehire, yes, go back as a new man.

Q. Did you go back?

A. No, sir.

Q. Have they hired any other men to your knowledge, Mr. Hite?

A. Yes, sir.

Q. Since then?

A. Two men.

Q. Two men?

A. Yes.

Q. Are these men that had worked for the Republic Steel Corporation before?

A. Well, one fellow had worked there before, Mr. Hughes, Charlie Hughes.

Q. Had he worked there as long as you had?

A. He worked there, and he got fired here, around 1927, I think it was he got fired, maybe it was before that, and he didn't come back. He only worked a while, and then during the rush there in 1934, I think during the coal rush, he worked a while, and then he was laid off, and then there was another fellow by the name of Don Hartman, he was a B. & O. brakeman, he was hired.

Q. Had he ever worked for the Republic Steel Corporation before?

A. No. He had never worked for the Republic before, that I ever knew, not in my department.

Q. How long had you been working for the Republic Steel Corporation?

A. September, 1923.

Q. Fourteen years?

A. Fourteen years it will be this—

Q. (Indicating) I hand you Board's Exhibits 79, 80 and 81, and ask you if you ever saw those before?

A. No, sir.

Q. Did you ever see Board's Exhibit No. 79 before?

A. No, sir not that I know of.

Q. Did anybody ever talk to you in the mill about joining with the Employees Independent Association?

A. Yes, M. R. Martin, he asked me.

Q. When was this, do you remember?

A. Just before the strike. I don't remember the date, just a while before the strike, he asked me.

MR. DAY: I object.

Who is M. R. Martin?

THE WITNESS: He is a Traffic Manager.

MR. DAY: What?

THE WITNESS: He is a Traffic Manager for the blast furnace department.

And I got off at the scale office one day, and he was walking along—I have knowed Martin ever since I have been there—and I said: "Martin, how about a pencil?" And he said: "I will give you a pencil if you sign one of these cards." I said: "What card is it?" He said: "The white card." I said: "To hell with you and your white card." He said: "Well, I couldn't expect anything more from you." So he went on. And that's all I said to him.

Q. Do you know what that white card was?

A. That's the Company Union,—that's what they call it in the plant, they call it the white card in the plant.

Q. Had you ever seen one?

A. No, they never showed—he had it in his hand, but he never showed it to me.

Then Mr. Kilcanney,—that's my boss—he asked me, too.

Q. He is your foreman?

A. He is my foreman, and he asked me to sign it, and I told him, no, I wouldn't join it, unless they gave me what was coming to me, that was another brakeman on the ground. I said: "If they gave me another brakeman on the ground, then I will talk business with you, on the Company Union." But I wouldn't talk Company Union with him until he give me what was coming to me.

JUDGE SMITH: When was this conversation, this last one?

MR. GROSSMAN: With Mr. Kilcanney?

JUDGE SMITH: Yes.

BY MR. GROSSMAN:

Q. When was this that you talked to Mr. Kilcanney?

A. About the Union, you mean?

Q. Yes.

A. The same day as with Martin?

Q. The very same date?

A. Yes, I don't recollect the date now.

Q. Did you sign with the Employees Independent Association?

A. No, sir.

Q. You did not?

A. No, sir.

Q. Have you done any work at all since you left the mill on May 26th?

A. Not only to help the farmers to thresh, that's all; I never got no money for that.

Q. You have not earned any money at all?

A. No, sir.

Q. What were you earning at the Republic Steel Corporation? Were you working on an hourly rate?

A. I worked on an hourly rate, $1.04 cents an hour.

Q. Did you get a tonnage rate?

A. No, sir.

Q. What was your job?

A. Dumping ore. Well, we switched to the yard. Our regular job was to dump ore, and whatever we was supposed to dump. It was what you call a dumper job, that is, dump ore, and limestone, and dust, and such stuff as that, such miscellaneous, open hearth slag.

Q. What was your particular job?

A. I was spotting cars on the dumper.

Q. You were spotting cars, you say?

A. Yes, spotting cars on the dumper.

Q. You were yard conductor?

A. Yes, but I had to do the spotting, and do the cutting, and give my own signals and all. That's the reason why I wanted another brakeman.

Q. How many hours a week would you work?

A. We would work 40 hours, and then we would work —for one week—and then we would get two weeks at 48 hours.

Q. Would you get extra money for your extra time?

A. After 40 hours we would get time and a half.

Q. For all the time you worked after 40 hours you got time and a half?

A. Yes, we got time and a half.

Q. Do you want your job back, Mr. Hite?

A. Yes, sir.

Q. You do.

MR. GROSSMAN: That is all.

Cross Examination

BY JUDGE SMITH:

Q. When was it you started working for the Republic

Steel Corporation?

A. September, 1923.

Q. That was at the Warren plant?

A. That was at Trumbull Cliff Furnace.

Q. How was that?

A. That was at Trumbull Cliff Furnace.

Q. Oh, yes, and that is right near to the steel plant, is it not?

A. Yes, we deliver metal, hot metal to the steel plant.

Q. I see. What was your position there?

A. A yard conductor.

Q. Yard conductor?

A. Yes, sir.

Q. How many men did you have working for you?

A. Well, there was myself, and three others, the engineer, and fireman, and my brakeman.

Q. I see. Had you worked right up to the time—

A. Yes.

Q. —of this strike?

A. Yes, sir.

Q. You were working on that turn,—what turn were you working on the day of the strike?

A. I was supposed to—eight to four, eight in the morning until four o'clock in the afternoon.

Q. I see.

A. I worked two hours overtime the day of the strike.

Q. Then you were not working at the time the men actually walked out on the strike?

A. No, sir, I was there, I left at six o'clock that evening.

Q. And the strike, they were supposed to go out at eleven, is that correct?

A. I don't know what time it was supposed to be.

Q. I see. At the time you went home, you did not know there was going to be a strike?

A. Yes, they were preparing for it in the mill.

Q. I see. You understood that, did you, at the time you went home?

A. Yes.

Q. That is about 14 years you had been working there?

A. It will be 14 years this next month, September. I don't recollect the day now, what day it was in September when I went there, but—

Q. Well now, you did not join the C. I. O. until after the strike?

A. No, sir.

Q. Where did you join it? Did you go down to headquarters to join it?

A. I went down to headquarters, yes.

Q. Did you take an active part in the strike from that time on?

A. I didn't—I wouldn't say an active part. Of course, I was on the picket line sometimes. I was more at home than I was on the picket line, for I lived a right smart ways from the mill.

Q. You kept that up during the entire period there, did you not?

A. Yes, sir.

Q. Were you on the picket line every day?

A. No, sir.

Q. Were you on at night?

A. Well, some nights, and maybe I wouldn't go back no more for a week.

Q. Were you on the picket line on the night of June 20th, 1937?

A. I don't recollect now whether I was or not.

Q. Do you know where the hole in the fence was down by the blast furnace on Dover Street?

A. Yes, sir.

Q. What kind of a fence was that?

A. That's a wooden fence, a paling fence.

Q. About how high was it?

A. Oh, to my idea, it was about eight or nine feet high .

Q. And there was a hole in that fence there, was there not?

A. There was several holes all along.

Q. Yes.

A. I seen the fellows on the inside when during the strike where they kick over one whole bunch of palings back there one evening.

Q. Do you remember of you and some other parties, of which probably your brother was one, being down there one night at that hole, armed with clubs, waiting for somebody to try to come into the plant?

A. No.

Q. Do you remember that?

A. Not me.

MR. GROSSMAN: Mr. Examiner, I object to the form of the question.

MR. DAY: This is cross-examination.

JUDGE SMITH: This is cross-examination, I surely have the right to call his attention to these specific instances.

TRIAL EXAMINER LINDSAY: The objection is overruled. Go on.

BY JUDGE SMITH:

Q. Do you remember that?

A. I remember being there, yes, at the picket.

Q. Do you remember there was some trouble on probably the night of the 20th, it was around there, and you people were down at this hole in the fence there?

A. That night when there was a whole crowd on the inside of the fence there, was over there, they was expecting trouble that night from the inside, for them to come out onto us, that's the only time I remember of.

Q. Do you remember another instance—did you ever, at any time, in connection with this strike, impersonate an officer and stop cars and tell them that you were a deputy sheriff?

A. No, sir.

Q. Were you around stopping cars at different times—

A. I stopped—

Q. —there?

A. I stopped cars one night, yes.

Q. Did you have a flashlight?

A. No, sir; no, sir, I didn't have no flashlight.

Q. Do you remember being accompanied by 15 or 20 other people who had clubs and bricks and were stopping cars there?

A. No, I didn't have any clubs—

TRIAL EXAMINER LINDSAY: Just a moment. Mr. Smith. I do not object to you going into this case and getting facts, but I do object to you using those terms ~~in~~ your questions, indicating that what you are saying is the fact.

You may ask him if he did those things.

JUDGE SMITH: Well, I—

THE WITNESS: I can answer his question.

There was no clubs used. The injunction made everybody put away their clubs, the night I was there.

I can answer the question, as far as I am concerned.

BY JUDGE SMITH:

Q. Do you mean—

A. And I stopped the cars so there wouldn't be women or children get hurt, that's the reason. I can tell you the reason I stopped the cars, to keep the women and children from getting hurt, from going down through that line.

Q. I see. Then your activities around there in stopping the cars were to protect women and children?

A. Women and children, yes, sir.

Q. You may state whether or not it is a fact that when you were looking after the protection of the women and children that you had 15 or 20 people with you with clubs and bricks—

A. No, sir.

Q. —and other missiles in their hands?

A. No, sir.

Q. I want to refer you especially to the night of July 7th, 1937, about between 9:30 and 10 o'clock, and call your attention to a point about a hundred feet outside of the city limits on Main Street, and ask you whether or not it is a fact that you were there impersonating an officer, and stopping cars, and representing yourself to be a deputy sheriff?

MR. GROSSMAN: I object, Mr. Examiner, the question has already been answered.

TRIAL EXAMINER LINDSAY: I will let him answer.

The objection is overruled; let the record show an exception.

(Exception by the Board.)

A. That was the night—

TRIAL EXAMINER LINDSAY: Read the question, please.

(Last question read by the Reporter.)

BY MR. SMITH:

Q. Were you?

A. I was there, that was the night I told you I was there.

Q. Yes.

A. That is the night I told you.

Q. How were you dressed that night?

A. I had my pants and shirt on.

MR. GROSSMAN: If your Honor please, that calls for two answers.

TRIAL EXAMINER LINDSAY: Well, correct that question.

MR. GROSSMAN: You were there July 7th?

THE WITNESS: The night, I don't know what night it was, I wouldn't say what night it was, but I refer to the night he is talking about.

MR. GROSSMAN: The other part of the question was, were you impersonating an officer, a sheriff? What was the rest of that?

(Question read by the Reporter as follows: "I want to refer you especially to the night of July 7th, 1937, and between 9:30 and 10:00 o'clock, call your attention to a point about 100 feet outside the city limits on the main street and ask you whether or not it is a fact that you were there impersonating an officer and stopping cars and representing yourself to be a deputy sheriff?")

A. That was the night that I stopped the cars for the women and the children.

Q. I see. Now—

MR. GROSSMAN: Mr. Examiner, may I ask that question be reframed so that there will be no doubt about the witness understanding that question.

MR. SMITH: He can do that on redirect examination, if there is anything he wants to ask him, he could do it then.

TRIAL EXAMINER LINDSAY: Don't ask double-barrelled questions.

MR. SMITH: Your Honor, I did not try to, and I did not think it was.

TRIAL EXAMINER LINDSAY: Well, it is a double question.

MR. SMITH: Well, I will try to reframe it.

Q. Did you have any official position in connection with these pickets, with this picketing?

A. No, sir.

Q. Were you, in your picketing, on foot, or did you go around in a machine, any?

A. I went on foot. I had my car. I drove it to the picket line.

Q. Did you use your car in connection with any of those?

A. No, sir.

Q. Were you making examinations of cars the night over there that there was an explosion of some kind in connection with the deputy sheriffs that were there? That were going along in the machine?

A. What explosion are you talking about?

Q. The dynamite bomb or something of that kind that was thrown, there?

MR. GROSSMAN: I object to that.

A. No, I didn't know anything about it until the next morning when I went down.

TRIAL EXAMINER LINDSAY: He may answer.

Q. You remember that, but you say that you were not there at the time?

A. I saw it next morning, when I went to town, yes.

Q. Now, do you remember you spoke about going over to the house of your foreman, George Kilcanney?

A. Yes, sir.

Q. Do you remember when that was?

A. That was June 27th, I think. I am most sure it was June 27th.

Q. What was the conversation you had with Mr. Kilcanney at that time? I would like to have you repeat it.

A. Well, I told him just what this fellow had told me, that the men was going back in the mill, and I thought I would stop down and report to him that I was coming back to work, and he told me that if I come back I would have to come back as a new man, rehire as a new man. That is, if the company wanted to hire me.

Q. Now, I will ask you whether or not this, or substantially this, is not what was said that night: That you inquired as to what was doing at the plant?

A. Yes, I asked what was doing there.

Q. Yes.

A. I asked him what was doing at the plant.

Q. And that Mr. Kilcanney said to you that he had not been informed as to the company's policy yet, in connection with it, and that you would have to see him later?

A. That is not what he told me, he told me the way they were going to do it, you would have to come back and be rehired, there. You would have to see Crampton across the river and be rehired there, and knowing that they had done that and had taken fellows younger than me that went back, and went back as new men, fellows that didn't even serve on the picket line.

Q. Are you sure that the conversation you now detail took place that night, or did you hear that some place else, as to the rehiring?

A. No, sir, that is what Mr. Kilcanney told me.

Q. I see.

A. That I would have to rehire as a new man.

Q. Well, isn't it a fact, so far as your job was concerned, that you never at that time or at any other time later ever indicated to Mr. Kilcanney what you wanted to do about coming back?

A. No, sir, I have never seen him until that night.

Q. Yes.

A. And I haven't seen him since that night.

Q. And that on that night you didn't tell him what you wanted to do, did you?

A. I told him exactly what engineer Lavelle told me he was figuring coming back, I thought I would get down and ask about my job, about going back to work.

Q. Yes.

A. He told me the way they are going to work that thing, if you got back, you are going to have to hire now as a new man, and I told him, "George,"—

Q. But you never—

A. I told him, I says, "George, I will never come back as a new man, after fourteen years in there," I says, "if that is the way they are going to do me, I will sell everything I have got and leave this state," that is the very words I told him.

Q. Well, did you at any time later go to see Mr. Kilcanney about your job?

A. No, sir.

Q. That is the only conversation you had with him?

A. That is the only conversation, that was enough for me, when he told me that.

Q. You never went down to the mill to try to get your job back?

A. No, sir, I knew that would not be no use, after he told me he had the inside dope.

Q. Now, you spoke about a Mr. Martin talking to you before the strike in regard to joining some union there?

MR. GROSSMAN: Well, he said about the card.

Q. I just wanted to clear this up, now.

A. Yes.

Q. Now, who is Mr. Martin?

A. He is traffic manager, or at least, that is what he is active in—I guess that is what he is supposed to be—yard master, traffic manager and everything during the depression. I worked under him during the depression as yard man, yard clerk.

Q. Well, was he your foreman, your superior officer?

A. Not now he is not, no, sir.

Q. Well, was he at that time?

A. He was during the depression, yes.

Q. Well, I am talking about the time in May that you speak of?

A. No, sir, he was just the traffic manager.

Q. Yes, and you spoke to Mr. Kilcanney, then, I believe, in regard to this, also, you asked him in regard to a pencil, that you wanted a pencil. What did you want the pencil for?

A. Pencil?

Q. Yes.

A. No, I talked with Mr. Martin about the pencil.

Q. Oh, you asked Mr. Martin?

A. Yes, I asked him at the time.

Q. What did you want a pencil for?

A. I says, "How about a pencil, Mr. Martin?" Well, I use a pencil to take down the number of the car I handle.

Q. You didn't have one?

A. Well, I had one, but I thought I would get another one while I had a chance. I always do. When I see somebody with a pencil I always try to bum another one, to keep an extra one.

Q. Keep a spare, is that the idea?

A. Yes, keep a spare, if one is lost, fall off, sometimes catching a car it will fall off and break, so I asked him for a pencil.

Q. Were you in the habit of asking people for pencils?

A. Sure.

Q. Whenever you meet them?

A. Sure, I ask Martin for a pencil, every time I would see him.

Q. Well, did he give you one?

A. No, he didn't give me one, the night that we signed the card for him.

Q. And you say that you talked with Mr. Kilcanney?

A. Yes, sir.

Q. Something in regard to—What was that conversation?

A. He asked me what I thought about the company union, about the card.

Q. What is that?

A. He asked me what I thought about it, I told him I didn't think anything about it, I told him, "George," I said, "if you people would treat us right, give us the other brakeman, what we are entitled to," I says, "they have it in other plants, if you give us this other brakeman, I would talk business with you about your company union or your white collar, whatever you call it."

Q. That was the only conversation that you had with him?

A. Yes, yes.

Q. About this?

A. Yes.

Q. And you didn't ask him for a pencil?

A. No, I didn't ask him for a pencil. I knew where I could get one.

Q. The conversation that you had with Mr. Martin when you wanted the pencil is the only one you ever had with him?

A. Yes, that is the cnly one I ever had.

Q. On the night that you spoke of a little while ago when you were down along the fence, there, by that hole, how many people were with you? I am not asking you the names, but how many were with you in your group that night down there at the hole?

A. Well, I wasn't stationed nowhere at that hole, I walked up and down the road, there.

Q. I see.

A. I couldn't say that I was stationed at that hole in the fence, but I never was stationed at no place, because I just come up, would go out for a couple of hours, walk up and down the road or something, back and forth, and go back home.

Q. You remember watching this hole where some men had been getting into the plant?

A. I didn't make a practice of watching that hole any more than I did—

Q. The other holes?

A. Going around any other hole.

Q. Yes.

A. Or main street, down here.

Q. Yes, but were you carrying a stick or club of some kind?

A. Sometimes I carried a stick.

Q. What kind of a stick was it? Just tell us how big it was.

A. Oh, short stick about that long (indicating).

Q. A couple feet long, do you mean?

A. About two feet long.

Q. Yes, how big around?

A. Oh, wasn't as big around as my arm.

Q. As big around as your arm?

A. Around as big around as my arm.

Q. Did you ever carry any ball bats?

A. No, sir, no.

Q. Or billiard cues?

A. I never did that, got too many kids, to get a ball bat away from them, they always use them at home.

Q. You didn't take one of theirs and use it?

A. No, sir.

Q. Did you ever see any ball bats and clubs around in the hands of the pickets?

A. I never paid no attention to whether they had ball bats or not.

Q. Well, you were around at different places on the picket line, were you?

A. I just stayed at the blast furnace.

Q. What is that?

A. At the blast furnace.

Q. Yes?

A. That was my main purpose, to see if there were any men on my job.

Q. How many other pickets were there along there that kept the—did the same kind of a job you did?

A. Oh, sometimes maybe there would be five or six walking along the road.

Q. Yes? Were they carrying sticks?

A. Some of them.

Q. About the same size as yours?

A. Some of them would be carrying sticks. Some would not have anything in their hands.

Q. Did you ever see any of them with a piece of pipe?

A. No, sir.

Q. Or a baseball bat?

A. Never seen a piece of pipe while I was on the picket line.

Q. Or billiard cue?

A. I don't remember seeing any of those.

Q. Don't remember seeing any of those?

A. No, sir.

Q. The only ones that you saw were sticks?

A. Just little sticks, that is all.

Q. Yes; say, do you know Mr. Lavelle, over there?

A. Yes.

Q. Did he ever come over to see you about going back to work?

A. Yes, sir.

Q. When was that?

A. That was when I was just telling you, he was the one that came and told me that the men were going back in the mill.

Q. Oh, I see, and he is the man that spoke to you about it? Now, what position did he have down there?

A. Oh, he is an engineer, locomotive engineer.

Q. I see. But then after he told you, at the time you went over to Kilcanney's house and talked with him—

A. Yes.

Q. Now, the conversation that you have just related—

A. Yes, sir.

Q. You think that was around the 25th of June?

A. Around the 27th.

Q. The 27th of June?

A. Yes, sir.

MR. SMITH: That's all.

MR. GROSSMAN: That is all.

MR. DAY: I want to move to strike out the conversation between this witness and the other persons whose names are in the record, for the reasons already stated in similar objections in the testimony of other witnesses.

TRIAL EXAMINER LINDSAY: The motion to strike is overruled. It is denied. Let the record show an exception.

Redirect Examination

BY MR. GROSSMAN:

Q. Well, Hite, coming back, now, to the night referred to a few moments ago when you were trying to protect the women and children, you said?

A. Yes, sir.

Q. Did you, out there that night, impersonate a police officer or deputy sheriff?

A. No, sir.

Q. You didn't?

A. No, sir, I didn't.

Q. You stated Mr. Martin was the traffic manager?

A. Yes, sir.

Q. Just what does a traffic manager do, if you know?

A. I have an idea that he has the sales or ordering of stuff in, you know, such as coal and ore and limestone, stuff like that, I think that is his—and keeping records of the demurrage and the cars that is in the yard, things like that. I think that is his title.

Q. Did he have a number of men under him?

A. I don't know how many men he works under him.

Q. Is he a sort of a foreman?

A. Yes, sir, he is a sort of a foreman.

MR. GROSSMAN: That is all.

MR. SMITH: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will adjourn until tomorrow morning at 9:30.

(Whereupon, at 5:05 o'clock p. m., August 23,

1937, the hearing was adjourned until August 24, 1937, at 9:30 o'clock a. m.)

Courtroom No. 6,
Mahoning County Courthouse,
Youngstown, Ohio
Monday, August 23, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Young & Veach (1420 Union Trust Building, Cleveland, Ohio), and T. F. Patton, Esq., Republic Building, Cleveland, Ohio, David E. Jones, Esq., and Charles F. Smith, Esq., of the firm of Messrs. Harrington, Huxley & Smith, (1200 Mahoning Bank Building, Youngstown, Ohio), appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. GROSSMAN: Mr. Garnett.

ERNEST GARNETT

was thereupon called as a witness for and on behalf of the National Labor Relations Board, and, having been duly sworn, testified as follows:

Direct Examination

BY MR. GROSSMAN:

Q. What is your full name, Mr. Garnett?

A. Ernest Garnett.

Q. Ernest Garnett?

A. Yes.

Q. And your address?

A. 752 Highland Avenue, Warren, Ohio.

Q. 752 Highland Avenue?

A. Warren, Ohio.

Q. Are you an employee of the Republic Steel Corporation?

A. Yes, sir.

Q. When did you start to work for the Corporation?

A. In 1923 in September some time.

Q. In September, 1923?

A. Yes.

Q. Have you worked continuously then? Have you worked there continuously?

A. Well, except for 10 months—12 years—I mean 10 months, 12 years ago, I had 10 months vacation. I went to Europe.

Q. You went abroad?

A. Yes.

Q. But other than that you have worked there continuously?

A. Worked there steady.

Q. Up until when?

A. Up to the strike.

Q. Which was May 26th?

A. Yes.

Q. What sort of work do you do up there, Mr. Garnett?

A. And operate a larry car in the stock house.

Q. Will you explain what the operator of a larry car does, Mr. Garnett?

A. Well, they operate a larry car, is to go and get the material, limestone, ore, and all different stuff, and dump it in the buggies there, so as to fill the furnace up, weighing the material.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join the C. I. O.?

A. Last September, last year yet.

Q. September?

A. September, last year.

Q. 1936?

A. Yes, and I took application this year in May.

Q. (Indicating) I show you Board's Exhibits Nos. 79, 80 and 81, and ask you if you have ever seen those before?

A. Yes, sir, I got one through the mail.

Q. You got one through the mail?

A. Yes, sir.

Q. Do you remember when you got that through the mail?

A. Well, I can't exactly say.

MR. DAY: I would like to have the same objections to the questions relating to these exhibits that have been interposed and passed upon in the evidence of other witnesses upon the same subject.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

(Exception on behalf of Respondent.)

Q. (By Mr. Grossman) Was that before the strike or after?

A. Before the strike.

Q. Before the strike?

A. Yes.

Q. After you received those through the mail, Mr. Garnett, do you remember a talk with a Mr. Taylor?

A. Yes, sir, after about two or three weeks after that, I went to work one day, and my boss stop in the yard, and he said: "Come here, I want to tell you something."

MR. DAY: Who is Mr. Taylor?

MR. GROSSMAN: I will get to that.

Q. (By Mr. Grossman) Who is Mr. Taylor?

A. A blower, he is our boss.

MR. DAY: We object to any conversation with Mr. Taylor on the ground that he is not an officer or agent with power or authority to bind the Respondent, and no knowledge upon the part of the Respondent.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

(Exception on behalf of Respondent.)

Q. (By Mr. Grossman) You said he was your boss?

A. Yes, sir, he is our boss, one of the biggest up there after Mr. Kerwin.

Q. Who is Mr. Kerwin?

A. He is the superintendent.

Q. He is below your superintendent?

A. Yes.

Q. He is the man directly below your superintendent?

A. Yes, he is the man done everything in his place.

Q. Is he a foreman?

A. Yes, he is a foreman.

Q. Foreman of what department?

A. Well, blast furnace.

Q. Will you state, for the record, the substance of the conversation you had with Mr. Taylor that day?

A. Yes, sir. When I get in there he stop me, and he said "Come here, Ernest, I have got to tell you something." So when I go there, he said: "Did you remember getting a card sent down to your place?" I said: "I got plenty cards."

He said: "I mean one of this plan," he said, "to organize a new Union?" "Well," I said, "you mean a Company Union?" He said: "Yes, that's what I mean." He said: "What did you do with that? Did you throw it away?" I said: "No," I said, "I kept it home," I said, "for a souvenir."

"Well," he said, "why don't you sign it, and send it in?" I said, "I did sign the C. I. O.," I said, "I can't sign the two." He said: "Many a guy sign two cards." I said: "Well, I am not the face to do that," I said, "when I sign one, that's enough for me."

"Well," he said, "I tell you, if you know what is good for you, you will sign that." I said: "That's just exactly why I didn't sign, because I do know what is good for me." He said: "Well, I will tell you, something like this," he said, "you know, if you sign both cards"—he said: "I know you belong to the C. I. O.," he said, "if you sign the other one, the Company Union, why," he said, "then," he said, "it is like carrying two buckets of water, in case one the bottom fall off," he said, "you still got ahold of the other one."

I said: "That don't go with me." I said: "Because if I slip, I will wet my pants." He said: "Well, I will tell you, you know what is good for you," he said, "you ain't dumb," he said, "I hope you can understand me. Let me know tomorrow what you decide." I said: "I tell you right now what I decide." I said: "I am a C. I. O., and here I am going to stay for good or bad," I told him.

MR. DAY: I move to strike that out on the same ground as stated in the objection made to similar conversations.

TRIAL EXAMINER LINDSAY: The motion is denied.

Let the record show an exception.

(Exception by Respondent.)

Q. (By Mr. Grossman) Did Mr. Taylor tell you who sent you that card? Was there any mention made of that name during the talk?

A. The way I asked him, I said: "You mean the Company Union card?" He said: "Yes."

Well, that's all he told me, so I knew what it was.

Q. Did you have any more talks that day with any officials of the Company?

A. Then at the same night, this is three o'clock, when I went to work at the same night, and Mr. Kerwin, Superintendent, come in the stock house, where I was working, and he had a newspaper under his arm, and he call me off the car. He said: "Come here," he said, "I want to talk to you."

So I went off the car, and he unfold the newspaper there on the cars, you know, and he had a hand bill there, the Union put out, and he said: "Please," he said, "you read this down to the bottom down here, this Union bill."

I did. I seen that once before, and it was same paper. He said: "You know, we try everything in our power to avert the strike, but in case the strike comes on," he said, "it is the Company's fault,"—or something like that.

Q. Who was talking to you now, Mr. Kerwin?

A. Mr. Kerwin.

Q. You said he was the Superintendent?

A. Yes.

Q. Of what department?

A. Of blast furnace.

MR. DAY: When was this talk?

MR. GROSSMAN: That very evening.

MR. DAY: What was the date of the other one?

MR. GROSSMAN: It was testified it was a couple of weeks after he received the letter through the mails, just before the strike.

MR. DAY: What was the date of the letter?

MR. GROSSMAN: Well, it carries no date.

MR. DAY: All right.

Q. (By Mr. Grossman) Will you continue with that talk now with Mr. Kerwin?

A. Then he unfold me the newspaper, and he said—I said: "Why did you ask me such a question?" He said: "Well, I tell you, Ernest," he said, "because," he said, "I don't want to see no lie." He said: "The C. I. O. is lying here." I said: "I don't know nothing about that."

Well, then he tried to tell me about in Detroit somewhere, I don't know where it was, there was 2700 men out on strike because 13 men wouldn't join the Union, or something of that kind. "Well," I said, "Mr. Kerwin, according to my notion," I said, "2700 honest men won't work with 14 stool pigeons down there. I no blame them. They ain't no breaking faith with the Company; the Company breaking faith with the men, according to my idea," I said.

"Well," he said, "no, it ain't that." I said: "No use to argue me here, because I have got to do my job. If the furnace get down, I will never catch up no more tonight, because the furnace go pretty fast." He said: "Never mind that furnace, you stay here, I want to tell you something." I said: "I have to work, go some place else." "You know I am a C. I. O. man, no use to talk to me. You can't break it into my head."

Q. He did not want you to go back to work?

A. He said: "Stay here, I want to tell you something."

He started to read something about Chicago paper, what Company do something that, and the other. I said: "You can do anything you want for my part, but you can't change me." So he made me lose there pretty near quarter of hour. He said: "I will be back here to see you," he said, "I will be back here every night." I said: "I am glad to see you for that matter, I ain't got nothing against you."

Q. Did he say what he was coming to see you about?

A. He was going to explain the thing, I suppose. He said he was going to see me every night from now on. But the next night was Friday night, he didn't come in. On Saturday he come down to the stock house where I was working. He just paced back and forth there. He looked like a wild man. I thought there was something wrong with him.

Finally, after four or five times he went by, I said: "Mr. Kerwin, what is in your mind tonight? You seem upset for some reason or the other." That's the way he done a week away.

So I got off the car. I said: "Wait a minute," I said, "there is something wrong here, because I heard news, you know, around the plant." And he said: "Listen here," he said, "I thought you said you had one face," he told me, "I found out you have got two."

"Well now," I said, "you can't talk that way to me." I said: "You can't scare me, you know that much." He said: "Yes, and you got two faces." "Well," I said, "listen, me, whoever told you that," I said, "he is a damn liar." "No," he said, "that ain't so, because," he said, "not one man told me, but three, and especially one of these men," he said, "got the Company at heart."

I said: "Whatever he got at heart, or not, he is nothing but a stool pigeon, want to get even with me for something, but, " I said, "I never was in wrong for any Company I did work for, and I am not in wrong here," so I said, "it is up to you to get that man and bring him to my face, and find that out, because no one is ever able to put a black mark on me." And I said: "I believe Mr. Kerwin ain't able, himself." He said: "I can do that all right."

I said: "I want to see you tomorrow." He said: "Tomorrow can't do it, wait until Monday." I said: "I am perfectly satisfied, as long you bring the man to my face that said I said anything wrong about the Company, or anything else."

So, Sunday, I come to work at three o'clock. When I was in the yard, a cop run after me, and said: "Come on, you got to go on the office."

Q. Was he a mill cop?

A. He was a mill cop.

I went to the office. He said: "Kerwin wants to see you." I went up to his office. He said: "Well now, Ernest, I done a little investigating yesterday after I left you, and I found out how the talk start. He said he was blaming you for threatening the guy—he told me the guy was afraid to come into the house to work.

Q. He was threatening you?

A. No, I was threatening this fellow, and this fellow reported he was afraid to come in to work.

I said: "Mr. Kerwin, you know that man, and I know myself," I said, "you know that ain't straight." I said: "That man was never afraid to come down in the stock house and sleep all night, because I know that's what he done, sleep all night down here, but he is afraid to work." I said: "That's a good idea, good way to tell me a thing." I said: "I know well what go on here; you don't know what go on, but I know," I said. "I know that man sleep here all night, and afraid to come here to work, and I don't blame him," I said, "because a man that sleep all night, must be afraid to work, not because I am in here." He said: "I don't need an investigation to turn back," he said, "I found out that man got a cold feet, or something, you know, and," he said, "You said something on the outside. I got no authority to do nothing to anybody that said something outside," he said, "if it was in the mill," he said, "I could do something," but he said, "you know this is things blow over, and it will be O. K. Of course," he said, "it will take couple of years to get by when you are sore," he said, "I hope it will take quicker to get by." I said: "It don't take me that long to get over when I am sore, because in two minutes I get O. K., but," I said, "don't try to put black mark on me, because," I said, "I travel over one-third of the world, in the Army, and every place, and nobody ever put black things on me, and," I said, "I can show you it in black and white with all of reference." He said: "I tell you, let us forget this and be good friends again."

So I left him, and that's all I ever seen him.

Q. Did he say anything about the C. I. O. at that meeting?

A. He said—I said: "I belong to the C. I. O., you can't do nothing about that,—because I am C. I. O." He used to tell me then, "It don't pay you to advertise, it don't pay you to advertise."

Q. It don't pay you to advertise that you are a member of the C. I. O., is that what he meant?

A. Yes, that's what he means.

Q. Let us see if we can fix the date when you received the letter.

A. I got the letter in my pocket, but I got the envelope at home. If I had it here I could tell you just the date.

Q. Let us see if we can get it approximately. It was a couple of weeks later you talked to Mr. Taylor?

A. Make it about three weeks.

Q. How long before the strike was it that you talked to Mr. Taylor?

A. When I talked to Mr. Taylor?

Q. Yes.

A. That was Thursday, two weeks before the strike.

Q. Thursday, two weeks before the strike?

A. It must be around 14th, it was Thursday.

Q. The day of the strike was the 26th of May?

A. And this is on Tuesday, wasn't it, the strike, the 26th?

Q. I think so.

A. So this was just about—not quite two weeks before, this was on the 14th.

Q. Then that would be May 12th about?

A. Well, something around there.

Q. That you talked to Mr. Taylor?

A. No—that's the 14th, May the 14th, is when I did talk to Mr. Taylor.

Q. May 14th is when you talked to Mr. Taylor?

A. If I am correct.

Q. That you talked to Mr. Taylor.

A. If I am correct, yes.

Q. Then you received the letter some time about the very early part of May?

A. Yes, early part of May.

Q. And Mr. Taylor told you that—did he say anything about the Company sending that letter to you?

A. He told me the letter that representative sent around, so I seem like I could understand, I told him, I said: "The Company Union?"

Q. Which representative was he referring to?

A. Well, I don't know, the Company representative, I suppose, but he didn't say that, and then I said: "Is the Company Union that you mean?" He said: "Yes." Well, I said: "I got one then, and I got it home."

MR. GROSSMAN: That is all.

Cross Examination

Q. You joined the CIO in September?

A. Yes, sir.

Q. 1936?

A. Yes, sir.

Q. And you stayed working on the job until the CIO called a strike in May, 1937?

A. Yes, sir.

Q. And it was pretty generally known that you belonged to the CIO, wasn't it?

A. I don't believe they did, at first.

Q. Well, you didn't keep it quiet, did you?

A. Well, I mind my own business.

Q. Well, did you talk as much out there, as you talked on the witness?

A. No, sir, I know when I have to talk and I know when I have to keep quiet.

Q. Anyway, you told your boss that you belonged to the CIO?

A. Yes, sir, when he come and asked me to join the company union, and I told him I was a CIO man.

Q. You have been active in the strike?

A. I was out on the picket line.

Q. How often have you been on the picket line?

A. I have been there for one month straight, right at the Trumbull picket gate.

Q. Do you belong to the lodge?

A. What do you mean, the lodge?

Q. Well, the union lodge.

A. Yes, sir.

Q. Are you an officer in it?

A. Not at all.

MR. DAY: That's all.

Redirect Examination

Q. (By Mr. Grossman) Mr. Garnett, in the talks you had with Mr. Taylor and in the three-quarters' hour talk you had with Mr. Kerwin, were you paid for that time?

A. Yes, sir.

Q. You were?

A. Every minute.

Q. Did anybody ever tell you that that letter was sent by the company?

MR. DAY: What is that question?

(The last question was read.)

MR. DAY: I object to that.

MR. SMITH: He asked that question three times and he said no.

TRIAL EXAMINER LINDSAY: Yes, I think I will sustain the objection.

MR. GROSSMAN: All right, thank you.

Recross Examination

Q. (By Mr. Day) You said you were paid by the company. You mean you were not docked any money, is that right?

A. I wasn't docked anything for staying and talking.

Q. You got just the same money as you would have gotten if you hadn't talked to the men?

A. Yes, sir.

MR. DAY: All right.

(Witness excused.)

GEORGE CARTER

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Grossman) Will you state your full name, please, Mr. Carter?

A. George Carter.

Q. George Carter?

A. Yes, sir.

Q. Your address?

A. 814 Tod Avenue, N. W., Warren, Ohio.

Q. Are you an employee of the Republic Steel Corporation?

A. Yes, sir.

Q. Which plant is that?

A. At the—well, I work all over the plant, it is the Warren plant.

Q. The Warren plant?

A. Yes.

Q. What sort of work do you do?

A. Locomotive engineer.

Q. You are locomotive engineer?

A. Yes, sir.

Q. When did you start work for Republic Steel Corporation?

A. October 1st, 1935.

Q. And did you work continuously to the date of the strike?

A. Yes, sir.

Q. Are you a member of the CIO, Mr. Carter?

A. Yes, sir.

Q. When did you join the CIO?

A. May 8th.

Q. 1937?

A. 1937.

Q. I show you Board's Exhibits Nos. 79, 80, and 81, and ask you if you ever saw them before?

A. I did.

Q. When did you first see them, Mr. Carter?

MR. DAY: May we have the same objection on the same ground to this exhibit or any reference to it?

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. DAY: Exception.

A. I can't tell you the date. It was sent to me previous to the strike.

Q. Do you know how long before the strike, approximately?

A. Oh, I would imagine two weeks.

Q. Two weeks?

A. It must have been—might have been longer.

Q. Do you recall the conversation with Mr. Miller in the mill on or about May 24th?

A. I do.

Q. Did Mr. Miller refer to that letter, to you?

A. He did.

MR. DAY: Who is Mr. Miller?

Q. Who is Mr. Miller?

A. He was my foreman.

Q. Mr. Miller was your foreman?

MR. DAY: We object to this conversation on the same grounds stated previously; the same grounds stated in objections to similar conversations with the last witness.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

Q. What did Mr. Miller say about that letter, Mr. Carter?

A. Why, I came into work, I and Mr. Kincade—

Q. I didn't hear you?

A. I say we came to work, I and Mr. Kincade, we came through his office together.

Q. Who is Mr. Kincade?

A. He was an engineer there in the plant. And Mr. Miller says to us, he says, "I am going to ask you two fellows a question," he says, "I haven't asked no one else," he said, "did you fellows receive a letter from the company?"

Q. Are you referring to the letter I show you?

A. Yes.

Q. Board's Exhibits 79, 80, and 81?

A. Yes.

MR. DAY: I object.

TRIAL EXAMINER LINDSAY: Objection overruled.

MR. DAY: Exception.

TRIAL EXAMINER LINDSAY: Let the record show an exception.

Q. Will you repeat that again, Mr. Carter?

A. He asked if we had received a letter from the company and I says, "What kind of a letter, Joe?" And he says, "A letter with a white ticket in it?" I says, "Yes, I received one," and Mr. Kincade said that he had.

He says, "Did you fill out the card and send it in?"

And Mr. Kincade said, "I haven't filled mine yet." I says, "I haven't filled mine and another verse to the song, I am not going to fill it."

He says, "Why?" I says, "Why," I says, "what object would there be of me filling in that card and paying $4 a year to join something that is no benefit of mine?"

"Why," he says, "forget that $4." "Why," I says, "that is not what the letter says, the letter says $4 a year."

"Why," he says, "that is not on the ticket, is it?" "No," I says. "Well," he says, "just forget that $4." And he says, "You had better sign the card."

Well, I says, I am not going to sign it. And "All right," he says, "it is up to you," and then he started on the CIO.

Q. What did he say about the CIO?

A. He said that that is a bunch of communists and bolsheviks. I says, "Well, o. k., Joe," and that was all that I said to him, at that time.

MR. DAY: I vote to strike out that conversation on the grounds stated in the objection to it.

TRIAL EXAMINER LINDSAY: The motion is denied. Let the record show an exception.

Q. (By Mr. Grossman) Did you have any subsequent talks with Mr. Miller after that one?

A. Yes, on the previous day, that was on the 25th, he called me out to work.

MR. DAY: The same objection, on the same ground.

MR. SMITH: The 25th of what month?

THE WITNESS: Of May.

TRIAL EXAMINER LINDSAY: Objection overruled and let the record show an exception.

A. He had some work that he wanted me to look after, that he was leaving the crane, some stuff to load and unload, and he wanted me to kind of look after it by taking me over to show me where this stuff was, and on our way from the shop over to the machine shop he says to me, "What do you think of the situation, George?"

"Well," I says, "it looks rather bad, Joe, it looks as though we were going to have a strike." He says, "Yes, it does," he said, "you know what is going to cause this strike?"

"Well," I says, "in my own mind," I says, "several things."

"Well," he says, "do you know what the principal thing is?" "Well," I says, "I know what I think."

He says, "I will tell you what it is," he says, "it is only because there is 50 per cent of you fellows that filled out those cards."

"Well," I says, "o. k., Joe," and that was all that was said.

Q. And at that time was he referring to Board's Exhibit 79, or this card right here?

A. He was referring to that card, that white ticket.

Q. Were there any complaints ever lodged against your work, to your knowledge, Mr. Carter?

A. Not to my knowledge, no, sir.

Q. On the day the strike was called, were you working in the mill?

A. I was not.

Q. You were out?

A. I was out.

Q. And you stayed out after that?

A. I did.

Q. Did you ever try to get your job back again?

A. I did. I talked to Mr. Miller.

Q. Do you remember when that was?

A. Well, I can't just give you the date.

Q. Well, can you approximately set the date?

A. Well, I would imagine along about the 24th of July, something like that, I would not say positive.

Q. About the 24th of July?

A. Yes.

Q. And you saw Mr. Miller, who was your foreman?

A. Yes, sir.

Q. Will you state for the record the substance of that conversation?

A. Well, I drove down to his house at Girard, and he was out in the yard. I stopped, he looked up, and I said, "Hello, Joe," and he said, "Hello, George," and he walked over to the car.

"Well," I says, "how is everything going, Joe?" He says, "Just fine," he says, "we are working every day," and he says, "we have got three dinkies and two standards working, now."

I says, "Have I got any job down there?" "Well," he says, "I will tell you what you do." He says, "You go down to the employment office, tell the employment man that you want to come back, and go home then and wait," he says, "and when there is a vacancy, I will call you."

So I took it that I was to start in as a new man.

Q. And be rehired?

A. I would have to be rehired.

Q. When he said they had two dinkies and three standards running, is that capacity schedule, do you know?

A. Well, they generally—they sometimes have three standard engines and they have four dinkies at times. Now, they don't run continuously, they have to have one generally in for repairs.

Q. Well, when they are running at normal capacity, there are three dinkies and two standards running?

A. Well, no, they generally have three standards on.

Q. You say one was in for repair, which one?

A. Well, one was in for repair, I suppose, maybe at that time they were in for repairs, and he said they had two standards and three dinkies.

Q. Did you understand, though, from that, that they were running at capacity?

A. Yes.

MR. GROSSMAN: That is all.

Cross Examination

Q. (By Mr. Smith) You started with the Republic in 1935?

A. Yes, sir.

Q As locomotive engineer?

A. Yes, sir.

Q. Were you running one of the standards or one of the dinkies?

A. I run anything there. I went across over to the blast furnace and run engines, I run standards and I run dinkies.

Q. The dinkies, they use those for bringing the hot metal in from the Trumbull Cliffs, is that right?

A. No, no, that is a standard engine that brings the hot metal in from the cliffs.

Q. I see.

A. The dinkies are used on the mold shop and on—that is, for hauling ingots from the open hearth furnace over to the soaking pits, and the dinky is used for putting the scrap up on the floor, and then there is a dinky used for dumping the dirt cars and, oh, various things, whatever engine they want it to do.

Q. And you joined the CIO on May 8th?

A. Yes, sir.

Q. And where did you join it?

A. I joined it at Warren, Ohio, in the Labor Hall.

Q. Up in the—you went to the Hall and joined it there?

A. Yes, sir, I went to the Hall and joined it.

Q. When was this conversation, as near as you can state it, that you say you had with Mr. Miller?

A. Why, I can't—

Q. In regard to this card?

A. The card?

Q. Yes.

A. Oh, I would imagine that it was—now, I can't tell you definitely the date, but I would imagine that it was two or three days before the strike.

Q. Two or three days before the strike?

A. Yes.

Q. Now, what was that conversation that you had with him, will you detail it again for me, please?

A. Of which conversation do you mean?

Q. The one I am talking about there in regard to the letter that I just inquired of you about?

A. Why, he asked me if I had received a letter from the company with a white card in it. I told him that I had.

He wanted to know if I had filled that card out and sent it in, and I said that I had not. And he said, "Don't you think you ought to." And I says, "No, I do not."

I says, "I can't see where I would benefit by paying $4 a year to join something that is no benefit of mine." And he says, "Forget that $4."

I says, "That is not what the letter says, and the letter says 'pay $4'." "Well," he says, "does it say that on the card?" I says, "No, it does not." "Well," he says, "just forget the $4." And he says, "You had better sign the card."

Well, I didn't sign the card.

Q. Who have you talked this matter over with, before you came in here?

A. I didn't talk this matter over with anyone.

Q. No one at all?

A. No, sir, only my wife, when the letter was received, I threw it down, I says, "I am not going to fill that card out."

Q. Well, have you talked it over with anybody?

A. I have not, no, sir.

Q. Before coming on the witness stand?

A. I have not.

Q. You have not discussed it with any of the attorneys for the Labor Board? With either one of these gentlemen here?

A. I laid my complaint, or gave my statement, yes.

Q. When was that?

A. I don't recall that. I don't recall just what date that was.

Q. Was it recently or sometime ago?

A. No, it has been sometime ago that I gave—

Q. I see—

A. This man the statement.

Q. Was it a written statement?

A. Why, he wrote it, yes.

Q. How long was it before the strike that you had worked there at the plant?

A. On the day before the strike.

Q. I see. You didn't come out on the day of the strike?

A. No, I didn't come out. I wasn't called out that day.

Q. After the strike was on, were you active in connection with the CIO?

A. Yes, I was. I was out on the picket line.

Q. How much of the time were you on the picket line?

A. Oh, I was on there possibly for a month.

Q. And what part of the picket line did you control?

A. I was down at the open hearth, the entrance to the open hearth off from Main Street—not Main Street, Pine Street.

Q. Pine Street?

A. Yes.

Q. During what hours of the day would you be on?

A. I would generally be there from 7 o'clock in the morning until about 3 or 3:30 in the afternoon.

Q. How many other pickets would there be there, at those times?

A. Well, sometimes quite a bunch of them, other times there weren't so many.

Q. And during the times that you were there, were you carrying any sort of a club or stick or anything of the kind, yourself?

A. I used to have a stick in my hand all the time. I was a great fellow to whittle, I did like to whittle.

Q. You had a stick to whittle with?

A. I was whittling, I would pick up anything to whittle.

Q. About what size stick would you use for your whittling?

A. Anything from the size of my finger up to two foot long, when I got ahold of it.

Q. Yes, and about how thick?

A. Oh, depended on the size of the stick.

Q. Yes?

A. If it was as thick as my finger, it was o. k. with me. If it was as big as my wrist, it was o. k.

Q. Well, did you whittle on any kind of sticks?

A. I whittle on all of them, yes, you bet I do.

Q. Two feet long and as big as your wrist?

A. Yes, sir, I did, I would whittle on any of them.

Q. And in your whittling that way, was that for the purpose of making a good hand-hold, or what was the purpose?

A. Absolutely not, it was just simply for the pastime, with me.

Q. Yes, yes, and so being a chronic whittler, why you had a stick whittling on it all the time you were on the picket line?

A. I stand around there and whittled.

Q. Yes.

A. Whittled and whistled, anything to pass the time away.

Q. Were you ever on, during the nighttime down there?

A. No, sir, I never was on during the night.

Q. Were you there, at the time that the cars were dumped, down there?

A. I was not, no.

Q. Of coal, limestone, and so on?

A. I was not, no, sir.

Q. Were you ever down there during the time that the trains were interfered with, in going in and out of the plant?

MR. GROSSMAN: I object to that, Mr. Examiner.

TRIAL EXAMINER LINDSAY: Is this during the daytime? Did this happen—

MR. SMITH: I would not say that it was during the night or day. It happened at different times.

MR. GROSSMAN: I object, Mr. Examiner.

TRIAL EXAMINER LINDSAY: Oh, he may answer, objection overruled.

A. I was down there when they were—trains came up there, yes.

Q. And were you down there at the time that a blockade was put on the Baltimore and Ohio track of cross ties—

MR. GROSSMAN: Object to that.

MR. SMITH: Just wait until I get my question out, please, if you will permit me to state my question.

(The question was read by the Reporter.)

Q. That were put on in a cross position and chained to the track, when a train was trying to move in there?

A. The Baltimore and Ohio did not come down there.

TRIAL EXAMINER LINDSAY: I will sustain objection to that. There is no proof in the record that there was any blockade, so far, unless you are putting it in now.

MR. SMITH: No.

TRIAL EXAMINER LINDSAY: All right, we will sustain the objection.

MR. SMITH: I was asking him whether or not—

TRIAL EXAMINER LINDSAY: I ask you to refrain from further questions about the Baltimore and Ohio Railroad. We are not involved with that railroad.

Q. (By Mr. Smith) I understood you to say that you were down there at the time that trains were attempting to move in or out?

A. I was, yes.

Q. Were you down at the railroad property at that time?

A. I was not.

Q. Did you have your stick with you, whittling, while you were down there?

A. I don't remember whether I had the stick in my hand whittling. I talked to Mr. Lolly when he came up there; Baltimore and Ohio does not come up there.

Q. Yes.

A. That is not the Baltimore and Ohio Railroad.

Q. That is the Pennsylvania, is it?

A. That is the Pennsylvania Railroad, yes, sir.

Q. Yes; that is, that comes up at the blast furnace, did you say?

A. No, sir, comes up from Niles.

Q. I know, but where were you picketing?

A. I was picketing at the main entrance of the—at the entrance of the open hearth furnace on Pine Street.

Q. Oh, yes; well, does the Pennsylvania come into the plant at that time?

A. Yes, sir.

Q. Were there quite a number of other pickets there at that time?

A. There were, yes, sir.

Q. About how many would you say?

A. Oh, I would say there was maybe a hundred or 150 pickets around there, at that time.

Q. Now, in this conversation that you speak of, that you say is on July 24th that you had with Mr. Miller over at his house—wasn't that the date that you fixed that you went over to Mr. Miller at his house?

A. No, no.

Q. July 24th?

A. No, that was—well, yes, I did say that was about July.

Q. Yes.

A. That I was to his house.

Q. Now, that conversation took place down in the yard or in the street?

A. I was sitting in my car and Mr. Miller stood on the sidewalk, in front of his house, yes, sir.

Q. And you just inquired of him as to how things were going down at the plant?

A. I asked him how my job was.

Q. Yes.

A. I didn't inquire of him how things were—well, I says, "How are things going?" And he says, "We are working every day," he says, "the engines are all manned."

Q. Yes.

A. He volunteered that himself.

Q. And he told you to go to the employment office and register in?

A. He told me to go to the employment office and tell Mr. McCauley, the employment man, that I was ready to come back.

Q. Yes.

A. And then go home and wait until he called me when there was a vacancy, he would call me.

Q. Was that the extent of the conversation?

A. That was the extent of the conversation, yes, sir.

Q. Did you ever go register?

A. I did not.

Q. And from the 25th of May to the time on July 24th, is the first time that you had any conversation in regard to your job there?

A. I called his office previous to that. I did not contact Mr. Miller. I contacted his assistant, Jimmy Sweegan.

Q. But the first time that you talked with Mr. Miller and inquired about your job?

A. It is.

Q. You knew that the plant had been running for sometime, was open for employment prior to that time about a month, didn't you?

A. I knew that it was running, the way that it was running, yes.

MR. SMITH: I think that is all.

Redirect Examination

Q. (By Mr. Grossman) You say you called Mr. Miller's office one time before you talked with him?

A. Yes, I called the office once.

Q. Do you remember when that was, Mr. Carter?

A. Well, no, I can't just give you the date.

Q. Well—

A. It was—

Q. Do you remember how many weeks, before your meeting with Mr. Miller?

A. I would imagine that it was a couple of weeks before I contacted Mr. Miller, possibly longer than that.

Q. And you talked with his assistant, you say?

A. His assistant, yes, sir.

Q. Did you ask for your job, then?

A. I asked him how things were and he says, "Just fine," he says, "we have got the engines all full," he says, "everything is working lovely."

Q. Did you ask for your job then, too?

A. No, I didn't ask, because that was the assistant.

Q. Why did you call his office?

A. Why, I called to talk to Mr. Miller, and Mr. Miller was not in. He told me he was gone to the upper mill.

Q. You say Mr. Miller's assistant told you they were well equipped?

A. They were well equipped, yes, sir.

MR. GROSSMAN: That is all.

(Witness excused.)

ERNEST WEBB

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Grossman) Will you state your full name?

A. Ernest Webb.

Q. And your address?

A. 475 Ohio Avenue, N. W., Warren, Ohio.

Q. Are you an employee of the Republic Steel Corporation?

A. Yes, sir.

Q. What plant did you work at?

A. Warren plant.

Q. When did you start to work for Republic?

A. May 1, 1921.

Q. Did you work continuously then until the day of the strike?

A. I worked about 11 months at that time; quit and went back again on the 1st of May, 1922.

Q. You mean you resigned, at one period there, and you were out for a while?

A. Yes.

Q. How long were you out?

A. Oh, close to a month.

Q. About a month?

A. Somewhere near a month.

Q. And when you returned, were you asked to return?

A. Yes.

Q. You were asked by the company to return to work?

A. Yes, sir.

Q. What sort of work did you do, Mr. Webb?

A. I am an engine pump and air compressor repairman.

Q. On May 26th were you in the mill, the day the strike was called?

A. Yes, sir.

Q. What time did you leave the mill?

A. 3:30 in the afternoon.

Q. Was that the end of your turn?

A. That was the end of my turn.

Q. Are you a CIO member?

A. Yes, sir.

Q. When did you join?

A. About the 24th of May.

Q. Do you recall an association called the Employees Representative Plan, at the Warren Plant?

A. Yes, sir, I was a representative.

Q. You were a representative?

A. Yes, sir.

Q. Did you hold any other offices?

A. Well, being a representative, I was chairman of the No. 2 committee.

Q. Well, will you state for us exactly what offices you held and what years you held them?

A. Well, in 1935 I was elected chairman of the standing committee No. 2 and also the joint committee No. 2, and I was vice-chairman of the General Body.

Q. That is, the entire plant?

A. That is the entire.

Q. Were you a representative those years, too?

A. Oh, yes, you had to be a representative, to be an officer.

Q. What years were they?

A. 1933 to 1934; '34 to '35; '35 to '36.

Q. When was the first time you heard of the Employees Representation Plan, Mr. Webb?

A. Well, it was along the first or second week in June, 1933. I was notified to meet in Mr. Donovan's office, which is the hot mill office.

Q. Who is Mr. Donovan?

A. He is superintendent of the hot mill. That there was going to be a meeting there, but I was not told what kind of a meeting it was, but I just went in. Mr. Elliott was there, and explained to us about the representative plan.

Q. Who is Mr. Elliott?

A. At that time I think he was district manager of Warren.

Q. Mr. Elliott explained to you what the purpose of the plan was?

A. Yes, sir.

Q. All right, proceed.

A. There was several there, in fact, the place, the room was pretty well crowded, and he explained to us, he had a book, there, that—the one that we were to follow was very similar to it. It seemed to be imperative that we get this election started. We had to elect representatives from each department.

So out of this group he had picked men, I included, to see that the booths were erected for the election, ballot boxes put in their place, and things that were required in an election.

Q. When did you hold your nominations for these elections?

A. Well, the time being so close, we had to start that night at 11 o'clock. That would be the next day.

Q. You mean Mr. Elliott talked to you that morning, and that very night you held nominations for the elections?

A. As near as I can remember, yes.

Q. How soon after that were the elections held?

A. Well, your elections or nominations are held on Tuesday and the election is held on Friday.

Q. Was there notices posted about the plant that an election was going to be held?

A. Not at this time, no. We didn't have time.

Q. Where were the elections held?

A. Throughout the mill; the various departments, wherever we could get a place to put a booth.

Q. Were nominations held the same way?

A. Yes, the same place.

Q. When did you receive a copy of the by-laws for the first time, Mr. Webb?

A. Why, after we had met and organized, the books were brought in and distributed among us, and they were also distributed throughout the mill. There was some literature and a book of by-laws.

Q. Did you ever have an opportunity to vote on or prepare those by-laws, you or any other men in the mill?

MR. DAY: I object to the form of the question. I do not object to asking him what he did.

(The document above referred to was marked as Board's Exhibit No. 84 for identification.)

TRIAL EXAMINER LINDSAY: Read that question.

(The last question was read.)

TRIAL EXAMINER LINDSAY: I will sustain that objection. It is a double question.

Q. (By Mr. Grossman) The first time you got those, you received those by-laws, Mr. Webb, were they given to you in a printed form?

A. Yes, sir.

Q. Did you, yourself, have an opportunity to vote on those by-laws?

A. No, sir.

Q. I hand you Board's Exhibit No. 84 for identification and ask you if that is copy of the amended by-laws of the employees' representation plan of the Warren district?

A. That is right.

MR. GROSSMAN: I would like to offer this into evidence as Board's Exhibit No. 84.

MR. DAY: There is no objection to it. That is the same as the other, isn't it?

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 84 is admitted into evidence.

(The document previously marked for identification as Board's Exhibit No. 84 was received into evidence.)

MR. DAY: This says "Adopted June, 1933; amended 1934."

MR. GROSSMAN: Will you retract my statement to Mr. Webb, please?

(Thereupon the record was read by the Reporter.)

MR. DAY: You do not claim this is the book he got in the beginning, 1933?

MR. GROSSMAN: I specifically stated "amended".

MR. DAY: He did not say anything about getting the copy of the amended by-laws. He said he got a copy back in 1933.

TRIAL EXAMINER LINDSAY: Well, it is so now stated, so there is no use arguing about it.

MR. DAY: All right.

Q. (By Mr. Grossman) Were the men required to pay any dues in this employees' representation plan, Mr. Webb?

A. No, sir.

Q. Were there any membership cards that had to be signed in order to become a member?

A. No, sir.

Q. How did one become a member?

A. Just by voting.

Q. It was an automatic membership?

A. You were automatically under it when you came into the plant, when you were hired.

MR. DAY: I move that be stricken out, on the ground it is a mere conclusion.

TRIAL EXAMINER LINDSAY: Yes. I think that should be stricken out.

Q. (By Mr. Grossman) Did the employee representatives represent everybody in the plant on grievances, Mr. Webb?

A. Each 200 men had one representative throughout the plant.

Q. And each representative for the 200 men would represent them?

A. That is right.

Q. For grievances and other matters?

A. Yes, sir.

Q. You stated a while ago that the booths were set up for elections in the various departments. Do you know who provided those booths?

A. The company.

Q. The company?

A. Yes, sir.

Q. And I assume that in order to have an election you would have to have tellers and telephones and clerks and ballots, didn't you?

A. Yes, sir.

Q. And who supplied those?

A. The company.

Q. Was there an election board to take care of the election?

A. Yes, sir.

Q. How was it composed?

A. Well, that was what we called No. 1 committee. They looked after seeing that the payroll roster was set out so that the men could be checked. Looked after the booths, saw the ballots were all printed, and seen that the company tellers were all properly placed.

Q. Were you a member of that election board?

A. The first one—No.

Q. Any one?

A. No, never was a member of the election board.

Q. To your knowledge, were these men paid for the time that they spent on the election board?

A. Yes, sir.

Q. Paid by the company?

A. Yes, sir.

Q. At meal time were they supplied with food?

A. Yes, sir.

Q. If a man were not at the mill on election time, what opportunity would he have to vote?

A. If he did not care to come in himself, if he wanted someone, we could send someone out.

Q. Who would send someone out?

A. The representative.

Q. And they would bring him in?

A. Yes.

Q. And who paid for the representative's expenses?

A. The company.

Q. Did they pay him for mileage on his automobile, if he used one?

A. Yes, sir.

Q. Did they pay him for his time?

A. Yes, sir.

Q. Now, your first election was in 1933?

A. Yes, sir.

Q. Who was the first chairman of the plan?

A. Ed Mulligan.

Q. Ed Mulligan? Was he later re-elected the next year 1935?

A. In fact, he held all the way through.

Q. And in 1936?

A. Right.

Q. Do you know what Mr. Mulligan's job was before the 1933 election?

A. He was an armature winder.

Q. An armature winder?

A. Yes, sir.

Q. Do you know whether he continued being an armature winder? after he was elected chairman of the plan?

A. Oh, for possibly a week or ten days, and business piled up on him so that he didn't do much armature winding, so he—

Q. What did he do after that?

A. Well, he had to get himself an office so that he could handle the business.

Q. Where was his office?

A. Well, he took an office over in the—they had a small office where he worked in the armature shop, first. That didn't work out very good, so then he got one in the hot mill office, and then later moved to the hospital building.

Q. What business would he transact, in the offices?

A. Well, each representative being more or less green, they would bring their grievances into him and he would help them by taking them to the different foremen, straightening out their different employees' grievances.

Q. It was business connected with the employees' representation plan, was it?

A. Yes.

Q. And you stated that his last office was in the hospital building? Did he have that office there in 1936, at the 1936 election?

A. Up until, I would say, around about the 1st of May. Then he moved down to the master—

Q. 1st of May, what year?

A. '37.

Q. He had an office in the hospital building as late as May, 1937?

A. Somewhere around that, I would not say the exact date.

Q. Do you recall a conversation with Mr. Mulligan prior to the 1934 election?

A. Yes, I had been asked by several of the representatives to run for chairman of the General Body, which I refused to do.

MR. DAY: I want to object to this conversation on the ground there is no evidence that Mr. Mulligan had any authority to bind the respondent, or that the respondent had any knowledge of the conversation. If there are any conversations of a similar kind in the testimony of this witness, without repeating the objection, we would like a similar objection upon the same ground.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

A. So I told him what was underfoot, and I really believed myself that he was the best man for the job. So he said, "Well,"—using some of the superintendents to probably bring a little pressure and a little politics, why we will make out all right."

Q. What do you mean by "we will make out all right"?

A. He would make the chairmanship.

Q. Do you mean he would be reelected?

A. Right.

Q. Was there any general meetings held at which all of the men at the plant could attend or did attend?

A. No, sir.

Q. Will you explain what the General Body meetings were?

A. General Body meetings were all of the representatives in the plant, would meet.

Q. Each representative who represented 200 men would meet at these meetings?

A. Yes, sir.

Q. Where were these meetings held?

A. At the Trumbull Cliffs Furnace Office.

Q. Was that on company property?

A. Yes, sir.

Q. How often would these meetings be held?

A. Once each month there would be a meeting, and there would be—there is a joint meeting connected with it—one month the standing committee would meet and the next month the joint committee would meet. That is, with the superintendents. They called it a joint meeting.

Q. I don't quite follow, now. You would have a General Body meeting, you say, once a month?

A. Yes, sir.

Q. And then on alternate months you would meet with the company officials?

A. One month just the representatives met.

Q. Yes.

A. The following month the representatives and the superintendents would meet.

Q. You stated a while ago that Mr. Mulligan was the chairman. Who was the secretary?

A. Floyd Richards was one of the secretaries.

Q. Was he the secretary of the General Body?

A. Yes, sir.

Q. Were minutes taken at these meetings?

A. Yes, sir.

Q. Who took these meetings?

A. Mr. McClain's clerk or the one—the clerk from the hospital building.

Q. What was his name?

A. Forest Downes.

Q. Why would Forest Downes take the minutes? If

Forest Downes took the minutes, what did the secretary do?

A. Well, he usually signed his name.

Q. Were you supplied with minutes of every meeting?

A. Yes, sir.

Q. Were they mimeographed?

A. Well, they were in printed form. I suppose that is what you call it.

Q. Printed? Who signed those, do you know?

A. The secretary, that is Mr. Downes. He sent them out to us through the mail.

Q. Do you know who paid the expenses for the printing of them?

A. Well, it must have been the company. It couldn't have been anybody else.

Q. How would you receive them? Through the mail?

A. Yes, sir.

Q. You stated a while ago that you were chairman of standing committee No. 2 and chairman of joint committee No. 2. Will you explain who comprised the standing committee No. 2? Were they employee representatives?

A. Yes, sir.

Q. Exclusively?

A. Yes, sir.

Q. And joint committee No. 2, how was that composed?

A. That was the Employees Representatives and the company's representatives, mostly superintendents.

Q. How many members of each?

A. Five.

Q. Five employee representatives and five company representatives?

A. That is right.

MR. GROSSMAN: Board's Exhibit is marked for identification No. 85.

(The document above referred to was marked as

Board's Exhibit No. 85 for identification.)

Q. How often were standing committee meetings held, Mr. Webb?

A. Once every other month, alternate months.

Q. Joint committee meetings?

A. The same way.

Q. Alternate months?

A. Yes, sir.

Q. That is, you would have a standing committee meeting one month and a joint committee meeting the next month?

A. That is right.

Q. Were minutes taken at these meetings?

A. Yes, sir.

Q. Who would take the minutes at these meetings?

A. The same secretary, Mr. Downes.

Q. Mr. Downes?

A. Yes, sir.

Q. Mr. McClain's secretary?

A. Yes, sir.

Q. Who is Mr. McClain?

A. He was the company's representative.

Q. Do you know his official position in the mill?

A. No, I couldn't say just exactly what.

Q. But he was the company's representative under the plan?

A. Yes, he was the head of it.

Q. And these minutes, were they printed up in the same fashion as the General Body meeting?

A. The same thing, yes.

Q. Expenses, were they also paid by the company for the printing?

A. That is right.

Q. (Indicating) I hand you Board's Exhibit 85 for identification, and ask you if that is a copy of the minutes of a regular meeting of the Standing Committee No.

2 held at the Trumbull Cliffs meeting room on Tuesday, September 10, 1935?

A. That is right.

Q. That is a copy?

A. Yes, sir.

MR. GROSSMAN: I offer this in evidence as Board's Exhibit No. 85 (handing paper to counsel).

MR. DAY: We object to it on the ground that it does not tend to support any charge in the complaint, and has no relation to or bearing upon any issue presented in this case.

TRIAL EXAMINER LINDSAY: May I see that, Mr. Grossman?

(Mr. Grossman hands paper to the Trial Examiner.)

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

Board's Exhibit No. 85 is received in evidence.

(Exception by Respondent.)

(The document previously marked for identification as Board's Exhibit No. 85 was received in evidence.)

(A document was marked as Board's Exhibit No. 86 for identification.)

Q. (By Mr. Grossman) Mr. Webb, I direct your attention to Board's Exhibit No. 85, and direct your attention to the lower left-hand corner, and ask you whose initials are G. H. M. C. C.?

A. G. H. McClain.

Q. Is he the management's representative?

A. Yes, sir.

Q. What was the function of Standing Committee No. 2, Mr. Webb?

A. That dealt with the wages, working conditions of the men.

Q. Would grievances be presented to Standing Committee No. 2?

A. Whenever—the representative could not get satisfactory results from the foreman or superintendent, and the management's representative, he would then take it to No. 2 Committee.

Q. Will you explain the procedure when a grievance is presented, what happens to it after that?

A. The representatives had a form which he made out.

Q. (Indicating) I hand you Board's Exhibit No. 86 for identification and ask you if that is a form of grievance that you made out, and the form which is generally used?

A. That's the one.

MR. GROSSMAN: I offer this in evidence as Board's Exhibit No. 86.

MR. DAY: I object on the same ground as interposed to Board's Exhibit No. 85.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

Board's Exhibit No. 86 is received in evidence.

(Exception by Respondent.)

(The document previously marked for identification as Board's Exhibit No. 86 was received in evidence.)

Q. (By Mr. Grossman) Now then, Mr. Webb, you would take this form, you said, and fill it out?

A. Yes, sir, with the grievance.

Q. A form similar to Board's Exhibit No. 86?

A. Yes.

Q. Then will you take on from there, and tell us just what you would do?

A. That was taken to the foreman. The foreman would pass on it, and if he couldn't give you any answer we would take it to the superintendent; if he couldn't give you any answer, then you would take it to the management representative, and if you cared—both of you could go to the superintendent to try to effect a settlement; if not, you would take it to No. 2 Standing Committee, that is, providing—

Q. Now, just a moment.

Who would take this grievance to the superintendent and the foreman and the management representative, the employee representative or the employee himself?

A. No, the representative.

Q. The representative would take the employee's case up for him?

A. That's right.

Q. All right.

A. If it was a wage or working condition, it would be taken to No. 2 Committee, presented to them. They would then pass on it, and then they would meet, if it was necessary, they would pass it on, then it would be turned back after No. 2 Committee had met, and passed by it, they would take it then back to the management, and if you couldn't reach a settlement there, then it was taken to Joint Committee No. 2.

Q. When you say management before you get to the Joint Committee, is that Mr. McClain you would take it to?

A. No, that would be Mr. Elliott, and Mr Flynn, or any of those.

Q. The District Manager or the Plant Manager?

A. Yes. Then it would be taken into the Joint Committee, when there would be five superintendents and five employee representatives, and they would battle it out, and then a vote would be taken, and if the vote was tied, it would be then taken to the Appeals Committee.

Q. How was that Committee composed? How many members were ther on that Committee?

A. Well, there were five representatives and five superintendents, or management representatives.

Q. And if there was a tie vote at the Appeals Committee, what would happen to the request then?

A. Well, they were most generally dropped, there wasn't anything you could do after that.

Q. You stated that you were Chairman of Joint Committee No. 2?

A. Yes.

Q. To your knowledge, how many requests for wage increases were presented, during that time, that you were Chairman?

A. We had 17 wage requests.

Q. Was that during the time you were Chairman, or during the time you were also a member and Chairman?

A. That was during my three years.

Q. From 1933 to 1936?

A. Yes, two of them—we won two of them and lost 15.

Q. You said you had 17 requests?

A. Yes.

Q. And won two and lost 15?

A. Yes.

Q. Do you recall what the votes were on those 15 that were lost?

A. Five, five.

Q. Always a five to five tie?

A. Yes.

Q. Did you ever take those to an Appeals Committee?

A. Yes, nearly every one of them would go to the Appeals Committee.

Q. And what would happen then?

A. Well, they couldn't get any farther than we could.

Q. Would you get a five to five tie again?

A. That's right.

Q. Some time in 1934, do you recall an unusual occurrence at the time of a taking of a vote in Joint Committee No. 2?

A. It was during the early part of 1934.

MR. DAY: I would like to object to this on the same grounds as already stated.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

(Exception by Respondent.)

A. During the early part of 1934 we were in joint session, No. 2 Committee. Mr. Joe Slater, who was a superintendent at the blast furnace, was called to the telephone. While he was gone we discussed the matter at hand. He came back just as we were ready to take a vote. One of the superintendents stated the case very briefly to him, and we voted, and the vote was five-five.

Q. You mean, one of the Company representatives at the joint committee meeting was out during the discussion of this matter?

A. He was a superintendent.

Q. And the ultimate vote was five to five?

A. Yes, sir.

Q. Did you ever mention that to the Company officials?

A. Yes, sir.

Q. When was that?

A. In 1934, after June, 1934, when we were reorganizing the new Committees we wanted to strike out the Joint Committee, said that it was no good.

Q. You wanted to abolish the Joint Committee?

A. Yes.

Q. Go ahead.

A. And Mr. Flynn asked us not to do that.

Q. Who was he?

A. But first he wanted to know on what grounds, and I told him just what grounds there was to it, and this very case of Mr. Slater, and Mr. Flynn asked us to try it one more year, let him have a chance at it.

Q. Who was Mr. Flynn?

A. He was assistant to Mr. Elliott at that time.

Q. And Mr. Elliott was who?

A. He was the general manager.

Q. General manager?

A. Yes.

Q. And they asked you to keep the Joint Committee for another year?

A. Yes, sir.

Q. Did he say why he wanted you to keep the Joint Committee for another year?

A. No, not exactly, only to see if it couldn't be handled different.

Q. Now, at these meetings that you would attend for the Plan, will you just describe to us, Mr. Webb, how the time was computed that you spent at these meetings? Now, if you were on the three to eleven turn, and there was a meeting called at ten o'clock in the morning, and you left the mill, how would your salary be computed at the end of the two-week period?

A. Well—

Q. Would you punch a card, out, as you left the mill?

A. No, in case that you were working at the time the meeting was called, your time would continue on on your regular time card for eight hours, until the eight hours was up.

Q. And you did not have to punch your time out?

A. No.

Q. You just left the mill and went to the meeting?

A. That's right.

Q. And you would get credit for all the rest of your hours that were to run for your turn?

A. Yes, sir.

Q. In other words, if you left at ten you would get credit for seven hours after that?

A. Right.

Q. Or three hours, whatever it happened to be?

A. Right, and then if it would run over your turn, why, the Secretary took care of that.

Q. You say the Secretary; who was he?

A. Mr. Downs.

Q. Was he Secretary, or was he just the man that took the minutes?

A. Well, he was—he was not the Secretary to the general body; he was the man that done the work.

Q. And he would note the time you spent at these meetings?

A. Yes, sir.

Q. And then he would report back to the Company, would he, do you know?

A. Well, I don't know how he handled it, he probably—

Q. But you always got paid?

A. Oh, yes.

Q. For the time you spent at those meetings?

A. Correct.

(A paper was thereupon marked for identification as Board's Exhibit No. 87.)

Q. (Indicating) I hand you Board's Exhibit No. 87, Mr. Webb, and ask you if you have ever seen a copy of that form before?

A. Yes.

Q. You have?

A. I have.

Q. Will you explain what this form was used for?

A. Any time a man was off duty at the end of his turn, or possibly his day off, if he had any work to do in connection with the Plan, he made out one of those slips, had his superintendent sign it, and turned it into the office.

Q. And he would get paid for the time that he spent on this particular Employee Representation Plan business?

A. Yes, sir.

Q. After presenting this slip?

A. Yes, sir.

MR. GROSSMAN: I offer this as Board's Exhibit No. 87.

MR. DAY: No objection—I object on the same ground as the other documents, but none additional.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

Board's Exhibit No. 87 is received in evidence.

(Exception on behalf of the Respondent.)

(The document above referred to as Board's Exhibit No. 87 was received in evidence.)

Q. (By Mr. Grossman) Would you receive one pay check, Mr. Webb, or two?

A. If you had any overtime, you would receive two pay checks.

Q. Well now, if you worked in the mill 48 hours, eight hours of which were overtime, would you get two pay checks then?

A. No, if you just worked eight hours—you was only supposed to work 40 hours in the week.

Q. Well now, let us assume you worked 48 hours which was eight hours of overtime?

A. You would get eight hours on another check.

Q. On another check?

A. Correct.

Q. Do you know why that procedure was followed?

A. Well—

MR. DAY: I object to his conclusion as to why it was followed.

TRIAL EXAMINER LINDSAY: If he knows, he may answer.

MR. DAY: Exception.

MR. GROSSMAN: I withdraw the question.

Q. (By Mr. Grossman) Do you recall the annual conferences that were held under the Employees Representation Plan, Mr. Webb?

A. Yes, sir.

Q. Will you explain what they were?

A. It was a plan whereby all the representatives and men connected with the Representative Plan were invited to a dinner to discuss different angles of business.

Q. How often were these dinners held?

A. Once a year.

Q. Where were they held?

A. Ours was held at the Hotel Warner in Warren.

Q. At the Warner Hotel in Warren?

A. Yes, sir.

Q. Did you attend all of these dinners?

A. Yes, sir.

Q. One every year since the inception of the Plan?

A. Yes, sir.

Q. Did you ever pay for attending one of those dinners?

A. No, sir.

Q. Who paid for that?

A. Well, it must have been the Company.

Q. Now, you say you served until 1936 as a representative in the Plan, an employee representative?

A. Yes, sir.

Q. Did you resign then?

A. No, I just withdrew from an election.

Q. You did not seek re-election?

A. That's right.

Q. Why did you not seek re-election, Mr. Webb?

MR. DAY: I object on the ground it is immaterial as to why he did not.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

(Exception by Respondent.)

A. There had been some trouble in my department with one piece of machinery, and the superintendent, Mr. Donovan, of that department, went up in the air over it, because I was not there to take care of it.

So he called me in the office, and he didn't have to call me in the office, I was in the office, and he called me into his little room there, and explained that to me, and he explained it to me in such a way that my job, as a repair man, keeping equipment going, was more important to be—

MR. DAY: I object to "he explained it;" I think we are entitled to what he said.

TRIAL EXAMINER LINDSAY: Yes, state what he said, and what the conversation was.

THE WITNESS: He said: "You know that these stopping one of these engines is very expensive, and," he said, "if you can't get along without being a representative, then we will have to put someone in your place."

I didn't ask him whether I should resign or not, but he did say it would be better if I withdrew.

Q. (By Mr. Grossman) And after that you withdrew?

A. Yes, I left the office.

Q. Do you remember when that conversation occurred?

A. No, it was some time early in 1936, possibly in January.

Then I met Mr. Phillips, who was my superintendent, general master mechanic, and he said that Mr. Donovan had jumped all over him because I wasn't there to take care of the break-down, and he said: "Webb, if I have to," he says, "I will have to put another man on your job." I said: "Do you want me to resign as a representative?" He said: "I wouldn't say that, no."

Q. You were very active as a representative, were you, Mr. Webb?

A. Yes, sir.

Q. Mr. Webb, do you recall a visit to Mr. Mulligan's office on or about May 1, 1937?

A. Yes, I went into his office.

MR. DAY: I object to any conversation between him and Mulligan on the grounds already stated.

TRIAL EXAMINER LINDSAY: The objection is overruled, let the record show an exception.

(Exception by Respondent.)

A. I went into his office while he was in the act of mailing out votes, or ballots—Union cards, for this new Union that he was the head of.

Q. Did you see these letters or cards that were being mailed out?

A. Yes, sure.

Q. (Indicating) I hand you Board's Exhibits Nos. 79, 80 and 81, and ask you if those are copies of those cards, envelopes and letters?

A. That's right.

Q. They are copies of the letters that you saw mailed out from Mr. Mulligan's office?

A. Yes, sir.

Q. Where was this office?

A. In the hospital building.

Q. In the hospital building. Was Mr. Mulligan mailing them out himself, or did he have any assistance?

A. Well, at that time, Eddie Werner, the assistant to the employment bureau, was helping him.

Q. The assistant to the employment manager, you mean?

A. He is the man that does the employing there, Mr. McCullough.

TRIAL EXAMINER LINDSAY: I think we better take a short recess.

(Thereupon a short recess was had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

Q. (By Mr. Grossman) Who is Mr. McCullough, Mr. Webb?

A. He is the employment man.

Q. Employment manager, or man?

A. Well, he looks after the hiring of the men.

Q. And Mr. Werner is his assistant?

A. Yes, sir.

Q. And Mr. Werner was in Mr. Mulligan's office, as you testified?

A. Yes, sir.

Q. Will you tell us just what you saw?

A. Well, he was folding those letters, and cards, putting them in envelopes, and sealing them.

Q. Did you have any conversation with Mr. Mulligan at that time?

A. I asked him about—

MR. DAY: I object to this, on the same ground, there is no evidence that Mr. Mulligan represented the Respondent, or knowledge on the part of the Respondent, or any authority shown in Mr. Mulligan to represent the Respondent.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

(Exception by Respondent.)

A. I asked him how many he had to mail. He said about 5600. I asked him who was going to pay for them. He said he thought he could get the money out of the Athletic Fund.

Q. Do you know how the Athletic Fund—what it is composed of, where was the money to come from?

A. Through sports, different things that were held, picnics, one thing and another.

Q. When you say sports, do you mean ball games, and things of that kind?

A. Baseball, basketball, different things of that kind, and bowling.

Q. These games, where were they held?

A. The ball games were held on the Company ball grounds.

Q. On the Company ball grounds?

A. Yes, sir.

Q. And the gate receipts were put into this Athletic Fund?

A. That's right.

Q. And the Company owned the ball ground property?

A. Yes, sir.

Q. Was that property ever rented out for other purposes, do you know?

A. The Committee that had charge of the Athletics used to rent it out to different parties that wanted to play ball, and different things.

Q. And the moneys from those rentals also went into the Fund?

A. Yes, sir.

Q. And that is the Fund that Mr. Mulligan was referring to?

A. Exactly.

Q. Will you proceed then?

A. So, why, I had left him there at that time, didn't see anything more of him for a week, about it.

Q. After that, do you recall a talk with Mr. McKinney, some time about May 12th?

A. Yes.

Q. Will you state what that was?

A. I was in Mr. McKinney's office.

Q. Who was Mr. McKinney?

A. He was the chief steam engineer, and—

MR. DAY: I object to this conversation on the same grounds as already stated to similar conversations.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

(Exception by Respondent.)

A. (Answer resumed) And Mr. McKinney said: "Do you know that none of your men out there, or none of our men," he said, "has signed those cards?"

Q. Was he referring to this card, Board's Exhibit 79, Mr. Webb (showing paper to witness)?

A. That's the one.

Q. He was referring to that?

A. Yes. I said: "How do you know?" "Why," he said, "Mulligan told me." I said: "What business did he have telling you?" I said: "This is supposed to be a secret order." "Well," he said, "I don't know," he says, "it is putting me on the spot," he says, "you will have to go out and talk to them, talk to these men." He said: "You are a free lance, you get around all over the plant."

Q. Talk with the men of the plant, you mean?

A. Yes. I said: "Not me." I said: "You know that the Wagner Bill has been passed." "Well," he said, "who can we get?" "Well," I said, "how about getting Mulligan himself?" "Well," he said, "you might see him."

So at that time his office had been moved from the hospital building to a room in the master mechanic's office, where we were talking, and upstairs. So I went upstairs to see Mr. Mulligan, and he wasn't in at that time. So I saw these cards, in a rack on the desk.

Q. The cards that you are referring to now, again, are Board's Exhibit 79 (showing paper to witness)?

A. That's right.

Q. Is that a copy of those cards?

A. That's right.

While I was still waiting, Mr. Frank Neale, General Master Mechanic Assistant, came up and went through several of the cards, looked them over.

Q. He looked through these membership cards?

A. Right.

Q. In the files of Mr. Mulligan's office?

A. That's right. Mr. Mulligan came up and I talked to him, but while I was talking to him then, Mr. Lowry, the general master mechanic's chief clerk, came into the office with a handful of those ballots that had been collected somewhere, or cards.

Q. They were all filled out, were they, these cards?

A. I couldn't say. He put them in this same box, placed them around.

Q. Did anything else happen in that room while you were there?

A. Nothing more than Mr. Mulligan wouldn't go and talk to these men, he said.

Q. He would not go and talk to them?

A. No, sir.

Q. Did you see Mr. McKinney again after that?

A. I met him in the boiler house, in the foreman's office of the boiler house.

Q. When was that, do you remember?

A. Well, that was just two or three days before the strike; I am not sure whether it was Monday afternoon or not.

Q. Did you talk with Mr. McKinney then?

A. I did.

Q. Will you state for the record what the substance of that conversation was?

MR. DAY: The same objection, on the same ground.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

(Exception by Respondent.)

A. Why, he explained that he was in a very tough spot, owing to the fact that the men in our—under his supervision, had not returned these cards, and the other departments had, he claimed, but so far he had been unable to get any from our division, and was trying to figure out some way that it might be done.

Q. When you say the men under Mr. McKinney's supervision, was he a foreman or a superintendent?

A. Well, he would be a superintendent.

Q. A superintendent?

A. Yes, sir.

Q. Did you ever meet Mr. McKinney after that?

A. Yes, I was in a meeting with him on the day that the strike was called.

Q. What meeting was that? Who attended that?

A. Well, we were all ordered into the master mechanic's meeting room, which was in the basement of the building, and records were taken of what each man could do, and they were preparing for a strike, and they wanted to man the plant.

Well, after this meeting was over we went upstairs in Mr. McKinney's office, and he—each one was to make out a list of the names of the men that they thought would stay, stay in the plant. So I told him that—I said: "Any maintenance man," I said, "can get a pass."

MR. DAY: Same objection to this conversation.

TRIAL EXAMINER LINDSAY: Is this conversation with whom?

MR. GROSSMAN: With Mr. McKinney.

THE WITNESS: Yes.

TRIAL EXAMINER LINDSAY: You say Mr. McKinney is a superintendent?

MR. GROSSMAN: He is in the capacity of a superintendent, I think it has been testified.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

(Exception by Respondent.)

Q. (By Mr. Grossman) Go ahead.

A. He wrote down the list of names that he thought might stay. I said that it wasn't necessary, that they could get a pass to go through the picket line in case there was a strike, if they didn't intend to run the plant.

He said: "We intend to run this plant," and I said: "You can scratch them all off." "Why?" I said: "Because they all belong to the C. I. O."

Q. Well, was it the purpose of that meeting—did they tell you at that meeting that you were to tell these men that they could stay in the plant?

A. Yes, that—that they could go home and get their clothes and come back in and stay in the plant, that they would be fed and bedded.

Q. You mean that they could go home before their turn was up that day, and come back?

A. Well, as quick as they could, yes.

Q. That was the day of the strike?

A. That was the day of the strike.

Q. Mr. Webb, I hand you Board's Exhibits No. 86 and 87 and ask you whether they were furnished by the Company (handing papers to witness)?

A. Yes, sir.

MR. DAY: What are 86 and 87?

MR. GROSSMAN: Time sheets, and the grievance form.

MR. DAY: Oh, all right.

Q. (By Mr. Grossman) Now, reverting for a moment to the time when you were in Mr. Mulligan's office, and you saw those letters being sent out,—those letters, were they copies of Board's Exhibits Nos. 79, 80 and 81?

MR. DAY: Same objection.

A. Yes, sir.

TRIAL EXAMINER LINDSAY: The objection is overruled.

Let the record show an exception.

(Exception by the Respondent.)

Q. (By Mr. Grossman) The Athletic Fund, under whose supervision was that maintained and controlled?

A. Well, they had a committee that they picked out of the general body.

Q. That was an Employees Representation Plan Committee?

A. Yes, sir.

MR. GROSSMAN: That is all with this witness.

Cross Examination

Q. (By Mr. Day) When did you decide to join the C. I. O.?

A. About 30 years ago.

Q. About 30 years ago?

A. Yes, sir.

Q. Was the C. I. O. organized then?

A. No, sir, but that was my idea of a Union.

Q. Well, when did you decide to join this specific C. I. O.?

A. Well, I hadn't really decided not to join it, but I hadn't been presented with an application.

Q. Now, you joined on the 24th of May?

A. Yes, sir, about that time.

Q. Just a day or two before the strike?

A. That's right.

Q. When did you decide in your own mind that you were going to join?

A. Oh, I don't know.

MR. GROSSMAN: I object.

TRIAL EXAMINER LINDSAY: Yes, the objection is sustained.

MR. DAY: Well, I think it is fair to show that this man was around with the officers of the Company all the time, and I want to show whether he was under cover C. I. O. all the time.

TRIAL EXAMINER LINDSAY: He joined May 24th, he testified. It does not make any difference whether he intended to join 40 years ago.

MR. DAY: We think that if he was actually—

TRIAL EXAMINER LINDSAY: I sustain the—

MR. DAY: —C. I. O. 30 days before, it does make some difference.

TRIAL EXAMINER LINDSAY: I sustain the objection.

MR. DAY: Note an exception.

TRIAL EXAMINER LINDSAY: All right.

Q. (By Mr. Day) You joined the C. I. O. the 24th of May, the mill closed down—or the strike was called when?

A. I think about 11 o'clock on the 26th.

Q. And you belong to the lodge at Warren, C. I. O.?

A. Yes, sir.

Q. What is the name of it?

A. Unity 1375.

Q. Are you an officer of it?

A. I am now, yes.

Q. What office do you hold?

A. I am the Chairman.

Q. Chairman of it?

A. Yes.

Q. Is that the highest office there is in it?

A. As far as I know.

Q. Are you also a member of a Committee of Seven?

A. Yes, sir—not seven exactly.

Q. Well, how many are there left?

A. Six.

Q. What is that Committee?

A. They direct the strike activities, look after the business of it.

Q. How long have you been a member of that Committee?

A. Since—oh, it is about four weeks after the strike started.

Q. When was it you were elected President of the Lodge?

A. I would say about the 1st of July.

TRIAL EXAMINER LINDSAY: It is Chairman of the Lodge.

MR. DAY: Chairman of the Lodge.

Q. (By Mr. Day) Why was the Committee reduced from seven to six?

A. Why, Mr. Malloy was sent to Youngstown, the Youngstown District, and I took—

Q. Now, you say you were Chairman of the Lodge, and you were a member of the Committee of Seven?

A. Yes, sir.

Q. Was Gus Hall a member of the Committee of Seven at that time?

A. Not while I was—while I have been on.

Q. Was he before that?

A. I don't know.

Q. And you have been active on the picket line during the strike?

A. Yes, sir.

Q. And you have been engaged in directing the pickets and directing the strike generally, is that right?

A. I was a captain.

Q. As a captain?

A. Yes, sir.

Q. Do you know anything about dynamiting a railroad track between Niles and Warren?—

MR. GROSSMAN: I object.

Q. (By Mr. Day) —by the strikers?

TRIAL EXAMINER LINDSAY: The objection is sustained, unless you show that the railroad tracks belonged to the Republic Steel Company.

MR. DAY: Well, they did not belong to the Republic Steel Company, but they were transporting—

TRIAL EXAMINER LINDSAY: Well, I— the objection is sustained.

MR. DAY: — freight and merchandise in and out of the Republic Steel Company.

TRIAL EXAMINER LINDSAY: The objection is sustained.

MR. DAY: Note an exception.

TRIAL EXAMINER LINDSAY: Exception noted.

Q. (By Mr. Day) Do you know anything about rails being pulled up?

A. No, sir, that was not in my area.

Q. What?

A. I wasn't in that—on that side of the fight at all.

Q. You were not in that side?

A. No.

Q. Did you know about railroad tracks being plugged with ties attached to the rails?

A. I have heard about it, but I didn't see it.

Q. You had heard about it?

A. Yes.

Q. Do you know about cars of coal and limestone being dumped by the strikers?

MR. GROSSMAN: I object, Mr. Examiner.

TRIAL EXAMINER LINDSAY: The objection is sustained.

There is nothing in the evidence, so far, to show that any of those things have happened.

MR. DAY: No, there could not be any evidence so far, it is cross-examination of the witness. I asked him if he knows anything about it. How could we put our case in before they put their case in?

TRIAL EXAMINER LINDSAY: Well, you have your own witnesses to bring in.

MR. DAY: Well, I think we have a right to cross-examine this man. I asked him if he knows anything about it.

TRIAL EXAMINER LINDSAY: Well—

MR. DAY: He was captain of pickets.

TRIAL EXAMINER LINDSAY: Let us not—

MR. DAY: Chairman of Lodge, and on a Committee of Seven that ran the strike.

TRIAL EXAMINER LINDSAY: Mr. Day, I have given you a lot of leeway on cross-examination.

Now, the railroads do not belong to the Republic Steel Company, and you are not representing the railroads in this action. Now—

MR. DAY: Well now, as an answer to that—that's true—

TRIAL EXAMINER LINDSAY: Now—

MR. DAY: —but the railroads were transporting—

TRIAL EXAMINER LINDSAY: All right.

MR. DAY: —merchandise in and out of the plants of the Republic Steel Corporation.

TRIAL EXAMINER LINDSAY: The objection is sustained to that line of questioning.

Now, if you have your case built up on those things, you may bring it in to show it, when it is proper, at that time.

MR. DAY: Exception.

Q. (By Mr. Day) Do you know anything about delivery of mails to men inside the plant, of the Republic Steel Corporation, being held up by the strikers?

MR. GROSSMAN: I must object again, Mr. Examiner.

TRIAL EXAMINER LINDSAY: No, I will overrule that objection.

Let the record show an exception.

(Exception on behalf of the Board.)

Q. (By Mr. Day) Do you know anything about that?

A. No, sir.

Q. Did you ever hear that that was done?

A. I saw it in a paper, yes.

Q. You saw it in the papers?

A. Yes, sir.

Q. Now, did you take any steps to investigate to find out who was doing it, among the strikers?

A. No, sir.

Q. None at all?

A. No.

MR. GROSSMAN: I object, Mr. Examiner; there is no evidence to show there was any duty on his part to investigate any of those things.

MR. DAY: Well, he was Chairman of the Lodge.

TRIAL EXAMINER LINDSAY: Well—

MR. DAY: He was on a Committee of Seven.

TRIAL EXAMINER LINDSAY: I will overrule the objection.

Let the record show an exception.

(Exception on behalf of the Board.)

MR. DAY: Read him the question.

(Last question and answer read.)

Q. (By Mr. Day) Did you know that the strikers were shooting at airplanes that were bringing food into the airport at Warren and Niles?

A. No, sir.

Q. Did you ever hear that they were?

A. I did.

Q. Did you take any steps to investigate to find out whether it was true or not?

A. No, sir.

Q. Why did you not?

A. Because I was not Chairman of 1375 at that time; I was only an ordinary member.

Q. You were only an ordinary member?

A. Yes, sir.

Q. Well, after you became Chairman, did you take any steps to find out?

A. There wasn't anything happened.

Q. Well, after you became Chairman, did you take any steps to find out whether members of your Lodge had done those things before you became Chairman?

A. No, sir.

Q. Well, who was Chairman before you were elected?

A. F. A. Hosterman.

Q. F. A. who?

A. Hosterman.

Q. What happened to him?

A. He resigned.

Q. When did he resign?

A. I don't know,—about the 1st of July, some time.

Q. Do you know anything about the strikers, the members of your Lodge, visiting the homes of employees working down at the plant at Warren, and threatening to blow up the homes if the men did not stop working?

A. No, sir.

Q. Did you ever hear that was done?

A. In a conversation with—we call him Peg Amberson—I don't know what his first name—

Q. Peg who?

A. Amberson.

Q. Peg Amberson?

A. Yes.

Q. Who is he?

A. He is an employee of the Republic Steel.

Q. Did he tell you something along that line?

A. He said that he was going to.

Q. He said he was going to what?

A. He was going to call up—he wanted to get certain men out of the mill, he was out then himself, and that he would—he knew how to get them out, that he would go and tell their wives that if they didn't come out of the mill, didn't get them out of the mill, why something might happen, he didn't say what.

Q. Well, were you Chairman of the Lodge when Judge Griffith granted the injunction against the strikers?

A. No, sir.

Q. Well, you were President of the Lodge while that injunction was still in force, were you not?

A. Well, it is still in force now.

Q. Right now?

A. Yes, sir.

Q. Yes. Did you know anything about what happened to a man named Musgrove who was an employee of Republic Steel Corporation?

A. No, sir.

Q. Did you ever hear what happened to him?

A. (Witness shakes head negatively.)

Q. How?

A. Not that I know of.

Q. Did you ever hear of the legs of his pants being cut off, and his shirt being cut off, and grease being smeared on his face?

A. No, sir.

Q. Never heard about that?

A. Didn't hear about it at all.

Q. Do you know that pickets out on the picket line were carrying ball bats?

A. Yes, sir.

Q. You knew that?

A. That's right.

Q. And you knew that was—you approved that, did you?

A. I didn't see any objection to it, no.

Q. Well, can you give the Examiner some idea how many ball bats these pickets were carrying?

A. No, I couldn't.

Q. You could not see any objection to that?

A. They were not ball bats altogether, maybe there was one or two or three ball bats, that is, small ones. The rest were more or less sticks, or something of that sort.

Q. But you could not see any objection to the ball bats?

A. No.

Q. Was that before Judge Griffith made his order or afterwards?

A. Before.

Q. Did you know that some of the pickets were also carrying billiard cues, or parts of billiard cues?

A. I didn't see any of those, no.

Q. They were carrying sticks?

A. Yes.

Q. And carrying clubs?

A. I don't know as I saw but one that I would call a club, and that was more like a pole.

Q. More like a what?

A. More like a pole. A fellow was five foot tall, and he had a pole about seven foot long.

Q. What was he doing, the five foot man with the seven foot pole?

A. Walking on the road.

Q. Walking on the road?

A. Yes, he was picket on the road.

Q. Did you see him swing it at anybody?

A. No, he was using it as a cane.

Q. As a cane?

A. Well, that is the only way he could handle it.

Q. Did you see any man with pipes?

A. I had one throwed at me one night, off the hot metal bridge, if that is what you mean.

Q. Did you see any pickets with pipe?

A. No, sir.

Q. Did you see any of the pickets with anything metal in their hands?

A. No, sir.

Q. How many pickets did you see at one time, out on the picket line?

A. Oh, I imagine scattered out, there was probably about 100 or 125.

Q. And you know that the pickets kept a couple of thousand men in one of the rolling plants for weeks, don't you?

A. We didn't keep them in.

Q. Oh, you didn't keep them in there?

A. No, sir.

Q. If they had come out, you would have let them go right by, wouldn't you?

A. We even took them home.

Q. Oh, you would have taken them all home?

A. We did.

Q. Oh, yes?

A. It is a fact.

Q. Do you mean to say under oath that during that strike at Warren, when your pickets were out in front of that plant, that if the men had tried to get out—

A. Yes, sir.

Q. —and go home, you would have just escorted them home?

A. We did.

Q. How many—

A. We never—I took three home myself, one morning. They walked out of the plant.

Q. And do you mean to say that your general policy was that if the men had tried to walk out of the plant, that the pickets would not have tried to stop them?

A. That is right.

Q. They would not have tried to stop them?

A. No, sir, not where I was on.

Q. Well, you know the injunction was against doing that very thing, don't you?

A. Yes, sure.

Q. Yes.

TRIAL EXAMINER LINDSAY: Off the record.

MR. DAY: Exception.

Q. (By Mr. Day) Now, coming to this Representative Plan, you were an officer, vice-chairman of it, weren't you?

A. Yes, one term.

Q. For one term?

A. Yes, sir.

Q. Starting when?

A. June, 1935.

Q. And were you a representative before that?

A. Yes, sir.

Q. How long were you a member of the General Council?

A. Well—

Q. —or General Body?

A. Always. As long as you are a representative you are a member of the staff.

Q. But you were a member from the time it started?

A. Yes, sir.

Q. Until the strike?

A. No, June, 1936.

Q. June, 1936?

A. Yes, sir.

Q. Then in June, 1936, you had a talk with some man. what was his name, about your not running again?

A. Oh, not with anybody about not running again.

Q. Well, about that if your being on the General Body interfered with your work—

A. That was Mr. Donovan, the first one.

Q. He stated to you, as I understood you, and if I am not right, you correct me—that he thought that perhaps your giving your time to the plan interfered with your work, is that right?

A. Yes, sir, that is right.

Q. And suggested that if that were true somebody else should take your place?

A. Yes, sir.

Q. Now, that was Donovan told you that?

A. Yes, sir.

Q. And that was sometime in '36?

A. Yes, sir, the early part of '36.

Q. Now, at that time had you had some trouble with some machinery or something of that kind?

A. Well, it was just a few days before that, they had

had some trouble with one of the engines and I was not there.

Q. And you were not there?

A. That is right.

Q. Well, now, was that one of the engines that was under your supervision?

A. Yes, sir.

Q. What was your job out there, by the way?

A. I looked after the engines, the repair work of all the engines and pumps and air compressor, anything in that line.

Q. Now, then, you don't mean locomotive engines?

A. No, sir.

Q. You mean factory engines?

A. That is right.

Q. Stationary engines?

A. Stationary engines.

Q. And that you didn't run? You didn't run the next time?

A. No, sir.

Q. Now, the first time—

TRIAL EXAMINER LINDSAY: Now, just a moment, you mean run for election?

MR. DAY: Run for election, yes.

TRIAL EXAMINER LINDSAY: Get that in the record, so we will remember what it is about.

MR. DAY: Well, I was not suggesting that he was just running away from anything. Running, in the sense of being a candidate, like a man runs for Congress, for instance.

Q. (By Mr. Day) Now, starting out at the beginning, there was an election held in your department, wasn't there?

A. Yes, sir.

Q. And there were nominations, first?

A. Yes, sir.

Q. And then there were elections?

A. Yes, sir.

Q. And how many men were nominated, to begin with?

A. There was—oh, you mean on the first ballot?

Q. Yes.

A. There was two nominated for each representative, to be elected.

Q. That is, there were twice as many nominations as there were officers elected?

A. Yes, that is right.

Q. And then after the nominees were chosen, then they had an election and picked out the officers, is that right?

A. Well, after the nominations—I don't understand you.

Q. After they had nominations, say ten were nominated?

A. Yes, sir.

Q. Then five were elected?

A. Yes.

Q. Out of the ten that were nominated?

A. Yes, sir.

Q. And you were one of those at the beginning?

A. Yes, sir.

Q. Now, when did you become vice-chairman of the whole general body of your plant there?

A. In the five days after the election, we was to hold a General Body meeting of all the representatives.

Q. And Mulligan was—

A. He was the chairman.

Q. He was the chairman, and you were next to Mulligan?

A. Yes, sir.

Q. And the men that wanted to vote, voted, is that right?

A. You mean in the General Body?

Q. In the General Election, first?

A. Oh, yes, the men that wanted to vote, voted.

Q. Then the General Body ran the affairs afterwards?

A. That is right.

Q. And you had an election of that kind each year?

A. Yes, sir.

Q. And there was a nomination each year?

A. Yes, sir.

Q. And the men voted in election booths, didn't they?

A. Yes, sir.

Q. Now, then, you attended meetings of the General Body, is that right?

A. Yes, sir.

Q. And they met once every two months?

A. They were—

Q. Or once a month?

A. The representatives alone went every two months.

Q. And the representatives met with the company representatives how often?

A. Every two months.

Q. On alternate months?

A. Yes, sir.

Q. And generally there was a discussion of matters pertaining to the mill and so forth?

A. Yes, sir.

Q. At those meetings?

A. That is right.

Q. Now, how many members were there on the General Body, that met with the company representatives?

A. Oh, 33 or 34 or 35, if I recall.

Q. How many company representatives?

A. About the same number.

Q. About the same number?

A. Yes, sir.

Q. You were also a chairman of the committee, standing committee No. 2?

A. Yes, sir.

Q. And standing committee No. 2 was what is ordinarily known as the grievance committee?

A. No, that was wages.

Q. Wages?

A. Working conditions.

Q. Yes, and then the standing committee was composed only of—

A. Employees.

Q. Employees?

A. That is right.

Q. And the joint committee was composed of employees and company men?

A. Yes, sir.

Q. Five of each?

A. Yes, sir.

Q. Now, you stated that the minutes of the General Body minutes, or maybe I misunderstood you, perhaps it was the minutes of the No. 2 committee, were taken down by Forest Downes?

A. That is right.

Q. Now, which minutes were taken by him?

A. All of them. All minutes were taken by Mr. Downes.

Q. Isn't it a fact you employees who were on that committee asked Mr. Downes to take down the minutes?

A. That is right.

Q. You asked him?

A. That is right.

Q. And do you know whether or not he was sworn to secrecy?

A. No.

Q. But, in any event, you men employees asked Forest Downes to take down the minutes?

A. That is right.

Q. And then he took them down?

A. Yes, sir.

Q. And then after he took them down they were mimeographed by the company?

A. Yes.

Q. And mimeographed copies were sent out to the members of the General Body, is that right?

A. That is right.

Q. To all members of the No. 2 committee?

A. Well, we were all members of the General Body.

Q. Did Forest Downes take the minutes of the General Body and the No. 2 Committee, both?

A. Yes, sir.

Q. Now, you say there were about 17 wage increase matters presented to the Joint Committee No. 2?

A. That is right.

Q. And about fifteen were approved and two—two were approved and fifteen lost out?

A. That is right.

Q. Isn't it a fact, however, that there were wages increased and adjusted from time to time?

A. Yes, sir.

Q. Before the matter ever got to the Joint Committee?

A. That is right.

Q. And some increases were granted, sometimes?

A. Well, they were settled out of the committee.

Q. That is, some increases were granted or adjustments were made?

A. Yes, sir.

Q. Now, will you just tell the Examiner how that happened?

A. Well, when the superintendent could see where he could go ahead and do this, he went ahead to save any—he didn't want it to go into the committee if he could help it.

Q. Now, let's start out, suppose you men wanted an increase in your department, let's say. Now, that was put up to the employer's representative, first?

A. No, the superintendent.

Q. And who put that up to the superintendent?

A. Well, the representative of the group.

Q. Of that group?

A. Yes.

Q. Put it up to the superintendent? And the superintendent says, "All right, I will grant it," or, "We will adjust it." That was the end of it many times, wasn't it?

A. That would be the end of it, yes.

Q. And that happened, many times?

A. I think it did.

Q. Yes, sir. Now, if the superintendent said, "No, I can't do that," then where did it go next?

A. Then it would go to the management's representative, he would usually take you and go back and see if he couldn't make some adjustment with the superintendent.

Q. Sometimes were there adjustments made, after the management representative went down with the employees' representative to the superintendent?

A. I believe there was.

Q. Sometimes there were?

A. Yes.

Q. Now, if it was not o. k'd. by the superintendent or management representative, then it went to this committee, didn't it?

A. That is right.

Q. And then there were five men employees, and five of the company men?

A. Yes, sir.

Q. And they voted?

A. That would be in Joint.

Q. And many times it was five to five?

A. That is right.

Q. The men voted for the increase and the company men voted against it?

A. Yes.

Q. So that, Mr. Webb, this machinery of having this committee, was nothing more nor less, was it, than a method by which men wanting an increase in wages or adjustment of wages could present their application to the company and have the company act on it? That is what it was, wasn't it?

A. Yes, that is the way it worked.

Q. And this machinery was worked out for that purpose, wasn't it?

A. That is right.

Q. During the strike, when the pickets were out there, if any man had tried to get through the picket line and get into the plant, what would have happened, unless he had a pass or something of that kind?

A. Well, I never saw one try to go through the picket line.

Q. You never saw one try it?

A. No, sir.

Q. Do you know anything about a man named Burns coming out of the mill and being beaten up by the strikers?

A. No, sir.

Q. Did you hear anything about that?

A. No, I didn't.

Q. Never heard of that?

A. No.

Q. These annual dinners that you talked about were simply a getting together once a year of the employees who belonged to the General Body, with the officers of the company, isn't that right?

A. That is right.

Q. You met once a year, you had something to eat and so forth, and as you know, the company paid for it?

A. Yes, sir.

Q. Well, now, you didn't see anything particularly wrong with that yourself, did you?

A. No, I didn't see anything wrong with it.

Q. You said something about Eddie Werner having something to do with new union cards?

A. Yes, sir.

Q. Do you know who paid Eddie Werner for that work?

A. No.

Q. You don't know?

A. No, sir.

Q. And this athletic fund that was to be used to start up the new union or to do some printing or something, was money that was collected from baseball games and basketball games and renting the ball park and things like that?

A. That is right.

Q. Of the Employees Plan?

A. Yes, sir.

Q. This Peg Amberson that you told us something about, was he on the picket line for a time?

A. No, not that I know of.

Q. And as I understand you, you testified that he told you that he was going to call—or he was going to the families of some men in the mill? You tell me again about that.

A. He said that there was a couple of men in the mill that wanted out.

Q. Yes.

A. And he knew that he could call their wives and tell them to get them out of there or something might happen. He thought that would work.

Q. Well, do you know, Mr. Webb, whether or not—have you any knowledge on the subject whether or not Peg Amberson did ever call any of the families and tell them that?

A. No, sir.

Q. You don't know? A. No, sir.

Q. You just know what Peg said?

A. That is all.

MR. DAY: I think that is all.

(Discussion held off the record.)

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Vol. IV

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 14

REPUBLIC STEEL CORPORATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD AND
STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 7, 1940.

CERTIORARI GRANTED MAY 20, 1940.

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Redirect Examination

Q. (By Mr. Grossman) Mr. Webb, this Peg Amberson you were referring to on cross examination is an employee representative of this plan, the employees' representation plan?

A. Yes, sir.

Q. Is he now working in the mill, do you know?

A. I don't know, I haven't seen him.

Q. You stated also you were hit by some pipe?

A. No.

Q. You stated something about some pipe during the cross examination?

A. I think the question was asked if I saw any pipe. I said a piece had been thrown at us from the hot metal bridge.

MR. DAY: That is what he said.

Q. Will you explain that? This hot mill bridge, is that on company property?

A. That is the hot metal bridge, is over Main Street. That is, from the blast furnace to the open hearth.

Q. Well, is that on company property?

A. Yes, sir, that is a company bridge.

Q. There were not any pickets up on that bridge, were there?

A. No, sir.

Q. That pipe was thrown at you and several others, from that bridge?

A. Thrown at the pickets.

MR. GROSSMAN: That's all.

MR. DAY: That's all.

TRIAL EXAMINER LINDSAY: That's all, Mr. Webb.

(Witness excused.)

ELI PARKOVICH

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Grossman) What is your full name, Mr. Parkovich?

A. Eli Parkovich.

Q. What is your address?

A. 2484 Burton Street, S. E., Warren, Ohio.

Q. Are you a member of the CIO?

A. Yes, sir.

Q. When did you join CIO?

A. May 13.

Q. May 13, 1937?

A. Yes, sir.

Q. Do you remember May 12th?

A. Yes, sir.

Q. 1937, in the mill, talking to Mr. Michels, the general labor foreman?

A. Yes, sir.

MR. SMITH: Mr. who?

MR. GROSSMAN: Michels.

MR. SMITH: How do you spell that?

MR. GROSSMAN: M-i-c-h-e-l-s.

Q. Will you tell us, Mr. Parkovich, just what happened then?

A. Just when I come at work May 12th, 11 o'clock at night.

MR. DAY: I want to object to this conversation on the grounds already stated in the record, to similar conversations, no authority to bind the company.

TRIAL EXAMINER LINDSAY: You said "general foreman"?

Q. Mr. Michels, what is his position in the mill?

A. He is general foreman, assistant superintendent.

Q. He is assistant superintendent?

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

A. When I come at May 12th, 11 o'clock on my turn, and Mr. Michels and labor representative was sitting in his office waiting on me coming.

Q. Who was the employee representative in Mr. Michels' office?

A. Glen Helen.

Q. Glen Helen and Mr. Michels was sitting in his office?

A. Yes, sir.

Q. When you got back?

A. Yes, when I come in.

Q. Had they sent for you?

A. Yes.

Q. Who sent for you?

A. Why, he was in, you know, that same place where we all got meeting, he has got one room for office, another man for men working.

Q. When you came from the shed to the office of the shed, he was in the next room?

A. Yes.

Q. Then what happened?

A. He asked me to get my men to join company union.

Q. Mr. Michels asked you?

A. Yes, I say, "I know nothing about it," before I take the men up. Then he ask me, he say, "You join the company union." I say, "Not yet." He say, "You know everybody wants to work, got to join the company union."

Q. He said, "Everybody who wants to work here must join the company union?"

A. Yes. I say, "All right." I sign mine up, then.

Q. You said you would sign up?

A. Yes. So he say, "I want you to get everybody all you men in too tonight." He say, "If men don't want to sign, you take his name and number, give him—give to me in the morning, I go get ready with him."

Q. He said, that you would take the names and addresses of the men in your gang?

A. Yes, which don't want to sign up.

Q. And give them to Mr. Michels in the morning?

A. Yes.

Q. Mr. Michels told you that?

A. Yes.

MR. DAY: I don't want to object, but he has a habit of repeating every answer the witness makes, every time.

MR. GROSSMAN: Mr. Examiner, time and again Mr. Day has been asking me what the witness said. Now, to make it easier for him to verify such matters, I do that.

MR. DAY: I don't want to be captious or object, but every time he repeats the answer—

TRIAL EXAMINER LINDSAY: Well, now listen, I think possibly with this type of a witness it is all right, as long as he repeats it as the witness gave it.

MR. DAY: Oh, I think he is doing that. I think he did that.

TRIAL EXAMINER LINDSAY: You have no doubt but what he is doing that?

MR. DAY: I think he is doing that, but it makes it twice as long, to have the answer given twice.

TRIAL EXAMINER LINDSAY: Yes, I realize that, Mr. Day. Go ahead.

(The record was read by the Reporter.)

BY MR. GROSSMAN:

Q. Now, when you signed the card, Mr. Parkovich, I hand you Board's Exhibit No. 79 and ask you if that is a copy of the card you signed?

A. Yes, that is copy of the card that I signed May 12th.

Q. Did the other men in your gang sign up, the eleven men?

A. Everybody signed except the one.

Q. Except one?

A. Yes.

Q. Did you ever see that man again?

A. Yes, I do.

Q. Is he working in the mill now?

A. No, he didn't.

Q. He didn't work in the mill?

A. No.

Q. Did you go out on strike on May 26th?

A. How is that?

Q. Did you go out on strike on May 26th?

A. May 26th I come home from work 7 o'clock in the morning. I was home and sleeping, getting ready for going out tonight on my turn again.

When I started to go down in the mill, before I gets in the mill, men was walking on the street, turn me back. Ask me where I going. I say, "I going to work." He say, "No, you ain't going to work tonight. Strike. You better go home." I have my lunch in my hand, I just walk back.

Q. Did you ever try to get your job back after that?

A. After that I go down in the mill when gate was open and men started to walk in back and forth.

Q. When was that, do you remember?

A. I couldn't remember. I think I called my superintendent inside, middle of July, after the gates was opened and so men—not many pickets on, you know. I called my superintendent, asked him for my job.

Q. You called him on the telephone, do you mean?

A. Yes, he told—

Q. Yes, who is your superintendent?

A. Mr. Gardner Haynes.

Q. Haynes?

A. Yes.

Q. What did Mr. Haynes say to you?

A. I called him on the phone, I asked Mr. Haynes, I says, "I understand the gates are open, men go home at this time, go in and out." I say, "I like to get back my job." He say, "Eli, you refuse me coming in three times when I called you before," he said, "I got a new man on the job."

Q. When did he call you?

A. He called me the first time on the first week in June.

Q. The first week in June?

A. Yes.

Q. Right after the strike was called?

A. Right after strike was called. Then he called me second time in the same week. Then he called me once in second week in June again, after that he ain't called me any more.

Q. Never called you after that?

A. I couldn't go in because night was so lots of pickets, I was afraid to go in.

Q. Did you ever call Mr. Haynes again?

A. No, I didn't. He told me he got another man on my job. I ain't called him after that, any more.

Q. When did you start to work for Republic Steel Corporation?

A. I started to work down there with the Trumbull Steel in 1920, in December.

Q. That is the Republic Steel Corporation, now?

A. That is the Republic Steel Corporation now.

Q. That is the Warren plant, Trumbull Steel?

A. Warren plant.

MR. GROSSMAN: That's all.

Cross Examination

BY MR. SMITH:

Q. What was your job down there in—

A. First when I started I was laborer for about eight or nine months. After that they gave me a gang of men. Then I was foreman since that time right on.

Q. You were foreman from that time up until the time of the strike?

A. Yes, sir.

Q. And you were foreman in what department?

A. Labor department.

Q. Labor department?

A. Yes.

Q And you had 11 men, you say, working for you?

A. Oh, I have lots of men working for me; sometimes 50 or 60, what everybody is gives to me; 30, 35, whatever they give to me.

Q. I heard you say something about 11 men a while ago, I didn't quite understand it.

A. No, I didn't say 11 men.

Q. I see. I had understood you to say something about 11 men and that all of them but one signed up?

A. I say everybody signed up but one man didn't sign up.

Q. Oh, well, how many men at that time?

A. At that time was around 35 that night.

Q. Around 35?

A. Yes.

Q. And you say you were the foreman of this gang?

A. Yes, I was.

Q. Well, then, how could you, as foreman, be eligible for membership in the representative union?

A. I didn't get that.

Q. I say in the representative union, would you be eligible for membership in that union?

A. If he asked me, you say?

Q. No.

TRIAL EXAMINER LINDSAY: Just a minute.

Q. Would you have a right to join?

A. Which union? The company?

Q Well, you call it the company union, I am calling it the employees' representation plan.

A. Yes, he told me to join company union, first time, my boss told me to get every man in and at the same time he told me when C. I. O. coming he say, "Why don't you be a member of the C. I. O." My boss told me that, too.

Q. Your boss wanted you to be a member of the C. I. O.?

A. Yes, make me say I would be member of the C. I. O. too. That is my—

Q. Do you mean that—Now, what was your boss' name?

A. Mr. C. G. Michel.

Q. Mr. C. J. Michel?

A. Yes, sir.

Q. And he made you join the C. I. O.?

A. Yes, sir, he make me away ahead only in spring he told me that.

Q. And you joined on the 13th?

A. Yes.

Q. And that was on May 13th that you joined the other, signed up the other?

A. On the company, they make me do it. I do it, whatever he say.

Q. Well, now, you say it was about the 15th of July that you called up and asked if you could get your job back?

A. Yes, around the middle of July, yes.

Q. Were you on the picket line?

A. I just got down in the morning and see those fellows on picket, of course, I was outside, I couldn't do nothing home, stay home, look around, well, I went down to see men down there on the line.

Q. Did you spend a great deal of your time down there seeing the men on the line?

A. No, I ain't going much down there, you know, when I go down I never stay but about ten or fifteen minutes, then I go on back home.

Q. Did you have some kind of a ball bat or a club of any kind that you were carrying around with you?

A. I tell you I got that too. Men was down, had some stick in the hand, you know, something. I take it out of his hands, I say, "What are you going to do with this?" "Oh," he say, "I need that sometime."

So he gave to me in my hands and I have it in my hands.

I say, "If policeman do like you fellows do," I says, "never policemen." He say, "How is that?" I say, "Policeman never give his stick out of his hands." Then I give his stick back.

Q. I see. That was one of the pickets on the picket line that you were talking to?

A. Yes, was lots of men, you know.

Q. Yes, lots of them there with clubs, is that right?

A. Yes, lots of men Then I see.

MR. GROSSMAN: I object.

MR. SMITH: I am asking him if it is true, what he said.

TRIAL EXAMINER LINDSAY: All right.

MR. GROSSMAN: I object to the use of the word "club."

TRIAL EXAMINER LINDSAY: Listen, Mr. Smith, with this type of witness, be careful of what you are putting in your questions, because he doesn't understand.

MR. SMITH: I repeated what he had said, your Honor.

TRIAL EXAMINER LINDSAY: No, I think not. He was talking about a stick and you put in there "lots of men with clubs." Now just don't take advantage of the witness.

MR. SMITH: I don't want to.

TRIAL EXAMINER LINDSAY: We only want the truth as it comes from the witness.

MR. SMITH: That is true.

TRIAL EXAMINER LINDSAY: That is all we are expected to do.

BY MR. SMITH:

Q. Now, you were speaking about—that you took this man's stick for a while and you sort of kidded him about it, that he would not make a good policeman?

A. Yes.

Q. Because he had given up his stick?

A. Yes.

Q. Is that the idea?

A. That is the idea.

Q. Now, what did you mean when you saw lots of—you said you saw lots of other men around there. Did they have sticks also?

A. Well, some of them did, some of them didn't have it.

Q. I see.

A. I see a pile of brick, good brick laying alongside of the ditch, and I see some nuts about inch and a half, I say, "How you fellows get this stuff?" He say, "From inside."

I say, "How you get it from inside?" He say, "Did you hear, last night, was fight on the bridge, by railroad on Pine Street?" I say, "No, I ain't know anything about it. I was sleeping last night."

He say, "A couple of pickets throwed in hospital got head busted from those fellows on inside throwing that stuff. We bring it, save it for ourselves."

Q. They had it piled up in a convenient place for their use, didn't they?

A. Yes, they were to use it if they needs it. That is what they told me.

Q. Now, you say that when you called up your boss, that is Mr. Haynes, the foreman, about the 15th of July, that he said that he had called you three times to come to work, and that now he had gotten another man in your place?

A. Yes.

Q. That is right?

MR. SMITH: I think that is all.

Redirect Examination

BY MR. GROSSMAN:

Q. Mr. Parkovich, these nuts that you say were new nuts?

A. Yes.

Q. Did the pickets tell you they were thrown at them, is that the way they got them?

A. Yes, that is right, they got from inside, you know, men was come out from inside, use on them pickets. They tell me that.

Q. You didn't see any of the pickets take those nuts and throw them after that, did you?

A. No, I didn't. Just what he told me.

MR. GROSSMAN: That is all.

(Witness excused.)

(Thereupon at 12:20 p. m., a recess was taken until 1:30.)

AFTERNOON SESSION

(Whereupon, the hearing was resumed, pursuant to recess, at 1:30 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

Now the adjournment will be to Cleveland, and we will reconvene Friday morning at 9:30 o'clock. The Court House or place of hearing is not as yet designated and Mr. Lauter, will you notify Mr. Day and Mr. Smith of the place where the hearing will open on Friday morning at 9:30 o'clock?

MR. LAUTER: Is Mr. Smith going to be there?

MR. DAY: If it is going to be the Court House in Cleveland, he can notify us, if he wants to, but we will not have any trouble finding them, if it is in the Court House.

MR. LAUTER: I will be very glad to. It is my understanding it will be a room in the County Court House. Definite arrangements will be made either today, or tomorrow some time, and I will be glad to call Mr. Day's office and let him know.

TRIAL EXAMINER LINDSAY: Let me see, Friday is the 27th of August, is it not?

MR. DAY: That is right.

MR. LAUTER: That is right.

TRIAL EXAMINER LINDSAY: So the adjournment, then, is to Cleveland on August 27th, 1937, at 9:30 o'clock a. m.

MR. DAY: All right.

(Whereupon, at 1:36 o'clock p. m., August 24, 1937, the hearing was adjourned to 9:30 o'clock a. m., August 27, 1937.)

Courtroom No. 3, Cuyahoga County Courthouse, Cleveland, Ohio, Friday, August 27, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., Thomas F. Veach, Esq., and Earl W. Lefever, Esq., Cleveland, Ohio, appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

ALEX BALINT

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. Will you state your name, please?

A. My name is Alex Balint.

Q. And where do you live?

A. I live 1934 West 47th Street.

Q. Have you been employed at the Republic Plant?

A. Yes, I was employed at the Corrigan-McKinney Works of the Republic.

Q. Is that here in Cleveland?

A. I am.

Q. I say, is that plant here in Cleveland?

A. That is right.

Q. When did you start working there?

A. I started work for the Corrigan-McKinney Plant in May, 1934.

Q. What kind of work were you doing when you started there?

A. I was hired as chipper.

Q. Have you ceased your employment with Republic?

A. I was dismissed, December, 1935.

Q. Were you a chipper at that time?

A. I was.

Q. What are you doing at the present time?

A. I am an organizer for the Steel Workers Organizing Committee.

Q. And when did you start organizing for the Steel Workers Organizing Committee?

A. June—July, 1936.

Q. Are you a paid organizer for the S.W.O.C.?

A. I am.

Q. What are some of your activities as organizer?

A. Well, my main assignment was to organize the Corrigan-McKinney Workers of Republic in Cleveland, here, but my general activity is to organize steel workers wherever I can.

Q. In connection with your activities as organizer have you been distributing leaflets, handbills, notices of meetings?

A. Yes, many times.

Q. Do you recall January 12, 1937?

A. Yes.

Q. Were you engaged in the distribution of leaflets or literature on that day?

A. On January 12th we had planned to call a mass meeting of the Republic employees, of all four plants. On that day I and another fellow went to the Corrigan-McKinney works to pass out handbills calling for this meeting.

We went there with no idea of any trouble of any kind, but for the purpose of distributing our handbills to let the employees know that there was such a meeting taking place.

When we got to the gate a skinny fellow with the company uniform, I believe his name is—they call him Sergeant Brecan, came out of the plant with his hand in his pocket and part of his hand was sticking out and we could see that there was a strap on there and I took it for granted that it was a blackjack.

MR. DAY: I move that be stricken out, the last part.

MR. LAUTER: Just one second. I will consent that so much as refers to "took it for granted" be stricken out.

TRIAL EXAMINER LINDSAY: Yes.

Q. Go ahead.

TRIAL EXAMINER LINDSAY: That he took it for granted that it was a blackjack may be stricken.

A. This fellow came and he sniffled around me several times, not looking at my face, but looking at my shoes and I thought that the general idea of the thing was that I should look—

MR. DAY: I object to what he thought.

A. That I was to look down.

MR. LAUTER: Just one second.

MR. DAY: I object to that.

TRIAL EXAMINER LINDSAY: Yes, just tell what you actually saw happen.

A. Well, he walked around several times looking at my shoes he came very close to me, all the time looking at my shoes, never looking up at me. Well, I didn't look down. I always watched his face and his activities, to see what he was going to do.

After circling for several minutes around, then the fellow that was with me, he circled around him also, and I followed him when he was circling him. In this way there was no trouble, and we distributed our handbills and we went away.

Q. Now, did you distribute handbills after January 12th, 1937?

A. Yes, the following day we decided to cover the Truscon Steel Company Plant of the Republic, that is located on 55th and Truscon Avenue. On that day Vincent Favorito and another fellow and I went to the Truscon Steel Plant with the idea in mind of distributing our literature announcing a mass meeting to the employees there.

Q. When was the mass meeting set for, do you recall?

A. That was set for January 13th, 7:30 p.m. in the National Bohemian Hall on Broadway and 49th Street.

So when we got to the gate there of the Truscon we parked our car on the street by the main office and we got out of the car and as we approached the plant we saw three company guards and a plain-clothes man, a man dressed in plain clothes, whispering together. I told Favorito at the time that we walked towards the plant that something—something must be up—

MR. DAY: I object to what he told Favorito and move it be stricken out.

TRIAL EXAMINER LINDSAY: The objection is overruled, and let the record show an exception.

MR. LAY: Exception.

TRIAL EXAMINER LINDSAY: That objection is overruled. The record may show an exception.

A. —and as we got nearer to the plant to the main gate there on Truscon Avenue, this fellow was dressed in plain clothes, smilingly walked into the mill, the other three Company guards laughingly went into the booth on the side and at that time we thought nothing more of it and hardly had this fellow and plain clothesman walked into the mill, we took our positions by the gate there waiting for the men to get out at 3:30; at 3:25, about five minutes before the men came out, and a great big fellow with a blue lumber jacket came out of the mill and Favorito to my right, offered him a leaflet, said that—thinking he was an employee, since he was dressed in workmen's clothes.

MR. DAY: I object to what Favorito thought. I move it be stricken out.

TRIAL EXAMINER LINDSAY: That will remain. Objection overruled. The record may show an exception.

A. Favorito handed the man a leaflet. He refuses Favorito's leaflet and he come towards me. Still thinking he was an employee, started to hand him one of the circulars that we were distributing, that was announcing the meeting. The fellow took it and he came alongside of me, to the back of me, on my left and—is it all right to mention here what he called me?

TRIAL EXAMINER LINDSAY: Yes.

A. And he came almost to the back of me, he took the leaflet with the left hand and as he got to the side of me, almost to the back of me, he somehow or other grabbed—pushed this arm in the back and whirled me around and at the same time he said, "You dirty son-of-a-bitch, get the hell away from here" and he walks around and swings with his right arm and as I turned around I could see he had brass knuckles on his right arm, as he hit me in the eye there, at which time we went down to the court and he ran through one of the alleys.

Q. What happened after that?

MR. DAY: I move to strike. There is no evidence tending to show that the man who struck this witness was connected with the Respondent, had no authority to act for the Respondent, was not an agent or representative in any way.

MR. LAUTER: I ask it be admitted; subject to connection.

TRIAL EXAMINER LINDSAY: Let the record show the objection is overruled and an exception noted.

A. After that another one of the organizers happened to come upon the scene and he, together with another fellow, took me to the hospital, while Favorito and this other fellow that first came with me, remained there. After while as they continued to pass out leaflets, while the other boys took me to the hospital to have my eye repaired. I had three stitches on this eye and this eye got infected as a result of it and I had to have that lanced and as we were going past, going to the hospital, a fellow by the name of Walter Maloney, Maloney was his alias. His real name was Walter Jergis, he was standing in the front there. That is the first time I saw him at the plant. He continued to call us further names, telling us we got what we looked for. We paid no attention to him and went to the hospital.

Q. Did you ever return to distribute leaflets again?

A. Yes, we did.

Q. When was that?

A. That was exactly on January 25. We again returned to the Truscon plant, to pass out literature. This time it was not for a mass meeting. It was to pass out a paper of the steel workers. They call it "Steel Labor." We went there with a group of people, and we got in the plant, I believe it is on 61st Street, the street right alongside on 65th Street, we parked our cars there and I recognized Captain Jones. He is the head of the Republic Steel Corporation at Corrigan-McKinney Works.

He was there with 30 or 40 other people, some of them Company guards that I personally recognized. They were standing in front of the plant there.

As our group approached the plant they made a rush and met us in the middle of the street, at which time one of the first ones of Captain Jones' crew hit Vincent Favorito's brother Benny in the mouth and he in turn hit him and then I guess Captain Jones changed his men, because he called off his crew off the street, and told them to stay right by the plant.

At that time we decided we did not want any trouble and we did not come there for any trouble. We came there for —

MR. DAY: I object to what they decided. I move to have it stricken out.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: What they decided among themselves?

TRIAL EXAMINER LINDSAY: Yes.

A. We decided we did not want any trouble so we got together there and we decided to go away and as we were going away, we saw that the employees were coming out on 55th and Truscon Avenue, so we stopped there right along there and we handed out some of our papers on 55th and Truscon Avenue, which is about 125 yards away from the plant.

As we neared giving out all our papers, we saw Captain Jones and his crew was coming down towards us again on 55th Street. Well, we again decided we did not want any trouble, so we got in our cars and we went back to the Heights Manacor Hall.

Q. Did you see the person who hit you on January 13th at any other time?

A. On that date, January 25, that I just recited, I saw this fellow for the first time since he hit me. He was in Company uniform.

Q. When you say that, you mean mill policeman's uniform?

A. Yes; mill policeman's uniform. This individual got so excited that he pulled out his gun on Truscon Avenue. That was the first time I saw him since he hit me.

MR. LAUTER: That is all.

TRIAL EXAMINER LINDSAY: Wait a minute.

Cross Examination

BY MR. DAY:

Q. You worked for the Republic Steel at one time?

A. Yes.

Q. How long did you work for the Republic Steel?

A. I worked for Republic Steel since 1934.

Q. Well, up until when?

A. At one time I was laid off for a short time and then I was again reinstated and worked until I was fired from the plant.

Q. When were you fired from the plant?

A. The exact date is September 13th, 1935.

Q. What were you fired for?

A. Because I had visited Massillon and Canton to investigate wage conditions, and I was a Company representative at the plant.

Q. Company Union representative?

A. Yes.

Q. Under the Company representative plan?

A. Yes.

Q. How long were you a representative?

A. From June, 1935. I served until my discharge.

Q. Where did you work before 1934, before you worked for Republic?

A. I worked several places.

Q. Where?

A. I was in Youngstown for a while.

Q. At what time?

A. I didn't work at any time in Youngstown.

Q. What did you do in Youngstown?

A. I was there with some of my friends. I have worked in the Massillon-Springfield Corporation.

Q. What did you do in Youngstown?

A. I didn't work.

Q. What did you do?

MR. LAUTER: I object to this line of inquiry.

MR. DAY: I think we have the right, if the Examiner please, to find out the past experience and the career of this man who is testifying to violence.

MR. LAUTER: There is no testimony that this is a discharged employee. He is not named in the complaint. I see no reason for going into the work he did prior to when he worked for Republic.

TRIAL EXAMINER LINDSAY: I do not think it makes any difference as long as he was not arrested.

MR. DAY: It tends to show who he is and what his career was.

TRIAL EXAMINER LINDSAY: I think I will sustain the objection and you go ahead and cross-examine.

MR. DAY: I want to direct some more questions along the same line.

Q. How long did you live in Youngstown? Do not answer, and maybe the Examiner will sustain the objection.

A. I stayed in Youngstown for about three months.

Q. What did you do?

A. I went there with the idea of getting a job.

Q. What did you do when you were there?

MR. LAUTER: I object to similar questions, and the objection has already been sustained.

TRIAL EXAMINER LINDSAY: That is sustained. The record may show an exception.

Q. Where were you before you went to Youngstown?

A. I was in Cleveland.

Q. Were you working in Cleveland?

A. Part of the time, yes. Those were the days of the depression, very few people were working.

Q. Where did you work?

A. Machman Springfield Corporation.

Q. Will you spell that name?

A. M-a-c-h-m-a-n Springfield Corporation.

Q. How long did you work for them?

A. I worked—

MR. LAUTER: I am going to renew my objection to this line of inquiry. I think the Court sustained my objection to it.

TRIAL EXAMINER LINDSAY: I think I will let Mr. Day go into that.

A. I worked for them off and on for three or four months.

Q. As near as you can fix the date, through what months did you work for them?

A. What months?

Q. Yes.

A. That was during the months of—winter months of the year 1934.

Q. 1934?

A Early part of 1933, too.

Q. And the early part of 1933?

A. Yes.

Q. How long would you say that you worked for them altogether?

A. About three or four months; it was part time work.

Q. Did you work somewhere else in Cleveland before that?

A. I worked on PWA.

Q. How long?

A. I don't recall. I believe it was as long as it lasted.

Q. You became an organizer for the S.W.O.C. in July, 1936?

A. That is right.

Q. That is right?

A. Yes.

Q. At that time you were not working, were you?

A. No.

Q. How long had it been that you had not been working prior to the time you took up with the C. I. O. in July, 1936?

A. You mean in the mill?

Q. Anywhere?

A. I was there working part time for Machman. I helped the other fellow out, the shipping clerk.

Q. That is between December of 1933 when you quit the Republic under the circumstances you have detailed and July, 1936, when you started working as an organizer for the S.W.O.C. on C. I. O., you worked a little while for the same company, and Machman Company?

A. That's right.

Q. About how long?

A. Couple months.

Q. Did you work for anybody else during that period?

A. Nobody.

Q. What did you do?

MR. LAUTER: I object.

A. I lived the best way I could live.

MR. DAY: This is between the time he quit the Republic and started with C. I. O.

MR. LAUTER: I will withdraw my objection, so he may answer.

TRIAL EXAMINER LINDSAY: He may answer.

A. I answered that question.

Q. That you lived the best you could?

A. That is right.

Q. You started as an organizer in July, 1936?

A. That is right.

Q. When did you start to work with the guard to the Republic employees? Right away?

A. Right off, even before I was put on.

Q. Even before you become an organizer?

A. That is right.

Q. When did you start to work, then, recruiting members for C. I. O. at Republic?

A. In the middle of June.

Q. How did you come to do that on your own hook?

A. Because I wanted to see that plant, of all plants, organized.

Q. You wanted to see it organized?

A. That is right.

Q. Well, you didn't belong to C. I. O. at that time yourself, did you.

A. I joined at that time.

Q. Well, you joined—

A. I was not an organizer yet, but I was going out to organize that plant.

Q. Did you join C. I. O. as a member before you became an organizer?

A. Oh, yes.

Q. When did you join C. I. O. as a member?

A. In the middle part of June.

Q. Of 1936?

A. That is right.

Q. And then you started work at Republic, is that right?

A. I started to work.

Q. With Republic men?

A. That is right.

Q. Trying to get them to join C. I. O.?

A. Yes, sir, right.

Q. January 12, 1937, you told us about some circling take place, didn't you? Some skinny fellow, you said you thought was Sergeant Brecan and some other fellow. The fellow that was with you?

A. Yes.

Q. And who was that?

A. A fellow by the name of William Wimmer.

Q. Where is he now, do you know?

A. No, I don't.

Q. Was he a C. I. O. man, too?

A. He was always with me, he was helping me out.

Q. Well, there was no hitting by anybody that day?

It was just circling, is that right?

A. That is right, he circled around us several times watching our feet. In his hand we saw a strap.

Q. Yes.

A. And he kept that hand in his pocket all during this circling. He circled there for three or four minutes, at which time he went into the plant.

Q. Well, then you started to circle, too?

A. I started to circle him. I figured that the man was going to hit the other fellow that was with me, with the blackjack, and I started circling, to follow him.

Q. And then Wimmer started to circle, too?

A. No, he didn't start to circle.

Q. Did he start to circling, at all?

A. No.

Q. Well, you and the man, the skinny fellow were circling?

A. That is right.

Q. What was the other fellow doing, standing still?

A. Yes, still.

Q. The man Wimmer?

A. Yes, he was standing still.

Q. I thought you said—maybe you didn't say it, but I understood you to say, to Mr. Lauter in direct examination that the other fellow who was with you started to circle on the outside, didn't you say so?

A. No, I didn't

Q. He just stood still on the outside, is that right?

A. That is right.

Q. All right. Now, in January—that was January 7th, was it, or January 12th?

A. That was on the 12th of January.

Q. Now, you told something about that occurrence on January 13th—17, which was it? That time Favorito went with you.

A. 13th.

Q. Who is Favorito?

A. The man sitting right there.

Q. That little fellow sitting right over there?

A. That is right.

Q. Yes, he is very active in C. I. O., isn't he?

A. Very active.

Q. He attends all of the hearings, does he not?

A. Well, he attends the hearings

Q. All right, is he a C. I. O. organizer also?

A. Yes.

Q. About how long has he been a C. I. O. organizer, to your knowledge?

A. He started at the same time that I did.

Q. Now, who is the other fellow who was with you and Favorito at the time this happened?

A. The same fellow, Bill Wimmer.

Q. Bill Wimmer? And at that time you say that there were three company cars and a plain-clothes man?

A. Yes.

Q. You saw, when you went up there, they were standing between the—

A. They were standing between the booths on Truscon Avenue, the police booth and the main gate, by the office, there, the employment bureau.

Q. Now, just where were you three men standing?

A. We were on the other street, opposite 55th. We had just parked our car and we were coming towards the gate. We were walking—we were not standing.

Q. Which plant was this?

A. At the Truscon Steel.

Q. Truscon Steel? And you had driven to—whose car was it, Favorito's or yours?

A. It was my car, it was a Studebaker coupe which was later ruined for me by the Republic.

Q. Well, did that belong to you?

A. It did.

Q. And you drove up there and stopped in the street, is that right?

A. I parked my car on the street.

Q. Then you got out?

A. All three of us got out.

Q. Yes, now how far was that away from the gate or the police booth, where these men were?

A. Oh, that was about 75 yards away.

Q. Was this police booth near any particular gate at Truscon?

A. Oh, yes, it is near the main gate where the employees go in and out. They go in through the main office —between the main office and the employment office, and they go right through and punch their cards there.

Q. After you stopped your car at the curb, what did you and Favorito and the other fellow do?

A. We got out, we stopped the car, we got out handbills out and we walked towards the mill, we were going to pass the handbills out.

Q. About how close did you get to the police booth or to the gate in feet, would you say?

A. Closer than I am to you right now.

Q. Well, now, I don't know how far you are from me, I suppose it is a matter of six or eight feet, something of that kind. In feet, about how close did you get to the police booth, you and Favorito and the other fellow?

A. We were right between the police booth and the main gate.

Q. And how close to the main gate were you, in feet?

A. We was right in front of it.

Q. Well, were you—

A. We were close to it.

Q. Were you two feet away from it, three feet or four feet?

A. The main gate is situated right off the sidewalk and we were on the sidewalk.

Q. You were right on the sidewalk?

A. That is right.

Q. By the main gate?

A. That is right.

Q. Just a few feet from the main gate?

A. That is right.

Q. And you were there when this occurrence you told about took place, is that right?

A. I was.

Q. Now, is that the time that the man with the blue lumber-jacket—I understood you to say there was some fellow with a blue lumber-jacket?

A. Yes.

Q. Or blue lumberman's jacket or something of that kind?

A. No.

Q. Struck you? Was it at that time or was that later, the same day?

A. The way that happened was that—

Q. Well, in the first place, to get this straight, that happened at the time that you and Favorito and the other fellow got out of the car and came up close to the main gate as you have been just telling me? Did it happen at that time or did it happen later on the same day?

A. Shortly after that time.

Q. How long after?

A. When we got near the plant.

Q. Yes.

A. We approached the plant, we took our positions, I mean in front there, a few feet away from the main gate.

Q. Yes.

A. It is not a gate, it is the main office and the employment office.

Q. All right.

A. As we got there, this fellow that was in plain clothes walked into the mill.

Q. Yes.

A. He was filing. These other three policemen walked into the police booth.

Q. Yes.

A. It was after this fellow in plain clothes had walked into the mill, or it was a minute after he walked into the mill that the big fellow with the blue jacket came out.

Q. Well, did the big fellow with the blue jacket come out by himself or did he come out with a crowd of men?

A. He came out by himself, five minutes before the rest of the employees came out.

Q. All by himself?

A. All by himself.

Q. When the big fellow with the blue jacket struck you as you have described, who all were there?

A. Vincent Favorito and this William Wimmer that I said was there, at the first.

Q. Anybody else?

A. Not at that time, except the three policemen, they were—

Q. Now, just where were you standing with reference to the gate, when the fellow with the blue jacket struck you?

A. Directly in front of the gate.

Q. Directly in front of it?

A. Absolutely.

Q. On the sidewalk?

A. On the sidewalk.

Q. About how many feet from the gate would you say?

A. Not more than five or six feet.

Q. That is, at the time you were taken to the hospital?

A. Shortly after that.

Q. And do you say there was nobody there at all except you and Favorito and Wimmer, and the fellow with the blue jacket, at the time this took place?

A. The three company guards were there.

Q. Three company guards were there, and where were they?

A. They were laughing among themselves, in the booth.

Q. How far away from you, from where this took place?

A. Oh, not more than ten feet.

Q. Now, the next that you are telling us—you are telling us next about something that took place on the 25th of January?

A. Yes.

Q. That is when you went down to the Truscon Plant?

A. That is right.

Q. And you were going there to circulate and distribute a book known as "Steel Labor"?

A. Yes.

Q. How many went with you at that time?

A. Oh, about 15 or 20 men.

Q. 15 or 20 C. I. O. men?

A. That is right.

Q. Did Favorito go along that time again?

A. He was along.

Q. You say at that time you saw Captain Jones?

A. Yes.

Q. Now, there was no fighting or hitting that day, was there?

A. Oh, yes.

Q. What took place that day?

A. We parked our car at the same place where we parked on January 13th alongside of the main office, there.

Q. Yes.

A. And we started going near the plant with our "Steel Labor" on one hand and we were going to pass it out. When we got in the middle of Truscon Avenue just in front of the Truscon Steel Plant right by the main gate where I was hit before, they rushed us.

Q. About how many of them?

A. Oh, there must have been 40 of them.

Q. About 40 in that crowd, and about 15 in yours?

A. Something of that kind.

Q. Just where were you standing at the time this took place? You and the crowd you were with? Were you on the sidewalk or in the street or where?

A. We was in the middle of the street.

Q. You, yourself, where were you?

A. I was right in the middle of the street.

Q. Were any of you on the sidewalk?

A. Some.

Q. And were you approaching toward the gate at the time this happened?

A. Towards the gate.

Q. Towards the gate?

A. On city property.

Q. You and your crowd were coming towards the gate?

A. Yes.

Q. Now, there was a scuffle at that time, is that right?

A. As I said, when we got in the middle of the street they rushed us, Captain Jones' men rushed us. The first fellow to meet our men was a skinny fellow with freckles on, I would recognize him anywhere. He hit Vincent Favorito's brother Benny and hit him in the mouth, and Favorito in return hit him and Captain Jones—

Q. Do you mean Benny Favorito or this Favorito?

A. That is this Favorito (indicating).

Q. All right.

A. So blows were exchanged right in the center of the street there and evidently Captain Jones changed his mind because he called out to his men to come back.

Q. He called to his men to come back?

A. He called his men to come back.

Q. Then did they come back?

A. After a while they came back.

Q. Then did your fellows go away?

A. We stood there for about five minutes.

Q. And then went away?

A. Then we didn't go away.

Q. What did you do?

A. We went around the block and caught the employees as they were coming out.

Q. At another gate?

A. No, not at another gate. As they neared the street, 55th Street.

Q. Oh, I see. After they had come out of the gate a ways?

A. That is right.

Q. These different episodes that you describe, as I understand took place at the Truscon Plant; is that right?

A. Where the meetings took place?

Q. Yes.

A. And the fight?

Q. Yes.

A. That is right.

MR. DAY: That is all.

Redirect Examination

BY MR. LAUTER:

Q. The Truscon Plant is a part of Republic Steel Corporation, is that right?

A. That is right.

MR. LAUTER: That's all.

(Witness excused.)

VINCENT FAVORITO

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

BY MR. LAUTER:

Q. What is your name?

A. Vincent Favorito.

Q. Where do you live?

A. 3246 Fulton Road, here in Cleveland.

Q. Where do you work?

A. I work for the Steel Workers Organizing Committee at the present time.

Q. Have you worked in a steel mill at any time?

A. I worked at the Otis Steel.

Q. Is that here in town, in Cleveland?

A. In Cleveland, Riverside plant.

TRIAL EXAMINER LINDSAY: Otis Steel?

THE WITNESS: Otis Steel.

Q. Do you know Captain Jones?

A. Yes.

Q. Who is he?

A. Chief of police down at Republic Steel, Corrigan-McKinney plant.

Q. Do you know Sergeant Russell?

A. Yes.

Q. Who is he?

A. He is a plain-clothes man there, that goes from one plant to another, also an officer of the Republic Steel police.

Q. Did the S.W.O.C. ever hold any meetings at the Globe Theater?

A. We were holding a meeting of negroes at the Globe Theater.

Q. Where is that?

A. Near 55th Street and Woodland Avenue.

Q. Was that about August, 1936?

A. That was about August—around August 15th or 19th, between them dates there.

Q. Of last year?

A. 1936.

Q. Will you describe what happened then?

A. We were hanging around in the front, waiting for the negroes to come out of the building.

MR. DAY: I want to object to this episode being described here—there is nothing to connect it with the respondent, to show that the respondent had knowledge of it nor authorized it.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

A. We were waiting for the negroes to come from the Corrigan-McKinney plant, and it was daylight, it was around 7 o'clock and it happened to be a rainy day at the time and we wondered what happened, that these negroes were not coming to our meeting.

MR. DAY: We object to it—wait a minute—we object to that and ask it be stricken out, what he wondered. I don't think we could possibly be bound by what he wondered.

TRIAL EXAMINER LINDSAY: Yes, just a minute, strike that out of the record. Just tell what happened.

A. We seen a stool pigeon hanging around with a cap and a dark green suit, hanging very close to me and the other fellows that were with me, and after he seen us looking at him, he thought he would go away from there.

We followed. I was with Lowman at the time, an ex-employee—ex-representative of the Corrigan-McKinney plant. He was the one that recognized him. We followed him and he took us into an alley.

When we got to the end of the alley it was a blind alley there and we seen Captain Jones. I didn't know Captain Jones at the time, just at that time. He passed between us, with this here stool pigeon, and Lowman, next to me, says, "That is Captain Jones." I says, "Call him by name."

Captain Jones was still walking, we were about 20 feet away, Lowman says, 'Hello, Captain Jones," and Captain Jones turned around and says, "Hello, Lowman."

Well, we were walking out of the alley after him, when somebody says, "Let's jump him." I says, "No."

Captain Jones gets into an automobile waiting for him across the street on Woodland Avenue and in this car there was about four other people and he waves to us and he goes away, then he cruises. He cruises around again with the car, I turned that license number into the police at that time.

He cruised around with the same car and we thought we might as well report them to the city police because they might be armed. We reported it to the city police. We called up from a cigar store on 55th and Woodland. The police came there about 15 minutes later, we gave them the report and they said they would try to locate the car, catch it, and that is all of that incident on that day. The meeting never took place.

Q. Why didn't it take place?

MR. DAY: I object to that. His conclusion as to why it didn't take place, I object to that.

Q. State what happened.

TRIAL EXAMINER LINDSAY: Yes, the objection to that is sustained.

A. The negro that was there said that the men was afraid to come here on account of Captain Jones' car.

MR. DAY: I move that be stricken out on the ground there is no evidence to show that the respondent was responsible for that statement or had anything to do with it or was made by anybody who represented the respondent.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

Q. Do you know where the Independence gate of the Republic plant is?

A. No, I don't.

Q. The Independence gate?

A. Yes, it is under the Clark Avenue Bridge.

Q. Did you ever distribute literature there?

A. I distributed literature there quite a few times.

Q. Did you ever distribute literature there with Alex Balint sometime in October, 1936?

A. Yes.

Q. Describe that.

A. We distributed literature there in October and at this time Captain Jones came out of the fence.

MR. DAY: Now, are you telling about this October, 1936?

THE WITNESS: Yes, yes. Captain Jones came out of the fence and I seen also that there were about seven police around us. There is a little shanty there right under the bridge, and the policeman there is supposed to be in charge of the railroad crossing, there, and this policeman that was in the caboose was not there by himself at this particular time, he had about seven other fellows with him, and they were armed with pistols.

Captain Jones came over to us, was me and Balint at the time, he asked for a blackjack from one of the police inside the mill gate. The policeman in the mill gate threw the blackjack at him and he caught the blackjack and he put it behind his back, and he was twisting it on his back, and he walked around us a couple of times looking at our feet, and Captain Jones says—I am going to use profane language, the same language that he used—

TRIAL EXAMINER LINDSAY: Well, just tell what happened, what actually happened, what you said and what they said, and it is perfectly all right.

A. We were there just to pass literature. Captain Jones says, "Why, you dirty son-of-a-bitch." He was talking to Balint at the time, "You are the guy that has got nerve enough to say that you had me cornered in an alley."

Balint would not answer him and he kept it up, he says, "I am not afraid of no son-of-a-bitch. How about it, boys?" And the cops answered him, "That a boy."

Well, we didn't do anything, we stayed there with this man going around us with a blackjack, and finally he took the blackjack and he threw it back into the gate, the policeman in the gate took it and went inside the office and he left. We passed out our literature that day and went back to our office.

Q. Did you attend the meeting at Bohemian National Hall that has been referred to as having taken place on January 13, 1937?

A. Yes, that was the day I come back from Lorain, Ohio. I had been to working in Lorain that night sometime, and that was the day I came back from Lorain.

Q. Describe what happened.

A. At this meeting?

Q. That's right.

A. I was walking to the meeting from my car with Mr. Bozo Danitz, we were going to the meeting. Bozo Danitz was a speaker, so was I. As we came to the corner we found that Captain Jones, Jergis, alias Maloney of the Republic Steel police and Sergeant Russell—what occurred, Bozo was walking on my left and I was walking on Bozo's right and Captain Jones was on the left of us and as we were passing by, he didn't bother us. He didn't bother Bozo Danitz or myself.

A. Watching those that were going to the meeting. Because he was on the corner of the building. I also saw the police that I recognized by looking at them across the street, all lined up as if they were watching a parade.

Q. Did you ever return to pass out literature at the plant again?

A. Which plant?

Q. Corrigan-McKinney?

A. Yes. A number of times.

Q. Were you there in February, 1937?

A. February, 1937, that was at the Truscon, oh, yes,—that was—no—February 17th, let me remember now, no, I distributed leaflets at the Truscon plant February 17th.

Q. Now, on January 13th, let us go back a moment, were you present when Mr. Alex Balint was hit in front of the place at the Corrigan-McKinney plant?

A. Yes; that was January 13th. This was the same day we had the meeting at—what do you call it—and Broadway, the National Bohemian Hall.

Q. You saw Mr. Balint hit that day?

A. Yes.

Q. Did you ever see the man who hit him again?

A. Yes, I did. On February, I think it was February 17th. I think it was February 17th—it was February.

Q. Where did you see him?

A. I saw him at the Truscon plant in uniform.

Q. Well, describe what happened at the time that you saw him; what were you doing there?

A. At the time I saw him in uniform?

Q. That is right.

A. I was passing out literature there with about 400 men at that time and I see him run into the office.

Q. Just one more question, I want to ask. You stated before that Captain Jones and other police were standing in front of the National Bohemian Hall that night?

A. Yes.

Q. Were those mill police you are referring to?

A. Yes.

MR. LAUTER: That is all.

Cross Examination

Q. (By Mr. Day) Mr. Favorito, you have been very active in the strike?

A. Yes.

Q. You have made speeches at numerous times?

A. Yes.

Q. When we have had hearings in different rooms on injunctions you have always been here, have you not?

A. Yes.

Q. And you testified before Mayor Burton in the airport case?

A. Yes.

Q. You are an organizer for C. I. O.?

A. I have been a paid organizer since last June.

Q. You never worked for Republic?

A. No, I never worked for Republic. I worked for Otis Steel Company.

Q. When did you work for the Otis Steel Company?

A. I have worked there off and on since 1925, for about eight years.

Q. '25?

A. Off and on.

Q. When was the last time you worked for Otis Steel?

A. Last June. I am still on furlough. I had a furlough with the Otis Steel Company.

Q. When you say last June, do you mean June of this year?

A. In 1936.

Q. Well, of course, this is August, last June, you mean a year ago last June?

A. Yes.

Q. Have you worked anywhere else in Cleveland besides Otis Steel Company in the last 10 years?

A. Yes, I worked in the Midland Steel. I worked at the Bart Machine Shop.

Q. Let us take Midland Steel. When did you work?

A. I worked at the Midland Steel the first part of 1935.

Q. Altogether about four months?

A. Yes.

Q. What was the name of the other company in Cleveland you have worked for?

A. I have worked for the silk mills here, called Industrial Fiber.

Q. Rayon?

A. Yes.

Q. How long did you work for them?

A. I worked for them, that would be 1927.

Q. Do you belong to any of the Cleveland lodges of the S. W. O. C.?

A. Yes. I am a member of the Cleveland Lodge 187.

Q. Are you an officer?

A. I have been an officer.

Q. Are you an officer now?

A. No; I am just an organizer.

Q. You are an organizer for the C. I. O.?

A. S. W. O. C.

Q. How long were you an officer of the Cleveland lodge?

A. An officer since the inception of it.

Q. When was that?

A. That was on January 13th, 1935.

Q. When did you start to work first as an organizer for C. I. O. in Cleveland?

A. S. W. O. C., not C. I. O.

Q. Well, all right.

A. In June.

Q. Of 1936?

A. 1936.

Q. You spent practically all of your time for S. W. O. C. since then?

A. Yes.

Q. Have you had anything to do with preparing the evidence in this hearing?

A. Well, I—

MR. LAUTER: Just a minute, I object to the question.

TRIAL EXAMINER LINDSAY: Yes, that objection is sustained.

Q. Then that other incident took place a little over a year ago, did it not? I have down here August 19, 1936, is that when it happened?

A. Yes.

Q. That is the time you said you saw Captain Jones and Sergeant Russell?

A. No, Captain Jones at that time.

Q. And you were with a man named Lowman?

A. Yes, and others.

Q. How many of your men were there, S. W. O. C. men?

A. Let's see, one, two, three, four, five of them.

Q. All of your crowd?

A. Yes.

Q. How many more with Captain Jones?

A. There was about six altogether.

Q. Six?

A. I don't know if he had anybody else with him or not.

Q. Six?

A. There was the stool pigeon on the street. We followed him to Captain Jones.

Q. Yes.

A. Captain Jones and four others that we seen.

Q. Four others. And that was the time Lowman said, "Hellow Captain Jones" and Captain Jones, he said, "Hellow, Lowman." And somebody said, "Let's jump him."

A. Yes.

Q. Which one of your men said, "Let's jump him?"

A. One of the members of the Otis Steel.

Q. He said, "Let's jump him?"

A. Yes.

Q. You told him not to jump him?

A. Yes.

Q. There was no jumping that time?

A. No.

Q. The next time you told us something that happened at Independence gate October 19, 1936.

A. Captain Jones walked around with a black jack.

Q. Nothing happened except Captain Jones walked around with a black jack?

A. We didn't answer him.

Q. That was at Corrigan-McKinney's plant?

A. Yes, below the Clark Avenue bridge.

Q. How many were with you?

A. Just Balint and I.

Q. How far were you from the gate?

A. In the middle of the road, about 12, 13 feet.

Q. You were going there to distribute handbills?

A. Yes.

Q. Had you distributed some that day?

A. Yes.

Q. To the men coming out of the plant?

A. To the men going in first, and they took them away from the men going in.

Q. When you distributed handbills, did you stand in the middle of the road or sidewalk?

A. Middle of the road. There is no sidewalk there.

Q. There is no sidewalk there?

A. No.

Q. Now you say on January 13th you were walking out of the meeting at Bohemian Hall with Bozo Danitz?

A. Yes.

Q. And Mr. Danitz was with you all the time that you have been telling about?

A. Yes.

Q. And he is head of the S. W. O. C.?

A. Field Director in the Cleveland area.

Q. Of the S. W. O. C.?

A. Yes.

Q. And you talked to Jones that day?

A. Yes. Oh, no, he was there on the corner with Maloney and sergeant Russell, on this particular corner.

Q. The day that Balint was hit, you were there, were you?

A. Yes.

Q. You saw it?

A. Yes.

Q. What time was it that you and Danitz walked down to Bohemian Hall and saw Captain Jones, what time of the day was it?

A. It was dark, around 7:30.

Q. What time was it that Balint was hit by this man?

A. Around 3:20. Around 3:20, 3:30, before the shift came on.

Q. In the afternoon?

A. In the afternoon.

Q. After that took place, then you and Bozo Danitz walked back to Bohemian Hall that night?

A. Yes.

Q. Who was with you and Balint?

A. A fellow by the name of Wimmir.

Q. Anybody else?

A. When Balint got hit, just Wimmir and Balint and myself were there outside.

Q. How many beside the other men, some Company police?

A. Yes, the police force, the Company police.

Q. How many would you say?

A. Four.

Q. Where would you say they were?

A. Three of them in a booth.

Q. How far from where this happened?

A. The booth, well, I should say about the distance, well, closer than you and I.

Q. Would you say six or eight feet?

A. About eight feet. You see, there is a sidewalk there on that street.

MR. LAUTER: That is all?

MR. DAY: That is all.

Redirect Examination

Q. (By Mr. Lauter) Just one question. You said something on cross-examination about handbills being taken away?

A. Yes.

Q. When did that happen?

A. Always at Republic Steel.

TRIAL EXAMINER LINDSAY: Well, set a time.

Q. You referred to an October 19th, 1936, distribution of leaflets, is that right?

A. Yes.

Q. You were passing handbills to men that were going into the plant?

A. Yes. They were taken away by the policeman at the gate.

Q. That is, the Republic Steel police?

A. Yes. They even took them out of their pockets.

Q. You were a member of the Otis Steel Lodge, is that correct?

A. Yes.

Q. In June, 1936, was there a lodge for the Republic men?

A. No. The Republic men joined the Cleveland Lodge and they had to have secret meetings. They joined my lodge. That is where I was acquainted with Balint. He was very active and Balint worked in company with myself before the strike came into Cleveland.

Q. That is, the employees of Republic Steel joined your lodge because there was no lodge for them?

A. That is right.

Recross Examination

Q. (By Mr. Day) Before you stated about following a man in 1936 who had a light cap and green coat or was it a green cap and a light coat?

A. It was a light cap and dark green suit.

Q. Well, you didn't know who he was?

A. No.

Q. You started to follow him?

A. Lowman knew him. He worked in the plant. He said, "There is a stool pigeon."

Q. And you started to follow him?

A. No; we looked at him quite some time because he was making out he was looking at jewelry. He was looking at the jewelry store window. The jewelry store was closed and there was nothing in the window and he did get away.

Q. And you did get after him?

A. Yes.

Q. Did you beat him up?

A. We wanted to see where he was parking.

Q. You wanted to see where he was parking?

A. Yes. We follow stool pigeons when we see them.

Q. Always?

A. Yes.

Q. Beat them up sometimes?

A. No.

MR. DAY: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will take a recess.

(Recess.)

TRIAL EXAMINER LINDSAY: Hearing called to order. Had you finished with that other witness, **Mr. Day?**

MR. DAY: Well, yes.

BENNY FAVORITO

a witness called by and on behalf of the National Labor Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Lauter) What is your name?

A. Ben Favorito.

TRIAL EXAMINER LINDSAY: Benny?

THE WITNESS: Yes.

Q. Where do you live?

A. 3246 Fulton Road.

Q. Where do you work?

A. Otis Steel.

Q. Are you a member of the S. W. O. C.? And C. I. O.?

A. Yes, I am a member.

Q. How long have you worked at the Otis Steel?

A. Seven years on and off.

Q. As a member of the C. I. O., have you done any organizing work?

A. As a volunteer organizer.

Q. Do you know where the Independence gate is to the Republic plant?

A. I do.

Q. Have you ever distributed any literature in front of that gate?

A. Yes.

Q. Have you ever distributed any literature there some time in November of 1936?

A. Yes.

Q. Describe what happened.

A. We were passing out handbills over there, "Steel Labor," and Captain Jones was at the gate and Sergeant Russell and as we was passing out handbills, he said to the men coming into the plant, "If you take those bills, you are fired," and as the men came out of the plant from work he took the handbills. Captain Jones came up to the men and took the handbills off their hands, and took them inside of the plant.

Q. Who is Mr. Slaney?

A. Mr. Slaney happens to be a Chairman of our Lodge right now and he is an organizer.

Q. Did you ever distribute handbills with him?

A. I have.

Q. In front of the Republic plant?

A. In front of the Republic plant.

Q. Have you ever distributed handbills with him in front of the Republic plant some time in December, 1936?

A. Yes.

Q. Describe what happened.

A. Ike Balint and Slaney was passing handbills there. As we was passing handbills, Captain Jones told his men again, "If you take any of those handbills, I will fire you." And as the men were coming outside of the plant, he would tell them the same thing, and at the same time he was organizing a crowd around the gate there to tackle us.

MR. DAY: I move the last be stricken out.

TRIAL EXAMINER LINDSAY: Your motion is denied, let the record show an exception.

MR. DAY: Exception.

A. As he was organizing a group of men to come and attack us we organized it right away, we left the Independence gate and went on to a different shop to finish out our handbills.

Q. Did you continue to pass out your handbills then?

A. At a different gate.

Q. Do you recall January 13, 1937?

A. Yes, I do.

Q. Was a meeting held at the Bohemian National Hall that night?

A. Yes.

Q. Do you know Captain Jones?

A. Yes, I know Captain Jones.

Q. Who is he?

A. Chief of police, Republic Steel Corporation.

Q. Did you see him in the neighborhood of that meeting at that time?

A. Yes.

Q. Describe what took place.

A. He was standing in front of the door of this here Bohemian National Hall with Private Malone and Sergeant Russell. And I was walking into that door towards the meeting, Malone made the remark, he says, "There is Favorito's brother," he says, "you want to keep your eye on him because he goes to all the plants to work."

Q. Who is Malone?

A. He is a company dud.

Q. Well, is he a policeman?

A. Yes, he is a policeman.

Q. Have you ever seen him in police uniform?

A. I did.

Q. Go ahead.

A. And I walked inside to the meeting there and listened to what took place.

Q. Did you ever go to distribute handbills in front of the Republic plant on January 25, 1937?

A. Yes.

Q. Describe what happened.

A. I and a group of men were going over to this Truscon gate to pass out handbills. As we were walking down there about the employment office down there towards the gate, two men were walking up, and there was a bunch of men up against the wall. As I offered one of these men a handbill he refused to take it and gave me a punch in the puss and I retaliated and gave him a left on his eye. We was fighting out in the street. Captain Jones was right over there with this here company policeman on the sidewalk, and I looked over there, this here company police started running towards me, and at the same time he pulled the gun, he said—

Q. Who pulled out a gun?

A. This here police, as he pulled out this gun, why he said, "You son-of-a-bitch, if you don't cut it out I will put a slug in your back," and we stopped fighting over there and we got into our cars and went up to the Truscon gate and passed out our handbills.

MR. LAUTER: That's all.

MR. DAY: Was that January 25th?

MR. LAUTER: That is right.

Cross Examination

Q. (By Mr. Day) This happened on January 25th?

A. Yes, sir.

Q. At what plant was it?

A. Truscon.

Q. About what time of day was it?

A. 3:27.

Q. And how many were in your group?

A. About 25.

Q. And this man that you said gave you a poke in the puss and you retaliated by giving him a lamp on the eye, was he walking out of the plant?

A. He happened to come out of the plant before the other workers came out.

Q. You don't know who he was?

A. Yes, I would recognize him.

Q. If you saw him?

A. Oh, yes.

Q. Have you seen him since?

A. I did.

Q. Then after he slugged you and you slugged him, Captain Jones came out?

A. Captain Jones was outside of the wall with this here other company police.

Q. And how many men were walking out of the mill at that time?

A. At that time they kept the men inside the plant until the fight was over.

Q. Well, how many—There were how many in your crowd?

A. About 25, there was men on the sidewalk over there ready for a fight, because they found out that we were going to pass out handbills.

Q. How many were there among the Republic crowd?

A. Among the Republic crowd I imagine about a hundred.

Q. About 25 in your crowd?

A. Yes.

Q. And that was back in January?

A. Yes.

Q. Now, the other things you told about, as I understand it, one took place in December, 1936, that is when you say Captain Jones and Sergeant Russell—that was in December?

A. December 13th.

Q. At what plant was that?

A. They were calling a Republic Steel meeting that night.

Q. Where did that happen? Right on Broadway?

A. Right on Broadway, and I don't remember the street, National-Bohemian Hall.

Q. Were you with your brother?

A. No, I followed my brother later.

Q. Are you an organizer for C. I. O.?

A. Volunteer organizer for S. W. O. C.

Q. What do you mean, volunteer organizer?

A. Well, if I get time I go out and help organize.

Q. How long have you been a volunteer organizer?

A. Ever since S. W. O. C. came in existence.

Q. When was that?

A. Last June.

Q. A year ago last June?

A. About a year ago last June.

Q. Do you get paid for it?

A. No, it is volunteer.

Q. What have you been doing there ever since June, a year ago, without any pay for it?

A. Why should I get paid, when I want to see the organization grow.

Q. I don't know why you should or why you shouldn't, all I am asking you is whether you were paid?

A. No, I ain't paid.

Q. Did you do any work during that time any place else?

A. Yes, I work down at Otis Steel.

Q. When did you work last for Otis Steel?

A. Still working there.

Q. Now?

A. Yes.

Q. When did you work there last? When did you actually go to the Otis Steel plant to work, last?

A. 1933.

Q. Well, you are still working at Otis, you say?

A. I am still working at Otis.

Q. Did you work there last night or yesterday?

A. I worked last night, worked 7 to 11 trick.

Q. How long have you worked continuously at Otis? Just the last few months or few weeks?

A. Maybe you recall about the lock-out we had down there at the Otis Steel, that is the department I am from.

Q. Well, I am asking you how long during the past three months have you been working there, during the past three months?

A. They have the stagger system. How do you expect them steel mills to work? Do you think they work steady?

Q. Answer my question, I don't want to argue with you. How many times during the past three months have you worked for them, for Otis Steel?

A. I will say about 15 days.

Q. During the last three months?

A. That is right.

Q. How many days did you work during the nine months for Otis Steel, before that?

A. Worked every day.

Q. Every day?

A. That is right.

Q. And then in your off time you are an organizer?

A. That is right.

Q. And you have been active, of course, haven't you?

A. That is right.

MR. DAY: That's all.

(Witness excused.)

PAUL J. CASTIN

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) What is your full name?

A. My name is Paul J. Castin.

Q. Where do you live?

A. 4484 West 53rd Street, Cleveland, Ohio.

Q. Employed at Republic Steel Corporation plant at Cleveland?

A. I was at the Truscon plant.

Q. When did you start working for them?

A. I started work there on the 5th day of March, 1937.

Q. How long did you work for Republic?

A. I worked there one month.

Q. What happened?

A. I was laid off on the 5th of April.

Q. Do you know Mr. Westerfield?

A. Mr. Westerfield works in the plant there, yes, sir. superintendent or assistant superintendent, I don't know what his official capacity is exactly.

Q. What plant is that?

A. That is in the pressed steel division.

Q. And what plant is that, Truscon or—

A. Yes, that is the Truscon plant.

Q. Did you have any conversation with him sometime in April?

A. I didn't hold a lengthy conversation with him. I had a couple words with Mr. Westerfield.

Q. Well, tell me what happened.

MR. DAY: What date is this, now?

MR. LAUTER: He fixes it as April, sometime in April.

THE WITNESS: I beg your pardon?

Q. This happened in the early part of April, is that right?

A. Yes, sir.

Q. Go ahead, tell me what happened.

A. I was working, standing tops for the Crosley Refrigerators that is built in that plant, and on that Monday morning, April 5th, a man by the name of Vincent, I don't know what his name is, he is one of the company representatives in the plant, company union man, came over to where I was standing, these tops for the refrigerators, and spoke to me, he asked me, "Did you join the—"

MR. DAY: Just a minute, was Mr. Westerfield there when this took place?

THE WITNESS: Mr. Westerfield was in that vicinity at the time that took place, yes, sir.

MR. DAY: Was he where he could hear what was said?

THE WITNESS: He could have heard it.

Q. (By Mr. Lauter) Go ahead.

A. And Vincent asked me if I joined the union. I told him I did. He says, "When is the next meeting taking place?" I told him I didn't know, but probably a couple of weeks, that there was no meeting been called. He says, "How many members have you got out here in this lodge? I says, "I don't know," I says, "I think there is around 47 or 50, something like that there, I don't know exact," which I didn't at the time. I didn't know whether there was two members there or not.

Q. Were you a member of the union at that time?

A. I was.

Q. Go ahead.

A. And he didn't say any more, and Mr. Westerfield talked to Vincent for a couple of minutes and Mr. Westerfield came over a couple of steps to where I was still continuing with my work, and Vincent says, "This is the man," and Mr. Westerfield says to me to keep my eyes to the ground and if anything develops in the union over there to let him know, as if the union gets in there, they will have to shut the plant down. I didn't give him an answer yes or no. That is all that was said to me at that time by Mr. Westerfield.

Q. Did you ever join the Employees Representation Plan?

A. I did, I guess that is the card that I signed when you go to work there, which I think is compulsory with the union.

MR. DAY: I move that be stricken out except that "that is the card that I signed." His conclusion that he thinks it is compulsory, I think I should ask to have it stricken out.

TRIAL EXAMINER LINDSAY: Yes, I will strike that out.

Q. (By Mr. Lauter) You did tell him—You did join the Employees Representation Plan?

A. As I told you before, I don't know whether that was the company representative plan I joined ~~or not~~.

Q. Were you asked to join at any time?

A. He is the foreman—Fred, I think they call him there.

Q. Yes.

A. He was a paint foreman, to the best of my knowledge.

Q. Did you have any conversation with him sometime in April?

> MR. DAY: I object to any conversation between this witness and this foreman Rudick, on the ground that there is no evidence that Rudick had any authority to represent the respondent or that he was authorized to represent the respondent, or that the respondent had any knowledge of the conversation. This is the same general ground I have had in other matters.
>
> TRIAL EXAMINER LINDSAY: Well, your objection is overruled, Mr. Day, let the record show the exception.
>
> MR. DAY: Exception.

A. I did have a conversation that day at about 2:55 p. m., on Monday, April 5th, 1937. Mr. Rudick come to me, he says, "Castin, I have orders to lay you off." I asked him why. I says, "Isn't my work satisfactory?" He didn't give me an answer. I says, "There is a fellow there that comes in here two weeks after I did," I says, "I taught him how to stand this stuff here," I says, "he is not getting laid off." I says, "Why am I getting laid off?" He did not give me any answer.

Q. Who is Frank Dunch?

A. Frank Dunch is a painter in the spray booth there, a company representative, I was told.

Q. Did you ever speak to him about your having been laid off?

A. The following day after I was laid off I went down into the restaurant that is operated there in the office building of the plant, and Frank was down there during the lunch time. I asked him why I was laid off.

MR. DAY: I object to this conversation between this witness and Frank Dunch upon the grounds already stated.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show the exception.

MR. DAY: Exception.

A. There was three or four more fellows sitting at the table when I asked this question. He told me that he didn't know that I was laid off until that morning, and he told me that I was laid off for union activities.

MR. DAY: I move it be stricken out on the same ground.

TRIAL EXAMINER LINDSAY: Motion denied. Let the record show an exception.

Q. And did you have a conversation with Mr. Dunch at that time?

A. Yes, sir.

Q. State what it was, please?

MR. DAY: The same objection.

A. He asked me if it was true that I was—

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

A. He asked me if it was true that I was fired for union activity with the Associated Press in Boston, Massachusetts and I told him that it was not true, that I was laid off for union activity. I told him that I dislocated my wrist by a fall in the dark room in Boston. I couldn't handle the job properly with my arm in a sling, and I came to Cleveland until my arm healed up.

Q. Is Cleveland your home town?

A. Cleveland is my home town, yes, sir.

Q. Did you have conversation with any company policeman that day?

A. I was walking out of the plant after my talk with Mr. Dunch, one of the policemen that I had had conversation with at different times in there, when I was on my lunch period, he would speak to me—

MR. DAY: I object to this conversation on the same ground.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

A. He called me over and he says that he heard that I was fired. I told him—he told me to see Sergeant Brown.

Q. Is that Sergeant Brown of the company police?

A. He is a company policeman at the plant, yes, sir.

Q. Go ahead.

A. He says, "Serg can fix it up properly, for you to go back to work." I asked him when I would be able to see Sergeant Brown. He told me that he was on at 4 o'clock. I didn't get a chance to come back out there that day at 4 o'clock to see Sergeant Brown. Next day I did go back.

MR. DAY: I move to strike that out on the same ground.

TRIAL EXAMINER LINDSAY: Motion denied. Let the record show an exception.

MR. DAY: Exception.

A. At 4 o'clock when Sergeant Brown came out, I seen Sergeant Brown.

MR. DAY: I object to his conversation with Sergeant Brown, on the same ground.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

A. Sergeant Brown told me that he will pick me up at my home the next morning between 9:15 and 9:30, to take me down to see Captain Jones at Corrigan-McKinney plant under the Clark Avenue Bridge, at his office. The following morning Sergeant Brown came to my home, stopped his car in front, blew his horn, and I got in the car with this Sergeant Brown, he took me down to Captain Jones' office under the Clark Avenue Bridge. We waited around a few minutes, I talked to the other company policemen around there. I think Sergeant Brown was in civilian clothes at the time.

We finally went into Captain Jones' office. While we were in the office there I read a newspaper. We had talked, waiting for Captain Jones.

Captain Jones didn't show up that day and we didn't leave there for two and a half or three hours after we went into the office.

So Sergeant Brown brought me back downtown and left me, up by the Republic Building in back of the Higbee Store and he drove on with his car and told me that he would pick me up next morning and we would see Captain Jones.

Q. Is this Captain Jones chief of police of the Republic police?

A. Chief of police of the Republic police. The following morning he also came by and picked me up in his car and we drove down to the office and waited down there for Captain Jones for a while, I don't know just how long it was.

Finally Captain Jones came out and seen Sergeant Brown there, Sergeant Brown spoke to him, one of the plain-clothes men of the police department—

MR. DAY: Now, I object to what he said.

A. Sergeant—

MR. DAY: I object to this upon the same ground, that there is no evidence that Captain Jones had any authority to bind the respondent in connection with a case of re-employment or getting back a job or anything of the kind.

TRIAL EXAMINER LINDSAY: Well, the objection is overruled. Let the record show an exception.

MR. DAY: Exception.

TRIAL EXAMINER LINDSAY: Is it just your contention that none of these men, Mr. Day, have any authority for anything?

MR. DAY: I beg your pardon?

TRIAL EXAMINER LINDSAY: Is it your contention that none of these men in the police department are—or any other department, have any jurisdiction?

MR. DAY: I think some of them have. We have not objected to certain ones, the conversation with the superintendent we have not objected to; conversation with the assistant superintendent; conversation with the master mechanic, but when it comes to a case of re-employment, discussing with the chief of police of one plant, I don't think it is admissible.

TRIAL EXAMINER LINDSAY: Well, we will have to let that in, to find out whether or not they do have that right, so the objection is overruled, let the record show an exception.

MR. DAY: Exception.

A. So while I was waiting for Sergeant Brown to finish talking with Captain Jones, Sergeant Joe Scalla of the Cleveland Police was down there, I spoke to Sergeant Scalla as I have known him for sometime.

And then Captain Jones came out and talked to Mr. Scalla. After that conversation was over I was called into the office with Sergeant Brown, and when we got in Captain Jones was sitting at his desk, Sergeant Brown walked in with me and he says to Captain Jones, "This is the man I was talking to you about."

Captain Jones, "Have a seat." And I sat down, and he says, "What is your name?"

I told him my name was Paul Castin, he says, "Louder, I can't hear you." He was sitting two feet or so away from me, he couldn't hear me.

He says, "Louder, please." I says, "My name is Paul Castin." He says, "Where do you live, Paul?" I says, "4484 West 53rd Street, Cleveland." He says, "Where did you work, before you came here?" I told him I had worked off and on at the May Company as a shoe salesman in the shoe department.

He says, "Do you know any of the policemen at the May Company?" I says, "I know them when I see them as watchmen and uniformed men that are there, watching the exits and the escalators and elevators," I says, "outside of that I don't know any of them, I couldn't tell you their names."

A. (Continued) He says, "Where else did you work?" I told him I worked with the Associated Press in Boston. He did not ask me any more questions about where I worked then. He said, "You are not working with Al Balint, are you?" I said, "No, sir. I am not. I don't even know Al Balint." He says, "He is one of the Union men." I said, "He is?" He says, "You ought to be working for the Union." He says, "One of the Presidents of the Union's lodge is getting eight dollars a day from the C. I. O.," and he says, "I am also paying him for his work down here." I says, "No, sir, I am not working for Al Balint or the Union." And I said, "I am not working for the Union." He said, "You belong to it?" I said, "Yes, sir." He says, "How many members have you got out there?" I said, "I don't know how many members." I give him the same answer I gave Vincent. I said there was around 47 or 50 members out there. So that was all the conversation about the Union at that time. He got in a couple of more words there. I don't just recall what they were. And then he says to me again that I was—asked me if I was with Balint and I said, "No, sir." He turned around to me and he said, "Castin, if you are, it will be too God damned bad for you, if you are double-crossing me, look out."

Q. Did you see Captain Jones again after that conversation?

MR. DAY: Just a minute. A motion to strike as to that conversation.

TRIAL EXAMINER LINDSAY: Read the question.

MR. DAY: As to the whole conversation.

TRIAL EXAMINER LINDSAY: The motion is denied. Let the record show an exception.

MR. LAUTER: There is an unanswered question, I believe.

(Question read.)

A. I was told to see Captain Jones the following morning in his office.

Q. Did you go to see him?

A. I went down to see Captain Jones.

Q. Did you see him?

A. I seen Captain Jones walk out of his office. While I was waiting at the gate with a couple of the Company policemen, one of which said to me—

Q. Did you ask to see him again?

A. I did. I asked to see Captain Jones. One of the policemen who went over to find out if I was to see Captain Jones, came back and he told me I would have to wait.

I waited there until 12:40 and Captain Jones did not see me that day and he didn't ask me to come in and talk with him anyway that day. He got in his automobile and drove away.

Q. After that did you do any organizing work for the C. I. O.?

A. Yes, sir, I did, voluntary organizer.

Q. Do you know where the Kroger Grocery Store is near one of the entrances to the plants?

A. I know where the Kroger wholesale grocery warehouse is.

Q. Where is that?

A. That is on the corner of 55th and Truscon Avenue.

Q. Have you ever done any organizing work in that area?

A. I have passed out literature such as the papers that Unions hand out, on the sidewalk in front of the

Kroger warehouse there where the men go back and forth between the street car and the plant.

Q. When you hand out literature there, what time of the day is it?

A. Usually we get out just before the shifts change, some of the men going in and some coming out.

Q. What time of the day would that be?

A. That would be anywhere from 2:30 or 4 o'clock in the afternoon, according to how they were working.

Q. Was the literature that you distributed ever taken away from the men?

A. One particular time I was told that this literature I was passing out was going to be taken by the policeman standing inside of the gate at the Truscon plant.

MR. DAY: I move that be stricken out; what he was told.

TRIAL EXAMINER LINDSAY: Yes; that is stricken.

Q. Have you ever seen any literature taken away?

A. No, sir, I haven't seen the literature because I was not up there at the gate.

Q. Have you ever spoken to any of the Company policemen near that gate?

A. Yes, sir.

Q. Have you ever given them any literature?

A. They have asked me for the papers and I gave it to them.

Q. What conversation did you have with them at the time?

MR. DAY: I object on the ground already stated.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. The Company policeman up there asked me if I had some of the papers I was going to pass out today. I told him I did have. He said, "Can I have a few copies of it? We want to get educated."

Q. Do you recall April 19, 1937?

A. I do.

Q. Were you distributing literature at that particular place that you have now related?

A. Yes, sir.

Q. Did you speak to any of the Company policemen at that time?

A. Before I went down in front of the Kroger Baking Company, I did talk to the policeman by the gate up there. He asked me if I had some paper. I told him I did have.

MR. DAY: Objection on the same grounds.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. He said, "Can I have a few copies?" I said, "Certainly." I gave him six or seven copies of them. He took them and put them in the drawer of the desk he has in the policemen's shanty there.

Q. Describe what else happened.

A. He said, "Is this what you are going to pass out today?" I said, "I am going to pass them out today." So I walked back from down at the Company gate and that was before the men was either coming in or going out. No one was coming in and out there except private supply trucks.

I walked back down to the little restaurant on the street corner of 55th and Truscon across from the Kroger Baking Company and had a sandwich and a cup of coffee and while I was there I got to talking to a man that runs the place there, a street car conductor, who talked to me a few minutes and I seen some of the men get off the street car to go into the plant to go to work.

So I took some of the papers and I took them out under my arm and I started to distribute these papers. Practically every man that went by there accepted the paper and looked at it and started to look at it there or either folded it up and put it in his pocket. I continued doing that with these men going into the plant and the men on the three o'clock shift, they were coming off of their jobs, and they were going out, I handed those men papers also. These men accepted the papers, probably one out of a hundred would refuse them. They folded it up and carried it with them. That continued some time and a man by the name of John Jense—

Q. Who was John Jense?

A. He is a man that signed a Union card over there to join the Union that day.

Q. Is he an employee of the Republic?

A. He is. He is an employee of the Company and I had seen him in the plant.

Q. Go ahead.

A. He came down the sidewalk. I handed him a paper. I said, "Have you got in yet?"

MR. DAY: I object to any conversation between this witness and a man named Jense in the present state of the record.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. (Continued) He says, "No. I will sign it if you have got one with you." I handed him a blue card, S. W. O. C. card. He said, "Have you a pencil?" I gave him an indelible pencil that I carried with me for that purpose. He went down to a little automobile about 10 feet away to sign his name on the card and come back and handed it to me. I continued handing out these papers while he was signing that card and at that time I could see a man with a leather lumber jacket standing alongside of the Kroger warehouse and watching us and I don't know who he was. I haven't seen that man since. I didn't pay much attention to him. So Jense got the card filled out and he brought it back to me and I looked at the card and I noticed he had not dated the card. I took the pencil, and I had these papers under my arm, the card in my hand, and I was going to put the date on it. I had my head down to write the date in there. I had to write on one side and I had turned the card to write it on the other side and a fellow shoved Jense out of the way and he struck at me with what I saw was a black jack and hit me on the side of the face with it. This man that hit me I recognized as one of the Company policemen out of the plant as Sergeant Brown. He had on just his ordinary clothes with one of the blue coats that the Company furnishes to the employees of the plant up there to work, it was a work coat, it was a faded-out blue work coat. I also recognized him by the way he gritted his teeth and they are half worn out in front, the way he chews tobacco all the time. When he hit me with the black jack, I stumbled backwards and fell in the gutter alongside of the sidewalk. Jense ran—

Q. What happened after that?

A. He jumped on me with his knees in the pit of my stomach, started beating me over the head and the arms and the hands with a black jack. He says, "God damn you, here is some of Cap's Union."

Q. What did he mean by "Cap's" Union?

A. I presume he meant Captain Jones. That is the words he used.

MR. DAY: I object to what he presumes. It is what he said.

TRIAL EXAMINER LINDSAY: Yes; the presumption is stricken from the record.

Q. What happened after that?

A. I had my hands over my head. I was trying to protect my head and he continued beating me with this black jack. Every time he would hit me he would say "uh-uh." I don't think I was unconscious.

Q. Were you taken to the hospital?

A. I was picked up after he got off of me. Also he kicked me in the side and after he got off of me, I stumbled to my feet and he was running down the sidewalk toward 55th Street putting his black jack in his pocket and he had that work coat pushed back to hide his black jack in the pocket. I turned around to pick up my watch. It was knocked off of my wrist and also picked my hat up and I picked the plate up of my false teeth, upper plate. When he hit me he knocked it out of my mouth. It was broken in two places. I picked them up. I staggered back across the street over to this restaurant and this lady that runs the restaurant and the girl that worked in there came running to the door with a towel that they use over there for drying dishes. They told me to wrap it around my head, that I was losing an awful lot of blood. I cannot say very well what I was doing on account of the blood running in my eyes, and this fellow that is in the gas station there, he had seen this man running and he came and spoke to me.

MR. DAY: I object.

A. He said he just got in an automobile and left.

MR. DAY: I don't care about that.

TRIAL EXAMINER LINDSAY: Miss Reporter, have you got that objection?

THE REPORTER: Yes, sir. Mr. Day withdrew it.

Q. Go ahead.

A. Then a man came by in an automobile and said, "Get in. Let's get to the hospital before you bleed to death." He got me in this automobile, I don't know who this man is that drove me to St. Alexis Hospital, took me in the operating room, the emergency operating room. While I was in there they were sewing my head up, my lip they sewed up, and looked me over for bruises and cuts. Two policemen were there, plain clothes men. They asked me if I could identify the man that did it. I told them I could. They asked me for a description. I gave them a description as fairly accurate as I could where I was laying there where they were sewing me up in pain, after having just been all beat up.

Q. How long were you in the hospital?

A. I was in the hospital 16 days.

Q. Did you suffer any injury to either of your arms?

A. Yes, sir. I had lacerations in the front part of my scalp and in the back of my head, lacerations, a fractured right arm, the ulna bone fractured, and lacerated inner jaw, which subsequently turned into an abscess and I had to be put to sleep while it was lanced, and I had a crushed little finger on my left hand, which is still out of shape, and a concussion of the brain.

MR. LAUTER: That is all.

A. (Continued) And a bruised liver also from where I got kicked in the side.

Cross Examination

Q. (By Mr. Day) This assault that you are telling us about took place on the 19th of April, did it?

A. On the 19th of April at about 3:30. That is when my wristwatch stopped, where the blow hit, and stopped my wristwatch.

Q. In the afternoon?

A. In the afternoon.

Q. Just where did it happen?

A. It was in front of the Kroger baking warehouse there on Truscon Avenue, corner of East 55th and Truscon.

Q. Was there anybody else there when it happened?

A. There was a number of people around there. I don't know who they were, except Jense.

Q. Jense was the man that you were telling about that had asked for the C. I. O. card and joined it?

A. That was signed up, the C. I. O. card was signed, and he returned it to me.

Q. You say he ran away?

A. Yes, he ran away.

Q. He ran away?

A. Yes. He ran away when they shoved him away and hit me with the black jack, he was scared, and ran away.

Q. He ran away at the time the trouble started?

A. Yes, sir.

Q. Was there anybody there besides you and the man that had the black jack?

A. I don't know. I was getting hit so dog-gone fast, I don't know how many was there.

Q. Anybody there at the beginning?

A. I noticed a number of people going up and down the sidewalk and a number of people in the parking lot across the street and people going into the restaurant, automobiles running up and down the road, going home.

Q. What road was that?

A. On Truscon Avenue.

Q. About 3:30 in the afternoon?

A. Yes.

Q. But you did not identify anybody that was there besides Jense and this man that struck you and yourself, is that right?

A. I cannot identify anyone except Brown, Jense and myself.

Q. The conversation that took place in Captain Jones' office when he said, as you say, something about some C. I. O. men are being paid by C. I. O. and by him, too, something of that kind?

A. Yes, sir.

Q. What day did that take place?

A. I am not certain just what date that was.

Q. Fix it just as nearly as you can.

A. That was after I was laid off.

Q. While you were laid off when?

A. I was laid off on Monday, April 5th, 1937.

Q. Now fix the time of the conversation in Captain Jones' office.

A. I went to see Dunch on Tuesday, Wednesday I went to see Brown, Thursday he took me to the plant, to the Corrigan-McKinney that day. I waited about two and a half or so hours and did not see him and the next day which was,—let me see, which was Thursday, was the day that the conversation was in Captain Jones' office.

Q. Now, April 5th was Monday?

A. Monday was the day I was laid off.

Q. That was April 5th, a Monday?

A. Yes.

Q. Then this conversation you say took place on Thursday?

A. To the best of my knowledge, it did, yes, sir.

Q. Would it be Thursday, April the 8th, to the best of your knowledge?

A. Yes, sir.

Q. And that took place in Captain Jones' office?

A. In the office, down under the Clark Avenue bridge, which I think is Captain Jones' office. I am not positive.

Q. At what time of the day?

A. That was in the morning.

Q. At what time?

A. He picked me up around 9:15 or 9:30 and we drove straight down there. We waited, I would say that was between 10 and 11 o'clock. I don't know the exact time.

Q. And you say that this Sergeant Brown, as you call him, was there during the whole conversation?

A. Sergeant Brown was there during the whole conversation.

Q. All of it?

A. I think he was listening to it. It was loud enough so he could hear it.

Q. He was right there?

A. He was not with me. He was sitting on one side of the office. I was over here with Captain Jones.

Q. Was anybody else besides Captain Jones and Brown and you present?

A. That clerk that makes out the bills, and the receipt clerk, I guess.

Q. During the conversation?

A. Yes, sir.

Q. During all of the conversation?

A. During part of the conversation.

Q. Was he close enough to have heard what was said?

A. I don't know if he was close enough to hear or not.

Q. How far was he from those who were talking?

A. From here to the corner of the table, which I would judge to be 15 or 20 feet.

Q. Anybody else?

A. Not that I remember.

Q. Before you got to see Captain Jones, did you sit in an anteroom?

A. There is no anteroom.

Q. Did you wait anywhere?

A. I waited in the yard.

Q. Did you recognize anybody that you saw?

A. I saw Sergeant Scalla of the Cleveland Police Department.

Q. That same day?

A. Yes.

Q. Anybody else?

A. Not that I know through name, no, sir, I could not.

Q. You started to work for the Republic on the 5th of March?

A. Yes, sir.

Q. Of this year?

A. Yes, sir.

Q. Prior to that time you worked for the Associated Press of Boston?

A. Associated Press of Boston. Also the May Company, part time.

Q. How long did you work for the Associated Press in Boston?

A. I worked there three months.

Q. Where did you work before that?

A. I worked before that at The May Company.

Q. I asked you—

A. At odd and end jobs that I could get in there.

Q. What did you do for the Associated Press?

A. I was a wire photo assistant.

Q. Did you go from The May Company down to Boston?

A. No, sir. I was not working at the time I moved from here to Boston. I did not have a job.

Q. How much time intervened between the time you worked for The May Company here and the Associated Press in Boston, about how much?

A. I came back to Cleveland on the 13th day of June, 1936.

Q. Came back from where?

A. From Boston, Massachusetts.

Q. Had you worked for the Associated Press before that?

A. I had worked for the Associated Press before that, yes, sir.

Q. In Boston?

A. In Boston.

Q. Then you came back here in 1936 in May?

A. No, sir.

Q. What month did you say it was?

A. In June.

Q. In June, 1936?

A. Yes.

Q. Did you then work for The May Company?

A. After my arm was dislocated, the tendons was torn in the wrist, and I was in Cleveland until some time after September that I was unable to work and the doctor would not release me to go to work.

Q. Then you started to work for The May Company?

A. I am not positive how many days I worked. I think I worked around the Christmas holidays in the shoe department.

Q. In the shoe department?

A. Yes, sir.

Q. Did you work in Cleveland any place between the time you worked for The May Company and the time you worked for the Republic?

A. I drove a car for the Ford Motor Company when the American Legion had their convention in Cleveland.

Q. That was some time last summer?

A. Ten days, yes, sir.

Q. When did you join the C. I. O.?

A. I joined the C. I. O. on the 31st day of April, 1937.

Q. Did you belong to the C. I. O. when you worked for the Associated Press?

A. No, sir, I didn't.

Q. The 3rd day of April, 1937?

A. I joined the S. W. O. C.

Q. At that time you were working for Republic?

A. At that time I was working for Republic, yes, sir.

Q. What was your job at Republic?

A. I went there to spray, which I was unable to handle in the booth back there, as it was too fast for me. I hadn't had enough experience to handle it.

Q. Then you took a job as sander?

A. Yes, and the foreman took me up and put me sanding tops on the refrigerators.

Q. Had you worked for any steel company before you went to Republic anywhere?

A. No, sir.

Q. This was the first experience you have had in a steel company?

A. I was not working in steel, that is, manufacturing steel, sir. I was out there as a painter or sander.

Q. Did you ever work as a painter or sander anywhere before?

A. Yes.

Q. Where?

A. At the Auto Paint Shop, Burlington, North Carolina, run by John Kaiser.

Q. When did you work there?

A. I worked there before I come to work for CWA. I don't know without going back and looking it up.

Q. About when?

A. Around in 1934, 1933 or 1934.

Q. When did you work for CWA?

MR. LAUTER: I think Mr. Day has gone far enough with this line of questioning. This is not a discharge case. He is not named in the complaint.

TRIAL EXAMINER LINDSAY: I think you have gone far enough, Mr. Day.

Q. Do you live in Cleveland?

A. Yes, sir, I live in Cleveland since 1925.

Q. Where do you live?

A. 4484 West 53rd Street.

Q. Married?

A. Yes, I am married. This is the second time.

Q. Are you working anywhere now?

A. I am working, yes, sir.

Q. Have you been active in the strike since the strike was called?

A. What do you call active, sir?

Q. You understand, you are an intelligent man. Have you been active in that understanding of the term?

A. What do you mean by active? I have been out trying to organize, if that is what you mean by activity.

Q. How long have you been doing that?

A. After I came out of the hospital at St. Alexis Hospital, Mr. Davis, originally Mr. Danitz—

Q. How long have you been doing it?

A. Well—

Q. I do not want to know how long you have been working for Mr. Danitz.

A. I went to Mr. Danitz and Mr. Danitz told me at that time he would put me on answering telephones and in the sub-district office under Mr. Favorito over there, as I was unable to work anywhere else, and that would help me pay my alimony in court. That was the 14th day of May and he said, "You will start at $100 a month."

Q. Since that time have you been working under Mr. Favorito?

A. I have.
Q. Vincent Favorito?
A. I have.

MR. DAY: That is all.

TRIAL EXAMINER LINDSAY: It is five minutes of 12. I guess we had better not start another witness. We will adjourn until 1:30.

(Witness excused.)

(Thereupon, a recess was taken until 1:30 o'clock p. m.)

Afternoon Session

(Whereupon, the hearing was resumed, pursuant to recess, at 1:30 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. LAUTER: Mr. Anneli.

GAETNO ANNELI

a witness called by and on behalf of the National Labor Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Lauter) What is your name?
A. Gaetno Anneli.
Q. Where do you live?
A. I live at 3443 Orange Avenue.
Q. What is that?
A. 3443 Orange Avenue.
Q. Is that in Cleveland?
A. Yes, sir.

Q. Are you employed by the Republic Steel Corporation?

A. Yes, sir.

Q. What plant?

A. Corrigan-McKinney plant.

Q. When did you start working for the Republic Steel Corporation?

A. 1933, April 27th.

Q. What kind of work were you doing then?

A. They hire me as a laborer.

Q. How long did you remain a laborer? How long were you a laborer?

A. Since 1933, April 27th up to November 12th, 1936.

Q. What happened on November 12th, 1936?

A. They offered me a chance to going to chipper. They said, "Anybody want to go in chipper department?" And I was the one. I like to go there.

Q. So you were promoted from a labor gang to a chipper?

A. Yes.

Q. How long were you working on the labor gang?

A. I been on the labor gang.

Q. How much were you earning on the labor gang?

A. At that time, 47½ cents an hour.

Q. 47½ cents an hour?

A. Yes, sir.

Q. How much were you making as a chipper?

A. 52½ and then they raised, you see, only they fire me. I had 62½ cents an hour.

Q. When were you fired?

A. On February 20th, 1937.

Q. Are you a member of the C. I. O.?

A. Yes, sir.

Q. When did you join?

A. On the first part of January, first part, first week.

Q. January, 1937?

A. Yes, sir.

Q. Did you have a locker in the plant?

A. Yes, sir.

Q. Do you have keys to your locker?

A. Yes, sir.

Q. Did you ever lose those keys?

A. Yes, sir, I did.

Q. When did you lose those keys?

A. I lose my keys was around 8th of February.

Q. About the 8th of January, 1937?

A. Yes, sir.

Q. Did you have a regular key case?

A. Yes, sir.

Q. Have you got it with you?

A. Sure.

Q. What else did you have in the key case besides your keys when you lost them?

A. I had my membership card in C. I. O. Soon I notice I had my keys lost. I tried looking around all over the plant and I could not find them, see? So I had an idea, you know, to report to the gate, the city police, I had lost the keys, so anybody find and turn the keys in, it was mine, see?

Q. Do I understand you to say you reported your loss of keys to the gate police?

A. Yes, sir. I did report to the police, city, I mean Republic Steel police, I lost the keys, you see, and he took my name and my address and he said if somebody turn the keys in, we will let you know. All right.

After about four or five days, I had a call from George Bellew. My foreman was the superintendent of chippers department. I had a call and I went to see George Bellew.

Q. George Bellew?

A. Yes.

Q. Do you know how the name George Bellew is spelled?

A. (No response.)

A VOICE: B-e-l-l-e-w.

Q. Go ahead.

A. I wanted to see him. I went to see him. I was working 11 to 7 that time and in the morning when I was through my work, I went to office and he saw me. In the first place—I was there and I went to him but when I went about 10, 15 minutes, whatever it was, and he was first one asked me what I want, but I don't know what the hell I going to say. I wanted to know what he want, see? So he call me in the office and told me the chief of police, Captain Jones, was found my keys, see, and he says, "This morning you stop at the gate and wait 8 o'clock until Captain come and he going to give the key to you." At 8 o'clock I see Captain Jones. Then he call me into the office.

Q. Whose office did you go into?

A. Captain Jones' office.

Q. Captain Jones?

A. Yes.

Q. Go ahead.

A. As soon as he saw me he said, "You lost the keys?" "That is your keys?" So I said, he open up the key case—

Q. This key case you are referring to now and in your hands the one he turned back to you?

A. No, he still held himself in hands and showed me. It had a membership compartment same as this.

Q. Is that the same key case?

A. Yes.

Q. The one you are showing to the Examiner now?

A. Yes.

Q. Go ahead.

A. Same one. In first place, I didn't know what to say. I try to save myself. I know I was going to have fire because you know always I know Company no like outside Unions so I try to save myself. I don't know what you talking about paper, I told him, I don't know nothing about paper, I told him. I know it was mine but I try to help myself.

Q. You say you know it was yours?

A. Yes, sir.

Q. What did you have in there?

A. Membership card.

Q. With your name on it?

A. Yes.

Q. Go ahead.

A. So I try to help myself to make him think I don't know nothing about paper. I try to make him believe it was not my card. "Well," he says, "don't give me that stuff." He says, "Who put it in there?" he says. So that I said I lost the keys, somebody found, I don't know. I tried to tell him I don't know nothing. He questioned me how many number was admitted and all that stuff and I told him I don't know, I don't know nothing.

So I took my membership card and you know I keep on saying I don't know nothing. I try to make him believe it was not mine, you know how, I had a family, see? I don't want to be fired because always you know what kind of a job a man, so I try to save myself, so I tore the paper in half. He held me back.

Q. You say you tore the paper in half. Are you referring to the membership card?

A. Yes.

Q. Just go on.

A. He was say, "Hold on, don't throw it away. Give it to me. I am going to check up your handwriting." So he had that membership card. I don't know what they did with that, see?

Anyhow, after a couple of weeks, some day, they fire me.

One time my foreman came to me and he said, "Tom, I am sorry." I don't know. He was nice fellow to me.

Q. Who was your foreman?

A. Bill. Bill. I don't know his second name. I know him by the name of Bill. He says, "I am sorry, Tom, you have to go to see George Bellew, the superintendent." I was surprised, see, I never had no argument about my work. See, I never take a day off.

Q. Have you worked continuously all the time you had been there?

A. Yes, sir.

Q. Have you had any conplaints about your work?

A. Never. Nothing.

Q. Did you go to see Mr. Bellew?

A. I went to Bellew that morning.

Q. Bellew?

A. I was working that time, it was the next week, 7 to 3. After I do my work I went to see George Bellew, he call me in office and he pull a piece of paper out of the desk and he started to read me a story of using too many chisels. I don't know nothing about it. I never heard that story before, too many chisels. At first he was going to say I use so much tools. Then he turned around and said I use too many chisels. I talk to him, I said I got a family, always I do my best, take care of my job, can't you give me a break? I got a family. He said, "I got a family, too." He told me, "You have to see George Krause, the employment man. You go see him."

Well, I took about three days before I get in touch with George Krause. I think, you know, probably I can make him understand so always I no like to get fired, so I tried somehow to fix it up but nothing doing. After three days I go see George Krause and as soon as he saw me, he called me in the office. He said, "What do you want?" I said, "I don't know. George Bellew sent me over here to see you. I don't know nothing about it." He sent me in next rocm. He said, "Go see Louie."

When I go see Louie, was a couple of men, they hired men that time, a couple of men was hired when I walked in the next room. So he said, "you wait. Sit down." I wait, one of the them men give everything, so was all set to get a job, you know, and they call me up by name. All right. He said, "You are fired." I said, "Fire? How? I am surprised at that—"

Q. Speak louder.

A. He says,—I told him, "I am surprised, you know."

A. I told him, "I am surprised, you know. You know, I fired for that." So he says he got orders. "You fired." so they fix up my papers, give me my slip and they send me to main office to get my money, discharged for "suspicious".

Q. What did you say, there?

A. He gave me slip, piece of paper.

Q. Who gave you slip?

A. Louis.

Q. Louis?

A. Yes, sir.

Q. That is in Mr. Krause's office?

A. Yes, sir.

Q. What did you say about that slip?

A. Slip was say discharge was because suspicious.

Q. That is what was on the slip?

A. Yes, sir. I read it myself. I went to main office and they give me the money. I went home. After eight or nine days the George Krause come up to my house.

Q. Did you ever file a complaint with the Labor Board?

A. Yes, sir, right away. I think that was about a week or ten days after it happened to me. I never got in touch with Labor Board, I have to find out.

Q. After you filed complaint with the Labor Board, did Mr. Krause come to see you?

A. About after eight or nine days, that was a week or ten days, something like that.

Q. Do you remember when he came to see you? Do you remember what day it was that Mr. Krause came to see you?

A. He comes to me in May the 18th.

Q. 1937?

A. 1937.

Q. He came to your house?

A. Yes, sir, and he told me to go down there, he wants me to go back to work. So the next day was May 19th, 1937. So I went there, you know. Fix him up my paper, I went through doctor's examination and they hired me as a new man again.

Q. What kind of work did you do when you came back after May 18th to Mr. Krause?

A. They never give me my job back no more, they send me to Labor Department.

Q. Working in the labor gang?

A. Yes, sir, I worked about a week, then they called strike.

Q. What pay were you getting in the labor gang when you were working in the labor gang?

A. When I go back?

Q. That is right.

A. 52½ cents an hour.

Q. How much had you made in the chipper gang, when you were working as a chipper?

A. 62½ cents an hour besides tonnage.

Q. Well, had the chippers gotten a raise since you were laid off?

A. Yes, sir.

Q. What are they getting now?

A. 72 cents and ½ an hour.

Q. Do you want your job back as a chipper?

A. Yes, sir.

MR. LAUTER: That's all.

Cross Examination

Q. (By Mr. Day) You joined the CIO?

A. Yes.

Q. In January?

A. Yes, sir.

Q. Have you any idea what time in January?

A. Around the first part, the first week.

Q. You worked for Republic for—all in all for quite a long time, didn't you?

A. Since 1933 I started work.

Q. 1933?

A. 1933.

Q. 1933?

A. Yes, sir.

Q. And you worked as a laborer for a while?

A. Yes, sir.

Q. And then you became a chipper?

A. Chipper.

Q. And when you were laid off you were told that you spoiled too many tools, tools?

A. Yes, that is what they told me.

Q. That is what they told you?

A. Yes, sir.

Q. Then you went back to work again on May 19th as laborer?

A. I started the 19th, I mean on the 20th, May 20th, 1937.

Q. May 20th?

A. Yes, sir.

Q. You were working there when the strike took place?

A. Yes, sir, we all went out on May 26th.

Q. Have you been out on the picket line?

A. Yes, sir.

Q. Right along, take your turn?

A. Yes, sir.

MR. DAY: I couldn't understand some of the testimony of this witness, and we will meet the rest of it when we put our case in, as far as he is concerned. That is all of the cross examination.

TRIAL EXAMINER LINDSAY: You may have it read, if you wish.

MR. DAY: That is all.

MR. LAUTER: I am not sure that I understood that Mr. Day said it was not your intention to recall that witness, it was your intention to put in defense?

MR. DAY: No, not recall the witness. I said it might be necessary to put most of our case in as to him in our own case, because I couldn't understand all of his testimony. So the cross examination is over.

MR. LAUTER: I wondered whether that remark became part of the record, namely that the testimony of this witness could be read to Mr. Day?

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: I didn't understand.

MR. DAY: Well, I would rather not have it read now.

TRIAL EXAMINER LINDSAY: That is up to you, Mr. Day.

MR. DAY: Yes.

(Witness excused.)

THOMAS CIKAH

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) What is your name?

A. Thomas Cikah.

Q. Where do you live?

A. 2614 Broadway.

Q. Are you employed by the Republic Steel Company?

A. Yes, sir.

Q. When did you start working for them?

A. May 9th, 1925.

Q. 1925?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: May I inquire? This is off the record.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: Do I understand this last witness is still working?

MR. LAUTER: No, he is out on strike.

TRIAL EXAMINER LINDSAY: On the record.

Q. (By Mr. Lauter) Have you been laid off since you started to work in 1925?

A. Yes.

Q. What kind of work have you been doing?

A. Electric locomotive.

Q. What plant is that?

A. Coke plant.

Q. Is that in the Cleveland plant?

A. That is Cleveland, Corrigan-McKinney.

Q. Are you working at Republic now?

A. Not now.

Q. Were you discharged?

A. Yes.

Q. When were you discharged?

A. I was discharged the 9th of July.

Q. 1936?

A. That is right.

Q. Now, when did you join the CIO?

A. On the 2nd of July. First or second, between these couple of days.

Q. And was it after you joined CIO that you were discharged?

A. Yes

Q. Who was Superintendent Wall?

A. Mr. Wall.

Q. And was he superintendent of you?

A. Superintendent of coke plant.

Q. Is that Corrigan-McKinney plant?

A. That is right.

Q. Did you have any conversation with him a short time before your discharge?

A. Just about five or six days after I got laid off, he called me in the office and asked me, "Did you join any union?" I say, "No." I was joined, but I would not tell him true, because I knew what was going to happen.

Q. You say you were a member of the union?

A. Yes.

Q. But you didn't tell him?

A. No, I don't tell him. He say, "For Christ sake, don't join union, they are no good. They don't give you anything."

Q. During the 11 years that you have been there?

A. Yes.

Q. Has there been any complaint about your work?

A. No, sir. Just last week sometime before I was up in office, after week I was called up every night, he tell the general foreman, he say, "Take that man out." That is all. He was working me all through five days and through the night.

Q. Did you file complaint with the Labor Board?

A. Yes.

Q. After you filed complaint were you called back to work?

A. Yes, sir.

Q. Was that on May 14th of this year?

A. Yes, sir, that is right.

Q. Who is Mr. Hackler?

A. That is the general foreman.

Q. Is that the general foreman over you?

A. Yes, sir.

Q. Did you have any conversation with him? Do you recall that?

A. Yes, sir.

Q. What was the conversation?

A. Well, he was come to second night I was on my job, was quarter to 9 on the second shift, he is come on the locomotive operator job, he say, "It is no hard feeling," but he say, "last time happen, don't be happen any more."

Q. Repeat what Mr. Hackler said to you.

TRIAL EXAMINER LINDSAY: Repeat the whole conversation.

A. He says, Hackler says, "No hard feeling, you aren't going to happen any more like this." It was a quarter to 9 of the second turn, quarter to 9.

Q. Now, when you were working as locomotive engineer.

A. That is right.

Q. How much were you earning?

A. At that time was 72. It is 59½ cents an hour.

Q. You were making 59½ cents an hour?

A. Yes.

Q. How many hours a week were you working?

A. Eight hours a day.

Q. Were locomotive engineers increased? Was their salary raised?

A. Yes. There was two raises.

Q. What?

A. Was two raises since I was laid off.

Q. What are they getting now?

A. I think they get 74.

Q. Have you had any work since you were laid off or discharged?

A. No.

Q. Except for work that you did since May 14th?

A. That is right.

Q. You went back?

A. Yes.

Q. Did you go back to your old job when you went back?

A. That is right, I was three days' different jobs, the fourth day I went back to my old job.

Q. Got back your old job as locomotive engineer?

A. That is right.

Q. When the strike came on May 26th did you go out on strike?

A. That is right.

MR. LAUTER: That is all.

Cross Examination

Q. (By Mr. Day) When did you join CIO?

A. July about the 2nd.

Q. 1936?

A. That is right.

Q. And you were laid off or discharged July 31st, 1936, is that right?

A. No, I think it is July 9th.

Q. July 9th, 1936?

A. That is right.

Q. Then you were re-employed about May 11, 1937?

A. Yes.

Q. At the same work?

A. Same job.

Q. You were working at that work up until the time of the strike?

A. Yes.

Q. And you went out on the strike? And have you been doing picket duty?

A. That is right.

Q. Do you run a beer parlor?

A. Not me, my wife.

Q. Your wife?

A. That's right.

Q. Is that close to the plant?

A. That's right.

Q. Which plant is that?

A. Corrigan-McKinney.

Q. Corrigan-McKinney?

A. Yes.

Q. Have you any interest in the beer parlor at all?

A. No.

Q. You mean your wife owns it all?

A. That's right.

Q. How long has she run it?

A. Couple of years.

Q. Couple of years?

A. Yes.

Q. Your job was quenching—What was your job?

A. What do you mean, job?

Q. When you worked for Republic, what did you do?

A. Electric locomotive.

Q. Were you what was known as a quenching car engineer?

A. That's right, that's right.

Q. Just tell the Examiner what that means.

A. That is quenching car, is locomotive just like engineer or train or something, he got to take just like engineer on a train.

Q. Was it part of your job to stop the smoke and put out the fires that might start at doors of ovens?

A. That's right.

Q. Did your boss find fault with the way you did that?

A. No, sir.

Q. Isn't it a fact that at various times—

A. Oh, yes, sir, wait a minute. I will tell you about it. Listen. You are on locomotive, or you are on automobile, you can't do something else. You have got to run the automobile. If you stop the automobile, you got to do something else. You can't do two jobs at once.

Q. My question is whether or not your foreman didn't find fault with you for not stopping this smoke and putting out fires?

A. Um-hum.

Q. In especially charged ovens?

A. That is why I got fired, yes.

Q. That is what they told you they fired you for?

A. Yes, and of course they got to put there something.

Q. That's all.

A. I was doing the same thing after, when they called me back, I was doing the same thing, I was all right.

Redirect Examination

Q. (By Mr. Lauter) You say you were doing the same work when you got back?

A. The same way, they never say a word, it was o. k. just one week I was back, they don't call me, I figure I join union. He says, "We will make this man off."

Q. There was some question of a beer parlor that your wife had, do you know Mr. Balint?

A. Yes.

Q. Al Balint?

A. Yes, sir.

Q. Did he ever go to your beer parlor?

A. Absolutely.

Q. Any other CIO members there?

A. Yes, sir, find out, they come in like anybody else.

Q. And did they ever hold bar meetings there?

A. He asks if they can't have a table. I say, "Yes, just like anybody else." That is what table is for.

Q. Is your beer joint ever watched by mill police?

A. That's right.

Q. Some of the mill police used to watch that place?

A. Yes, sir.

Q. You have seen them?

A. No, I have seen them across the street, I was working that night, there was two big cars, Studebaker, I think it was, I didn't see, but I see the watchman, this happened two months before she was held up, took $48 and some small change and my wife's citizenship papers.

Q. Tell me more about the time your place was watched by the police.

MR. DAY: I object to that on the ground that it has no connection with the respondent.

TRIAL EXAMINER LINDSAY: Just a minute, I will overrule the objection for the time being.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: Let the record show an exception.

MR. DAY: Exception.

MR. LAUTER: If you please, Mr. Examiner, even though you overruled, I would like to explain the basis for my redirect, here. This man was fired—

MR. DAY: Objection.

MR. LAUTER: He said, "For the time being," as I heard him.

TRIAL EXAMINER LINDSAY: I overruled the objection.

MR. DAY: Yes.

MR. LAUTER: Did I hear you say "for the time being"?

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: I will make my explanation if your objection is renewed again.

Q. Go ahead, tell me what happened.

A. There was two big car watching around, somebody squawk, say they going to meet at my place. Somebody reports, stool pigeon, I guess. Well, there was two big cars was full of, I guess, company stool pigeons, police, or what the hell it was, I don't know. I was working that night. Across the street Lot Murray, then he was waiting, he thinks somebody going to hold up again, then he walk out through the street, he say, "Buddy, you better watch yourself, try to hold you up again." She was scared to let beer party inside, everybody was scared. Then when I come home, you know—

Q. Just tell me over again what you started to say, when you said that you came home?

A. All right, I come home, my wife she tell me that she—she say, "Christ sake, to leave that place because there is lots of police watch this place."

Q. By that do you mean more police?

A. Yes, more police. They find out, at least the company are find out from police down in the plant, now no bum start hold-up.

Q. You found out the men standing across the street was mill policeman?

A. Was big machine, was big Packard, two cars was full.

Q. Had there been any complaint from people around your neighborhood about the fact that mill police were watching your place?

A. Yes.

Q. Who complained about it, do you know?

A. I hear lots of guys was coming in, well, police come in to watch the place.

MR. DAY: We object to that conversation and move that the whole incident and the relation of it be stricken out, not related to the respondent, not connected with the respondent in any way.

TRIAL EXAMINER LINDSAY: Motion denied, let the record show an exception. You opened it up, Mr. Day.

MR. DAY: I didn't open that up.

TRIAL EXAMINER LINDSAY: Proceed.

MR. DAY: Exception.

Q. (By Mr. Lauter) Did you speak to any of the people who live across the street from where your wife has a beer saloon?

A. Yes.

Q. Did they have any conversation with you in which they complained about the fact that mill police were watching?

MR. DAY: I certainly object to that conversation that he had with somebody across the street.

A. What he says is two big cars.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

MR. DAY: Exception.

Q. All right. Tell me what the conversation was.

A. What do you mean?

Q. Across the street, you say that there were people complaining about the fact that mill police—

A. I was standing on the porch, two cars came around, go around Champion Street.

Q. Did they stop in front of the house on the other side of the street?

A. They watched inside. He says, "You know, you can't have no meeting in beer garden."

MR. DAY: Is this something somebody told him, now, or something he thought himself?

THE WITNESS: Oh, the other guy he say this, he going to get it up again like couple of months before. I say that and that guy he was going to get on top again, I know was a couple of months before.

MR. LAUTER: Let me ask you one more question.

Q. (By Mr. Lauter) Did you ever have a conversation with the people who live on the opposite side of the street on which your wife has a beer parlor in which they complained about mill policemen standing on the opposite side of the street watching your place?

MR. DAY: Same objection on the same ground.

A. Yes.

TRIAL EXAMINER LINDSAY: Objection overruled. The record will show an exception.

MR. LAUTER: That is all.

(Witness excused.)

FRANK PINICHY

a witness called by the National Labor Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your name, please?

A. Frank Pinichy.

Q. Where do you live?

A. 9008 Cumberland.

Q. Is that in Cleveland?

A. Yes, sir.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes, sir.

Q. How long have you worked for them, about?

A. I started in 1934, May. Me and Brother Balint started at the same time.

Q. You worked there rather steadily since that time?

A. Yes. We was working off and on.

Q. Were you working in September of 1936?

A. Yes, sir.

Q. Do you belong to the C. I. O.?

A. Yes, sir.

Q. When did you join the C. I. O.?

A. I joined the C. I. O. on July 1st, 1936.

Q. July 1st?

A. July 1st or 2nd, I would say.

Q. 1936?

A. 1936.

Q. Were you very active in the C. I. O. after you joined?

A. Yes, sir.

Q. What sort of activity did you do?

A. In my department, that department I worked, I organized that whole turn in the chipper department.

Q. You organized the members of the chipping department?

A. Yes.

Q. How many men?

A. About 100 men.

Q. When did you organize these men? When would you talk to them?

A. During lunch hour and after work.

Q. Did you ever organize any during actual working hours?

A. No, sir.

Q. How long did you work for Republic at that time?

A. I believe I worked about six or seven weeks before I got fired.

Q. When did you get fired?

A. I was fired, I could not recall.

Q. Well, do you remember what month it was.

A. It was in the fall. I do not remember exactly.

Q. It was in the fall?

A. Yes.

Q. All right. What turn were you working on the day you were fired?

A. I was working on the second turn.

Q. What do you mean by second turn?

A. That is 3 to 11 shift.

Q. Did you go to the mill that day?

A. Yes, sir.

Q. Will you tell us what transpired as you got to the mill?

A. I come down around a little after two o'clock and when you go in the mill, you have to stop by the watchman to get your time card, they have a card there, where your card is.

Q. Just a minute, Mr. Pinichy. You say you stopped by the watchman, is that the same—

A. Watchman, yes.

Q. Are those the same men that the other men who have testified have called Company police or mill policemen?

A. Yes. That is what they call Company police or watchmen.

I go to the rack, I don't have no card in there. I went back and asked the watchman, "Have you seen my card?" He asked my name and my badge number and he say, "yes. Here it is. Right here." He had it in the desk. He had about six or seven cards in the desk. He had a note attached to that card. He said, "You have to go down and see Mr. Krause next morning." I said, "Why what is all about?" He said, "I don't know. I cannot tell you." He said he had nothing else to do, they won't let me go in the plant. Next morning I went down to see Mr. Krause—

Q. Just a minute. Did you see anybody else before you left that night or did you leave the mill right then?

A. I left the mill right then.

Q. And this man said for you to see Mr. Krause the next morning?

A. Yes, sir.

Q. Did you go down the next morning?

A. Yes, sir.

Q. Will you tell us what transpired when you went there the next morning?

A. I got down around 9 o'clock next morning and walked in there. I told him the watchman sent me down to see you. Well, he asked me, "What is your name and badge number?"

Q. Pardon my interruption. This is Mr. Krause that asked your name?

A. Yes. I told him my name, my badge number, and he pulled a sheet of paper out of his drawers, he had about seven or eight names on it. I looked on it. He had my name right on the top. I was the first one on the list and he said, "Frank, I got to let you go." I said, "Why, George?" He said, "I don't know. I cannot tell you. That order has come from Mr. George Bellew." He is assistant superintendent of the chipping department. He was that time.

Q. Was he your superintendent or assistant superintendent?

A. He was assistant superintendent of my department.

Q. Were you a chipper?

A. Yes, sir.

Q. All right. What else did Mr. Krause have to say after saying he did not know, that came from Mr. Bellew?

A. Well, I asked him, "Could you tell me why I being fired?" He said, "No, I haven't got the slightest idea." He said, "I ain't got nothing to do with it. That order came from Mr. Bellew. He knows all about it." I asked him, "Is there anything wrong with my work?" He said, "According to my record, you perfectly O. K." He said, "I have no complaint against you. I don't know what it is all about." Well I told him I would like to see Mr. Bellew. He said, "Well, no, you cannot go in the plant." He said, "You could call him up." I asked Mr. Krause right there could I call him up from there and he said, no. He said, "You have to go back to the gate where you are punching card and you tell the watchman there and he going to call him up for you."

Well, after I got my slip to get my money, I come up to the No. 1 gate to the watchman. I told the watchman I want to call up George Bellew. That was around about 11 o'clock. He looked at me. He said, "It is no use to call him up because he is not in now." But I know he was in there. He said, "~~If you~~ want to call him up, you get outside telephone and call him up."

I just forgot all about it.

I left him and I went up to the main office to get my money and I went home.

Q. How were you able to get your money?

A. They give you a slip when they fire you, through that slip you got to get your money and on that slip is stated why you was fired or laid off or what.

Q. Did anyone give you a slip?

A. Mr. Krause give it to me.

Q. Mr. Krause gave it to you at the time you related this conversation?

A. Yes.

Q. What did that slip have on there as the reason for your discharge?

A. That was marked, "No work," but the same day—

MR. DAY: What did he say?

TRIAL EXAMINER LINDSAY: No work.

A. But the same day they had put 16 or 20 men in that employment manager offices they hire that day and in my department, the first week, they hired oh, I would say, around about 15 to 20 men, new men.

Q. The same day you were fired?

A. The same week.

Q. They hired them the same time you were fired?

A. Yes. They was hiring new men.

Q. Were these men laid off at the time you were working?

A. New men, they was not working there before.

Q. Some of them were hired the day you were laid off, is that right?

A. Yes, sir.

Q. You say you went up and got your money?

A. Yes, sir.

Q. Did you leave the mill then?

A. Yes, sir.

Q. Did you go back to the mill at any time after that to try to get your job?

A. Yes, sir. I went back about two weeks after I was fired because they was hiring men in the mill and I thought maybe I have a chance to get my job back.

Q. Who did you see when you went back two weeks later?

A. Well, it was Monday morning when I went to see them, they have about 200 men in the employment office, I don't have a chance to see Mr. Krause, but the next day, that was Tuesday, I saw Mr. Krause and he told me, he said, "I am sorry, we ain't got nothing open." But they hired 40 or 50 men that day and they say they ain't got nothing open for me.

Q. Did you go back again after that?

A. Well, not shortly. I went back about a month after that to see Mr. Krause. Everytime I went to see him, he give me some answer, he say, "We have nothing for you."

Q. Did you come down to the Labor Board and file a complaint?

A. Yes, sir.

Q. About when was that that you went down there?

A. I believe a week after I was fired. Me and Mr. Balint, we went down there and filed a complaint.

Q. Have you worked since the day you were fired?

A. Yes, sir.

Q. Where have you worked?

A. I was working on WPA.

Q. You were working on WPA?

A. Yes, sir.

Q. How long did you work there?

A. I worked on WPA four and a half months.

Q. What pay did you draw on that?

A. I was getting $71 a month.

Q. $71 a month?

A. Yes, sir.

Q. Have you earned any more money since you were discharged?

A. No, sir.

Q. Going back a moment to the time you were working, tell me, on the chipping job, did you work alone or did you work with somebody?

A. On the chipping department is two men working together as partner.

Q. Who was your partner?

A. Mr. Balint was my partner, when we got first hired in the mill.

Q. Is that the same Mr. Balint that has testified here today?

A. Yes, sir.

Q. At the time you were discharged, Mr. Pinichy, what was your pay down at the mill?

A. 58 cents an hour without bonus. With bonus was making around 60, 62 cents an hour.

MR. HOSKINS: I did not quite understand that. Will the Reporter read that?

(Last answer read.)

Q. Do you know whether the chippers have been given an increase in pay since you were discharged?

A. Yes, sir.

Q. Do you know what they are making now?

A. They make 72 cents an hour, around 72 cents an hour.

Q. Do you want your job back at Republic?

A. Yes, sir.

MR. HOSKINS: I believe that is all.

Cross Examination

Q. (By Mr. Day) Are you doing picket duty now?

A. Yes, sir.

Q. What?

A. Yes, sir.

Q. When did you do it last, yesterday?

A. Last night.

Q. Last night?

A. I am a picket captain.

Q. You are a picket captain on duty last night?

A. Yes, sir.

Q. Do you expect to go back on duty when you get out of here?

A. Yes, sir, go back tonight.

Q. Tonight. You joined the C. I. O. in July, 1936?

A. Yes, sir.

Q. And when you went and filed your complaint with the Labor Board, Brother Balint went along?

A. Yes, sir.

Q. Did he help you file it?

A. Yes, sir.

Q. You worked for Republic back in 1934 first, did you not?

A. Yes, sir.

Q. Did you start out as an apprentice chipper?

A. Yes, sir, we was.

Q. Then you became a chipper?

A. Yes, sir.

Q. Do you remember that you were laid off in November of 1935?

A. Yes, sir.

Q. About that time?

A. We was laid off several times during the slack.

Q. Then in March, 1936, you went back to work again as a laborer?

A. Yes, sir. I got—I work 10 days in the labor department.

Q. And do you remember that you were discharged because you were lazy and your work was unsatisfactory?

A. No, sir.

MR. HOSKINS: I object to the form of that question. I ask the answer be stricken out.

MR. DAY: What is the matter with the form of it? It is cross-examination.

TRIAL EXAMINER LINDSAY: Yes. Objection is overruled. The record may show an exception. Go on.

Q. Well, you were discharged in April, 1936, is that right? After you had worked 10 or 11 days, you were discharged in April, 1936?

A. Not discharged, laid off.

Q. Laid off?

A. I like to explain to you about that 10 days. That time they had three or four furnace blowed up in the open hearth and to repair them furnaces they was hiring chippers. They hire right about a hundred chippers. I was one of them chippers. I was able to work 10 days. Some of us worked 9 days, 8 days and 12 days.

Q. Then after you were laid off, you were rehired as a chipper around in July, 1936, a year ago last July, is that right?

A. Yes, sir.

Q. And then you worked until about the last of August and then you were laid off again?

A. Yes, sir; that was the time I was fired.

Q. Were you fired then?

A. Yes.

Q. And were you told by your foreman you were fired because you were lazy?

A. No, sir.

Q. Because your work was not satisfactory?

A. No, sir.

Q. Then on May 11th, 1937, that is last May 11th, just before the strike, you went back to work again?

A. Yes, sir; I was called back to work.

Q. You worked there until May 26th, when the strike started?

A. Yes, sir.

Q. And you joined the C. I. O. a year ago July and you were active in the C. I. O.?

A. Yes, sir, I was.

Q. When was it that you first started to work after the strike?

A. After the strike?

Q. After the strike did you try to go back to work?

A. No, sir.

Q. You have not tried to go back?

A. No, sir.

Q. You have been out in the picket line?

A. I have been out in the picket line?

MR. DAY: I think that is all.

(Laughter.)

MR. HOSKINS: Just a moment, please.

TRIAL EXAMINER LINDSAY: Let's not have any noise in here.

Redirect Examination

Q. (By Mr. Hoskins) On Cross-Examination you said you had gone back to work May something of this year and worked up until the time of the strike, is that right?

A. That is right.

Q. How many days did you work, do you remember?

A. I believe six or seven, 15 days, we worked 15 days before we go on strike.

Q. What were you working as then?

A. Sir?

Q. What were you working as then?

A. I was hired back as a chipper.

Q. You were hired back as a chipper?

A. Yes, sir.

Q. Now, in all of your employment down there, have there ever been any complaints against you that you remember, that you have been advised of?

A. No, sir.

Q. None?

A. Never.

MR. HOSKINS: I think that is all.

Recross Examination

Q. (By Mr. Day) Do you carry any ball bats or clubs or things like that on the picket line?

A. No; we don't use them.

Q. Never carried them?

A. Not if not necessary.

(Witness excused.)

MR. HOSKINS: Call John Popik.

JOHN POPIK

a witness called by and on behalf of the National Labor Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your full name?

A. John Popik.

Q. Where do you live?

A. 6476 Traymore.

Q. Now, Mr. Popik, will you speak just as loud and slow as you can so that we all may hear you? Is that in Cleveland where you live?

A. Brooklyn Village.

Q. Brook—

A. Brooklyn Village.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes.

Q. When did you start to work, do you remember?

A. 1934.

Q. 1934?

A. February 6th.

Q. What plant was that?

A. Coke plant.

Q. Coke plant. Is that part of the Corrigan-McKinney Works?

A. Yes, sir.

Q. What was your job there?

A. Rigger.

Q. You were a—

A. Rigger.

Q. —rigger?

A. Rigger.

Q. How long did you work there?

A. At that time I was working about five, six months, and then I get laid off.

Q. Then did you subsequently go back?

A. Yes.

Q. When was the last time you went there?

A. The last time I worked there was 1936.

Q. About what month, do you know?

A. About August 9th.

Q. August 9th. What happened on August 9th?

A. Well, August the 9th, it was happen my day off.

I was at home and they sent a machine for me down to my home.

Q. They sent what?

A. A machine.

Q. A machine?

A. A machine, from work to my home. That was about 11 o'clock and I came home about 12 o'clock. They was wait for me.

Q. Who was waiting for you?

A. A fellow by the name of Andy who worked in the office.

Q. His name was Andy?

A. Yes.

Q. Whose office does he work in?

A. Republic Steel office.

Q. Whose office in Republic Steel?

A. Well, where they got the insurance.

Q. All right.

A. Insurance.

Q. What did Andy have to say to you?

MR. DAY: We object to any conversation between him and Andy. There is no evidence that Andy had any authority to act for the Respondent, no connection shown with the Respondent.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. Well, I came home, and Andy said, "Why you should come right away with me because they want to see you."

Q. Did you go with him right away?

A. Yes. I asked him why they want to see me and he said something about the job and we start in going. He brought me close to the office. He said, "Now you go in Mr. Agnew's office."

Q. Who is Mr. Agnew?

A. Master mechanic.

Q. He is the master mechanic?

A. Yes.

Q. Did you go to Mr. Agnew's office?

A. Yes, I went in his office and he asked me if I am sure that is true I join C. I. O. Union.

Q. Mr. Agnew asked you if it was true that you joined the C. I. O. Union?

A. Yes.

Q. All right. Go ahead, please.

A. I told him yes, I told him. Then he asked me what happened, I lay off, what the Union do for me? I told him, "Mr. Agnew, Union going to get strong and organize, why they might do something for me." Then he told me, "Don't you know that this plant never going to be organized?" I asked him, "Why, Mr. Agnew?" He said, "Because this Company got a lot of money and going to break any Union in the world." Well, I told him, "Maybe." And that is all there was and he said, "That is all."

Q. Is that all he wanted you for?

A. Yes.

Q. Then did you leave the mill?

A. Then I left the mill that day. The next day I came back to work.

Q. You said this was your day off when this conversation took place?

A. Yes.

Q. And you came to work as usual that morning?

A. Yes.

Q. Did you work that day?

A. Yes. The second day was Saturday, about 2:30 again he called me in the office.

Q. Who called you?

A. Mr. Agnew.

Q. Who came to get you?

A. Well, Paul is his name, he is assistant to Cooper. Cooper is the boss and Paul, he came after me.

Q. Did you go to see Mr. Agnew?

A. Yes. I went to see him again.

Q. Go ahead.

A. When I came in the office, he told me, "I got news for you." I asked him, "What news?" He said, "Well, I got to let you go. That is the news."

Q. Is that all he said?

A. Yes, that is all he said and I went. On my way, we was going away and Paul told me I should go see Mr. Krause.

Q. Who is Mr. Krause?

A. Employment manager.

Q. Did you go see Mr. Krause?

A. Well, I started. I didn't go that day but Monday I went to see Mr. Krause and I seen George Krause that time and I told him why I get lay-off again and he said, "Well, there isn't any complaint on your work" and he didn't say much. I said, "Because I joined the C. I. O.?" And he said, "Sh-h-h."

Q. He put his fingers to his lips and said, "Sh-h-h"?

A. Yes. That is all there was.

(Laughter.)

Q. Did he offer you any work?

A. No.

Q. During the last week or 10 days you worked, were you requested to join any other Union or to sign any particular papers while you were working?

A. No.

Q. Did anyone ever ask you to sign a sheet of paper?

A. When I came last time, he gave me a white card, if I feel like signing, I could sign, but I didn't sign.

Q. Who gave you that?

A. George Krause.

Q. When was that?

A. That was on February 8th when I started, I mean May.

Q. Around May 8th?

A. May 8th.

Q. After you were laid off, did you file a complaint with the Labor Board?

A. Yes.

Q. Then you say on May 8th you went back to work?

A. Yes.

Q. How did you happen to go back to work?

A. They put a card for me.

Q. They sent a card for you?

A. Yes.

Q. Do you remember what this card said?

A. Well, the card say, that is all I know, if I have no employ I should report myself on Republic Steel office, main office.

Q. And did you go down?

A. Yes.

Q. And you saw Mr. Krause?

A. Yes.

Q. What did Mr. Krause say?

A. Oh, I don't remember much. He told me, "Hello, John." And shook hands and he gave me paper and sent me to work. I went to the doctor, and went to work.

Q. You went to the doctor?

A. Yes.

Q. Were you examined?

A. Yes.

Q. You say Mr. Krause gave you a card?

A. Yes.

Q. And he told you to sign it?

A. Yes.

Q. Something like that?

A. Yes.

Q. Between the time you were laid off and discharged and the time you got this card to go back to work, how do— had you been trying to get your old job?

A. Yes, twice.

Q. You went down twice?

A. Yes.

Q. Who did you see there that time?

A. Krause, George Krause.

Q. You saw George Krause?

A. Yes.

Q. What did he have to say?

A. About a month later, after I got laid off, I went to see him. I asked him if he got anything for me. Then he asked me if I lived at same address where I used to live. I told him yes, and that is all. He said he ain't got nothing.

Then second time, about a month and a half, again I went the same way and I asked the same question and he said no, he ain't got nothing, yet.

Q. Do you know Mr. Cooper down there?

A. Yes.

Q. Who is Mr. Cooper?

A. Rigger boss.

Q. He was your boss?

A. Yes.

Q. Well, while you were working, did he ask you to sign anything?

A. Yes, once before I got laid off.

Q. How long before you got laid off?

A. About three or four days.

Q. What did he ask you to sign?

MR. DAY: I object to the conversation of this witness with Mr. Cooper on the grounds I have already stated.

TRIAL EXAMINER LINDSAY: Objection overruled. The record may show an exception.

Q. What did he have to say?

A. It was a sheet of paper and it was for inside Union. Everybody—he told me everybody in the bunch, that was in the morning, we should sign that sheet of paper.

Q. Where were you at that time?

A. In the dressing room.

Q. On your way to work or when you had finished work?

A. When we go to work in the morning.

Q. Did he tell you what that paper was?

A. They all know that was for inside Union, we know that. They told that before.

Q. And do you know a man named Charlie down there who works in Mr. Cooper's office?

A. Yes.

Q. Did he ever tell you anything about signing a paper?

MR. DAY: I object to that unless there is some slight identification of who Charlie is.

TRIAL EXAMINER LINDSAY: Yes, I will sustain that objection for the time being.

Q. Who is Charlie, do you know?

A. He worked under Cooper, clerk.

Q. You don't know his last name?

A. No.

Q. Do you know what his job is there?

A. Well, he just do like I say, clerk.

Q. How many clerks are there in Mr. Cooper's office?

A. Yes.

Q. How many are there in there?

A. Only himself.

Q. Only Charlie?

A. Yes.

Q. Did he approach you?

MR. DAY: Objection on the same ground. Any conversation between this witness and Charlie.

TRIAL EXAMINER LINDSAY: I will overrule that objection. Let the record show an exception.

A. Well, that day when I had that day off the time they told us about signing that paper, that day was my day off and almost—our gang almost everyone signed it, only those fellows who was off, we didn't sign it. That morning when I come, Charlie came to me and he said, "you ain't sign that paper," and he says, "All fellows wise," I don't remember, exactly, five or six, and he said, "Well, everybody signed it." I started talk to another fellow we should because if we don't we might get the hell out of here.

Q. You told that to the four or five?

A. Yes.

Q. How many men were there?

A. A whole bunch.

Q. What language did you speak to them in?

/A. Slavish.

Q. What did you say to them?

MR. DAY: I object.

A. I told them we should—

TRIAL EXAMINER LINDSAY: I will sustain the objection.

Q. These men that were around there during the time that Charlie had said four or five of you had not signed, were those four or five men right with you at the time?

A. Yes. They want us to go then and sign it, see? I told them we should sign it and if we want to belong to outside Union, we can belong but they don't need to know. That is what I told them. Two days after that—

MR. DAY: I move that be stricken out on the ground we objected to it before.

TRIAL EXAMINER LINDSAY: Yes. What you told him is stricken out.

MR. HOSKINS: If the Court please, I think that Mr. Popik's remarks are rather relevant in view of the fact that he made them to a group of men.

TRIAL EXAMINER LINDSAY: Well, he testified he took them all in and he signed. I think that is sufficient.

MR. HOSKINS: But any remarks he has stated—

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TRIAL EXAMINER LINDSAY: I have made my ruling, Mr. Hoskins. Proceed.

Q. During the time you were out of work after you were discharged and before you returned to work, did you work any place?

A. No. Part time. I hauled some coal, in the winter time.

Q. You hauled some coal?

A. Yes.

Q. In your own truck?

A. Yes.

Q. Do you know how much money you made as to net profit on hauling that coal during all that time?

A. I can't imagine—maybe around $50 or $75.

Q. Fifty or seventy-five dollars?

A. Yes.

Q. How much money were you making on a ton on a truckload?

A. A dollar and a quarter a ton.

Q. Do you know how many tons you hauled?

A. Well, I cannot tell exactly, but I am sure not over 80 ton or 75, something like that.

Q. And out of that dollar and a quarter, you paid for your operating expenses?

A. Yes.

Q. What were you making when you were discharged down there? What was your salary as a rigger?

A. 55 cents an hour.

Q. 55 cents an hour?

A. Yes.

Q. Did you have a tonnage or bonus on top of that?

A. Yes.

Q. Plus a bonus?

A. Yes.

Q. Do you know what your average earnings were per day?

A. Pretty hard to tell. Some weeks they give us seven, eight dollars, some weeks five, ten, I cannot figure it out.

Q. Do you know whether the riggers have been given a raise since you were discharged.

A. Yes, they got two raises.

Q. They got two raises?

A. Yes.

Q. Do you know what they get today?

MR. DAY: I object. That is a pretty indefinite way to prove what they are making.

TRIAL EXAMINER LINDSAY: Overrule the objection. You can meet that on your side of the case.

Q. Do you know what they are making now?

A. 72 cents and 75.

Q. Do you want your job back down there?

A. Yes.

Cross Examination

Q. (By Mr. Day) Are you out on the picket line now?

A. Yes.

Q. How often?

A. Pretty near every day.

Q. What plant?

A. I used to be by Clarke Bridge all the time.

Q. Did you carry a stick out in the picket line?

A. Never.

Q. Anything at all?

A. No.

Q. You started out with Republic back in 1934, did you not?

A. Yes, sir.

Q. And you started as a rigger?

A. Yes, sir.

Q. And then do you remember you were laid off a while after you started?

A. Yes.

Q. When work got slack?

A. Yes.

Q. And then you came back to work again in January, 1935?

A. Yes.

Q. And then you were laid off again in October?

A. Yes.

Q. Then do you remember you came back to work again about March, 1936?

A. Yes.

MR. DAY: I will say to the Court, we expect to show all these dates. I am not trying to bind him by any dates.

Q. Now in July, was it when you were laid off the last time? Was it July or was it some other month in 1936?

A. 1936, August.

Q. August?

A. Yes.

Q. Now, you had been working on what before that? What work had you been doing?

A. All the time same job, rigger.

Q. Were you making repairs to the blast furnace?

A. Yes.

Q. And the main power station?

A. Yes.

Q. And when that work was finished, were you laid off?

A. No; when I got laid off, we were working on the dock.

Q. On the dock?

A. Yes.

Q. Were there other men laid off the same time you were?

A. Not the last time.

Q. Not the last time?

A. No.

Q. Are you sure about that?

A. I am sure.

Q. Then you went back to work again May 26th of this year?

A. Yes.

Q. As a rigger again?

A. Yes.

Q. And you worked until the strike was called?

A. Yes.

Q. And of course, since the strike was called, you have been out on a strike?

A. That is right.

Q. You joined the C. I. O. when?

A. About August 3, 1936.

Q. You joined the C. I. O.? About a year ago?

A. Yes.

MR. DAY: I think that is all.

TRIAL EXAMINER LINDSAY: Just a minute.

Q. (By Mr. Day) You have been on the picket line ever since the strike?

A. Yes.

Q. You have not gone back and asked for your job then, have you?

A. No.

MR. DAY: That is all.

(Witness excused.)

MR. GROSSMAN: Call Mr. Neuman.

WILBERT NEUMAN

a witness called by and on behalf of the National Labor Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Grossman) Will you state your full name, Mr. Neuman?

A. Wilbert Neuman.

Q. Where do you live?

A. 4511 Czar Avenue.

Q. Just talk a little slower, please. Were you ever employed by the Republic Steel Corporation?

A. Yes, sir.

Q. When were you first employed there?

A. I was hired July 21st, 1933.

Q. Which plant did you work at?

A. Corrigan-McKinney plant.

Q. When were you discharged?

A. I was discharged as of January 27th, 1937.

Q. Between the time you were hired and fired, had you worked there continuously?

A. No, I had two lay-offs, one for about six months, one for about three months?

Q. What was the reason for those lay-offs?

A. Lack of work.

Q. What type of work did you do in the mill?

A. When I first started over in the blast furnace labor gang, worked there about a month, they transferred me over to the pig iron yard as a pig iron shipper, work got slack there, was transferred—they transferred me back to the blast furnace, I was put on operating the lorry car. When work got slack there they laid me off—about the 27th of July, 1934—I was off for about six months, they called me back. Called me back.

Q. Pardon me, that was one of those lay-offs when you were laid off because of lack of work?

A. Lack of work, yes, sir, they called me back, made a chain man out of me. I worked there about three months and Mr. Caffery of the pig iron department called me back to be a pig iron shipper. I believe I worked there about three months, I was laid off again for lack of work. I was laid off then about March 10, 1937, then I was called back in the east side labor gang.

Q. March 10, 1937?

A. March 10, 1936, I worked there about two months, I believe, in June of 1936, if I remember correctly, they transferred me over to be chisel grinder for shippers. I worked on that job for sometime, about three months, then I was fired, they made a chipper out of me.

Q. Well, did you get more money when you were made a chipper, than you had been receiving as a grinder?

A. Yes, sir.

Q. Is that a promotion?

A. Well, the rate of pay was.

Q. Are you a member of the CIO?

A. Yes, sir.

Q. When did you join?

A. If I remember correctly, it was sometime in September, the exact date, I don't know.

Q. September of what year?

A. 1936.

Q. Was it generally known about the mill that you were a CIO man?

A. Not before we attended a mass meeting on Broadway.

Q. Did you have a mass meeting?

A. Mass meeting was January 13th, 1937.

Q. January 13, 1937?

A. Yes, sir.

Q. What kind of a mass meeting was it?

A. Well, it was a mass meeting for all of the CIO members of the Republic Steel Mill.

Q. And did you attend that meeting?

A. Yes, sir.

Q. At that meeting did you discuss with anybody how long you had been a member of the CIO?

A. I did.

Q. Will you describe in detail that occurrence?

A. When I got into the hall I chose a seat between a fellow by the name of Russell Lapka, who I later found out his dad was a company policeman, and another Italian chipper. This chipper says to me, he says, "I never knew you were in the CIO." I says, "I never knew you were, either."

He says, "I bet I belong to the CIO longer than you do." Well, I says, "I don't know," I says, "have you got your card here?"

He pulled out his card and showed it to me and I pulled out my union card and we compared dates, which proved that his card, I believe he belonged to the union longer than I did.

Q. And this Russell Lapka was alongside of you all during this conversation, was he?

A. Yes, sir.

Q. Now, after January 13th did anybody ever talk to you in the mill about union activities?

A. Well, right after that meeting I sprained my back, sometime after that meeting, I don't know exactly when, but one or two days, I believe, or a little more, I sprained my back and had my back taped up, they put me on light labor, I was oiling chipping hammers and little odd jobs around the mill, I went in the tool room one day to fill up my oil can. In the tool room there I met Jake Simons who was foreman down there, he has charge of all the air tools. We talked together and one word led to another, and finally he said to me, he says, "You know"—

MR. DAY: I object to this conversation on the ground that has already been stated.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show the exception.

MR. DAY: Exception.

A. He says, "You know," he says, "if I were you I would never join the CIO, because Republic Steel has too much money behind it."

Q. Was that all there was to that conversation?

A. Yes.

Q. Do you know a Nick Mikes?

A. Nick Mikes is chipping foreman of the A turn, and it was on his turn that I got fired.

Q. Did you have a talk with Nick Mikes sometime before you were fired?

A. Yes, I did.

Q. When was that?

A. The 26th day of July.

Q. When were you discharged?

A. I was discharged on the 27th day of July.

Q. That was the day before?

A. Yes. On the 26th day of July I was taking back four of their used chisels to the window to renew them, and I happened to pass Nick. Nick says, "You better watch yourself, because George Balleau has been watching you all day."

Q. Who is George Balleau?

A. George Balleau is superintendent down there at the inspection of the chippers.

Q. Was he your superintendent?

A. Yes, sir.

Q. And the next day when you were discharged, what was the reason given you for your discharge?

MR. DAY: By whom?

A. Well, George Balleau came up to me with four old chisels, he tapped me on the back, he took my hammer away from me, and there was another fellow walking by, by the name of Edward Ray. He called him over and he says, "Here, Ray," he says, "take this hammer."

So Ray took the hammer and George gave him these old chisels and he says, "Use these chisels."

Well, Ray took the hammer and the chisel and he started chipping with the old chisels. Jake Simon was there, and he started to measure the chips, how long a chip they took with the chisel, and after Ray got done using the chisel, Jake would measure it to see how long the chip on that one chisel, and then George Balleau would mark it in the book.

Well, after this Ray used all of the chisels that was there, that I had, and I was supposed to use, why George says, "I am going to fire you," he says, "I have been watching you for the last two weeks," he says, "you have been doing nothing but monkeying around." He says, "You are using too many chisels." He says, "You are fired."

Q. How long had you been a chipper before you were discharged?

A. About three months.

Q. Had you been using any more chisels in the last two weeks than you had been before then?

A. No, not that I recall.

Q. Had you ever been reprimanded about using too many chisels before?

A. No, sir, that was the first time.

Q. Did you file a charge with the Labor Board?

A. I filed a charge sometime in February.

Q. That was 1937?

A. 1937, yes, sir.

Q. Were you ever called back to work?

A. I was called back.

Q. And did you go back to work?

A. I went back to work and I worked to the day of the strike, which I went out on strike and still striking.

Q. When you went back to work, did you get your old job back?

A. Yes, sir.

Q. Now, from the time you were discharged until the time you returned, May 11th, had you earned any money outside of the mill?

A. No, sir.

Q. You hadn't done any work at all?

A. No, sir.

Q. When you were working in the mill, this is in January, just prior to your discharge, were you working on an hourly rate basis?

A. I was working on an hourly rate and tonnage.

Q. And tonnage?

A. Yes, sir.

Q. What was your hourly rate?

A. I was getting 62½ cents an hour and tonnage, which averaged around $5 a day.

Q. How many hours a day would you work?

A. I was working 7½ hours a day.

Q. And how many days a week?

A. Six days a week.

Q. Now, in the interim, to your knowledge—all this time you were out from the mill between January and May—

A. Yes.

Q. Was the salary of chippers raised?

MR. DAY: The same objection.

A. Yes, sir, they were raised 10 cents an hour.

TRIAL EXAMINED LINDSAY: Objection overruled. The record may show an exception.

MR. DAY: Exception.

Q. Do you want your job at Republic Steel Corporation?

A. Yes, sir.

Cross Examination

O. (By Mr. Day) You say you went out on strike and you are still striking?

A. Yes, sir.

Q. You haven't asked for your job back, then, have you?

A. No, sir, why should I?

Q. Well, that is for you to determine. I can't answer that. You have been very active in the picket line, haven't you?

A. Yes, sir.

Q. Did you take part in trying to stop a freight car of food on the night of January 9th, that was going into the Corrigan-McKinney plant?

A. A freight car of what?

Q. Of food?

MR. LAUTER: I object to that.

Q. What?

A. I don't recall.

Q. You don't recall?

A. No, sir.

Q. Well, you mean you don't remember whether you did or not?

A. What?

MR. LAUTER: Object.

A. Will you repeat that, please?

MR. LAUTER: May I have a ruling on my objection?

TRIAL EXAMINER LINDSAY: Yes, the objection is overruled.

Q. I asked you whether or not you took part in trying to stop a freight car loaded with food, going into the Corrigan-McKinney plant at Republic on the night of January 9th, 1937?

A. No, sir.

Q. June 9th, 1937?

A. No, sir.

Q. You remember about that now?

A. I don't remember trying to stop anything there whatsoever.

Q. Well, you say you don't remember? Are you sure that you didn't, or just that you don't remember, which?

A. I am sure that I didn't.

TRIAL EXAMINER LINDSAY: Well, Mr. Day, he said he didn't remember, so let's not argue about it. Go on.

MR. DAY: Well, I want to find out whether he is sure about it or whether he just doesn't remember.

TRIAL EXAMINER LINDSAY: Well, he said he didn't, so proceed.

MR. DAY: He said he didn't remember?

Q. Now, have you carried any sticks or clubs on the picket line?

A. Absolutely not.

Q. What have you carried? Anything?

A. No.

Q. Thrown any bricks?

A. No, sir.

Q. Any stones?

A. No, sir.

Q. You were employed back in 1933, weren't you?

A. Yes, sir.

Q. And then you were employed as a blast furnace laborer, first, weren't you?

A. Yes, sir.

Q. Then you were transferred as an iron handler?

A. As pig iron chipper.

Q. Pig iron chipper? Then you proceeded to the blast furnace as laborer?

A. I was transferred back and I was put in the labor gang for a while, then I was put on the lorry car.

Q. Then from that time up until 1936 you were laid off some times when work got slack, is that right?

A. Yes, I was laid off sometime in—just a minute, please—I was laid off sometime in 1934. I worked there a year and three days steady, about, and I was laid off for about six months.

Q. You remember that you were re-employed March

10, 1936, or about that time, as a laborer in the general labor department?

A. Well, I was laid off for about six months and I was recalled and I was put back as a chain man, I worked there about three months, then work got slack and in that department, and Mr. Caffery called me back to the pig iron department.

Q. Do you remember when you became a chisel grinder?

A. Oh, sometime I believe in June, I am not mistaken.

Q. Of 1936?

A. Yes, 1936.

Q. And you say you were discharged January, 1937?

A. January 27, 1937.

Q. And at the time you were discharged this transaction occurred about the use of the tools, and so forth, is that right?

A. You mean the day I was fired?

Q. Yes.

A. Mr. Balleau told me I used too many chisels and he fired me.

Q. Who took part in this testing of the chisels?

A. Some fellow by the name of Edward Ray.

Q. Edward Ray?

A. Yes.

Q. R-a-y?

A. R-a-y. He is working down there now.

Q. Who else was working with you and Mr. Balleau?

A. Jake Simon.

Q. Who is Jake Simon?

A. He happens to be foreman down there, in fact, he has charge of all the air tools, such as chipping hammers.

Q. Well, there were you and Simon and Ray and Balleau, when this took place?

A. Yes, sir.

Q. Then you were re-employed on May 11th?

A. May 11th.

Q. And you were working up to the time of the strike?

A. Yes, sir.

Q. And you joined CIO back in September, 1936?

A. Yes, I believe that is correct.

Q. Are you an officer of any lodge?

A. Well, not exactly an officer. I wasn't elected an officer

Q. Well, if you were not elected an officer, and you were not exactly an officer, just what do you mean by that? Are you unusually active?

A. Yes, sir.

Q. Or something—Well, in what way were you unusually active?

A. Just in what way, what do you mean, in what way am I usually active?

Q. I asked you if you were unusually active and you said yes.

A. Yes, sir, well, I take part in mass meetings, different meetings and so forth, anything that pertains to unionism.

Q. You were a little more active than just an ordinary member, is that right?

A. Yes, sir.

MR. DAY: I think that's all.

TRIAL EXAMINER LINDSAY: We will have a short recess.

(Recess had.)

(Witness excused.)

WILLIAM SIKORSKI

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) What is your name?

A. William Sikorski.

Q. Where do you live?

A. 4116 Bailey Avenue, Cleveland.

Q. Have you ever worked at Corrigan-McKinney plant of the Republic Steel Corporation?

A. Yes, sir, I did.

Q. When did you start working there?

A. July 18th, 1933.

Q. And until when did you work?

A. Until October 5, 1935.

Q. What kind of work did you do then?

A. During that period I had several occupations. I was hired as an oiler in the electrical department, and I filled in on odd jobs around there when the other men were off, such as motor inspector helper or millwright, light man and so on and so forth, and then about in April, 1935, there was an opening in the sub-station and I asked for the promotion and got it, got the job.

Q. That was before Republic took over Corrigan-McKinney, is that correct?

A. That was before Republic took over Corrigan-McKinney.

Q. Did you continue with Corrigan-McKinney, in the Corrigan-McKinney plant, after Republic took it over?

A. No, I probably worked one or two days after the merger, but I don't know just when the merger took place, took effect.

Q. Well, you stopped working sometime around October 5, 1935?

A. That is right.

Q. Now, do you know George Krause?

A. Yes, sir, I do.

Q. Who is he?

A. Employment manager.

Q. Where?

A. Corrigan-McKinney plant, Republic Steel.

Q. Did you have any conversation with him in April of this year?

A. Yes, sir, I did.

Q. Where did that conversation take place?

A. Some of the boys that worked with me in the mill told me that—when I used to visit them—that they were hiring men down at the plant again and I had better go down and see about a job, so I went down to the employment office one day and talked to Mr. Krause, asked him if there was any opening in the electrical department and he says, "No, I think we are all filled up. Did you ever work here before?" I says, "Yes,"; "well," he says, "why don't you go to see your foreman?"

Well, I told him that I couldn't see the foreman because I couldn't get in the mill. "Well," he says, "make it a social call and see him at his house."

Q. Did you make a social call and see him at his house?

A. I saw him at his house one night on a Monday night.

Q. Did you have a conversation with him?

A. Yes, I did.

Q. Tell me what it was.

MR. DAY: What was the name?

MR. LAUTER: Krause.

THE WITNESS: No, this was Mr.—

MR. DAY: The foreman?

Q. Your foreman, I am sorry.

A. Mr. Walters.

Q. What is his first name?

A. Arthur H. Walters.

Q. About when was that conversation with Mr. Walters?

A. April 5, 1937.

Q. Well, tell me what the substance of that conversation was?

A. Well, I asked him if there were any openings in the electrical department in the ten and twelve inch mill where he is foreman.

He says to me that he didn't know just at that time. Then he went on to ask me if I had ever been mixed up in any petitions being signed around the plant. I told him that I did, that I had taken a petition around, that one time, for a raise.

Q. That was when you formerly worked—

A. When I formerly worked there. "Well," he said, "he didn't know what he could do for me, but he would speak to the electrical engineer, the superintendent, Mr. Tull, that I should come back to see him on the following Saturday. I left him.

Q. This position which Mr. Walters had in the mill, was that of foreman, is that correct?

A. A foreman, yes.

Q. Go ahead.

A. He is foreman of the electrical department of the ten and twelve inch mill. That is, he was at the time I left there, so I told him that I would be back to see him on Saturday.

On Friday night, the night before, Mr. George Krause, employment manager, looked me up at my old address, the one he tried to find me at, my old address on McCracken Road.

Q. How did Mr. Krause happen to come to see you, do you know?

A. I don't know.

Q. Go ahead.

A. The landlord over there told him where I had moved. Mr. Krause asked him if he would get word to me that night, that I should be down to the employment office the next morning. He said he would. The landlord told

Mr. Krause that he would get word to me to come down to the employment office on Saturday morning.

So instead of going to see Mr. Walters at his house, like he had told me to do, I went straight down to the employment office at the plant.

I got there at 9 o'clock in the morning. Mr. Krause shook my hand, he says, "Well, we are all set to put you back to work."

I says, "Fine." "Oh," he says, "there is one thing you have to straighten out with me. Your recommendations from the electrical department seem to be o. k., but you will have to straighten out with me, because I send you to Newton Steel in Monroe, Michigan, in December of 1935, and you apparently satisfied the heads of the Newton Steel that you could fill in the position that I offered you, but you never showed up again." So I proceeded to tell him why I didn't take that job.

Q. What did you say to him?

A. Well, I told him that in taking the job at Newton Steel it meant moving the family from one state to another, and I had been caught in a state where I had no legal residence before, and I didn't feel as if this job was any too steady, I didn't want to be out of the state again when I was on relief roll, because I had no legal residence and I couldn't get any relief in this other state.

Q. Were you on relief at the time you had the conversation with Mr. Krause?

A. No, I was on a different relief down here with the CCRA. Well, he says, "O. K., go get your application up to date." He sent me into the—

Q. Just one second. During the conversation you had with Mr. Krause about his offer of a job up in Michigan, was there any discussion about comparative wages of the two plants?

A. Yes, there is.

Q. State what that conversation was.

A. That was one of the reasons why I didn't take the job, because he sent me up there to take a millwright job, and before leaving Cleveland he told me to keep still about the rates of pay down here, when I got up to Monroe.

Q. What was the rate of pay?

A. After I got up there and spoke to the employment manager and the general manager—

MR. DAY: I want to object to this, because I can't see any relevancy of this, to any issue presented here. Conversation about the pay in Monroe and the pay here. They are both Republic plants.

TRIAL EXAMINER LINDSAY: I will overrule the objection. Let the record show an exception.

MR. DAY: Exception.

TRIAL EXAMINER LINDSAY: Just tell the conversation the complete conversation.

A. Millwright helper down in the Cleveland plant received 58 1-2 cents an hour, and the millwright down here received 74 1-2, and the millwright up there got 57 cents.

Q. Well, what was the reason, then, that you didn't accept the job in Michigan that was offered to you by Mr. Krause?

A. Partly due to the fact that the rate of pay was not quite high enough for the job as it stood, and partly because I didn't want to change my residence from one state to another, again.

Q. Did you finally square yourself with Mr. Krause about getting a job with Republic?

A. Apparently I did.

Q. Did he give you an application blank?

A. He told me to go into the next room, get the employment clear and get my application to date.

Q. What happened after that?

A. Well, I got my application to date, and of course, they checked my picture to see if it was a reasonable likeness of me, and then he told me, "Now, wait in the anteroom" next to his office.

I sat there and I waited about an hour, during which time Mr. Krause called several different floors in the plant. The part of the conversation that I heard over the phone was that he, whoever he was calling, was leaving through, or going through the lobby of the main office, and that he would send him down right away.

The party that he was calling happened to be Captain Jones, and he was calling him to go down to the employment office and interview me. As soon as he walked into the employment office Mr. Krause said to Mr. Jones—"There is your man."

Q. Did you have a conversation with Mr. Jones after he got there, Captain Jones?

A. Yes, he called me into Mr. Krause's office, he sat down at the desk. I stood by the desk and he picked up my application and he looked it over, commented on the number of children I had. Commented also on the new born baby that just came into the family. "Well," he says that Republic Steel would see to it that I had work, to support that family.

MR. DAY: Is this Jones, or Krause?

THE WITNESS: This was Jones. And he asked me who I had worked with in the ten and twelve inch mill electrical department. I mentioned a few of the boys that I worked with in there. He says, "Yes," he says, "everyone of those boys are all on thin ice, I would not give you five cents for any one of their jobs." He says, "They are running around the mill, over there, and they are organizing the fellows into the CIO, and we are not going to stand for it."

Q. Who said that?

A Mr. Cap Jones. Well, I told him I was not familiar with anything like that. I didn't know he was doing any organizing but he says "I want to tell you, Sikorski, you are experienced in several lines of work over in the 10 and 12 in the electrical department." He said, "Now, I want you to go over to work over there and I want you to keep your nose clean of the C. I. O. because," he says, "we are never going to recognize them. Balint and Danitz, a couple of Communists, will never tell Republic Steel how they are going to run their corporation." Well, I was in a funny position. I didn't know what to do. I needed a job and at the same time I still believed in C. I. O. I had to squirm out of it some way. I didn't give him a definite answer either way. Apparently he was satisfied that I was O. K., so he told me that was all. George Krause then told me that I could come back Monday. The doctor was not working on Saturday and I would have to get examined on Monday.

Q. Did you come into the mill on Sunday?

A. I went to the employment office.

Q. Did you see George Krause on Monday?

A. Yes, sir, I did.

Q. Did you have a conversation with him?

A. Well, first of all, I was examined by the doctor.

Q. After you were examined by the doctor, what happened?

A. He gave me my identification card to get me into the mill the next day so as to receipt for the badge, then he handed me the white employees' representation card. "Now, Mr. Sikorski," he said, "you worked heretofore and I suppose you are familiar with some of the workings of our employee representation plan?" He said, "But we have since made a few changes in it and anything you don't understand, you see your representative about it when you get into the mill. Ask your foreman and he will tell you who your representative is. Now," he said, "if you feel as though the representation plan will do you any good," he said, "if you feel as though it is a good thing, and to my way of thinking, it is a good thing, you fill out that card with your name, and have your representative sign it, then give it to the paymaster."

Q. Did you sign the card?

A. No, I didn't.

Q. Did you tell him why you would not sign it? Or did you state to anybody why you would not sign it?

A. No; I didn't say anything to anybody why I would not sign it.

Q. Why did you not sign it?

A. Well, later on that day, I got out on the street and bought a paper and found they validated the Wagner Act and I didn't think it was constitutional, that plan.

Q. The next day was Tuesday?

A. Yes.

Q. Do you remember any conversation with Mr. Walters on Tuesday?

A. I pulled into work the 3 to 11 turn on Tuesday and I changed my clothes. The day turn had gone home. Mr. Walters came over there to do some of his routine business around 4 o'clock in the afternoon. He said, "Hello, Bill." He shook my hand and he said, "I am glad to see you back." I said, "I am glad to be back, too, Art." Well, he said, "Somebody will no doubt ask you to join the Union here. Some of these fellows around here organizers will ask you to join the C. I. O. but I want to tell you that in order to get you back in the mill, without going through the labor department, I had quite a time. Now," he said, "I want you to protect me a little bit."

Q. Was Walters your foreman?

A. That is right.

I told him I hadn't thought to join the C. I. O. yet. I said, "Maybe I won't and maybe I will and maybe I won't." "Well," he said, "maybe some day we will all have to belong to it but the fact still remains I got you in here without going through the labor department and it is the policy of the Republic Steel to hire everybody for the labor department and then transfer them when the opening occurs, but you came direct to the electrical department." Well, with that, the conversation stopped.

Q. Subsequent to that, did Mr. Walters ever ask you whether you had joined the C. I. O. again?

A. Yes. It was about a week later on the day turn, he got in the electrician headquarters again and asked me if anybody had been around. I said, "No, there hasn't been a soul in this plant that asked me to join the C. I. O."

Q. Did you join the C. I. O.?

A. Yes, I did.

Q. When did you join?

A. Approximately the 23rd day of April, 1937.

MR. GROSSMAN: That is all.

MR. DAY: I think that is all.

(Witness excused.)

MATHEW BABICH

a witness called by and on behalf of the National Labor Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your full name, Mr. Babich?

A. Mathew Babich.

Q. Your address?

TRIAL EXAMINER LINDSAY: Will you spell that?

THE WITNESS: B-a-b-i-c-h.

MR. HOSKINS: B-a-b-i-c-h. First name is Mathew.

Q. Where do you live?

A. 4131 East 98th.

Q. 4131 East 93rd?

A. 4131 East 98th.

Q. Is that in Cleveland?

A. Yes, sir.

Q. Were you ever employed at the Republic Steel Corporation, Mr. Babich?

A. Yes, by the Corrigan-McKinney Steel.

Q. You mean at the Corrigan-McKinney plant of the Republic Steel Corporation?

A. Corrigan-McKinney plant.

Q. When were you first hired there?

A. In 1920, on the 23rd day of January.

Q. How long did you work there?

A. Ever since.

Q. Until when?

A. Until they laid me off in 19—1922, when was a flat time, I was off, I think it was nine months, if I am not mistaken. At that time the plant was shut down altogether with the exception of one blast furnace and one coke plant was working down there. That is all that was working.

TRIAL EXAMINER LINDSAY: I will instruct the Reporters again that if these witnesses are going too fast and you are not getting it, as it is given by the witness, stop it immediately and see that you do get it absolutely correct.

Q. After that lay-off, did you work continuously after hat?

A. After that I was working continued until 1935 to 6th of November, October.

Q. What happened then?

A. Well, a little before the Republic Steel took over the Corrigan-McKinney, the boss told me that this new Company going to do away with the job I have with the Company, so laid me off for a short time until he find a place for me, that he can place me, another place.

Q. Did they ever find another place for you?

A. They never found another place for me until 1936, until May 5th.

Q. Did you go to work on May 5th, 1936?

A. May 5th, 1936, yes, called me back and asked me if I feel like taking job, that they have no job in the electrical department, it was electrical department but not electrician, it would be electrical repairing. I said yes, I will take anything, so long as I can support my family.

Q. And you went to work on May 6th?

A. And I went to work with the electrical repair gang.

Q. That was 1936?

A. 1936.

Q. How long did you work there after that?

A. I went there after that until 1937 until the 25th of January of this year.

Q. What happened January 25th, 1937?

A. There was outside and I called up, outside, supposed to be my day off, I called him up—

TRIAL EXAMINER LINDSAY: Just a minute. Talk a little slower. The Stenographer has to get everything that you say. Read what you have.

(Answer read by the Reporter.)

A. (Continued) I call up the office—and I call up the boss and I ask him if he have anything for me the next day after Tuesday and he said, "You come over in the office and see me before you go home." So I did.

Q. What turn were you on then?

A. That was the day turn.

Q. What are the hours of the day turn?

A. I was working from 7 to 3.

Q. 7 to 3?

A. Yes.

Q. And did you go to see your foreman then?

A. I washed myself up and dressed myself up and I went to the office to see the foreman.

Q. Who was your foreman?

A. Gene Perry, he is boss, the general foreman, the boss of the, I call him the boss, he is second to chief, the chief electrician, what I call the general foreman, if I correct on that.

Q. Did you go to Mr. Perry's office, is that what you did?

A. Yes, sir.

Q. What happened?

A. He called me in the next room. He said, "You come over. I got to talk to you." Well, I went. He said to me, "I am sorry on account of I have to lay you off." I said, "You got reason why? Not satisfaction with my work or what?" He said, "No, you youngest in the gang. I have to lay you off."

Q. Were you the youngest man in that gang?

A. And I asked him, I said, "How do you figure, Mr. Perry, that I the youngest man in the gang?" I said, "It is only about three or four fellows in the electrical department that oldest than me. I can take any job that is off. I was electrical mechanic and I was electrician and I was with the repair gang. I was with the light man, the motor inspector, all kind of jobs that I have." And I said, "I am pleased to take anything as long as I can support my family." I said, "That won't make any difference to me what the job is that you offer to me, I take it."

Q. How long were you working there at that time, do you remember?

A. The last time I was rehired?

Q. How long was that since the first time you worked at the Corrigan-McKinney plant?

A. 17 years.

MR. DAY: You mean from the first time he started there?

MR. HOSKINS: Yes.

Q. Are you a member of the C. I. O.?

A. Yes.

Q. When did you join the C. I. O.?

A. July 16th, last year.

Q. 1936?

A. 1936.

Q. Do you recall some time in 1936 of being asked to sign a petition in the mill?

A. Yes, sir.

Q. What was that date, do you remember?

A. I no, I cannot recall, no date, but was circulating the petitions around to sign up inside Union. If it is satisfaction with the Company Union or not so I was there and already dressed. Mr. Seibel came in with the petition.

Q. Who is Mr. Seibel?

A. ~~He~~ was a representative, like the fellow, extra representative, regular representative was off, he was to take his place.

Q. You mean he was an employee representative?

A. Yes, sir.

Q. Was that under the Employee Representation Plan?

A. Yes, sir.

Q. And he took this petition around?

A. Yes, he circulate the petition around.

Q. What was that petition for again, now?

A. It was with inside Union, with the Employees' Union, whatever they call that. I don't know the regular name of that Union, the way it is called.

Q. What did it say?

A. That petition, I don't look through the petition to see, if the employment inside was satisfaction with the Union and outside was not.

Q. You mean the men in the mill, were they satisfied with the Employees Representation?

TRIAL EXAMINER LINDSAY: Miss Reporter, will you read that answer back?

(Answer read.)

Q. Do you remember whether that was the same months you joined the Union or not?

A. I cannot recall exactly.

Q. Was it early in the year or the middle of the year or what?

A. It was after I signed up with the Union.

Q. Then it would be some time after July, 1936?

A. Yes.

Q. Did you have a locker in the mill?

A. Yes, sir.

Q. Was that locker ever broken into?

A. Yes, sir.

Q. When was that?

A. It was in August some time.

Q. August of what year?

A. 1937. It was in 1936. This is 1937.

Q. 1937?

A. Yes.

Q. That was one month after you joined the Union?

A. Yes, sir.

Q. Go ahead.

A. When I came to the locker and I saw the wire bent, it was hang, with the piece of wire on the side, why, I opened my locker and I see I had nothing on the shelf the way I placed it, that gave me the attention that somebody was in my locker, everything was not in place where I placed it, I look through my clothes and through my pockets and see everything was not missing, I find everything was O. K. except the Union card which I had inside my coat pocket, that was missing.

Q. Everything was in the locker but the Union card?

A. Everything was in the locker the way I put it but I could not notice anything else that was missing except the Union card.

Q. Did you have any money?

A. I had some money.

Q. Did you have any missing?

A. I had a little money, I don't know how much. I had not much money anyhow.

Q. Was any money missing?

A. No, was not anything missing except the Union card.

Q. Did you ever talk to any of the men about the C. I. O.?

A. Yes.

Q. Did you ever try to sign anybody up with the organization?

A. No. I tried, I didn't sign nobody but I talked to the men that I was working with then outside the plant.

Q. Do you recall some time in November of 1936 stopping to talk to some organizers of the C. I. O. on your way home from the mill?

A. Yes, sir. This, I think, if I am not mistaken for about two weeks period was all those department, was inside the plant, it seems the foreman or the bosses was standing on top of the Dilly Hill watching us coming from the mill and watching us going inside the mill to see who we are talking with.

TRIAL EXAMINER LINDSAY: A little slower.

Q. Where were you that time?

A. I was on top of the Dilly Hill.

Q. Is that Dilly and Broadway?

A. Yes.

Q. You say there were foremen there?

A. Yes.

Q. Where were these foremen standing?

A. Standing on the left-hand side and up the Dilly Hill and I recognized our construction foreman, Ted Nutting.

Q. You say Ted Nutting, the construction foreman?

A. Yes. I didn't carry that in my mind. I went to stop to talk to him but I know for what purpose he was there.

Q. Was there any other foreman with Mr. Nutting?

A. Not from electrical department but there were some other departments.

Q. Where would you see these foremen standing?

A. Outside the mill. It was on Dilly and Broadway.

Q. Right near where you were standing?

A. I was standing on top of Dilly and Broadway.

Q. You were talking to some C. I. O. organizer?

A. I was talking to some C. I. O. organizer, the first ganizer was down in the Corrigan-McKinney plant.

Q. What were these foremen doing at the time you re talking to the C. I. O. organizer?

A. They were just standing watching us.

Q. They were just standing watching you?

A. That was all they was doing.

Q. Do you recall the meeting of the C. I. O. on Janry 13, 1937?

A. Yes.

Q. Where was that meeting held?

A. In the Bohemian Hall on Broadway.

Q. Did you attend that meeting?

A. Yes.

Q. Do you know a Bill Jeffries?

A. Yes, sir.

Q. Who is he?

A. He is a crane foreman in the electrical departent.

Q. A crane foreman in the electrical department?

A. Yes, sir.

Q. Is he your foreman?

A. Yes, sir.

Q. Did you see Bill Jeffries outside the Bohemian all that day?

A. Yes, sir.

Q. What was he doing?

A. He was parked in a car there, just as we was gog in the hall.

Q. Was he watching the men, do you know?

A. Watching the men going in.

Q. Did you notice any Republic Steel police out there at night?

A. There was a couple up around there in plainothes. I couldn't recall those fellows by name. It is all police, everyone was down there, I couldn't recall them by name.

Q. You recognized them?

A. Yes.

Q. Would you recognize them if you saw them?

A. Yes. I could recognize those faces that was down there in the mill policemen.

Q. That was on January 13th?

A. Yes.

Q. When were you discharged?

A. On January 25th.

Q. After you were discharged did you ever try to go back to the mill to get your job?

A. Yes, sir. Yes, sir. They laid me off, they says, in a short time I am going to call you back. He says this new Plan, he said they are going to need a couple of electricians and if they need no electrician, he said electric crane operator, I am going to get it, so the first chance I have I am going to put you on. That call never came, so I called him up a couple of different times.

Q. Who did you call?

A. Mr. Gene Perry.

Q. Your boss?

A. And every time I called him he told me the same story, I am going to see Mr. Krause and I am going to talk to Mr. Tull.

Q. Who is Mr. Tull?

A. He is chief electrician and electrical engineer by Corrigan-McKinney plant.

Q. When was the last time you called to try to get your job back?

A. When did I—

Q. When was the last time you called to try to get your job back?

A. Well, I couldn't recall the date I called.

Q. Do you remember the month?

A. No, I couldn't. But it was a few weeks, I didn't go to see him.

Q. Did you file a charge with the Labor Board?

A. Yes.

Q. What month was that?

A. It was in April, if I am not mistaken.

Q. April?

A. Yes.

Q. Were you ever called back to work after that?

A. Yes, before the strike, I think it was on the 19th, the 19th of July, it was six days before the strike.

Q. Then it is before the strike you went back?

A. Yes.

Q. When was the strike called?

A. On the 26th of May.

Q. 26th, and that would be about the 20th, if it was six days before?

A. Yes. Six days, but I am not exactly on the date, it was on the 19th or 20th, it was six days before the strike.

Q. Who called you to work?

A. Mr. Krause comes over to my house, right in the house.

Q. Who is Mr. Krause?

A. He is employment manager for Corrigan-McKinney.

Q. He came over to your house and asked you to go back to work?

A. He came over to my house and asked me to go back to work and asked me if I am willing to take a labor job. I said "I do take it, anything, as long as I can support my family." So he tells me, come down to see him the next morning, and I did.

Q. Did you go back to work?

A. I went back to work and he gave me the labor job.

Q. You did labor?

A. I did labor.

Q. What was your job when you were discharged in January?

A. That was my job in January when I was discharged from the electrical repairing gang.

Q. You were an electrical repairman?

A. Repairing gang.

Q. From the time you were discharged in January and until the time you returned in May, did you work in any other place and did you earn any money?

A. Yes, $26.

Q. You earned $26 during that period?

A. Yes.

Q. Do you remember the month you earned that in?

A. If it is not mistake, in February, some part of February.

Q. February, 1937?

A. Yes.

Q. In January when you were discharged, were you working on an hourly rate?

A. Yes.

Q. What were you earning an hour?

A. 62-½ cents, if I am not mistake.

Q. 62-½ cents an hour?

A. That is what they pay the repair gang.

Q. How many hours a day did you work?

A. Eight.

Q. How many days a week did you work?

A. According to the way they need us, they give us regularly five days, if they need us six days, give us day extra, if they need us seven days, gives us day extra again, that was not regular period. It was according they need us. They give us regular five days and if need us, give us six of seven days.

Q. Then you worked 48 hours a week and if they needed you any extra hours, you were called in?

A. Yes.

Q. How many times were you called in?

A. Past two weeks working five days straight and two three weeks, working seven days.

Q. Did you get any additional money for the hours you worked or did you get the same rates?

A. They paid the same rates.

Q. When you returned to work as a laborer, how much did you earn a day?

A. Was 62 ½ cents an hour laborer, but since I was laid off to the time I was hired they give raise.

Q. You mean the electricians got a raise?

A. The whole plant was raised.

Q. The whole plant was raised?

A. Yes.

Q. How much were the electricians paid in May?

A. I couldn't tell you exactly, because I never had no electrician's wages since I was laid off in 1935, so I cannot tell you exactly.

Q. So you made 62 ½ cents an hour when you came back as laborer in May?

A. Yes.

Q. You say you worked six days?

A. Yes.

Q. How many hours a day did you work?

A. Eight hours.

Q. Eight hours for six days?

A. Yes.

Q. On May 26th, did you go on strike?

A. Yes, sir.

Q. Did you want your job back with Republic Steel?

A. Yes, sir.

Q. Do you recall that petition that was circulated by Mr. Seibel?

A. Yes, sir.

Q. Did you sign that petition when it was presented to you?

A. No, sir.

Q. Did you refuse to sign it?

A. I refused to sign it.

Q. Were there any men standing around?

A. There was about six or seven standing around the locker.

Q. When you refused, did anybody refuse to sign it out of the whole gang?

A. That is all there was asked, all the rest refused with the exception of one.

Q. Only one man signed?

A. Yes.

MR. HOSKINS: That is all.

Cross Examination

Q. (By Mr. Day) You say you want your job back?

A. Yes, sir.

Q. You are still out on a strike, are you not?

A. Yes, sir.

Q. You have not asked for your job back since the strike, have you?

A. What?

Q. You have not asked for your job back since the strike, have you?

A. No, sir. As long as the strike is on, I am not going to ask for it, neither.

Q. Are you on the picket line right now?

A. I am on the picket line every time I can be there.

Q. How often do you get there?

A. If I can get the car fare, I am on the picket line, and if I cannot get no car fare, I stay home.

Q. Do you carry any clubs?

A. No, I don't have to. I leave that to the police in the mill, those are the fellows who carry the clubs and bricks and guns too.

Q. All right. You joined the CIO in July, 1936, did you not?

A. Yes, sir.

Q. And you started to work for Corrigan-McKinney first back in 1920?

A. Yes, sir.

Q. Now, in October, 1924, do you remember that you started to work as a steam crane inspector?

A. Yes, sir, I was.

Q. Do you remember that you were laid off?

A. Yes, sir.

Q. October 5th, 1935?

A. Yes, sir.

Q. And you did not go back to work again for Corrigan-McKinney or Republic until May 5th, 1936?

A. That is right.

Q. Then you were employed as a bull gang laborer in the electrical department?

A. Yes, sir.

Q. Now, January 25th, 1937, you were laid off, were you not?

A. Yes, sir.

Q. Were some other men laid off at the same time?

A. Yes; three of us.

Q. And somebody told you you were the youngest of the gang at that time?

A. Yes, sir; that is possible.

Q. Then you filed some charges with the Labor Board?

A. Yes, sir.

Q. And you went back to work for Republic on the 20th of last May?

A. Yes.

Q. And you stayed there until the strike was called on May 26th?

A. Yes.

Q. Then you went out on strike and you have been out on strike ever since?

A. Correct.

MR. DAY: That is all.

Redirect Examination

Q. (By Mr. Hoskins) Do you remember the date when the Republic Steel merged with Corrigan-McKinney?

A. What?

Q. Do you remember the date when the Republic Steel merged with Corrigan-McKinney, took over Corrigan-McKinney?

A. No.

Q. Was that at the time you were laid off?

A. I don't know how long after.

Q. Were you laid off before or after Republic Steel took over the plant?

A. After Republic took the plant over.

Q. You said a moment ago on cross examination that there were other men laid off with you at the time you were laid off in January?

A. Yes, sir.

Q. Do you know who those men were?

A. Yes. Petak, Mr. John Petak, and Mr. John Dean.

Q. Any other men?

A. I don't remember.

Q. These other two men whom you mention were at the Bohemian Hall January 13th, 1937?

A. Yes.

Q. Did you see them there?

A. Yes, sir.

Q. Were they CIO men?

A. Yes, sir.

MR. HOSKINS: That is all.

MR. DAY: That is all.

TRIAL EXAMINER LINDSAY: We will adjourn until tomorrow morning at 9 o'clock.

(Whereupon, at 4:15 o'clock p. m., August 27, 1937, an adjournment was taken to 9 o'clock, August 28, 1937.)

Courtroom No. 3
Cuyahoga County Courthouse
Cleveland, Ohio
Saturday, August 28, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

JOHN T. LINDSAY, Trial Examiner.

Appearances:

MARK LAUTER, Esq.,
OSCAR GROSSMAN, Esq., and
JOSEPH A. HOSKINS, Esq., appearing for the National Labor Relations Board.
LUTHER DAY, Esq.,
THOMAS F. VEACH, Esq., and
EARL W. LeFEVER, Esq., Cleveland, Ohio, appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

MICHAEL NALETRICH

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Grossman) Will you state your full name please? What is your full name?

A. Michael Naletrich.

Q. And your address?

A. 3935 Broadway.

Q. Cleveland?

A. Yes, sir.

Q. When did you start work at Republic Steel Corporation?

A. 1917.

Q. Which plant was that?

A. Corrigan-McKinney.

Q. What kind of work did you do, Mr. Naletrich?

A. Loaderman.

Q. Loaderman, which plant?

A. Corrigan-McKinney plant, coke department.

Q. Which department? Coke department?

A. Coke department.

Q. To your knowledge, was your record at all times satisfactory?

A. Yes.

Q. Were you ever laid off for anything?

A. No.

Q. How long did you work at Republic Steel Corporation?

A. Until 1936, the 9th of September.

Q. September 9th, 1936?

A. Yes, 9th of September I was fired.

TRIAL EXAMINER LINDSAY: 1936?

THE WITNESS: 1936, 9th of September I was fired.

Q. Are you a member of the CIO?

A. Yes, sir.

Q. When did you join CIO?

A. 1936, in July.

Q. Did you talk to any men, ask any men to join CIO?

A. Yes, sir.

Q. Where would you ask them to join?

A. I told them to join CIO.

Q. Where would you talk to these men?

A. Well, on the street.

Q. Well, did you ever ask any men to sign up with the union?

A. Yes, I signed up ten men.

Q. You signed up ten men? Did you sign them up yourself?

A. No, I gave them to somebody else.

Q. Who signed them up?

A. Fred Korecky.

Q. Where did Mr. Korecky sign these men up? Where would you take these men?

A. To Tom Cikah's saloon.

Q. Is that a beer parlor nearby?

A. Yes.

Q. How many men would you say you took up there?

A. Ten.

Q. Do you ever remember being watched? Did you ever notice that you were watched when you took these men to this beer saloon?

A. Yes, somebody comes past in machine, four men.

Q. Just take it slowly. Now, say that again.

A. Four men come from big office with machine and went up Broadway.

Q. Four men came from the big office in machine?

A. Four men come from big office in machine.

Q. And they were stationed at Finn and Broadway?

A. They stopped over there.

Q. They stopped there?

A. About half an hour, they watch me when I go into the saloon with the men.

Q. Which big office was this that they came from?

A. 45th Street, main office.

Q. Main office, was that the office of the Republic Steel Corporation?

A. Yes, sir.

Q. Did you recognize any of those men?

A. Yes, sir.

Q. Where have you seen them before?

A. I don't know his name.

Q. Did you ever see them before?

A. They come from big office, I don't know his name.

Q. Did you ever see them before?

A. Yes, I seen them before.

Q. Where did you see them before?

A. Two or three months before, I saw them.

Q. Where?

A. In the office.

Q. Which office?

A. 45th Street, big office, Republic Steel big office.

Q. In the Republic Steel office at 45th Street?

A. Yes.

Q. You say these men saw you take these men into Cikah's beer parlor?

A. Yes, sir.

Q. Did those men stay there for a while?

A. They stayed half an hour, sometimes they stayed more. I seen them stop over there two or three times.

Q. You saw them two or three times?

A. Yes, sir.

Q. When was this that you noticed that you were being watched?

A. 1936.

Q. What month?

A. June and July, watch pretty close every day, somebody always watch me.

Q. Do you know Mr. Wall?

A. Yes.

Q. Who is Mr. Wall?

A. Superintendent of the coke plant.

Q. Superintendent of the coke plant?

A. Yes.

Q. Did you ever have a talk with Mr. Wall?

A. Yes.

Q. Some time after the time you took men to be signed up at the beer parlor?

A. Yes. He call me in office a couple of weeks before.

Q. How long was that after the time that you signed these men up that you were called to Mr. Wall's office?

A. About two weeks after.

Q. What was the conversation that went on between you and Mr. Wall?

A. He call me in office and I come in office and he ask me, "Your name is Mike Naletrich?" I say, "Yes." He had a piece of paper.

Q. He had a piece of paper?

A. Yes. He look at that paper, he say, "Your name is Mike Naletrich?" He say, "You working here 20 years."

Q. Did he say you were working for 20 years at that Company?

A. Yes.

Q. All right.

A. He say, "Mike, you join the Union?" I told him no.

Q. What did he say after that?

A. Well, he say—

Q. He said, "Mike, you join the Union?" And you said no; then what did he say?

A. He say, "Better don't join."

Q. Did he ask you if you signed up with the Union?

A. I said no. I was afraid I lose job. That is why I say that.

Q. Go on, Mike.

A. Well, he say, "Better don't join. We all time treat our men good in the plant."

Q. He said they always treat their men good in the plant?

A. Yes, "We treat good our men all the time."

Q. Did he say anything else at that time?

A. No, he didn't. He say, "Go back to work. See your foreman."

Q. You went back to work?

A. Yes.

Q. Now, after that did you notice anything unusual about the way the foreman treated you?

A. Yes. Before I get discharged three days foreman watch me pretty close.

Q. He watched you very closely?

A. Yes. He tell me, "Don't push door in on the machine."

MR. DAY: What did he say?

MR. GROSSMAN: He said, "Don't push the door in on the machine?"

THE WITNESS: Yes. That door is pretty hard if you push all the way in to pull out.

Q. You say if you push the door all the way in, it is very hard to pull it out?

A. Yes.

Q. What did your foreman say to you, push it all the way in or not all the way in?

A. He say, "Don't push it in hard, pull it straight."

Q. He said, "Don't push it in hard, push it in slower so you can pull it out straight?"

A. Yes.

Q. All right. You say you did not push it all the way in because it was easier to pull it out if you did not push it in, is that right?

A. Yes.

Q. Did anything else happen between you and your foreman at that time?

A. Before I get discharge, when I come for work, I see him on Dille-Broadway corner. He stood there, look around about an hour.

Q. You say you saw your foreman at the corner of Dille and Broadway standing there?

A. Yes. He stand there one hour. He look around.

Q. One hour?

A. Yes.

Q. That is outside of the plant?

A. Yes, that is Dille and Broadway.

Q. What was he doing? Did you talk to him?

A. Yes. I talk to him. I ask him, "What are you doing here?" And he said, "Nothing."

Q. Did you stay around there then?

A. Yes, I stay over there one hour and a half. I watch him when he go home. They stay over there one hour, a little more.

Q. Who is your foreman?

A. Mr. Egbert.

Q. Mr. Egbert was watching these men as they went in and out of the plant?

A. Yes. He watching some going in the plant, some going out. He no say nothing.

Q. You say you were discharged when?

A. 1936, 9th of September.

Q. September 9th?

A. Yes.

Q. What was the reason that was given you for your discharge?

A. When he gave me discharge, he told me before you make me big mistake.

Q. Who was it who discharged you?

A. Egbert.

Q. Your foreman Egbert discharged you?

A. Yes.

Q. And he told you you were being discharged why?

A. He say, "You make big mistake before month ago because you push the coke before the whistle blow."

Q. He said you made a big mistake?

A. Yes.

Q. Because you pushed the coke before the whistle blew?

A. Yes. I told him I was got one day laid off for that, one day.

Q. You say you got laid off for that?

A. I got laid off for that.

Q. When were you laid off, that time you made the mistake?

A. Yes, that time I made the mistake.

Q. Now, this mistake was made one month before you were discharged?

A. Yes.

Q. Did you ever make that mistake before?

A. Not like that, big mistake, no.

Q. Did anybody else in that department make that mistake before?

A. Yes.

Q. Were they fired for that?

A. No. Another fellow, he got laid off for two days.

Q. After the time you were laid off for that one day, did you get a vacation?

A. Yes, sir, I got a vacation.

Q. Did you get paid for your vacation?

A. Yes.

Q. And that was the only reason given to you for your discharge was that you made that mistake that month before?

A. Yes. I told him, "What is the matter?" I said, "What is the matter? I get laid off when I make mistake."

Q. Did you ever go back to the plant to try to get your job again?

A. Yes, I go to the employment office one time, two times.

Q. Who did you see in the employment office?

A. Krause.

Q. Who is Krause?

A. Employment manager.

Q. Is he your employment manager?

A. Yes.

MR. DAY: When was this?

Q. When did you go back the first time after you were discharged?

A. For 10, 15 days after.

Q. 15 days after you were discharged?

A. Yes.

Q. How long did you continue to go back, asking for your job?

A. I go every week one time, two times sometime.

Q. You went every week one or two times?

A. Yes.

Q. Until when did you go there?

A. What do you mean?

Q. How long did you continue to go?

A. I go until I find another job.

Q. When did you find another job?

A. January 12th.

Q. So that for 15 days after September 9th, which was September 24th, until you found a new job in January, you say?

A. Yes, January 12th.

Q. You kept on going back after a job all the time?

A. Yes, I find another job.

Q. You say you got a new job in January. How much money did you make on that job?

A. More than two months, I got 52 cents an hour.

Q. How many hours a day did you work?

A. Eight hours.

Q. How much did you get at the end of the week?

A. Twenty dollars.

Q. You worked eight weeks?

A. Yes.

Q. You made about $160?

A. Yes.

Q. Was that all the money you made from the time you were discharged?

A. That is all. I no work no place else.

Q. Did you file a charge with the Labor Board after you were discharged?

A. Yes, sir.

Q. When was that, do you remember?

A. March.

Q. March of 1937?

A. Yes.

Q. Were you ever called back to work?

A. Yes, he called me May 6th.

Q. Who called you back?

A. They sent me a postcard. Republic Steel sent me postcard.

Q. What did you do after that?

A. Well, I go to the employment office and they give me a job.

Q. Did you get your old job back?

A. Yes, sir, after three days extra, you know, three days loading the doors.

Q. After three days? For three days you were loading doors?

A. Yes, sir.

Q. And then you got your old job back?

A. Yes, sir, three days.

Q. He told you that after three days loading doors he would give you your old job back?

A. Yes, sir.

Q. And he did?

A. Yes, sir.

Q. When you were discharged in September, 1936, were you working on an hourly basis? Did you get paid by the hour?

A. Yes, sir, by the hour.

Q. Did you also get tonnage rate?

A. No.

Q. Just by the hour?

A. Just by the hour.

Q. How much did you get an hour?

A. At that time I got discharged, 59 cents an hour.

Q. 59 cents an hour?

A. Yes, sir.

Q. When you returned to your old job in May, how much did you get per hour?

A. For three days I worked 57 cents an hour, and after three days they give me my job, 74 cents.

Q. Then your old job was paying 74 cents in May?

A. 74 cents an hour.

Q. Do you want your job back at the Republic Steel Corporation?

A. Yes, sir.

MR. GROSSMAN: That is all.

Cross Examination

Q. (By Mr. Day) You went out on strike?

A. Yes, sir.

Q. On the 26th of May?

A. Yes.

Q. You have been out on the strike ever since?

A. All the time, on the picket line.

Q. And you have been working on the picket line right along?

A. Yes, sir.

Q. Up to the present time?

A. Yes.

Q. But you haven't asked for your job back since the strike, have you?

A. No.

Q. You joined CIO back in July a year ago?

A. Yes.

MR. DAY: That's all.

(Witness excused.)

FRED KORECKY

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Grossman) Will you state your full name?

A. Fred Korecky.

Q. Fred Korecky?

A. Yes, sir.

Q. K-o-r-e-c-k-y?

A. Yes.

Q. And your address?

A. 4620 Barkwell Avenue, Cleveland, Ohio.

Q. Were you ever employed by the Republic Steel Corporation?

A. Yes.

Q. When were you hired there?

A. In 1933.

Q. Which plant was that?

A. Corrigan-McKinney.

Q. The Corrigan-McKinney plant?

A. Yes.

Q. How long did you work there?

A. I worked there about five months.

Q. What happened then?

A. I resigned.

Q. You resigned? Did you ever go back to work again for Republic Steel Corporation?

A. Yes, I went back in 1930.

Q. 1930

A. Yes.

Q. How long did you work there after that?

A. I worked there for six years on and off.

Q. And when was the last time you worked there? What was the date, if you remember?

A. I worked there December 19, 1936, was the last day.

Q. Were you discharged then?

A. Yes.

Q. What type of work did you do in the mill, Mr. Korecky?

A. Well, the first part about two years, two and a half years I worked on pumps, I was a pump operator. And then I got laid off on account of strike work, and I was called back as a speed car helper, then I was promoted as speed car operator.

Q. Are you a member of the CIO?

A. Yes.

Q. Which lodge is that?

A. 1098.

Q. When have you joined the CIO?

A. July 26th.

Q. Are you an officer of that lodge?

A. Yes.

Q. What title do you hold?

A. Recording secretary.

Q. When were you elected recording secretary?

A. About August.

Q. August of what year?

A. 1936.

Q. About a month after you joined?

A. Yes.

Q. Were you one of the first members in the CIO?

A. Yes.

Q. Were you active in signing up men, talking to them about the union?

A. Yes, I was, outside the plant.

Q. What did you do? Did you sign up many men?

A. Well, I signed up quite a few.

Q. Where would you sign the men up?

A. Well, I would either sign them up at their home or on the corner of 30th and Broadway, in the cafe.

Q. Whose cafe is that, do you know?

A. Tom Cikah.

Q. Is that a beer parlor?

A. Yes, sir.

Q. Do you know Mr. Michael Naletrich?

A. Yes, I know him.

Q. Did he ever bring any men into the beer parlor to join the union, when you were there?

A. Yes, he was there.

Q. Did you sign those men up?

A. Yes, I did.

Q. Do you remember when it was that he brought these men in?

A. It was about August. Sometime around August, the 15th or 16th of August.

Q. Of what year?

A. 1936.

Q. 1936? Do you know Mr. Wakefield?

A. Yes, I do.

Q. Who is he?

A. He is company representative, management representative.

Q. Of what?

A. To the representative plan.

Q. Do you recall a series of conversations with Mr. Wakefield sometime in November, 1936?

A. Yes, I do.

Q. Will you state the substance of those conversations for the record, please?

A. Well, he called me in and asked me if I belonged to the CIO. I says I didn't. He says well he knows different and he says, "What is wrong with the representative plan?" He says, "Don't we do everything possible for you?"

I told him that I didn't belong to a trade. Well, he says he knows different. He says—well, I says, "If you think that way," I says, "I can't change your mind."

Q. When you said you didn't belong to it, did you mean the union?

A. Yes.

MR. DAY: What was the date of this conversation?

Q. Do you remember what date?

A. No, I don't.

MR. GROSSMAN: It was testified that it was November, 1936.

MR. DAY: All right.

Q. Was that all there was to that conversation with Mr. Wakefield?

A. To that one, yes.

Q. Was there a subsequent conversation with him?

A. Yes, he called me in another time.

Q. When was that, do you remember?

A. No, it was a few weeks prior to that.

Q. A few weeks prior, or after? Let's get it straight.

A. Well, after.

Q. Are you certain, now, that it was after?

A. After.

Q. All right, what was the substance of that conversation?

A. Well, he says, "I am still convinced, Fred, that you are still in the CIO." I says, "Well," I says, "I am not." He says "Well, I know different." And I says

"Well, how can I convince you that I am not in the CIO?" And he says, "Well," he says, "I don't know." He says, "I can expect more cooperation from you in the future, at these meetings."

Q. Which meetings was he referring to?

A. Representative meetings.

Q. Were you a representative?

A. Yes.

Q. Under the employees' representation plan?

A. Yes.

Q. All right, what else did he say?

A. And then he told me, he says, "You are always asking for more money," and he told me, he says, "What are you asking for more money for?" He says, "You are getting 15 to 20 per cent more a month," and he says, "why worry about the other men?"

Q. You were asking for more money, were you asking for more money for yourself?

A. No, for the department that I was representing.

Q. You mean that you were asking for more money for the men you represented in the employees' representation plan?

A. Yes, yes.

Q. You said, now, Mr. Wakefield was saying to you that you received 15 or 20 per cent more in your pay checks?

A. Yes.

Q. What was that 15 or 20 per cent for?

A. That was salary for the time that we put in as a representative.

Q. That was the time you were paid for your activities as employees' representative?

A. Yes.

Q. Was that over and above what money you earned as a speed car operator?

A. Yes.

Q. Did you ever have any talks with Mr. Wakefield?

A. Well, then he was talking, he says, I couldn't carry water on both shoulders, that I either had to be a representative or he says, why don't I resign.

Q. This was at the same meeting?

A. Yes.

Q. He said you either had to be a representative?

A. Yes.

Q. Or what?

A. Or resign, he said.

Q. Was there anything further to that conversation?

A. Well, then he told me, he says,—he brought it out in a way that he swore, he says—

Q. Well, state just what he said, don't be afraid?

A. Well, he says we either have got to be—he says "Some of these representatives belong in the CIO," and he says, "the son-of-a-bitches can't belong to the representatives and work here, and belong to the CIO too."

Q. Was there anything else said at that meeting?

A. That is about all.

Q. Did you ever talk to Mr. Wakefield again?

A. Yes, I was called in Mr. Tull's office.

Q. Who is Mr. Tull?

A. Electric superintendent.

Q. Was he your foreman?

A. Yes.

Q. And you were called to Mr. Tull's office?

A. Yes.

MR. DAY: Is that name Tull or Stull?

MR. GROSSMAN: Tull.

A. And Mr. Wakefield was there, and Mr. Tull asked me if I belonged to the union, and I says I didn't, and they told me—Mr. Tull told me that he differed, also, and I told him that I didn't. He still insinuated that I did, and they says that they heard different, and they asked me what was wrong with the representation plan, and they was doing everything possible and I used to get everything done, and I told them, I says, "I always asked"—I says, "for something, but I never got it." The only thing that they ever did get done was to have benches put in the service room. That is as much as I got done, as long as I was representative.

Q. What other things did you request besides benches in the service room?

A. I requested more money —

MR. DAY: I object to this on the ground it has no bearing on any issue represented by the complaint.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

MR. DAY: Exception.

A. I have asked for more money on several occasions, and one time at our body meeting we asked for more money and was voted unanimously and it was taken up in the office through the district manager, who was carpenter, and Mr. Wakefield says he refused to take it up, that he knows what the answer is, that the answer would be no. It was on three incidents that we asked for more money and never got it.

Q. You said a body meeting, was that a general body meeting of employees' representative plan that you were referring to?

A. Yes, yes it was.

Q. Did you have any more talks with Mr. Tull or Mr. Wakefield?

A. No.

Q. No more talks with them?

A. No.

Q. Well, did you ever notice anybody watching you or watching your home?

A. Yes.

Q. Or your activities?

A. Yes, there was a man, right after I had those talks, during the month of November, I don't remember the exact date, there was a man watched my house from about 7:30 in the morning until about 1 o'clock, a party across the street told this man he better move.

Q. Did you see—

MR. DAY: I object to conversation between the man and a party across the street.

TRIAL EXAMINER LINDSAY: Yes, I will sustain that objection.

Q. Did you see this man across the street from your house?

A. Yes.

Q. Did you see him watching your house?

A. Yes, I did.

Q. Do you recognize that man?

A. Yes, I do.

Q. Do you know who he was?

A. Yes, he was either a sergeant or lieutenant in the police department down in the mill.

Q. Republic Steel police?

A. Yes.

Q. Had you seen him in the mill before that?

A. Yes, I had seen him.

Q. And after that?

A. Yes, I seen him after that.

Q. And he watched your home?

A. Yes, sir.

Q. This was subsequent to your talks with Mr. Wakefield, you say?

A. Yes.

Q. Then you were discharged on December the 19th?

A. Yes, December 19th.

Q. 1936?

A. Yes.

Q. What was the reason for your discharge?

A. Well, I worked from 3 to 11, the last night, and I was told to go upstairs to see the turn foreman, Homer Kerr, and I went upstairs there, and about a quarter to 11, and he told me, he says, "Report to the employment office in the morning, they will have something for you there."

And I says, "All right," I says, "couldn't they leave me know during the day?" I says, "When I started to work, when there was some of the higher bosses here," and he says, "I don't know," he says, "I don't know anything about that," he says, "I was just told that you should go down in the employment office," and he says, "he will have some other job for you there."

So I went down to the employment office the next day, in the morning, and I stood in the waiting room of the men being hired there, there was quite a few men, and while I was standing there they hired about six laborers, and then George Krause got me.

Q. Who is George Krause?

A. The employment man and he took me and he took my assistant to his office, I guess it is, but his first name is Louis, I don't know his last name. And he says, "Make Korecky out a slip here for his money." And I said, "Whoa, wait a while, George. I was told to come down here for a job." And he says, "Go ahead, he has got the slip." I said "Wait a while." I said, "Haven't you got any job, haven't you got anything at all?" I said, "A laborer's job or anything. I will take anything," I said. He said, "No." And I said, "Why you just hired six men out there. I seen them come in here and I seen you signing them up now." He said, "Oh, never mind." And, "Lew, make out the paper." I said, "No, I don't want no paper. I don't want to get my money yet." He said, "Don't be stubborn. Give us that badge. That is Company property." And I said, "No. I have got money up in the main office. That will cover the price of this badge. I will leave my money there for a while." And he said, "Oh, don't be so God damned stubborn." I said, "I am not. I will go ahead and I will give it to you later." He said, "All right, if you want to be so damned stubborn." And I said, "Yes, that is the way I will be." And I walked out.

Q. When you asked Mr. Krause for a job as laborer, you say he was hiring other men?

A. Yes.

Q. Were they being hired as laborers?

A. Yes; they were being hired as laborers.

Q. Were these men new men, do you know?

A. I never seen them down at the plant before.

Q. You never saw them at the plant before?

A. No. I knew most of the laborers.

Q. Was your work to your knowledge at all times satisfactory, Mr. Korecky?

A. Yes, it was.

Q. And I believe you stated you were promoted from speed car helper to a speed car operator?

A. Speed car operator.

Q. After that did you try to get your job back?

A. Yes; I tried to get my job back on several occasions.

Q. Tell us about the first one.

A. I went back about a week later and I was going ahead and trying to get the special meeting to have a vote taken on the representative meeting and in the meantime I went down to the employment office and got to see George Krause and he called Lew Wakefield down and the four men that were fired were down there with me, there was three besides myself, and we asked for a job. We knew that he was hiring, we asked him for anything, laboring or anything, and he started replying to me. He said, "Now Fred, you always used to ask for more money. You would not work as a laborer." I told him, "yes, I will work as a laborer. I was born with a pair of overalls but you were born with a white collar." I said, "You would not, but I would." I said, "What is the difference if I go outside and work for $60 a month on WPA with a pick and shovel or work here with a pick and shovel for 52 cents an hour?" He started grinning and laughing and laughed it off. He said, "Oh, maybe we will have something. I will let you know." And that was all on that occasion.

Q. What happened to these other four men that came in with you?

A. Well, two of the men were given jobs, and the other man was given a job later on.

Q. What did you do after that in an attempt to get your job back?

A. Well then, I seen a few of the representatives and I asked them to bring it up at the meeting. Well, it was at the next meeting, I guess it was December, or no, January, about the 13th.

Q. Which meeting are you referring to now, is that a meeting—

A. The representative meeting, the regular meeting they held.

Q. Was that one of these general body meetings?

A. Yes.

Q. Of the Employees Representation Plan?

A. Yes.

Q. You asked these men to bring your case up before the general body, is that right?

A. Yes.

Q. All right. Proceed.

A. I was waiting outside during that meeting and they must have brought the motion on the floor because one of the officers came over to the fence there and told me to come in, that they want to see me, and so I came in and I came to the meeting and the men says, "We passed a motion here to have you come here and explain your case." So I started to explain my case just the way it was, that I have had seniority rights in the electrical department and that they were hiring men on the pumps, which was my job, in that department, and they were hiring quite a few apprentices in the construction gang that was still in my department that I represented and I told them just the way I was let go and I told them of the other three men also and I told them if they won't get satisfaction from inside the plant there, I said, you can take the case further, which your book states, and when I made that statement I said they could take the case further, Lew Wakefield got up and said, "I got you here to explain your case and that is all, and get the hell out of here."

Q. Now, this was at the general body meeting you stated?

A. Yes.

Q. The general body meeting, is that composed only of the employees' representatives?

A. Employees' representatives and secretary and usually Lew Wakefield was called to those meetings.

Q. He was invited to those meetings?

A. Yes.

Q. Did the general body vote on whether they thought you ought to have your job back or not?

A. I heard later—

MR. DAY: I object to what he heard later.

MR. GROSSMAN: Just a minute.

TRIAL EXAMINER LINDSAY: I will sustain the objection.

Q. (By Mr. Grossman) Did you ever hear after that from any of the representatives what the result of the vote was?

A. Yes; the vote was unanimous to reinstate me.

Q. Who was the representative, do you know?

A. John Exall.

Q. All right. Was anything ever done after that, did you get your job?

A. No; there was nothing done after that.

Q. Did you file a charge with the Labor Board after that?

A. Yes, I did.

Q. When was that, do you recall?

A. In January.

Q. Of 1937?

A. Yes, 1937.

Q. Were you ever called back to work after that?

A. Well, there was a man came over to the house and he told the wife that his name was George Krause, whom I knew, and he told the wife to tell me to come down to the shop and that day was late, I didn't know whether I would catch him down there, so I called him up on the telephone and I was talking to him and I said, "What do you want to see me about, George?" And he says, "Come down here." He said, "I have got a job for you." I said, "What kind?" He said, "A laborer's job." I said, "Oh." He said, "Come down here anyhow and have a talk with Lew Wakefield," he said. And I said, "All right. I will be down later."

Q. Did you go down?

A. No; I didn't go down. I had a little business to attend to the next few days and I have heard that there was going to be a strike down there and I didn't want to go down for the few days, being a Union man.

Q. When was this date again that Mr. Krause asked you to come down?

A. It was May 18th or 19th.

Q. That was shortly before the strike?

A. Yes, shortly before.

Q. Were you employed then? Were you working then? Well, did you work at all from the time you were discharged until then?

A. Yes, I did.

Q. How much did you earn?

A. I earned about $370.

Q. $370?

A. Yes.

Q. Is that all the money you earned in the time you were out?

A. Yes.

Q. When you were discharged, were you working on an hourly rate?

A. Yes, I was.

Q. Were you also being paid by tonnage rate or just hourly rate?

A. Just the hour.

Q. What did you get per hour?

A. When I left we was getting 62 cents an hour.

Q. How many hours a day did you work?

A. I worked eight hours a day.

Q. How many days a week?

A. Sometimes I worked six and sometimes five. It was a week on and a week off.

Q. And alternately you worked 40 or 48 hours a week?

A. Yes.

Q. Were you getting time and a half for the additional eight hours?

A. Yes.

Q. Was there a pay raise during the time you were out, do you know?

A. Yes, there was.

Q. Do you know what the rate was?

A. No.

Q. Do you want your job back at the Republic Steel?

A. Yes, I do.

Cross Examination

Q. (By Mr. Day) You want your job back. You are still out on a strike, are you not?

A. Yes.

Q. You haven't asked for your job back since the strike started, have you?

A. No, during the strike, no.

Q. And since the strike started, you have not asked for it, have you?

A. Not during the strike.

Q. The strike started May 26th?

A. Yes; about that time.

Q. You have been active on the picket line?

A. I have been active, yes.

Q. At what plants?

A. I have been active at both plants.

Q. Both the Truscon and—

A. Truscon and—

Q. —Corrigan-McKinney?

A. Yes.

Q. Are you a picket captain?

A. No, sir.

Q. But you are recording secretary of the lodge?

A. Yes, I am.

Q. As recording secretary, you have something to do with meetings having to do with the policy of the pickets and so forth?

A. No; I haven't.

Q. You joined the C. I. O. in November, 1936?

A. I joined in July.

Q. Oh, you joined in July, 1936?

A. July 26th, 1936.

Q. Were you ever a paid organizer for the C. I. O.?

A. Yes, I was.

Q. Starting when?

A. It was about June.

Q. June of this year?

A. Yes.

Q. Are you a paid organizer for the C. I. O. now?

A. No, I am not.

Q. But did you get some pay?

MR. GROSSMAN: I object.

TRIAL EXAMINER LINDSAY: Yes; I will sustain the last objection. He said he was not now a paid organizer.

Q. Do you get some compensation as Recording Secretary?

A. No, I don't.

Q. Do you know a man named Castman?

A. I know him to see him. Personally, I don't.

Q. Well, do you belong to the same lodge he does?

A. No, I don't.

Q. You don't know anything about his telephone job at $100 a month?

A. No, I don't.

Q. You used to be a member of the general body of the Employees Representation Plan, did you not?

A. Yes.

Q. Representing what department?

A. The electrical department.

Q. The electrical department?

A. Yes.

Q. How long did you hold that position?

A. I have held it until I was discharged.

Q. Well, starting when?

A. It was July 8th, the election, I guess July 8th the elections were.

Q. 1933?

A. In 1936.

Q. Oh, you were elected in 1936?

A. Yes.

Q. And you held that position from July 8th, 1936, until you were discharged?

A. Until I was discharged December 19th.

Q. Then you held the job as a member of the general body for your department in the Company Representation Plan for some time after you joined the C. I. O.?

A. I have held it as a representative, yes.

Q. Did you tell anybody that you had belonged to C. I. O. during that period of time?

A. Yes.

Q. When did you first tell anybody in the Company you belonged to C. I. O.?

A. The first man that I signed up.

Q. No. I don't mean that. Don't misunderstand me. You joined C. I. O. in July, 1936?

A. Yes.

Q. And you left the Company when?

A. December 19th, 1936.

Q. 1936?

A. Yes.

Q. Now, during that period of time, you belonged to C. I. O.?

A. Yes.

Q. And during that time you were signing up men for C. I. O.?

A. Outside the plant I was.

Q. And during that time also you were a member of the general body of the Employees Representation Plan for your department?

A. I was a representative for the electrical department.

Q. During that same period of time?

A. Yes.

Q. What I want to know is whether you told anybody, an officer of the Company, Republic Steel Corporation, from July until November, 1936, that you had joined the C. I. O.?

A. I might have, I don't know.

Q. Well, I want you to tell us whether you did or whether you did not as near as you can?

A. Well, I cannot tell you.

MR. GROSSMAN: We don't know what Mr. Day means by an officer.

Q. Well, did you tell Mr. Wakefield you joined the C. I. O. before November, 1936?

A. No.

Q. Did you tell Mr. Tull?

A. No.

Q. You kept that secret?

A. It was not a secret. It must have been known down there, my being the officer of a lodge.

Q. Well, you didn't tell anybody, that is Wakefield or Tull or the foreman or any of those people?

A. No.

Q. Now, you say that there were some men across the street watching your house?

A. Yes.

Q. When was that?

A. It was some time in November.

Q. Of 1936?

A. Yes.

Q. And when was it you had your first talk with Mr. Wakefield you have been telling us about?

A. It was the first part of November. When, I don't know.

Q. Where did that take place?

A. Took place in the hospital building. Mr. Wakefield had his office there.

Q. Nobody there besides you and Mr. Wakefield?

A. No, nobody.

Q. Now, the other talks you had with Mr. Wakefield, was Mr. Tull there sometimes?

A. No, not in Mr. Wakefield's office.

Q. Then all of the talks you had in Mr. Wakefield's office, there was nobody there but you and Mr. Wakefield?

A. No, not all of them.

Q. What?

A. Not all of them. I used to go in his office quite a few times on grievances. I used to have the boss with me.

Q. I mean on your own situation?

A. No, nobody was there.

Q. Where did this conversation between you and Wakefield and Tull take place?

A. Took place in the electrical shop office.

Q. Was there anybody there besides you, Wakefield and Tull?

A. No, no.

Q. Did you ever have any talk with Tull when Wakefield was not there about your own situation?

A. No.

Q. You say you did not talk to Tull?

A. I talked to Tull alone but not about the situation.

Q. But not about this matter?

A. No.

Q. You said something about going back and trying to get your job back with three or four other men?

A. Yes.

Q. Who were those three or four other men?

A. Those were the men that were discharged with me. There was eight men on the job altogether. Four got work, two got work later at the Truscon plant, and the other was called back into the plant later on.

Q. Had those men joined the C. I. O., do you know?

A. Yes, they were all C. I. O. men.

Q. Then the men who got their jobs back had joined the C. I. O.?

A. Yes.

Q. When did they get their jobs back?

A. I don't exactly know.

Q. Well, about when?

A. I don't know.

Q. Can you fix the date at all?

A. No, I cannot.

Q. When was it that you and the four men talked about getting your jobs back?

A. That was about a week later prior to being discharged.

Q. And you say you were discharged in November?

A. December 19, 1936.

Q. December?

A. Yes.

Q. Then it was about a week after December 19th, 1936, that you and these other men talked to—was it to Mr. Wakefield?

A. To Krause and Mr. Wakefield.

Q. About getting your jobs back?

A. Yes.

Q. And how soon after that did these other men who belonged to the CIO get their jobs back?

A. I don't know.

Q. Well, have you any idea?

A. No, I haven't.

Q. But you know they got their jobs back?

A. I know they didn't get their jobs back at all, they got jobs at the Truscon.

Q. Oh, they got jobs at Truscon?

A. Yes, two of them.

Q. How soon after they talked to Wakefield did they get their jobs back at Truscon? About how long?

A. I don't know.

Q. Can you give us any idea?

A. No, I can't give you an idea.

Q. What were the names of those men?

A. One was William Senich.

Q. All right.

A. And Andrew Farago.

Q. How do you spell his last name?

A. F-a-r-a-g-o.

Q. Farago? Now, in December, 1936, when you say you were working on a service car, were you not?

A. Yes.

Q. And at that time you were the junior man working on that service car crowd or gang? Well, you knew where you stood as to seniority at that time?

A. Yes.

Q. Where do you say you stood?

A. I stood sixth.

Q. Out of how many, do you know?

A. Out of eight.

Q. That is, you said six in seniority out of the eight?

A. Yes.

Q. On that particular service crowd or gang?

A. On that particular job.

Q. Yes.

A. And I was fixed in seniority on that job. In the electrical shop I had greater seniority, in the electrical shop than on the service car.

Q. On that particular gang you were working at, if that is the proper word to use, at that time you were sixth out of eight?

A. On that gang, yes.

Q. And do you know whether or not along about that time some gasoline locomotives were eliminated from the equipment of the company used in the service car work?

A. I wasn't told, but I heard.

Q. That they had been eliminated?

A. I heard that they eliminated them.

Q. About when did you hear that?

A. Well, I couldn't tell you. It was right after I was left go. They started to using gasoline trucks instead of service car.

Q. Now, you said that you told the company, Mr. Wakefield or Mr. Tull, that you would be perfectly willing to work as a laborer?

A. Yes.

Q. Now, about the 20th of May somebody called up your house and talked to your wife, Mrs. Korecky, about your coming back?

A. Yes.

Q. That was only six days before the strike?

A. Yes.

Q. And do you know whether or not anything was id at that time about getting you some job, if you did me back?

A. He told me that I would get a laborer's job.

Q. Who told you that?

A. George Krause.

Q. He was the employment man?

A. Yes.

Q. And did you tell him at that time that you were rking for the organization?

A. No, I did not.

Q. Did you tell him that you did not want to dig ches?

A. No, I did not.

Q. What did you tell George Krause?

A. I told him that I would be down to see him.

Q. Well, did you go down to see him?

A. No, I didn't.

Q. As recording secretary for your lodge, did you ve any headquarters, or did you use this saloon as a adquarters at times, or as a place where you did your rk?

A. No, I didn't.

Q. Well, you said something about doing something this saloon belonging to this Cikah, as testified here yesrday, what did you do in that saloon?

A. (Witness shakes head.)

Q. What?

A. I used to hang in the saloon, if that is what you ll it.

Q. Did you do anything else except hanging out there?

A. No, I signed up some men.

Q. You signed up some men in this saloon?

A. Yes.

Q. What kind of a building is this saloon in?

A. A wooden building with a brick front.

Q. It had windows in it?

A. Yes.

Q. How far from the plant is it?

A. Oh, I couldn't tell you how far.

Q. And what plant?

A. Corrigan-McKinney.

Q. You say that there were policemen, company policemen were across the street, the company men were across the street?

A. There was one company man, policeman.

Q. At the time you were in there signing up men?

A. No, not at the time I was signing up men. When I was home.

Q. Well, did you see any company policemen across the street?

A. I says I live right across the street from Tom, diagonally.

Q. Oh, you lived right across he street from the saloon?

A. Yes, at 4709 Broadway.

Q. And you would frequently go from your home to the saloon, and from the saloon to your home?

A. Yes, sure.

Q. And you would see the policeman across the street?

A. No, this man was watching me.

Q. This man was watching—

A. Was watching my house.

Q. He was watching your house?

A. Yes.

Q. Did you ever see any man watching the saloon while you were in there?

A. Well, I did.

Q. When was that?

A. Well, off and on, I used to see a company man come around there.

Q. And when, how far back was it in 1936 or 1937, that you would see that man watching that saloon, when you were either going to it or coming from it or being in it?

A. Well, it was just about when I was left go.

Q. That was when?

A. In December.

Q. In December of 1936?

A. Yes.

Q. Was that saloon patronized by men working in the mill, also?

A. Some, yes.

Q. That is, some men that worked in the mill went in there and took a drink once in a while?

A. Oh, yes.

Q. And some men that you asked to join the CIO went in there and took a drink; is that right?

A. I don't know.

Q. When did you say you knew the strike was going to be called?

A. I didn't say when I knew. I says I found out a few days later.

Q. Well, did you say that when you were called about coming back for a job, that you had found out a strike was going to be called?

A. A few days later.

Q. That is, you found out that a strike was going to be called a few days later?

A. Yes.

Q. Where did you find that out?

A. I don't know, I won't say, being an employee of the organization.

Q. All right.

A. It is—

Q. Some employee of the organization, you mean your CIO lodge?

A. Yes.

Q. You would not say who it was?

A. It wasn't the CIO lodge, it was the organization itself.

MR. GROSSMAN: I object, I don't think the—

TRIAL EXAMINER LINDSAY: Yes, I think that is immaterial. Discontinue it.

MR. DAY: All right, that is all.

TRIAL EXAMINER LINDSAY: The objection there is sustained.

Redirect Examination

Q. (By Mr. Grossman) Mr. Korecky, did I understand you to say that you found out a few days after you were called back that a strike was going to be called?

A. Yes.

Q. At the time that you spoke to Mr. Krause, did you know that a strike was going to be called?

A. No.

Q. You found out several days later?

A. Yes.

MR. GROSSMAN: That's all, thank you.

MR. DAY: Just wait a minute.

Recross Examination

Q. (By Mr. Day) You said a minute ago, I understand, in answer to a question by the Labor Board lawyer, that you found out that a strike was going to be called a few days after you were asked to come back?

A. Yes.

Q. Well, didn't you say in direct examination a few moments ago, that you did not go back when they asked you to go back, because you knew or had heard a strike was going to be called?

A. No, I didn't. I says a few days later I have heard.

Q. All right. If you said that you were mistaken, were you?

A. I must have been.

BY MR. DAY: All right, that is all.

TRIAL EXAMINER LINDSAY: I think what he said, Mr. Day, was that he had some business that took a few days to take care of, and then he found out that the strike was going to be called.

MR. DAY: Well, that is not our—

TRIAL EXAMINER LINDSAY: That is the direct testimony.

MR. DAY: Anyway, the record shows what it is.

TRIAL EXAMINER LINDSAY: Yes, we are going to have a short recess.

(A short recess was had.)

(Witness excused.)

GEORGE TROYANOVICH

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) What is your full name?

A. George Troyanovich.

Q. Where do you live?

A. Maynard, Ohio.

Q. Have you been employed at the Republic Steel Corporation plant in Cleveland?

A. Corrigan-McKinney plant since September 3, 1935.

Q. How long did you work there?

A. I worked there up until the 26th of August, 1936.

Q. Did you say the 27th of August?

A. The 27th of August.

Q. What year was that?

A. 1936.

Q. 1936? What happened then?

A. I was discharged.

Q. What kind of work were you doing while you were employed by the Republic?

A. Chain man, bed chain man.

Q. Will you describe the nature of the work of a bed chain man?

A. Well, the steel is put up in the bed to cool and as it gets cool enough, why the duty of the chain man is to hook it up with a chain on the crane and place it in the car for loading for shipment.

Q. When you say "load it in the car" do you mean railroad car?

A. Railroad car.

Q. That goes out of the plant?

A. Yes, sir.

Q. Now, as a bed chain man, are you a member of a crew?

A. Yes, sir.

Q. What are the other members of the crew?

A. The crew is composed of two bed chain men, two car chain men, and the crane man, shipper.

Q. There are six men in all, in that crew that you were a member of?

A. Six men, yes, sir.

Q. Will you describe what the duties are of the car chain man?

A. The car chain man prepares the car to receive the steel which is placed on blocks in the car.

Q. You are referring, again, to the railroad cars?

A. Railroad cars it is, and after every lift is placed in the cars, they put what they call separators between the lifts so that the chain can be passed through them for unloading.

Q. What does the shipper do?

A. The shippers sees that the steel is shipped to the proper destination, proper customer, and he writes up the steel, checks it. At the present time they must estimate the lifts so that they don't overload the car. 100 cap and 140 cap cars is what they use.

Q. By "cap" you mean capacity?

A. Capacity, yes, sir.

Q. Now, what does the craneman do, what is his job?

A. Well, the craneman loads. There are two cranemen in the yard. One takes out hot steel out of a bed and places it on the car and the other loads. They change around. One works one side of the yard where the steel is cool, the other man takes the other side.

Q. The crew is composed of two bed chain men, two car chain men, and the crane man, and a shipper?

A. Yes.

Q. Are those all of the men that take care of loading the steel onto the train?

A. Yes, sir.

Q. Are there six men on each turn?

A. Yes, sir.

Q. Making a total of 18 men that handle the loading of the steel on the car?

A. That is right.

Q. What kind of steel is loaded on the railroad cars?

A. Sheet bars.

Q. Do these 18 men load all of the sheet bars that goes out of the Republic plant?

A. All the sheet bars that go out.

Q. Were the men in your crew segregated in respect to the cars or do they load all cars?

A. The two men were always on the car and we were on the bed.

Q. My question is whether or not you would load all of the cars as they came by regardless of where they were going?

A. Yes, all of the cars that came in.

Q. And my further question is whether or not any of these men were allocated to any particular cars going to any particular places?

A. These men loaded on any car.

Q. These six men loaded on all cars that went out of the Republic Steel plant?

A. Yes, sir.

Q. And these 18 men loaded on all cars that went out of the plant?

A. Yes.

Q. From September 3rd, 1925, to August 27, 1936, when you were employed in the Republic Steel Corporation plant, were you ever laid off?

A. At no time was I laid off. I always had a job there.

Q. You were working continuously there for 11 years, is that correct?

A. Yes.

Q. When did you join the Union?

A. In the latter part of June.

Q. 1936?

A. 1936, yes, sir.

Q. Did you get a vacation in July, 1936?

A. Yes.

Q. Prior to your going on vacation that day or the day before, do you recall what turn you worked?

A. I worked 11 to 7 turn, finished up Friday morning. It was July 24, 1936.

Q. Do you know a Mr. Casey?

A. Yes.

Q. Do you know a Mr. Murphy?

A. Yes.

Q. Who are they?

A. They are two boys at the Otis Steel Company.

Q. Did you have a conversation with them prior to your going on your vacation?

A. The morning that we quit.

MR. DAY: As I understand it, those two men were employees of the Otis Steel Company?

MR. LAUTER: That is correct. I ask it be admitted subject to connection.

MR. DAY: We object to it at this time.

TRIAL EXAMINER LINDSAY: Well, I will overrule the objection and let the record show an exception.

Q. Go ahead.

A. The morning of the 24th when I was finishing up my shift, I went up the hill, called Dille Road and Broadway, to wait for a car. And Casey walked over to me and he said he would like to speak to me.

Q. When you say a car, you mean you were waiting for a streetcar?

A. Waiting for a streetcar, going to go home.

Q. Yes.

A. Casey walked over to me and asked me if I would not spend a few minutes with him, he would like to talk to me and I told him where at, and they stated that the car was parked on Broadway a little ways up Dille Road and they gave the license number and told me to go up and wait until they got there.

Q. Did you go up to where that car was parked?

A. Yes, sir.

Q. Did you wait for them to come?

A. I entered the car and stayed there until they come up.

Q. Did they come up?

A. A few minutes after they come up, yes.

Q. What happened after that?

A. So then we drove around the block and then they started to ask me how the Union was progressing down there.

Q. Down where?

A. Down at the plant.

Q. What plant?

A. Republic.

Q. Corrigan-McKinney plant?

A. Yes.

Q. What did you say?

A. I told them there is something wrong somewhere, that there is being men called in, and they said yes, that is what we want to speak to you about.

Q. Called in where?

A. Called into the office and questioned by their bosses.

Q. Their superintendents?

A. By their bosses or superintendents, I don't just know.

Q. By whom else were they being questioned?

A. Captain Jones.

Q. What further did they say?

A. They said they thought there was a leak somewhere, that one of the organizers was giving information to the Company, and they asked me if I knew who it was and I said I never had no idea I didn't go nowhere, so I didn't know, only just what I heard and they told me they thought it was a man by the name of Lohman.

Q. L-o-w—

A. L-o-h-m-a-n.

Q. I see.

A. They told me they thought it was a man by the name of Lohman that was providing the Company with information.

Q. Who was Lohman?

A. Lohman was an employee of the Company and he also was a representative for the Employees Representation Plan from the coke plant. He represented that department.

Q. After you drove around in the car, what happened then?

A. Well, they asked me what the men thought down there and I told them the men was scared, they won't say anything, and they took me down below the—they asked me where I wanted to go and I said I was going to go home, my vacation started that day, and that I was to go to the office in the morning to the paymaster to get my vacation money and I was to go on my vacation, so they took me down as far as 45th below Finn Avenue rather, a little ways below the office. I got out of the machine then.

Q. Do you know Sam Naletrich?

A. I know Sam Naletrich.

Q. Did you see him that day?

A. I stepped out of the machine and started up the street and I ran into Sam Naletrich, and he asked me where I was going. I told him up to my main office to get my vacation money, I was going on vacation. Right away he asked me, he says, "What is the matter?" he says.

MR. DAY: I object to this conversation between him and Naletrich. No evidence that could bind the company. This Naletrich did not represent the company.

TRIAL EXAMINER LINDSAY: I will overrule the objection. Let the record show an exception.

MR. DAY: Exception.

Q. Go ahead.

A. Shall I continue the conversation?

TRIAL EXAMINER LINDSAY: Yes.

A. Well, he asked me what was the matter, he said, "All the men were being called in." And we talked just a few minutes, he told me, he says, "Watch yourself, here comes the company stool"—stool pigeon, I guess he meant.

I looked around, there was a fellow coming down the street slowly and he says, "That fellow hangs around the beer joint all the time," he says, "he turns in fellows that sign up," and this man went on down the street and then I departed and I started towards the office to get my money.

MR. DAY: I move that conversation be stricken out for the reasons already stated.

TRIAL EXAMINER LINDSAY: Motion denied, let the record show an exception.

MR. DAY: Exception.

Q. Now, did you mean [meet] Mr. Lohman that day?

A. I went around the corner of Finn Avenue and continued my journey up to the office, and went around the corner and ran into Lohman, who was driving a machine. He blew his horn, called me over and stated—he said that "What are the men doing down at the plant?" "Well," I says, "I guess that there is quite a few of them being called in," I says, "they are scared." He says, "Have any been fired?"

Q. Go ahead.

A. He says, "Have any men been fired?" I says, "No." "Not as I know of yet," and he says, "there is no harm in being called in," he said. So then I left him, went up to the office and I obtained vacation money and was coming out of the office, I seen this man that passed us on the street at Broadway, that he stated was a stool pigeon—I seen him standing in the lobby of the office talking to a uniform policeman there at the desk.

Q. Now, do you know Mr. Ambrose Haggerty?

A. Yes.

Q. Is he employed at the mill?

A. He is assistant chief chipper.

Q. Chipper?

A. Chipper, yes, he was my boss.

Q. Did you have a conversation with him on the day that you went on your vacation?

A. Well, he came after me about 11 o'clock of the same day, I was in bed. I was leaving in the afternoon on vacation, and he came to the house about 11 o'clock and stated that I was wanted down at the main office immediately.

So I got out of bed, dressed up, and we went down, I stayed in the lobby for a while, and Mr. Wakefield came out after me in the lobby of the house and he took me into a room there and Captain Jones entered. And then they both started throwing questions at me.

Q. And Captain Jones was the chief of police there?

A. Chief of police, yes, sir.

Q. Go ahead.

A. Mr. Wakefield first asked me, he says, "George," he says, "how do you stand on this union business?" I says, "So far I am neutral." He says, "You are?" I says, "Yes." He says, "What were you doing on Broadway this morning?"

MR. DAY: What is the date of this conversation?

Q. What was the date that this happened, do you recall?

A. The conversation was the same date, the 24th of July about—well, between 11 and 12 o'clock, I think.

Q. Go ahead.

A. He asked me, he says, "What were you doing, talking to those two men up on Broadway this morning?"

I says, "What two men?" He says, "You know what two men," he says, "you were talking to the two men that you got into the machine with."

Well, this Captain Jones and Mr. Wakefield were both asking me the same questions at the same time. They both were in a hurry to question me.

Q. Well, did you admit that you had gone into the car with two men?

A. At first I just acted as if I didn't know what they were talking about, and then I don't know whether it was Captain Jones or Mr. Wakefield stated, he says, "We know you would not get into a machine with two strange fellows, no one would do that."

So then I knew that they had seen me get in the machine, and there was no use trying to deny it, then I says, "They were two men from the Otis Steel, two organizers."

Q. What further conversation took place at this time?

A. Well, Captain Jones started to attack the CIO organization and told me that John Lewis was a racketeer, that he was just out to make money for himself, he wants to get us into the union—once he gets us into the union why there would just be trouble, and he told me that if I would know what was good for me I would stay away from those two fellows doing that, that they were trouble makers, so I said I would, after all I didn't know what they wanted, when they got into the machine, and I thought that there was no harm done in going into the machine and having a conversation with them.

So then Mr. Wakefield stated that I should come around to see him after I got back from my vacation. I went home. I left, that afternoon.

Q. During that conversation, was any mention made of contacts with any of the men in the plant?

A. Oh, that is right, there was Captain Jones asked me, he says, "How many contacts did you have with those fellows?" I says, "None?"

He said, "Yes, you did." I said, "I didn't," I says, "I didn't know the fellows very well." In the first place, I said I didn't have any contacts.

So then he dropped further questioning along that line.

And then Mr. Wakefield stated what I just said, there, that I should come in to see him after I got back from my vacation.

Q. You testified before that you said during this conversation that you were neutral?

A. Yes.

Q. Was there any answer by anyone at the conference about that?

A. Sir?

Q. You stated before that you said that you were neutral?

A. Yes.

Q. Was there any comment on that statement?

A. Well, they didn't say anything, they didn't say anything only that they wanted to know why, if I was neutral, what I was doing in their company. They asked further—Mr. Wakefield said that I can't be neutral, that is what he stated, he stated that I can't be neutral, that I must take sides, that it is impossible to be for and against the company. I must be either for one side or the other, and he urged me to go down into the plant to influence the men in my department to join the Employees' Representation Plan and have nothing to do with the CIO.

Q. Now, were you a representative under the Employees' Representation Plan at the plant?

A. Yes, I was a representative from December, 1935, until June or—I just don't know what part of June, June, 1936, until they had the elections over there, voted under the representation plan, then I was defeated for the office.

Q. During the period that you were in—Were you acting for someone who had left the position?

A. Yes, a man by the name of Alex Balint, was representative in the department and I was the next alternate, runner-up to him.

Q. You were the alternate?

A. Alternate.

Q. Did you go on your vacation in July?

A. Yes, I went that same afternoon.

Q. Who is Mr. Shriber?

A. I don't know if I got this information correct. I heard he was the efficiency expert down there.

Q. What was his position with respect to, let us say, Carpenter, who was district manager?

A. Well, some assistant there, some assistant to Mr. Carpenter, I understand.

Q. When you came back from your vacation, did you have any conversation with Mr. Shriber?

A. Well, I was called to the office about the second or third day that I got back. I got a call from Mr. Haggerty that Mr. Zimmerman wanted to see me, he was superinfendent of the order and shipping department.

Q. Will you state what that conversation was with Mr. Shriber?

A. Well, he first said that he was very much disappointed in me, and I wanted to know just what he meant by that. He said that I knew what he meant. He didn't get to the point. And then he said, "You know," he says, "they are going to start organizing this union down here," he says, "there is going to be a lot of trouble," and he says, "we have had intentions of putting in a new mill here in Cleveland," but he says, "if this threat of the union drive is going to go through, we might change our minds and not put the mill in here," and he says, "you know there is going to be some good jobs when that mill goes up," and he says, "you look like a pretty intelligent fellow," and he says, "if you work with us, why," he says, "we will see that you will get a good job."

And he further stated, he said, "You know, the Republic Steel has the reputation of being very good to its friends, and damned ruthless to its enemies."

Q. Was there anything further said at that conversation?

A. Well, he asked me to go down there, he said that we didn't know how to make the employees' representation plan work.

Well, I didn't know exactly what he meant by that, so I said, "Well, while I was representative, I took cases up to Mr. Wakefield and all of the cases that I took up," I says, "were satisfactorily settled." I says, "Is that what you mean?"

He says, "No, that is not the way I mean," he says, "you fellows just don't know how to make the plan work," he says, "effectively."

Then he stated, he said that he hoped he would not get any bad reports on me, and wished I would change my mind and help the company out.

Q. Now, you mentioned Alex Balint before. Subsequent to this conversation with Mr. Shriber, did you have any conversation or contact with Mr. Balint?

A. Well, once in a while he would come over to the house, he would come over to my house and ask me what the men—

MR. DAY: I object.

A. —what they were saying.

MR. DAY: I object to this conversation between this witness and Alex Balint. This man Alex Balint didn't have any authority to represent the company, the company didn't have any knowledge of it.

TRIAL EXAMINER LINDSAY: Well, the objection is overruled. Let the record show an exception.

MR. DAY: Exception.

Q. Did you have conversation with Mr. Balint about Mr. Lohman?

A. Yes, this same evening after I had been up to Mr. Shriber's office, why Alex Balint came over and he says, "Well, George, how is she going?" I says, "All right."

"Well," he says, "I am sorry to tell you," he says, "you are going to get fired." I says, "Yes?" I says, "Where did you get the information there? I just had a talk with Mr. Shriber this afternoon, he didn't say anything about firing me."

He says, "You are going to get fired," he says, "I am sorry to tell you." So I pressed him for the information, I says, "How do you know that I am going to get fired?"

"Well," he says, "since you have been away," he says, "why Lohman has confessed, said that he was the man that was providing information for the company, and if we laid for him or made contacts with certain men, as soon as he got hold of them right the next day, these men were called in."

Q. By "called in" do you mean to the office?

A. Called into the office and questioned, yes.

Q. Do you mean the office of the Republic?

A. Of Republic, yes.

Q. Go ahead.

A. They were questioned, and in that way they come to the conclusion that he was the man that was giving the information of the men who were joining the union.

MR. DAY: I move to strike out that conversation for the same reason set forth in the objection to it, and for the third reason that this part is at least double or triple hearsay, what Lohman confessed to somebody else.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

MR. DAY: Exception.

Q. Do you know whether the union has a signed confession from Mr. Lohman?

A. Why, Mr. Balint stated that—

MR. DAY: I object to this for the same ground.

A. —that Bozo Damish had it.

TRIAL EXAMINER LINDSAY: Overruled, note an exception.

MR. DAY: Exception.

Q. What did you say about Damish?

A. He has got the signed affidavit from Mr. Lohman, confessing that he had accepted money from the Republic's contact man to sell the men out.

MR. DAY: I move to strike that out, for the same reason.

TRIAL EXAMINER LINDSAY: Motion is denied, let the record show an exception.

Q. After you came back from your vacation, did you notice whether or not your house was being watched?

A. Yes, I noticed that. They would change cars around the house. Fellows would pull up in their machine and park there, look in the direction of the house, and then they would park on the other side of the street, get out and walk from the machine up to the corner.

I was never able to get a good look at them and see just who they were. But the family also—my family also noticed and watched these fellows, and as soon as I would leave or go anywhere, why these men would also disappear at the same time.

Q. Were you ever asked by Mr. Balint to go to see Mr. Damish?

A. Yes, it was the latter part of August, just the day, I believe, that I was fired, either that day or the day before, he come over to the house and asked me if I wouldn't go down to see Mr. Damish, he wanted to see him. I told him, I said,—

Q. Mr. Damish is the sub-regional or regional director for CIO?

A. Yes, I said, "Alex, I don't think I should, because I am being watched. I think I will get fired if I go down there."

MR. DAY: Object to the conversation between him and Balint, for the reasons already stated.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

MR. DAY: Exception.

Q. Go ahead.

A. He asked me if I was going to be down to the office and I told him I would probably get fired if I would, that I was warned that I would not be able to get away with anything, I would be fired if I left the house with anyone.

Q. You say you were warned that you would not be able to get away with anything?

A. Yes.

Q. Who warned you?

A. Captain Jones. That was the day I left on my vacation.

Q. What was the reason for going to see Mr. Damish, was that stated in any conversation?

A. Well, so many men got called in, a lot of the fellows were terrorized by the Company agents, that there was a lack of interest in the Union.

MR. DAY: I move to strike that out for the reasons already stated.

TRIAL EXAMINER LINDSAY: Objection overruled. The record may show an exception.

A. He said that for that reason we want to rally the men at a meeting and I think just a week or so before a man by the name of John May, that was a representative of the Company Union, had a petition signed by some of the men. They claimed the majority of the men in there they wanted protection in case that there would be a strike there and in this petition it stated that the representative plan was better than the C. I. O. so Balint stated he wanted to have that as a debate at a mass meeting and have the Company Plan versus the C. I. O.

Q. Is that the reason Mr. Balint asked you to go to Mr. Damish's office?

A. Yes. He asked me to go down to the plant as a member of the Corrigan-McKinney, as an employee of the Corrigan-McKinney plant. He asked me if I would get his O. K. to a mass meeting of that kind.

Q. After that conversation with Mr. Damish, did you go home?

A. After that conversation with Mr. Damish, I went home, yes, sir.

Q. Did you go to work that day?

A. I went to work at 3 o'clock in the afternoon, that is when I was supposed to start.

Q. You were on the 3 to 11 turn?

A. Yes.

Q. What happened when you went to work?

A. When I went down to the clock shanty, my card had been removed. That is the first time my card had been removed from the rack.

Q. That is in the 11 years you have been working there?

A. In the 11 years I have been working there my card was always in the rack and that day it was gone and I went up to the Sergeant at the desk and I asked for my card and he opened a drawer and he had it there and he started to question me. I rang my card and went in. I changed clothes and then as I started across the yard towards the sheet yard from the washroom I met Mr. Robbins, he is the chief shipper of the order and shipping department.

Q. Did you have a conversation with Mr. Robbins?

A. He said he was sorry he wanted to catch me before I changed clothes but he said I passed him up some way and he said, "You know, George, your work has been God damned unsatisfactory around here." I said, "Yes?" He said, "Yes, it has been God damned unsatisfactory and I don't want to stand here and argue with you." I said, "Well—"

Q. When you said yes just now, you meant that as a question? When you said yes after he had said your work was God damned unsatisfactory, you meant that as a ques-

A. Yes, I meant that as a question. I said, "Yes?"

Q. All right.

A. I says, "I have worked for you for 11 years. Just since when is this unsatisfactory work started? When did it start around here?" "Well," he said, "since you were defeated as a representative two months ago." He said, "That is when your work became unsatisfactory." "Well," I said, "just state in what way." I said, "Do you mean to say that I would not take orders from the shipper on the job?" He said, "Your work was unsatisfactory." He would not say, he just kept saying the work was unsatisfactory. Well then, I says, "That will have to be proven." He said, "Well, Charlie Barrie has got the proof," meaning the shipper on that job. So I said all right and I turned around and went back to my locker room.

Q. Did he say anything else to you about your influence on the men?

A. He said, "You have been a bad influence around here in the past two months."

Q. What did you do after that?

A. I wanted to get him to the point and still he would not come to the point. He said a bad influence. He would not say in what way.

Q. The next day was August 28th, is that correct?

A. Yes.

Q. Did you get in touch with any of the representatives under the Plan?

A. I went out the next morning and I contacted Tony Matchurik and he was one of the four representatives of the rolling mill department and together we went down for Harold Sisk.

Q. Go ahead.

A. So I went to see Mr. Matchurik and we went after another representative, Harold Sisk and then the three of us went over and picked up John Exall, that was another representative and a fourth, James Bradley, was working that day, and he was in the Plan and so that got me as far as the Plan would go. They said they would get ahold of Mr. Bradley and they would see me, and Mr. Matchurik or Mr. Exall would come over to the house to tell me how the case was progressing. Well, it was not that day. It was the next day in the morning Tony Matchurik came over to the house.

MR. DAY: I object to the conversation between him and this man, whatever his name is.

TRIAL EXAMINER LINDSAY: Objection overruled. The record may show an exception.

A. He stated that they went down into the mill, that they had talked to Mr. Wakefield, and that Mr. Wakefield had told them that they had enough to hang me and Tony—

MR. DAY: I object to that also on the same ground. That it is hearsay.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. Then Matchurik further stated that Mr. Wakefield said it did not make any difference what they was going to do, they would never rehire me again.

Q. You testified before Mr. Robbins was the chief shipper, is that correct?

A. Yes.

Q. After this conversation with Mr. Matchurik, did you go to see Mr. Robbins?

A. During this conversation that they had with Mr. Wakefield, Matchurik said, "Now Mr. Wakefield, I work right in the next yard joining the sheet bar yard. When I am going back and forth to the crane, I always seen George."

Q. Referring to you?

A. Yes. He said "there isn't you or Mr. Robbins or anybody else foolish enough to say that that man did not work. He is one of the ablest men in Charlie Barrie's crew. He writes up the slips, he helps him in every way. You know you are not going to get very far saying his work is unsatisfactory."

MR. DAY: I move to strike that out.

TRIAL EXAMINER LINDSAY: Motion denied. Let the record show an exception.

A. So then Matchurik told—he said he suggested to Mr. Wakefield, how would it be for me to have a talk with Mr. Robbins, and Mr. Wakefield said it would be all right.

Q. Did you go to see Mr. Robbins?

A. I was there to see him twice. The first time we got the places mixed up where to meet and we didn't meet. So I went down there the next day but that day we didn't meet. Matchurik came over and wanted to know what Mr. Robbins told me and I told him I was waiting for him at Broadway and he didn't show up and he said, "Well, I was to see Mr. Wakefield" and he said—Mr. Wakefield didn't have any more to say until I had seen Mr. Robbins and had a talk with him.

Q. Did you try to get in touch with Mr. Robbins again?

A. Yes. I went down Independence Road to where Mr. Matchurik told me to meet him and I waited for Mr. Robbins and he came and he said he wanted to know what I had to say. I said: "I don't know. I was told to meet you here." Well, he asked me what I thought of the whole thing. I said I thought I was fired unjustly. I was framed. I don't think that will stand what they said that my work was unsatisfactory. Well, he said Charlie Barrie has got the evidence to prove that your work was unsatisfactory, which was a bad influence among the men. He said, "It will be on his evidence that your case will be decided." Well, I said, "Just what do you mean by this bad influence? Could that mean something about the Union?"

TRIAL EXAMINER LINDSAY: Just a minute. I will have to call a short recess.

(Recess.)

(Last answer read by the Reporter.)

A. And Mr. Robbins stated yes, he said, "That will be it," he said.

Q. And now, did you have a conversation with Mr. Matchurik? That is, after you spoke to Mr. Robbins?

A. Yes, he came over that set day and—

MR. DAY: I object on the ground already stated.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. He came over that afternoon and wanted to know what Mr. Robbins had to say because they were waiting then to have this meeting before they could proceed with my case.

Q. You say they were waiting. Are you referring to the employees' representatives?

A. The employees' representatives were waiting to see what the outcome of our meeting would be before they would proceed with the case.

Q. Our meeting, you mean your meeting with representatives, is that correct?

A. Correct.

Q. Tell me what you had to say and what Mr. Matchurik had to say.

A. I related the conversation that day with Mr. Matchurik and he said they were going to visit the department heads, visit Mr. Zimmerman, Mr. Hagerty and Charlie Barrie and have their statements and then they were going to take that up with the general body and decide what they would do.

Q. Do you know whether or not Mr. Matchurik ever spoke to Mr. Barrie, is that B-a-r-r-i-e?

A. Yes. Well, they told me they had spoken with Charlie Barrie and Charlie Barrie—

MR. DAY: We object to any conversation in which he is going to detail what Charlie Barrie told him that he told this witness.

TRIAL EXAMINER LINDSAY: Well, I am going to overrule the objection, Mr. Day. Let the record show an exception.

As I understand the situation, this is in accordance with this whole procedure until your discharge?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: Proceed.

A. There was no other way I could carry on any conversation with anyone else since I was not allowed in the plant and I could only talk to the representatives that had their word for me. I wanted to go into a meeting down there and tell my own facts. They would not let me. Mr. Wakefield refused me that. That was the reason why I had to say what my representative said.

Q. Go ahead.

A. So they stated that they had decided, Mr. Robbins and Mr. Hagerty and Mr. Zimmerman, and they—

MR. DAY: Same objection.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. These three fellows said that Charlie Barrie was the man that I would have to go to see because he was the man who provided them with the evidence that I was discharged on, so they went to see Barrie one evening and after questioning he said he could not prove it, he said we oftentimes would talk in groups of eight or ten.

A. Well, in the first place, there wasn't that many men in our department. I don't know where he could get that, there are only four men in the crew.

Q. When you say four men—

A. Yes, in the crew, he says, "When you walk off"—

Q. What do you mean, when you are referring to four men in your crew, you testified before there were six?

A. Four—two bed chain men and two car chain men.

Q. That's what you are referring to at this moment as the crew?

A. Yes.

Q. Go ahead.

A. When he walked up he would hear us conversing then whenever he would walk up, we would stop the conversation, we would stop the conversation and therefore from that he concluded that we must have been talking about the union. That he couldn't prove it, he said he couldn't prove anything.

So then they took that evidence to the General Body on September 8th I think was the date of that meeting, and after a discussion on this vote the motion was made that I be reinstated unanimously.

(The document above referred to was marked as Board's Exhibit No. 88 for identification.)

Q. I hand you Board's Exhibit No. 88 for identification, and ask you whether that is copy of the minutes of the meeting of the General Body on September 8th, 1936, that you were handed by Mr. John Exall, representative?

A. Yes, those are the minutes of that meeting.

MR. LAUTER: I offer it in evidence as Board's Exhibit 88.

TRIAL EXAMINER LINDSAY: May I see it?

MR. DAY: We object to it.

TRIAL EXAMINER LINDSAY: Objection overruled. Board's Exhibit 88 is received in evidence. Let the record show the exception.

MR. DAY: Exception.

(The document previously marked for identification as Board's Exhibit 88 was received in evidence.)

Q. Who is Mr. Carpenter?

A. He was district manager at that time of the Republic Steel Corporation.

Q. Who was Mr. Exall?

A. Mr. Exall was a representative of the 40 inch mill.

Q. Did you have any conversation with Mr. Exall about his having visited Mr. Carpenter?

A. Yes, he told me that—

MR. DAY: I object to this on the grounds already stated, and with the additional ground that it is at least single hearsay.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. He said, Mr. Carpenter, after they had heard—after they got the report that I was to be reinstated unanimously, he said—they were making a sanitation inspection —one day they were making a sanitation inspection of the plant, and during that inspection he was called into the main office.

Q. Who was called in?

A. Mr. Exall.

Q. Yes.

A. He was called into the main office and he asked him, he says—he asked him if he wanted to work at that place and he said, "Yes, why?" He said, "If I would not want to work," he said, "I would quit." "Well," he said, "what do you want to fool around with this Troyanovich for?" He says, "We know that he was an agitator and trouble maker," he said. "He was organizing down there," he says, "we fired him, so what?" "So what are you going to do about it?" He says, "When we fire a man once, we never take him back again."

Q. You filed a complaint with the National Labor Relations Board?

MR. DAY: I move to strike that out.

TRIAL EXAMINER LINDSAY: Which, the complaint? Filing the complaint?

MR. DAY: No, no, this last—the last conversation, that somebody told him what somebody else told somebody else.

TRIAL EXAMINER LINDSAY: The motion is denied. Let the record show an exception.

MR. DAY: Exception.

(The last question was read.)

A. Yes.

Q. Have you had any employment since August 27th, 1936?

A. Yes.

Q. When did you start working?

A. Started work the 30th of September, 1936.

Q. The 30th?

A. 30th of September.

Q. How much are you earning?

A. Well, I work in the mines, I work on a tonnage rate. It all depends on how many cars you load. The rate is all the same.

Q. How much were you earning when you started working in September?

A. I was working days, $5.26 a day, on day work.

Q. And working how many days a week did you work?

A. Five days.

Q. How many hours a day is that?

A. Seven hours.

Q. And how long did you work at that rate of pay?

A. About three months.

Q. And after that, what happened?

A. Well, I loaded coal then since January 1st up until April 1st or up until the present time, I am loading coal at the tonnage rate.

Q. How many days' work have you had?

A. Well, since the 1st of April we have only been averaging about one and two days a week.

Q. That means in the neighborhood of $5 or $10 a week?

A. Something like that, yes, sir.

Q. Now, how much were you earning when you were discharged from Republic Steel Corporation?

A. Well—

Q. Per day?

A. We got an hourly rate and also some tonnage down there.

Q. How much did that average, per day?

A. It averaged something over $5.

Q. Was that for a six or seven day week?

A. Oh, sometimes six, sometimes seven, when things were going pretty well we always worked Sunday, the shipping department, loading crew.

Q. Do you want your job back at Republic?

A. Yes, if I can get the same job back.

MR. LAUTER: That is all.

Cross Examination

Q. (By Mr. Day) You went out on strike on the 26th of May?

A. No, sir.

Q. What?

A. I was not here.

Q. You weren't here at all?

A. No, sir.

Q. Without telling us where you are working, you are working somewhere now?

A. Yes.

Q. Have you been on the picket line, at all?

A. No.

Q. You haven't done anything in the strike, at all?

A. (Witness shakes head.)

Q. Nothing?

A. Not a thing.

Q. Have you ever received any compensation from CIO or SWOC?

A. No, never.

Q. What?

A. Never.

Q. While you were working at Republic, did you talk Communism among the men, during working hours?

MR. LAUTER: Just one second.

TRIAL EXAMINER LINDSAY: Talk what?

MR. DAY: Communism.

MR. LAUTER: I object to that.

TRIAL EXAMINER LINDSAY: Oh, I sustain that objection, "communism".

MR. DAY: Let the record show, we think we have a right to show that he did talk communism during working hours.

TRIAL EXAMINER LINDSAY: Well, the objection is sustained. Let the record show an exception.

MR. DAY: Exception.

Q. Are you a communist?

A. No, sir.

MR. LAUTER: Object. One second. Just wait until I finish my objection. I object to this question as highly improper, and Mr. Day knows it is.

MR. DAY: I resent the statement that we know that it is improper.

TRIAL EXAMINER LINDSAY: We are not going to have any argument at all, the objection is sustained.

MR. DAY: Note an exception.

TRIAL EXAMINER LINDSAY: Let the record show an exception had.

Q. (By Mr. Day) Did you talk CIO among the workmen at Republic during working hours?

A. No.

Q. You knew that there was a rule in Republic, while you were working there?

A. Yes, sir.

Q. Against making chalk drawings on the walls and the different places, didn't you?

A. Yes.

Q. Did you make chalk drawings on the wall at Republic, at various times?

A. I made—I put my check number on the wall during the time I was running for representative, I put my check number down there and my name, so that the men could know it. That was permitted by the company.

Q. Is that all the chalk drawing you did?

A. That is all the chalk drawing I did, yes, sir.

Q. All the time you were at Republic?

A. Well, with the exception of writing my steel—writing heat numbers on steel, I have done a lot of that for Mr. Barrie.

Q. Now, you never drew any chalk pictures at all?

A. No, never.

Q. You stated you had a conversation with Mr. Wakefield and Captain Jones, I understood you to say July 27, 1936?

A. July 24th, I think that is the date.

Q. July 24th, all right.

A. It was the latter part of July, I believe it was the 24th.

Q. Yes, you joined CIO in June of 1936, is that right?

A Yes, correct.

Q. And you were a representative under the Employees Representative Plan?

A. Yes.

Q. From December, 1935, until the election held in the summer of 1936?

A. Yes, sir.

Q. And you are not quite certain as to when you ceased being or stopped being representative, is that right?

A. Well, it was at that election, I don't know, it was the early part of June, I would not know the date. Mr. Wakefield would know. The early part of June when we had the election.

Q. Was Alex Balint also a representative?

A. Well, I succeeded him.

Q. You succeeded him?

A. As an alternate, yes.

Q. In the conversation you had with Captain Jones and Mr. Wakefield on July 24, 1936, where did that take place?

A. In one of the rooms up there at the main offices of the Republic Steel.

Q. Was anybody else there besides?

A. Just Captain Jones, Mr. Wakefield and myself.

Q. Anybody else?

A. No.

Q. By the way, have you ever asked to get your job back since the strike started?

A. The men have worked for me, that is the representatives have asked for my job.

Q. I mean, whether you did yourself?

A. No; I never asked. I was told I would never be rehired again.

Q. It does not matter what you were told. Did you ever ask for your job back?

A. No.

MR. LAUTER: I request that the witness be permitted to answer the last question.

TRIAL EXAMINER LINDSAY: I think the witness should be permitted to give his answer, if he has an answer.

Q. So there may be no misunderstanding about it, I ask you again, whether you yourself ever asked for your job back?

A. No, I did not.

MR. LAUTER: I will ask that the question be read so that the witness may complete his answer. I want the question which was—read it to this witness.

TRIAL EXAMINER LINDSAY: Read back two or three questions.

(Thereupon the record was read.)

MR. LAUTER: Do you want to add anything to your answer at that point?

TRIAL EXAMINER LINDSAY: Mr. Lauter,

you have a right to ask him on re-direct.

MR. LAUTER: I am going to request again that the witness not be interrupted when he is answering.

Q. Did you have more than one conversation with Mr. Jones and Mr. Wakefield?

A. That was the only one.

Q. You talked about having a conversation with Mr. Shriber?

A. Yes.

Q. About when was that?

A. Well, it was the early part of August, one or two days after I got back from my vacation.

Q. Where did it take place?

A. At the main office.

Q. Anybody there besides you and Mr. Shriber?

A. Mr. Zimmerman.

Q. Did you have more than one talk with Mr. Shriber?

A. That was the only one.

Q. Did you ever have a talk with Zimmerman when Shriber was not there?

A. Well, that same day, when we were going out of Shriber's office, Mr, Zimmerman asked me if I would not help him keep the Union out of there. He said, "You heard what Mr. Shriber said. There will be some good jobs down there and I am a superintendent and if you help us out down there, I will see that you get a good job."

Q. Was anybody else present besides you and Zimmerman? That is, at the time this took place?

A. No, just him and I. It happened in a hallway going out.

Q. Now in July and August, 1936, do you know whether or not Alex Balint also belonged to the C. I. O.?

A. Yes, he belonged to C. I. O., yes, sir. He told me he was a part time organizer.

Q. Part time organizer?

A. Yes.

Q. And when you told Captain Jones and Mr. Wakefield about the 24th of July, 1936, that you were neutral, you had really joined the C. I. O., hadn't you?

A. Yes.

Q. Do you know whether you had stopped being a member of the Representative Plan on the 24th of July when you had that talk with Jones and Mr. Wakefield?

A. Yes. My term as representative had terminated at that election; that was early in June.

Q. Then if you had ceased being a representative, it was very shortly before that talk, wasn't it, because the election was in June?

A. Yes, sir.

Q. You talked about some conversation with Mr. Robbins. When did you have your first talk with him?

A. Well, he was the one that fired me. That was August the 27th.

Q. Where did that take place?

A. Right in the yard, right near the sheet bar beds.

Q. Was anybody there besides you and Mr. Robbins?

A. There was a cop standing by walking around, close by.

Q. But he did not take part in the conversation?

A. No.

Q. Did you have a second talk with Mr. Robbins?

A. Yes.

Q. Where did that take place?

A. That happened down on Independence Road.

Q. About when was that?

A. I would not be able to state. It was about two or three days after I was discharged.

Q. Was anybody else there besides you and Mr. Robbins?

A. No one else was there.

Q. That was the time he said your work was God damned unsatisfactory?

A. No. He said that to me in the mill. He made that remark in the mill.

Q. Was that after that?

A. That was before this. That was the words he discharged me with.

Q. That took place in the first talk you had with Robbins?

A. Yes.

Q. Did Mr. Matchurik belong to the C. I. O.?

A. Yes.

Q. Did he at the time that you have been testifying about, in the summer, say, in July, August and September, 1936?

A. Yes; he belonged to the C. I. O. then.

Q. He was a member of the Representative Plan?

A. Yes, sir.

Q. Was he re-elected?

A. No. He was elected as a new man.

Q. Oh, he was elected as a new man?

A. Yes.

Q. At the June election in 1936?

A. Yes.

Q. And at the time this all took place, which we have minutes of, September 8th, 1936, Matchurik was a member of the C. I. O.?

A. He was a member at that time, yes.

Q. Was Mr. Sisk a member of the C. I. O.?

A. I don't know.

Q. Well, do you know whether he ever was a member of the C. I. O.?

A. I don't know that.

Q. Did Matchurik know that you belonged to the C. I. O.?

A. Matchurik, I suppose he did.

Q. When did you first tell Mr. Wakefield you belonged to the C. I. O.?

A. I never told Mr. Wakefield that.

Q. Did you ever tell Mr. Robbins that?

A. No, I didn't.

Q. You said you joined the C. I. O. in June of 1936. What lodge did you join?

A. I didn't join this lodge over here.

Q. What?

A. I joined the Otis Lodge.

Q. Oh, you joined the Otis Lodge?

A. Otis Lodge.

Q. While you were working for Republic?

A. Yes, sir.

Q. Were you an officer of that lodge at any time?

A. Yes, sir, just signed up and we were to be transferred over whenever—

Q. Were you transferred to any other lodge?

A. No, I was not.

Q. Did you ever join any other lodge?

A. No.

Q. By the way, you testified about going to see or somebody suggesting you go to see a man named Bozo Damish. Who is Bozo Damish?

A. I understand he is Regional Director of the C. I. O.

Q. He was at that time?

A. At that time, yes.

Q. Is he still Regional Director, do you know?

A. I don't know.

Q. Did you go to see him?

A. I went to see him, yes, sir.

Q. Did anybody go with you?

A. A fellow by the name of Frank Perry and John Exall.

Q. You testified that Alex Balint told you that you were going to be fired before you were fired, as you say, is that right?

A. Yes, sir.

Q. Was it before or after that that Alex Balint asked you to go and see Bozo Damish?

A. It was—will you please restate that question again? I didn't get it.

Q. Did Alex Balint tell you that you were going to be fired before Alex Balint asked you to go and see Bozo Damish?

A. Correct.

Q. I understand you to say that when Alex Balint suggested or said that you should go and see Bozo Damish you told him that if you did you would be fired?

A. Yes, sir.

MR. DAY: I think that is all.

Redirect Examination

Q. (By Mr. Lauter) You joined as a member of the Otis Lodge, is that correct?

A. Yes.

Q. That was some time in June?

A. Yes.

Q. Had the C. I. O. come into that plant, at that time?

A. Just about that time, I think.

Q. They came in some time around July 1st, 1936?

A. Yes.

Q. Did you automatically become a member of the C. I. O. when they took over that Otis Lodge?

A. No, I didn't become automatically, I would probably have to sign up in order to do that.

Q. Was not the Otis Lodge taken over by the C. I. O.?

A. I think it was.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

Courtroom No. 3, Cuyahoga County Courthouse, Cleveland, Ohio, Monday, August 30, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

JOHN T. LINDSAY, Trial Examiner

Appearances:

Mark Lauter, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., Thomas F. Veach, Esq., and Earl W. LeFever, Esq., Cleveland, Ohio, appearing for the Respondent, the Republic Steel Corporation.

PROCEEDINGS

JOHN PETAK

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Lauter) What is your name?
A. John Petak.

TRIAL EXAMINER LINDSAY: We will adjourn until 9:30 Monday morning.

(Whereupon, at 12:30 o'clock p. m., August 28,

1937, an adjournment was taken to 9:30 o'clock a. m., August 30, 1937.)

Q. Where do you live?

A. 3614 Broadway.

Q. Are you employed at Republic Steel Corporation plant in Cleveland?

A. I started for Corrigan-McKinney.

Q. When did you start?

A. 1925.

Q. In 1925? How long have you worked for Corrigan-McKinney?

A. I worked three times for Corrigan. I started in 1925, then resigned, then started again 1926 and resigned, and then I come back in 1928.

Q. Have you worked continuously since 1928?

A. Yes, sir.

Q. Until when?

A. To January 18th.

Q. 1937?

A. 1937.

Q. What happened then?

A. Well—

Q. Did you resign or were you discharged or laid off?

A. No, I was laid off.

Q. When did you join CIO?

A. July 1st or 2nd, I am not sure.

Q. What year?

A. 1936.

Q. Who is Mr. Tull?

A. Mr. Tull is the superintendent of the electrical department.

Q. Who is Mr. Gene Perry?

A. Gene Perry, he is the boss of the electrical department, crane boss.

Q. Now, did you have a conversation with Mr. Tull shortly after you joined CIO in July, 1936?

A. Yes, sir, I did.

Q. When did you have the conversation?

A. I had conversation with him two weeks, I think, after I joined the union.

Q. Where did you have the conversation with him?

A. Mr. Perry come over to my house and called me up, that Mr. Tull wanted to see me in his office.

Q. Did you want to go to Mr. Tull's office?

A. Yes, sir, I went with Mr. Perry to Mr. Tull's office.

Q. What happened then?

A. Well, Mr. Tull, he asked me—no, he says, "Why, John, I got your name and badge number here and I heard that you joined outside union."

Q. Do you know Mr. Balint?

A. Yes, I do.

Q. Who is Mr. Balint?

A. He is the organizer for CIO.

Q. Did Mr. Tull say anything about Mr. Balint?

A. Yes, he told me that he saw me—Mr. Paul Bowers, superintendent from the open hearth, he saw Mr. Balint, he goes in and goes out from my place.

Q. Did you say anything about whether or not you belonged to the union at that time?

A. I didn't tell him that I belonged to the union at that time, but I told him that if everybody joined the CIO, I will too.

Q. Now, after your conversation with Mr. Tull, did you get the same amount of work to do at the plant?

A. No, sir, I didn't.

Q. What happened?

A. Well, I worked three days, four days a week, five days a week, but the other fellows, they had five, six and seven days a week. I told the representative, Mr. Korecky, to see about it. He went to see about it and he couldn't do anything for me.

Q. Has your house ever been watched?

A. Yes, sir.

Q. By whom?

A. By Company police. Even bosses come to the place.

Q. State when the house was watched.

A. My house was watched since the start of the organizing workers at the Corrigan-McKinney.

Q. When was that?

A. It was in July, June, August, until the strike.

Q. July and August of 1936?

A. Yes, sir.

Q. How long did they watch your house?

A. Pretty near every day.

Q. Did you make any complaint about it?

A. Sir?

Q. Did you make any complaint about the fact your house was being watched?

A. Yes. About two weeks after I was in Mr. Tull's office one Company policeman, he was outside my place and that day I went to work 3 o'clock, 3 to 11 turn, and this Company policeman he follow me right to the clock house. When I punch my card, he was look at my card and he was not say anything. Right after that I went to Mr. Tull's office and told him about it. Well, he took up telephone and he called up somebody, but nobody answered. Then he told me that he going to find out and he going to tell me all about it, but he never did.

Q. Well, were you watched after you complained to Mr. Tull about it?

A. Yes, by several Company's cops.

Q. Did you attend the meeting on January 13th at the Bohemian National Hall?

A. Yes, I did.

Q. Did you see any of the officials of the Company?

A. Yes.

Q. Whom did you see?

A. I went with Mr. Korecky, I went from my place to the meeting and outside of that door there was Captain Jones and another three, the same guys that he follow me to the clock office but I know him, I know him right away.

Q. The same mill policeman that followed you to the clock office?

A. Yes.

Q. Was that the meeting of January 13, 1937?

A. Yes; that was the meeting of January 13, 1937.

Q. Who is Sam Naletrich?

A. He worked on the same gang I did, the other turn.

Q. Do you recall January 18, 1937?

A. Yes.

Q. Did he come to your house?

A. Yes. He come to my house.

MR. DAY: Who is that?

MR. LAUTER: Sam Naletrich.

MR. DAY: What is his position?

MR. LAUTER: Employee of the Republic Steel.

MR. DAY: We object on the ground he has no authority to bind the Respondent. There is nothing to connect it with the Respondent, to show the Respondent had knowledge of it. Object to the whole conversation and any conversation in that regard.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. Mr. Sam Naletrich told me that Mr. Perry sent him to my house to call Mr. Perry on the phone.

Q. Who is Mr. Perry?

A. He is the boss from the electrical department and I try to get Mr. Perry on the phone but I couldn't. Nobody answered.

Then I had two days off and went to Mr. Perry's office. First I went to clock office and I find that my card was not there on the rack. Well then, I went to Mr. Perry's office. I didn't find it there. Another boss by the name Anthony Morgan, he told me to go back to the gate and wait for Mr. Perry there.

Q. Who is Mr. Anthony Morgan?

A. He is my foreman.

Q. Go ahead.

A. Well, I went to the gate and I was waiting on the gate, about 9:30 in the morning and Mr. Perry came and he came right to me where I was sit down and I asked him, "Mr. Perry, what is it?" He said, "Why, John, we got to lay you off because you the youngest man in the gang." And I told him, "That is not so, because they got four youngest men on the same job."

Q. You say they have four younger men on the same job?

A. They have four younger men on the same job, yes, sir.

Q. Do you know their names?

A. Yes.

Q. Did you name them to Mr. Morgan Anthony?

A. Not Morgan Anthony, I mentioned them to Gene Perry.

Q. Who were the men whom you named to Gene Perry?

A. Phillip

MR. DAY: Take these names slower. What is that?

THE WITNESS: Phillip Birnichwitz.

Q. What was the first name?

A. Phillip. Mark Radovan, Walter Miller, and—

Q. Who else?

A. — and Arrow. I don't know his last name.

Q. Do you know what positions these men held?

A. Bull gang.

Q. Were you in the bull gang also?

A. Yes.

Q. Do you know what positions these men held before they joined the bull gang?

A. Mr. Miller was clerk in Perry's office and Arrow was, he was light man and clerk in Perry's office.

Q. What kind of a man?

A. Light man.

Q. What did Birnichwitz and Radovan do?

A. They was in the bull gang.

Q. They were younger men than you?

A. Radovan start 1930 in the bull gang and Phillip Birnichwitz, he start 1934.

Q. What did Mr. Perry say to you when you told him that there were four men in the gang who were younger than you?

A. Well, he told me these here two men, they were like pushers.

Q. Go ahead.

A. And he didn't say anything about the other two men. Well, then I asked him how about my seniority, so I says, "What about my seniority?" "Well,"—he showed me a list and he says, "your seniority is all right."

And I asked him how about my work. He say, "Everything is all right," only he claim that I am the youngest man in the gang.

Q. Did he promise to give you a job?

A. He promised me a job. He said, "You going to start," if I want a crane operator's job, he will give it to me. He says that there are going to train new men for new mill, crane operators. He says, "In a few days I going to call you up."

He had my telephone number and everything, and I told him, "That is all right." And I went out.

Q. Did he ever call you up?

A. He never did. I told him not, when I heard the janitor get the job as crane man, then I called up. I called

John Barrie up and I asked him whether he has got anything for me. He says that he don't have anything.

Q. Now, the janitor you just referred to was put on the bull gang?

A. After that he didn't operate the crane because he was too short and they put him in the bull gang.

Q. The bull gang is the gang that you were off, from which you had been discharged, is that right?

A. Yes, sir.

Q. Do you know whether or not they put any of the men on, from the bull gang?

A. They picked four men from the speed car and put them on the bull gang.

Q. Did the insurance nurse ever come to visit you?

A. Yes, sir, she came over, three weeks after I was off, she came over there to the place and asked me—

MR. DAY: I object to any conversation between this witness and the insurance man, for the reasons already stated in objections to previous questions.

TRIAL EXAMINER LINDSAY: Well, the objection is overruled, Mr. Day. Let the record show an exception.

MR. DAY: Exception.

A. She came over and asked me—asked for me, for my name. I told him I am there, and she wants to know why I don't work. She said, "You supposed to work, why don't you work?" I says, "Oh, Mr. Perry laid me off, I don't work when I was laid off." And she says that Mr. Wakefield, he said he wants to see me. Well, next day I went down there.

Q. Mr. Wakefield, the employment manager?

A. No, I think he is the—

Q. Management representative?

A. Manager for representatives, there.

Q. Go ahead.

A. Then next day I went down there, I saw Mr. Krause first.

Q. Mr. Krause, the employment manager?

A. Mr. George Krause, and he asked me, "John, what is the matter with you, why don't you work?"

Well, I told him, "Well, I was laid off, and Mr. Wakefield sent for me, he wants to see me." Well, he told me Mr. Wakefield is not here now and he isn't in, he won't be in for all week. Well, Mr. Krause then say, when I asked him for job, "How about job there, and how about job, can you give me job back?" He says, "Wait a minute, I will see."

He went inside and he didn't come back for an hour and a half and when he came back he didn't even want to talk to me or look on me. Then I left the place and went home.

Q. Did you try to get your job back?

A. Yes, sir, I did, I went three times after that, I went down there and he won't talk to me, he say, "Nothing doing."

Q. You filed a complaint with the National Labor Relations Board?

A. Sir?

Q. You filed complaint with the National Labor Relations Board?

A. Yes, I did.

Q. Subsequent to the filing of the complaint did Mr. Krause visit your home?

A. Yes, that was January 18th, I think, 1937, he come to my place.

Q. January or May? May 18th?

A. May, that is right.

Q. Go ahead.

A. May 18th he come to my place and he asked me if I want to go back to work. I say, "I want my job." He say, "General labor for a while." I say, "All right." Well, I went back to work next day.

Q. Went to work as a laborer?

A. General laborer.

MR. DAY: What was the date of that?

Q. May 18th?

A. That was.

Q. When is the date you went back to work?

A. I think that was it.

Q. May 18th was the date Mr. Krause came to your house, is that right?

A. Yes, I worked six days, much striking.

Q. You went back about May 20th, 19th or 20th?

A. 19th or 20th.

Q. And you went on strike on May 26th?

A. Yes, sir.

Q. How much did the labor job pay you?

A. 62 cents.

Q. And how much was your job, your previous job with the Republic paid?

A. Well, they had raised when—they had raised when I was out for a month.

Q. What were they paying?

A. My job was 60—59.

Q. 59 cents an hour?

A. Well, next raise we got it was 62 cents an hour.

Q. Was it ultimately raised to 74½ cents an hour?

A. Now they got 74½ cents an hour.

Q. From January 18th to May 18th had you done any work?

A. No, sir.

Q. Hadn't earned anything?

A. No.

Q. Do you want your job back with Republic?

A. Yes, sir.

MR. LAUTER: That's all.

Cross Examination

Q. (By Mr. Day) You went out on the strike on the 26th day of May?

A. Yes, sir.

Q. And you have been on the picket line since?

A. Yes.

Q. Right along?

A. Right along.

Q. Are you captain of the picket line?

A. Yes, sir.

Q. When were you on the picket line last? Yesterday?

A. Every day.

Q. You haven't asked for your job back since the strike, have you?

A. Yes, sir, I did.

Q. Since the strike?

A. Oh, not now, but since I was four months out.

Q. Yes, but you have not asked for your job since the strike?

A. No, not now.

Q. You joined the CIO in July, 1936?

A. Yes, sir.

Q. And you were laid off January, 1937?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. When was it you talked to Mr. Tull?

A. Right, I think it is right two weeks after I joined the union.

Q. And at that time you told Mr. Tull that if everybody joined the CIO, you would join it too, is that right?

A. Well, I didn't want to tell him that I did join the union, I was scared to tell him.

Q. Well, I know, but did you tell Mr. Tull at that time that if everybody joined the CIO, you would join the CIO too?

A. Yes, sir, I did.

Q. And you say that they started to watch your house in July or August?

A. Yes.

Q. Of 1936?

A. Yes.

Q. And you worked right along up until January, 1937?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. You say they watched your house every day?

A. Pretty near every day.

Q. Well, do you mean to say they watched your house every day?

A. Every day, somebody was there.

Q. For how long a time was somebody there?

A. Until the strike, even now the company has got a man come once in a while.

Q. How much time a day would a man spend watching your house?

A. Different times, different men.

Q. Well, how long would he stand there watching your house?

A. One day the fellow who was standing over there eight hours, eight hours he was watching the place.

Q. And were you inside watching him all the time? Did you see a man stand there eight hours, yourself?

A. Sure.

Q. Yourself?

A. Well, there was on the sidewalk and walking around, he come back again, walk around again.

Q. How many days did you see somebody watching your house eight hours a day?

A. That is only one man, he was eight hours one day over there.

Q. When you were laid off, there were other men laid off at the same time, weren't there?

A. Yes, sir.

Q. And you were a member of the bull gang?

A. Yes, sir.

Q. You were a bull gang helper?

A. Yes, sir.

Q. Do you remember whether or not they took off some gasoline locomotives at the time you were laid off?

A. They did.

Q. And you were told at the time that you were laid off, that you were one of the youngest men, is that right?

A. Yes, but I am not.

Q. Well, but you were told that you were?

A. They told me, yes, sir.

Q. Yes, and you were told that that was the reason why you were laid off, is that right?

A. That is what they say.

Q. That is, you were told that they were taking off gasoline locomotives and were laying off some men, and you were one of the youngest? That is what you were told?

A. Yes, sir.

Q. What did you do on the bull gang? What was your job?

A. Repairing the cranes.

Q. You were a repairman on the cranes?

A. Yes, sir.

Q. As a member of the bull gang? You went back to work on the 20th of May as a laborer, is that right?

A. Yes.

Q. And you were there until the strike started?

A. Yes, sir.

Q. You had a talk with George Krause, the employment man at the Republic?

A. Yes, right after the nurse was in my place.

Q. Fix the time as near as you can, do the best you can to fix the time when you had that talk with George Krause?

A. No, I can't, because I was four times there to see him.

Q. What?

A. Four times I went to see him.

Q. Did you talk to him four times?

A. No, sir, he didn't want to talk to me.

Q. Did you only talk to him once?

A. Only the first time he talked to me, but the next three times I was over there he didn't talk to me.

Q. Where did you talk to George Krause?

A. Right next day after the nurse was come to my place.

Q. Where did you talk to Krause? Where?

A. At the employment office.

Q. Employment office?

A. Yes.

Q. Was anybody else there besides you and Mr. Krause?

A. Yes, was a lot of men over there.

Q. Do you know any of them that were there?

A. No, sir.

Q. Can you fix the date as near as you can?

A. Well, another two times I went with a man named Frank Krall, we was together twice, we were down there. Mr. Krause didn't want to talk to me.

Q. But what I am trying to ask you, and if you do not understand me, let me know—I want you to fix the time, tell me as near as you can when it was you talked with Mr. Krause?

A. I think the last time I was there—

Q. No, I mean the time you talked to him, not the time you got there and didn't see him. I mean the time you did see him and talked to him, can you fix the month? Can you tell what month it was in?

A. I think that was three weeks when I was laid off.

Q. Three weeks when you were laid off?

A. I think that, I am not sure.

Q. You mentioned Mr. Wakefield's name, did you talk to Mr. Wakefield?

A. Mr. Krause told me that Mr. Wakefield, I can't see Mr. Wakefield because he is not in and he won't be in for a full week.

Q. Well, did you talk to Wakefield?

A. No, sir, I didn't.

Q. I see. When they took off the gas engines, they did away with your job, didn't they?

A. No, they put four men—they put four men in the bull gang from the—like you found—

Q. On different work?

A. In the bull gang—No, on the bull gang, they put four other men from speed cars, they call it speed car or service car.

Q. Well, they put the men back to work on a different kind of a car?

A. No, they didn't have no car.

Q. They laid off the gas locomotives, didn't they?

A. Yes, sir.

Q. And you had been working in connection with the gas locomotive, hadn't you?

A. I was in the bull gang.

MR. DAY: Well, we will show that in our own evidence.

MR. HOSKINS: Well, maybe I can show it now.

Redirect Examination

Q. (By Mr. Hoskins) You say they did not abolish your gang in the bull gang, when you were laid off?

A. They put another four men in my job.

Q. Even though they had laid off—you were in the bull gang?

A. The four from service car men, they got the four youngest men, started after I start. I started 1928 and they start different time, one in 1930, another in 1934.

Q. Did they take any men from the speed car men and put them on the bull gang?

A. Oh, yes.

Q. After you were laid off?

A. Yes.

MR. HOSKINS: That's all.

Recross Examination

Q. (By Mr. Day) There were eight men working in the gang on the locomotives?

A. I say that they put four men from the—

Q. Wait, there were eight men working on the gang on the locomotive, weren't there? And they were all laid off?

A. Well, they got a job after three days.

Q. But they were all laid off when they took the engines off, they were all laid off, weren't they?

MR. DAY: All right, that is all.

JOHN EXALL

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your full name, please?

A. John Exall.

Q. Where do you live?

A. 1516 East 47th.

Q. Mr. Exall, will you talk as loud as you can so that all of the gentlemen in the room may hear you? Have you ever worked for Republic Steel Corporation?

A. Yes, sir.

Q. When did you start to work there?

A. In the spring of 1933.

Q. In the spring of 1933?

A. Yes.

Q. What division was this?

A. (No response.)

Q. Was this at the Corrigan-McKinney Division?

A. This was at the Corrigan-McKinney Division.

Q. What is your job there?

A. Chipper.

Q. You were a chipper?

A. Yes.

Q. What mill?

A. Corrigan-McKinney.

Q. Is there a specific mill of the Corrigan-McKinney plant where you were employed?

A. No.

Q. How many chippers work down there, do you know?

A. Usually they have 400, 450 chippers.

Q. You say you went to work there in 1933?

A. Yes.

Q. How long did you work there?

A. The day when I got fired.

Q. When did you get fired?

A. January 14, 1937.

Q. January 14, 1937. Do you belong to the C. I. O., Mr. Exall?

A. Yes, sir.

Q. When did you join the C. I. O.?

A. July 2nd, 1936.

Q. Have you been quite active in the C. I. O.?

A. Yes, sir.

Q. Have you ever held any offices in the Lodge?

A. Yes. Treasurer, 1098.

Q. You are Treasurer of Lodge No. 1098?

A. Yes.

Q. While you were working in the mill, did you ever hear of the Employees Representation Plan?

A. Yes, sir.

Q. Were you ever a representative under it?

A. Yes, sir.

Q. What year?

A. 1936.

Q. 1936. What do you mean by that, what period?

A. Well, in June, 1936, I ran for representative and I missed the election by five or six votes.

Q. The election was held in June of each year, is that the custom?

A. Yes.

Q. You ran for election in June of 1936?

A. Yes.

Q. You say you missed by five or six votes?

A. Yes.

Q. What did that make you?

A. I was first alternate.

Q. You were the first alternate?

A. Yes, sir.

Q. Now, I would like to have you tell us as much as you can about the Employees Representation Plan, how it functions, what it accomplishes. This election was held in June of 1936, were the men permitted to campaign for that election?

A. I didn't hear you.

Q. Were the men who were running for office as representatives permitted to campaign about the mill, to go out and seek votes? What was the ordinary method of trying to get votes?

A. Usually we wrote our names and check numbers on slips of paper and distribute these slips of paper among the mill and hang them on the wall of the scrap bins and cans so the men would see them.

Q. You would write the numbers on the walls of the scrap bins where they could be seen?

A. Usually we distribute these names on pieces of paper.

Q. This hanging of numbers on the walls of the scrap bin, was that done by nearly everyone who was running?

A. The men themselves, they pick out their man and they write his name wherever they could find a place.

Q. How many votes were cast that year, do you know?

A. How?

Q. How many votes did you have?

A. Well, I had 197 votes.

Q. You had 197 votes?

A. Yes.

Q. Was there any attempt made to stop your election that year?

A. Yes, sir.

Q. Will you tell us what you know about that?

A. Mr. Peters was the superintendent of that particular department and as soon as I decided to run he was telling the men not to vote for me.

Q. How do you know that?

A. Because I had several men come up to me and they told me so.

MR. DAY: I move that be stricken out if that is the source of his information.

TRIAL EXAMINER LINDSAY: Motion denied. Let the record show an exception.

Q. What were the reasons that were related to you by these men why Mr. Peters was speaking against your being elected?

MR. DAY: Same objections. Same grounds.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

Q. Did you understand my question? Did these men relate to you the reasons why Mr. Peters thought you should not be elected?

A. Yes, sir.

Q. What were those reasons?

A. They told me that Mr. Peters told them, "Don't vote for this man. He is a radical. He is a Communist. Even if he get elected, we going to fire him." And one day one man told Mr. Peters, "Never mind, he is a good man" and he said, "If you think he is a good man, then you are a Communist yourself." He said, "Never mind, I don't vote for him."

Q. Are these men permitted to vote or will you tell us the form of the voting there?

MR. DAY: I object to the leading questions. They have been leading right along.

MR. HOSKINS: I will withdraw that question.

TRIAL EXAMINER LINDSAY: Yes, they are leading.

Q. Will you describe the procedure of nominations and elections?

A. Several weeks before the nominations, Company usually put a notice upon the departments where are the names of those who were intended to vote. For instance, if you want vote for representative, they had a right to nominate 12 men, and the highest four, they would run for election.

Q. You stated this list designated those who had a right to vote. Do you mean by that that not everyone had a right to vote?

A. No, sir. Those who were not American citizens had no right to vote.

Q. Where was this list generally posted?

A. On the blackboard. They had a blackboard in the department.

MR. HOSKINS: Will you mark this for identification?

(Thereupon the document above referred to was marked Board's Exhibit No. 89 for identification.)

Q. I show you Board's Exhibit 89 for identification and ask you if that was a list similar to the ones that were posted?

A. Yes.

MR. HOSKINS: We offer this Board's Exhibit No. 89 in evidence.

MR. DAY: We object to it on the ground it has no relation to the charges set forth in the bill of complaint or any issue presented in this hearing.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception. Board's Exhibit 89 is received in evidence.

(Thereupon the document identified as Board's Exhibit No. 89 was received in evidence.)

Q. You were describing the procedure of nominations and elections, Mr. Exall. Will you continue on from there after the posting of the list?

A. A little before the nominations the Company posts a notice on the blackboards in each particular department announcing the day of nominations and I understand that each department nominates according to how many representatives they had. For instance, in the rolling mill, we have four representatives, we had a right to vote as many as 12 men for nominations and after nominations, polls were closed, and these 12 men were running for elections a week following.

Q. You say the number of representatives was based on the number of men who worked in the mill in each particular department?

A. Then out of 12 men, four were to be elected the following week.

Q. The election followed the nomination by one week?

A. A week after the nominations and four out of 12 were to be elected as representatives and the other ones stand in line as alternates.

Q. Will you describe the total procedure of how a man voted, that is where the voting booths were and how he voted and what time of the day he voted?

A. Yes. They had voting booths on Gate No. 1 by Dille Road where most of the workers go in the plant there.

Q. Was this inside or outside the gate?

A. Inside the gate.

Q. Can you fix the location for us a little more definitely at the Dille Road gate?

A. In the clock room where we punch our clock and also the Police Department have an office in there, too.

Q. Will you repeat what you just said after describing where the police were then, what did you say?

A. I said they have tablet, two or three men, which they had the names those who were eligible to vote. If you go in there to vote they ask you for your name.

MR. HOSKINS: Will the Reporter please read the answer?

(Answer read by the Reporter.)

A. And they look on the list to see if my name was there. They give you a ballot and then on the other side of the room they have two or three booths and there was a pencil and you mark the name or check number, whichever you want, see, for the man you want to vote for, and then you take the ballot back to the box. They had a box and you dropped the ballot in the box.

Q. The ballot box is right on the table where these men were, is that correct?

A. Yes. Or sometimes on the side of the booth.

Q. You say this was by the clock house, is that right? Is that where you punch your card when you come in and go out?

A. Yes, sir.

Q. Were you ever permitted to punch your card and then vote or did you have to vote and then punch your card?

A. You can do it if you want to. Some of the men working daily, 7 to 3, the booths were open or you can vote after work if you want to. You can vote on your way out.

Q. How many hours a day were the booths kept open?

A. Well, I don't remember, but I think they were day and night, 24 hours.

Q. Now you stated that you lost the election by five votes?

A. Five or six.

Q. Did you subsequently become a representative?

A. How?

Q. Did you become a representative after that?

A. Yes, sir.

Q. Will you tell us how that came about?

A. Well, after the elections one of the newly elected representatives, Mr. Mike Roth, he resigned his post, because he had a better job in police force in the City of Cleveland and then I took his place because I was the first on the alternate.

Q. You became a representative in his place?

A. I became a representative about in the middle of July. I think it was.

Q. About the middle of July, would that be of 1936?

A. 1936.

Q. When was the first general meeting that you went to or the first meeting of representatives that you attended? Do you remember?

A. I don't remember the date.

Q. Would it have been the next regular meeting following that?

A. About.

Q. Now, before we get into the details of the working of the representative body, how did the men know who had been elected? Was there any published list?

A. Well, I understand from year to year under the representative plan they had different committees, and one of these committees they were holding the elections from year to year. When the time comes for election this committee is preparing the ballots and list of the names and everything else, and in other words, they were in charge of the whole thing.

Q. I do not think you understood my question, Mr. Exall. How would the results of the elections be announced?

A. Results, what you mean? Of a vote?

Q. Yes.

A. Well, personally I don't know, myself.

Q. Your answer there, you said, "Personally myself, I don't know"—what were your last words there?

A. I don't know how they counted the vote.

Q. You don't know how they counted the vote?

A. No.

Q. Who told the men who had been elected? How was that found out?

A. Well, after elections? A day or so they post notices in each department, stating, telling the workers who was their representatives, who their representatives are which were elected.

Q. They would post a notice in each department, is that it?

A. Each department.

Q. Mr. Exall, I show you Board's Exhibit for identification No. 90, and ask you if that is similar to the lists that were posted in your department, announcing the results of the election?

A. Correct, that is one.

MR. HOSKINS: I offer Board's Exhibit No. 90 into evidence.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 90 is received in evidence.

(The document above referred to was marked for identification as Board's Exhibit No. 90 and received in evidence.)

Q. Did the Employees Representation Plan, in which you have just testified you became a representative about the middle of July—did you have any printed by-laws?

A. Did they have what?

Q. Did they have what?

A. They had a book, yes.

Q. When were you given your copy of the by-laws?

A. The first meeting I ever attended.

Q. The first meeting you attended?

(The document above referred to was marked for identification as Board's Exhibit No. 91.)

Q. I show you Board's Exhibit for identification No. 91, and ask you if that is a copy of the by-laws that was presented to you at that first meeting?

A. That is correct.

MR. HOSKINS: I offer Board's Exhibit No. 91 into evidence.

MR. DAY: There is no objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 91 is received into evidence.

(The document previously marked for identification as Board's Exhibit No. 91 was received in evidence.)

Q. Mr. Exall, will you describe the procedure that was employed in the mill for the operation of the representative plan? That is, let's say one of the men you represented had a grievance, how would he carry it up?

A. Well, the way that works, if one man has any grievance he is supposed to take it up with his foreman first, and if he don't get no satisfaction, then he was coming up to us, representatives, and the other men, we took it up with the foreman. If we don't get no satisfaction, we went up to the superintendent, the next higher up. But if we thought we didn't get satisfaction, then we went to Mr. Wakefield, management representative, and then if we still didn't get no satisfaction, from Mr. Wakefield, then we had a right to go to Mr. Carpenter, which was the district manager.

Q. You say you had the right to go to Mr. Carpenter after that?

A. Yes, sir.

Q. In the employees representation plan, how were the various representatives banded together? Did you have general meetings?

A. We had general meetings once every month.

Q. Once every month? Where would those meetings be held?

A. In the hospital building, on the company property.

Q. That is the company hospital building?

A. Yes.

Q. Would these grievances ever be presented to the General Body?

A. Yes.

Q. Tell us, if you will, the procedure whereby the grievance would be presented to the General Body?

A. Well, whatever grievances we had, after we worked through the legal procedure, foreman, superintendent, and so on, and we get no results, we bring it up to the General Body, and then we were passing resolutions or motions, asking the management and asking Mr. Carpenter to get—

Q. Now, these resolutions or motions that the General Body passed, what was their nature? By that, I mean, could you order a grievance to be corrected?

A. Sometimes we did, yes.

Q. You would order it? Would it be done when the General Body voted for it to be corrected?

A. How?

Q. Perhaps I have not made myself clear, on that. If a grievance went to the General Body, and the General Body thought that the grievance should be corrected, could they order that it be corrected?

A. No, sir, they have no authority to order.

Q. What could they do?

A. Well, they should request the management to correct the grievance.

Q. The most they could do would be to request the management to correct the grievance?

A. That is all.

Q. When would a grievance be put to the General Body? You have testified earlier that the representative would take it to the foreman and the superintendent? And to Mr. Wakefield, and even had the right to go to Mr. Carpenter, is that right?

A. Right.

Q. Now, whereabouts along the line would it go to the General Body?

A. Sometimes that takes two or three months.

Q. Yes, but after seeing how many men would the representative take it up with the General Body?

A. What you mean? I don't understand you.

Q. Well, you have stated that a single representative, I believe, could go as high as Mr. Carpenter, is that right?

A. Yes.

Q. Well, if Mr. Carpenter turned you down, then would you present it to the General Body? Or would you have presented it to the General Body before that?

A. No, I don't say that. We never go to Mr. Carpenter, single representative. We went as far as Mr. Wakefield, then we bring this grievance in before the General Body, and the General Body decides what they going to do.

Q. Now, how would you be notified of what the management was going to do, after the General Body had voted in favor of a particular grievance? You would take it up with the General Body, and they would vote to take it up with the management, is that right?

A. Yes.

Q. How would the management report back to the General Body?

A. Well, many times Mr. Carpenter calls us to his office in a special meeting and give us his answer yes or no.

Q. And on the other cases, how would it be done on the other occasions?

A. Well, a good many other cases Mr. Wakefield give us his decision it cannot be done, that is all.

Q. Did you ever carry any grievances on the way up, as a representative?

A. Not alone, myself. Together with the other representatives.

Q. Did you represent the burners?

A. In the furnace?

Q. Yes.

A. No, sir.

Q. The burners?

A. The burners?

Q. Yes, did you represent them?

A. Well, some of them, they were working in my department.

Q. Did you ever take a grievance up for them?

MR. DAY: Object to that on the ground immaterial and irrelevant, no bearing on any issue presented here.

TRIAL EXAMINER LINDSAY: Objection is overruled, let the record show an exception.

MR. DAY: Exception.

A. I worked for scarfers.

Q. Go ahead.

A. I took the grievance up for the scarfers, as they want me to take it up with Mr. Wakefield to supplying them with a suit, because they use these burners according to that they were burning out the shirts.

Q. They wanted you to take it up with Mr. Wakefield to get them a suit?

A. A suit, yes.

Q. And that was because the sparks would burn a hole in their shirts?

A. Yes.

Q. Yes; did you get the suits for them?

A. No.

MR. DAY: I object to all of this on the same ground already stated, this whole episode and transaction.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

MR. DAY: Exception.

TRIAL EXAMINER LINDSAY: This representative plan was brought out in the complaint, Mr. Day. They have a right to go into that particular question. The employees representative plan was alleged in the complaint, and they have a right to go into that type of evidence.

MR. DAY: I am not objecting to their going into it, but it seems to me that the results of specific complaints is not relevant to any issue presented here.

TRIAL EXAMINER LINDSAY: Well, the objection is overruled, let the record show the exception.

MR. DAY: All right, exception.

TRIAL EXAMINER LINDSAY: Go ahead.

(The last question and answer was read.)

A. I asked for a suit and Mr. Wakefield and another man, which I don't remember his name, was in charge of buying this material, they investigated the matter and they told me that the whole suit will cost $5.90, which was too much for the company to spend. But he says, "We will supply them with a sleeve." So instead of getting a suit for the men, I only got one sleeve to protect this one arm.

Q. How many representatives were there under the plan, Mr. Exall?

A. 16, I think.

Q. 16?

A. 16 departments.

Q You say you had one meeting of this General Body each month?

A. Each month, sometimes we had extra, special meetings too, but usually one meeting every month.

Q. Those, you testified, were held in the hospital building? What time of the day would they start?

A. Well, they would start around 9 o'clock in the morning.

Q. They started at 9 o'clock in the morning, and how late would they go, generally?

A. Well, it depends upon how much business we had to transact. Sometimes it lasted all day, and sometimes we would not finish our business in one day, we would continue the meeting for the next day, and usually we got paid for eight hours.

Q. Now, were there any committees under this General Body?

A. Yes, sir.

Q. How many, do you know?

A. Well, I have forgotten how many.

Q. Were you a member of any of the committees?

A. I was a member of the Health and Sanitation Committee.

Q. How often would this Health and Sanitation Committee meet?

A. Once every month.

Q. They would meet once every month also? And where would it meet?

A. Same place.

Q. That is, you mean—

A. Hospital building.

Q. Hospital building?

A. Correct.

Q. How long would their meetings generally last?

A. Three hours, four hours, sometimes.

Q. Well, now would you explain to the Examiner the procedure whereby the representative went to this meeting? Did you have a meeting of either the General Body or the sanitation committee, of which you were a member, you stated, I believe they were called for 9 o'clock, is that right?

A. Yes.

Q. If you were working on the day turn that day, how would you go to the meeting?

A. Well, if you started to work at 7 o'clock in the morning, about 8 o'clock you told your foreman that you have to go up to the meeting, and he let you go. You be in the meeting all day.

Q. And you ring your card out, when you went out?

A. Well, when you go you ring your card, yes.

Q. When you go into work in the morning?

A. When you go into work in the morning.

Q. Did you ring it out, when you went into the meeting?

A. When you went out?

Q. When you went to the meeting, would you ring your card out?

A. Yes.

Q. Then you could go out to the meeting, and you said that sometimes the meetings would carry over until the next day?

A. They do.

Q. How would you do? Would you repeat the same procedure, next morning?

A. The same procedure.

Q. Was that same procedure, too, for each committee, as well as for the General Body? That is, by that I mean, would you go to the meeting of the Sanitation Committee in exactly the same way?

A. Sure, same way.

Q. Referring for a moment to Board's Exhibit No. 91, Section 5, Paragraph 6 provides: "When representatives attend regular or special meetings of any Committee, as arranged for by the Chairmen of the various Committees and the management's representative, they shall receive from the Company payment commensurate with their respective average earnings for the time necessarily occupied through actual attendance." Will you explain to us how that was arrived at? I mean, how they paid for the time that you spent in attendance at these meetings, how it was computed?

A. We supposed to get pay for the time we spend in the meetings for the same amount we were making on the job. For instance job pay 60 cents an hour, that time we spend in the meetings, they will pay us the same amount of money, 60 cents an hour. They pay us in several ways. They do not put that money in the pay envelope. They give us a separate check once a month.

Q. What happened if a man would work on the afternoon or night turn on the day a meeting was called?

A. That means he was paid both ways. He was paid for the day he was attending the meeting. Suppose a meeting starts at 9 o'clock in the morning until 5, he gets eight hours. If he wants to go to work that same day at 11 o'clock at night, he gets paid for his work, too.

Q. Your regular work, was it on a straight rate or did you have a tonnage rate of pay on your regular work as chipper?

A. Yes, we had a day rate and then we work under a bonus system.

Q. You worked under a bonus system?

A. Yes.

Q. Would the pay for your time as a representative be for the same amount you would have earned as a bonus?

A. I don't know.

Q. You don't know on that. All right. Did you ever keep track at all of the amount of money you got for attending representative meetings and compare it with what you were earning in the mill?

A. Several times I try to keep track how many times I spend in these meetings and I find out we were getting more pay than we were entitled to. They was paying us more than we had coming.

Q. You were getting more for which, for your regular work or for attendance at the meetings?

A. For the attendance at the meetings.

Q. Now you say they paid you differently for the time, I mean by that, a different means of paying you for the time you spent on representative work. Did they pay you by check or cash?

A. By check.

Q. That is, it was a separate check from your regular payroll, from your regular working pay, I should say?

A. Yes.

Q. When was the last check you got for working as a representative, do you remember?

A. They mail that check for me right after they fire me from the plant. They sent it to me by the mail at home.

MR. HOSKINS: Will you mark this please?

(Thereupon the document above referred to was marked Board's Exhibit No. 92 for identification.)

Q. I show you Board's Exhibit No. 92 for identification, which is a letter on the Republic Steel Corporation letterhead addressed to you. Will you identify that letter for us, please?

A. Yes.

Q. Will you tell the Examiner what that letter is?

A. This letter was sent to me that time after I got discharged from the plant and I had a little money coming, I had time in from Employees Representation Plan and they sent me the final check for whatever I have coming.

Q. The final check was with this letter?

A. Yes, sir.

MR. HOSKINS: I offer Board's Exhibit No. 92 for identification in evidence. I would like to note for the record that that exhibit consists of a letter on Republic Steel Corporation stationery with an envelope attached to it.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 92 is received in evidence.

MR. DAY: What is the date of the letter?

MR. HOSKINS: January 19, 1937.

(Thereupon the document previously marked as Board's Exhibit No. 92 was received in evidence.)

Q. Mr. Exall, this letter is signed by C. A. Broberg, it looks like to me, Works Accountant. Do you know who he is?

A. No, sir, I don't know.

Q. Is that the first time you have seen his signature, when you received this letter?

A. Yes, sir.

Q. Who would you ordinarily get your checks from for representative work?

A. From Mr. Wakefield, we would get our checks from his office, he would call us up there and pass them out.

Q. Where would you get your regular pay check, the money you received for working as a chipper, where were you going to get that?

A. The paymaster on the plant, on the pay days, they have a special room over there for distribute the checks to the men.

Q. For your regular pay you would go to the paymaster, for your representative pay you would go to Mr. Wakefield, is that right? A. Yes.

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MR. HOSKINS: Did you want any further inquiry on that statement, Mr. Examiner?

TRIAL EXAMINER LINDSAY: No.

Q. I believe you have testified that there were 16 representatives in the plant, that you held regular meetings, one at least each month and sometimes special meetings in the hospital building?

A. Correct.

Q. Who else would attend, if anybody, besides the 16 elected representatives?

A. Mr. Wakefield was attending the meetings, also Al Frick.

Q. Who is Mr. Al Frick?

A. Al Frick is supposed to be stenographer or something. He was taking the minutes.

Q. Was he the elected Secretary of this body?

A. No, sir.

Q. Do you know where he worked in the mill?

A. He was working in Mr. Wakefield's office.

Q. And you say he would take down the minutes of the meetings?

A. Yes, sir.

Q. Were these minutes ever published and copies of them given to you?

A. Yes, sir.

Q. Will you tell us how they did that? How did you get your copies?

A. Well, in the first place, when I began to attend these meetings, right after, several days after the meeting, they sent two or three extra copies to each representative with one of the mail boys. When we get these copies, we go to the blackboard and post them on the blackboard.

TRIAL EXAMINER LINDSAY: We will have a short recess. It is 10 minutes of 11.

(Recess.)

MR. HOSKINS: May I have the last question and answer read?

(Previous question and answer read by the Reporter.)

MR. HOSKINS: I should like to have these three papers marked for identification, separate exhibits, please.

(Thereupon the documents above referred to were marked Board's Exhibits Nos. 93, 94 and 95 for identification.)

Q. I show you Board's Exhibits 93, 94 and 95 for identification and ask you if these wese copies of the minutes that were supplied to you as a representative through the Company mail, as you have testified?

A. Correct.

MR. HOSKINS: I offer Board's Exhibits Nos. 93, 94 and 95 in evidence.

MR. DAY: We would like to object to each of them upon the ground that they have no bearing on any issue presented in this hearing, incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception. Board's Exhibits 93, 94 and 95 received in evidence.

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(Thereupon the documents previously marked as Board's Exhibits Nos. 93, 94 and 95 were received in evidence.)

Q. Do you know George Troyanovich?

A. Yes, sir.

Q. Were you his representative?

A. Yes, sir.

Q. Were you his representative at the time he was discharged?

A. What?

Q. Were you his representative at the time he was discharged?

A. Yes, sir.

Q. Did he come to you as his representative about his case?

A. Yes, sir.

Q. Will you tell the Examiner about his coming to you, what you did as his representative?

MR. DAY: We object.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Object for the reasons already stated to similar questions on similar subjects.

MR. HOSKINS: Is the record clear?

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. HOSKINS: Miss Reporter, will you please read my last question?

(Previous question read by the Reporter.)

Q. Did you understand my last question?

A. No, repeat it again.

Q. Well, if you will, tell the details, when and where he saw you, what did he have to say, what you did as his representative?

A. On August 26th or 27th, the latter part of August, Mr. Troyanovich is fired. He came over to my house with two more representatives from the same department, which I was represent.

Q. Do you know who these other two representatives were?

A. Yes, sir.

Q. Who?

A. Tony Matchurik and Harold Sisk.

Q. Go ahead.

A. He came over to my house and George Troyanovich was with them and they told me about George Troyanovich got fired. So I went with them and we went right in the plant. We talk to Mr. Wakefield first and Mr. Wakefield said he didn't know about the case, so then we went to Mr. Robbins.

Q. Who is Mr. Robbins?

A. I understand Mr. Robbins was George Troyanovich's boss or chief chipper or something like that. We spoke to Mr. Robbins and he told us that George, he was not faithful. He was try to tell us he was good boss, he say he is his friend, during the years he worked for Corrigan-McKinney he fire only a few workers, he had always treat George right, and he was not faithful to him, and he had to fire him. We asked him what he meant by that, George was not faithful to him, and he said another man turned him in to me; he gave us the name of the other man.

Q. What was his name?

A. Charlie Barrie. So after we talk to Mr. Robbins, we call a special meeting.

Q. You say you called a special meeting, you mean of the Employees Representatives?

A. We called a special meeting of the Employees Representatives, we call a special meeting and we call Mr. Robbins in that meeting and also the other man, I forget his name, he was higher up, superintendent.

Q. You called Mr. Robbins and the superintendent into this special meeting?

A. Mr. Zimmerman, I think is the other man's name.

Q. And he was superintendent?

A. I think he was superintendent of the department.

Q. All right.

A. We called him before the meeting and in that particular meeting they don't give us no satisfaction, they give us almost the same story that George, he was not faithful worker, and they treat him nice and all that, and they give us the same man's name that turned George in. So at that meeting we elected a Committee of Five to meet this man, Charlie Barrie, to get the story why he turn George into Mr. Robbins. So we elected Committee of Five Men. I was among the five men.

Q. Who were the other four men?

A. James Bradley, Tony Matchurik, Harold Sisk, myself, and Mr. Korecky.

Q. Each of these men that you have mentioned was a duly elected representative, is that right?

A. Yes, sir.

Q. And this Committee was appointed by the general body of the Employees Representation Plan?

A. Correct.

Q. All right. What did the Committee do?

A. Well, we find out this man was working nights from 11 to 7.

Q. By this man, do you mean Mr. Barrie?

A. Mr. Barrie.

Q. All right.

A. So it was the duty of the Committee to go into the plant at midnight, about 11 o'clock, to meet this man. So the same night we went in the plant and met Mr. Barrie and told him who we were and what we want and he said, "I am not officially notified to talk about this case." And he refused to talk. Well, after we told him we would take that night, he was going to lose some sleep the next day, because we going to call another meeting and we going to have him down before the general body to tell his story, then he change his mind and start to talk.

MR. DAY: Object to this conversation for the reasons already stated.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. He said he was told to watch George two months ago.

Q. By George, you mean George Troyanovich?

A. George Troyanovich. He was told to watch George about two months ago and we asked him who told him to watch him and he said, "My superiors." And we asked him what he knows about George after he watched him for two months. Well, he said, every time that George had nothing to do in his spare time, there was always a group of men, five, six, stand together and they talk together but every time he gets near enough to hear what they was talking about they ceased talking or sometimes they speak a foreign language, which he don't understand, and then we asked him what they were talking about and he haid, "I don't know." Then, "Why did you turn the man in?" "Well," he said, "I was suspecting that the man was talking about the Union and also about Communism."

Then after we talk again, we ask him if he hears anything about unionism and also about communism, he says, "No."

MR. DAY: Who does he say said "unionism and communism"? Barrie?

(The record read.)

Q. Will you go back and repeat what you were saying to Mr. Barrie? I believe you asked him what he had found out when he listened in on these conversations. Will you carry on from there again?

A. When we went to see Mr. Charlie Barrie.

Q. You have testified to quite a bit of conversation with Charlie Barrie. Will you take it up when you asked him what he found out, when he listened in on these conversations?

A. Well, he told us that he don't listen to nothing, but he was suspecting them, he turned the men in on suspicion.

Q. Well, what did you all say to him?

A. Then we told him if he got no evidence, no proof against the man, that he only turned the man in on suspicion.

Q. He admitted to you that he had turned the men in only on suspicion?

MR. DAY: I object to that kind of a question; it just repeats the answer and puts a conclusion in it.

TRIAL EXAMINER LINDSAY: I am sure the

attorney is not doing it for any purpose only to clear the record on that. Try to refrain from it.

MR. DAY: The record will be about half as long, if he don't repeat the answer.

Q. All right, will you carry on, Mr. Exall?

A. Then we took his report to the General Meeting again and our report shows that we do not find no evidence against this George Troyanovich.

Q. When did you go back to the General Body or General Committee with your report?

A. Well, really I don't remember if we had another special meeting or if we had to wait for our regular meeting.

Q. Very well.

A. I don't remember, but anyhow, when the general committee met again, we went before it with our report and we passed a resolution unanimously demanding or requesting Mr. Carpenter to reinstate him. That resolution was passed unanimously.

Q. It was passed unanimously?

A. Yes.

Q. And what happened next?

A. Well, on September 14th—

Q. No, I mean concerning—is this concerning Mr. Troyanovich?

A. How?

Q. What did the management do, when you requested by unanimous vote that he be reinstated?

A. Mr. Carpenter called us into his office.

Q. This was at a regular meeting, or special meeting, you don't remember which, of the General Body, that this unanimous resolution was passed?

A. Yes, sir.

Q. I show you board's Exhibit 88, the third full paragraph down, refers to the fact that regular order of business was suspended and Mr. Troyanovich's case was brought up. I ask you if that is a copy of the regular minutes which were furnished you of that meeting of representatives?

A. Yes, sir.

Q. Does that paragraph correctly express the activity of the General Body in connection with Mr. Troyanovich's discharge?

A. Correct.

Q. Now, you were stating something about September 14th, and what happened on that date.

A. On September 14th Mr. Carpenter called me up to his office.

Q. Where were you when he called you to his office?

A. That day we had a meeting of the Health and Sanitation Committee.

Q. Was this a regular meeting of the Health and Sanitation Committee?

A. It was an inspection meeting, we was supposed to inspect the plant. I think it was one of our regular meetings. I am not very sure about that.

Q. Had you been notified of the meeting in advance?

A. Yes, sir.

Q. How were you notified?

A. Why, they sent up a letter a day or two days—the chairman of each committee sent us a letter a day or two before our meeting.

(The document above referred to was marked as Board's Exhibit No. 96 for identification.)

Q. Mr. Exall, I show you Board's Exhibit for identification No. 96, and ask you if that is copy of the letter you got announcing a meeting of the Sanitation Committee?

A. Correct.

MR. HOSKINS: I offer Board's Exhibit 96 in evidence.

MR. DAY: We object to it on the ground immaterial. We cannot see that it has any bearing on this.

TRIAL EXAMINER LINDSAY: The objection is overruled. The record may show an exception. Board's Exhibit 96 received in evidence.

MR. DAY: Exception.

(The document previously marked for identification as Board's Exhibit 96 was received in evidence.)

Q. I believe you have stated that you were in attendance at this meeting of the Sanitation Committee when Mr. Carpenter sent for you?

A. We were on an inspection tour of the plant on the west side, one of Mr. Wakefield's clerks by the name of Andy, I don't know his last name, he came over where we were inspecting the plant and he told me that Mr. Carpenter wants to see me right away. So I left the rest of the committee and went over to Mr. Carpenter's office.

Q. What took place when you got to Mr. Carpenter's office?

A. When I got to Mr. Carpenter's office, the first thing he asked me, he says, "Exall, do you care to work any longer for us?"

MR. DAY: When was this?

MR. HOSKINS: September 14.

A. I says "Why, Mr. Carpenter," I says, "if I didn't want to work, I quit."

Then he says, "What the God-damn Hell," he says, "are you raising hell about George Troyanovich? We fired him and when we fire him we never take him back, either." He say, "You know, he was a communist."

I says, "No, sir." Then he asked me if I am a communist, I says, "No, sir." He asked me if I know anything about communism and I says, "A little bit, what I read in the newspapers about it."

Then he gives me a lecture about what the communists are. Well, I don't say nothing, then.

Then he asked me how many kids I have, and I said four. He asked me how old are they, I told him that the oldest one is 14 years old, went in high school. He said, "We help you to educate your kids," and I said, "I hope my kids will get good education, because I didn't have no chance to educate myself."

Then he says, "You know the others what help us in this critical times, no doubt we never forgive them. Suppose there is a chance for you to become a chipper foreman." And I told him, "Mr. Carpenter," I said, "Mr. Carpenter, as long as I represent here, I decline the proposition. If the company thinks that I am good enough to become a chipper foreman, when my turn is over, I will think it over."

And he got sore a little bit on account of my answer, and he says, "You don't fool anybody," he says, "we know you. We know all about you, and we got the goods on you, too," and he got up and I got up at the same time and I says, "Mr. Carpenter, you ain't got anything on me." I says, "Any proof you got on me, lay your proof on the table and I will admit my mistake," but he says, "go on now," he says, "next time I call you here I am going to have the proof." I say, "All right," and then I left.

Q. I believe you stated his opening question was, in substance, "Why are you interested in George Troyanovich?" I believe you quoted his opening question to you in substance as "Why are you interested in George Troyanovich?" Is that right?

A. Yes.

Q. Did you make any reply to that question?

A. I did.

Q. What did you tell him?

A. I told him if he wants to know why I raise hell about George Troyanovich, I told him I simply done my duty because I was his representative, and it was my duty to fight for George Troyanovich and I was going to fight to the limit.

Q. Did that about conclude the conversation in the office?

A. Yes, sir.

Q. As a representative, Mr. Exall, did you ever attend any banquets?

A. I did.

Q. When?

A. I don't remember the date. It was around October, I think it was.

Q. That is October of what year?

A. 1936.

Q. Where was this banquet held?

A. Cleveland Hotel.

Q. Who gave the banquet?

A. Mr. Wakefield.

Q. Now, who all attended this banquet?

A. All Employees Representatives including Mr. Wakefield and Mr. Shriber, I think it is.

Q. Do you know what Mr. Shriber does at the mill?

A. No; but I understand some kind of a big shot in the mill, I don't know what his duties are.

Q. Was there anybody else there who was an employee representative? A. Yes, sir.

Q. Did anyone speak at this banquet?

A. Yes, sir. Mr. Wakefield.

Q. Who?

A. Mr. Wakefield.

Q. What did Mr. Wakefield have to say?

A. Well, after we got through eating, Mr. Wakefield said our main job is to keep C. I. O. out of the plant. After he praised the Employees Representation Plan, how nice plan it was, and he said he will need the help of employees representatives to keep the C. I. O. men out of the plant and all that.

Q. After this banquet did you have any other conversation with Mr. Wakefield about the Union?

A. Yes, I had after that banquet.

Q. When?

A. Well, week after or couple of weeks after. I don't really remember the time.

MR. DAY: Will you fix the date?

MR. HOSKINS: As near as he can fix it, Mr. Day, was some time in October.

TRIAL EXAMINER LINDSAY: What was the date of this banquet?

MR. HOSKINS: The nearest the witness could fix it, Mr. Examiner, was some time in October.

TRIAL EXAMINER LINDSAY: What year?

MR. HOSKINS: 1936.

TRIAL EXAMINER LINDSAY: All right.

Q. You say this was a week or so after that banquet that you talked to Mr. Wakefield again?

A. Yes, sir.

Q. Whereabouts did that conversation take place?

A. In Mr. Wakefield's office.

Q. Were you called to his office?

A. How?

Q. Did he call you to his office?

A. Yes, sir.

Q. Will you tell the Examiner what happened when you got there?

A. Well, Mr. Wakefield, he told me he needs my help. He wants me to tell my men in the chipping department to stay away from C. I. O. and he offers me a proposition where I can work daylight all the time, so I can see all of the men come in from different shifts, and also he offers me a proposition where, if I want to spend some of my spare time after work to visit these men on the houses and tell the men not to join the C. I. O., he was glad to pay me for my work, and I told him I won't do that, what the mans going thing about me, I said, "I don't care to take the job. I don't want it."

Q. Was there any other conversation?

A. Well, he went through my private affairs like Mr. Carpenter. how many kids I had and all like that, he offer me almost same proposition.

Q. What do you mean by the same proposition?

A. Why they going to help me to educate my kids.

Q. Did you turn that offer down?

A. Yes.

Q. Do you know Manuel Garcia?

A. Yes.

Q. Did you ever attend a C. I. O. meeting at his house?

A. Yes, sir.

Q. When?

A. That was around October, But I don't remember the date.

Q. Around October of 1936?

A. Yes, sir.

Q. Was anything said to you about having attended that meeting?

A. Yes, sir.

Q. And—

MR. DAY: By whom and when?

MR. HOSKINS: We will fix that, Mr. Day.

Q. There was something said?

A. Yes.

Q. By whom?

A. Mr. Wakefield sends John May over to my house.

Q. Who was John May?

A. He was chairman of the Employee Representation Plan.

Q. What day did he come to your house?

A. Monday morning.

Q. How long after the meeting was that?

A. The next day after the meeting.

Q. The meeting was on Sunday?

A. The meeting was on Sunday.

Q. What did Mr. May have to say when he came to your house?

A. I was sick that time from Saturday, I didn't work Saturday and Sunday and Monday also and he came over to the house and he told me Mr. Wakefield sent him over to see me and talk to me like a father. I said, "What?" He said, "They know where you have been yesterday, with whom you met and how long you stayed." I said, "What are you talking about? I am a sick man. I was no place yesterday. I stay home." Then he mentioned Garcia's name and also the number of the house where we met and I told him, I says, "What am I doing outside of the plant I think it is my own private affairs. They haven't got no business to follow me around and spy me with whom I meet or with whom I talk." "Well," he says, "you know you are representative and it don't look so good for the Company for our representatives to run around with C. I. O. organizers." So he said, "Mr. Wakefield send me over here to tell me to tell you to watch your step." I said all right, and then he left.

Q. Was anything else said to you by anyone else about that meeting?

A. Yes, when I went back to work Mr. Wakefield called me up to his office and he asked me if John May was over to the house and I says yes. "Well," he says, "what do you think about it?" I told him Mr. Wakefield I think I got a right to go any place I want. What I am doing is my own affairs. He said, "Yes, but it don't look good on the part of the Company. You cannot work both ways. If you want to work with C. I. O., resign your position here." I said, "Why should I resign my position?" He said, "You cannot work both ways." I argue with Mr. Wakefield that I don't have to resign and "Well," he said, "you don't give the co-operation." I said, "If I don't give you satisfactory co-operation, why don't you fire me?" He said, "Don't worry, if you don't watch your step, you going to get fired."

Q. Was that the limit of the conversation?

A. Yes.

Q. Was this Manuel Garcia at whose house this meeting was, working in the mill?

A. He was working in the mill.

Q. Did he continue to work there?

MR. DAY: I object to that.

A. No, he got fired the next day.

MR. HOSKINS: Just a minute.

MR. DAY: I object to that.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

Q. (By Mr. Hoskins) You say he was fired?

A. Yes. We was at his house Sunday. He got fired the next day, Monday.

Q. How long did he work there?

MR. DAY: I object to anything on the subject of Garcia on the part of this man. It would be hearsay at the best.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. I don't know how long he was working for Republic but he told me he was on the job chipper for 16 years.

MR. DAY: Object to what he told him on the grounds it is hearsay, incompetent, irrelevant, and immaterial.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

Q. Mr. Exall, did you attend a meeting in Youngstown?

A. Yes, sir.

Q. In November of Employees Representatives of Ohio?

A. Yes, sir.

Q. When did you first hear about that meeting?

A. They mail us a letter each representative from Youngstown telling us about this meeting and in one of our regular meetings in the Employees Representation Plan we took it up. Some of us gets the letters, we showed the letters in the meeting and Mr. Wakefield was there and he told us that we have not got no right to go to Youngstown to represent the Republic Steel workers but if anybody wants to go individually, he can go.

Q. Who told you that?

A. Mr. Wakefield.

Q. Did you go?

A. I went.

Q. Will you tell us the circumstances about your going?

A. Well, I didn't know that I was going to Youngstown due to the fact that I had no car to go there until 2 o'clock in the afternoon. It was Sunday, I was getting ready to go to work, I was supposed to work from 3 to 11 that day, and another representative sent me word I should not go to work because we going to Youngstown, and I didn't went to work, and after 4 o'clock he came around in his car and we went over to Youngstown.

Q. Did you see any other representatives at this meeting when you got there?

A. Yes; there was four of my representatives around this meeting. They were there before we got through.

Q. Who were they?

A. Harry Graham and Mike Kosco.

Q. K-o-s-c-o, is that right?

A. I suppose, Mike Kosco.

Q. Did anything unusual happen when you returned to work?

A. How?

Q. The next day when you returned to work, did anything unusual happen?

A. Yes, sir.

Q. Will you tell the Examiner what happened?

A. The next day when I returned to work, 3 o'clock, George Bellew—

Q. George?

A. Bellew.

Q. That is B-e-l-l-e-w. Who is George Bellew?

A. He was my foreman in the chipping department.

Q. What did Mr. Bellew say?

A. Chipping foreman or superintendent.

Q. All right. What did he do or say?

A. He asked me where I been yesterday. I told him I say I went to Youngstown in this Representatives Conference meeting. He says, "Did you ask your foreman?" And I said no. "Well," he said, "one week off." I says, "What do you mean, you lay me off for a week?" He said, "Yes, because you don't ask your foreman." I said, "George, how can you do that? Before I take days off without asking anybody and I was not even warned to this effect." He said, "I don't care. This time I am going to give you one week off." I said, "All right, I am going to see Mr. Wakefield, what he say about that." He said, "Oh, I don't care. One week off."

When I went to Mr. Wakefield's office and I told Mr. Wakefield, "You know where I have been yesterday. Everybody else knows where I have been, and when I come back to work today Mr. George Bellew lay me off for a week." He said, "Well, I don't want to interfere with superintendent's orders. If he give you a week off, take it. I cannot do nothing for you." So I told him, "Why some of the men they lay off as much as me and they come back to work, nothing happened. They don't lay off nobody for missing a day or so. Why do you treat me the way?" I felt I was discriminate about it and I told him I was going to call a special meeting. "You going to call a special meeting?" He says, "What the hell, who are you? I call a special meeting."

Q. Who was it that said that?

A. Mr. Wakefield. He said, "I call a special meeting." I said, "You call a special meeting?" And he said "Yes, meeting, general meeting." I said, "What the powers we have as representative?" He said, "Never mind, nothing doing, no special meeting on that." I said, "I am going to call up John May and see what he has got to say."

So I went in the next room and I called up John May on the telephone and I got him on the telephone and he asked me what is happen to me and he said, "Did you talk to Mr. Wakefield?" I said, "Yes." He said, "What did he say?" I said, "He don't want to call special meeting." He said, "I cannot do nothing if they don't want to call a special meeting." I said, "Then you and I are nothing in Company's Representative Plan. Mr. Wakefield is everything." He said, "Well, John, I am sorry, I cannot do nothing for you."

Then I went back to Mr. Wakefield's office and I asked him, I said, "all right. I will take the week off with a smile but due to the fact I am representative I have a right to come in the plant any time to take up claims for my men." I said, "I am going to come in the plant a couple of hours every day to take up complaints." He said, "No, you cannot do that either. There is three more representatives from your department and if your men has any complaints, they should take it up with them." He said, "You haven't got no right to step your foot in the plant while you been out for a week."

So there was nothing else for me to do except go out for a week.

Q. Did you come back at the end of a week?

A. Yes, sir.

Q. Going back for a moment, you told Mr. Bellew you had taken time off before without asking permission. Can you approximate how many days you had taken off without asking permission?

A. I dare to say in the four years I worked for Republic Steel I had not more than 12 days off.

Q. You say two days?

TRIAL EXAMINER LINDSAY: 12.

A. 10 or 12.

Q. 10 or 12 days off?

A. Yes, sir.

Q. You say you took some of these days without asking permission?

A. Yes, sir.

Q. Were you ever reprimanded for having taken them?

A. No, sir.

Q. Was anything ever said to you about it?

A. No, sir, nothing.

Q. Do you know Captain Jones?

A. Yes, sir.

Q. Who is Captain Jones?

A. He is head of the police force for Republic Steel.

Q. Did he ever have anything to say to you about your activities?

A. Yes, sir.

Q. When was that?

A. It was the first part of January and I think it was January the 5th when I was called in Mr. Wakefield's office. So when I got in there these gentlemen are in Mr. Wakefield's office and Mr. Wakefield ask me if I know who ~~he was.~~ Although I know the man, I never speak to him before. I said, "Yes, I knew the man but I never had no talk to him." Then he said, "Mr. Jones, this is Mr. Exall." Then as soon as I sit down Captain Jones, he got out a typewritten list with something like 300, 350 names, and names and check numbers, and he said, "Here, Exall" and I take the list and I began to read the names on it and I recognized quite a few of them. Of course, most of them were from the chipping department where I was working and he asked me if I recognized these names. I said, "Yes; most of them." I said, "Why?" He said, "You done the dirty work." I said, "What do you mean, Mr. Jones?" He said, "You signed up these men in the Union." I said, "That is a God damn lie." Then he said, "You go out to the Mexican boarding house and you signed them up." And I told them it was a lie and he turned around and he said, "Not only that but during the payroll C. I. O., you are getting $6 a day," and I told him that was another lie. And he turned around and he said, "Well, we expect you to say that but you cannot fool me. I am watching you day and night." Then I got a little sore and I said, "What business have you got to watch me what I am doing outside of the plant?" He said, "That is my job. I am getting paid for it."

And he said, "As long as you want to work for them at $6 a day, why don't you talk to Mr. Wakefield?" He says, "We pay you $6 a day."

And I says, "What the God damn hell are you trying to do, make a stool pigeon out of me?" I says,—I told him he has got the wrong man. I started to leave, you know, and "Well," he says, "you can't work for both sides, for Republic Steel and for CIO," he says, "if you don't want to play ball with us," he says, "Why you won't stay long."

I says, "O. K." I says, "If I don't give satisfaction," I says, "they can fire me."

He says, "Don't worry," he says, "they are going to fire you if you don't play ball with us." I says, "O. K."

Q. Did Mr. Wakefield say anything all this time?

A. Meantime Captain Jones, he hands me out a notebook, and he says, "Here," he says, "this book belongs to Balint." Balint was a CIO organizer. And he says, "Take it and give it to Balint, tell him that I gave it to you."

Then I asked him, if this book was Balint's book, how he got it. He says, "That is my business," and I opened that book and on the top was my name and second number and below there was full of numbers. In other words, he was trying to make me believe that Balint was double-crossing me, see?

MR. DAY: I object to what he thought he was trying to make him believe, and move that be stricken out.

TRIAL EXAMINER LINDSAY: Yes, that is stricken out of the record.

Q. Did he have anything to say to you?

A. I took that book and I met Balint, next day, and I asked him, I says, "How about the book?"

MR. DAY: I object to conversation with Balint, on the ground it couldn't possibly be binding on the respondent.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

A. Mr. Balint, after he looks the book over, he denied whatsoever, he never saw that book, that book was not belong to him.

So the next day when I went in the plant, Mr. Wakefield asked me if I saw Balint and if I talked to Balint about that book, and I says, "Yes, Lou," I says, "I saw Balint and I spoke to him." And he says, "What he says?"

"Well," I says, "just as I thought so," I says, "that book was not Balint's book, that was a fake book," and he said, "Well, John," he says, "between you and me," he says, "Balint is double-crossing you." I told him, "Why?" I says, "He ain't got nothing to double-cross me about," I says, "I don't believe it." "Oh, yes," he says, "he is double-crossing you."

TRIAL EXAMINER LINDSAY: We will adjourn now to 1:30 p. m.

(Whereupon, at 12:00 o'clock, an adjournment was had to 1:30 p. m.)

AFTERNOON SESSION

(Whereupon the hearing was resumed, pursuant to adjournment, at 1:30 p. m.)

JOHN EXALL

resumed the stand and testified further as follows:

Q. (By Mr. Hoskins) Mr. Exall, do you have a locker?

A. Yes, sir.

Q. Down at the steel mill?

A. Yes, sir.

Q. Was that locker ever broken into?
A. Two times.
Q. How many times?
A. Two.
Q. Two? Was anything taken out of it?
A. No, sir.
Q. Nothing at all?
A. The locker was searched.
Q. It was searched? Did you make a complaint of this to anybody?
A. Yes, sir.
Q. About that?

MR. DAY: Just a minute. I move that the "search" be stricken out.

TRIAL EXAMINER LINDSAY: Yes, the word "search" is stricken out.

Q. Did you miss anything at all from your locker?
A. How?
Q. Did you miss anything at all from your locker?
A. I never miss anything.
Q. Did you make any report of the incident to anyone?
A. Yes, sir.
Q. To whom?
A. The police department.
Q. Did you make a report to anyone else?
A. I made a report in the general meeting.
Q. By "general meeting" what do you mean?
A. When the general—
Q. The General Body meeting of Employee Representatives?
A. Yes.
Q. Did any other representatives make reports similar to that?
A. Yes, sir.
Q. Do you remember what day you made the report?

A. Well, I think it was on January 5th, the last meeting that I attended of the general meeting.

Q. Do you know who else made reports at this meeting?

A. Mr. Bradley were making a complaint.

Q. I show you Board's Exhibit No. 95, the fifth paragraph, with reference to complaint made by Mr. Bradley. Does it correctly express the complaint he made and the action taken by the General Body?

A. Correct.

Q. Mr. Exall, did you ever have occasion to report to the General Body or make a statement to the General Body, concerning your CIO membership?

A. Yes, sir.

Q. What was that?

A. At the last meeting we had up there in the General Body Meeting.

Q. Now, when was the last meeting? The last meeting you had?

A. The last meeting I attended.

Q. You mean by that, before you were discharged?

A. In the first part of January.

Q. And what was your report to the General Body? What did you state?

A. Well, there was a big discussion going on—on what right have the police department to go into a man's locker and break them and search them for union cards?

Mr. Wakefield argued that the lockers are Republic Steel Company property, but he does not know if the police department had any rights to go in and break up lockers.

Well, I got the floor and I made another statement there, that my locker were broken two times and I know what they were looking for, they were looking for union cards.

So I told them that from now on I wish they would let me alone, I am a union man and I feel proud of it, and

Mr. Wakefield—Mr. Wakefield afterwards says. "Now, John"—he says, "watch your step." I says, "All right."

Q. Was this statement of yours included in the official minutes, to your knowledge?

A. How?

Q. Was this statement of yours regarding CIO activity included in the official minutes?

MR. DAY: Well, the minutes would show wouldn't they?

Q. Well, I will show you Board's Exhibit No. 95 again, which carries the statement about the remark you made and ask if that is in the record?

A. That part of the statement there is not correct. I said I was a Union man and I feel proud of it. In the minutes they have a statement that I was a C. I. O. man.

Q. Was there any effort made, Mr. Exall, to keep that statement out of the minutes?

MR. DAY: I object to that.

A. Yes, sir.

MR. DAY: That would be a mere conclusion.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

Q. Were you approached by anybody and asked to withdraw the statement although it would not appear in the statement?

A. Yes, the next day.

Q. By whom?

A. Al Frick.

Q. Al Frick. You have previously testified is whom?

A. Al Frick, he call me down to his office the next day and he told me, "John," he said, "you told us, now we know you are a C. I. O. man. You don't want it to be in the minutes?" I said, "Surely I want to be in the minutes." I said, "What do you think I made the statement for? I want it to be right in the minutes." He said, "Yes, we know you are now, you do not want it in the minutes," but I insist they put it in the minutes.

Q. Have you heard the testimony that has been given earlier in this hearing about the C. I. O. meeting that was held at Bohemian Hall the night of January 13th?

A. Yes, sir.

Q. Did you not attend that meeting?

A. Yes, sir.

Q. Did you recognize anyone from the mill in attendance there other than the employees who were members of the C. I. O.?

A. Yes, sir.

Q. Who did you see there?

A. Neuman was there, Korecky—

Q. No, my question was, other than member of the C. I. O.?

A. How many members of C. I. O.?

Q. No. Did you see anyone there from the mill who was not a member of the C. I. O.?

A. Outside of the hall I see.

Q. Who did you see?

A. Captain Jones.

Q. Captain Jones?

A. And another, his lieutenant, down there in the police force, I don't remember his name.

Q. Did they see you?

A. Captain Jones see me, yes.

Q. Do you remember January 14th?

A. Yes, sir.

Q. What happened on that day?

A. Why, that day I was working from 7 to 3. I went to work 7 o'clock in the morning, I punched my card and I went in and I work, started to work. They took my buddy away to come to another job. Usually we work two at a time. That particular time they took my buddy away and I was working all alone. About 2 o'clock in the afternoon I was working. I want to change my chisels and the man that had charge over the tool room by the name of Jack Simon, he stopped on my way over to change my tools, my chisels, he said, "Exall, let me see your chisels." He said, "What is wrong with the chisels? You can work them longer." I said, "If you want me to work, I will work them longer, but I do the chiseling and I know when the chisels was done." So George Bellew was standing there and he said, "What is wrong?" I said, "Jack asked me to see my chisels." And then he told me to go back chipping, go back chipping.

Q. Who told you that?

A. Mr. George Bellew. So I got my chisels back and I went back chipping. Later on, about 20 minutes to 3, Mr. George Bellew called me on the side. He said. "Exall, come in here." So I step inside and he said, "The way you act, it seems to me you want the Company to hire a couple of more grinders for you." I said, "What do you mean?" He said, "We been watching you all the day. You done nothing all day but run down changing chisels." I said, "No, sir, it is not the truth." Then he got a book out of his pocket. He said, "I told you we been watching you. The first chisels you got 92 inches, the second 88, and the fourth 82, and so on." He was doing down. I just laugh and I said, "That cannot be done." I said, "Almost 12 o'clock I was working all alone. Nobody come near me to measure the inches of steel I chip." He said, "You are fired." I said, "Well, if you want to fire me, O. K., but don't think I am a baby to believe what you tell me. You fire me for changing too many chisels." He kept on saying he don't want to argue. I kept on asking, "Why don't you tell me the truth, why you fire me for?" Finally he said, "Well, we don't want you here." "Well," I said, "now you tell the truth. You don't want me here. You know why and I know why you don't want me here." He said, "You are dismissed. You are fired." I said, "Well, all right."

Q. You say the discussion came up on your using too many chisels?

A. Yes, using too many chisels.

Q. Will you explain to the Examiner just what you do with these chisels?

Q. Do you have the last question now, Mr. Exall? My last question was asking you to explain to the Examiner just what you do with these chisels.

A. We chip the steel off with the chisels. We are allowed to take four at a time. When they were worn we were told many times by the foreman at safety meetings if the chisels were no good, to chip any longer, we should exchange them, they always had a barrel-full of chisels over there, take the old chisels back to the tool room and exchange them for new ones.

Q. Who told you that, at these safety meetings, Mr. Exall?

A. Those pushers, what they call them, foremen.

Q. The foreman would tell you that?

A. Yes.

Q. When was the last safety meeting that you remember, at which that remark was made, or at which you were told that?

A. Oh, that was about a week or ten days before it happened, that I got fired.

Q. Before this incident occurred? Now, one further question, when a chisel is worn down, what is done to it then? Do you know?

A. Well, if the chisel is down, you can't do no chipping, just make marks on the steel.

Q. It puts marks on the steel, if it is worn down?

A. Yes.

Q. Now, can those chisels be sharpened?

A. Yes, sir.

Q. Do they sharpen them at the mill?

A. Yes, they sharpen them right away as soon as you take them back to the tool room.

Q. Now, after Mr. Bellew—I forget the exact last word you used—after he finished his conversation with you on this day, what did you do next?

A. Well, I started to walk out of the room, to go to the washroom and wash myself, go out away because he told me I was fired, I was dismissed.

Q. Did anything unusual happen then?

A. When I was passing the tool room I noticed the policeman was standing by the tool room door as guard.

Q. Is that an ordinary procedure, to have the policeman there?

A. Usually when they were going to fire anybody, they always bring a policeman of their own.

Q. On the other days when they were not firing anybody, was a policeman in the room?

A. Yes.

Q. Would he stand there?

A. Not very long, but that particular day he was standing there from 2 o'clock up to the time when I got fired.

Q. All right, you were saying that you started to the wash room to wash up?

A. When I start to pass through him, he followed me, come right after me right up to the wash room, while I was washing, he says, "Exall, I am sorry, I was told to tell you to pick up all your belongings, you are fired."

I says, "I know that," I says, "Mr. Bellew told me that," I says, "you don't have to tell me that."

"Well," he says, "pick up all your belongings," he says, "you are fired." I says, "All right."

So I picked up all my belongings what I had in my locker, and I went in the clock room and I punched my card and then I had some company property there, glasses, we wear glasses and overalls, and I went to take them back down to the employment office, so I could send them in back again.

And I am attempting to walk through the plant, policeman come after me, he says, "Well, you can't walk through the plant, you are not here working any more, leave for outside."

So I says, "All right." I went outside, and outside I went down to the employment office and hand in my glasses and my overalls, and he wants me to turn in my badge. I says, "No", I says, "I think I am going to keep that badge for a couple of days". "I have got over $50 coming in pay," I says, "I think I have more money in that than the glasses is worth for," I says, "I am going to keep the badge for a couple of days". So he says, "All right," he says, "if you want to keep it, keep it."

Q. Did you leave the mill then?

A. I left the mill.

Q. Now, at the time you were discharged, Mr. Exall, what was your rate of pay?

A. Well, we averaged around 52 cents an hour.

Q. Averaged around 52 cents an hour?

A. Yes.

Q. I believe you have stated earlier that you were making a flat hourly rate, plus bonus, is that correct?

A. Correct.

Q. How many hours a week were you working at that time?

A. Eight hours a day.

Q. How many days a week?

A. Seven hours and a half, rather; we took half an hour off for lunch, we worked eight hours and getting paid for seven and a half.

Q. How many days were you working, each week?

A. There was times when we worked seven days a week, there were times we worked six days a week, and in the last part they made a rule five days a week.

Q. Do you know whether or not the chippers have been given a raise in pay since then?

A. What?

Q. Do you know whether or not the chippers at the mill have gotten a raise in pay since then?

A. Yes, they have, several times they had a raise.

Q. You don't know what they are being paid now?

A. I don't.

Q. After you left the mill on this day did you go back at any time to try to get your job back?

A. Yes, sir.

Q. When did you go back the first time, do you remember?

A. About a month after I got dismissed from the plant.

Q. About a month after?

A. About February.

Q. Whom did you see on that day?

A. I went down to see Mr. Wakefield, but the policeman by the gates, he stopped us over there, and he asked us what we want and we told him that we were sent down there by the union to ask if there is any possibilities as to our jobs, getting our jobs back again.

Q. Now, you have used the words "we" and "us". Who was with you?

A. Was five or six men with me, all discharged men.

Q. Did you get in to see Mr. Wakefield?

A. No, sir, after we told this policeman over there what we want, he says, "Wait a minute," he went in to speak to Captain Jones, and he come back in a few seconds and he says, "Nothing doing," he says, "they don't want youse," so he didn't let us go in and speak with Mr. Wakefield.

Q. Did you talk with Mr. Wakefield at any time after that?

A. This is the same day we walked up on the Dille

Hill over there, walk up on the hill there and got as far as the Fenn Saloon, I went and we called Mr. Wakefield in the telephone, I called him up in person.

Q. You talked with him?

A. I talked with him and I told him that we were sent down there by the union to ask for our job back again, and he said, "Well," he says, "I don't know what can I do for you." He says, "You have got your cases pending down at the Labor Board, we can't do nothing for you until the Labor Board makes decision."

Q. Had you filed a case with the Labor Board?

A. Yes, sir.

Q. Was there any further conversation with Mr. Wakefield at that time?

A. No, sir.

Q. Have you worked for anyone else since you were discharged in January?

A. Yes, sir; I worked for the WPA.

Q. How long did you work for them?

A. April 23rd to May 20th, about a month.

Q. Did you have any trouble getting on with the WPA?

A. No, sir.

Q. Do you know Mr. Dickson?

A. Mr. who?

Q. Dickson?

A. Dickson, yes, sir.

Q. Who is Dickson?

A. He is an investigator for the Soldiers and Sailors Relief.

Q. How much did you make, working that period, Mr. Exall, for the WPA?

A. Sixty dollars.

Q. You made $60?

A. About that.

Q. Have you worked any other that? Other than that month with the WPA, have you worked any place else?

A. I worked one day in the plant.

Q. You worked one day at the Republic Steel plant?

A. One day.

Q. Will you tell us how it is that you happened to go back to work there?

A. Well, it was Saturday afternoon—

Q. Now, when is this, Mr. Exall? Can you fix the date for us?

A. On the 23rd, May 23rd.

Q. The 23rd of May?

A. Saturday.

Q. What happened on that day?

A. George Krause, the employment manager called over to the house, I wasn't home, and he told my wife that I should report to work Monday morning, and when I went back home late at night, my wife told me so, that Mr. Krause was calling the house, he wants me to go back to work Monday morning. So I says, "All right".

Monday morning I went in the plant and Mr. Krause took me up to Mr. Wakefield's office, and Mr. Wakefield says that he had a new job for me. I asked him, "What is it?" "Well", he says, "right now," he says, "I haven't got anything else but labor." Then I asked him more about my seniority rights. "Oh, no," he says, "we want to hire you as a new man, forget about it."

So I told him, I says, "I don't know," I says, "whether I am going to accept it or not. I am going to think it over for a couple of days, and I will let you know." So he said, "All right, John, think it over, and let us know."

A. (Continued) So Tuesday afternoon I call Mr. George Krause on the phone and I told him that I make up my mind to go to work next morning, that was Sunday morning, so he said, "All right." I didn't go down so on Wednesday morning I went back in the mill and after they sent me through the doctor's examination and all that, they put me to work as laboring and I work a day from 7 to 3. The same night we went out on a strike and I am on a strike since.

Q. You worked that one day?

A. Yes.

Q. What was your rate of pay that day?

A. $5.35.

MR. HOSKINS: Will you please mark these for identification as Board's Exhibits 97, 98 and 99?

(Thereupon the documents above referred to were marked Board's Exhibits 97, 98 and 99 for identification.)

Q. Mr. Exall, I show you Board's Exhibit 97 for identification and ask you if you have seen a copy of that before?

A. Yes, sir.

Q. Where did you get that copy you saw?

A. I got it by the mail.

Q. You got it through the mail?

A. Yes.

Q. I show you Board's Exhibit No. 98 for identification and ask you if you have ever seen a copy of that before?

A. Yes, sir.

Q. Where did you get it?

A. Through the mail.

Q. Do you remember what kind of envelopes these two exhibits were in?

A. Republic Steel Corporation envelopes.

Q. I show you Board's Exhibit No. 99 for identification and ask you whether you have ever seen a copy of that before?

A. Yes, sir, I have seen that, too.

Q. Where did you see a copy of that?

A. They mail it to my house.

Q. Was that likewise in a Republic Steel Corporation envelope?

A. Yes.

MR. HOSKINS: I offer Board's Exhibits 97, 98 and 99 in evidence.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: No objection.

MR. DAY: No objection.

MR. HOSKINS: Do you care to see Board's Exhibit 99?

TRIAL EXAMINER LINDSAY: Board's exhibits 97 and 98 are received in evidence.

MR. HOSKINS: (Handing exhibit to Mr. Day) This is Board's Exhibit 99.

TRIAL EXAMINER LINDSAY: Board's Exhibit 99 is received in evidence.

(Thereupon the documents identified as Board's Exhibits 97, 98 and 99 were received in evidence.)

Q. Have you ever been reprimanded by your foreman for laying off work without permission?

A. No, sir.

Q. Have you ever been reprimanded by your foreman on account of unsatisfactory work and improper use of tools? A. No, sir.

Q. Do you want your job back at Republic?

A. Yes, sir.

MR. HOSKINS: That is all.

Cross Examination

Q. (By Mr. Day) You have been very active in the strike, haven't you?

A. Yes, sir.

Q. Do you belong to any Lodge?

A. Belong to what?

Q. Do you belong to one of the Lodges?

A. I belong to 1098, Lodge 1098.

Q. Are you an officer of it?

A. Treasurer.

Q. What officer are you?

A. Treasurer.

Q. How long have you been President of that Lodge?

A. Since the Lodge, we begin the Lodge.

Q. When was that?

A. Oh, I guess around December, 1936.

Q. As President of the Lodge, have you been quite active in planning the strike and pickets?

A. I didn't say I am the President of the Lodge. Treasurer.

TRIAL EXAMINER LINDSAY: Treasurer.

Q. Oh, I beg your pardon. I thought you said President. You said Treasurer?

A. Treasurer.

Q. Then you were Treasurer of the Lodge away back in December?

A. Correct.

Q. You joined the C. I. O. in July?

A. Correct.

Q. And you were a member of the Representative Plan at the mill?

A. I joined the C. I. O. before I was interested in anything.

Q. You joined the C. I. O. in July?

A. I joined the C. I. O. before I was interested in anything.

Q. When were you elected representative?

A. About the middle of July.

Q. You served as a representative until when?

A. How?

Q. You acted as a member of the Representative Body how long up until the time you left?

A. Up until the time I was fired.

Q. Then you were an officer of the C. I. G. and on the

Representative Plan at your plant there at the same time, were you not?

A. Correct.

Q. For quite a few months?

A. Yes.

Q. And you were active in the C. I. O. at the same time?

A. Correct.

Q. That is right, is it not?

A. Yes.

Q. And you have been very active on the picket line, have you not?

A. Very active.

Q. Have you thrown some stones and bricks at automobiles?

A. No, sir.

Q. Not at all?

A. No, sir.

Q. Do you know a man by the name of Ely Nuckley?

A. Ely Dunkley?

Q. Ely Nuckley?

A. No, sir.

Q. Well, I will ask you whether or not on the morning of July 22nd, 1937, at about 6:20 in the morning Ely Nuckley, who is employed at the mill, was driving his automobile to work and traveling south on Independence Road, just before he reached the Grasselli Company plant's office, you threw a stone at his automobile and hit the post on the right side of his front door: Did you or did you not do that?

A. No, sir, I did not.

Q. Did you throw any stones on July 22nd, 1937?

A. No.

Q. Did you ever throw a stone or brick or anything of any kind at any of the automobiles of the men going to and from work?

A. No, sir, I did not.

Q. You are John Exall?

A. Exall.

Q. Do you know Frank Ferder, F-e-r-d-e-r?

A. I didn't know him.

Q. Do you know Peter Storti?

A. Peter who?

Q. Peter Storti, S-t-o-r-t-i?

A. No, sir.

Q. Did you ever hear of a man named Simon Mages?

A. Yes, sir.

Q. He used to be a chipper inspector at the mill, didn't he?

A. Correct.

Q. How long had you known Mages? Is that the way you pronounce it, Mages?

A. I think that is right.

Q. That is right, isn't it?

A. Yes.

Q. How long had you known him?

A. Oh, I know him for as long as I was working at the mill there, three or four years.

Q. Three or four years. And he went back to work, did he?

A. Yes.

Q. You remember that, do you?

A. I remember that.

Q. I will ask you whether or not on Saturday, July 17th, 1937, about 3:20 in the afternoon, you did not see Mages riding in an automobile driven by a man named Sam Sapareto?

A. Right.

Q. Do you know Sam Sapareto?

A. Yes.

Q. Who is Sam Sapareto?

A. Chipper.

Q. How long have you known Sam Sapareto?

A. Several months.

Q. I will ask you whether it is not true that on July 17th, 1937, at about 3:20 in the afternoon, while Mages was driving or riding in Sapareto's car on Broadway between Dille Road and Martin, you did not come up to the car and strike Mages on the jaw?

MR. HOSKINS: Your Honor, I object to the continued questioning along this line. Those dates are all after the issuance of the complaint.

MR. DAY: What difference does that make? This is one of the men that wants his job back. These are specific dates and specific occasions.

TRIAL EXAMINER LINDSAY: What is the date?

MR. DAY: One date is July 17th and the other is July 27th.

MR. HOSKINS: The complaint was issued on July 15th.

MR. DAY: I know but now they are complaining we do not take them back. He wants his job back, now. Haven't I got the right to show us the violence on the part of this man?

TRIAL EXAMINER LINDSAY: I overrule the objection and let the record show an exception.

Q. I will ask you if you did not at that time and place under those circumstances hit this man Mages on the jaw?

A. I did.

Q. I will ask you whether you were not afterwards convicted of assault and battery in the Police Court of Cleveland for hitting him in the jaw?

A. I pleaded guilty.

Q. You pleaded guilty?

A. Correct.

Q. I want to ask you now about some of these conversations that you had with different men at the plant. When did you first talk to Mr. Wakefield? What was the date of your first conversation with him?

A. In fact I talked to Mr. Wakefield so many times.

Q. Oh, I know. I know that.

A. Right after when I went into the Employees Representation Plan, the first week when I attended, the week after they called me into his office.

MR. HOSKINS: Just a minute, Mr. Day.

MR. DAY: What is that?

MR. HOSKINS: I would like to move that all the testimony given in connection with these two incidents after the date of the issuance of the complaint be stricken.

TRIAL EXAMINER LINDSAY: Your motion is denied. Let the record show an exception.

Q. When did you first talk with Mr. Wakefield about any labor union activities on your part?

A. Some time in the last part of July.

Q. Of 1936?

A. 1936.

Q. As near as you can remember, where did that conversation take place?

A. In Mr. Wakefield's office.

Q. Was anybody there besides you and Mr. Wakefield?

A. No, sir .

Q. Now, as nearly as you can remember, when did you next talk to Mr. Wakefield upon that general subject?

A. The next time was when we had the fight about Joe Troyanovich's case.

Q. Where did that conversation take place?

A. The same place Mr. Wakefield's office.

Q. Was anybody there besides you and Wakefield?

A. No, sir.

Q. About when was that?

A. It was in September.

Q. Of 1936. Did you talk to Mr. Wakefield again?

A. Yes, sir.

Q. Can you tell us about when?

A. Tell you what?

Q. Can you tell us about when it was?

A. Not exactly.

Q. What?

A. Not exactly. I cannot tell you the date.

Q. Well, fix the date as near as you can, do the best you can fixing the date.

A. It was around September the 10th or the second week in September.

Q. Was anybody else there besides you and Mr. Wakefield?

A. No, sir.

Q. You said you had one talk with Mr. Wakefield when he said he wanted to help you to educate your family?

A. Yes, sir.

Q. He said he wanted to help educate your family by giving you a better job?

A. What do you mean?

Q. What did he say as to how he was going to help educate your family?

A. I don't know what he means by that but he said we help you to educate your kids.

Q. Well, at that time you were chipper?

A. Was what?

Q. You were a chipper then?

A. I was a chipper then.

Q. Did he talk to you in that conversation about making you a chipper foreman?

A. No, not Mr. Wakefield.

Q. What else did Mr. Wakefield say about helping you educate your kids, as you say?

A. Well, he asked me how many kids I have and if they are going to school and then I told him, "Well," he said, "we help you to give nice education."

Q. When was that? Fix the date of that conversation.

A. That was about the second week of September.

Q. Was anybody there besides you and Wakefield?

A. Nobody else.

Q. You talked with Mr. Carpenter, as I understand it, in September, 1936, is that right?

A. Right.

Q. He said you knew Troyanovich was a Communist, is that right?

A. That is what he said.

Q. And he asked you if you were a Communist?

A. Yes.

Q. And you said no?

A. Right.

Q. Anybody else there besides you and Mr. Carpenter?

A. Nobody else.

Q. You told about a meeting at Garcia's house, Manuel Garcia's house on October, 1936, and you told about talking to Mr. Wakefield. Was it after that Mr. May saw you?

A. Yes.

Q. Where did that conversation take place?

A. Over at my house.

Q. Was May at your house?

A. Mr. May came over to my house, yes.

Q. Anybody there besides you and May, when May talked with you?

A. My wife.

Q. And when you went to see Wakefield, after you talked to May, was anybody there besides you and Wakefield, when that conversation took place?

A. No, sir.

Q. You told about going down to Youngstown in November, 1936. You went down without getting your foreman's permission, didn't you?

A. No, sir.

Q. What?

A. Yes, sir.

Q. And when you came back you talked to Mr. Bellew?

A. Correct.

Q. Was anybody there besides you and Bellew in that talk?

A. That is all.

Q. Just you and Bellew?

A. Yes.

Q. And afterwards you talked to Mr. Wakefield?

A. That is right.

Q. Was anybody there at that talk besides you and Wakefield?

A. No, sir.

Q. You told about a talk on the 5th of January, 1937, when you were present and Mr. Wakefield was present and Captain Jones was present. Was anybody else there besides you three?

A. No, sir, we three.

Q. And you say Captain Jones had a book and said that the book belonged to Balint?

A. Yes, sir.

Q. Did Balint belong to the CIO at that time?

A. He was a full time organizer for CIO.

Q. Does he still belong to the CIO, do you know?

A. Yes, sir.

Q. And you talked to Wakefield after your lay-off, over the telephone, when he said that your case was before the Labor Board?

A. That was in February.

Q. You say you never were reprimanded, is that right?

A. No, sir, with the exception of that day when I went to Youngstown and I got that week lay-off. Never before.

Q. I will ask you whether you weren't reprimanded November 1st, 1936, for laying off without permission?

A. No, sir.

Q. Also November 7, 1936?

A. No, sir.

Q. November 22nd, 1936, at the time you went to Youngstown?

A. That was the only time.

Q. I will ask you if you were not reprimanded for unsatisfactory work and improper use of tools on December 2nd, '36?

A. When was it?

Q. December 2nd of 1936?

A. No, sir.

Q. December 20th of 1936?

A. No, sir.

Q. For the same reason?

A. No, sir.

Q. January 10th of 1937?

A. No, sir.

Q. January 12th of 1937?

A. No, sir.

Q. When you struck Mages, if that is the name, he was sitting in an automobile, wasn't he?

TRIAL EXAMINER LINDSAY: Well, now, Mr. Day, you can't go into the facts of what happened. I have permitted you to go into the fact that he was convicted.

MR. DAY: All right, that is all.

(Witness excused.)

JOHN SABOL

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) State your full name, Mr. Sabol.

A. John Sabol.

Q. Where do you live?

A. 2549 East 33rd.

Q. Have you ever worked for Republic Steel Corporation, Mr. Sabol?

A. I have.

Q. When did you first start to work for them?

A. I worked for the old Corrigan-McKinney in 1925, started to work, I think, the latter part of March.

Q. Have you worked continually since then?

A. I have.

Q. Are you acquainted with the Employees Representation Plan?

A. I am.

Q. At the Corrigan-McKinney works? Were you ever a representative under that plan?

A. I was.

Q. When?

A. In 1935 and 1936 and 1937.

Q. Will you give us the exact dates out there, as near as you can remember, Mr. Sabol?

A. The terms ran from June to June. Well, the first meeting was held in January, automatically when my predecessor was laid off on account of non-employment or whatever the reason was, I automatically—

Q. How long did you serve?

A. It would be from January until the time—

Q. Until the time of the strike?

A. I would say about a year and a half.

Q. Were you working at the mill when the plan was first put into operation?

A. Yes, I was.

Q. How were you first notified of its existence?

A. Well, put around on all of the bulletin boards around various departments, announcing that there would be a representative plan going into effect, and the ways and means of how it would operate.

Q. Now, were the men given an opportunity to vote on whether or not they wanted the plan?

A. No, I don't think so.

Q. Now, you have stated you worked there steadily since then? Were you ever given the opportunity to vote on whether or not you wanted the plan?

A. Well, they had an opportunity to vote on it, and improve the plan.

Q. Did they ever have the opportunity to vote to reject it?

A. No, I don't think so.

Q. When you were elected a representative in 1935, did the Plan at that time have a set of by-laws?

A. Yes, sir, it did.

Q. Were you furnished a copy of them?

A. I was.

Q. By whom?

A. Everyone in the plant had a copy, all of the employees had a copy.

Q. Do you know how they were distributed?

MR. DAY: I want to interrupt just a moment; Mr. Exall, I want to ask one more question.

TRIAL EXAMINER LINDSAY: Is it all right if you do that after you get through with this witness?

MR. DAY: Yes, just don't leave. I forgot to ask you something. Just one question, I am sorry to interrupt.

Q. (By Mr. Hoskins) Mr. Sabol, I show you Board's Exhibit marked for identification 100, and ask you if that is copy of the by-laws which were in force when you were elected in June, 1935?

A. Yes, sir, this is one of the by-laws. The by-laws have been revised since then.

(The document above referred to was marked as Board's Exhibit No. 100 for identification.)

Q. Do you know when it was last revised?

A. Well, the last revision was in the year of 1935—yes, the year of 1935-36.

Q. I show you Board's Exhibit 91, which is already in evidence, and ask you if you recognize that?

A. Yes, that is the revised 1935-36 edition.

Q. Isn't that the copy which was in effect prior to this revision?

A. I think that is the one.

Q. Sir?

A. I believe that is the one.

Q. In other words, is Board's Exhibit for identification No. 100 the by-laws that were in effect up until the amendment of April, 1936?

A. Yes.

MR. DAY: There is no objection.

MR. HOSKINS: I offer, then, Board's Exhibit 100 in evidence.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 100 is received in evidence.

(The document previously marked as Board's Exhibit 100 is received in evidence.)

MR. HOSKINS: I will ask the Reporter to look at the record and tell me what my question is, just preceding Mr. Day's comments.

(The record was read by the Reporter.)

Q. Speaking, there, Mr. Sabol, with reference to Board's Exhibit 100, do you know all these were distributed in the mill?

A. By representatives, from what I know. I know I distributed my own.

Q. You distributed your own? Did you hear Mr. Exall's testimony on the general procedure for presentation of grievances and manner in which they were carried through?

A. Yes.

Q. If you were asked the same questions as to that procedure, would you answer them substantially the same?

MR. DAY: I object to that: I do not object to asking him whether that was substantially correct, but I don't believe that we can ask him whether, if you would ask him the same questions, he would answer them in the same way.

TRIAL EXAMINER LINDSAY: Just reform your last question.

MR. HOSKINS: I will be glad to reform it.

Q. Was the information he gave substantially correct?

A. Well, I would not say that it would be entirely so, no.

Q. What discrepancies, wherein do you disagree, can you say?

A. Well, it usually was requested that a written recommendation or grievance be given into the management's office. Of course, the majority of the men thought that it was not necessary and they really would rather go to the foreman or superintendent and settle it verbally.

Q. Were there any other points?

A. Well, the way I understand it, the way I always did with my men, when they came to me I went to his foreman, we both would go to the foreman, and if we couldn't get anything done with him, with the foreman, why it went to the superintendent. If we couldn't make any—if the complainant was not satisfied, still, we called in the management representative and got together; if that didn't work out, why it went to the authority of the general committee, who sat as a Board consisting of all of the representatives. Then from then on they took further action.

Q. Would the general body have any power to correct the particular grievance, itself?

A. No, it only had recommendations.

Q. Were there any other points you think of, Mr. Sabol, that you would like to bring out, on that?

A. Well, that is the procedure. That is the procedure, and from the General Body it would go to the committee and so forth and so on.

Q. In 1936-37 term of office, were you a member of any committees?

A. Yes, I was.

Q. What committees?

A. In the year 1935-36 I was secretary of the committee on ways and means, and wages, tonnages and economics.

Q. What committees were you a member of, if any, during the 1937 term?

A. Wages and tonnages and economics committee and the Health and Sanitation Committee.

Q. Is that two committees or three?

A. Yes.

Q. That is two committees?

A. Yes.

Q. How often would those committees meet?

A. Oh, we tried to meet anyway, at least once a month.

Q. After you took your office in December, 1936 or January 1937, how often did the general body meet?

A. Well, I first attended the first general meeting in January, I would say.

Q. After you attended the meeting of January, will you proceed with your testimony from there?

A. I attended my first meeting in January, the second Tuesday in January, we generally met. That is the general party, general committee. From there on we had several meetings a month.

TRIAL EXAMINER LINDSAY: This is a good place to stop. Off the record.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: Show that that objection of Mr. Day is withdrawn.

Q. (By Mr. Hoskins) Where would these meetings be held, Mr. Sabol?

A. Hospital building.

Q. That is, were the meetings of the general body and all of the committees, being held in the hospital building?

A. Yes, they have a regular meeting room assigned to them upstairs.

Q. Were you paid for the time you spent at these various meetings?

A. Yes.

Q. How were you paid?

A. Well, if you worked—I, myself worked days, eight to four-thirty—whenever time was put in outside of my work-day it was credited to representative work.

Q. Did you ever have occasion to work on representative work longer than the time you would have spent if you had been on your job?

A. Very seldom.

Q. Well, when were you paid, were you paid by separate check, or was it included in your regular pay check?

A. Well, if it was not my regular working day, it was not credited to my regular—on the regular payroll, I would get paid by separate check.

Q. Now, do I understand it correct, then, that any time you spent outside of your regular working hours, any time that you spent on representative work you were paid by separate check is that correct?

A. Yes.

MR. HOSKINS: Mark that Board's Exhibit No. 101.

(The document above referred to was marked as Board's Exhibit No. 101 for identification.)

Q. Mr. Sabol, I show you Board's Exhibit for identification No. 101, consisting of four check stubs numbered A-13876, A-6948, A-24469, A-28196, each stub containing a heading "Cleveland District, statement of wages and payroll deductions." I will ask you if you can identify those four stubs for us.

A. Those were stubs attached to some of the checks that I received for putting in time beyond my regular time as a representative.

Q. Now, you mean for putting in time of representative work, is that right?

A. Yes.

MR. HOSKINS: I offer Board's Exhibit 101 in evidence.

MR. DAY: What are the dates of these?

MR. HOSKINS: I have no evidence of the dates, Mr. Day, I presume the company payroll records would show that.

MR. DAY: Well, we will object unless there is some evidence showing when they were received.

MR. HOSKINS: I will ask the witness.

Q. (By Mr. Hoskins) Mr. Sabol, will you take a list at each one of the stubs here and see if you can tell us when you got each one?

A. It is pretty hard to remember the dates.

Q. Do you know whether they were in your first or second term of office?

A. I believe these were in the second term of office.

Q. They are in the second term of office?

A. Yes.

Q. In other words, that would be sometime between the last of November, 1936, or first of January, 1937?

A. Yes.

Q. And the date of the strike, is that correct?

A. That is right.

TRIAL EXAMINER LINDSAY: Your objection is overruled, let the record show an exception. Board's Exhibit No. 101 received in evidence.

MR. DAY: Exception.

(The document previously marked as Board's Exhibit No. 101 was received in evidence.)

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception. Board's Exhibit 101 is received in evidence.

(Thereupon the document identified as Board's Exhibit 101 was received in evidence.)

Q. (By Mr. Hoskins) Mr. Sabol, referring once again to the Company paying the representatives for the time spent, was that procedure ever changed while you were in office?

A. I don't quite understand you.

Q. I believe the testimony shows you were paid on your regular pay check for time that would have been your ordinary working hours and that for any time outside of your working hours you got a separate check?

A. Yes.

Q. Was there any change in that procedure?

A. Well, those payments for work being done over the regular working hours was stopped.

Q. When was that stopped?

A. Some time in April.

Q. Some time in April?

A. I don't know what date it is, but I know we had a meeting immediately after the Wagner Act was passed and we was cut out, after the Wagner Act was approved by the Supreme Court.

Q. Have you ever heard of the Employees Representative Association?

A. Yes.

MR. DAY: What is that now?

MR. HOSKINS: Sir?

MR. DAY: Is this a new Union or something?

MR HOSKINS: It is one we have not discussed yet.

MR. DAY: Well, I object to anything in connection with that because there is no reference to it in the complaint.

TRIAL EXAMINER LINDSAY: May I see the complaint?

(The file was handed to the Examiner.)

MR. HOSKINS: I believe the evidence will tend to show—

TRIAL EXAMINER LINDSAY: I don't want any of this on the record until I find out something about it.

(Discussion had off the record.)

MR. DAY: What paragraph are you reading from?

TRIAL EXAMINER LINDSAY: Paragraph 27.

MR. DAY: 27?

TRIAL EXAMINER LINDSAY: Yes. It specifically sets out there. The objection is overruled and let the record show an exception.

MR. DAY: May we have an objection to all of the evidence relating to this entire Employees Representation Association? We are objecting to all the evidence in regard to that.

TRIAL EXAMINER LINDSAY: Yes. Let the record show an objection and also that the objection is overruled and that the Respondent may have an exception. However it is definitely noted in Paragraph 27 of the complaint. Proceed.

(Question read.)

A. I have.

Q. When did you first hear of it, Mr. Sabol?

A. In our Representative meeting.

Q. When about?

A. Well, the process was talked over several times but nothing definite came of it until my second year in office.

Q. When was the first definite action on it to your knowledge?

MR. DAY: I object to the form of that question, definite action. Let him tell what was done. It seems to me whether or not is his conclusion of whether or not something constituted definite action could not be binding on anybody.

TRIAL EXAMINER LINDSAY: Just read that question, will you, please?

(Previous question read by the Reporter.)

TRIAL EXAMINER LINDSAY: All right. I overrule the objection. Let the record show an exception.

MR. DAY: All right.

Q. Do you understand the question, Mr. Sabol?

A. Yes. Well, the first definite action that I remember of took place in a Representative meeting to try to first go ahead and organize the men into an Association.

MR. HOSKINS: I am sorry, I didn't understand all of your answer. Do you have it?

(Answer read.)

Q. Mr. Sabol, I show you Board's Exhibit No. 102 for identification and ask you if you have seen a copy of that card before?

A. Yes, I have.

(Thereupon the document above referred to was marked Board's Exhibit No. 102 for identification.)

Q. When did you first see it?

A. I had several in my possession.

Q. When did you first acquire them?

A. I first acquired them from Mr. Grimm in Mr. Wakefield's office.

Q. About when?

A. We were supposed to have a tour of inspection of the Sanitation Committee and our Chairman called us into Mr. Wakefield's office and Mr. Grimm suggested it would be a good idea instead of going around on inspection of a tour of the plant on sanitary conditions, we go around and try to sign the men up to the new Association.

Q. Mr. Sabol, will you fix the date of that?

A. It was on a Monday, that is all I know. I could not give you no definite time.

Q. Well, can you fix the month?

A. I know it was around the spring of the year, around May or April somewhere.

Q. Would it be April or May of this year?

A. Yes.

MR. HOSKINS: I offer in evidence at this time Board's Exhibit 102.

MR. DAY: We object to it under the same general objection we have to all of this.

TRIAL EXAMINER LINDSAY: The objection is overruled. Board's Exhibit No. 102 is received in evidence

(Thereupon the document previously identified as Board's Exhibit No. 102 was received in evidence.)

Q. You say Mr. Grimm suggested to the members of the Sanitation Committee in Mr. Wakefield's office—

A. Yes.

Q. —that they take these around?

A. Yes.

Q. Will you relate that conversation as near as you can remember?

A. We were waiting around that morning for almost an hour or more—

MR. DAY: He just gave the conversation.

TRIAL EXAMINER LINDSAY: I didn't hear you.

MR. HOSKINS: Just a minute.

MR. DAY: I say, he just did give the conversation.

MR. HOSKINS: I am sorry, I don't think he went as far as that. He went so far as to fix the personalities and the date.

TRIAL EXAMINER LINDSAY: Go ahead.

A. The Chairman of our Committee called us into Mr. Wakefield's office and he said we were going to have a little meeting and Mr. Grimm and Mr. May was there and Mr. Wakefield was there and he put a package on the table in the office there and he says, "Well, we got to get started with this some time or other and we might as well get started now." He thought it was a good idea to sign men up to the new Association, that they were forming, and it was the idea that the Sanitation Committee go ahead and do it and so we examined the cards and we went out and done it.

Q. Did you take the cards and go out to try to sign up men?

A. Yes.

Q. On the same day?

A. Yes, sir.

Q. Do you know a Mr. Tull?

A. I do.

Q. Who is he?

A. Superintendent of the electrical department.

Q. Did you have any conversations with Mr. Tull regarding this Employees Representative Association?

A. Yes, I did.

Q. Will you relate the first one?

A. Mr. Tull told me I think the next day or two, after a day or two, after we went around to sign these men up for the new Employee Association, he had a phone call and he wanted to know why my percentage in my department was so low.

Q. Why your percentage of what?

A. Of joining the new Association was so low. I told him I didn't know. I said for obvious reasons. Well, I said, they must belong to something else or other, they just won't sign, that is all. I could not force the men to do it.

They know what the Association is about. It has been published in their minutes, the group tried to start an organization that was independent of the Company and tried to operate under its own policy. That is all I could, the only reason I could give him, I didn't know, that is all. It was every individual for himself.

Q. Did you have any further reasons for him?

A. That is all. Nobody in the construction gang would sign it. Only a few in my department. Then he called in Mr. Nutting.

Q. Who is Mr. Nutting?

A. He is the foreman on the construction gang.

Q. Is he under the superintendent of the electrical department?

A. Yes, he is.

Q. What took place after that?

A. Well, he called up and he said, "What seems to be wrong with your men, Ted?" Or about that language. Well, Mr. Nutting expressed the opinion that he had a couple of men there that all the rest of the department seemed to be following. He expressed the opinion that only the riddance of those two men would any of the others try to sign up, so I was asked to go out again and see what I could do and I said maybe if I have a little bit of help, somebody give me a hand, which later on one man offered his help but it didn't seem to function very well. He didn't help me very much. In fact, I didn't get any signatures to it at all. In the past I signed up pretty close to, well, I would say, all of 50 percent of the department and naturally it died out after a while.

Q. How much time did you spend after the date of this meeting in Mr. Tull's office attempting to sign men?

A. Well, whenever I was asked to. If I had any spare time I was asked to see if the men would sign up from time to time.

Q. Can you estimate for us how many days or how many hours you spent trying to get men to sign up in this Employees Representative Association?

A. No, I cannot. It was several days.

Q. Were you paid for the time you were spending doing that?

A. Yes, I was. It was during my working hours.

Q. One further question before I go on. Is Mr. Tull your superintendent?

A. Yes, he is.

Q. Did you ever circulate any petitions about the mill, Mr. Sabol, as a representative?

MR. DAY: Are you through with the other examination? If you are, I want to move to strike out the new Union. I always forget the name of it.

TRIAL EXAMINER LINDSAY: Employees Representative Association. Motion denied. Let the record show an exception.

MR. DAY: The grounds of the motion are all set forth in the objection to the same testimony.

TRIAL EXAMINER LINDSAY: We will take a short recess.

(Recess.)

Q. (By Mr. Hoskins) Mr. Sabol, did you as a representative ever have occasion to circulate any petitions about your plant?

A. Not about the plant.

Q. Well, about your department? And show the men you represent?

A. Yes.

Q. How many times, do you recall?

A. Oh, maybe two or three times.

Q. Now, will you tell us just generally what these petitions were about in your last term of office?

A. Well, they had something to do with having faith in the management.

Q. Any others?

A. I think the others had to do with strikes and of getting the Mayor of the city to give us police protection.

Q. Were there any others that you think of?

A. I can't remember just at this time.

Q. Will you fix the time for us as near as you can to the time you circulated these two petitions about?

A. I believe these two were in my last term of office, between January and February.

Q. Who had given you those petitions to circulate in this term?

A. I think one was given me by the Secretary and the other by the foreman.

Q. Who was your foreman?

A. Mr. Kredel.

Q. Do you recall how much time you spent circulating these petitions?

A. Well, it didn't take me very long.

Q. Well, about how long?

A. Oh, a couple of hours.

Q. Were you paid for that time?

A. I was paid for that time. It was my regular day's work.

Q. Mr. Sabol, as a representative of this Employees Representative Plan, did you ever attend any banquets?

A. Yes, a general conference.

Q. A general conference?

A. Yes.

Q. Where was that held?

A. Hotel Cleveland.

Q. When?

A. The latter part of April.

Q. Which year?

A. 1937.

Q. The latter part of April, 1937?

A. Yes.

Q. What time of the day was that held? Do you recall?

A. It started about noon.

Q. Started about noon?

A. Yes.

Q. How long did it last?

A. Five o'clock or so.

Q. Who all was present at this affair?

A. All the superintendents of the Corrigan-McKinney and some of the officials of the Republic Steel Corporation.

Q. Will you name some of the superintendents and officials who were there?

A. Well, Mr. Tull and Mr. Shriber. They were all there. I can't remember them now.

Q. Were all the Employees Representatives there?

A. Yes.

Q. Did any of these officials speak at this meeting?

A. Well, they all had something to speak.

Q. Do you remember what any of them had to say?

A. General talks about representative plan; general discussion of various complaints of men that the men had, various grievances, and then was a discussion of whether the men favored the union or the representative plan, and the representatives' opinion pertaining to that question.

Q. Do you know Mr. White?

A. Yes, I do.

Q. Who is he?

A. Vice-president of operations.

Q. Was he present?

A. Yes, he was.

Q. Did he speak?

A. Yes, he spoke.

Q. Do you remember what he had to say?

A. Well, officially he didn't think much of the C. I. O. and he didn't think it was the American type of organization, he didn't think it was a responsible organization.

Q. Were you assessed any cost for this banquet?

A. No, I wasn't.

Q. While you were a member of the Employees Representative Plan, Mr. Sabol, were any dues ever collected?

A. Sir?

Q. Were any dues collected in the Employees Representation Plan?

A. Well, that is something I can't say, because I never—

Q. Did you ever pay or collect any dues?

A. Do you mean in the Employees Representative Plan, association, or the plan itself?

Q. I am talking now of the plan?

A. No.

Q. When you were taking these cards around on the Employees Representative Association, cards identified as Board's Exhibit No. 102, was there to be any dues in that association?

A. Well, it was not quite straightened out, then, it has never been definitely decided, while I was still representative, whether there were going to be any, of course, there was always a general discussion of some sort of dues to be charged.

Q. Now, at the time you were signing the men up in this, did the Employees Representative Association have any by-laws?

A. Well, they were going to adopt the revised book that we had revised at that time, operating at that time in 1937.

Q. Do you mean they were going to adopt—

MR. DAY: He has not finished his answer, yet.

MR. HOSKINS: I am sorry.

Q. Had you finished your answer?

A. No, I hadn't.

Q. Pardon me, go ahead.

A. And there was, I think, some additions was going to be put into it later, they were going to adopt more or less the same plan because it was about the best that was in existence as far as the Representative Association or Plan was concerned at that time. We had scanned several books and everything else and had men look at various other by-laws that had been set up by other corporations, that is, representative plans; we found we had about the best that was going at that time, and going to adopt the same by-laws and change it to conform—flexible enough to work here with other Republic districts.

Q. Now, these amended by-laws of which you speak, are those the by-laws which are in Board's Exhibit No. 91?

A. Yes, that is 1935-36.

Q. When was the last meeting you attended as representative of the Employees Representation Plan, do you remember?

A. If I am not mistaken, I think it was about a week before the strike.

Q. About a week before the strike? Can you give us an approximation of how many meetings you attended in the last month?

A. Oh, there was several meetings.

Q. About how many?

A. Well, I attended meetings of the two committees I was on, and there was two or three meetings of the General Committee.

Q. Were you paid for the time you spent at all these meetings, including that one that was a week before the strike?

A. Well, there was a lot of time on my regular day.

(The document above referred to was marked as Board's Exhibit No. 103 for identification.)

Q. Mr. Sabol, I show you Board's Exhibit for identification No. 103, and ask you if you have ever seen a copy of that before?

A. Yes, I have.

Q. Where did you see a copy of it?

A. I believe I received a copy of this at one of the meetings.

Q. One of which meetings are you now referring to?

A. I am not definite whether at that banquet or when the representatives meetings, but I received one of these copies.

Q. You received it at either the banquet, do you mean by that the Cleveland Hotel banquet you just testified to?

A. Yes.

Q. Or was that a meeting of the General Body?

A. One of the meetings, I can't say.

MR. HOSKINS: I offer Board's Exhibit No. 103 in evidence.

MR. DAY: There is no objection to this.

TRIAL EXAMINER LINDSAY: Board's Exhibit 103 is received in evidence.

(The document previously marked as Board's Exhibit No. 103 was received in evidence.)

Cross Examination

Q. (By Mr. Day) When did you join CIO?

A. I think it was April 29th.

Q. Of this year?

A. Yes.

Q. Have you been on the picket line?

A. No, sir, I was employed as bookkeeper for the finance committee.

Q. Of the lodge?

A. No, I was on a special committee.

Q. Of the CIO?

A. Of the lodge.

Q. Of the lodge? When was it that you tried to sign up these men for this union that has just been mentioned, here?

A. Sir?

Q. When was it that you were out trying to sign up men for the union?

A. It was at the time when we were supposed to have a general sanitation inspection of the plant.

Q. During what month was that?

A. I am not positive but the latter part of April some time.

Q. Well, were you out trying to get signers to join this Union after you joined the C. I. O.?

A. No, sir, I was not.

MR. HOSKINS: I would like to ask the name of this organization be used there rather than the word Union in order that the record might be perfectly clear on which one Mr. Day means.

MR. DAY: I am referring to the Employees Representative Association of Republic Steel Corporation.

Q. Did you belong to the C. I. O. when you solicited members or contacted prospective members for this—

A. No, I didn't.

Q. —organization?

A. No.

Q. Was that before you joined the C. I. O. or after? Before you joined?

A. Before. I joined April 29th. I think I still got my card here. I will check it up.

Q. You were asked about certain petitions that were circulated. What were those petitions for?

A. Four, twenty—

TRIAL EXAMINER LINDSAY: Listen to his question.

Q. You were asked about certain petitions being circulated in the mill?

A. Yes, sir.

Q. When were they circulated?

A. During my working hours when I had permission to go off my work to circulate them.

Q. During what months were those, as near as you can?

A. I believe one or two were during my first term, and one or two during my second term.

Q. What years were those in?

A. 1935, 1936 and 1937.

Q. Did you sign those petitions?

A. Sir?

Q. Did you sign those petitions?

A. Yes, sir, I did.

Q. They related to what?

A. Confidence in the management and police protection in case of trouble.

Q. Did you sign any of those after you joined the C. I. O.?

A. No, sir.

Q. You have not asked for your job back?

A. Yes, I was down to the plant.

Q. Since the strike?

A. Yes, sir. Not since the strike.

Q. Before the strike?

A. Well, since the strike, since the strike, yes.

Q. How long ago was that?

A. That was, notice was sent out that all men should report to the plant to maintain their seniority. I did.

Q. About when was that?

A. That was on Friday, about three days after the plant opened up.

Q. After the plant opened up?

A. Yes, sir.

Q. You worked at the Truscon plant?

A. No, sir.

Q. Weren't you on the picket line anywhere?

A. Naturally I was around there, there was never any man that was not on the picket line at some time or other.

Q. What plant do you want to talk about?

A. I was never stationed on the plant.

Q. At what plant did you act as a picket?

TRIAL EXAMINER LINDSAY: Do I understand you were never on the picket line?

THE WITNESS: I said at one time there was no one around there that never was around the picket line.

Q. Were you on the picket line at all during the strike?

A. I was not an established picket, no.

Q. Not what?

A. I was not an established picket.

Q. Well, whether you were an established picket or not, were you on the picket line at any time during the strike?

A. Yes, I was on the picket line.

Q. How frequently?

A. Oh, several times a week sometimes.

Q. At what plant?

A. Corrigan-McKinney and Truscon.

Q. You worked up to the time of the strike?

A. Yes, sir.

MR. DAY: That is all.

(Witness excused).

MR. DAY: I want to ask Mr. Exall one more question.

JOHN EXALL

a witness recalled by the Respondent for further cross-examination, having been previously duly sworn, testified further as follows:

Cross Examination

Q. (By Mr. Day) Have you asked for your job back since the strike?

A. Why should I ask, I am still on strike.

Q. Not why should you. Have you?

A. No, sir.

MR. DAY: That is all.

(Witness excused.)

MR. HOSKINS: Mr. Rodway.

GLENN RODWAY

a witness called by and on behalf of the National Labor Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your full name?

A. Glenn Rodway.

Q. Where do you live?

A. 4410 Broadway.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes, I have.

Q. When did you first start to work there?

A. I started at the Corrigan-McKinney plant December 21st, 1927.

Q. Have you worked there continually since then?

A. I have.

Q. What is your position down there?

A. Motor control operator, 10 inch mill.

Q. Do you belong to the C. I. O.?

A. I do.

Q. When did you join?

A. I believe it was during April.

Q. April of what year?

A. 1937.

Q. Do you know Mr. Francis Kredel?

A. I do.

Q. Who is he?

A. My understanding, he is assistant superintendent of the rolling mills.

Q. Did Mr. Kredel ever have anything to say to you about your membership in the C. I. O.?

A. Yes, he did. I came into the plant one day, the 3 to 11 turn.

Q. About when was this, Mr. Rodway?

A. Oh, possibly the latter part of April or first part of May, around that time.

Q. Had you started to wear your C. I. O. button at that time?

A. I had the botton nd I was wearing it.

Q. Will you go ahead with your conversation there?

A. I entered the mill and Mr. Kredel was standing there and he said to me, he said, "I see you went and joined it. Glenn," and I said, "Yes, Frantz, I did." He said, "Well, I hope we won't have any trouble. We are trying everything we can to keep the boys satisfied." I said, "Well, Frantz, I don't see any cause for any trouble. It appears to me that the Wagner Act has given the men the right to organize a Union and they are taking advantage of it. That is the way I feel about it." "Well," he said, "you know, we don't want any Russia over here." I said, "No, I don't want any. I consider myself 100% American and it seems to me that the policy of the corporation ought to be to encourage men to get into an organization like that. They are much better on the inside than on the outside." I believe that is about all at that time.

Q. Did any of your other bosses ever say anything to you about your membership in the C. I. O.?

A. My foreman, Mr. Thomas Jose, came into where I worked.

MR. DAY: I object to the conversation with the foreman on the ground the foreman had no authority to act for or speak for the Respondent.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. He came up in the pulpit where I worked. He said, "Hello, Green Button Pete."

Q. What color was the C. I. O. buttons that month?

A. The month of April was green, much larger than they have now.

Q. Were you wearing one at the time?

A. I believe I was.

Q. Were you ever a representative under the Employees Representative Plan?

A. Yes. I was before the Republic took it over.

Q. In what year?

A. The latter part of 1934 and the first half of 1935.

Q. You say that was before the Republic took it over?

A. Yes.

Q. Were you working on May 26th, 1937?

A. Well, I worked on the night of May 25th, 11 to 7, finished up at 7 o'clock, May the 26th, at 7 in the morning.

Q. Then did you go down?

A. And the strike was called at 11 o'clock that night and I didn't work that night.

Q. Have you been down to the mill since then to try to get your job back?

A. No, I have not.

Q. Has anyone been out from the mill to try to get you to go back to work?

A. There was some men called at my house and I was not home.

Q. Who were these men?

A. Edward MacMeans.

Q. And who is he?

A. He is a roller.

Q. Is a roller a supervisor of any sort?

A. We have to take orders from him.

Q. Who else came out with him?

A. Sam Snyder.

Q. Who is he?

A. A heater.

Q. Was there someone else with those two?

A. Sam Morachi.

Q. And who is he?

A. A finisher.

Q. Is he in a supervisory capacity?

A. No.

Q. You say these men came to your house?

A. Yes.

Q. Did you see them?

A. No.

Q. Did they speak to anyone at your house?

A. Mr. MacMeans was the only one who entered the ouse, he wanted to talk to my wife.

MR. DAY: I object to that, he was not there.

TRIAL EXAMINER LINDSAY: Overruled. I grant you an exception.

A. (Continued) As my wife related to me he said he strike was lost and he heard that Republic Steel was nsured the first 30 days of a strike and hadn't lost nything in that period and that the dead line was for he end of that week and all the men that were not back o work in that dead line would have to pass a physical examination and you know what that means.

Q. Are those his own words?

MR. DAY: I move to strike that out as incompetent, irrelevant and immaterial, no bearing on any issues presented here and there is no evidence that the man talked to this man's wife. It is hearsay at best.

TRIAL EXAMINER LINDSAY: Motion denied and exception.

Q. Those last words you used, were those his words?

A. They were all his words.

Q. About when was this, Mr. Rodway, that these men came to your house?

A. About the first week in July.

Q. Did you go down to the mill?

A. I did not.

Q. As they requested?

A. I did not.

(Thereupon a document was marked Board's Exhibit No. 104 for identification.)

Q. Mr. Rodway, I show you Board's Exhibit 104 for identification consisting of a printed letter together with an envelope attached to it, can you identify that?

A. I can, yes. It came to me through the mail.

Q. It came to you through the mail?

A. Yes.

Q. With this envelope attached to it?

A. Yes.

MR. HOSKINS: I offer it in evidence Board's Exhibit 104.

MR. DAY: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit 104 is received in evidence.

(Thereupon the document previously identified as Board's Exhibit No. 104 was received in evidence.)

MR. HOSKINS: That is all.

Cross Examination

Q. You were out on strike on the 26th of May?

A. Yes.

Q. Been on the picket line?

A. Yes.

Q. Active on the picket line?

A. I was picket captain for about the first couple weeks of the strike and working as a helper working and helping out at strike headquarters.

Q. Carry any sticks or clubs?

A. No.

Q. When was it this man called you Green Button Pete?

A. The first part of May.

Q. You joined the C. I. O. in the latter part of April or the first part of May?

A. Some time during April.

Q. Was it the 20th of April you joined the C. I. O.? I thought you said 4-20.

MR. HOSKINS: This witness had the card.

MR. DAY: Was he the man that had the card? I beg your pardon.

Q. You joined the latter part of April?

A. Some time.

Q. And you put your button on right away?

A. As soon as I joined they had a meeting and passed a resolution that the men would wear the button.

Q. And you worked up until the strike on the 26th of May?

A. Yes.

Q. You haven't ever asked for your job back since the strike?

A. No, sir. Not while the strike is on.

Q. And the strike is still on?

A. Yes.

MR. DAY: That is all.

(Witness excused.)

JAMES C. QUINN

a witness called by and on behalf of the National Labor Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your full name, Mr. Quinn?

A. James C. Quinn.

Q. Where do you live?

A. 6901 Whitney Avenue.

Q. Have you ever worked for the Republic Steel Corporation?

A. Yes.

Q. When did you first start to work for them?

A. I started with the Corrigan-McKinney plant in December, 1927.

Q. And you worked there how long?

A. Up until May 26th, 1937.

Q. You worked there how long?

A. Up until May 26th, 1937.

Q. What was your job, Mr. Quinn?

A. I was inspector in the 12-inch finishing mill.

Q. Do you belong to the CIO?

A. I do.

Q. When did you join?

A. July 21st, 1936.

Q. Have you ever held any office in either of the CIO lodges?

A. I am financial secretary of lodge 1098.

Q. Do you know a man by the name of Harold Sisk?

A. I do.

Q. Who is he?

A. He is employees' representative down at the Corrigan-McKinney Works.

Q. Have you ever heard of the Employees Representative Association?

A. I have.

Q. Were you ever asked to join it?

A. Why, Harold Sisk asked me to join it once, yes.

Q. When was that, do you remember?

A. That was in either April the 7th or 8th of this year, 1937.

MR. DAY: Is that the new organization?

MR. HOSKINS: Yes.

MR. DAY: Well, I object to any evidence with relation to it.

TRIAL EXAMINER LINDSAY: That objection is overruled, let the record show an exception.

MR. DAY: Exception.

Q. You say he asked you to join?

A. Yes, he did.

Q. Was he asking all of the men in the department?

MR. DAY: I object to that.

A. He was asking everyone to join it.

TRIAL EXAMINER LINDSAY: That objection is overruled, let the record show an exception.

MR. DAY: Exception.

Q. Will you relate your conversation with Mr. Sisk at the time he asked you to join?

A. Why, April 7th or 8th, I believe, I was working the 11 to 7 turn at that time and I went in the mill and there was a lot of commotion around there, that they were coming around getting support of a plan for the men to join, company sponsored. When I changed clothes I went over to work, where I work, and the first one I met was Mr. Sisk. He was distributing those cards to each man he would come up to, he had ten or twelve of them on the desk, there, and he had the men inside, he was telling each man individually just what it was about, and everything, and I come over there and I told him he had no right to do that, he was a representative for the company, and he had no right to come through the mill and try to get the men into that union or association, whatever it was. He started to arguing with me. So I told him—I pulled a card out of my pocket, CIO blue card, I told him to sign it. He would not sign it. Then before I pulled it out he asked me to join that Employees Representative Association, and I told him I would not.

Q. Now, Mr. Quinn, I show you Board's Exhibit 102 and ask you if that is the kind of card he was using?

A. That is the same identical thing that he was using.

Q. Was Mr. Sisk accompanied by anyone at this time?

A. I beg your pardon?

Q. Was Mr. Sisk accompanied by anybody at this time?

A. Why, at that time he was alone. He was not working his regular turn, but he would come in the mill on his own time, the way the representatives usually done.

Q. Did he attempt to sign you up at a later time?

A. Well, that was the only time he ever contacted me, I would not have anything to do with him and he would not—the same with him, he would not have anything to do with me.

MR. DAY: I move to strike out the conversation on the same ground stated in the objection to it.

TRIAL EXAMINER LINDSAY: That objection is overruled; motion denied, let the record show an exception.

Q. Mr. Quinn, did you ever have any conversations with any of your bosses at the mill regarding CIO or other unions?

A. I did.

Q. With whom?

A. Well, I had a conversation once with my own boss, George Bellew and I had a conversation at different times with other bosses.

Q. Now, who is George Bellew? What is his title, do you know?

A. He is the chief inspector at Corrigan-McKinney. He was, when I was there.

Q. When did this conversation take place?

A. I believe that took place in either February or March, I am not certain now of the month, what month it was, but I know it was cold.

Q. Of this year?

A. Of this year, yes.

Q. Can you relate that conversation, as near as you can remember?

A. Why, I was sent over to his office to keep my nose clean, sort of speaking, that is, Mr. Satter had called me into his office.

Q. Who is Mr. Satter?

A. He was chief chipper down there in the mill, 10, 12 and 18 inch mill, I believe.

Q. You say he called you into his office?

A. Well, yes, he called me into his office one afternoon and he accused me of signing—

MR. DAY: I object to that conversation between Bellew and this witness on the grounds already stated, that he had no authority to act for the company.

TRIAL EXAMINER LINDSAY: The objection will be overruled, let the record show an exception.

MR. DAY: Exception.

A. Why, he accused me of signing up one of his men as a crane man down there, crane man worked on the 10 inch mill—he called me into his office and he says, "Jim," he says, "you were turned in for signing up two men in the CIO." And I asked him who they were, and just as I asked him both of them come in the office, and he accused them and they denied it and I denied it: I never had signed those men up into the CIO at that time, up to that time I didn't sign them up, and I was telling him the truth and he knew it, so he gave me a lecture about going around signing the men up in the plant.

Well, he didn't have any evidence there that I did sign men up in the plant. Afterwards he cooled off and he told me to [go] over and see my boss and keep my nose clean.

"Well," I says, "my nose isn't dirty, I don't have to go over to see my boss."

"Well," he says, "you better go over anyway," he says, "you know how the situation has been around here," that is, regarding me, so I says, "O.k.," so I went over to George Bellew's office and he was in there alone and he was surprised to see me coming in there because I think it was the first time I ever walked into his office, and he asked me what I wanted and I told him.

"Well, the only thing," he told me, he says, "we know what they are doing out there, Jim," he says, "if you get caught signing men up in the union," he says, "I will have to fire you and then I will be the dirty one for firing you," that is what he told me.

Q. Was there anything more to that conversation?

A. Well, that is about all he said. I denied to him that I signed those men up, which I hadn't, up to that time, I hadn't signed them.

Q. Did you have any conversation with any other of the bosses?

A. Yes, I had with the boss there in the 12 inch mill, Louis Eckert.

Q. How do you spell that name?

A. E-c-k-e-r-t, I believe.

Q. When did this conversation you are about to relate, take place?

A. Well, that conversation was from last—I will say last September up until we went on strike, Louis was always walk down where I work at the shears, always his main theme of conversation would always be C. I. O., John Lewis and his C. I. O.

He would come down there and he would talk to me and when the other fellows would get around to listen, he would talk to them too, and it was the same story all from beginning to end, that John Lewis, we would have to pay a dollar into the organization, where is the dollar going to?, he would say. "And the company union, you don't have to pay anything," and the benefits he would start to recite the benefits which we got from it, which I never saw anybody get any benefits from.

And then he would go on to say that of the dollar, 75 cents would go here and 25 cents would go to Russia to the communists, it was a communist organization, nobody belonged to it, to use his exact words, but niggers, Polacks and Jews, that is all, that was the main topic of conversation whenever he would come around there, he would go up to the men, say the same thing over and over again. I have heard him several times up in the mill, say the exact same words.

Another one was Art Lawton, the same way.

Q. Who is Art Lawton?

A. Turn superintendent.

Q. How do you spell his name?

A. I think it is L-a-w-t-o-n, he would come down there and seeing I was the only one of those fellows that ever talked to him, because the others were too busy all the time, he would come in at 7 o'clock in the morning and I would come on working until 3 o'clock, he didn't have anybody to talk to but me, that is the reason I got all of that stuff, why he would come down there and make the same accusations against Lewis, against President Roosevelt, in fact, against everybody that was connected with anything to uplift the workingman.

He was against everything like that. Come down and told me, "Well," he says, "Jim, your communists got this and your communists got that. How many men have you got in your communist organization, now?"

He would come down with facts and figures, one time, to show me about the lodge funds, while I was financial secretary of the lodge and I knew where those lodge funds went to.

And then it was April 14th or 15th I believe maybe—

Wait until I see—Yes, it was April 14th or 15th I had a case to go up to the mill, they had trouble with the section, they couldn't get a good section, and the mill had closed down.

I went up there and this same fellow in person, Lawton, he was standing up there with his arms folded and every man in the mill who would go in there, they would send them in one at a time, he would say, "Get in there," and I went over and I looked in the window and the reporter was sitting on one side of the desk and he had a pile of those employees association, representative association cards in front of him, and as the men would go in he would shove it over to him, well, the man, it was up to himself whether he would sign it or not.

Well, I told him not to sign, anything, but most of them did sign it, I learned later on, and there was two millwrights down at the shanty, he went up and he blew the whistle and when they come out he says, "Get up here," they come up there and one fellow signed and the other fellow didn't.

And then the assistant roller there called me over and he says, "It is a damn shame, Jim," he says, "to have a man like that stand in the mill and chase them poor hunkies in there," that is what he told me.

"Well," I says, "if they had any guts they would tell the man to go to hell like I did."

Then later on he came down to the shear where I was working and when he got down there I jumped on him about it.

Q. Is this Mr. Lawton you refer to?

A. Mr. Lawton, I says, "What authority have you got standing up there and chasing them men in there?" I says, "The Supreme Court has just signed the Wagner Relations Act," I says, "you haven't a damned bit of business standing up there making them men sign up." I says, "The only reason they sign up, if they don't sign it, you will turn them in to their bosses in the morning," and I says, "you know what that means, he would come out here and lay them off again like he always does."

"Well," he says, "the Wagner Labor Relations Act is like everything else," he says, "it don't mean a damn thing."

Then he went on to tell me about me and my bunch of communist friends, John L. Lewis all the way down, he raked them all over the boards, that was the only time I ever had that sort of argument was that one night.

Q. About how many conversations would you say you had with Mr. Eckert along the general tone which you have testified?

A. Mr. Eckert, I will tell you, to be exact, those conversations with Louis Eckert started in 1933 when the American Federation of Labor tried to get in there, and from that time on he has always picked on me about unions. He knew I was a union man, see, and he always picked on me. But I should say altogether, I couldn't give you the exact number, but it was two or three hundred conversations, anyway, because day in and day out when I would work day turn he would be up there sometimes four times a day, he would come up there and the same thing all the time.

Q. How many conversations would you say you had with Mr. Lawton about the unions?

A. With Lawton about the unions? I would say I had about 45 or 50 conversations altogether.

Q. Do you know Jack Newhouse?

A. Yes, I do.

Q. Who is he?

A. He is foreman of the shippers in the 10 and 12 inch mill.

Q. Did you ever have any conversation with him about your union activities?

A. Yes, I had plenty of conversations with Jack, too.

One time he come up to me—

MR. DAY: I want to object to any conversation with Newhouse, a foreman, on the ground he had no authority to act for the company in speaking.

TRIAL EXAMINER LINDSAY: The objection is overruled, let the record show an exception.

MR. DAY: Exception.

A. Jack come over to me one day, sidled up alongside of me, got my ear like he always did, he says, "Watch your step, Jim," he says, "you are on the spot."

I says, "What for?" I says, "Why should I watch my step? Haven't done anything."

H says, "There is a list of names come down from the office," he says, "about that long (indicating), and your name heads the list." I says, "Why should my name head the list?" He says, "You know why." I says, "Why?" He says, "Union," and he walked away.

MR. DAY: Now, I move that that be stricken out on the same grounds stated in the objection to it.

TRIAL EXAMINER LINDSAY: The motion is denied, they—let the record show an exception.

Q. Any other conversations with him?

A. Well, every once in a while Jack would come up and he would tell me to watch my step, all the time.

Q. Have you been in the mill since the strike was called, Mr. Quinn?

A. I have, I have been in the mill, I think it was May 28th, two days after the strike was called.

Q. What was the purpose of that visit?

A. Why, the officers of both lodges contacted Mr. Carpenter, there were men in there that they were supposed to be out on strike with us, and he denied it, so we asked him, in all fairness, to let us go through the mill and let us look and see for ourselves, and he agreed to it.

We went through the mill, we started at the office and went all the way through there to the blast furnace and I think we got 43 men out that afternoon, didn't have any business in there.

Q. Were you accompanied by any of the mill officials?

A. Why, it was Mr. Carpenter and Mr. Halloway, that was the one, and I think Captain Sperkey of the Detective Bureau went through.

Q. Who is Mr. Carpenter?

A. He is general manager.

Q. Who is Mr. Halloway?

A. I think, I am not sure, but I think Mr. Halloway is the assistant general manager.

Q. Did you have any conversation with either of these men about the union at the time?

A. Well, Carpenter, he kept his mouth shut all the time, he didn't mention anything about union. But as we finished our inspection of the blast furnace, I was walking down the railroad track and came across that bridge, whatever they call it over there, I am not very well acquainted on the West Side there, first time I was ever in there, first time I ever saw the blast furnace, why Halloway come down, he was walking the rails and he says, "Did you ever do that when you was a boy, Jim?" I says, "Yes, a lot of times," so he put his arm around my shoulder and he says, "Why the hell should your type of man get mixed up with C. I. O.?

I says, "Why? What is the matter with it?" He says, "You know as well as I do what they are, Lewis and—" practically the same thing all the way down—"are a bunch of communists." And we had a colored fellow went through the mill with us, he says, "You see back there, don't you?" He says, "You don't want to associate with anything like that," he says, "niggers, Polacks, hunkies," the same thing.

And he says we were a bunch of communists in the C. I. O., and when I started to deny it he says, "Oh, forget it," and he started to laugh, but he meant it, I know he did.

MR. HOSKINS: That is all.

Cross Examination

Q. (By Mr. Day) Did you give these various men an argument when they argued with you?

A. No, I did not.

Q. Well, Bellew and Exall and Lawton and Halloway?

A. No, I never did give Bellew an argument. I argued with Exall and Halloway. Halloway, he started to argue with me but I just smiled and laughed and said, "Forget about it."

Q. Well, you argued with him, you said?

A. No, not with Mr. Halloway.

Q. You joined the C. I. O. July 1st, 1936?

A. Yes.

Q. You stayed at the mill until when?

A. May 26th; I didn't work Sunday, Monday or Tuesday.

Q. And you stayed at the mill until May 26th, 1937, when the strike began?

A. Yes.

Q. Were you working right along?

A. Yes.

Q. And these various talks were before that, is that right?

A. Well, the only talks I had were with Halloway was before that.

Q. Before you joined the C. I. O.?

A. Yes.

Q. That was back in 1933?

A. Yes.

Q. After you joined the C. I. O.?

A. After I joined the C. I. O. he kept that up; then there was others came in on it too because they knew what I was down there.

Q. They knew you were a CIO?

A. They knew I was a CIO member, yes.

Q. All the time?

A. All the time.

Q. And you stayed there about 10 months after they knew you were CIO?

A. Yes.

Q. Working every day?

A. Not every day.

Q. Well, working all the time?

A. Well, I worked five days a week, that is what I usually worked.

Q. You were the financial secretary of the lodge?

A. Yes, sir.

Q. And were you quite active in the strike?

A. I had to be. I am an officer of the lodge.

Q. Do the pickets of the CIO get paid?

A. No, they do not, at the Corrigan-McKinney plant, no. That is out of the SWOC, they do not get paid.

Q. Do they get paid by anybody, or do you know?

A. No, sir, not for doing picket duty, no, sir.

Q. Well, do they get paid for doing anything?

A. Well, we have a relief system where we try to pay some of their bills for them, yes.

Q. Well, outside of that, do they get paid anything?

A. Not to my knowledge, they don't, no.

Q. You are the financial secretary?

A. I am the financial secretary, yes, sir. I should know if they get paid anything.

Q. Do you ever go out on the picket line yourself?

A. Do I what?

Q. Go out on the picket line?

A. Why, the first month of the strike I believe I was on the picket line every day, that is in an official capacity.

Q. Have you been on the picket line since then?

A. Not since the National Guard came in, no. They chased me out of the picket line.

Q. How often were you on the picket line? Until the Guard came in? They did not come in until July.

A. I was on the picket line five or six times a day, sometimes I stayed all night.

Q. At what plant?

A. Corrigan-McKinney.

Q. Did you ever carry a stick?

A. No, sir.

Q. Club?

A. No, sir.

Q. After the strike was called, was it that you went out on a strike?

A. Yes.

Q. You have not asked for your job back since then?

A. No, sir, I don't think it is any use for me to ask for my job back.

Q. Well, you are still out on strike, are you not?

A. I am still out on strike, still continue to be.

MR. DAY: That is all.

(Witness excused.)

MR. HOSKINS: Mr. MacMeans.

DAVID MAC MEANS

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Hoskins) Will you state your full name?

A. David R. MacMeans.

Q. Where do you live, Mr. MacMeans?

A. 9416 Pratt Avenue.

Q. Have you ever worked for the Republic Steel Corporation?

A. I worked for the Republic Steel Corporation twice and hold ten year seniority.

Q. When did you start to work?

A. March 14, 1927.

Q. Is that in the old Corrigan-McKinney division?

A. Yes, sir.

Q. How long did you work there then?

A. I worked until sometime in May, 1932.

Q. Then when did your second period of employment start?

A. I started July 23rd, 1935.

Q. And worked how long?

A. Until the 22nd of May.

Q. Did I understand you to say that you carry ten-year seniority?

A. I was given vacation pay in 1936 for five years' seniority and I have vacation pay coming in 1937 of eight days. That is equivalent of ten years' seniority.

Q. What is your job down there, Mr. MacMeans?

A. I am a catcher.

Q. Catcher?

A. Yes, sir.

Q. Do you belong to the CIO?

A. I joined the CIO on the 29th day of April, 1937.

Q. Did you start wearing your button as soon as you joined?

A. No, sir.

Q. When did you start wearing it?

A. I was wearing—working day turn the week that I joined the CIO. The next week I was working at night.

Q. Did anyone say anything to you about the CIO button you were wearing?

A. Well, one of the boys came along and he said, "You are a hell of a CIO member." He said, "Why don't you put on your button and be like the rest of us?" "Well," I said, "I don't know," I said, "whether to put the button on or not."

A. "Well," he said, "Go ahead. Put it on. You don't need to be afraid. You haven't anything to be afraid of." I said, "Certainly I haven't anything to be afraid of." So I put the button on and went across the mill and ran into Mr. Lauton.

Q. Who is Mr. Lauton?

A. Mr. Lauton is the night foreman.

Q. Go ahead.

MR. DAY: I want to object to the conversation with Mr. Lauton on the grounds already stated, no authority to act for or speak for the Respondent.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. Mr. Lauton said, "At last you have joined the Army, have you?" And I said, "Yes. Why shouldn't I join the Army? Everybody else belongs. Why shouldn't I?" He said, "You ought to have more sense than to belong to an organization of that kind." I said, "Well, the rest of the boys have joined and I think I will go along with the rest of them. I belonged to two or three armies now. This army is going to win. The rest have failed." I had numerous conversations with Lauton in regard to the C. I. O. and the Steel Workers Organizing Committee.

Q. Were these before or after the incident you just related?

A. Well, he talked to me about the C. I. O. before they come in. He said they had no business to come into the plant, that the Company should have kept them out before they had a chance to get in. Of course, he being the foreman and I only being an employee, I had to keep my mouth shut and take a chance. I thought that was the best thing for my own interests. A man sometimes has to keep quiet when he would like to say things that he knows would probably be carried to the higher-ups.

Q. Do you know Mr. Eckert?

A. Mr. Eckert is my foreman.

Q. Did you ever have any conversations with him about your membership in the C. I. O.?

MR. DAY: Same objection on the same grounds.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. Well, Mr. Eckert and I was pretty good friends. Mr. Eckert is 20 years older than I am and he classed me the same age as himself. He said, "You know we old fellows ought not to join an organization of that kind." I didn't say much about it at that particular occasion but later on, it was a week subsequent, about a week, I put my button on. I was on the afternoon turn. That was the week before the strike. It was some time about the week of May. Oh, I imagine around about, well, the week before the strike, anyhow, some time around about the 20th of May, he came in in the afternoon turn. He said, "I see you have got one of those God damn buttons on." I said, "Yes. What about it?" "Why," he said, "a man of your intelligence ought to have more sense than to put a button on like that." He said, "Furthermore, you are too old to have a thing like that on you." I said, "Why do you say that?" He said, "Well, you know, you have been through two or three strikes, you know what you get out of them. You know what that Lewis bunch is." I said, "Well, I see all the rest of the fellows around here" and there were eight or ten men standing there that had C. I. O. buttons on. "Well," I said, "all of these fellows have a button on." He said, "Well, that is up to them. They are a lot younger than you are." I said, "I don't see any difference. I have always taken care of my job and done my work." He said, "That is granted as far as that is concerned but when a man gets your age, you ought to use a little bit of judgment." I just laughed and walked away.

Q. Did you have any conversations with him after that time?

A. Why, the next week when we went on day turn, I went into the office one morning and Mr. Kredel was there. He asked me to sign a card for the Red Cross and donate a dollar, which I did.

Mr. Eckert was sitting there. He said, "That is not the only money we are going to get out of you this week. We are going to get some more money." Well, I didn't know what it was all about. I didn't pay much attention to it. I got up and went back to my work and a couple of days later, I think it was, Wednesday at 11 o'clock in the morning, I was working, and the rougher came over and he said to me, "Louie wants to see you in the office." I said, "What does he want with me?" And he said, "You will find out when you get in there. You better get in there and see what he wants." So I handed the tongs to him and walked in the office and Eckert said to me,—well, there is a kneehole desk right there, quite wide, and the office clerk sat on one side and Mr. Eckert sat on the other side and I noticed that on the side that the office clerk was supposed to have been sitting, there was a pencil and a card and Mr. Eckert said, "How would you like to sign that card?" Then I said, "What card is that?" He said "that card that is on the table." He said, "Sit down and sign it." I said, "Why should I sign it? I belong to the C. I. O. I don't see why I should sign that. I don't know what it is in the first place." He said, "Why that is the Republican Employees Association."

Q. Mr.—Just a minute.

MR. DAY: We want the same objection to anything about the Employees Association already made.

TRIAL EXAMINER LINDSAY: Objection overruled.

MR. DAY: And for the same reasons.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. HOSKINS: Will you mark this Board's Exhibit 105 for identification?

Q. I show you Board's Exhibit for identification No. 105 and ask you if the card he asked you to sign at that time was similar to that one.

(Thereupon the document above referred to was marked Board's Exhibit No. 105 for identification.)

A. That is identical, the same kind of a card.

MR. HOSKINS: I offer that in evidence, Board's Exhibit 105.

MR. DAY: What is on the back?

MR. HOSKINS: That will be brought out in the further testimony. I will offer it without, if you wish. Do you have any objections?

MR. DAY: We object to that on the same ground we objected to anything else in connection with this organization.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception. Board's Exhibit 105 received in evidence.

(Thereupon the document previously identified as Board's Exhibit 105 was received in evidence.)

MR. HOSKINS: Miss Reporter, will you read to Mr. MacMeans where he was?

(Previous answer read by the Reporter.)

A. (Continued) I questioned him what the Republic Employees Association was. Who was behind it. He said, "Why the men are starting this of their own volition. It is going to be an outside organization" and I, of course, laughed again because I figured I am, I got to be very careful of what I do or say.

MR. DAY: I move that be stricken out, what he figured, we are not bound by what he figured.

A. Well, later on you will ask me all those things and I thought I would explain it to you in the first place.

MR. HOSKINS: Just a minute.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception. Go ahead.

THE WITNESS: Where was I, young lady?

(Answer read.)

A. (Continued) He further went on to say that he thought for my best interests it would be advisable for me to sign it. He needed somebody to start. He thought he would pick on me to start it. I said, "Well, Louie, I been among the last to join the C. I. O. and if I have to join that, I will be among the last to join that." And with that I walked out of his office.

Q. Did you have any further conversations on that day about your membership in the C. I. O.?

A. Well, it seems to me it was that same afternoon he came along while I was standing talking to Mr. Bankey, who is Mr. Krause's assistant on the day turn, and he said, "I would not talk to that fellow if I was you, Carl, he is a Russian." I said, "What do you mean, a Russian?" He said, "You know what I mean." And he kept on going and the next day he said, "I always figured you were a pretty good fellow to get along with, to be with, but now I find out you are a good fellow to stay away from." He didn't give me an opportunity or chance to say anything to him that day; he just kept on walking.

Friday afternoon he said, "Well, I will be rid of you now." He said, "Next week you will be on the night turn and I won't see you again for four weeks." He said at that time, "You better make up your mind to join the Republic Employees Association." He said, "Because all of you fellows are going to belong to it before the end of May." "Well," I said, "maybe when all belong, I will belong."

Q. Now, were you working on the day the strike was called, Mr. MacMeans?

A. I was going to work at 11 o'clock that night.

Q. Did you go?

A. No. I put my working clothes into the car and started down to the mill, got down to the top of the hill and I found that the boys were all standing there and I asked what the trouble was and they said there was a strike on. Naturally I figured the best thing for me to do was to turn around and go home.

Q. Have you been back to the mill since then to try to get your job?

A. Well, as long as the strike was on and the conditions in the Republic Steel Corporation's plant are such as they are, I am not going back until the strike is settled.

Q. Has anybody been to your house to try to get you to go back?

A. Well, Bankey came to my house one day and he left his address on the back of some night club card to give to me.

Q. Who is Mr. Bankey?

A. He is first assistant roller on the day turn. He is the man who is able to recommend the hiring and firing of men to the foreman, Mr. Eckert.

MR. DAY: I move to strike it out.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

Q. Did anybody else come to your house?

A. Mr. Eckert came to my house several weeks after the strike was on, I was on night picket duty, and there was a man by the name of Kavanaugh, and I just came home about 1:30 or 2 o'clock in the afternoon and I was pretty tired and I thought I would get a couple of hours rest and we live all on one floor, I was laying there, I couldn't go to sleep. I was really too tired to sleep but I heard somebody rap on the door and the wife wanted to know what he wanted and he said, "Is Dave home?" My wife said, "Yes, he is laying down." He said, "What is he doing?" She said, "He is on picket duty." He said, "What is he doing that for?" My wife said, "Well, he is on strike. He figures he has a right to do picket duty." He said, "Is he getting paid for it?" My wife said, "No, he is not getting paid for it." He said, "I understand that pickets get a dollar and a quarter a day."

MR. DAY: Who was this?

THE WITNESS: Kavanaugh, night roller.

MR. DAY: I object. Kavanaugh has no authority.

THE WITNESS: Kavanaugh has the right to recommend the men.

MR. DAY: I object to it.

TRIAL EXAMINER LINDSAY: Overrule the objection; let the record show an exception.

Q. Go ahead.

A. My wife invited him to come into the room and she came into the bedroom and she said to me, "There is a man here that wants to see you." I said, "I heard him." She said, "Do you want to talk to him?" I said, "Yes, I will come out and talk to him." He said, "Well, I better go downstairs and get Louie to come up." Well, I got up and dressed; in the meantime, Mr. Eckert and Mr. Kavanaugh had come back upstairs and I walked into the room and Kavanaugh was smoking a cigarette and I said, "Give me a cigarette, Bill, will you?" And he pulled a cigarette out of his pocket and Mr. Eckert pulled a nice cigar out of his pocket and lit it up and started to smoke. I said, "Well, Louie, what can I do for you?" "Well," he said, "I have got a little petition here in my pocket I would like to have you sign." I said, "What is it all about?" "Well," he said, "we want you fellows to come back to work. You want to come back to work, don't you?" "Certainly I want to go to work. Why not? I don't mind working. I have to earn a living." He said, "It doesn't make any difference about your C. I. O., you can still be a C. I. O. man and sign this petition and go back to work. We don't want to break any picket lines. In fact," he said, "I would not break a picket line." He said, "You know when fellows get as old as you are, they ought to use a little judgment about what kind of organizations they join." I said, "Let me look at that petition, will you?" At last I looked at it and I saw 10 or 15 names, organization men who was still on strike. I think the majority of fellows whose names was on the petition are still out. I said, "I don't see why I should sign this, Louie." He said, "All it says on here, 'We, the undersigned employees of the Republic Steel Corporation want to go back to work.'" I said, "I want to go back to work but I want to go back to work under

Union conditions, when conditions are better than they have been in the plant." "Well," he said, "You know how it is. We got to get this list of names here, get you fellows started, so we can get going and let those fellows fight it out down in Washington. Let the Government and C. I. O. fight it out. They are the ones who should fight it out, not the working men." I said, "Well, I don't know about that." He said, "You know how it is. Now," he said, "when you go back," he said, "maybe whether you go back under the C. I. O. or whether you have to go back without the C. I. O.," he said, "chances are you are pretty old and the chances are you will have to take a physical examination." "Well," I said, "I don't know. I was physically able until the 26th day of May" and I said, "I am still physically able." I said, "I always did my work. I was never drunk and I never lost any time." I said, "That is proven by the Republic Steel Corporation's recognizing my seniority under the Corrigan-McKinney system." "Well," he said, "if I were you, I would sign that, because they are liable to find some flaws in you. You know what that means. It don't take much to find flaws in a fellow when he gets up a little bit." He said, "You know fellows like you and me are not as young as we used to be." I said, "Well, I would like to have three or four days to think that over, Louie." My wife turned to me and she said, "If I were you, I would sign it." I said to her, "Grace, you don't know what this means." I said, "I do. I have been through this same kind of thing before" and I said, "If I sign this paper, why I am signing my rights away" and I said, "These men who have signed it, have signed it under duress. The only reason they have signed it, they are afraid they are going to lose their jobs if they don't." I said, "I think this much of the National Labor Relations Board, I don't have to sign it and still I won't lose my job." She said, "If you feel that way, you better consider it." I said, "You better give me your name and address, Louie, and I will think it over." He handed me a card with his name and address on it. I think it is 13 Magnolia Drive, Euclid Beach.

Q. I show you Board's Exhibit 105 and ask you if that is the card he gave you?

A. Yes, sir. He said he was staying at Euclid Beach at that time. That was some time in the latter part of June.

Q. Do you know Mr. Lohman?

A. Mr. Eckert reports of our conversation, he said to me, "You know Lohman, don't you? You know how many men he signed up in the Union?" And he said, "You know what he turned out to be." He said, "He turned around and gave all the fellows' names to the Company." I said, "Oh, yes, that is the fellow that had that to break the strike for you."

MR. DAY: I object to this.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. I said, "That is the fellow that helped to break a strike for you in 1919 and then as soon as you could replace him with a good man, you let him go," and he said, "That is right. That is the fellow."

Q. Was that about the end of your conversation with Mr. Eckert that night?

A. I had so many conversations with him regarding Unionism and so on that it is pretty hard for me to remember everything that he did say to me.

Q. Going back for a moment to this card you were asked to sign, which has been introduced as Board's Exhibit No. 105, which refers to Republic Employees Association, has this Association held any meetings?

A. Why, it seems to me as though they held two meetings. Of course, right at that particular time I was not either interested in the C. I. O. or interested in the Company organization. They posted notices through the mill in regard to these Republic Employees Association meetings and I just didn't bother to attend them but I know that on two different occasions they had notices up on the bulletin board in the mill.

Q. Did you read those notices?

A. Yes, they said that—one meeting was to be held in the hall on Broadway, corner of Finn Street and the other one was to be held at the company garage.

MR. HOSKINS: That's all.

MR. DAY: We move to strike out all conversations between this witness and Eckert, and between this witness and Cavanaugh, between this witness and Lawton, for the reasons stated in the objections to those conversations.

TRIAL EXAMINER LINDSAY: The motion is denied, let the record show an exception.

Cross Examination

Q. (By Mr. Day) Mr. MacMeans, you joined the CIO in April, 1937?

A. The 29th day of April, 1937, yes, sir.

Q. And did you work for Republic until the strike, May 26th?

A. Yes, I did.

Q. And then when the strike came on, you went out on strike?

A. Yes, sir.

Q. And have you been active on the picket line?

A. Mister, will you please define what you mean?

Q. Have you been out on the picket line?

A. You define "picket line" to me.

Q. Have you been out on the picket line?

A. First, you define what you term "picket line" and then I will tell you what I have done.

Q. No, I think I want you to answer that question, whether you have been out on the picket line. I am not going to define it unless the Examiner says I have to. I think "picket line"—

A. I don't understand what you mean by "picket line."

Q. I think "picket line" has a well-known meaning.

A. First I want to know whether you mean the picket line right at the gate.

MR. DAY: Will you read the question to the witness, please?

(The last question read by the Reporter as follows: Q. Have you been out on the picket line?)

Q. That is my question.

A. I have never picketed at any gate except one.

Q. And when was that?

A. And I never carried a club and I never had a stone in my hand.

Q. When was it that you picketed?

A. Well, I picketed the main gate.

Q. And when was that?

A. That was—Oh, I couldn't give you the date, I don't just exactly know the date.

Q. Corrigan-McKinney plant?

A. Yes, sir.

Q. Well, have you acted as picket any place else since the strike started?

A. Why, every man that was—

MR. HOSKINS: I object, if the Court please, just a moment.

MR. DAY: What is the objection to that?

A. Because I was—

MR. HOSKINS: Just a minute.

TRIAL EXAMINER LINDSAY: I will overrule the objection. Let the record show an exception.

MR. DAY: Exception.

A. I was not actively engaged on the picket line.

Q. My question is—

A. I was detailed at the commissary, that is why I asked you to define "picket."

Q. Where was the commissary located?

A. The commissary is located at 4336 Broadway.

Q. How far is that from Corrigan-McKinney plant?

A. Well, I should say that is a good 500 yards from the Corrigan-McKinney plant.

Q. Were you there most of that time?

A. Yes, sir, I was there every night.

Q. And since the strike has been called, you have not asked for your job back, have you?

A. Well, I am still on strike.

Q. And you haven't asked?

A. My job is still there.

Q. You haven't asked for your job back, have you?

A. I don't need to ask for my job.

Q. Well, you haven't asked for it, have you?

A. Certainly not. Why should I?

MR. DAY: That is all.

THE WITNESS: Thank you.

MR. DAY: You are welcome.

(Witness excused.)

(The documents above referred to were marked as Board's Exhibits Nos. 106, 107, 108, and 109, for identification.)

MR. LAUTER: I offer Board's Exhibit for identification 106 in evidence, as Board's Exhibit 106, consisting of a certified statement filed with the Securities Exchange Commission by Republic Steel Corporation on June 30th, 1937.

I offer in evidence as Board's Exhibit 107 the document marked Board's Exhibit 107 for identification, being a certified copy of a statement filed with the Securities Exchange Commission by the Republic Steel Corporation on May 20, 1935.

Offer—Board's Exhibit No. 108
Offer—Board's Exhibit No. 109

I offer in evidence as Board's Exhibit 108 a document marked as Board's Exhibit 108 for identification, being a certified copy of a statement filed with the Securities Exchange Commission by Republic Steel Corporation on October 21, 1936.

I offer in evidence Board's Exhibit 109, a document marked Board's Exhibit 109 for identification, being certified copy of a statement filed with the Securities Exchange Commission by Republic Steel Corporation on March 8, 1937.

MR. DAY: May I inquire the purposes of offering these exhibits?

MR. LAUTER: The exhibits speak for themselves, they are a statement of the nature, business and activities of the corporation, the corporate set-up, and other data contained therein. I might point out for the record that respondent specifically denied that it was engaged in inter-state commerce. It is in connection with the nature of the business, activities of the respondent, that these exhibits are being offered.

MR. DAY: In the first place, we object—respondent objects to Board's Exhibits 106 on the ground that in the form presented, it is not admissible in evidence. And second, upon the ground that the contents of the exhibit have no relevancy to any issue presented by the complaint or the answer in this case.

TRIAL EXAMINER LINDSAY: May I see it?

MR. DAY: And third, upon the ground that the exhibit does not, of itself, in the form presented, prove or furnish prima facie proof of the facts stated therein.

TRIAL EXAMINER LINDSAY: Well, you do not contend, Mr. Day, that your company gave misleading facts?

MR. DAY: Oh, no.

TRIAL EXAMINER LINDSAY: To the Commission?

MR. DAY: Oh, no, no. Now that question has been asked—

TRIAL EXAMINER LINDSAY: Well, the objection is overruled to all of them. Let the record show an exception. That Exhibit 106 is received in evidence.

(The document previously marked as Board's Exhibit No. 106 is received in evidence.)

MR. DAY: Let the record show that the Examiner has asked me whether I claim that the Republic Corporation has given misleading facts in that exhibit, and I certainly do not claim that, and I cannot think of anything I have said in the objection to convey that impression.

TRIAL EXAMINER LINDSAY: Well, I got it from one of your statements, and if I got it wrong, I am sorry.

MR. DAY: Yes, well, all right.

TRIAL EXAMINER LINDSAY: I will also state that in the record.

MR. DAY: We make the same objection on the same grounds to Board's Exhibit 107, Board's Exhibit 108, Board's Exhibit 109.

TRIAL EXAMINER LINDSAY: The objections are overruled, Board's Exhibits 107, 108, 109 are received in evidence.

MR. DAY: Exception. Let the record show that we object on the general ground that each and every one of those exhibits are incompetent, irrelevant, and immaterial and have no bearing upon any issue presented in this hearing.

TRIAL EXAMINER LINDSAY: Let the record show that the objection is overruled and the Respondent has an exception.

MR. DAY: And may I have a motion to strike out and exclude each of the exhibits upon the same ground?

TRIAL EXAMINER LINDSAY: Let the record show that the motion is denied, and exception.

MR. DAY: Now, to be specific, in view of the statement made by counsel for the Labor Board, we object to these exhibits and to each of them, upon the further ground that they do not tend in any way at all to show or prove that the respondent is engaged in inter-state commerce or foreign commerce.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. DAY: Exception.

(The documents previously marked as Board's Exhibits Nos. 107, 108, and 109, were received in evidence.)

(The documents above referred to were marked as Board's Exhibits Nos. 110, 111, and 112, for identification.)

MR. LAUTER: I offer in evidence Board's Exhibit 110 and 111, two documents marked Board's Exhibit 110 for identification, and Board's Exhibit 111 for identification.

MR. DAY: Well, now, this Board's Exhibit No. 110 we object to it on each and all of the grounds already stated in the record with relation to the other exhibits just admitted, and upon the further ground that this appears to be some report of Standard Corporation records, published June 7, 1937, by Standard Statistics Company, Inc., and the respondent cannot possibly be bound by any statement in that publication. It is in no way responsible for it.

TRIAL EXAMINER LINDSAY: The objection is overruled, let the record show an exception.

MR. DAY: Exception. And may it show a motion to strike, on the same ground?

TRIAL EXAMINER LINDSAY: Wait until we

get through admitting it first. Objection overruled, let the record show an exception. Board's Exhibit No. 110 is received in evidence.

(The document previously marked as Board's Exhibit No. 110 is received in evidence.)

MR. DAY: And a motion to strike out and exclude Board's Exhibit 110 is now made upon the same grounds stated in the objection to it.

TRIAL EXAMINER LINDSAY: Motion denied. Let the record show an exception.

MR. DAY: Exception. I now make the same objection on the same grounds to Government Labor Board's Exhibit No. 111.

(The record was read by the Reporter.)

MR. LAUTER: I do not think there is a statement about the admission of Exhibit 111.

MR. DAY: That is the next thing he is going to read.

TRIAL EXAMINER LINDSAY: All right, the objection is overruled. Let the record show that Board's Exhibit No. 111 is received in evidence.

(The document previously marked as Board's Exhibit No. 111 is received in evidence.)

MR. DAY: Exception. And the respondent now makes the motion to strike out and exclude Board's Exhibit 111 upon the same ground stated in the objection to its admission.

TRIAL EXAMINER LINDSAY: The motion is denied. Let the record show an exception.

MR. DAY: Exception.

MR. LAUTER: I now offer as Board's Exhibit No. 112 a document marked at present Board's Exhibit for identification 112.

MR. DAY: I want to object to this, Board's Exhibit 112, on the ground that it is incompetent, irrelevant, and immaterial as evidence in this case; that it has no relation to or bearing upon any issue presented by the complaint or by the complaint and the answer filed thereto; that there is no evidence to connect it with the respondent in any way, as making the respondent responsible for it, or to show that the respondent authorized or ratified it, or that we had anything to do, any chance to examine it or anything to do with it.

MR. LAUTER: Let the record show that opportunity to examine it—

MR. DAY: Well, I mean—opportunity to examine it now, yes, I am looking at it now. There is nothing to show that the respondent had any participation in these proceedings here.

MR. LAUTER: I do not know what Mr. Day is referring to when he says, "these proceedings." This is a document being offered as an official publication by the Government printing office of the United States Government.

MR. DAY: This is a summary of evidence introduced at a hearing before the National Labor Relations Board, bearing upon the factual status of the National Labor Relations Act, and the reasonableness of the regulations embodied therein. We certainly had nothing to do with this hearing, were not present, were not notified, did not cross examine or take any part in it. We certainly object to this upon all those grounds, and on the ground that I cannot see how we can be made responsible for that, or what it has got to do with the case.

TRIAL EXAMINER LINDSAY: The objection is overruled; let the record show an exception. Board's Exhibit 112 is received in evidence.

(The document previously marked as Board's Exhibit 112 is received in evidence.)

MR. DAY: Exception. Then the respondents move to strike out and exclude Board's Exhibit 112 upon the same grounds stated in the objection to it.

TRIAL EXAMINER LINDSAY: The motion is denied, let the record show an exception.

MR. DAY: Exception, and Respondent gives notice at this time that if the matter referred to on the front page of this exhibit is to be considered a part of this case, we respectfully reserve the right to be heard upon that subject in our defense.

MR. LAUTER: At this time, if it please the Examiner we respectfully call your attention to Board's Exhibit 112, pages 57 to 70.

MR. DAY: Well, now, to the extent that this was called to the attention of the Examiner specifically and separately by counsel, we object to that being received and considered by the Examiner or the National Relations Board, upon the grounds already stated in our objections to the exhibit and our motion to strike it out.

TRIAL EXAMINER LINDSAY: Well, one at a time. Now, the objection is overruled and let the record show an exception.

MR. DAY: Exception.

TRIAL EXAMINER LINDSAY: And your motion to strike out is denied and let the record show an exception.

MR. DAY: Exception.

MR. LAUTER: At this time, if you please, Mr. Examiner, I move to amend the complaint by striking out from paragraph four—

TRIAL EXAMINER LINDSAY: May I have that complaint up here? Paragraph four?

MR. LAUTER: That is right. The following names: Joseph L. Corey, Peter Fontes, Charles Bikoski, Tom Douglas, Michael Wucinick.

MR. DAY: We object.

MR. LAUTER: I move to amend the complaint further by striking from paragraph five of the complaint the following names: Feim Bezo and Paul Poulos.

I move to amend the complaint further by striking from paragraph six the following names: James R. Airwyke.

I move to amend the complaint by striking from paragraph seven the following names: Nicko Brnicevich, Vergo Cernan, John Cholas, Tom Dean, Steve Kohlis, Guy Kovacevich, and William Peak.

I move to amend the complaint further by striking from paragraph eighteen the following names: Anthony Pasquale, John M. Carnahan, William Shank, Sam Maros, Douglas Lee, Frank Cykon, Jr., Paul Lomplak, John Siska, Walter L. Bingham, Gerald Driscoll, and Henry Redmond.

I move to amend the complaint further by striking from paragraph No. 20 the following names: Frank J. Barany, John Bochu, Dan Bott, Walter Burke, Gustav Robert Carlson, John E. DeLong, Robert Dunker, James Filbert, Daniel Foley, Ernest M. Franks, Frank Higgins, Julius Ignat, John J. Janci, Westley I. Kennedy, John Klasosky, Joseph C. Miller, and Andy L. Petrencik and Martin Petrencik, Rok Prus, Walter Raithel, Mike Romonko, Louis Schettler, Gilbert Shirey, Ernest Sotiros, Joseph Talley (Tulley), Vasile Urs, Gust Valantasis, Draia Vasile, Joseph S. Voytko, Joseph C. Voytko, Arja C. Wagner, and Mat Yosenaric and James Yurchison and Joseph Yurchison.

MR. DAY: What is the motion that is before the Examiner?

(The motion was read.)

MR. DAY: We object to the complaint being amended as prayed for, and ask that the complaint be dismissed as to the persons named by the counsel for the National Labor Relations Board.

(The motion was read by the Reporter.)

MR. LAUTER: Well, I would like to have a ruling on my motion. I object to having a motion made to dismiss with respect to these names, on the ground that I do not wish at this time to have the complaint amended by dismissing the cases with respect to these particularly named individuals. They are merely being withdrawn from this action. Mr. Day's amendment to my motion, if permitted to be received by the Examiner and ruled favorably upon, would affect the named individuals, preventing us from proceeding before the Board with respect to their respective cases.

MR. DAY: I want to call to the Examiner's attention the fact that there has been a hearing upon the complaint as to the men whose names he has read into the record.

MR. LAUTER: There has been no hearing on any of these cases, if you please, no evidence of any kind has been offered with respect to the particularly named individuals.

TRIAL EXAMINER LINDSAY: I will grant your motion to strike them from the complaint and overrule the objections of the respondent's attorneys, and let the record show an exception.

MR. DAY: Exception. And you further overrule our motion to dismiss the complaint as to each and all of those whose names were read into the record by Mr. Lauter?

TRIAL EXAMINER LINDSAY: Yes, it is merely that they are stricken from the complaint.

MR. DAY: All right, we except.

MR. LAUTER: At this time I should like to reserve the right to introduce testimony pursuant to a subpoena duces tecum issued on the Fidelity Casualty Company of New York, that subpoena issued sometime ago has not been honored as yet. It is my plan to send them a wire advising them that unless they honor the subpoena within a reasonably short time, we shall proceed immediately to enforce the subpoena.

MR. DAY: Might I ask whether that is at Canton or Youngstown?

MR. LAUTER: Well, I intend to send them the wire on the subpoena at Canton, to the effect that if they should find coming from New York to Canton would be a little more difficult than coming to Cleveland, I should like to reserve my right to introduce that testimony, prior to the determination of this case, at any time.

TRIAL EXAMINER LINDSAY: Yes, well, as I understand it, you are resting your case at the present time, subject to the right to produce this particular type of testimony to which you have referred?

MR. LAUTER: That is correct, Mr. Examiner, and as soon as I have finished reserving my right, it is my intention to rest my case before the Board.

TRIAL EXAMINER LINDSAY: Yes, I can see no reason for objecting to that. Then, of course, you also reserve the right to put in rebuttal, if you so desire.

MR. LAUTER: Yes.

MR. DAY: We would like to give notice at this time that before starting with our defense in Canton on Wednesday, we would like and we will submit to the Examiner a written motion to dismiss.

TRIAL EXAMINER LINDSAY: You will submit at that time?

MR. DAY: We will at that time, yes.

TRIAL EXAMINER LINDSAY: When I call the hearing to order at Canton?

MR. DAY: Yes, your Honor.

TRIAL EXAMINER LINDSAY: You will make that motion to dismiss?

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: The hearing is now adjourned until 10 o'clock a. m. Wednesday, September 1st, to the County Courthouse at Canton, Ohio, at which time the respondent company will be permitted to start its defense; that is, we will reconvene this hearing at Canton, Ohio, Wednesday, at 10 o'clock a. m., September 1st at the Courthouse, courtroom, No. 2 in Canton, Ohio.

(Whereupon, at 5:10 o'clock p. m., August 30, 1937, the hearing in the above-entitled matter was adjourned to 10 o'clock a. m., September 1, 1937.)

Courtroom No. 1
Stark County Courthouse
Canton, Ohio
Wednesday, September 1, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., Thomas F. Veach, Esq., and H. C. Pontius, Esq. (Canton, Ohio.)

(Thereupon, at 10 o'clock a. m. Wednesday, the 1st day of September, 1937, counsel for Respondent filed with the Examiner the following written motion to dismiss complaint and the charges therein contained:)

MOTION BY RESPONDENT, AT THE CONCLUSION OF THE EVIDENCE INTRODUCED BY THE NATIONAL LABOR RELATIONS BOARD, TO DISMISS COMPLAINT AND THE CHARGES THEREIN CONTAINED

Now comes Republic Steel Corporation, the respondent herein, and, at the conclusion of the evidence introduced by the National Labor Relations Board in support of the complaint herein, moves the National Labor Relations Board and the Trial Examiner to dismiss the complaint herein and each and all of the charges therein set forth, for the following reasons, to wit:

1. The evidence introduced in support of the complaint herein does not establish nor tend to establish that, at the time of the occurrence of the alleged unfair labor practices complained of, or any of them, the respondent was engaged in inter-state or foreign commerce.

2. The evidence so introduced does not establish nor tend to establish that any of the alleged unfair labor practices complained of occurred in or directly affected interstate or foreign commerce, or imposed a burden upon or obstructed the flow thereof.

3. The evidence so introduced does not establish nor tend to establish that any of the persons mentioned in the complaint herein was engaged in interstate or foreign commerce or in acts or conduct which directly affected such commerce, or imposed a burden thereon or obstructed the flow thereof.

4. The evidence so introduced does not establish nor tend to establish that any of the acts complained of caused or created a labor dispute.

5. The evidence so introduced does not establish nor tend to establish that the Steel Workers Organizing Committee, which filed the charges upon which the complaint is predicated, is a labor organization as defined by Section 2, Subdivision 5, of the National Labor Relations Act.

6. There has not been introduced any competent or relevant evidence establishing or tending to establish that the respondent did in fact commit or attempt to commit any of the acts described in the complaint and alleged to be unfair labor practices upon its part.

7. The evidence so introduced does not establish nor tend to establish that the respondent has in fact engaged in any unfair labor practice in violation of the National Labor Relations Act.

8. The National Labor Relations Board, upon the evidence so introduced, has no jurisdiction to consider or determine any of the charges set forth in the complaint herein.

9. Any order or finding against the respondent, upon the evidence so introduced, would deny to the respondent due process of law.

REPUBLIC STEEL CORPORATION,
Respondent,
By (sgnd) T. F. PATTON,
LUTHER DAY,
THOS. F. VEACH,
Attorneys for Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order and I think the record shows that we adjourned to courtroom No. 2 in the County Courthouse at Canton, Ohio. It has been changed this morning, from room No. 2 to room No. 1, so that we are now holding the hearing in courtroom No. 1 of the County Courthouse.

MR. DAY: I would like to file before the Examiner and before the Labor Board, and place in the record, a motion by respondent to dismiss. I have already given copy to counsel for the Labor Board.

(Counsel submits written motion.)

TRIAL EXAMINER LINDSAY: The motion to dismiss the complaint is denied.

MR. DAY: Note an exception. We now repeat all of the motions to strike evidence which have heretofore been made and which have thus far been overruled.

TRIAL EXAMINER LINDSAY: Your motion is denied. Let the record show an exception.

WALTER SCHLAUPITZ

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.
A. Walter Schlaupitz.
Q. Where do you live?
A. 1813 Tuscarawas Street, Canton, Ohio.
Q. What is your occupation?
A. Commercial photographer.

Q. I will show you a photograph marked Respondent's Exhibit No.—It says "Board's Exhibit." It ought to be Respondent's Exhibit.

MR. LAUTER: Yes.

MR. DAY: Mark that Respondent's Exhibit No. 3.

(The document above referred to was marked as Respondent's Exhibit No. 3 for identification.)

Q. I show you Respondent's Exhibit No. 3 and ask you whether or not you took that photograph?

A. Yes, sir.

Q. When did you take it?

A. July 20, 1937.

Q. And is that photograph a correct representation of what it shows there?

A. It is.

MR. LAUTER: One second. I object to the form of the question and move that the answer be stricken. I have made a motion.

MR. DAY: He objected to the question.

(The last question and answer was read by the Reporter.)

MR. LAUTER: I object to that question and move that the answer be stricken out.

TRIAL EXAMINER LINDSAY: I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

MR. DAY: That is all.

This photograph has already been offered in evidence as Respondent's Exhibit 3 before the Labor Board, but some question was raised about it, so we called the photographer in.

TRIAL EXAMINER LINDSAY: Was it received in evidence?

MR. DAY: The record shows that it was received in evidence.

Cross Examination

Q. (By Mr. Lauter) When did you say you took this photograph?

A. July 20, 1937.

Q. Who requested you to take the photograph?

A. Republic Steel.

Q. Who at Republic Steel requested you to take the photograph?

A. I believe his name is Mr. Coldren.

Q. What did they ask you to take a photograph of?

A. I think it was Cleveland Street and Oberlin Road.

Q. Did they ask you to take a photograph of the street?

A. The surroundings there in that territory.

Q. Were any of the Republic officials with you when you took the photograph?

A. Mr. Coldren.

Q. Did he suggest to you the angle that you ought to take the picture from?

A. Well—

Q. You understand my question, don't you?

A. The angle that he wanted?

Q. That is right.

A. He showed me the spots from where they were to be taken.

Q. Did he ask you to take a photograph of strike headquarters?

A. No.

Q. Do you know where the strike headquarters are in this picture?

A. Yes, sir.

Q. He did not ask you to take a photograph of strike headquarters?

A. No.

MR. LAUTER: That is all.

(Witness excused.)

MR. DAY: Mr. Oberlin.

FRANK L. OBERLIN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) How do you spell your last name?

A. O-b-e-r-l-i-n.

Q. And your first name?

A. Frank L.

Q. Where do you live?

A. 410 Korman Avenue, Northeast, Canton.

Q. Where are you employed?

A. Republic Steel Corporation.

Q. In what capacity?

A. Field engineer.

Q. How many years' experience have you had as field engineer?

A. I have worked for the Republic and its predecessors for 23 years and one month.

Q. Did you make a map, which has been introduced in evidence here and marked Respondent's Exhibit 1?

A. I gathered the data for this map and supervised the making of it in our drawing room.

Q. And the map was made from what data?

A. It was made from the southwest quarter of Section 17, Stark County Engineer's maps on file in the Engineer's office in the County Court House here, and map of the City of Massillon on file in the City Engineer's office at Massillon.

Q. You say it was made under your supervision?

A. That is right.

Q. Is it a correct representation of what it purports to show?

MR. LAUTER: Object to the form of the question.

A. I would say it was.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

Cross Examination

Q. (By Mr. Lauter) How long did you say you were a field engineer?

A. For the Republic and its predecessors, 23 years and one month.

Q. Are you familiar with the area described on this map?

A. I am.

Q. Do you know where the strike headquarters were of the S. W. O. C. during this strike?

A. I know where the building is.

Q. That is what I am asking.

A. Yes.

Q. Do you know where the headquarters are of the Republic Steel Corporation?

A. I do.

Q. When you look from the headquarters of the Republic Steel Corporation to the headquarters of the S. W. O. C., is there anything to block your vision?

A. Not to my knowledge.

Q. You can see from one to the other, is that correct?

A. I would say so.

Q. No obstructions of any kind?

A. No.

Q. Show me the headquarters of the S. W. O. C.

A. It is described on the map as the third lot north of the Republic Steel property, Lot No. 3.

Q. Where are the headquarters of the Republic Steel District Office?

A. Here (indicating).

Q. Now, if you were to look from the Republic Steel District Office to the S. W. O. C. headquarters, is there anything to block your vision?

A. I would not say at any time. You would have to be on the side facing the headquarters.

Q. I am asking you if on this map it does not appear there is something to block your vision?

A. I can see nothing that would block your vision.

Q. Any lines on there which appear to obstruct the vision?

A. No lines on there to my knowledge. They were put on by our Engineering Department under my supervision. There are the street or alley lines.

Q. Do you know if the lines south of Lot 4129 indicate a street?

A. Public alley. It is a 20-foot public alley north of the Republic Steel property as shown on the record of the City Engineer's office at Massillon.

Q. Do you know whether that is paved or not?

A. It is not.

Q. Do you know whether there is grass growing there?

A. I could not say.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

MR. DAY: Mr. Case.

D. W. CASE

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Case, D. W.

Q. Where do you live?

A. Massillon, Ohio.

Q. How old are you?

A. 59 years yesterday.

Q. What is your occupation?

A. I am Manager of the Chamber of Commerce, Secretary.

Q. At Massillon?

A. At Massillon.

Q. How long have you held that position?

A. 14 years, since the—since 1923.

Q. Have you resided in Massillon during all that time?

A. Yes, sir.

Q. Were you in Massillon during the months of April, May, June and July of this year?

A. Yes, sir.

Q. Were you aware of the calling of the strike in Massillon?

A. I was.

Q. About May 26th?

A. I was.

Q. At that time did you hold the same position that you now hold?

A. I did.

Q. After the strike or about the time of the strike, were you a member of the Citizens Committee?

A. No, I was never a member of the Citizens Committee.

Q. Well, were you a member of some group of citizens that took some part in the matters relating to the strike?

A. Well, I was secretary of the Chamber of Commerce, there. I worked with a group.

Q. And about when was that group called together, if you know?

A. Sometime shortly after the strike was called, a small group was—different groups were called together.

Q. What groups were called together of which you were a member or to which you belonged?

A. Well, I functioned as secretary of the Chamber of Commerce and various groups were called in.

TRIAL EXAMINER LINDSAY: Just a minute, Mr. Day. I think this man testified that he did not belong to any group.

MR. DAY: Well, I know he did not belong to any particular group as such, but the record already disclosed his activities in connection with the strike in certain phases.

A. I generally functioned as secretary of those various groups that were called in, advisory groups.

Q. Well, of what groups did you function as secretary in connection with the same?

A. What we called the Citizens Committee.

Q. And when was that Citizens Committee organized or called together, and when did it come into existence?

A. I believe along about May 27th or 28th, the nucleus of that committee was called together, the first part of it.

Q. Will you tell the Trial Examiner the circumstances under which that took place?

A. That group grew out of conferences that were held with various business people around the town, and out of a meeting of the board of directors at which the question of organizing some kind of a committee and finding out some of the particulars about the strike situation, came up, and finally grew definitely out of the fact that the committee or group in its preliminary stage took the matter of the local situation up with various civic groups and those various civic groups—that committee was added to and those various civic groups approved that committee as a sort of hearing committee with the various civic organizations of the city, to keep them informed about the developments.

Q. And who were the members of that group or committee you are now telling us about, at the time of its organization or at its inception?

A. Well, it had at its inception, Mr. J. Lester.

Q. What is his business?

A. He is president of the Massillon Rubber Company in Massillon.

Q. All right.

A. And Mr. Glen Lanham.

Q. What is his business?

A. He is manager of the Erie Chevrolet Sales. Mr. C. E. Boyd, he is a contractor.

Q. All right, who else?

A. I believe Mr. C. M. Shaffer was one of the original—

Q. How do you spell his name?

A. S-h-a-f-f-e-r, I believe. I have the names of that committee here.

Q. If you have them, let me have them.

A. I jotted them down last night. I believe I have them. The citizens committee as at first—as it was first developed was Lester, Boyd, Mr. J. A. Schaidnagle.

Q. What was his business?

A. He is an undertaker, funeral director. Mr. A. A. Ulrich was on that committee.

Q. How do you spell that?

A. U-l-r-i-c-h, he is manager of the Ohio Public Service Company, local resident manager. Mr. Lanham. Mr. J. H. Klinge.

Q. What is his business?

A. He is an official—I don't know just what his business position is, he was formerly an accountant and now an official of the Ohio Public Service Company, local official. Mr. C. M. Shaffer, a lumber dealer, and also Mr. L. B. Beamer was on the original committee.

Q. How do you spell that?

A. Of the Ohio Bell Telephone Company—B-e-a-m-e-r. Then the subsequent additions were Mr. J. V. Hall.

Q. Give the business of each of these men, will you please?

A. He is secretary of the First Savings & Loan Company at Massillon. Reverend C. D. Hess, he is minister at the Methodist Church at Massillon. Mr. G. D. Preshaw, he is a director of Roe Hill Cemetery, and Mr. Tom Poll, well driller. That constituted the entire group, these last four names, after some little time, elapsed.

Q. After the group was organized what, if anything, did they do?

A. Well, for some little time they held various meetings to try to find out what to do. They considered the various phases of the strike situation as they affected Massillon; held various conferences with the city officials, with the Mayor, Chief of Police, consulted with the board of directors of the Chamber of Commerce and members of other civic organizations, sort of kept their ear to the ground to see what was going on.

Q. You say you acted as secretary of that committee?

A. Yes, sir.

Q. Was there anybody that acted as chairman, or anything of that kind?

A. There was finally a chairman, one of the group took the chairmanship. The group was sort of informal and functioned without a chairman up until somewhat late in the proceedings. Mr. J. G. Lester assumed the chairmanship. I think that was along about the 17th or 18th, if I remember correctly.

Q. Of what month, June?

A. June, I believe that is the date. I don't recall the dates, Mr. Day.

Q. Do you recall a meeting of your committee—the committee of which you were secretary—and if I call it "your" committee, please understand I mean the committee of which you were secretary?

A. Yes.

Q. At the Conrad Hotel at Massillon, on May 28th?

A. I do.

Q. Who called that meeting?

A. That meeting was called by the Chamber of Commerce. We called it from our office.

Q. Did the Chamber of Commerce take part in the consideration of any of the phases of the strike, as a body?

A. No, only discussions as to the effect the situation, as it had developed at Massillon, was having upon the community.

Q. State what, if anything, the Republic Steel Corporation had to do with the organization of that committee?

A. I don't know of anything that they definitely and directly had to do with it, officially.

Q. May 28th, at the Conrad Hotel, about what time of the day did that meeting take place?

A. I believe it was either 7 or 7:30 in the evening.

Q. About how many were there?

A. Oh, I would say about 20, possibly 25.

Q. Were any city officials there?

A. Yes.

Q. What city officials were there?

A. City Solicitor Mr. Hardman and Chief of Police Stanley Switter.

Q. Were members of the committee you named a while ago there, or most of them?

A. No, there was no committee, I believe, at that time, but some of the individuals who later became members of the committee were there.

Q. Can you name just some of those who were there?

A. Well, Mr. Lester was there, Mr. Hall was there. I can't be positive about other members of the committee who were there.

Q. Now, just tell the Trial Examiner, please, what took place at that meeting.

A. I think Mr. Lanham was there.

Q. Yes.

A. Mr. Lanham—well, the meeting proceeded along the lines of the reason—of the program which was to be carried out at that meeting, which was worked out in advance, of course, and carried out the purpose, and an expression evolved at the meeting.

Q. Have you any notes there with you, or memorandum, to refresh your recollection as to what took place at that meeting, or can you tell about it without refreshing your recollection?

A. Oh, I can tell you what took place there.

Q. Go right ahead, then, please.

A. Mr. P. J. Bordner, president of the Chamber of Commerce, called the meeting to order.

Q. Bordman?

A. Bordner. Mr. Bordner asked me to state the purpose of the meeting, which I did.

Q. What did you say?

A. I said the meeting had been called for the purpose of giving the Chief of Police and the Mayor, safety director, or anyone connected with the city who desired to take advantage of it, an opportunity to express their views about the strike situation, the status of their attempts to maintain law and order in the city, and so forth, and for the purpose of discussing and getting the city's view of certain things which were said to be going on in the strike area, about which the citizens were much concerned.

Q. Did you state to the meeting what those things were?

A. Yes.

Q. That were going on in the strike area?

A. Yes, I stated—

Q. Just tell the Examiner what you said, as near as you can remember the exact words that you said or the substance of the words.

A. The blocking of the roads.

Q. What?

A. The blocking of the roads leading into the Republic plant, the Union Drawn Steel, and the main Republic plant, two of which roads by the plant extended to other industries.

Q. What streets do you mean?

A. One was Harsh Road; another one was leading down to the Enterprise Aluminum Company past the Republic. Harsh Road led up to two industries beyond there, went past the main entrance of the Republic and also went to the Enterprise Aluminum; the interference with the going to and fro, there, of people who had business at those plants and at the Republic plant. The violent action of the pickets, the fact that they were going armed or at least carrying clubs, and they were, as we understood it, violating the law in various ways.

TRIAL EXAMINER LINDSAY: Now, we don't want your conclusions. State the facts.

Q. (By Mr. Day) I just want to know—Did you say that to the meeting?

A. Yes.

TRIAL EXAMINER LINDSAY: Oh, this is the talk you gave them at the meeting?

Q. This is at the meeting?

A. Yes.

TRIAL EXAMINER LINDSAY: All right.

Q. You said that you said something at the meeting?

A. Also that the fact that in Massillon the two main offices of the Central Alloy district were closed, something which we understood was not the case in other strike centers, at Warren, at Youngstown and Niles. The fact also that it was rumored that the situation was out of control and other details of that character which were the subject of discussion and alarm in the community among the business people of the community.

Q. You said that you stated something about some roads being blocked. Did you state by whom they were blocked, in your remarks?

A. By CIO pickets.

Q. Did you say that in your remarks?

A. Yes.

Q. Have you told the Trial Examiner now about all you can remember about what you said?

A. Well, we cited another instance relating to a meeting at the City Auditorium when a number of men from the Union Drawn Steel Company, we understood about 100 had assembled there by permission of the Mayor or somebody in charge of the building, and that their meeting had been entered by representatives of the CIO and Mr. Morton—the chief had been present when he had spoken to that group—threatened the action that he said they were supposed to take there, saying they were illegal, and that if they were planning to go back to the Union Drawn Steel and so forth, they would send the man up to that lower plant and throw them out, and so forth.

Q. Did you say that at the meeting?

A. These things were all returned there as matters about which the community was concerned.

Q. Please understand that under the rule of the Trial Examiner, all you are to tell now is what was actually said at the meeting?

A. Yes.

Q. All right. Can you tell anything else that was said at that meeting, and who said it?

A. Well, that was the substance of it.

Q. Well, then, who spoke next, if anybody?

A. I beg your pardon?

Q. Who spoke next, if anybody?

A. Mr. Bordner called upon the chief of police to make a statement.

Q. Chief Switter?

A. Chief Switter, yes.

Q. What did the chief say?

A. Well, the chief said that it was true that these things were going on, more violations were taking place, that the CIO pickets were not under control, that he couldn't control them.

A. (Continued) That the C. I. O. pickets were not under control and he could not control them and he said, using his own language, they were a bunch of law violators and Communists and niggers and wops and bastards and son-of-bitches and so forth and so on and that he would like to clean up on them but owing to the fact that he had a very small police force and so forth, he was unable to do anything about it.

Q. Was anything else said at the meeting by anybody?

A. Well, he described his police force, mentioned his lack of fire arms, of gas, of other equipment necessary to control the situation. In fact, he only had 13 policemen for the whole city and so forth.

Q. After the Chief got through did anybody else say anything that you remember?

A. Mr. Hardman spoke, the City Solicitor.

Q. What did he say?

A. My recollection of what Hardman said is, he spoke of the financial situation of the city and he didn't have money to hire special officers and so forth and that it was true that they were under-manned and poorly equipped, and spoke about the difficulty of handling that financial situation with the man power they had and equipment and so forth.

Q. Anything else you remember about that meeting?

A. I think the meeting adjourned shortly after Mr.—I believe he was asked questions, details of the blocking of the road were discussed.

Q. You say he was, who do you mean?

A. Other details back and forth between the Chief and those who discussed it with them about the blocking of the road and so forth were discussed.

Q. After the strike was the mill at Massillon closed down?

A. The mill was closed.

Q. Closed down?

A. Both mills.

Q. Do you know what, if any, men remained in the plants there?

A. I understand at first there was a hundred remained in for maintenance purposes or something like that.

Q. But the mill as a mill was shut down?

A. But the mill as a mill was shut down, both plants were down.

Q. Now you say both plants; will you tell what plants there were at Massillon of Republic?

A. Union Drawn Steel is a subsidiary of Republic on Harsh Road.

Q. Can you give us some idea generally as to how many men were employed by the Union Drawn?

A. Four hundred and six or eight at that time. I believe that did not include the office force.

Q. And the big plant generally employed how many, if you know?

A. Well, around 3200, the main plant, I believe.

Q. Do you know whether or not most of the men employed by Republic lived in or around Massillon?

A. A large percentage of them, yes.

Q. With their families and their homes?

A. Yes, sir.

Q. After the meeting of May 28th at the Conrad Hotel that you told us about, when next did you see Chief Switter?

A. Well, probably about, about the 30th of May or maybe the 29th of May.

Q. Did you have a conversation with him concerning any phase of the strike?

A. I went to check the story that was in circulation in regard to an attempt made by the Republic to open up a temporary office in one of the buildings in Massillon.

Q. Did you talk to Chief Switter upon that subject?

A. I did.

Q. Where did your talk take place?

A. That took place over at his office.

Q. Now, was anybody there besides you and the Chief?

A. I don't recall. Possibly my assistant at the Chamber, Mr. Quigley, may have been with me, but I will not be certain.

Q. Will you tell us what was said?

A. I asked the Chief about the understanding getting around the town that the Republic had talked to us and asked us to find some place for them where they could open up a temporary office.

Q. You say us; what do you mean by us?

A. Chamber of Commerce. We had—

Q. Did you tell the Chief of these things?

A. Yes.

Q. All right.

A. We had been instrumental in having them meet the managers of the three business buildings there and they had secured details of the offices that they probably would use, as I understand it, and I understood that they had been told by the Chief of Police that owing to the objection of Joe Morton they would not be allowed to open up an office there. I went to check that conversation with the Chief. My conversation with the Chief was this: I asked him if it was true that he had been contacted by an officer of the Republic Steel in regard to opening up a small temporary office in the Ohio Merchants Building. He said he had. He said he would take it up with Mr. Morton. He said he took it up with Morton and Morton objected to it. He took it up with the Company to that effect and the Company told him to let it go.

MR. DAY: Joe Morton has been already identified in the record. But in the event the Examiner has forgotten, I will ask the witness who he is.

Q. Do you know what position Joe Morton held?

A. He was President of the New Deal Lodge.

Q. Was the New Deal Lodge out on strike in Massillon?

A. C. I. O. was on strike.

TRIAL EXAMINER LINDSAY: Off the record.

Q. Have you told us all the talk you had with the Chief at that time?

A. That was about all that was said, yes.

Q. That was about the 28th of May?

A. That may have been on the 29th.

Q. 29th, all right. When next did you talk with the Chief concerning any phases of the strike?

A. I had frequent talks with him.

Q. Can you tell us when you had any talk with him concerning any strike matters next that you remember now?

A. Well, there were various meetings called there. The Chief was asked to appear at those meetings and did. I had talked with him, of course, about coming to the meetings.

Q. You say you had various talks with the Chief. What was your purpose in talking to the Chief?

A. I went to the Chief to see what he had to say about some rumor that was circulating about some violent act of the C. I. O., something they had committed, what his position was, what he had to say as to his version of the matter.

Q. What was your interest in it?

A. My primary interest, of course, was to allay as much as possible any false rumors and give the City officials, especially the Chief of Police, an opportunity to explain their positions in the matter, as they went along.

Q. There has been some reference to your organization as "The Law and Order League." Have you ever been known as the Law and Order League?

A. No.

Q. When next did you attend a meeting upon the strike situation?

A. I think the next meeting after the Conrad Hotel meeting was a meeting called by civic groups at the Central Presbyterian Church on Sunday.

Q. About when was that?

A. I cannot give you the exact date. I have the dates scratched down here somewhere.

Q. Well, I guess you can consult your record as to the exact date.

A. After I wrote up my memoranda about the meetings I paid no attention to dates. It was on Sunday, June 6th.

Q. Day time or night time?

A. In the afternoon, about 3 o'clock, I believe.

Q. What civic groups called the meeting, if you know?

A. Well, it grew out of—the meeting, the preliminary meeting of civic groups representatives, Rotary, Kiwanis, Women's Club, and several other civic groups.

Q. That was June 6th, is that right?

A. Yes; that was June 6th.

Q. Just tell us what took place at that June 6th meeting, about how many were there to start?

A. About 200 people, I imagine, although I did not count them. We had to get extra chairs from the—

Q. Tell us what took place in your own way, as near as you can remember.

A. At that meeting, I presided at that meeting, outlined what seemed to be the prevailing situation in Massillon from the standpoint of the concern that the citizens were showing about it.

Q. You say you outlined. What did you say in substance?

A. In substance about the same thing I said at the Conrad Hotel emphasizing the fact that we were much concerned because of the continued law violations, we were concerned because of the inability of the Chief of Police to overcome the situation.

Q. Law violations by whom, did you say?

A. C. I. O.

Q. Go ahead.

A. And generally outlined along that line and rehashed. After I had given the outline, I said one of the purposes of the meeting is to give the Chief an opportunity to speak to a larger group than he had spoken to at the Conrad Hotel. There were some voluntary speakers, a man by the name of Becker, a man by the name of Walsh.

Q. Can you tell us who Becker is?

A. Becker is an employee of the Republic, I believe.

Q. Do you remember what he said?

A. Well, not in detail. He said in substance that there was a large majority of the Republic Steel workers who wanted to go back to work.

Q. Well, Switter was there at the meeting, was he?

A. Yes.

Q. Go on.

A. He had been intimidated by C. I. O. in various ways, that the strike was called against the wishes of the majority of the men in the plant, that they were being intimidated by various acts of violence and they were being—some of them were being beaten up, and so forth.

Q. Who is Mr. Walsh?

A. Mr. Walsh is a man who works at Republic. He was a member of the Back-to-Work Committee.

Another man I believe by the name of Mathews, an employee of the Union Drawn Steel.

Q. What did he say?

A. He stated in substance the same thing, the strike was called without the consent of the large majority of the workers, that they were not,—that they were satisfied with the understandings, conditions that they had with the Company, that they thought there was something should be done in view of the break-down of law and order in the City, that they might be permanently deprived of their jobs in these plants, primarily urging that something be done to control the C. I. O. pickets and establish law and order and a normal situation. They wanted the pickets disarmed. They wanted them to stop bothering people who drove along the road. They wanted them to stop holding up conveyances and so forth. That was the general indictment or complaint that they discussed.

Q. Anybody else talk then? Did Chief Switter talk?

A. I am not certain whether somebody else in the crowd spoke,—yes, the Chief spoke.

Q. What did the Chief say?

A. Virtually the same thing he said at the Conrad Hotel minus the profanity and lurid descriptive terms he used with regard to the C. I. O., recapitulated the fact that he had 13 policemen, no guns, no gas, said he had no money. He said he would like to clean up on the crowd down there, that is the C. I. O. crowd; if it was true that a large majority of the men wanted to go back to work, and they would organize themselves in some way, he would be glad to lead them in and if any trouble started he wanted everybody to get out of the way and he would handle the trouble. He repeated various things that he had said about the Communistic, Communists that were on the picket line, niggers, wops, and so forth and he said the situation was uncontrollable, a very large amount of law violations going on right under his eyes but he could not do anything about it. That was the substance of his talk.

Q. Anything said at that meeting about more policemen from Massillon?

A. I think the Chief mentioned something about the difficulty of training officers even if the City did have the money.

Q. Have you told about all that happened or that was said at the meeting of June 6th?

A. I cannot say whether I have told it all, but I believe I have told the substance of it. There were various questions asked by different people in the crowd, some few minor comments on the city, and so forth, but I believe I have given the substance of it.

Q. You have told us about a meeting of June 6th. Did you attend a meeting of the Rotary Club before that on June 3rd when the Chief was there?

A. June 3rd?

MR. LAUTER: Object to the form of the question, leading the witness.

A. I attended a meeting at the Rotary Club—

TRIAL EXAMINER LINDSAY: Yes.

A. (Continued) I cannot remember the date.

TRIAL EXAMINER LINDSAY: Just a minute.

A. (Continued) I believe that was on June 10th or 11th.

MR. DAY: You mean that is a leading question?

TRIAL EXAMINER LINDSAY: Well, a lot of your questions have been leading. Well, it is all right, go ahead.

A. (Continued) I attended a meeting at the Rotary Club that the Chief attended, but I cannot say when.

Q. When was the next meeting you attended after June 6th? When was the next time you talked to Chief Switter after June 6th?

A. Well, that is a matter, purely a matter of recalling consecutive dates on this thing, which I can only do by looking at some notes I have in my pocket.

Q. If you have any notes, I guess there will be no objection to your refreshing your recollection by referring to them.

A. Well, Saturday, June 12th, I had a meeting with Switter on First Street in Massillon.

Q. Anybody there besides you and the Chief?

A. Yes. Mr. Hoffman and Mr. Snyder, I believe, but I am not certain Mr. Hoffman was there.

Q. Who is Mr. Hoffman?

A. City Prosecutor, Police Prosecutor?

Q. Who is Mr. Snyder?

A. Mr. Snyder is the Safety Director.

Q. What conversation did you have then?

A. The Chief called me and asked me to wait. They walked down the block alongside of the Conrad Hotel. They wanted to know if we had some special police officers and if we would give them the names of them. We told them no, we had no names. That was about the first we had heard of them wanting to get special police. I mentioned that fact. The Chief said, "Well, Carl Meyers, the Assistant Manager of the Republic, the man in charge, had called him up and asked him to go into the Republic office to get an insurance policy," and that he had insisted upon the importance of the Chief going in. The Chief explained—

TRIAL EXAMINER LINDSAY: Did you hear that conversation between him and the policeman?

THE WITNESS: Between Meyers and the Chief?

TRIAL EXAMINER LINDSAY: Yes.

THE WITNESS: No.

TRIAL EXAMINER LINDSAY: Go on.

Q. Are you telling us—

A. I am telling what the Chief told me.

Q. All right, go ahead.

A. He said, Meyers was very much worked up about it because he could not go in. He had spoken to Morton about it and Morton would not permit him to go into the office to get this policy unless he was accompanied by a representative of the C. I. O.

Q. Would not permit who to go?

A. The Chief and a man by the name of Marshall, who was interested in getting this policy.

TRIAL EXAMINER LINDSAY: We will have a short recess.

(Recess had.)

TRIAL EXAMINER LINDSAY: Meeting called to order.

Q. (By Mr. Day) I think you were telling about an occurrence on June 12th?

A. The meeting with the chief on First Street?

Q. Yes.

A. Chief Switter wanted to know if we couldn't induce Meyers to give him a few days grace on going in the Republic office, inasmuch as he was afraid to do it against —considering Morton's position, with the amount of equipment and police he had.

Q. You were telling about getting into the office in connection with some insurance matter?

A. Yes.

Q. A man named Marshall, is that what you are talking about now?

A. Man by the name of Marshall who said, I believe —was the man that wanted to go in the plant and get this policy, and he had taken this up with Joe Morton, and Morton would not permit him to go in unless he was accompanied by representatives of the CIO.

Q. Did Chief Switter tell you that?

A. Chief Switter, yes.

Q. All right, go ahead.

A. He reported that fact to Meyers; Meyers had objected to any such proceeding.

Now, he wanted to know what we could do in the way of getting Meyers to give him a few days grace until he could get himself in better shape.

I asked him that time if he wanted our help, if he really felt we could be of some assistance to him in the matter of increasing and strengthening his police force. He said yes.

Well, I said, "If that is what you want, I will call Mr. Lester and have him talk to you about it, and he can call up Carl Meyers if he wishes," which I did.

I went into the Conrad Hotel and called up Mr. Lester. Lester came into Bender's Restaurant where Switter and the other officials had gone, had a conversation there about the situation, and Lester went to the telephone and called Meyers and Meyers—

Q. Was Chief Switter there?

A. Yes.

Q. Was Mr. Hardman there?

A. I believe I said at the beginning of my statement along that that I think Hardman was there, but I was not sure. Hoffman was there, and Snyder was there. I believe Dick Hardman was there, I am quite positive he was.

Q. Go ahead.

A. Chief Switter explained the situation as he had explained it to me, to Lester. Lester wanted to call Meyers on the telephone and I assume he did. He came back and said Meyers had consented to give him two or three times to get himself into position, he wanted to put himself in shape to really take charge of things, that is what he said.

Q. Was anything said at that time about a meeting to be held the next day, June 13th?

A. Yes.

Q. Go on.

A. I suggested to the Chief that if he wanted our assistance in the matter of strengthening his police force that he better meet with members of our Committee. That meeting was held on the following day, on the following Sunday, I believe, at 2 o'clock in the afternoon.

Q. Where?

A. At the Chamber of Commerce.

Q. Who all, if you can remember, were there?

A. Switter brought the Mayor there, Hardman, I think Hardman, Hoffman, Snyder, and myself, and our Committee was pretty well represented there and the members of our Committee, of the Citizens Committee.

Q. What took place at that meeting on Sunday, June 13th?

A. We asked the Chief what they wanted us to do, what we could do. He said he needed gas, revolvers and night sticks, or riot sticks, as they call them.

MR. LAUTER: May we have the date on this?

MR. DAY: June 13th.

A. (Continued) And additional police. I believe he said he needed about 52 additional police at that time. The Committee discussed with him what that stuff would cost, and they reached an approximate figure that it would cost $8200 to hire these policemen for a temporary time and these special police, and buy this equipment.

Mr. Hardman, I believe it was that suggested that the Committee decide some way of handling the purchase of the equipment under the Chief's supervision, because if the Chief had to do it direct he would have to get bids.

The Mayor at that meeting said that he would appoint these policemen, these special police, he interrogated about that, and it was there agreed that due to the fact that the City had no finances, as it was understood had no method of paying, that we would undertake to procure from citizens of Massillon exclusive of the Republic Steel Corporation a sum of money sufficient for him to carry out his wishes. He agreed at that time to submit specifications to us or a list of his needs, which he later did.

Q. What else was said at that meeting?

A. Well, the Chief stressed his lack of equipment and he illustrated that he had stolen a gun and ammunitions and I believe some guns out of the Republic's office, which he had taken quietly to the City Hall.

MR. LAUTER: May I have that remark read, please?

(Answer read.)

Q. I wish you would tell us all that you can remember that the Chief of Police said on the subject.

A. I believe he said he had at the City Hall or at the Police Hall a maximum of 14 revolvers, they had two or three gas guns or gas bombs, something of that kind, and so far as my recollection, I believe I about covered what the Chief said.

Q. Can you remember anything else he said about getting guns or anything from the Republic?

A. Well, I remember he said that he took, the word he used was "stolen," he stole some guns and ammunition, I believe some gas, I am not certain about it, but anyway the stuff he was talking about he had stolen out of the Republic Steel office and taken down to the City Hall.

Q. Well, can you remember anything else that anybody said at that meeting?

A. Well, I remember that the Mayor said that he would appoint these men on the recommendation of the Chief and the Safety Director. It was stipulated that the men would be paid $5 a day.

The substance of our Committee's inquiry was what they could do, what they might do to strengthen the police force and help the Chief out of this quandry.

Q. Have you told us about all that you remember that took place at that meeting of June 13th?

A. I have told in substance what took place. There may have been other things said.

Q. When next did you attend a meeting?

A. We called a meeting the next day.

Q. That would be Monday, June 14th?

A. We are talking now about Monday's meeting, as I understand.

Q. You have just told, as I understand it, about a meeting that took place on Sunday, June 13th?

A. I have included in my statement what took place also on the following day.

Q. Oh. Then are you telling what took place on Sunday, June 13th and Monday, June 14th, both?

A. Yes.

Q. Now, you have already stated that the Sunday meeting was held at the Chamber of Commerce?

A. Yes.

Q. Where was the Monday meeting held?

A. At the Chamber of Commerce.

Q. Who were present?

A. Our Committee, most of them, the Chief of Police, the City Solicitor and Safety Director and the Mayor.

Q. What time of day, of Monday, June 14th, did the meeting take place?

A. I believe that was held in the morning at 10 o'clock, about.

Q. At the Chamber of Commerce, too?

A. Yes.

Q. When next did you hear any talk or have any talk with Chief Switter? That is, after June 14th?

A. Well, the immediate successive time I talked to him—I have to consult my notes as to dates.

Q. I do not think there will be any objection to your consulting your notes. Have you got some notes there?

A. Yes.

Q. By which you can fix dates accurately?

A. Yes. (Consulting notes) Well, the next time I met the Chief was on Friday, June 25.

Q. Where did you meet him?

A. At his office. That was when we presented, when our attorneys and our Committee presented a petition.

MR. DAY: This is off the record.

(Remarks made off the record.)

Q. I hand you a paper which has been marked Board's Exhibit 2 and ask you if that is the petition that you have been testifying about just now?

A. That is a copy of it.

Q. And you say this is the petition that was prepared by whom?

A. Prepared by attorneys that were employed by our Committee, our Citizens Committee.

Q. Who were those lawyers?

A. Franklin Maier at Massillon and Elson Wefler.

Q. After they prepared it, do you know by what means these signatures were obtained or who obtained them?

A. The Committee called in various representatives of civic groups to sign the petition. They took it back to their organizations and their boards, boards of trustees, and returned the petition to us, signed by their officials and so forth. I believe some of the members of the Citizens Committee took the petition out and had some people sign it. Some of them came in our office and signed it.

Q. I noticed it was signed by Massillon Chamber of Commerce, P. J. Bordner, President and D. W. Case, Secretary, that is your signature, is it not?

A. Yes, sir.

Q. You signed the original?

A. I signed the original.

Q. Who all were present when you presented it to the Mayor or Chief of Police?

A. Our attorneys were present, I believe two officers of the National Guard were present, the Chief of Police, Hardman, I think Hoffman, the Mayor, the members of our Committee, not all of them, myself and Mr. Quigley.

Q. Had the National Guard come into Massillon up to that time, June 25th?

A. No, they had not.

Q. Can you recall the date when they did come to Massillon?

A. July 1, I think.

Q. Just tell now what took place at the meeting when the petition was presented, tell as nearly as you can remember what was said and who said it.

A. Well, our attorneys spoke for our Committee.

Q. Well, can you tell anything they said or the substance of what they said?

A. The petition was read and Mr. Maier, I believe, made the presentation, simply made comments on the petition.

Q. Can you recall anything he said or the substance of what he said? All we are trying to get, Mr. Case, is as nearly as we can, what was said. You say he made comments on the petition. Can you tell what he said or the substance of what he said?

A. I do not think he said much of anything except what was in the petition. He recapitulated several points that were already in the petition about the violation of law and order and various instances of it. Now the Sheriff was represented at that meeting by his deputy.

Q. What deputy?

A. I do not recall the name of the deputy. He was there. We served it on him also.

MR. DAY: I call the Examiner's attention to the fact that this is addressed to the Sheriff also, Joseph T. Nist.

Q. Just tell us if you can remember who else said something at that meeting and give us the substance of what was said.

A. There wasn't much of any comments that I remember. There might have been some talk back and forth.

Q. Can you remember any of it or the substance of any of it?

A. Oh, I remember Dick Hardman made some comment. I don't remember what he said. The entire meeting had to do with the presentation of this petition and such emphasis as the attorneys chose to place upon it in their comments upon it. I assume our Committee made remarks. I do not recall in detail what was said.

Q. Well, have you told us all?

A. I remember after the meeting we had immediate contact with the Chief and these officers of the National Guard.

Q. Immediately after the meeting, who all were present at any talk that took place immediately after the meeting?

A. They came to our office. Marshall was one of them, the Chief was one of them, I think Mr. Hardman was along, I am not certain.

Q. You say to our office, what office do you mean?

A. Chamber of Commerce office.

Q. The first man you named, who was he?

A. Was Marshall, Captain Marshall, I believe.

Q. What was he the Captain of?

A. Of the National Guard.

Q. Oh, of the National Guard. Will you tell us what took place there at your office?

A. The Chief asked us for our help in locating a place where the National Guard could locate when they came into the City.

Q. Just a moment. Tell us what, if anything, you remember was said on that subject at that time?

A. I remember we asked them when they might be coming, and they said they didn't know that they were coming, but they wanted to spot a location, and the captain said that they would have to—if they didn't come, if and as when they came, they would come in probably very quickly, and they wanted to get the place equipped, and the YMCA —suggestions were made as to various locations. I think I suggested what was known as the Lodging House, the Relief Lodging House, popularly known as a flop house. And the YMCA was suggested. I don't know by whom. I know we called Mr. Goodnow in, and we went to the YMCA and he showed these two officers over the YMCA and he discussed how—discussed them—discussed those facilities, the practicability of it.

Q. Did you go along?

A. Yes, I went along.

Q. All right.

A. From there we decided to go to the old lodging house located on the property of the Massillon Park Board. We went over there, went in and looked it all over. There were a few things needed there. And I agreed to undertake to somehow equip the place as they wanted it, that is put in refrigerators, put gas in there, make any alterations in the plumbing, connecting up water and so forth, if it was necessary. Then we left. I went back to the office, as I recall. That was about all there was to it.

Q. When next did you attend any meeting? This is June 25th now.

A. Well, on June 29th I had the meeting with the chief of police in his office, contact.

Q. And who all were there?

A. The chief was there, I believe Hoffman and Hardman. I am not certain as to just who all of the city was there, but the chief was there; various people were standing around. I did not recall who all were there.

Q. Was anybody there of what we have been calling your committee, besides yourself? Did anybody go over there with you?

A. I think Mr. Quigley went along. I believe not, though. Mr. Nick Linckenhely, I believe.

Q. Who is Mr. Linckenhely?

A. He was one of the leaders of the "back to work" group.

Q. Was he an employee of Republic, do you know?

A. He was.

Q. All right. What took place at that conference? What was said as near as you can remember?

A. Well, the chief objected—the police had objected to the use of a building on Lincolnway east, the old Union Bank Building, for the purpose of registering up men who wanted to indicate their desire to go back to work.

I went over to see if I could prevail upon the chief to allow them to use it. I told them that it must be apparent to him as it was to everybody else that the majority of these men were desirous of indicating to the Republic Steel Corporation in some definite way their wish to go back to work, and I saw no reason why, and asked him what his reason was of why they could not be allowed to meet and carry on the purpose of getting together and signing up some kind of petition or some kind of a statement to the effect that they did want to go back to work, which I understood they had been told they would have to do in some way or other. by Republic.

The Chief said it was against his policy, would lead to trouble; the CIO would give them trouble there, and that they didn't want it to take place.

Q. Anything else said by anybody that you remember?

A. Oh, there might have been a thousand things said, I don't know, but that is the substance of what I said and what I went over there for.

I came out of the Chief's office, stood in the basement a while, discussed the matter with some of these "back to work" fellows, went on upstairs and finally told them that in view of the fact that there was a large—

Q. Finally told whom?

A. The "back to work" group, Linckenhely, whoever else was there with him, that owing to the fact that there was liable to be some kind of disorder on the street, there, that we had better liquidate the crowd down the street, of whom there seemed to be 300 or 400 of these "back to work" fellows milling around, very much disappointed, probably, milling around, at any rate.

TRIAL EXAMINER LINDSAY: Just a minute. "Very much disappointed, probably" is stricken from the record.

MR. DAY: I think it should go out.

Q. They were milling around what building, or what part of the—

A. Union Bank Building, and over in front of the Ohio Merchants Building, along that street, and in front of the business places along there.

Q. All right, go on, tell what happened.

A. I was concerned about the interference with business for one thing, and also about there being such a large crowd of them at that time. I suggested to Linckenhely that they get rid of that crowd by letting them come up in our office and carry out their purpose of signing up petitions to go back to work.

Q. Now, by "our office"—

A. The Chamber of Commerce office.

Q. All right.

A. We had previously cooperated with the committee in arranging for that building, that is how—

Q. Prior to that night, state whether or not you had contact with men who said they wanted to go back to work at the Republic?

A. Yes, we had been meeting a great many of them.

Q. And where would those contacts take place?

A. Well, we had about 200 or so men, quite a cross-section come into the Chamber of Commerce office at various times; we asked them about the strike, whether they were in favor of it, and they expressed themselves as being against it and wanting to go back to work, and they told us that that was the feeling of a majority, that they were intimidated and afraid to show their colors.

Q. Did they say by whom they were intimidated?

A. The CIO.

Q. And they would see you, as I understand you, at your office at the Chamber of Commerce, or see you somewhere else?

A. They came to the Chamber of Commerce office.

Q. How often would they come in?

A. Well, that went on for several days, they come in, in squads, in groups, and sometimes one person, sometimes two or three persons. We had expressed ourselves as being desirous of knowing what the sentiment was among the Republic men.

Q. All right.

A. And also previous to that time we had had contacts with the "back to work" committee.

Q. And by that, you mean whom?

A. The "back to work" committee, Linckenhely, Seward, Walsh, various men who constituted that committee.

Q. You say "we had contacts." Who do you mean by "we?"

A. Our committee, our Citizens Committee.

Q. Just tell the Trial Examiner generally the nature of those contacts.

A. Well, they were—our committee sometimes met with them. They met with different members of our committee, went to the homes of different members of our committee, of our citizens committee who were in—for the purpose of expressing themselves as wanting to go back to work, wanting to get the mill started, wanted to bring the strike to an end.

The committee went with the "back to work" committee, different men on the committee met with the "back to work" committee for the purpose of discussing the situation, discussing what ought to be done. There had been various discussions about what ought to be done.

Q. And you took part in some of those discussions?

A. Practically all of them. That is all that was held by those groups. Of course, I did not take part in any discussions that were held at the homes of these various members of this Citizens Committee.

Q. You have gotten down, now, to, as best as I remember it, the 25th of June. When next did you attend any meeting? Or was it the 29th, you were over there about the building? Judge Pontius suggested perhaps I am wrong in the dates when you talked about giving—it is my fault.

TRIAL EXAMINER LINDSAY: We had better

start again at 1:30.

(Whereupon, at 12 o'clock, an adjournment was had to 1:30 p. m.)

Afternoon Session

(Whereupon the hearing was resumed, pursuant to adjournment, at 1:30 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

D. W. CASE

resumed the stand and testified further as follows:

Q. (By Mr. Day) I was asking, Mr. Case, about the Back-to-Work Movement. Now I think you have told us about establishing of headquarters some place and then something happened about selecting a different place.

A. We were discussing the date here, June 29th, at which I said I met the Back-to-Work Committee. That was on June 30th. June 29th is the date that the Back-to-Work Committee reported to me their wishes to stop or develop some sort of a method by which they could register or determine, count noses, in other words, see how many of these men wished to go back to work and it had been suggested by this Committee, this Back-to-Work Committee that probably the only practical way to do it was to register the men and the place where the registrations could take place had been discussed and the Union Bank Building had been talked of and at the request of this Committee representing the men who wanted to go back to work, I went with them and introduced them to Mr. Lettager, the cashier of the State Bank, the owner of the Union State Building, and they explained their desire to use the building. They did not want to occupy the buildings for meetings, but they wished to have a place to set up tables where men could come who desired to register their wishes in regard to going back to work.

He agreed to furnish that room providing his directors agreed. Owing to the fact that there was a great deal of disorder or at least he felt that there was a great deal of disorder, he mentioned the fact that owing to the reputed violent activity of C. I. O., there would be some danger in the use of the building and there probably would have to be some insurance, some special kind of insurance. He was requested by the Back-to-Work Committee to work that out if he could and was to let them know the following morning. In fact, he was to let us know and we were to telephone them if he found out before the morning, got the O. K. of his board.

On the following morning, which was June 29th, I came down to the office about 9 o'clock and saw this crowd milling around. I went up to the office and then went over to find out or learned at the office, however, that the insurance matter had not been arranged. Mr. Kirchoffer had reported to one of the girls in my office that he had,—that the matter of insurance had to be submitted to the home office in Chicago and he had sent a day letter and was waiting the confirmation of insurance on the building, insurance to embrace property damage, riot and malicious mischief and so forth, and the insurance policy that they demanded on the building being $75,000, as I understood or the surety or indemnity.

Well, I went across the street and saw Nick Lincken-hely, Seward and Walsh and other members of the Back-to-Work crowd and they said the police had been over there and forbidden them to use that location.

I then went with them to the Chief of Police, and that is what I was talking about on the 30th, not on the 29th.

Q. What took place when you went to see the Chief of Police then?

A. Simply that I repeated to the Chief the fact that community concern about the large majority of men who were not concerned with this strike, were not primarily concerned in bringing it or as it now appeared wanted to go back to work or wanted to put themselves on record as desiring to go back to work, so that there could be some definite assurance given the Republic that if Republic wanted to open the plant that it could be opened. There were men enough to operate.

Q. You said he—

A. I stated those matters to the Chief.

Q. You said you said something to the Chief about community concern. What did you mean by community concern?

A. I meant the tremendous concern in the community because of the angle that this strike had taken, over 60% of our industrial employment forced out of work, locked out, against their wishes.

MR. LAUTER: Is this part of the conversation?

Q. Is this part of the conversation?

A. This is part of the conversation, yes, sir.

Q. Go ahead.

A. And it was a simple matter for them to indicate if they so desired their wishes in this matter and that was the purpose of getting the building. He objected to it because of interference of the C. I. O., which would lead to violence, which he knew he could not control.

I then decided on my own hook in the course of a few minutes that under those circumstances these men on the street had better be disposed of rapidly.

MR. LAUTER: I object to what the witness had decided.

A. That was my own conclusion.

TRIAL EXAMINER LINDSAY: Just a minute, Mr. Witness. When an objection is made, stop talking. What was the objection?

MR. LAUTER: I object to what the witness decided.

Q. What did you do, if anything, with relation to those men whom you say were out on the street?

A. I informed the Back-to-Work Committee that so far as the men on the street were concerned, they could have a place in our office for them to come in and register, which we did.

Q. State whether or not, after that, the men started to register at your office?

A. Yes.

Q. When you say your office, do you mean the Chamber of Commerce office?

A. I mean the Chamber of Commerce office. About 300 of them registered up—250 to 300, to go back to work.

Q. How long did the men, the Back to Work men register at your office? Along about that time?

A. Well, they started to register on June 30. That registration was interrupted by me because we did not intend to continue and do it up there.

Meantime we had called in, however, our Citizens Committee, and I asked them what they thought about it, there being no interference there so far, and everything being orderly, the conduct of everybody being perfectly normal and above board, and the Committee recommended that we continue that.

Q. Did you continue it?

A. We continued it up to the 3rd of July.

Q. You say up to July 3rd?

A. Including July 3rd. July 3rd, I believe, was a Saturday.

Q. On how many days did the men register?

A. Well, three or four days, Thursday, Friday, and Saturday.

Q. July what?

A. June 30th, July 3rd—June 30th to and inclusive of July 3rd.

Q. And how many men registered in that Back to Work Movement?

A. The actual number—the actual figure given to me by the Back to Work Committee was 2300 and some odd.

Q. That took you up to Saturday, July 3rd, and Sunday was the 4th of July and the Fourth was observed on Monday the 5th. What happened then, if anything?

A. Well, along about July 6th we began to receive various calls and requests which we did not understand, from the chief of police, who desired us to tell him how he could get special officers.

Q. When did the troops come in? I asked you this morning to connect that up.

A. July 1st, I think.

Q. When?

A. On July 1st, I believe.

Q. You just told us about getting hurry-up calls from the chief, about when was that?

A. July 6th.

Q. Tuesday, July 6th?

A. Yes.

Q. And were those calls made to you? Did you hear them yourself?

A. Oh, some of them were made to me, some of them were made to Mr. Quigley.

Q. Those that came to you, what did the Chief say?

A. He wanted to know if we had any men—also calls came, if we had any names we could give them, for special police officers, and part of those requests were received during my absence from the office, I believe Mr. Quigley received several of them myself [himself].

Q. Well, in response to the inquiry of the chief as to men for extra police what, if anything, did you say to him?

A. I didn't say anything to him over the phone. I found out from Mr. Quigley that he had given six names to him, but we didn't have any method of recommending the men. The Chief explained that he couldn't get men, he couldn't get trained men.

And so on July 6th, sometime in the afternoon, I think, I stated to Quigley—Quigley and I went to the chief's office for the purpose of determining our attitude on this matter, we couldn't get men for him, and it wasn't our business to get men for him.

Q. Did you see the Chief then on that date?

A. Yes, the chief was there and several other people.

Q. Can you tell us who some of the other people were?

A. Well, the first one in, the Mayor was there.

Q. Mayor Krier?

A. Mayor Krier, after calling somebody to bring chairs in the room, we sat down. Mr. Peppert was there, Mr. Angstedt, Mr. Becker, Chief of Police, Mr. Hardman. My impression is there was a number of National Guard there, but I can't be sure.

Q. What was said at that meeting?

A. There was a general discussion going on, on the question as to how to get men, and how men could be given—

Q. Can you state—

A. And the chief recapitulated his customary alibi that he had no police force, he had no equipment, that he stated his difficulty in getting anybody.

Q. Now, you say that there was a discussion there. Can you tell the Examiner what was said, or the substance of what was said, and who said it? Let's see if you can think back and recall anything that was said and who said it.

A. Mr. Peppert, or Mr. Angstedt, one or the other, had a list of names. Those names were being discussed as to the desirability of those men for special police. It appeared from the discussion that some of these men were former Republic employees. Some of them were being discussed for special police, some of that list of names were being discussed for the advisability or practicability of using those men for what they call home guard.

Q. I wish you would tell the Examiner about the home guard. As you understood it, what were the home guards?

A. As I understood it, what the home guards were, there had been home guards—men organized over in Canton to protect neighborhoods, to protect the families of men who were either working or wanting to go back to work or at least who were antagonistic to the strike, Republic employees. Republic was there, as I understood, represented by these three men.

Q. That is Mr. Peppert was a Republic man?

A. Peppert and--

Q. Angstedt?

A. Angstedt and Becker, offering certain services as they had at their command, in the matter of submitting a list to them, if they could use them.

Q. Well, did you understand that there was a distinction between home guard and special police?

A. Yes.

Q. And what was that distinction as you understood it through that discussion there?

A. As I understood it, the distinction was, home guards were men who would work without pay and who would exercise protective influence in the various neighborhoods where it was stated that windows were being stoned, families were being placed under fear and duress and men who were supposed—who were connected with the Back-to-Work Movement lived. And it was to protect the wives and children or at least to allay their fear that these home guards were to patrol these various neighborhoods. They were to work for nothing. There were certain men on that list, as I understood it, who were suggested as the type of men who might make good special policemen, and the chief of police objected to the use of Republic men, as did Mr. Hardman, from the standpoint that it was probably undesirable to use anybody connected with Republic although they were men connected with the Back-to-Work Movement as I understand. Mr Hardman said if they did anything like that, they should put some CIO men on, and that was discussed pro and con, and Mr. Peppert and, I believe, Mr. Angstedt simply repeated several times the fact that the Republic desired to be helpful in any way that they could to establish law and order and to allay the fear in the various neighborhoods —to give their men who had a legitimate purpose in wanting to go back to work, as he said, an opportunity to go back.

I also stated at the time of that meeting that the National Guard was leaving and that they had demanded some such—that the civil authorities get busy and take over the situation.

Q. About how long were the National Guard in Massillon?

A. Well, apparently about a week, I would say about a week.

Q. Was anything else said at that meeting that you can remember, by anybody?

A. Yes, during the meeting Switter made the statement, which was reheard several times, while I was there, to the fact of the inadequacy of his force, of his inability to get any special policemen who were competent, and I made the suggestion to him, or in other words, I said to him, "How do you stand with Captain Curley, or Major Curley?" He said, "All right." "Well," I said, "I understand from one or two talks I had with Major Curley that there is a method by which you could get the type of people and kind of people that you want and that perhaps he would advise with you on the method." And he says, "Where is Major Curley?" The Chief said. I said, "I don't know."

Q. Now, was that said at a meeting attended by the persons that you have named?

A. Yes, and I heard him call somebody on the telephone and send them out after Major Curley.

Q. Did anything else transpire at that meeting?

A. I think it was about the substance of the meeting.

Q. You have stated, Mr. Case, that you told Chief Switter, that you had had some prior contact with Major Curley. Had you known Major Curley for sometime?

A. Yes, a good many years, casually.

Q. Had he resided in Massillon?

A. Yes.

Q. What, if any, knowledge did you have as to his prior experience?

A. Major Curley is often referred to in Massillon as a former Army officer, a man of considerable—as a man who had organized two companies in Massillon, I believe, for the World War, a very competent man along the lines of developing organization. Also a very influential member of the ex-service group, American Legion, or whoever they were.

Q. When did you have your first contact with Major Curley on this subject we are talking about?

A. Oh, probably two or three weeks before this meeting we are referring to in the Chief's office.

Q. And where did you have a talk with Major Curley?

A. My contacts with Major Curley were more or less accidental and casual, as they were with other citizens of Massillon who were frequently asking me about developments. I think my first talk with Major Curley on the subject of the strike was in Baltzley's Drug Store probably two weeks—

Q. Anybody there besides you and Major Curley?

A. Oh, yes, the place was full of people, eating.

Q. Did anybody else take part in the conversation?

A. No.

Q. Will you tell us what he said and what you said?

A. Why, I believe the Major simply asked me how we were getting along with the Chief of Police, how the

Chief of Police was getting along, how the strike was coming. And I answered him in more or less of a routine way, and went on about my business. He indicated a certain amount of interest in the thing as a citizen.

MR. LAUTER: May we have the date of this conversation?

Q. Fix the date of that conversation just as nearly as you can, in Baltzley's Drug Store?

A. I would say that it was two weeks before this meeting on—

Q. June 30th?

A. On June 30th.

MR. LAUTER: If the Examiner please, I want the record to show that the witness is constantly referring to a pack of cards in his hand. It is rather unusual procedure, as I understand it, to have a witness do that. I don't mind his testifying after it appears that he can't refresh his recollection without referring to these cards, but to have him constantly referring to cards in testifying is rather unusual.

TRIAL EXAMINER LINDSAY: Well, go on. Proceed with the examination. You can cross examine him on that particular point.

MR. DAY: All right.

Q. (By Mr. Day) About two weeks before the 30th of June would be about the 16th of June. Now, have you told all that you said to Major Curley and he said to you at that time in Baltzley's Drug Store?

A. Yes, casual meeting, casual conversation. He asked me the usual questions that citizens were asking wherever I appeared on the street or any place else.

Q. Did you have another talk with Major Curley between that time and the 30th of June?

A. Three or four days before—I would say a week before I made this inquiry of the Chief about Major Curley.

Q. Where did that take place?

A. In the Ohio Merchants Bank.

Q. Did anybody take part in that conversation?

A. No.

Q. Except you and Major Curley?

A. No, he was one of the men that I met in the Bank, going through.

Q. What was that talk between you and Major Curley?

A. Major Curley wanted to know how we were getting along, how the chief was getting along, and I said "The chief trouble seems to be that he says he has a weak police force, that he has to—owing to his situation—he has to get permission of Morton for everything he does, and he knows of no way and seems to be—to have no method by which he can strengthen the police force with the type of special police that he wanted."

Curley made the remark that that ought to be easy. "Well," I said, "how would you go about it?" "Well," he said, "probably the best way to do it, that I have known, would be to call on other industries not concerned in the strike." He says, "There are a number of qualified men that could easily be picked, that have had some previous experience with firearms and military duty and such like stuff. And I think it should be easy for him to get these industries to allow these men to volunteer for temporary and emergency period."

I said, "Well, if the Chief brings this question to us, would you be willing to advise with him on it?" "Well," he says, "I am a citizen of Massillon, I am interested in this thing from a standpoint," he says, "sure, I think that the chief ought to have all of the help we can give him." He said, "I would do it. I would make suggestions to him as to how I think it ought to be done." That was all there was to it. That led up to my statement to the Chief.

Q. I understand that you stated just a moment ago that at this conference on June 30th the Chief called somebody on the telephone?

A. Yes, two of his officers, I understood, for the purpose of sending out an inquiry to locate Major Curley.

Q. What was the date of that, was that the 6th of July or the 30th of June?

A. That was the 30th of June.

Q. What, if anything, did you hear the Chief say to the officers before they went out, as you say? You have testified that you heard him tell the officers to try to locate Major Curley. Will you tell the Trial Examiner what you heard him say?

MR. LAUTER: I want to object to this conversation. It was over the telephone.

MR. DAY: I am not asking for what was said. I am asking for what the Chief said to the man who contacted him.

TRIAL EXAMINER LINDSAY: Where was this?

MR. DAY: In Chief Switter's office.

TRIAL EXAMINER LINDSAY: In this man's presence?

MR. DAY: Yes, I understood so.

MR. LAUTER: This was a telephone conversation, was it not?

MR. DAY: No. Wait a minute.

TRIAL EXAMINER LINDSAY: Just a minute, both of you. Was this a telephone conversation you are talking about?

THE WITNESS: The telephone conversation I have mentioned is the talk that the Chief had.

TRIAL EXAMINER LINDSAY: Wait a minute. Is this the one Mr. Day has asked you about that—are you talking now about a telephone conversation?

THE WITNESS: I am talking about being in the office.

TRIAL EXAMINER LINDSAY: Is that a telephone conversation?

THE WITNESS: The telephoning was done by the Chief of Police.

Q. What, if anything, did you hear the Chief say to anybody about contacting Major Curley?

MR. LAUTER: May I have the last remark read?

(Last remark of the witness read.)

MR. LAUTER: I don't believe you understood the last remark of the witness. He is testifying about a telephone conversation.

Q. What, if anything, did you hear Chief Switter say upon the subject of contacting Major Curley?

A. He said, "Where is Major Curley?" And I said, "I don't know." And he said, "Let's get him." He thereupon, possibly after some little delay discussing the matter, he pressed a buzzer and talked in the telephone box asking for somebody to go out and get Major Curley.

Q. Did he do that in your presence?

A. Yes.

Q. What happened at that particular meeting?

A. That was about all.

Q. When was the next meeting you attended?

A. Well, he evidently located Major Curley.

MR. LAUTER: I want to renew my objection.

MR. DAY: We will agree to that being eliminated.

MR. LAUTER: I want to renew my objection.

A. Well, he did.

MR. LAUTER: I renew my objection to the witness consulting these cards.

A. The next—

MR. LAUTER: May I have a ruling on my objection before the witness continues, please?

TRIAL EXAMINER LINDSAY: Well, I will overrule your objection. Let the record show an exception.

Q. After that did you see Major Curley that day?

A. No, not that day.

Q. Did you talk to Chief Switter again that day? Withdraw that. Did you see Major Curley before you saw Switter or Switter before you saw Major Curley? That is, after that, which one did you see first, if you saw either one of them?

A. Well, I saw the Chief that day. A week after I had seen Curley, or so. I didn't see Major Curley, he contacted me by telephone the following day.

Q. You didn't hear that conversation?

A. I heard Curley's talk to me.

Q. Oh, Curley talked to you on the telephone?

A. Yes.

Q. Give us the date of that.

A. It was the day after this suggestion I made to the Chief or the statement I made to the Chief about Curley.

Q. What was that conversation?

A. He called up and said he was going to help the Chief out getting the special officers. He said he wanted our co-operation in getting them. I said, well, I didn't know how we could co-operate. He said he would like to get ahold of these industries and find out if they would co-operate with him about getting information about these men that the Chief wanted to put on. I said, the only way to do that would be to have a meeting of the industrial managers called and the Mayor and yourself, the Chief state his case to them and tell them what you want. If that is what you want, I will call such a meeting. At least I will notify them of such a meeting, providing it is understood or you can get information to me that the Mayor or the Chief of Police officially wants co-operation of our local industries in the matter.

Q. What happened after that?

A. I didn't hear any more about it until I believe Curley called me and said, I believe on the following morning, that he would like to get this group together immediately and that the meeting could be called to meet with the Mayor and the Chief and himself.

Q. Was such a meeting called?

A. Such a meeting was called.

Q. Who called it?

A. We called it.

Q. For when?

A. The meeting was held at the Y. W. C. A. in Massillon on Wednesday, June 7th.

Q. What time of the day?

A. Noon.

Q. You mean June 7th or July 7th?

A. July 7th, I beg your pardon.

Q. At noon?

A. That is right.

Q. How many were there?

A. I don't remember the exact number. I think there were 18 industries represented and four or five besides the City officials and two or three members of the Citizens Committee.

Q. Was Chief Switter there?

A. Yes, Chief Switter, the Mayor, the City Solicitor, Mr. Hardman, Mr. Snyder, the Safety Director.

Q. Will you tell us what took place at that meeting, please?

A. Before the meeting was held I went over to the City Hall to find out how the meeting was to be handled, talked to the Mayor. He said the meeting would be handled by Major Curley. So after they had had their luncheon I simply introduced Major Curley by saying that he had been designated, as I understood it, by the Mayor and Chief of Police to make a statement to them about some co-operation that the city very badly needed at that time. That was all my connection with it.

Q. What happened next?

A. Curley made the statement.

Q. Tell us as near as you can remember what he said.

A. Well, in substance, he said that he had consented to render such assistance as he could to the city for the purpose of developing special police force that would restore law and order in Massillon, that it was not the purpose of his connection with this thing or his purpose or not the purpose of the city to undertake to do anything to try and break a strike or to force any issue other than the matter of law and order. He said that he and the city had nothing whatever to do with the issues of the strike primarily but there was a need for special police to restore a normal, peaceful and orderly situation in the community, and that he was lending his aid for that purpose and that the plan he had decided upon was that there were a number of men employed in these various industries who were not concerned in the strike, whom he knew and felt would make good policemen, special policemen, and he asked them one and all to send in a list of names to him of such men.

Q. Anything else that you can remember he said?

A. I believe one or two members on the Committee had something to say.

Q. Can you tell us what they said or the substance of what they said?

A. Oh, they talked about the desperate situation the city was in, the great need fo. this thing. They finally got down to the point that I said we better get the noses counted here, you better call these people's names off and find out what they will do, which was done.

Q. Now you say, which was done. Can you tell us a little more in detail how it was done?

A. Either Curley or somebody there in connection with it, they called sort of a roll call, called on the various industrial representatives that were there, asked them what they would do. They said that they would do their best to send,—that they would co-operate to the very best of their ability.

One of the things, which I neglected to state, that Curley presented to them was that he wanted these men released, if they were released for that purpose, without any prejudice to their re-employment or going back to their regular job in these industries.

Q. Now can you tell—I beg your pardon.

A. That was agreed to.

Q. Go ahead.

A. The question—there were some questions discussed there as to, I don't remember the details of them, but I remember there was some argument there that somebody had with Major Curley on the question of home guards and Major Curley stated that he did not believe that that was the need in Massillon, he believed what they wanted was some special police here for the purpose, who would be deputized and be under the direction of the Chief of Police.

Q. Can you tell us how many manufacturing concerns were represented at that meeting?

A. 17 or 18 were there. Mr. Carl Meyers was in that meeting.

Q. Mr. Carl Meyers of Republic?

A. Yes.

Q. After that meeting was concluded, what was the next thing that happened?

A. The next thing that happened to me, about a day or two after that as far as my connection with it was concerned, I went over to ask the Chief how they were coming along with the special police in the afternoon.

Q. You say a day or two. Will you please—

A. Well, I would say one day elapsed before I contacted him again and then on the following day after that I went over to the City Hall.

Q. Did you see the Chief?

A. I saw the Chief but I didn't talk to him.

Q. Did you talk to the Chief after that?

A. No, not that I recall. I saw Major Curley there and I saw about 30 men lined up in and along the hallway and the Chief and Curley were examining these men and making selections from the line standing up. It seemed to me that they were getting along pretty well and getting their special policemen. I don't know anything about it.

MR. LAUTER: I object to the way it looked to him.

TRIAL EXAMINER LINDSAY: Yes, that phrase may be stricken.

MR. DAY: That is "it seems to me that they were getting along pretty good." All right.

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: And the rest of the answer stays in?

TRIAL EXAMINER LINDSAY: Read the last part of the answer.

(Last part of the answer read as follows: "It seemed to me that they were getting along pretty well and getting their special policemen. I don't know anything about it.")

TRIAL EXAMINER LINDSAY: Strike the last out. Mr. Witness, we do not care about what you thought, tell us what you saw and heard.

Q. What did you see?

A. I saw men who were being examined for special police by Major Curley.

Q. Was the Chief there?

A. The Chief was in the background watching the proceeding.

Q. The Chief was there?

A. Yes.

MR. DAY: Just a moment, please, Mr. Examiner.

TRIAL EXAMINER LINDSAY: All right.

Q. I will ask you whether or not what you did in relation to your activities that you have described on your so-called Committee you were directed by Republic or any officer of Republic?

A. We were not.

Q. And in what you did in relation to the Back-to-Work Movement, were you directed by Republic or any officer of Republic?

A. Our entire action was prompted by the concern which the community felt, as the Chief had described it, by the gradual spontaneous appearance of a large number of Republic men.

TRIAL EXAMINER LINDSAY: Strike that out and answer the question. It is a yes or no question.

MR. DAY: Will you read the question, please?

(Previous question read.)

TRIAL EXAMINER LINDSAY: That requires a yes or no answer, and you give it.

THE WITNESS: No.

Q. Will you state why it was you took the interest in these matters which you have described?

MR. LAUTER: I object to the form.

MR. DAY: I would like to receive a suggestion—

TRIAL EXAMINER LINDSAY: Read the question.

(Question read.)

MR. LAUTER: I object to that.

TRIAL EXAMINER LINDSAY: Oh, we have gone over that about 15 times, Mr. Day. He has told us repeatedly what his interest was. Just go ahead and ask on some other point.

MR. DAY: Well, I would like to except.

TRIAL EXAMINER LINDSAY: Yes, you may have an exception.

MR. DAY: I would like to make an offer to prove that the witness took the interest he has described because of his interest in the community—

TRIAL EXAMINER LINDSAY: Just a minute.

MR. DAY: —and that the witness would so answer.

MR. LAUTER: Do I understand this is going into the record?

TRIAL EXAMINER LINDSAY: How?

MR. LAUTER: Do I understand this is going into the record?

MR. DAY: It is an offer to prove.

MR. LAUTER: Well, I would like to hear an offer to prove when it is made.

MR. DAY: You can hear it.

MR. LAUTER: Not after I ask the Stenographer to read it back.

TRIAL EXAMINER LINDSAY: Let us have an understanding. After all is said and done, an offer to prove does not mean anything. We have gone over this thing about 15 times about what the intention and the interest of the Chamber was in this matter. I believe he has repeated it at least 20 times. Go ahead and ask another question.

MR. DAY: I have no other question to ask. That is all. This is off the record.

(Discussion had.)

Cross Examination

Q. (By Mr. Lauter) Would you mind letting me see the cards that you have, Mr. Case?

A. (Witness hands cards to counsel.)

Q. You testified about a meeting at which Mr. Switter was present, at which he stated that he had stolen some ammunition, guns, tear guns, from the Republic Steel Corporation; is that correct?

A. Yes.

Q. Is that right?

A. Yes.

Q. I don't hear you.

A. Yes, sir.

Q. What was the date of that meeting?

A. It is on the card, there.

Q. Can you remember the date of the meeting without referring to this card?

A. I can't recall exact dates for any meeting. There were a dozen meetings.

Q. I am asking you if you remember the particular date on which Chief Switter told you he had stolen guns, ammunition and tear guns from the Republic Steel Corporation?

A. It was on Sunday, but I do not recall the date of the month.

Q. Tell me who was present at that meeting.

A. Mr. Switter, Mr. Hoffman, myself, Mr. Quigley, Mr. Lester, Mr. Lanham, Mr. Hall.

Q. Were there any officials of the Republic Steel Corporation present?

A. There were not.

Q. Were there any employees of the Republic Steel Corporation present?

A. There were not.

Q. Did you report that theft to anybody in Republic Steel Corporation, or the statement of the theft by Mr. Switter?

A. I beg your pardon.

Q. Did you report Chief Switter's statement that he had stolen something from the Republic Steel Corporation to anybody?

A. I did not.

Q. What time was this meeting?

A. The Sunday meeting was 2 o'clock in the afternoon.

Q. Did he state in what one of the plants he stole these?

A. Main office building at Republic.

Q. Are you familiar with the plant's main office building?

A. Yes.

Q. Do you know whether or not there are any guards at these—or mill police?

MR. DAY: When?

A. In the office building?

Q. That is right.

MR. DAY: I object to it unless he fixes the time.

A. Not at that time.

Q. Do you know whether or not the Republic's plants are generally surrounded by mill policemen?

A. I know nothing about the situation at Republic plant except what the chief said.

Q. Have you ever been out at Republic plant here?

A. Yes, very often.

Q. Did you ever notice whether or not there are mill policemen at the gates of the Republic plant?

MR. DAY: I object to that.

TRIAL EXAMINER LINDSAY: That is perfectly proper.

MR. DAY: This is during the strike.

TRIAL EXAMINER LINDSAY; Objection overruled, let the record show an exception. Proceed.

MR. DAY: Exception. Let the record show that this was during the strike.

TRIAL EXAMINER LINDSAY: That is all right.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: Objection is overruled, let the record show an exception.

MR. DAY: Exception.

A. I didn't see any guards at the—any Republic guards.

Q. When was the last time that you were at the plant?

A. Just a few days ago, about a week ago.

Q. Have you ever been there prior to May 26th, 1937?

A. Lots and lots of times.

Q. You did?

A. Probably fifty or sixty or a hundred times.

Q. Did you notice there were gates at the entrance to the plant?

A. Yes.

Q. Did you notice mill policemen there?

MR. DAY: I object.

A. No.

Q. Never saw any policemen?

A. I never saw any gates, at the entrance to the plant.

TRIAL EXAMINER LINDSAY: Let the record show the objection is overruled and note an exception.

MR. DAY: Exception.

Q. Did you ever notice any mill policemen around the gates of the plant?

MR. DAY: The same objection.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

MR. DAY: Exception.

A. No.

Q. Did you ever see mill policemen?

A. Just a few days ago when I was down at the plant I saw what looked to me like mill police out on the lawn in front of the office building, opposite the main office building.

Q. But you had been down to the plant fifty times before May 26th, 1937, and never saw any mill policemen, is that correct?

A. My calls were usually at the office, I never saw any mill police there.

Q. The mill office is right across the street from the plant, isn't it?

A. Yes, sir.

Q. Is Republic Steel Corporation a member of the Chamber of Commerce?

A. They are not.

Q. Who is Mr. Linckenhely?

A. Mr. Linckenhely is, I believe, a foreman in the machine shop at Republic Steel plant.

Q. Did he use the offices of the Chamber of Commerce, signing up men to go back to work?

A. What was that question?

(The question was read.)

A. Men that wanted to go back to work used the office, the Back-to-Work Committee used the office.

Q. He was on the Back-to-Work Committee, was he?

A. He was.

Q. Do you know what position he held with them?

A. Just as a member of the committee, as far as I know.

Q. Have you ever seen Board's Exhibit No. 48 before, containing Mr. Linckenhely's signature?

A. Oh, I never saw anything containing his signature.

Q. Have you ever seen that card before, or a card similar to that before?

A. I saw a card that looked somewhat similar to this.

Q. Did you see them in the office of the Chamber of Commerce?

A. I think I have a copy of that card.

Q. You have seen plenty of them at the Chamber of Commerce, have you not?

A. I have not. I never saw but the one.

Q. Just the one?

A. This is the second time I ever saw that card.

Q. You say you didn't see one at the Chamber of Commerce?

A. Yes, I had it.

Q. Who had it? Where did you get it?

A. I think I got that card from some member of the former Back-to-Work Committee, after the men had gone back to work.

Q. Then were the Back-to-Work men signing those cards, do you know?

A. I don't know.

Q. What?

A. Not in our office, no.

Q. Now, you testified about Mr. Walsh, in the meeting June 6th.

A. Yes.

Q. At which he spoke and said that some of the men might be permanently deprived of their jobs, is that correct?

A. I don't recall that I said that Mr. Walsh specifically said that.

Q. Well, tell me about that.

A. I spoke of the talks made by Mr. Walsh, Mr. Becker, and Mr. Mathews.

Q. Suppose you tell us what Mr. Walsh said.

A. That was the subject—

Q. Tell me what Mr. Walsh said at that meeting.

A. Well, Mr. Walsh stated in substance what the rest of them said, that the majority of the Republic Steel men wanted to go back to work, and that they were very much concerned for fear that because of the break-down of law enforcement and no protection given to them, that they possibly might not get an opportunity to go back to work.

Q. Did he say anything about Republic's threat to keep the plant closed forever?

A. No, not at that time.

Q. Have you heard anything of that nature?

A. Oh, there were rumors of that kind went around in the community. I heard it from different people, but never officially.

Q. Did you ever investigate any of those rumors?

A. Yes.

Q. Whom did you see about those rumors?

A. Indirectly my investigation was—a member of our committee called up an official of the Republic and asked him about it.

Q. What was the report?

A. The report that he gave me was that they probably had something like twenty million dollars' investment in Massillon, and that they were not going to close up and charge off twenty million dollars, providing that they had an opportunity to run their plant.

Q. They wanted to run their plant; is that right?

A. That was my understanding.

Q. And you wanted to help them run it?

A. How is that?

Q. Did you want to help them run it?

A. Not necessarily.

Q. Did you say something about that?

A. If they wanted to run their plant, I was interested in seeing them run it.

Q. How about the Chamber of Commerce? Were they interested in seeing the plant open?

A. The Chamber of Commerce is primarily interested in having all plants operating.

Q. Well, you were interested all during this time in seeing that this plant was opened and running, is that right?

A. If it could be opened.

Q. If it could be opened? And were you helping to open it?

A. I don't think we were.

Q. Even though the Back-to-Work men were signing up in the Chamber of Commerce offices?

A. Well, it might be construed as helping to open it, we were helping the men to express their wishes in the matter.

Q. What was the first time that the Citizens Committee met?

A. I can't tell you the exact date. They met a great many times.

MR. DAY: A little louder. You are too close together. Talk louder.

A. I can't say when they first met.

Q. I think you testified that on May 28th was the first time they met?

A. I did not, because they were not in existence, I believe, on that time.

Q. How is that?

A. I believe they were not in existence at that time.

Q. Well, refer to your cards and tell me when was the first meeting of the Citizens Committee?

A. Friday, May 28th, there was no committee that I know—formal committee organized.

Q. Was there a meeting at the Conrad Hotel?

A. Yes.

Q. Was that for the purpose of forming the committee?

A. No.

Q. What was the purpose of the meeting?

A. In giving the chief of police an opportunity to explain his position in regard to the strike and give his views as to the tactics that were being used, and the status of the matter—general status of the matter.

Q. What was the first meeting of the Citizens Committee? Let me have the date of the first meeting of the Citizens Committee?

A. I couldn't give you that. I don't know. The record would show when they met, the office records.

Q. Do your cards indicate when the first meeting was?

A. Oh, these cards, I could only tell you approximately, probably a day or two after the 28th, Friday the 28th, we organized the nucleus, we called in this preliminary committee.

Q. Who called the meeting of May 28th at the Conrad Hotel?

A. The meeting was called by me for the Chamber of Commerce.

Q. And you testified that was because roads were being blocked and clubs were being carried, the community was alarmed?

A. That was because of the excitement in the community and the concern the community was showing towards the matter, and the concern of the various people about the inability—the way that the CIO was conducting their strike, and to give the Chief of Police an opportunity, if these were rumors, if he had any facts to give us, to allay excitement in the community and to be doing something to allay the deep concern which the community was beginning to show about this matter.

Q. When was the first time that you gave any indications to anyone that you were going to form a Citizens Committee?

A. At a meeting of our board, a special meeting of our board sometime before the 28th—the 28th day of May, the matter of appointing a committee for the purpose of keeping contact with the situation, was discussed.

Q. You say before?

A. Sometime after—sometime two or three days after the Conrad Hotel meeting, probably, I contacted Mr. Bordner, president of the Chamber of Commerce, and he selected a small committee who would function for the Chamber, pending whatever action we took in the matter, or whatever we did about it.

Q. That would be sometime around May 30th, is that correct?

A. Sometime along in there.

Q. What was the date of the strike?

A. I believe the date of the strike was May 26th.

Q. In between May 26th and May 29th or May 30th, do you know whether or not there were any acts of violence, to your personal knowledge?

A. Yes.

Q. To your personal knowledge?

A. I saw none, I simply know what was said by the chief of police and what was telephoned into the office by various people who claimed to have witnessed it.

Q. You mentioned something about a meeting on Sunday, June 13th, at which an offer was made to raise some eight thousand odd dollars, is that right? Was that money ever raised?

A. No.

Q. Was that the meeting at which Switter asked for 52 additional police?

A. Yes.

Q. Did he specifically mention the number of police he wanted added?

A. He stated at that meeting—that was the meeting of Sunday—on Sunday he stated at that meeting that that is what he would need to bring the situation under control.

Q. May I ask you whether he specifically mentioned the number of 52?

A. Yes.

Q. You testified about a conversation of July 6th with Chief of Police Switter in which you asked him his relations with Major Curley, how his relations with Major Curley were?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Prior to that you had conversations with Major Curley?

A. I had had two conversations with him.

Q. In which Major Curley was interested in—were you interested in knowing how Major Curley's relations were with the Chief?

A. Not when I was taking to Major Curley.

Q. Was he the first one to mention anything about Chief Switter? Was Major Curley the first one to mention anything about—

A. Everybody had Chief Switter on their mind during this period.

Q. Were you instrumental in bringing Major Curley to the office of the police Chief Switter?

A. I was at that meeting in his office and I mentioned to him that Major Curley had indicated that he believed that it would be easy to secure these special officers if he would go about it in the right way.

Q. And you helped introduce Major Curley to Switter?

A. I did not, I simply told Switter that Major Curley would probably render him some assistance.

Q. And it was at your suggestion that Chief Switter called Major Curley?

A. No, it was not. I did not even suggest that he contact him. I simply mentioned Major Curley because of his quandry about getting special police.

Q. You thought that Major Curley might help, is that right?

A. He had said that he would be willing to help.

Q. And you told Chief Switter that he said that he was willing to help?

A. I told him that Curley had said that he would be willing to do what he could to help him.

Q. Now, you mentioned a meeting at the YWCA which was held on July 7th. Was Carl Meyers present at that meeting?

A. Yes.

Q. What did Mr. Meyers have to say at that meeting?

A. Mr. Meyers, the only thing I ever recall that Mr. Meyers said at that meeting, was somebody in the meeting insisted on the necessity of home guards, Mr. Meyers made the statement that he felt that the whole matter could be safely left with Major Curley, if he didn't need home guards, that was all up to him, the whole situation could rest with him, he felt.

Q. Carl Meyers said that the whole situation could rest with him, he felt? Is that what you said? Major Curley?

A. Yes.

Q. Is that all that Carl Meyers said at that meeting?

A. The only thing of any importance that I recall on that occasion.

Q. How long did Carl Meyers speak at that meeting, do you know?

A. Probably a minute or two.

Q. That is all he said?

A. Yes.

MR. LAUTER: That's all—Oh, wait a minute.

Q. You testified about making some alterations in connection with finding a place for the National Guard?

A. Yes.

Q. Did you make such preparations for their coming?

A. Yes.

Q. Who paid for the expense of those alterations?

A. They have not been paid for.

Q. Have you been billed for them?

A. Yes.

Q. The Chamber of Commerce has?

A. Yes.

Q. Do you know where the National Guard finally was situated?

A. Edwin Jones School.

Q. Do you know if any of them stayed in the main office of the Republic plant?

A. I don't know anything about that.

(Witness excused.)

MR. DAY: Mr. Lester.

J. G. LESTER

A witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name.

A. J. G. Lester.

Q. Your age, Mr. Lester?

A. 61.

Q. And your residence?

A. 318 North Avenue, Massillon.

Q. How long have you lived in Massillon?

A. 43 years.

Q. How long have you lived in Stark County?

A. Just as old as I am. I was born in Canton.

Q. What is your occupation?

A. I am the President of the Massillon Rubber Company.

Q. And this plant is located in Massillon?

A. Yes, sir.

Q. Mr. Lester, have you taken an interest in the strike situation in Massillon?

A. I have.

Q. And what was the beginning of your interest in that regard?

\. Well, the beginning of the thing started, I had oc-
n to drive down to the Eaton plant on Oberlin Road,
soon after that strike started. I drove through a bunch
ckets at the entrance of the Republic. I saw the en-
e to the Enterprise Aluminum blocked. I saw a bunch
en, everyone of them with clubs. I drove up to this
. When I came back a picket with a club, this long
cating), assaulted me, he didn't hit me but he waved
lub at me, he threatened me and told me how fast I
ld drive a car in the City of Massillon. That is what
ed me in having an interest in this situation in Mas-
ı.

Q. When was that?

A. That was on the 26th day of May.

Q. That was about the day the strike began?

A. Yes, sir.

Q. After that, what, if anything, did you do with rela-
to the strike or any phase of the general strike situ-
ı?

A. Well, I didn't do a great deal except I was called
some of these meetings. I was at the meeting at the
ad Hotel about which Mr. Case spoke and I was called
other meetings. I was interested because there had
many acts of violence, telephone wires were cut.
I happen to be an officer of the Massillon City Hospital,
Beamer is on the Board of Trustees and he told us at
of our Board meetings about the telephone wires being
nto the Republic plant and he could not repair them
use Joe Morton would not let him go into the office. He
us there was a bunch of batteries in this plant that
ed to be recharged because the wires had been cut. They
not even property of the Republic Steel. That Joe
ton would not let him go in and recharge them and it
costing the Ohio Electric Power Company to the tune
everal thousand dollars.

TRIAL EXAMINER LINDSAY: We do not want

anything about any other company. Tell us about what happened in the Republic office.

THE WITNESS: This was in the Republic office.

TRIAL EXAMINER LINDSAY: Tell us what happened to the Republic Steel.

THE WITNESS: Well, I am telling you about batteries in the Republic Steel office that could not be recharged.

MR. LAUTER: I make a formal request to strike any reference to the Ohio Electric Power Company, any loss that they may have sustained.

TRIAL EXAMINER LINDSAY: Yes, that is stricken out.

Q. After the 26th of May, did you go down to the picket line at any Republic plant in Massillon?

A. Well, I drove by occasionally and every time I drove by I saw a bunch of pickets.

Q. Can you—

THE WITNESS: With clubs in their hands.

MR. LAUTER: I will ask the time to be fixed.

Q. Can you give us the time approximately when you drove by?

A. No, sir. I cannot. There were a number of instances but I cannot fix them. The only reason I could fix the first day was because I had been to the boat races between Harvard, Yale and Cornell that my boy had taken part in. It was the morning after I had gotten back. That is the reason I remembered the date in the first instance.

MR. LAUTER: May I request the witness limit the testimony to the facts in this case? What his son did at the boat races—

TRIAL EXAMINER LINDSAY: It doesn't do any harm.

Q. Coming now to the meeting on the 28th day of May at the Conrad Hotel, what time of day did that meeting take place?

A. That meeting was called, I believe, for 7 or 7:30.

Q. How many were there?

A. I could not answer exactly, somewhere around 25, I should guess, I don't know exactly.

Q. What, if any, city officials were there?

A. Chief Switter and Mr. Richard Hardman were the only ones who were there. The Mayor promised to come but he didn't come.

Q. What citizens were there that you can name?

A. Jim Hull and Charlie Boyd and Mr. A. H. Anthony. I do not know, there were quite a bunch of citizens, I didn't make a record. I think I can tell—no, I cannot tell you all who were there. Those three I particularly remember.

Q. Just give us an account of the meeting in your own way as near as you can remember.

A. Well, Mr. Case introduced the President of the Chamber of Commerce, Mr. P. J. Bordner, who had told us a meeting had been called to discuss with the city officials in the City of Massillon with regard to violence that had been taking place in the city and the meeting was called for that purpose to discuss the matter to see if there could not be some way in which there would be some semblance of law and order in the City of Massillon.

Q. Then what was said?

A. Then the Chief got up and made the statement substantially that Mr. Case has told you. He admitted there had been a break-down of law and order but he was handicapped because he had only a few officers on the police force, they were totally inadequate to handle the crowd such as there was picketing at the plants, he was doing everything he could in his power to handle the matter but if he didn't have police officers, it was impossible to do so, and arrangements were talked over as to how the city could be properly policed.

Q. What, if anything, do you recall that was said on that subject?

A. The Chief said nobody would like any better than he to go out and clean that, I don't care to use the language that Mr. Case used here, that bunch of Communists and so forth, up on Columbia Hill but he could not do it because he did not have an adequate police force.

Q. Do you recall anything else that anybody said?

A. Not a great deal. There was a general discussion there. Everybody admitted that the situation was serious.

Q. Was any action taken or was that just a discussion?

A. That was just a discussion, to the best of my knowledge.

Q. Did you become a member at any time of a Citizens Committee in Massillon?

A. I did, yes, sir.

Q. And when was that?

A. Well, I will have to refer to some records. I don't know the exact date. That was a meeting at the Women's Club on June 11th and I think the nucleus of that Committee was started after a talk by a Catholic priest in Youngstown at the Catholic high school.

Q. What was his name, do you remember?

A. I know it, I cannot tell you what it was.

Q. Father Koran, was that his name?

A. Yes, Koran, that is his name.

Q. All right.

A. Then there was a meeting at the Women's Club the following evening and they tried to get an organization to help the city to get adequate police force to stop the lawlessness that had been going on in the city.

Q. Is there—

MR. LAUTER: I would like the record to show that this witness, as the previous witness, is also referring to a card, from which he is testifying.

A. The only way I can have these dates in my mind is to put them down, if I have to have exact dates.

Q. Is there anything on that card besides dates?

A. Not a thing, dates and what happened on those dates. I made that notation yesterday because I knew I was going to be called here. I cannot remember all of these dates unless I have something to refer to. If you care to see it, you can see it.

TRIAL EXAMINER LINDSAY: Where did you get it?

THE WITNESS: I made it. I made it from the records in the Chamber of Commerce.

Q. Who all were on the Citizens Committee at the time of its organization?

A. Well, there was Mr. Jim Hall and Reverend C. B. Hess, Glenn Lanham and C. M. Schaffer. Mr. Preshaw and Mr. J. A. Schaidnagle, Jr., Mr. Tom Poll came on later.

Q. State whether or not the Republic Steel or any of its officers had anything to do with your becoming a member of that Committee.

A. They did not even know it as far as I was concerned.

Q. Did they have anything to do with it?

A. No, sir.

Q. When was the next meeting then that was held at which you were present?

A. Well, the next meeting was held on June 14th, that was in the Chamber of Commerce, in the afternoon. That was on June 13th in the Chamber of Commerce.

Q. How many were there?

A. Well, I think there must have been about 10 and the Chief of Police and Mr. Hoffman, the assistant city solicitor and Mr. Glenn Lanham and Jim Hall and Mr. Case, and I don't remember, there were a few more, I cannot name all of them.

Q. Can you tell us what took place at that meeting?

A. Well, we discussed with the Chief the situation in Massillon and he told us it was impossible for him to maintain law and order with the inadequate police force and we pointed out to him that we were there to help him if we could and we asked him how many extra police he needed. He said he needed about 52. They needed that many extra police. They needed arms and ammunition and they did not have it. We asked him how much he would need. He said he would need in the neighborhood of $8,000, I think it was $8,200, I don't know exactly. We said to him, "Well, Chief, if we raise this money for you, will you be willing to go out and get these extra equipments that you need and the extra officers?" He said that he could not say definitely but that he would take it up with the Mayor. Well, we said, well, the Mayor has been invited to two or three of these meetings and he has never showed up and he said, "If you will call a meeting in the morning, I will bring the Mayor in in the morning."

The following day we had a meeting, the same bunch of men were there with the Mayor, the City Solicitor—

Q. Before coming to the following morning's meeting, can you remember anything else that was done at this meeting, the Sunday meeting?

A. That was Sunday afternoon, yes, sir.

Q. Was anything else said?

A. Well, a general discussion with regard to the situation in the City of Massillon.

Q. Can you tell us more specifically what was said or the substance of what was said in that general discussion?

A. Well, I don't believe I could give you anything much more definite. We discussed the whole general situation, houses being stoned, men being assaulted on the street, and he said that he wanted to do something but he couldn't do something unless he had these extra officers and extra equipment.

Q. Now, you say houses being stoned. Was it discussed whose houses were being stoned?

A. Men that were not joining up with the C. I. O. I could not give you any specific houses.

Q. And you say persons being assaulted on the street. Was anything said as to who was committing those assaults?

A. C. I. O., I mean. I know about two men who were assaulted.

MR. LAUTER: Just a minute. Let us fix who made these remarks. Let us find out who conducted this conversation.

Q. Can you tell who made any of these statements?

A. Chief Switter himself admitted that he did not have adequate police protection.

TRIAL EXAMINER LINDSAY: Read the question.

Q. Can you tell?

TRIAL EXAMINER LINDSAY: Just a minute. Read the question.

(Previous question read.)

A. Yes.

Q. Who were they?

A. Chief Switter made the statement that he did not have an adequate police force to properly protect the city and he did not have the equipment and he could not do anything more than he was doing unless he had it. That is one specific statement.

Q. Can you tell who made the statement you have detailed that houses were being stoned?

A. Some of the—it was simply—I could not tell you who said that. It was my knowledge because there was hardly a day that there was not something of that kind in the newspapers.

MR. LAUTER: I object to "it was my knowledge." I move it be stricken.

TRIAL EXAMINER LINDSAY: Yes. After all, Mr. Witness, it is facts we want.

Q. As I remember the statement was made at the meeting, but you cannot remember who made it?

A. That is right.

Q. Can you recall anything else that was said at this Sunday meeting?

A. Nothing more than that the Chief also said that if we would have that meeting called again for the following morning that he would try and get the Mayor, to get him to accept our offer to raise $8000 or $8200 to properly equip the police force and get the extra men that he needed.

Q. Now, where did you have your next Monday morning meeting?

A. Chamber of Commerce office.

Q. Who were present at that meeting?

A. The Mayor, Safety Service Director Mr. Snyder, Mr. Hardman the City Solicitor, and Chief Switter.

Q. And who, among the citizens?

A. Well, about the same group that were there before, Mr. Hall, Mr. Lanham, Mr. Hess, I think Mr. Shaffer was there, Mr. Schaidnagle, Mr. Preshaw, I don't remember, Mr. Case—I don't remember who else.

Q. What was said at that Monday morning meeting?

A. About the same general line, after we presented the matter to the Chief or to the Mayor, after discussing with the Chief and the City Service—the Service Director, they agreed that if we would raise $8,000 they would put on the extra men and properly equip the police force. We agreed to do that.

Q. What, if anything, was done about raising that $8,000 approximately dollars?

A. They started out the next day to raise this money and they had raised in the neighborhood, I don't know the exact amount because I went away a day or so later, but they raised in the neighborhood of $1200. This was all turned back after the Mayor and the Chief backed out of accepting what they said they would do.

Q. Did anything else happen at that meeting?

A. No, sir, not that I remember.

Q. You say you went away shortly after that?

A. I was gone a day or so, yes.

Q. Just a day or so?

A. Yes.

Q. What was the next meeting that you attended?

A. Well, on June 20th Mr. Pole and I went out and made arrangements with Mr. Wefler and Attorney Maier to act as attorneys for this committee, which we had organized there.

Q. I have been asking you if you have been telling us about meetings. In between times, did you see the Chief at any time?

A. Occasionally. I never had very many contacts with the chief myself.

Q. Can you recall any conversations you had with the chief in the meantime, upon the strike situation?

A. I doubt very much whether I saw him. I don't remember seeing him.

Q. Well, you just told us about employing Mr. Maier and Mr. Wefler as your counsel.

A. Yes, sir.

Q. After you had employed them what was done?

A. Well, then they prepared the petition which we presented to the Mayor requesting the city to augment their police force by extra men and extra equipment. They prepared that petition.

Q. I will hand you Board's Exhibit 2 and ask you to look at it and tell us whether that is a copy of the petition?

A. Yes, sir, that is a copy of the petition.

Q. Did you sign it?

A. I did.

Q. What, if anything, else took place when that petition was presented to the Mayor and the Chief of Police?

A. Well, when the petition was presented to the Mayor it was read to him by our attorney, Mr. Wefler, and there were two or three members of our committee present, and after the Mayor had agreed that it was necessary to do this thing, he asked us what our attitude would be on the raising of this $8,000 which we had agreed to raise.

Our reply was that we had returned the money which we had started to raise, and that inasmuch as they had agreed to accept it and then turned it down, we couldn't feel that we should go back to these people and ask them to re-subscribe but we said, "We will help you in every way we can, to help finance this matter through legal means, and our two attorneys, Mr. Wefler and Mr. Maier showed to the City Solicitor a statute on the statute books of Ohio whereby the city, in an emergency, had power to borrow this money.

Mr. Hardman asked us if we would go with him to the three banks in Massillon and see if we could make arrangements to borrow this money. Mr. Hall, Mr. Hardman and I contacted the Ohio Merchants Trust Company, the First National Bank and the State Bank and we got a tentative agreement from those officials that they would loan this money to the city provided they could get their boards to approve it, and we did that much towards helping him raise the money.

Q. What else took place at that meeting there, when the petition was presented, and you can remember anything else?

A. I do not think there was anything else there. I do not remember anything.

Q. What was the next meeting that you attended?

A. Well, the Back-to-Work Committee had been contacting me a great many times, or different members of it, Mr. Becker and Mr. Walsh and Mr. Linckenhely, a man by the name of Joe Charlton, who wanted to go back to work, who had been coming to my house many times, wanted to know if our committee could assist them in getting a count of the number of men that would like to go to work. We did everything we could to help them and finally—

Q. Now, you say they came to your house?

A. Yes, sir.

Q. Why did they come to your house, do you know?

A. Because I lived there, I suppose.

Q. And how many times did they come to your house?

A. Well, I can't—they came there a great many times. I don't know.

Q. How many times did they come there?

A. I can't answer you that. They came a great many times, for a time there, there was not a day that there were not two or three of them.

Q. And what did they discuss with you?

A. They discussed with me the matter of getting back to work and the means whereby they could get a vote or at least a petition of the men indicating how many wanted to go back to work. My question to them all was: How many of you men really want to go to work? And their reply always was: A very large majority.

Q. Over how long a period was it that they came to your office to talk to you about that subject?

A. Oh, at least two weeks. I don't know exactly.

Q. What, if anything was done on that Back-to-Work Committee?

A. Well, they tried to have their petition circulated through the town. Mr. Fred Becker himself, who was one of the boys that wanted to go back to work, circulated petitions, and a number of their men had been assaulted by CIO men and the petitions taken away from them and torn up, and they had a very difficult time.

Q. Did they tell you that?

A. They did.

Q. All right, go ahead.

A. They had a very difficult time in getting that done. Then this movement was started to have a place to have the men come to register, and the old Union National Bank Building—arrangements had been made to have that. When we had started—when that arrangement was made, the men started to go in, in this building, ready to sign their petitions in there, and Chief Switter would not permit them to use it because he stated it might incite a riot on the streets of Massillon.

Q. Were you told that by these men?

A. Yes, sir.

Q. Go ahead.

A. Well, they went up to the Chamber of Commerce and they started to register up there and the beginning of signing of the work petitions—Back-to-Work petitions at the Chamber of Commerce I think was on June 30th. I was up there a very large part of the time during which most of the men came in, and they were very happy that the arrangements were made that we could come there and sign up these petitions because they had been blocked from having meetings by the Mayor and the Chief and they had been refused permission to use this National Bank Building.

Q. So far as you know, did any Republic—any officer of the Republic have anything to do with the Back-to-Work Movement?

A. No, sir.

Q. Then what happened next?

A. Well, the petitions were signed up, I don't know exactly how many it was—I have heard all the way from 2500 to 2900 men came in there and signed. I saw them coming in there because I spent a good part of my time up in the office while that Back-to-Work Movement was on.

Q. Why were you doing that?

A. Because I was interested in the situation in Massillon.

Q. What do you mean by that, interested in what situation? In what way?

A. Well, I have lived in Massillon for 43 years, and it certainly did not set very well with me to have Joe Morton mayor of the city of Massillon, if you want to know the exact truth.

Q. What happened next?

A. The petitions were completed and I think the following day the National Guard came into town, on July 1st and the mill was opened.

Q. How long did the National Guard stay there?

A. I don't know exactly, a week or 10 days. I don't know exactly.

Q. And the mill opened up?

A. They did.

Q. On July 1st, was that it?

A. That is when the National Guard came in. I can't tell you the Monday they opened.

Q. Then did you attend any further meetings after the 1st of July?

A. Yes, sir.

Q. What was the date of the next meeting that you attended?

A. I don't know.

Q. Can you fix it approximately?

A. Well, it was—one or two meetings after June—July 11th, my committee wanted a report as to what had happened after this riot and we had a meeting. I don't remember the date of it. It was very soon after July 11th.

Q. Did you attend the meeting at which it has been testified Major Curley was present?

A. No, sir, I was not at that meeting.

Q. You didn't go to that meeting?

A. No, sir, I didn't even know about it.

Q. Did you attend any meeting of your committee at which the subject of special policemen or more policemen for Massillon was discussed?

A. Well, I attended that meeting at the YWCA, at which the heads of different industries were called in to submit names of men who might be selected, yes, I—

Q. What was the date of that?

A. That was—I don't know, I haven't got the record on that.

Q. You haven't got that on the card?

A. I was there, but I do not know—

Q. Well, about when was it? About when was it?

A. Well, it must have been somewhere between about the 25th and the 30th, I can't answer you on that, I don't know.

Q. What took place? Where was it held? YWCA?

A. At the YWCA.

Q. Who were present?

A. Well, there was Tom Poe, Mr. Jim Hall, the Mayor, City Service Director, and the Chief of Police, Mr. Dick Hardman, and Mr. A. H. Anthony, Mr. John Luckner, a lot of other men, heads of different industries. As I got into the building I saw Mr. Carl Meyers eating his lunch downstairs. I spoke to him and I says, "You better come upstairs for a minute with us up there." And he came up. I don't remember. Mr. Case, Mr. Luckner was there, and Captain—Major Curley.

Q. What took place at that meeting?

A. Well, the explanation was made that the Mayor had decided to put on extra men and that Major Curley was going to assist him in the selection of these men, and they asked or requested all the heads of industry to submit a list of names of good men who might be able to serve on the police force, preferably property owners, so that they could have good reliable men, that is about all there was.

Q. Mr. Lester, your first name is what?

A. Jonathan.

Q. Jonathan—J. G. Lester?

A. That is right.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Mr. Lester, would you mind letting me see the card that you have there?

A. Yes.

Q. You didn't quite get a chance to finish this card?

A. I finished up all I wanted.

Q. Well, you didn't get to the meeting on July 7th when Mr. Curley was present, and Mr. Meyers was present?

A. Well, I have not written that down, just made this yesterday.

Q. Where did you make this card?

A. I made it in the Chamber of Commerce, where they have records of these different meetings.

Q. Is that where Mr. Case made his record up?

A. I don't know where Mr. Case made his record.

Q. Were you all alone when this record was made?

A. No, sir, Mr. Case handed me the records to pick it out of, which I did, and I overlooked getting that. I don't know, I may not have a record of that, but I simply refreshed my memory to the best of my ability, knowing that I would be asked different dates, and I can't remember all of those dates.

Q. Do you recall at this meeting July 7th Mr. Carl Meyers as Mr. Case has testified, said, "Leave everything to Curley."

A. I don't know that he used those exact words, he said, "Captain Curley had been selected by the chief to make the selections," and that Curley would handle the selection of these men.

Q. Curley would take care of the selection of the men who would be special deputies, is that correct?

A. I think so.

Q. Now, only women are employed in your industry, is that correct?

A. No, sir, not correct.

Q. Men employed, also?

A. Yes, sir.

Q. Did you send down any men?

A. No, sir.

Q. How did that happen?

A. We couldn't spare any.

Q. Couldn't spare any?

MR. LAUTER: That is all.

(Witness excused.)

THOMAS POE

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. Thomas Poe.

Q. Where do you live?

A. Corner 5th and Breen, southeast, Massillon.

Q. How long have you lived in Massillon?

A. The 19th of next month will be sixty years.

Q. All your life?

A. Yes.

TRIAL EXAMINER LINDSAY: Off the record.

(Discussion had off the record.)

TRIAL EXAMINER LINDSAY: Just strike that last out of the record.

Q. (By Mr. Pontius) What is your business?

A. Well driller.

Q. How long have you been engaged in the business, in Massillon?

A. 37 years.

Q. Did you become a member of this Citizens Committee at any time?

A. I did.

Q. And about when did you become a member of that committee?

A. About the 14th of June.

Q. What did you do in connection with that committee, after you became a member? What is the first thing you did?

A. I suggested that if I was going to be a member of the committee, I wanted some legal guidance, so that what we did was in the proper way to have law and order, that I was not interested in bringing any strike, I was not interested in Republic Steel. I just wanted to assist our city officials.

Q. Did the Republic Steel Company have anything to do with getting you interested in this Citizens Committee?

A. Nothing whatever. I never had a conversation with the Republic Steel at their solicitation. The few things that I asked, I requested the conversation myself.

Q. Now, did you in company with Mr. Lester make some arrangement with some attorneys?

A. I did.

Q. And who were those attorneys?

A. Mr. Wefler and Mr. Maier.

Q. And after that what did you have to do with this committee?

A. I told them—the attorneys prepared a petition to be filed with the Mayor and the city solicitor.

Q. Did you sign that petition? Do you know?

A. I did.

Q. I hand you Board's Exhibit No. 2, and I will ask you if that is a copy of the petition?

A. I did. That is the petition.

Q. Now, were you present when that petition was presented to the Mayor and the solicitor?

A. I was not.

Q. What next did you have to do with this strike situation in Massillon?

A. On July 4th or July 3rd I heard rumors that there was a possibility of the soldiers leaving Massillon.

MR. LAUTER: I object to what the witness heard, rumors he heard at any rate.

MR. PONTIUS: Yes. Well, it is not very material one way or the other.

Q. Did you see anythng?

A. That prompted me to go to Canton, to see General Marlin.

MR. PONTIUS: May I have a ruling on my question, please?

TRIAL EXAMINER LINDSAY: Overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. Who is General Marlin?

A. In charge of the National Guard.

Q. And did you learn from him, with respect to the National Guard leaving?

A. I did.

Q. And then I do not care for any conversation with the General, but did you leave after that, or what did you do after that?

A. We met in the evening of July 5th at Mr. Lester's house with the committee, General Marlin and a captain whose name I do not remember.

Q. Were you at the meeting following that evening, at the Mayor's office or chief of police office, on July 6th, do you recall?

A. I was.

Q. And who else was at that meeting, do you remember?

A. Yes, I remember J. Lester. I remember Mr. Lanham; Mr. Hall. There was quite a representative group there, Mr. Schaidnagle, Mr. Prashaw and others.

Q. What city officials were present?

A. The Mayor, the chief of police, the city solicitor, Richard Hardman.

Q. Can you relate to the Board what was said at that meeting?

A. The Mayor told me in the corner, he said, "I am sick of the whole thing and I am ready to resign and get out," and I said, "You can't do that. You have got to stick on."

The Chief of Police said, "If there is going to be trouble down on the hill," he said, "I wish they would go ahead and wind it up," he said, "let them go and fight it out."

I told the Chief he can't do that, we have got to have some police, we have got to have adequate police force. Someone suggested Major Curley, the Chief said—the Chief phoned and called up some person and requested that they find, locate Major Curley, and later on Major Curley called in and they had a phone conversation but I did not hear the details. I do not hear very well.

Q. Now, can you relate anything further that was said there in respect to what they intended to do or planned to do?

A. At that time the Chief favored having the home guard. I was insistent that we have some guards, just to protect the streets and the neighborhoods, and he favored that.

Q. Anything else said that you recall at that meeting?

A. I do not recall anything of importance.

Q. Just for the purpose of refreshing your recollection, after the purpose of getting in contact with Major Curley, what was the purpose of that, if you know?

A. To assist the Chief in getting men to serve as policemen. The police was very much puzzled and did not know just where to get the men.

MR. LAUTER: I move that last remark be stricken out.

MR. DAY: We concede that.

TRIAL EXAMINER LINDSAY: That is stricken out.

Q. Well, did he say that?

A. He did.

Q. What did the Chief say in that respect, if anything? What did the Chief say about that?

A. The Chief said, "We don't know where we will get the men."

TRIAL EXAMINER LINDSAY: If you will confine yourself to what the chief said and what you said, we will get along a whole lot better.

THE WITNESS: All right.

Q. (By Mr. Pontius) Was there any subsequent meeting that you attended when the Chief—

A. I didn't hear you.

Q. Was there a meeting later that you attended?

A. I did. I attended a meeting on July 7th at the YWCA.

Q. That was a luncheon meeting, then?

A. It was.

Q. Can you give us the names of some of the people that were there?

A. Yes, Mr. Humberger, Mr. Emery, Mr. Lester, the Mayor, Chief Switter, Mr. Curley, Rev. Hess, Glenn Lanham, a representative of the Union Drawn Steel, I don't remember that gentleman's name.

Q. Did you have a talk with the Mayor before the general speaking took place there?

A. I did not.

Q. Did you have a talk with the Mayor at any time there?

A. I did, right following the meeting, before I left the table.

Q. Before you left the table?

A. Yes, sir, I stood up in my chair.

Q. Was there speaking made, there, to the crowd?

A. There was.

Q. Who spoke?

A. Major Curley, he outlined the plan. He sat beside the Chief. The Chief said Major Curley would explain the plan to the group.

Q. What did Major Curley say, as you recall?

A. Major Curley said they had a definite plan for enlarging the police force.

Q. Did he say what it was?

A. The employment of additional policemen.

Q. Do you recall anything further that he said? How they could get them?

A. Yes, they requested that the various employers shall relieve certain men that he would want, that he would select.

Q. Now, when did you have this talk with the Mayor then?

A. Just following the luncheon, just before I left the table.

Q. Following these other talks, do you mean?

A. Yes.

Q. When these speeches had been made?

A. Yes.

Q. What did the Mayor say to you?

A. I said to the Chief, "Now, what has become of the home guard?" He said, "We are not going to do that. We are going to have regular officers." And the Mayor came back the length of the table and he tapped me on the chest and said, "You just wait," he says, "you just wait," he says, "we have got Major Curley now and he is going to secure the men to help us in organizing."

MR. PONTIUS: I believe that is all.

Cross Examination

Q. (By Mr. Lauter) At this last meeting—

A. Talk a little louder. I am a little hard of hearing.

Q. At this last meeting that you just testified about, Major Curley was present, is that correct?

A. Yes, sir.

Q. And was Carl Meyers present?

A. Yes, sir.

Q. What did Carl Meyers say?

A. He said that they would reopen the plant. The men were anxious to return provided the city would give proper protection to the employees.

Q. Did Curley outline a plan as you say about getting additional policemen?

A. The Mayor said that we—

Q. I am not—I am asking about Curley. Did Curley outline a plan for getting additional policemen?

A. He asked if the manufacturers would release to him the men whom he would select.

Q. Did you hear Mr. Case's testimony?

A. I heard part of it.

Q. Do you know whether or not at that meeting on July 7th Mr. Carl Meyers said, "Leave everything to Curley?"

A. I don't recall his saying that.

Q. What did Mr. Meyers say about Mr. Curley?

A. I don't believe I recall.

Q. Well, what did Mr. Meyers say? Tell me everything that you do recall that Mr. Meyers said at that meeting.

A. Well, Mr. Meyers said that they would open their plant if the city officials would give their men protection, so they could come in and go out without being molested, which personally I was interested that the plant be opened.

Q. Why were you interested that the plant be opened?

A. Because I had property in Massillon and Massillon is a manufacturing town.

Q. And the fact that the plant was closed affected you economically?

A. It would if it were continued long enough.

Q. And you were interested in having the plant opened?

A. Yes.

Q. Were you involved with other members of the Citizens Committee?

MR. DAY: I object to that.

TRIAL EXAMINER LINDSAY: Objection sustained.

Q. Did you ever have any conversations with any of the members of the Citizens Committee about having the plant opened?

A. I presume I would have but I think that I recall that I was very much interested in.

Q. Do you recall any other members of the Citizens Committee telling you that they were interested in having the plant opened up?

A. No.

Q. How was the Citizens Committee formed?

A. I don't know. I was not in it at the start. I came in later.

Q. You said you had some conversations with Republic Steel Company officials, is that correct?

A. Yes.

Q. Never at their instance but always at yours, is that correct?

A. That is right.

Q. With whom did you have conversation?

A. I called up Mr. Meyers and I asked him if the plant was going to remain down or whether they were going to open it up.

Q. And you were interested in having it opened up?

A. I am.

Q. What did Mr. Meyers say?

A. He said if the men had proper protection, they were inclined to open it.

Q. Did you have any other conversations with any other officials of the Republic Steel Corporation or is that the only one time you had a conversation with an official of the Republic Steel Company?

A. That is all.

Q. Was that the only thing that was said at that conversation?

A. That is all that was said.

Redirect Examination

Q. (By Mr. Pontius) What was your interest in this, what got you interested in it?

A. Principally because they were disorderly. The papers carried items about men being molested on the street.

MR. LAUTER: I will object to what the papers carried.

TRIAL EXAMINER LINDSAY: Yes, that objection is sustained unless you know it and saw it.

MR. LAUTER: I will object to the question as to what this witness' interest was. I move to strike his answer.

TRIAL EXAMINER LINDSAY: No. I think he has the right to go into that. I overrule the objection.

MR. PONTIUS: The part that is excluded is what was in the papers?

TRIAL EXAMINER LINDSAY: That is right.

Q. Did you see any instances of disorder yourself, Mr. Poe?

A. Pardon?

Q. Did you see any instances of disorder yourself?

A. No.

Q. What?

A. No.

Q. Did you read the papers at that time?

A. Yes, sir.

Q. Have you anything further to add as to how you became interested in the Citizens Committee in the situation?

A. Yes, I learned from our Committee that there was a problem confronting them, financing additional police officers, and I thought with attorneys we could rather advise with the City Solicitor and find out a means of getting that if they needed it.

Q. What was your purpose in that?

A. To put on additional police if the Chief felt that he needed more officers.

MR. PONTIUS: I think that is all.

Recross Examination

Q. (By Mr. Lauter) Your primary interest, however, was as a property owner in Massillon to see that the Republic Steel plant opened up?

A. I would say as a citizen.

Q. As a property owner, too?

A. I didn't have to have property but as a citizen I would still be interested in the interests of the town.

Q. But you still have the property?

A. I do.

MR. LAUTER: That is all.

MR. PONTIUS: That is all.

(Witness excused.)

REVEREND CHARLES B. HESS

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) State your full name, please.

A. Reverend Charles B. Hess.

Q. Where do you live?

A. I live in Massillon, 324 North Avenue, Northeast.

Q. I believe you are a minister?

A. Of the First Methodist Episcopal Church.

Q. How long have you been located in Massillon?

A. Three years, finished up three years this week.

Q. Did you become interested in this strike situation?

A. Being a minister, I naturally would be interested in a situation like that. I am always interested in what affects the well-being of men and women.

MR. LAUTER: I object to the form of the question and move the answer be stricken out.

TRIAL EXAMINER LINDSAY: I believe we could shorten the matter so much if we would ask the question what he did in the strike and leave the interest out of it.

MR. PONTIUS: I am just coming to that.

Q. What, if anything, did you do in connection with the Citizens Committee?

A. By the way, I haven't my notes taken down, so don't ask me too much about dates, but on the 10th of June I was asked to introduce Father Koran at a public meeting and having heard him, in the afternoon or at the noon time, and knowing something of what he was going to say, I did not hesitate. That was my—

Q. You introduced him?

A. That was my beginning.

Q. What meeting was that?

A. A meeting that was held in the high school auditorium.

Q. And did you then become a member of the Citizens Committee?

A. I attended a meeting the next night at the Women's Club and following that meeting I was asked if I would mind sitting in. The Committee had already been formed, I believe, but at the Women's Club this Committee was constituted who would represent the 16 different organizations, I believe, that were represented there.

Q. Do you remember who was present at that meeting?

A. No. There was a great crowd of folks there, I don't remember.

Q. After that, did you sit in any meetings attended by the public officers of Massillon?

A. Yes, I attended a great many different meetings. I didn't attend all the meetings that were held, but I attended a number of meetings, when my duties did not keep me away.

Q. Do you recall the first one that you attended?

A. Well, I remember my—the meeting of the men to sign on June 30th, July 1st, July 2nd and 3rd. I was particularly interested in that because I had heard rumors of force and wanted to see for myself, so I was in there quite a bit.

Q. Where were you?

MR. LAUTER: I will move any remarks with respect to rumors be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, I will sustain the objection.

A. It was in the Chamber of Commerce room.

Q. All right. Was anything that you did in connection with this matter instigated by the Republic Steel?

A. Absolutely not.

Q. Well now, what took place, to your knowledge, at the Chamber of Commerce rooms?

A. How is that?

Q. What took place at the Chamber of Commerce rooms?

A. This was in a private office of Mr. Case and they had a long table, in fact, a couple of tables in there, and the men came in and signed up in the respective departments, those who desired to go back to work.

Q. Do you know how many men signed up?

A. I didn't—only as I was informed and I saw a great number come in there. In fact, so many that the two elevators could hardly bring them up fast enough.

Q. How many of those dates were you in attendance at these rooms?

A. Probably three of the four days I was in there, in and out. Just as I could go in.

Q. Well, following that did you attend any meetings of the Citizens Committee?

A. I attended a meeting, that Sunday afternoon meeting that has been referred to, on July 13th, I think it was, in Mr. Case's—in the Chamber of Commerce room with the Chief of Police.

Q. You don't mean July 13th?

A. No, June 13th.

Q. June 13th?

A. Yes.

Q. That is Sunday afternoon?

A. Sunday afternoon meeting. I was there.

Q. Tell us your recollection as to who was there that afternoon.

A. Well, the various members of the Committee I think were practically all present and the Prosecutor, Mr. Hoffman, and the Chief.

Q. Is that the first meeting of the Citizens Committee that you attended? I don't know whether you attended the one at the Conrad Hotel.

A. No, I was not at that meeting.

Q. You were at the June 13th meeting?

A. I was at the June 13th meeting.

Q. Tell us what occurred on that occasion.

A. Well, I remember that the Chief used very strong adjectives, which a minister is not supposed to use, in expressing the situation, in his great need for materials to equip his force and lack of men, and I remember he said he wanted 52 and I wondered why he wanted 52 and he said he had 13 men and he would put each one of his men over four, so that he would have that many squads and he agreed at that time—so when he asked the Citizens group to assist financially, they agreed he was to do it.

Then the question came up as to whether or not the Mayor would O. K. this and he agreed to bring the Mayor into the meeting on Monday and then further in this meeting the Chief mentioned, as already has been referred to, about the stealing.

Q. What was said about it, just tell what was said?

A. Well, what has been reported here is accurate. He said when he went down there he took some fire arms and sawed-off shotguns or weapons and so forth but he almost swore us to secrecy.

Q. What did he say?

A. Well, he said he needed them and he was down there and he saw them and he just took them in the office. The reason that nothing was said about it, we were really in confidence and he charged us to tell no man, and here I am doing it.

TRIAL EXAMINER LINDSAY: Well, of course, you are under oath. You are supposed to tell the truth.

A. Yes, sir.

Q. What else did he say with respect to getting this ammunition?

A. How is that?

Q. What else did he say with respect to getting this ammunition? Did he say anything more?

A. Well, it seems to me almost a repetition. He spoke of how powerless he was to do the things he would like to do. He didn't have the force. It has been gone over here time and time again.

Q. Was anything said there about the situation existing in Massillon at the time?

A. Yes, he said it was bad and he didn't know what to do and so forth and so on. I attended a meeting later.

Q. Did you attend a meeting the next day then?

A. No, I didn't attend a meeting the next day. That was my college commencement. I was not there.

Q. What meeting did you attend?

A. I attended a meeting, I don't know whether it has been referred to or not here, in the Mayor's office in which this Citizens Committee, as we call it, and certain other men, representative citizens, I believe the President of the First National Bank and the President of the First National Trust Company and several others were present at that time and they urged, the Mayor and the Chief the necessity of strengthening of the police force to cope with the situation.

Q. Do you remember when that was?

A. I would have to hunt up the notes, and I do not have them here.

Q. Were there any attorneys present at that time?

A. Yes, Attorneys Maier and Wefler, I believe, were present.

Q. Do you know whether that was the occasion that the petition was presented, do you remember that?

A. No, I was not present when the petition was presented, although I know about the petition and signed it.

Q. This petition that is in evidence here as Respondent's Exhibit 2?

A. That petition was brought before our Ministers Association, and we all signed it.

Q. Well, going to this meeting that you have referred to where some of the business men of Massillon were present, what public officials were there?

A. Well, Hardman was there, the Chief was there, Chief Switter and the Mayor is all, those three, in the Mayor's office.

Q. Do you know when that was?

A. No, I couldn't tell you exactly.

Q. About when?

A. It was a little while before that Captain Curley was taken into the situation. It was a little while before that.

Q. How did you happen to attend that meeting, were you called?

A. Yes, sir.

Q. Tell us about that.

A. Well, all I know is that feeling the sense that something must be done to avert tragedy in our city, we must have protection, we made this appeal to the Mayor and to the Chief.

Q. Now, what was said at that time?

A. Well, the main thing that I recall was passing the buck from the Mayor to the Chief and from the Chief to the Mayor and so forth and finally the Chief said, "Well, we will go ahead. Let us have 50, 100, 200 and have the G. D. battle over with."

Q. Do you know whether that was before or after the troops came into Massillon? It has been testified to that the troops came in the 1st of July.

A. Well, I am speaking under oath and I wiil speak with accuracy as nearly as I can. I think that the troops were still there but that we had pretty definite information that the troops were going to slip out without much notice.

Q. Now, did you attend any meeting which was attended also by any of the city officials following that time?

A. No, I believe not.

Q. Did you attend any other meeting that I have not asked you about that you recall?

A. Well, I am sure I did but I could not recall the meeting.

Q. Now I will ask you if the Republic Steel Company instigated you to take any interest in these matters?

A. Certainly not.

Q. Did you have any interest in attempting to break this strike?

A. Certainly not. I have friends on both sides.

Q. How did you become interested in this?

A. Well, I think I answered that.

TRIAL EXAMINER LINDSAY: Oh, it doesn't

matter, Mr. Pontius. We are only interested in what he did and what he saw.

MR. PONTIUS: I believe that is all.

Cross Examination

Q. (By Mr. Lauter) You stated that you attended a good many meetings of the Citizens Committee?

A. Yes, this was really, the real name of that was, I believe, the Labor Relations Committee, unaffiliated, of course, to the Labor Relations Board.

Q. But it was a committee?

A. Yes.

Q. You attended a good many of their meetings?

A. Yes. I tried to attend all meetings when I received notices unless my duties as a minister kept me away sometimes.

Q. And you were interested in not having any tragedy occur?

A. Absolutely.

Q. You have friends on both sides?

A. Yes.

Q. What do you mean by both sides?

A. There are members of my congregation who are employed by Republic Steel and there are members of my congregation who are C. I. O.

Q. And you were interested in what affects the welfare of men and women, is that correct?

A. Yes.

Q. Did you hear about the July 11th shooting of two strikers?

A. Yes, I heard—

Q. Did you hear about that?

A. Sure.

Q. Did you make any investigation of that?

A. How?

Q. Did you make any investigation about that?

A. I heard the story of it the next day. I was at home. I was not down there.

Q. I am asking you whether you made any investigation of that?

A. No; not personally.

Q. Although you were interested in the welfare of men and women in Massillon?

A. Yes, sir.

Q. Do you know a foreman by the name of Henderson who works at the Republic Steel Corporation plant?

A. I know there is such a man. He is not an acquaintance of mine.

Q. Did you hear that he led a party that broke into houses on July 11th and arrested the men without a warrant?

A. That would be hearsay for me.

Q. I am not asking you whether that would be hearsay. Did you hear that he led a party that broke into houses on July 11th and arrested the men without a warrant?

A. Sure.

Q. Did you make an investigation of that?

A. Well—

Q. Did you or did you not?

A. No, I didn't. I didn't get out. I kept away from town there.

Q. I know. Did you hear the men were kept in jail for two or three days without any food at Canton and Massillon?

A. No, I didn't hear that.

Q. Did you hear there was a great number of men arrested in Massillon on July 11th?

A. Sure.

Q. Did you make any investigation of their arrest?

MR. DAY: I object to that.

A. It was not my business.

TRIAL EXAMINER LINDSAY: Let the record show an exception. Objection overruled.

MR. DAY: Except.

Q. Do you know the strike headquarters located on Cleveland Avenue near the plant?

A. I never visited them.

Q. That is what I want to find out, whether you ever visited that bullet-ridden strike headquarters?

A. No.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Pontius) Just a minute. I want to ask a question. Did you feel it was your duty to make any personal investigation of this matter?

A. Certainly not. I talked with individual members of the C. I. O. who were in my congregation but I didn't feel it was anybody's place to stick their neck out there then.

Q. Let me ask you this: From your knowledge of conditions there in Massillon, what did you feel would happen unless there was adequate police protection?

A. There, that is a question I would like to be permitted to answer.

Q. That is what I am asking you.

A. From my most sober judgment I am positively of the opinion that if we had not had the police there on the night of the riot that we might have had not two men killed but maybe 50 or 100 or more killed, that is my conclusion.

Q. Why do you say that? What is the reason for that?

A. Well, my reason is this, contacts that I had had with men, the Back-to-Work men, who felt that they have been denied meetings when the C. I. O. were granted the privilege of having meetings and from the number of things, the accounts that appeared in the paper and what happened, the fights and the rocks that were being thrown, that they were in no temper to stand any more. This is hearsay but I have understood that many of them were ready for trouble.

(Discussion had off the record.)

MR. DAY: That is all.

MR. LAUTER: One more question.

Recross Examination

Q. (By Mr. Lauter) You testified about a meeting of June 13th at which Chief Switter stated that he took some guns and sawed-off shotguns and other ammunition out of the Republic office. Do you recall the exact language or as closely as you can recall the exact language? Will you tell us what Chief Switter said?

A. I think he used the words, "Now I am going to tell you men something. I am going to let you in on something." He had been speaking of his scarcity of ammunition. He had no gas bombs and so forth, "But you are not to tell this on me but I am letting you men—" He wants to let men out of the main office or main gate of the plant and he went in there, he used the word "steal" or "stole", that he took them just simply because he saw them in the office, as I understand, and he needed them and he therefore took them. He said, "But I don't want you to tell this on me."

Q. You say that he said he took the ammunition out that he saw when he was letting some men out of the plant. Were these employees of the plant that he was referring to?

A. That is when he had occasion to go back. When the men would come out of the plant, they would come out, as I understand, under the leadership of the Chief through the C. I. O., who were picketing.

Q. Who were the men whom he said he was bringing out of the plant? To your understanding, were they employees who were inside of the plant?

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A. Yes.

Q. And at the time he stole this ammunition or took this ammunition out he was accompanied by employees of the plant?

A. He didn't say anything about that.

Q. Did he say there were men coming out at that time?

A. No, I don't think he did.

Q. Tell me again what you said he said.

A. I understood him to say that as he passed through the Republic office and I remember he said tear bombs and guns and I think he said sawed-off shotguns and he said, "I took them because I needed them. I stole them."

Q. Tell me what he said about the men leaving the plant.

A. Well, he was not particularly talking about it. I was telling that.

Q. What he was particularly talking about, I am not interested in. I want to know what he said about men leaving the plant.

A. I don't recall he said anything about men leaving the plant.

Q. If the record should show that he said something about men leaving the plant, do you want to change your testimony?

A. No, I said he had occasion to go in and out of the plant.

MR. LAUTER: Will you read the question to the witness again, please?

(Previous question read.)

A. I did not change my testimony, no.

Q. On July 11th the shooting took place, is that correct? You testified a few moments ago on redirect that if there had not been police there, that more than two would have been killed, is that correct?

A. I say—I testify that it was my judgment, taking the balance of two factors in the situation, from all sides, that we would have had something that would have been staggering for this whole country, if we had not had the police there.

Q. Did you say something about non-strikers being in an ugly mood?

MR. DAY: I didn't understand that.

A. Well, I said this, that they had gone to the point that their endurance was about at the limit.

Q. Do you know whether or not any non-strikers were out in that section on July 11th?

A. I do not, except I know that they were at the regular shifts I believe 3 and 11 and 7, the men entered and left the plants at that time.

Q. Do you know whether or not any policemen were killed that night?

A. I think I can say there were no policemen killed.

Q. Do you know whether there were any strikers killed, any members of the CIO killed?

A. Two.

Q. Two?

A. Either killed or died as a result.

MR. LAUTER: That is all.

MR. PONTIUS: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will take a short recess.

(Recess had.)

JAMES B. HALL

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) Please state your name.

A. James B. Hall.

Q. Where do you live, Mr. Hall?

A. 1031 Irvington Avenue, N. E., Massillon, Ohio.

Q. What is your business?

A. First Savings & Loan Company.

Q. Are you an officer in that company?

A. Yes, assistant secretary.

Q. How long have you lived in Massillon?

A. Since Thanksgiving Day, 1930.

Q. You were living there during the months of May, June, and July of this year?

A. Yes, sir.

Q. Were you a member of this so-called Citizens Committee?

A. Yes.

Q. I will ask you to state whether or not you were present at the Conrad Hotel on the evening of May 28th?

A. Yes, sir.

Q. Will you state who was there at that meeting?

A. I won't be able to recall them all. I will name as many as I can. Mr. Arthur Anthony of Massillon—all of these are from Massillon, of course—J. Lester, D. W. Case, P. J. Bordner, Richard Hardman, Stanley Switter, L. B. Beamer, Captain Spuhler, W. H. Crawford, Charlie Boyd, Mr. Berger, John Klinge. That is all I can recall offhand.

Q. How did it happen that you went to that meeting? How did you get an invitation to it?

A. Someone from the Chamber of Commerce called our office, the First Savings & Loan Company, and asked whether or not we would be interested in sending a representative to a meeting that was to be held at the Conrad Hotel, and I went.

Q. Now, were you there throughout that meeting?

A. I was there when it started and when it ended.

Q. Please state your recollection of what occurred and what was said at that meeting as fully as you can.

A. The meeting was in charge of P. J. Bordner, the president of the Chamber of Commerce, who called the meeting to order, and called upon the Secretary, Mr, Case, to relate the purposes of the meeting, which he did, and called our attention to the fact that—

Q. Just tell us as fully as you can, what did Mr. Case say?

A. He said that various people had been calling his office and making statements about the strike and the strike areas, and that they had called the meeting, the meeting had been called for the purpose of getting as much accurate information, so that he would be in a position to answer questions.

Following Mr. Case, Stanley Switter, Chief of Police, took the stand. He stated in the first place that he realized that all along the line there had been numerous cases of violence and lack of orderliness. He said that he had been down along the line and would be in a position to give us first hand information.

He stated that all he saw on the picket line was a bunch of niggers, hunkies, Spaniards, and I am quoting him. "They are nothing but a bunch of Communists and nothing would please me any better than to go down and clean them up."

Quoting him again, he said, "Just a few days ago, I was called on official business to the office of the Union Drawn Steel Company and ordinarily I am in the police car and they don't say anything to me. And apparently they didn't notice it, some hunky stepped out into Harsh Road and said, 'Here, Mister, where are you going?' "

"Now," he said, "maybe you think I would not like to have given that son-of-a-bitch the pipe."

He went on further to state that they had 18 police and 16 revolvers, and he said, "What can I do with a gang of men like that?" He said he would be in a position to maintain the law and order if he had the men and the equipment.

Following him, Mr. W. H. Crawford of the Reliance

Manufacturing Company, spoke. He mentioned the shipments of freight and mail had been more or less interfered with by the pickets, as the baggage was attempted—was being attempted to be transported in Harsh Road, a public road to the headquarters.

MR. LAUTER: I object to anything after the phrase "more or less" and move it be stricken.

TRIAL EXAMINER LINDSAY: What?

MR. LAUTER: I object to anything else after the phrase "more or less" in his last statement, and move it be stricken.

(The record read by the Reporter.)

MR. PONTIUS: That is what he said.

TRIAL EXAMINER LINDSAY: Oh, he may state what he heard him say, and your objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

A. He mentioned specifically on one occasion that a utility truck was coming into his office and the baggage had been opened. He said, "fortunately he had no cause for complaint as to loss of property, because nothing was taken out, but it was opened."

MR. LAUTER: I object to any further statement not related to the respondent in this case; outside of the issues in the case.

MR. DAY: That is what he said.

TRIAL EXAMINER LINDSAY: Oh, he may tell the whole conversation as he heard it. The objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

A. He stated that Harsh Road should be kept open so that the employees and shipments could have free ingress and egress to the headquarters building of the Reliance Manufacturing Company, and asked Mr. Switter, chief of police, to do something about having that main road blocked.

Following Mr. Crawford, Mr. C. E. Boyd, who is a construction man in Massillon, was calling the attention of the city officials that he had been interfered with upon several occasions and going to and from work that he had under construction, and he stated that in his case it was largely Oberlin Road, and he was asking Chief Switter if he couldn't in some manner arrange to have that road opened to anybody that had nothing to do with either CIO or Republic Steel Corporation.

He thought that Chief Switter should see to it that the pickets were not armed. Mr. Switter promised to take that up with Mr. Morton. That is as far as I know of the meeting.

Q. Anything further that you recall, at that meeting?

A. Yes, following him City Solicitor Richard Hardman spoke, and he stated that on various trips that had been made throughout the picket lines by Chief Switter, that he had accompanied him, and he felt that what the Chief had stated was facts, but he didn't know how the city was in a position to provide additional equipment and men that Switter wanted, because they were handicapped due to lack of funds.

Q. What was the upshot of that meeting? Any definite determination arrived at?

A. In conclusion Chief Switter promised that he would try to eliminate the various infractions that had been mentioned specifically.

Q. Are you familiar with Massillon sufficiently to state the location of Harsh Road?

A. Yes, Harsh Road is perpendicular to 3rd Street southeast, and Harsh Road is the road that leads into both the Reliance Manufacturing plant and also the Union Drawn Steel Company.

Q. The latter company being a subsidiary of Republic?

A. That is right.

Q. And is that plant some distance away from the large plant of the Republic, in Massillon?

A. Yes, quite a distance, probably a mile and a half.

Q. And this Oberlin Road that you refer to is near to and along the main plant of the Republic?

A. That is right.

Q. Right? Now, did you attend any other meetings of this Citizens Group?

A. The next meeting that I attended was at the Central Presbyterian Church which was held, I believe, on June 6th.

Q. Any city officers there at that meeting?

A. Chief Switter was there.

Q. Did Chief Switter make a talk at that meeting?

A. Yes, he did.

Q. Tell us what occurred at that meeting.

A. This meeting was somewhat different from the one at the Conrad Hotel, due specifically to the fact that there were quite a large number of ladies from the Women's Club and Republic and Union Drawn Steel workmen in the audience, which were not present at the Conrad Hotel. I remember Verne Mathews of Union Drawn was making a statement at that time that most of the fellows at Union Drawn Steel wanted to go back to work, and he said that to his knowledge they never were organized to any extent such as a majority and that he had been making the effort to get the group together for the purpose of deciding how many of them, or whether they had a majority that wanted to go back to work.

He stated that they had attempted to have a meeting in the City Hall at Massillon but that Chief Switter had permitted Joe Morton to come in and interfere and make threats at this meeting, and since that time they had not been able to get anywhere towards the idea of determining how many of them would go back to work.

Q. Did any other person or persons speak at that meeting?

A. Yes, John Walsh, who I believe is a checker of some kind at Republic Steel, stated that in his honest opinion he felt if there was any possibility of determining just the question as to how many Republic fellows wanted to go to work, he thought he could prove beyond doubt that the majority did. But he said that any attempt that the workmen had made to determine whether or not they had a majority had been interfered with.

Q. In what respect?

A. Well, they had attempted, I understood from that, they were attempting—

TRIAL EXAMINER LINDSAY: No, wait a minute, not what you understood.

MR. PONTIUS: No.

TRIAL EXAMINER LINDSAY: It is just what he said.

A. Well, he said they were making calls on various fellows and inquiring whether or not they wanted to go back to work. He said they had called at certain houses and they would not be allowed in unless they went in a group. If they went in a group, he said that meant a fight.

Q. Did anybody else speak at that meeting?

A. Yes, there was a man by the name of Fred Becker, whom I know as a metallurgist at Republic Steel, he had more conversation than anybody else present, I believe. He was formerly from Hershey, Pennsylvania, and he was saying that he thought the workmen there should determine at once whether they had a majority and then attempt to compel the city to make it possible for them to go to their jobs if a majority wanted to.

Following him Chief Switter again spoke and while in a measure he subdued somewhat the profanity and the names that he implied on various citizens at the previous meeting, at the same time he was just as determined—

Q. No, just tell what he said.

TRIAL EXAMINER LINDSAY: Just a minute, now.

Q. Tell what he said, please. Answer the question, tell what he said.

TRIAL EXAMINER LINDSAY: Off the record.

(Discussion held off the record.)

A. He again stated that he had 18 policemen and 16 revolvers. He mentioned that he could do nothing with a force of that size. He said that was an impossibility for a force of those dimensions and that equipment to cope with the situation.

He referred to some mention that had come to him whereby if any attempt was made to reopen the Republic Steel, that the Republic Steel workers from Akron would come down here, and he called the attention to the workmen there, that if such a thing would happen, he says, "You just leave that to me, and I will send my men to the outskirts of the city and we will see that they don't come in here," and in closing he stated that if someone should show him one thousand men that wanted to go back to work, he says, "I will take them down and escort them."

Q. Did he say anything else that you have not related?

A. Not that I recall.

Q. Any other talks there on that occasion, that you recall?

A. Nothing of any consequence, to my knowledge.

Q. Now, following that did you attend any meeting that was attended by Chief Switter? You have said that was June 6th, I believe?

A. Yes. The next meeting that I attended was on Sunday afternoon, June 13th.

Q. And where was that meeting held?

A. At the Massillon Chamber of Commerce.

Q. As I understand you to say, June 13th?

A. June 13th.

Q. What public officials were at that meeting?

A. As I recall, Chief Switter and assistant prosecutor Robert Hoffman.

Q. And who of your committee were present on that occasion?

A. I remember Reverend Hess, J. A. Schaidnagle, Mr. Schaffer, Mr. Prashaw. There were more of the committee, but those were the only ones I remember specifically.

Q. Please state what was said and done on that occasion as fully as you can.

A. Chief Switter spoke at length about an insurance policy that the Republic Steel wanted from the vault or files of the Republic Steel offices. Someone from Republic Steel had asked Chief Switter to accompany him to the Republic Steel office for the purpose of securing this policy in order that the insurance company could pay the widow of the deceased.

A. (Continued) Switter stated that he felt that if he went to the office to secure the paper that he would have difficulty with C. I. O. That he had previously taken it up with Mr. Morton and Mr. Morton had refused him the privilege of going in unless he was accompanied by Union officials,—

(Remarks off the record.)

Q. (By Mr. Fontius) What was said, not what you understand.

A. How far shall I go back?

Q. You were saying something about what Switter was saying.

A. Chief Switter stated that he had taken the matter up with Mr. Morton and that it was not satisfactory for him to go into the Republic Steel office unless he was accompanied by Union C. I. O. officials and he mentioned that that plan was not satisfactory to Republic Steel.

Q. Was anything else said there on that occasion?

A. Yes, he asked the Committee whether they knew of any way or any possibility whereby he could get additional men and equipment. I believe—Mr. Schaidnagle asked him just what equipment he would need. He said he felt that he had 13 men who were on patrol duty and he felt that he should rate at least four men for them, at least each one of those could have charge of a squad of four. He did not mention what equipment he needed but he estimated to take care of the immediate emergency it would require approximately $8200.

Q. What else was said there on that occasion, as fully as you can state it?

A. Mr. Schaidnagle asked him whether he would appoint or could he have appointed special police if he knew where to get them. He said that was the Mayor's responsibility and he would not commit himself without the Mayor. He offered to bring the Mayor and the Service Director to meet us on the following Monday.

Q. Was there anything else that occurred on that Sunday that you recall?

A. Yes. He again brought out how poorly equipped the department was by again mentioning what equipment he had. He followed that by stating that he had recently taken some equipment from the Republic Steel office. He said he was telling us this in confidence and he hoped that we would not betray him and he did not think we would. He needed the equipment.

Q. Now, do you recall anything else that was said and done at that meeting?

A. That is all to my knowledge.

Q. Now, did you have a meeting the next morning then?

A. We met on the following morning.

Q. At this same place?

A. The same place, the Chamber of Commerce.

Q. Tell us as fully as you can what was done there.

A. Someone from the Committee asked Mayor Krier and also Safety Director Snyder whether they would appoint the special policemen that Switter was requesting and Mayor Krier stated and Mr. Snyder affirmed that they felt that Chief Switter could adequately cope with the situation and they would do anything he said and appoint any men that he would ask for.

Q. Anything further said at that time that you recall?

A. Someone from the Committee stated that they were making an effort to provide sufficient funds for the City to meet the emergency.

Q. Anything else done there on that occasion that you recall?

A. Nothing to my knowledge.

Q. Did you have a subsequent meeting at any time with this Committee at which the City officials were present?

A. The next meeting with the City officials was directly following the 4th of July, I would say, on about the 6th day in the morning.

Q. Where was that meeting held?

A. That meeting was held at the City Hall.

Q. Who were present on that occasion that you recall?

A. Mayor Krier, Chief Switter, City Solicitor Hardman.

Q. And members of your Committee?

A. There were several members of the Committee present, and some other citizens that had not been members previously.

Q. Please tell what was said and done on that occasion.

A. At that time someone from the Committee, I believe Mr. Poe from the Committee stated that he had been informed by Mr. Marlin of the Ohio National Guard that the troops would leave Massillon some of these days and he inquired of the Mayor and Chief of Police—

TRIAL EXAMINER LINDSAY: Just a minute, Mr. Day and Mr. Pontius and Mr. Lauter, come up here a minute.

(Discussion had at the bench off the record.)

MR. PONTIUS: What was the last question and answer?

(Previous question and answer read.)

Q. Go forward. We were on July 6th, as I understand.

A. Inquired whether they had made any arrangements to appoint special police. Switter stated that he did not know how to get them any and Mr. Case, I believe, I am not certain of that, as to who, but someone from the Committee asked the officials whether they knew how to provide the money. Mr. Elson Wefler, attorney, was in the group and he stated to the officials that it was possible for them to borrow money from commercial banks and following that Mr. Hardman, the City Solicitor, stated that he would investigate into the possibility of acquiring the necessary funds.

Q. Was there anything else that occurred on that occasion that you recall?

A. Yes. Mr. Hardman, following that meeting, inquired whether some of our Committee would go along with him to the commercial banks for the purpose of discussing the possibility of borrowing money. Then Mr. Hardman asked me personally whether I would go along. I agreed to. He then asked Mr. Lester and he also agreed.

Q. And did you go to the banks then with Mr. Hardman?

A. So far as the meeting—we closed the meeting.

Q. Was that the conclusion of the meeting?

A. Following the meeting.

Q. Yes.

A. Mr. Hardman, Mr. Lester and myself went to three commercial banks, Ohio Merchants and First National and State Bank at Massillon to secure their consent for the City to make this loan. The officers of all three institutions agreed provided their Board would approve.

Q. Did you attend any other meeting that same day or after that?

A. Not to my knowledge.

Q. Were you at the Y. W. C. A. on the 7th, do you remember?

A. I was not.

Q. You were not at that meeting. I will ask you to state whether your activities in this organization, this Committee, were instigated in any manner whatsoever by the Republic Steel Corporation?

A. No, sir.

MR. PONTIUS: That is all.

(Witness excused.)

MR. DAY: Mr. Quigley.

PAUL E. QUIGLEY

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name, please?

A. Paul E. Quigley.

Q. How old are you?

A. 31.

Q. Where do you live?

A. 114 Thorn Street, Massillon.

Q. How long have you lived in Massillon?

A. Since 1920.

Q. What is your position?

A. My position is Retail Secretary to the Chamber of Commerce.

Q. Of Massillon?

A. Of Massillon.

Q. How long have you held that position?

A. Over a broken period of five years. I have been there two and a half.

Q. Were you active in submitting some Committee work in connection with the strike?

A. I was not a member of the Committee but worked closely with Mr. Case, sat in several of the meetings, talked to a number of the steel workers who came to our office.

Q. What was the date of the first meeting that you attended?

A. May 28th, the Conrad Hotel meeting.

Q. At the Conrad Hotel?

A. Yes.

Q. Will you tell briefly what occurred at that meeting?

A. Mr. Bordner called Mr. Case to brief the purpose. He stated that we had had a lot of calls for information and rumors coming in and that he set this meeting up in order to give the Chief a chance to verify what are facts and what are rumors and some of the things that have been reported were that roads were blocked with cars and logs and pickets were carrying clubs, that packages for delivery had been opened.

MR. LAUTER: I object to some of the things that had been reported and everything that follows. I move to strike.

A. This is Mr. Case's statement at the meeting.

TRIAL EXAMINER LINDSAY: I do not care what it is. Wait until I get through ruling on it. The objection is overruled. Let the record show an exception. Now I understand that this is a statement that Case is making?

THE WITNESS: Yes, that he made preliminary to Switter's at the Conrad Hotel meeting.

Q. Just tell what was said there and refrain from saying any conclusion of your own. Just state what was said and who said it. Now go ahead, please.

A. Case continued further that citizens were concerned as to these reported law violations. Well, Switter was then asked by Mr. Bordner to tell what was the actual condition as he saw it from going over the lines and being more or less in charge of the situation from the City standpoint. Well, Switter said that he was quite familiar with the picket lines.

TRIAL EXAMINER LINDSAY: Let's go back a minute here. Read that answer.

(Previous answer read.)

TRIAL EXAMINER LINDSAY: Wait a minute. Who made that statement about being in charge of the situation?

THE WITNESS: Mr. Bordner.

TRIAL EXAMINER LINDSAY: You did not add that yourself?

THE WITNESS: No, that is my memory of the meeting which was a few months ago.

Q. Go ahead.

A. Chief Switter's statement continued to the effect that many of the men on the lines were hoodlums, wops, and Communists, and that he had difficulty getting men who understood English easily and who could give in substance as to what he wanted done but that he had finally succeeded in having the Union put men who understood English easily in as captains on each shift and he was now able to give the directions which he wished to give to those picket squads. He said, "I don't think you men realize the amount of Communism in the Company. The Federal Bureau of Investigation School, which I just attended, we were told at the school, we were told some of these things that they have information there are 11,000,000 Communists in this country." He further stated that he had 13 men in his department, 16 revolvers, and was unable to correct the law violations which he agreed were being perpetrated and the roads being blocked but was trying to handle the situation in an intelligent manner and avoid fights or riots developing. Following his comment Mr. W. L. Crawford spoke briefly and stated that a shipment of material to his plant on one of the motor freight carriers had the cartons opened, but no merchandise lost.

And they had found it necessary to construct a new entrance for their employees down to the Reliance plant, to save them from coming through the picket lines into the Reliance, and asked Chief Switter to try to open Harsh Road up more completely.

Richard Hardman, city solicitor, spoke briefly, saying he felt the police force was inadequate at the present time, and due to the city's low finances they could not equip and add men. The meeting adjourned without any action being taken.

Q. When next did you attend a meeting?

A. Sunday, June 13th, at the Chamber of Commerce was the next meeting.

Q. And who were present at that meeting?

A. Chief Switter, Robert Hoffman, J. G. Lester, D. W. Case, Reverend Hess, James Hall, I. Schaidnagle and myself, C. M. Shaffer and others.

Q. What was said at that meeting?

A. Mr. Lester told the committee that Chief Switter had asked the committee's help in building up his police force as a result of a request from Mr. Maier to accompany the insurance man into the Republic office building, and that Chief Switter had also requested Mr. Lester to secure a delay in this request for police protection, which had been done, and that the purpose of today's meeting was to discuss ways and means.

Mr. Lester then asked Chief Switter to tell what he thought the committee could do to help him. Chief Switter did not state for three-quarters of an hour what help he wanted, but taiked to a great extent, complaining of his position and in substance it was this: That his position—

TRIAL EXAMINER LINDSAY: No, not in substance. Tell just what he said.

A. All right. "I am on the spot between the company and the union. I do not see why Carl Meyers won't allow union men to accompany this adjuster, and on the other hand I don't see why Joe Morton insists on his men going in."

"Joe Morton is a very difficult fellow to work with."

"There was supposed to have been an executive committee of seven set up to direct the union's policies, but that was never done, and Joe Morton is making all of the decisions."

"I am just about fed up with the situation, and ready to go down and have it out with them."

Still quoting Switter, as closely as I can remember: "On this request to accompany the insurance man into the office, I could go down with four or five men and handle it, and if any shooting started, I would take care of it, but I am afraid there would be reprisals at night, by perhaps breaking the office windows and with my 13 men for outside duty I do not have enough police force to police the city and protect that property."

His talk along that line went somewhat further, but Mr. Schaidnagle then asked: "Chief, what is it we can do? We are wasting a lot of time."

Switter said, "If I had 52 patrolmen, for to put under each regular patrolman, I could handle the situation."

Then there was a joint discussion of the city ordinances authorizing the Mayor to appoint special patrolmen, the cost of equipping them, and the $8200 figure was arrived at.

Some of the committee members then asked the Chief whether or not he thought the Mayor would make these appointments, and whether the Chief would take it up with them, whether he wanted any of the committee along.

And I forgot we did try to call the Mayor by telephone and couldn't reach him. So the meeting for the next morning was arranged at Switter's suggestion in the hall back of the Chamber of Commerce, he said he would bring the Mayor in, into the meeting.

Q. What took place at that next meeting, the next day?

A. A committee member asked the Mayor early in the meeting whether he thought the plan talked of Sunday was practical, and the Mayor said that if the safety director and the chief thought that 52 men should be added, he would appoint them.

Now, there was a discussion in which the committee agreed to try to raise the $8200, and the meeting adjourned with the conclusion that they would go forward on that, the city on their part and the committee on their part.

Q. Did you attend any other meeting, when Chief Switter was there and the city officials were there?

A. On June 25th when the citizens' petition was presented to the city officials at the Chief of Police's office.

Q What was said at that date?

A. I came in late and Mr. Wefler, I believe, was reading the petition; he began over, read the full petition; Mr. Maier commented on it, and the officials, either the Mayor or the city solicitor, asked what the committee thought they should do.

He said, "I think you should ask some patrolmen." Then I think it was Stanley Switter or one of the other city officials said, "Well, the National Guard is coming in now," —there was two guard officers in the meeting—"I guess they are going to take over the situation and we will see what their plans are."

Q. Did you attend any further meetings that you can remember?

A. Later that afternoon Mr. Case told me of a call from either Switter or Hardman asking for these special men, the names of these men.

On July 6th in the afternoon we again received a call from Switter asking that we would send them men for special policemen.

At that time Mr. Case and I walked over to the Chief's office to get straight. We had to tell them that we had no men to particularly suggest to them, to send to them.

Found several of the Republic employees discussing the same suggestion, the same matter, the matter of the chief being able to get enough extra patrolmen of the right type.

During the course of the meeting Mr. Case said, "Chief Switter, how are you getting along with Major Curley?" Switter said, "O. k." "Well, I think he might be able to help you find a method of getting good men."

Chief Switter then picked up the telephone and said, "Send the police cruiser down to Harry Curley's house and ask him to come in."

Shortly after the phone rang and Switter said, "He is in Doctor Stewart's office? Well, tell him to come in when he is through."

We left the meeting shortly after that.

Q. Did you attend any meeting when Chief Switter said anything about getting arms from Republic?

A. Yes.

Q. Where and when was that meeting held?

A. June 13th, meeting on—Sunday meeting at the Chamber of Commerce, he stated—

Q. What, if anything, did the chief say on that subject at that time?

A. He said, "I will tell you men something, if you won't tell it outside. I really hadn't ought to tell you because I know these things all leak out regardless of how much you say you will not tell it, but when I was closing the Republic office building recently, I took shot guns and tear gas shells"—are the two items I recall him saying, and then he was indefinite, said that—"and then I went out into the country and picked them up and brought them into our office."

Q. Did you attend a meeting, or were you going into a meeting at any time when you met Joe Morton?

A. Yes.

Q. Now, when was that meeting?

A. June 11th, a meeting of the Citizens Group called at the Massillon Women's Club. I started up the steps and someone called, whom I recognized later as Joe Morton, in a car parked alongside. I walked over and talked with him.

Q. What did he say?

A. He said, "What the hell is going on here? Are you running a God damn striking-breaking organization?"

I said, "No, Joe, this is a group of citizens demanding that law and order be re-established."

"Well, that is what it is? Now, I am telling you, here, we have no witnesses, that if we go into that meeting, we won't be responsible what happens to you."

I says, "That is a pretty strong statement to make, Joe." We talked a little more and parted.

Q. Were you in a meeting at the YWCA?

A. Yes.

Q. What was the date of that?

A. July 7th at noon, 12 o'clock.

Q. Who were present, generally, there?

A. The Mayor, safety director, city solicitor, chief of police, Major Curley, J. G. Lester, Frank Humberger, Mindred Emery, Tom Poe, Mr. Williams. That is as closely as I recall.

Q. What took place at that meeting?

A. Mr. Case stated the men had been asked to gather at the Mayor's invitation and he understood Major Curley was going to talk before the Mayor.

Major Curley then made a statement to the meeting, that the city had decided to add special policemen, and he was assisting the chief in getting that organization together, and he said the city officials had decided they would like to draw men from the other Massillon industries unaffected by the strike, on the basis that those men be returned to their jobs without any trouble following the emergency. That the men would be paid $5 a day and that they wanted them quick, he would like to get the names or have them send the men in that afternoon.

One of the men present asked the Mayor if Major Curley was speaking fully for him, and he stated that he was.

There were some questions asked and most of those present agreed they would try to locate people in their organizations, and at the end of the meeting Mr. Carl Meyers was in the meeting, was asked to say a few words, and he said this:

"We are happy to be starting operations again in Massillon, and I think our operations will be on a good basis. Recently, before the strike, we experimented some with carbon steel, and that may be a development that will help operations here.

"Now, in relation to your discussion just before my talk, since Major Curley suggests that we forget this whole darn proposition, we all have confidence in Major Curley, let's not press the city to institute that plan, and let's abide by Major Curley and the city officials' ideas on this matter." The meeting adjourned.

MR. DAY: That's all.

Cross Examination

Q. (By Mr. Lauter) Who called the meeting of May 28th?

A. The special meeting of the directors of the Chamber.

Q. When was that meeting held?

A. Noon of that day.

Q. Noon of May 28th?

A. Yes.

Q. Who was present at that special directors meeting of the Chamber?

A. What do you mean?

Q. Were you present, I mean?

A. Yes.

Q. Tell me who was present.

A. That is going to be very difficult. I am quite sure that C. W.—there were about seven directors, probably.

Q. Well, you know who the directors are, don't you?

A. I know them all, but I don't know that I can get right who was there. I think it was C. W. Chase, W. H. Crawford, P. J. Bordner. That is all that I remember of the Board.

Q. Where was the meeting being held?

A. At the Massillon Club.

Q. Where?

A. At the Massillon Club.

Q. How long did that meeting last?

A. I would say about an hour and 15 minutes.

Q. Did you take any minutes on that meeting, or any notes?

A. I think I would have minutes.

Q. Have you notes at your office on all of the meetings that you have now testified about today?

A. No, I don't think that we have.

Q. Have you minutes of the meeting of February 28 which was held in the evening?

MR. DAY: May 28th.

Q. May 28th?

A. No.

Q. Do you have minutes of the meetings held at noon?

A. I think we would have that.

Q. Which of these other meetings did you have minutes of?

A. Well, the Sunday meeting—most of these meetings were committee meetings, and we do not have minutes of those.

Q. You tell me what meetings that you do have minutes of?

A. Well, the regular meetings of the chamber directors.

Q. I am asking you about the meetings that you have testified about this afternoon.

A. All right. Conrad Hotel, no. The June 13th meeting, no. The June 25th meeting with the petition, no.

Q. Do you have any minutes?

A. No.

Q. You could have told me that right off, couldn't you?

A. Well, those are the meetings.

Q. Do you have any notes of any of these meetings?

A. I have no notes, no.

Q. Were notes taken of any of these meetings?

A. No, some of them may have been notes made up after the meeting, but notes—but there was no stenographer or no—

Q. Did you see anybody taking notes at any of these meetings?

A. No.

Q. Do you know whether any notes were made up after any of these meetings?

A. Yes, I know that notes on one meeting, that were made up.

Q. What meeting was that?

A. The June 13th meeting.

Q. Who made notes after the meeting?

A. I made them.

Q. What is that?

A. I made them.

Q. You have no notes of those meetings, but you have notes which you made up after the meeting?

A. Yes.

Q. Now, tell me what other meetings you have notes of that you made up after the meeting?

A. I have no other.

Q. You made no notes on any other meeting?

A. I made no other notes.

Q. Just June 13th, is that correct?

A. Yes.

Q. Let's go back to that May 28th meeting that was held among the directors of the Chamber of Commerce, you say, which lasted over an hour.

A. That is, including the lunch. That is the usual practice. The actual meeting probably lasted half or three-quarters of an hour.

Q. Tell me what was discussed at that meeting.

A. The reporting, do you mean, of the strike situation which started that Wednesday.

Q. Well, tell me who spoke and what they said.

A. Mr. Case, secretary, reported to his board that it was reported that Harsh Road entrances to the Enterprise, on the Republic road, were blocked. Pickets were carrying clubs.

Q. Were any statements made about opening the mill?

A. No, sir.

Q. Do you know whether or not Mr. Case had made any minutes or any notes after any of these meetings?

A. I don't think that those special directors meetings, that he would have notes for them. I am not positive.

Q. Do you refer, now, to the meetings of June 13th, 14th and July 7th?

A. No, I don't think he has.

Q. Now, you mentioned something about the fact that Chief Switter testified at the June 13th meeting that he took out some shot guns and tear gas guns while he was closing the plant, is that correct?

A. Closing the office building.

Q. Closing the office building?

A. Yes.

Q. What more did he say about that incident?

A. I am quite certain that I stated everything that he said, that he had taken those, and there was a pause, in which he was indefinite, and stated that he went out and picked them up in the country and brought them back to his office.

MR. LAUTER: Will you read the answer.

(The answer was read by the Reporter.)

Q. Did he say when he went out to the country and picked them up?

A. No.

Q. Did he say who was with him at any time?

A. No.

Q. When he was closing the main office, or was picking them up in the country?

A. No.

Q. Did he say that he had stolen them?

A. I recall him saying that he took them.

Q. Did he say anything about taking them without the pickets seeing them?

A. No, there was no such matter discussed. That is, he—his telling incident was not sufficiently full, that any such a matter was brought into it as to anybody seeing him.

Q. Did you understand from that that he had stolen them?

A. I understood from it that he saw them there, the building was vacant and that he took those.

Q. Now, the meeting of July 7th, at which Mr. Carl Meyers attended, I want you to state everything that Mr. Meyers said at that meeting.

A. Is that not impossible to state—to make his full statement?

Q. Just make as full a statement as you recall about everything Mr. Meyers said.

A. That I recall? All right. "We are happy to be in operation to some extent in Massillon again, and I think operations will continue on a good plane. You may not know that shortly before the strike he experimented some in carbon steel and that, as you know, alloy steel alone was made in Massillon formerly, and this development may add to operations in Massillon."

"Going back to the discussion that you gentlemen had just preceding my talk, I would like to say that since Major Curley recommends that the home guard plan not be instituted, that we all have confidence in Major Curley, that we do not press the city officials to go any further with that plan."

Q. The suggestion that you refer everything to Major Curley?

A. The suggestion of Major Curley and Chief Switter was that special department be put on, that the plants furnish names.

Q. Do you know whether the various plants of various industries in Massillon did supply men?

A. I have no direct information on that.

Q. Do you know as a matter of fact the Republic Steel furnished the men?

A. I don't know that.

Q. Did you know the Republic Steel has been billed on the bonds for the men serving as deputies?

A. No, I don't.

MR. DAY: That is all.

TRIAL EXAMINER LINDSAY: Well, it is a quarter of six. We will adjourn until 9:30 in the morning.

(Whereupon, at 5:45 o'clock p. m., September 1, 1937, the hearing in the above-entitled matter was adjourned to 9:30 o'clock a. m., September 2, 1937.)

Courtroom No. 1
Stark County Courthouse
Canton, Ohio
Thursday, September 2, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

BEFORE:

JOHN T. LINDSAY, Trial Examiner.

APPEARANCES:

MARK LAUTER, Esq.,
OSCAR GROSSMAN, Esq., and
JOSEPH A. HOSKINS, Esq., appearing for the National Labor Relations Board.
LUTHER DAY, Esq.,
THOMAS F. VEACH, Esq., and
H. C. PONTIUS, Esq. (Canton, Ohio.)

PROCEEDINGS

GLENN D. LANHAM

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) Will you please state your name?

A. Glenn D. Lanham.

Q. Where ~~do~~ you live?

A. 186, 26th Street, S. E., Massillon.

Q. What is your business?

A. Automobile dealer.

Q. How long have you been engaged in business in Massillon?

A. Since December 15, 1933.

Q. I will ask you whether or not you became interested in the strike situation and a member of the so-called Citizens Committee?

A. I did.

Q. About how soon after the strike was called did you become interested in this situation?

A. I couldn't give you the exact time, but I think it was about the following date.

Q. What happened in connection with your interest in it at that time?

A. Well, my first interest in it come through the customers of mine coming in and wanting to know what they were going to do when their car payments came due and they had no work; they wanted to go back to work and couldn't. They didn't have any money or income, so they couldn't pay for their car. They wanted to know what I would do in that case.

Q. And then what did you do in respect to that matter?

A. I didn't do anything at the present time. I told them that if I had endorsed any of the paper I would not repossess the car, but where the finance company had the paper I would recommend that the cars be not repossessed and extensions be given. I thought the strike would soon be settled.

Q. Did you at anytime call Mr. Carl Meyers in the Republic and make an appointment with him?

A. Yes, I called Mr. Meyers several times.

Q. Yes, well, the first time, when or about when was that?

A. Well, I don't remember. The one time I do remember I called Mr. Meyers when I heard that they were going to close up the mill for good, they were not going to open it up.

Q. Now, after your talk with Mr. Meyers over the phone, did he call you back?

A. Yes, he called me back, oh, I imagine in about two hours.

Q. Did you go to see Mr. Meyers?

A. Yes, I did.

Q. Did you take anyone with you to Mr. Meyers?

A. Yes.

Q. Whom did you take with you?

A. I took Chief of Police and the solicitor Mr. Hardman.

Q. Where did you go?

A. We came to the Onesto Hotel.

Q. That is in the city of Canton?

A. That is right.

Q. Now, you and Mr. Hardman and Mr. Switter—

A. That is right.

Q. — met Mr. Meyers at the Onesto Hotel? Now, I wish you would relate the conversation that you had at the Onesto Hotel there while the four gentlemen were together.

A. I do not remember just how the—that is, I do not remember the details of the whole conversation. The thing I remember is that we walked into Mr. Carl Meyers' office. He said because I was comin over he wanted to kill two birds with one stone and that he wanted to turn over the keys to Republic office in Massillon for his protection. He was moving out. He would like to have all of the men taken out safely, the men in the office, and was turning the keys over to him.

Q. On that occasion were the keys turned over to somebody? If so, to whom?

A. I don't remember whether he gave the keys or whether he gave a release. I think he gave a dictated letter of release to Mr. Switter to take charge of the office.

Q. Now, do you know about when that was?

A. No, I couldn't say. It was either the day or the day before they moved out of the office entirely.

Q. Now, in that conversation did you say anything to Mr. Meyers about the closing down of their plant at Massillon?

A. I did. I asked Mr. Meyers, I said, "If you are going to turn this office over for Mr. Switter's protection and moving out in the entirety, does that mean you are never going to open up this office in Massillon again, and the plant in Massillon?"

He said, "I did not say that." He said, "I said that when enough men want to work, to run the plant in Massillon, we will open."

Q. Now, in that conversation was there anything said with respect to any ammunition or guns?

A. There were.

Q. Please tell us about that.

A. Mr. Meyers told Mr. Switter that he could have the keys to the building, take full charge, and he also said, "I understand that you need ammunition and guns for the protection of the—to protect and defend the city of Massillon."

He says, "We have in the safe locked up some ammunition and guns. If you wish those, you can have them. I will give you a release for them. If not, they will stay in the safe."

Q. What did Mr. Switter say, if anything?

A. Mr. Switter said he would like to have them, but he did not want the CIO or Joe Morton to know that he got them.

Q. Who is this Joe Morton?

A. I understand he is president of the CIO organization.

Q. At Massillon?

A. At Massillon.

Q. Now, from time to time did you attend—will you state whether or not you attended various meetings of the Citizens Committee?

A. I attended a few meetings. I was very busy at the time, but I attended a few of their meetings.

Q. I will ask you if any official of the Republic Steel Company got you interested in this or instigated what you did in this matter?

A. They did not.

Q. What caused you to become interested in this strike situation?

A. My customers.

Q. By your customers, whom do you mean?

A. I mean the people who I sell merchandise and service to.

Q. Many of those employed at the Republic Steel?

A. Quite a few.

Q. Did you attend any meetings in Massillon that were addressed by Chief Switter?

A. I did.

Q. What meetings did you attend?

A. I attended one at the Presbyterian Church.

Q. Any others?

A. I think he was at our Rotary Club meeting at Thursday and was called on for a talk and at that time made about the same statements he had at the church.

Q. Now going to the Presbyterian Church meeting, I wish you would tell us what you recall about that meeting, who presided, and who made any talks there.

A. Well, I was late at that meeting. I didn't know what it was all about. I walked in and I took a seat in the rear. D. W. Case presided. There were a few talks made by Mr. Becker, I believe, Mr. Walsh and Mr. Switter was called on for some remarks as to the situation in Massillon and why law and order was not enforced and his statement was that he was not equipped, he only had I think about 14 or 16 guns and 13 men and there was nothing he could do. He also made the statement that the City was broke and they had no money to buy equipment, but if he had man power and the equipment, he would take care of the situation, he realized that law and order was not being enforced and that it should be, and he could not do anything about it.

Q. Did he say anything further that you recall about his desire to do this?

A. Well, he said he had a desire to do it, he would like to do it, and if he had the man power, that he would do it. He said they were nothing but a bunch of honkies, niggers and what-not up there, Communists, if he had the equipment he would be only—he would be glad to see that law and order was enforced.

Q. On this occasion at the Rotary Club, what was his talk?

A. He made practically the same talk.

Q. Now, Mr. Lanham, what do you know with respect to the raising of money or attempt to raise money by the Citizens Committee there for the purpose of guns and ammunition and paying special policemen?

A. Well, I understand, I don't know the starting of that but I understand that as soon as the meeting of the Presbyterian Church was over that some of the people sort of doubted Mr. Switter's statement as to his equipment.

MR. LAUTER: I object to that.

TRIAL EXAMINER LINDSAY: Sustain the objection. We do not care what you understand. It has nothing to do with the case. You were not there and did not hear it, forget it.

THE WITNESS: All right.

Q. Did you have any conversation with Chief Switter with respect to raising of this money?

A. One evening about 9:30, I don't know the date, Mr. Switter drove into my place.

Q. That is, to your place of business?

A. Place of business and stated that the business men were going to raise some money so that he could get some man power and equipment to enforce law and order but he had decided that he would not use it, he was in a mess, that Joe Morton was pressing him on the one side and the men at the mill were pressing him on the other and that the business men were on the other side and he had decided not to do anything about it.

Q. As a member of that Committee, did you report that conversation to Mr. Case or some of the other members?

A. The next morning I was called to a meeting at the Chamber of Commerce. I was late getting in there, the men had partially left, and I stated to Mr. Case my conversation with Mr. Switter, the fact that he did not want the money, it was foolish to go out and raise it.

MR. PONTIUS: I believe that is all.

Cross Examination

Q. (By Mr. Lauter) What business are you engaged in?

A. Automobile business.

Q. Where is your place of business located?

A. Erie and Oak Street, Southeast.

Q. What kind of cars do you sell?

A. Chevrolet automobile.

Q. Have you sold cars to any of the employees of the Republic Steel Corporation plant at Massillon?

A. We have.

Q. You said something about some of the customers coming in to see you?

A. That is right.

Q. About how many would you say came in to see you?

A. My help brought my attention to the matter first, that they were calling about the payments.

Q. What were they asking about?

A. What we would do in case they could not meet their payments. I told him to tell them that we would not repossess any cars as long as we had anything to do with it.

Q. Regardless of how long the strike would last?

A. I told him I thought the strike would be over soon. It had not lasted long in the past.

Q. As long as the strike lasted?

A. As long as it was possible for me to do it. We could give an extension of 45 days and refinance after 60 days.

Q. What happened after that?

A. The cars would be repossessed.

Q. You said something about people coming to see you about interest on payments?

A. That is right.

Q. You also had interest on the payments?

A. Some of the paper I endorsed and some I sold non-recourse.

Q. Do you take back the cars which are refinanced in the event that the finance company does not carry them?

A. On the recourse cars I do. I give them a check for the unpaid balance. On the non-recourse, I haven't anything to do with it except they come to me and ask me if the car should be repossessed.

Q. You had a direct interest in the cars that you had sold?

A. On the recourse paper, yes, sir, I did.

Q. You said something about a conversation between Mr. Meyers and Chief Switter in which Mr. Meyers told Chief Switter that he could have guns and ammunition, is that right?

A. That is right.

Q. Can you fix the date of that conversation?

A. I don't.

Q. Well, fix it with reference to the strike. The strike was about May 25th or May 26th.

A. I could not fix it with reference to the strike. The only way I could fix it was the day they moved out of the office entirely.

Q. Well, use anything that enables you to fix it.

A. That was either the morning they moved out of the office entirely or the day before.

Q. That does not help very much. Was it after the strike was called?

A. Yes.

Q. Do you know whether it was a week or two weeks?

A. I couldn't tell you.

Q. Or a month or two months?

A. I couldn't tell you.

Q. Give me as nearly as you can exactly what Mr. Meyers said to Chief Switter.

A. Mr. Meyers said to Chief Switter, "We have decided to move out of the Massillon office. We are turning over to you the keys and the place and turn it over for your protection. We also have within the safe some ammunition and guns, they are locked up, if you desire them for your use, you can have them. It is up to you to take them out. I will give you the release on them if you wish."

Q. Did he indicate how Chief Switter would be able to get them out of the safe if he needed them?

A. I would not know.

Q. Is that the extent of the conversation between Chief Switter and Mr. Meyers?

A. Chief Switter said he would like the ammunition and guns but he hated to take them out because he didn't want to have Joe Morton know about it.

Q. Did you attend the meeting of June 13th that was held at the Chamber of Commerce at which Chief Switter was present?

A. No.

Q. And other members of the Citizens Committee?

A. No, I didn't.

Q. Well, have you been active with the Citizens Committee at all?

A. I have.

Q. What are some of the meetings you have attended?

A. I attended the Presbyterian Church meeting. I was called up at 9:30 one night at a meeting at the Women's Club.

Q. Are those the only two meetings you attended?

A. That is right.

Q. You said something before about a conversation in which Chief Switter indicated that Joe Morton was on one side pressing him and that the non-strikers were on the other side pressing him, is that correct?

A. Right.

Q. You said something about the business men?

A. That is right.

Q. About their being on the other side?

A. That is right.

Q. Which side were they on?

A. They were on the side there trying to get law and order enforced.

Q. Were they on the side of the non-strikers or Joe Morton?

A. On neither side.

Q. When you say on the other side, you mean both sides?

A. That is right, I mean they were for law and order.

Q. I am asking you if you mean on both sides?

A. I don't know about both sides.

Q. What did you mean when you said "on the other side?"

A. That is what he told me.

Q. What did you understand him to mean?

A. I don't understand what he meant.

Q. You do not understand what he meant when he said the business men were on the other side?

A. No, I don't.

Q. Do you know whether or not Chief Switter ever went out in the country to pick up any guns or ammunition?

A. I don't.

Q. Did you ever hear about it?

A. I read it in the paper after the hearing in Washington.

(Witness excused.)

MR. DAY: Mr. Anthony.

A. H. ANTHONY

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. A. H. Anthony.

Q. Where do you live?

A. 18 Ninth Street, Southeast, Massillon, Ohio.

Q. What is your business?

A. I am General Manager of the Massillon Steel Castings Company, Massillon, Ohio.

Q. Where is the plant of that company located?

A. On the south side of Oberlin Road between Pennsylvania Bridge on the east, 400 feet west of Sixth Street, Southwest.

Q. How far is it located from any plant of the Republic Steel Corporation?

A. I would say it would be a thousand feet from the main office of the Republic Steel plant, that would be the nearest property.

Q. Do you recall that a strike started at Republic plant at Massillon on May 25th and May 26th?

A. I do.

Q. After that time did you have occasion to see any pickets, out and around the Republic plant?

A. I did.

Q. What did you observe as to the number of pickets?

A. There was a considerable crowd about all of the entrances. The bridge was blocked, both at the west end of Oberlin Road—what I mean the railroad bridge over the Pennsylvania Railroad.

MR. LAUTER: Have you fixed the date?

Q. Well, how often would you see these pickets and the conditions there?

A. As I would go to my work in the morning and come from it in the evening.

Q. Did your going to and from your work require you to go by these places?

A. I could see them from the front entrance of our plant.

Q. And the conditions that you are describing, they existed during what period of time?

A. For a considerable period after the strike was called.

Q. Period of about how much would you say? Until about when?

A. I couldn't define the dates exactly, but it must have been two or three weeks.

Q. Now, go ahead and tell us—

A. The reason that was called to my attention, when the strike was—

Q. Don't tell us about the reason, just tell us, first what did you observe as to the number of pickets that were there?

A. There were a number of pickets stationed at the northwest corner of our plant covering the path that led down to the blast furnace. There were also pickets stationed at the east end of our plant on the road, preventing people from going over that bridge and traveling east on Oberlin Road.

MR. DAY: We have a map here, maybe it will help us some.

TRIAL EXAMINER LINDSAY: This is outside of the record.

(Discussion held off the record.)

Q. There is the map, Mr. Anthony. It says this is the north and this is south. Now take a look at the map, and there is Oberlin Road, and where is your plant?

A. Our plant is located on this property.

Q. Where it says "Massillon Steel Castings Company"?

A. Correct.

Q. Where is the Republic Steel Corporation?

A. This is their main office here (indicating). Their plant is down here (indicating). Also their blast furnace at the south.

Q. When you would drive to work, how would you go?

A. I would come out 6th Street, S. W., sometimes come out Erie Street and over the bridge, but we were not allowed access over this bridge, so we had to come down 6th Street, all our force, our employees were denied entrance, those that lived out here, and from crossing the viaduct, during the early days of the strike. We had several of them stopped. They complained to me and I said, "You will just have to"—

Q. Don't tell what you talked with them.

TRIAL EXAMINER LINDSAY: This is off the record entirely.

(Discussion held off the record.)

Q. Now, just tell the Trial Examiner what you saw about the number of pickets?

A. At the west end of our fence, at the corner, the number would vary, I would say from six to ten or a dozen men at a time. At the east end of our plant just before you come to the Oberlin Road railroad bridge, there would be an equal number. That is as far as I could see, when entering our plant.

Q. Did you observe whether or not the pickets were carrying anything?

A. They all had clubs, in the early days of the strike.

Q. What kind of clubs?

A. Some of them looked like long pick handles, hickory handles. Some limbs of trees.

MR. LAUTER: I object and move to strike out the answer "all had clubs" on the ground it is too indefinite and vague.

TRIAL EXAMINER LINDSAY: Oh, we will leave it stand. Let the record show the objection overruled and exception.

MR. LAUTER: Exception.

Q. Were you ever a member of, or were you a member of the Citizens Committee?

A. No, sir.

Q. Did you attend any meetings?

A. I did.

Q. What is the first meeting that you attended?

A. The meeting was called for the Conrad Hotel by one of the secretaries of the Chamber of Commerce, supposed to be representatives of industry heads aligned with the strike.

Q. What was the date of that?

A. I do not know exactly.

Q. Well, let's see, how long after the strike started was it? Maybe we can get at it that way.

A. Well, the strike, it would be about a week after the strike was started, somewhere around that time.

Q. Where was that meeting held?

A. At the Conrad Hotel.

Q. What, if any, city officials attended?

A. The city solicitor, Mr. Hardman, and the chief of police, Mr. Switter, and we were told the Mayor could not attend but was invited, but he had other duties.

Q. Now, were some remarks made at that meeting?

A. There were.

Q. Who made the remarks?

A. Mr. Bordner opened the meeting.

Q. He is president of the Chamber of Commerce?

A. That is right. With some introductory remarks, and he asked Mr. Case, the secretary of the Chamber of Commerce, to read the statement covering some facts that had been developed surrounding the condition of the picketing.

Q. Was the statement read by Mr. Case?

A. The statement was read by Mr. Case and directed principally to Chief of Police Switter.

Q. After that did Chief Switter make some remarks?

A. He did.

Q. Tell us, as near as you can remember, what he said?

A. He admitted the state of affairs and also admitted that—

TRIAL EXAMINER LINDSAY: Now, just a minute. That does not mean anything. What was the state of affairs?

THE WITNESS: Well, I will enumerate them.

TRIAL EXAMINER LINDSAY: I am just telling you. I don't care whether he did or didn't.

Q. Just tell whether—"he admitted" does not mean anything. Just tell what he said, giving the words as near as you can; if you can't give the words, give the substance.

A. All right, chief of Police Switter admitted that—

Q. No, what did he say?

A. Well, all right. He said that he knew that the pickets were violating the law; that they were committing offenses that were punishable, but he was helpless in the situation because he did not have adequate man-power or guns.

Q. Can you remember anything else he said?

A. Yes, very distinctly. He was very bitter in describing the character of men on the CIO picket line.

Q. What did he say about it?

A. He said a number of them he had never seen before, he didn't know where they came from. He said they were nothing but wops and niggers and communists and sons-of-bitches, and he would like nothing better than to drive them out of Massillon.

Q. Can you recall anything else he said?

A. Yes.

Q. Tell us about it.

A. He admitted that some of the roads were being blocked, and the men were prevented from going to and from work to plants that were not involved in the strike. He said he was powerless in that case. He said, however, he would take the proposition up with Mr. Morton and see what he could do about it.

Q. Anything else?

A. I think that is the substance of everything that was discussed. There were a lot of details.

Q. Did you say anything at that meeting?

A. I did not.

Q. Did you attend any other meetings, then?

A. I did not.

Q. That was the only meeting you attended?

A. Yes, sir.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Mr. Anthony, you testified that some employees were prevented from coming to work, is that right?

A. Yes, sir.

Q. At your plant?

A. Yes, sir.

Q. Is that correct?

A. That is correct.

Q. You mean they actually couldn't get to your plant?

A. No, I don't say that. They were prevented from coming through their usual way of coming to work, and had to go around several blocks in order to—

Q. That is what you mean? You mean they had to go out of their way?

A. Yes, sir.

Q. About two or three blocks?

A. No, I didn't say that.

Q. I am asking you how far they had to go out of their way.

A. All right, I will tell you. At least ten or twelve blocks.

Q. Depending upon where they were coming from, is that right?

A. That is right.

Q. Some of them were not blocked in any way at all?

A. That is right.

Q. Do you know how many were prevented from coming in the usual way, to your plant?

A. I know of four particular industries.

Q. How many employees do you have in your plant?

A. About 250.

Q. That is as many as you know about? Four, is that right?

A. That is right.

Q. They had to go ten blocks out of their way?

A. That is right.

Q. You say you saw pickets with clubs?

A. Yes, sir.

Q. Did you ever see anyone use the club?

A. No, I never did.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

C. M. SHAFER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. C. M. Shafer.

Q. Where do you live?

A. 832 Wellman Avenue, S. E., Massillon.

Q. What is your business?

A. Retail lumber dealer.

Q. How long have you been engaged in that business in Massillon?

A. 13 years.

Q. Now, did you become interested in this strike situation in Massillon?

A. I did.

Q. Were you at the Conrad Hotel, Mr. Shafer, the Conrad Hotel meeting?

A. No, sir.

Q. You were not there? Were you at any meeting which was attended by any of the Republic officials in the city of Massillon?

A. I was.

Q. What was the first meeting that you recall, where they were present?

A. The first meeting was at a meeting of the Rotary Club, which was attended by Chief Switter who was the principal speaker.

Q. Did you hear what he said on that occasion?

A. I did.

Q. Tell us, please, what he said, as near as you can recall.

A. Chief Switter said that while he had been billed to speak on his trip to Washington to the Police Chiefs' School, he knew that the people were more interested in hearing what he had to say about the strike, so he would forget all of his remarks about that subject. After going into considerable detail as to the situation near—

Q. What was that?

A. Near the plant, in which he described—

TRIAL EXAMINER LINDSAY: Just a minute, please. I understand now that you are talking about a speech that the Chief gave down in Washington?

MR. DAY: No, Rotary Club at Massillon.

MR. PONTIUS: Rotary Club at Massillon.

TRIAL EXAMINER LINDSAY: Oh, at Massillon?

MR. PONTIUS: At Massillon, yes.

Q. (By Mr. Pontius) This was at the Rotary Club at Massillon?

A. At the Rotary Club at Massillon.

Q. Do you know when or about when that was?

A. I couldn't give you the date.

Q. Well, now, was it following the strike?

A. Following the start of the strike.

Q. Now, do you remember an occasion in the Chamber of Commerce office on the 14th of June, when the chief was present and the mayor?

A. I do.

Q. Well, was this Rotary Meeting prior to that or after that?

A. I believe it was prior to that.

Q. And after the strike had started?

A. After the strike had started.

Q. Now, please go forward and tell—tell what was said, not about going into details; tell what was said as near as you can remember?

A. The Chief said that the pickets along the picket lines were violating the law, that he knew they were all carrying clubs; he said that he would like to go down there and clean them out, that they were a bunch of niggers and wops and communists, but that he only had 18 men including himself in the entire police force, and that only 13 of those were active on the outside, and that they were not equipped with enough guns or ammunition to supply the 13 men he had; and that he was unable to do anything about preserving law and order with the present force that he had.

Q. Anything else that you recall said by him?

A. Nothing.

Q. Now, did you attend any meeting following that, attended by Chief Switter and Republic officials?

A. Well, I believe one.

Q. Where was that?

A. That was at the Chamber of Commerce office.

Q. You remember that date?

A. It was just following the meeting at the Presbyterian Church. I think the next morning, Monday morning.

Q. Who were present at the Chamber of Commerce on that occasion?

A. There were probably half a dozen of the committee of citizens. The Mayor, Mr. Krier, the service director, Mr. Snyder, the city solicitor, Mr. Hardman, and Chief Switter.

Q. Now, did you hear what took place on that occasion?

A. I did.

Q. Relate the substance of what was done and said on that occasion?

A. Chief Switter was asked how badly he was undermanned and what he would need to put his force in good condition. And he says that he couldn't give them an answer right then, he would have to figure it up. However, he said at that meeting that he would not be able to do anything unless he had more men, and that he planned, if he could get the men, he could make squads up with one of the regular policemen in each squad, and he would need considerable—or enough equipment to equip the extra men. He also promised or said that if he could get the money to buy the equipment he would appoint the officials, the police officers, and he thought that if he had the extra men he could preserve law and order.

Q. What, if anything, did the Mayor say on that occasion?

A. The Mayor said that if the Chief would select the men, that he would appoint them.

Q. And as a member of the committee, did you know about the attempt to raise money, or the raising of money for this purpose?

A. I knew an attempt was to be made.

Q. Now, did you later learn anything about that?

A. I did.

Q. What did you learn about that?

A. I learned that a decision had been made by Chief Switter not to accept the money, and that no effort was to be made to raise it.

Q. You have stated that you were present at the Presbyterian Church meeting?

A. I was not present.

Q. Oh, you were not present? Did you attend any other meetings where the Mayor or Chief of Police were present?

A. No other meetings.

Q. I will ask you to state whether or not the Republic Steel Company or any of its officials had anything to do with getting you interested in this matter of the strike situation at all?

A. They did not.

MR. PONTIUS: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Mr. Shaffer, who called you to the first meeting that you attended at the Rotary Club?

A. To the Rotary Club?

Q. Yes.

A. I am a member of the Rotary Club.

Q. Was that a regular meeting of the Rotary Club?

A. Regular meeting.

Q. Who called you to the meeting at the Chamber of Commerce?

A. Oh, a member of the Chamber of Commerce staff. I would not know who it was.

Q. How were you given notice to go?

A. By telephone.

MR. LAUTER: That is all.

(Witness excused.)

M. H. SCHMID

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. M. H. Schmid.

Q. Where do you live?

A. 124, 17th Street, N. W., Canton, Ohio.

Q. What is your business?

A. Sales manager, Alloy Steel Division, Republic Steel Corporation.

Q. And that plant is located where?

A. Massillon, the main office.

Q. How long have you lived in Canton?

A. Since 1909.

Q. Were you in Massillon or in Canton when the strike was called?

A. I was not.

Q. On May 25th? When did you return to Canton?

A. I returned to Canton on Friday, late Friday the 29th, I think it was.

Q. Do you know how many men were in the plant or office at Massillon after the strike was called or at the time the strike was called?

A. Do I know how many were in there?

Q. Yes. I mean who stayed in there after the strike?

A. Only from information received through others, no direct knowledge.

Q. Well, you know that the mill shut down?

A. Yes.

Q. Certain maintenance men stayed in there?

A. Yes, that is true.

Q. Where had your offices been prior to the time of the strike?

A. Main office building.

Q. At Massillon?

A. At Massillon.

Q. Did you keep that office after the strike was called or did you attempt to get a new office?

A. We attempted to get a new office.

Q. Why was that?

A. Because of inability to get into the then existing office.

Q. Due to what?

A. Due to opposition on the part of pickets.

TRIAL EXAMINER: Mr. Day, you gave him a double question. He only answered half of it. The question was, "Did you vacate your old office or did you get a new one?" That is in substance what it is.

Q. Well, did you vacate your old office?

A. Yes, we—the ones on the outside made no attempt to get into the old office although there were some on the inside.

Q. Why was that?

A. Because of opposition on the part of strikers.

MR. LAUTER: I move that answer be stricken, indefinite and vague.

TRIAL EXAMINER LINDSAY: Granted.

Q. (By Mr. Day) When you say "opposition on the part of strikers," what was the actual situation there?

TRIAL EXAMINER LINDSAY: I struck that from the record. You may have an exception, if you want to. If you have some fact that this man knows about, why, ask him about them.

Q. Did you go over there and see for yourself what the situation was?

A. I did not.

Q. You did not see any of the pickets or anything of that kind yourself?

A. Not until after we established a new office.

Q. Were you advised by anybody in your department as to what the situation was in Massillon?

A. I was.

Q. As to your ability to use the old office?

A. I was.

Q. And was that advice given you under the routine conduct of your office?

A. Yes.

Q. Will you tell us what it was?

A. I was advised by telephone by Mr. Hess that it was impossible to get into the office and by Mr. Roberts that he was unable to get into the office.

Q. After that advice was received, what if anything, did you do with relation to getting a new office?

A. I first contacted the Massillon Chamber of Commerce requesting that they advise me of available space in Massillon downtown office buildings.

Q. And did you get some advice along that line?

A. I did.

Q. And then what was the next thing that happened?

A. I called Chief of Police Switter and asked him if he would give us proper police protection provided a downtown office would be established by Republic Steel sales office.

Q. Was that conversation over the telephone?

A. I beg your pardon?

Q. Was that conversation over the telephone?

A. Yes.

Q. What did the Chief say to that?

A. He said that he thought we would have no trouble. I advised that that did not directly answer my question. He then said that Union Drawn had established quarters downtown and they had not been molested and I stated that that still did not answer my question. He replied to the effect that he would have to discuss with Mr. Morton before he could advise me definitely. I won't say he would have to or whether he would. There is one of those words I am not absolutely sure of.

Q. Was that the end of that telephone conversation?

A. That concluded the telephone conversation.

Q. Afterwards, did you have any other talk with Chief Switter on the subject?

A. No, I did not.

Q. Well, did you open up your office then?

A. I did not.

Q. Why not?

A. Well, I felt with that lack of assurance that it would be better to come over to Canton and I investigated, started immediate investigations as to available space in Canton.

Q. And then did you come over to Canton?

A. Yes.

Q. Move your office over here?

A. Yes.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) How long have you been a sales manager for the Republic Steel Corporation?

A. I have been manager of sales of the Alloy Steel Division since December last year, latter part of December.

Q. What did you do before that?

A. Assistant Manager.

Q. How long were you Assistant Sales Manager?

A. Since the formation of the now existing Republic Steel Corporation in 1930.

Q. Describe what your duties are as sales manager and what they were as assistant sales manager.

A. I do not get your question.

Q. I say, describe what your duties are.

A. As sales manager, you are responsible for directions, as assistant you are responsible to the sales manager.

Q. Well, can you give a fuller description of what your duties are?

A. In just what respect?

Q. Just tell me what you do all day.

MR. DAY: I object on the ground it is irrelevant what he does all day.

TRIAL EXAMINER LINDSAY: Objection overruled. Note an exception.

MR. DAY: Exception.

A. It is difficult for me to answer that question when you say what I do all day long.

Q. Suppose you describe what your business activities are, what do you do?

A. As near as I can figure, as near as I can give you, they are directing the sales policy of the Alloy Steel Division of the Republic Steel Corporation.

Q. Do you handle any of the sales?

MR. DAY: I want to have an objection and an exception to all of this testimony on the ground it is not proper cross-examination under any rule of evidence.

MR. LAUTER: If you please, Mr. Examiner, the witness has testified he is Sales Manager for Republic Steel Corporation. I am merely questioning him about his activities.

MR. DAY: All he testified to was about getting a new office.

TRIAL EXAMINER LINDSAY: Just a minute, Mr. Day. On cross-examination of the witnesses presented by the Board, I gave you every leeway and I am going to give the Board attorneys the same opportunity.

MR. DAY: I am going to note and save my objections as I go along.

TRIAL EXAMINER LINDSAY: Objection overruled. Exception.

MR. DAY: I want an objection and an exception to any and all questions on the same ground along this line.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: All right.

THE WITNESS. What was your last question?

MR. LAUTER: Will you read the question?

(Previous question read by the Reporter.)

A. Do you mean do I go out and personally solicit sales?

Q. Are you present when any of the sales are negotiated?

A. Am I present?

Q. Have you been present when any sales have been negotiated of products of the Republic Steel Corporation?

A. I have been present at some of those times.

Q. What products do they sell?

A. The products—

Q. Don't you understand my question?

A. Some of the products?

Q. Yes.

A. Alloy steels.

Q. Will you tell me where the alloy steels are sold?

A. Alloy steels are sold in practically every state in the United States. They are sold in many European countries. In fact, throughout the world.

Q. Are those alloy steels shipped out of the plant here at Massillon?

A. Alloy steel is purchased and shipped from Massillon.

Q. Is that also true of Canton?

A. Yes.

Q. What are some of the other products apart from alloy steel?

A. What other products in addition to alloy?

Q. Yes.

A. Heat resistant steels, stainless steels, so-called double strength steels.

Q. Do you know what instrumentalities are used in conveying these products to customers who reside all over the United States and foreign countries?

A. Do I know what?

Q. What instrumentalities? Do you use trains, trucks?

A. Boats.

Q. Are you Sales Manager only for the Canton-Massillon area?

A. I am Sales Manager for the products within that classification, within the classification of alloy, electric, special steel, stainless steel, heat resisting steel. The plant in which they are manufactured has nothing to do with it. If they be shipped from Chicago, the same applies?

Q. Will you tell me in what other plants alloy steel and stainless steel is produced apart from Massillon and Canton?

A. By Republic Steel?

Q. Yes.

A. Alloy steel is produced in practically any plant that can produce.

Q. Do you know whether they are produced in the majority of plants?

A. Yes, I know. They are produced in Buffalo, they are produced in Cleveland, produced in Chicago. If your question refers only to the preliminary, to the production of the semi-finished product, then I have to answer it one way, and if it refers to the finished product, I have to answer it another.

Q. Well, answer both questions, first with respect to the semi and then with respect to the finished.

A. I have already given you the plants where we produce alloy steel melt.

Q. Well, you just indicated that your answer might be different if it was semi-finished and another answer might be different for finished?

A. I have given you the plants where we melt. Any plant in the Republic Steel Corporation could produce alloy steel when it is in such form as could be handled by that plant.

Q. What you have said is true of the plants at Youngstown, Cleveland, Warren, Niles, as well as Massillon and Canton, is that correct?

A. What I have said is that any of the plants I enumerated do and can produce alloy steel.

Q. Do they include the last four that I have mentioned?

A. What were the last four you mentioned?

Q. Youngstown, Warren, Niles and Cleveland.

A. We have not produced alloy steel in Niles to my knowledge.

Q. True of the other three plants?

A. Alloy steel has been produced in those plants?

Q. You testified that you wanted to establish headquarters downtown.

MR. DAY: Before coming to that, I move to strike out all the testimony of this witness thus far on cross-examination on the ground it is not within the scope of the direct examination, it is not admissible in evidence by any rule of evidence known or established by any court anywhere.

MR. LAUTER: Will you repeat the question?

(Question read.)

Q. Is that correct?

A. I did.

Q. Did you also testify that the Union Drawn had established quarters and were not molested?

A. I didn't testify to that point. I stated that Mr. — that Chief of Police Switter told me over the phone that they had.

Q. Well, do you know of your own knowledge whether they had offices?

A. I do.

Q. Do you know whether or not they had been molested?

A. To my knowledge, they haven't.

Q. That is all I am asking you, as to your knowledge whether they have been molested?

A. They have not.

Q. The Union Drawn is owned by the Republic Steel Corporation, is that correct?

A. Yes.

Q. They had offices downtown?

A. Yes.

MR. LAUTER: That is all.

MR. DAY: That is all.

Q. (By Mr. Lauter) That is downtown in Massillon?

A. That is correct.

(Witness excused.)

JAMES A. LEWIS

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name.

A. James A. Lewis.

Q. Where do you live?

A. 928 Penn Street, Northeast.

Q. Massillon, Ohio?

A. Yes, sir.

Q. How old are you?

A. 48.

Q. What is your business?

A. I operate as Service Manager of Alloy Steel Division of Republic Steel Corporation.

Q. How long have you worked for Republic Steel Corporation?

A. I have worked for Republic Steel Corporation since Labor Day, 1916, that is formerly I was with the Central Steel and then the United Alloy Steel, and then the Republic Steel.

Q. Do you recall that the C. I. O. called a strike in Massillon on May 25th? Or May 26th?

A. I was in Detroit, Michigan, when I was informed through my office that there was considerable talk about a strike taking effect that night. I made arrangements to get back as quick as possible by flying from Detroit to Akron.

Q. Regardless of how you got there?

A. Yes, sir.

Q. Did you come back to Massillon?

A. I came back to Massillon, yes, sir.

Q. When was that?

A. It was about 8 o'clock on Tuesday night, the 25th.

Q. That is the night the strike was called?

A. That is it.

Q. And after you got back to Massillon, did you go down to the plant?

A. Not immediately. I waited around Massillon to see if I could get any information as to whether they were going to vacate our office and lock us out of there.

Q. Regardless of that, did you start down to the plant some time that night?

A. Between 10:45 and 11 o'clock.

Q. And your plant that we are talking about is the big plant in Massillon?

A. Yes, sir.

Q. And the plant where you have your office is located where?

A. The main office building, Oberlin Road.

Q. About what time of night did you get down to the plant?

A. You mean to the office, not the plant?

Q. To the office, yes?

A. I would say between 10:45 and 11 o'clock.

Q. Were you driving an automobile?

A. Yes, sir.

Q. Were you alone or was somebody with you?

A. I was alone.

Q. Just tell the Trial Examiner in your own way what happened and what you observed when you got down there.

A. Coming down, I went over the viaduct, there was considerable men standing around on the Oberlin Road. I was successful in going on through until I passed the main entrance of the general office; going around the west corner of the office; I was stopped by I would say anywhere from 35 to 50 men.

Q. What did you observe about these men?

A. Well, they were practically all foreigners. I couldn't say definitely because it was pretty dark and all

I had was the headlights of my automobile to go by that hour of the night.

Q. After you were stopped by the men, what if anything occurred next?

A. I informed them that I would like to get into the office. They stated that there was a strike on. I put my machine in low gear and attempted to move ahead a little and one of the boys opened the door of the car, reached in and grabbed me by the collar and told me I was not going in. Just then something hit my car, which I thought was a rock, so I informed the boys there, I said, "All right." I am satisfied. I will back out and drive away." Which they permitted me to do without any violence. I backed up and drove over the Pennsylvania Bridge on the west side of the office and came around that way into town.

Q. About how long did that episode take in time?

A. The length of time I was there?

Q. Yes.

A. I would say not over five minutes.

Q. While you were there were you able to observe whether these men were carrying anything?

A. No, I didn't.

Q. You didn't see anything?

A. No, I didn't pay any attention to that at all.

Q. (By Mr. Day) Mr. Lewis, this office that you had, that was in what building?

A. General office building of the Republic Steel, Massillon.

Q. Located on what street or road?

A. Located on the northwest corner.

Q. Did you have some of the records and things of that company in it?

A. All my records were in the office.

Q. Well, after the occurrence of the night of the strike that you have already related on the witness stand, what, if anything, did you do or have to do with trying to get a new office?

A. I didn't do anything. That was left entirely up with someone else. I did not have the privilege of attempting to set up a new office.

Q. Where did you have your office for the time being?

A. You mean prior to the strike?

Q. No, after the night you tried to get in?

A. Well, after the strike—can I go on before that by saying that after leaving the office I went to Chief Switter's office?

Q. Yes. Did you have a talk with Chief Switter?

A. I discussed the possibilities of getting into the office. I felt that—

Q. Just wait. Just tell us when the conversation took place with Chief Switter.

A. About, I would say about 11:15 on the Tuesday night of the 25th, I went down to the City Hall to Chief Switter.

Q. You have named the time, now where did that take place?

A. In Chief Switter's office.

Q. Was anybody there besides Chief Switter and you?

A. At that time I don't believe. I think the Chief and I were the only ones.

Q. Tell what you said and what the Chief said.

A. I told the Chief that I had been down attempting to get into the office and asked him if there would be any possibility of my getting in, due to all of my records being in the office, that I felt that I could serve the company better by being on the inside than I could by being on the outside.

The Chief told me to lay off for a couple of days, he felt this thing would blow over in the next couple of days, and I left his office for home. That was about 11:30.

Q. After that did you see Mr. Schmid?

A. Mr. Schmid?

Q. Yes, Martin Schmid.

A. Mr. Schmid came to my—

Q. I am not asking you what was said, but did you see Mr. Schmid?

A. Not until the following Saturday.

Q. And when you saw him, was there some discussion between the two of you about a new office?

A. He told me that—

Q. Don't give the conversation. Was there something discussed about a new office?

A. Yes, there was.

Q. Were you with Mr. Schmid when he called on the telephone for Chief Switter?

A. He called from my home.

Q. After that did you see Chief Switter again?

A. That evening. Chief Switter was to investigate and advise me if satisfactory to establish an office in Massillon.

Q. Where did you see Chief Switter this next time?

A. At his office.

Q. What night was that? Saturday night?

A. That was Saturday night.

Q. Was anybody there besides you and the Chief?

A. Mr. Hardman.

Q. What talk did you have with the Chief there?

A. I went to the Chief. Well, in the meantime Mr. Schmid called me and told me that if the Chief had not called to let me know what he could do, that I was to tell him to forget the proposition, that we had made other arrangements.

So I went to the Chief. I finally located him about 10:30. He and Mr. Hardman had just come in. And I asked the Chief what the verdict was and he says, "Well," he says, "Dick and I came from Mr. Morton's and Mr. Morton says 'Absolutely not' because that would be breaking down what he is trying to set up." I then informed the Chief to forget the entire proposition, that we had changed our plans.

Q. Is that all the talk that you had with the Chief, that you can remember?

A. At that time, yes.

Q. Did you talk to the Chief later about anybody watching your home or anything of that kind?

A. No, I did not.

Q. You never talked to the Chief about that?

A. No, nothing more than the right—well, now, I said that was the only conversation. The only night I was there on this, the Chief picked up a small slip of paper—I had been trying to carry on a little business at home by putting additional telephones in, just to contact the customers and so forth, and on Saturday morning one of the neighbors—through one of the neighbors I was informed that there had been somebody prowling around my house, of course during the night, that we was trying to carry on business there.

Q. You didn't see anybody yourself?

A. I didn't, no, sir.

Q. Go ahead.

A. I got this information from the neighbors that thought I had a couple of guards there, which I didn't. I didn't ask for any.

So on this Saturday night, that Monday was a holiday, would be Decoration Day, getting this information, I contacted our paymaster, Homer Uth, who had set up an office in the Ohio Merchants Bank Building to handle paying off of the men, and asked him if he would arrange with the Ohio Merchants Bank for me to place what records I did have at home, what I had accumulated through the United States Mail from the office, place them in a vault there for safekeeping over the holidays. That was done. They kept the bank open for about ten minutes to enable me to get the records down there.

Q. Did you have any talk with Chief Switter at all upon the subject of anybody watching your house?

A. Not until that night when he picked up this little slip of paper from his desk, he says, "Jim, is that your house number?" I says, "Yes, it is, Chief." "Well," he said, "the boys are complaining about too many people going in and out of your home during the daytime." And Mr. Hardman was there. I says, "I have been trying to carry on business the best I could, so that when this thing was settled we could go out with a bank instead of waiting for a couple of weeks to get the records straightened up before we could start in."

Q. You said the Chief said, "The boys have been complaining." Did he say who the "boys" were?

A. He didn't tell me, but he did tell me that he and Mr. Morton were working very closely on this situation, he was going to Mr. Morton's and Mr. Morton was coming to see him. He didn't mention whether Mr. Morton's office or residence, that I recall.

MR. DAY: I think that is all.

MR. LAUTER: That is all.

(Witness excused.)

O. L. SIEBOLD

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name.

A. O. L. Siebold.

Q. Where do you live?

A. 431 Lincolnway East, Massillon, Ohio.

Q. How long have you lived in Massillon?

A. All my life.

Q. What is your business?

A. I am employed at the Massillon office of the Republic Steel Company.

Q. How long have you been working for Republic?

A. Since July, 1922, I think.

Q. At that time what was it? Central Steel or one of the old companies?

A. Central Steel.

Q. In what capacity do you work there?

A. At the present time in the payroll department.

Q. Were you in Massillon when the C. I. O. called a strike May 25th last?

A. I was.

Q. And when, after the strike was called, did you go down to the plant?

A. Well, I didn't know anything about the strike until the following morning, and I went to work as usual, going down to the plant on one of the city buses.

Q. Now, just tell the Trial Examiner what happened when you went down there on the bus? About what time of the morning was it?

A. The bus leaves the Square at about 8 or 7:45—7:35.

A. The bus leaves the car at about 7:45, 7:35, about a quarter of 8, we usually get down to the office and at the west end of the viaduct we were held up. The bus was stopped and I noticed there was a group of men around the entrance to the plant, also a group blocking the property.

Q. About how many men did you see there?

A. Oh, there might have been as many as 45 or 50 men at that gate.

Q. This was daylight?

A. What is that?

Q. This was daylight, of course?

A. This was about 8 o'clock in the morning.

Q. Was this a bus that ran only to Republic or a Republic bus?

A. It was a regular City bus that makes that run to the plant and office that time of day.

Q. What if anything did you observe about these men, were they carrying anything?

A. Most of them appeared to have clubs. We were stopped by three or four men, one big colored man looked the bus over, he was carrying a club that oh, might have been the size of a baseball bat. After looking the boys over and saying something to the driver, which I did not understand, he told us to go on.

Q. Then what happened?

A. Well, we went down the road to the office entrance and stopped there.

Q. Who did you see there at the office entrance?

A. Well, the steps leading in the office were taken up pretty much by a group of some 18 or 20 men.

Q. State whether or not they were carrying anything.

A. Well, the most of them appeared to be carrying clubs. I could not say if every one of them had a club or not.

Q. And what happened there, if anything?

A. As I attempted to get off the bus, two of these men with clubs rushed up to me swinging them and shouting and they told me to go back home, and there was a rather well-dressed man without a club walked up and I asked him if they were picketing the office and he said "yes and I would not try to go through that crowd if I were you."

Q. Then what did you do?

A. I got back on the bus and went back home and I called up the office and told them that I had tried to get in and they informed me that I should not try to come back and get in until they notified me by telephone.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Who told you not to try to come back and get into the plant until you were notified?

MR. PONTIUS: I did not hear that question.

TRIAL EXAMINER LINDSAY: Read the question.

(Question read.)

A. As near as I can recall it was the paymaster.

Q. Did you call him or did he call you?

A. I called him when I got back home.

Q. Your recollection is that it was the paymaster told you that?

A. That is my recollection.

Q. You say you saw men with clubs around the plant?

A. I did.

Q. And two of them came rushing at you swinging their clubs?

A. Yes, sir.

Q. But you were not hurt at any time?

A. No, I didn't risk that.

Q. Well, you were not hurt, were you?

A. No.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

MR. DAY: Call Mr. Cravens.

C. W. CRAVENS

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name, please?

A. C. W. Cravens.

Q. Where do you live?

A. 223 Fifth Street, Northeast, Massillon, Ohio.

Q. Now, keep your voice up so we can all hear you.

A. Can you hear that?

Q. Yes. I can hear it. All right. How long have you lived in Massillon?

A. Since July 17th, 1933.

Q. And you worked for Republic?

A. The same length of time.

Q. In what department do you work?

A. Alloy Steels.

Q. What is your position in the Alloy Steels?

A. That is hard,—I have no title but I take care of stainless and alloy steels.

Q. And where is the office in which you are located?

A. It is located on the corner of Oberlin Road and Cleveland Avenue, the northeast corner.

Q. Do you remember the C. I. O. calling a strike?

A. Yes, sir.

Q. That was May 25th and 26th. Where were you that night?

A. I was in the office building.

Q. Now, I think we have a photograph here that shows that office building.

(Showing witness photograph.) This is the only picture we have here. Is the building here on Respondent's Exhibit 3 the building where the office is?

A. Correct.

Q. You say you were in that building that night of the strike?

A. That is right, approximately 8:30 to 8:45.

Q. Did you look out of the building?

A. Certainly, I looked out of the building.

Q. Just tell the Trial Examiner what you saw when you looked out of the building.

A. Well, everything was apparently quiet from the time I was there until 10 minutes to 10 o'clock. At that time a Ford roadster '28 model drove up to the southeast corner of Republic Steel property directly adjoining to the driveway leading into No. 2 gate. One man jumped out of the car rather nervously and lighted a flare.

Q. When you say he lighted a flare, can you describe that a little bit more?

A. Well, the flare was about that long (indicating) and it had a spike on it which could be easily stuck in the ground, about three-quarters of an inch in diameter, understand I did not measure it. It was a red flare similar to those used by a railroad company in denoting the stop signal or distress signal.

Q. How far was the flare from where you were looking out?

A. Approximately 25 yards.

Q. Go on from there, please.

A. Well, immediately after the flare was lighted, approximately 40 men came half running and half walking down Cleveland Avenue and all pulled up to the No. 2 entrance, the drive leading into the No. 2 gate. There was apparently some confusion there at the present time, a bit of discussion took place. Finally three or four cars were placed in the driveway to prevent the shift coming on and the shift going off, as it was time for the shift to regularly change its turn.

Q. When did the next shift go on or go off?

A. Well, a shift goes on and off at 11 o'clock, but the men generally get there anywhere from 40 minutes to 20 minutes before time in order to relieve the men coming off.

Q. Can you just tell us more in detail as to how these cars were placed in this gate?

A. Well, there were three cars placed, there were four cars, I beg your pardon, strike that out, four cars placed east and west and they were placed end to end. That is, if the driveway was running north and south the cars were placed in a horizontal position thusly (indicating), which prevented anyone coming in or leaving the plant. Now immediately one car was withdrawn. The one which was nearest the fence, which is the southeast corner, that was to allow the shift coming out to move through the picket line. However, no one was allowed to come in.

Q. You stood there watching them all this time?

A. Correct.

Q. Now, what was the next thing you saw?

A. Well, the next thing that immediately happened afterwards were men coming in and going out. The men coming out were not molested any other than being jeered at and they were allowed to proceed on home.

Q. Now, were those the men that were working in the mill?

A. Correct. The men coming to work were turned around and started back in the direction from which they came.

Q. Now the men coming to work came by what means, were they in cars or on foot or both ways?

A. Both ways, they were in cars and on foot.

Q. Go ahead and tell what you saw.

A. During that time, of course, we had no pickets at the office from approximately 10 minutes of 10 until 25 minutes after 10, we had no pickets at the office. And then their attention was directed to the office and the west entrance to the office was immediately blocked by one automobile and approximately eight pickets. Then the east entrance of our building, into our building, was blocked with two cars and approximately double the amount of pickets, and a detail was assigned directly to the rear gate of the fence leading in, which is on Republic Steel property.

After a few minutes a piece of braided cable was obtained and this gate was wired completely shut.

Then approximately at 10 minutes to 11 or 11 o'clock, thereabouts, a gray town sedan, a Nash car, drove up to the main office and stopped. This was stopped by the pickets.

Q. Did you se who was in it?

A. Yes.

Q. Who was in it?

A. That was Mr. James A. Lewis.

Q. Is he the man who just testified?

A. That is right.

Q. Do you know him for some time?

A. I have known him ever since I worked for the Republic Steel Corporation.

Q. All right, go ahead.

A. He was stopped immediately and told to turn around and go back.

Q. Did you hear what was said?

A. We could distinguish the gist of the conversation due to the fact that even though the doors were closed we were standing within one foot of the door and Lewis' car was not any further than from here to that table from the place.

Q So that we can get that in the record, how many feet is that?

A. I would say 15 feet from the door.

Q. If you are going to tell what was said, just tell what you heard. Go ahead, please.

A. All I heard was the fact that the strikers said, "You cannot go into the office." That was said at the time that one reached in and grabbed Mr. Lewis. At the same time a picket carrying a two by four approximately five feet long whaled at the top of the car. At that time Mr. Lewis put his car in low and started up over the hill.

Q. Did he drive away?

A. Yes, sir, he drove away. Then everything was more or less quiet. That is as far as action was concerned during the night, nothing happened at all.

Q. Now, were you able to see how many pickets were out there at about midnight or 11 o'clock that night?

A. Certainly.

Q. About how many were there?

A. I would say approximately between 150 and 200 men.

Q. Were you able to see whether or not they were carrying anything?

A. Yes, sir, they were carrying clubs.

Q. Can you give us some description of the kind of clubs?

A. Some of them were carrying the elm club that had the bark tore off of it. They are an elm club, it looked like it was cut off of a tree. We call them elm clubs where I come from. As I testified, one of them was carrying a two by four, some of them were carrying iron pipe, and some of them were carrying ball bats.

Q. You say it was quiet during the night. Now, what if anything, did you observe the next morning?

A. Well, the next morning, naturally there would be a lot of the men who were office employees who were attempting to come down to the office to go to work.

Q. Then what did you see happen there?

A. These men were turned around immediately into a bus, one of the regular busses which makes its regular stop and goes down Sixth Street from Cleveland Avenue and goes east, came down and made its regular stop. This bus also goes into the mill, discharges and takes on passengers there at the change in shifts. The bus was not allowed, it also discharges and takes on passengers at Enterprise Aluminum and this bus was not allowed to enter the No. 2 gate to discharge or take on any passengers there from the Republic Steel or Enterprise Aluminum.

The Enterprise employees were allowed to leave the bus and walk down to their respective places of work. People who worked for Republic Steel Corporation remained on the bus and were transported away from the building.

Q. During the night did you observe what the pickets were doing?

A. What they were doing?

Q. Yes.

A. Certainly. I was up all night.

Q. What did you see them do?

A. Well, as far as turning the men away and stopping cars that were coming through, which were not necessarily men going to work, there was apparently little action taking place.

Q. What else happened that night?

A. Well, that morning that is practically all that happened as far as any action taking place. They didn't—Aside from the fact that the C. I. O. was picking up and transporting strikers away from the area practically nothing happened.

Q. How long were you in that building?

A. 15 days and 16 nights.

Q. How many were in there with you?

A. 85.

Q. Were they all men?

A. No, no, they were not all men. We had seven telephone operators.

Q. They were girls?

A. To carry on the work at the switchboard and we had one, two, three,—three cooks to feed us.

Q. And they were women, the cooks and the telephone girls?

A. That is right. 10 persons were women out of the 85.

Q. Well, after the first night, state whether or not you observed anything with relation to the pickets gathering up anything.

A. Certainly. At all times through the day you could frequently see pickets walking across Cleveland Avenue down along the railroad tracks picking up stones and these nuts and bolts that happened to be laying around, that had been thrown off of the cars, and they immediately established a pile of stones within handy reach.

Q. Did you go out of the office building from time to time or did you stay in the building?

A. Well, we didn't even attempt to try any going out, and we didn't attempt to go out, to leave the building at all until Monday, June the 7th. That was about 5:30, immediately after we had dinner, why we had been cooped up there ever since the night of May 25th and we figured out it was high time we were getting a litle exercise and a little fresh air and so we went out into the court, which is directly in the rear of the office building, and inasmuch as the office building is a building that is we took an indoor ball and there were eight of us, there were approximately eight of us that stood out there and pitched indoor ball.

We had been out there about 15 minutes and there was a gang of men started directly across the vacant lot by the fence between the Republic Steel Corporation and the brown house which sits on Republic Steel line, directly in the rear of the building.

We paid no attention to them because we had now become accustomed to seeing the pickets and figuring that things more or less around the office had been fairly quiet for some time, and there would be no commotion. This picket line was led by Mr. Kuntz.

Q. Had you known him before?

A. Yes, I had known him before.

Q. All right.

A. Do you want me to describe Kuntz?

Q. No; if you knew him, just tell briefly what happened.

A. He yelled out, "Go back into your hole, you dirty rats." Well, we didn't see any use to start running back into the building.

MR. LAUTER: I ask the last be stricken.

TRIAL EXAMINER LINDSAY: Sustained.

Q. (By Mr. Day) Don't tell whether you saw any use, or what your thoughts were and conclusions; just tell what you did and what you saw?

A. Well, all but two of us moved into the building at a walk. The other two, Perry Angstedt and myself, who was the other contingent stayed there and pitched balls.

Then there was another one yelled out, "You better get back in there, you sons-of-bitches."

Well, I came from Kentucky, and I had no intention of going back in the building, then. So I didn't see any use in running back into the building, there. I am not having a bunch of parties dictate to me to what the hell I am going to do. I come from the South where they dictate to themselves.

Q. Well, what happened?

A. Well, then we stayed out there and then there came across a volley of rocks, keeping in mind, of course, we are standing there with a concrete porch, and no debris laying there, well, we had to let about five volleys come across before we started grabbing up rocks, then there was enough there for us to get hold of some, and we started whaling them back, and that kept up for about 20 minutes. I would state, and in that time why there must have been around in excess of over a hundred people that were out there, either as spectators or throwing rocks, and we kept throwing them.

Q. About how many pickets were throwing rocks?

A. Oh, there must have been about 20 or 30.

Q. At you and Angsted?

A. Yes.

Q. Was anybody hurt?

A. No, we can dodge pretty well, and of course, they had to throw across the fence, you know, and it gave them a disadvantage, because they had to come across this fence, and you could duck behind the fence, and duck back and forth. Then we moved back into the building.

Q. That was the 7th of June?

A. Yes, that was about between—that was 5:30 when it started, and I reckon it lasted until about a quarter after 6.

Q. On that same day at about 11 o'clock, did you see somebody come to the door of the office building?

A. I did.

Q. Tell the Trial Examiner about that in your own way.

A. Well, I happened to be sitting in the front corner office, which is the southeast corner of the building, looking out the window, and this foreigner came walking up on Oberlin Road, and there was anything said to him until he started to walk into the office building.

As he walked up the steps, immediately he was met by three pickets who were stationed there in the foyer, and the windows were half open and one of the foreigners told him to go on back. Well, as he turned and started down, back to Oberlin Road, going east, he was hit on the shoulder, the right shoulder in the back, with a club.

He immediately wheeled around to see what hit him, I presume, anyhow he wheeled around and he was hit across the face with a club, and then he was escorted over to the C. I. O. headquarters, temporary headquarters which were located to the east, to the rear of our building, which can be plainly seen from our building. He was escorted over there and kept over there sometime. I did not see the man leave, I only saw him go in, and I did not see him go out. And I watched for approximately a half hour.

Q. What, if anything, did you see occur there on the 8th of June?

A. On the 8th? Well, of course, right after that rock-throwing contest we had, why you know things got—begin to having the aspects of having a little action around there. In fact—

TRIAL EXAMINER LINDSAY: Just a minute, tell us what action there was.

THE WITNESS: Well, I will tell you what the action was.

TRIAL EXAMINER LINDSAY: Go right ahead.

A. The action was that pickets were constantly congregating in groups which swelled the picket line considerably. I would say at that time they had approximately—instead of the usual 30 pickets—they had approximately 250 on hand. They were picking up, behind the buildings, logs and sticks and railroad ties and carrying them over and building two or three bonfires. That was, I presume, to keep warm by. Nevertheless, the bonfires were built. Aside from a lot of jeering and cussing going on, why nothing happened until 12:30. At that time, that is 12:20 a. m. on June 8th—

Q. In the morning?

A. Yes, that is in the morning.

Q. Midnight, yes?

A. Past midnight, 20 minutes past midnight.

Q. All right.

A. And a group of approximately 25 men, one of whom I recognized, gathered around the telephone pole located on the northwest corner of Cleveland Avenue and Oberlin Road.

Q. Who was the man you recognized?

A. Joe Morton, president of the C. I. O. lodge.

Q. Go ahead.

A. This telephone pole carries a line which comes across the bridge, the cable which comes across the bridge down Cleveland Avenue, carries it down the pole, under the ground and into the building of Republic Steel Corporation.

It splits at Republic Building and goes down Cleveland Avenue and connects with Tyson and Enterprise Manufacturing Company.

The cable is encased with a pipe, oh, approximately 10 feet in length from the ground. That pipe is approximately three and one-half inches in diameter.

They were standing on the ground and of course motion was taking place, the flood lights were on, you could naturally see that their hacksaw was being used to good advantage on the cable, the pipe.

It was not long until we knew that the cable was cut, because we saw the fire flashing from the cable and all of the lights on the switchboard lit up like a country church. So at the time that started, the city policeman who had been stationed there all the time was called and notified that that action was taking place.

Q. What was his name?

A. That was Officer Kroener.

Q. Was he one of the city policemen?

A. He was a city policeman.

Q. Stationed at the Republic Office?

A. Republic office.

Q. Go ahead.

A. He viewed the situation from out of the east window of Mr. Schmid's office, and he says, "Well, there is nothing I can do about it, unless you identify the man." Well, you can't identify—we couldn't identify the man cutting the wires, 25 yards away, with approximately 25 people around him.

So there was nothing done relative to stopping the cutting of the wires, or any attempt made. He just went to the front door of the building and hailed one of the deputy sheriffs and advised him—

Q. Did you hear this yourself?

A. What is that?

Q. Could you hear it?

A. Yes, I heard it.

Q. Don't tell anything unless you heard it yourself.

A. All right. I was right there. I followed him out there.

Q. All right, go ahead.

A. He walked out, told the deputy sheriff, he said, "Tell Chief Switter that all communication has been cut from Republic Steel Corporation office," and that was all of that conversation.

He came back from the door and took up his duties there. Then we had no disturbance in the office, at all, except that we were unable—we were hampered by the fact that we were unable to communicate with the outside world other than by special delivery letters.

Q. How long was it before telephone service was restored there?

A. It was never restored. It was partially restored on that cable, which didn't affect the Republic Steel Corporation. The telephone men were down there at approximately 9:30 on June 8th to restore the communications, and he was met by a committee of strikers.

Q. Did you hear what they said?

A. I couldn't hear the conversation between the telephone men and the strikers. But I know what did take place, in view of the fact that Mr. Beamer of the telephone company came up to Republic's door, escorted by two of the C. I. O. members, and he advised Mr. Angstedt that we would not have any telephone communication in view of the fact that the C. I. O. members were adverse to allowing him to restore the lines, and if he repaired the lines they threatened to cut lines elsewhere, and he didn't feel like taking that risk.

So therefore we had no telephone communication. Then on the afternoon of June 9th—say on June 10th, 4:00 o'clock, we were lined up in the rear of the building in automobiles, and we passed before the reviewing committee.

Q. Now, whom did you pass before?

A. The line of pickets, the captain of which had—

TRIAL EXAMINER LINDSAY: Strike out "the reviewing committee."

MR. DAY: Yes.

A. Who had a list of our names, which was obtained by Switter that morning.

Q. That morning?

A. Yes, sir.

Q. Now, tell us about that.

A. Well, all I know was that the list was necessary, it was necessary to furnish a list.

Q. Were you there when Chief Switter got the list?

A. I was there when Chief Switter came in and I was told afterwards that he got the list of our names and apparently this was because when I went out they asked me my name, they—the man holding the list couldn't find it and I found it on the list for him and told him, "This is my name."

MR. LAUTER: I move the answer be stricken out.

MR. DAY: No, I think that is—

TRIAL EXAMINER LINDSAY: Motion is denied. Let the record show an exception.

MR. LAUTER: Exception.

Q. Go ahead, please.

A. So after being stopped and asked our names, why we were allowed to proceed on home.

The only other activity that took place during the time that I was down there was the time was the time that, at intervals, during which we moved men from the mill.

Q. The men that had been working in the mill.

A. Well, you see it was necessary to keep a crew of men in the Massillon plant, even though we were going to shut the plant down in order to prevent excessive loss of equipment, this occurring mostly in your coke ovens and your soaking pits and your furnaces, open hearth.

Q. About how many men were kept in there?

A. I don't know the exact number, but I would say there was approximately, oh, 1000 men.

Q. Where did these people that were in the mills sleep at night?

A. I wasn't down there.

Q. Where did you office folks sleep?

A. Where we slept? Well, we slept in the office building on—some of us slept on cots, some of us slept on the floor. Others slept on the desks. Until we tore up some boards and some carpets and made some cots, well, the ones that didn't have cots slept on the floor.

Q. Where did you eat?

A. We ate up in the cafeteria.

Q. The cafeteria was running, was it?

A. That is right.

MR. DAY: Does the Examiner wish to adjourn at 12 o'clock? It is just about 12 o'clock now. I am not quite through.

TRIAL EXAMINER LINDSAY: Yes, we will adjourn until 1:30.

(Whereupon, at 12 o'clock, an adjournment was had until 1:30 p. m.)

AFTERNOON SESSION

(Whereupon, at 1:30 p. m. the hearing was resumed and the following proceedings were had:)

C. W. CRAVENS

resumed the stand and testified further as follows:

Q. (By Mr. Day) What, if anything, did you observe out there, Mr. Cravens, as to men coming out of the mill and being taken to the C. I. O. Hall?

A. Well, after—you see, these men were in the mill primarily to shut down the mill and at intervals naturally these particular parts of the mill would be shut down, cooled down to such an extent that it was no longer necessary to keep the men in the mill.

At that time, why those men were evacuated. That evacuation was done under the direction of Chief Switter. The time varied. Some afternoons it would be around 2:30; some afternoons it would be 4:30; some afternoons 5:30, depending upon what time the Chief arrived to take care of the evacuation.

Q. Did you, yourself, observe what happened when the Chief arrived?

A. That is right.

Q. Tell us about that.

A. He would arrive, then they would line up the men in order, in cars, the salaried employees were the first employees to be removed from the plant. They were lined up ahead and then there was an interval of approximately 25 yards before the hourly employees were allowed to come out of the mill. There would always be about 250, I would say, or 300 people, including the strikers and spectators around the entrance of the mill, the No. 2 gate, at the time of the departure of these men.

Each car was stopped individually and hollered at and jeered and then allowed to proceed on its way—that is, as far as the salaried men were concerned.

However, the hourly employees, when they started out, Chief Switter rode the first car on the running board of the first car, and they were conducted over to the C. I. O. headquarters where they remained for sometime.

Q. Did you see them from where you were?

A. Correct. I could see the headquarters. I couldn't see inside of the headquarters, but I could very easily see the door and see them walking in. Then after they were in there for a while, Chief Switter conducted them back up Cleveland Avenue and down east on Oberlin Road, across the bridge.

Q. How long did you see that practice taking place?

A. That took place approximately two times, until Bill McConneil, who is general superintendent of the steel division, phoned to Rollie Frank and advised him that the men coming out of the mill were very much adverse to being taken to the C. I. O. headquarters.

Immediately Chief Switter was called, and he came down. I failed to hear the conversation between Chief Switter and Mr. Frank, in view of the fact that my duties carried me elsewhere.

On that afternoon I particularly watched the cars coming out and there were no cars that were required to go to the C. I. O. headquarters.

There was only one other evacuation that I know of after that, which was on Saturday approximately at 1:15, and at that time there were only two cars with hourly men present, and those were forced to go to the C. I. O. Hall.

Q. On how many days did you see the cars go to the C. I. O. Hall?

A. As close as I remember, it was four days.

Q. Did you ever observe the conduct of the pickets with relation to automobiles out in front where you were?

A. The what?

Q. Did you observe the pickets do anything with regard to automobiles?

TRIAL EXAMINER LINDSAY: Those are awfully leading questions, Mr. Day.

MR. DAY: Well, I do not know how to make the question any more simple.

A. What do you want? Is it your idea for me to describe the action that took place?

Q. What you saw, yes.

TRIAL EXAMINER LINDSAY: Tell what you saw.

Q. Did you ever observe anything?

A. Well, I can tell you what I saw, if you want the story on it. Any time of the day or night that automobiles came down Cleveland Avenue, they were stopped regardless of their destination with the exception that after the third day the Tyson employees and the Enterprise employees had a sticker that they put on the windshield of their car so that they were easily distinguishable and, of course, the C. I. O. cars had C. I. O. on them and none of those cars were stopped but any other car passing through there was either made to hurry on or stopped and at night when the traffic lights were in use, the traffic was under the direction of the strikers and not under the direction of the traffic lights and when the men came out of the mill occasionally, the men would hit the bumper or fender of their cars, not hard enough to do any job to amount to anything, and aside from the jeering, there wasn't anyone I saw hurt or even molested inside of the cars, but whenever they would hit the car or something, why Chief Switter would walk up and tell the car to move ahead. Does that answer what you want?

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) How long did you stay there in the mill?

A. 15 days and 16 nights.

Q. And you were in the mill on May 25th?

A. I was not in the mill, I was in the office.

Q. In the office?

A. That is right.

Q. The strike was called on May 25th?

A. That is right.

Q. Did you try to get out that day?

A. No, I had no intentions of leaving the office that day.

Q. You did not want to leave that day or the next day?

A. I came back from Akron to go into the office because I heard rumors there was going to be a strike.

Q. You wanted to stay in the mill?

A. I wanted to stay in the office. My duties require my being in the office.

Q. Did your duties require you at that time there on the 25th?

A. Certainly. My duties require me to be there any time we are working?

Q. What are your regular hours?

A. My regular hours, 8 to 10. We generally work from 8 o'clock until 5 in the afternoon but we would not have any set hours as far as sales are concerned. If your customers detain you longer or call you late, you stay until you are done.

Q. Do you recall the day of the strike?

A. Right.

Q. Do you recall how many hours you worked that day?

A. Why, I was out of the office maybe 7 o'clock, 8 o'clock.

Q. Did you generally leave the office by 7 or 8?

A. There was a lot of times I left the office at 5:30 to go home and eat something and came back.

Q. How long did you generally stay at the office?

A. Sometimes I stayed at the office until 12 o'clock.

Q. I am asking you how long you generally stayed at the office?

A. I stayed in the neighborhood of 9:30, 10.

Q. That is what you generally stay at the office?

A. That doesn't go for every day.

Q. Do you know what the word generally means?

A. Yes.

Q. The majority of occasions, what time would you leave the office?

A. The majority of occasions I would say I would be out of there by 6 o'clock.

Q. On the 25th day of May the strike was called. What time did you leave the office or were you at work that day?

A. I was at work that day and at noon I went to call on a customer in Akron to deliver some samples. I returned from there with the information for the mill to proceed with the order, the information which I transferred to the mill that night.

Q. When did you return to the office?

A. I returned to the office about 8:30 or 8:45.

Q. When did you get the information that a strike was going to be called?

A. Well, I didn't get any definite information that the strike was going to be called. It was not known definitely. We had heard rumors from time to time that it would be called this night or the other night, but there wasn't anyone who told me that the strike was going to be called definitely until after I got back to the office that night.

Q. When was the first time you heard there was going to be a strike that night?

A. Approximately I would say 8:35.

Q. That was after you had gotten back to the mill?

A. That is right, after I had gotten back to the mill.

Q. And you continued to stay in the building, is that right?

A. Correct.

Q. You wanted to stay in the building, is that right?

A. Right.

Q. You didn't want to leave the building?

A. No, sir.

Q. You did not make any attempt to leave the building during the 15 days that you were there, is that correct?

A. That is correct.

Q. Now you mentioned that when you left the building there were pickets on the outside of the building with a list of the names of the people who were inside; that is correct?

A. There was one man who held the list of the names. He was the man who stopped the car.

Q. Have you testified that some of the people inside had been sleeping on cots, is that right?

A. That is right.

Q. Do you know when those cots were brought into the mill?

A. No, I don't know when the cots were brought into the mill. All I know, the cots were there. There wasn't enough cots to go around. I personally slept on an improvised cot that we made out of carpets and boards.

Q. Where did you sleep the first night you were in the mill?

A. I didn't have any sleep. I didn't do any sleeping.

Q. Did anyone—

MR. DAY: You keep saying the mill; do you mean the office?

MR. LAUTER: The office.

Q. Did anyone sleep on a cot?

A. I know they went to bed.

Q. I am asking you if anyone slept on a cot?

A. I know of two people that slept on a cot. I was not up on the second floor and I know of two cots on the first floor.

Q. Did you make any preparation for staying there when you came in there on May 25th?

A. No.

Q. Do you know of any others who made preparations to be there for any length of time?

A. No.

Q. You testified about some women being there, three cooks being there, were they there on the night of May 25th?

A. Yes.

Q. Are they regularly in that building?

A. Yes.

Q. And they stayed there 15 days and 16 nights?

A. Yes.

Q. All the time?

A. No, wait a minute. You asked me something there and I said yes. There were three of them that left there about four days afterwards, two of them who were not feeling so well and one of them whose parents were very sick. They were released. They were all telephone operators, which left four.

Q. How did you get food into the office?

A. We had food there.

Q. Did you have enough food for 15 days and 16 nights?

A. Yes, I would say we had more than enough food for 15 days and 16 nights, such as it was.

Q. You had that food when you got there on May 25th?

A. It was there when I went up the morning of May 26th to eat.

Q. You testified about the evacuation of some of the people from the mill, plant, or office?

A. That is right.

Q. How many people did you see evacuated?

A. Well, I could not count the exact number of people in every car but I can tell you approximately. I would say there was approximately 250 cars left the mill.

Q. You say that some of these cars were taken to C. I. O. headquarters?

A. That is right.

Q. How many were taken to C. I. O. headquarters?

A. The first time there were four, the second time there were five, and the third time about two.

Q. That is four, five and two?

A. Yes.

Q. About 11 cars out of 250?

A. Yes.

Q. Do you not know whether the men who went to C. I. O. headquarters asked to go there?

A. Whether they asked to go there?

Q. I am asking you whether you know if they asked to go there?

A. May I ask a question?

Q. No, you just answer my questions.

A. I would say from the conversation of the superintendent of the mill the men objected to going to the C. I. O. headquarters, which would mean that they would not have asked.

Q. You mean the 11 cars which went there containing men were men that did not want to go there?

A. Objection was made after five cars went to headquarters.

Q. Objection was made by whom?

A. By the hourly men to the superintendent in the mill, who transferred that information to us.

Q. Was any objection made by the men in the three cars that did go to C. I. O. headquarters?

A. Yes. That was the objection of the men in the mill not to go over there because they phoned McConnell and told him of their predicament.

Q. Will you tell me what the names of those men are?

A. No, sir, I can't tell you the names of the men.

Q. What was Mr. McConnell's position in the mill?

A. Mr. McConnell is general superintendent of the steel division.

Q. What state do you come from, Kentucky?

A. State of Kentucky, you guessed it right.

Q. Harlan County?

A. No, not Harlan County.

Q. What county?

A. No, I don't come from Harlan County, I come from Davis County, and that is not in the mountains.

Q. You testified about rocks being thrown?

A. Yes.

Q. While you were playing baseball?

A. That is right.

Q. Who started throwing rocks?

A. Well, I think I clearly stated that the strikers started throwing the rocks, because we had no rocks in the concrete court.

Q. Did you throw any rocks?

A. I stated that I threw rocks after there were enough rocks in the court where I could pick up some.

Q. You said something about throwing rocks while you were in back of a picket fence, or fence of some kind?

A. No, it is not a picket fence. It is a wire fence, approximately five and one-half feet high.

Q. And the pickets were at a disadvantage because you were in back of the fence?

A. Well, you couldn't get those rocks through that fence.

Q. But you could get the rocks from where you were, to where the pickets were?

A. No, we didn't do any damage at all, we had the same disadvantage. If you were standing on one side of a fence and I was standing on the other, and you had a rock and I had one, we would both be equal.

Q. You didn't testify that the pickets were at a disadvantage?

A. What is that?

Q. Did you testify that the pickets were at a disadvantage?

A. I said that the reason that there was no one molested, I believe, was that the pickets were at a disadvantage, due to the fact that there was a fence between us which naturally would mean they couldn't aim directly at you and get that rock there quick enough before you could dodge.

Q. Who is Mr. Angstedt?

A. Mr. Angstedt is the head of the cost department.

Q. What department is that?

A. The cost department.

Q. And he threw rocks with you?

A. Yes, he threw.

Q. That is all. Just one question, Mr. Cravens, May I ask you one more question, stand where you are. You said down in Kentucky they don't let things be run by foreigners, is that right?

A. That is right.

Q. Do you know whether there are any foreigners here in the mill?

A. Do I know whether there are any foreigners in the mill?

Q. Yes.

A. Yes, sir.

Q. Did you notice whether the men on the picket line were foreigners?

A. Yes, sir.

Q. Could you tell that by looking at them?

A. Certainly.

Q. You can tell a foreigner by looking at him?

A. Certainly you can tell a foreigner by what he looks like, the same as anyone else.

Q. You could be able to distinguish whether they were naturalized citizens or foreigners, just by looking at them?

A. Now, wait a minute, wait a minute.

TRIAL EXAMINER LINDSAY: Now, let's not have any more of this laughing.

A. I can't say whether all of the men on the picket line were naturalized or not. But I will say this, that the men on that picket line, when you asked me the question of foreigners, I would say they would be classified as foreigners, that is as far as the place of birth is concerned. I am classified as an American because I was born and raised in the United States. If you were born and raised in England, I would say you were a Britisher.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

R. STANLEY SMITH

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please?

A. R. Stanley Smith.

Q. Your age?

A. 32.

Q. Your residence?

A. 1539 Overlook Avenue, S. W.

Q. Where do you work?

A. Republic Steel Corporation, Massillon division.

Q. In what capacity?

A. Foreman.

Q. Where?

A. Foreman.

Q. Foreman of what department?

A. Billet shed department.

Q. How long have you worked for Republic?

A. Fifteen and one half years.

Q. Were you working there during the strike?

A. I was in there during part of the strike.

Q. Now, directing your attention to the afternoon of June 3, 1937, where were you?

A. June 3rd?

Q. Yes.

A. I couldn't recall the actual date, where I happened to be.

Q. Well, do you recall an occurrence at or near the Venice Night Club in Massillon?

A. I do.

Q. Can you fix approximately the date when that happened?

A. Well, that was on or about June 3rd, I couldn't state the actual date.

Q. Will you tell us what happened?

A. Why, I pulled up to the club, walked in there with the intention of making a purchase, and before I had made this purchase, there was a car pulled up in front of the club and two men came in.

Q. Talk a little louder, please?

A. Two men came in, one standing outside and claimed that I was riding the picket line, which I denied. They claimed that I was carrying a petition Back-to-Work petition, and I also denied that. They made the remark that I had better come with them to the headquarters. Understanding they had some idea of taking me by force, as I thought, I asked them what their idea was and they said, "Well, there was no argument, I would just go with them to headquarters."

MR. LAUTER: I object to this question and move the answer be stricken on the ground there is no connection established.

MR. DAY: Well, there will be.

MR. LAUTER: Well, let's have it before we go any further.

MR. DAY: We can't have it until he tells what happened.

TRIAL EXAMINER LINDSAY: Well, I will admit it with the exception of your personal idea of the thing, that should be stricken from the record.

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: Just read back the testimony.

(The answer read by the Reporter as follows: A. Two men came in, one standing outside and claimed that I was riding the picket line, which I denied. They claimed that I was carrying a petition, Back-to-Work petition, and I also denied that. They made the remark that I had better come with them to the headquarters. Understanding they had some idea"—)

TRIAL EXAMINER LINDSAY: Right there, his understanding, from there on.

MR. DAY: Read the rest of the answer.

(The remainder of the answer read as follows: "I asked them what their idea was and they said, 'Well, there was no argument, I would just go with them to headquarters.' ")

Q. Describe the manner of these men.

A. Well, one man stood at the door, the other came up to me and says, as I stated before, that I had been riding the picket line, also had a petition. Told me that I had better come to headquarters with them.

Q. Then what happened?

A. Well, I told them that I hadn't any intention of riding any picket line or anything else. That didn't seem to make any difference, they said, "Come on, we will go to headquarters."

So we—that one gentleman inside took me by the arm and walked me out the door and the other one followed. I got in my own car, one man on each side of the car, on the running board, steered me around through Columbia Heights on down through Cleveland Avenue to headquarters.

Q. What headquarters?

A. CIO headquarters.

Q. When you got to CIO headquarters what happened?

A. Well, these same fellows escorted me inside and inquired of one of the men there if someone was there, I didn't understand the name he asked for, but he was evidently informed that he was not, this man was told to watch me until he came in. So I stayed around the headquarters there for possibly five minutes, I asked some fellow standing there who I was waiting for and he said the fellow was over at the main office; that is, the Republic Steel main office. It seems that they were letting out some salaried employees that afternoon. I was told that I would have to wait there until he came back, that he wanted to question me.

Q. Then what happened?

A. I told him that I would like to get out of there and go on home, and he said, "Well, come on, we will take a walk around to the main office," he said, "see if we can see this fellow." Which we did. We walked around the front of the main office, couldn't locate him. Then they come back and sat on the running board of my car, this fellow from the headquarters along with me. We sat for possibly 15 or 20 minutes and we saw a gang of fellows coming from in back of the Republic Steel Company office. He said, "Here he comes now." We crossed over and went into the CIO headquarters.

When we got over there, why the fellow said, "Come on inside." I went in and into a small room on the south side of the building. I would say there was either five or six besides myself in there. They locked the door after we all got in.

I was told the same thing, that I had been told in the Venice Night Club, that I had been accused of carrying a petition, Back-to-Work petition, and also riding the picket lines, spotting the pickets. I denied it there the same as I did at this night club. This man told me that when we foremen were let out of the mill we were shown every courtesy, we were not molested at all, which I admitted. I went out of the mill and was not bothered at all. And they said they expected us to use the same courtesy to them.

Well, I said, "I have no idea of doing against their ideas, against their code, or whatever you might call it," I was merely on a personal trip of mine, my own, and I usually used that particular route to go there and back.

He asked me if there was any way that I could prove that I didn't have anything in my pockets that would lead them to believe that I had a petition. The only way I can do that, was to tell them that I would have to show him what I had in my pocket.

"Well," he said, "I would like to have you do that," which I did. I showed him my handkerchief, keys and what-not, miscellaneous stuff I had in my pockets. He was satisfied with that.

He asked me to open the front of my shirt, to make sure there wasn't anything in there. Of course, I complied with his request. After that he said that I might possibly have something in my car. I told him that it was his privilege to come out with me and I would show him what was in the car.

He came on out, with me, and I opened the door of my car and opened a small compartment on the righthand side of the dashboard, pulled out the papers that I had in there, road maps and so forth; he merely glanced over them and o. k.'d them. I put them back in and one of the assistants there opened the rumble seat, looked back in there; not seeing anything of any importance to him, he closed it up again. He gave this chief, or whatever he was called, the o. k. and said that everything was o. k., but if he were in my place, when he had any business in the southeast end of Massillon, he would try to take a different route in going there.

So I said under the circumstances I would, but I didn't want any more interference from any of those fellows than I could possibly do away with.

Q. How long were you at CIO headquarters? About how long?

A. I would say altogether about 45 minutes.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) During all the time that you were there, you say that you were shown every courtesy?

A. Yes, I was not molested.

Q. Do you know some of the other foremen in the billet shed?

A. Do I know some of the other foremen?

Q. Yes.

A. I think I know practically all of them.

Q. Is Mr. Henderson one of the foremen?

A. Yes.

Q. Will you give me the names of any of the foremen that carried around Back-to-Work petitions?

A. No, I couldn't do that because I never happened to see one of them.

Q. Well, don't you know that they did carry around Back-to-Work petitions?

A. That I can't say.

Q. You never heard anything, that they did?

A. Oh, there has been rumors around, sure. I suppose that is why I was picked up, because there had been rumors around that there were Back-to-Work petitions working throughout the city, but as far as I am concerned, I never saw one.

Q. No, I understand, Mr. Smith, that you did not carry around any Back-to-Work petitions. You testified that you did not, and that is true, isn't it? You did not carry any around.

A. No, I testified to that.

Q. And it is also true that some of the other foremen did carry around Back-to-Work petitions, isn't it?

A. Well, I stated that I did not know, because I had never seen one.

Q. But you had said that they did?

A. Well, I had heard, sure.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

A. DONALD SHATTUCK

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. A. Donald Shattuck.

Q. Where do you live?

A. 1204, 11th Street, N. E., Massillon.

Q. What is your business?

A. I am a heater at the coke plant, Massillon.

Q. How long have you worked at the coke plant?

A. Four years ago in May, I started.

Q. I will ask you what occurred at about 6 o'clock on the evening of June 4th last?

A. Well, June 4th around a quarter of 6 it was, I was told that I was going to leave the mill.

Q. Keep your voice up.

A. I was told that I was going to leave the mill that evening at 6 o'clock, and I had worked that day, I happened to be the last car in the parade going out at that time.

Q. Just a minute. You had worked that day?

A. Yes.

Q. In the mill?

A. Yes.

Q. What plant was that?

A. Coke plant.

Q. That is a part of the big plant?

A. Well, that is the coke plant in general, in the furnace division.

Q. All right, go ahead.

A. Well, I got in my car and drove down to the police there and it happened to be the last car in the parade.

Q. About how many cars were in the parade?

A. I would say there were approximately 24.

Q. And out of what gate did you drive?

A. No. 2 gate.

Q. And that takes you onto what street?

A. Oberlin Road.

Q. All right, go ahead.

A. And as the cars started out of the gate the first few cars, why Bill McConnell put another fellow in my car with me, and as the cars filed out there were several cars in front of me taken over to CIO headquarters.

Q. Who was the man in the car with you?

A. One Willis Hall.

Q. Was he working in the mill too?

A. Yes, sir, he worked at the coke plant. And as I started out of the gate why Chief Switter stepped on my running board and about 20 feet further two CIO men stepped on also, went on either side.

Q. Before you got out of the gate or while you were going through the gate did you see anybody standing there?

A. Yes, there were a group of approximately 300 pickets, sympathizers and people standing there booing and so forth.

Q. Did they have anything with them?

A. Yes, they had, oh, ball bats, clubs, gaspipes and what not.

Q. Now, tell us about Chief Switter.

TRIAL EXAMINER LINDSAY: "What not" is stricken out of the record.

A. Chief Switter stepped on my running board and we drove off of the company property and these two pickets —first these two pickets got on the car, just before we got off of the company property. They were standing on company property at the time.

I had made up my mind before we went out that I was not going to go to the CIO headquarters, so as I started out Oberlin Road I started to turn to the right, that is east across the viaduct, and as I did so a bunch of pickets swarmed in front of my car, motioned me to go over to the CIO headquarters. So I stopped and Chief Switter said, "You had better follow these boys directions."

So then I had nothing left to do but to turn left and go into Cleveland Avenue.

Q. Now, as you left that plant, you say somebody got on your running board, who was on your running board?

A. Chief Switter and two CIO men. I cannot identify the men by their names.

Q. What running board was the Chief on?

A. The Chief was on my side, the driver's side, left side.

Q. Where were the two CIO men?

A. One on either side, one with Switter and one on the right side.

Q. Then what happened?

A. They forced me up Cleveland Avenue toward the CIO headquarters. As I came near the headquarters the boys told me to turn right into a little parking lot at the south side of the headquarters. I parked my car there, locked it and got out and they said "Follow us." So amidst these jeers from the crowd, this other boy and I followed these two pickets into the CIO headquarters.

Q. Where was Chief Switter while this was happening?

A. He was right inside or right very close to us, there. He went in along with us.

Q. What happened after you went in?

A. They took us in, and they took us into a back room, a corridor ran straight through and this room was on the south side of the CIO headquarters.

There were approximately ten or twelve chairs in the room, and this other fellow and I went in. There were about six or seven other men in there, and they were all sitting down, we went in and sat down also.

After we went in the door was locked. Chief Switter sat down in the corner by the door and there were about five or six CIO men there too and they started then to question the men. I think it was Joe Morton started, I am sure that it was Joe Morton who started the questioning.

He started at the north end of the room and I was sitting there at the far end, and he questioned all of the men down the line. Just before he came to me—

Q. He questioned them about what? Did you hear the questions?

A. Yes.

Q. What did he ask them?

A. He asked we men what they were doing in the mill, and if they didn't know there was a strike, and they were breaking the strike and various other questions like that.

Q. All right, go ahead.

A. So just before he came to me, someone knocked on the door and asked for Joe Morton and he left.

Just as he left there was a small fellow sitting next to him there, he said, "Thomas, you carry on the investigation." So Thomas questioned me, then.

Q. What did Thomas ask you?

A. He asked me my name and address and I told him. He asked me what my job was and I told him. He asked me what the idea was that I worked and I told him that I had to work to help shut the place down.

He asked me if I didn't know I was breaking the strike and I said yes. I told him that the coke plant has to be shut down in several weeks' time, they can't be shut down in a day's notice, and he agreed with me on that.

And I also told him that there were just two heaters on the plant, there is usually four, and that we had to work two of us anyhow to do the work to shut the place down, one man couldn't work 24 hours straight through on the job.

He was very well satisfied with my testimony there and asked me if I belonged to the CIO, which I said no. He asked me if anybody had ever asked me to join and I said no. And he said, "Well, in a couple of days we will send two or three men around and they will ask you to join the CIO."

Q. Did he ask you to sign some paper in there?

A. No, there was nothing said in there about joining CIO. So then they unlocked the door again and these same two gentlemen that escorted us in from the CIO picket line, escorted us back out, and they got out, one of them got on the car and the other drove the machine and they escorted us across the viaduct and this other fellow jumped off and got into the car with the other fellow and they went back to the CIO headquarters.

Q. During the events you have described already, where was Chief Switter, if you know?

A. Well, as I stated before, he was on the running board going into the headquarters, and he sat in the room there during the questioning, and as soon as the questioning was over why this Thomas said, "Well, escort the boys back, now, and we will try the men quiet from booing and so forth."

They didn't help a bit. They still did. And Chief Switter then walked out before us and he stood out in front a little way, and when we drove away why he was still standing there.

Q. You say they booed you? Just what did they do?

A. Well, as I left the millgate there, the No. 2 gate, why this crowd of approximately 300 pickets, sympathizers and what not, all started to yell "Boo" and "Scab" and lots of them even put the fingers up to their nose like that (indicating) and swung their gas pipes around as if—well, and then they did the same thing over at CIO headquarters.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) You say they booed you?

A. Yes.

Q. Jeered you?

A. Yes.

Q. Didn't hit you, did they?

A. No.

Q. They were peaceful all the time that you were there?

A. I beg your pardon?

Q. I say the pickets were peaceful all the time that you were there?

A. Well, they didn't do any bodily harm.

Q. I am asking you, they were peaceful, weren't they?

A. Well, it all depends on what you call peaceful.

Q. What would you understand as peaceful?

A. They were very disorderly, I thought.

Q. Why, how were they disorderly? Because they booed at you?

A. Sure.

Q. I see. Booed you when you came out of the plant?

A. Sure.

Q. And was it the same crowd that booed you when you went to the strike headquarters?

A. Yes, they followed along the road there then after the last car was out, up to the headquarters.

Q. And they started booing you when you left the plant?

A. Yes.

Q. Now, how far is the plant from strike headquarters?

A. Oh, I would say it is approximately 300 feet.

Q. They walked along with you all the way?

A. Yes.

Q. When you were being questioned you were asked whether you knew you were breaking the strike, and you said yes?

A. Yes.

Q. You thought you were breaking the strike?

A. I knew there was a strike on, yes.

Q. Well, you answered you were breaking the strike?

A. That is right.

Q. That you knew you were breaking the strike?

A. Yes.

Q. Did you want to see the strike broken?

A. Sure.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) I want to ask you whether or not you were asked to sign any paper at C. I. O. headquarters?

A. No, I was not asked to join the C. I. O. at all.

Q. Were you asked to sign any paper?

A. Yes.

Q. Will you tell us about that?

A. Sure, this man, Mr. Thomas, asked me what money I made while I was in the mill. I did not give him any answer on the total sum but I told him I was getting paid 14 hours for 8 hours work. He said, "You are sure of that?" I said, "I am sure." He said, "Would you sign a paper to that effect?" And I said, "Certainly." So he got a small piece of paper out of the pad there and wrote down "this man said he was working 8 hours and being paid for 14." So I signed the paper. And he asked the other men that were sitting there if they had received the same rate. They said yes, they had been told they received the same rate and several of them signed the paper also and then he asked Chief Switter if he would witness the signatures. Chief Switter said no, he was not there to sign any papers or be a witness to anything, so they asked one Tom Morton from the C. I. O. men if he would sign it, seeing that he was not an officer of the lodge and he could sign it.

(Witness excused.)

MR. PONTIUS: Miss Vera Besancon.

VERA BESANCON

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) Your name is Vera Besancon?

A. Vera Besancon.

Q. Where do you live?

A. 4212 South Avenue, Southeast, Massillon.

Q. Please talk a little louder if you can. Are you employed by the Republic Steel?

A. Yes, sir.

Q. How long have you been employed by that Company?

A. For about a year.

Q. What is the nature of your work for the Company?

A. I work in the payroll department.

Q. And where did you carry on your work? I mean in the mill or in the office or where?

A. In the office, in the main office.

Q. In the main office on Oberlin Road?

A. On Oberlin Road.

Q. Yes. Now, do you remember when the strike was called?

A. Yes, sir.

Q. And will you state whether or not you went to work the following morning?

A. I did.

Q. That was the morning of May 26th?

A. Right.

Q. What time did you go to work that morning?

A. Oh, about 10 minutes of 8, I guess.

Q. Did you know the strike was on when you got there?

A. Yes, sir.

Q. Heard about it?

A. Yes.

Q. How did you go to your place of employment that morning?

A. My brother took me in his car.

Q. In a car?

A. Yes.

Q. Where did he take you to?

A. We drove up past the viaduct and up to the office building, and the men around there kept telling the cars there to keep moving so we just turned around and went home.

Q. What did you observe there outside of the office?

A. Well, that men were standing on our office steps with clubs.

Q. And about how many, would you say?

A. Oh, I would say there were about eight men standing on the steps.

Q. You did not get into your place of employment that morning?

A. No, sir.

Q. Now, did you go back there at any time shortly after this?

A. I went back May 28th.

Q. And what time on the 28th of May did you go back?

A. I don't just remember what time, I remember the morning, but I don't remember what time.

Q. It was in the morning?

A. Yes, sir.

Q. How did you go there that time?

A. We had to get the bus downtown.

Q. You got a bus downtown?

A. Yes, sir.

Q. How does it come that you were going to work on the 28th, will you explain that?

A. To make the payroll.

Q. What?

A. To make the payroll.

Q. Were there any other payroll employees on this bus?

A. Yes, sir.

Q. About how many?

A. Oh, about 25, I believe.

Q. Where did the bus take you to?

A. Took us to the main office.

Q. What was the situation in front of the main office on that occasion?

A. Well, there were a couple of men on the steps and there were also two women.

Q. Did you observe the conditions around there on the roadway?

A. I don't remember just how that was.

Q. Well now, what occurred there at the main office on that morning?

A. Well, we got off of the bus and we had to walk up the steps single file and these two women looked through my purse, our names were checked off and we went on into the building.

Q. I didn't understand what you said the two women did.

A. Looked through my purse.

Q. What did they do with respect to that? How did they look through your purse?

A. Well, they just said, "Open your purse." And I opened it and they just moved things around in it, and that is all.

Q Where were the two men at this time?

A. They were on the top of the steps waiting to check our names off.

Q. Do you know who these women were?

A. No.

Q. Was your name checked off then?

A. Yes.

Q. And you were let through?

A. Yes, sir.

Q. And you went in single file?

A. Yes, sir.

Q. Was anything said to you as to why they were looking through your purse?

A. No.

MR. PONTIUS: That is all.

Cross Examination

Q. (By Mr. Lauter) Did you work in the plant on May 25th?

A. Yes, sir.

Q. What hours did you work?

A. 8 to 5.

Q. Are those your regular hours?

A. Yes, sir.

Q. Now on the day of the strike did you work, May 25?

A. May 25 I worked.

Q. You did work?

A. Yes.

Q. May 26th you say you went to the plant and you were turned around and had to go back?

A. Yes, sir.

Q. At that time you saw men with clubs in their hands?

A. Yes, sir.

Q. What did you do on May 27th, do you recall?

A. May 27th?

Q. Yes, the day after you went to the plant with your brother and the car was turned around and you went home. Did you work on May 27th?

A. I don't remember whether it was the 27th or 28th I went back.

Q. When was pay day? Was pay day May 28th?

A. No.

Q. When was the day that you went back to make up the pay roll?

A. That is what I said I didn't know. It was the 27th or the 28th.

Q. Well, on May 26th you saw the men with the clubs in their hands?

A. Yes.

Q. On May 27th or May 28th you came back to the plant to make up the payroll?

A. I don't understand.

Q. On May 26th you went to work and you didn't get into the plant, your brother took you back home?

A. Yes.

Q. At that time you saw men with clubs in their hands?

A. Yes.

Q. On May 27th or 28th you returned again?

A. Yes.

Q. Is that correct?

A. Yes.

Q. To help make up the payroll?

A. Yes.

Q. You were not afraid to go back?

A. No.

Q. You were not afraid of the men with clubs in their hands?

A. No.

Q. You didn't see any of the men with clubs in their hands use the clubs, did you?

A. No.

Q. Who called you back to work?

A. Ernie McCollum.

Q. Who was Ernie McCollum?

A. He is my boss.

Q. Did he call you at your home?

A. Yes.

Q. Who took you to work that day?

A. On the bus.

Q. Did you go alone?

A. On the bus.

Q. Did you go alone on the bus?

A. Yes, sir.

Q. Were there any other members or employees of your department—

A. Yes.

Q. —on the bus?

A. Yes.

Q. From the payroll division?

A. Yes.

Q. Did you know that there was a strike on when you went back?

A. Yes.

Q. That did not deter you from going back to the plant, did it?

A. No.

MR. LAUTER: That is all.

(Witness excused.)

MR. PONTIUS: Sylvia Zuercher.

SYLVIA ZUERCHER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. Sylvia Zuercher.

Q. Where do you live?

A. 223 Fifth Street, Northeast, Massillon.

Q. Have you been employed by the Republic Steel?

A. Yes.

Q. In what department?

A. Payroll department.

Q. How long have you been employed by that company?

A. About one year.

Q. Now, after the strike was called, do you remember the first time you did go down to the office?

A. Well, the first time I went down was on the 28th on the bus when the other girls went.

Q. Yes. Had you received some notification to come to the office that day?

A. Yes, I did.

Q. Who notified you to come?

A. My boss.

Q. Who is that?

A. Ernie McCollum.

Q. Were you informed as to what you were to do?

A. No, he just told me to get there.

Q. Did he tell you how to get there?

A. Yes.

Q. Following your talk with him you took the bus?

A. Yes.

Q. Were there other employees from your department on that bus?

A. Yes, there were.

Q. About how many?

A. Oh, about 20 or 25, somewhere in there.

Q. To what point did the bus take you?

A. Took us up to the main entrance of the building.

Q. That is the main entrance of what?

A. The building there.

Q. Of the office building?

A. Of the office building.

Q. Main office?

A. Right.

Q. That is immediately next to Oberlin Road there?

A. Yes.

Q. Describe to the Court what happened when you got there to the office and how you gained admittance there.

A. We got off the bus and had to march up single file.

Q. March up where?

A. To the door and the steps single file and there were two men checking our names off and before we got there we had to open our purse as we walked past two women, we had to open our purse to show if you had anything that, I don't know. After our names were checked off, we got in.

Q. After your names were checked off what happened?

A. We went into the office building.

Q. These two men on the steps, did they have anything with them, the men on the steps?

A. Well, not the ones that were checking our names off but there were other men on the steps that had clubs.

Q. Did you know these men?

A. No, I didn't.

Q. How did you come to open your pocketbook?

A. Well, they asked us to.

Q. What did they do then when you opened it?

A. Well, they just looked in it and then we went on again.

Q. Now you say these women put their hands on you, is that right?

A. That is right.

Q. Just tell how that was done.

A. Well, as I opened my purse with that one lady just felt me in the hip, that is all.

Q. Was anything said about that?

A. No.

Q. Then you went on in?

A. That is right.

Q. How long did you remain there at the plant?

A. We went out again that evening.

Q. That evening. Did you come back the following day?

A. Well, I didn't go back the following day, the others did.

Q. Did you just work the one day?

A. I just worked on Friday, and on Tuesday, Tuesday forenoon.

MR. PONTIUS: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Is that a regular bus that took all the girls down or is that a special bus?

A. City bus.

Q. Regular City bus?

A. Yes.

Q. It carried other passengers besides the passengers that included the girls in the payroll department, is that right?

A. I don't know whether there were any others on that morning, but they usually do.

Q. I am talking about the particular bus you were on.

A. I didn't notice.

Q. You did not notice anyone besides the girls who worked in the payroll division?

A. No.

Q. Is that correct?

A. Yes.

Q. You saw these men with clubs in their hands?

A. Yes.

Q. You were not afraid of them, were you?

A. No.

Q. You were called by your boss?

A. That is right.

Q. Were you afraid of losing your job if you didn't come down?

A. No, I was not.

Q. You were sure of your job?

MR. PONTIUS: I object to that.

TRIAL EXAMINER LINDSAY: Yes, sustain that.

MR. LAUTER: I withdraw it.

Q. Did you speak to the girls in the bus when you came down?

A. Sure.

Q. Did they tell you that they had been called also?

A. They did.

Q. Did you know the strike was on?

A. Certainly.

Q. That did not stop you from coming back to the plant?

A. It did not.

(Witness excused.)

MR. PONTIUS: Esther Nelson.

ESTHER NELSON

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. Esther Nelson.

Q. Where do you live?

A. 1053 Williams Avenue, Northeast.

Q. Massillon?

MR. LAUTER: Sorry, I cannot hear the witness. May we have the name, please?

THE WITNESS: Esther Nelson.

MR. LAUTER: Nelson?

THE WITNESS: That is right.

Q. You live in Massillon?

A. Yes, sir.

Q. By whom are you employed?

A. Republic Steel.

Q. How long have you been employed by that Company?

A. A year.

Q. What department?

A. Payroll.

MR. LAUTER: Please, Mr. Trial Examiner, at this time I would like to object to any further testimony from this witness. Just as in the case of the Citizens Committee, apparently we have to listen to each member of the Citizens Committee tell the same story, we now have to listen to each member of the payroll department testify to the same set of facts. I object to any further testimony along this same line.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

Q. Were you employed by the Republic Steel Company on the 25th of May, 1937?

A. Yes, sir.

Q. What was your regular hours of work?

A. 8 to 5.

Q. That is 8 in the morning to 5 in the afternoon?

A. Yes, sir.

Q. Did you go to work on the morning of the 26th?

A. Yes.

Q. How did you go to the plant on that morning?

A. In the City bus as I always did.

Q. That is the regular City bus?

A. Yes, sir.

Q. And where did the bus take you to that morning first?

A. Well, I got it up on State Street and he told me when I got on that I would not be able to—

Q. You cannot testify to what some bus driver told you. You got on the bus where?

A. At State Street.

Q. State Street in Massillon?

A. Yes, sir.

Q. Did you finally go down to the office of the Company?

A. Yes, sir.

Q. When you got down there describe to the Court the conditions that existed down at that office on the roadway in front of that office.

A. Well, there was men lined up on both sides of the roadway from the viaduct up to the building and then there was the men on the steps of the building.

Q. What if anything did you notice these men carrying?

A. I didn't notice at the time.

Q. You didn't?

A. I cannot remember.

Q. Now, when you came to the front of the office building, what took place there, if anything?

A. The bus stopped where it usually stops and the men came over to the bus and said we would not be able to get in the office, that they were not letting anyone in there. Mr. Siebold asked them and they said they were not letting anyone in at all.

Q. Who were the men that came and said this, if you know?

A. They were strikers but I didn't know any of them.

Q. You say the bus stopped at the usual place. Where was the usual place?

A. They usually come down and stop at the curb about 10 or 15 yards from the building and let the Republic Steel employees out there and then they turn and go down into the other plants and take the other employees down there, but that morning they were not allowed in. They had to go right through.

Q. How many men were around this office when you got there, would you say?

A. I wouldn't have any idea. There was quite a few.

Q. More than one?

A. Oh, yes, there was quite a few.

Q. Did you go back to work at any other time?

A. Yes, sir, on the 28th.

Q. How does it come that you went back to work on that day?

A. We were notified that they wanted us to come to work to make up the payroll.

Q. Did you take this same bus on that day to go down there?

A. No, sir. We got the bus at the bus terminal downtown at 8 o'clock in the morning.

Q. Was that the regular time for it to leave?

A. No, sir.

Q. It was a special bus, was it?

A. I think it was.

Q. How many of the employees were on that bus?

A. I believe there were two busses, I think altogether there was 40 some in each bus.

Q. What?

A. There were two busses and I think there were about 40 on each bus.

Q. Where those people all in your department?

A. Some in the payroll and some in the cost.

Q. Some in the payroll and some in the cost?

A. Yes.

Q. What date was it that you got your bus, do you remember?

A. The 28th.

Q. Where did this bus stop?

A. Right in front of the building, right at the steps at the office building?

Q. Now what occurred there?

A. We got out of the bus and walked up the steps single file and two ladies searched us and then we went on up the steps and two men took our names and the other checked them off and then we went on into the building.

Q. You say two ladies. Do you know who those two ladies were?

A. No, sir, I don't.

Q. You said they searched you. How did they search you, describe it fully.

A. They just told me to open my purse and I did, that is all.

Q. When you opened your purse, what did they do?

A. Just looked in it.

Q. Did you work there that day then all day?

A. Yes, sir.

Q. Did you go back any other day?

A. Saturday and Tuesday morning.

Q. What day of the week was the 28th?

A. Friday.

Q. Then you came back Saturday and then Tuesday?

A. Yes.

Q. On Saturday, the day following the 28th, what occurred on that day?

A. We got off the bus the same as usual and went up the steps and the same thing happened. They searched us and we went in.

Q. And when you went in that day, did you see any men around there on that occasion?

A. Yes, sir. They were standing on the steps with clubs.

Q. What was your answer?

(Answer read.)

Q. Were the same women there that day that were there the day before?

A. I don't believe the women were there.

Q. What happened on Saturday then?

A. We just went in single file and they checked our names off the same as they did the day before and they checked them off again when we came out at night.

Q. Who was it that checked off these names?

A. I don't know, I don't know the man.

Q. Did you recognize them as any of the office men there?

A. You mean that were checking our names?

Q. Checking the names.

A. Yes.

Q. Who were they, do you know?

A. No, I don't.

Q. Now, you went back on Tuesday morning following, did you?

A. Yes, sir.

Q. What happened on Tuesday morning?

A. The same thing.

Q. Were there women there on that occasion?

A. I don't just remember on Tuesday whether there were or not.

Q. Was your pocketbook opened that day?

A. No, sir, I don't believe so.

Q. What?

A. If the women were there, it was, and if they were not there, it was not.

Q. Did you work any more after that occasion?

A. Not after Tuesday morning.

Q. Do you know why not?

A. Well, we were told—

MR. LAUTER: I object.

TRIAL EXAMINER LINDSAY: Sustained.

Q. Did you talk with anybody?

MR. LAUTER: Let's have the time fixed. Let us make it definite.

MR. PONTIUS: What is that?

MR. LAUTER: I say I would like to have the time fixed. You say, "Did you talk with anybody?" Let us have the time fixed of the conversation being related.

Q. I do not want you to relate the conversation. I want to know if you had any conversation with anybody with respect to coming back to work any more?

A. No, sir.

MR. PONTIUS: All right. That is all.

Cross Examination

Q. (By Mr. Lauter) How long have you worked in the payroll division?

A. A year.

Q. What are your working hours?

A. From 8 to 5.

MR. PONTIUS: I can hardly hear you.

Q. On May 28th, did you go back to work?

A. Yes, sir.

Q. Who suggested that you go back to work?

A. That was the morning the strike started.

Q. No, the strike started May 25, that night. On May 28th you went back to work?

A. Yes, sir.

Q. He suggested that you go back to work?

A. I went back to work as usual, I didn't know there was a strike.

Q. Do you know Mr. Ed McCollum?

TRIAL EXAMINER LINDSAY: Just a minute, before this Reporter leaves. That last question of Mr. Day's, in which he said, "Was your pocketbook opened," or his last statement, now the evidence shows that these girls opened their pocketbooks themselves.

MR. PONTIUS: That wouldn't make any difference. I just wanted to know if they were opened.

TRIAL EXAMINER LINDSAY: They were opened.

MR. PONTIUS: Yes.

Q. (By Mr. Lauter) Ed McCollum, is that the name?

A. Ernest McCollum.

Q. Ernest McCollum?

A. Yes.

Q. What is his position on the payroll?

A. He is our boss, I don't know whether he has any title or not.

Q. Did he ever call you and suggest that you go to work on either May 26th or any day subsequent to that?

A. He called me May 27th in the evening and asked me if I would come in, the next morning.

Q. You mentioned a Mr. Siebold, is that correct?

A. Yes, sir.

Q. Was he on the bus?

A. Yes, sir.

Q. Now, on this same bus there were a number of other employees of the payroll division?

A. No, sir.

Q. Well, at any time did you go with a bus load of employees in the payroll division?

A. That is May 28th.

Q. May 28th? Did you have any conversation with them while you were on the bus?

A. We talked.

Q. What is that?

A. We talked.

Q. Did you have any conversation about being called to work?

A. Yes, sir.

Q. By Mr. McCollum? Did the other girls tell you that they had been called also?

A. Yes, sir.

Q. Now, was there any particular place that you were to be in order to take this bus?

A. Yes, sir, at the bus terminal.

Q. At the bus terminal? And at whose instructions were you to meet at the bus terminal?

A. Mr. McCollum's.

Q. Those were the instructions that he gave you on the evening of May 27th when he called you at your home?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. And how many bus loads of girls were there?

A. Two.

Q. And were they only girls, or were there any men?

A. No, sir, there was a few men, not many.

Q. Not many?

A. No, sir.

Q. About how many women were there in each bus?

A. I imagine about 15.

Q. About 15?

A. Yes, sir.

Q. But there were two bus loads that went together to the plant?

A. Yes, sir.

Q. On May 26th you were down there and you had seen men with clubs in their hands?

A. I don't remember, I wouldn't like to say.

Q. Sure, you weren't afraid to go back to work, were you?

A. No, sir.

Q. You knew the strike was on?

A. Yes, sir.

Q. That didn't stop you from going back?

A. No, sir.

MR. LAUTER: That is all.

TRIAL EXAMINER LINDSAY: We will call a short recess.

(Recess had.)

(Witness excused.)

LAWRENCE V. BEAMER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. Lawrence V. Beamer.

Q. Where do you live?

A. Massillon.

Q. What is your business?

A. I am with the telephone company, the Ohio Bell, local manager of the Ohio Bell Telephone Company.

Q. How long have you been located in Massillon?

A. 25 years.

Q. Do you remember an occasion in early June of this year in respect to your telephone operations there in Massillon?

A. Yes.

Q. I will ask you to state whether or not you went down to the vicinity of the main office of the Republic Steel Company at any time early in June?

A. Yes, we did.

Q. Do you remember the date?

A. We went down several times, but went through the different plants early in June.

Q. Was there any time when anything happened to your cables?

A. Well, on June 8th, early morning of June 8th the cable leading to the Republic and another plant down there was cut.

MR. LAUTER: I object to that question and move that the answer be stricken on the ground that it is outside the scope of the issues in this case. I don't see how this could possibly be competent, relevant, or material in this case, to show the cables were cut. The issues in this case are framed by the complaint and answer, which sets forth that the respondent company opposed organizing these men, dominated the specifically named organization, that they had discriminatorily discharged and refused to reinstate certain employees. I don't see how it can possibly be relevant to this case.

TRIAL EXAMINER LINDSAY: Well, I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. Now, will you describe the location of the cable leading to the Republic Steel Corporation?

A. The cable was located at Oberlin Road and Cleveland Avenue, a little bit east of Cleveland Avenue and Oberlin Road, cable terminal there.

Q. And what was the character, how was it constructed there?

A. The part that was cut ran underground and up the pole into a box, that was a lead-covered cable.

Q. Can you describe the location of the cut with respect to the surface?

A. It was up pretty high, pretty close to the box, I would say up in the neighborhood of four or five feet up from the ground up on the pole.

Q. Now, at the time you saw that, was there anyone with you?

A. Yes, the plant chief was with me, Mr. Schutts, went to see it.

Q. Who else?

A. Chief of police was along.

Q. That is Chief of Police Switter?

A. Yes.

Q. How did you go down to this location on that morning?

A. Well, when we discovered that the cable was cut early in the morning, we didn't do anything until between 8 and 8:30, Mr. Schutts and I, who was the local plant man, went over to see the Chief and told him what had happened, and he got us in his car and took us down to see Mr. Morton on Cleveland Avenue.

Q. What Mr. Morton is this?

A. Well, it was Mr. Morton, I don't know his initials. He was supposed to be at the head of the CIO organization at that time.

Mr. Morton was not there and we drove over to his residence and he was not there and then we came back to the CIO headquarters, that is the three of us, Mr. Schutts and I and the Chief Switter, and Mr. Morton was there, and the Chief introduced me to Morton and I told him what we wanted and he said he would not permit the Republic cable to be repaired. I also stated that the Enterprise Aluminum Company had stated that they would not operate their plant without telephone service and that they were a union shop and no trouble there, and I then asked permission to repair that cable.

Q. Were there wires to these three shops in this one cable?

A. The two wires primarily and this cable were for the Republic Steel and Enterprise Aluminum.

Q. Yes.

A. He allowed me to repair the Enterprise Aluminum.

He would not permit the Republic. He gave me a permit to one of the men in charge, which allowed our men to string a wire across from where the cable was cut out, to another pole, about six or seven wires I think, to give Enterprise Aluminum Service.

Q. Now, who was there, during this entire conversation?

A. We were at Mr. Morton's do you mean?

Q. Mr. Morton?

A. Mr. Schutts and Chief Switter and myself.

Q. Who is Mr. Schutts?

A. He is the local plant chief. His job is to put the wires—to repair the wires that keep them working, look after trouble, and so on.

Q. Now, were the Republic wires repaired at that time?

A. No.

Q. Do you know how long they were cut, there?

A. They were out, the Republic was out of service approximately a month.

Q. Now, you said something about somebody giving you an order. Who gave you any orders?

A. Mr. Morton gave you an order to have, I suppose, the man that was in charge of the picket line, so that I handed him this order which said in substance—I cannot remember the exact phraseology of it, but something that our men were to be allowed to repair the Enterprise Aluminum Company lines only.

Q. Is that what you did, repair them only?

A. That is what we did, the Enterprise Aluminum—I stated to Mr. Morton that we would not break faith, that is all we would repair, would be the Enterprise Aluminum line.

Q. Was Chief Switter there all through the conversation?

A. Yes.

Q. Did he say anything?

A. No.

MR. PONTIUS: That is all.

Cross Examination

Q. (By Mr. Lauter) Do you know who cut the cable?

A. No, I don't.

MR. LAUTER: That's all.

(Witness excused.)

LORENE DEER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. Lorene Deer.

Q. Where do you reside?

A. 805 Tremont Avenue, S. W., Massillon.

Q. Where are you employed?

A. Republic Steel Corporation.

Q. What department?

A. Payroll department.

Q. Were you employed in the month of May of this year? Were you employed there?

A. Yes, sir.

Q. Do you remember the occasion of the strike?

A. I do.

Q. And you worked there on the 25th of May?

A. I did.

Q. And what happened on the 26th, did you go back to work?

O. I knew that there was a strike but I wanted to work if I could, but I didn't know if the main office was picketed and I drove down in a car and there were men lined on both sides, and I stopped for the stop light across from the main office and they told me to keep on going, there weren't any patrolmen there that morning, there wouldn't be any accidents, so I went on down and went.

Q. Did you go back any more that day?

A. No, sir.

Q. Now, later on did you go back to work again? If so, when?

A. I was called around 11 o'clock on Thursday night and told to come to work on May 28th on Friday morning.

Q. Who called you?

A. Mr. Angstedt.

Q. And did you go to work on that morning?

A. I did.

Q. How did you proceed to the place of employment that morning?

A. I was told to go down to the bus terminal and there would be two buses there that would leave at ten minutes to 8:00, especially for the employees of Republic to be brought in that morning, and that I should bring nothing with me, only my purse, and that I would go out for lunch that noon.

Q. Yes, now then you went down to the office in one of these buses?

A. Yes, sir.

Q. Now, just describe what took place when you got to the office on that morning?

A. We left the bus terminal downtown at ten minutes of 8:00, got—

MR. LAUTER: Excuse me, I want to object to this line of testimony, renew my objection previously made to the previous witness that preceded this one, on the same line of inquiry.

TRIAL EXAMINER LINDSAY: Your objection is overruled, but Mr. Pontius, it is not hardly necessary to go into each little detail until she got down there.

MR. PONTIUS: No, I don't mean to, except the special bus.

TRIAL EXAMINER LINDSAY: It is not important.

MR. PONTIUS: All right.

Q. What occurred when you got down to the main office?

A. Well, when we got down there there were men standing on the steps with clubs and across the street and along the sidewalk, around the offices, and we got off the bus, had to line up in single file. I did not recognize any of them only Mr. Angstedt happened to be standing inside the door of the office. When they came—there happened to be two women there of foreign descent, they were going through the girls' purses and when they came to me, I don't know whether I looked empty or not, but she said to me, she started feeling all over me and she said, "You could hide something, couldn't you?"

I said, "Yes, I could, but I didn't." And then she turned around to these fellows and she said, "You should have this job." Of course, they laughed about it and then I started on and she said, "I didn't look in your purse." And I opened my purse and she moved the things around in it and said, "All right," and I went on.

And there were two men standing in the door, one of them was—

Q. That is, did you know the men standing at the door?

A. I know their names, because I had heard of them around the mill. Shorty Thomas asked me my name and Whitey Kale had the paper and he marked them off.

Q. Did you know whether or not these men were strikers?

A. I believe they were. They belonged to the C. I. O., at least one of them had a C. I. O. banner on his arm and the other one I have seen on the pickets

Then we went on in, worked until 12 o'clock, and we went out for lunch.

Q. Now, you went for lunch, then?

A. Yes, sir.

Q. Did you go back for lunch?

A. The buses came and got us, took us downtown and at ten minutes of 1:00 we went back to the offices.

Q. What happened when you got back then at noon?

A. The two women were there but they didn't feel of us, and they didn't happen to open my purse. Have me open my purse, but they checked off our names and we were allowed to go in and work until 5 o'clock.

Q. Now, do you know Joe Morton?

A. I know him when I see him.

Q. Yes, did you see him that day?

A. Not that day, but the next.

Q. That is, you went back then the next day?

A. On Saturday morning, yes, sir.

Q. The 29th?

A. Yes, sir.

Q. Did you see him there the 29th?

A. Yes, sir, that morning we got off of the bus, the two women were not there, but the two men that checked off our names were. The pickets rushed up around us just as they had before, but Joe Morton told them to get back on the picket line where they belonged, and they went back.

Q. Did you go out that day for lunch?

A. Yes, sir.

Q. In the same manner?

A. And back at noon.

Q. And did you come back that afternoon then?

A. Yes, sir.

Q. Did you see Joe Morton there that afternoon?

A. Not that afternoon.

Q. Now, then, did you come back another day?

A. We didn't work on Monday because the 30th was on Sunday, and Monday was a holiday. We went back Tuesday morning, got back in the same manner.

Q. In the same manner, and did you see Joe Morton there that day?

A. Not in the morning, but when they came out at noon, we came out, we had to come out in single file so that they could count us, and Joe Morton was there standing, I happened to be the first one out. Joe Morton was out standing there talking to the bus driver when I got out there. He said to the bus driver, "You wait a few minutes." And after we were all out he went up and talked to Mr. Angstedt and Mr. Kocher.

Q. Did you hear the conversation?

A. I did not.

Q. Now, with respect to your other girls in the buses, were they all, to your knowledge, treated about the same way you were treated there? That you saw?

A. I know part of them were, yes, sir.

Q. On each occasion during the strike, during the time you worked there, as you entered the office, have you detailed what took place fully as to the manner in which you were permitted to go in?

A. Yes, sir.

Q. Now, did you go back to work then after that at any time?

A. After we were in the bus and he had told the bus driver to wait, Joe Morton came out to the bus and he said, "That is all, you don't need to come back any more." And somebody said "Why?" And he said due to the attitude that was taken towards their workers in Chicago. That was after the riot up there on Memorial Day in Chicago.

And we had left our coats and glasses and other things —hats in there, because we did not take them downtown to lunch with us, and we asked if we could go back in and get them and he said—

Q. This was noon, wasn't it?

A. Yes, Tuesday noon.

Q. Yes.

A. And he said no, but one of the girls said she had to have her coat and hat and he permitted a few of us to go back and get the things that we had left in there, we were counted when we went in and we were counted when we came out.

Q. Who counted you?

A. Whitey Kale.

MR. PONTIUS: I guess that's all.

Cross Examination

Q. (By Mr. Lauter) How long have you worked in the payroll division?

A. Almost three years.

Q. And do you know what Mr. Angstedt's position is?

A. Mr. Angstedt is in charge of the accounting department.

Q. Did Mr. Angstedt call you on May 27th?

A. Yes, sir, on Thursday night.

Q. Tell me what the conversation was that you had with Mr. Angstedt?

A. That I was to come into work on May 27th and to take the bus from the bus terminal downtown at ten minutes of 8:00 on Friday morning and to bring only my purse as I would go out for lunch.

Q. Did he tell you whether or not any others were to meet there?

A. No, but I took it for granted because we were to make up the payroll.

TRIAL EXAMINER LINDSAY: Well, never mind what you took for granted.

Q. Did you say anything to him during that conversation over the telephone on May 27th?

A. You mean in regards to any one else going?

Q. No, tell me everything that you said to Mr. Angstedt when he called you?

A. It was a very short conversation, that is all I said, I said I would be there.

Q. You said you would be there?

A. Yes, sir.

Q. Now, were you on the same bus with Miss Nelson?

A. I don't remember.

Q. You were in one of the two busses that started out together, is that right?

A. Yes, sir. Well, they didn't start together. They, I believe, waited for a street car from Canton to get in, the second bus did.

Q. They waited for a street car from Canton?

A. Canton.

Q. Canton?

A. Yes.

Q. Were you in the bus that waited for the street car from Canton?

A. No, sir. The second bus waited. I was in the first bus.

Q. You went out in the first bus?

A. Yes, sir.

Q. Do you know what workers came in from Canton?

A. No, I don't.

Q. You know that some workers came in from Canton?

A. Yes, sir, because there were a few employed in the main office at Massillon from Canton.

Q. Most of the persons who came in the bus with you were women, is that correct?

A. Yes, sir. I do not know if there were any of the men. I know there were only seven men came in with us and I do not know whether they were in the same bus with us or not.

Q. Was that the same bus that took you out for lunch?

A. Yes, sir. I don't know if it was the particular bus but I know it was the City bus.

Q. Did you notice the driver in the bus?

A. No, I didn't pay any attention.

Q. Did that bus wait at the building to take you out for lunch?

A. No. We always waited until the bus came and they told us when the bus was there.

Q. You were not afraid physically of the men with clubs in their hands, were you?

A. Well, I was afraid enough to open my purse and let them maul all over me. If I hadn't been afraid, I would not have done that.

Q. That did not prevent you from coming back to work again, did it?

A. No, sir.

Q. You knew the strike was on when you came back to work?

A. I did.

Q. That did not stop you from coming back to work?

A. No, sir.

MR. LAUTER: That is all.

(Witness excused.)

EDWARD GRANT

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Edward Grant.

Q. Where do you live?
A. 321 Earl Road, Massillon.
Q. What is your business?
A. My work?
Q. Yes.
A. I am on the labor gang.
Q. How long have you worked for Republic?
A. Little better than 12 years.
Q. At what plant do you work?
A. Massillon plant of Republic.
Q. Do you know Forrest Ramsay?
A. Yes, sir.
Q. Do you know Clarence Everett?
A. Yes, sir.
Q. Do they belong to the C. I. O., do you know?
A. I was not certain but the way they was going after me, I thought they did.

TRIAL EXAMINER LINDSAY: That last is stricken from the record.

Q. Did you see them on June 29th last?
A. Yes.
Q. Where did you see them?
A. At X corner.
Q. What took place?
A. So I went into the saloon to pay a little bill I owed and these two men were in there drunk and I called for a drink and just as I was going to lift the drink up to drink it, this one man, Clarence Everett, got ahold of my coat and pulled me outside and the other man followed, and the other man said, "Why don't you belong to the C. I. O.?" I said, "Because I am minding my own business." Then he called me all sorts of names.

MR. LAUTER: Just a minute. I want to object to the testimony of this witness. Apparently this instance has taken place outside the mill, is unrelated to any of the issues in this case.

TRIAL EXAMINER LINDSAY: I will overrule the objection.

Q. (By Mr. Day) Go ahead and talk a little louder, lease. There is thunder outside.

A. Why, I was in there, they pulled me up on the apel of the coat, this Clarence Everett and Ramsay came ut after him and they wanted to know if I would belong o the C. I. O. and I told them I was minding my own usiness and went across the road, I was going to get into ny car first, and he said, "You are not going to get your ar."

Q. Was anybody in your car?

A. Sir?

Q. Was anybody in your car?

A. No. But I went across the road and with that Ram-ay ran after me and struck the side of my head and it nade me dizzy, I went to the floor and I couldn't—my wife ame over, my wife was there at the time and she helped ne up from the floor.

Q. The floor of what?

A. The cement on the sidewalk.

Q. Then did you go home?

A. No, they still would not let me go home. I had to end a young fellow after my car.

Q. Did he get your car?

A. He got my car and brought it around.

Q. When did you get home?

A. I went straight home.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Do you work at the Massillon lant?

A. Pardon?

Q. Do you work at the Massillon plant?

A. Yes, sir.

Q. Do you work in the labor gang?

A. Yes, sir.

Q. What are your hours in the labor gang?

A. Eight hours.

Q. What is your turn?

A. My turn?

Q. Yes.

A. 7 to 3 o'clock this week.

Q. 7 to 3?

A. Yes.

Q. And you testified about a conversation you had on June 29th. Have you stated fully what happened on that date?

A. Exactly.

Q. A man named Everett and a man named Ramsay, who were drunk, asked you if you belonged to the C. I. O.?

A. Yes.

Q. Is that the only mention there was of C. I. O. at that time? What else was said about C. I. O.?

A. They only asked me if I want to belong to it and I said no, I was minding my own business.

Q. That was all that was said about the C. I. O.?

A. That was all that was said about the C. I. O. Then they wanted to beat me up.

Q. Were you sober at the time?

A. I was perfectly sober. In fact, I never had time to touch the beer that I bought.

Q. Did you go in to pay a little bill?

A. Yes.

Q. A little bill you owed at the saloon?

A. Yes.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

MR. DAY: Mr. Keen.

FRED H. KEEN .

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Fred H. Keen.

Q. Where do you live?

A. 745 Oberlin Street, Massillon.

Q. What is your business?

A. I am a manipulator on the blooming mill at the Republic Steel.

Q. How long have you worked there?

A. About 17 years.

Q. Do you recall the fact that a strike was called at the Republic plant the 25th of last May?

A. Very much so, yes, sir.

Q. When did you next go back to work or did you go back to work after that?

A. After my attempt to get back in the mill on the night of the strike, I did not go back for at least a month and a half. I just don't know the date.

Q. Did you go down to the mill the night of the strike?

A. Yes, sir.

Q. How did you go down there?

A. I went down on the bus.

Q. What gate did you go to?

A. I go in on No. 1 gate.

Q. Just tell us what happened.

A. Well, we were coming across the railroad bridge, a man jumped on the bus and said, "Anybody for the mill?" I asked him what he cared and he jumped off. Well, we come down to the next gate, we left the Enterprise employees off but none of the mill men got off. The next gate we come to I was the only man to get off the bus. I had heard that they had a picket line up and I got off of the bus. There was quite an opening there in the picket line and I was going to go into the mill and I got just about to the gate and a big fellow stepped in front of me, he could not talk English. He said, "You try to go in this picket line?" I didn't pay any attention to him and I tried to walk around him. I was going in anyhow if possible and about that time there was four or five of them grabbed ahold of me and turned me around and started me towards the bus and picked me up and threw me into the bus. I turned around and I said, "A nice bunch of fellows. You cannot even talk to them." I had no alternative. I got into the bus and went up town.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) How long did you say you have been working for Republic?

A. 17 years on this job.

Q. What kind of work do you do?

A. Manipulator on the blooming mill.

Q. Do you get paid on an hourly rate?

A. Hourly and time.

Q. When did you say you first tried to get into the mill?

A. The night that they showed the picket line up, I think it was the 25th.

Q. When was the next time you tried to get into the mill?

A. When I was told that they were going to go to work.

Q. What date was that?

A. About a month and a half, maybe a little longer.

Q. Was that directly after the mill was opened?

A. No. They had to get the open hearth started before they could start the blooming mill.

Q. Anyone ask you to come back to work?

A. Well, they told me I was supposed to come out, and I was willing.

Q. Who told you you were supposed to come out?

A. Why, the foreman.

Q. What is his name?

A. Immell.

Q. Is that his last name?

A. That is his last name.

Q. Do you mind spelling that for us?

A. I-m-m-e-l-l.

Q. When did he get in touch with you?

A. Well, he was a friend of mine and I was in touch with him all during the strike.

Q. Did you go out the first time he told you to go out to the plant?

A. Yes, sir, I was very anxious.

Q. When did he first suggest to you that you ought to come back to the plant?

A. He didn't say I ought to come back. He told me they were ready to go and I went.

Q. Where did this conversation take place?

A. I believe it was over the telephone.

Q. Did he call you?

A. He called me.

Q. What time of the day was that, do you remember?

A. I believe it was around 3 o'clock in the afternoon. He told me to come out, they were going to change the mill and get ready to start rolling.

Q. Told you to come out?

A. Yes.

Q. When you say "come out," you mean come to work, is that right?

A. Right.

Q. Suppose you tell us the entire conversation over the telephone.

A. Well, there wasn't much conversation to it. They said they was going to change rolls the next day and that was all that was necessary for me. I was ready.

Q. He was a good friend of yours?

A. Yes, sir.

Q. How soon after the telephone conversation did you go to the plant?

A. The next morning.

MR. LAUTER: That is all.

MR. DAY: That is all.
(Witness excused.)

MR. DAY: Mr. Lynch.

ROBERT LYNCH

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. Robert Lynch.

Q. Where do you live?

A. 363 Bellflower, Northwest, in Canton.

Q. What is your business?

A. I work at Republic.

Q. In what capacity?

A. Foreman part time and metallurgist part time.

Q. How long have you worked for Republic?

A. 13 years.

Q. At the time of the strike were you in the mill? Or were you outside?

A. I was in the mill.

Q. How long did you stay there?

A. I stayed there until June the 4th.

Q. Then did you leave?

A. I left.

Q. By what method did you leave?

A. I drove my car out.

Q. I wish you would just tell us what happened when you drove out.

A. Well, it was late afternoon, I presume, about 6 o'clock. There was a line of possibly 20, 22 cars lined up to go out. I suppose I was the 7th or 8th car in the line. We moved out very slowly and as we got up to the light at No. 2 gate, the light close to Oberlin Road, all the cars were apparently being stopped. I noticed a car in front of me was stopped and several men got on the running board of the car and what went on, I don't know. I didn't hear anything. I did notice one chap, however, in back of the car with a pencil and paper apparently recording the license number or something from the back of the car in front of me. Then he marked something on the fender of the car in front of me and I drove in position and I was told to lower the windows in my car. I did. I suppose there were four fellows on each side of the car looking in at me. I was questioned as to my name, what I had done and what I had been doing in the mill and how long I was in there.

And then they called for someone to identify me. That took a little while. Apparently they could not find anyone from the Stainless Division. That is where I am foreman. Finally one fellow identified me as working in the office down there. So then they told me to move on slowly and as I moved on, I glanced out the side of my car and noticed a fellow at the back of my car. What he was doing, I don't know. Then as I moved on, they told me they would be around to see me in a day or so and ~~then, amid much~~ booing and profanity, I was spit on and allowed to go ahead very slowly because the people in front of me jammed in front of the car that I could hardly move.

Q. Who spat upon you?

A. The people who were on the side of the car. I could not identify anybody in the crowd. I drove on across the viaduct, I suppose it was 50 or 60 feet, where I could just move as fast as the people would permit me to get away from the front of the car and went on downtown and got out and made a purchase and I noticed on the left rear fender of my car they had scratched the letters "C. I. O." and on the front on the car, "Scab." I marked that off very quickly and drove on home to Canton.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) You are a foreman at the mill?

A. Part time, yes, sir. That is my job for several years had been foreman at the same division. However I was doing metallurgical contact work in the field, I contacted the customers.

Q. You stayed in the mill on June 4th?

A. Yes.

Q. You were one of the series of cars that drove out of the plant?

A. Yes, sir, I would say 20 or 22 cars.

Q. What number were you in line?

A. My judgment tells me about the seventh or eighth.

Q. Now at what point did you open the window of your car?

A. I had a coach, I opened the ventilator and the window of my car. The rest of the windows I opened while I was stationed there during the questioning.

Q. Well, your windows were open?

A. The left window.

Q. Just the left window where you were driving?

A. Yes. That is where the questioning was being done.

Q. The other windows were closed?

A. No.

Q. You opened it?

A. I was asked to open it.

Q. As you came driving out of the plant, before you had this conversation, was the window that was at your left open or closed?

A. It was open all the while.

Q. It was open all the while?

A. Yes, sir.

Q. Did you close that window later on?

A. No, sir.

Q. Did you have that window open?

A. I always drive with that window open all the time.

Q. How far open was it?

A. Clear down to the sill.

Q. Did you at any time get out of the car?

A. Not until I got downtown.

Q. Who were some of the other foremen in your division?

A. In the Stainless?

Q. Yes.

A. Ashbacher, Mr. Gray, Mr. Letcavits, Mr. Staugh.

Q. Do you know whether any of those foremen took around Back-to-Work petitions?

A. Not to my knowledge.

Q. Did you take any around?

A. No, sir.

Q. Did you ask any of the men to go back to work at the plant?

A. No, sir.

Q. Did you have men working underneath you?

A. Yes, sir.

Q. How many?

A. Well, of course, in this department there is about 356 employees.

Q. Did you have any contact with any particular group?

A. Only from development standpoint.

Q. Did you ever call any of these men on the telephone?

A. No.

(Witness excused.)

LOCKLAND BELL

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. Lockland Bell.

Q. Where do you live?

A. 232 Edmund Street, Massillon.

Q. What is your business?

A. Superintendent of the Bricklayers Department.

Q. How long have you worked for Republic?

A. 18 years.

Q. That is all the Republic?

A. That is Central Steel and Republic.

Q. I want to call your attention to an incident that occurred on May 26th, 1927, [1937] where were you about the hour of 12:15 A. M., 12:15 noon?

A. Well, in the evening I was up town. A friend of mine told me, "I see that they have got the mill surrounded."

Q. This is midnight?

A. Yes.

Q. I said noon, I was wrong.

A. I was in the mill.

Q. You worked in the mill that day?

A. Yes.

Q. What happened that day?

A. I worked in the mill until about 6:30 that evening. I went out and came home for supper and stayed home until about 10 o'clock. I went on up town and a friend of mine said they were getting the mill surrounded and I said, "What is doing?" He said, "There is a strike on." And I went in and got on the telephone and I called Mr. McConnell, who is my night manager there. He told me, he said, "I just couldn't get you." I said, "Well, I am coming down. I will drive around the blast furnace road and I will come on in." As I was a department head, I thought my place was in the mill where there was work to be done such as taking care of the open hearth furnaces, so I went on down there and I got about a hundred yards on the Company grounds—

Q. How did you get down, drive in your car?

A. I had my wife drive me down in the car. I got about, I would say, about 300 yards from the clock house on the Oberlin Road, I guess it is.

Q. Was your wife with you then?

A. Yes.

Q. Who was driving the car?

A. I was driving the car.

Q. Did your wife go with you?

A. Yes.

Q. All right, go ahead.

A. I stopped the car and I got out. My wife took my seat and she drove on.

Q. Yes.

A. Well, then I got about 100 yards on the company property when two fellows came running across the field. Well, they stopped me and wanted to know where I was going. Well, I told them that I was going to take care of my job, as I had no part of their organization, I had work to do in the plant myself. Well, they said I wasn't going in.

Q. They said you were not going in?

A. They said I wasn't going in. They called me names.

Q. What did they call you?

A. Well, they called me a son-of-a-bitch, for one.

Q. What else?

A. One pulled back his fist, going to make a pass on me. Well, he didn't swing it, he pulled it back. Well, one party he says, "Well," he says, "come on, your wife is gone, now," he says, "I will take you home."

So I got in his car, an old Ford, so he drove down Pigeon Run Road north to Tremont Street, instead of taking me home he swung west and went out approximately about three miles on the Tremont Road.

He says, "This is as far as we are going. This is where you get out."

So he opens the door and just as I step out he took his foot and he gave me a push out of the car. They swung up a side road there and went on. Well, from then, I had to walk home.

Q. Who were those men?

A. One was named Evans, and one by the name of Danner.

Q. CIO men?

A. Yes, they told me that I wasn't helping their cause any by going into the mill, so that automatically distinguished them.

Q. And you say you had to walk home?

A. Yes, I had to walk home from there.

Q. About how far was that?

A. Well, from my home, I would say it is four miles and a half.

Q. What time of the night or morning was it?

A. Well, I got home probably around 2 o'clock.

Q. What?

A. I got home around 2 o'clock in the morning.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Who were the two men?

A. One by the name of Danner.

Q. Danner?

A. Danner, LeRoy Danner. And the other—

Q. Who was the other?

A. Another one, his name was Evans.

Q. Evans? Where had you seen these men before?

A. Well, one was a bricklayer, he learned his trade—

Q. Which one?

A. This Danner was a bricklayer.

Q. Yes.

A. Then the bricklayer work got slack so he went into the mill. They both worked together on the big mill in the Bliss mill over at the Endura.

Q. Did these men work in your department?

A. My department?

Q. Yes.

A. No, not in my department.

Q. What were you superintendent of?

A. Mason department.

Q. Now, since the strike, have you called up any men to go back to work?

A. Since the strike?

Q. Yes.

A. No, after the strike.

Q. Have you made any telephone calls to any of the employees, telling them to go back to work?

A. With my own department, yes. My own bricklayers.

Q. Tell me the names of the men that you called.

MR. DAY: We object to this.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

MR. DAY: Exception.

A. Well, I called my foreman, Wilbur Wirick.

Q. I am not interested primarily in the names. Let me withdraw that question. Tell me how many of your employees, employed in your division, that you called up?

A. Well, I said I called my foreman, is one.

Q. Yes.

A. And he called to other men, and the rest came back themselves.

Q. You don't know how many men your foreman called, do you?

A. Well, I have got nine bricklayers working there now.

Q. Are they all men under the foreman working in your division?

A. Yes, they are all back.

Q. You called your foreman and your foreman called at least two of them, is that right?

A. Yes, I know that, yes.

Q. While the strike was on, that was?

A. Well, when we were notified to go back to work, when my department head called me to go back to work on July 2nd.

Q. Who is your department head?

A. Mr. McConnell.

Q. And he suggested to you that you ought to call your foreman?

A. Yes.

Q. He did?

A. I called my foreman, and he got the men out.

Q. I am asking you whether or not he suggested that you call your foreman?

A. He told me to get one more man and myself.

Q. And when did this conversation take place?

A. On the night of July 1st.

Q. Where did it take place?

A. Over the telephone.

Q. Did he call you at your home?

A. Yes.

Q. Mr. McConnell?

A. Yes.

Q. Called you at your home?

A. Yes.

Q. Tell the substance of that conversation.

A. He says, "Lock," he says, "there is some work down in the sheet mill to be taken care of," so he says, "get another man and yourself and come on down and pick this up." So I called my night—I called my assistant foreman.

Q. Was that assistant foreman working at that time in the mill?

A. Yes, he went back with me on July 2nd.

Q. He went back with you on July 2nd?

A. July 2nd.

Q. That was after you called him and told him to come back?

A. Yes.

Q. Did you call any of the men in your department?

A. No.

Q. Apart from the foreman?

A. Only the department foreman.

Q. Are there a number of other foreman who work under you, or just one?

A. There is one labor foreman.

Q. Did you suggest to him that he should call his men?

A. No.

Q. Do you know whether or not he did call his men?

A. No, I absolutely know he did not, because the men come in, themselves.

Q. Do you know about these Back-to-Work petitions, have you heard about them?

A. Oh, I have heard conversations about them, I never seen any.

Q. With whom have you had conversations about it?

MR. DAY: I object to this also.

TRIAL EXAMINER LINDSAY: Overruled, let the record show an exception.

MR. DAY: Exception.

A. If you will stand around the corner you will hear him discussing various subjects, but I never seen any myself.

Q. Do you know whether any of the other foremen took around Back-to-Work petitions?

A. No.

MR. LAUTER: That is all.

THE WITNESS: I did not interest myself.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

WILBUR LARKER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. Wilbur Larker.

Q. Do you live in Massillon?

A. Yes.

Q. By whom were you employed?

A. Republic Steel Corporation.

Q. In what department?

A. Sheet metallurgical.

Q. At the Massillon plant?

A. At the Massillon plant. I work at the main office.

Q. Were you employed there on the 25th of May, 1937?

A. I was.

Q. Did you attempt to go to work on the morning of the 26th?

A. Yes.

Q. May 26th?

A. May 26th.

Q. Just tell in your own way what occurred on the morning of May 26th.

A. Well, part of the time I took the bus and part of the time I drive. On that particular morning I took the bus and when we got down approaching the main office why the bus stopped at the Cleveland Street entrance to discharge passengers for Enterprise, but we didn't get off. As a general rule we get off at the Cleveland Street corner of Cleveland and Oberlin Road.

Q. Yes.

A. But this morning on account of seeing the pickets around, why we stayed on until the bus went on up into the main entrance, approximately, oh, 25 or 50 yards further on.

Q. Is that your place of employment in the main office?

A. In the main office? Yes, sir.

Q. Yes.

A. And several of us got up and started to get off and there was about, oh, about ten or twelve men on the steps of the office, some of them standing, some sitting, and when the bus stopped, there was three or four came over to the entrance to the bus and made remarks about that there was a strike and the office wasn't working "You don't want to break up the strike" or words to that effect, and the bus driver looked around and just decided to move on, so I went on home.

Q. What did you notice, if anything, about these men?

A. These men on the steps there, well, most of them, the majority of them carried clubs of some kind, sticks or clubs.

Q. Now, did you go back there at any other time?

A. No. No, not in the morning—I drove past several times to see what the situation was, but there was still a picket line there, I made no attempt to go in, I kept in contact with my foreman.

Q. Were you able to get into the office there at any time?

A. Well, I made no direct attempt to go right in the door. There was always men in front of the office. I took it for granted you couldn't go in.

Q. Now, on your other observations as to the situation down there, what did you observe?

A. Well, at each of the gates, there was a crowd of men, a picket line, barricading both entrances to the plant on Oberlin. There was cars and there was men standing around with clubs, just a general picket line.

MR. PONTIUS: I believe that's all.

Cross Examination

Q. (By Mr. Lauter) What did you say your job was at Republic Steel Corporation?

A. Sheet Metallurgical department.

Q. How long have you worked for Republic Steel Corporation?

A. About eight years.

Q. And that is at the Massillon plant, is that correct?

A. Not all the time at the Massillon plant. Both Canton and Youngstown.

Q. It was on May 26th that you went to work in the bus, is that right?

A. May 26th, morning of the 26th.

Q. And you didn't get into work that day?

A. No.

Q. And you work in the main office of the plant, is that correct?

A. Correct.

Q. After May 26th you made no attempt to get into the main office, is that right?

A. No, I made no direct attempt to go into the office.

Q. You took it for granted that you couldn't get in, is that correct?

A. Yes.

Q. You took it for granted you couldn't get in; why, did you say?

A. Because there was a picket line both in front of the office and at the two main gates. The laboratory is down in the mill. I couldn't have gone down there, there was no picket line, but I couldn't get down there either.

Q. You were not afraid of the men with clubs, were you?

A. Well—

Q. Were you?

A. No, I guess—

Q. I mean you, like all of the girls, the slender girls in the payroll division—you were not afraid of the clubs, were you?

MR. DAY: I object to that question.

A. The old saying, an ounce of prevention—

TRIAL EXAMINER LINDSAY: Objection overruled. They testified to that effect. Let the record show an exception.

MR. DAY: Exception.

Q. (By Mr. Lauter) You kept in contact with your foreman, is that right?

A. Yes, my foreman.

Q. What is your foreman's name?

A. J. H. Crowe.

Q. When was the first time that he called you?

A. I called him. One morning when I got home.

Q. When did you call him?

A. Oh, approximately 8:30, 9 o'clock.

Q. Do you know what date that was?

A. Wednesday the 26th.

Q. That was the day after you found you couldn't get into the plant?

A. That was the morning of that day.

Q. The morning you found you couldn't get into the main office?

A. Yes.

Q. Supposing you tell me the conversation you had with your foreman, Mr. Crowe?

A. I told him I came down on the bus and I noticed the strike was on, they had a picket line and it didn't look like anybody was getting into the mill, so I came back home and I wanted to know what I should do. He said, "There is nothing you can do, just wait for developments."

Q. When is the next time you had a conversation with your foreman?

A. I called him practically every day that he was down there.

Q. How long did you keep calling him?

A. What?

Q. How long did you keep calling him every day?

A. Well, not every day. Just as long as he was down there. Every day or every other day, until sometime in June, I think it was, I don't know the exact date.

Q. Where did you call him?

A. He was down in the mill laboratory.

Q. When did you return to work?

A. With Republic, or at the Massillon office?

Q. Well, have you gone back to work?

A. Yes.

Q. Where are you working now?

A. I am working at the main office at Massillon.

Q. When did you first return to the main office?

A. July 4.

Q. Was that the first time that you actually got into the mill?

A. That is the first time.

Q. Now, between May 26th and ~~July 4th,~~ was that July 4th, you say?

A. July 4th.

Q. July 4th, do you remember what day of the week that was?

A. Sunday.

Q. You went to work on Sunday?

A. About—

Q. What is that?

A. 10 or 11 o'clock in the morning.

Q. Did your foreman suggest to you that you come in at that time?

A. He came after me.

Q. He came after you?

A. He came down, his home is in Cleveland.

Q. His home is in Cleveland?

A. Yes.

Q. Where do you live?

A. I live 414 Wales Street in Massillon.

Q. When did he come and get you?

A. On the morning of July 4th.

Q. Did he tell you before he came there that he was going to come to meet you?

A. Yes, I talked to him by phone.

Q. What did he say?

A. He had gone out of the plant, then, by then, it was the first part of June that most of the men, foremen and everybody went out of the mill, and he went back to his home in Cleveland. At that time the National Guardsmen had—were over in Massillon, he came down to see how the strike was, and stopped at the house and asked me to ride along down with him.

Q. Did he ask any other employees in your department to ride down with him?

A. No, just us two.

Q. You were the only one he asked to ride down with him?

A. Yes.

Q. Did you ever sign a Back-to-Work petition?

A. Yes.

Q. Who approached you to sign the Back-to-Work petition?

A. I can't remember his name right now.

Q. Well, where were you approached to sign the Back-to-Work petition?

A. While I was working over at the temporary office at Canton.

Q. You worked in a temporary office in Canton?

A. Yes.

Q. When did you start working there?

A. The middle of June, I don't know the exact date. It was in the middle—

Q. What were you doing there?

A. Attempting to do what work I could, clerical work, and keep in touch with the things in general. I had no records, though.

Q. Who gave you the petition to sign?

A. Well, this gentleman, I can't remember his name.

Q. Do you know what his position was in the mill?

A. No, he works in the main office building. I don't exactly know what his job is.

Q. Has he a supervisory capacity of any kind?

A. Not to the best of my knowledge.

Q. Did you sign this "Back-to-Work" petition in the mill? Is that correct?

A. In the office, yes.

Q. In the office at Canton?

A. Yes.

Q. When you were doing work there temporarily?

A. Yes.

Q. Your particular work in Canton, who suggested that you go to work in Canton?

A. My foreman.

Q. Is that the same Mr. Crowe?

A. Yes, Mr. Crowe.

Q. And you went to work yourself some time in the middle of June?

A. Approximately the 17th, 18th, yes, the middle of June.

Q. How did you get to work in Canton?

A. I drove over.

Q. You drove your own car?

A. Yes, sir.

Q. Was this Mr. Crowe working there?

A. No, he was not over there at that time.

Q. He did not come out of the mill here in Massilion?

A. Oh, yes, he was out by then.

Q. You don't know where he was working?

A. Yes, I do.

Q. Where was he working?

A. He was up in the Monroe plant.

Q. Were there any employees of the Republic working with you at Canton?

A. Yes.

Q. From the Massilion plant?

A. Oh, yes. Not in my department. They most of them were service department, service and payroll.

Q. Do you know whether or not their foreman spoke to them about coming back to work?

A. No, I don't.

Q. You had no conversation with those men about that?

A. No, I didn't. Our department is separate.

Q. Did they also sign a Back-to-Work petition in the plant, these other men?

A. In the plant?

Q. Wherever you worked, wherever you signed this petition, were there other employees that signed?

A. Other employees signed. I do not know if all of them signed.

Q. You saw other employees sign a Back-to-Work petition in the Canton plant?

MR. DAY: I object.

A. Not in the Canton plant. In these temporary offices.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

We will adjourn at this point until 9:30 tomorrow morning.

(Whereupon, at 4:10 o'clock p. m., September 2, 1937, the hearing in the above-entitled matter was adjourned to 9:30 o'clock a. m., September 3, 1937.)

Courtroom No. 1
Stark County Courthouse
Canton, Ohio
Friday, September 3, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., (Cleveland, Ohio), H. C. Pontius, Esq., (Canton, Ohio).

PROCEEDINGS

STEVE VOJNOVICH

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name?

A. Steve Vojnovich.

Q. Where do you live?

A. 726 Neil Avenue, S. W., Massillon.

Q. In Massillon?

A. Yes.

Q. What is your business?

A. Coal handling foreman, coke plant.

Q. How long have you worked for Republic?

A. The 13th of last month, nine years past.

Q. Were you working in the coke plant when the strike was called last May 25th?

A. I was, six days.

Q. You were there when the strike was called?

A. Yes.

Q. And you stayed there for about six days?

A. Six days.

Q. And then when was it that you left the plant, on what day?

A. 31st of May.

Q. About what time of the day did you leave the plant?

A. It was between 5:30 or 6, I believe, something around there. It was evening, anyway.

Q. How did you leave?

A. Well, I got in my car and went out.

Q. Was anybody riding in your car with you?

A. Was labor foreman with me.

Q. What was his name?

A. Frank Ruhti.

Q. Out of what gate did you go?

A. No. 3.

Q. Was your car the only one, or were there other cars leaving?

A. No, was my car alone then.

Q. Now, what, if anything did you see as you were leaving in your car from the gate?

A. Well, I saw a bunch of fellows out there on the road and cars parked both ways, on the righthand side of the road.

Q. About how many fellows did you see?

A. Oh, at least 25 or 30, I didn't pay no attention.

Q. Were these men that you saw carrying anything?

A. Clubs.

Q. Clubs?

A. Yes.

Q. Then what happened?

A. Well, as soon as I left the gate and left the company property as I got on Main Street why they waved their hands up and say "stop"—holler "Stop."

So I stopped and then they made me back up so many feet, I just couldn't tell you how many feet. So I backed my car back where they want it and then they holler "Open the doors," which I opened, and they put three men in my car on the back end seat.

Q. Was this man that was riding with you on the front seat with you?

A. Yes.

Q. You say three men came into your car in the back seat?

A. Three men came in my car after I opened the doors. That is, they call me for "Open it," then after I got doors open they get in, they push in three men with clubs in his hand.

Q. What did those three men—

A. How is that?

Q. What happened after the three men got in the back of your car?

A. Then they told me—

MR. LAUTER: Just one second. Your Honor, I object to this testimony on the ground it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Your objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

A. Then they shut the door on the car and they told me which way to go out. There was two cars on the road and I should go through those two cars, then on the left side, to get away from them. They told me to drive down to headquarters.

Q. About how far was the headquarters from where you were when this happened?

A. Well, it could be a mile and a half. I don't know exactly, but it is a little more over a mile anyway.

Q. What happened then?

A. Well, then we rode down, and I thought I am going to turn in on the first road that goes down to Columbia Heights, see?

Q. Yes.

A. And those fellows in the back of the car yelled "Whoa." I said, "What is it?" They says, "You have got to go down another block and then turn in." So I went. I went the way they wanted me to. So we got out, parked the car in front of the office out there, headquarters.

Q. Now "headquarters" you say. What headquarters do you mean?

A. CIO headquarters.

Q. And what street was that located on?

A. That was on Cleveland Avenue.

Q. Now go on, tell us what happened from there?

A. Well, we went in the building, there was about, I don't know, three or four men around the table, you know. They hand me the card, CIO, to sign, which I didn't sign. I said, "I can't sign that, I don't know much about it."

Well, a fellow said, "You got to sign. We will make you sign." "Well," I says, "Mister, you can't make me sign," I says, "I don't know much about it." I says "I have to study about it."

Finally the other man says, "You can't force him," he says, "that is his free will." Then they took my address, name and address and said that they will come up and see me at home, and told me that if I don't sign in six hours from then, it will cost we $4 to sign.

Q. Yes.

A. So I told them, I says, "I don't care what it costs me, if I think of it, then I find out something about it, then I will pay for it," and they never come up to see me.

Q. Did you ever sign?

A. No, I have got the card in my pocket yet.

Q. Then what happened to you next?

A. Went right home, took the other fellow home and then I went right home.

Q. Did you see anything that happened with regard to the man that went down there, Ruhti or—

A. The man that went down with me?

Q. Yes.

A. No. He signed his card.

Q. He signed the card?

A. Yes. He was reading there and finally he signed.

Q. What if anything was said to him before he signed, do you know?

A. Well, they asked him a question, how many men were in the plant and what they were doing and stuff like that but I didn't even pay no attention to his answer, you know.

Q. How long were you in the C. I. O. headquarters from the time you went in until you went out?

A. Not very long.

Q. Can you give us any idea?

A. I wasn't in there five, ten minutes, I wouldn't say even. It was not long, at all.

MR. DAY: I guess that is all.

Cross Examination

Q. (By Mr. Lauter) Can you identify any of the men who were in the car with you?

A. No.

Q. Can you identify any of the men who were down at the C. I. O. headquarters?

A. No.

Q. Can you identify any of the men in the group of 30 that you stated were outside of the plant?

A. No.

Q. You did not suffer any bodily harm in any way, did you?

A. No.

Q. What is your position?

A. Coal handling foreman in the coke plant.

Q. How many men did you have under you?

A. Four.

Q. Did those men stay in for the same six days with you or did they go out?

A. Well, fourth day, six days and when I got through one got out with me and two left in the plant.

Q. All of them finally came out?

A. Yes.

Q. When did you come back to work in the plant?

A. 6th of July.

Q. Did the four men who worked along with you go back also?

A. Yes, sir.

Q. Did you call them up to go back?

A. Superintendent did.

MR. DAY: I want an objection on the grounds it is not proper cross examination.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

Q. (By Mr. Lauter) Who called them up?

A. Superintendent.

Q. What is his name?

A. M. C. Bowers.

Q. M. C. Bowers?

A. Yes.

Q. Whom did he call up?

A. He went on and tell every man to come out to work.

Q. Did he tell them over the phone or personally?

A. I think it was personally, but I would not say. He came to me personally.

Q. He came to your personally? He told you to come to the plant?

A. Yes.

Q. When did he tell you that personally?

A. On the 5th, I believe.

Q. On the evening of July 5th?

A. Yes.

Q. And he went around to the other four men in your department?

A. Yes. They already have two men on the job by the 5th when I got there because the time they come after me I was not home, around the 4th of July.

Q. Have you seen any of the Back-to-Work petitions?

A. I saw the petition but I didn't sign.

Q. Did you see any of the other boys?

A. No, because I was not interested in that either.

Q. Did you hear whether any of the other four men took around the Back-to-Work petition?

A. In our plant, in the coke plant, because I know they did.

Q. You did not try to get out of the plant on May 25th or May 26th?

A. No.

Q. You wanted to stay in the plant?

A. To help shut down.

Q. Well, you did not only want to help shut down, you stayed there six days?

A. What is that?

Q. It does not take six days to shut down?

A. It does my kind of work.

Q. Where did you sleep while you were in the plant?

A. In the car.

Q. All the six days?

A. Six days.

Q. Were there any cots in the plant?

A. Yes.

Q. Some of the men slept on the cots?

A. Yes.

Q. Were those cots there on May 25th, the first day of the strike?

A. I believe they come in pretty late that night, middle of the night, and I went to bed earlier in the car and I thought I better stay there.

Q. Did you have any firearms or ammunition of any kind?

A. No.

Q. Did any of the employees in the plant have any?

A. I don't know, I wouldn't say.

Q. Do you know whether they did or not?

A. I didn't see any.

Q. You didn't see any?

A. No.

Q. Did anybody tell you that they had any?

A. No.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

ROBERT ADAMS

A witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. Robert Adams.

Q. Where do you live?

A. I live 1109 Fourth Street, West, Massillon, Ohio.

Q. What is your business?

A. Plasterer.

Q. Do you have any connection with the Republic Steel in any way?

A. I don't, no.

Q. How long have you lived in Massillon?

A. Since 1928.

Q. Now, do you know where Cleveland Avenue in Massillon is located?

A. Yes, sir.

Q. What direction does Cleveland Avenue run?

A. Why, north and south.

Q. What is the street running north and south next west of Cleveland Avenue?

A. Fourth Street.

Q. And that is the street you live on?

A. Yes.

Q. Do you know where the Republic main office is there?

A. Yes.

Q. About how far is your home from that main office?

A. Straight down the street about, I would say, about two blocks.

Q. And do you know where Oberlin Road is?

A. Yes, sir.

Q. That is Oberlin Road runs what direction?

A. East and west.

Q. What is the name of the street north of Oberlin Road running east and west, the first street north?

A. Cleveland Avenue.

Q. No, the street that runs the same direction that Oberlin Road runs?

A. McKinley.

Q. And the street north of McKinley that runs east and west, what is the name of that street?

A. Isabelle.

Q. Now you have said you lived on Fourth Street. Where, with respect to Isabelle Street, is your property?

A. I live on the corner of Isabelle and Fourth Street.

Q. Do you know a man by the name of Mark Turkey?

A. I know him when I see him.

Q. Do you know where he lives?

A. Yes.

Q. Where does he live?

A. He lives north of me on the east side of the street.

Q. That is the same street that you live on?

A. On Fourth Street.

Q. And about how far from your home does he live on the east?

A. 150 feet I should say, more or less.

Q. You live on the corner of Isabelle and Fourth, which corner do you live on?

A. I live on the northwest corner.

Q. So that your home is on the west side of the street?

A. Yes.

Q. Turkey's home is on the east side of the street a little further north?

A. Yes.

Q. All right. Now, do you have a daughter, Mr. Adams?

A. I have four daughters.

Q. Have you a daughter living near the Turkey home?

A. Just north, the next door.

Q. The next door north of the Turkey home?

A. Yes.

Q. I will ask you to state whether or not you were at her home on July 11th at any time.

A. Well, she came over to me.

TRIAL EXAMINER LINDSAY: Wait a minute. Were you at her home?

THE WITNESS: Yes.

Q. (By Mr. Pontius) About what time was it that you were there at her home?

A. I don't know just the exact time but some time after 6 o'clock.

Q. In the morning or evening?

A. Evening.

Q. And what if anything did you notice with respect to any people being there at the Turkey home when you were there?

A. I didn't get you clear on that.

Q. Did you observe whether or not there were any people there at the Turkey home?

A. Yes, there was, on the porch.

Q. What porch?

A. On Turkey's porch.

Q. Where is that porch, what part of the house?

A. On the west side of the—the front porch is on the west side of the house.

Q. How many men were there at that time, would you say?

A. I didn't count them but five or six, maybe seven.

Q. What if anything did you observe with respect to any car being there in front of that house?

A. Yes.

Q. Do you know the license number of the car that was in front of the house?

A. Yes, sir.

Q. I wish you would state the license number of that car.

A. N 740 Y.

Q. Did you know any of the men that you saw there on the front porch of Turkey's home?

A. Three of them that I know their face. I know Mr. Turkey and another fellow I could identify. I don't know his name, and a big red-headed fellow.

Q. You say you know Mr. Turkey was there?

A. Yes.

Q. Did you see this car go away at any time, the car that was there in front of the house?

A. No, I went downtown before this car left there.

Q. You went downtown?

A. Yes, before it left the street.

Q. I see. Well, do you know—

MR. LAUTER: One second, I move the answer be stricken. No knowledge on the part of this witness that the car left there.

MR. PONTIUS: No.

MR. LAUTER: Purely conjectural on his part.

TRIAL EXAMINER LINDSAY: Yes, that is stricken from the record.

Q. Do you know where Mark Turkey was employed prior to the strike?

A. Do I know what?

Q. Where he was working prior to the strike?

A. Before the strike?

Q. Yes.

A. I don't know definitely, but I heard he worked in the Republic Steel.

Q. Now, you have referred to someone there as "Red". Can you describe this man further?

A. He was a big—bigger man than I am, he is tall and heavy set and he wore glasses, red or sandy hair, I don't know whether you call it red or sandy.

Q. Now, did you hear any conversation there between these men on the front porch at Turkey's home?

A. I did.

MR. LAUTER: I would like to have the time of this conversation fixed.

MR. PONTIUS: We will do it.

Q. About what time of the day was it?

A. It was between 6 and 7 o'clock.

Q. Whereabouts were you, at your daughter's house there?

A. Well, I was on the south side of the house.

Q. Now, I ask you, Mr. Adams, to relate the conversation that you heard between these men?

A. The conversation was that they were just—

MR. LAUTER: Just one second. I want to object to this conversation as incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

A. This American man was telling Turkey, this red headed fellow was telling Turkey to get their men out and keep them out of the mill down there. He says, "You keep your men out and we'll keep ours out." I was behind, below the porch, and I stepped up to look, and he said—I heard Mr. Turkey said, "Well, I will never be out." He said, "You get yours out." He said, "We will get ours out," he says, "but I feel"—he said, "I feel sorry"—this American fellow said, "I feel sorry for the colored fellow, but the damn niggers have got it coming to them. If they get killed they will just have to take it." So I listened a little further, the whole talk was keeping the men from going in the mill that night. It drifted from one thing to another, there wasn't many in, most of them were young fellows, wasn't regular employees and it would be hard for them to keep the regular men out because there wasn't many in there.

TRIAL EXAMINER LINDSAY: Now, "they weren't regular employees" from there on—

MR. LAUTER: I move that everything after the "whole talk" be stricken on the ground that it was purely a conclusion of the witness, not a statement of conversation.

TRIAL EXAMINER LINDSAY: That may go out of the record.

(The answer was read by the Reporter.)

Q. (By Mr. Pontius) Was anything further said in that conversation that you recall?

A. No, there was nothing further, outside of what I have already stated in that conversation, when they were talking about other things, I listened—

Q. Talk out louder so we can hear.

A. After talking, they started talking about other things, I left and went back home.

TRIAL EXAMINER LINDSAY: Off the record.

TRIAL EXAMINER LINDSAY: Strike that all from the record.

MR. PONTIUS: Yes, that may go out.

TRIAL EXAMINER LINDSAY: Up to where he said, "I left"—and from there on just strike that out.

Q. Now, you say you went down the street, did you come home then later?

A. I come home about 8:30.

Q. And did you hear any commotion down—or shooting or any noise down below you that night?

MR. LAUTER: May it please the Examiner, I have been very lenient, made no objections to leading questions. There has been a series of them.

TRIAL EXAMINER LINDSAY: I will sustain the objection to that question because it is leading.

MR. PONTIUS: I wanted to shorten it up?

Q. What, if anything, did you hear, then, when you were at home that night?

A. Well, I heard a lot of things after I come home around 9 o'clock, half past 8 or quarter to 9:00, and my daughter told me—

Q. We don't ask for you to say what your daughter told you.

A. While I was sitting—I was sitting on my steps, a fellow come, picked up some stones, carried them across Fourth Street. He carried these stones across from my house on Isabelle, carried them across Fourth Street, on the other side of Isabelle, on the west side of Isabelle Street and carried the stones there and made a pile.

There was a fellow come back, he asked me, "What is that fellow doing?" I says, "I don't know," I says, "I heard on account of my son working at Republic Steel they were going to do something to my house."

Well, he piled the stones there; he said, "I would not be afraid." I said, "I am not." He went on to the lower corner of Isabelle and Cleveland Avenue, they met another fellow, they both piled stones down there. I sat there and watched them. Then they went down—

Q. What time of night was that?

A. Around 9 o'clock.

MR. LAUTER: Just one second. That last answer, I want everything stricken—I move that everything be stricken after "I heard." There has been no identification of who told this man. It is not a reportable conversation. He said, "I heard that my son works in the Republic mill," something on that effect.

TRIAL EXAMINER LINDSAY: I will have that stricken unless they show who told that.

MR. LAUTER: May I have that last answer read back, please, Mr. Reporter?

(The last answer was read by the Reporter.)

MR. LAUTER: I move that the entire answer be stricken on the ground that reference is had to two people that have not been identified, and there is reported a conversation about which we heard nothing at all.

TRIAL EXAMINER LINDSAY: I will have that stricken out of the record, the whole answer.

MR. PONTIUS: I want to most respectfully—

TRIAL EXAMINER LINDSAY: Let the record show an exception.

Q. What, if anything, did you see any men doing in that vicinity around that evening after you got home from downtown? What did you see anybody doing there after you got back home from downtown?

A. 11 o'clock—

Q. No, before that, earlier than that, I mean? What did you see them doing?

A. Nothing before 11 o'clock, I didn't see them do anything, but that one particular thing.

Q. What?

A. I didn't see them do anything before 11 o'clock, or after, but what I have stated about piling stones.

Q. Yes.

TRIAL EXAMINER LINDSAY: That "piling stones" is stricken from the record, Mr. Pontius, unless you will show some connection there, don't go into that any further about piling stones.

MR. PONTIUS: Very well.

Q. How long did you remain at home?

A. I remained at home all night.

Q. Now, what, if anything, did you observe around 11 o'clock that night?

A. Well, after the shooting started down there my children got nervous and I was on the step and we went into the house and my youngest daughter told me she wasn't going to stay there, so I went into the house, turned out the lights and went upstairs, and after the first shooting was over, a bunch came up Isabelle Street from down there, a car came up around the corner and stopped and they got out and my neighbor hollered and asked, "What is going on down there?" One fellow says, "They are having Hell down there," He says, "Anybody hurt?" He says, "Yes, we killed two of them damn city cops." He said, "How do you know?" He said, "We saw them fall."

So this other fellow got out of the car and he walked up to another fellow and says, "You fellows are from Canton, aren't you?" He said, "Yes." "Well, you had better get the hell out of here before they get up here," and another fellow, a little heavy set fellow said, "Is that thing in the car?" He said, "Yes."

"Well," he says, "you had better get it out of here because they are liable to break through up here any time."

And the fellow in the car got out and he says, "Did you see Joe?" He said, "No."

"Well," he says, "we ought to find Joe." They did not call no last name, and my daughter was asking me, I says, "Who is that fellow, doing the talking?" She says, "I don't know."

I says, "Who is the fellow got out of the machine?" She says, "Tony Demando." That is the only one I know.

Q. About how long did that car remain there across the street from you?

A. Oh, maybe 10 minutes.

Q. Now, what, if anything did you notice about the Mark Turkey home after that night?

A. I know this, the men was on the porch.

Q. What?

A. They were on the porch, on their porch.

Q. Did you see any officers up about there that night?

A. A good while or maybe an hour or hour and a half after everything had stopped down there, why the National Guards and deputy sheriffs came up that street. They stopped cars, they searched them, and there was a fellow between my house and the next one standing in back, and the National Guard took him out of there.

And they went from there over to a place on this side of Mark Turkey, and then from there they went into Mark Turkey's. I think next they were on the porch at the time, so they went in the house next door to Turkey's, this was a business place next door to Turkey's.

Q. Which side of Turkey's house?

A. On the south side.

Q. What, if anything, did you notice when these officers went into this business place south of Turkey's, what did you see?

A. Well, I was looking out of my window, I saw this fellow standing in this place with the lights out, and they saw him in there, they had him open the door, they went in and talked to him.

TRIAL EXAMINER LINDSAY: I didn't understand, did you say the lights were out?

THE WITNESS: The lights were out. The lights were out in this business place, you know, all but the night light, and he was standing there with a white shirt on between his windows, and the National Guard, when he came out and asked this fellow to come out between my house and the next house, he told this fellow standing over there, you see, and he called these other officers down the street and they came up, and they said something to him, and they all went over to this business place.

Q. Now, this place, that is the place just south of Turkey's?

A. South of Turkey's.

(The last answer was read by the Reporter.)

Q. Have you told us what you observed with respect to the Turkey house, where these men went to this business place, these officers went to the business place.

A. After the officers went over to the business place the men left Turkey's place and went in the house. When the officers came out of the business place and went in Mr. Turkey's, when they came out they had Mr. Turkey and some of the other men with them.

MR. PONTIUS: That is all.

Cross Examination

Q. (By Mr. Lauter) Where do you work, Mr. Adams?

A. Plasterer.

Q. Your son works in the mill?

A. I have one son working in the mill, yes, sir.

Q. Did he work all during the strike?

A. No.

Q. Is he a C. I. O. member?

A. No, he is not a C. I. O. member.

Q. Did he work at all during the strike?

A. He went to work I don't know exactly when he went back to work.

Q. Did he work at all during the strike?

A. He went back on his job when his department started up and the mill went back to work, he went back to work.

Q. Do you know whether the strike is still on?

A. It is still on.

Q. And he is back there working now?

A. Yes.

Q. What time did you go downtown?

A. I got downtown I think sometime after 7 o'clock. I got a ride downtown a little bit after I left the house.

Q. What is that?

A. I got a ride downtown just a little after I left the house. I was downtown a little after 7 o'clock.

Q. Before you went downtown you saw five or six or maybe seven men on Mr. Turkey's porch?

A. Yes.

Q. Do you know whether or not Mr. Turkey has any roomers in his house?

A. He has.

Q. Do you know whether the men who were standing on the porch were roomers or boarders in his house?

A. Some of them may have been.

Q. Some of them may have been. Do you know any standing on the porch who were not boarders or roomers?

A. Yes.

Q. Do you know the names of them?

A. This red-headed fellow, the American fellow, does not room there.

Q. What time did you come back downtown?

A. I left downtown on the five minute after 8 bus.

Q. What time did you get back to your house?

A. Quarter of 9 or something like that.

Q. Then you went over and stood on your daughter's house?

A. I didn't understand you.

Q. Where did you go when you came back?

A. I went home.

Q. Your own house?

A. Yes.

Q. Where were you when you heard somebody say they killed two damn City cops?

A. In my upstairs window.

Q. Where were the men that were saying that?

A. Across the street.

Q. How many men were there?

A. I suppose 15 or 20 men had come up there.

Q. Do you know who those men were?

A. What?

Q. Do you know who those men were?

A. Not personally I don't.

Q. You had never seen them before?

A. I seen some of them before.

Q. Do you know where they live, who they are?

A. Some of them I know where they live.

Q. Do you know whether any City cops were killed on July 11th?

A. No, I don't.

Q. You don't know there were none killed?

A. What?

Q. Do you know that there were none killed?

A. Yes, I know there was none killed.

Q. About what time did the National Guard come to that street to start searching the houses?

A. When the National Guard came up on Fourth Street it was after 1 o'clock.

Q. Where were you at that time?

A. Laying across the bed by the window upstairs.

Q. How long were you sitting at that window watching?

A. I had reason to stay there as long as I did.

Q. What were the reasons?

A. That evening before they told my daughter not to stay at her house or my house because it would be too bad for the people that lived there, that is the reason I kept looking out on the street from that time until the thing quit.

Q. Did you see any C. I. O. men come up there and create any disturbance?

A. No, the C. I. O. men did not create any disturbance.

Q. Did you see any disturbance in this business house that you are talking about?

A. No.

Q. Did you see any disturbance in Mr. Turkey's house?

A. No.

Q. Did you see any deputy sheriffs come into Mr. Turkey's house?

A. I saw the deputy sheriffs and the National Guard when I went over there.

Q. Did you see them kick in the front door?

A. Well—

Q. Did you see them force the front door?

A. I don't think the front door was forced.

Q. What happened there?

A. I think they opened the door.

Q. They opened the door and went in?

A. I think somebody inside opened the door.

Q. How about this business place, did you see the deputy sheriff go in there?

A. Yes.

Q. What other houses did you see the deputy sheriffs go in?

A. They went in another place across the street after they came out from Turkey's.

Q. Did you see them take some people out of these houses?

A. They took one fellow out across the street from me.

Q. Was he creating any disturbance?

A. He was in the house when they got him.

Q. What is that?

A. He was in the house when they got him.

Q. Did you see them leave several men out at Mr. Turkey's house?

A. Yes.

Q. Did you notice whether they were partially dressed?

A. No, I didn't. I think one fellow did not have no hat on or no shirt.

Q. Did you notice that some of them did not have any shoes on?

A. No, I didn't notice that.

Q. Some of them did not have their socks on, did you notice that?

A. No.

Q. About how many men did you see led down the street from these various houses?

A. I don't know, I couldn't say how many. The cars kept coming in there and I would hear them ask them if they belonged to the C. I. O. They would say yes, some would say they were from Canton and they asked them what they were doing as they would come up the street.

Q. Mr. Turkey does not come from Canton?

A. No.

Q. The roomers in his house do not come from Canton? Do they?

A. No.

Q. They took them out, didn't they?

A. Yes.

Q. They took them out?

A. Yes.

Q. Did you hear them ask them if they were C. I. O. men?

A. I was too far away.

Q. Do you know any of the special deputies that came in the house on Fourth Street?

MR. PONTIUS: I object to that. There is no testimony the deputies went in the houses.

TRIAL EXAMINER LINDSAY: This is cross-examination. You had that privilege and I am allowing it both ways. Objection overruled and let the record show an exception.

A. The only one special policeman I knew and that was one Shimke.

Q. What is that name?

A. Shimke, a boy that went to school with my boy.

Q. Let us have that name once more.

A. Shimke, the rest were National Guards, deputy sheriffs.

Q. What did Mr. Simpkins do, what did you see him do?

MR. PONTIUS: Pardon me. Let us get the name correct. He is a deputy sheriff, Shimke. He will be a witness here.

MR. LAUTER: What is the name?

MR. PONTIUS: S-h-i-m-k-e.

Q. What did Mr. Shimke do?

A. He was with the rest of the officers, National Guards and deputy sheriffs.

Q. Do you know a man by the name of Mr. Henderson?

A. Yes.

Q. Did you see him up there that night?

A. Yes. I didn't know Henderson, I didn't know Henderson until about a week after. My wife goes to Cleveland Avenue to catch the car—

TRIAL EXAMINER LINDSAY: Well, never mind about your wife.

A. I asked—

TRIAL EXAMINER LINDSAY: Just a minute. I said leave your wife out of it.

A. I went out Cleveland Avenue to the police line to get authority from someone to let my wife through there to catch the car, and that is when I knew Mr. Henderson.

Q. Did you hear whether or not he had been up around that section that night?

A. If he was dressed the way he was dressed that day, he was not up there.

Q. He was not up as far as your house?

A. Not as far as my house.

Q. After they took these men out of the house, where did they take them, did you notice?

A. Down below there, the National Guard truck came up and loaded them in.

Q. Well, they loaded them in there, is that right?

A. Yes.

Q. Did you see any of the special deputies or deputy sheriffs or National Guards break into any houses, break in any of the doors, force open the doors?

A. I was not out of my house when they were up there.

Q. I know. I am asking you whether or not you saw that.

A. Why, no, they didn't break in any doors.

Q. They did not break in any doors?

A. They pounded on the doors and somebody opened them.

Q. Were these men armed?

A. They were armed, I suppose.

Q. As far as you could see there was no disturbance created by any of the people living in those houses, is that correct?

A. No.

Q. That is correct?

A. That is correct.

(Witness excused.)

MR. DAY: Mr. Davies.

EDWARD W. DAVIES

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. Edward W. Davies, D-a-v-i-e-s.

Q. Where do you live?

A. Massillon.

Q. How long have you lived in Massillon?

A. A great many years. I was born there.

Q. What is your business?

A. I am with the First Savings & Loan Company.

Q. Have you any connection with Republic at all?

A. With what?

Q. Republic Steel?

A. None whatever.

Q. I will ask you if you recall attending a meeting there at Oak Knoll Park in Massillon, Ohio, June 11th last?

A. Yes.

Q. July 11th last?

A. Yes, July 11th, that is right.

Q. Who went with you?

A. A man by the name of Cockran, a neighbor of mine.

Q. About how large a crowd was there?

A. I didn't notice particularly but, oh, just a rough estimate, probably between eight and ten hundred people.

MR. LAUTER: At this time, if you please, Mr. Examiner, I want to formally move that the answer be stricken out and all testimony as to what happened at Oak Knoll Park be excluded from the record on the ground that it is incompetent, irrelevant and immaterial.

MR. DAY: Of course, the relevancy of it does not appear yet. We expect to show that this—

TRIAL EXAMINER LINDSAY: That is all right. Objection overruled and let the record show an exception.

Q. Did some speakers make speeches there that day?

A. Yes.

Q. Did you hear the speeches?

A. I heard one speaker, that is throughout his full speech, and part of another.

Q. Did you hear Mr. Joe Morton make a speech?

A. Yes, I did.

Q. About how long did he talk?

A. Oh, I would say about 10 to 15 minutes.

Q. Will you tell us what he said as near as you can recall it?

A. The thing that impressed me most in his speech was the—

MR. LAUTER: I want to object and move the remark be stricken out.

MR. DAY: Yes, I think that may go out.

TRIAL EXAMINER LINDSAY: That is stricken out. Mr. Day, this man appears to be intelligent. Do not ask him leading questions.

MR. DAY: I am not going to.

Q. (By Mr. Day) Just state as near as you can what you remember Joe Morton said in his speech.

A. He made different statements in regard to the men that they should fight on, that they are bound to win the strike, and I recall in the conclusion of his speech he made a very urgent appeal to the men to be out on the picket line that night.

MR. LAUTER: I object to the characterization of urgent appeal and move it be stricken from the record.

MR. DAY: I have no objection to that.

TRIAL EXAMINER LINDSAY: Yes, that is stricken from the record.

MR. DAY: The rest of it stays in, I take it?

TRIAL EXAMINER LINDSAY: Yes. Mr. Witness, you know you are under oath. You have a pretty good idea of what you should testify to. Now you just limit yourself to what you should testify to.

Q. (By Mr. Day) If he said anything more that you have not told, go on and finish.

A. That is about all there was to it about his invitation to the men he was talking with, or talking to that they should be down that night at 11 o'clock on the picket line.

MR. DAY: That is all.
MR. LAUTER: Is that all?
MR. DAY: Yes.

Cross Examination

Q. (By Mr. Lauter) What time did this meeting take place at Oak Knoll park?

A. It was scheduled, I believe, for 2:15 p. m. on Sunday afternoon.

Q. And how long did that meeting last?

A. I spent oh, probably, half an hour there.

Q. The meeting had disbanded when you left?

A. No, and it had started before we reached there.

Q. How did you happen to be there?

A. Well, I presume the thing that caused me to be there more than anything else was an announcement or an advertisement in our local paper the previous day that there was going to be a C. I. O. meeting. I had nothing particularly to do on Sunday afternoon and I recalled that announcement, so I invited my neighbor to go with me. We went over, got there around 2:30.

Q. How long did Mr. Morton speak?

A. I would say 10, 15 minutes.

Q. Have you ever attended any other meeting of the C. I. O.?

A. Not any. I made attempts to attend them but always—

TRIAL EXAMINER LINDSAY: That is out of the record.

Q. Well, have you ever attended any meetings at which a strike leader has spoken or a Union leader has spoken?

A. You mean at any time?

Q. That is right.

A. Or at any particular—

Q. At any time?

A. No, I cannot say that I have. I do not recall it.

Q. Was this peaceful, perfectly peaceful?

A. Oh, so far as the meeting was concerned, I did not see anything that was not peaceful about it.

Q. Was there anything inflammatory about Mr. Morton's speech?

A. Well, there were some statements that I would say if I were probably on the striking side, which would help me to feel I was justified and I wanted to continue.

Q. Out on strike?

A. Out on strike, that is the idea.

Q. You did not go out that night and commit any act of violence that night as a result of hearing that speech, did you?

A. No, I did not.

MR. LAUTER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will take a short recess.

(Recess.)

TRIAL EXAMINER LINDSAY: Hearing is called to order.

MR. LAUTER: I offer in evidence as Board's Exhibit No. 113 an order of the National Labor Relations Board granting application for issuance of subpoenas.

TRIAL EXAMINER LINDSAY: It may be received in evidence.

(The document above referred to was marked as Board's Exhibit No. 113 for identification and received in evidence.)

S. L. COCHRAN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. S. L. Cochran.

Q. And your residence?

A. 322 Thorne Avenue, N. E.

Q. Massillon?

A. Massillon.

Q. How long have you lived in Massillon?

A. Fifty years.

Q. What is your occupation?

A. Custodian, First M. E. Church.

Q. I will ask you whether you recall going to Oak Knoll Park on a Sunday this summer?

A. Yes, I do, very distinctly.

Q. The 11th of July?

A. Sitting on my porch, and my neighbor, Mr. Davies, was getting ready to go over there. He asked me if I would like to go along and I said, "Yes, I would like to go along."

Q. About what time did you get there?

A. Oh, I imagine about 3 o'clock.

Q. Can you give us some estimate of the size of the crowd that was there?

A. Well, I would say that it was in the neighborhood of 800.

Q. Were any speeches made?

A. Yes, yes. I heard three different men talk.

Q. Whom did you hear?

A. Well, now, I couldn't hear the first speaker. He was a Massillon man.

Q. Yes?

A. Following him was a man—

MR. LAUTER: I would like to object to this testimony, merely a repetition of the testimony given by Mr. Davies concerning a meeting held at Oak Knoll Park July 11th, 1937. I move it be stricken out on the ground of incompetency, irrelevancy, and immateriality?

TRIAL EXAMINER LINDSAY: Well, I don't see where it is material, but I will overrule your objection and let the record show an exception.

MR. LAUTER: Exception.

Q. Who else talked?

A. The man who was introduced as Joe Morton. I didn't know the man, or wouldn't know him now if I would see him.

Q. Just tell us what you heard Joe Morton say, using his words as near as you can.

A. Well, he—the first thing he did was to attack Chief Switter.

Q. What did he say about Chief Switter?

A. He said, "I hope that Chief Switter is in the crowd, because I am going to say something about him." He says, "There was a time when I thought Switter was a fine fellow, but" he says, "I am learned since that he is about as low-down a skunk as I ever knew."

Q. Can you recall anything else Joe Morton said?

A. Yes, he insisted on everybody that was in the crowd being there at 11 o'clock, being on the picket line.

Q. Can you remember the names of any of the other men, or do you know the names of any of the other men that were introduced?

A. The speakers, do you mean?

Q. Yes.

A. No, I don't think that I could.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Did you go with Mr. Davies to this meeting?

A. I beg your pardon?

Q. Did you go with Mr. Davies to this meeting at Oak Knoll Park?

A. Yes.

Q. Was it at his suggestion that you went?

A. It was.

Q. His suggestion?

A. Strictly.

Q. Had you attended any other meetings of the CIO?

A. No, sir.

Q. Have you ever attended any meetings since?

A. No, sir.

Q. How long did you stay in the meeting?

A. How long did we stay?

Q. How long did you stay?

A. Oh, I imagine half an hour.

Q. How long did Joe Morton speak?

A. I would say between ten and twelve minutes.

Q. Where were you in the crowd when he was speaking?

A. Very close to where he stood, within 20 feet.

Q. You heard everything he had to say?

A. I beg your pardon?

Q. You heard everything he had to say?

A. I think I did. I think I did.

Q. You could see him pretty clearly, from where you were standing?

A. Oh, yes.

Q. See his features?

A. I have got to get close to hear a man speak.

Q. And you could see his features pretty well, too, couldn't you? But you couldn't recognize him if you saw him now?

A. No, no, that is right.

MR. LAUTER: That's all.

MR. DAY: That's all.
(Witness excused.)

J. CHESTER ADAMS

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?
A. J. Chester Adams.
Q. Where do you live?
A. 1505 South Erie Street, Massillon.
Q. What is your business?
A. I work for Republic Steel.
Q. In what capacity?
A. I take care of the telephones and outside lighting, signal systems. In other words, the electrical department.
Q. How long have you worked for Republic?
A. Between 15 and 16 years.
Q. Where were you when the strike was called last May the 25th?
A. In the plant.
Q. What were you doing in there?
A. Taking care of my job.
Q. How long did you stay in the plant after the strike was called?
A. Eight days.
Q. And then what happened?
A. I was sent home.
Q. And on what day did you leave the plant?
A. June the 2nd.
Q. About what time of the day?
A. Six o'clock.
Q. How did you leave?

A. By my car.

Q. Were you driving your car?

A. Yes, sir.

Q. Was anybody else with you?

A. Three other men.

Q. Can you give us their names?

A. One fellow by the name of Tonn.

Q. Can you spell his name?

A. T-o-n-n.

Q. All right.

A. Another fellow by the name of Williams, the third one, I am not positive of his name.

Q. Had they been working in the plant with you?

A. Well, not with me, but they were in the plant there.

Q. How many cars left the plant at the time you left in your car?

A. Well, approximately 60.

Q. How many?

A. Approximately 60, as near as I can remember.

Q. How many?

A. Approximately 60, I couldn't say positively, maybe 40 to 60 would probably hit it closer.

Q. Will you tell the Trial Examiner what happened as your car was leaving the plant that night?

A. Well, I was notified about 3:30 or 3 o'clock that I was to leave the plant at 4 o'clock, and 4 o'clock, why, this group was all lined up close to No. 2 gate. A little later on, as we lined up, why Bill McConneil came back from No. 2 gate and told us that it was all off, something to the order that Switter would not let us out or Morton would not let us out at that time, so we would have to go out at 6 o'clock. So we waited around until 6 o'clock. At that time the salary men all in one group and the hourly men, which included myself, in another group, and they started the salary men out, and we followed them. We followed them as far as No. 2 gate. They stopped every salary man's car because I was in the lead of the hourly men.

Q. You say "they stopped." Who stopped?

A. Well, pickets.

Q. All right.

A. They stopped them at the intersection of Oberlin Road and the road running into No. 2 gate.

Q. All right.

A. And questioned them apparently as far as I could see, and passed them on through.

Q. What happened when you came along?

A. Well, they held us back until they got all through, see? Then we came up to this group of people, of course, they had a big celebration for us right away.

Q. Do not tell they had a big celebration. That may go out. Just tell what they did and what you saw them do.

A. You mean the number of men?

Q. First, the number of pickets that were there.

A. Well, I would judge three to four hundred people and the pickets, part of them armed with clubs, some women and some children.

Q. Then what did they do?

A Of course, my car was in the lead. I no sooner got to the corner than they stopped me there and Joe Morton crawled on one side of my car, that was on the right-hand side, and Chief Switter on the left-hand side of my car. Morton said we should run the windows down so they could get ahold on the car and Morton told me to drive over to C. I. O. headquarters, which I did.

Q. When you drove over there, were Mr. Morton and the Chief still on the running board?

A. Yes, sir. They directed me over and also directed me where to park, which is almost the C. I. O. headquarters and I pulled into this place that they designated and Mr. Morton told us to get out of the car.

Q. After you were told to get out of the car, did you get out?

A. There was not much else to do about it.

Q. Where did you go then?

A. We got out—

TRIAL EXAMINER LINDSAY: Wait a minute. Strike that out. Tell us what you did.

Q. Just tell us what you did and what you heard said.

A. Well, I got out of the car and locked it and I said to Chief Switter, "Is my car going to be safe here?" And he said, "Oh, yes, it will be all right." Then I walked across the street with Switter and the rest of them and we went into the headquarters and we went into a back room first and somebody says, "Not that room." And we all came out of there, see, into the main, the big room.

Q. Well, who did you see in the big room when you got in there, if anyone?

A. Well, Joe Morton was one.

Q. Anyone else?

A. Royal Thomas was another, a fellow by the name of Whitey Kale was there, other than that I could not remember who they were.

Q. Can you give us any idea as to how many were there?

A. Probably eight approximately.

Q. Did they have anything with them?

A. Clubs, not all of them, some of them had clubs.

Q. Then what happened?

A. Well, they lined us all up on the north side of the room in pairs. I was on the west end of the line and Morton and a few others lined up right directly opposite of us about 10, 15 feet from us, see, and Switter took a seat a little bit off to the left-hand side of Joe Morton.

Then they started to question us and I, of course, being the first one in line, they questioned me first.

Q. Will you tell us what they asked you and what you replied as near as you can remember?

A. Why, they asked me for my name and address. That was Morton did this talking and Whitey Kale was taking notes on it and he asked the question again so that he could put it down then and he asked me how long I worked there and I told him about 16 years and he says,—he asked me what I done and I told him and he said, "Do you consider that maintenance?" I said, "Sure, absolutely." "Well," he said, "I think so, too."

Q. What?

A. He said, "I think so, too."

Q. All right.

A. So then he asked me how much I was drawing for staying there and I told him I didn't know and oh, he asked me whether I ever thought about joining the C. I. O. and I said I hadn't given it a great deal of thought. In fact, nobody had ever approached me about it.

And then he turned to the rest of them and questioned them about in a like manner and several of them, he called several of them scabs due to their job. I don't know just what their job was or which particular fellows it was, but he called several of them scabs, and after he had gotten done questioning us why he said that we would all be given an opportunity to join the C. I. O. but we could not sign inside the headquarters there, that he would send several representatives around to our houses to see us and he went on to elaborate as to the benefits of belonging to the C. I. O. He said while we was in that place, why he could guarantee our protection, but supposing that we get downtown and get in a store or saloon or something of that sort, he said, if we carried a C. I. O. card why it might save us a beating up.

Q. How long were you there?

A. Oh, approximately an hour.

Q. And then where did you go and how did you go?

A. Well, Chief Switter, about that time Chief Switter looked at his watch and he said, "Cut her off, Joe. It is around 7 o'clock." And Morton said a few more words and he said, "All right."

Q. How much of the time that you have been telling us about was Chief Switter there?

A. All of it, the whole time.

Q. And then what happened.

A. Well, we went across the street and got into my car again and Switter and Morton crawled on the steps the same as before and they took me over to Oberlin Road and jumped off and said it was all clear, I should go on home, which I did.

Q. Did you join the C. I. O.?

A. No, sir.

Q. Where do you say you live, Mr. Adams?

A. 1505 South Erie Street, Massillon.

Q. Did you live there on the 11th of July last?

A. Absolutely.

Q. And where were you in the evening of that day?

A. I was to Turkeyfoot Lake.

Q. What time did you get home?

A. Well, I started from Turkeyfoot Lake in company with my wife and my son in my car. Just the exact time I left, I don't know, and my dad and mother were following in my dad's car. We came down to Massillon and, of course, I live right on South Erie, which is Route 21, that is the main route through town, and I naturally had to pass the viaduct and when I got to the intersection of South Erie and the viaduct, or close to it, I was the third car from the intersection.

Q. Going south?

A. Going south. And I noticed, as I came up to it, I noticed there was a slight congestion around there and while it was not probably a second that I was stopped, I looked around a little bit and just that quick I looked up and I saw a car coming from a southerly direction headed into the first car in the line that I was in.

MR. LAUTER: I move that the answer of the witness be stricken, Mr. Examiner. The witness testified of what occurred at the viaduct and what he did at Turkeyfoot Lake and that has no bearing on this hearing.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

Q. We have a map here, Mr. Adams, a drawing which is Respondent's Exhibit No. 1. This, according to the symbol here, is north (indicating), this way up at the top, and south, at the bottom. Now just tell the Court—

A. Where this occurred?

Q. No. Where you live first?

A. Well, this is South Erie Street (indicating) this is north (indicating) and this is south (indicating). Now this is Oberlin Road (indicating). I live up approximately there on the right-hand side coming south.

Q. And show the Court where the viaduct is.

A. Right here is the viaduct (indicating).

TRIAL EXAMINER LINDSAY: Of course, this is not getting into the record.

MR. DAY: Well, can we not just show indicating, unless there is any objection to it, just show indicating. I do not think there is any question about it. Is that satisfactory to you?

MR. LAUTER: It is all right with me. I have already made my objection.

MR. DAY: It is in evidence.

TRIAL EXAMINER LINDSAY: Just let it go.

Q. (By Mr. Day) You were going south on Erie Street?

A. Yes, sir.

Q. And I understood you to say you were the third car going south?

A. From this intersection right here (indicating).

Q. Indicating the intersection of the viaduct and Erie Street?

A. Yes, sir.

Q. And you were telling the Court something about the movement of a car going north?

A. Yes.

Q. I think that is enough to give us a general idea. Now just tell in your own way what you saw happen there.

A. Well, as I say I looked around a little bit to see what the congestion was and when I looked up I saw a car probably 10, 15 feet ahead of the head car in the line that I was in approaching it, running away.

Q. And then what happened?

A. Smashed into the head car in the line that I was in.

Q. And then what happened?

A. Well, by that time I started looking for a hole to get out of.

Q. That may go out, that you started looking for a hole. Just tell us what happened.

MR. LAUTER: I want to renew my objection at this time to any testimony by this witness of what happened on the viaduct on the ground of incompetency, irrelevancy, and immaterality.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

A. As I said, I looked for a place to turn around in.

Q. All right. Continue.

A. My wife got hysterical and that was my first thought and right after this crash occurred why I saw a fellow jump out of the left-hand side of this car.

Q. The car going in what direction?

A. Running over to the sidewalk and then running north on the west sidewalk.

Q. You say you saw a man jump out of this car, which car do you mean?

A. The car that was driving in—the car that was in motion, the one that crashed into the head car in the line I was in.

Q. By the way, did you get the license number of that car?

A. No, I didn't stay long enough.

Q. Did you get the license number of any of the cars?

A. No.

Q. Can you tell the Court what type of make of car the car that was going north was?

A. A Ford V-8, approximately a '33 or '34.

Q. Now you were telling about seeing some men jump out of the car. Tell the Court what you saw him do.

A. Started up the street running.

Q. What street?

A. South Erie Street.

Q. In what direction?

A. North.

Q. Then what happened?

A. Somebody was chasing him.

Q. Yes?

A. Somebody hollered at him to stop and of course, I, —I lost track of him then and I probably saw him for 50 feet after he left the car.

Q. Did you see anybody else then?

A. Yes, I saw several other fellows running and around this time this fellow started running, I heard some glass crash. Where it came from, I don't know.

Q. Where did the other fellows that you saw running come from, and where were they going?

A. I saw several fellows come off of the sidewalk and run down between the cars.

Q. Between the cars that were together as you have described?

A. Yes, sir. Between the cars that were parked along the curb and the cars that were waiting at the intersection.

Q. Then what if anything did you hear or see?

A. Well, I saw one of them make a pass towards the door handle on the second car. He reached over this way (indicating), and that is the last I saw of it because I was turned.

Q. Now you turned your car so that it was headed in what direction?

A. I turned west, or east, across the street and turned right straight around. There was a vacant spot there, and headed north.

Q. Then what happened if anything that you saw or heard?

A. I heard a couple of shots.

Q. Could you tell anything as to where they came from or just that they were a couple of shots?

A. Sort of in a westerly direction.

Q. You do not know who fired the shots?

A. No.

Q. You worked at Republic for a good many years?

A. Yes.

Q. And you live up there at the corner of the viaduct and South Erie?

A. Well, just above it.

Q. I will ask you whether or not you have observed who uses that South Erie Street and the viaduct.

A. Well, South Erie is a main thoroughfare for everybody, and the viaduct is used to pass working men.

Q. To pass working men?

A. Yes. To the Republic, the Aluminum Company, Tyson, and Eaton Detroit.

Q. And those workmen that you say passed the viaduct or for whom the viaduct is used, where do they come from that you have observed yourself?

A. Well, they come from the north direction to the south direction.

Q. On what street?

A. South Erie.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) How far away from the plant do you live on Erie Street?

A. Well, there is the map, I can show you better on that.

Q. Can you give me an idea of blocks or miles or feet?

A. No.

Q. You do not know how many feet it is or miles?

A. No.

Q. You do not know whether it is a mile or 10 miles?

A. It is within a mile.

Q. That is all you know?

A. Yes.

Q. Do you know where the Republic headquarters main office is? I am asking you generally without referring to the map.

A. It is on Oberlin Road, the north side of Oberlin Road.

Q. Do you know where the C. I. O. headquarters are?

A. Yes.

Q. I want you to point out on this map where the C. I. O. headquarters are and where the District Office of the Republic Steel plant is at Massillon.

A. Cleveland Avenue, Oberlin Road, here is the District Office.

Q. You are now pointing on this map to the District Office, is that correct?

A. Yes.

Q. Now, I want you to point to the C. I. O. headquarters.

A. It is marked.

Q. It is marked on the map. I want you to take this pencil and draw a straight line from any point on the C. I. O. headquarters to the nearest point on the District Office indicated on this map. Will you do that? Do you understand my question?

A. What is your purpose?

Q. I am not interested in whether you want to know what my purpose is. Draw a straight line from the C. I. O. headquarters to the nearest point on the District Office.

A. (Witness marks line on exhibit.)

Q. How many lines have you cut across on this map? Not pencil lines, but regular printed lines that are a part of this map.

A. Four.

Q. Where are the four lines? Will you indicate?

A. Five, here is one, here is another one (indicating).

Q. On this map you have cut across five lines, is that correct?

A. As I see it.

Q. Yes; are you familiar with that territory there?

A. More or less.

Q. Have you ever been to the district office in that vicinity?

A. Absolutely.

Q. Do you know where the CIO headquarters was?

A. Yes.

Q. Is there anything obstructing your vision, actually? Can you look from the main office or district office to the CIO headquarters without any obstruction?

A. Do you mean the entire building?

Q. Not the entire building, can you see the CIO headquarters?

A. From a certain part of the building.

Q. From the nearest point that you have indicated on the map?

A. I would not say positive, there, because I don't know that—

Q. Is that empty territory there? There are no buildings there, is that correct?

A. There are buildings across the street.

Q. Would that block your vision?

A. Well, I don't know.

Q. You don't know that area well enough?

A. You mean from the point where I indicated on the map? The office? Oh, you can see—

Q. Would it or would it not, from the point that you have indicated on the map?

A. I couldn't say positive as to that.

Q. You don't know that area well enough?

A. No.

Q. Did you ever try to leave the mill after May 25th?

A. No, sir.

Q. You said that you were sent home on June 2nd, is that correct?

A. Yes.

Q. Who sent you home?

A. My department head.

Q. What is his name?

A. Mr. Donovan.

Q. How many men are there in your department, do you know?

A. Ordinarily?

Q. That's right.

A. I have no idea.

Q. Ten, fifty, or a hundred, or a thousand? Have you got some idea as to numbers?

A. Well, the electrical embraces quite a lot of things, crane men, and so forth.

Q. Is that in your department?

A. Well, sure, they are all.

Q. How many men are there in your department?

A. Probably 150.

Q. 150? How many men of your department remained in the plant, do you know?

A. I don't know.

Q. Do you know whether one or two other members did remain?

A. Well, the plant is large.

Q. I am asking you whether or not you know whether any other members of your department remained in the plant after May 25th, 1937?

A. Oh, yes, there were other members remained there, but I don't know how many.

Q. What preparations were made for your remaining in the plant, do you know?

A. I don't know, I didn't make them.

Q. Did you sleep on a cot?

A. Yes.

Q. Did you sleep on a cot the first night you were in the plant?

A. Yes.

Q. Were you supplied with a gun or any ammunition while you were in the plant?

A. Absolutely none whatsoever.

Q. Do you know whether anyone else was?

A. No, sir, I didn't see any.

Q. You testified about a conversation at CIO headquarters after you came out?

A. Yes.

Q. Did you suffer any bodily harm during that conversation?

A. No.

Q. When did you return to work after June 2nd?

A. July 3rd.

Q. And who suggested to you to return to work?

A. My department head.

Q. What is his name again?

A. Why, Mr. Kelvie is under Mr. Donovan, called for me at home, and I was not in at the time, so I called back and I don't know who answered the phone, but Mr. Donovan was in the office and Mr. Donovan repeated the orders to him, to this fellow, who did it over the phone. You see, I could hear him. I know his voice.

Q. What did he say to you over the phone?

A. Why, he told me that I could come to work in the morning.

Q. You could come to work in the morning?

A. Yes.

Q. What was the date of that conversation, do you know?

A. Well, the 2nd of July.

Q. The day before you went back?

A. Yes.

Q. Now, have you signed a Back-to-Work petition?

A. Yes, sir.

Q. Where did you sign that petition?

A. A fellow went by my house one day and I signed it.

Q. Who went by your house, do you know the name of the man?

A. Sure.

Q. What is his name?

A. Clarence Barrow, he and another one. I don't know the other man.

Q. Do you know the position which they hold in the plant? What department they work in?

A. Why, Clarence is a clerk.

Q. He is a clerk?

A. Yes.

Q. In what department?

A. He works in the mill office. That is in the steel division. I don't know just what department you would call it.

Q. Do you know what department the other man worked in?

A. No.

Q. Do you know what position he had in the mill?

A. No.

Q. How much did you get for working in the mill during the strike?

A. About double time.

Q. Double time?

A. Yes.

Q. That is, for every eight hours you got paid for sixteen?

A. Yes.

Q. How many hours a day did you work in the mill while you were there?

A. Eight.

Q. And you got paid for sixteen?

A. Yes.

Q. You testified that you never joined CIO, is that correct?

A. Absolutely.

Q. Were you ever beaten up?

A. No.

Q. No one ever beat you up in a saloon or storeroom in the town, is that correct?

A. I didn't stay around town.

TRIAL EXAMINER LINDSAY: Well, answer the question. Did they? Yes or no.

A. No.

Q. Are you able to identify any of the men who were at the scene of the accident? Do you know their names?

A. Not from seeing them.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

(Thereupon, at 12 o'clock M, an adjournment was taken to 1:30 o'clock p. m.)

Afternoon Session

(Whereupon, at 1:30 p. m. the hearing was resumed and the following proceedings were had:).

TRIAL EXAMINER LINDSAY: Hearing called to order.

LOUIS ARNOLD

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. Louis Arnold.

Q. Where do you live?

A. 323 Lincolnway West, Massillon.

Q. Talk out loud enough so that we can hear you over here.

A. 323 Lincolnway West, Massillon.

Q. Where do you work?

A. Coke plant, Republic Steel, in Massillon.

Q. How long have you worked there?

A. Oh, about four years.

Q. Do you remember the day that the strike was called at Republic, the 25th of May?

A. I do.

Q. Where were you that night?

A. I was working in the mill.

Q. You were working in the mill?

A. Coke plant, yes.

Q. You are a larry man? What is your job in the coke plant?

A. Larry man.

Q. What does the larry man do?

A. He has charge of the ovens, charge of the coal to make the coke.

Q. How long did you stay in the coke plant after the strike started?

A. A day.

Q. Did you work there during that time?

A. I did.

Q. Did you sleep there at night?

A. Yes.

Q. What time did you leave the plant? On what day?

A. On June 2nd.

Q. About what time of the day?

A. In the morning, about 7:30, I would say.

Q. In the evening or morning?

A. Morning.

Q. In the morning?

A. Yes.

Q. How did you go out?

A. I walked out the No. 3 gate, and I was taken in a machine by Johnny LaHudie and some other fellows.

Q. You walked through the gate?

A. Yes.

Q. Keep your voice up and talk as loud as I do. And then when you said you got to the gate, you were taken in whose car?

A. Johnny LaHudie.

Q. And who is Johnny LaHudie?

A. He is an employee at the coke plant.

Q. What?

A. Employee at the coke plant.

Q. Did he go out that day, too?

A. No, he was on the picket line.

Q. Oh, he was one of the strikers?

A. Yes.

Q. Was anybody else in LaHudie's car besides you and LaHudie?

A. Yes, Willie Hogans and myself.

Q. Hogans?

A. Willie Hogans.

Q. Who is Hogans?

A. He is an employee of the coke plant.

Q. Is his name Hogan, or Hogans?

A. Hogans.

Q. Is there an "s" on the end of it?

A. Yes.

Q. Anybody else in the car besides you and Ho And LaHudie?

A. There was another fellow sitting in the bac

Q. In the back seat?

A. Yes.

Q. After you got in the car, where did you go

A. Down to the CIO headquarters.

Q. About how far was CIO headquarters fro place where you got into the car?

A. I would say about a mile.

Q. And when you got to the CIO headquarters, happened?

A. They got in and we walked in the CIO hea ters.

Q. When you got in there, whom did you see?

A. Well, I saw several fellows. The ones that I was Joe Morton, a fellow by the name of Green Harp

Q. Is Harper the last name and Green the first

A. Yes.

Q. Anybody else you know?

A. Alex Wood, were the three men I knew per ly.

Q. About how many men were in the CIO hea ters when you got there?

A. I would say a dozen on the inside, about a on the inside.

Q. Then what happened?

A. Well, we sat down, they asked us why we sta the plant and we told them we were working, maint our own jobs. He asked us if we knew that we were breaking the rules.

Q. What else was said?

A. We told him no, we were just working, maintaining our own jobs.

Q. Yes.

A. Well, he said, "Didn't anybody say anything to you about joining CIO?" We told him no.

Q. Anything else said?

A. Well, he says, "You fellows knew you was doing wrong," he says, "Why didn't you come on out when the rest of us did?"

Q. Yes, anything else?

A. He says, "Do you fellows want to join the CIO?" He asked us if we were going to sign up. He says, "Have you got $4?" We told him no, we didn't have it. "Well," he says, "you can't sign, you are not getting out of here until you get $4."

Q. Who said that?

A. Joe Morton.

Q. All right.

A. So we sat down. Words was passed.

Q. Can you remember any of the words that was passed?

A. Well, one word in particular I remember he said if we didn't get the $4 he was going to take us out and beat the living hell out of us.

Q. Who said that?

A. Joe Morton.

Q. Tell anything else you can remember that was said there.

A. Well, Hogans' brother-in-law, at the time, Heman Richardson came in; he went home and got the $4 for Hogans.

Q. Did Hogans sign up?

A. Yes.

Q. Did you sign up?

A. No, I didn't.

Q. Anything else you can remember?

A. They told me when I got the money, if I didn't come back, sign up, they was coming after me.

Q. Yes, anything else?

A. That is all I remember.

Q. And then did you leave?

A. Yes, I left, then after his brother-in-law paid for him, they told me I could go.

Q. About how long were you in there?

A. I will say about 15 minutes.

Q. Can you remember anything else that was said?

A. No, that is all in particular.

Q. What?

A. That is all in particular I can remember.

MR. DAY: All right, that's all.

Cross Examination

Q. (By Mr. Lauter) What turn do you work?

A. I was working 7 to 3 at the time.

Q. What turn were you working on on May 25th?

A. On May 25th I was not working. I was off May 25th. I went to work May 26th, 7 to 3.

Q. That is 7 in the evening to 3 in the morning?

A. 7 in the morning until 3 in the evening.

Q. The first day of the strike you went to work, is that correct?

A. Yes.

Q. How long did you stay in the plant?

A. Eight days.

Q. Did anybody tell you to come to work on May 26th?

A. Yes, they came for me.

Q. Who came for you?

A. Bill Jones.

Q. Bill Jones?

A. Yes.

Q. Who is Bill Jones?

A. Foreman at the coke plant.

Q. Where did he come for you?

A. I was in a billiard parlor downtown.

Q. You were in a billiard parlor?

A. Yes.

Q. Go on.

A. He asked me if I would like to work and I told him yes.

MR. DAY: It is hard to hear you. You can talk a little louder. We have got a fan over here.

Q. How long did Bill Jones talk to you in the billiard parlor?

A. Just passed a couple of words. Asked me if I would like to work and I said yes.

Q. Did he take you to work himself?

A. Yes.

Q. In his car?

A. Yes.

Q. How many hours did you work in the plant on May 26th?

A. Eight.

Q. Did you work eight hours every day that you stayed there in the plant?

A. We was on eight and off eight.

Q. On eight and off eight did you say?

A. Yes.

Q. How much were you paid for that?

A. We were paid 14 hours for 8.

Q. You were paid for 14 hours for every 8 hours you worked?

A. Yes.

Q. Did they provide you with a cot the first night you were in the plant?

A. Yes.

Q. Were there cots for the other men in the plant?

A. Yes.

Q. Did they provide you with any liquor?

A. No.

Q. Any guns?

A. No.

Q. During the time that you were in the C. I. O. headquarters, did you suffer any bodily harm of any kind?

A. Any what?

Q. Did they injure you in any way?

A. No.

Q. Did you ever try to leave the mill after May 26th, 1937?

A. No.

Q. You wanted to stay in the mill, is that right?

A. I did.

Q. You knew there was a strike on?

A. I did.

Q. Did you sign any Back-to-Work petition?

A. I did.

Q. Where did you sign it?

A. In the Chamber of Commerce.

Q. When did you sign it?

MR. DAY: May we have an objection on the same ground, this is not proper cross examination?

A. I disremember when I signed.

TRIAL EXAMINER LINDSAY: Objection overruled and let the record show an exception.

Q. How did you happen to go to the Chamber of Commerce? Who suggested you go there?

A. Different employees was talking and I walked up with the fellows.

Q. Didn't Bill Jones tell you to go and sign?

A. No.

Q. Did any of the foremen there suggest that you go to the Chamber of Commerce?

A. No. I didn't see any of the foremen.

Q. I am not asking you if you saw any of the foremen there.

A. No.

Q. I am asking you if any foreman in the plant suggested to you that you go to the Chamber of Commerce and sign a Back-to-Work petition?

A. No.

Q. You are sure of that?

A. I am positive.

Q. When did you return to work after you left the plant on June 7th, I believe it was?

A. That I don't know. When they started operating. When that was, the exact date, I don't know.

Q. Well, approximately a couple of weeks later?

A. About a month.

Q. Who came to take you to work that time?

A. No one.

Q. Did someone call you up and tell you to come to work?

A. No, no one called me.

Q. How did you know you were to go back to work on that day?

A. I was talking to the superintendent and he told me.

Q. Who is the superintendent? What is his name?

A. Marsh Bower.

Q. Where did you see Mr. Bower?

A. I seen him one Sunday afternoon, I saw him on the street.

TRIAL EXAMINER LINDSAY: Keep your voice up, will you?

Q. What did he say to you?

A. He asked whether I was willing to come back to work and I told him yes.

Q. Did he tell you when to come to work?

A. Yes, on Monday.

Q. And you came?

A. Yes, I did.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

MR. PONTIUS: Mr. Charles Spicer.

CHARLES SPICER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) You are Mr. Charles Spicer?

A. Yes.

Q. Where do you live?

A. 814 Mathias, Northeast, Massillon.

Q. Where are you employed?

A. Republic Steel.

Q. How long have you been employed at that Company?

A. About 18 years.

Q. Now I will ask you to state whether or not you at any time came in contact with Chief Switter at Massillon.

A. Yes, sir.

Q. Do you know when that was?

A. It was about the 12th of June.

Q. Of this year?

A. Yes, sir.

Q. Was there anyone with you at the time?

A. Mr. Shoen.

TRIAL EXAMINER LINDSAY: Talk louder, will you, please?

THE WITNESS: Yes, sir.

Q. Did you have a conversation with the Chief at that time?

A. I did.

Q. Relate that conversation which you had with the Chief.

A. He went down to—we heard we had to get a court order. We wanted to get some belongings out of the plant. We went to the Clerk of Courts, the stenographer in there—

Q. I don't want you to tell what you said to the stenographer.

A. She directed—

Q. You did have a talk with Chief Switter, you say?

A. Yes.

Q. Go right to that, please, where was that?

A. We went to Chief Switter and asked him if we could get in the plant to get some belongings, we did not get when we came out.

Q. I cannot head a word you say, sir. Please talk up.

A. We went into Switter's office and asked Switter about getting into the coke plant in order to get some belongings we had in there.

Q. Well, what was said by you to Chief Switter?

A. And Mr. Switter picked up the telephone.

Q. What did you say to the Chief is what I am trying to get at first? What did you say to him?

TRIAL EXAMINER LINDSAY: He has already told that.

Q. All right. I cannot hear him very well. All right. What did the Chief do?

A. The Chief picked up the telephone receiver and called Joe and after he had a conversation with this man

Joe, why he told us there is no one going in or out of the plant.

Q. What is it that you went there to get out of the plant?

A. My clothes and some tools.

Q. Yes.

TRIAL EXAMINER LINDSAY: Read that.

(Question and answer read.)

Q. Arranged to get.

TRIAL EXAMINER LINDSAY: Tried to get?

MR. PONTIUS: Yes.

TRIAL EXAMINER LINDSAY: I didn't get that.

MR. PONTIUS: May I ask the question again?

Q. What was it that you went to the Chief's office for? What did you go there to arrange to get from the plant?

A. To get our clothes and tools.

Q. When were they left in the plant?

A. I came out on the 7th of June and this was the 12th.

MR. PONTIUS: That is all.

MR. LAUTER: I move to strike the testimony of this witness from the record. There is no identification of the person with whom Chief Switter spoke, no connection with any of the parties in this action.

TRIAL EXAMINER LINDSAY: I am inclined to grant that motion. Let the record show an exception.

MR. LAUTER: Do I understand the testimony of this witness is entirely stricken out or so much of it as relates to the conversation he overheard Chief Switter and a person named Joe—

TRIAL EXAMINER LINDSAY: So much as relates a conversation.

MR. DAY: Is that on the grounds, your Honor, that Joe is not identified?

TRIAL EXAMINER LINDSAY: It is on the ground that most of the testimony has not been connected up in any definite way.

Cross Examination

Q. (By Mr. Lauter) When did you say you came out of the plant?

A. 7th of June.

Q. How long had you remained in the plant?

A. 14 days.

Q. What is your position in the plant?

A. Mechanical foreman.

Q. How many men are there under you?

A. Eleven.

Q. Do you have the right to hire and fire?

A. No, sir.

Q. Do you have the right to recommend the hiring and firing of men?

A. Yes, sir.

Q. Is your recommendation generally followed?

A. Yes.

Q. Did the 11 men who worked in your department stay in the plant at the same time you did?

A. Three of them could not get in. The rest did.

Q. I am asking you if the 11 men stayed in the plant, did they or didn't they?

A. No, sir.

Q. How many of the men stayed in the plant?

A. All but three.

Q. When did those men leave?

A. They could not get in.

Q. I am asking you how long the eight men stayed in the plant.

A. For 14 days.

Q. Did you suggest to those men that they remain in the plant?

A. No, sir.

Q. Did you speak to them about remaining?

A. No.

Q. Did they speak to you about remaining?

A. They did.

Q. Tell the conversation and identify them.

A. They volunteered.

Q. Detail the conversation you had with any of these men concerning remaining in the plant.

A. We didn't have any conversation, they just volunteered to stay.

Q. Did you have a conversation with them?

A. It was their job and they volunteered to stay.

Q. Did you have a conversation?

A. Not any more than the routine of work.

Q. What is that?

A. Not any more than the routine of work.

Q. Did you have any conversation with them about remaining in the plant?

A. No.

Q. They never spoke to you?

A. No, sir.

Q. They just stayed in the plant when the strike came?

A. That is right.

Q. That is right?

A. Yes.

Q. What is the name of your department?

A. Mechanical department.

Q. What is the nature of your work?

A. General repair in the coke plant.

Q. Who suggested to you that you could leave the plant on June 7th?

A. Mr. Donovan.

Q. What is his position?

A. He is superintendent of the mechanical and electrical departments.

Q. You wanted to stay in the plant until June 7th, is that right?

A. Yes.

Q. And the other men in your department wanted to stay there?

A. Yes.

Q. Was any attempt made by yourself or any of these men to leave the plant until June 7th?

A. No, sir.

Q. Did you experience any difficulty in leaving the plant on June 7th?

A. Not any more than we were stopped at No. 2 gate.

Q. When did you return?

A. The 2nd of July.

Q. Did you return with some of the men who worked in your department?

A. I returned alone.

Q. Did you have any conversation between June 7th and July?

A. They contacted me every few days. They usually called up.

THE REPORTER: Please speak a little louder.

TRIAL EXAMINER LINDSAY: You have a louder voice than that, I am positive.

A. Why, they came up to the house sometimes to see me.

Q. Did you finally advise them when they could come back to work?

A. After I got orders to come back.

Q. Who gave you orders, telling you when to come back?

A. Well, I called Mr. Donovan up around about the 26th or 27th of June, and asked him if he knew when the plant was going to resume operations and he said he didn' that he would let me know when he got word.

Q. Did he let you know?

A. On July 2nd.

Q. Did you let the men in your department kno when they could return?

A. I did.

Q. You stayed in the plant from May 25th or 26t until June 2nd. Were you provided with a cot to slee on?

A. Yes, sir.

Q. Is that also true of men in your department?

A. Right.

Q. Were those cots there on that day of the strike?

A. Yes, sir.

Q. Do you know who brought them in?

A. No, I don't know.

Q. How much did you get paid for the time you sper while you were there?

A. Straight time.

Q. What is that?

A. Straight time.

Q. How about the men who worked under you?

A. Oh, they got straight time, I think, I don't know.

Q. Are you sure they got straight time?

A. It was either time and a half or straight time.

Q. What is that?

A. It is either time and a half or straight time. Tha is something I don't know.

TRIAL EXAMINER LINDSAY: Well, lister witness, if you don't know, say so.

THE WITNESS: Well, I don't know.

Q. Did you see any of the Back-to-Work Petitions?

A. I beg your pardon?

Q. Have you seen any Back-to-Work Petitions?

A. No.

Q. Do you know what they are?

A. I have heard they were out.

Q. You heard what?

A. I have heard they were out. I didn't see any of them.

Q. From whom did you hear they were out?

A. Oh, the fellows.

Q. Would you mind speaking up? I can't hear at all.

A. Fellows on the street. I never seen any Back—any of the petitions myself.

Q. Well, did you hear the foremen were taking them around to some of the employees?

A. No, sir.

MR. LAUTER: That's all.

Redirect Examination

Q. (By Mr. Pontius) Mr. Spicer, going to this incident at the City Hall when Chief Switter was there, did he ever mention the last name of this man Joe, to you?

A. No.

MR. PONTIUS: That's all.

(Witness excused.)

FRED C. SCHOEN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. Fred C. Schoen.

Q. You live in Massillon?

A. Yes, sir.

Q. Where in Massillon?

A. 740 Phillips Road.

Q. Where are you employed?

A. Republic Steel Corporation.

Q. How long have you been employed by that company?

A. Four years.

Q. Did you go to the City Hall in Massillon at any time with Mr. Spicer?

A. Yes, I did.

Q. And do you know when that was?

A. Saturday morning, on June 12th.

Q. Do you know Chief of Police Switter?

A. Yes, sir.

Q. I will ask you to state whether or not you and Mr. Spicer came in contact with the Chief there at the City Hall?

A. We did.

Q. Now, I ask you, Mr. Schoen, to relate as fully as you can your conversation with Chief Switter on that occasion?

A. After we went into Chief Switter's office, he asked us what we wanted. I told him that I understood that we could get a court order to get into the Republic Steel Plant to get our tools and belongings, and I wanted to know if we could get it from him. And he said he didn't know, but he would find out for us. Then he picked up the telephone and called a certain number and asked if Joe was there.

Q. Do you know the telephone number he called?

A. No, I don't. It was a four party—or four number line, four dial number, so it would be a local number, that is all I know.

Q. Go ahead, say what was said.

A. Evidently—

Q. No, not evidently. What was said? You say he asked for Joe. Now, go from there straight on.

A. He waited a few minutes and someone answered the phone, then he said, "I have a couple lads here from the coke plant who want to get their tools out of the plant," and then he turned to us and he said, "All right," and he added a little later, "Dick Hardman," and someone else, I don't recall the name, "and I want to come down and see you. We will be down in about half an hour," and he hung up. Then he turned to us and he told us, "There is no one going in or out of the plant." That is all of the conversation. 6

Q. Nothing further that was said there?

A. Nothing further said.

MR. PONTIUS: I believe that is all.

Cross Examination

Q. (By Mr. Lauter) What department are you working in, Mr. Schoen?

A. Furnace division.

Q. How long have you worked for Republic?

A. Four years.

Q. What was your turn on May 25th?

A. I worked day turn all the time. I am electrical foreman.

Q. What?

A. I am electrical foreman, furnace division.

Q. Do you have any men working under you?

A. Yes, sir.

Q. How many?

A. Six.

Q. Did you remain in the plant during the strike?

A. I did.

Q. How long?

A. I left there on the 7th of June.

Q. Were you provided with a cot when you were inside of the plant?

A. Yes, sir.

Q. How many men in the division stayed in the plant?

A. Four.

Q. Did you suggest to them that they remain?

A. I told the men that it was up to them to decide whether they wished to remain or go home. And the men I talked to, four of them stayed in the plant.

Q. Did they leave at the same time you left?

A. No, sir, they left the 3rd of June.

A. They left before you did?

A. Yes, sir.

Q. How much pay did you receive while you were in the plant?

A. Same time.

Q. How much did the men who were working under you draw?

A. I don't know, to be exact.

Q. How many conversations did you have with these men about remaining in the plant?

A. One each.

Q. Were they substantially the same?

A. Substantially the same thing. I told each man that it was up to him to make up his mind what he wanted to do, whether he wanted to work, help us prepare the plant for a shut-down, or to go home. They should make up their own mind.

Q. Did you suggest to them they might get an increase of pay for remaining?

A. No, sir, because we didn't know it.

Q. You don't know whether or not they did get an increase in pay?

A. I don't know.

Q. Did you circulate any Back-to-Work Petitions?

A. No, sir.

Q. Do you know whether any other foreman did?

A. No, I don't.

Q. Do you know whether the men in your department signed Back-to-Work Petitions?

A. I think some of them did. I won't swear to it.

Q. Did they sign it in the plant?

A. None, that I know of, did.

Q. You say you were down to see Chief Switter on June 12th? A. June 12th, yes.

Q. With Mr. Spicer?

A. Mr. Spicer.

Q. What was the reason you went down there?

A. I wanted to get my tools and clothes out of the plant.

Q. You said something about getting a court order, is that correct?

A. That is right, yes, sir. I had heard a rumor that it was possible to get a rumor [order] of that kind, that you might get your tools out of the plant. I wanted to find out.

Q. With whom did you have any conversation prior to seeing Chief Switter about—going to Chief Switter to get a court order, to get your tools out?

A. The lady clerk in the clerk of court's office, City Hall Massillon.

Q. With whom else did you have any conversation with respect to the same subject?

A. I don't know, I just heard a rumor of it when I was downtown about two days previous.

Q. Didn't you have a conversation with Mr. Spicer about it?

A. Well, Mr. Spicer, yes.

Q. What conversation did you have with Mr. Spicer about it?

A. Well, I told him the rumor I had heard, so we decided we would go down to see if we could get it, because we left all of our working clothes and tools in the plant.

Q. Was it at your suggestion that you went down, or Mr. Spicer's?

A. It was my suggestion.

Q. You suggested to him that both of you might go down?

A. Yes, sir.

Q. Now, try to recollect as nearly as you can, from whom you heard what you describe as a rumor, that you can get a court order to get your tools out of the plant?

A. I heard—I was downtown about two days before, I had met some of my motor inspectors on the street, and there was a stranger came into the group, he was a stranger to me, but the fellows I was talking to knew him, he said he had heard that another man had gotten his tools out of the plant by getting a court order from the clerk of courts, and I said, "If that is the case, I am going to try it also." So that is all the rumor I heard.

Q. You don't know who the man was?

A. I don't know who the man was.

Q. Now, when did you return to work after you left the plant on July 7th?

A. 5th of July.

Q. Did you leave on June 7th or July 7th?

A. I should have said June 7th.

Q. June 7th?

A. I left the plant.

Q. At whose suggestion did you return to the plant?

A. Well, I was calling in, after the National Guard came in to Massillon, I started calling the plant every day. Finally they had telephone connections and I got hold of my immediate chief Mr. Kelvie, foreman, and talked to him, and he said there wasn't anything open yet, so I kept on calling him and on the 4th I talked to him and he said they were planning to reopen at the furnace division the next day, so I don't know whether it was his suggestion or my calling in.

Q. After that did you call the men to work for you?

A. No, I didn't, my men had been calling me and getting in touch with me about every other day, and after the guards were in town, they were getting in touch with me every day.

Q. After Mr. Kelvie told you that they were going to open the furnace division, and you were called by a man in your department, did you advise them about the fact that the plant was going to be opened and they couldn't return to work?

A. I left word for one man that the plant was going to be opened and he could come back to work next morning.

Q. What instructions did you give the other men?

A. I didn't give instructions to any other men.

Q. Did you have any conversation with them, subsequent to the conversation with Mr. Kelvie?

A. No.

Q. Did they return without having a conversation with you about it?

A. They returned without having conversation with me.

Q. How many of them returned?

A. Four.

Q. Do you know whether they had conversations with any other official of the company?

A. No, I don't.

MR. LAUTER: That is all.

MR. PONTIUS: That's all.

(Witness excused.)

RALPH W. WOOD

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Ralph W. Wood.

Q. Where do you live?

A. 702, 10th Street, N. E., Massillon.

Q. What is your business?

A. Clerk.

Q. For Republic?

A. Yes.

Q. What kind of a clerk, or what department?

A. Schedule, open hearth furnace.

Q. Talk a little louder.

A. All right, schedule open hearth furnace and the blooming mill.

Q. How long have you worked for Republic?

A. Four years.

Q. Do you remember the night of the strike, May 25th?

A. I do.

Q. Did you work after that?

A. Yes, sir.

Q. Were you working on the day of the strike?

A. I was working 3 to 11 turn.

Q. Well, how long did you work, then?

A. I think it was on June 2nd when I left.

Q. And then you were in the mill from May 25th to June 2nd?

A. Yes, sir.

Q. Working?

A. Yes, sir.

Q. About how many men were in the mill?

A. I wouldn't have any idea off hand.

Q. Can you give us any estimate of it? How many were there where you were?

A. Possibly eight or nine, somewhere around that.

Q. You stayed there at night?

A. Yes, sir.

Q. And you left the plant on the 2nd of June?

A. Yes, sir.

Q. When did you go to work again, then?

A. On the 9th day of July, 11 o'clock the 9th of July.

Q. The 9th day of July?

A. Yes, sir, 11 o'clock.

Q. Was that after the troops came in?

A. Yes, sir, it was.

Q. On Sunday night, July 11th, about 10 or 11 o'clock where were you and what did you do?

A. On the night of the 11th I went to work at 11 o'clock, I left my home at about 10:20 p. m.

Q. You left your home by what method? Did you have a car that you drive?

A. Yes, sir.

Q. Anybody with you?

A. No, sir.

Q. And what was the way you took to go from your house to the mill?

A. South on 10th Street until I come to Andrew; west on Andrew until 8th Street; south on 8th Street to Lincoln Highway; west on Lincoln Highway until Erie Street; south on Erie until Oberlin Road; west on Oberlin Road.

Q. Now, did that take you over the viaduct?

A. Yes, sir.

Q. And state whether or not at that time there were many men, or how many men that went over that viaduct going to work, off south Erie?

A. That night?

Q. No, just usually—Was that the usual way for men to get to the mill?

A. Yes, sir.

Q. And the men that took that course to the mill, where did they live generally? What part of Massillon?

A. Oh, I would say the north and the northeast.

Q. Now, what happened that night while you were driving to work?

A. When I got within about four or five blocks of the viaduct there was quite a number of machines parked along the road there and I pulled down and there was about three cars parked a short distance back from the entrance to the viaduct, very close to the center of the street. I pulled around those street cars and attempted to cross the viaduct, but there was two other cars had just turned in towards the entrance of the viaduct ahead of me.

Q. Will you talk a little louder, please? With that fan it is hard for me to hear.

A. I had swung wide to get into the entrance to the viaduct, but I did not get all the way in. I started, then, and made a turn right off of Erie Street, to Oberlin Road, and at that time there was a car crashed, just a couple of cars ahead of where I was standing in my car.

Q. Now, the car that crashed was going in what direction?

A. It was going north on Erie, and made a lefthand turn into Oberlin Road.

Q. And what cars did it crash into?

A. There was one car sitting up in front, very close to the mouth of the viaduct.

Q. And did you see the position of the cars after the crash?

A. No, there was a bunch of people come running out around, men and young fellows, and I didn't see the position of the cars.

Q. Did you see what kind of a car this car was that crashed into the other cars?

A. It was a light greenish gray colored car.

Q. Do you know what make it was?

A. Possibly a Ford or Plymouth, I don't know for sure.

Q. A Ford or what?

A. A Ford or Plymouth.

Q. Did you observe anything else about it?

A. Nothing in particular. There was—

Q. What?

A. There was a sticker, a CIO sticker on one of the windows of the car.

MR. LAUTER: At this time, if you please, Mr. Examiner, I want to object to the testimony along this line and move to strike out all of the testimony given thus far by this witness, on the ground there is nothing connected with anything else given on the direct case with the Board, no point in the hearing about a crash that took place on the viaduct.

TRIAL EXAMINER LINDSAY: I will sustain the objection. Let the record show an exception, unless you show in connection with that—

MR. DAY: Unless we show what?

TRIAL EXAMINER LINDSAY: Unless you connect it up. This does not show anything, Mr. Day.

MR. DAY: Well, this is all a part of the whole transaction.

TRIAL EXAMINER LINDSAY: I understand. The objection is sustained.

MR. DAY: Unless we connect it up with what, may I ask?

TRIAL EXAMINER LINDSAY: You ought to know.

MR. DAY: Well, we show this is a CIO car, a CIO sticker. Very short time before the riot that they went into, down in Washington.

MR. LAUTER: If you please, Mr. Examiner, the fact that an automobile having a CIO placard on it gets into a crash somewhere in the city of Massillon is no reason for introducing evidence upon that subject in this hearing.

TRIAL EXAMINER: I sustain it.

MR. LAUTER: Just to suggest, do you mean that there is any connection between the accident on the viaduct and a shooting that took place at 11 o'clock in the evening, is absolutely absurd.

MR. DAY: Now, you say it is absurd—

TRIAL EXAMINER LINDSAY: I sustain the objection. Proceed.

MR. DAY: All right. Exception. I offer to prove by this witness—I offer to prove that two cars ahead of the car driven by this witness were proceeding southerly on South Erie Street close to the center of the roadway, and that he was directly in back of them; that traffic was moving slowly, and suddenly one car made a righthand turn in back of him and drove between the north curb and his car and also past the other two cars in front of the witness while at about the same time another car, a greenish gray sedan with a CIO sticker, which was a Ford or a Plymouth, travelling north on Erie Street, made a lefthand turn on the Oberlin Road Viaduct, drove past the witness' car as well as the other two cars ahead of the witness' car and collided with the car which had just passed the witness on the right, with the result that it was to blockade the entrance into the —

TRIAL EXAMINER LINDSAY: Now—

MR. DAY: Was to block—

TRIAL EXAMINER LINDSAY: That is a conclusion there.

MR. DAY: What is that?

TRIAL EXAMINER LINDSAY: That is a conclusion that you are putting in now.

MR. DAY: Well, that is what he will testify.

TRIAL EXAMINER LINDSAY: He can't testify to a conclusion. The record will show for itself.

MR. DAY: Let me make that offer to prove, first. I understand it.

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: All right.

Q. Don't answer this. Did you see the position of the cars after the crash?

A. No, I didn't.

Q. All right. After the crash occurred, what did you observe as to people being there?

A. There were people came up all around the car.

MR. LAUTER: I am going to object to any further questions being addressed to this witness. If there is an offer of proof—

MR. DAY: You cannot offer to prove until you ask a question.

MR. LAUTER: I am sorry, that is unusual in my experience.

MR. DAY: An offer to prove is an offer to prove.

TRIAL EXAMINER LINDSAY: Read the question.

(Question read.)

TRIAL EXAMINER LINDSAY: The objection to that question is overruled. It is outside of the scope of the offer to prove.

MR. LAUTER: I would like to find out whether the offer to prove has been completed at this time or not.

MR. DAY: The offer of proof with relation to the question as to which an objection was sustained has been completed, yes, sir.

MR. LAUTER: Then I want to renew my objection to the offer of proof and get a formal ruling on it from the Examiner.

MR. DAY: To the offer of proof?

TRIAL EXAMINER LINDSAY: Well, your objection to the offer to prove is overruled, and let the record show an exception.

MR. DAY: Let me get this straight. The truth is out and the offer is in, is that right?

TRIAL EXAMINER LINDSAY: Well, that is right.

MR. DAY: Well, I know the ordinary rules but what is going on here, I do not know.

TRIAL EXAMINER LINDSAY: Well, didn't I just say that? You don't need it in the record half a dozen times.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: Proceed.

Q. And then what did you see happen?

A. They moved the car back away from the entrance to the viaduct and some officer of the law—

Q. What?

A. Some officer of the law came walking aside the car and he said, "Get across the viaduct as fast as you can." And we proceeded across. The first car went across pretty rapidly, the car ahead of me did not seem to go ahead quite as fast and we were slower in getting across the viaduct.

Q. Well, did you see anything else happen there that night at that time?

A. One tall slim fellow standing to the left of my car, he had on light trousers, light shirt, thin light hair, and he had a large caliber gun sticking in the waistband of his trousers.

Q. What if anything did you see him do?

A. He—

MR. LAUTER: Just a minute. I want to object to the question on the ground there isn't any connection with any of the parties to this action or the issues in this case. What a man in light trousers did on the viaduct is unrelated to any of the issues in this case.

TRIAL EXAMINER LINDSAY: Go ahead. Proceed.

Q. What else happened that you saw?

TRIAL EXAMINER LINDSAY: Objection is overruled. Let the record show an exception.

Q. What else did you see happen?

A. I saw one fellow with a club break a window in an automobile there and I think it was the window in the rear of the car that they pushed back that had the C. I. O. sticker on it.

MR. LAUTER: Will you read the answer?

TRIAL EXAMINER LINDSAY: Read the answer, please.

(Answer read.)

Q. Did you see anything else there at that time? Well, if you didn't, did you hear anything at that time?

A. I didn't hear anything. I heard one shot fired just shortly after the cars crashed.

Q. Where were you when you heard the shot fired?

A. About, I was just turned halfway, possibly, into the viaduct entrance.

Q. Could you tell from what direction the shot came or the sound of it came?

A. No, I could not.

Q. Afterwards where did you go?

A. I crossed the viaduct to the west end of the viaduct and turned south to the steel mill office, the mill office, not the main office, the mill office.

Q. The mill office?

A. Yes, sir.

Q. Where is the mill office located as distinguished from the main entrance?

A. The mill office is south of the sheet mill division and the main office is west on Oberlin Road from the west end of the viaduct.

MR. DAY: Have we got any thumb tacks, Judge? We can then put this up. If we cannot, I won't take the time to get them.

MR. PONTIUS: I do not think we have.

TRIAL EXAMINER LINDSAY: I understand the map, Mr. Day, and I understand where the roads are.

MR. DAY: Do you understand where the mill office is? I don't. The main office, but not the mill office.

TRIAL EXAMINER LINDSAY: He pointed it out once or twice.

MR. DAY: He said the mill office. That is the reason I want to take the map, because he refers to a mill office, and it is the first time I have heard it.

Q. Now, Mr. Wood, take the map—

TRIAL EXAMINER LINDSAY: You have it upside down, haven't you?

MR. DAY: I would not be surprised because I am never any good with maps.

TRIAL EXAMINER LINDSAY: Turn it around.

MR. DAY: This way all right?

Q. Now, will you locate on that map, after looking at it, so you can get some hang of it, where the mill office is that you are talking about?

A. It would be over in this direction, over here somewhere (indicating).

Q. How near is it to what is marked District Office there?

A. Oh, about a quarter of a mile from the mill office to the District Office.

Q. What street is the mill office on?

A. It is not on any street at all. It is a private company road proper.

Q. Do you get the lay of the property?

A. No.

Q Do you want it the way I had it, or do you want it this way?

(Map turned around.)

Q. (By Mr. Day) Here is Erie Street?

A. Here is Erie Street.

Q. And there is the viaduct and there is Oberlin Avenue, there is the District Office building, and here is the sheet division, there is the C. I. O. headquarters, and there is Cleveland Street (indicating). Can you now locate the mill office?

A. It would be about down in here.

Q. Will you mark an X where it ought to be?

TRIAL EXAMINER LINDSAY: Put it where you think it should be.

(Witness indicates.)

Q. That is where it is approximately?

A. Yes.

Q. Is that where you went?

A. Yes, sir.

Q. Is that where you work?

A. Yes, sir.

Q. About what time did you go to the mill office, would you say?

A. Around about 10:30 or 10:36 or 7, when I rang in.

Q. How long were you in the mill office?

A. That night?

Q. Yes.

A. I was in the mill office until 7 o'clock the next morning.

Q. The next morning?

A. Yes, sir.

Q. Now after you got in the mill office, what if anything did you observe?

A. There wasn't anything at all. I called the open hearth department and asked them if everything was O. K. up there and they reported it was and I called the soaking pits and asked them if everything was O. K. there, and it was. I called the superintendent and advised him there had been some trouble at the east end of the viaduct and that I had gotten in O. K. and everything was all right in the mill.

Q. Well then, what, if anything, did you observe after that?

A. After that I heard several shots and saw flashes that seemed to come from an old sand bank up on Erie Street.

Q. Where were you when you saw those flashes?

A. In front of the building.

Q. And you say you heard shots?

A. Yes, sir.

Q. You say you saw flashes. Will you describe a little more accurately what kind of flashes they were?

A. They were just sharp flashes.

Q. Where were the flashes that you saw?

A. They seemed to be coming from an old sand bank or up on top of that sand bank, which is 150 to 200 feet high from the street.

Q. The sand bank is near to or adjacent to what street, if any?

A. It is exactly opposite the viaduct.

Q. Exactly opposite the viaduct?

A. Yes, sir.

Q. Well now, can you take the map? Now starting back, place about where that sand bank was that you saw the flashes seemed to be coming from.

A. About here (indicating). Put this north and south.

Q. All right. There is the mark you made there, that X for the mill office.

A. Here is how I want it (indicating). The sand bank lays across this street here, right opposite this viaduct.

Q. What is the name of that street?

A. Erie Street.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Will you point out the mill office again?

TRIAL EXAMINER LINDSAY: You will have to talk louder because what you say goes into the record or at least should.

A. That is where I have an idea it is there (indicating).

Q. You were in the building here?

A. Yes, sir.

Q. About what time?

A. It was possibly 10:45. I had made my phone calls, 10:45.

TRIAL EXAMINER LINDSAY: You will have to raise your voice.

Q. (By Mr. Lauter) Is there a building here called the mill office?

A. Yes, sir, there is.

Q. And where in that building were you?

A. I was standing in front of the building on the steps when I heard the shots and saw the flashes.

Q. Where did the steps face, what street?

A. The steps faced, this is Erie Street here (indicating).

Q. You mean the steps faced in that direction there (indicating)?

A. Yes, sir.

Q. Is there any building in between the steps and Erie Street?

A. No, sir, there is not.

Q. What about the employment office and hospital?

A. Well, the hospital is not in between.

Q. Where is that located with respect to the mill office?

A. From where I was standing facing north, the hospital and employment office are over to the left.

Q. Which way is north on this map, do you know?

A. That is what I have been trying to find out.

TRIAL EXAMINER LINDSAY: The last remark you made the Reporter did not get it at all.

Q. North is in that direction, is that correct?

A. Yes.

Q. Where do the steps face?

A. The steps face east.

Q. This is east (indicating)?

A. Yes, sir.

Q. That means you were facing in the direction of Erie Street?

A. Yes.

Q. Are there any buildings there at all?

A. No, there are no buildings. You can see directly from the mill office here over onto Erie Street, you can see the entire length of the viaduct along there.

Q. How many blocks away is that?

A. Oh, I would say in the neighborhood of 10 blocks or so, something like that.

Q. Or maybe more?

A. I would not say it was more than that, about 10 blocks.

Q. About 10 blocks away?

A. Yes.

Q. You saw flashes?

A. Yes.

Q. You don't know who fired those guns?

A. No.

Q. They were gun flashes?

A. Yes, sir.

Q. You testified about seeing a man in light gray trousers with a gun, is that right?

A. Yes, sir.

Q. Can you identify him?

A. No, I could not.

Q. Do you know whether he ever shot that gun off?

A. I don't know.

Q. Do you know whether the police shot off any weapons at the viaduct that night?

A. On the east side of the viaduct, I don't know.

Q. On any side of the viaduct?

A. No, I don't.

Q. How late did you stay in the mill that night?

A. I was there until 7 o'clock the next morning.

Q. Did you hear any shooting that night?

A. I heard shooting that night, yes.

Q. Did you look out to see where it was?

A. No, I didn't. Not after the heavy shooting had started.

Q. You say not after the heavy shooting had started?

A. Yes.

Q. Did you see the heavy shooting?

A. No, sir.

Q. Did you look out at all?

A. Not after the first part, after I had gone into the mill.

Q. After the flashes you saw in Erie Street, you did not look out to see them?

A. No, sir.

Q. You heard shooting, though?

A. Yes, sir, that is right.

Q. But you did not look out to see where it came from?

A. No, sir, I didn't.

Q. You said you saw a sand bank on Erie Street, is that right?

A. Yes, sir.

Q. Can you see that 10 blocks away?

A. Yes, sir.

Q. You could see 10 blocks away that the flashes came from behind a sand bank?

A. Not from behind the sand bank. These flashes that I saw looked as if they came from off of the top of the sand bank.

Q. From the top of the sand bank?

A. Yes, sir.

Q. Where is that sand bank, is it on Erie Street?

A. Yes, sir, on Erie Street, right opposite the viaduct.

Q. After May 25th did you try to leave the mill?

A. I didn't.

Q. You wanted to stay in the mill, is that right?

A. Right.

Q. What is your position in the mill?

A. Clerk.

Q. How long did you stay in the mill?

A. From the 25th of May until the 2nd of June.

Q. Just what are your duties as clerk in the mill?

A. I scheduled the open hearth furnaces, that is, gave them their proper heats, I scheduled the blooming mill where the steel is rolled and cut into billets.

Q. How much pay did you receive for the work you did there each day?

A. I received regular pay.

Q. That is for eight hours?

A. Yes, sir.

Q. Is yours a foreman's job or the equivalent of a foreman's job?

A. It is more or less contact work and my work is all at night. I do not work any days.

Q. I am asking you if it is the equivalent of a foreman's job?

A. No.

Q. Do you have any supervisory tasks at all?

A. Only to see that the proper heats are made in the furnaces and so forth, like that.

Q. Do you direct the actions of any of the men?

A. No.

Q. You were given a cot also?

A. Yes, sir.

Q. Those cots were in there the night of the strike, is that right?

A. What is that?

Q. Those cots were in there the night of the strike?

A. There were cots in there the first night.

Q. Did you sign any Back-to-Work petition?

A. I did.

Q. Where did you sign it?

A. At the Chamber of Commerce Building, Massillon.

Q. How did you happen to go there?

A. I had gone down the street that morning and I met quite a few on the street, different fellows from the mill, and they said they was going to vote about going back to work and it was going to be held in the bank building but somehow or other they abandoned that plan of voting in the bank building and shortly afterwards they said we would vote in the Chamber of Commerce Building. Then we went over there and voted in the Chamber of Commerce office.

Q. You say you went to the Chamber of Commerce and voted?

A. Yes, sir.

Q. Is that what you understood you were doing when you signed a Back-to-Work petition?

A. I was signifying my willingness to go back to work.

Q. Who suggested to you it was a vote?

A. Nobody suggested to me it was a vote.

Q. Who did you talk with about signing the petition? I am not interested in their names, only whether they were foremen or not.

A. There were no foremen that I know of.

Q. When did you return to work?

A. The 9th day of July, when the open hearth furnaces were started.

Q. Who told you to go back to work?

A. The manager of the order department called me back and told me I should report to work at 11 o'clock on the night of the 9th.

Q. Who was the manager that called you back to work?

A. Mr. McArdle.

Q. Did you know if he called the other men to come back to work?

A. I don't know.

Q. Did other men come back to work at the same time you did?

A. I don't think there was. There was some in there, possibly three or four, possibly four days before I was.

Q. Did you have any conversation with them before you returned to work?

A. No, sir, I didn't.

Q. You say you didn't know that the shooting that was done on the viaduct was done by policemen? Is that right?

A. No, I didn't.

Redirect Examination

Q. (By Mr. Day) You started at 11 o'clock that night to work?

A. Which night?

Q. That night I am asking you about?

A. Yes, sir, I started at 11 o'clock that night.

Q. You worked until when?

A. 7 o'clock in the morning.

Q. That was an 8 hour shift?

A. Yes.

TRIAL EXAMINER LINDSAY: We will have a recess.

(Witness excused.)

(Recess.)

ANDREW LABER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. Andrew Laber.

Q. Where do you live?

A. 807, 6th Street, S. W., Massillon.

Q. What is your business?

A. Millwright.

Q. You work for—

A Republic Steel.

Q. How long have you worked for Republic Steel?

A. Between three and four years.

Q. Directing your attention now to Sunday evening July 11th, where were you about 10 or 10:30?

A. I was on—going on south Erie Street.

Q. And were you in an automobile?

A. Yes, sir.

Q. Driving it yourself?

A. Yes, sir.

Q. Anybody with you?

A. No, sir.

Q. Where were you bound for?

A. To the mill.

Q. Going down to work by your usual route, that night, where would you turn off South Erie?

A. Well, I was—it was Sunday night and I needed a few things for lunch, and I was going to stop at Anthony's before I went, but I thought it would be a little late, so I went right on, I didn't stop. I generally went down Tremont Street or either over Walnut.

Q. Well, was there a route down there, down South Erie and across the viaduct that was frequently taken by men working in the mill?

A. What is that?

Q. Was there a regular way of getting to work down South Erie to the viaduct, and then across the viaduct?

A. You mean, that is the way I went?

Q. Yes.

A. I went down South Erie and across the viaduct, west.

Q. Was that a usual way of men going to work?

A. Well, sometimes I walked over through the Heights or either rode with someone that drove, I mostly drove.

Q. Was it customary for men working in the mill down there to drive their automobiles down in South Erie and then turn into the viaduct?

A. Well, I don't know. A fellow could go up Sixth Street or I mean down Sixth—

Q. I know he could, but was it a usual thing for him to go down the way I am telling you.

A. Yes.

Q. All right. And what happened that night when you were driving down?

A. Well, I got close to the viaduct on South Erie and the cars commenced to stopping and jamming up, and I stopped behind the other cars about in the middle of the car track.

Q. Then what happened?

A. Just about—I was about the 4th, 3rd or 4th car back from the viaduct and close to that there is a building on the left, on the right of the street, and just as I stopped at least two or three men close to the car and there was a bunch of bottles breaking on the street, so I backed across the street.

Q. Tell me about the bottles breaking on the street.

MR. LAUTER: May it please the Examiner, at this time I would like to note my objection to this testimony on the ground incompetent, irrelevant, and immaterial, the fact that an accident took place on the viaduct, whether glass was broken at that particular point because of the crash of the two cars is in no way related to the issues in this case.

TRIAL EXAMINER LINDSAY: I will overrule the objection. Let the record show an exception.

Q. Go ahead, you are telling about bottles, go ahead.

A. Well, at first I seen some glass break on the street, I suppose that it was a bottle, but I thought it might have been some trouble.

TRIAL EXAMINER LINDSAY: Don't tell what you thought.

Q. Don't tell what you thought.

TRIAL EXAMINER LINDSAY: Just a second, let's get this straight.

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: Strike what he thought out of the record.

Q. Don't tell what you thought, or what you suppose. Just tell what you saw and what you heard.

A. There was some glass breaking on the street in front of my car. I backed across the street. There was a gasoline station there and a vacant lot by the side of that. I backed in across the street and stopped, headed toward the center of the street.

Q. Then what did you see happen?

A. At this time I seen two young fellows standing there at the side of my car, on the back. One fellow come down from the south, west side of the street, he had something in his hand, I don't know what it was. But as he took towards my car I got out, and I suppose he was going to throw something out of the window, I didn't know.

TRIAL EXAMINER LINDSAY: Wait a minute.

Q. Don't tell what you suppose.

TRIAL EXAMINER LINDSAY: Strike that out of the record. You know what an oath is, don't you?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: All right.

Q. Just tell what you saw and try not to say what you suppose or what you thought. Just what you saw. Go ahead and tell us what you saw.

A. Well, I saw a few policemen around there, a few men. That is about all I seen.

Q. Now, you told a minute ago that you got out of your car. After you got out of your car what happened?

A. Well, the fellow started towards the car and I said—I supposed he was going to throw a rock through the windshield and I said—

TRIAL EXAMINER LINDSAY: What was this?

THE WITNESS: The fellow started towards the side of my car and I got out and I supposed he was going to—

TRIAL EXAMINER LINDSAY: All right, now, strike that out. I struck it out before, and leave what you supposed was going to happen out of it.

Q. Well, now, when the fellow came up to your car, just describe his appearance? What was he doing?

A. He started towards the car.

Q. Yes, and then what did you do or what did you say?

A. Well, I got out of the car.

Q. Then what did you do and what did he do?

A. He starts and run across the street.

Q. Then what was the next thing you saw happen?

A. Then a police running down the street.

Q. Yes.

A. And then I seen two or three more fellows running down the street.

Q. Now, have you told all that you saw there?

A. That is all I saw.

Q. By way of refreshing your recollection, did you see any bricks thrown or anything thrown that night?

MR. LAUTER: I will object to that question, it is definitely leading.

MR. DAY: Well, I say, "by way of refreshing his recollection."

MR. LAUTER: That is an odd way of refreshing it.

TRIAL EXAMINER LINDSAY: The objection is sustained to that.

Off the record.

(Discussion held off the record.)

Q. (By Mr. Day) What else did you see?

A. Well, that is about all.

MR. DAY: That is all.

TRIAL EXAMINER LINDSAY: Off the record.

(Discussion held off the record.)

Cross Examination

Q. (By Mr. Lauter) You say you saw some police and some men before you got out of your car?

A. Yes, sir.

Q. You testified about some glass breaking?

A. Yes, I heard or seen the glass break on the car across the street.

Q. You don't know who broke the glass?

A. No, I don't.

Q. You don't know what policemen were there?

A. There was a police standing there oh, I suppose in the center of the street.

Q. I asked you whether you identified any of the policemen?

A. No. Until afterwards. After it was over. There was one man—

Q. Can you identify any of the police?

A. Not the city police.

MR. LAUTER: That's all.

Redirect Examination

Q. (By Mr. Day) Mr. Lauter, that is the lawyer over there, asked you while you were in your car, you saw a man and saw police, and you said yes. Tell us everything you saw the man and the police do.

A. Well, I seen one man throw something through a car window and run down the street, and the police after him, and he ran about a half a block, I suppose, and I think he caught him, I don't know that.

TRIAL EXAMINER LINDSAY: Strike that out of the record.

Q. All right, anything else you saw either the man or the police do?

A. No.

MR. DAY: That is all.

Recross Examination

Q. (By Mr. Lauter) Did you see the police shoot him?

A. No.

MR. LAUTER: That's all.

(Witness excused.)

HARRY W. GREEK

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Harry W. Greek.

Q. Where do you live?

A. Well, I live in Massillon and I have a summer cottage.

MR. LAUTER: Excuse me, before we proceed with this witness, I would like to move to strike the testimony given by the other witness, on the ground there is no connection with any issues in this case or with any parties to this action.

TRIAL EXAMINER LINDSAY: Yes, I will sustain that objection. Let the record show an exception.

MR. DAY: Exception.

Q. Where do you live?

A. In Massillon, 1023 Main Avenue West, and I have a summer cottage at Luna Lake. I live there in the summer time.

TRIAL EXAMINER LINDSAY: Off the record.

(Discussion held, off the record.)

MR. DAY: I make this statement in the record, or out of the record, whichever the Examiner wants it, that we have subpoenaed certain police officers and they can't be here possibly until Tuesday. Now we think that the testimony of this police officer will connect these transactions up.

TRIAL EXAMINER LINDSAY: Oh, that is out of the record. That is entirely out of the record.

MR. DAY: Leave it out of the record.

TRIAL EXAMINER LINDSAY: Leave it out of the record.

MR. DAY: But we find ourselves in the position now of having all of the witnesses we have—along the same general line of these witnesses—Now we think the police officers will connect it absolutely, we think—

TRIAL EXAMINER LINDSAY: Why don't you put your police officers on?

MR. DAY: We hadn't subpoenaed them. Those were only subpoenaed—those were the subpoenas you signed up this morning, see?

TRIAL EXAMINER LINDSAY: That is a situation we can take care of.

MR. DAY: I know, but the point is this, that if this witness—if these witnesses testify and their testimony is excluded, then we will have to call them back.

TRIAL EXAMINER LINDSAY: It is not excluded. It is in the record. It is just a motion to strike.

MR. DAY: Well, but it is stricken out.

TRIAL EXAMINER LINDSAY: No, it is not stricken out. You don't get this straight. It is in the record, some place, and then underneath that is—all there is there, that the lawyer has a motion to strike and that motion is sustained.

MR. DAY: Yes, but here is the trouble with that, in the trial of the case, this testimony is in the record, but it is not testimony that is being considered by you.

TRIAL EXAMINER LINDSAY: That is right.

MR. DAY: That is right. Now, then, we feel confident that if we had the police officer's testimony first, we could make a record by which you would admit the testimony that is now excluded.

TRIAL EXAMINER LINDSAY: Well, if that does happen, then what follows?

MR. DAY: We have to put these men back on again.

(Discussion held.)

Q. Where did you work?

A. Republic Steel, coke plant.

Q. What is your position there?

A. Turn foreman.

Q. Were you working the night of the strike on May 25th?

A. Yes, sir.

Q. How long did you continue to work there after the strike?

A. I haven't quit working.

Q. You quit the night of the strike?

A. What is that?

Q. You quit the night of the strike?

A. No, I haven't quit. I worked through the strike and I am still working.

Q. Oh, you have been there all the time?

A. Yes, sir.

Q. Now, on Sunday evening, July 11th, about half past 10, where were you?

A. I was on my way to work.

Q. What?

A. I was on my way to work.

Q. How were you going to work?

A. Going by the way of South Erie Street to the viaduct.

Q. Is that the way you usually went?

A. Well, not usually, no.

Q. Well, was that a way that was frequently used by employees of Republic Steel to go to work?

A. Yes, sir.

Q. And were you driving an automobile or walking?

A. I was driving an automobile.

Q. Was anybody with you?

A. Yes, sir.

Q. Who?

A. James Bell.

Q. Who is he?

A. He is a colored boy. He is a hot car man on my shift.

Q. On your shift?

A. Yes, sir.

Q. Will you tell us just what happened?

A. Well, as I was nearing the viaduct, I was in front of the confectionery, I think it is the second place from the viaduct north on Erie, when there was a crash on the viaduct right at the entrance of the viaduct and it tied up the traffic and we had to stop. There was—

Q. Did you see either of the cars or any of the cars that were in the crash?

A. No, I didn't It was around the corner, I couldn't see that.

Q. What happened to your car, if anything?

A. Well, while I was parked there near the viaduct, there was a machine coming, coming north on Erie Street and as he neared my car, he turned over to the west side of the street and crashed into the left front wheel of my car.

Q. Did you see who was driving the car?

A. Well, I saw the man, but I didn't recognize him.

Q. After the smash took place, what if anything did you see him do?

A. They both jumped out of the car and ran north on Erie Street.

Q. Then what happened?

A. Well, at the time of the crash, there was a crash on my windshield and glass flying, so I immediately locked the doors on the car and sat still until things quieted down.

Q. Do you know Walter Hoopengarner when you see him?

A. Yes.

Q. That is spelled H-o-o-p-e-n-g-a-r-n-e-r?

A. Yes.

Q. Who is he?

A. Well, he is connected with the C. I. O. and he works at Republic Steel but what department, I don't know.

Q. Did you see him that night?

A. Yes, sir, I did.

Q. When did you see him with relation to the crash?

A. Well, right at the time of the crash as I was parked there I saw Hoopengarner run into this confectionery and at that time there were probably 15, 20 men come running out of the confectionery.

Q. They came running out?

A. Well, maybe not running out, but they all came out.

Q. Now after they came out—

MR. LAUTER: Let the witness finish the answer, please.

MR. DAY: What?

MR. LAUTER: The witness had not completed his answer as to whether they were running out.

A. I don't remember exactly if they ran out. They filed out of the place of business.

Q. Then what happened, how many of them came out?

A. I would judge between 15 and 20.

Q. Then what did they do?

A. Well, they mingled with the crowd there. I don't say they destroyed property or anything but the police immediately started chasing them down North Erie Street.

Q. North of what street?

A. North Erie Street.

Q. Chasing who?

A. The men that came out of the confectionery.

Q. With Hoopengarner?

A. Well, I didn't see—

Q. Or after Hoopengarner went in?

A. After Hoopengarner went in.

Q. What happened to you?

A. As soon as the police had the mob cleared out, I pulled the fender away from the wheel and backed up and went on to work.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) You are turn foreman, did you say, Mr. Greek?

A. Yes, sir.

Q. In what department do you work?

A. Coke plants.

Q. And you have worked continuously since May 25, 1937, is that correct?

A. Correct.

Q. How many men are there working under you?

A. It varies. On day turn I have around 25, 30 men, on the night turns we have around 13 to 15 men.

Q. Did you ever try to leave the plant subsequent to May 25th?

A. No, sir.

Q. Did you want to stay inside the plant?

A. Yes, sir.

Q. How long did you remain in the plant?

A. Until, I think it was July 2nd, the evening of July 2nd.

Q. Did the men on your turn stay in there?

A. No, sir.

Q. Did they all leave?

A. They all left.

Q. When did they return to work?

A. The exact date, I cannot tell you. It was between, right around the 7th, I would say.

Q. Did you have any conversation with them prior to July 7th on your turn?

A. I saw three or four of them downtown on the evening of the 2nd.

Q. On the evening of the 2nd?

A. Yes, sir.

Q. That is the day you returned to work?

A. That is the day I left the plant.

Q. That is the day you left the plant, I am sorry. Will you detail the conversation you had with some of the men on your turn?

A. They asked me when the plant was going to start and I told them I didn't know.

Q. Did you ever suggest to any of the men on your turn that they ought to go back to work?

A. No, sir.

Q. Have you ever circulated any Back-to-Work petitions?

A. No, sir.

Q. Have you ever signed any yourself?

A. No, sir.

Q. What pay did you earn when you were in the mill?

A. I got 16 hours a day.

Q. What is that?

A. I got paid for 16 hours a day.

Q. How many hours did you actually work?

A. It varied anywhere from 8 to 18.

Q. So on the days you worked 8, you got paid for 16 hours, is that correct?

A. I got 16 hours straight through.

Q. Regardless of whether you worked 8 or 10 or 12 or more, is that correct?

A. Yes, sir.

Q. On July 11th, about what time did you start to arrive at the plant, when did you leave your home?

A. Well, I was at the Lake that evening and I usually leave the Lake between a quarter of 10 and 10. 10, quarter of 10, when I leave the Lake.

Q. How far is the Lake from the plant?

A. It is about 15 miles.

Q. How long does it take you to drive to the Lake?

A. Well, it varies with traffic and everything, anywhere from 20 to 45 minutes.

Q. How long did it take you on the night of July 11th?

A. Well, it was about 10:30 when I arrived at the viaduct.

Q. You say a car crashed into your car, is that correct?

A. Yes, sir.

Q. But you are not able to identify the car?

A. Well, as far as the license goes, I could not tell you what the license plate was.

Q. You cannot identify any of the men who were in the car?

A. I haven't tried.

Q. What is that?

A. I haven't tried.

Q. Although your car was damaged?

A. Yes.

Q. You say a man by the name of Hoopengarner went into a confectionery, is that correct?

A. Yes.

Q. Did he run into the confectionery or did he walk?

A. Well, he was on a dog trot when he went in there.

Q. On a dog trot?

A. Yes.

Q. And 15 to 20 men came out. Were they also on dog trots or were they walking?

A. I don't remember.

Q. Do you remember how many came out of the confectionery?

A. I told you between 15 and 20.

Q. How large was the crowd that they mingled with?

A. Well, I would judge there was 40, 50 people around the viaduct there at least.

Q. That was 40 or 50 without the 15 or 20 that mingled or with?

A. With.

Q. So there were 30 people standing around the viaduct who were neither walking nor running?

A. They were around the viaduct.

Q. Standing there?

A. I didn't notice many people there until the crash.

Q. Well, at the time of the crash, did you notice that there were about 30?

A. Absolutely.

Q. Where were they standing with respect to the confectionery?

A. They were every place, the street, the sidewalk, every place.

Q. Was it after the crash that the 15 or 20 men came out of the confectionery?

A. It was after the crash that the men came out, at the entrance of the viaduct, yes, sir.

Q. And you do not know whether Mr. Hoopengarner called them out or whether they came out because of the crash, do you?

A. I don't know.

Q. Was there a loud noise as a result of that crash?

A. I could hear it very plainly in my car, yes.

Q. And they could hear it very plainly in the confectionery?

A. I do not know.

Q. You say you did not see any of these 15 or 20 men destroy any property, is that correct?

A. No, I didn't see them. The only thing was, they broke a bottle on my windshield.

Q. Yes. By they you mean all the 15 or 20?

A. I don't know who did, one of the men.

Q. You don't even know if it was one of the men who came out of the confectionery?

A. It happened right after they came out.

Q. But you don't know who threw the bottle, if it was thrown?

A. No.

Q. And you do not even know if it was a bottle?

A. It was a bottle. And I later found out it contained acid.

Q. Did you find the bottle?

A. I found the pieces.

Q. How do you know it contained acid?

A. Because I had a chemist at the laboratory test it.

Q. Where did they take the glass from with which they made the test?

A. They took a piece of glass that was laying on my windshield.

Q. You say that the two men who were in the automobile ran away, is that correct, after the crash?

A. Yes, sir.

Q. And the police chased them?

A. Yes, sir.

Q. Did you see any police do any shooting?

A. No, sir.

Q. Did you hear any shots that night?

A. I didn't hear any shots.

Q. How long did you remain at the scene of the accident?

A. Well, long enough to get out of it. I would say between five and ten minutes.

Q. Did they clear the entrance of the viaduct rather quickly?

A. Yes, sir.

Q. And the cars kept going right through, is that right?

A. Yes, sir.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) Mr. Lauter asked you if they cleared the entrance to the viaduct rather quickly. What was the condition of the viaduct? You saw it before they started to clear it.

A. I could not see the entrance to the viaduct from where I was. I heard a crash over there and the fellows ran over there to clear the way. I could not see what was going on. I stayed in the car.

Q. Now, did that crash take place before your car had the contact with the other car or afterward?

A. Before.

MR. DAY: That is all.

Recross Examination

Q. (By Mr. Lauter) About how long before?

A. Well, it was a matter of seconds.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: In order to give you time, Mr. Day, to get your witnesses lined up for Tuesday morning, we have just got the subpoenas, we will adjourn until Tuesday morning at 9:30.

(Wherepuon, at 4 o'clock p. m., September 3, 1937, the hearing in the above-entitled matter was adjourned to 9.30 o'clock a. m., September 7, 1937.)

Courtroom No. 1, Stark County Courthouse, Canton, Ohio
Tuesday, September 7, 1937

The above entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before

JOHN T. LINDSAY, Trial Examiner.

Appearances:

Mark Lauter, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., Thomas F. Veach, Esq., and Arno G.

Erdrich, Esq., (Cleveland, Ohio), and H. C. Pontius, Esq., (Canton, Ohio), appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

WILBERT D. MOORE

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) You are Wilbert D. Moore?

A. Yes, sir.

Q. Where do you live, Mr. Moore?

A. 2615 Lincoln Way East, Massillon, Ohio.

Q. What is your business?

A. Police officer in the City of Massillon.

Q. How long have you been a police officer of the City of Massillon?

A. Going on 14 years.

Q. Now, you may state whether or not you are familiar with the location of the plant of the Republic Steel Company.

A. I am.

Q. Their plant in Massillon?

A. I am.

Q. From and after May 25, 1937, were you about that plant?

A. Very near continually.

Q. What was your method of going about in the city there?

A. Motorcycle.

Q. Tell us, if you will, please, the conditions that existed concerning the men of the plant after the strike began; with reference to what part of the streets?

A. Well, there was a number of pickets. For a while a lot of clubs, and finally they had stones, and finally a court order—

MR. LAUTER: I ask that the time be fixed.

TRIAL EXAMINER LINDSAY: Yes. The time should be fixed.

Q. Well, from the beginning of the strike on until the beginning of the court order? What was the conditions?

A. Well, they had these clubs, stones lying around. A car going by, they would holler "Scab," and stuff like that.

Q. Can you describe the clubs that they had?

A. Anything from ball bats to tree roots; large limbs off the trees. Some of them whittled into the shapes of clubs.

Q. Did you notice anything other than the clubs in their hands?

A. No, sir, I didn't.

Q. Now, where were these men that carried the clubs located?

A. Well, all along the Oberlin Road.

Q. What would you say as to the number of these men from time to time?

A. They varied sometimes from 40 to 50, sometimes more.

Q. Do you know where the entrances are of the Republic Steel mills located?

A. Yes, sir.

Q. Where were these men in reference to those entrances?

A. They had cars in front of the gates. Men standing in front of both gates.

Q. How long a period of time did that situation continue?

A. Well, it is still existing. There are pickets there—not so many.

Q. I mean the cars.

A. Up until the men went back to work.

Q. Do you know when that was when the men went back to work?

A. What?

Q. Do you know when that was when the men went back to work?

A. I believe it was the 3rd or 4th of July; I am not sure just when it was.

Q. Now, you may state whether or not you know a man by the name of Burke?

A. I do.

Q. Do you know what part he had there in the street on the picket line?

A. He was captain of the picket post for quite a while.

Q. Did you have any conversation with him at any time?

A. I did.

Q. Where did you have that conversation?

A. In front of the main office of the Republic Steel in Massillon.

Q. Were you with him at that time?

A. Yes, sir, and Officer Hodge.

Q. When did you have this conversation with Burke?

A. On Friday; the 10th of July.

Q. What was said by Mr. Burke in that conversation?

A. Him and Hodge had been talking—they had been working together in the mill. Hodge said to him: "Red, why don't you go back to work?" He said: "I will when the strike is over." He said: "Anyway they will know who is running this God damn show in 48 hours."

Q. Do you know where the C. I. O. quarters were located there in Massillon?

A. Yes.

Q. Where were they located at that time?

A. On Cleveland Avenue.

Q. On and prior to July 11th, were the officers, the police officers, stationed at any point on Cleveland Avenue?

A. Yes, sir, about 100 feet south from the CIO headquarters.

Q. Just describe what the situation was there as to the location of the officers, and what arrangement was made there?

A. Well, there was three men there to check the picket cards and trying to keep order.

Q. That is, in other words, if somebody wanted to go down from there to the plant, they showed cards to these officers, and they let them through?

A. Yes, sir, yes, sir.

Q. Were you there at that post at times?

A. On and off, yes, maybe a dozen times a day I would come there. I did not stay there regularly.

Q. Now, could you see from that point where you officers were stationed—could you see north to the CIO Hall?

A. Oh, yes.

Q. Was there anything there at all, to obstruct your view?

A. Nothing.

Q. Do you know a man named Mike Rudak?

A. Yes, sir.

Q. Did you see him at any time?

A. On Saturday afternoon of July 10.

Q. Where did you see him?

A. At this post of the officers on Cleveland Avenue.

Q. Did you see where he came from, to the post?

A. He came out of the CIO Hall.

Q. Do you recall what officers were there at that time?

A. I believe Officer Henderson, Hodge, and Kraft.

Q. About what time of the day was this, if you recall?

A. Oh, I should judge around 4 o'clock in the evening.

Q. Did you have any conversation with this Mike Rudak at that time?

A. I did.

Q. Relate what was said.

A. He came down and said, "You officers had better watch, they are coming down and get you," he says, "I am a friend of the policeman."

Q. Then what occurred?

A. Well, this man had had a couple drinks and he went back over in front of CIO Hall. It looked as though the bunch around there were sore at him because he had talked to us fellows.

TRIAL EXAMINER LINDSAY: No.

Q. You can't give a conclusion.

MR. LAUTER: I object to that and ask it be stricken.

MR. PONTIUS: That may be stricken out.

TRIAL EXAMINER LINDSAY: That part may be stricken out. You just tell exactly what you saw and nothing else.

Q. What did you see?

A. Well, I saw them push him out in the street.

Q. Officer, were you on duty on July 11th, 1937, Sunday?

A. I was.

Q. And where were you on duty that evening, Sunday night of July 11th?

A. South Erie and Oberlin Road.

Q. I take it, you are familiar with the viaduct in Erie Street?

A. Yes, sir.

Q. And the streets around there?

A. Yes, sir.

Q. Now, what time did you go down to that point?

A. Oh, around 10:15.

Q. You may state whether or not there is a traffic light, one of these traffic lights that hangs up in the air, there at that point?

A. There is.

Q. During the strike, how was that traffic light operated? Was it operated or turned out?

A. It was not operated.

Q. How was traffic directed at that point?

A. By man power.

Q. And who would attend to that?

A. Well, the 11 o'clock turn, Officer Schwinger generally handled it.

Q. During the strike, after the mills were opened, are you able to tell the Examiner the usual way of the men going to work at that mill?

A. Well, they generally came down South Erie and turned over the viaduct.

Q. You say you got down there about 10:15?

A. Yes, sir.

Q. What did you notice when you first got there?

A. Well, I noticed there was a larger crowd than usual down there.

Q. How many people would you say were there at that time?

A. Oh, possibly 150 or more. They kept coming, up until the trouble started, possibly—when that started there was 300 there.

Q. Do you know who these men were?

A. No, sir, the only man I recognized in the crowd was Ernie Koontz.

Q. Who was Ernie Koontz?

A. Well, he belonged to the CIO. I don't know just what his title is. He has been very active.

Q. Had you seen him in the strike zone prior to this night?

A. Oh, yes, every day.

Q. Now, what, if anything, aside from seeing this number of people there—what was the first thing you observed that occurred there?

A. Well, about 20 minutes of 11:00 there was a car came from the north and one from the south and tried to jam the viaduct.

MR. LAUTER: I object to that and move the answer be stricken out.

MR. PONTIUS: "Tried to jam" may go out.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. Just tell what they did.

A. Well, the one car coming from the north made a wide right turn and hit a large cement abutment and his car bounced back about two or three feet and there was a car pulled away from the south curb and came over and smashed into the one that was already there. That stopped all traffic on the viaduct.

Q. Now, the car that came from the north, could you tell us about what speed that came down at?

A. Oh, possibly 30 miles an hour.

Q. And did you get the license numbers of those cars?

A. No, sir, not at the time I didn't.

Q. Did you later?

A. I did, one of them. One was gone before I got the license number of it.

Q. Can you give us the license number of the one that you got?

A. P-216-D.

Q. Now, what was the next thing you noticed after these cars were there?

A. When the cars smashed, I was down the street possibly 30 feet from the intersection, I run up to see what was going on.

Q. That was down the street, which direction?

A. North.

Q. You were north?

A. On Oberlin Road.

Q. Yes.

A. I ran up to see what was going on and there was enough men there to handle it, so I went back down to where I was before.

Q. Then what occurred?

A. Just as I got back I heard—I saw a tall foreigner standing out in front of the South Erie Grill, and he hollered, "Come on, let's let them have it," and rocks and stuff started flying.

Q. Then what was the next thing you noticed?

A. Well, we—there was a car came down the center of the street, trying to hit Officer Schwinger—

TRIAL EXAMINER LINDSAY: Wait a minute.

Q. You can't say what it was trying to do, just tell what direction it was coming.

A. The car came from the south.

Q. Yes.

TRIAL EXAMINER LINDSAY: Just a second, now. Strike that part out. Strike out that he was trying to hit Officer Schwinger. Listen, Officer, you are under oath. You are supposed to tell exactly what you saw, not what your conclusions are.

THE WITNESS: I see. All right, sir.

Q. Where was Officer Schwinger at that time?

A. Out in the center of the street.

Q. And where were you?

A. In the center of the street about 50 feet from him, north of him.

Q. What direction did this car take?

A. It came from the south, going north.

Q. And just describe its—how it proceeded northward, there?

A. Well, it came so close to Schwinger that he had to jump, and then it came down towards me and I had to jump between two cars to get away from him.

Q. Where did that car go then?

A. It went on north.

Q. And what happened, if anything?

A. Nothing.

MR. LAUTER: If it please the Examiner I move that all this testimony be stricken, with respect to the car that almost hit this officer and the other officer, on the ground it is in no way connected with the issues in this case.

TRIAL EXAMINER LINDSAY: Well, it is stricken unless you can show who was in it.

MR. DAY: We think it is admissible as part of the circumstances that took place there that night, regardless of who was in it.

MR. LAUTER: Well, then we might as well have the distribution and the number of trees on the street and other unimportant data.

MR. DAY: Oh, no, I don't think that is true, at all.

MR. LAUTER: There is no testimony here either with respect to this accident or the way this car was driven.

TRIAL EXAMINER LINDSAY: That answer is stricken unless it is connected up.

MR. DAY: Let the record show we think it is now sufficiently connected up and except to the ruling striking it out.

TRIAL EXAMINER LINDSAY: You may have that exception.

Q. You have already related about stones being thrown? what happened after that, then, Officer?

A. Well, then I went to the other side of the viaduct after everything was quieted down over by the mill.

MR. LAUTER: If it please the Examiner, I move that all that evidence with respect to throwing of stones be stricken from the record, on the ground there is no connection with the parties in this case.

MR. DAY: We would like to be heard on that.

TRIAL EXAMINER LINDSAY: Well, I will overrule that objection. Let it speak for itself. You may have an exception.

MR. LAUTER: Exception.

Q. (By Mr. Pontius) Do you know, Officer, what became of these men that you say were throwing these stones?

A. They were dispersed, started on their way home, or wherever they wanted to go.

Q. Was there anything broken there, to your observation?

MR. LAUTER: I object to that question as leading the witness.

MR. PONTIUS: Well, I do not want to lead the witness.

TRIAL EXAMINER LINDSAY. Yes, you surely are leading the witness.

Q. (By Mr. Pontius) After the stones were thrown what, if anything, did you hear?

A. Well, there was windows in several automobiles broken. Dents in the side of cars.

MR. LAUTER: I want to renew my objection to this line of inquiry and move the answer be stricken, on the ground it has no connection with any of the parties in this case.

TRIAL EXAMINER LINDSAY: I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. Now what, if anything, did you hear about that time after these stones were thrown?

A. Well, after the crowd was dispersed I heard some shooting over on the other side of the viaduct, and went over there.

Q. What did you hear?

A. Gun shots.

Q. How many?

A. I couldn't say that, several.

Q. Then where did you go? You say you went to the other side of the viaduct, to what point did you go?

A. Crossed the viaduct and went on Cleveland Avenue southwest.

Q. With respect to the location of the city officers, where did you go?

A. Right where they were.

Q. When you got over there, whom did you see?

A. I saw Officer Kelley and Kraft and Ickes.

Q. Who are those three men?

A. Those are regular police officers of the city of Massillon.

Q. Anybody else there that you saw?

A. Kraft, Henderson—I don't just remember who the others were. There were several there.

Q. Now, I wish you would describe the conditions that existed when you got over there, Mr. Moore?

A. Well, there was some shooting going on, on both sides, and gas being shot from our side.

MR. LAUTER: May we have the term of this fixed, please.

MR. PONTIUS: Yes.

Q. Well, about what time was that?

A. Oh, I would say that would be about five minutes to 12:00, somewhere around there, when I got over there—five to ten minutes to 12:00.

Q. Do you mean 12?

A. Or 11:00, I mean to say.

Q. Yes; now just go forward and tell what you observed there with respect to the shooting or anything else?

A. Well, there was a large crowd, possibly 50 feet north of the C. I. O. Hall, and several shots came from that side. I told the men, I said, "You had better lay down in the street, don't be a target." We did, and we started shooting gas.

Q. Now, then, what followed that?

A. Well, the crowd kept moving back and it kept getting a little hotter and hotter until finally —

TRIAL EXAMINER LINDSAY: Get out the words "hotter and hotter."

Q. Yes, that is your conclusion.

A. Well, there was four shots came over toward us. We still kept the gas up and finally the Canton police arrived.

Q. Before the Canton police arrived, were there shots from any other direction than—

A. Yes, there was some came up from—to the east of us from along the B. & O. Railroad tracks. There was two shots came up from there and we turned the gas guns on in there and that was the last we heard from down in there.

MR. DAY: We would like to put the map up.

Q. Mr. Moore, calling your attention to the plat or what is known as Respondent's Exhibit No. 1—I don't know if you have seen this before—calling your attention to South Erie Street here and the viaduct here (indicating)—

A. Yes, sir.

Q. (Continuing)—and Cleveland Avenue. This is Oberlin Avenue running east and west?

A. Yes, sir.

Q. It has been identified that the C. I. O. hall is marked on the plat where I am pointing here. Can you point out to the Trial Examiner where this station was that the officers were located at?

A. Here (indicating).

Q. Indicating Cleveland Avenue just to the south of the alley way that runs east and west. The first alley way south of C. I. O. headquarters?

A. Yes.

Q. Now, is that the point that you got to when you went over there; when you heard that shooting?

A. Yes, sir.

Q. Now, I call your attention to the lines on this map. The railroad tracks C. L. W. where that is located.

A. Yes, sir.

Q. Now, you said the shooting came from the right of the offices?

A. Yes, sir.

Q. Now, could you tell about where that came from?

A. It would be down around the B. & O. tracks. I can't tell exactly but it was west towards the railroad.

Q. You say the B. & O. tracks?

A. That is the name now. It used to be the C. L. W.; that is the old name.

Q. Now, could you describe this shooting a little more fully than you have?

A. It was either three or four that came by. It was close enough to me so that I could hear them whiz by me.

Q. Now, after the gas was shot?

A. We didn't hear anything more from them.

Q. Now, about how many people were on Cleveland Avenue—as I understood you to say, you said above the C. I. O. hall?

A. Yes, sir.

Q. Were they on the street?

A. Yes, sir.

Q. Just describe the conditions on that street.

A. The street was jammed. You could not really state how many was there. It was a large crowd.

Q. Well, when you got over there where were those people on Cleveland Avenue? You say they jammed the street?

A. I would say about 50 or 100 feet north of the C. I. O. hall.

Q. By what manner did you go over there on the street at this time?

A. In my own private automobile.

Q. Did you have any ammunition in that car?

A. I did.

Q. What kind of ammunition did you have?

A. Gas.

Q. Now, when you got over there, what, if anything, did you do with respect to the use of the ammunition?

A. I shot gas for some time.

Q. Now, what shooting, if any, did you observe coming from the north to the south?

A. Well, every once in a while there was a shot coming from the north. There was none coming from the south.

Q. That is, south of where you men were?

A. Yes, sir.

MR. LAUTER: May we fix the time on this, please?

Q. As near as you can, about what time—

MR. LAUTER: What time now?

Q. I want you to follow this along in detail as fully as you can, Mr. Moore. Describe what took place after you got over there as fully as you can.

MR. LAUTER: May we have the time fixed, if you please, Mr. Examiner?

TRIAL EXAMINER LINDSAY: Yes. Fix the time that you got there.

A. I would say about five or ten minutes of 11. I had been over the other end of the viaduct probably 10 minutes from the time it started.

Q. Now, you have said that the officers from Canton came there?

A. Yes, sir.

Q. Could you tell us about how long were you there when the officers from Canton came there?

A. About possibly 20 or a half hour, somewhere around there.

Q. 20 minutes to a half an hour?

A. Yes, sir. Maybe longer; I would not say because I don't know.

Q. Now, where did you men remain—you and these officers remain until the Canton officers came there?

A. Right where the post was on Cleveland Avenue.

Q. What was the condition with respect to the crowd when the Canton officers came there?

A. There was a very large crowd still on Cleveland Avenue.

MR. LAUTER: May we have the time on this fixed, please?

Q. From the time that you got there, what was the condition there?

MR. LAUTER: May we have the time fixed when there was a large crowd on Cleveland Avenue?

A. There was a crowd on Cleveland Avenue all the time.

MR. LAUTER: I have asked to have the time fixed. The witness has just testified that the Canton officers got there and there was a large crowd subsequent to the shooting.

MR. PONTIUS: He has already testified that it was five minutes to 11.

TRIAL EXAMINER LINDSAY: Now, what time was this?

THE WITNESS: You mean when the Canton officers arrived?

TRIAL EXAMINER LINDSAY: When you got there and the crowd increased right straight through.

THE WITNESS: I would say it was 10 minutes to 12 when I got there. The crowd was there up until the Canton police got there.

Q. You mean 12 o'clock?

A. I mean 11 o'clock.

Q. Now, from the time you got there until the Canton police arrived, what was the condition of Cleveland Avenue north of there?

A. Crowded with people.

Q. What, if anything, was that crowd of people doing during that period of time?

A. Oh, standing around and hollering, stuff like that.

Q. Now, were they doing anything else that you observed?

A. Only once in a while there would be a shot coming down towards us that I could not tell where it was coming from.

Q. Now, with reference to the shooting that you described as coming from the railroad tracks, about what time was that?

A. That was shortly after I got over there; I don't know how long.

Q. What is your best judgment after you got over there?

A. Possibly five minutes or so.

Q. Have you had any experience in the shooting of firearms?

A. About five years in the army.

Q. That is, in what Army?

A. In the World War.

Q. Now, can you tell the character of these shots that came from the north to the south there?

A. No, sir, I could not.

Q. You have said that the bullets that you heard coming from the railroad tracks whizzed by you. Did you hear any other bullets whiz by you?

A. Not that I know of.

Q. Now, while you were there and before the Canton officers came there, are you able to tell how many men were there?

A. No, sir, I could not exactly say.

TRIAL EXAMINER LINDSAY: What do you mean by men—officers?

Q. Well, whoever was there?

A. Yes.

Q. Can you name any more officers than you have named?

A. No, I don't believe I could.

Q. You are familiar with the time that shifts changed over there at the Republic Steel?

A. Yes, sir.

Q. What time did the shifts change there?

A. Eleven o'clock.

Q. Now, when you went over on Erie Street to the viaduct, over to the post on Cleveland Avenue, did you come in contact with any officer of the Republic there?

A. No, sir.

Q. With respect to the term "changing," what do you know about that, that night, if anything? Whether the men in the mill came out or if anybody went in?

A. A few went in that was on Erie Street. We sent them across the viaduct but whether they went in or not, I don't know.

Q. With respect to anybody coming out?

A. I couldn't tell you that.

Q You know where the entrances to the plant are where the workmen come in and out?

A. Yes, sir.

Q. Did you observe the conditions down there that evening?

A. No, sir, I did not; I wasn't near the gate.

Q. Now, have you described as fully as you can what took place before the Canton officers came there?

A. Yes, sir.

Q. Now, when the Canton officers came there, what occurred?

A. Well, the first thing they did was disperse the crowd that was on Cleveland Avenue. Told them to keep moving along and keep out of the district.

Q. Did you know who was in charge of the Canton officers?

A. I believe Captain McDonald.

Q. How many men did he have with him, do you know?

A. That I couldn't say.

Q. How long did you remain around there then?

A. I stayed there until about 9 o'clock.

Q. Until when?

A. About 9 o'clock the next morning.

Q. Now, did any other officers come there that night?

A. No, sir; everybody that was on duty stayed.

Q. I mean any other public officers? Military officers or anything like that?

A. The National Guard came in early in the morning; I don't know about what time.

Q. Do you know about when that was?

A. Oh, around 2 o'clock sometime; 2 or 2:30.

Q. You were there at that time?

A. Yes, I was.

Q. Now, did you go with the National Guard?

A. No, sir, I didn't.

Q. The rest of that night, what were you doing, Mr. Moore?

A. Just standing around in case anything happened.

Q. Did you take any part in evicting anybody or arresting anybody?

A. No, sir, I didn't.

Q. Now, with respect to the crowd there on Cleveland Avenue, did you notice anything unusual about that as to size or anything?

A. Yes, we never had that many people around at that hour of the morning or evening before.

(A short recess was had at 10:50 o'clock a. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

Q. Mr. Moore, can you estimate the number of people that were on Cleveland Avenue that night when you got there?

MR. LAUTER: I object to the question. The question has already been asked; the witness has testified that he could not say.

TRIAL EXAMINER LINDSAY: Yes, he said that at least four times.

MR. DAY: He said there were more than on any other evening but he could not estimate the number.

TRIAL EXAMINER LINDSAY: All right; objection overruled.

MR. PONTIUS: The objection is overruled?

TRIAL EXAMINER LINDSAY: Yes. Let the record show an exception.

Q. You may answer the question, Mr. Moore.

A. I would say around 400. Between three and four hundred somewhere; I am not positive.

Q. And from your observation prior to this night, what was about the usual number there?

A. Oh, they would vary, sometimes there would be one hundred around there, or 50, or 75; you couldn't tell exactly how many were there. At the changing of shifts on the picket line, there would be quite a few more than usual because you would have your pickets that were going on and the ones that were coming off.

Q. With respect to the times that you went down there, did you go there at any particular times, in the vicinity of the plant there?

A. Well, we were in and out of there all during our shift; practically stayed right around the mill, unless we would have to go on a call or something.

MR. PONTIUS: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Mr. Moore, had you ever received any gifts from Republic Steel Corporation?

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A. Any what?

Q. Any gifts from Republic Steel Corporation?

A. No, sir.

Q. You testified about a conversation on July 10th with a person named Mike Rudak?

A. Yes, sir.

Q. What time of the day did that conversation take place?

A. Well, it was around about 4 o'clock.

Q. And you say you saw him coming out of the C. I. O. headquarters?

A. Yes, sir.

Q. And where were you stationed at the time you saw him coming out?

A. I was sitting in my car talking to the men who were on the post there.

Q. Where was your car stationed?

A. My what?

Q. Where was your car at the time you saw him coming out?

A. Heading right towards C. I. O. Hall, and I was talking to the men that were on that post.

Q. About how far from C. I. O. headquarters were you?

A. About 100 feet.

Q. Where were these men that you were speaking to?

A. Standing right alongside of the car.

Q. On the lefthand side of the car or righthand side, do you remember?

A. I don't remember that.

Q. You don't remember on which side of the car they were standing?

A. No, sir.

Q. Who were the officers to whom you were speaking?

A. If I remember right it was Kraft and Henderson.

Q. And Hodge?

A. Hodge was in the car with me.

Q. Now, did you notice whether or not—is it Rudak, or Rudka?

A. Well, it is spelled R-u-d-a-k, Rudak.

Q. Was Rudak drunk when he came out of C. I. O. headquarters?

A. He had a few drinks in him, yes.

Q. Could you tell whether he was drunk when he came out?

A. Well, he wasn't staggering, but you could tell from the way he talked that he had had a few drinks.

Q. Where did he walk when he came out of the C. I. O. headquarters?

A. Right down to the post of the policeman, where I was sitting in the car.

Q. What did he say?

A. He said, "You better watch out, they are coming down and get you, they want to do it."

Q. Did he say who was coming down?

A. No, sir.

Q. Did he say when they were coming down?

A. No, sir.

Q. Is that the total extent of the conversation?

A. That is all I heard of it.

Q. Did you say anything to him?

A. No, sir, I did not.

Q. Did any of the other officers say anything to him?

A. Not that I remember.

Q. How long did he stay at the police post?

A. Oh, possibly five minutes, maybe not that long.

Q. And that is all he said, is that one sentence, is that correct?

A. That is all I heard of him. He was talking to one of the other men. He walked away from the car and I didn't hear what they said there.

Q. Do you know who else he spoke to, when he was there?

A. I don't remember just who it was.

Q. But you did see him speak to one of the other officers?

A. I did see him speaking to some of the officers that was standing outside of the car.

Q. Then what did he do?

A. He walked back into the C. I. O. Hall—or not into the Hall, but up in front of it, in the crowd, and I see several of the fellows talk to him, and then they shoved him out into the street and I picked him up.

Q. You say you picked him up?

A. Yes, sir.

Q. What did you do with him?

A. Took him down to jail.

Q. Did you go into the crowd and get him?

A. I didn't have to, they had shoved him out into the street.

Q. Well, you were 100 feet away from where he was?

A. Yes, sir, just about; possibly 100 feet. Maybe a little more.

Q. And they shoved him out into the street?

A. Yes, sir.

Q. They didn't shove him all the way to where you were standing, did they?

A. Oh, no, they shoved him straight out from C. I. O. Hall, and I was sitting in the car.

Q. Did you go and get him?

A. Yes, sir, I did.

Q. Did you go alone?

A. I did.

Q. And you took him along to police station?

A. Yes, sir, I took him and another man with me. I wanted to see what the argument was about.

Q. What time did it happen?

A. It was around 4 or 4:30, I don't just recall.

Q. And that was on July 10th?

A. July 10th, yes, sir.

Q. Did you advise anyone of the conversation that you had with him?

A. Sir?

Q. Did you tell anybody about the conversation that you had with him? It wasn't a conversation, he just made the remark to you, is that correct?

A. He just made the remark.

Q. Did you tell anybody about that remark?

A. I told the fellows that was around there, I says, "Maybe you had better watch a little bit."

Q. Whom did you tell that to?

A. All of the officers that were around there.

Q. Who else was around there?

A. Those are the only ones that I remember, was Kraft and Henderson. Hodge was in the car with me. There was one other there, but I couldn't tell you who it was.

Q. Now, on July 11th, you testified that you came down to the viaduct about 10:15; is that right?

A. Yes, sir.

Q. How did you happen to get down there at that time?

A. In my own car.

Q. I say, how did you happen to get there at that time?

A. Well, we were supposed to get there as near after 10:00 o'clock as possible, and stay there until the shifts were changed.

Q. Who was with you when you got there?

A. Hodge.

Q. Was he riding in your car?

A. He rode with me all the time, yes, sir.

Q. That is your private car?

A. That is my own car, yes, sir.

Q. You testified that after the accident that occurred on the viaduct, you heard some shooting, is that correct?

A. Yes, sir.

Q. About what time was that?

A. Well, it was shortly after the wreck happened.

Q. What time did the wreck happen?

A. Well, as near as I can figure about 20 minutes of 11:00.

Q. And about what time did you hear the shooting?

A. Oh, I don't know, it was shortly afterwards.

Q. Five or ten, fifteen or twenty minutes after?

A. Well, approximately five minutes or so.

Q. What did you do when you heard the shooting?

A. I stayed around there until the crowd was dispersed, and then I went around to the other side.

Q. Which side of the viaduct were you, when you heard the shooting?

A. I was on the east side, at the Erie end of Oberlin Road.

Q. And the shooting took place after the accident, is that correct?

A. Yes, sir, possibly five or ten minutes afterwards.

Q. You are not able to identify any of the persons who were involved in the accident, are you?

A. The two men that were in the cars.

Q. Can you identify them?

A. Well, I couldn't pick them out, because I wasn't that close to them.

Q. In other words, you saw their cars?

A. But I didn't see them.

Q. You didn't know who was in the car?

A. No, sir, I do not.

Q. And you don't know who threw the rocks either, do you?

A. No, sir.

Q. Now, you went across the viaduct when you heard the shooting, is that correct?

A. I did, after everything was cleaned up on South Erie and the crowd was dispersed.

Q. How long did that take to clean it up, Officer?

A. Didn't take very long.

Q. Did it take very long? To get the cars out of the way?

A. No, sir, they were pushed off to the side and then the wrecker, I guess, come and got them.

Q. Did you say you saw the crash or you didn't see it?

A. No, sir, I didn't see it.

Q. You didn't see the crash?

A. I was about, I would say 20 or 30 feet down the street from the intersection.

Q. You mean down on Erie Street?

A. Yes, sir, that would be to the north.

Q. The crash took place on the viaduct?

A. On the viaduct.

Q. Or near the viaduct?

A. Yes, sir.

Q. So you didn't see the crash?

A. I didn't see it, I seen the man go around the curb and hit the abutment, and that was all.

Q. Now, when the shooting took place, you went over to where the officers were, where the shots were, is that right?

A. Yes, sir.

Q. And who was there at that time?

A. Well, Kraft, Fellavon, Kelley and Henderson.

Q. Did you have any conversation with any of the officers?

A. The only thing I said, "We had better get down wherever they were at.

Q. You didn't see any shooting, did you?

A. Well, I didn't see any fire fly.

Q. At the time you made the remark to them, had you seen any shooting?

A. I had heard shots, yes.

Q. You didn't know who had shot, though, did you?

A. Sir?

Q. You didn't know who had shot, though, did you?

A. No, I didn't.

Q. You didn't see whether it was the officers or anyone else?

A. Nothing, only I heard them whiz on down by me.

Q. I am talking about the time that you went over to these other officers, after you heard the shots, you were at that time on the east side of the viaduct, is that correct?

A. Yes, sir.

Q. You had not known, had you, who fired the shots that you heard?

A. I didn't. No.

Q. When you came over to the officers, did you converse with them?

A. No, sir, because I had no more than got out of my car until I heard a bullet whiz down by me, there, and I hollered, "Get down."

Q. Where were you, in your car? Where were you stationed? On Cleveland Avenue?

A. Yes, sir.

Q. Or Oberlin Road? Cleveland Avenue?

A. Yes, sir.

Q. How far from C. I. O. headquarters?

A. Possibly 100 feet, 150.

Q. When you got there with your car, were the officers standing up?

A. Yes, sir, not all of them were up, but some officers were standing up, some were laying down.

Q. You made no inquiries about who had fired the shots that you heard, is that correct?

A. No, sir, I did not.

Q. Now, you referred constantly to the fact that you used gas gun?

A. I did.

Q. Did you use any revolver?

A. No, sir.

Q. Or pistol? What?

A. No, sir.

Q. Did you fire any bullets that night?

A. No, sir, my gun was never out of my holster.

Q. You fired only gas?

A. Only gas, yes.

Q. How long—how many projectiles did you fire?

A. I can't say, quite a few.

Q. Five or a hundred?

A. Well, it didn't run a hundred.

Q. Fifty?

A. Possibly fifty.

Q. Fifty gas projectiles?

A. Yes, sir, maybe more, maybe less. I don't know for sure.

Q. When did you start firing your gas projectiles? As soon as you came over?

A. Sir?

Q. When did you start firing your gas projectiles, as soon as you got there?

A. After the shots came down that I heard.

Q. Where was the gas?

A. The gas was in the back of my car, where I carry it.

Q. Did you ordinarily carry gas around in your car?

A. Yes, sir, I did.

Q. Carried it around on the previous day?

A. Yes, sir.

Q. When did you first start carrying around the gas in your car?

A. The day the strike started, until the National Guard came in, I was ordered to use my own car by the city of Massillon.

Q. Were you also ordered to carry gas around?

A. Yes, sir, I was.

Q. Who gave you the orders?

A. Chief of Police.

Q. You say you heard some shooting from the B. & O. Tracks, is that correct?

A. I did.

Q. You don't know who fired those shots, do you?

A. No, sir, I don't.

Q. But you know there weren't over three or four?

A. It was three or four, I wouldn't say for sure.

Q. About what time did you hear those shots?

A. Oh, I had been there possibly ten or fifteen minutes, sometime around there. It is really hard to remember, because things were happening pretty fast.

Q. You testified about a large crowd being outside of CIO headquarters?

A. Yes, sir.

Q. Did that crowd stay there while the shots were being fired?

A. Yes, sir, they did.

Q. You testified about—what is that?

A. Yes, sir.

Q. Didn't disperse?

A. Well, there was a few of them left, but there was a few of them stuck around.

Q. When you say "few" what would you mean?

A. Well, part of the crowd left and part didn't.

Q. You say there were three or four hundred there, is that right?

A. There was possibly that many, yes, sir.

Q. You say a few left?

A. The crowd kept dwindling right along.

Q. At the time you fired your first gas shell, that was right after you got over there?

A. Yes, sir.

Q. How many were over there then?

A. That is when the crowd was largest, I would say between three and four hundred. After we started shooting gas, they dispersed. Then we quit firing and it seemed as though they came back, and when the Canton police arrived, we dispersed the crowd and we didn't have any more that night.

Q. What time did the Canton police arrive?

A. I couldn't tell you.

Q. How long after you arrived there?

A. I really wouldn't know.

Q. Well, about an hour, or two or three?

A. Well, I would say possibly 45 or 30 minutes, somewhere

Q. All that time the group was standing in front of the CIO headquarters?

A. They was milling around there in the street.

Q. A couple of hundred of them standing there?

A. Yes, sir.

Q. Did you stop firing gas during that time?

A. I did.

Q. Weren't there others firing gas?

A. Not for possibly five or ten minutes there, there wasn't a shot fired. All at once there was a shot came out of that crowd, then we opened up the second time, on them, with gas.

Q. What did you do the first time? Only gas?

A. Only gas, yes, sir.

Q. What did some of the other officers use?

A. I don't know what they used.

Q. How many officers were there around there?

A. That I couldn't say.

Q. Were there two, or a hundred?

A. No, we didn't have a hundred on the whole force.

Q. How many were there around there that night?

A. Oh, I would say around ten or twelve, I don't know exactly.

Q. You are sure there were not 20 or 25?

A. Not that I saw.

Q. You didn't notice what they were firing with?

A. I did not.

Q. Yet these men were all around you, were they?

A. Well, they were scattered out in different—

Q. Well, there was some not more than ten or fifteen feet away, isn't that correct?

A. Well, some of them were close, some on the right of me, a couple on the left.

Q. I am asking you if it is not true that there were some that were no more than ten or fifteen feet away?

A. There was.

Q. And you didn't see what they were firing with?

A. The men that were with me all had gas guns, because they were lying back, shooting over the other men. We had to.

Q. You did see what they were doing, then?

A. I could hear shots, but I couldn't tell.

Q. Did you see what they were shooting, then?

A. No, sir.

Q. You don't know whether they used tear gas guns or not?

A. No, I don't.

Q. Despite the fact that they were only 10 or 15 feet away from you?

A. The men that were close to me had gas guns.

Q. You didn't see that they had gas guns?

A. Yes, sir.

Q. And you know what they were shooting with?

A. I know that they were shooting gas.

Q. And that large crowd continued to stay there?

A. They did.

Q. Until the Canton police came, arrived half an hour later?

A. Yes, sir.

Q. You say you used about 50 tear gas shells, is that right?

A. More or less, I wouldn't say for sure how many.

Q. When did you run out of tear gas? At what time was that?

A. I think when I went down I had 25 in my car.

Q. When did you run out of tear gas projectiles? What time of the night?

A. I don't know that.

Q. You don't know whether it was a half hour or four hours later?

A. Well, it was no four hours, possibly 10 or 15 minutes.

Q. In 10 or 15 minutes?

A. Yes, sir.

Q. You had shot 25 tear gas projectiles, is that correct?

A. That is right.

Q. What did you do when you ran out of tear gas projectiles?

A. I hollered for someone to give me gas, and there was gas given to me. I think there was 24 in the case.

Q. Do you know a man named Gray?

A. Yes, sir, I did.

Q. Did you send him to get some?

A. I did.

Q. Where did you send him to get some?

A. Down at the Union Drawn Steel.

Q. How did you happen to send him there?

A. Because I figured they might have some over there.

Q. Had you been told before the fight that there might be some there?

A. No, sir.

Q. That was just a guess on your part?

A. Yes, sir.

Q. Who is Gray?

A. Gray is, as I understand it, turn foreman of the Central Steel.

Q. What was he doing there?

A. I couldn't tell you that.

Q. Was he near where you were?

A. No, sir.

Q. How did you happen to ask him to go there?

A. I run up to the office and he was the first man I had seen, and what gas he brought back—

Q. What office did you run to?

A. Up to the Republic Steel Office.

Q. You mean the district office?

A. Sir?

Q. The district office?

A. Yes, sir.

Q. Were you alone when you went there?

A. I was.

Q. And Gray was the man you saw there?

A. Yes, sir.

Q. What did you say to him?

A. I says, "Go over to the Union Drawn, see if you can't get us some gas."

Q. Did you ask him whether there was any gas there?

A. I don't know whether there was any or not. I just took that chance.

Q. Didn't he make a telephone call?

A. I don't know.

Q. Did you make a telephone call?

A. I did not.

Q. Did he come back from the Union Drawn?

A. I don't know that. I never seen the man after I talked to him. When I ran back over to where I was, there was gas there. Where it came from, I don't know. If he brought the gas, I never seen it.

Q. Did you hear this gas was brought from Union Drawn?

A. I heard it, but I didn't see it.

Q. Who told you that?

A. I couldn't tell you that.

Q. You don't remember?

A. No, sir, I don't remember who it was. Union Drawn—

Q. Was it one of the officers?

A. Well, it must have been, because they were about the only ones that were down around where we were.

Q. One of the police officers that was there at night told you that gas had been gotten from Union Drawn, is that correct?

A. It must have been an officer.

Q. Well, isn't that correct?

A. But I don't know whether there was any gas came.

Q. I am asking you whether or not an officer didn't tell you that some gas had been gotten from Union Drawn Steel that night?

A. Not that I remember.

Q. Are you saying that you don't remember that?

A. Not that they told me that there was gas came from the Union Drawn.

Q. What did they tell you about it?

A. Didn't tell me.

Q. You never heard of where it came from?

A. No, sir, the last I know about gas being mentioned was when I told Gray to go and get it.

Q. Didn't you say a moment ago you heard something about gas being gotten from Union Drawn?

A. Just a rumor, you hear lots of them.

Q. I know that. Did you hear a rumor from one of the officers?

A. It must have been one of the officers, they were the only ones around there.

Q. You heard a rumor?

A. Yes.

Q. From one of the officers that happened to be around there, that they got gas from Union Drawn, is that correct?

A. I heard a rumor, yes, sir.

Q. Did you also hear a rumor about some evicting being done after the fight?

MR. DAY: Some what?

MR. LAUTER: Did you?

A. I saw them taking fellows to jail, yes.

Q. Did you see them breaking into any houses?

A. I did not.

Q. Where did you see them taking them to jail?

A. Why, the National Guard trucks kept going by, loaded with men. They came right down through Cleveland Avenue where we were standing.

Q. You don't know who did that?

A. No, sir, I do not.

Q. How many pickets did you say there usually were at strike headquarters?

A. Oh, possibly a hundred or very near all the time. At times maybe there would be less.

Q. Sometimes there would be more?

A. Sometimes there would be more, yes, sir.

Q. Sometimes there would be as many as 150, wouldn't there?

A. Well, especially when pickets were changing. That is, one crowd coming on and one crowd going out.

Q. Do you know how many pickets' stations they had?

A. No, sir.

Q. Do you know how many pickets they were entitled to have under the injunction?

A. Under the injunction, I do, yes, sir.

Q. How many?

A. I think in Massillon it was 34. I am not dead sure. It is 13 posts, I believe. And there was only one post that was allowed more than six men, that was the No. 2 gate.

Q. How many pickets did you see there, you say, that night? How many men were there around CIO headquarters?

A. Oh, there was quite a few of them.

Q. How is that?

A. I would say around between three and four hundred, somewhere.

Q. How many?

A. Between three and four hundred in the crowd.

Q. Did you say "three and four"?

A. "Three or four."

Q. Were there women and children in the crowd also?

A. Not that I noticed.

Q. You didn't notice any there that night?

A. No, sir, the last time I was around there that evening before the shooting was around I would say 8:30 or 9:00 o'clock.

Q. I am not talking about the time that you came up there, but you say that after you fired tear gas a considerable number still remained; did you notice any women and children in the crowd?

A. No, sir, I did not.

Q. Did you see a machine gun used that night?

A. No, sir.

Q. Did you hear a machine gun being used that night?

A. There was a machine gun there, but I don't think it was used.

Q. You were asked about whether or not you could distinguish the sounds of different bullets; did you hear any machine gun bullets go off that night?

A. No, sir. No rapid fire, no, sir. Not the way they tell the machine gun.

Q. You are sure you didn't hear one?

A. I did not.

Q. Did you see any of the officers who were firing rifles?

A. No, sir, I didn't.

Q. Did you see them use anything besides a machine gun?

A. The only thing I could see was the men besides me. They had gas guns.

Q. How long did you stay there?

A. I was there until 9 o'clock the next morning.

Q. You stayed there until 11 o'clock?

A. Yes, sir.

Q. You stayed there all during the firing?

A. Yes, sir.

Q. The only thing you heard was tear gas going off?

A. I heard shooting.

Q. Did you see or hear any of the officers firing gas?

A. No, sir. They were up ahead of us. That is the men that had the gas guns.

Q. How many were ahead of you?

A. I don't know how many it was. I was standing around in back of the building—some in the street ahead of me. I was back 30 to 40 feet behind them.

Q. You didn't see anybody use a gun?

A. No, sir.

Q. Had you inspected the C. I. O. headquarters after the firing?

A. Had I what?

Q. Did you inspect the C. I. O. headquarters after the firing of July 11th?

A. Yes, sir.

Q. Were any policemen wounded that night?

A. No, sir.

Q. Do you know whether any strikers were hit that night?

A. I understand there were a couple of them; yes, sir.

Q. How many were hit with tear gas or bullets?

A. They were hit by bullets?

Q. You don't know who hit them?

A. No, sir, I don't.

Q. Do you know Major Curley?

A. Yes, sir, I do.

Q. Did you have any conversation with him that night?

A. The only thing I remember Curley saying to me was after the shooting or after everything had quieted down—was: "I had to go away; you take charge".

Q. Did you have any conversation with him that night about tear gas?

A. No, sir.

Q. Do you know Henderson?

A. Yes, sir.

Q. Did you have any conversation with Henderson?

A. Yes, sir.

Q. Do you know Bob Fellavon?

A. Yes, sir, I do.

Q. Did you have any conversation with Henderson or anybody subsequent to July 11th about his activities of July 11th?

A. No, sir.

Q. Had you spoken to any of the patrolmen about their activities on July 11th?

A. No, sir, I didn't.

Q. You haven't said a word to them and they haven't said a word to you as to July 11th, is that right?

A. That is right. In regard to the shooting?

Q. That is right, or in regard to the happening of July 11th?

A. Never talked to me about it.

Q. Speak to Chief Switter about it?

A. Yes, sir.

Q. Did you say yes?

A. Yes, sir.

Q. What was your conversation?

A. Nothing; only what happened.

Q. What did you say to him?

A. Told him about the east end of the viaduct; what I did that night.

Q. What did you tell him about the shooting? At the headquarters?

A. I don't know—we used up a bunch of gas and that is all. That was possibly 1 or 1:30 when he came down.

MR. LAUTER: That is all.

MR. PONTIUS: That is all.

(Witness excused.)

GEORGE MANTSCH

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) You live in Massillon, Mr. Mantsch?

A. Yes, sir.

Q. What is your business?

A. City patrolman.

Q. How long have you been a patrolman in the City of Massillon?

A. Twelve years.

Q. You may state whether or not you were on duty as a city patrolman on July 11th last?

A. Yes, sir.

Q. Prior to July 11th what, if anything, did you have to do with the situation in the strike area around the Republic?

A. I helped take care of the east end of the viaduct traffic.

Q. Who was directing the traffic? How was traffic regulated there at the east end of the viaduct?

A. How was it regulated?

Q. Yes.

A. We had a man in the middle of the road.

Q. Do you recall about the National Guard coming in; how they directed traffic? What you observed there at that point?

MR. LAUTER: I object to the leading character of the questioning.

TRIAL EXAMINER LINDSAY: Overruled. Try to refrain from using so many leading questions.

MR. PONTIUS: Your Honor criticized me for taking too much time.

TRIAL EXAMINER LINDSAY: Just go ahead. I never criticized you for using time except in cases where it was immaterial.

Q. Now, Mr. Mantsch, did you observe the manner in which traffic was directed?

A. On the viaduct?

Q. At that point on Erie to the viaduct. Did you observe how it was done?

A. Yes, sir.

Q. Now, after they left you, what did you officers do with respect to directing traffic, if anything, at that point?

A. Well, after we found the nails on the viaduct we left nobody across the bridge other than the workmen.

Q. When did you find the nails on the viaduct?

A. I can't recall the date now but I got a few in my tire myself. They were roofing nails.

Q. After that time?

A. They wouldn't let anybody across the bridge outside of the workmen.

Q. Now, how frequently would you be at that point directing traffic prior to July 11th?

A. Just a few nights before. Every time the office got a report there was trouble they would rush us down there.

Q. Well, on the night of July 11th, what time did you go on duty in the vicinity of the Republic Steel?

A. 10 minutes to 10.

Q. Where did you go first when you went down there?

A. Over onto Cleveland Avenue.

Q. Where on Cleveland Avenue did you go?

A. I would say a hundred feet south of C. I. O. headquarters.

Q. Whom did you see there at that time?

A. Who?

Q. Yes.

A. You mean what police officers?

Q. Yes. What police officers?

A. Well, I seen Henderson there. He was a special police. I seen Curley, and I don't remember who else was there; that is all I remember seeing.

Q. How did you go to that point?

A. In my automobile.

Q. Anybody with you?

A. A man by the name of Buttermore.

Q. Who was he?

A. A special police.

Q. Did any cars come along that evening?

A. A car drove up with six men and we stopped it.

Q. Which way did that car come?

A. That car came south on Cleveland Avenue.

Q. Did you find out where this car came from?

MR. LAUTER: May we have the time?

TRIAL EXAMINER LINDSAY: Will you fix the time?

Q. About what time did this car drive up there?

A. I would say 10 or 15 minutes after 10; somewhere in that neighborhood.

Q. What occurred then?

A. They stopped the car, searched them, and asked them where they were from. They said they were from Canton.

Q. Then where did you go?

A. I left there.

Q. Where did you go?

A. I went back over on the east end of the viaduct.

Q. Where did you stop there at the east end of the viaduct?

A. Right on the east end of the viaduct. That is off Erie on Oberlin Road.

Q. On Oberlin Road?

A. That is the viaduct on Oberlin Road.

Q. With respect to your car, what did you do with your car?

A. Set it over there by a gas station.

Q. Who, if any, officer was with you there at that point?

A. At that point?

Q. Yes, sir.

A. Buttermore was there, Domer, Kurtz. There were three or four more; I can't name them.

Q. Now, about what time was it that you got to the east end of the viaduct? Locate yourself.

A. I would say about 15 or 20 minutes after 10.

Q. What did you observe at that time?

A. When I got over there?

Q. Yes.

A. An extra large crowd of people.

Q. Could you tell how many were there?

A. More than I had ever seen around there.

Q. In numbers, about how many?

A. I wouldn't exaggerate; I would say around a thousand people around the streets with automobiles.

TRIAL EXAMINER LINDSAY: Just a minute. Read the question.

(The last question was read.)

TRIAL EXAMINER LINDSAY: Now, will you read that answer?

(The last answer was read.)

Q. Now, right there at the intersection, how many people would you say?

A. Several hundred right around that beer garden; in front of the beer garden.

Q. You mentioned a beer garden. Where is that?

A. That is on Erie Street—on the corner of Erie and Oberlin Road.

Q. What corner?

A. The northwest corner.

Q. Now, on other times that you were down there, about how many people were there as a rule? That is, at that corner?

A. Not that many as on this night of July 11th.

MR. LAUTER: I move that the answer be stricken as not responsive.

MR. PONTIUS: It is responsive in a way.

TRIAL EXAMINER LINDSAY: I think it may stand. Let the record show an exception.

MR. LAUTER: Exception.

Q. Now, describe what, if anything, you saw occur there then?

A. Well, we had this Joe Schwinger directing traffic in the center of the street.

Q. Who is Joe Schwinger?

A. He is a patrolman.

Q. Now, just what occurred there, if anything?

A. Occurred there?

Q. Yes.

A. A car drove in on the viaduct at a fast rate of speed and hit an abutment—

MR. LAUTER: I object to the line of questioning on the ground that we have gone into this several times.

TRIAL EXAMINER LINDSAY: Objection overruled.

MR. LAUTER: Exception.

Q. Just tell what you saw.

A. The car hit the abutment—that is the north abutment on the north side of the road.

Q. Go ahead.

A. When this car hit this abutment Domer and another special police run up to the car and got the driver out. About that time another car came in and ran right into that car, and that driver got out of the car and ran away, and I after him.

Q. What effect, if any, did the two cars have on the passage through the viaduct?

A. The viaduct end was blocked up. No traffic could get through.

Q. Now, you ran after this fellow?

A. I ran after this fellow and caught him and brought him back.

Q. Where did he run?

A. Tried to get in back of the gas station.

Q. You brought him back?

A. I brought him back, and I heard glass rattle and people hollering.

Q. Now, go forward and tell what took place there.

A. Put this man I caught in charge of Buttermore who had the other man. I walked down where this gang was in front of the beer garden, and somebody hollered: "Mantsch, there goes your man" and I looked around and I saw him running, and I fired one shot, and I caught him.

Q. Did you get him?

A. Yes, sir.

Q. That same fellow you ran after?

A That is the same fellow I ran after before.

Q. Now, do you know who these men were?

A. Yes, sir.

Q. Who were they?

A. The man that I caught was a man by the name of Flores—who give their address on Cleveland Avenue.

Q. What address?

A. Cleveland Avenue.

Q. Do you know whether or not he had any connection with the C. I. O.?

A. He said he belonged to it.

Q. What occurred after that then?

A. I took them both up to the City Jail and locked them up.

Q. I will ask you if you at any time went over to this Cleveland Avenue after that.

A. No, sir.

Q. Where did you remain the rest of that time?

A. I remained on the end of the viaduct; the east end of the viaduct.

Q. How long did you remain there?

A. Until 7 o'clock the next morning.

Q. You may state whether or not you heard any noise from the vicinity of Cleveland Avenue.

A. Where I was standing I had a good view of Cleveland Avenue

Q. What, if anything, did you hear?

A. I heard five shots.

Q. Do you know where those shots came from?

A. I couldn't tell. They sounded over there on Cleveland Avenue.

Q. Can you tell us what space between times the shots were fired?

A. It was quick succession.

Q. After that, what, if anything, did you hear?

A. Well, I heard gas guns breaking. I seen a gas gun through the air.

Q. Do you know about what time that was?

A. I don't know about what time it was. Too much commotion where I was. I was excited about that wreck. I didn't notice what time.

Q. With reference to the time that these two cars came together, was this shooting before or after that?

A. After that.

Q. About how long after that?

A. It wasn't very long after that. I didn't time myself but it didn't seem 10 minutes after that.

MR. PONTIUS: I believe that is all.

Cross Examination

Q. (By Mr. Lauter) You testified that somewhere between 10 and 10:15 a car with six men drove up where you were?

A. Yes, sir.

Q. Where were you at that time?

A. I was on Cleveland Avenue at that time.

Q. How far from the C. I. O. headquarters?

A. How far from the C. I. O. headquarters?

Q. Yes, sir.

A. I would say 100 feet south on Cleveland Avenue.

Q. What direction was this car coming from?

A. Coming from the south.

Q. That means it was coming from where the plant was?

A. They came across the viaduct. He told me he came from the viaduct.

Q. You stopped the car and asked questions?

A. I asked questions?

Q. Yes.

A. As soon as he said he was coming across the viaduct—my order was to let nobody to cross the viaduct. We were to see to it that nobody else was to come across it.

Q. Did you search this man?

A. I didn't search the man.

Q. Who searched the man?

A. The other police officer.

Q. Did you testify on direct examination that these men were searched or not?

A. I didn't testify that I searched.

Q. You testified that they were searched?

A. I don't believe I testified they were searched. I testified that they were ordered out of the car.

Q. What?

A. That they were ordered out of the car.

Q. Did you order them out of the car?

A. No, I didn't order them out of the car.

Q. Did you see them get out of the car?

A. I seen them get out of the car.

Q. Did you testify that they were ordered out of the car?

A. No.

Q. You left them—

A. I left them with the other police there—

Q. I am asking you—

(The record from the cross-examination of this witness was read by the Reporter up to this point.)

Q. I am asking you if your answer was that you searched the men or not was correct?

A. The other police searched them.

Q. If you said the other police searched them, they did?

A. They did.

Q. Did you search them?

A. What does it say?

TRIAL EXAMINER LINDSAY: Answer the question.

A. I don't know if they searched them.

Q. About what time of the night was this?

A. When that car came over there?

Q. That is right.

A. I would say 10 or 15 after 10.

Q. Were they proceeding peaceably along Cleveland Avenue?

A. I can't tell you about when they came up there—

Q. Do you know what the word "peaceably" means?

A. Yes, sir.

Q. Were they proceeding peaceably in their automobile?

A. The reason we stopped them there—

Q. Can you answer my question?

A. Yes, sir. I said peaceably.

Q. Now, did you say there were a thousand people around the viaduct in that vicinity around 10:15 or 10:20?

A. Yes, sir. I wouldn't exaggerate.

Q. You would say a thousand?

A. I would say a thousand people lined along that street.

Q. You are sure there weren't more than a thousand?

A. Might have been more.

Q. About 1500?

A. Might have been more.

Q. Might have been 1500?

A. I couldn't say how many. Over a thousand.

Q. Might have been about a thousand?

A. About a thousand there.

Q. Might have been three or four or five thousand?

A. I didn't count them.

Q. You didn't count them?

A. No.

Q. There is no limit to the amount of people that might have been there?

A. That is right.

Q. Now, you were excited from the wreck, weren't you ?

You testified in direct examination you were excited from the wreck that took place there?

A. I was a little nervous, and that shooting going on over there.

Q. Well, the shooting didn't take place until after the wreck, did it?

A. After the wreck took place.

Q. Is that right?

A. That is right.

Q. That is what got you going?

A. When the shooting started over the viaduct.

Q. You shot off some shots before you got excited?

A. That is right.

Q. You were a little excited yourself?

A. I was a little excited.

Q. You never saw him in your life, did you?

A. I didn't know who that man was, come in there with that car, pretty near dated everybody's lives, there, and that run away from us. I didn't know whether the man had a stolen car or what it was.

Q. That first thing you did was to shoot?

A. But he didn't stop. You see, I had him under arrest, first, and he broke away and run away.

Q. There was another policeman in whose charge you had left him, is that correct?

A. Beg your pardon?

Q. You had left him in charge of another policeman, is that correct?

A. That is right.

Q. Buttermore?

A. That is right.

Q. It was while he was in Buttermore's charge that he ran away, is that correct?

A. That is correct.

Q. Buttermore had a gun, didn't he?

A. Yes, he did.

Q. He didn't fire, did he?

A. He had two men there.

Q. Did he fire?

A. No, sir, he didn't fire.

Q. How many shots did you fire?

A. One shot.

Q. Did any other officer fire any guns around the viaduct that night?

A. I heard some shots fired.

Q. By officers?

A. I don't know who fired them, I heard some shots.

Q. You don't know, as a matter of fact, whether the officers fired some shots around the viaduct, that time?

A. From what they tell me.

Q. Who told you?

A. Joe Schwinger.

Q. Who fired them?

A. He fired some shots.

Q. Who did he fire them at?

A. He fired at some guy who threw a stone.

Q. Some guy threw a stone, and Joe Schwinger fired his gun?

A. He threw a stone at the car, and he ran after him and fired a shot to stop him.

Q. That was about the time you were firing too, wasn't it? About that time?

A. I fired somewhere around—

Q. 10:20, is that correct?

A. Oh, it was later than that.

Q. What time did you start to fire?

A. I must have fired around—I didn't state what time we was firing, it was, I would say, after 10:30.

Q. What time did you fire?

A. Around about 10:30 and 11:00.

Q. What time did Joe Schwinger fire?

A. It must have been a few minutes after I did.

Q. Who else fired besides Joe Schwinger?

A. Who else?

Q. What other patrolman?

A. I think it was a man named Davenport, because I made the remark—

Q. Wait a minute.

A. There was one was fired under the viaduct and we—

Q. That also was fired by a policeman, is that correct?

A. Yes, sir.

Q. He had fired another shot?

A. Out of a riot gun.

Q. Why did he fire the shot?

A. There was a man under the viaduct, and they were getting him out from hiding, and he would not do that.

Q. So he shot at him?

A. And he shot off to scare him out of there, and he raised up out of the grass. That is what they told me.

TRIAL EXAMINER LINDSAY: Just a minute, off the record.

(Discussion held off the record.)

Q. (By Mr. Lauter) Was there any shooting done by any CIO men, at the viaduct?

A. On this end of the viaduct?

Q. Yes.

A. Not on this end of the viaduct, I didn't see any.

Q. How many police were shooting? You shot, Joe Schwinger shot and Davenport shot, is that right?

A. There was three policemen there.

Q. And this was somewhere between 10:30 and—

A. Between 10:30 and 11 o'clock.

Q. And all these policemen fired off guns before shooting started over at the CIO headquarters, is that correct?

A. That is right, that is right.

Q. Are you a regular policeman?

A. Yes, sir.

Q. Is Davenport a regular policeman?

A. He is on the eligible list, special.

Q. On July 11th was he on the regular police list? Was he a regularly appointed policeman?

A. No, I couldn't say that.

Q. Don't you know that he wasn't? That he was not one of the 18 men who were in the police list?

A. All I know is he is on the eligible list.

Q. I am asking you whether he was one of the 18 on the list?

MR. DAY: Just let him answer.

TRIAL EXAMINER LINDSAY: Just a minute. He is on the police force, and he should know whether this man was or was not on active duty on that day.

THE WITNESS: He was on active duty on that day.

TRIAL EXAMINER LINDSAY: All right. Now, was he, preceding that?

THE WITNESS: Preceding that day?

TRIAL EXAMINER LINDSAY: Yes.

THE WITNESS: Yes, sir.

Q. Do you know how many men there were on the Massillon police force?

A. How many men?

Q. That is right.

A. 18 men, I would think.

Q. Is Davenport one of those 18 men?

A. Davenport was not one of the 18 men prior to that trouble.

Q. I am asking you whether he is one of the 18 regular police officers?

A. No.

Q. Now, he was one of the deputy officers on that day, is that right?

A. I don't know what you mean, deputy officers.

Q. Special officer?

A. Well, if you want to call him a special officer, you can call him that.

Q. Do you know when he got his gun? Did he get his gun that day?

A. I couldn't tell you when he got his gun.

Q. Do you know that some of the officers got guns for the first time that day?

A. No, I don't know that.

Q. Did you have any patrolmen under you?

A. Buttermore.

Q. Did you have any others?

A. That is all.

Q. Was Buttermore one of the regular 18 policemen?

A. No, sir.

Q. Did Buttermore travel around with you?

A. Yes, sir.

Q. When did he first get his gun?

A. I couldn't tell you that, when he first got his gun.

Q. Did he get it when he first came on? Do you remember when he went on the force?

A. No, I don't.

Q. Was it around July 7th or 8th?

A. I couldn't tell you what time it was when he went on.

Q. Was it a month before July 11th?

A. I couldn't tell you that.

Q. Or a year?

A. I couldn't tell you that—it wasn't a year.

Q. It wasn't a year?

A. Why, no.

Q. Was it six months?

A. Why, no, wasn't six months. I couldn't tell you just what time it is.

Q. I am going to try to help you. Was it three months?

A. My—let's see, well, he wasn't on at all until about the first time they put special police on, whenever that was, I don't know.

Q. You don't know whether it was three or four days or three or four months?

A. I don't remember.

Q. And yet you have been travelling around with him?

A. They put him with me, I can't recall the date they put him with me. Whenever they put him with me, he had a gun.

Q. But you don't remember whether it was three or four days or three or four months, is that correct?

A. Before he came in with me, he was out on the road blockade.

Q. Well, you don't remember when he came on with you, is that correct?

A. I can't recall just when he came on with me.

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Q. You can't recall whether that was three or four days or three or four months before July 11th?

A. It must have been since the strike was called.

Q. I mean since May 25th or 26th, is that correct?

A. Well, it must have been in sometime—he might have worked with me 30 days before July 11th. I don't recall just how many days.

Q. You don't recall whether it was 30 days?

A. No, I don't recall whether it was 30 days or 45, I couldn't tell you.

Q. Or six months?

A. I could look it up and get it for you.

Q. Now, have you had conversations with any of the patrolmen who were there on July 11th, subsequent to that date?

A. I didn't get that question.

(The last question read by the Reporter.)

A. I didn't have no conversation with anybody.

Q. On July 11th you stayed at the east end of the viaduct when the shooting started, is that correct?

A. I stayed with Buttermore.

Q. You heard the shooting over there on Cleveland Avenue, is that correct?

A. I heard it and seen it.

Q. Did you go over there, though?

A. No, sir.

Q. You stayed over at the east end of the viaduct?

A. Stayed over at the east end.

Q. Do you know who was over on Cleveland Avenue.

A. I don't know who was over there.

Q. Did you hear subsequently who was over there?

A. Did I hear subsequently who was over there?

Q. Yes.

A. I didn't hear who was over there.

Q. Did you have any conversations on the day following with any of the men who were on Cleveland Avenue on July 11th?

A. No, I didn't.

Q. Do you know Mr. Henderson?

A. I know him when I see him, that is all.

Q. Do you know Mr. Fellenvon?

A. Mr. Fellenvon? I see him around every day.

Q. Have you ever spoken to him about the July 11th shooting?

A. No.

Q. Do you know Mr. Moore?

A. Mr. Moore? I know him.

Q. You never spoke to him about July 11th shooting?

A. I am just a patrolman, I have got no business speaking.

Q. Did you ever speak to him at all about the shooting on July 11th?

A. No, I didn't.

Q. Did you make any report to Chief Switter on what happened that night?

A. I did not. I just made out an arrest report on them two men that I arrested.

Q. Did you hear a machine gun that night?

A. No, sir.

Q. You are sure you didn't hear one?

A. I don't know. I have saw a machine gun, and I know must have sound like.

Q. Are you sure you didn't hear any?

A. I didn't hear any machine gun.

Q. Did you hear any rifles or revolvers being shot?

A. Well, when we first started, the first five shots I heard, they were in quick succession, but I don't know what they come out of.

Q. Did you hear any policemen shoot off any rifles or revolvers?

A. I heard a lot of shots, saw some fire coming up from behind the shed, Central Steel Office, I could see the fire.

Q. You saw fire coming from where the policemen were?

A. I seen a lot of gas shot off.

Q. Did you see any revolvers or guns in their hands?

A. I couldn't see, from where I was at, but I could see them big gas shells going out through the air.

Q. You said you saw some fire in behind the sheds. Where are the sheds located?

A. Located at the house--Do you mean over there near the CIO headquarters?

Q. Describe them as best you can.

A. There is a house set south of the headquarters, and that has a couple sheds, little out buildings, and other houses down in there along the bank.

Q. Is that near the district office of the Republic Steel Corporation?

A. Yes, that is in that district of Cleveland Avenue.

MR. LAUTER: That's all.

Redirect Examination

Q. (By Mr. Pontius) I want you, Mr. Mantsch, to point out where you saw that firing from, if you can locate it on this plat, Respondent's Exhibit 1? Will you look at it, please? Or have you seen it before?

A. Never seen it.

Q. Will you point out where C. I. O. headquarters is? There is Cleveland Avenue; there is Oberlin; there is the viaduct closest to you. Got that in your mind?

A. Yes, sir.

Q. Where did you hear the firing?

A. This is supposed to be Jackson Street?

Q. Yes.

A. Right down here is an alley here (indicating). There is a house down here (indicating) and right in back of it the C. I. O. headquarters, and there (indicating) is a vacant lot, and another house.

Q. That is, fronting on Cleveland Avenue?

A. Fronting on Cleveland Avenue; and then there is an alley goes back.

Q. In which direction?

A. East towards Jackson Street. It doesn't go to Jackson Street; it goes to another lot. There is some sheds in the back. That is where the firing was coming from.

Q. Could you indicate with this pencil about the point where you saw the firing come from?

A. In here (indicating). From the sheds near here, and one there from that corner (indicating). That is where it seemed to come from.

MR. PONTIUS: Indicating just to the east of what is marked on this plat the figures 4135.

Q. How much firing did you hear coming from that point?

A. I couldn't hardly hear it; you could see the flame when the shot was fired.

Q. Could you tell in what direction those shots were being directed?

A. The firing was like that going towards the Central Steel office.

MR. PONTIUS: That is all.

Recross Examination

Q. (By Mr. Lauter) You referred to an alley just now. Is that correct?

A. I beg your pardon?

Q. Did you refer to an alley just now?

A. An alley goes right up through here (indicating). I know that country like a book.

Q. See this parallel line running south of 4195 (indicating)?

A. What line is that?

Q. Right through here (indicating)?

A. Yes, sir.
Q. What is that? Is that a street?
A. Might be a street but—
Q. Is it a street?
A. It is a street there?
Q. Is it in front a street?
A. Yes, it shows a street.
MR. LAUTER: That is all.
MR. PONTIUS: I think that is all.
(Witness excused.)
TRIAL EXAMINER LINDSAY: Adjournment until 1:30.

(Thereupon at 12:05 o'clock p. m., an adjournment was taken to 1:30 o'clock p. m.)

Afternoon Session

(Whereupon, at 1:30 o'clock p. m. the hearing was resumed and the following proceedings were had):
TRIAL EXAMINER LINDSAY: The hearing is called to order.

ORA ICKES

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) You are Mr. Ora F. Ickes?
A. Yes, sir.
Q. Please keep your voice up so we can all hear you. Where do you live, Mr. Ickes?
A. 1009 Rotch Avenue, Massillon.
Q. What is your business?

A. Policeman.

Q. In what city?

A. Massillon, Ohio.

Q. How long have you been a policeman in the City of Massillon?

A. About eight years.

Q. Now, Mr. Ickes, going to the Sunday evening, the 11th of July, 1937, I will ask you whether or not you were on duty that evening.

A. Yes, sir.

Q. What time did you go on duty?

A. Why, my reporting time—I started to work was 10 o'clock, and I reported between 9:30 and 9:45 at police headquarters.

Q. From police headquarters where did you go?

A. I was directed to go to the C. I. O. headquarters on Cleveland Avenue, S. W.

Q. Who directed you to go there?

A. Captain Curley.

Q. Did you go to that headquarters?

A. Yes, sir.

Q. Now, where did you go when you first got there?

A. I went down from Cleveland Avenue about 100 feet south of that headquarters. There was some police standing along the line there. When I got there I stood there a few minutes, and I walked over directly across the street from that headquarters.

Q. No; before answering further, what police officers were there when you got down there?

A. Special Officer Kraft and Creger.

Q. What was the other name?

A. Creger. I don't know how to spell it.

Q. Who else?

A. Well, there was a few more down there but I didn't take notice who they was.

Q. Now, what, if anything, did you do when you got there? Go forward, tell what happened?

A. I saw there was a large group of men standing around, out in front of the CIO headquarters, and across the street on the sidewalk in the middle of the road, a lot of men standing. So I walked up in front of the CIO headquarters directly across the road from it, stood in the doorway of a building. While I was standing there some of these men started to yell, "Let's get the police, let's get them sons-of-bitches," so I called back to the other police officer that was back further, south of the line, for a police car there. My intentions was taking them out of there before they started any trouble.

MR. LAUTER: May we have the time fixed on this?

MR. PONTIUS: Yes, I will try to fix it.

Q. About what time was it you got down there, Mr. Ickes?

A. Well, I have an idea between 9:45 and 10:00 o'clock. And nobody responds to my call back there, so I walked back, and one of the officers says, "We have a car here in the middle of the road, and we do not want to move it, we should let it sit until the other car came." Well, I walked back to the place where I was across from the CIO Hall.

Q. Now, just a minute, what is across from the CIO Hall there?

A. A brick building. People lived in there, that is—I don't know what they have in the place.

Q. Is there any building to the south of that brick building?

A. No, there isn't.

Q. Going north on Cleveland Avenue, on the west side, from Oberlin Court, what is the first building along there?

A. This brick building.

Q. The building you went to?

A. On the left side.

Q. Where is the CIO headquarters?

A. Directly across the road.

TRIAL EXAMINER LINDSAY: May I ask one question, Mr. Pontius?

MR. PONTIUS: Yes.

TRIAL EXAMINER LINDSAY: This is all supposed to have happened on July 7th, is that right?

MR. PONTIUS: No, the 11th. The 11th—pardon me—I am not sure, but I think the record is clear on that.

TRIAL EXAMINER LINDSAY: That is all right, it is now.

Q. (By Mr. Pontius) Now, after you walked back and had this conversation with these officers that you have related, what happened then?

A. I walked back up to across from the CIO office where I was to begin with, to where those men was hollering. And I looked around and I took notice that these men had been gone—or was gone when I got back there, so I turned around and went back to our line. I told them, "It is no use to bother when the car comes, that they took them men away."

Q. Did you notice anything about—

MR. LAUTER: May I have that last answer read?

(The last answer was read by the Reporter.)

Q. Now, from that point on what happened there?

A. Well, we stayed around there a while, there seemed to be a lot of disturbance, these men working around up there across from the CIO office, in front of the CIO office. We stayed around there for a while and Captain Curley told—

TRIAL EXAMINER LINDSAY: Now, just a minute. "There seemed to be a lot of disturbance"—strike that out. Tell us what actually you saw and nothing else.

A. Well, Cap Curley lined seven or eight of us, maybe six or seven, I don't know, but some of us across the road, us fellows that had the gas guns, across the road. He said he was going—

Q. Now, what did he say?

A. He said he was going over and tell those people to move, that it was late enough, that he was going to have them move off of the street.

Q. Yes.

A. Break them up.

Q. You say a line of six or eight of you across the street? Now, did you ever see this exhibit? Respondent's Exhibit No. 1, this plat? I call your attention to the plat here, the viaduct, here is Erie Street, here is the viaduct. Oberlin Avenue and Cleveland Street southwest. And it has been indicated that the CIO headquarters were at that point. Do you see there?

A. Yes, sir.

Q. And where, about where were these men lined up?

A. About 100 yards south—or 100 feet south of the CIO Hall headquarters, along in here (indicating).

Q. And where, with reference to Cleveland Avenue?

A. On Cleveland Avenue.

Q. How were they lined up? Just tell the position there.

A. A line straight across the road.

Q. Now, do you know who all were lined across the road there? Just name all that you can name, that were there?

A. I don't know all of the men, myself, that was there.

Q. Well, the ones that you know were there? Just tell us about them.

A. Well, Officer Kelley was there. Officer Fellenvon was there, and I think a couple of sheriffs there and I think a couple of special men were there—special police, but I—

Q. Can you name any more that you recall was there?

A. No, I didn't pay that much attention to how many men was there.

Q. Now, did these men have any weapons that you know of?

A. These men?

Q. These men that were lined across the street there?

TRIAL EXAMINER LINDSAY: May I ask, who was lined across the street.

MR. PONTIUS: He just said the officers were lined across the street.

THE WITNESS: Well, Officer Kelley, I know had a gas gun and he was standing there with me, aside of me.

Q. What did you have, if anything?

A. A gas gun.

Q. Then you started to see what Mr. Curley said? What did Curley say?

A. He was going over up to this crowd on the front of the C.I.O. headquarters—in front of the C.I.O. headquarters—going to break up the crowd; going to get them on their way. Just as he started over there getting about halfway between the C.I.O. headquarters up the line, there was four or five shots came out along in the vicinity of the C. I. O. headquarters; stones started to fly.

Q. Had there been any shots fired in that vicinity prior to the shots you have described to us? Go forward and tell what happened.

A: We started firing. I don't remember whether—I started firing gas shells over against the front end of the building.

Q. Just go forward and tell us what happened; and tell all that took place then.

A. Well, we started to fire the gas shells, and after we shot some gas into them, they started to disappear somehow. There was still some across the street but not all of them. All of them didn't disappear but most of them did. I don't know where they were. They ran all over, I guess.

Q. What took place after that with respect to the shooting?

A. Well, a little while later the Canton police arrived and they drove up through Cleveland Avenue with their armored car, and shot gas—what they needed to clear the street. That is all there was to it.

Q. Now, aside from the shots you have described, did you hear any other shooting?

A. Yes, sir.

Q. Tell us about it.

A. I heard the bullets whiz, and I don't know who was doing the shooting.

Q. Could you tell the direction in which the bullets were fired?

A. Not exactly; they were coming in all directions. They sounded like that to me.

Q. What position did you maintain there?

A. I was along the south side of the building opposite the C.I.O. hall—the brick building.

Q. From your position could you—what view did you have from the south side of the building?

A. The only place I could see was directly in front of the C. I. O. office down east along the railroad.

Q. Now, about how long was it after the first firing that the Canton police got there?

A. Oh, I have no idea.

Q. What?

A. I don't know.

Q. What is your best judgment about it?

A. Why, I have an idea rather half an hour, 35 minutes, maybe 40.

Q. Now, in the meantime, what was going on there? Tell us as you remember, Mr. Ickes. What was going on there among this crowd of people?

A. While the shooting was going on?

Q. Well, the first shooting.

A. There was a lot there. We were all standing there. There wasn't nothing going on through our men.

Nothing going on at all. We were just stationed—standing there.

Q. Now, when the Canton police came, then what happened?

A. They drove up through Cleveland Avenue with their armored car and shot gas.

Q. How large a building is that one in back of which you were located? I mean in height.

A. Oh, about a story and a half.

Q. Now, you have said that bullets kept whizzing around. Could you tell where they came from?

A. No, I could not. They were either coming from the west or the east. They had to be coming from the west or the east from where we were or where I was.

MR. PONTIUS: I think that is all.

Cross Examination

Q. (By Mr. Lauter) What time did you say when you came on duty on July 11th?

A. Around 9:45; maybe a little before.

Q. Had you had a previous assignment for that night?

A. No, I had—yes, sir, I had.

Q. Where were you supposed to go?

A. Down to Union Drawn Company.

Q. And were you supposed to go there around 10 o'clock, is that right?

A. Yes, sir.

Q. Did you go to the Union Drawn Steel Company that night?

A. After we got done up with Cleveland Avenue.

Q. What time did you let up on Cleveland Avenue?

A. Well, some time between 12 and 12:30.

Q. Now, you say that you were given instructions to report to the Cleveland Avenue; is that right?

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A. Yes, sir.

Q. When you got down to the police headquarters?

A. Yes, sir.

Q. Who gave you those instructions?

A. Captain Curley.

Q. Had you ever received instructions from Captain Curley before?

A. No, sir.

Q. Had Captain Curley any authority to give you any instructions as far as you know?

A. As far as I know he was then.

Q. What authority do you know he had to give instructions as to where to go?

A. Well, there was rumors that night when I went to work that Captain Curley has charge of the police department.

Q. There were rumors?

A. Yes, sir.

Q. And it was on the basis of those rumors that you accepted his instructions to go to Cleveland Avenue; is that right?

A. Well, the operator was there to—

Q. I am asking you whether or not that is correct?

A. Yes, sir.

Q. Who else went with you to Cleveland Avenue?

A. John Gallagher; my partner.

Q. Is he a regular policeman?

A. A special officer.

Q. And he accepted Curley's instructions to go to Cleveland Avenue?

A. Yes, sir.

Q. About what time did you get to the C. I. O. headquarters or in that vicinity?

A. Between 9:45 and 10 o'clock.

Q. Who had given you orders to go to the Union Drawn Steel?

A. When do you mean; that night?

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Q. Previous to that night?

A. The Chief of Police.

Q. Now, tell me what you did as soon as you got out at Cleveland Avenue.

A. I went down to Union Drawn Steel.

Q. What is that?

A. I went down to Union Drawn Steel.

Q. Tell me what happened when you got down to Cleveland Avenue on July 11th. You say you got there around 10 o'clock?

A. Between 9:45 and 10 o'clock.

Q. What did you do?

A. I stayed around there a while; I seen a bunch of fellows around there from headquarters.

Q. Were there any other officers on the line there?

A. There were some on the line.

Q. What were some of their names?

A. I don't know—Officer Kelley—he was one of them. Kraft was one of them; Creger was one of them.

Q. Who?

A. Creger.

Q. Yes.

A. I think Henderson was there.

Q. Fellovan was there, too, wasn't he?

A. I think he came there a few minutes after I got there.

Q. A few minutes after you got there; after 10?

A. After I got there. At least I didn't notice.

Q. Did you speak to any of these officers when you got there?

A. Yes, I spoke to them.

Q. What is that?

A. Yes, I spoke to them.

Q. Whom did you speak to?

A. Well, there was a gang of them there. I walked up and said: "Hello."

Q. To whom?

A. To the bunch of them—Kraft, Creger, Henderson, and Kelley.

Q. What did they say?

A. They said: "Hello."

Q. What happened after that?

A. I walked away from them. I walked up in front of the C. I. O. headquarters.

Q. Now, who suggested to you or was it suggested to you that you should walk up in front of the C. I. O. headquarters?

A. Nobody.

Q. Why did you go over there?

A. I went up to see; I was going on.

Q. Yes. What happened?

A. I stayed there a while, and I heard these foreigners saying: "Let us get the police; let us get the sons-of-bitches."

Q. Can you identify any of those who said that?

A. No, I can't.

Q. How many said that?

A. I don't believe I could.

Q. How many said that?

A. Oh, two of them was arguing. One of them said it but the two of them was arguing.

Q. You say they were arguing?

A. Yes, they were pretty loud.

Q. And one of them said: "Let us get the sons-of-bitches; let us get the police?"

A. Yes.

Q. What did the other one say?

A. Well, they were both talking in foreign languages. I could understand that when they said: "Let us get the police," but I couldn't understand the rest much.

Q. They said that in English?

A. Yes; and I hollered for the police car.

Q. Is that all you heard that day? Just those few words?

A. Yes; that is when I paid attention to when they said about the police, and the sons-of-bitches.

Q. Then what happened?

A. I called the police car, and it didn't come, so I went up to see what happened.

Q. Whom did you speak to?

A. Officer Kelley there.

Q. What did you say to him?

A. I asked him for a car. Captain Curley happened to be there, and I asked him for the police car. I said there was some men up here disturbing the peace.

Q. What time was this?

A. I didn't look at my watch.

Q. What time was it?

A. I don't know.

Q. You don't know what time it was?

A. It was after 10 o'clock.

Q. How long after 10 o'clock?

A. I don't know.

Q. What time did you arrive there you say?

A. Down there?

Q. Yes.

A. Between 9:45 and 10 o'clock.

Q. Now, you walked over to the C. I. O. headquarters?

A. No, I went up and spoke to the men first.

Q. After you went up and spoke to the men, how long did you speak to the men?

A. A minute or two.

Q. And then you went up to the C. I. O. headquarters?

A. Yes.

Q. How long did you stay there?

A. Maybe 15; maybe 20 minutes.

Q. Maybe an hour?

A. No, it wasn't an hour.

Q. Was it a half hour?

A. Maybe 15 or 20 minutes.

Q You were standing in front of the C. I. O. headquarters?

A. No, sir, I was across the street.

Q. And you heard this conversation?

A. Yes, sir.

Q. They were standing in front of you?

A. They were standing in front of me.

Q. Then you went up for the police car?

A. I hollered for the police car first and it didn't come up so I walked back.

Q. When you walked back you saw Captain Curley there?

A. Yes, sir.

Q. He was the man who had at 9:45 given you instructions to go up there; is that right?

A. Yes, at police headquarters.

Q. And at 10:25 he was already there?

A. 10:25?

Q. Captain Curley was at Cleveland Avenue?

A. Around that; maybe 25 or 10:30. I don't know what time it was.

Q. Might have been 11 o'clock?

A. No, it wasn't 11 o'clock. These fellows fired at us at 11 o'clock.

Q. Did you hear any shooting from the viaduct?

A. Yes.

Q. What?

A. There was some shots fired across the viaduct.

Q. When did you hear them fired?

A. Before 11 o'clock.

Q. Was that before or after you went to get the police car?

A. I don't remember.

Q. Now, about 10:30 what was the formation of the police on Cleveland Avenue?

A. I don't remember.

Q. Do you know whether they were lined up or not?

A. I don't remember how they was lined. When he lined them up exactly the time, I don't know.

Q. Did you see them lined up any time that evening?

A. Yes, a little before 11 o'clock, but he told us he was going to break them up.

Q. He told you he was going to break them up?

A. Captain Curley said that, yes.

Q. Who told you that?

A. Captain Curley.

Q. Did he go over alone or with someone?

A. Special Officer Henderson, I think, was with him.

Q. What else did Curley say besides the fact that he was going to break them up?

A. Nothing.

Q. What is that?

A. Nothing.

Q. Were you near him?

A. Yes.

Q. When he said it?

A. Yes.

Q. If he had said anything else, you would have heard it?

A. Yes, I didn't hear him say anything.

Q. Now, did you shoot any of the gas shells?

A. Yes, sir.

Q. How many?

A. 95 or 96.

Q. That is during the entire course of the evening?

A. Yes, sir.

Q. Fire any bullets?

A. No, sir.

Q. Were any other officers firing any bullets?

A. No, sir.

Q. Didn't you see a fellow use a machine gun?

A. No, sir.

Q. You are sure you didn't?

A. Yes, sir.

Q. Where were you standing—did you say opposite the C. I. O. headquarters?

A. Yes, sir.

Q. That is about this point on the map (indicating)?

A. Yes, sir.

Q. You were standing in front of a brick building?

A. No, sir, alongside of a brick building when the shooting occurred.

Q. Did you see the fellow at the time the shooting started?

A. No, I don't know. I didn't pay no attention. He was alongside of me. I was looking out for myself.

Q. But didn't you see any other police officers at all after 11 o'clock?

A. I didn't see them shooting.

Q. You didn't see any other officers besides yourself shooting after 11 o'clock?

A. No, sir.

Q. Did you hear any shooting going on?

A. Yes, sir.

Q. But you didn't look around to see?

A. No, sir.

Q. Did you hear any shots from rifles at all?

A. I heard shots from revolvers whatever it was.

Q. Did you hear any shots from revolvers or guns from where the police were standing?

A. I couldn't say, they were coming shots from all around, it sounded like to me.

Q. Well, were some of the shots coming from where the police were standing?

A. Yes, and some were coming from across the road from where they wasn't standing.

Q. Answer my question, I am asking you whether or not—

A. I don't know.

Q. —whether or not any shots were coming from where the police were standing?

A. I didn't hear any, I didn't hear any.

Q. But you did hear some from where the CIO was, is that right?

A. I could hear them all around.

Q. If you heard them from all around, did you hear any from where the police were standing?

A. All around me there was shots.

MR. LAUTER: I will ask the Reporter to read the last question.

(The last question was read.)

A. I suppose they was from where the police was standing.

Q. What do you mean, you suppose? Were they or weren't they?

A. I couldn't say.

MR. LAUTER: Read back about the last 20 questions and answers.

(The record was read by the Reporter.)

Q. Did you hear that question and answer?

A. Yes, sir.

Q. I am going to repeat the question again.

A. I answered it.

Q. I am going to repeat the question again. Did you hear any shots coming from where the police was standing?

A. Yes, sir.

Q. Bullet shots?

A. I heard some cracks, of a gun, over that direction.

MR. LAUTER: Read the question.

(The last question was read by the Reporter.)

A. I heard guns cracking all around me, there.

Q. Are you willing to testify that you did not hear police shoot guns? That contained bullets, that night?

A. Well, if they were the police back there—

Q. I am asking you whether or not you are going to testify that you didn't hear policemen shoot guns and bullets that night?

A. I heard bullet shots. I won't say that it was policemen's guns.

Q. That is what I want to know, are you willing to testify that you did not hear policemen shoot guns with bullets that night?

A. Why, I would not get up and say that I heard policemen shoot, because I didn't hear them. I didn't know who was doing the shooting. There was so many shots fired that night, all around you, and bullets was around you, I couldn't say who was doing the shooting.

Q. You couldn't tell whether the policemen were doing the shooting?

A. The police must have—probably was doing some shooting, but it wasn't all done by the police, I don't suppose.

MR. LAUTER: Well, I move the answer be stricken as not responsive.

TRIAL EXAMINER LINDSAY: Yes, answer his question. Read the question.

(The last question and answer read.)

Q. You say the policemen must have been doing some shooting?

A. Why, they must have, I suppose. I wouldn't know what they was up there for. I know I done some shooting. I stood there. When they started shooting at me, I started shooting.

Q. You say you would not know what they were up there for, if they were not shooting?

A. Sure.

Q. Were they up there to do shooting?

A. No, but when a policeman is sent out and they shoot at him, he ain't supposed to stand there and look at them.

Q. How many shots did you hear come from the direction of the CIO headquarters?

A. I don't know. You mean at the beginning?

Q. That is right.

A. Four or five.

Q. What happened after that?

A. Why, I started shooting.

Q. Were you shooting alone?

A. No, I heard shots, other shots.

Q. How long did that shooting continue?

A. Oh, I don't know, I don't know just exactly how long.

Q. Well, five minutes or an hour?

A. Maybe ten or fifteen minutes, I don't know.

Q. Did you hear any more shots from the direction of the CIO headquarters, during the time of that shooting? The ten or fifteen minutes you are now referring to?

A. No, there was so much shooting going on, I don't know where it was coming from, all.

MR. LAUTER: I move that answer be stricken out as not responsive.

TRIAL EXAMINER LINDSAY: The answer is stricken.

MR. LAUTER: Read the question.

(The last question was read by the Reporter.)

A. No, sir.

Q. During that ten or fifteen minutes, was there firing by the police?

A. Firing by somebody, I would not say that it was the police. I didn't see them fire.

Q. You would not say that it was the police?

A. I can't say that it was the police. I didn't see them shoot.

Q. How far away were these officers from you at the time of this shooting you are now referring to?

A. Why, I have an idea about 100 feet.

Q. They were 100 feet from where you were?

A. Yes, sir.

Q. How far away from the CIO?

A. Directly across the street and alongside of the building.

Q. You never looked around to see who was doing the shooting?

A. I looked across the road.

Q. And you heard shots coming from the direction of where the police were?

A. Yes, sir.

Q. Now, about how long after the shooting started did the Canton police come?

A. Oh, I have an idea 30 or 35 minutes, maybe 40 minutes.

Q. Was there shooting going on during all that time?

A. No, they quit once, shooting.

Q. Who quit?

A. All of them.

Q. Did the police quit?

A. There wasn't no shooting, the police and the CIO.

Q. Did you quit, also?

A. Yes, sir.

Q. Now, during that 30 to 40 minutes, did the people remain on the streets, or were they scattered?

A. There was people on the streets.

Q. During all that time?

A. Do you mean during the time there was no shooting?

Q. During the 30 to 40 minutes after the shooting started, were there people on the street, or not?

A. Yes, until the Canton police came.

Q. During all of the firing of the tear gas shells by you and other officers, tear gas by you and other officers, people still stood on the street, is that right?

A. People were still on the street.

Q. About how many people would you say were on the street?

A. I don't know, I have no idea.

Q. Until the time the Canton police arrived?

A. I don't know, I have no idea. I didn't get up in there, gas was being used, I didn't get up in there.

Q. You were across the street from the CIO headquarters?

A. I was along the building.

Q. How is that?

A. I was along the building, across the street.

Q. You saw people standing on the street, didn't you?

A. Yes, there were people on the street.

Q. About how many people were standing on the street, when the Canton police arrived?

A. I don't know.

Q. Were there 10 or 1000?

A. Maybe a hundred.

Q. How many were there at the time that you arrived, which was about 9:45 or 10:00 o'clock?

A. I have an idea around 300, maybe 350.

Q. And during all of the firing, about 100 remained on the street?

A. Yes.

Q. Is that right? When you first came there, were there any women and children there?

A. I believe there was.

Q. When you fired, were you firing into a crowd that contained women and children?

A. I didn't fire into the crowd.

Q. Where did you fire?

A. I fired up above, over them, over the crowd.

Q. Well, there was a building over the crowd, wasn't there?

A. Yes.

Q. Where did you fire? Into the building?

A. Against the building up above.

Q. And shells had to drop down in front of the building, wouldn't they?

A. Yes.

Q. And people were standing in front of that building?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. Including men, women and children?

A. I don't know if there were any women and children over there or not. I think there was some children and ladies around there, but I don't know exactly where they were.

Q. But you fired over them?

A. Sure, I fired. They fired at me, and I fired back.

Q. Did they fire at you?

A. They fired over towards me.

Q. Those four or five shots that came out of the CIO headquarters, did they come in your direction?

A. Yes, sir.

Q. Where were you standing at that time? Suppose you indicate on the map the four or five shots you say that were fired at you, is that right? You were there? Right opposite CIO headquarters, is that correct?

A. Not when this shooting started, I was down in the line across the street.

Q. Where was the other police officers?

A. In line across the street.

Q. Are you sure they were up here?

A. I was right in line here, right straight across. I was in line with Captain Curley and Henderson, when they walked over to the CIO headquarters.

Q. How far away were you from Captain Curley and Henderson, when the shooting started?

A. I have an idea about 50 feet, when the shooting started.

Q. 50 feet away from him?

A. Yes. We was about 100 feet from the CIO headquarters, and I have an idea they got about halfway up there.

Q. When you say "we" you mean those who were lined up there? Policemen who were lined up?

A. Yes, our picket line—or our line of police were across the road.

Q. Who lined up the police?

A. Captain Curley.

Q. What did he say when he lined them up?

A. He didn't say nothing, he just told us to get lined up across the street, there, that they were going to go up and ask the crowd to break up.

Q. Are you a regular policeman?

A. Yes, sir.

Q. You know that there were some special policemen appointed?

A. Yes.

Q. To the staff, is that correct?

A. Yes, sir.

Q. Do you know whether or not some of them did not receive their guns for the first time that night?

A. I can't tell you that. I know my buddy, the fellow that was with me, didn't even have a gun that night.

Q. Was he a regular policeman?

A. No, sir, a special man.

Q. He didn't have a gun?

A. All he had was a night stick and whistle.

Q. Did he use the gun that night?

A. No, I don't think he did. I sent him back, when we went down there, I told him to stay back of the Central Steel office.

Q. When did you tell him to go back to the Central Steel office?

A. **When we come down there, I told him** no use of him to go up there with a club, I says, "If anything does happen to start, that you couldn't do no good with your club."

Q. When did you tell him that?

A. **When we got there.**

Q. About what time was that?

A. Between 9:45 and 10:00 o'clock.

Q. Did you expect trouble at that time?

A. Sure, I expected trouble because I would not have been sent down there.

Q. You mean, between 9:45 and 10:00 o'clock when you got there?

A. No.

Q. You expected trouble?

A. No, not then I didn't expect trouble. But I just told him to get back off the line, get back of the Central Steel Office.

Q. Why did you tell him to go back by the Central Steel Office?

A. Because I didn't want him up there.

Q. Why?

A. Because, if anything started, I didn't want to see him hurt.

Q. Well, you expected something to start, didn't you?

A. When we went down there I did, yes.

Q. At 10 o'clock?

A. That night.

Q. At 10 o'clock?

A. Any time that night.

Q. Well, you got there at 10:00, didn't you?

A. Yes.

Q. And you expected trouble at that time?

A. Any time after 10:00, I looked for trouble, yes.

Q. About a minute after, you expected, didn't you?

A. Oh, not exactly a minute after.

Q. Now, have you had any conversations about the July 11th shooting with Mr. Curley? Captain—

A. No, sir.

Q. Major Curley, after that date?

A. No, sir.

Q. Or with any other police officers?

A. No, sir.

Q. Did you ever speak to Kelley, the man that was with you, after that time?

A. No, sir.

Q. Where did you get the tear gas that you used in your gun?

A. Out of the police car.

Q. Where was the police car stationed?

A. Parked in the middle of the road, on Cleveland Avenue.

Q. When did you first go and get the tear gas out of the car?

A. About—Well, between 9:45 and 10:00 o'clock.

Q. That was before any shooting had taken place, is that correct?

A. Yes.

Q. About what time did the shots come out of the CIO headquarters that you testified about?

A. Around 11 o'clock.

Q. About an hour before, then, you went and you got some tear gas out of the car that was situated on Cleveland Avenue?

A. Yes, sir.

Q. And you then stationed yourself directly across from CIO headquarters, is that right?

A. No, sir.

Q. Well, not far from direct across, is that right?

A. Yes, sir, not very far across.

Q. Did you have your tear gas gun with you then?

A. Yes, sir.

Q. And you had it loaded?

A. Yes, sir.

Q. And you had more tear gas?

A. Yes, sir.

Q. How many projectiles did you have, at 10 o'clock?

A. Nine of them.

Q. Nine of them?

A. Yes, sir.

Q. And after the shooting started, you fired all of them?

A. No, I didn't fire all.

Q. How many did you fire?

A. Five of them.

Q. What did you do with the rest?

A. Had them in my pocket.

Q. Did you use them that night?

A. No, sir, took them back to the police station.

Q. How does it happen you did not use the rest of them?

A. Why, I didn't need to use them.

Q. Five was enough?

A. That is all I see that had to be used.

Q. Now, when Curley and Henderson started to walk from the line where the policemen were to CIO headquarters, where were you at that time?

A. I was about 100 foot south of the CIO headquarters.

Q. Were you on a line with the other policemen?

A. Yes, sir.

Q. Did you advance with Curley and Henderson, or did you remain on the line?

A. I stayed there until they—after these five shots come out of CIO headquarters, then I went up along this brick building.

Q. Did you hear Curley or Henderson say anything as they advanced?

A. No, I didn't.

Q. Didn't you hear them say a word?

A. No, sir.

Q. After the shooting started, did you see Curley and Henderson do anything?

A. I saw them drop down.

Q. Did you hear them say anything at the time that they dropped?

A. No, I didn't.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Pontius) Mr. Ickes, did you have your revolver with you that night?

A. Yes, sir.

Q. Did you fire that at all that night?

A. No, sir.

Q. What did you fire?

A. Gas.

Q. Anything else?

A. That is all.

Q. Now, the other policemen, do you know what they fired that night?

A. No, I don't. I was looking out for myself.

Q. What?

A. I was looking out for myself. I had a gas gun, shooting over against this building.

MR. PONTIUS: That's all.

MR. LAUTER: That's all.

(Witness excused.)

HARRY O. CURLEY

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. Harry O. Curley.

Q. And your age?

A. 54.

Q. Your residence?

A. 102 Curley Court, Massillon, Ohio.

Q. How long have you lived in Massillon?

A. 54 years, barring the time I was away. That has been my residence.

Q. Where did you live before that?

A. I never lived any place else before that.

Q. Oh, 54? I didn't understand you, I thought you said four years. I beg your pardon. You were in the Spanish-American War?

A. I was.

Q. With what rank?

A. What, I beg your pardon?

Q. What was your rank?

A. Private.

Q. Were you in the World War?

A. I was.

Q. With what rank?

A. Captain, Major.

Q. Are you now a retired Army officer?

A. I am.

Q. With what rank?

A. Major.

Q. And have you had some experience in organizing men, regiments, troops?

A. I have.

Q. Do you know Chief Switter?

A. I do.

Q. Do you know Mr. Case?

A. I do.

Q. Were you in Massillon when a strike was called there at the Republic plant on May 25th last?

A. Now you got me, I don't know.

Q. Well, were you in Massillon for sometime after the strike had started, at any event?

A. Yes.

Q. What was the first contact you had with anybody, with relation to your taking any part in the strike activities?

A. Oh, I had a man by the name of Mr. Smith come to see me first—N. R. A. Smith, I called him. He had charge of the NRA work in Massillon during that proceedings there. He come down and asked me if I would go on the police department. I told him no, I didn't have time to go on anything. I was going away for the summer and I didn't want to go on anything at all.

Q. What was this man Smith's first name, his full name?

A. Well, now I can't tell you that. All I know is that he was connected with the NRA during the time that that was in force.

Q. About when did that conversation take place?

A. I think that was sometime in June.

Q. Can you tell us where it took place?

A. At my residence.

Q. And nothing came of that?

A. No, I refused to have anything to do with it.

Q. Did you have any talk with Mr. Case, secretary of the Massillon Chamber of Commerce, upon the subject I am asking you about?

A. We used to meet in Baltzly's Drug Store quite often, discussed pro and con, yes.

Q. Did you have any talk about your becoming active in connection with the strike?

A. No, not at that time.

Q. When, if at all, was the first talk upon that subject?

A. We were sitting in Baltzly's Drug Store drinking a soda, Mr. Case interviewed me on it, said things were pretty serious in Massillon, and asked me what I thought about our police department. And I said I guess things could be handled if the chief wanted to handle them. I said that I didn't think that anything was so serious but what could be handled.

Q. About when did that conversation take place?

A. Oh, probably in June sometime.

Q. At Baltzly's Drug Store?

A. Baltzly's.

Q. Did you have any talks with Mr. Case upon the same general subject after that talk you had told us about?

A. I believe I did. We used to meet in Baltzly's drug store quite frequently, talked over the conditions in town.

Q. Can you recall anything that was said at these other talks?

A. Oh, he said to me, he said, "You have had quite a bit of organization work," and he said, "if you was going to organize the department, how would you go about it?"

"Well," I said, "that would be very easy, I would— I had quite a lot of success during the World War in organizing a company." I said, "I most always took into consultation the manufacturers of the town; that is, the heads of the industries, and had a talk with them, and generally used to get some men out of there, during the World War. I thought probably the same thing could be applied in Massillon, if it wanted to be, for the police department."

Q. State whether or not, after that conversation with Mr. Case, you had a conversation with Chief Switter?

A. Yes.

Q. Was that a face to face talk with Chief Switter, or telephone talk?

A. No, that was a face to face talk.

Q. And where did that take place?

A. In the Chief's office.

Q. How did you happen to go there upon that occasion?

A. Well, I had been away all day and I came home and my next door neighbor told me that the cruiser car and Mr. Pettit, Patrolman Pettit had been at my house.

Q. Yes.

A. And he said that the Chief wanted to see me at his office as soon as I was available.

And I had an appointment with an eye specialist at the time, Doctor Stewart. I had an eye infection, having quite a bit of trouble with my eyes, so I went on up to the eye specialist and I had my eyes treated there, and while I was having them treated why the telephone rang and they asked if I was there and they said yes—I presume they said yes—I presume they said yes because the young lady came in and said that "The Chief of Police wants to see you at his office just as soon as you can get over there, from here." She said, "What have you been doing, speeding?" I said, "I don't know." So after I got out of the eye specialist, why I walked on over there.

Q. Now, about what time of day was that?

A. Oh, that was about 4:30.

Q. Can you fix the day of the month?

A. Yes, that was the sixth of July.

Q. The 6th of July?

A. Yes, sir.

Q. And did you see the chief in his office?

A. Yes, I went into the office. There was quite a delegation when I got there.

Q. Well, now, will you just tell us as near as you can who was there?

A. Well, Mr. Case was there, Paul Quigley was there, Mr. Blountz was there, Mr. Peppert was there, Mr. Angstedt was there, the city solicitor was there, and the mayor, and the chief of police.

Q. Tell us as near as you can what was said.

A. Well, I walked in, I said, "Hello, Chief, did you want to see me?"

He said, "You bet I do." I says, "Guilty or not guilty?"

He said, "I want you to assist me." I said, "In what?"

"Why," he said, "building up my police force." I said, "Why pick on me?"

So the Chief—then I think Mr. Case and Mr. Quigley got up and left, and I think Mr. Peppert and Mr. Angstedt —I guess I got that name right, Angstedt, I don't know— and Mr. Blountz—they excused themselves and they got up and left.

Q. Did that leave anybody there besides you and the Chief?

A. Yes, that left the city solicitor and the mayor, the chief, and I.

Q. What was said after you and those men were left alone, there?

A. Well, he said—that is the Chief—he said, "Cap, we would like to have you serve us."

I said, "I am not so hot about doing anything." I said, "I am going away for the summer, up into Wisconsin, and I want to get started as soon as I can get my things in shape."

He said, "I would like to have you help me secure some good men." Well, it came along about 5:00 o'clock, that time I had an engagement, about that time, for dinner, and I said, "I will let you know tomorrow." I said, "I am not going to let you know, now. I will let you know tomorrow."

Q. Were you going to Wisconsin on vacation, or what was it?

A. Vacation.

Q. All right. Now, the next day did you see the chief?

A. Yes, I went up to the office then as I promised, about I think it was about 8:30 in the morning.

Q. You saw the Chief?

A. No, he was not there.

Q. All right, did you see him later?

A. [Not visible on copy.]

Q. What did you do later?

A. So I went on down to Stofer's Drug Store—that is my hangout; and then I called him up by the telephone, and I said: "Well, Chief, are you still of the same idea that you was last night that you wanted some men?" He says: "Yes; you can't get them too damn quick." I said: "Why?" He said: "I will tell you when I see you." I said: "Well, I will make arrangements with Mr. Case to arrange a meeting of all the industrial heads for a dinner at the City Club. I want you—I want him—I want the Chief or the City Solicitor, the Mayor, and the Service Director present at that dinner." He says: "O. K." So I didn't see him again then until 11:30.

Q. Night or daytime?

A. That was in the morning, 11:30. I walked over to his office and he was there, and I said: "Well, what is the trouble?" "Oh," he said, "General Moreland and Colonel Pancoast were here last evening after you left and told me if I didn't get my police department built up to where it properly belonged, and showed some activity in what was really my duty, he was going to take it up with the Governor of the State." He said that he was going to move the troopers out on Friday regardless of whether he had any police department or not. This was a local situation and it had to be handled by the police department and not by him.

Q. This talk, as I understand it, took place about Tuesday, the 7th of July?

A. Yes, that was the 7th; yes.

Q. On a Tuesday?

A. Yes. I don't know whether it was a Tuesday or not. I think it was Wednesday.

Q. All right; go ahead.

A. I am not sure if it was Wednesday. Will you read the answer I just gave?

(The witness' long answer was read by the Reporter.)

Q. Now, go ahead.

A. Well, it was then a time for us to go to dinner—12 o'clock—the Mayor came in, the City Solicitor came in, the Service Director, Charlie Snyder, he came in. We all walked across the street but the dinner had been changed from the City Club to the Y. W. C. A. He had a large hall there where they could talk more private. So we went up and had our lunch.

Q. Will you give us some idea as to who were there?

A. Well, all the heads of the industrial businesses in Massillon was there. There were about 15.

Q. Can you tell us who some of them were? Can you give us what companies they were identified with?

A. Frank Heffenberger was there. He belonged to the Steel Casting Company. The Lock Washer was represented there by two parties. I don't know their names. They came into town. Mr. Crawford is the name of the President but these two men were new to me. The Pulp Company was represented there by Mr. Haiman. I don't know what the other men's names were but they were all there.

Q. Was Mr. Case there?

A. Yes, Mr. Case was there.

Q. Was Mr. J. G. Lester there?

A. What?

Q. Was Mr. Lester there?

A. I don't know whether he was there—Mr. Westropp was there.

Q. The lawyer?

A. Yes; Mr. Maier was there.

Q. That is another lawyer?

A. Yes, sir.

Q. Was Carl Meyers there for the Republic?

A. Yes.

Q. Can you tell us now what took place?

A. I think it was about 15 there.

Q. Tell us what took place.

A. Well, Mr. Case got up and he made the statement that we were about to increase the police department there —I don't know how many men were at that time—but he wanted to get as many men as we could. I am ahead of my story—Mr. Case got up and introduced me to the members of the heads of the different industrial sections—industrial businesses in Massillon.

Q. Go ahead.

A. Then I got up and announced that it was our intentions—the Chief's intentions that he wanted to build up the Massillon police department to 66 men.

MR. LAUTER: Has the witness fixed the date of this?

Q. This was the meeting of the Y. W. C. A. Will you fix the time, please?

A. I beg your pardon?

Q. He wants you to fix the date of this meeting in July.

A. The 7th.

Q. The 7th?

A. Yes. I am pretty sure it was the 7th.

Q. Go ahead.

A. Well, he said that the Chief had been unable to get the required men in the police department. That they wanted to augment the police department that he was going to have. That he informed me that he was going to get suitable timber and men that would not go off half-cocked at everything; and that if the heads of these industrials assembled there could see fit to send us some men from their institutions with the understanding that they would be returned to their occupations when the tour of duty was over, that the city—why, we would like to have them. I also informed them that these men would be used for one purpose and one purpose only. That this organization was not a strikebreaking organization, and that they stood for law and order first, last and always. We were not to show any favoritism of anybody whatsoever.

TRIAL EXAMINER LINDSAY: Pardon me, Mr. Day, is this his story?

MR. DAY: That is his story.

THE WITNESS: Oh, yes. This is my speech before the meeting.

Q. Go ahead.

A. So I said: "If you have any available men, we would like to have them sent to us immediately," because the National Guard was going to pull out of Massillon within the next few hours—I wouldn't say within the next few hours, within the next day or so—the next couple of days. So I said that we would like to have you send those men to us this afternoon, if at all possible. So with that I sat down, and the Chief and the Mayor and the City Solicitor and the Service Director was all in accord with what I had said.

Q. Can you recall anything the Chief said? What was the substance of anything the Chief said?

A. The Chief?

Q. At that meeting; at that time.

A. The Chief said that if he could get the number of men required, why, he thought everything would be all right. He was glad that he had my assistance in getting the number of men.

Q. Can you recall anything that the Mayor said? Did the Mayor make a talk?

A. No. He only said: "We have Curley with us, and anything he and the Chief do, I will know will be for the best for the City."

Q. Did anybody else make any talks?

A. Yes; it was several fellows spoke.

Q. Can you recall anything that was said?

A. Well, I can't recall just what they said because—

Q. Did Carl Meyers make a talk?

A. Yes.

Q. Can you recall anything that Carl Meyers said or the substance of it?

A. Well, I just can't get it word for word but I do know that Carl said that the City was in a very bad condition; an awful lot of lawlessness going on within the City limits. Men were getting beat up.

TRIAL EXAMINER LINDSAY: Did you hear him say that?

A. Did I hear him?

TRIAL EXAMINER LINDSAY: Yes.

A. He said it to me. He said: "Wives and children are being molested." Stones were being throwed through automobiles. The telephone line had been cut. Oh, he went on and told a lot of rigmarole and stuff. He said it was "damn near time we were getting law and order in Massillon." That is what it amounted to.

Q. Prior to that time had you had any contact with Carl Meyers?

TRIAL EXAMINER LINDSAY: Just a minute. Will the Reporter read that last answer?

(The last answer was read.)

MR. DAY: Now, will the Reporter read my last question?

(The last question was read.)

A. No.

Q. After that meeting, what was the next thing that happened at which you were present?

A. What?

Q. After your Y. W. C. A. meeting and those things took place that you have been telling us about, then what is the next thing that happened? Did you see Chief Switter again?

A. Oh, yes.

Q. Where?

A. I went with him from the dinner and took a walk around, and I went back to the Chief's office about 2:30. We went into his office and sat down there, and talked the thing over.

Q. Anybody there besides you and the Chief?

A. Not at that time.

Q. Can you tell us anything that you can remember that was said either by you or the Chief?

A. Oh, we made up a tentative organization out about what he would like to have for his department.

Q. What did he say on that subject?

A. He said: "What do you think we ought to have for the number of police officers in Massillon?" "Well," I said, "if the National Guard is going out of here, and you have to take it over, I think 66 men would be what you want." I said, "That is what the National Guard Company consists of, and it will give you three platoons of 22 men each if you have them on duty." I said, "You will have to have an overlapping of an half an hour or so of the police department doing the shift. That is the only way you can get close to your eight-hour shift." We sat there discussing the organization. I said—he said: "You are going to by on the police department, are you?" I said: "Hell, no." I said: "I am not on the police department." I said: "I will help you organize it but I am going away." I said: "I will stay with you three or four days; maybe until you get things run smoothly, and then I am out."

Q. Before that had you been advised by the Chief or somebody as to how many regular police Massillon had had?

A. Yes.

Q. How many?

A. He had 18 regulars. Let me see, he had 18 regulars. He told me how many was in the offices out of the 18. I think he said there were three on the desk: That is where the patrolmen telephoned in to. Bob Smith is the fingerprint man, and himself on the inside. Five men out of the 18. So he really had 13 men for active service or for duty besides his regular force.

Q. After you had that talk with the Chief what was the next thing you did with relation to policemen?

A. In the afternoon?

Q. Whenever it was.

A. Well, we sat in there talking and discussing. It came around 3 o'clock that afternoon. We walked out in the corridor of the City Hall. Gee! the thing was swarming with men. I said: "It looks like you are going to have a police department all right." So we discussed among ourselves, he and I, what we should have. And I said: "Well, Chief, I don't think any police department should have a man on any younger than 30 years of age."

Q. Why did you say that?

A. Well, because a man of 30 years of age can think more clearly and have a better head on him, and it would appear better to the public.

MR. LAUTER: I object to the question and move that the answer be stricken.

MR. DAY: I think it is a fair question. This is the man that helped select the people.

TRIAL EXAMINER LINDSAY: I think it is immaterial. Strike it from the record.

Q. All right. You say you told the Chief that you didn't think any man under 30 years of age—

A. Yes.

Q. Now, what else did you tell the Chief, and he tell you, at that time?

A. Well, we talked the thing over, and I said—and he said he thought that was right. Then we walked down and looked the men over, and lined them up—

Q. How many men were there?

A. I don't know; I didn't count them. Heck! I didn't count them.

Q. Can you give us your best judgment?

A. I should judge 60 anyhow.

Q. Did you know where they had come from?

A. I didn't. There wasn't any names or places or anything taken of the men where they came from.

Q. All right. Go ahead.

A. So we lined them up. I walked down and looked the men over. I said: "All you fellows under 30 years of age step forward." The Chief was down on the other end and he said the same thing. He said: "All you fellows under 30 step forward." Well, there was a few of them just under 30; so we looked those over. They were big husky fellows. So we put them back in line. Then I said: "All you married men with families step forward." Quite a few of them stepped forward. The Chief said: "We don't want you." Then we counted noses, and we had too many men. So we went down and we weeded out what we didn't want. And I weeded out the other end. And we counted noses again, and we had just enough to fill up the police department with 66 men. So those fellows we ran right in with the City Hall there in the room, and they were sworn in.

Q. Did you take the names of the men?

A. I didn't.

Q. Do you know what the names were?

A. No.

Q. Did you know before they were sworn in what plants or factories they had come from?

A. No, I didn't. Now I am lying there. I did know some of them. I did know some of them, but I didn't know many of them. They had all come into the town since I have been away. I am home in Massillon.

Q. Can you state whether or not if you knew they were going to be down in the City Hall?

A. No.

Q. Were you there when they were sworn in?

A. Yes.

Q. Who swore the men?

A. City Solicitor.

Q. Mr. Hardman?

A. Hardman. I was in the vicinity. I was not right n the room, I was in the City Hall when they were sworn n. I was not right in the room, they took them in a side oom and swore them in. I was not—

Q. I want to ask you now whether anybody connectd with Republic Steel Corporation had anything to do with our becoming interested in this piece of business?

A. No, sir.

Q. Or with the men that were selected?

A. No, sir.

Q. Or the manner of their selection?

A. No, sir.

Q. Now, after they were selected, what was the next thing that happened?

A. Put them out on duty, the chief took, as soon as they were sworn in, the chief counted out so many men and said, "You go on duty right away."

Q. Were the men supplied with uniforms and things like that?

A. In fact they didn't have anything, didn't have a night stick or revolver, there wasn't even a piece of equipment in the place to even hand to them. They didn't have no guns, didn't have no ammunition that I know of. I didn't hear of anything even given them, they didn't even have a night stick when I was there. After he had the men, he had nothing to give them. Wasn't no stick, or wasn't a revolver in the place, so he told me, I don't know.

Q. Do you know whether or not these men were at any time supplied with uniforms?

A. No.

Q. Were they supplied with night sticks?

A. Yes.

Q. Do you know when they got their night sticks?

A. I think the night sticks came in on Friday or Saturday afternoon, I don't know what date that was. I think it was Saturday afternoon, if I am not mistaken.

Q. Well, now, you know about the trouble out at the plant, at CIO headquarters on that Sunday night?

A. Yes.

Q. When you are talking about Friday or Saturday, do you mean the Friday or Saturday before that Sunday night?

A. Yes. I was only with them—I wasn't with them a week.

Q. All right. Do you know whether or not the men were supplied with revolvers?

A. All of the men?

Q. These new men?

A. You mean when we swore them in?

Q. No, at any time?

A. Oh, yes, some of them were.

Q. Do you know how many of them got revolvers?

A. Twenty.

Q. Do you know when they got them?

A. From the chief of police.

Q. No, when did they get them?

A. Well, now, wait a minute, I don't know. The Chief told me that the revolvers were in Canton, and one afternoon he told me that, he said, "The revolvers were in Canton, Ohio, and hadn't come over to Massillon as yet." He had word that they were in Canton, but the Canton hardware—they were bought—they were ordered and bought—they were ordered from Massillon Hardware Company. Canton Hardware Company and Massillon Hardware Company I guess are one. I think they are.

Q. Well, do you know when those men or any of those men got those revolvers that we are talking about?

A. They was issued at different times by the chief.

Q. Well, now on Sunday night July 12th, we have been talking about—we have been taking testimony about that. Do you know whether or not any of these men had revolvers provided for them, before that?

A. Some of them, yes.

Q. Can you give the trial examiner any estimate as to how many of them were provided with revolvers before July 12th?

A. July—

Q. July 11th?

A. No, I can't do that because I don't know. He issued every revolver.

Q. State whether or not you had anything to do with issuing of revolvers or uniforms or night sticks?

A. I had not.

Q. Now, you just told us that the men were sworn in and then you said they were sent to their posts of duty?

A. Yes.

Q. Who sent them to their posts of duty?

A. Chief of police. That is, we—he and I worked out a post of where they should go, that is the detail, together.

Q. What is the next thing that happened then that you saw or participated in?

A. I don't know where I am at.

Q. Well, you just tell—

TRIAL EXAMINER LINDSAY: The witness does not know where he is at.

THE WITNESS: No, I can't—

MR. DAY: I think I can help him there.

TRIAL EXAMINER LINDSAY: Just a minute, read the record.

(The record was read by the Reporter.)

A. Oh, it was just generally understood between the Chief and I that—

TRIAL EXAMINER LINDSAY: Now just a minute, Mr. Curley. We do not care a thing about what was generally understood. We want the facts here.

THE WITNESS: All right.

TRIAL EXAMINER LINDSAY: Now you tell the facts, the statements that he made to you and what you said to him.

THE WITNESS: All right.

TRIAL EXAMINER LINDSAY: You are under oath.

THE WITNESS: Yes, sure, I understand.

TRIAL EXAMINER LINDSAY: And that is what we want.

THE WITNESS: That is what I want to testify.

Q. What I am trying to find out is, what is the next thing you did in connection with this matter you are telling us about, before this Sunday, July 11th? Did you do anything?

A. Oh, yes, I assisted the Chief in —

Q. What did you do?

A. I assisted the Chief in advising him about practically everything—

TRIAL EXAMINER LINDSAY: Well, strike that out. That doesn't mean a thing. Tell us what you told the Chief, if you told him anything. Tell us about it.

Q. (By Mr. Day) Did you have any further talk with the Chief after the men were sworn in and sent to their posts of duty, and before Sunday, July 12th?

A. Oh, yes, yes. We went down—we went down to the viaduct together, he and I; rode around in his car, took in the terrain of the land, looked over the different things. I advised him on several things that I thought would be helpful to the department if he would do them.

Q. Can you remember what any of them were?

A. Yes.

Q. Tell us about it.

A. They were, under the viaduct or bridge it was very dark, in under there, going across, you couldn't see from one end of it to the other. There had been rumors floating around that viaduct bridge was going to be blowed up, and I don't know what all.

So I said, "The best thing to do is to put some flood lights down in under there, light it up," and which was done. And we went out and went around together, he took me around and showed me all of the different posts where the pickets were on, drove all the way through and out past the coke plant, out through a side road, back around the town. We counted the number of pickets that were on, so on and so forth.

Q. And what did you discover as to the number of pickets?

TRIAL EXAMINER LINDSAY: Strike out of the record "so on and so forth."

Q. (By Mr. Day) What did you discover as to the number of pickets?

A. We discovered that the day I went around with him, there were 86 pickets from the No. 1 gate until we hit what we call Patch Road, known as the Patch out there, 86 pickets on.

Q. Where is this Patch Road? Runs off of what?

A. It runs north and south about a mile west of the Republic Steel Company.

Q. 86 pickets, did you say, at No. 1 gate?

A. No, on all posts.

Q. On all posts?

A. 86, from No. 1 gate until Patch Road.

Q. All right; what day do you think it was, or was it more than one day that you drove around with the Chief as you have described to us?

A. Oh, that was on a Saturday—or wait a minute, no, I will say—just let me think a minute. On a Friday.

Q. Friday?

A. Yes, the 10th—wait a minute, the 9th.

Q. Friday the 9th?

A. It was on the 9th.

Q. All right, now did you see the Chief on Saturday the 10th?

A. I saw him, yes.

Q. Well, could you remember anything that took place on Saturday the 10th?

A. No.

Q. You say you can, or cannot?

A. I cannot.

Q. All right.

A. I can on the 9th.

Q. Now that brings us to another part of the testimony.

MR. DAY: Are we going to have a recess? It will take sometime to detail that. I said that that brings us up, now, to another—

TRIAL EXAMINER LINDSAY: Go right ahead.

MR. DAY: All right.

Q. Now coming to the 11th, Sunday, did you see the Chief on that Sunday?

A. Oh, yes.

Q. Where did you see him?

A. Down there at the—

Q. At his office?

A. Yes.

Q. What time of the day?

A. Oh, about 1 o'clock.

Q. About 1 o'clock?

A. Yes.

Q. In the afternoon.

A. Sunday afternoon.

Q. Did you then have a talk with him?

A. Yes.

Q. Can you tell us what that talk was?

A. Well, we went out, that was about the time they changed the pickets at 2 o'clock, or between 1 and 2 they generally congregate, or I meant to say the police department changed the shifts. Between 1 and 2, they generally congregated there at the City Hall. I just came back from lunch, I went in. The Chief was there.

So the policemen got started, while we were there talking, they got started to go out on their posts, or beat, and the Chief and I got in his car and we rode out down by the Union Drawn Steel, where there was several men posted there. We drove from there on down to the Republic Steel, saw that the men were all there. And then we drove around, went over to the CIO meeting that was over in the Oak Knoll Park, Massillon.

Q. How long were you there?

A. Oh, we didn't stop there at all. I wanted the Chief to stop and get out and go over, and see what the boys had to say, and he would not stop.

Q. Where did you go from there, then?

A. Well, we drove around there two or three times, he would not stop. He would go down the road and up another, a couple of blocks, then back around the side.

Q. Was he driving the car?

A. He was driving the car, yes.

Q. Did you say it was his car?

A. It was his car.

Q. All right, go ahead.

A. He would not stop. I says, "Let's go over, see what the boys have got to say." No, he would not stop. So we drove on back to the City Hall.

Q. And what time did you get there?

A. I guess that was—I beg your pardon?

Q. About what time was it that you got back to the City Hall?

A. That was, oh, about 3:30 in the afternoon.

Q. All right, go on.

A. Well, we just drove up to the City Hall and I got out, he left me out. He said, "I would like to take my wife for a little ride." "Oh," I said, "I can't see any harm in that." I said,—he went away on the 9th and didn't get back—the 9th of July, and the 10th of July he said he was going to be downtown.

TRIAL EXAMINER LINDSAY: Who are you talking about?

THE WITNESS: The Chief of Police, the 10th of July he said he was going to be downtown and would look after the traffic on the streets down there, that was Saturday night. The night of the 9th why he told me he had gone to Millersburg and got refreshed and felt much better than he had. Saturday night I didn't see him at all.

TRIAL EXAMINER LINDSAY: We will have a recess.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

Q. At the time of the recess you were telling us about a talk you had with Chief Switter on the afternoon of Sunday, July 11th. Will you go on ahead from there, please? You said that Chief Switter said something about going somewhere with his wife and daughter.

A. Can I have my previous answer read?

Q. You said something about going somewhere with his wife and daughter.

A. Oh, I got it.

Q. All right.

A. About 3:30 that afternoon, why, we got back to the City Hall. She said she would like to take a ride—his wife and daughter—I said: "Well, everything looks to be O. K. around here. I don't see any disturbance. Everything seems to be all right. If you want to take a ride, I guess you can." He said: "You can look after things all right." I said: "Yes." I said: "Nothing much to look after now. The shift is changed." But I said: "In case you don't get back," I said "I wanted it distinctly understood that I want off tomorrow night." I said: "The American Legion and the Salvation Army are having doings down on the Athletic Field for the Salvation Army to send the poor children to camp." And I said: "The Canton band is coming over and the drum corps and several other different organizations, and they promised to put on a West Point Review, and I promised to be the Reviewing Officer for the American Legion." He said: "O. K." With that out I went, and I didn't see any more of him until 2 o'clock that Monday.

Q. What did you do after that?

A. I went on downtown walking around; drank a couple of sodas, I guess. And I stayed around, I guess, until about 9:30. I walked over to the City Hall again; the Chief wasn't there.

TRIAL EXAMINER LINDSAY: Can we get down to something that is material instead of all this?

MR. DAY: We are going to get something that is material very soon.

Q. Go ahead.

A. So the boys were getting ready to go on the 10 o'clock shift. They all came in and reported for duty. A lot of rumors flying around there that in the afternoon meeting which they had at Oak Knoll Park, and they were going to come down and clean up the Police Department. I said: "Hell; I have heard that so often—"

MR. LAUTER: I move that remark be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, they may be stricken.

Q. State whether or not you heard any rumors to the effect you just testified before that you went out to the location of the Republic plant that night.

A. I did.

Q. Now, go on, tell us what happened.

MR. LAUTER: I object to the question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: Yes, it may be stricken.

MR. DAY: Exception.

Q. What did you do then?

A. Well, the men came in to go out on the 10 o'clock shift. They all came to me—I didn't know—for orders. They said: "What will we take along?" I said: "Hell, there ain't anything to take along." I said: "There is some gas in back of the Sergeant's desk there. Some gas guns." Outside of that I didn't see anything there.

Q. What did they take along with them on the 10 o'clock shift when they left that you saw?

A. They took everything we had.

Q. What did that consist of?

A. There was tear gas—I think there was five tear gas guns and a machine gun, or a sub-machine gun—a pop gun sub-machine gun.

Q. What is a sub-machine gun?

A. A sub-machine gun is a gun that can shoot over 45 bullets, or it can shoot bird shots; most anything in it. It is a very short gun.

Q. About how many feet long is it?

A. Oh, about two feet or two feet and a half.

Q. What is the difference between a sub-machine gun and a machine gun?

A. Well, a machine gun uses 30-30 bullets, long range; two miles and a half striking distance. A sub-machine gun is only for short range work.

Q. This is what they had, a sub-machine gun?

A. A sub.

Q. Did the shift take that along?

A. What?

Q. Did the shift take that along?

A. Yes.

Q. Where did you go then?

A. I went along on South Erie Street. Looked over the different posts or beats—if the police were on; to see if they were there. Eventually I worked over to the west side of the viaduct on Oberlin Road—on the corner of Oberlin Road and Cleveland Avenue.

Q. About what time did you get there?

A. Why, I should judge about 10:15.

Q. What, if any, effect—what did you observe when you got there?

A. I stayed talking to the fellows that were on that beat. Observing traffic coming in and out of the mill. The men—our shift had changed, and the men were then coming into the mill to go to work.

Q. Where were the men on the beat—the policemen on the beat—where were they?

A. There were four of them stationed on the corner of Cleveland Avenue and Oberlin Road in front of the office building at that time.

Q. Can you tell us who they were?

A. Shimke was one. Blanchard was one. It is hard for me to get these names because they are new men.

Q. What kind of a policeman is Shimke?

A. A special. Holden was another. There is another one I can't think of it.

Q. Go ahead.

A. I was observing what was taking place, talking to the boys, and all at once I looked up and saw the traffic on the bridge not coming over.

Q. Traffic from what direction?

A. From south over the bridge across the viaduct. So I had my car standing there pointed toward Erie Street. I immediately got in the car and went to the east end of the viaduct to ascertain what was the trouble.

Q. When you got there what did you do?

A. Well, there was two cars mashed up there in the entrance to the viaduct. The cars were No. — I had the car number. I took both numbers then.

Q. Have you got them with you?

A. I wrote them down and put them in my pocket. Yes, they are in my pocket. One was a Pontiac coach, P 216 D. And the other one was a Nash, 1930, M-812-Z.

Q. What, if anything, else did you see there?

A. I saw two men handcuffed together standing there. The cars were mashed. I asked what had been done, if they had telephoned for a tow car. They said they had. Just at that the tow car drove up and I got out to assist them, to assist the tow car in taking away the debris from in front of the viaduct.

Q. What, if anything, else did you see out there besides the cars you told about?

A. Well, I saw quite a number of broken cars in the vicinity that had been broken by stone—windshields, so on and so forth, that they broke up—I saw them after they were broke. I did not witness—

Q. About how many cars did you see with broken windshields to the best of your knowledge?

A. Well, I only saw three myself. There was more up the street, but I only saw three.

Q. Did you observe whether there were people around there, and if so, to what extent?

A. Oh, it was jammed with people.

Q. What were they doing?

A. Just mingling around in there. However, I asked policeman Schlinger what was going on there, and he said one of—when these cars jammed together about 30 fellows charged the police department, there. I said, "Well, what happened?"

He said, "We just got in with our night sticks and broke them up." I said, "Did you do any shooting over here?" "I thought I heard a couple shots."

He said, "Yes," he said, "I ran one of those fellows down into the canal," and he said, "I shot up—or shot into the ground when I was running, to scare him, but he ran through the canal and got away from me."

Q. About what time of night was that?

A. That was about 10—that was about 10:30.

Q. What next did you see?

A. Well, that was all cleared up, then. It was not all cleared up, because they were going up the street, doing a lot of damage.

Q. What did you do?

A. I went on back to the west end.

MR. LAUTER: Will you read the last answer?

(The last answer of the witness read by the Reporter.)

MR. LAUTER: I move the answer be stricken out, "they were going up the street doing a lot of damage".

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. (By Mr. Day) Did you see them doing any damage?

A. I did not.

Q. All right, then, what did you do?

A. I went back over to the west end of the viaduct. Went back over to the corner of Oberlin Road and Cleveland Avenue, stopped there. Ran the car up about halfway and got out.

Q. About what time was that?

A. Oh, that was about—I guess then I think it was about five or ten minutes of 11:00, when I got back there.

Q. All right, go ahead.

A. And as I got up there why Officer Kelley and Fellabaum and Henderson were standing there and said there were a couple of drunks up in there that were getting unruly and they ought to be taken out.

I said, "Well, where are they now?" "Well," he said, "we haven't saw them for sometime." Just at that point, quite a crowd started coming out of the CIO Hall.

Q. About how far away were you, in feet, from the CIO Hall?

A. About 100 feet.

Q. What, if anything, did you observe as to the number of people up around the CIO Hall?

A. Oh, there was quite a gathering there.

Q. Can you give us some idea about how many?

A. I should judge about three—about 300, 350 and 400 people.

Q. What police officers were there when you were talking, the way you are telling us about now?

A. Well, there was Creger, there was—wait a minute—there was Kelley, there was Fellabaum, there was Kraft, there was Ickes, there was Henderson, there was—

Q. About how many altogether? You have named some of them.

A. Well, I am trying to tell you the names.

Q. That is enough names.

A. All right.

Q. Can you tell us—

A. I should judge about eight or ten.

Q. Now, you say you saw a crowd coming, now just tell us about that.

A. Now, we were standing there talking when I went back, and a car drove in there with some young fellows in.

Q. From what direction did the car drive?

A. Across the viaduct, they came across from the east end of the viaduct to the west, and up to the south on Oberlin Road, drove up into where the police officers were.

Q. On what street?

A. Cleveland Avenue.

Q. All right, then what happened?

A. Well, one of the officers stopped them, I don't know which one any more. They were stopped and asked how they got in there. They said they drove in. One of them—one of the officers said, "Where are you going?" And I was standing a little ways, I heard one of the kids say, "None of your damn business."

Just at that, Officer Kelley came over and he looked in the car and he says, "Why, every damn one of them are from Canton, Cap." And I said, "They are?" And he says, "Yes."

Officer Kelley was a former deputy sheriff and he knows practically everybody in the county, I guess. He knew these boys. And I says, "Where are you going?" They didn't have any explanation to make, so Officer Johnson and Joe Packer was put in charge of them and they took them down to jail to question them.

Q. What next happened out there where you were?

A. I beg your pardon?

Q. What next happened out where you were, there?

A. Well, the crowd—

MR. LAUTER: Just one second. I want to move that all of the testimony with respect to the occupants of the car from Canton be stricken from the record.

MR. DAY: Oh, no.

MR. LAUTER: No connection with any issues in this case.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

MR. DAY: Note an exception.

Q. (By Mr. Day) What is the next thing that happened?

A. Well, then the crowd commenced to get larger, at

CIO Hall, and Kelley and Henderson and Fellabaum and Ickes and I got our heads together and I said, "Don't you think it would be a pretty good idea to go up and tell those fellows that they will have to abide by the proclamation that was handed down by the sheriff of Stark County?"

Q. Who said that?

A. I did.

Q. All right, go ahead.

A. So I said, "We do not want to have any trouble here," I said, "it would be a good idea to break it up."

So Henderson, he started forward, and he turned around and he said, "Come on, Cap." And I said, "Hell, I ain't got any business up there. I am not deputized to go up in there."

And he says, "You are deputized now." He says, "You are going right along up." I says, "All right, if that is the way you feel about it, I will go up and try to talk to the boys." So we started forward.

Q. Now, just a minute. At that time how were you dressed?

A. Like I am now, with the exception of my coat was off.

Q. And what colored shirt did you have on?

A. Light shirt.

Q. What colored trousers?

A. Dark.

Q. And what, if any—

A. I had a cap on, I had a green cap on.

Q. Were you armed?

A. I was not.

Q. What did you have?

A. I didn't have anything.

Q. All right.

A. I walked up, started to walk up, and I got about fifty feet ahead of where the officers were lined up, at a little street intersection where we always keep the officers lined up and where the pickets paged—that is, were going to and from the pickets changed, and that was a kind of a place where they turned in their cards when the other pickets went out on their touring duty, that is, the CIO pickets.

So I had got about, oh, I guess about fifty feet from there, I wasn't looking for any trouble—

MR. LAUTER: I move that the remark of the witness, "I wasn't looking for any trouble" be stricken out.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. (By Mr. Day) Go ahead.

A. I walked about fifty feet forward, so as I got about fifty feet ahead, why I was met with "You God Damn dirty sons-of-bitches" and bingo, out came a bunch of rocks, clubs, stones and bingo five shots, one right past my head.

Q. Who said this, about the sons-of-bitches?

A. The men up around the CIO Hall.

Q. And where did the rocks come from?

A. Around the CIO Hall.

Q. Where did the shots come from?

A. From on the step of the—in front of the front door of the CIO Hall.

Q. How many shots did you see?

A. Five.

Q. Could you give an opinion as to what kind of shots they were, or from what guns they were fired?

A. Well, revolver—

MR. LAUTER: I object to that question. Just one second.

MR. DAY: Just a minute, on that. I can qualify this man from his experience.

TRIAL EXAMINER LINDSAY: Oh, he may pass his opinion.

MR. DAY: What is that?

TRIAL EXAMINER LINDSAY: He may pass his opinion.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

(The last question was read.)

A. Yes. An automatic revolver.

Q. All right. Then what happened?

A. Why, I immediately dropped to the ground and Henderson did also, and then all Hell broke loose.

Q. Well, just tell us what happened.

A. Well, the firing started, I was lying on the ground. I don't know, I laid down. The firing then started from both sides and tear gas guns were going, Fellabaum was back with a machine gun loaded with bird shot, he started that barking. The gas—that was fired for effect only.

Q. Now, just a minute, do you know how—do you know what course was taken by the bird-shot that was fired from this sub-machine gun?

A. Well, when I saw it, that was the fire up there, when I saw the flash of it—

Q. In what direction was it?

A. They were shooting in the air over the CIO Hall.

Q. All right, now, what, if anything did you have?

A. I didn't have a damn thing.

Q. You had nothing?

A. I had nothing.

Q. All right, go on, tell us about it then? How long did that keep up?

A. Oh, that kept up for—well, the first round kept up for about ten minutes, you might say. It gave me a chance to crawl back from where I was.

Q. And what, if anything, did you observe as to where the shots came from?

A. Well, they were shots being—when I got back I could observe them, that they were coming from the north, and they were coming from the east, and they were coming from the west.

Q. And were they coming toward or away from the policeman you had—

A. The flashes were coming towards us, from the gun flashes—that is all I could determine was from the gun flashes.

Q. You say they were coming from the east?

A. Yes.

Q. Whereabouts from the east?

A. Well, a corn field down in there, B & O or C. L. & W. Railroad, I don't know what it is. They were down there on that bank. Then there were some over back of an alley along in there by the—back of the—it is not an alley, it is a clearing, you might say, goes right directly back of the Republic Steel Company's office, in the rear of it. That is this way, now.

Q. When you say "this way"—they were coming from the west?

A. Yes.

Q. Could you see, from where, from the west? Out of what?

A. Grass. Buildings around there, I don't know. I couldn't say. I could just see flashes.

Q. Do you know what the policeman were shooting?

A. I don't.

Q. Then what happened?

A. I know the policemen back there had—there were five tear gas guns back there, yes.

Q. Well, do you know whether or not the policemen were shooting lead?

A. That I couldn't say.

Q. Now, you told us about Fellabaum?

A. Yes.

Q. Now, did you shoot anything during that engagement or fracas there?

A. Yes.

Q. What?

A. After I got back.

Q. What did you shoot?

A. I got a tear gas gun when I got back.

Q. What did you do after you got the tear gas gun?

A. I laid down a barrage.

Q. Where were you when you laid down the barrage?

A. Middle of the road.

Q. How far from CIO headquarters?

A. Oh, about 100 or 150 feet.

Q. And where did you shoot these tear gas projectiles or whatever they are?

A. Oh, I shot them about—oh, I guess about 100 feet in the air, and up at the CIO headquarters.

Q. How do those work? This is for my own information. I don't know whether the Examiner knows or not. I don't. How do they work? Do they burst in the air, or burst after they land on the ground?

A. What you have got to do, you have got to shoot them about 100 or 50 feet in the air, so when they come down they are already—it gives you the effect of the gas, you see, when they light. If you shoot them on the ground, it wouldn't go up.

Q. Does the gas start to escape from the bombs before they hit the ground?

A. That is right.

Q. Oh, I see. And about how many of those did you use?

A. There is a fuse on the end of it, end of the gas gamb, which ignites, and that is what sets it off.

Q. About how many did you shoot?

A. Well, I didn't have very many. I guess I shot about eight all evening.

Q. Where did you get the tear gas gun that you used in the manner you have described?

A. From the car.

Q. One of the police cars?

A. Yes.

Q. Did they get any ammunition there that night?

A. Did I?

Q. Yes, did you send for any?

A. Ammunition, sure, I sent for tear gas.

Q. Where to?

A. Union Drawn Steel.

Q. About what time of the night was that?

A. Oh, about 11:30.

Q. And you say you sent to the Union Drawn Steel?

A. Sure.

Q. That is one of the—

A. I called them up.

Q. You called them up?

A. Yes.

Q. Where did you telephone from?

A. Republic Steel office.

Q. The main office?

A. Yes.

Q. Did you get somebody on the telephone?

A. Yes.

Q. Do you know who you got?

A. I don't.

Q. What did you tell him?

A. I told him who I was and I was in trouble, and I would like to know if they had some tear gas they could let me have; and they said they had a small amount. I asked him if I could have it; they said I could if I sent for it. They said they would have it ready.

Q. Did you send after it?

A. Yes.

Q. Whom did you send after it?

A. A police cruiser; one of the cruisers there.

Q. Did it bring it over?

A. Yes, it was there.

Q. What?

A. Yes, it was there.

Q. Did you have any conversation there with anyone at the Union Drawn?

A. No.

Q. Did you have any conversation with anybody at the Union Drawn with relation to tear gas?

A. No.

Q. Now then, you have told us about this shooting back and forth, and about your getting this tear gas from Union Drawn. Now, what next happened?

A. Well, the sheriffs was in there, too. The deputy sheriffs were there, too, and a few deputy sheriffs came along.

Q. What time would you say the deputy sheriffs got in?

A. I saw them right afterward; who they were, I don't know. I didn't know them.

Q. Did they come there after the firing had begun?

A. Yes.

Q. Can you tell us about when that was?

A. Well, I observed that as soon as I got back—after the shooting started I observed some deputy sheriffs but I don't know where it was coming from.

Q. About how many were there?

A. I don't know; I just noticed them there; their uniforms.

Q. Did you notice anybody else coming on the scene?

A. No.

Q. Were there any policemen from Canton?

A. Yes; they came in after on; after the fighting—I looked across the bridge—I didn't know what it was then. When they got up to us with the sirens going—when they got up to us I saw it was an armored car; an armored cruiser.

Q. What time did they get there?

A. I should think it was 11:30 or a quarter to 12; something like that.

Q. What, if anything, did you see the Canton police do after they got there?

A. They got out and kind of observed things. The Canton Police Department took and loaded up all the tear gas—the guns with the tear gas and got in their armored car and drove up through Cleveland Avenue.

Q. Now, did anybody else come on the scene besides the deputy sheriffs and the Canton police?

A. Yes; the National Guard came in 20 minutes later.

Q. About how many of the National Guard men came there?

A. About 16.

Q. How did they come?

A. Pardon?

Q. How did they come?

A. On the trucks.

Q. What, if anything, did you see them do after they got there?

A. Well, I don't know; I didn't go up in. They went up in—they followed the armored truck right up into the C. I. O.—past the C. I. O. headquarters, and past the vicinity—over there up in—I didn't go in there; it was gas. I had a bad pair of eyes and I didn't go up in there immediately.

Q. What did you do?

A. After they came?

Q. Yes.

A. I went back.

Q. Back where?

A. Back where we were formerly on our line. Told the boys to stay where they were; they didn't have any business there. Just stay back on the line where they formerly were. Our police officers stayed back there, and finally policemen Schlinger came over on the other side and said: "We have got to have some men on the other side for help." I said: "What is the matter there?" He said: "It is congested there; we can't get the people to move away."

Q. Where was Policeman Schlinger?

A. He was stationed on the corner of Erie and Oberlin Road.

Q. Then what did you do?

A. Then Fellabaum and several of the officers went back with him. I guess they broke up the crowd and got the traffic regulated again, but I didn't hear anything more about it.

Q. About how many did you see there ?

A. Where?

Q. Out where this trouble had happened?

A. I stayed until the next morning; about 8 o'clock. Yes, 8 o'clock.

Q. When did you next see Chief Switter?

A. About 2:30 in the morning.

Q. Where did you see him?

A. I saw him where we were standing; at the intersection. At the intersection of the road.

Q. Did you have a talk with the Chief?

A. Yes.

Q. About that time?

A. Yes.

Q. What did you say and what did he say?

A. Well, he said: "Cap." he said, "I knew this damn thing had to come sooner or later." He said, "I am damn glad it is here and over." He said, "They have been asking for trouble right along." And he said, "They got it." And he says, "There is plenty more where that come from. If they want it I am going to give them a lot more." I said, "Listen, I am sorry this thing had to happen the while I was on the shift." So I left him and went on back into the Republic Steel office and got a drink of water back there.

I came out and Captain Williams was standing in front.

Q. Who was he?

A. He was the National Guard Commander; Commander of the National Guard.

Q. All right.

A. He said: "Major, come on and walk along with me up. Let us see what is going on." He had a lieutenant in command of the men up there then. Deputy sheriffs and the National Guards were up there making arrests. Loading them in the Army trucks and bringing them out there. So I walked along with him; I don't know what street it was. Beyond Cleveland Avenue, but it is just beyond Oberlin Road and the first street over. We stayed there and talked while they were bringing the men out. I didn't know where they were getting them; I didn't go out to see. They were rounding up the men and hauling them away in the Army trucks—taking them to jail, I guess. Just as they were doing that, Chief Switter walked up to one of the cars and said: "You God damn sons-of-bitches; you asked for this and you got it; and there is plenty more where this came from."

Q. To whom did he say that to?

A. People in the Army truck.

Q. People in the truck?

A. Yes, and said: "You are getting damn brave." That is all that was said.

MR. PONTIUS: I guess that is all.

Cross Examination

Q. (By Mr. Lauter) Major Curley, I show you what has been marked as Exhibit No. 8.

A. Yes, sir.

Q. And ask you whether or not you are the individual in this photograph with a tear gas gun in your hands lying thrown on the ground (indicating)?

A. Yes.

Q. Is that the tear gas gun that you used that night?

A. I beg your pardon?

Q. Is that the tear gas gun that you used on July 11th?

A. Yes.

Q. Do you recall when that picture was taken?

A. Yes, taken the next morning about 10 o'clock.

Q. And you posed for the photographer?

A. Yes.

Q. Did you have any conversation with any of the photographers? A. No.

Q. What happened? How did you happen to pose for that photograph?

A. Oh, yes, I knew the photographer.

Q. Who was the photographer.

A. He was from Akron.

Q. What was his name?

A. I can't tell you his name but I met him several times in different encampments of the Penn Plan Tourists.

Q. What conversation did you have with him?

A. He just asked me if I would let him take a photograph and I said: "Sure."

Q. Is that all the conversation there was?

A. He wanted to know if I would pose for him at the C. I. O. hall and I said: "Hell, I am not standing around here to get my likeness taken."

Q. Did you tell him anything that happened the night before? A. No.

Q. Major Curley—

MR. PONTIUS: I want to ask Major Curley one more question.

MR. LAUTER: Yes.

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Sup Ct

Vol. V

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 14

REPUBLIC STEEL CORPORATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD AND
STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 7, 1940.

CERTIORARI GRANTED MAY 20, 1940.

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Redirect Examination

Q. (By Mr. Pontius) When did you cease to be active in this?

A. I beg your pardon?

Q. When did you cease to be active in connection with this strike with relation to the police?

A. On the following Thursday about noon.

Q. Did you have a talk with the Chief about that?

A. Yes.

Q. Where did that take place?

A. City Hall.

Q. What was said?

A. He said he was going to Washington, D. C. before the National Labor Relations Board to appear before Ma Perkins, he said. That he was going down there—it would be all right, he said, "For you to be out of the picture." I said: "When you go out, I go out."

Q. Did you receive any compensation at all for your activities?

A. None.

MR. PONTIUS: All right.

Cross Examination (Resumed)

Q. (By Mr. Lauter) Is the other man in that picture, Mr. Henderson, a special deputy?

A. Yes.

Q. Is that the gun that you used?

A. I can't say.

Q. What is that?

A. I can't say.

Q. Did you see him use a gun that night?

A. I didn't.

Q. Did you see him use any weapon at all that night?

A. I didn't.

Q. When you walked up from the line of police, wasn't he armed at that time?

A. Yes, he was armed.

Q. What did he have?

A. I suppose he had a regular police 38 and so on and so forth.

Q. When you both fell to the ground did he use that 38?

A. I can't say yes to that. I was covering myself.

Q. You had no weapon at all?

A. I had none at all.

Q. You are sure you didn't reach for a gun that later jammed?

A. No, sir.

Q. You are sure about that?

A. Yes, sir.

Q. Now, this July 11th meeting that you went to and to which Mr. Carl Meyers was present, had you ever met Carl Meyers before?

A. I hadn't. Did I meet him?

Q. Yes.

A. Yes, I had met the man; yes. I had met him in a way but never just to speak to him; just a speaking acquaintance.

Q. Well, you were friendly with him, as with other industrial heads in the city?

A. No, I didn't know the man.

Q. What is that?

A. I didn't know the man personally. He came into town, he came into Massillon later. He wasn't a Massillon man.

Q. Are you on friendly terms with some of the industrial heads in the city of Massillon?

A. Practically all of them.

Q. They attended—A good many of them attended the meeting on July 7th?

A. Yes.

Q. And they promised to send down some of their men?

A. Yes.

Q. To become a part of the police force, to be deputized, is that correct?

A. Yes.

Q. And at that time did Mr. Meyers make any—give any indication as to whether or not he would send down any men?

A. He did not.

Q. Did you expect or did you request the Republic Steel Corporation to send down any men?

A. I didn't ask anybody. Any individual, no, sir.

Q. Well, when the various industrial heads discussed the matter of sending down men to be deputized—

A. Why, I don't know what they done, after I left.

Q. Well, do you know about the fact that they did volunteer to send down men?

A. Yes, that is, they said at that meeting they would.

Q. Yes.

A. Yes.

Q. Well, you didn't expect any from Republic Steel Corporation to come down, did you?

A. Who, me?

Q. Yes.

A. I didn't know what they were going to send.

Q. I am saying, did you expect any to come down that afternoon?

A. Who, me?

Q. Yes.

A. I didn't know where the men were coming from. I didn't make any stipulation as to where they were coming from.

Q. You were there when they did come to the police headquarters?

A. Yes.

Q. When you looked over the group of some sixty men that were there, you didn't know where they came from?

A. No.

Q. You did know, however, they came from various industries in the city?

A. I did.

Q. You didn't know that some of them came from Republic Steel Corporation?

A. Well, I presume some did, yes. I didn't question any of them.

Q. Well, you didn't ask them to find out whether they did come from Republic Steel Corporation?

A. No, neither did the chief.

Q. Now, those men had to be bonded, is that correct?

A. That is right.

Q. Do you know whether or not bonds were posted for the men who were sworn in?

A. That I couldn't say.

Q. Do you know Mr. Gordon Hess?

A. Yes.

Q. Well, did you have a telephone conversation with him on that day?

A. I did not.

Q. Did you have any telephone conversation with him about that time?

A. No, I did not.

Q. About paying for bonds on Republic men who were sworn in?

A. No.

Q. Are you sure you did not have any conversation with him?

A. No, not Gordon Hess.

Q. Whom did you speak to about it?

A. Lester.

Q. Who is Mr. Lester?

A. Well, he was the man on the Law & Order League. He is a business man of Massillon, one of the industrial heads of the rubber company—the general manager, I think, of some rubber company over there, or owner of it.

Q. Do you know whether or not bonds were paid for, when the men were sworn in?

A. I beg your pardon?

Q. Do you know whether or not bonds were paid for when the men were sworn in?

A. I couldn't say.

Q. Do you know how many Republic Steel Corporation men were deputized?

A. I do not.

Q. Do you know that Republic Steel Corporation was billed for some 28 men that were deputized,—27 men who were deputized?

A. No, sir, I do not.

MR. DAY: Do you mean billed for their bonds?

MR. LAUTER: That is right.

Q. (By Mr. Lauter) Did you hear anybody call Mr. Gordon Hess to come from Canton on that day?

A. I did not.

Q. Did anybody tell you that he had been called?

A. I did not.

Q. Now, on July 11th—you had no official connection with the police department of Massillon, is that correct?

A. I had not.

Q. Have you ever been deputized?

A. No, only when Henderson deputized me.

Q. Well, did Henderson ever deputize you?

A. Any officer has a right to deputize you in case of trouble.

Q. And you considered yourself deputized that night?

A. I certainly did.

Q. About what time of the night did Henderson deputize you?

A. Oh, along about just 11:00 o'clock.

Q. Prior to your being deputized you issued the order that increased the number of policemen on Cleveland Avenue, is that correct?

A. I beg your pardon?

Q. You issued the order that increased the number of policemen on Cleveland Avenue that night, is that correct?

A. Yes.

Q. Ordinarily, how many policemen are there?

A. There are generally six.

Q. That is, three coming on and three going off?

A. No, there is six there on all changes of shifts.

Q. There are six men—well, now on Cleveland Avenue how many are there?

A. There is six.

Q. That is, in addition to those at the viaduct?

A. Oh, yes.

Q. There were six men stationed there at all times?

A. At the change of every shift, yes, the shifts were doubled, overlapping, an hour and a half at the change of each and every shift. Now if a man came on, understand, at 11 o'clock, they would have to stay until 11:30 or 12 o'clock before they could go home.

Q. That is, when three men shifts were overlapped, three were coming on, there would be six?

A. There would be six men, yes.

Q. Now, how many men did you order for that place, that night, at Cleveland Avenue that night?

A. I think two or three additional men.

Q. That is all?

A. That is all.

Q. And what arms did you suggest they take with them?

A. What arms?

Q. That is right.

A. Why, we took all of the tear gas guns we had.

Q. And what other weapons did you take?

A. And the machine gun.

Q. What is that?

A. Sub-machine gun.

Q. As far as you know, had there been any violence since the time these men were sworn in on July 7th?

A. No.

Q. Do you know whether, as a matter of fact, there had been a decrease in the number of arrests?

A. Yes, there had been.

Q. In other words, there was less trouble?

A. After—When?

Q. From July 7th to July 11th?

A. Yes.

Q. There was less trouble, is that correct?

A. Yes.

Q. Now, on that night you were assigning additional policemen to Cleveland Avenue?

A. Yes.

Q. Furnishing them with tear gas?

A. Yes.

Q. And a sub-machine gun?

A. Oh, that was regular equipment. Always carried in the car.

Q. They always carried the sub-machine gun too?

A. Yes.

Q. Was that machine equipped with bird-shot?

A. Well, it is always equipped with bird-shot, yes. It has got both—It has got both 45's and bird-shot. It has got—you have got about six magazines full of each. You have got six of bird-shot, or let's see—I guess three of bird-shot and three of 45's.

Q. What do you mean, three of bird-shot and three of 45's?

A. Well, the regular 45 bullet it shoots in the machine gun. And you take a 45 bird-shot, that is only a paper shell on the end of it with about nine little shot in them, they give you the same effect, that rat-a-tat out of the bird-shot that you can get out of 45's. No harm can be done—not very much harm can be done with the bird-shot.

Q. Did you hear the shots that were fired at the viaduct?

A. What is that?

Q. Did you hear the shooting that went on at the viaduct?

A. Yes.

Q. And about what time was that?

A. Oh, that was about—I should judge about 10:15.

Q. And the report that you got, then, was that the shooting that was done by a policeman, is that correct?

A. Yes, correct.

Q. Did you hear Mr. Patrolman Ickes testify today?

A. Part of it, yes.

Q. Did you hear him state that at 10 o'clock that he was walking around with a loaded tear gas gun in front of C. I. O. headquarters?

A. No.

Q. Well, do you know whether or not he had a loaded tear gas gun at about 10 o'clock?

A. I couldn't tell you that.

Q. What time did you arrive at Cleveland Avenue?

A. I arrived there about ten fifteen, I guess, something like that. I come downtown and stopped over on the east side of the viaduct.

Q. Did you see any officers there carrying arms at that time?

A. Carrying any?

Q. Arms? Carrying arms?

A. Where?

Q. On Cleveland Avenue?

A. Why, yes, all—no. You mean when I got back over to the east—

Q. At 10:15? When did you come over to Cleveland Avenue?

A. Well, I was over there twice or three times.

Q. When were you there the first time?

A. Well, I was there about 10:15, the first time.

Q. At that time did you see the officers carrying any arms?

A. No, I didn't get up that far at that time. I stopped down at the corner of Cleveland Avenue and Oberlin Road, and I stopped there to talk to the man, and I turned my car around. Stayed there with the four men that were standing on the post there. There was only two there during the regular change, and there was four there at that time.

Q. When did you go there the second time?

A. Well, that, there was about—oh, I should judge about five or ten minutes to 11:00. No, the second time I went across—I went back and forwards there several times. I can't just tell you the time.

Q. Well, after the first time you were there during the second or third visit, did you get up as close as 100 feet from the C. I. O. headquarters?

A. Oh, yes.

Q. Did you see any of the officers armed at that time?

A. Armed?

Q. Carrying arms, revolvers, guns or tear gas guns?

A. Why, they were all armed, certainly they were all armed.

Q. Did you see them carrying tear gas guns?

A. I didn't see any.

Q. You didn't see Patrolman Ickes there?

A. No.

Q. You expected trouble on July 11th, is that correct? The evening of July 11th?

A. No, I didn't expect any trouble, no. I hoped there would not be any.

Q. What was the reason that you assigned additional policemen at Cleveland Avenue?

A. Well, just to keep down—just for effect only, to keep down the resistance of the crowd.

Q. What is that?

A. It was to—oh, the crowd was much larger than usual.

Q. You assigned them at 10 o'clock, didn't you?

A. Oh, no. Oh, no. I told Ickes to—about the only one I assigned down there, at 10 o'clock, was Patrolman Ickes. And I told Ickes to go down there because there wasn't anything—the Union Drawn Steel was not working that night, and there wasn't any use of him going to the Union Drawn Steel. I says, "You might as well go down there tonight, report"—

Q. When did you call your additional policemen?

A. Additional?

Q. On Cleveland Avenue?

A. I didn't call for any additional.

Q. Didn't you ask, that evening—

A. No, sir.

Q. Order additional policemen over?

A. No, sir.

Q. Do you know how they happened to come there?

A. No, sir.

Q. It was not pursuant to your instructions?

A. No, sir.

Q. How many policemen were there at most, on Cleveland Avenue, that night?

A. Oh, well, on Cleveland Avenue there would be—let's see, there would be eight, twelve—there would be twelve, and then, let's see, there would be twelve—then there would be four down there where they had—well, about a block or so of there, would be seventeen— 13, 14, 16, 18—there would be about 20, within a radius of about a block, there. Two of them is right at the corner—four of them is on top of the hill there on Duncan Street. There were four there. There were four at the viaduct on the west end of the viaduct at No. 1 gate; there were four right at the corner of Cleveland Avenue and Oberlin also. Then there was the balance of them up in front of the C. I. O. headquarters.

Q. What time of the night was it that Fellabaum shot out the headlights of one of the cars?

A. Oh, that there was about 11:15.

Q. What was the conversation with Fellabaum at that—that Fellabaum had with the person who was in the car?

A. Oh, the fellow drove up with a car and he flooded all the police officers out there with all of the bright lights and just scattered the lights all over the whole area. And Fellabaum says, "Turn out those lights." The fellow turned out the lights and got right back in and turned them back on again and Fellabaum says, "If you don't turn those lights out, I will shoot the damn things out." The fellow didn't turn them out, so Fellabaum just shot one out.

Q. About what time was it that you started to walk toward C. I. O. headquarters with Officer Henderson?

A. 11 o'clock.

Q. How far did you say you had gotten, when some shots were fired?

A. About 50 feet.

Q. Did you say there were five shots fired?

A. Yes, sir.

Q. Maybe four?

A. No, it was five. Five distinct shots.

Q. You are sure of the number?

A. Sure enough.

Q. Sure it wasn't four?

A. No, sir. Those looked bigger—those flashes looked bigger to me than mountains.

Q. You were on the street, and in back of you about

50 feet in back of you there were policemen lined up, is that correct?

A. Yes, sir.

Q. And those five shots came behind you and Officer Henderson, is that correct?

A. Correct.

Q. They came directly in front of the C. I. O. headquarters; the steps of the headquarters, is that correct?

A. Yes, sir.

Q. Do you know whether or not any officers were shot that night?

A. No, sir.

Q. What is that?

A. No, they weren't.

Q. None that were hit by those five bullets or any other bullets?

A. No, sir, there weren't.

Q. Do you know about one man being shot that night?

A. I heard of it.

Q. You heard that two were killed, is that correct?

A. No, I didn't.

Q. What?

A. No, I didn't.

Q. How many were hurt then?

A. One.

Q. Do you know what kind of bullet hit him?

A. No, I don't.

Q. Do you know it was a bullet?

A. I don't.

Q. What have you heard it was?

A. I haven't heard anything.

Q. Did you ever report your findings of what happened that night?

A. No, I didn't.

Q. You didn't cease your duties until next Thursday?

A. That is right.

Q. You didn't make any investigation of the people that were killed?

A. No; the Chief of Police was on duty and I thought it was his job.

Q. Where was this fellow with the machine gun?

A. He was over on the west side; on the first tile building on Cleveland Avenue.

Q. You testified that in your opinion it was bird shot that came out of the machine gun; is that correct?

A. Correct in my opinion.

Q. Are you still willing to testify that no 45 bullets came out of that sub-machine gun?

A. No.

Q. Well, I am not so sure of your answer. Did you say that none did come out of that gun?

A. No, I would not say that it didn't because I didn't know.

Q. Are you saying that some 45 sub-machine bullets might have come out of the gun?

A. What?

Q. What kind of bullets came out of the gun?

A. I can't say.

Q. Did you say on direct examination that bullets came out of the gun?

A. That was what was used.

Q. Did you say that they were 45 bullets that came out of that machine gun?

A. No, I didn't.

Q. You would not testify to that?

A. I don't know; I wouldn't testify to that. I didn't handle it.

Q. After that you sent for tear gas, is that correct?

A. Correct.

Q. About what time of the night did you send for tear gas?

A. About 11:15 or 11:30.

Q. What is that?

A. I think it was about between 11:15 or 11:30; something like that.

Q. You went to the headquarters of the Republic Steel Corporation near the C. I. O. headquarters? You called on the telephone?

A. Yes.

Q. You said you didn't know to whom you spoke to, is that correct?

A. Correct.

Q. But you asked them to send tear gas and they sent it; is that correct?

A. No; we sent around the cruiser to get it.

Q. Who sent for the tear gas?

A. I don't know.

Q. Did they bring any back?

A. I didn't see it when they got back. I wasn't there when the car came back.

Q. You said the police cruiser went after it; is that correct?

A. Correct.

Q. You say you didn't see the car when it came back?

A. No.

Q. Didn't see what was brought back from Union Drawn?

A. I didn't see the amount that was brought back, no.

Q. Are you willing to testify that you didn't see 25 cartridges of tear gas brought back?

A. I saw 25 cartridges but I didn't know the amount that was brought back. I saw about 25 cartridges but I didn't know the amount that was brought back.

Q. But you knew at least 25 cartridges were brought back?

A. Yes.

Q. You did know that?

A. Yes.

Q. Do you know whether or not somebody requested any gas from the Union Drawn?

A. No.

Q. Were you told of it?

A. No.

Q. No one told you that he had sent over for some?

A. You mean somebody? A police officer?

Q. Yes.

A. Yes, he told me. He said he had sent for tear gas. "We made a request for tear gas."

Q. Where had he made a request for tear gas?

A. National Drawn Steel. He told me he had sent for it after.

Q. During the entire evening of July 11th, do you know how many shots were fired?

A. Five.

Q. How many shots did you see coming out?

A. Five out of the steps.

Q. Did you see some shots other than those five that night?

A. I didn't.

Q. Then a total number of shots you saw coming out of the C. I. O. headquarters—

A. Right.

Q. —was five?

A. That is right.

Q. Have you examined the C. I. O. headquarters after July 11th, 1937?

A. No.

Q. Were you there the next day when you posed for that photographer?

A. I was in front of it.

Q. Did you look at the building at all?

A. I beg your pardon?

Q. Did you look at the building at all?

A. No, it was full of gas.

Q. Did you look at it from the outside?

A. Yes, just casual.

Q. Did you make any estimate of the number of shots that entered that building?

A. No.

Q. Do you know whether or not there were more than five that entered that building?

A. Pardon?

Q. Do you know whether or not there were more than five that entered the building?

A. Went into the building?

Q. That is right.

A. I couldn't say.

Q. Do you know whether or not any of the police officers fired off revolvers?

A. I couldn't say.

Q. Did you see them use any tear gas?

A. Yes.

Q. Whom did you see use the tear gas?

A. Johnson, Kelley, Ickes. Let me see, there was somebody else. There were five men—I don't know.

Q. What is that?

A. There were five guns going. Five tear gas guns going.

Q. How long were they going?

A. I don't know how long they were going, to tell you the truth. Maybe 10 or 15 minutes or a little more.

Q. Maybe an hour or a half an hour?

A. Maybe. I will tell you—shooting went on every once in a while. When the Canton police got there they gave way to it.

Q. Did you see any of the men led into the National Guard trucks and taken to the jail?

A. I saw them pass me; I didn't see them loaded.

Q. Didn't you know that Henderson had broken into some of the houses and had taken some of the men?

A. I didn't.

Q. Who had broken into the houses? Were you informed?

A. I didn't know.

Q. What was that?

A. I wasn't in that locality.

Q. Were you told anything about sheriffs or deputies or the National Guardsmen making arrests in that vicinity?

A. I heard they were making arrests. They said they were up in there and made arrests; and they went into some places. That they took out as high as 30 men. 30 or 40 men in the houses.

Q. Were you told whether or not they found any weapons?

A. No, they didn't say anything about that.

Q. Was the Union Drawn Steel owned by Republic Steel Corporation?

A. I couldn't say; I think it is. I am pretty sure.

MR. LAUTER: I think that is all.

MR. PONTIUS: Is that all, Mr. Lauter?

MR. LAUTER: Yes.

Redirect Examination

Q. (By Mr. Pontius) Major, you were asked by Mr. Lauter concerning your acquaintanceship with Mr. Meyers and Mr. Case. State whether or not any officer of the Republic had anything to do with your activities in the manner you have described.

A. None at all, sir.

MR. PONTIUS: That is all.

(Witness excused.)

LEO KELLEY

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. Leo Kelley.

Q. Where do you live, Mr. Kelley?

A. 219 Rose Avenue, S. E., Massillon, Ohio.

Q. Your business, please?

A. Police officer of the City of Massillon.

Q. How long have you been a police officer of Massillon?

A. About 22 months.

Q. Prior to that, what were you doing?

A. Deputy sheriff of Stark County.

Q. Now, where were you on the evening and night of July 11th last?

A. I was stationed about 10 o'clock on Cleveland Avenue, S. W., about a hundred foot south of the C. I. O. headquarters.

Q. And were you on duty at that time?

A. Yes, sir, I was.

Q. Now, what time did you go to that point?

A. A few minutes after 10.

Q. That is 10 in the evening?

A. Yes, sir.

Q. What did you observe with respect to the vicinity around that C. I. O. headquarters? At that time?

A. Well, on that particular evening the crowd was much more numerous than usual, and I noticed that after we had been there a short while that they weren't changing pickets. About half the pickets were off the picket posts and no one came forth to replace them. The streets were full of people, and the place in front of the C. I. O. headquarters was crowded, and a vacant house on the alley was crowded with people; and the whole crowd just seemed to be working in a restless mood.

MR. LAUTER: I move that the characterization be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, it may be stricken from the record.

Q. Now, can you describe more specifically the attitude of the crowd there?

MR. LAUTER: I object to the form of the question.

TRIAL EXAMINER LINDSAY: I will sustain that objection.

Q. If you can, Officer, describe the appearance of the crowd there that you have told about?

A. Well, the people were all roughly dressed. The majority were what I would term in working clothes, and they seemed to be milling about a good deal.

Q. What do you mean by "milling about?"

A. They were restless. None getting in any one position for a great deal.

MR. LAUTER: I move that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: That latter part of the answer may be stricken from "restless" on.

MR. PONTIUS: Will you read that answer?

(The last answer was read.)

Q. Were you there when the shooting began, Mr. Kelley?

A. Yes, sir.

Q. At any time prior to that time, did you hear any call from the crowd or anything of that kind?

A. Well, they had been—Officer Ickes had been up towards the front and he had called for a cruiser. He was evidently going to make an arrest but we had no cruiser available at the moment other than the one we had our ammunition in. He came walking back towards our line and I told him as quick as we could get a car—and he said there was a drunk there causing a disturbance and using a lot of profanity.

Q. Now, what other officers were there at that post at the time you got there?

A. I don't remember who was on duty that afternoon. When I arrived I believe Special Officers Henderson, Kraft, Creger, and Johnson, Packer, Hemperle and myself.

Q. What was that name?

A. Hemperle.

Q. Now, you say you had a cruiser there?

A. Yes, sir.

Q. Who operated that cruiser?

A. I did on that particular evening.

Q. What ammunition did you have in the cruiser?

A. Oh, possibly on that we had 22 or 24 gas shells.

Q. And where had they been put, in the cruiser?

A. We had been carrying them in a pasteboard box in the truck, and that was the normal position for them, but every time we went into a crowd or into a situation where we possibly expected we might need them, we moved them into the rear seat there, so they would be available.

Q. How long had that ammunition been carried in the car?

A. Ever since the National Guard had left town, to the best of my knowledge.

Q. What first attracted your attention, other than this crowd, there, before any shooting occurred?

A. The fact that they did not change the pickets.

Q. Had you been down on that post prior to that time, at the change?

A. I practically lived there ever since the strike started.

Q. By "changing pickets", describe what you mean?

A. Well, pickets at that particular time were working three eight-hour shifts. They worked from seven in the morning until three in the afternoon; from three in the afternoon until eleven at night and from eleven at night until seven in the morning.

Well, along about 10:15 the picket captain would begin to line its relief men up and they would change one post, and the incoming post would come out to the dead line and the boys would walk on down, and check their picket cards and as they started on down, the picket captain would call the four that was being relieved.

Now, they had about five posts there that were either in whistling distance or sight of the Cleveland Avenue, at the particular spot where they checked the pickets in and out. But of course, that took—

Q. This place where you had your officers lined up, was that one of the places they checked in and out?

A. Yes, that was the only place they checked in and out.

Q. That had been arranged, before that?

A. Yes, sir; that had been set up for quite some time.

Q. For the five picket posts?

A. Yes, sir.

Q. Now, after noticing that that was not done, that night, what first attracted your attention, then?

A. Well, it was very noticeable, there were no children, no women in the crowd.

Q. How was it prior to that time?

A. Prior to that, why—well, to begin with, it was the largest crowd I had ever noticed up there, at the hall, since the first day or so, that the guard was in. The crowd had rather dwindled off, and oh, they averaged possibly fifty to 75 or 80 people there, every day. That is, they were coming and going all the time. And of course, there was the usual number of women and children and so on and so forth in the crowd.

Q. And what next attracted your attention?

A. Well, we had heard reports from the fracas at the end of the viaduct, and it was only a few minutes after that that we received a report of a switch engine crew being stoned down at the blast furnace while they were attempting to complete a switch.

Q. Then what did you next notice there, right there at your place or position?

A. Well, the next thing that occurred, an automobile was driven up and parked on the west side of the street; the driver got out of the car, left the lights burning. They were shining directly down the road and into our face, and it was partially blinding us.

Someone called out for him to turn the lights out, and the man had taken, oh, possibly three or four steps away from the car, and he turned and went back and turned the lights off.

And someone called out from the vicinity of the CIO headquarters, and he used a string of unprintable words, and ordered this man to turn the lights back on, and he immediately went back to the car and snapped the lights back on.

Then, with that, Captain Curley started forward, I presume with the intention of turning the lights—

Q. No.

TRIAL EXAMINER LINDSAY: No.

Q. You can't tell what you presume.

A. Well, he went forward to turn the lights off.

MR. LAUTER: May we have the last answer read?

(The last answer was read by the Reporter.)

MR. LAUTER: Who went forward to turn—I didn't get that.

MR. DAY: Captain Curley.

THE WITNESS: And as he passed me he told me to cover him.

Q. (By Mr. Pontius) Now, what weapon did you have?

A. I had a gas gun, inch and a half caliber, and as Curley advanced there I was in the center of the street, possibly about 40 or 50 feet, behind him. When he got up within oh, approximately 15 feet of this automobile, why there was a volley of rocks thrown and someone fired five shots from the revolver, in the vicinity of the CIO Hall. The shots were fired in rapid succession.

And with the shots and the stones, the crowd surged forward and I released the tear gas shell, about eight or twelve foot over their heads.

And with that, firing started simultaneously on both sides, and as the thing went on for a minute or two, why we were being shot at from our left, or to the west side of Cleveland Avenue; and when I discovered that, I dropped back a few feet in the attempt to locate the shots and try to stop it, try to put a stop to it.

And there were several shots come from over there, and we shot some tear gas shells over into the field, and in a few seconds after that why we were being fired upon from the right. We attempted, though you couldn't see anything over there, you could hear the bullets, you could tell by the report that they were coming from apparently in the gulley down in there.

Q. Now your right at that time would be what direction?

A. I beg your pardon?

Q. Your right, coming from the right, what direction?

A. Which would be east of us.

Q. Yes, your left was to the west?

A. That is right.

Q. Now go forward and tell in your own way just what occurred there?

A. Well, the first volley only lasted, oh, possibly three or four minutes, and the crowd broke.

Q. Yes.

A. That is, the crowd on the street dropped back, they got behind houses and took to cover.

It was only a few minutes later that they reappeared about, oh, possibly 200 yards up the street, rather a group of them formed, and there were five shots fired down in rapid succession apparently from a light calibered gun, from this crowd, and we used more gas on them and drove them back a couple more blocks, and there was a lull just for a minute or two, and then there was some more shooting from down in there, and we retaliated with tear gas.

Q. By "down in there", where do you mean?

A. Well, that would be about the intersection of McKinley and Cleveland Avenue.

Q. Let's go forward and tell what occurred there.

A. None of our men—well, as quick as the firing started, the four deputy sheriffs stationed at the main gate of the Republic Steel—as quick as the firing started they moved up to our assistance, and they brought up quite a bit of tear gas with them.

If I remember right, they drove their car up, it was loaded with gas. And shortly after the thing started, there were two more deputies that lived in Massillon, came in, and it wasn't very long after that that two carloads from Canton arrived, and then the Canton police came in.

When the Canton police arrived they started up the street in an armored cruiser, and someone stepped out, just as they started someone stepped out, half way up the street, and took a deliberate aim and fired five or six shots out of apparently an automatic pistol, straight down the street.

Q. From what point did that come?

A. That was from the west side of the street, about George Blaga's store.

Q. George Blaga?

A. Blaga.

Q. Where is that store located?

A. It is located on Cleveland Avenue.

Q. Where, with respect to—

A. Would be north—

Q. With respect to McKinley?

A. Well, about, oh, maybe 75 feet south of McKinley, on Cleveland. And with that, I was sent together with Officer Johnson over to assist Schlinger at the east end of the viaduct.

Q. Did you move up into that section above or about the CIO Hall at night?

A. No, sir, I did not.

Q. You remained down below, there?

A. We tried to advance once. Gas was too strong, it was impossible to do so. We dropped back, held our positions until the Canton police arrived.

Of course, they had gas masks with them, and that enabled them to penetrate on up in there.

Q. You didn't go up?

A. No, sir, I didn't.

Q. Do you know whether any officers were up there, when you were up, that night?

A. None of the officers that were there when the thing started, went by the CIO Hall. Several of them tried it, but they couldn't make it. They had to come on back.

Q. Now, you had said you shot these tear gas bombs. I will ask you if you shot any lead?

A. No, sir, I did not.

Q. During this entire occurrence?

A. No, sir.

Q. Do you know what the other officers shot there?

A. I can't state positively. I know some of the boys were armed with shotguns, and we all had pistols.

Q. Do you know whether they used their pistols?

A. No, sir; I can't say.

Q. Now, you have said you went there with a cruiser. Do you know where that cruiser was stationed on Cleveland Avenue?

A. It was parked right in the center of the street at approximately, oh, 100—150 feet south of the CIO headquarters.

Q. Which way was it headed?

A. North.

Q. Did you observe anything about that cruiser after this? Any marks of any kind?

A. Why, the second cruiser—the one that I was driving was parked—when I parked there the other car was sent out and come back and that was parked on an angle.

Q. Parked on an angle?

A. Yes, sir, and after the thing was over, or rather, after it had started and the shooting started from our right, down there, I heard the impact of a bullet into the car; and after it was all over there was a bullet hole in the door, right front door.

Q. Where was that second cruiser parked from the headquarters? CIO headquarters?

A. Oh, about parallel with the first one, about 120 feet.

Q. From what side of Cleveland Avenue did that bullet go?

A. It had to come from the east side.

MR. PONTIUS: I think that is all we have to ask Mr. Kelley.

Cross Examination

Q. (By Mr. Lauter) Mr. Kelley, how long have you been on the police force at Massillon?

A. About 22 months.

Q. Before that you were deputy sheriff?

A. That is right.

Q. You came to the CIO headquarters on July 11th about 10 o'clock?

A. That is right.

Q. And Officer Ickes was there?

A. I do not think he was there when I arrived.

Q. How soon after that did he get there?

A. About—well, a few minutes. You see, we changed shifts, 10 o'clock, and most of the boys come in a few minutes early, and as our crew arrived, we jumped in the car and away we went without any particular reference to time, but it was between—

Q. Did you see him after he had walked over to a position near the CIO headquarters?

A. Yes, sir.

Q. Did you notice whether or not he was carrying his tear gas gun at that time?

A. I don't think he was, not right at the moment.

Q. What is that?

A. I don't think he was, right at that particular time, no, sir.

Q. Well, did you see him carry the tear gas gun, a loaded tear gas gun prior to 11 o'clock that night?

A. Yes, sir.

Q. Was he walking with a loaded tear gas gun from where the police were lined up to approximately the position some 30 or 40 or 50 feet opposite the CIO headquarters?

A. No, I never seen him with his gun out ahead of the line.

Q. What is that?

A. I never seen him ahead of the line with the tear gas gun.

Q. You testified about covering Major Curley at one point.

A. Yes, sir.

Q. Will you state again when that was?

A. I beg your pardon?

Q. Will you state when that was, what time of the evening that was?

A. Well, I can't tell you the exact time.

Q. Well, was it before 11 or after 11:00?

A. Well, it was prior to the start of the fight up there, just a few minutes, or within a few seconds, rather.

Q. Was that the time that the headlight was shot out?

A. Yes, sir.

Q. I want you to be absolutely certain of what you are saying now. Captain Curley spoke to you about going up to speak to the man in the automobile, is that correct?

A. Will you repeat that question, please?

MR. LAUTER: Will you read that?

(The last question was read by the reporter.)

A. No.

Q. Well, what did Captain Curley say to you?

A. Captain Curley told me, he says, "I am going up. And cover me."

Q. Did you say something about Curley going up to request that man in the automobile to turn his lights off?

A. You had that stricken out.

Q. What is that?

A. You had that stricken out, I believe.

Q. Never mind what I had stricken out; just answer whether or not you didn't testify to that effect?

A. No, sir; I didn't.

MR. LAUTER: Will you find the direct examination of this witness, Mr. Reporter, and start at the point when he discussed Mr. Curley approaching the automobile?

(The record was read by the Reporter as follows:

"Q. Then what did you next notice there, right there at your place or position?

"A. Well, the next thing that occurred, an automobile was driven up and parked on the west side of the street; the driver got out of the car, left the lights burning. They were shining directly down the road and into our face, and it was partially blinding us.

"Someone called out for him to turn the lights out, and the man had taken, oh, possibly three or four steps away from the car, and he turned and went back and turned the lights off.

"And someone called out from the vicinity of the

CIO headquarters, and he used a string of unprintable words, and ordered this man to turn the lights back on, and he immediately went back to the car and snapped the lights back on.

"Then, with that, Captain Curley started forward, I presume with the intention of turning the lights—

"Q. No.

"TRIAL EXAMINER LINDSAY: No.

"Q. You can't tell what you presume.

"A. Well, he went forward to turn the lights off.")

Q. Is the testimony that you have given correct?

A. I don't understand it at all.

MR. LAUTER: Will you read the question?

(The last question was read.)

A. I know, but I don't understand it, in view of the fact of what was just read there.

Q. Did the testimony which you have just given on direct examination and which has just been read correct?

A. I presume it is.

Q. Don't you know?

A. I presume it is; it is down in the book.

Q. Don't you know whether it is correct or not regardless of whether it is in the book?

A. I understood, sir, that a portion of that had to be stricken.

TRIAL EXAMINER LINDSAY: That doesn't make any difference; answer the question.

A. I can't answer that; I don't understand it.

Q. You know whether you are telling the truth?

A. I do.

Q. That is what I want to know. Isn't it true that Curley wanted to turn the lights off?

A. I imagine so.

Q. Did he say anything about turning the lights off?

A. Yes, sir.

Q. Did he give you any reason why during the conversation about the lights?

A. Nothing except that he was going forward.

Q. He said nothing about the lights?

A. Not to me.

Q. When were the lights shut off? Was that before the general shooting started?

A. Yes, sir.

Q. Fellabaum shot the light out of that car before the shooting occurred?

A. No. Let me recall about that. That was before the fracas.

Q. Don't you know which statement is correct now?

A. The last one.

Q. The first statement was incorrect?

A. Yes, sir; I am sorry.

Q. Was there any other testimony that you wish to change?

A. No, sir.

Q. Now, how many shots were fired in the C. I. O. headquarters?

A. Five.

Q. Where were you at the time they were shot?

A. About the center of the road; approximately a hundred to 110 feet south of the C. I. O. headquarters.

Q. What was the next time that you heard some shooting in that direction?

A. Why, just a short time had elapsed when the shots started going over to the right.

Q. Then did you hear some more shots fired?

A. Yes, sir.

Q. In that direction?

A. Yes, sir.

Q. Did the police fire any shots?

A. I think they did.

Q. Don't you know if they did?

A. I can't state positive.

Q. Did you fire any?

A. No, sir.

Q. Did you have your gun that night?

A. Yes, sir.

Q. You didn't fire it?

A. No, sir.

Q. What is that?

A. No, sir.

Q. When did you get the tear gas gun?

A. I beg your pardon?

Q. When did you get the tear gas gun?

A. I had the tear gas gun from the day the National Guard moved out. That was in the car I was working in.

Q. Did you expect trouble that night?

A. Well, we always expected trouble during that particular time.

Q. Did you expect trouble that particular night?

A. Well, yes, we were waiting for it.

Q. Who told you to prepare for it?

A. It was just a sort of general feeling that it was going to happen. There had been an awful lot of rumors floating around that the boys had been receiving.

Q. You were pretty restless?

A. I wasn't; I didn't load my gun.

Q. You didn't unload your tear gas gun?

A. What is that?

Q. You didn't unload your tear gas gun?

A. Yes, sir.

Q. You loaded it?

A. Yes, sir.

Q. When did you load it?

A. When things began to look bad.

Q. Didn't you have it loaded when Curley spoke to you?

A. Yes, sir.

Q. Things had been happening?

A. It didn't look good. The fracas in the viaduct and the stones and the two men in the cars on the bridge.

Q. Did you hear any reports about the viaduct?

A. Yes, sir.

Q. Did you hear them from policemen that had been shooting there?

A. Sir?

Q. Did you hear them from policemen that had been shooting there?

A. No, sir.

Q. Did you hear the shots?

A. I heard the shots.

Q. But you didn't know the policemen had shot?

A. No, sir; I didn't know. I just heard the shots.

Q. How many police were there on the night of July 11th, lined up across the street?

A. Well, when the things started, to the best of my knowledge, I would say 14 or 16 men.

Q. Were they lined up right across the street?

A. No, sir; they weren't in a line, rather in an irregular formation scattered out.

MR. LAUTER: That is all.

MR. PONTIUS: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: Adjournment until 9:30.

(Whereupon, at 5:10 o'clock p. m., September 7, 1937, the hearing in the above-entitled matter was adjourned to 9:30 o'clock a. m., September 8, 1937.)

Courtroom No. 1, Stark County Courthouse, Canton, Ohio
Wednesday, September 8, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., Thomas F. Veach, Esq., and Arno G. Erdrich, Esq., (Cleveland, Ohio), and H. C. Pontius, Esq., (Canton, Ohio), appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

AUSTIN F. KRAFT

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) You are Mr. Austin F. Kraft?
A. Yes, sir.
Q. Where do you live, Mr. Kraft?
A. 2835 Lincoln Way, N. W., Massillon.
Q. How long have you lived in Massillon?
A. 36 years.
Q. Is that all your life?
A. That is right.

Q. What is your business, Mr. Kraft?

A. I am a City patrolman now.

Q. How long have you been a City patrolman in Massillon?

A. Well, I worked—I was a night merchant police for six years there and I was taken off the eligible list, and I—

Q. Taken off the eligible list, is that it?

A. Yes, sir.

Q. Where had you been working as a merchant policeman?

A. In Massillon.

Q. By eligible list, what do you mean?

A. Civil Service examination; that is required in the City.

Q. Now, state whether or not you had a regular station in the strike area from the time you were appointed?

A. I didn't have no regular station. I was stationed to the C. I. O. headquarters, however, about a week before the riot started.

Q. What were your hours?

A. 2 in the afternoon until 11:30 at night.

Q. How many days were you there at that station before the night of the riot?

A. I was there probably a week.

Q. Each day?

A. Every afternoon

Q. Now, I call your attention to Respondent's Exhibit 1, this plat. Could you indicate on the plat where your station was, Mr. Kraft?

A. I was stationed right down there (indicating).

Q. Indicating—

A. That is about where we were stationed (indicating).

Q. About the turn in the road?

A. That is it.

Q. And was that the location that you were in each day?

A. Yes, sir.

Q. For about a week?

A. Yes, sir.

Q. Did you go on that station on Sunday, the day of the riot?

A. Yes, sir.

Q. What time did you go on that station?

A. 2 o'clock.

Q. Were there any other officers detailed at that station that afternoon?

A. Special Officer Henderson and Creger. Special Officers.

Q. How long did you three men remain there together that afternoon.

A. We was there all afternoon; all during the turn we were supposed to work.

Q. Were there any others there during the afternoon than you three? I mean regularly posted there?

A. No, sir.

Q. What position were you in? Were you sitting down or standing up or how were you there that afternoon?

A. Oh, we used to move around. Had a car sitting there. We would go and sit on the running board or walk around, stay close the the post there.

Q. What car was there?

A. The car we had there for shelter, borrowed it from the garage.

Q. Was there any ammunition in that car?

A. No.

Q. During that afternoon I will ask you whether Mr. Henderson said to you—that is, this special officer, Mr. Henderson, about 5 o'clock in the afternoon, said to you this, or this in substance: That we are going to clean them up tonight?

/

A. He never said nothing like that to me.

Q. Now, Mr. Kraft, did anything occur around a little later that evening?

A. Yes, sir.

Q. About what time?

A. Well, between 6 and 6:30.

Q. Now, tell us what occurred at that time.

A. Well, Henderson and I and Creger were at the phone there and there was a fellow come walking out of CIO headquarters, come walking right down to us fellows.

Q. Do you know who that fellow was?

A. I know him by—I found out they called him "Humpy". That is the only name.

Q. Had you seen him around there prior to that time?

A. If I did I never paid any attention to him. I never paid any special attention to any of them, as far as that goes.

Q. Where did this man come from?

A. CIO headquarters.

Q. Just tell us where he came, and what was said.

A. He came down to the post where I was stationed, and he said to those fellows there, he says, "You better get out." I says, "Why?" He says, "Big trouble tonight, 11 o'clock." He said, "Between 500 and 1000," he says, "coming down," he says, "they will kill all of the police," he says, "and go into the mill and get the slabs." He couldn't say "scabs". He said "slabs". That is all he said to us fellows, he turned around and went back up to headquarters.

MR. LAUTER: May we have the time fixed on this, please?

MR. PONTIUS: Yes, he said between 6 and 6:30.

Q. Did you remain there up until the time of the riot, then?

A. Yes, sir.

Q. Later that evening, just what was the first thing that attracted your attention there?

A. Well, the unusual number of people there. There was more than other nights at the headquarters, a larger crowd.

Q. About how many would you say were there at headquarters?

A. Oh, I would say 250.

Q. Where were these men or these people, these 250 people?

A. They were out in front of the headquarters, mostly, and off the middle of the street there.

Q. What was the usual crowd there, prior to that time, would you say?

A. Oh, in the evening they used to have probably 75 or 100.

Q. Now, was there anything in the street there in front of headquarters? Any vehicles of any kind?

A. Two trucks parked there.

Q. Where were the trucks parked?

A. Right in front of the CIO headquarters.

Q. Where were you, if you can tell us, along about 10 o'clock? Where were you stationed and where were you located there?

A. Well, I was right there at the post.

Q. Do you know where you were in the street or sidewalk, or where you were?

A. Do you mean when the trouble started, do you mean?

Q. Yes, when the trouble started, where were you?

A. I was about 100 feet south of the brick building on the west side of the road.

Q. Are there any sidewalks along there?

A. There is.

Q. Where were you, with respect to the sidewalk?

A. What is it?

Q. Do you know where you were, with respect to the sidewalk?

A. I was about, I would say, ten yards from the sidewalk.

Q. Ten yards off of the sidewalk?

A. West of the sidewalk.

Q. West of the sidewalk? What is the nature of the ground there? What kind? Open or closed, then, or what is there?

A. Open.

Q. What was the first thing that was called to your attention aside from what you have said, there, that night?

A. Well, all I remember talking about this—that they got pretty noisy up there and Curley said something about breaking them up. So I didn't pay much attention to that, and I was over there and heard them say they were going to break them up and Curley started up towards the bunch.

Q. Yes.

A. The crowd, rather, and when he got about fifty feet from the crowd, four or five shots rang out and stones flew, they started shooting from both sides.

Q. Now, you saw four or five shots fired. Where did they come from? Did you observe?

A. From the C. I. O. headquarters there some place.

Q. What, if anything, did you notice about any automobile coming up there on the street? Did you hear anything about it or see anything about it?

A. Someone pulled up there with an automobile. He stopped there and turned the headlights on. He had the headlights on the police.

Q. Did that occur before Curley started up the street or after he started up the street?

A. Right about the same time.

Q. Did you hear any talk there with respect to those headlights?

A. I heard someone holler to turn them out. He hollered to turn them out. In front of the C. I. O. headquarters he hollered to turn that light off.

Q. Now, did you have any firearms of any kind?

A. I had two guns.

Q. What?

A. I had two guns.

Q. What kind of guns?

A. A 38 special and a gas gun.

Q. Now, when this first shooting occurred, what, if anything, did you do?

A. I fired a shot out of this gas gun across the C. I. O. headquarters. It leaked gas out of the back of the gun. It shot in my face and my eyes watered and I could not see anything for several minutes.

Q. Where did you get that gas gun?

A. Out of the City car.

Q. Then after you fired this gun as you said, what happened? Did you recover so you could see?

A. I could not see for a long time afterwards. I would say 10 or 15 minutes later I could not see much of anything; everything was blurred; my eyes was watered.

Q. Now, when you could see, go ahead and tell what you observed there.

A. Well, everything was about—all lasted 10 minutes until the shooting stopped. That is the way I figured. Then everything was quiet.

Q. Did you observe anything further after that; if so, tell us.

A. The men started gathering on the street up above, hollering at once, one thing and another.

Q. Above what?

A. Above the headquarters—north of the C. I. O. headquarters there on Cleveland Avenue.

Q. What, if anything, did you see occur then?

A. Well, the next thing I knew somebody says: "They are going to get some help." I don't know, somebody said that they ran out of gas, and they wanted to send after gas; and then they came back with gas and the Canton police came.

Q. Now, aside from this first shooting that you have told us about, did you observe any other shooting there that night?

A. There was shots coming from the north, some coming from the east.

Q. Could you locate the direction east of where you were from where these shots came?

A. Just about directly east of the post where we were stationed.

Q. Now, were you there when the Canton police came?

A. Yes, sir.

Q. Did you see what happened then?

A. Well, all they done was get out of the car down there, get in their armored car, and drove up through Cleveland Avenue, and threw gas—scattered gas around through there.

Q. What was the condition of Cleveland Avenue when the Canton police arrived there?

A. Well, they all left there as far as I could see.

Q. This was before the Canton police arrived or afterward?

A. No, they was there when the Canton police came.

Q. Then what occurred?

A. Well, they started shooting gas.

Q. What occurred with respect to the crowd? The people who were in the street there?

A. I don't know where they got to, later on I seen—later on the Guards came in, and I seen them bringing men down in the Army trucks.

Q. Did you go up north of where your station was that night?

A. I walked up about probably 75 yards.

Q. Any further than that?

A. No, sir.

Q. What did you observe when you went up there?

A. I met a fellow up there that I knew. I was talking to him. He told me—he said it sounded like an awful battle, and "You guys done a lot of shooting." I said: "How about the other guys?" He said there was only five or six shots fired there.

Q. Do you know who that fellow was?

A. Ted George.

Q. Do you know where he lives?

A. On Cleveland Avenue, N. W., of the C. I. O. headquarters.

Q. How far west of the C. I. O. headquarters?

A. I imagine 40 yards.

Q. How long did you remain on duty that night?

A. Around 1 o'clock.

Q. Then you left?

A. Yes.

MR. PONTIUS: I guess that is all. I just want to ask just one more question. I don't know if I asked it.

Q. You say you had a gas gun and a service revolver?

A. Yes, sir, a 38.

Q. I will ask you to state whether or not you shot your service revolver.

A. Never had it out of the holster.

MR. PONTIUS: All right. That is all.

Cross Examination

Q. (By Mr. Lauter) Do you know whether or not any of the other police shot that night?

A. They must have shot. I heard shots coming from that direction. I don't know who they was.

Q. Where the police were?

A. I heard pistols cracking.

Q. Do you know the police used pistols that night?

A. I could not say.

Q. Did you see any C. I. O. men fall to the ground?

A. No, sir.

Q. What was the name of the man you said some time between 6 and 6:30 that he was going to get the police?

A. Humpy.

Q. Humpy, you said?

A. He came right down to the post and told us.

Q. When did you find out that he was called Humpy?

A. Henderson told us.

Q. Did you know what Henderson did before he became a special deputy or special officer?

A. He worked in the mill.

Q. What was he, a foreman?

A. I don't know.

Q. Did he ever tell you whether he worked in the mill as a foreman?

A. He worked in the mill in 1929. He was there when I left. He was a timekeeper—working the time books.

Q. How long did you work for the Republic?

A. Twelve years.

Q. What?

A. Twelve years.

Q. What kind of work did you do there?

A. I worked in the office.

Q. Now, how did you happen to sever your connection with the Republic?

A. During the depression.

Q. They laid you off?

A. I was laid off after an argument with the boss.

Q. What is that?

A. Had an argument with the boss.

Q. You had a little argument with the boss?

A. That is right.

Q. And you say this man Humpy was drunk when he came over to the line of police?

A. He had a couple of drinks; I wouldn't say he was drunk.

Q. But he couldn't pronounce the word "Scabs?"

A. He said "Slabs."

Q. Is that because he was drunk?

A. I suppose because he couldn't talk good English.

Q. Was that the reason?

A. Yes.

Q. Later on you heard Curley say: "Break them up?"

A. I heard Curley say he was going to break them up.

Q. At the same time he went for this car, went for it with the headlights?

A. Yes.

Q. Did you see Fellabom shoot at the lights?

A. No, sir.

Q. What?

A. No, sir.

Q. Do you know what he did?

A. I don't know if he did it or not.

Q. What is that?

A. The windshield had a hole.

Q. Don't you know that Fellabom shot at the lights?

A. No.

Q. Were you there at the time?

A. Yes.

Q. If it had been, you would have seen it?

A. I told you when I shot my gas gun my eyes watered from the backfire.

Q. Did you see Fellabom there?

A. I know him.

Q. Were you the first one to shoot?

A. I think I fired the second shot.

Q. Who fired the first one?

A. I don't know; it came from the center of the street, and I fired the second one.

Q. Did this car come up before you shot your tear gas gun or after?

A. After.

Q. You were pretty well blinded?

A. My eyes were watering and I could not see.

Q. Your eyes were watering but how much could you see?

A. I could see blurry but nothing much.

Q. Did you see this car coming up?

A. I seen two headlights but I didn't see anybody in particular shoot the lights.

Q. Did you see one of the lights go out?

A. I saw the car after the thing was over.

Q. I mean, did you see anyone put out one of the lights?

A. I didn't notice; I don't know.

Q. How many men were there on the line of police on Cleveland Avenue before the fighting started?

A. You mean before the trouble started?

Q. That is right.

A. I would say about a dozen, something like that.

Q. Did you see Fellabom take that sub-machine gun out of the car?

A. Yes, he did that.

Q. About what time did you see him take it out of the car?

A. I don't know what time.

Q. What time did the fighting start?

A. I couldn't tell you the exact time of that; before 11 o'clock, I know.

Q. Before 11 o'clock; 5 minutes or 10 minutes after or a half an hour?

A. Probably 10 or 15 minutes.

Q. Somewhere between a quarter of 11 the fighting started, is that correct?

A. Yes.

Q. Before that time Fellabom had taken the sub-machine gun out of the car, is that correct?

A. He had it out.

Q. What is that?

A. Yes, he took the machine gun out of the car.

Q. Where did he go with the sub-machine gun?

A. I didn't follow him around.

Q. I didn't ask you if you followed him around. Did you notice where he went?

A. No.

Q. Where was he when he took it out of the car?

A. He was down the street.

Q. Where was the car located on Cleveland Avenue?

A. Somewhere in the street there.

Q. How far from the C. I. O. headquarters?

A. Below the post from where we were stationed.

Q. How far was that?

A. I don't know.

Q. What is that?

A. Probably 25 or 30 feet.

Q. How far was he from the car when you lost track of him?

A. I seen—he started walking across the street; I didn't pay no attention.

Q. Before the shooting started, Fellabom went to the police car and took out a sub-machine gun, and started walking across the street; is that correct?

A. As far as I know.

Q. You are testifying here what you do know.

A. I think that was what it was.

Q. Don't you know?

A. He took the machine gun out of the car. I don't know whether he started—

Q. What is that?

A. He took the sub-machine gun out of the car before we started—

Q. Now, what other weapons were taken out of the car before the shooting started?

A. Gas guns.

Q. Did you take your gas gun out before the shooting started?

A. Yes.

Q. How long before?

A. Oh, probably 15 minutes.

Q. About 15 minutes? That means about 10:30?

A. Yes.

Q. What did you do with the gas gun you took out of the car, a quarter of an hour before the shooting started?

A. Loaded her up.

Q. Loaded it up?

A. Sure.

Q. Why?

A. Well, I thought in case I need it I got it.

Q. What reason did you have to believe that you would need it?

A. Well, just from what that guy told me in the evening.

Q. Did you tell that to anybody else?

A. Well,they knew about it, sure. Curley knew about it.

TRIAL EXAMINER LINDSAY: Answer the question. Did you tell anyone else about it?

THE WITNESS: I reported it to Curley.

Q. (By Mr. Lauter) What did Curley say?

A. Well, he said that he would have some men down there, he would send some more men down to that post.

Q. Did Curley send for some more men?

A. Certainly. They come in.

Q. What is that?

A. He sent some more men down.

Q. How many more men did he send then?

A. Oh, there must have been eight or nine come down.

Q. Eight or nine more men came pursuant to Curley's request to have more men, is that correct?

A. Yes, sir.

Q. After you told him what this drunken man had told you?

A. That is right.

Q. Did the other men also load up their tear gas guns?

A. I don't know.

Q. What other guns did you see taken out of there?

A. That is all.

Q. How many?

A. I don't know how many they took out. I took one out and walked away from the car.

Q. How many did you see taken out?

A. There was four or five guns in there, gas guns, I know.

Q. And did they take them out?

A. I don't know. They must have took them out. I saw several of them walking around with them. Moore was—had one, Ickes had one, Johnson had one.

Q. Let me get those names again. Moore, Ickes, and who else?

A. And Johnson.

Q. Johnson? They took them out about the same time you did?

A. Yes.

Q. That was about 10.30, is that right?

A. Somewhere.

Q. And they were walking around in front of CIO headquarters or in that neighborhood, with these loaded tear gas guns?

A. How is that?

Q. They were walking around the vicinity of the CIO headquarters with loaded tear gas guns?

A. They were walking around, I don't know whether they had them loaded or not.

Q. You had yours loaded, did you not?

A. I had mine loaded.

Q. Did you hear Ickes testify he had his loaded?

A. I don't know whether he did or not.

Q. Don't you know Johnson and Moore had theirs loaded, too?

A. I didn't see them.

Q. Answer right up.

A. I didn't see them load them.

Q. You didn't see them load them?

A. No.

Q. Don't you know they were loaded for fifteen minutes they were walking around before the shooting started?

A. I don't know, I couldn't say.

Q. Now after Moore, Ickes and Johnson got the guns out of the car where did they go?

A. They scattered around, walked around the post down there.

Q. Walking up and down in front of the post?

A. They walked across the street, a couple of them did, they was walking around there.

Q. How close to the CIO headquarters did Moore get, for instance?

A. He was probably 100 feet.

Q. How close did Ickes get?

A. He was about the same distance.

Q. How close was Johnson?

A. I don't know where he was at.

Q. How close to CIO headquarters did you get?

A. I was about 100 feet from them.

Q. You were all carrying these guns in your hands, is that correct? Four of you?

A. Under my arm; I had mine under my arm.

Q. Under you arm? Loaded tear gas gun, is that right?

A. I had mine loaded. I don't know if the rest did or not.

Q. How many tear gas cartridges did you have on you?

A. I think I had eight.

Q. How many did you shoot off that night?

A. Five.

Q. You say you were the second one to shoot, is that right?

A. That is right.

Q. Where did the first shot come from, in front of you or back of you?

A. Came to the right of me.

Q. Well, what direction?

A. East of me.

Q. Was that on a line with you or in front or in back of you?

A. It looked like it came from behind where I was.

Q. Where were you when the shooting started with respect to Henderson and Curley?

A. I was about 900 feet south of the brick building.

Q. Were you in front of them or in back of them?

A. I was in back of them.

Q. And were you on the line of police that was about 100 feet from CIO headquarters when the shooting started?

A. Yes, sir.

Q. And you heard the shots come out of CIO headquarters?

A. Yes, sir.

Q. About how many shots came out?

A. Well, it was either four or five, I couldn't swear to it.

Q. Or six?

A. No, I don't think there was over five. It was either four or five come out.

Q. Do you think there may have been three? Are you sure it was not three?

A. I am sure that it was more than three. There was either four or five.

Q. Where did those shots go?

A. I don't know.

Q. You don't know? Did they go anywhere near Curley or Henderson, did you notice?

A. I don't know whether they came close to them guys or not.

Q. What is that?

A. I don't know whether they did or not.

Q. Did they come close to any of the fellows that were lined up?

A. You could hear them bullets whistle from the shot.

Q. Did they whistle near you?

A. Over our heads.

Q. What is that?

A. Over our heads is where they went.

Q. Where did you see the bullets come from?

A. CIO headquarters.

Q. What part of the headquarters?

A. The front part, close to the entrance some place.

Q. In the street or from the building?

A. From a little platform it looked like, in front of the building there.

Q. Do you know whether or not there is a platform in front of the building?

A. There is.

Q. When you say "platform" you don't mean steps, do you?

A. Just kind of a cement platform.

Q. What is that?

MR. DAY: Talk a little louder.

A. Kind of a cement porch in front there.

Q. Cement porch?

A. Cement floor there in front.

Q. Do you mean cement porch or cement floor, what do you mean?

A. Cement floor.

Q. Do you mean the sidewalk?

A. Yes, sir.

Q. And that is where the shots came from?

A. Up in there some place.

Q. From the sidewalk, is that right?

A. I can't swear where, right the exact spot where they come from, but they come from in there some place.

Q. I am trying to find out how—whether you know where they came from or not. Do you know where they came from?

A. I heard them in that direction, right in front of the—

Q. Did you hear them or see them?

A. I heard them.

Q. Were you facing the CIO headquarters when they were fired?

A. I was.

Q. You were? And you saw the direction they came from, is that right?

A. I heard the direction.

Q. You didn't see where they came from at all?

A. I didn't see them. I heard the direction they came from.

Q. Are you sure you didn't see where they came from?

A. I didn't see them come, but I heard.

Q. You were facing the front of CIO headquarters and you didn't see where they came from?

A. I didn't see where they came from, no.

Q. You testified about a man named Ted George?

A. What is that?

Q. I say you testified about a man named Ted George?

A. Yes, sir.

Q. Who is he?

A. He is the young fellow over there, has these skee-ball machines, one thing and another.

Q. Did you know him for sometime?

A. I have known him for quite a while.

Q. He is not a CIO member, is he?

A. No, sir.

Q. Is he hostile to the CIO, do you know?

A. No, sir.

Q. He is a friend of theirs?

A. As far as I know, he lives right up there.

Q. What did he say?

A. What did he say? There was only five or six shooting at the police.

Q. Did he say what they were shooting?

A. He didn't say, but he said there was only five or six shooting at the police.

Q. You say the shots came from somewhere on the cement sidewalk, is that correct?

A. That is what they sounded like to me, right part of the crowd, there.

Q. About how many people were there in that crowd?

A. I would say there was possibly 250 people there.

Q. The man who shot was standing right in that crowd, is that correct?

A. Somewhere in there.

Q. Is that right?

A. Yes.

Q. He was standing in that crowd?

A. That is right, it sounded like to me the shots came from right out from the crowd.

Q. But you didn't see who shot?

A. No, I didn't see who shot.

MR. LAUTER: That's all.

MR. PONTIUS: That's all, Mr. Kraft.

(Witness excused.)

WILLIAM FELLABOM

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) Please state your name.

A. William Fellabom.

Q. Where do you live?

A. 518 Lincolnway West, Massillon.

Q. What is your business?

A. Patrolman.

Q. How long have you been a patrolman in that city?

A. 13 years, four months.

Q. Now, in the strike area there, do you know the location of the Republic Steel Company property and CIO headquarters?

A. Yes, sir.

Q. You are familiar with that situation there?

A. Yes, sir.

Q. Had you been down to that part of town after the strike was called, at all?

A. It was just about a week or so before the trouble was down there, I kept cruising around through that territory.

Q. You cruised around in what car?

A. In the regular passenger cars, Chevrolets.

Q. Was that the city car or your own?

A. City cars.

Q. Anybody cruising with you?

A. Yes, sir.

Q. Who was that?

A. A young fellow by the name of Holwager.

Q. Now, you may state whether or not you were on duty on July 11th?

A. Yes, sir.

Q. What time did you go on duty on that day?

A. 10 o'clock.

Q. And what were your regular hours at that time?

A. 10 to 6 in the morning.

Q. 10 at night until 6 in the morning?

A. Yes, sir.

Q. Now, when you went on duty that night where did you go?

A. Well, this—I come in the station about 9:30.

Q. Yes.

A. It started to rain a little. Cap Curley was in there and as soon as he saw me he says, "Bill," he says, "you better take your machine gun along tonight." He says, "They expect a lot of trouble," so I takes the machine gun and some ammunition there, we had, and got in the car and they hustled us right down there.

Q. Who drove the car?

A. I think Holwager was driving that night.

Q. Had you seen that machine gun before there? Whose machine gun was this?

A. That belonged to the city of Massillon.

Q. To your knowledge, how long had it been that the —

A. City?

Q. Yes.

A. At least six years. Seven years that I know of.

Q. What ammunition did you take down?

A. It was four clips, three clips of paper shells and one clip of 45's.

Q. How many shells in the clip?

A. 20.

Q. There is 20 in each one of them?

A. Yes, sir.

Q. You refer to paper shells, do you know how they were loaded?

A. They were loaded with fine bird-shot; paper on the outside and sort of a split like an X on the end so that after they go out they bust open.

Q. Do you know about the size of the bird-shot?

A. I should judge about No. 9's. Pretty fine shot, they are.

Q. Now, who went with you in the car down to this location that night?

A. Well, there was Holwager and I think Schlenger and there was one of the other boys. Generally they re-lap there, you see the ones that was riding before 10:00 o'clock, they would come in and pick up the next crew, and those four men would be together in the car at the time.

Q. How did you go down to this place that night? What direction, I mean? What streets did you use?

A. I went over Charles to Erie, and down South Erie to the viaduct and over the viaduct.

Q. Now, then, did Schlenger leave you at any time? Did Officer Schlenger leave you at any time?

A. Then we dropped him off at the other side of the viaduct. That is on the east side of the viaduct, and he generally takes care of the traffic over there by hand.

Q. How did you go over? Across the viaduct?

A. We crossed it in the car.

Q. Now, about what time was it that you got over to this location that you have described?

A. I will say around about 10:15.

Q. And when you got over there what did you do with your car, first? Where did you leave the car?

A. Before we left the station, Curley says, "I will be over there, close to where the line is, or close to the CIO headquarters," he says, "I want to see you over there." He says, "You fellows will have to be stationed over there," he says, "until things quiet down."

Q. The car that you went down there in, was that left there?

A. It was left in the rear of us.

Q. Now, when you got there did you see any other officers there?

A. Oh, there was at least, I should judge about 16 or 20.

Q. Who all did you see there?

A. I seen Johnson and Kraft, and one of the new men by the name of Davenport; Holwager was with me. I think there was one other by the name of Domer.

Q. Domer? Any others that you recall?

A. That is about all that I could recall, because I didn't stay very long after Curley—he told me to get over on the left-hand side, kind of southwest of where we stopped.

Q. You saw Curley there, did you, when you got there?

A. Yes, sir.

Q. Where did you go then? You say Curley told you to go to the lefthand side?

A. Over to the lefthand side, that would be the west side of the street, up close to this tile building that is right pretty near straight across from the CIO headquarters.

Q. How were you dressed at that time, Mr. Fellabom?

A. Uniform, raincoat on.

Q. Had it rained that night?

A. Well, it was raining.

Q. Now, did you take any ammunition with you when you got out of the car?

A. Yes, sir.

Q. What did you take out of the car?

A. Three clips that had the—we had a sort of a pouch, you know, on the gun, you put the gun in? Well, there is three or four pouches where these clips sets in, on the outside of that. That stays with the gun all the time.

Q. Now, describe this sub-machine gun, what it looks like?

A. Well, they are about that long (indicating).

Q. That is about two feet and a half long, would you say?

A. Around two feet long. There is a handle in front, just about eight inches back from the end of the barrel, there is another handle back behind and you have an extra stock if you want to use it, like a rifle. That is, if you want to put it up to your shoulder.

Q. It is not a round gun, or anything of the kind? Just a straight gun?

A. Well, you see the barrel is sort of air-cooled apparatus, the mechanism part is about that wide across, about an inch and a half wide over the back.

Q. You took that gun? Where did you carry it? I mean whereabouts on yourself did you carry it?

A. I carried the gun in my raincoat, because it was raining.

Q. What building or buildings were across the street from the CIO Hall there on Cleveland Avenue or were at that time?

A. The first building on the righthand side going in there is a tile building, then there is a frame building, two-story frame. This tile building is extra long, it used to be a bowling alley in there, and the front part of it is around about a story and a half.

Q. Where is that, with respect to the CIO Hall?

A. Sir?

Q. Where is that, with respect to the CIO Hall?

A. Straight, just about west, direct across.

Q. Now, where did you go then, when you got out of the car?

A. I went right up within about—around 20 or 25 feet from this building.

Q. On which side of the building?

A. The west side of the road.

Q. Now, how long did you remain in that position?

A. Well, I stayed there until around a little around 11 o'clock, there, a little after 11:00 when the trouble started. Then I was there about—well, after—until the Canton police came there.

Q. Now, from where you were, there, could you see the CIO Headquarters Building?

A. Yes, sir, very plainly.

Q. What, if anything, did you notice about the street in front of that building, before the trouble started?

A. Packed full of men.

Q. Anything else there?

A. Lots of automobiles on both sides.

Q. Can you describe further the character of the automobiles in front of the CIO headquarters?

A. There was cars parked all along the headquarters in this vacant lot, in—all along the road there.

Q. Can you describe further the character of the automobile directly in front of the CIO headquarters?

A. There was two trucks in front of the headquarters, two red trucks. One had a tarpaulin on and the other one was just a smaller truck.

Q. Which side of the street were those trucks?

A. It would be the east side of the street.

Q. Which way were they headed?

A. Headed north.

Q. What?

A. Headed north.

Q. With respect to the truck that had the tarpaulin on, was that farther north than the other one, or farther south?

A. Right square in front of the headquarters.

Q. Which truck was the farthest south, is what I asked you. Do you recall?

A. Well, the one with the tarpaulin on was right in front of the doors.

Q. Yes.

A. There was three doors in that building.

Q. That is leading into the front of this CIO headquarters? How many doors are there?

A. There is three doors in the front of the building.

Q. Now, did you hear any firing, the first firing, did you hear that?

A. Yes, sir.

Q. Where were you? Were you at this same location when you heard that?

A. I was at the same spot there all the time.

Q. Just tell what you saw with respect to that firing, when you saw it, where it came from? Tell us.

A. Do you want me to tell like the way I saw it?

Q. Yes, just tell the way you saw it.

A. Well, while I was stationed there, it was sometime—either 20 or 30 minutes, maybe 40 minutes, while I—there was a sort of a little knoll there in the ground there where

I was at along the west side of the street, and I could see on an angle right across to the CIO headquarters, and a bunch of men there, they seemed very restless, moving around—

MR. LAUTER: I move the remark there "seemed restless" be stricken out.

TRIAL EXAMINER LINDSAY: Yes, that is just—

MR. DAY: Well, "moving around", may that remain, your Honor? Or is that all stricken out?

TRIAL EXAMINER LINDSAY: How is that?

MR. DAY: Is it all stricken out?

TRIAL EXAMINER LINDSAY: No, just that they seemed restless.

MR. DAY: I see.

A. This man was right down, right to the edge of this tile building. I could hear them saying, "Come on boys, let's go through." They says, "We might as well cramp them sons-of-bitches down," they says, "We might as well die now and get it over with." I figured then that there was going to be something doing.

MR. LAUTER: May we fix the time?

MR. PONTIUS: He said 30 or 40 minutes after he got there, and he got there—

Q. (By Mr. Pontius) Can you fix the time that you had that conversation, Mr. Fellabom? If you are, will you do that?

A. Close to 11 o'clock.

And he seemed to be a little intoxicated—a man with a white shirt and a straw hat. I was out to the edge of this man. He says: "I am going through." Well, finally, he stopped at about 20 feet. He was very close to me. He says: "I am going through." I says: "You are never getting through here, Brother." I said: "You might as well go through the other way." He started back; then Curley, he walked up to the center of the street just about crosswise to the two buildings, and he hollered over to the C. I. O.

headquarters—he says: "A couple of you men take this man out of here before he starts to make any trouble." I noticed this man walked to the doorway in the C. I. O. headquarters while Curley was standing there. Stones started to fly. I saw the fire flying off the bricks there. I saw one of these hand grenades—a gas bomb—I seen them flying off the stones. That gas bomb didn't any more hit the road when the shooting started out the doorway.

MR. LAUTER: I ask that the witness' answer be read.

(The last answer was read.)

Q. Now, from your position could you see any guns from there?

A. I could see the flashes of the shooting; I couldn't see the guns.

MR. LAUTER: From where, will you fix the place? Over there is a little indefinite.

Q. I want you to tell just what you saw, Mr. Fellabom.

A. The fire was flying close from the top of the door, just like someone was standing up and holding a gun and shooting down like that (indicating). I could see this much.

TRIAL EXAMINER LINDSAY: Will you read that answer?

(The last answer was read.)

A. (Continuing) Just like someone was standing up in the doorway and a gun held like that (indicating). I could see that much on the truck.

TRIAL EXAMINER LINDSAY: You mean the gun was held up over his head?

THE WITNESS: Yes, it was higher.

TRIAL EXAMINER LINDSAY: Holding the gun up in the air? The shooting was down?

THE WITNESS: Yes.

Q. With respect to this truck, where was the location of this firing?

A. It was right behind the truck.

Q. That is from where you stood?

A. Yes, sir.

Q. Now, could you tell the direction in which these shots were fired; to which these shots were fired—in what direction?

A. They was coming towards our men. They were standing at an angle.

Q. From the position you were standing in at that time, could you see any part of the doorway leading into the C. I. O. headquarters?

A. About two feet of it; top and down.

Q. Now, where in respect to the doorway did you see these flashes?

A. Close to the top.

Q. Were you able to distinguish any person there?

A. No, sir. It was a tarpaulin over this truck; it hid the view of the front; but I could see—all I could see was about two feet around in top of the road.

Q. Could you see the man holding his hand up there? What did you see; just describe it further.

A. All I could see was this firing; this fire was flying close to the top of the door.

Q. Now, what if anything did you do at that time?

A. I turned the machine gun loose on that shooting out of the door.

Q. Did you do anything else at that time?

A. I shot over in there and then stopped, and then the boys—the rest of them was all shooting in there; shooting gas. They was close to me and it got so noisy you couldn't hear yourself think.

Q. Something has been said with respect to an automobile that ran up in there. Did you observe it?

A. There was a car coming in there just before the trouble started. I should judge about maybe 5 minutes before.

Q. Tell us about what you saw about that machine.

A. This car came down in there, and whoever was driving it pulled over to the right-hand curb, and he had his bright lights on. Someone hollered over there to put those lights on, and someone else hollered over the C. I. O. headquarters: "Turn them on, and keep them on." Of course that illumination was pretty bright there for the boys that was on the road there. This young fellow parked his car right along the curb, right near this tile building, and he still had those lights on. Then he jumped out of the car. Somebody hollered: "Turn them out or we will shoot them out." So I shot out one of the headlights. After he ran away from the car he left it sit.

Q. Was that before the other trouble occurred that you described?

A. That was before the trouble started.

Q. What instrument did you use to shoot that headlight out?

A. A machine gun.

Q. What kind of shot?

A. With fine bird-shot.

Q. How close were you to that machine at that time?

A. I should judge about 20 or 25 feet.

Q. Now, following what you have described, just go forward and tell—now, with respect to the shooting, after this thing that you have described at the doorway there, what direction did you aim your machine gun?

A. Over towards the shooting.

Q. When you shot out this headlight, were there any people around that car at that time?

A. No, sir, they all backed out and went back up the street.

Q. Did you shoot into the crowd of people there with your machine gun?

A. Not into the crowd; just over the top of this truck where the shooting was coming out of the doorway.

Q. Now, you have said how many time you have shot? How many times did you shoot there first?

A. About three times at the doorway.

Q. Then what occurred?

A. Well, there was so much firing around there, and I turned around looking where the firing was coming from, and I saw in the upstairs windows was flashes of shooting.

Q. By upstairs windows, you mean what?

A. Toward the buildings along the street on the right-hand side, on the east side of the road. I had taken a couple of shots at that and quieted that down. There was plenty of bullets flying around there. Even in the rear—close to the B. & O. tracks they was shooting at us.

Q. From what direction was that firing?

A. South of southeast.

Q. Just go forward and tell what happened there.

A. Someone hollered about shooting a couple of gas shells down in there, and someone did shoot a couple of gas shells in there, and that stopped the shooting down in there. Then there wasn't so much to do there for a little while until the Canton police got over there.

Q. Now, I will ask you did you fire your machine gun after that that you have told about?

A. After shooting at the door?

Q. Yes.

A. Different times at windows where there was firing; flashing out of the windows.

Q. Where were those windows located?

A. On the east side of the street.

Q. With reference to the C. I. O. hall, where?

A. Just north of the hall.

Q. What did you see coming from those windows, if anything?

A. Fire flashes.

Q. What buildings were they?

A. About three buildings was up through there—seemed like it was—everybody was in it.

Q. Now, what direction were those shots fired that came from these buildings, if you know?

A. Coming south towards us.

Q. Could you tell the character of the shots?

A. Well, some sounded like 38, some like 45's; and louder reports than others; and one sounded—it sounded like a rifle—like a high-powered rifle.

Q. Tell what you used in that sub-machine gun. What kind of ammunition?

A. Bird-shot; paper shell.

Q. Did you use anything else?

A. No, sir.

Q. That night?

A. No, sir.

Q. Had you been on this post prior to this night?

A. No, sir.

Q. How many people would say were there in the C. I. O. hall when you got down there?

A. Over 200; around 200 or 250.

Q. Where were they?

A. On the street, on the sidewalk, in front of the headquarters.

MR. PONTIUS: That is all.

Cross Examination

Q. (By Mr. Lauter) You have had considerable experience with machine guns, Mr. Fellabom?

A. Yes, sir.

Q. During the World War you used a machine gun?

A. Yes, sir; large ones—the tripod.

Q. Is that in the same regiment or battalion that Captain Curley was in?

A. He organized that company but he never went with us. He never went across the Old Country with us. He was just—I should judge he was maybe about a year.

Q. The sub-machine gun that you used on July 11th was fired off with bird-shot, is that right?

A. Yes, sir. As Curley said, when I took the gun; he says: "Bill, what kind of ammunition have you got in there?" He asked me what kind. I said: "Nothing but bird-shot and paper shells." He said: "That is right; that is right; use them in there, Bill."

Q. When did he tell you that?

A. Sir?

Q. What time did he tell you that?

A. Right after I got out of the car when we landed there.

Q. What time was that?

A. A little after 10; about 10 or 15 minutes after 10.

Q. When did Captain Curley tell you that he expected trouble?

A. At the police headquarters.

Q. What time was that?

A. 10 minutes after 10.

Q. What time was that?

A. Sir?

Q. What time was it?

A. 10 minutes to 10.

Q. Now, these paper shells contained how many bird-shots?

A. How many is in one of them?

Q. Yes.

A. At least 50. Real fine shot.

Q. You know something about those paper shells, don't you?

A. Yes, sir.

Q. At a distance of 10 feet, how large a hole could you put in a plank of wood?

A. 10 feet?

Q. Yes.

A. I don't think it would go 10 feet. It would start to scatter.

Q. Would it make a hole large enough to put your first—to put your fist through?

A. At 10 feet?

Q. Yes.

A. At 10 feet I don't believe it would.

Q. At 10 feet would it make a hole large enough to put your fist through?

A. It might; I haven't an idea.

Q. Where were you stationed that night when you were using that machine gun?

A. On the west side of the street across from the C. I. O. hall, close to this tile building.

Q. How wide is that street, do you know?

A. It is about 40 feet across there.

Q. You shot into the building?

A. At the building?

Q. That is right.

A. No; I shot where the firing was coming out of the doorway.

Q. How large a hole would it make at 40 feet, do you know?

A. Well, that would be pretty well scattered out there. It might take in a radius of about five or six square feet; maybe seven.

Q. You were the first one to shoot that night?

A. No, I wasn't the first one to shoot. I think I was the second one.

Q. The second one?

A. Yes, sir. The first shot came out of the doorway of the C. I. O. headquarters.

Q. Before that you had shot at the lights in the car that was standing in front, is that right?

A. That was after I shot toward the door.

Q. What is that?

A. That was after I shot at the door. You see, the car was standing in there with the lights on and the young fellow, whoever it was, he was in the car and left it, and and then he came back, and then he left it the second time. I think it was some time after the shooting from over the door that the headlight was shut out.

Q. About what time did you shoot the lights out from the car?

A. Oh, about—that might have been 11:30, along in there.

Q. What time did the man drive up with the car?

A. What time?

Q. Yes.

A. Just before 11; around 11 o'clock.

Q. The lights were on all that time?

A. Yes, sir.

Q. The lights were on all that time for 35 minutes?

A. Yes, sir. The lights were on continuously there.

Q. The lights were shining on the police all that time for 35 minutes?

A. Yes.

Q. You walked over to the car 35 minutes after the lights had been on and told them to turn that off?

A. I told him to turn that off?

Q. Who did?

A. Someone hollered to turn them off. He jumped off the car and left them on, and someone hollered: "You better put them lights out or we will shoot them out." He jumped in the car and then left the car. That is when the trouble started. He jumped out and left them set.

Q. You didn't shoot the lights out then?

A. No, sir.

Q. You waited 35 minutes?

A. Yes, sir. If it was hit the second time, I don't know—the first time.

Q. You waited around 35 minutes before you decided to shoot them out?

A. At least 35; 30 or 35.

Q. You used your machine gun to shoot them out?

A. That was what I was using, yes, sir.

Q. Now, will you describe the movements of Curley about 11 o'clock? You said he started to walk towards the C. I. O. headquarters.

A. That is when this man who was intoxicated—he was over on my side of the street, and he hollered, and just about that time he walked over towards the headquarters. That is when Curley walked up and hollered for a couple of boys to take this man out before he started any trouble.

Q. Curley said that to a couple of men and then started back towards the headquarters?

A. Yes. He asked for a couple of men to take that man out of there before he started any trouble.

Q. That is when those stones started flying?

A. Yes, that is when it happened.

Q. Those stones started flying and then someone started firing a gas gun?

A. Not fired a gas gun but a gas bomb.

Q. That is right after the stones started flying?

A. Yes, sir.

Q. And after the gas bomb was fired the shooting started?

A. Yes, sir.

Q. The gas bomb was started after the shooting of the doorway?

A. Yes, sir.

Q. You are absolutely sure of that?

A. Yes, sir, that is the way I saw it that night.

Q. The gas bomb came from where?

A. From the right-hand side of the street. That is the east side of the street.

Q. That is where the police went?

A. It was a little ahead. That was on a little angle like this (indicating). I was down here (indicating).

Q. You are absolutely sure that some police officer fired a gas bomb before any shooting from the C. I. O. headquarters started?

A. Yes, sir, I saw it flying through the air; that is as true as I said it.

Q. Was there any shooting other than the gas bomb before the shots came out of the C. I. O. headquarters?

A. No shots whatsoever. As soon as the firing started to fly out of the doorway it broke loose; roared like a cannon.

Q. And the only firing, the only action taken by any of the C. I. O. men there was throwing stones, prior to the firing of these gas bombs, is that correct?

A. And the shooting from the doorway, too.

Q. I am asking you whether or not, before the gas bomb was fired, the only action of any violent nature was the throwing of stones by some C. I. O. men, is that correct?

A. Yes, sir.

Q. When did you take your machine gun or sub-machine gun out of the car, about what time was that?

A. About ten after 11:00, right after we got down there, ten or fifteen minutes after.

Q. Did you see some of the other men carrying around loaded tear gas guns?

A. I didn't pay no attention to anybody.

Q. Well, did you see any other policeman there?

A. Yes, sir.

Q. About how many were there?

A. Well, I would say around me was Kraft and Johnson, they did all—they had gas guns, and the fellow who was with me, Holwager, he had a gas gun.

Q. You say you didn't notice anything, and now you say you did see them with gas guns, is that correct?

A. Sure, I could see them standing around there.

Q. They had tear gas guns? When did they take their tear gas guns out?

A. I don't know anything about what they done.

Q. About what time did you see them with tear gas guns in their hands? Was that before the stones were thrown?

A. Right about after 10 o'clock, after we landed.

Q. They were walking around with gas guns, is that right?

A. Right on this line, yes, sir.

Q. On a line, you say?

A. There was sort of a line across there, you know, where the men had this—there was a post there that they used before, so—

Q. You mean about 100 feet south of the C. I. O. headquarters, is that correct?

A. About 100 feet.

Q. Curley lined them up, is that correct?

A. Yes, sir.

Q. He lined them up across the street?

A. Yes, sir.

Q. About 15 or 20 men?

A. Yes, close to 20.

Q. Before he started walking, making any movement towards the C. I. O. headquarters, he had lined those men up, is that correct?

A. Those men was there for sometime. Then the other men that was taken in there to help fill in, was taken in there around 10:00 o'clock too.

Q. In other words, about the time shortly after 10 o'clock when you had got your sub-machine gun out, these other men got their tear gas guns out, and they were lined up, is that right?

A. There was someone there back of me, they certainly had their tear guns.

Q. About that time, is that right? Shortly after 10 o'clock?

A. When I was there, the fellows that I saw had tear gas guns. Some had bombs.

Q. Go ahead and finish.

A. Some had some bombs, you know, those cans, had them in their hands.

Q. At ten minutes after 10:00, some had gas bombs in their hands, is that correct? Is that what you say?

A. I say they were expecting this trouble.

Q. Well, was there any trouble at that time?

A. Was there any trouble?

Q. That is right, wasn't that crowd perfectly peaceable?

A. Johnson took a load of drunks down and they picked up there, right among the bunch there.

Q. Do you always carry gas guns?

A. Sir?

Q. Do you carry a sub-machine gun when you see a drunk? Do you ever use a machine gun on a drunk?

A. Do I?

Q. Yes.

A. No, sir.

Q. Did you ever use a gas bomb?

A. No, sir.

Q. Did you ever use a tear gas bomb?

A. No, sir.

Q. You can handle them without any of those things, can't you?

A. Where I can handle them, but I never used one.

Q. On that night was that crowd perfectly peaceable?

A. No, sir.

Q. What were they doing?

A. Very restless.

MR. LAUTER: I move the answer be stricken out, they were very restless.

TRIAL EXAMINER LINDSAY: Yes, strike that answer.

MR. DAY: He asked him what they were doing. He asked if they were peaceable.

TRIAL EXAMINER LINDSAY: Well, "restless" doesn't mean anything. Now, quit arguing.

MR. DAY: I will take time, now. I will make my objection in this record and have it noted.

TRIAL EXAMINER LINDSAY: All right.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: My ruling is that the answer is stricken from the record.

MR. DAY: Yes, and note an exception.

TRIAL EXAMINER LINDSAY: Say what "restless" means.

THE WITNESS: Well, they said "we are going to go through there." We might as well go through there now.

Q. (By Mr. Lauter) I am not interested in what they said.

A. Sir?

Q. Describe the condition of the crowd, what they were doing.

A. The bunch—

Q. At ten after 10:00, what were they doing?

A. Hollering.

Q. Were they standing still, or walking around or what?

A. They says, "Let's go through, let's tramp them."

Q. Were they standing or walking around?

A. Milling around.

Q. Just moving around.

A. Milling around.

Q. That is the extent of their violence, is that right?

A. Yes, sir, yes, sir.

Q. And at the time they were just walking around, you men were walking around with a sub-machine gun?

A. I was standing still.

Q. And tear gas guns? You were standing still, were you?

A. I was standing still.

Q. With a sub-machine gun, is that right?

A. Yes, sir.

Q. And the other men were standing still or walking around? The other officers?

A. They was walking around, different places.

Q. With tear gas guns?

A. Absolutely.

Q. And gas bombs, is that correct?

A. Yes, sir.

Q. At ten minutes after 10:00?

A. It was after I landed there. It was ten or fifteen minutes after.

Q. Now, how far did you say you were from the car when you shot out the lights?

A. 20 or 25 feet at the most.

Q. Was there anyone in that car?

A. No, sir. I saw—

Q. Was there anyone near the car?

A. No, sir, not at that time. The men left out of it and was all back up the street.

Q. Was there any shooting going on at that time?

A. Oh, there was shooting at all times there.

Q. Are you saying there was shooting all the time after 11 o'clock steadily?

A. After 11?

Q. Yes.

A. Well, for at least half an hour.

Q. What time did you shoot out the lights?

A. Well, it was about—it was around close to 11:30, along there.

Q. Was there shooting at 11:30, when you shot out the lights?

A. There was still a little shooting, gas shooting.

Q. Was there any shooting from the C. I. O.?

A. No, not then.

Q. There wasn't any?

A. No, not then.

Q. Where were you when you started to walk up to the car, to shoot out the lights?

A. Where was I?

Q. Yes.

A. Right up southeast of the car.

Q. And there was no shooting coming from the C. I. O. headquarters, is that right?

A. Not then.

Q. Or in that direction?

A. The only shooting that I saw was coming from the doorway, that is when it started.

Q. That is after five after 11:00?

A. Just a little around 11 o'clock, I got there a little after—

Q. From 11 o'clock to 11:30, did you see any shooting from C. I. O.?

A. No, sir.

Q. At 11:30 you walked up to this car, is that right?

A. Couldn't walk up to it.

Q. You were near the car, 20 or 25 feet from it?

A. 25 feet from the car.

Q. There had been no shooting by the C. I. O. for 30 minutes, is that correct?

A. Along there.

Q. And you started to shoot out the lights in the car?

A. I started to?

Q. You shot them out?

A. I suppose maybe I did.

Q. Well, what do you mean, you suppose? Didn't you?

A. I did. I shot the one light out.

Q. Why didn't you go up there and turn the light out?

A. Why didn't I?

Q. That is right.

A. You couldn't get near that place for gas.

Q. You were 20 feet from it, weren't you?

A. Yes, sir. The air was to my back, was taking the gas up in there. I tried to get up in there once. You couldn't get up past that building. It had the gas hemmed in there.

Q. About what time did the gas fill the streets so you couldn't see?

A. What time?

Q. Yes.

A. Any time after they started shooting.

Q. Any time after 11 o'clock?

A. Yes, after the gas started, you couldn't get up through there.

Q. That was about 11 o'clock, is that right?

A. It was after 11:00.

Q. How long after that?

A. When the shooting started?

Q. How long after 11:00 was there so much gas on the streets that you couldn't get up there?

A. Oh, over about—40 minutes at least.

Q. Are you saying that at 11:40 you couldn't get up the street?

A. I got up in there about 8 or 10 feet, then I couldn't take it, and I had to come back.

Q. About what time was it that you couldn't get up into the street, I am asking you.

A. About 11:30 or 35, along in there.

Q. Was that after you went up to where this car was?

A. Yes, sir.

Q. But before you went up there wasn't any gas, or there wasn't so much gas that you couldn't get up, is that right?

A. Plenty of gas up there at all times.

Q. Could you get up there then?

A. I couldn't get past there, 8 or 10 feet past this car.

Q. At what time?

A. Around 11:30 or 11:35.

Q. When did they lay down the barrage with gas?

A. Right after the shooting started from the doorway.

Q. About 11 o'clock?

A. Around 11:00 or 11:10.

Q. Was the street pretty filled with gas at 11:00 o'clock?

A. At 11?

Q. That is right.

A. No.

Q. It wasn't until 11:30, is that right?

A. It was right after 11:00, right after the shooting started.

Q. Do you understand my question?

A. Yes, sir.

Q. I am asking you when the street became so filled with gas that you couldn't get up the street?

A. Around about 11:30, or 11:35.

Q. Did you do any shooting between 11 and 11:30?

A. Me?

Q. Yes.

A. Yes, sir.

Q. About how many rounds of ammunition did you shoot off between 11 and 11:30?

A. About twenty.

Q. There was no shooting by any C. I. O. men at that time, was there?

A. The only shooting come out of the doorway.

Q. Just those five shots?

A. Yes, sir.

Q. And you kept on shooting, during that half hour continually, is that correct?

A. I only shot twenty rounds in that—little over half an hour.

Q. How many? When you say "rounds" is that each one a separate shot?

A. Yes, sir, I shot, oh, three at the doorway, and then when the fire was flying out of different upstairs windows, I shot two or three times at those. That is all the firing that I done.

Q. What was all the firing that they did, between 11 and 11:30? Just out of the doorway?

A. That was on the other side.

Q. Just out of the doorway?

A. Yes, sir.

Q. Did you shoot into the building, during the period between 11 and 11:30?

A. Me?

Q. Yes.

A. No, sir.

Q. Did any of the other cops shoot lead?

A. Well, I couldn't say that they did.

Q. Well, you could hear the shots, couldn't you?

A. There was plenty shooting.

Q. You could hear shots, couldn't you?

A. Sir?

Q. You could hear shots coming from their direction, couldn't you?

A. Oh, yes.

Q. Shooting lead?

A. Well, I couldn't say whether it was lead or not, what they had in their guns, I don't know.

Q. You testified in direct examination as to the kind of shots you heard coming out of the C. I. O., didn't you?

A. Yes, sir.

Q. But now you can't testify as to the kind of shots you heard coming out of the police guns, is that right?

A. What kind would you think would come out?

Q. I am asking you whether you can or cannot testify as to the kind of shots that came out of the police guns?

A. Well, it was either 38's or 45's.

Q. They were shooting lead, is that correct?

A. That is what my idea would be.

Q. Between 11 and 11:30?

A. Yes, sir.

Q. And after 11:30?

A. Not very long after, maybe five minutes after—11:35. But after the Canton police came in there, our fellows then didn't do no more shooting as I know of.

Q. You said something about cops coming out of buildings?

A. Yes, sir.

Q. You said out of almost every building, is that right?

A. Upstairs windows. Yes, sir, plenty of them.

Q. Out of every window?

A. Just about—every window?

Q. About every window?

A. Yes, sir.

Q. In every building?

A. Yes, sir.

Q. That is all along there?

A. The east side.

Q. East side?

A. Yes, sir.

Q. How many buildings are there there, do you know?

A. Along the east side?

Q. That is right.

A. Well, there are about—between eight and ten, up to McKinley Avenue, to the intersection.

Q. How many windows would you say were there?

A. How many windows? All along the street there is windows. It is pretty well built up.

Q. Pretty well built up?

A. Yes, sir.

Q. About eight or ten windows in each building?

A. No, I would say some were pretty well closed up.

Q. On an average of about eight or ten?

A. Well, there was about three or four in the top, upstairs windows.

Q. So they were shooting out of about 25 or 30 windows, is that right?

A. I would not say that many; as many as I saw where the fire was coming—

Q. How many would you say?

A. Well, I would say at least 10 or 15.

Q. So they were not shooting out of every window, were they?

A. Out of every window?

Q. That is right.

A. Well, you see these buildings is up close there.

Q. Were they shooting out of every window?

MR. PONTIUS: Pardon me, he has a right to answer, if your Honor please.

TRIAL EXAMINER LINDSAY: This is cross-examination.

MR. PONTIUS: Yes, but he has a right to complete his answer. I object to the interruption.

TRIAL EXAMINER LINDSAY: Go ahead, answer the question.

MR. PONTIUS: I object to the interruption of the answer.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

A. Well, any windows that was in the upstairs, I saw firing.

Q. Out of every one that was in the upstairs of these buildings, is that correct?

A. Yes, sir.

Q. That means about 25 or 30 windows?

A. No.

Q. You said there were eight buildings?

A. There is about eight or ten buildings, and those buildings is built up close. There is only a couple little passageways through those buildings, through there, see?

Q. About how many windows are there in the eight or ten buildings out of which they were firing?

A. About eight or ten windows at the most, that I could say.

Q. When did they start shooting out of those windows?

A. Right after the shooting started.

Q. Right after 11 o'clock?

A. Yes, sir.

Q. And how long did they continue to shoot?

A. Oh, that kept up for 20 or 25 or 35 minutes, along there.

Q. And you would shoot into the window, is that right?

A. Yes, sir, whenever I would see any firing coming out, I would shoot this bird-shot into these windows.

Q. About how many shots would you say were fired out of the upstairs windows of these eight or ten buildings?

A. That night?

Q. That is right.

A. Oh, there might have been 50 or 100 shots fired out of them windows.

Q. And every time you saw a shot come out from it, you would fire?

A. Yes, sir.

Q. How many times did you fire?

A. I fired 20 rounds.

Q. 20 shots?

A. Yes, sir.

Q. Did any officer get hit, that night?

A. None that I know of.

Q. What is that?

A. Not—I don't remember, I don't think any of the men got hit, that I know of, but only the car that I was driving got hit.

Q. What is that?

A. The machine that I used to cruise around with got hit that night.

Q. You don't know who hit that car?

A. Sir?

Q. You don't know who hit that car?

A. Oh, no.

Q. But you heard that some CIO men were killed that night, didn't you?

A. Yes, I heard there was one killed.

MR. LAUTER: That's all.

TRIAL EXAMINER LINDSAY: I think we will have a short recess.

(A recess was had.)

TRIAL EXAMINER LINDSAY: Hearing is called to order.

Redirect Examination

Q. (By Mr. Pontius) Mr. Fellabom, from the position you were in when you fired at the door, or fired towards the CIO headquarters there, were you able to state about how far away you were from that place?

A. About sixty feet.

MR. PONTIUS: I believe that is all.

Recross Examination

Q. (By Mr. Lauter) At the time that you fired at the headquarters, were there people in front of it?

A. Well, you wouldn't see, for those trucks. You see, on the angle where I was at—

Q. Where were the trucks?

A. The trucks was right in front, the one had the tarpaulin on and then there was a smaller truck.

Q. You could see the doorway in front of the headquarters, because you were aiming at it, couldn't you?

A. You could see about two feet of it, the top of it.

Q. Were there any people in front of the truck?

A. I couldn't see.

Q. Were there any people on the street at 11 o'clock, when you fired?

A. No, they moved back when this gas started to fly, you couldn't stand—

Q. How soon after the gas bomb was thrown—how soon after that did you start shooting?

A. How soon?

Q. That is right.

A. Very close.

Q. A few seconds?

A. A few seconds.

Q. That's right. At the time the gas bombs were thrown, were there people on the street?

A. I could see them moving back through the cars.

Q. And in a few seconds they couldn't get very far, could they?

A. Well, they moved pretty fast.

Q. In a few seconds, they could move a few feet, is that right?

A. Further than that.

Q. Further than that?

A. Yes, sir.

Q. At the time that you fired where you testified, there was no one on the street in front of the headquarters?

A. I couldn't see through that truck, see.

Q. But you fired anyway?

A. Right about, where the fire was coming out of that doorway.

Q. You couldn't see whether or not there were any people in the front of that truck?

A. No, sir, I could not see a soul.

Q. What is that?

A. I couldn't see a one.

Q. Couldn't see a person in front of the truck?

A. Yes, sir.

Q. On the street?

A. Just ahead of us a little ways, see? Through the cars, there was lots of machines there on both sides of the street. Once in a while you could see a head bobbing past.

Q. Before the gas bomb was thrown, about how many people would you say were there on the street?

A. At that time?

Q. That is right.

A. Well, there was at least 30 or 40 that I could see right close to the corner of the building, from this tile building where I was supposed to be.

Q. You were on the west side of the street?

A. Yes, sir.

Q. And that building that you were near was just ten or fifteen feet south of the CIO headquarters, on the other side of the street, is that right?

A. Yes, sir.

Q. You could look across on an angle, is that correct?

A. Yes, sir, on an angle. About a 45 degree angle.

Q. And at the CIO headquarters?

A. Yes, sir.

Q. And the only thing that blocked your vision of the doorway was this truck that was in front of it?

A. Two trucks, the one—the larger one had a tarpaulin on it. You could just see about two feet of the door, top of the door.

Q. Have you heard other officers testify that there were a great many people on the street at that time, 11 o'clock?

A. Oh, yes, at 11.

Q. About how many would you say were there at 11 o'clock?

A. Well, when we first landed there, around that time there was at least 200 or 250.

Q. And how many were there on the street when the gas bomb was thrown.

A. Oh, around 30 or 40 at the most, that I could see from the side I was on, 30 or 40. If there was anybody on the other side of the trucks, I couldn't tell.

Q. There was 30 or 40 in front of the trucks, is that right?

A. That was along on the west side of the street, see?

Q. That is right, on the west side of those trucks weren't there about 30 or 40 people?

A. Yes, sir; right across.

Q. And they were there at the time you fired your sub-machine gun, is that correct?

A. Yes, sir.

Q. And your sub-machine gun fired bird-shot?

A. Yes, sir.

Q. At a distance of 60 feet, would spread how far? About 10 feet?

A. About at least 7 or 8 at the most, maybe more.

Q. Do you know whether people were picking buck shot out of their bodies for days after that?

A. I wasn't shooting buck shot.

Q. Where—what were you shooting then?

A. Bird shot.

Q. Bird shot?

A. Yes, sir.

Q. While there were 35 or 40 people in front, in the street in front of the trucks?

A. I didn't shoot at anybody I saw.

Q. The bullets spread seven or eight feet?

MR. DAY: Will you read the last answer?

(The answer read by the Reporter.)

A. There was bird shot, they would spread at least seven or eight feet at the most, maybe more.

MR. LAUTER: That's all.

Redirect Examination

Q. (By Mr. Pontius) You have said there were 25 or 30 people ahead of the truck. Were those people between you and the truck when you shot?

A. Yes, sir.

Q. And with respect to their bodies, how did you have your gun?

A. Over the top of their heads.

MR. PONTIUS: I think that is all.

MR. LAUTER: That is all.

(Witness excused.)

RUSSELL JOHNSON

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) You are Mr. Russell Johnson?

A. Yes, sir.

Q. And you live in Massillon?

A. Yes, sir.

Q. What is your address in Massillon?

A. 1404 Ninth Street, N. E.

Q. Your occupation, please?

A. Patrolman, city of Massillon.

Q. For how long a time have you been a patrolman in that city?

A. Since February 15, 1932.

Q. Now, during the time shortly before July 11th, what did you do there in connection with your patrolling duties?

A. Riding the cruiser.

Q. What do you mean by cruiser?

A. Police car.

Q. Did that car belong to the City of Massillon?

A. Yes, sir.

Q. And what part of town did you ride that cruiser in?

A. All over town, generally down around the strike area.

Q. Now, do you know the location of what they call the post on Cleveland Avenue?

A. Yes, sir.

Q. Prior to July 11th had you been down there from time to time?

A. Yes, sir.

Q. And when, usually, would you go there?

A. Change of shifts, deliver men.

Q. What?

A. To deliver men. We only had two cruisers, and we had to use the two cruisers sometimes to take two or three loads down there.

Q. Deliver men on the post?

A. Different posts.

Q. Different posts?

A. Yes, sir.

Q. What was the custom, there, with respect to increasing or decreasing the number of men at the turn of shifts at that post?

A. Well, at the turn of shifts we doubled over, that is, there would be twice as many men at the shift.

Q. Now, did you go down to that post on the night of July 11?

A. I did.

Q. What were your hours of duty on that day?

A. From 2 in the afternoon until 11:30 at night.

Q. How did you go down there?

A. In the cruiser.

Q. Did anyone accompany you in that cruiser?

A. My partner, Packer, and some different men. I delivered men down there. Packer, who was my partner, and men who I took to the post.

Q. Do you know who that was?

A. No, I don't remember their names.

Q. Where did you take your men?

A. From the City Hall, the police station.

Q. And what time did you get down to that place?

A. I would say approximately 10 o'clock.

Q. When you got there did you see any officers there, or were there other officers there?

A. Yes, sir.

Q. I wish you would name the persons or officers that you saw there when you got there, as near as you can recall?

A. There was a number of special officers there, which I don't remember their names. I knew Kelley was there, Fellabom, Kraft, Henderson was there. That is all I remember.

Q. I see. Now, what, if anything, first attracted your attention after you got there?

A. The number of people around the CIO Hall.

Q. How many? About how many were around that hall?

A. I would say between two and three hundred people.

Q. With respect to the usual number about there, how did that compare?

A. Quite a few more than what is usual there. Different times there would be 25, then you would see 50 and probably a hundred. I have seen 150 there, you see if they had a dance playing music, the women and children 250, probably 200 there, when they had one of these dances.

Q. Well, do you know whether or not they had any dance going on there that night?

A. They did not.

Q. What did you observe with respect to there being women and children there at that time?

A. I didn't notice any women and children.

Q. What was the usual thing about that hall, as to women and children being there?

A. They were there, quite often.

Q. Now, did anything occur with respect to the arrest of any men there before the riot started?

A. Yes, sir, I arrested six men.

Q. Tell us about that.

A. Shortly after I got there there was a car drove up on Cleveland Avenue from the south, from Oberlin. We stopped the car on the east side of the street. There were six men in it. I asked them their business and they said they were CIO men from Canton.

I asked them what they were doing there. They says they were going up to the CIO Hall. I told them to step out of the car. They stepped out of the car and I searched them, searched the car for weapons, but they didn't have any. I told my partner, I says, "You take three in the police car and I will go down with these other three men in their car. Went down and locked them up.

Q. Now, had any orders been given with respect to men coming across the viaduct as these men crossed?

A. The sheriff's proclamation.

MR. LAUTER: I object to that question on the ground leading the witness. There is no evidence they came over the viaduct.

MR. PONTIUS: That is right. I will withdraw the question.

Q. Were there any orders issued prior to that time with respect to persons coming along the streets that you saw this man travel?

A. The first proclamation was issued on June 25, I think. That covered that.

MR. LAUTER: I ask that the answer be stricken.

Q. What you saw when—

MR. LAUTER: (Continuing) As indefinite "covering that." I don't know what that means.

TRIAL EXAMINER LINDSAY: "Covering that" may be stricken from the record.

MR. PONTIUS: All right.

Q. About what time did this occurrence take place?

A. I would say between 10 o'clock and 10:20.

Q. I don't understand.

A. Between 10 o'clock and 10:20.

Q. What if anything then did you do with these men—the three of them?

A. Took them down to the police station and signed an affidavit; wrote the names down on a scratch pad; locked them up in jail.

Q. Now then, after that, what did you do?

A. My partner and I—Packer—we got in the car and traveled down Erie Street: at the gasoline station there. There was an automobile parked there with a few people around it. We glanced over it and went on down to the street to the corner of Oberlin Road and Erie Street. We parked our car in the gasoline station and walked down to where this car was stationed and we asked what was the trouble. Somebody said somebody threw a gas bomb in the car. I looked at the car and asked if anybody was hurt and somebody said: "No." There was a lot of gas smell in there, and we pushed the car to the side and left it there by the side until the gas went down. I walked to where my car was parked and we continued on.

MR. LAUTER: I move all the testimony with reference to the gas bomb be stricken from the record as having no connection with the issues in this case.

TRIAL EXAMINER LINDSAY: Yes. It may be stricken.

Q. Did you know whose car that was?

A. I did know.

Q. All right. Then you went over to what place?

A. Cleveland Avenue, S. W.

Q. About what time was it that you got over there?

A. I would say probably 10:45.

Q. Now, had there been any shooting over there before you got over there?

A. Yes, sir.

Q. Where were you when you first heard that?

A. On the east side of the viaduct.

Q. Now, when you got over there, just tell us what you saw when you got there.

A. Drove the police car probably 130 or 140 feet south of the C. I. O. hall and parked it on an angle; got out of the car; took the gas gun out of the car. He was kneeling in the middle of the street. I kneeled down behind him and asked him what was going on. He said: "Well, a bunch of bombs was being thrown." And some shots were coming out of the C. I. O. doorway. I said: "Was there anybody left in there?" And he said: "Yes." I said: "What are you going to do?" He said: "Well, there was people in the C. I. O. hall"—

Q. About how far were you from the C. I. O. hall; about how far were you at that time?

A. I would say 130 or 140 feet.

Q. Now, what if anything did you notice with respect to the street in front of the C. I. O. hall? Were there people there at that time?

A. There was two trucks setting in front of the C. I. O. hall. Some people came out of the C. I. O. hall, and walked to the south side, which they attempted to get into the car; and they left the car and stayed there, and walked back in the C. I. O. hall. Later on they came out again and went up the street; and a number of men and women came out of the C. I. O. hall and went up the street.

MR. LAUTER: Will the Reporter please read that question?

(The last question was read.)

Q. Now, did you see any other people up on the street above there at that time?

A. Yes, sir.

Q. How many people would you say?

A. I would say a couple of hundred on both sides of the street.

Q. How far above the C. I. O. hall at that time?

A. I would say 150 to 200 feet.

Q. Did you observe any firing after that?

A. Yes, sir.

Q. From where?

A. From the west side of the street north of the C. I. O. hall almost to McKinley Avenue.

Q. Which way does McKinley Avenue run?

A. East and west.

Q. Where is that with respect to the C. I. O. hall?

A. Number of feet?

Q. Well, I mean, is that the first or second street north?

A. First street where?

Q. Of the C. I. O. hall?

A. Yes, north.

Q. What did you notice about that firing? What kind of firing was it?

A. Well, I couldn't say what kind of firing it was. It was from a gun of some sort.

Q. Do you know what direction the bullets were taking from the shots that were fired?

A. Yes, sir, traveling south.

Q. Is that in the direction of the officers at that time?

A. That is right.

Q. Now, did you hear any other firing?

A. Yes, sir.

Q. From what direction?

A. From the north.

Q. Now, tell where that came from.

A. Came around from near McKinley Avenue, I would say I saw flashes approximately in the center of the street.

Q. In what direction were those missiles coming from?

A. Traveling south.

Q. Did you hear any other firing?

A. Yes, sir.

Q. From what direction?

A. From the east.

Q. Do you know where the railroad tracks are down there?

A. Yes, sir.

Q. Where was that firing with respect to the railroad tracks in that vicinity?

A. Near the railroad tracks.

Q. Do you know what direction the missiles that were fired came from down there?

A. East; from the east and traveling west.

Q. With respect to the location of the police officers?

A. They traveled toward the police officers.

Q. And did you hear any other firing?

A. Yes, sir.

Q. From what direction?

A. From the rear—from the police officers.

Q. Now, you have stated that you walked—Kelley was on the street?

A. Yes, sir.

Q. Was he one of the regular officers?

A. Yes, sir.

Q. He was the man that testified here before?

A. Yes, sir.

Q. What did he fire?

A. Gas from a gas gun.

Q. Do you know what any of the other officers fired there?

A. I don't.

Q. Do you know whether or not there were any guns fired by the officers that were firing leaden bullets?

A. Well, it was lead fired but I don't know who fired them.

Q. How long did you remain there?

A. I remained there until the Canton police came.

Q. What was the condition existing on the street above there until the Canton police came?

A. The number of people on the street?

Q. Yes. This firing that you have told about, did that occur between the time you got there and the time that the Canton police came?

A. Yes, sir.

Q. Now, after the Canton Police came there, did you hear any other firing?

A. No, sir; we went to the east side of the viaduct.

Q. That is, you left and went to the east side of the viaduct?

A. Yes, sir.

Q. Did you go up that part of the town afterwards that night?

A. The next morning I did.

Q. What time the next morning?

A. It was from 6 o'clock until 8.

Q. Did you go off duty that night?

A. I worked until 8 o'clock that morning.

Q. 8 o'clock?

A. Yes, sir.

Q. When you first got to that point that night, what if anything did you notice about the appearance of these people that you have said were in the street there in front of the C. I. O. headquarters? Did you hear any talk from them or notice anything about them?

A. Not particularly except that there had been some firing. They were moving around in and out of the C. I. O. hall, I imagine.

MR. LAUTER: I move what the witness imagines be stricken.

TRIAL EXAMINER LINDSAY: Yes.

Q. I mean when you first got there that night you said about 10 or 10:15, about that time, what if anything did you notice about that crowd of people?

A. The crowd was moving around.

MR. PONTIUS: I guess that is all.

Cross Examination

Q. (By Mr. Lauter) When did you go on the police force, Mr. Johnson?

A. February 15, 1932.

Q. You are a regular policeman?

A. That is right.

Q. How many regular policemen are there?

A. 18, including the chief.

Q. Is it your duty to take around some of the men to their posts in a police cruiser; that is correct, isn't it?

A. That is right.

Q. How many officers were ordinarily stationed on Cleveland Avenue at the change of shifts?

A. Seven.

Q. At the change of shifts?

A. At the change of shifts.

Q. Yes. How many officers?

A. Six.

Q. On July 11th, did you take any officers to Cleveland Avenue?

A. Yes, sir.

Q. Whom did you take there?

A. I don't know.

Q. You don't know any of the names of the officers you took there?

A. They had, I think it was, 46 extra men, and I didn't come in contact with them very often. I was cruising; I was never on the post.

Q. Well, how many did you take?

A. How many?

Q. Yes.

A. Three.

Q. You don't know the names of any of those?

A. No, sir, I don't remember those.

Q. Were they new men?

A. Yes, sir.

Q. Special policemen?

A. Yes, sir.

Q. Were they armed?

A. I beg your pardon?

Q. Carry guns?

A. Yes, sir.

Q. Do you know when they came on the force?

A. Well, since the strike started.

Q. Did they come on about July 7th or 8th?

A. These three particular men?

Q. Yes.

A. I couldn't say.

Q. Do you know whether or not the group of new men were taken on July 7th or 8th?

A. I do.

Q. Do you know when they got new guns, their guns?

A. All the men I saw except the one was armed all the time from the moment they went on the job.

Q. These three men that you took there, they had guns on July 11th?

A. I imagine so. I didn't pay particular attention to whether they carried arms or not.

Q. Now, you say that when they had dances outside—when they had dances at the CIO headquarters, why there would be 150 or 200 people there, is that right?

A. There would be more than when there wasn't anything doing. I would say 150, probably 200 people there.

Q. Do you know whether or not they had any music there at night?

A. I don't.

Q. Didn't you hear any music coming out of the CIO?

A. I didn't hear any music, no.

Q. On this night they had about 250 or 300 people there?

A. That is right.

Q. They were just moving around?

A. Yes, sir.

Q. As any crowd of 250 people would do?

A. Yes, sir.

Q. There was nothing unusual about their appearance, was there?

A. I didn't notice anything.

Q. Just the crowd standing there in front of the CIO headquarters, is that correct?

A. A crowd which was unusually large, that is all I noticed.

Q. About what time did you arrest the six men that came up in that car?

A. I would say approximately 10:30.

Q. Do you know who those men were?

A. I did know at the time, but I don't now. Of course, I got the names when I wrote them up.

Q. They were men that came from Canton?

A. Yes, sir.

Q. You say they came north on Erie Street from Oberlin Road? I mean on Cleveland Avenue from Oberlin Road?

A. Yes, sir.

Q. In which direction were they coming from on Oberlin Road, did you see?

A. I didn't see.

Q. Well, at the time that you stopped them, did you know whether they came over the viaduct or not?

A. I didn't notice, no, sir.

Q. Did you ask them whether they came over the viaduct?

A. I didn't.

Q. At the time that you arrested them you didn't know whether they came over the viaduct or not?

A. No.

Q. In other words, they may have come from the other direction of Oberlin Road, and not over the viaduct?

A. They might have.

Q. No proclamation that prohibits them from coming the other direction?

A. Yes, sir.

Q. They can't come on Oberlin Road at all?

A. No, sir.

Q. In either direction?

A. No, sir.

Q. Do you know, did you inquire from them whether or not they knew about the proclamation?

A. No, I didn't.

Q. The men came from another city, didn't they?

A. Yes, sir. The proclamation existed in Stark County.

Q. I know it. You made no inquiry about whether or not they knew about the proclamation?

A. No, sir, I didn't.

Q. You gave them no warning of any kind, not to do that again?

A. No, sir.

Q. All you did was arrest them?

A. Yes, sir.

Q. Have you done that with every person that has come on Oberlin Road and was not entitled to be there? Is that your practice, to arrest people who come in across on Oberlin Road?

A. If they come in the strike area, after the proclamation, yes, sir.

Q. How many have you arrested?

A. Just those.

Q. What is that?

A. Just those six.

Q. Have you ever come in contact with any others who came on that road?

A. No, sir.

Q. Were you ever stationed around there?

A. No, sir.

Q. Were you around the viaduct when the shooting took place?

A. I was on the east end of the viaduct.

Q. When the shooting took place at the viaduct?

A. No, sir, I wasn't.

Q. Now, when you arrested these men at about 10:15 or 10:20, did you take them yourself to police headquarters?

A. I took three and Officer Packer took three.

Q. When did you get back to Cleveland Avenue again?

A. I would say between 10.45 and 11:00.

Q. And had the shooting started by that time?

A. I heard the shooting from the east side of the viaduct. I went over in the police car.

Q. The shooting had already started?

A. Yes, sir.

Q. In Cleveland Avenue, is that correct?

A. Yes, sir.

Q. And when you got there you had a conversation with someone?

A. Officer Kelley.

Q. What did Kelley say to you?

A. I asked him what was going on. He said they were throwing stones and shooting from the CIO Hall.

Q. Did he tell you about the fact that—

A. I beg your pardon.

Q. Did he tell you about the fact that an officer threw a gas bomb?

A. No, sir, he didn't mention it.

Q. When you came there was there any shooting going on?

A. Right at that particular time?

Q. That is right.

A. Gas had been shot into the CIO Hall.

Q. By the officers?

A. Yes, sir.

Q. What did you do at that time?

A. I shot gas into the CIO Hall.

Q. What time did you say that you arrived there?

A. I would say between 10:45 and 11 o'clock.

Q. From 11 to 11:30 were you in the vicinity of Cleveland Avenue?

A. I was.

Q. Did you hear any shots come from CIO headquarters?

A. No, sir.

Q. You continued to shoot gas into the CIO headquarters?

A. Yes, sir.

Q. Did you see an ambulance come up there?

A. Yes, sir.

Q. At the time the ambulance came up did you see some women come out of the building?

A. When the ambulance come up?

Q. That is right.

A. I don't remember.

Q. Well, did you see anybody come out of the building?

A. Yes, sir.

Q. How many people did you see come out of the building?

A. I remember people come out, and they carried the stretcher in from the ambulance to the building.

Q. You don't recall whether you saw any women come out?

A. Not at that particular time I don't recall, no, sir.

Q. At any time did you see a number of men and women come out of CIO headquarters?

A. Yes, sir.

Q. About how many women did you see come out?

A. Three, I think.

Q. Now, at the time you made the arrest of the six men, how far were you from the CIO headquarters?

A. 70 or 80 feet.

Q. The crowd there was about 250 or 300?

A. Yes, sir.

Q. About how many women were in the crowd?

A. I didn't see any women.

Q. Did you see any children?

A. No, sir.

Q. About what time did you see three women come out of the CIO headquarters?

A. It was around 11:10 or 15.

Q. You heard some shooting from the north—you heard some shooting from the east?

A. Yes, sir.

Q. You heard some shooting from the south too, didn't you?

A. Yes, sir.

Q. That is where the police were?

A. Yes, sir.

Q. You heard them shoot lead?

A. I beg your pardon?

Q. I say you heard them shoot lead, is that correct?

A. I heard them shoot, yes.

TRIAL EXAMINER LINDSAY: We will adjourn until 1:15.

(Thereupon an adjournment was taken to 1:15 p. m.)

Afternoon Session

(Whereupon, at 1:20 o'clock p. m. the hearing was resumed and the following proceedings were had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

RUSSELL JOHNSON

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

Cross Examination

MR. LAUTER: Will the Reporter read the last several questions and answers?

(The last three questions and answers thereto were read.)

Q. Did you hear the shooting of lead?

A. I heard them shoot. I guess pistol shots.

Q. That is lead, isn't it?

A. Yes.

Q. Now, at what time did you arrive at Cleveland Avenue; what time was it?

A. I was there twice.

Q. What time was the first time?

A. Approximately 10 o'clock.

Q. And the second time?

A. I would say between 10:45 and 11 o'clock.

Q. Did you stay there between 11 o'clock and 12 o'clock?

A. Until the Canton police came.

Q. What time was that?

A. I couldn't say; probably 11:30; probably later.

Q. What was that?

A. I couldn't say exactly.

Q. You were there near to 11:30 and 11:45?

A. I was there until the Canton police came.

Q. Between 11:15 and 11:30 did you see the car that was on the east side of the street? The automobile with its lights on?

A. I didn't pay any attention to it.

Q. Where were you stationed?

A. I was stationed south of the C. I. O. hall.

Q. How far south?

A. 150 feet.

Q. Now, on this map, where would 150 feet south of the C. I. O. hall be? This is the C. I. O. hall here (indicating); and this is Cleveland Avenue (indicating).

A. Pretty near—what is this (indicating)?

Q. This is Oberlin Road right here (indicating).

A. That is the C. I. O. hall (indicating). I would say 150 feet south of the C. I. O. hall.

Q. Where were you on this map? Will you indicate?

A. Right here (indicating).

Q. Right in about here (indicating)?

A. Yes, sir.

Q. Do you know whether or not there was any automobiles on both sides of the street?

A. Yes, sir, there were automobiles on both sides of the street.

Q. From where you were, could you see automobiles on the west side of the street?

A. Yes, sir.

Q. Did you notice whether or not the automobile on the west side of the street had lights?

A. I don't know.

Q. If it had its lights shining on the police you would have noticed it?

A. I don't know.

Q. I say if it had had its lights shining on the police you would have noticed it?

A. I didn't notice.

Q. Did you notice any lights on the police?

A. There was street lights; there was lights on automobiles on the street had their lights, too.

Q. You don't know whether they did or not?

A. I am not sure. I don't know whether.

Q. Were you there at 11:15 or 11:30 o'clock?

A. Yes.

Q. Were you there when Fellabom shot the lights out?

A. No, sir.

Q. Did he shoot them out when you were there?

A. I don't know.

Q. If they were shot out at 11:35 you would have been there?

A. That is right.

Q. There were no lights shot out when you were there?

A. No, sir.

Q. Anybody tell you whether or not there were lights shot out when you got there?

A. No, sir.

Q. When did you leave Cleveland Avenue?

A. After the Canton police came.

Q. About 11:30 or 11:15 o'clock.

A. Yes, sir.

Q. You went over there to the east end of the viaduct?

A. Yes, sir.

Q. When you went over to the east end of the viaduct, did you hear any more shooting on Cleveland Avenue?

A. Yes, sir.

Q. When the Canton police came, did they lay down a barrage of tear gas?

A. I wasn't there when they did that. They came and I went to the east end of the viaduct.

Q. Did you hear them lay down that barrage of firing?

A. No, sir.

Q. You didn't hear from where you were but you heard from some person, is that correct?

A. Yes, sir.

Q. When you were at the east end of the viaduct prior to the shooting, you did hear shots?

A. Yes, sir.

Q. But you didn't hear shooting done by the Canton police after you left, is that correct?

A. No, sir.

Q. Although you were approximately some distance away?

A. Yes, sir.

Q. Will you describe what lighting apparatus there is in the vicinity of Cleveland Avenue near the C. I. O. hall? Where are the lights on that street?

A. There is an electric light here (indicating); a street light here (indicating).

TRIAL EXAMINER LINDSAY: Where is that?

THE WITNESS: Right here (indicating).

Q. How far south of the C. I. O. hall is that?

A. I would say it is 40 or 50 feet on the west side of the street.

Q. It is 40 or 50 feet south of the C. I. O. hall? There there is a light?

A. Yes, sir.

Q. And where were you stationed with respect to that light? South of that?

A. I would say south.

Q. How far south?

A. I would say 110 feet.

Q. 110 feet?

A. I said 150 feet before.

Q. That is where the line of police was?

A. That is where I was.

Q. Where was the line of police?

A. Right here (indicating).

Q. About 50 feet south?

A.

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Q.

A.

around I

there fo

Yes, sir.

And there is this light 50 feet south there (indi-

Yes, sir.

That lights up quite an area, doesn't it?

Yes, sir; a regular street light; one bulb.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

CHARLES MOORHEAD

s called by and on behalf of the Respondent, hav- first duly sworn, testified as follows:

Direct Examination

(By Mr. Day) What is your name?

Charles Moorhead.

Where do you live, Mr. Moorhead?

102 Woodland Avenue, S. E. Massillon.

What is your business?

Foreman of the Republic Steel Corporation.

How long have you worked for Republic?

23 years.

Foreman in what department?

Shipping department of the 12 and 18-inch mill.

Did you work there—do you recall the night of July 11th, last?

I do.

Where were you around 10 o'clock that night?

I was out driving—coming into Massillon about came over the viaduct and I heard then that there ng to be trouble.

Don't tell what you heard.

(Continuing) Well, I saw so many people milling I went into the South Erie Grill. It was too hot in r me, so I milled around myself.

Q. Where was this milling around taking place?

MR. LAUTER: Just a minute. I move that the answer be stricken out of this witness with respect that it was too hot for him.

TRIAL EXAMINER LINDSAY: Yes, it may be stricken.

Q. (By Mr. Day) Just tell, now, you say they were milling around; now where was this?

A. Well, I would say after I had started to walk around myself, from the east end of the viaduct north past Maple Street.

Q. How near was it to the intersection of the viaduct and South Erie?

A. Well, the place that I went into first, why, was right at the corner of the east end of the viaduct.

Q. Now, did you see some people there?

A. Plenty.

Q. About how many?

A. Well, I would say in the neighborhood of 40.

Q. What were they doing?

A. Just milling—just standing around, talking. You never saw those people there at that corner before.

MR. LAUTER: I move the remarks of the witness be stricken, about not having seen those people at that corner before.

THE WITNESS: Except only on one occasion.

MR. LAUTER: May I have a ruling on my motion?

TRIAL EXAMINER LINDSAY: Just a minute. Yes, that is stricken out.

Q. (By Mr. Day) Well, had you been down past that corner frequently before that?

A. Well, that is my stopping place. I have stopped there ever since they had a store there. I stopped there every day.

Q. Will you state whether or not you had ever seen a group of that kind there before?

A. Only on one occasion I did. Different ones, and they were—that was the morning that the mill reopened.

Q. I see. Now, did you see any automobiles there?

A. Plenty of automobiles, yes, sir.

Q. And where were they?

A. Lined up on both sides of the street, north and south from the viaduct.

Q. Well, now, what did you do, when you came down into the vicinity of the intersection of the viaduct?

A. I went back up town and we drove back up, and the closest we could park was about 50 feet south of Maple Street.

Q. And what time was that?

A. Around 10:00—oh, I would say 10:20 to 10:45.

Q. Now, what did you see anybody do there, then?

A. Well, I got out of the car and I started to walk. I was instructed that there was going to be plenty of trouble, so keep away—

Q. Never mind about what somebody instructed you. Just tell what you saw.

A. Well, what I saw then actually, I walked up there, up to Schriber Street, pretty close to Schriber Street, I saw automobiles stoned.

Q. Where is Schriber Street?

A. Schriber Street is, I would say, within 200 yards north of the viaduct.

Q. And you say you saw automobiles stoned. Tell us more about that in detail, just what you saw.

A. Well, it seemed to me—

Q. Don't tell what it seemed to you. Just tell—

A. Well, here is what it really was. It was a case between every home—the homes out there on the west side of Erie Street south—there is plenty—there is driveways between each home.

Q. Yes.

A. And there were men congregated in each driveway, in the dark. When there would be one come out, an automobile drive south on Erie, someone yelled out and the biggest crowd I saw was at Bordner's store, north of Bordner's store, that is right at the west end of Arch Street south.

Q. What did you see happen?

A. They would run out of there, out of the dark and stone the cars.

Q. About how many men did you see run out at the cars?

A. Well, in that vicinity there were at least 20 or 25 men.

Q. And the cars that were stoned, in what direction were they proceeding?

A. On the road south, going to work. They would not put out—pick out every car, but whoever was in the front, I could not see who he was, knew the cars.

Q. Well, I think perhaps that—don't tell what somebody else knew. Now, you have told about the cars coming south on Erie Street, and are these streets that you are telling us about, these alleys—are they north or south of the viaduct?

A. They are north.

Q. State whether or not you have observed men, over the last few years, driving to work down South Erie and over the viaduct?

A. Yes, I have.

Q. And about how many cars do you think you saw stoned in that way, approximately?

A. In the neighborhood of ten or twelve. You could hear the crash of the glass.

Q. Did you see anything broken by the stones, or did you see the stones strike anything?

A. Why, they struck automobiles.

Q. What, if anything else, did you see there that night?

A. Well, outside of that, why there seemed to be—

TRIAL EXAMINER LINDSAY: We don't care anything about what it seemed to be.

Q. Well, do you know a man named Harold Rink?

A. Yes, I do.

Q. Did you see him there that night?

A. Yes, I did.

Q. Who is Harold Rink?

A. Harold Rink is a straightener on the 18 inch mill.

Q. Do you know whether or not he belongs to the CIO?

A. Yes, sir, I do.

Q. Does he?

A. Yes, sir.

Q. How long have you known Harold Rink?

A. In the neighborhood of 12 years.

Q. Tell us what, if anything, you saw Harold Rink do out there that night?

A. Well, the only thing, the only time that I saw Harold Rink after they stoned a couple of cars, was that he said, "Come on, boys, let's get the other side, we are going to town."

Q. And then what happened?

A. Well, they went to town, I guess.

Q. Well, did you see what they did?

A. Well, they went north, and everyone followed him as far as I could see.

Q. And about how many followed Harold Rink?

A. Oh, I wouldn't be able to judge.

Q. Well, can you give us any idea?

A. Well, I would say in the neighborhood of 100.

Q. And how did they follow? Were they on foot or driving cars or what?

A. Some were on foot, some crawled in their cars, they had their cars parked in the vicinity of the car I got out of.

Q. And how soon did they start around, after you heard Harold Rink call out what you told us?

A. Within five minutes they were gone, I would say.

Q. You did not follow the cars?

A. No, sir.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Mr. Moorhead, what is your position at Republic Steel Corporation?

A. Foreman of the shipping department, 12 and 18 inch mill.

Q. How long have you been a foreman?

A. 23 years.

Q. What is shipped out of your department?

A. What is shipped out?

Q. That is right.

MR. DAY: Now, may I object to all this, on the ground that it is not proper cross examination?

TRIAL EXAMINER LINDSAY: Yes, the objection is overruled. Let the record show an exception.

MR. DAY: Exception.

THE WITNESS: May I answer?

TRIAL EXAMINER LINDSAY: Yes.

A. Automobile steel. Does that answer the question?

Q. That is right.

A. Automobile steel, 100 per cent, I would say.

Q. Where is that shipped to?

A. Every customer we have.

Q. Well, where are they located? Some of them? Tell me where some of them are located?

A. Do I have to answer that question?

TRIAL EXAMINER LINDSAY: Yes.

A. Detroit, Flint, Pontiac, Cleveland, Buffalo. Maybe that is not all. Toledo is another. Cleveland. Cleveland and Toledo and other points.

Q. How were they shipped out of your plant?

A. I beg your pardon?

Q. I say how? By what means are they shipped out?

A. By what means are they shipped out?

Q. Yes.

A. Well, I would say 90 per cent by freight. Ten per cent by truck. Out of my department, I am speaking of.

Q. Yes. What railroads do they use to ship?

A. Pennsylvania, Wheeling & Lake Erie, and Baltimore & Ohio.

Q. Have you any idea of the volume of steel that is shipped out of your department each month, approximately? Just in a general way?

A. Oh, in the neighborhood of twelve to fifteen thousand tons out of my department alone, I am talking about.

Q. Let's put a value, please, on that steel. Can you give me the value of the steel that is shipped out each month, apart from freight loads.

A. About $160 a ton.

Q. Now, how many trucking companies do you use?

A. Well, there is an awful lot of trucking companies. Do you wish me to name them?

Q. Well, name a couple of them.

A. Michigan Motor Freight, Bambeck Fast Freight.

Q. Do you use any of your own trucks? That is, trucks owned by the Republic Steel Corporation?

A. Not outside of the state of Ohio.

Q. Do railroad cars of the various lines you have mentioned come right into the plant and pick up the steel and carry it out?

A. That is right.

Q. Their rails run right through the plant, is that the idea?

A. Not right through the plant. They connect to the plant, see, by various methods. The Wheeling & Lake Erie comes into the plant by means of an overhead bridge from the southeast, into the plant. The Baltimore & Ohio comes into the plant from the south, direct means of entrance into the plant; and the Wheeling & Lake—the Pennsylvania comes in from the northwest by means of an overhead bridge and through Columbia Heights into the plant.

Q. What other kinds of steel is shipped out of the plant besides automobile steel?

A. Not out of my department.

Q. Well, do you know—is there any other shipping department for other type of steel?

A. Well, there is a bar finishing department, and there is the billet shed, there is the hot strip department and the cold strip department.

Q. Do they each ship steel out of the mill to various points outside of the state of Ohio?

A. Yes.

Q. And do each one of those shipping departments use the instrumentalities that you have mentioned, namely, trucks and railroads?

A. They do.

Q. The same ones that you have mentioned?

A. Yes.

Q. How many are there in your department?

A. 49.

Q. Now, have you any idea how many men there are in the other departments?

A. No, I haven't.

Q. Now, have you hired any of those 49 men yourself?

A. I beg your pardon.

Q. Have you hired any of those 49 men yourself?

A. Absolutely no; no.

Q. Have you ever fired any men?

A. Yes, I have.

Q. About how many men have you fired?

MR. DAY: I object; this is improper cross-examination; it is immaterial how many men he fired.

TRIAL EXAMINER LINDSAY: Objection overruled and note an exception.

MR. LAUTER: You may answer.

A. Do I have to answer?

TRIAL EXAMINER LINDSAY: Yes.

A. Oh, in the last six years, about two. Prior to that I have had none but I know there was two positively in the last six years.

Q. You are a foreman of the shipping department, is that correct?

A. That is right.

Q. Have you any idea how many foremen there are in the mill in a general way?

A. 55 to 60, I would say, approximately. Approximately 55 to 60.

Q. They also have the right to fire men?

MR. DAY: I object to that.

TRIAL EXAMINER LINDSAY: He may answer. Objection overruled. Note an exception.

Q. If you know?

A. I don't know how to answer that.

TRIAL EXAMINER LINDSAY: If you know; you do.

A. No, I don't know. Well, wait a minute. Yes; they haven't got the authority to discharge a man but they report to the superintendent of the department; that is the way.

Q. You mean that is the form that is used? They recommend the discharge of a particular person to their immediate superior?

A. Yes.

Q. And their recommendation is then carried out?

A. After a time it is carried out.

Q. Then is that granted in every case?

A. That is not granted in every case. That man has a right to speak his piece. They give him a fair or square deal. He has a right to speak his piece. Why he don't show up; why he was intoxicated—he has got a chance.

They give you an absolutely perfect right; same as a foreman.

Q. The two men that you fired, they got a hearing?

A. Absolutely.

Q. Then they were fired?

A. They were discharged.

Q. That is, your discharge was upheld?

A. I didn't discharge them. I just sent them to the superintendent. I called him on the phone and told him what it was.

Q. Then specifically as you testified before, you had the right to discharge a man? The last six years you discharged two, is that correct?

A. Yes.

Q. Now, on July 11th, you were down near the east end of the viaduct in that vicinity, is that correct?

A. That is correct.

Q. About what time did you get there?

A. Around between 10:15 and 10:30.

Q. Were you going to work that night?

A. No, I worked there daylight.

Q. What is that?

A. I worked there daylight.

Q. When was your turn over on July 11th?

A. July 11th, Sunday?

Q. Yes.

A. I didn't work July 11th, Sunday; we were idle that day.

Q. What was that?

A. We were idle that day.

Q. How did you happen to be there at that time?

A. Because that is my vicinity to go down to get a glass of beer.

Q. What were the instructions that were given to you that there was going to be plenty of trouble?

A. They wasn't my instructions except for my son—he was a special policeman. He said: "Dad, there is going to be trouble down there." He says: "Keep away."

Q. What is your son's name?

A. Reed Moorhead.

Q. When did you have this conversation with your son? He told you that there was going to be plenty of trouble and to stay away?

A. Close onto 7 o'clock in the evening.

Q. Where were you with your son at that time?

A. In my home.

Q. He hadn't yet gone on duty, is that right?

A. He was off duty.

Q. When did he go on duty?

A. He went on duty at 6 o'clock Sunday morning, July 11th; and he was through at 4 o'clock; between 4 and 4:30.

Q. Between 4 and 4:30 your son told you to keep away?

A. No. He said that close onto 7 o'clock.

Q. I am sorry. It was near to 4 or 4:30 that he ended his turn with the police?

A. Yes.

Q. And it was about 7 o'clock when he told you to keep away?

A. When we were eating dinner.

Q. Now, was your son employed by the Republic Steel Corporation?

A. He was.

Q. Until when was he employed there?

A. Until the time of the strike, May 26th. Until the time the pickets came out there and prevented him from going to work, May 25th.

MR. LAUTER: I move that the answer be stricken with reference to the pickets.

MR. DAY: I move that it stay.

TRIAL EXAMINER LINDSAY: Will you read the answer?

(The last answer was read.)

TRIAL EXAMINER LINDSAY: Yes. That part about preventing him from going to work may be stricken.

Q. Now, what kind of job did your son, Reed Moorhead, have in the plant?

A. Hand grinder in the inspection department.

Q. How long had he been employed there?

A. In the neighborhood of six years; between five and six years, I would say.

Q. Does he have any supervisory duties there?

A. None whatever.

Q. Is he back working in the mill now?

A. He is.

Q. When did he go on the police force?

A. July 8th.

Q. How long did he stay on the police force?

A. I don't know. It was July 8th there. July 7th he was on.

Q. July 7th?

A. Yes. The 13th of July, why, he quit.

Q. Did you have any conversation with him as to why he quit?

A. Yes, I did.

Q. Will you state what the conversation was, Mr. Moorhead?

MR. DAY: I object; it is incompetent, irrelevant and immaterial and hearsay.

TRIAL EXAMINER LINDSAY: Objection overruled. Note an exception.

MR. DAY: Exception.

A. Do I have to answer?

TRIAL EXAMINER LINDSAY: Yes, sir.

A. Well, I don't know just exactly why he quit.

Q. All I am asking you, Mr. Moorhead, is to state the conversation, that is all.

A. Do you want the conversation?

Q. That is all I am interested in.

A. I said: "Reed, what is the matter? Are you yellow that you quit?" He said: "No, Dad, I am not yellow." He said: "If anyone thinks I am yellow, show him to me." I said: "I think you are yellow." I said: "Why, an Irishman would never quit in their fighting." Well, he said: "I ain't an Irishman." I said: "You are too an Irishman; you are part Irish." I said: "What did you quit for?" He said: "The first thing, we didn't have enough ammunition and guns." He didn't have a gun.

Q. Did you have any conversation after that as to whether or not he was present at the shooting on July 11th?

A. He wasn't.

Q. Now, is that all the conversation you had as to the reason why he quit?

A. That is all, yes, sir.

Q. That is the only reason that he ever gave you for quitting?

A. That is all.

Q. He was on from July 7th until about July 13th, is that it?

A. The 12th or 13th, I believe.

Q. Has he gotten paid for the time that he spent on the police force?

MR. DAY: I object to the form of the question as incompetent, irrelevant, immaterial and hearsay.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

THE WITNESS: Do I have to answer that?

TRIAL EXAMINER LINDSAY: Yes.

A. He got $30.50. I don't know how they figured it out but that is the pay he got—$30.50.

Q. Who paid him?

A. The City of Massillon.

Q. Now, did he get any pay from the mill since May 25th?

A. No, not until he worked for it; when he went into work.

Q. When did he go into work again?

A. That I can't answer because I don't know.

Q. How soon after July 13th or 14th?

A. Well, I would say at least 10 days; until the inspection department started up. Then he was recalled.

Q. He told you to stay away from the viaduct or that vicinity, is that correct?

A. That is right.

Q. From the C. I. O. headquarters?

A. No, not the C. I. O. headquarters; that is on the west end of the viaduct on Cleveland Avenue.

Q. What was the point in telling you to stay away from there?

A. Around the east end of the viaduct.

Q. Now, when you were down there, did you hear any shooting that night?

A. Not that night I didn't. When the shooting occurred it must have been that I was further north. I didn't hear the shooting on South Erie Street.

Q. Now, you stated that you saw some cars stoned, is that right?

A. That is right.

Q. And that you knew that there had been 10 or 12 that had been stoned?

A. I said three or four that I saw—that you could hear a crash of cars.

Q. Did you say something about 10 or 12 cars had been stoned?

A. No, sir.

Q. I am just asking you if on direct examination that you didn't say that there had been 10 or 12 cars stoned?

A. Did I say that?

Q. Did you?

A. I said, did I? Was that in the minutes?

Q. If it was in the minutes that you did say that, is that true?

A. Yes, if it was in the minutes.

Q. But if it wasn't in there, it wouldn't be right?

MR. DAY: I object.

A. Now, now, you are taking advantage of me.

TRIAL EXAMINER LINDSAY: This is cross-examination.

MR. DAY: I object to it.

TRIAL EXAMINER LINDSAY: Objection overruled. Note an exception.

MR. DAY: Exception.

Q. Answer my question. How many cars did you see stoned?

A. I would say three—from four that the stones burst into them.

Q. Did you see the windows break on any of the cars?

A. I heard the crash.

Q. Did you see anyone breaking the windows?

A. I didn't see anyone breaking the windows but I heard them.

Q. Did you see anyone throw a stone that resulted in a window being broken?

A. Yes, I did.

Q. That particular stone, did you see its flight and could you see when it landed?

A. Well, I wouldn't be so technical as to that. They were—

Q. I don't mean to be technical, Mr. Moorhead.

A. Let me ask you: Could you see a stone and follow it through in flight?

Q. Well, you didn't see any stone?

A. I just heard it.

Q. You just heard the stone hit a glass?

A. That is right.

Q. You didn't see it?

A. No, sir, I didn't.

Q. You couldn't identify one of the men who did that?

A. No, sir, I couldn't.

Q. And you couldn't identify a single stone thrown by an individual and the glass being broken?

A. That is right; I couldn't identify one.

Q. Are you sure you could identify Harold Rinkes?

A. My God! That man Harold worked me for years. He is sitting right there laughing at me.

Q. Now, how many men were there with Harold Rinkes? Could you give me the number in your best judgment?

A. I went to see Harold Rinke once that night. When I saw him he was in the street.

Q. That is the only time you saw Harold Rinke?

A. Oh, I heard comments of "Where is Buster?" I was walking south on Erie Street and I heard all around me in the alley ways—they were saying: "Where is Buster at?" That is the nickname of Harold. I didn't know where Buster was; I was looking for Buster.

Q. Why were you looking for Buster?

A. Well, I wanted to see if he was there.

Q. Why did you want to see if he was there?

A. Well, he is a pretty strong C. I. O. boy.

Q. Well, what interest had you in seeing if the C. I. O. boys were there?

A. They all would be there stoning at these cars.

Q. They all would be there?

A. Absolutely.

Q. How many did you see; about 100?

A. About 100.

Q. Are you sure you can judge how many were there?

A. Well, I would—

Q. I mean you are sure it wasn't 75 or 50?

A. I said about 100. I will still stick to it.

Q. You want to stick to 100?

A. Around that vicinity.

Q. Where were those hundred men?

A. All scattered around there. I would say Maple Street to the viaduct south.

Q. Do you know whether or not they were C. I. O. men, Mr. Moorhead?

A. Those men?

Q. Yes.

A. Who the hell else would be there? Who the hell else would be there stoning those cars?

Q. Will you answer my question? Answer my question as to whether or not the hundred men that were there; if you knew that they were C. I. O. men?

A. No, I would not—

Q. Did you or didn't you?

A. No, I would not know.

Q. Did you or didn't you know? Now, that is capable of a yes or no answer. Did you know whether or not they were members of the C. I. O.?

A. Yes.

Q. Now, you tell me how you knew.

A. I knew that one positively is a C. I. O. member.

Q. Tell me how many of the hundred men you saw there you knew were C. I. O. men, and how you knew it.

A. I wouldn't go on the record as to saying how many of them were. There were a lot of men there—I don't know their names. They would run out from the dark and back again as soon as they threw the stones.

Q. And you don't know whether they were C. I. O. men or not?

A. No, I wouldn't say they were. Why go into that?

Q. You were there that night?

A. You bet I was there.

Q. You made 101?

A. I used to be a 10-second man years ago when I was lighter than I am now.

Q. You weren't able to identify any of the hundred men?

A. That is right; only one I saw but I didn't see him throw stones.

Q. You didn't see Harold Rinke?

A. No, sir.

Q. Everybody was calling for Buster?

A. I wouldn't say everybody but you could hear that between the different driveways: "Where is Buster at?"

Q. The one man you knew that was there was Harold Rinke and you didn't see him throw any stones?

A. I didn't see Harold throw any stones.

Q. Now, were there any other foremen there?

A. Not, that I know of; I didn't see them if they were there.

Q. Were there any other employees of the Republic Steel Corporation other than these hundred men there?

A. There were plenty of them there. There were plenty of them around those lines.

Q. They were going to work?

A. No, they were out to see the fun as they called it.

Q. Then did they expect fun that night?

MR. DAY: I object to that.

MR. LAUTER: The witness has testified that they were there to see the fun.

MR. DAY: I object to it as improper cross-examination what somebody expected them to find.

TRIAL EXAMINER LINDSAY: I will sustain the objection.

Q. Well, now, describe the activities of those who were present? Harold Rinke or any of the hundred men who were there? Tell us who was there.

A. It seems the entire south end of all of Massillon was congregated on South Erie Street around there at a quarter to 11. The blocks was packed with people—men, women and children. Put me in mind of the time when we had to run the gauntlet that night.

Q. All there to see the fun?

A. All to see the fun as they called it.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) You say you recognized Harold Rinke sitting in the car?

A. Yes, I did.

Q. Now, you said that you have believed that the men who threw the stones were C. I. O. men. Why did you believe that?

MR. LAUTER: I object to the question.

TRIAL EXAMINER LINDSAY: He may answer.

MR. LAUTER: Exception.

A. Seems as I answered it. I told Mr. Lauter here why, who else would be down at the plants throwing stones?

MR. DAY: That is all.

MR. LAUTER: I ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: I will let it stand.

Recross Examination

Q. (By Mr. Lauter) Do you know what an agent provacateur was?

A. What?

Q. Do you know what an agent provacateur is?

A. I beg your pardon?

Q. Did you ever hear of a man provoking and fighting for the company?

A. No, I didn't.

Q. You never heard of such a man?

A. No.

Q. You can't conceive of somebody from the company throwing the rocks to start trouble?

A. No.

Q. What is that?

A. No, sir.

Q. You can't conceive of that?

A. No, sir.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

CLARENCE H. BORELL

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) You pronounce your name Borell?

A. Yes.

Q. Where do you live?

A. 1440 Erie Street, South.

Q. In Massillon?

A. Massillon, that is right.

Q. What is your business?

A. Working for the Republic Steel Corporation in Massillon.

Q. In what capacity?

A. Clerk.

Q. In what department?

A. Mill department.

Q. How long have you worked for Republic?

A. Approximately 10 years.

Q. Where do you live?

A. 1440 Erie Street, South.

Q. And where is that with relation to the intersection of South Erie and the viaduct?

A. It is about 350 to 400 feet from the viaduct.

Q. In what direction?

A. South of the viaduct on the east side.

Q. Where were you the night of Sunday, July 11th?

A. I was to the picture show. About a quarter to 10.

Q. And then where did you go?

A. I came home and parked my car in the garage that is located in the Enarco gasoline station.

Q. Where were you? At home?

A. On the way home I met a gentleman—

Q. No conversation. Where were you, yourself?

A. I was on the front porch.

Q. What did you see while you were on the front porch?

A. I noticed three cars coming up and parking in front of my residence.

Q. What, if anything, did you notice about any of those cars?

A. One of those cars had a C. I. O. sticker on the front of his windshield, I believe. I am not sure if it was the windshield or the rear window.

MR. LAUTER: Will you read that answer?

(The last answer was read.)

Q. And in what direction were those three cars headed?

A. They were headed north.

Q. On what side of Erie Street?

A. East side of Erie Street.

Q. East side of Erie Street that you live on?

A. On the east side of Erie.

Q. Did you notice anybody in any other cars?

A. Why, there was one that was in the first car, two or more in the second, and one fellow in the third car.

Q. Now, just tell us what you saw happen then?

A. I seen—those cars parked there until about 10:15, then they proceeded slowly down the street. Two doors north and then stopped again.

Q. Yes.

A. I seen one man get out of the middle car and then walk down the street. Later I seen the three cars move along down the street to about the address of this house I happened to know it is 1410 Erie Street South, when all at once about 25—between 25 after and 10:30 I seen two of the cars make a dash north and then turn north onto the viaduct, and then I heard a crash. I could not see the crash.

Q. How soon did you hear the crash after you saw the two cars turn in the viaduct?

A. Immediately.

Q. Then what did you do?

A. I ran down to the bottom of the steps of my residence and I seen a man running up on the west side of the street with a policeman following him, and the policeman hollered at him to halt or stop, twice. Then he shot in the air twice. There was a car parked there about half way up, that this man got behind, and then he came out and surrendered to the policeman.

Q. Did you see or get the license numbers of any of the cars that you were telling us about that night?

A. Yes, sir.

Q. Will you let us know what they were?

A. How they were lined up, I don't know. Here is the license number. M-812-Z. P-216-D. And N-818-N.

Q. Did you go up to the viaduct at all?

A. I would say about an hour later I went up to the viaduct.

Q. At that time was everything cleared away?

A. Why, I noticed one wrecked car over there, but did not walk over because I was afraid, myself, and I noticed this car N-818-N parked in front of 1410 Erie Street South.

Q. Did you see any people around the viaduct? At the intersection of South Erie that night?

A. Well, I didn't pay particular lot of attention to that, other than when I went down to the bottom of the steps after I heard the crash, I could see people gathering from all directions, but I couldn't tell you how many people because I didn't—when the policeman made the shot I ran up back on my front porch.

Q. Do you know where South Erie Grill is?

A. Yes, sir.

Q. Where is that?

A. That is on the corner, the northwest corner of the viaduct.

Q. Did you see anything happen or any people in around the South Erie Grill that night?

A. I seen people come out of the South Erie Grill at the time of the accident, at the time of the crash.

Q. Can you give us any idea how many you saw come out of the grill?

A. Oh, I wouldn't know, in the neighborhood of ten to 20. I am not positive on that figure.

Q. Now, have you told us all that you saw and heard there that night?

A. That is about all that I can remember.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) What is your position with Republic Steel Corporation?

A. Mill clerk.

Q. Just wait until I finish the question. What clerk?

A. I am mill—I work in the mill department as a clerk.

Q. How long have you worked there?

A. On this particular job about one year.

Q. You were to the movies on July 11th?

A. That is correct.

Q. What movie house did you go to?

A. I don't remember if it was either the Lincoln or Grand, in Massillon. I don't remember which one.

Q. Do you remember the name of the picture that you saw?

A. No, I don't.

Q. Did you go alone?

A. No, I went with my wife.

Q. Do they have regular shows?

A. I beg your pardon?

Q. Do they have a continuous showing at that movie house?

A. They do on Sunday.

Q. What are the shows? What shows?

A. I couldn't tell you that exactly.

Q. Did you come out after the last show?

A. No, I didn't.

Q. What time did you come out?

A. I came out about 9:30, between 9:30 and 10, 9:45.

Q. Is that the time you testified to on direct examination, 9:45?

A. That is right.

Q. How long does it take to drive from the movies to your home?

A. Well, I don't go that evening, was in no particular hurry. You can't drive down there in five minutes, maybe shorter length of time than that. That evening I arrived at my home about 10 o'clock.

Q. What did you do after you arrived home?

A. I beg your pardon?

Q. What did you do after you arrived at your home?

A. Went out on my front porch after changing—I changed my shoes and put on my house slippers.

Q. How long did that take you?

A. Very short length of time.

Q. How long would you say?

A. I would say I might have mussed around the house for about five minutes.

Q. About what time was it when you got back on the porch?

A. Well, I would say about 10 after 10:00.

Q. About 10:10?

A. About in there.

Q. You saw three cars parked, is that right?

A. I saw three cars parked, yes, sir.

Q. Where did they park?

A. In front of my residence.

Q. How soon after you came out and sat on the porch did they park?

A. Oh, I would say about five minutes.

Q. That would be about 10:15, right?

A. That is right.

Q. You say you noticed a CIO sticker on one of those cars?

A. Yes, sir.

Q. Did you notice whether the two other cars had CIO stickers?

A. No, I didn't. I couldn't tell you that, only the one.

Q. Was there any conversation or any talk between the people in those three cars?

A. I didn't notice that.

Q. Did you see any of them get out of the cars?

A. Yes, sir, I did, after they moved down the street.

Q. At the time that they parked near your house, did they get out of the car?

A. I didn't notice that.

Q. You are not able to testify whether the CIO sticker was on the front window or the rear windshield?

A. No, I am not sure of that. I remember the CIO sticker being on the car.

Q. You aren't able to testify on what car?

A. No, sir.

Q. That is, the car with what license number it was on?

A. No, I can't tell you that.

Q. How long did those cars park there?

A. A short period of time, I would say a few minutes after, about five minutes after they parked.

Q. About 10:20, now?

A. I imagine.

Q. Then what did the cars do?

A. Moved on down the street for about a couple of minutes, parked two doors down from my place, why a man got out and walked down the street.

Q. Did you notice what car he got out of?

A. The middle car.

Q. Is that the car with the CIO sticker?

A. I could not tell you.

Q. Did he speak to anyone in the other cars?

A. I didn't notice it.

Q. Was there a good deal of traffc on South Erie Street at that time?

A. Well, not particularly in that direction.

Q. What direction was that?

A. That was north, or south of the viaduct.

Q. South of the viaduct, on South Erie Street?

A. That is right.

Q. How far south of the viaduct is that?

A. 350 feet to 400.

Q. You say there was not much traffic at 10:20, is that correct?

A. I didn't notice a whole lot of traffic. An occasional car going by.

Q. From your porch could you see up South Erie Street?

A. Which direction?

Q. How far could you see in either direction?

A. Oh, you can't see much beyond the viaduct from my porch looking north. And you can't—well, you can't see very far looking south.

Q. And the cars that parked aside of your residence, how far from your front porch were they?

A. Oh, I don't have any idea; about 15 or 20 feet, I imagine from my front porch to the curb.

Q. Is there any kind of a street light in front of your house?

A. I can't tell you that.

Q. You don't know?

A. I don't know.

Q. This was about 10:20 at night?

A. About 10:15.

Q. 10:15?

A. That is right.

Q. Pretty dark about that time?

A. Yes, it is, especially that evening.

Q. And you could see the CIO sticker?

A. That is right. I have looked at so darn many, I was used to seeing them.

Q. Do you know how large a CIO sticker is?

A. Yes.

Q. About how large is it?

A. About like that (indicating).

Q. What shape is it?

A. Oblong.

Q. What does it have on it?

A. "CIO".

Q. And what color is the paper it is on?

A. I believe the letters is in black and the other is in white.

Q. What is that?

A. The black—the background is in white; letters are in black.

Q. Is there any border around the sticker?

A. Well, I never paid that much attention.

Q. You have seen a great many of them?

A. Yes, I have; and each one I seen I ducked.

Q. What is that?

A. Everyone I seen, I ducked.

Q. You ducked?

A. Yes.

Q. What do you mean, you ducked?

A. I didn't care for any man to see me, who was in one of those cars. I was scared of them.

Q. Now, you testified about three license numbers.

A. Yes, sir.

Q. When did you get those license numbers?

A. I had my automobile keys in my pocket, which I took out and on the porch of my home I scraped those numbers.

Q. When did you scrape those numbers?

A. Well, when I come out on the front porch and seen those cars there, there was a neighbor lady too, there, and we were talking and she mentioned about—

Q. She mentioned what?

A. About—she mentioned the suspicious looking—the suspicion of the cars and I told her myself they looked kind of suspicious to me.

Q. Three cars just coming up and parking near your house made you suspicious?

A. Well, earlier in the evening I heard there was going to be trouble.

Q. Who did you hear from, that there was going to be trouble?

A. A neighbor by the name of Mark Conrad.

Q. How is that?

A. A neighbor by the name of Mark Conrad.

Q. Does he work in the mill?

A. Yes, he does.

Q. What kind of work does he do?

A. I am not positive.

Q. Have you ever spoken to him about the kind of work he does?

A. He works in the sheet division.

Q. Do you know what kind of a job he has there?

A. No, I don't. He is in the cold roll department, and I don't know a whole lot about the sheet department.

Q. Was he working at that time?

A. He was.

Q. When did you have a conversation with him?

A. On the way home that evening from my garage to my home, he was waiting, standing under a tree down about 250 feet from my home, watching to see if there was anything.

Q. And he told you that they were expecting trouble that night?

A. He said he heard that afternoon there was going to be trouble.

Q. He heard that afternoon there was going to be trouble?

A. I don't know what time he said.

Q. No, I say that is what he said to you, the exact words?

A. The exact words he said to me, all I know is what I heard—he told me there was going to be trouble. The exact words I don't know.

Q. Well, did he or didn't he say that he had heard that afternoon?

A. No, he didn't say that afternoon. I can't say specifically that he did.

Q. Did you mention something a moment ago about the afternoon?

A. Yes, I did. But that came out of my mouth, which it should not have come out.

Q. Why shouldn't it have come out?

A. Well, I don't know for sure that he said that, in the afternoon or what. All that I know is that he said there was going to be trouble, he told my wife and I.

Q. About what time was that when he told you?

A. About 10 o'clock, near about.

Q. Near 10 o'clock?

A. That is right.

Q. You were on your way home from the movies?

A. That is right.

Q. Now, you got all these three license numbers, is that correct?

A. That is right.

Q. Did you watch the movements of the cars after that?

A. I did, I watched very close.

Q. Was this lady from next door watching them also with you?

A. I couldn't tell you that for sure.

Q. What happened to her after you took down the license numbers?

A. I couldn't tell you that.

Q. You don't remember?

A. No, I don't remember. There was quite a crowd on my front porch that evening. There had been—

Q. You say there was quite a crowd on your front porch?

A. Yes.

Q. It is usual for there to be quite a crowd there?

A. No.

Q. How many—did you know the people who were on your porch?

A. Some of them. Some of them I did not. They were watching, so many people.

Q. What were they watching?

A. After that they were watching the sham battle, I guess. I didn't see it. I couldn't see very much from our house. It was after 11 o'clock when these people were there.

Q. Well, you took down the numbers at about 10:15?

A. That is right.

Q. And the lady was from next door was with you at 10:15?

A. As I remember, yes.

Q. And it was not until 11 o'clock that the people came to watch the sham battle?

A. Well, that is when that sham battle started.

Q. Between 11:15 — between 10:15 and 11 o'clock what did you do?

A. I stayed on my front porch.

Q. All the time?

A. Yes, sir.

Q. After the three cars parked, you watched their movement, is that right?

A. That is right.

Q. You saw them go down the street, say that is north on Erie Street—is this north or south, which was it?

A. They went north.

Q. They parked about 150 feet up?

A. That is right.

Q. How far is it from your house to the viaduct?

A. 350 to 400 feet, I would imagine that is what it is.

Q. Then describe what you saw those three cars do after that?

A. They moved on down to the location at 1410 Erie Street South, which is the house number I happen to know. And then out—

Q. Where is that located with respect to the viaduct?

A. That is the second house. There was the storeroom and then the house, and that is the house—it is the front house south on the east side of the road going towards the viaduct.

Q. And you saw them pretty clearly from your porch?

A. I could.

Q, Can you see past them?

A. Not very clear, no.

Q. Do you mean your vision would stop just about where the cars were?

A. No, it would be about—I would say about 200 feet beyond that. I couldn't see very well.

Q. Let me get this straight. When the cars were the second house down from the viaduct you can still see 200 feet past them; is that correct?

A. I imagine so, yes. I never paid a whole lot of attention to that.

Q. Could you tell what you saw about 200 feet north of the cars? Was there traffic there?

A. I never paid any particular attention to that, I was watching those cars.

Q. What did you see the cars do after that?

A. I seen them about 10:30, two cars making a dash for the viaduct by going north and turning left into the viaduct, and then I heard a crash. I could not see. I did not see the crash.

Q. Do you know which of the two cars, the front or the rear of the cars—

A. No, I didn't. I couldn't tell you that.

Q. You watched the cars though, didn't you?

A. Yes, and I ~~seen~~ both cars go—three cars.

Q. There were three cars there—

A. Well, the third car didn't go.

Q. And you didn't see which of the two of the three cars were, is that right?

A. I think the first two cars.

Q. Are you sure of that?

A. I am pretty sure.

Q. You didn't see the crash?

A. No, I didn't. I couldn't testify that I seen the crash.

Q. And you can't identify any of the persons in the car?

A. No, I can't.

Q. Now, after the crash, was it after the crash that some people come out of the South Erie Grill?

A. That is right.

Q. You don't know why they came out, do you?

A. I suppose that they heard the crash and came out to see what it was, or what other ideas it was, I don't know. That is all I can tell you.

MR. LAUTER: That's all.

MR. DAY: That's all.
(Witness excused.)

DONALD M. DENZER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please?
A. Donald M. Denzer.

Q. Where do you live?
A. 2701 Eighth Street, N. W. Canton.

Q. What is your business?
A. I work for Republic Steel.

Q. Talk a little bit louder so we can hear you back there.
A. I work for Republic Steel.

Q. In what capacity?
A. Observer at the open hearth.

Q. How long have you been an observer at the open hearth?
A. Two years the latter part of this month.

Q. That is at the Massillon plant?
A. Yes.

Q. Are you married?
A. Yes, sir.

Q. Where do you live?
A. 2701 Eighth Street N. W. Canton.

Q. You live in Canton?
A. Yes, sir.

Q. And work in Massillon?
A. Yes, sir.

Q. Where were you about 10 or 10:30 in the evening of July 11th last?

A. Approximately 10:30 I was at the corner of Oberlin Road and South Erie.

Q. What were you doing?

A. I was stopped.

Q. Well, before that, what were you doing?

A. Well, I was driving down South Erie.

Q. In your automobile?

A. That is right.

Q. Where were you bound for?

A. To the Republic Steel Corporation.

Q. That is, you were going to work, were you?

A. Yes, sir.

Q. Were you alone in your car or was somebody with you?

A. I was alone.

Q. Now, you say you were stopped, where did that happen?

A. Well, I had turned around the—rounded the corner to the—the position where I was sitting was approximately on the continuation of the crosswalk on the west side of Erie Street.

Q. You were going south?

A. No, I was turned in towards the viaduct.

Q. You were turned towards the viaduct?

A. I was—where I was sitting in my seat was approximately on the crosswalk.

Q. Of what street?

A. South Erie, the crosswalk crossing Oberlin Road.

Q. Well, prior to that time you had been driving south, had you?

A. Oh, yes.

Q. On south Erie?

A. Yes, sir.

Q. And when you turned in this crosswalk, in what direction was your car headed?

A. Well, very nearly west. If Oberlin Road runs directly east and west, I don't know whether it does.

Q. Well, what happened?

A. Well, there was an officer on that side of the street and he started walking towards me, and all at once he turned and shouted, "Stop that car." I looked to my left and saw a car next to the curb, on the south side of the approach of Oberlin Road.

MR. LAUTER: I am sorry, I can't hear this witness.

MR. DAY: I can't hear him so very well, myself. Now, just talk up louder so we all can hear you.

(The record read by the Reporter.)

Q. Now, on what street was this car that you saw?

A. He was on the approach to the viaduct.

Q. Bound in what direction?

A. Directly opposite me, directly to my left.

Q. All right, go ahead.

A. He was travelling at a speed of between 10 and 15 miles per hour.

Q. What if anything did you notice about that car?

A. Well, right at that moment, I didn't notice anything about it. As he went a little further along, I noticed a C. I. O. sticker in the rear window.

Q. In the rear window?

A. Yes.

Q. All right. Now tell us what happened to that car? What did it do?

A. Well, when the officers shouted he was in one of the lower speeds.

Q. Yes.

A. He applied the power and steered directly into the abutment on the right-hand side of the viaduct.

Q. About how far away from that from where you were?

A. 30 feet.

Q. After that what did you see there?

A. There was another car directly behind him.

Q. Coming from what direction?

A. Well, the first I saw him, he was directly opposite me on the approach.

Q. All right. What if anything did you observe about that car?

A. He was traveling about the same rate of speed.

Q. What did he do?

A. He did the same thing the other fellow did. Applied power and collided with the third machine—the right side of his bumper striking the rear of the bumper on the first machine.

Q. What if anything did you observe on the second car?

A. I didn't identify any particular object.

Q. Well, did you see anything on the windshield or the window on the second car?

A. I wouldn't testify to that.

Q. After these cars made these movements that you have described, what was their position with reference to the entrance to the viaduct?

A. The first car had the front end over near the abutment or the beginning of the rail; and the second car was at an angle with his rear protectively blocking off the viaduct.

Q. What did you do then?

A. Stayed right where I was.

Q. Now, how long did you stay there?

A. Approximately three minutes.

Q. Well, while you were there, what else did you see anybody do? What else did you see happen?

A. Well, a few seconds after the second collision there was another collision to the rear and to the right of me. I turned around and saw that a car facing north had collided with a car facing south.

Q. Did you go back there?

A. No, sir, I stayed in the car.

Q. Did you see any people there then?

A. At the sound of the third collision there was a number of men rushed over—I think it is a cafe—it is the second door off the viaduct north on Oberlin Road.

Q. Then, what did you see happen?

A. Well, quite a number of them ran down around my car and ahead of my car.

Q. What did they do?

A. Well, just about the time they got to the front of my car they were met by a police officer. He commanded them to go back and they slowly did so.

Q. Now, did you see anything else happen there that night?

A. No, not that I can recall right now.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) What kind of work do you do for Republic?

A. Observer for the open hearth.

Q. How long have you been employed there?

A. At Massillon it will be two years, the latter part of this month.

Q. Did you go out on strike on May 25th?

A. I didn't quit.

Q. Did you remain in the mill?

A. After May 25th?

Q. That is right.

A. I did.

Q. How long did you stay in the mill?

A. After May 25th?

Q. That is right.

A. 10 days.

Q. How many?

A. 10 days.

Q. How many hours a day did you work in the mill?

MR. DAY: May I state an objection to this line of questioning on the ground that it is improper cross-examination?

TRIAL EXAMINER LINDSAY: Objection overruled. Note an exception.

MR. DAY: Exception.

A. Approximately 12 hours.

Q. Each day?

A. Each day.

Q. You slept in the mill?

A. I did.

Q. Cots were provided for you?

A. I had one.

Q. You had one the first day of the strike?

A. Yes.

Q. How much pay did you receive for each day that you worked there?

A. 16 hours.

Q. 16 hours pay?

A. That is right.

Q. After you lived in the mill, having remained in there some 10 days, when did you return to work again?

A. Well, 11 o'clock, July 9th. 11 o'clock p. m.

Q. Who suggested that you return at that time?

A. No one suggested it. I called practically every day until my superiors told me to come to work.

Q. While you were in the mill for the 10 days, did you attempt to get out?

A. I didn't.

Q. And each day you called and attempted to get back?

A. I beg your pardon?

Q. Each day you got out in an attempt to get back?

A. No, sir; as soon as I heard that the mill had started I called each day.

Q. When did the mill start, do you remember?

A. I don't know. I think it was July 3rd or 4th.

Q. Called each day after that, is that right?

A. That is right.

Q. Did you go to the mill after July 4th or did you only call? Did you ever go to the mill?

A. No, sir, not until I went to work.

Q. July 9th was the first night?

A. That is right.

Q. When you got to the viaduct, was your car stopped by any policemen?

A. On the night of July 9th?

Q. That is right.

A. No, sir.

Q. Did you go to work on the 10th?

A. Yes, sir.

Q. Was your car stopped on that night?

A. No, sir.

Q. You had no difficulty going over the viaduct, is that right?

A. Not those two nights.

Q. Any policemen objected to you going over the viaduct?

MR. DAY: I object to that.

TRIAL EXAMINER LINDSAY: Objection overruled. Note an exception.

MR. DAY: Exception.

A. None ever arrested me, no.

Q. You live at Canton, is that correct?

A. That is right.

Q. On July 11th about that time did you arrive at the viaduct?

A. Approximately 10:30 p. m.

Q. After that you heard a policeman say: "Stop that car?"

A. That is right.

Q. Do you know what policeman it was that said that?

A. No, I don't.

Q. Do you know what car he was referring to?

A. Well, I know which direction he was looking.

Q. What direction was he looking?

A. South.

Q. Looking south?

A. Yes.

Q. Where was he standing at the time he said: "Stop that car?"

A. About three feet away.

Q. Were you on South Erie—

A. My right front fender.

Q. Were you on South Erie or on South Oberlin?

A. I was part way around onto the approach to the viaduct.

Q. Was he in front of your car or alongside of your car or in back of your car?

A. He was on the sidewalk; he was in the street.

Q. Where was he with respect to your car? Was he in front of it, in back of it, or in the side of it?

A. I would say he was about three feet from it; I can't quite figure out the angle but he was at a 45 degree angle from the front of my fender.

Q. With reference to your car, was he in front of it, in back of it, or alongside of it?

A. I am speaking about the front of my front fender.

Q. Was he in front of your car with respect to the front fender or alongside of it or in back of it?

A. No, he wasn't in front of it, neither was he in the side of it.

Q. Neither was he in the rear?

A. No.

Q. This is Cleveland Avenue right here (indicating), see?

A. Yes.

Q. That is Oberlin Avenue?

A. That is right.

Q. Here is the viaduct?

A. That is right.

Q. And here is Erie Street (indicating)?

A. That is right.

Q. Now, you tell me what the position of your car was on this map.

A. That is not correct because it is not curved.

Q. The map is not correct?

A. It is not correct.

Q. If that map were correct, if that would be a street lying there, it would be a right angle?

A. It would be curved.

Q. It would be curved?

A. Yes.

Q. And also partway around the curb?

A. I testified from my front side. He was approximately on the cross-walk.

Q. This policeman shouted: "Stop that car?"

A. That is right.

Q. Which way was he looking?

A. South.

Q. South of Erie Street?

A. What?

Q. South on Erie Street?

A. No, he wasn't on Erie Street.

Q. Which way? On what extension of Oberlin Avenue?

A. He was on an approach to the viaduct.

Q. Now, how far from Erie Street is the viaduct?

A. You got me there. I would say 50 feet, possibly more.

Q. How far from the viaduct?

A. That is 60 feet from the corner.

Q. He was 50 feet from the corner?

A. I beg your pardon?

Q. You say the viaduct was 60 feet from the corner of Erie Street?

A. Possibly more.

Q. Possibly more?

A. Possibly more.

Q. 75 feet or 100?

A. No, I don't think it would be 100.

Q. Maybe 75?

A. Might be.

Q. Was he standing about 70 feet from Erie Street at that time?

A. No, sir.

Q. Where was he standing with reference to you?

A. He was standing about three feet from the front of my right front fender.

Q. With reference to your car, where was he standing? Where was he standing? How close to Erie Street was he?

A. Seven feet.

Q. He was looking south?

A. Yes.

Q. Was he looking down Erie Street, and he was seven feet from the corner looking south?

A. No, he was looking at the car.

Q. Looking at your car?

A. No, at the car across the street.

Q. Was that the car at which he was directing his remark "Stop that car?"

A. I can't tell you that because I am not sure.

Q. How fast was that car going?

A. From 10 to 15 miles an hour.

Q. You say he was in low gear?

A. In one of the low gears; low or second.

Q. When did you first notice that it had this sticker?

A. Well, about the time that it hit the abutment.

Q. With respect to your car where was this car?

A. Right directly in front.

Q. Did he get in front of your car in order to hit the abutment?

A. No, it wasn't necessary. He was in front but not that close.

Q. At that time you saw the car, did you notice what kind of car it was?

A. I couldn't identify it.

Q. Did you know what color of car it was?

A. Well, it wasn't black. It was probably blue—

Q. I don't want your guess. If you know, state your answer for the record.

A. I wasn't guessing.

Q. What is that?

A. I wasn't guessing.

Q. Go ahead.

A. It was either blue or green. At night it is rather hard to distinguish.

Q. How large a car was it?

A. Well, I would say it wasn't one of the small or medium class cars. It wasn't a large car.

Q. Was it a coupe or a sedan?

A. A sedan.

Q. Did you notice how many people were in the car?

A. I saw one.

Q. After the crash did you see him get out?

A. I saw the patrolman taking him out. The patrolman was next to the car and he was taken out. That was on the other side of the car; I couldn't tell you as to the manner.

Q. But you did see the patrolman take the man out of the car?

A. I saw a patrolman next to the car.

Q. Did you see him take him out of the car?

A. No.

Q. After the crash the man tried to get out himself, did he not?

A. I can't say.

Q. You are sure there was only one person in that car?

A. No, sir.

Q. You aren't sure?

A. No, sir.

Q. But you say there was only one person in the car?

A. I said I saw one.

Q. But you don't know how many there were?

A. No.

Q. Well, after the crashes that you heard, you saw some men come out of a cafe, is that correct?

A. That is right.

Q. The policeman ran ahead of your car? In front of your car?

A. Several came as far as in front of my car.

Q. How many men came out of the cafe?

A. I don't know. I wasn't looking.

Q. What is your judgment on that?

A. I wasn't looking at the entrance of the cafe at the time.

Q. How many did you see come out?

A. From the front of my car to the entrance of the cafe I should judge there was from 20 to 30 men.

Q. Were those the men that came out of the cafe?

A. I don't know.

Q. Didn't you testify that those were the men that came out of the cafe?

A. I don't know.

Q. How many men did you see come out?

A. I didn't count them; I couldn't count them.

Q. You don't know?

A. I didn't count them.

Q. So you don't know?

A. I don't know positively.

Q. Well, unpositively how many?

A. I don't know how many came out of the cafe. I saw a number of men coming out of the cafe.

Q. About 200?

A. No, sir.

Q. About five?

A. No, sir.

Q. Somewhere between 5 and 200?

A. I remember seeing—the number was between 5 and 200.

Q. But you can't give me any closer estimate than that?

A. Yes, sir, I have already said between 20 and 30 came out of the cafe.

Q. You say they came out of the cafe?

A. I didn't see all of them come out of the cafe.

Q. How many did you see come out of the cafe?

A. I saw one man come out of the cafe.

Q. Is that all?

A. No.

Q. How many men?

A. I don't know.

Q. You don't know how many men came out of the cafe?

A. No, I didn't count them.

Q. You didn't?

A. No.

Q. You saw them walking alongside, walking in front of your car, is that correct?

A. There were at least three men in front of my car.

Q. The policeman told them to go back?

A. He did.

Q. Any of those men have any stones in their hands?

A. I didn't see them.

Q. Did you see anybody throw any stones?

A. I didn't.

Q. When the policeman told them to go back, did they go back peaceably?

A. Well, there it might be described as menacing.

Q. Now, you tell me how they went back.

A. How does a person look?

Q. Don't answer me. When you say menacing, what do you mean?

A. It was just their appearance; their attitude.

Q. Will you describe their appearance?

A. When a man backs up, takes short steps, acts as if he is unwilling to go, and uses abusive language, I would say their attitude was menacing.

Q. Did you hear any abusive language used?

A. I did.

Q. That was to the policeman?

A. Well, the man was facing the policeman. There was no one between.

Q. What did the policeman do?

A. He kept backing them up.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) I want to ask you one more question about the map. I want to ask you about the map being correct or incorrect. Were you referring up here to the corner of Erie Street and the viaduct?

A. That is right.

Q. And I understood you to say where this is a straight angle it should be curved?

A. That is right.

MR. DAY: That is all.

Recross Examination

Q. (By Mr. Lauter) Are you familiar with that area around there?

A. What area are you speaking of?

Q. Cleveland Avenue and Oberlin Avenue; Erie Street. Are you familiar with that?

A. Not very well.

Q. Do you know the City streets up from Oberlin Avenue?

A. Which way?

Q. Going up Cleveland Avenue?

A. No, sir, I don't.

Q. Do you know any of those streets going up Cleveland Avenue?

A. No, sir.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will take a short recess.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

WILLIAM NORRIS

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. William Norris.

Q. Where do you live?

A. Route 4, Massillon.

Q. R. F. D. 4. Where do you work?

A. At the Republic Steel.

Q. In what department?

A. 34 inch mill.

Q. How long have you worked for Republic?

A. 19 years.

Q. And did you work up until the time of the strike?

A. Yes, sir.

Q. Then did you stop working when the strike was called?

A. I did.

Q. And when did you go back to work again?

A. On the 9th of July.

Q. On the 9th of July?

A. Yes.

Q. Where were you on Sunday night, July 11th, about 10 or 11 o'clock?

A. I was home until about five after 10:00 when I started to work.

Q. You started to go back to work?

A. Yes.

Q. And where did you drive?

A. I come in on Walnut Street and down Third to South—down South to Erie, and down Erie to the viaduct.

Q. Where did you turn onto South Erie Street last night?

A. From South Street.

Q. And how far is South Street from the viaduct corner?

A. Oh, it is three-quarters of a mile or more.

Q. North or south of the viaduct?

A. North.

Q. Were you driving your automobile?

A. Yes, sir.

Q. Was anybody with you?

A. No, sir.

Q. Now, when you got down near to the corner of South Erie and the viaduct, just tell us what you saw happen in your own way?

A. Well, I got pretty close to the viaduct and the traffic slowed up. I just got down to the mouth of the viaduct and the car ahead of me stopped.

Q. The car ahead of you stopped?

A. Yes.

Q. Then what did you do? What did your car do?

A. I stopped right behind him.

Q. About how far were you from the viaduct at that time?

A. Oh, I just started to turn in, in the mouth, off Erie.

Q. Then what happened?

A. Well, about 20 men surged out into the mouth of the viaduct there. Police tried to get them off and they run two cars in behind me.

Q. They ran two cars in behind you?

A. Yes.

MR. LAUTER: May I have the answer read?

(The last answer was read.)

Q. Who ran the two cars in?

A. I don't know who it was.

Q. What happened to the two cars?

A. Well, they were—they ran one into the pier of the viaduct there, and one right in behind him, right up against him, wrecked him.

Q. One run into the pier of the viaduct?

A. Yes.

Q. The other one ran where?

A. Right into—in behind, smacked into the back end of him.

Q. Of the first car?

A. Yes.

Q. And then what happened?

A. Well, somebody let out a war whoop and stones and beer bottles and everything else started to fly.

Q. You say stones and beer bottles and everything else. Can you tell anything else besides stones and beer bottles?

A. No, bricks.

Q. Anything else?

A. Bolts.

Q. Where were you when the stones and beer bottles were thrown?

A. I was sitting in my car.

Q. And then what happened?

A. Well, one beer bottle passed clear through one door and out the other door.

Q. Of your car?

A. Yes, sir, the guy on the east—

Q. I understood you to say it went in one door and out the other?

A. Yes, sir.

Q. Were your doors up or down?

A. I had the glass down in both doors.

Q. Had the glass down?

A. Yes.

Q. Then it didn't break the glass?

A. It did not.

Q. It went through one window and out the other open window?

A. Yes, sir.

Q. Did anything else happen?

A. Well, I started looking around then and then a guy I seen took around the car on the east side of me.

Q. Then what happened?

A. So I went back in the corner of the car, and a stone come in and hit the corner of the windshield and struck right in the glass.

Q. Did you get the stone?

A. Yes, sir.

Q. Have you got it with you?

A. Absolutely.

Q. Let's see it.

(Witness produces stone).

Q. Do you want to keep it? Do you mind our taking it?

A. I would like to keep it.

MR. DAY: May the record show that the witness produces a stone?

TRIAL EXAMINER LINDSAY: Oh, yes.

MR. DAY: All right.

Q. Now, you can keep it, if you want to. Where did you say that was stuck?

A. In the righthand corner of the windshield, up at the top.

Q. The front windshield?

A. Yes.

Q. Then how did you get it out of there?

A. Well, I—while I was sitting, I got something to get ahold of it, started to whittle, the glass pieces fell out and I have it out.

Q. What happened to the windshield?

A. What?

Q. What happened to the windshield?

A. Well, nothing more than it is broke there at the corner.

Q. And the stone stuck in it?

A. Yes.

Q. What else happened, if anything?

A. That is about all. I seen two or three cars behind me as the glass broke out.

Q. Yes, anything else?

A. They got them back off the viaduct and they run two cars back out of the road and then I proceeded across the viaduct.

Q. You proceeded across the viaduct and went to work?

A. Yes, sir.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) What kind of work do you do at the mill, Mr. North?

A. Millwright leader.

Q. What is that?

A. Millwright leader.

Q. Is that the equivalent to a foreman's job?

A. Yes.

Q. How long have you been a foreman?

A. About two years.

Q. During the two years have you ever hired or fired any men?

A. No, sir.

MR. DAY: I want the same objection, that this is not proper cross examination.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. DAY: Exception.

Q. May 25th, did you go out on strike?

A. I did.

Q. But not as a striker, though, did you?

A. No, sir.

Q. You mean you did not go to work?

A. What?

Q. You did not go to work, is that right?

A. I worked 3 to 11, that day.

Q. On the 25th?

A. Yes.

Q. Did you work on the 26th?

A. No, sir.

Q. Did you stay in the mill after May 25th?

A. I did not.

Q. When did you return to work?

A. On July 9th.

Q. How many men are there in your department?

A. About seven.

Q. Did you call any of your men to go back to work?

A. I did not.

Q. Did they call you?

A. They called me and went to work.

Q. How many of the seven men called you about going back to work?

A. Well, there was just one.

Q. What is that?

A. Just one.

Q. What did you say to him?

A. Well, he come out to the house and told me that they were going to start to work in the morning.

Q. What did you say?

A. I said "All right, I will be there."

Q. Did you tell him to be there, too?

A. What?

Q. Did you tell him to be there too?

A. That was one of the other leaders that told me.

Q. One of the other foreman?

A. Yes.

Q. Did he tell you who told him to come to tell you about it?

MR. DAY: I object to that question "did he tell you who told him to come to tell you about it". I think that is a little too much hearsay.

MR. LAUTER: Mr. Day may be amused by the form of the question. It is perfectly intelligent, I think. If you have an objection, say so.

MR. DAY: I object to that. What did you say?

MR. LAUTER: I just say, if you have an objection—

MR. DAY: I do object to it.

MR. LAUTER: I didn't hear you say it until just now.

TRIAL EXAMINER LINDSAY: All right, the objection is overruled, let the record show an exception.

MR. DAY: Exception.

(The last question was read.)

A. Shoemaker, I believe.

Q. Who is that?

A. That is our general foreman.

Q. General foreman?

A. Yes, sir.

Q. You understood the question I asked, didn't you? The general foreman told you to come, is that right?

A. He told this leader, and he come out and told me, so—

Q. Did he tell you the name of the general foreman?

A. What?

Q. Did he tell you the name of the general foreman?

A. Shoemaker.

Q. Did you sign any Back-to-Work petitions?

A. I did when we all signed up to go back.

Q. What is that?

A. I did when we all signed up to go back.

Q. Did you sign any Back-to-Work petition?

A. I didn't sign up with that.

Q. What is that?

A. I didn't; we all signed up to go back.

Q. You say that all of you signed up to go back. Who signed that?

A. All the rest of them. You see a lot of names on paper there when you sign it.

Q. Where did you see the paper to sign?

A. Signed it in the Chamber of Commerce room.

Q. Who told you to go there?

A. What?

Q. Who told you to go there?

A. Oh, the other leader told me to sign up to go back to work.

Q. Any of the foremen tell you to go there to the Chamber of Commerce room?

MR. PONTIUS: I object to that; he didn't say "foremen."

MR. LAUTER: He said "leader."

TRIAL EXAMINER LINDSAY: Objection overruled and an exception may be noted.

MR. LAUTER: Will you read that last question?

(The last question was read.)

A. That is why I was signed up.

Q. Did a leader or a foreman tell you to go to the Chamber of Commerce room?

A. Yes; if I wanted to go back to work.

Q. What is that?

A. If I wanted to sign up to go back to work.

Q. What leader or foreman asked you to go to the Chamber of Commerce room to sign the Back-to-Work petition?

A. Shoemaker.

Q. Shoemaker?

A. Yes. He called up on the phone.

Q. He called up on the phone?

A. Yes.

Q. Do you remember what day that was?

A. No, I don't believe I do.

Q. Was that before you went back?

A. Yes, sir. It was before I went back.

Q. Do you remember how many days before you went back?

A. About six or seven days, I guess.

Q. Now, on July 7th you went back to work, is that correct?

A. Yes.

Q. Where did you say you lived?

A. Route 4, Massillon.

Q. How far is that from the viaduct?

A. About three miles.

Q. When did you start out for work at that time?

A. Oh, about 5 or 10 after 10.

Q. How long did it take you to drive down to the viaduct?

A. Oh, I got down there about 10:30.

Q. You were driving south on South Erie Street?

A. Yes.

Q. Was there much traffic there at 10:30?

A. Yes, quite a bit.

Q. But you had gotten to the viaduct, is that correct?

A. Yes.

Q. Now, describe the movements of your car after you got to the viaduct or in the neighborhood of the viaduct. Just tell me what happened.

A. Well, when I got to the viaduct I was stopped.

Q. About what time was that?

A. About 10:30.

Q. How long were you stopped?

A. Oh, about 5 or 10 minutes.

Q. That made it about 10:35?

A. Yes.

Q. What happened then?

A. Well, they shoved the cars out of the road, and then I went to work.

Q. Well, two cars collided there, is that right?

A. Yes.

Q. About what time did that take place?

A. Just as I got to the viaduct.

Q. What is that?

A. That was just as I got to the viaduct.

Q. That was just as you got to the viaduct?

A. Yes.

Q. They collided in front of you or in back of you?

A. In front.

Q. How many cars in front of you?

A. One.

Q. You said some men came out and threw stones, beer bottles, and bolts; is that correct?

A. Yes, sir.

Q. Where was your car with respect to the viaduct that the beer bottle went through? Where was your car?

A. Right at the mouth of the viaduct.

Q. Where did the men come from?

A. What?

Q. Where did the men come from?

A. They came from all directions; came from all directions.

Q. Came from all directions?

A. Yes.

Q. You are sure it was a beer bottle that went through your car?

A. Absolutely.

Q. You saw the beer bottle?

A. Yes, sir, it hit the car on the east side of me.

Q. You say there were two or three cars in back of you with glass broken?

A. Yes, sir.

Q. Did you see anything thrown at those cars?

A. Stones and a beer bottle as well.

Q. Did you see the actual stones that broke the glass?

A. Yes, sir; they came off the sidewalk.

Q. And you saw those stones as they came through the air and broke the glass?

A. Yes, sir.

Q. Of the cars in back of you?

A. Yes, sir.

Q. How many cars in back of you?

A. Three behind me.

Q. You say three, don't you?

A. Yes, sir.

Q. Now, you were on the viaduct, is that correct?

A. I was just on the mouth of the viaduct.

Q. Now, you pointed—point out to me where the mouth of the viaduct is on this map (indicating)?

A. It is right here (indicating).

Q. That is the mouth here (indicating)?

A. That is the mouth.

Q. Where it is at right angles on this map?

A. It is on both corners here (indicating).

Q. Where were you standing with your car?

A. I was right here on the mouth of the viaduct (indicating). I just started to turn in a little bit.

Q. A little on the viaduct?

A. Yes.

Q. Where were the men coming? Did you see any men coming out of the buildings or were they standing on the sidewalk?

A. When I got up there they was on the sidewalk.

Q. And they had bricks and beer bottles and bolts? Were they throwing them?

A. Not them; they went on the viaduct.

Q. Who threw the bricks and beer bottles, do you know?

A. Well, when I came—it was on the sidewalk.

Q. The sidewalk on Erie Street or on the viaduct?

A. The sidewalk on Erie Street.

Q. Can you identify any of those men?

A. I could not.

Q. You don't know whether they were C. I. O. men or not, do you?

A. No.

Q. Where were the three cars that were jammed? Were they on Erie Street?

A. They were on the mouth of the viaduct. I was turned—I had a good view.

Q. Were they on Erie Street or on the viaduct?

A. They were on the Erie Street.

Q. You can't identify any of those men?

A. No, sir.

MR. LAUTER: That is all.

MR. PONTIUS: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: May I see that stone?

THE WITNESS: What is that?

TRIAL EXAMINER LINDSAY: May I see that stone?

(The witness hands a stone to the Trial Examiner.)

EDWARD HARTLEY

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. Edward Hartley.

Q. Where do you live, Mr. Hartley?

A. 1013 South Erie Street, Massillon.

Q. Are you married?

A. Yes, sir.

Q. Where do you work?

A. Republic Steel.

Q. How long have you worked there?

A. Four years.

Q. What is your work there?

A. Inspector.

Q. Of what department? In what department?

A. Cold roll strip department.

Q. Did you work up to the time of the strike?

A. I did.

Q. Did you work when the strike was called by the C. I. O.?

A. I was to go out the next morning.

Q. What?

A. I was to go out the next morning. I reported to work but I didn't get anything.

Q. You went out the next morning but didn't get any?

A. No.

Q. When did you start back to work again?

A. July 4th.

Q. What?

A. July 4th.

Q. July 4th?

A. Yes.

Q. Now, where were you on the night of July 11th; Sunday night?

A. On my way to work.

Q. What time did you start to work?

A. I started from my home.

Q. And you lived on South Erie?

A. Yes.

Q. How far did you live from the corner of the viaduct?

A. About four blocks north.

Q. About what time did you start to work?

A. 25 minutes after 10.

Q. 25 minutes after 10?

A. Yes.

Q. Anybody with you?

A. No, sir.

Q. Driving your car?

A. Yes, sir.

Q. Now, just tell us what happened when you got down to the corner of the viaduct to South Erie.

A. I got down to the corner of Erie and the viaduct, and I was parked in front of the doorway of the first business building north of Oberlin Road and the viaduct. And I saw two machines coming north on Erie, coming along in the middle of the viaduct. The first car ran into the abutment, and the second car ran into that first car that hit the abutment of the entrance to the viaduct.

Q. How far were you away from the two cars that did what you have just told us?

A. There was one machine—when I started to make the turn, and I was the third one right close to that.

Q. What else did you see with reference to those cars, if anything?

A. Well, I saw them when they mashed up in the viaduct. Then there was a crowd of men come from somewhere; I would not say where. And I heard somebody holler: "Let us get them." Somebody threw a bottle of beer and knocked the right-hand window out of my car, and I heard a police officer or somebody, and I looked around and I saw a third machine coming north of Erie. When he got to the side of me he made a direct left-hand turn in the rear of the machine behind me. Outside of that, that is all I saw.

Q. You say you saw a bottle of beer and you say it was thrown through your car window?

A. Not through it but it mashed it. I had shatterproof glass.

Q. Which window was that? What door?

A. The right-hand door on the west side of the car.

Q. Did you have a Tudor or a four-door car?

A. I had a coupe.

Q. What?

A. I had a coupe.

Q. Tudor?

A. Tudor.

Q. What else did you see, if anything?

A. That is all I saw.

Q. Then what did you do?

A. I sat there until they got the viaduct cleared, and went over to work.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Now,—

MR. LAUTER: I move that the testimony of this witness be stricken from the record on the ground that it has failed to connect with the issues involved in this case or the parties involved in this case.

TRIAL EXAMINER LINDSAY: I will grant the motion.

MR. DAY: Let the record show that we enter an objection on the ground that the two cars that came into collision have been already identified by other witnesses as being those cars.

TRIAL EXAMINER LINDSAY: Just a minute. That is not a true statement.

MR. DAY: I think that one witness testified here that these men were taken down to the Police Station and further they said they were C. I. O. men.

TRIAL EXAMINER LINDSAY: I don't think so. The record shows that they had C. I. O. stickers on the car.

MR. DAY: The record will also show that those men were taken down to Police Headquarters—

TRIAL EXAMINER LINDSAY: I will sustain the objection.

MR. DAY: I am stating the reasons for my exception.

MR. LAUTER: In addition to that, it is clear that this witness is testifying about the same two cars that have been already identified.

MR. DAY: Exception to the sustaining of the motion to strike.

(Discussion had.)

MR. DAY: I think the record really shows that nobody is here—

TRIAL EXAMINER LINDSAY: We won't argue furt~~her. The~~ last statement that Mr. Day made was stricken from the record. If Mr. Day wants it written up, he may have it.

MR. DAY: I am asking the Stenographer to type up for us, the Respondent, the part that was just stricken from the record so that we may have it in our copy.

TRIAL EXAMINER LINDSAY: It may be done.

MR. DAY: Let the record show that I am pointing out to the Trial Examiner the testimony of the witness, George Mantsch, on Pages 2981 to 2982 that identifies the driver of one of those cars as being a C. I. O. man. He said he chased a man and took him—

TRIAL EXAMINER LINDSAY: Let the record show that if it shows it once, that is enough—

MR. DAY: Let the record show that I am calling the Examiner's attention to the testimony of the witness, George Mantsch, on Pages 2981 to 2982, and the following pages that there he has identified one of the cars in the collision at the viaduct, at the intersection on the night of July 11th as being a C. I. O. car. That being true, I think that the last witness can testify to the collision that he saw there.

TRIAL EXAMINER LINDSAY: No, he didn't testify as to the collision he saw there.

MR. DAY: I thought it was stricken from the record.

TRIAL EXAMINER LINDSAY: I had it stricken from the record but it is in the record on your copy, and you are having a copy made. Now my motion and my ruling on this still stands just as it is.

MR. DAY: I understand the only thing that is stricken from the record is my statement that there weren't two sets of cars that came into collision that night. Anything else is in the record?

TRIAL EXAMINER LINDSAY: Yes.

(Witness excused.)

CLARENCE L. ERTLE

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.
A. Clarence L. Ertle.
Q. Where do you live?
A. 821 11th Street, N. E., Massillon, Ohio.
Q. What is your business?
A. Well, I work for the Republic Steel Corporation.
Q. In what capacity?
A. As a recorder.
Q. What?
A. Recording.
Q. In what department?
A. In the Indoors Division of the Stainless Steel.
Q. What does a reco~~rder~~ do?
A. Well, he takes a record of all the steel that is annealed and pickled in the cold strip department.
Q. How long have you worked for the Republic?
A. Oh, approximately four years.
Q. Four years?
A. Three and a half, four years.
Q. Were you working there at the time the strike was called by the C. I. O.?
A. Yes, sir.
Q. Did you stop working there when the strike was called?
A. Yes, sir.
Q. And when did you go back to work again?
A. The first day that the department opened.
Q. About when was that?
A. I think it was—I will say it was on July 2nd.
Q. Do you remember the night of July 11th; a Sunday night?

A. I do.

Q. Where were you about 11 o'clock that night?

A. About 11 o'clock?

Q. Yes.

A. Well, at 11 o'clock that night I was crossing the viaduct at 11 o'clock.

Q. Well, earlier than that. At 10:30 where were you? At 10 o'clock?

A. Well, at 10 o'clock I was at home. About five minutes after 10 a man came over to the house that picked me up every day that we went to work. He stopped and took me and my son and three other men.

Q. What was the name of the man that took you?

A. Wenzell.

Q. Was he driving this car?

A. Yes, sir.

Q. And you and your son and three other men?

A. Yes, sir.

Q. And where did you drive this car?

A. Well, we drove south along 11th Street to the Lincoln Highway. On the Lincoln Highway we drove over to South Erie Street. On South Erie Street we drove to the intersection of the viaduct—we didn't get to the intersection because before we got there, there was three or four cars ahead of us, and we had to stop our car.

Q. After you stopped, what if anything did you see?

MR. LAUTER: At this time I want to enter my formal objection to any further testimony being taken with what took place on the viaduct on account that it is cumulative, if it please, Mr. Examiner.

MR. DAY: There may have been a few people at the scene of the accident. The evidence at this time shows that one of the cars had a C. I. O. sticker on the back of it.

MR. LAUTER: If as Mr. Day says, and has said before, the record shows that the driver of this car was associated, and said he was a C. I. O. man, it doesn't—it is not as he said that it was a C. I. O. car, and there is no evidence to that extent. It seems to me we have had enough evidence on that car.

TRIAL EXAMINER LINDSAY: Overrule the motion. Exception may be noted.

MR. LAUTER: Exception.

MR. DAY: Will you read that last question?

(The last question was read.)

Q. What, if anything, did you see?

A. Well, we stopped there and we had no more than stopped, and we wasn't—we were about three or four car lengths back of the stripe, which stops you when the traffic light is in the street—there is a mark in the street where you have to stop when the traffic light works, but there had been no traffic light working there—well, recently, anyway, just at that time, so we were about practically four or five cars—four cars I will say back of that stripe where the cars have to stop before they turn around the corner and we stopped there and waited and all at once a car came down from the south, South Erie Street, and crashed into the car directly in front of us and bumped that car back into us, and just at that time two men got out of that car and one fell on the pavement and the other one run past me and just at that time I seen a crowd of men come out of that door of that cafe, because were just at a least angle and I could see very clearly that there were men coming out of that door, and there was a big blonde fellow with another man come and said, "Now, let's give it to them," and he came out and put his foot on our running board and got hold of the car handle and tried to open the door, and I held it shut. And there was quite—everyone was pretty much excited, and the fellow that was driving the car, Mr. Wenzell throwed his car in reverse and backed his car, and he backed out and turned his car at a sharp angle to the left, backed up through that traffic and he was going to go around the corner of the viaduct, and we seen that that was blocked, so he went ahead, straight out South Erie Street until he hit Chester Street, then he went east on Chester Street until we got to a street that really has no name, we went through a field and come back on old Third Street, down to the police station.

Q. What happened when you went to the police station?

A. Well—

Q. Whom did you see there?

A. We saw Officer Johnson in the police station and Sergeant Betz and two other rookie policemen.

Q. What happened there?

A. Well, when us five men walked in there, they were searching two men, they were asking them questions, they were booking two fellows and they just about were ready to put one in the jail, they had a door there, two officers pushed him into the jail after they told him what they were— asking him where they were from. One said he was from Canton. I heard some of the questions, and Betz said to me, "What do you boys want?"

I said, "Do you know that there is an awful riot for some awful disturbance down at the viaduct? You had better get in touch with the soldiers or somebody, better get down there because there is an awful disturbance going on."

He said, "I ain't got anything to do with that, down there. Captain Curley is in charge."

"Well," I said, "there will be a lot of blood-shed I am afraid, if somebody don't get down there, because there are shots being fired." I heard a couple of shots being fired as we pulled out of there.

Q. Then what did you do?

A. Then Officer Johnson and two men, after they put those men in the jail, why they—I seen Officer Johnson, I believe, it looked to me—I am not familiar with the gun that you shoot tear gas, but it was a gun about that long, had a big barrel; he got a gun that was laying there on the window sill and close to the desk sergeant and then I seen him open a door, I don't know whether he took a tear gas—I don't know what tear gas looked like, in cartridges, but they were red and about that long; I seen him take a couple out of there, stuck them in his pocket and he says, "Let's get going."

Q. Then what did you do?

A. Then one of the men that was with me said, "Now, we want to get to the shop, we will follow those down. We will follow those fellows down and go in."

So Mr. Wenzel drove his car down, and when we got down to the viaduct, why that had been already cleared up, so he drove across the viaduct, and then about the time we got off of the viaduct or—we was off of the viaduct on Oberlin Road, over the bridge, my son in the back seat said to him, "Driver, you had better stop the car, there is a machine gun firing."

And then we heard it. And he says, "Yes, they are," he says, "they are shooting." And he said, "I can't back up," he said, "there is a car coming behind me."

And just about that time I heard a bullet whiz across the highway there; it seemed to be pretty close to us, and as we continued on I heard four or five shots and I said, "Tramp on it, looks like he can't back up, and we have got to get in."

So we drove into the entrance of Republic Steel Corporation. When we got to the police booth, there, all of the cars was lined up, there was a lot of automobiles there, and an awful lot of automobiles, the entire turn could not get out of the plant, because they were held back by the police, and they had to straighten out some of those cars in the road so that we could drive into the plant because they were blocked on all ways.

Q. Could you tell, at all, in what direction these bullets were coming from that whizzed, there?

A. Yes, they were coming from the north.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) These bullets were coming from the north?

A. I would say they were coming from the north, yes, sir.

Q. Where was your car at the time that these bullets, you say, were coming from the north?

A. We were driving on Oberlin Road. We were west of the viaduct, from No. 2—from No. 1 to No. 2 gate. We have to go on Oberlin Road after you get off of the viaduct. Between No. 1 and No. 2 gate is where I very distinctly heard the whiz of bullets.

Q. Past the car?

A. I don't know how close they came, but I heard them very distinctly.

Q. You heard them whiz by?

A. Yes, sir.

Q. How many bullets did you hear whiz by?

A. Four or five.

Q. Four or five?

A. Yes, sir.

Q. What position do you have in the plant?

A. I do recording. Recording of the steel that is pickled and annealed in the stainless steel, on my turn.

Q. And when the strike came, the strike took place on May 25th, did you go to work the next day?

A. No, sir.

Q. When did you go back to the plant?

A. The first day that my department opened.

Q. What day was that?

A. I think it was the 2nd day of July.

Q. Did anyone suggest to you that you go back to work?

A. Oh, I used to go downtown every day and talk it over with the boys, they all seemed to want to go back to work; all of the men that worked with me.

Q. Answer my question, did anyone suggest to you that you should go back to work?

MR. DAY: Just to save the record, I object to that as improper cross examination.

A. No, sir, no one suggested that I go back to work.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

MR. DAY: Exception.

Q. How did you happen to go back to work on July 2nd?

A. Because I wanted to go back to work as soon as they opened the plant. I got in touch with any foreman I seen.

Q. Did you see your foreman?

A. No, I didn't, not until around the night I went back to work.

Q. When was the first time you saw your foreman after May 25th?

A. Well, I have four or five foremen. I seen one of them downtown at the bank. I can't say what date that was at all. I was downtown.

Q. Before you went back?

A. Yes, I saw him—I saw the other ones, but I only talked to one of them.

Q. What was the conversation you had with the one you saw?

A. I asked him when he thought they were going to go back to work and he said, "I don't know whether the plant will ever open." That is all he said to me.

Q. Is that the only conversation you had with him?

A. That is the only conversation.

Q. When was that conversation?

A. I couldn't tell you what date. That was between the time that the strike was called and before the time that the plant started to work.

Q. Have you ever signed a Back-to-Work petition?

A. I did.

Q. Where did you sign it?

A. Chamber of Commerce office.

Q. Did anyone tell you to go there?

A. No, sir.

Q. How did you happen to know they were signing there?

A. I was downtown one morning and as I am usually there, and there was a lot of the fellows that I worked with said, "They are going to sign up to go back to work in the bank building." And I said, "What bank building," and they said, "The old bank, there," but that is not in use, I don't even know the name of the bank any more, and finally the people congregated, those men congregated around there, and there was an awful crowd congregated, finally I seen them go up in the chambers—or up in the First National Bank Building, I asked a fellow by the name of Martin, "Where are those fellows going?" And he said, "They are all going up to sign up to go back to work," so I followed the crowd up, we all signed to go back to work.

Q. On July 2nd you had conversation with some of the boys of the plant?

A. Repeat that again.

Q. You mentioned a conversation you had with some employees, before you went back to work?

A. I talked to them every day, fellows that I worked with, that I met down on the street.

Q. But you only had one conversation with one foreman, is that correct?

A. That is all.

Q. No one suggested to you that you sign the Back-to-Work petition?

A. No, sir.

Q. And no foreman ever called you up at home?

A. No, sir.

Q. To tell you when to come to work?

A. The foreman came to my house, said, "The soldiers are going to be over there tomorrow morning, and the plant is going to be open to anybody that wants to go back to work."

Q. When was that?

A. That was the night before we went back to work, that morning—the night before we went back to work.

Q. Who was that, went over there?

A. Who went?

Q. Who came to your house?

A. Why, this turn foreman.

Q. What is his name?

A. Mr. Kelleher.

Q. He told you to come to work the next day?

A. He didn't tell me to come. He says, "They are going to open your department." He didn't tell me that I had to come. He said I could come if I wanted to. He intimated that. He didn't say it directly that I had to come back to work. He rapped on the door and said, "The militia is going to be over there tomorrow, and there is going to be work for those men that want to go back to work."

Q. Did he tell you who sent him?

A. Sir?

Q. Did he tell you whc sent him?

A. No, sir.

Q. Are you sure he didn't mention it?

A. No, sir, he did not mention any names.

Q. Do you know who sent him?

A. I do not.

MR. LAUTER: I move to strike out the testimony of this witness with respect to the incident on the viaduct on the ground that they have failed to connect it up any way with any of the parties to this action.

TRIAL EXAMINER LINDSAY: Oh, I will let it stand. Let the record show an exception.

MR. LAUTER: Exception.

MR. DAY: That is all, Mr. Ertle.

(Witness excused.)

MARVIN LARSON

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name.

A. Marvin Larson.

Q. Where do you live?

A. 916 Wales Road, Massillon.

Q. Married?

A. No.

Q. What is your business?

A. Shipping clerk at Republic Steel.

Q. How long have you been with Republic?

A. Three years.

Q. Did you go out when the strike was called?

A. I could not get—

Q. Well, did you stop working when the strike was called?

A. Yes.

Q. And then when did you start working again?

A. On the evening of July 2nd.

Q. Were you at work on the evening of Sunday, July 11?

A. I was.

Q. And what time did you leave the mill that night?

A. Shortly after 11 o'clock.

Q. On what streets did you drive, when you left the mill?

A. Crossed the viaduct to go north on Erie Street.

Q. When you were driving north on Erie Street what, if anything, happened?

A. About five blocks from the end of the viaduct, the car was stoned.

Q. Your what? Car was stoned?

A. Yes.

Q. Five blocks from the end? North or south of the viaduct?

A. North.

Q. Just tell us about that. What happened?

A. As we were driving along the street, there was a car parked about five feet from the curb, and we were forced to go in single file to get past that car. Just before we approached the car there was a group of men close to the curb that threw rocks at us.

Q. How many were in your car?

A. Five.

Q. Were they all men that had been working at the Republic that night?

A. Yes.

Q. Going home from work?

A. Yes.

Q. Did any of the rocks strike your car?

A. Yes.

Q. How many rocks struck your car?

A. Approximately five.

Q. And whereabouts did they strike it?

A. The windshield and the right side of the car.

Q. Any glass broken?

A. Yes.

Q. What glass?

A. Two glasses in the windshield and side glass.

Q. About how many men were in the crowd that was throwing stones?

A. Six or eight.

Q. Did you recognize any of them?

A. I did.

Q. Who?

A. Tony Demando.

Q. Tony Demando?

A. Yes, sir.

Q. Had you worked with him before?

A. He had worked in the department where I worked.

Q. Do you know whether or not he was a CIO?

A. No, I don't.

Q. But you recognized him as one of the men in the crowd?

A. Yes.

MR. DAY: I think that is all.

MR. LAUTER: I move that the testimony of this witness be stricken, on the ground that the respondent has failed to connect it with any of the parties to this case.

TRIAL EXAMINER LINDSAY: Oh, I will let it stand for what it is worth. Let the record show an exception.

MR. LAUTER: Exception.

Cross Examination

Q. (By Mr. Lauter): Did you recognize any of the other persons who threw stones?

A. No.

Q. How far did you say it was from the viaduct?

A. Approximately five blocks.

Q. What time of the night was this?

A. Shortly after 11 o'clock.

Q. Did you have any difficulty driving out of the mill and across the viaduct?

A. No .

Q. Was that pathway absolutely cleared, so you could go ahead with the car?

A. There was a lane open.

Q. There was a lane open?

A. Yes.

Q. You went across the viaduct at 11 o'clock?

A. Yes.

Q. And you went north on South Erie Street for five blocks?

A. That is right.

Q. You were not interfered with in any manner until you were five blocks north of the viaduct, is that right?

A. There was people on the street, but we got through.

Q. Well, that did not interfere with you, did they, the fact that they were on the street?

A. They slowed us up.

Q. Slowed up traffic?

A. Yes.

Q. But you were not interfered with in any other way, is that correct?

A. Yes, sir.

Q. You are a shipping clerk, is that right?

A. That is right.

Q. When you came out of the mill, what time did you say it was? About 11 o'clock?

A. A little after 11.

Q. A little after 11?

A. Yes.

Q. Did you hear any shooting?

A. No.

Q. What entrance to the mill did you come out of?

A. No. 1 gate.

Q. Is that on Oberlin Road?

A. Yes.

Q. Is that near Cleveland Avenue?

A. It is east of Cleveland Avenue.

Q. East of Cleveland Avenue?

A. Yes.

Q. About how far east?

A. It is at the end of the viaduct, west end of the viaduct.

Q. About how far is that from Cleveland Avenue, would you say, in terms of the number of feet?

A. About 600.

Q. And you didn't see or hear any shooting?

A. No, the windows were closed in the car and there was noise from the mill.

Q. Did you notice anything unusual at all, at that time?

A. At the east end of the viaduct, there was a crowd of people.

Q. And at the west end of the viaduct, did you notice anything unusual?

A. Only that there was no traffic coming from the west.

Q. From the west or from the east?

A. Wasn't any coming either way.

Q. Were you the only car going out of the mill?

A. No.

Q. Weren't there other cars going out the same direction you were?

A. Yes.

Q. Well, then there was traffic, is that correct?

A. There was no traffic coming from the west when we came out.

Q. What is that?

A. There was no traffic coming from the west when we came out of the mill.

Q. There were cars in back of you, weren't there?

A. Yes, but not at the entrance of the viaduct. When we came to the entrance of the viaduct, there was no cars coming from the west and no cars from the east either.

Q. You say you saw a man named Tony Demando throw a rock?

A. Yes.

Q. Where was she standing with respect to the car?

A. Ahead and to the right.

Q. Did you see that rock as it travelled in its course?

A. Yes.

Q. You are sure you did?

A. Yes.

Q. How many other men were there there?

A. Six or eight.

Q. How many men threw rocks?

A. At least six of them.

Q. At least six of them?

A. Yes.

Q. That is, there were six rocks coming at your car, is that right?

A. Five struck the car, and they all swung their arms, whether they threw rocks or not.

Q. Five struck the car?

A. Yes, sir.

Q. And at least six threw rocks, is that right?

A. At least five.

Q. At least five?

A. Yes, sir.

Q. Did I understand you to say before that at least six struck the car?

A. No.

Q. You didn't say that?

A. No.

Q. You are sure of it?

A. Yes.

Q. You are sure that at least five struck the car?

A. Yes.

Q. At least five threw rocks?

A. Yes.

Q. At least five rocks struck the car?

A. Yes.

Q. Now, was that the total number of rocks that were thrown at your car? Five?

A. I don't know.

Q. What is that?

A. I don't know. There might have been four thrown.

Q. But you didn't see them?

A. No.

Q. Now, you saw Tony Demando throw a rock, is that right?

A. Yes.

Q. Did he throw a rock at the same time that the others did?

A. Approximately.

Q. What is that?

A. Very near, within a few seconds.

Q. Could you distinguish his rock from the other rocks?

A. Yes.

Q. Did you see where his rock hit?

A. Yes.

Q. Where did his rock hit?

A. The windshield.

Q. That was the rock that broke the windshield?

A. A rather large rock.

Q. What is that?

A. I say a rather large rock, it was easy to see.

Q. What time of the night was this?

A. About a few minutes after 11:00, five or ten minutes.

Q. Was it dark that night?

A. Yes.

Q. How far from the car was Demando when he threw the rock?

A. About 15 feet.

Q. Was he on the sidewalk or in the street?

A. On the curb.

Q. How fast was your automobile going, do you know?

A. About 20 miles an hour.

Q. Were there any cars parked alongside of the curb?

A. Yes.

Q. And Demando was in back of those cars?

A. One car parked at the curb—in the street.

Q. What is that?

A. There was one car parked in the street about five feet from the curb, and he was in back of that car.

Q. He was in back of that car?

A. Yes.

Q. Was he in that position when he threw the rock?

A. Yes, sir.

Q. You don't know whether or not he is a member of the CIO?

A. No.

MR. LAUTER: That's all.

MR. DAY: That's all.

MR. LAUTER: I want to renew my motion at this time, if you please, Mr. Examiner, to strike the testimony of the witness Larson?

TRIAL EXAMINER LINDSAY: Well, I will overrule that motion. Let the record show an exception.

MR. LAUTER: Exception.

(Witness excused.)

CLARENCE MULLETT

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. Clarence Mullett.

Q. Where do you live?

A. 315, 15th Street S. W. Massillon.

Q. What is your business?

A. Clerk.

Q. For Republic?

A. Yes, sir.

Q. How long have you worked for Republic?

A. 10 years.

Q. July 11th, Sunday night, about 11 o'clock, were you on South Erie Street?

A. I was coming home from work.

Q. Coming home from work on South Erie?

A. Yes, sir.

Q. And were you in an automobile?

A. I was driving a car.

Q. You were driving it? Who else were with you?

A. Five other fellows?

Q. What?

A. Five other fellows.

Q. And had the five other fellows worked in the mill that night also?

A. Yes, sir.

Q. Now, what happened while you were driving home on South Erie Street in your car with the five other fellows?

A. Just as I got down to Arch Street I saw three or four fellows throwing bricks, three or four of them hit the car.

Q. Four of them hit your car?

A. Yes, sir.

Q. Did you recognize any of the men?

A. No, I didn't. I was driving, I was just watching traffic.

Q. And were other cars, if you know, containing men that had worked at the mill that night, on their way home at the same time you were driving up there?

A. I was right in the middle of traffic.

Q. What?

A. I was right in the middle of traffic.

Q. Of traffic.

MR. DAY: That is all.

MR. LAUTER: I move to strike out the testimony of this witness on the ground the Respondent failed to connect it with any of the parties in this case.

TRIAL EXAMINER LINDSAY: I will overrule the motion and let the record show an exception.

MR. LAUTER: Exception.

Cross Examination

Q. (By Mr. Lauter) What kind of work did you do in the mill?

A. Clerk.

Q. How long were you a clerk?

A. About five years.

Q. The strike was called on May 25th, wasn't it?

A. Yes, sir.

Q. Where were you working then?

A. Nowhere; I was going to work that night.

Q. When did you next return to work?

A. July 2nd.

Q. Your foreman got in touch with you?

A. No.

Q. Who suggested, if anyone, that you return to work?

MR. DAY: I object on the grounds that it is not proper cross-examination.

TRIAL EXAMINER LINDSAY: Overruled. Let the record show an exception.

MR. DAY: Exception.

Q. Who, if anyone, suggested to you that you return to work on July 2nd?

A. Just my cousin called.

Q. Who is your cousin?

A. He said they were starting to work.

Q. Who is your cousin?

A. Curtiss McCullan.

Q. Does he work in the mill?

A. Yes.

Q. What is his position?

A. He is a sheet metallurgist.

Q. What is that?

A. He is a sheet metallurgist.

Q. You signed a Back-to-Work petition?

A. Yes.

Q. When did you sign it?

A. In the Ohio Merchants Building.

Q. What is that?

A. In the Ohio Merchants Building.

Q. Prior to your signing a Back-to-Work petition, did you have any conversation with any of the employees of the Republic Steel Corporation?

A. No, sir.

Q. How did you know that they were signing petitions in the Chamber of Commerce?

A. My wife told me.

Q. She didn't indicate to you how she knew?

A. Why, she said she just heard it; I don't know where she heard it.

Q. You are unable to recognize or identify any of the persons who threw bricks at the car?

A. No.

MR. LAUTER: I want to renew my motion to strike the testimony of this witness.

TRIAL EXAMINER LINDSAY: The motion is overruled. Exception may be noted.

MR. LAUTER: Note an exception. That is all.

MR. DAY: That is all.

(Witness excused.)

WILBERT COLEMAN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) You are Mr. Wilbert Coleman?

A. Yes, sir.

Q. Where do you live?

A. 56 Third Street, S. W., Massillon.

Q. How long have you lived in Massillon?

A. About 11 years.

Q. What is your work?

A. With the Republic.

Q. How long have you worked for the Republic?

A. About 10 years.

Q. What kind of work did you do?

A. Sheet pickler department.

Q. Now, where did you live on July 11th, 1937?

A. I lived on Cleveland Avenue; 1213 Cleveland Avenue.

Q. What?

A. 1213 Cleveland Avenue.

Q. Did you live upstairs or downstairs?

A. Upstairs.

Q. What was downstairs in the building in which you lived?

A. The C. I. O. headquarters.

Q. You are a married man?

A. I am.

Q. Now, where were you on the afternoon on that Sunday?

A. Playing ball in Newcomerstown.

Q. Did you get home from Newcomerstown?

A. I did.

Q. About what time?

A. Between a quarter after 7 and 20 after.

Q. When you got home was it daylight or dark?

A. Daylight.

Q. What if anything did you observe about the C. I. O. hall there after you got home?

A. The only thing I observed was that some unusual —after I went up in my apartment to change clothes I happened to glance out of the north window of my room and saw some men gathering up stones and carrying them toward the front of the building.

MR. LAUTER: I move that the witness' statement about it being unusual be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That part may be stricken from the word "unusual."

MR. PONTIUS: About carrying stones; is that stricken?

TRIAL EXAMINER LINDSAY: No; just that one word.

MR. PONTIUS: All right.

Q. Now, how many rooms are there in the upstairs of that building in which you lived at that time?

A. Nine.

Q. Who lived there with you?

A. Myself and my mother-in-law—she was staying with me—and my brother-in-law.

Q. Were all nine rooms occupied by you and your family?

A. They were.

Q. Where did you observe these men getting stones?

A. On the north side of the building—

Q. Yes.

A. —and the southside of the building next to me—there is a vacant house—a lean-to house.

Q. What building is in the north of the C. I. O. headquarters there?

A. It is an empty house.

Q. What is that house made from: Brick or stone or wood?

A. Just frame wood.

Q. Frame wood?

A. Yes.

Q. Now, after it became dark what if anything further did you observe or notice?

A. Nothing only the continued of that stumbling around between the two houses—that someone had a flashlight. They seemed to be picking up stones.

MR. LAUTER: I object to "seemed to be" and ask that it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. It may be stricken.

Q. What did you see them do; not seemed to do? What did they do?

A. Well, all I saw them do was they had flashlights. Someone had a stick and was picking in the ground; and then some of them was walking towards the back of the building.

Q. About how long did that continue?

A. Well, from the time I observed it up until I suppose around 10:30.

MR. LAUTER: I move the remarks of the witness with respect to what he supposed be stricken.

TRIAL EXAMINER LINDSAY: Yes. It is stricken.

Q. Mr. Coleman, were you there then until after the trouble occurred there?

A. I was.

Q. When you first got there, who was in your home, if anybody?

A. Anybody?

Q. Yes. Who came there later, if anybody?

A. My wife, brother-in-law, and a boy by the name of Kenneth Adams came with my brother-in-law.

Q. What is your brother-in-law's name?

A. Robert DeVaughn.

Q. How long did those people who came remain there that night?

A. Until the first skirmish was over and we had time to get out.

Q. What was the way in which you got in and out of the building?

A. I had a front entrance and a back entrance.

Q. How did you get out of the building that night?

A. At the back entrance.

Q. Now, I wish you would tell us what you observed with respect to this trouble that occurred down there that night. About what time you observed any trouble?

A. Why, I was supposed to go to work at 11 o'clock. After I saw these men gathering those stones and carrying them towards the front—well, after my wife came, I told her about it and told her that I would stay around the home and not go back to work—if I was late getting around to work—just to find out if there was any trouble. So I stayed; and around 11 o'clock why there was an awful commotion, and some yelling. We went to the back of the room after we heard this yelling, and my wife said there would be some shooting. So I said: "No, I don't hardly think so." So we went to the kitchen in the back of the building. We didn't hardly get into the room before some shots were fired, and about a minute or two after that one or two tear gas bullets came into the two front windows in front of the building. You could tell what they was because you could hear the sizz after they burst. Of course the firing continued for probably five or eight minutes; probably a little longer, until we got out of there. I don't remember whether about three or four shots that were fired upstairs in the front alley.

Q. What were those shots?

A. Well—

Q. If you know?

A. I am not positive; they must have been these tear things because that began to smell pretty bad in the house; you could hear the shots whenever they hit the wall; whenever they burst.

Q. Had you been living in this house prior to this time? That is, prior to the time that it was occupied by the C. I. O.?

A. I was.

Q. At the time the downstairs was empty?

A. It was.

Q. Now, when you went out where did you go?

A. To the Republic Steel hospital; a police officer escorted us to the Republic Steel hospital, and we remained there—

Q. Who went down to the Republic Steel hospital?

A. My wife, my brother-in-law, James Adams—

Q. Were all of you home?

A. My wife and brother-in-law and Jim Adams—on account of the gas worked on their eyes; and they treated them there at the hospital. It didn't take any effect on me.

Q. Now, have you told us all you heard or saw that night about this thing?

A. That is all. Only after the first skirmish I turned the light on and raised the window, and hollered out at the police officers that were stationed south of the building there. They were in the street. I hollered at them and told them to let up until we got my wife out of there; I supposed—

Q. You can't say that.

A. Some of them knew that I lived up there, and they said: "All right, come on;" and I opened the back door and we came out.

Q. Now, going from your home there to the Republic Steel Hospital, which way did you go?

A. South on Cleveland Avenue to Oberlin Road.

Q. With the police officers?

A. Yes.

Q. I will ask you whether or not you observed the roadway of the street in front of the C. I. O. headquarters as you went down there?

A. I didn't look back.

Q. Had you observed that before that day as to people being there or otherwise?

A. There is always a crowd around there especially on Sunday evening.

Q. How many people would you say were there that evening?

A. I couldn't say.

MR. PONTIUS: I believe that is all.

Cross Examination

Q. (By Mr. Lauter) You are a sheet pickler, is that correct?

A. Yes, sir.

Q. You have worked for the Republic for 10 years?

A. Yes, sir.

Q. All during the strike, were you working?

A. No, sir.

Q. When did you stop working?

A. I worked the night before the strike was called. I was supposed to go at 11 o'clock the same night the strike was called and I didn't go there.

Q. When was the next time that you went to work after May 25th?

A. On the 8th of July.

Q. The 8th of July?

A. The 8th of July; one week after they reopened.

Q. Now, did anyone suggest to you that you go back to the plant to go to work?

A. No one whatever.

Q. How did you happen to go back to work on July 8th?

A. Practically all the other men that I knew; that I worked with had went back to work.

Q. Did you sign a Back-to-Work petition?

A. I did.

Q. Where?

MR. DAY: Same objection as not being proper cross-examination.

TRIAL EXAMINER LINDSAY: Objection overruled.

MR. DAY: Exception.

Q. Where did you sign a Back-to-Work petition?

A. In the Ohio Merchants Building; Chamber of Commerce Hall.

Q. When did you sign it?

A. I don't exactly know what day it was; around 5 days before I went back to work.

Q. Did you have any conversation with any Republic Steel Corporation employee before you went back?

A. No more than the men I worked with and came in contact with them each day.

Q. Did you come in contact with your foreman?

A. Never saw him from the time—from the morning I came out of the mill until I went back.

Q. Now, how many rooms are there upstairs over the C. I. O. headquarters?

A. Nine.

Q. Nine?

A. Yes.

Q. You occupied all the nine rooms?

A. I did.

Q. That night—that is the night of July 11th—you saw some people with a flashlight digging?

A. I did.

Q. But you couldn't see what they were digging for?

A. No.

Q. Might have been digging for potatoes?

A. Could have been.

Q. Now, what were the first shots that you heard in the building? Were they from gas?

A. The first shots I couldn't say because it was such a turmoil all of a sudden that you couldn't tell where the shots came from, or the first thing or anything.

Q. Well, there was tear gas shot in the building?

A. There was.

Q. You mentioned something about three or four shots.

A. I know there was three or four shots come in my part upstairs towards the front of the building.

Q. Well, you have looked at the front of the building after July 11th, haven't you?

A. Oh, sure.

Q. There were more than three or four shots in the front of the building, weren't there?

A. Sure; I am speaking of before I got out.

Q. Did you ever attempt to count the number of shots that were in the front of the building after July 11th?

A. No.

Q. Could you estimate?

A. No.

Q. Do you know how many bullet holes there were?

A. No.

Q. Did you see the glass windows smashed?

A. What windows?

Q. The glass windows in front of the building smashed?

A. Yes.

Q. Were there a great many bullet holes in the building?

A. I don't know; there were some inside.

Q. As a matter of fact, you could look through where the bullets had gone through?

A. No.

Q. Did you try to look through there?

A. They were shot at an angle.

Q. They were shot at an angle?

A. From the way it looked.

Q. Could you look through the angle at which they were shot?

A. No.

Q. Did you try?

A. No.

Q. Now, you say you hollered at a police officer?

A. I just hollered at the police. I don't know the name of him that was stationed there at that time.

Q. Why did you holler at him? Because they were in the front of the building?

A. Yes, they were firing toward the building.

Q. Now, how soon after did you holler for the police?

A. As soon as the first skirmish was over.

Q. How soon was that?

A. Five or six minutes.

Q. During all the time you were there did you see any shooting being done by any C. I. O. man?

A. I couldn't see any.

Q. Did you hear any shots come from the downstairs of the building?

A. I can't say that I did.

Q. Now, you say that some of the police knew you; is that correct?

A. Yes, they knew I lived up there. They know me from seeing me coming in and out from the time they were stationed there.

Q. What policemen knew you?

A. I don't know the names of them.

Q. Are some of them foremen in the mill?

A. I don't know.

Q. Do you know whether any of the special policemen worked in the mill?

A. No, I don't. None of them worked in my department.

Q. They only knew you by the fact that you came in and out of the house?

A. Yes.

Q. Now, you said something about a crowd being up there on Sunday evening. Was that a customary procedure?

A. Yes, on Sundays they gathered around there and chattered around between themselves; more usual on Sunday evening.

Q. Do you know about how many men were gathered there on Sunday evening?

A. No.

Q. 100 or 200?

A. I haven't any idea. I just passed through them; if I passed by, I passed by without saying anything.

Q. Did you hear any music there that night?

A. No, I didn't.

Q. Did you hear any singing or dancing?

A. No, I didn't.

Q. Until the first shots were fired, everything was peaceable there?

A. Yes.

Q. Was there anything unusual about the crowd? Noisy or anything?

A. They were just talking; you could hear them talking.

MR. LAUTER: That is all.

MR. PONTIUS: That is all.

MR. LAUTER: Just one more question, please.

Q. Did you notice any women and children around the building that night?

A. I didn't. When I came in—because I never went out any more when I came in.

Q. When you came in did you notice any women or children there that night?

A. No, I didn't.

Q. When you left, did you see any there?

A. What?

Q. When you left, did you see any there?

A. In the morning or that night?

Q. That night?

A. No, I didn't see any people where I lived.

Q. Did you say that one of the policemen escorted you to the hospital building?

A. Yes.

Q. Do you know who that policeman was?

A. I don't know.

Q. Had you ever seen him before?

A. I think he is one of the regular patrolmen but who he is, I couldn't identify him now.

Q. Had you ever seen him before that night?

A. Well, if he was one of the regular patrolmen I have because he had a uniform on.

Q. As you came out of the house, where was this cop?

A. They were all stationed along the street south of where I lived.

Q. Were they lined up across the street?

A. That is where they were.

Q. Did you holler from one of the upstairs windows?

A. From the rear window upstairs.

Q. Did you notice what kind of arms they had? What kind of ammunition?

A. I didn't.

Q. What is that?

A. I didn't.

MR. LAUTER: That is all.

MR. PONTIUS: That is all.

(Witness excused.)

JAMES KENNETH ADAMS

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) Will you state your name?

A. James Kenneth Adams.

Q. Where do you live?

A. 1109 Fourth Street, S. W.

Q. How long have you lived in Massillon, Mr. Adams?

A. Nine years.

Q. What is your business?

A. Hod carrier.

Q. Hod carrier? You are not employed by the Republic Steel, are you?

A. No.

Q. Now, do you know, Mr. Coleman, the gentleman who just testified here?

A. Yes, sir.

Q. I will ask you to state whether or not you were in his home at any time on the 11th day of July, 1937?

A. Yes, I went to his house.

Q. About what time did you go to his house?

A. 9:30.

Q. Was anyone with you when you went there?

A. His brother-in-law, Mr. Robert DeVaughn.

Q. And when you got there, who were at the Coleman home?

A. Just Mr. Coleman was there then.

Q. Now, did any other persons come there later that evening?

A. Mrs. Coleman came about 15 minutes—about 10 minutes after we came.

Q. Now who all were there, then, about approximately 11 o'clock that night, who all were then in the Coleman home?

A. I was there, Mr. Coleman—Mr. and Mrs. Coleman and Robert DeVaughn.

Q. Now, what, if anything, did you notice after you got to the home, there?

A. Well, when I got there why the men was out in front, and one of them had one of these big bass fiddles and he was playing that.

Q. What?

A. There was a man out there playing a bass fiddle, on the outside, when we came through the crowd and came upstairs.

Q. Which way did you go upstairs, through the front or rear?

A. We went around to the back.

Q. Yes, now what else did you notice there in front of the building, when you came there?

A. A large crowd out there.

Q. Did you hear anything said there?

A. No, there was nothing—just talking—I didn't pay much attention to it.

Q. When you got upstairs what, if anything, did you notice?

A. Well, I didn't notice anything then until Mr. Coleman remarked that there were men out there picking up stones and so on. One of the men, his brother-in-law, and I went out on the north side of the house and looked out—laid across the bed and looked out the window, you could see the men going back there with flashlights, picking up stones and bringing them up and piling them alongside of the building near the front.

Q. And how long did you see that going on?

A. Well, I laid across there for about maybe 15 minutes, I seen these men; went back, sat down and read the paper, talked to all the other—

Q. Where did you sit down, what part of the building?

A. I sit down in the dining room, that was in the middle.

Q. Middle of the building, on which side of the building?

A. That was on the south side.

Q. Now what, if anything, did you first notice after that?

A. Well, looking for—watching for the men to start out of the mill.

Q. That is, could you see from that point where you were sitting, down to the mill?

A. Yes, sir.

Q. What gate at the mill, do you know?

A. Middle gate.

Q. The middle gate?

A. Right where the—across from where the offices is.

Q. That is the gate across from the offices? Now what, if anything, did you observe with respect to the men coming out of the mill there?

A. Well, when they started up, somebody in the front hollered "Say you men scatter up there," and all of a sudden there was shots started up and I jumped to the window and looked out and there was two policemen out there. I suppose they were policemen out in front.

Q. I can hardly hear you. Talk up louder.

A. Well, I seen two—looked—when I ran to the window and looked out, there were two policemen laying in the —in the middle of the street about—oh, about 30 yards— 30 feet in front of the other policeman, was back where the shooting was going on. Mrs. Coleman hollered, "You can come back here, come back to the kitchen," she says.

Q. That is, was Mrs. Coleman in the same room with you?

A. No, she was back in the kitchen, she hollered to come back in the kitchen, there might be some shooting up through there. I no sooner got back to the kitchen, when one of these tear gas shells come through the front bedroom window there and I started up to see what it did, and when I got up there, well, I was compelled to come back on account of the gas, I went back to the kitchen, stayed back until Mr. Coleman hollered for the cops to bring us out— for the police.

Q. Then what happened?

A. Well, then I went and got my hat and we got down out of there and was taken to the Republic Steel Hospital.

Q. Now, you have said that this room, dining room that you were in, was on the south side of the building?

A. Yes, sir.

Q. Could you tell where the—You said you heard shots fired?

A. Yes.

Q. Could you tell where those shots were fired from?

A. Well, they come from all around, some of them come from towards the front and some came from the back and of course the police was shooting some, I could see the officer was over there with a machine gun shooting with—he was—looked like he was shooting it in the air.

Q. Now, can you tell us more specifically, you said "all around", where the shots came from that you heard?

A. Well, some of them comes from the west, and some of them come from the northeast and some came from where the policemen were, you know, south.

Q. Could you tell where the first shots came from?

A. It sounded like it came from the west.

Q. Now, had you observed these policemen down there, before the shooting took place?

A. Yes, they were out there in the road.

Q. Where were they?

A. Well, they was maybe 100 feet down from the building.

Q. And these two men that were down in the street, where were they with respect to the other men?

A. They were about 30 feet ahead of them.

Q. You say you saw this man shoot a gun. What kind of a gun did you say that was?

A. It was a machine gun.

Q. Machine gun? Where was he located?

A. Well, he was across the street on—on, you know, on the west side, of the policemen.

Q. West side of what?

A. You know where the police line was across the road there?

Q. Yes.

A. He was on the west side of the street, on Cleveland Avenue. He was down, he had the machine gun like this (indicating).

Q. Do you know who that man was?

A. No, I don't know who he was.

Q. Can you describe that gun further than you have described it?

A. No, I can't describe it, only it seemed to be—holding it in his hands, you know, I could just see the bell of it, about that much of the bell, and rapid flashes, you know, that is why I thought it was a machine gun, because it was firing so rapid, so many times in such a short space.

Q. And what angle did he hold that at, as you observed?

A. About a 30 degree angle.

MR. PONTIUS: I believe that's all.

Cross Examination

Q. (By Mr. Lauter) How many shots did you hear come out of that machine gun?

A. I couldn't tell how many.

Q. Five or a thousand?

A. No, they were so fast you couldn't count them.

Q. How long was he shooting that machine gun?

A. Well, I didn't pay no attention to how long he shot it, after I first noticed it.

Q. Five minutes or five hours?

A. No, I didn't notice it. I paid attention to no more than a minute.

Q. How is that?

A. No more than a minute.

Q. Is that all that you noticed?

A. That is all that I noticed that machine gun.

Q. Where was he stationed at the time that he was using the machine gun?

A. He was on the west side of the street, on the sidewalk.

Q. And how far from CIO headquarters?

A. Oh, he was about 75 or 100 feet.

Q. Are you sure he was not directly across the street?

A. No, I don't think he was.

Q. What is that?

A. I don't think he was. I saw—he wasn't directly across the street, because if he had been directly across the street I couldn't have seen him.

Q. You are sure he didn't fire into the doorway of the CIO headquarters?

A. No, it was apparent that he was shooting in the air.

Q. Did you hear the first shots fired that night?

A. No, I didn't hear—the first shots seemed to come from the—directly in front of the building.

Q. What is that?

A. The first shots that was fired seemed to come from directly in front of the building.

Q. Directly in front of the building? What building?

A. CIO Hall, the building I was in.

Q. Where were you at that time?

A. I was in the dining room part, on the south side.

Q. Where is the dining room located?

A. That is the room above the last room on the south side.

Q. How long is that building, do you know?

A. That building is about a little bit longer than this room.

Q. In terms of feet, do you know how long? What would you say, about?

A. Oh, about 50 feet; something like that.

Q. What is that?

A. About 50 feet long.

Q. You were 50 feet away from the front of the building, is that correct?

A. I was about in the middle of the building.

Q. You were about in the middle of the building?

A. Yes. You see, the dining room is the first room from the kitchen.

Q. How many feet would you say you were from the front end of the building?

A. About 30 feet.

Q. Where did you say the shooting seemed to come from?

A. Seemed to come from the front.

Q. Downstairs or upstairs?

A. In the street.

Q. In the street?

A. It seemed to come from in the street.

Q. Did you hear tear gas being fired?

A. Yes, I could see it in the air.

Q. Are you sure that the first shot that was fired wasn't a tear gas gun shot?

A. Yes. It was—it sounded like a revolver shot.

Q. A revolver shot?

A. Yes.

Q. After the revolver shot, what kind of sounds did you hear then?

A. It was a great big lot of noise; you could hear the tear gas sizzle.

Q. Did you hear any bullets going into the building?

A. No, I couldn't hear them anyhow.

Q. What is that?

A. I couldn't hear them anyhow; the only thing I heard was when the tear gas shell broke the windows coming upstairs.

Q. Did you hear any bullets coming into the building?

A. No.

Q. Did you go to the front two rooms on July 11th?

A. Yes, I was in the front rooms of the department.

Q. After the shooting started?

A. No, I went toward the front but after the tear gas came in I got as far as the hall.

Q. Have you ever looked at the building since July 11th?

A. Looked outside.

Q. Have you ever looked at the bullet holes?

A. I seen; you know how a bullet makes a mark on the wall.

Q. What is that?

A. A mark on the wall.

Q. Did you see any bullet holes going right through the front of the building?

A. No.

Q. But you saw the bullet marks on the inside of the building?

A. On the outside; you know, going down to Cleveland Avenue. You see, I go to work in different places on the street car.

Q. I am asking you whether or not you had seen the front of that building.

A. Yes, I saw the front of that building.

Q. Have you come close enough to see any bullet holes in any part of the building?

A. Yes.

Q. Where did you notice bullet holes?

A. In front of the building.

Q. Bullet holes in front of the building?

A. I couldn't see whether or not they went through or not; I wasn't that close.

Q. But you could see bullet holes in front of the building?

A. I could see the marks made by the bullets.

Q. Now, did any bullets come in the rear of the building whizzing by?

A. No.

Q. Any tear gas?

A. Tear gas came in front; and you could smell it. It got in your eyes; it was very strong.

Q. What time did you arrive at the C. I. O. headquarters?

A. Around 9:30.

Q. At that time there was music, is that right?

A. Just had this bass fiddle at that time.

Q. Weren't there several instruments being played that night?

A. I don't know if there was or not. I didn't pay no attention to it.

Q. But you heard a fiddle being played?

A. I could see the fiddle.

Q. Did you hear the playing?

A. Yes, you could hear; and then it sprinkled a little bit and they all went inside.

Q. Was there any playing after they went inside the building?

A. I could hear the stamping and moving about inside.

Q. Did you hear them playing the fiddle or any other instrument after they got inside from the rain?

A. No, I didn't.

Q. Did you hear them dancing or a movement like dancing?

A. The only thing I heard was like feet moving around there.

Q. Were they the movements of dancing?

A. You couldn't tell what it was.

Q. How many times have you visited that house?

A. I have been up there three times.

Q. Was that the third time that you went up there on July 11th?

A. It was about the third time.

Q. And you looked out of the window and saw flashlights being used?

A. Yes.

Q. Did he look at the same time you did?

A. It wasn't Mr. Coleman; it was his brother-in-law.

Q. Did you hear Mr. Coleman testify here?

A. Yes.

Q. Did you hear him testify that he looked out the window and saw the flashlights?

MR. DAY: I object to that. This man testified that he was looking down at the window when Mr. Coleman was.

MR. LAUTER: He didn't say that. I asked him if he was.

MR. DAY: I object to that; you are putting something in his mouth that is not there.

TRIAL EXAMINER LINDSAY: Read that question.

(The last question was read.)

TRIAL EXAMINER LINDSAY: Were you here when Mr. Coleman testified?

THE WITNESS: Yes, I was here.

MR. LAUTER: Do I understand that an objection is being made that I am putting something in the witness' mouth?

MR. DAY: I will withdraw the objection.

TRIAL EXAMINER LINDSAY: You have no objection?

MR. DAY: I have no objection.

MR. LAUTER: Will you read that question to the witness?

(The last question was read.)

A. Yes, sir.

Q. Did you look out the window after he did or before?

A. After.

Q. Did you speak to him about what you had seen outside?

A. Yes, I did.

Q. Did you tell him what you had seen?

A. No, he told me when we came in what he had seen.

Q. Did he tell you anything about what he had seen when he had looked out of the window and seen the flashlight?

A. No, he didn't tell me anything.

Q. Did he tell you—strike that out. Did you tell him what you had seen?

A. No; anybody—

Q. What is that?

A. I didn't. Just me and DeVaughn, we discussed the digging up of the stones; what they were going to do with them.

Q. But you didn't say anything about that to Mr. Coleman, is that correct?

A. No.

Q. But you did know from him that he had looked out from the window?

A. Yes.

Q. And had seen flashlights?

A. He didn't say he had seen flashlights.

Q. Did he say whether he was able to see anyone picking up stones?

A. No, he didn't say.

Q. Did you hear him testify that he couldn't identify anyone who was picking up the stones when he looked out the window?

MR. DAY: Objection.

TRIAL EXAMINER LINDSAY: Overruled.

MR. DAY: Exception.

A. I heard him testify that he couldn't tell what they were talking about.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Pontius) Could you tell what they were talking about?

A. I seen them what they brought up there and what they was putting down.

Recross Examination

Q. (By Mr. Lauter) You say you saw them?

TRIAL EXAMINER LINDSAY: Read that question.

(The last question was read.)

Q. Did you see where they got that from?

A. I seen them go back and pick up something, and when they came back they put down stones.

Q. Could you identify anyone of the men?

A. No, I couldn't. They all of them had stones.

Q. Do you know where they came from?

A. I suppose the men—

Q. I am not interested in what you supposed. Did you see where they came from?

A. They was out there.

Q. Did you see where they came from?

A. No, I didn't see where they came from.

Q. Did you see where they went to

A. Where they went to dig up the stones and where they put the stones.

Q. Did you see where they went after that putting of the stones down?

A. Just back and forth there.

Q. Did you see where they went after they finished putting the stones down?

A. They just stood around.

Q. How long did they stay around?

A. I don't know; it was just like they was there.

Q. You did see them after they put down the stones?

A. No.

Q. How far away from the building was the pile of stones?

A. The pile of stones was in the building—let me see—It was about 12 feet between the empty residence; from the building I was in.

Q. So far as you know, they may have come anywhere from that vicinity?

A. Yes.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

ROBERT DeVAUGHN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. Robert DeVaughn.

Q. Where do you live, Mr. DeVaughn?

A. 56 Third Street, S. W.

Q. Massillon?

A. Yes, sir.

Q. Are you a relative of Mr. Coleman who testified here?

A. Yes, sir.

Q. How are you related?

A. Brother-in-law.

Q. Where did you live on or about July 11th, 1937?

A. 1310 Cleveland Avenue.

Q. 1310 Cleveland Avenue; is that right?

A. Yes.

Q. Where was that with respect to the C. I. O. hall?

A. That is right above the C. I. O. hall.

Q. Now, were you there on Sunday afternoon at that home?

A. No, sir, I was away all day.

Q. What time did you get home?

A. About 9:30.

Q. Who if anyone was with you when you got home?

A. Jim Adams.

Q. This gentleman who just testified?

A. Yes, sir.

Q. When you got upstairs there in that home, what, if anything, did you do?

A. What?

Q. What, if anything, did you do when you got upstairs, there?

A. Well, I didn't do anything when I first got up there, until I noticed a large crowd on the outside, I wanted to see what they were doing, so I looked—started looking out, watching.

Q. Was it daylight or dark, at that time?

A. It was dark at that time.

Q. Which side of the building did you look out?

A. On the north side.

Q. What did you observe, looking out the north side of that building?

A. Well, I remember seeing people picking up stones from the rear end of the building, on the north side of the house, and carrying them towards the front of the building.

Q. Did you see where they put them?

A. No, I didn't exactly see where they were putting them.

Q. What?

A. You couldn't exactly see where they were putting them.

Q. What did you observe about the people having anything with them, at all?

A. No.

Q. Now, after that—

TRIAL EXAMINER LINDSAY: Just a minute. Isn't there one question he hasn't answered?

MR. PONTIUS: He shook his head.

(The record read by the Reporter.)

Q. What direction were they carrying them, if you can say?

A. They were carrying them towards the west.

Q. Now, did you remain in that building that evening?

A. I remained there until about five or ten minutes after 11:00.

Q. Now, just tell what you heard there, that night?

A. Well, you couldn't hear anything, only a lot of talking, and you couldn't understand what they were saying.

Q. Where did this loud talking come from?

A. All around in front.

Q. Were you there when any shooting took place?

A. Yes, sir, I was.

Q. Tell us what you saw about that.

A. Well, when it first began I saw—I went to the rear window and you could see all—I could see these tear gas shooting up though the air and a shell come through the front part of the building.

Q. Then what did you do?

A. Well, we stayed in the rear end until it ceased, the first time, then we called for help, then.

Q. Where did you go?

A. Go to the Republic Steel Hospital.

MR. PONTIUS: I think that is all.

Cross Examination

Q. (By Mr. Lauter) What time did you arrive at your home?

A. 9:30.

Q. What was the address of that home?

A. 1310 Cleveland Avenue.

Q. Are you sure it is not 1213 Cleveland Avenue?

A. 1310.

Q. 1310?

A. Yes, sir.

Q. Do you live there?

A. I live 56 Third Street, S. W.

Q. When you came there you saw a crowd of people?

A. Yes, sir.

Q. Men, women and children?

A. Just men is all I seen.

Q. What is that?

A. Just a bunch of men is all I could see.

Q. See any women?

A. No, sir.

Q. No women at all?

A. Not on the outside.

Q. Did you see any women inside?

A. Couldn't see the inside, it was so crowded.

Q. You couldn't see where the stones were being put?

A. No, you couldn't.

Q. You can't identify the men who gathered the stones?

A. No, I couldn't.

Q. You couldn't tell where they came from?

A. Well, all I know, they came from the north side of the building.

Q. They didn't come from the CIO building, is that right?

A. It was between the CIO building and the other building next to it.

Q. They didn't come from the CIO building, is that correct?

A. Not the CIO building, no, sir.

Q. You couldn't see where they went to, is that correct?

A. No.

Q. All you could do was seeing them carrying stones towards the west?

A Yes, sir.

Q. Did you hear any music that night?

A. No, I didn't.

MR. LAUTER: That's all.

MR. PONTIUS: That's all.

TRIAL EXAMINER LINDSAY: May I ask, did the testimony of the other boys say that this man was with him all the time while they were watching?

MR. PONTIUS: Yes, as I understood it, he said they were lying on the bed.

TRIAL EXAMINER LINDSAY: Both of them together?

MR. PONTIUS: As I understood it.

MR. DAY: Not together.

MR. PONTIUS: Weren't they lying on the bed together?

MR. DAY: Not all three. Just these two men were lying on the bed together.

TRIAL EXAMINER LINDSAY: Just the last two?

MR. DAY: Well, that is my understanding.

TRIAL EXAMINER LINDSAY: Well, it is 5 o'clock. We will adjourn until 9:30 in the morning.

(Whereupon at 5 o'clock p. m., September 8, 1937, an adjournment was had to 9:30 a. m. September 9, 1937.)

Courtroom No. 1, Stark County Courthouse, Canton, Ohio,
Thursday, September 9, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., Thomas F. Veach, Esq., Arno G. Erdrich, Esq., (Cleveland, Ohio), and H. C. Pontius, Esq., (Canton, Ohio), appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

RICHARD R. FRANCE

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) You are Mr. Richard France?

A. Yes, sir.

Q. Your home is in Alliance, Ohio?

A. That is right.

Q. In this County?

A. Yes.

Q. Have you any official position in Stark County?

A. Chief Deputy Sheriff.

Q. How long have you been Chief Deputy Sheriff—

A. Three years.

Q. Continuously in this County?

A. Three years.

Q. Who during that time has been Sheriff of Stark County?

A. Joseph T. Nist.

Q. Canton, Ohio, is the County seat of this County?

A. That is right.

Q. The cities of Massillon and Canton are located in what County?

A. Stark County.

Q. Now, Mr. France, you were then connected with the Sheriff's office of this County when this strike took place on the 25th of May of this year?

A. I was.

Q. Are you familiar with the location of the Republic plant in the City of Massillon?

A. Yes, sir.

Q. Are you familiar with the location of the Republic plant in the City of Canton?

A. Yes, sir.

Q. Prior to the strike were you familiar with the location of those plants?

A. Yes, sir.

Q. You may state whether or not you visited the main plant at Massillon, that location, at any time after May 25, 1937?

A. Yes, sir.

Q. Now, Oberlin Road—are you familiar with Oberlin Road in Massillon?

A. Yes, sir.

Q. Do you know where the dividing line is between the City of Massillon and the County? Is—do you know where that was with respect to Oberlin Road?

A. I do.

Q. Where is that?

A. Oberlin Road.

Q. That is, in other words, the Center of Oberlin Road; north of the center is in the City of Massillon; south of the center is in the County?

A. That is right.

Q. And outside of the City limits of Massillon?

A. Yes.

Q. The main offices of the Central Steel of Massillon are located in the City of Massillon?

A. In the city.

Q. And the plant proper is in the County?

A. That is right.

Q. After this strike took place on May 25, 1937, who had charge of the sheriff's office of this County in respect to placing any deputies in any of the strike zones?

A. Well, the sheriff, I would say.

Q. Who looked after the detail of it?

A. I did.

Q. Were deputy sheriffs placed on Oberlin Road in Massillon after the strike was called?

A. They were.

Q. Now, did you visit the Massillon plant following May 25; if so, about when was the first time that you were there?

A. Well, I would say the first time I was there would be about June 1st.

Q. About the 1st of June?

A. Yes, sir.

Q. Of this year?

A. Yes, sir.

Q. Now, was there anyone with you at that time?

A. Yes, sir.

Q. Who was with you?

A. Deputy Frank.

Q. You mean Deputy Sheriff Frank?

A. That is right.

Q. How did you go there?

A. We drove.

Q. Automobile?

A. Yes.

Q. Where did you go at that time?

A. Well, we went out to Oberlin Road, and then made a complete circuit of the plant to locate the openings of where they had established picket posts.

Q. Did you observe the pickets at that time?

A. Yes, sir.

Q. Just tell the Trial Examiner what you observed about the pickets on that occasion.

A. Well, on that occasion there weren't so many pickets there because the plant was open but they had them along Oberlin Avenue and on Ninth Street clear out to the furnace; that is probably a mile and a half south of the Massillon city limits.

Q. And conditions on Oberlin Road, how many pickets would you say were along there, on that day?

A. Now, you are speaking of June 1st?

Q. Yes.

A. Why, I would say there was some 30 to 40 there at that time.

Q. Now, what, if anything, did you notice about these pickets? That you saw on that occasion?

A. Well, they were moving around on Oberlin Road from—I would say the west end of that viaduct, up to the bridge over the Pennsylvania, or the overhead bridge there west of the offices.

Q. That is, west on Oberlin Road, west of the office—what is there? You spoke of an overhead bridge.

A. Well, there is an overhead bridge going over the railroad there, west of the offices.

Q. And that is west of the viaduct on Oberlin Road?

A. Yes, sir.

Q. Go forward and tell what you observed about those pickets.

A. Well, those fellows were there; they were carrying clubs and sticks and irons and so forth. They didn't have any regularly established picket posts, but were up and down the road there, on that date.

TRIAL EXAMINER LINDSAY: Just strike out "and so forth".

MR. PONTIUS: "And so forth" yes.

Q. (By Mr. Pontius) Can you describe the clubs they had, further than you have?

A. Well, they were of all descriptions. Some of them were ball bats, some of them were clubs that had been whittled round, three or four feet long. Some of them had iron pipes, with bolts screwed on the end of them. A considerable lot of stones piled up in piles along the road there.

Q. Did you notice whether or not these pickets that you saw there had anything to distinguish them by, in any way?

A. Yes. The pickets all wore a button about the size of a quarter of different color—I think there was a new button issued each month of a different color, with the name of the month on it. Each one of those wore a button.

Q. Do you remember what were on the buttons?

A. Well "CIO" and then the date—the month. I can't tell you what was on them. I never had one in my hand.

Q. Did you go back to Massillon from time to time, after this occasion?

A. Yes, sir.

Q. Do you know when or about when you went back there, next time?

A. No, I would not want to fix the date, but I was there three or four times every week.

Q. And on these later visits what was the situation that existed on the road around that plant?

A. I can't fix the date, but after they started to operate their plant I went over there and they had established posts; immediately at the west end of the viaduct, they had a picket post; two picket posts established between that point and a gate just west of there; they had a picket post established—three picket posts established from there to this overhead bridge.

Q. That is the overhead bridge on Oberlin?

A. Going over the railroad.

Q. What, if anything, did you observe about the men there on the picket line on that date or on those occasions?

A. Well, there were a great many more at that time than there was when we first went over there in June. There were not any definite number at any post. They were around there in crowds. I would say that there was in the neighborhood of 250 between the west end of the viaduct and the front of their office—that is the Republic Steel Company's office.

Q. Can you describe anything the pickets may have had with them on those occasions?

A. Well, they were all carrying clubs or iron pipes.

Q. Now, did the sheriff of this county at any time issue a proclamation with respect to this strike situation?

A. Yes.

MR. PONTIUS: Have you seen this? (Handing document to counsel for the Board.) While you are looking that over, I think I can go forward.

Q. (By Mr. Pontius) Do you know when or about when the sheriff issued his proclamation?

A. June 25, 1937.

Q. And it is in evidence here in this record, I think—if I am mistaken about this I want to be corrected—but I think it was admitted in evidence in Washington that an injunction was granted by Judge Graham of this county?

A. Yes, sir.

Q. Do you know about that?

A. Yes, sir.

Q. And when, with respect to the time of the granting of that injunction, was this sheriff's proclamation issued?

A. I don't know, I can't answer that.

Q. What?

A. I don't know.

Q. Do you know Joseph Morton, the president of the New Deal Lodge at Massillon?

A. I do.

Q. I will ask you if you saw him following the issuance of the proclamation by the sheriff of Stark County?

A. I did.

Q. Where did you see him?

A. Picket headquarters in Massillon.

Q. And where was that picket headquarters located?

A. On a square north of the Republic plant.

Q. That is known, there and referred to in this case, as the CIO Hall?

A. Yes, sir.

Q. When did you see him there?

A. The 27th of June.

Q. Were there any other persons around there at that time?

A. Well, I will say there was 50 CIO men around there.

Q. And did you have anyone with you at that time?

A. Yes, sir.

Q. Who was with you?

A. Deputy Sheriffs Peiro, Zeornecle, and Frank.

Q. Now, do you know about what time of the day that was that you went over there on the 27th of June?

A. Yes; just before noon. I would say 10:30 or 11 o'clock.

Q. Did you know any of the other men there at this place except Mr. Morton?

A. I didn't.

Q. What did you observe about them; about wearing buttons or anything of that kind?

A. Well, all of them had buttons on.

Q. What kind of buttons were they?

A. I can't give you the color of them but they were C. I. O. buttons that the boys wore on the coats.

Q. Now, what occurred there between you and Mr. Morton on that occasion?

A. I went into the headquarters—the picket headquarters—and laid the proclamation on the desk of Mr. Morton.

MR. PONTIUS: Wait right at that point. Will the Reporter please identify this as Respondent's Exhibit No. 7?

(Thereupon the document above referred to was marked as Respondent's Exhibit No. 7 for identification.)

Q. Mr. France, you have referred to a proclamation. I hand you what has been marked as Respondent's Exhibit No. 7 and I will ask you if that is a copy of the proclamation that you had with you on that day?

A. It is.

MR. LAUTER: Are you offering that in evidence, Mr. Pontius?

MR. PONTIUS: Not yet; we will.

Q. Go forward, Mr. France, and tell what was said there on that occasion. What was done there?

A. I took the proclamation into the C. I. O. headquarters and laid it on the desk of Mr. Morton. I said to him: "We will get together and regulate these number of pickets and the picket posts." He was outside by that time. He said: "To hell with Judge Graham; to hell with the God damn courts. I will put as many pickets on the line as I care to."

MR. PONTIUS: Now, in connection with this witness' testimony we offer in evidence Respondent's Exhibit 7 at this point.

TRIAL EXAMINER LINDSAY: May I see it?

MR. PONTIUS: Do you want to see it?

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: I object to it on the ground that it is incompetent, immaterial and irrelevant and outside of the scope of the issues in this case.

TRIAL EXAMINER LINDSAY: Objection overruled. Respondent's Exhibit No. 7 may be received in evidence. Let the record show an exception.

MR. LAUTER: Exception.

(The document heretofore identified as Respondent's Exhibit No. 7 was received in evidence.)

Q. This exhibit, Mr. France, refers to the injunction. Now, following that you may state whether or not there was a change in the picket situation at Massillon to your knowledge.

A. There was.

Q. To your knowledge was the court order obeyed over there as far as you know?

A. As far as the picket posts were concerned, yes.

Q. How many posts were established there; do you know? That is, after the granting of the injunction?

A. Well, there was two occasions when the picket post was established there just shortly after this proclamation was out. I met with—I can't tell you—some member of the C. I. O.; some fellow Mr. Morton sent with me to establish posts; later on after the injunction, Judge Graham, Attorney Smith—

Q. That is, whom did Smith represent?

A. He represented the C. I. O. Myself drove—I think it was somebody—I don't know who it was—drove around the Massillon plant and re-established the pickets there. We wanted to show the Judge how many pickets were there and let him decide where the posts were and how many men should be placed.

Q. How many posts were established by the Judge?

A. 13.

Q. 13?

A. In Massillon.

Q. Do you know where they were located with respect to Oberlin Road?

A. Yes, he placed one at the west end of the viaduct. He permitted six men there. He permitted one at the main gate of 10 men.

TRIAL EXAMINER LINDSAY: Well now, just a minute.

MR. PONTIUS: I want to shorten this up.

TRIAL EXAMINER LINDSAY: I don't think it is necessary to go into that. He said on the witness stand that they had replies from the proclamation.

MR. DAY: We want to show the number of pickets that were there.

TRIAL EXAMINER LINDSAY: What difference does it make?

MR. DAY: We think it reflects on the situation as to the number of pickets being there before.

TRIAL EXAMINER LINDSAY: But I think that is absolutely immaterial. I don't object to going into this, if there was any purpose being shown, but I don't believe there is any purpose here to establish—to go through that whole detail of each picket that complied with the order. I think that is enough.

MR. DAY: We think we have the right to show how many pickets were there after the Judge made his order.

TRIAL EXAMINER LINDSAY: As long as they complied with the order—

MR. DAY: Regardless of that we think that that has to be taken into consideration by the Court together with the evidence as to how many pickets were there before.

TRIAL EXAMINER LINDSAY: There was no order before. I don't see the purpose of it at all, Mr. Day. I don't see where it establishes anything.

MR. DAY: Well, I don't know if this witness knows the number—

TRIAL EXAMINER LINDSAY: Well, proceed.

MR. PONTIUS: Will you read that last question and answer?

(The last question and answer were read.)

Q. Go forward.

A. There was six at the bridge over the railroad. There was two picket posts between there and Ninth Street.

Q. Where is Ninth Street?

A. That is the west end of the plant on the Republic Steel building; runs past their furnaces.

Q. How many men at this post?

A. There were six men.

Q. How many men were at each post?

A. There were six men at each post except the main gate there were 10 there. That made about 83 men.

Q. That is around the entire plant?

A. That is right.

Q. Now, Mr. France, you have said you are familiar with the location of the plant in Canton?

A. Yes, sir.

Q. What part of Canton is that main plant located in?

A. Northeast section.

Q. Now, do you know whether any of that plant is in the County outside of the City of Canton?

A. There is, yes.

Q. Are there any railroad tracks in the vicinity of this plant?

A. Yes, sir.

Q. What railroad tracks?

A. Pennsylvania and Wheeling.

Q. With respect to the Pennsylvania tracks, what tracks is there there that goes through?

A. Well, the Pennsylvania main tracks run along the north side, and also they have a yard there of 15 tracks.

Q. That is the main tracks that run from Canton east?

A. Yes.

Q. Any other railroad tracks in that vicinity?

A. Well, the Wheeling & Lake Erie has a switch that comes down south of the plant.

Q. What street runs along the south side of the plant in the city, do you know?

A. There is not any street along the south side.

Q. Well, what is along the south side?

A. Well, it is a commons there. There is Georgetown Road and Eighth Street is on the west if it; Trump Road is on the east side of it. The only street that would go through there would be the intersection of Georgetown Road and Trump Road.

Q. Now, do you know where the main office is in the City of Canton?

A. Yes.

Q. On what street is that located?

A. Eighth Street.

Q. Going out Eighth Street, what direction does that street run?

A. Well, I would say it runs generally north and south.

Q. Does that lead into any road or street?

A. Runs into Georgetown Road.

Q. Georgetown Road, is that in the City or in the County?

A. The County.

Q. Now what direction does the Pennsylvania Railroad run there at the plant, approximately?

A. East and west.

Q. And the main office of the Republic Steel, on which side of the railroad tracks are they located?

A. South.

Q. And the plant of the Republic, which side of the railroad tracks are they located on?

A. Part of it on the south, and the Berger plant on the north.

Q. About how much railroad trackage runs along these plants, would you say?

A. Well, you mean in width of the number of tracks.

Q. No, I mean in length, about how much?

A. Well, the yards proper of the Pennsylvania run on the entire north side of the Republic Steel; that is, the yards.

Q. Yes.

A. Of course, the two main tracks run past it also.

Q. That is, these railroad tracks intersect the plant really, isn't that about the size of it?

A. Well, these tracks parallel the plant.

Q. Parallel the plant?

A. On the north side.

Q. Part of the plant is on the north side and part of it on the other?

A. The Berger plant on the north side and the Republic on the south.

Q. That is, Berger you understand is a subsidiary of Republic?

A. Yes, sir.

Q. Now, on the east side of the Republic plant including the Berger plant, what street is there?

A. Trump Road.

Q. And is that in the city or in the county?

A. County.

Q. What street bounds the plant on the west?

A. 8th Street.

Q. 8th Street? And what is north of the plant?

A. Well, there is a railroad, in general, is north of the plant.

Q. North of the Berger works?

A. North of the Berger Works is—runs down Mahoning Road or very near to it.

Q. Is that one of the public streets in this town?

A. Yes, sir.

Q. And that leads on out into the country?

A. Yes, sir.

Q. Do you know whether or not the Republic has another plant than you have described, here in Canton?

A. Canton Culbert is the name of it, I think. I don't know for sure.

Q. Where is that located?

A. I think that is 13th Street or 15th, along the north side of the Berger plant.

Q. Do you know where Bandi's Hall is located?

A. Yes, sir.

Q. Where is that located?

A. On Belden Avenue.

Q. What is that, or was it?

A. Well, that is a saloon, and then in the basement, CIO headquarters.

Q. Now, any other plant of the Republic located in the city of Canton that you know of?

A. There is one down here on the south end, I was never down there.

Q. You never were down there? What was the situation here in Canton with respect to the mills working, was that mill out there working where you were about, after the strike was called? Just briefly, I mean.

A. They continued to work.

Q. They continued to work? That is, in Massillon they were closed?

A. Practically shut down.

Q. But here they continued to work?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: Now off the record.

(Discussion held, not made a part of the record.)

Q. (By Mr. Pontius) How soon after the strike was called, if at all, Mr. France, did you visit the plant of the Republic Steel that you have told about here in the city of Canton?

A. I think the strike was called at 8:30 and I was there at 9:00.

Q. Where did you go?

A. Around the plant.

Q. That is around the plant that you have described?

A. Right around the plant.

Q. Was there anyone with you on that occasion?

A. Yes, sir.

Q. Who was with you?

A. I think Deputy Sheriff Frank was with me.

Q. How did you proceed around this plant?

A. We had an automobile.

Q. Any indication as to what automobile there was on it, or anything of that kind?

A. No, sir.

Q. Now, I wish you would tell the Trial Examiner your observations that night immediately after the strike was called?

A. Well, we found pickets up Belden Avenue.

Q. By the way, you haven't said where Belden Avenue is?

A. Well, Belden Avenue runs from Mahoning Road to the Pennsylvania Railroad tracks on the west side of the Berger plant.

Q. Belden Avenue?

A. Belden Avenue.

Q. I want to go back a little. This main street running east and west through the city of Canton, what street is that?

A. Mahoning Road?

Q. No, this street right here in front of the courthouse?

A. Tuscarawas Street.

Q. Can you spell it? That is an old Indian name here, and we all know it. About where is this plant of Republic that you have described with respect to Tuscarawas Street?

A. Well, it is east of Tuscarawas Street—northeast, I will say.

Q. Northeast?

A. Yes.

Q. And Belden Avenue, what direction does it run?

A. Well, Belden Avenue runs in a general direction of, I would say northeast by southwest.

Q. And where does that intersect—does that intersect Tuscarawas Street, east?

A. Yes, quite a ways over.

Q. Yes, and you go out east Tuscarawas, north on Belden, that runs into what street, there, going north on Belden?

A. If you are going north on Belden, you would run into Mahoning Avenue; if you would go the other way you would run into Waynesburg Road.

Q. You talk about, as I get it, Eighth Street N. E.?

A. Well, Eighth Street northeast—Belden Avenue does not intersect it.

Q. I see.

A. Belden Avenue stops at the Pennsylvania Railroad and again starts at Eighth Street, and goes on across Tuscarawas.

Q. The regular entrance to the main plant, are you familiar enough to tell us how the workmen and workers would get to the Republic plant?

A. Well, there was some of them went into—~~if~~ you are inquiring about Bergers there, some of them go in there on Belden Avenue, and they go in the tin plate up on Eighth Street and Belden, and then quite a number of them go up on Eighth Street at the main office gate.

Q. Now, go forward and tell us what you observed this first night about 9 o'clock as you have said?

A. Well, we made a trip around the plant and we saw numbers of pickets at every corner, various places around the road, entirely around the plant.

Q. What, if anything, did you observe about these men?

A. Well, as I—they had no regular picket posts established at that time, they were all carrying clubs and were walking up and down the various streets around the plant.

MR. LAUTER: I move the testimony of the witness that they were all carrying clubs be stricken from the record, unless he is willing to testify that every single person he saw there was carrying clubs.

MR. DAY: That is a matter of cross-examination, isn't it?

TRIAL EXAMINER LINDSAY: Yes, the motion is denied. Let the record show an exception.

MR. LAUTER: Exception.

TRIAL EXAMINER LINDSAY: You may cross examine on that.

Q. (By Mr. Pontius) What kind of clubs, can you describe them to me?

A. Well, they were ball bats and clubs they had whittled round, that they could handle, pipes, iron pipes and iron rods; picked up a hatchet.

Q. Did you notice whether these men wore any insignia of any kind?

A. Yes, most all of the CIO men wore their buttons on their coat, that you could identify them.

Q. Did you visit that plant thereafter, from time to time?

A. Yes, sir.

Q. How frequently did you visit there?

A. Daily.

Q. From the 11th of June on what was the situation that existed at that time?

A. You mean what the situation was?

Q. With respect to—

A. Well, there was always pickets there. They was always armed with clubs.

Q. About how many would you say were around there?

A. 300.

Q. Now, did you at any time go to Bandi's Hall, that is the C. I. O. headquarters?

A. Yes, sir.

Q. What street is that located on?

A. Belden Avenue.

Q. About how near to the plant of the Republic Steel?

A. A couple of hundred feet.

Q. When you went there to whom did you go; whom did you see there?

A. Well, I was—

MR. PONTIUS: Withdraw the question.

Q. When did you first go there?

A. June 10th or 11th. It was the morning after a boy was injured on the Georgetown Road.

Q. Whom did you see there at the hall on that occasion?

A. Well, we went down into the basement. That is where the headquarters were. There were quite a number of fellows there; I would say about 50. Then we went up a pair of steps into an office that had there—

TRIAL EXAMINER LINDSAY: Just a minute.

(Discussion had.)

Q. Whom did you see there?

A. In the office we saw Gerald Smith, Sweeney, and some other fellow was there. I am not quite sure. I won't say for sure who the other fellows were.

Q. Did you say you went up into an office? Was there any sign on that door?

A. Yes, sir; the door was closed, and it says: "Private." It also says: "Please knock."

Q. Who was with you on that occasion?

A. Deputy Sheriff Frank.

Q. Were those fellows, Gerald Smith, Sweeney, and the others, C. I. O. men?

A. Yes, sir.

Q. Did you have a talk with them there?

A. I did.

Q. Whom did you talk with?

A. Smith.

Q. I wish you would give that conversation that you had with Smith in the C. I. O. Hall.

A. Well, I will give it to you in substance but I can't give it to you in the exact words. I was interested in knowing who the pickets were on Post 9.

TRIAL EXAMINER LINDSAY: Just a minute.

MR. PONTIUS: We don't care—

TRIAL EXAMINER LINDSAY: Strike that out. Tell us what you said and what they said to you and nothing else.

A. I asked Smith if—for the names of the pickets on Post No. 9.

Q. What did he say to you?

A. He refused to give it to me.

Q. What further was said there?

A. Well, a general discussion was had and so forth.

TRIAL EXAMINER LINDSAY: Strike that out.

Q. The substance of what was said, Mr. France.

A. Well, the substance was my request that they furnish me the names of the pickets on Post 9 and they refused to do it.

Q. In that conversation did you say why you wanted the names?

A. I did.

Q. Go forward.

A. I wanted to learn the fellows on that picket post that we might learn who hit this boy in the car on that night before.

Q. What was said further about the matter, if anything, as to whether they had the names?

A. They didn't say whether they had them or not but they refused to give them to us.

Q. To your knowledge, was there some boy hurt the night before you went to this hall?

A. There was a boy hurt the night before.

Q. Where had that taken place?

A. Georgetown Road on the Wheeling & Lake Erie tracks.

MR. LAUTER: Will you read that answer?

(The last answer was read.)

MR. LAUTER: I move that the testimony of the witness with respect to the boy be stricken from the record.

MR. PONTIUS: I will say, your Honor, every witness can't tell the whole story. We will follow this up later on.

MR. DAY: This man is an officer of the law, your Honor.

TRIAL EXAMINER LINDSAY: Whether he is an officer of the law or not, the Court does not permit him to make any statement that has nothing to do with the record. For the time being, this will be stricken from the record. You may have an exception.

Q. Now, did you visit the strike scene in that vicinity from that time on?

A. Yes.

Q. How frequently?

A. What?

Q. How frequently, about?

A. Every day.

Q. Now, what was the situation up until the time the injunction was granted; tell us in detail.

A. Well, it was growing worse every day.

MR. LAUTER: I move that that be stricken.

MR. PONTIUS: He is an officer.

TRIAL EXAMINER LINDSAY: I will sustain the objection.

Q. Just describe it. You said growing worse. Describe what you observed.

TRIAL EXAMINER LINDSAY: Unless he tells what the conditions were preceding and what they are now, for the time he is talking about, that should be stricken from the record. That does not mean anything.

MR. PONTIUS: It won't take too much time.

TRIAL EXAMINER LINDSAY: Let us get at the facts. The only thing I am objecting to is a lot of irrelevant material that does not connect with anything or any incident.

MR. PONTIUS: I am going to that incident of past June 11th or whenever that was.

Q. Following the visit when you were in Bandi's Hall, just describe the situation that you saw at that time from the 11th as time went on.

A. Well, there was in the neighborhood of 300 pickets around the plant each day. They were all carrying clubs—no definite picket post established. We were having numerous complaints of the actions there which we investigated; and quite a number of them we were able to locate as C. I. O. men having committed and others we were not.

Q. About how long did that situation continue?

A. It existed there?

Q. How long did that situation exist there?

A. Those conditions continued to exist until after the injunction.

Q. What complaints did you get; in substance?

A. Well, we had complaints of stoning of cars, breaking of windows, shooting of cars, coercion of various members of families that worked in there. We had complaints of kidnapping, theft, the wrecking of automobiles, and the assault of various citizens of the community that were not in any way connected with the plant. We had complaints of the dynamiting of the electric light poles; the cutting of telephone wires. I guess that is about all.

Q. And did your investigation of these complaints—did you investigate these complaints from time to time?

A. We investigated all of them in the County.

Q. By that expression, what do you mean, "in the County?"

A. Well, we didn't take the investigating within the City of Canton.

Q. What?

A. We didn't make the investigations of those complaints that came to us that happened in the City.

Q. Who made the investigation within the City?

A. The Canton Police Department.

Q. Now, what did you find with respect to the investigating of these various complaints?

A. Well, they made several arrests. We had them arrested and charged with intoxication and carrying of concealed weapons and with disorderly conduct, with destruction of property, with assault to wound or kill.

Q. Do you know whether some of those cases are pending now?

A. They are all pending.

Q. Where, do you know?

A. Some of them in the Canton Municipal Court and some of them in the Grand Jury.

Q. In the Grand Jury?

A. Yes.

MR. LAUTER: I move that the testimony of this witness with respect to the arrest that he made and the charges be stricken from the record. No evidence that it is connected up with the C. I. O. members or any convictions leading to their arrest.

MR. PONTIUS: Can I ask a question, your Honor?

TRIAL EXAMINER LINDSAY: Yes.

Q. You say that these cases are pending. Do you know whether or not they were C. I. O. men or otherwise?

A. They were all C. I. O. men.

TRIAL EXAMINER LINDSAY: There is a lot that does not mean very much; however I will permit it to stand and overrule the motion. Let the record show an exception.

MR. LAUTER: Exception.

Q. Now, was there any change in the situation, Mr. France, following the injunction order that you have referred to?

A. Yes, there was a change.

Q. What was the change in the situation?

A. They reduced the number of picket posts and the number of pickets.

Q. That is following an injunction granted by Judge Graham?

A. Yes.

Q. Could you tell about how many posts were established then after the injunction?

A. In Canton?

Q. Yes; this Canton plant?

A. They were reduced from 43 to 9.

Q. With respect to this proclamation which is in evidence as Respondent's Exhibit No. 7, was that proclamation issued here in Canton also?

A. Yes.

Q. What do you know about that being published here?

A. Well, it was published and we posted it around all the roads around the Republic Steel Company.

Q. Now, you may state whether or not, Mr. France, you were ever attacked there.

A. What?

Q. Do you know when that was?

A. I can't fix the date.

Q. Before the injunction or after, do you know?

A. I would say before, I am not sure.

Q. Where were you attacked?

A. On Winfield Avenue.

Q. Where is that with respect to the Republic Steel plant?

A. Well, it runs north to the railroad tracks on the north side

Q. Could you tell when, or about when that was?

A. Well, I would say it was about the time or before the injunction was issued. We were driving down Winfield towards the railroad and one of the pickets ran up to the car and struck at me. I was sitting on the right-hand side of the car and the window was open.

Q. About what time of the day was this?

A. Just about noon. I moved over in the car and I told the driver to stop and he stopped. I threw the door open and ran after the man and arrested him.

Q. Were there any other pickets?

A. There was five others and they started towards the car and we told them to lay their clubs down and not to come towards us or they would be locked up, and they all went away.

Q. What happened to this man?

A. He was arrested, placed in jail, and then released on bond.

Q. Now, did you have any other personal occurrence around that plant at that time?

A. Yes. The Eighth Street Entrance.

Q. That is near the main offices?

A. That is at the main offices.

Q. At the main offices?

A. Yes. They had the driveway going into the Republic Steel blocked with their automobiles.

Q. Do you know when that was?

A. Just prior to the injunction.

Q. Do you know how many men were there on that occasion?

A. I would say about 50.

Q. What, if anything, did they do?

A. Well, they were all carrying clubs. They had the driveway blocked clear across and we wanted them to move the cars. So they refused to do it. They got pretty heated.

TRIAL EXAMINER LINDSAY: Strike that part out.

MR. PONTIUS: That may be stricken.

A. (Continuing) They called the various captains from the C. I. O. headquarters to come out there to prevent any trouble there.

Q. Whom did you call?

A. Well, I called the C. I. O. headquarters. They sent up Mr. Sweeney and Mr. Donard, and a colored captain. I can't think of his name right now. They didn't have any more control over them than we did. They told all of them to go to hell.

Q. What was the appearance of these men?

A. They were excited and angry and was in a mood to start trouble, which they didn't want, and we wanted to avoid it.

TRIAL EXAMINER LINDSAY: "In a mood to start trouble" and following that may be stricken.

MR. PONTIUS: Yes.

Q. Who was with you on that occasion?

TRIAL EXAMINER LINDSAY: Mr. France, you can save a lot of time if you understand that we only want the facts. What you think doesn't mean a thing.

THE WITNESS: I will try to give the facts.

TRIAL EXAMINER LINDSAY: Leave your thoughts out.

THE WITNESS: What I am trying to say—

TRIAL EXAMINER LINDSAY: Let us have no argument.

THE WITNESS: (Continuing) Well, they were milling around there. They were moody and mad and they refused to move the cars. We got the captain down and they still refused to move the cars. They told Donnard to go to hell.

Q. Do you know where these men were from?

A. They were from Massillon, most of them.

Q. What, if any, insignia did they have?

A. They had their buttons on.

Q. Now, go forward.

A. After that they arrested Bartolic, one of the fellows that was there and accused him of carrying concealed weapons.

Q. Did he have a gun on him?

A. He did.

Q. How many officers did you have there?

A. Four.

MR. LAUTER: I move that the evidence with respect to the man Bartolic be stricken from the record.

TRIAL EXAMINER LINDSAY: Motion is denied. Exception may be granted.

Q. Do you know whether or not he was a C. I. O. man?

A. Yes, sir, he was.

Q. Following the granting of the injunction, what was the situation here in Canton? That is, did you from time to time continue your going around this plant?

A. Every day.

Q. What was the situation following the granting of the injunction?

A. Well, in what way do you mean?

Q. In respect to any disorder or otherwise?

A. Well, they were still carrying clubs. We were taking them in and taking the clubs away from them.

Q. Where did you find them carrying clubs?

A. Just in and around the picket posts.

Q. Who were those fellows carrying clubs?

A. C. I. O.

Q. Prior to the time of the injunction, what if anything, did you observe about the picket post aside from the fact that these men had clubs?

A. Well, each had a pile of stones.

Q. Can you tell us where the picket posts were established in the County following the injunction around the plant?

A. Yes, sir, they had one at Eighth Street up Georgetown Road. They had one up Georgetown Road by the Lake Erie tracks. They had one on Trump Road on the furnace post.

Q. Those three posts were in the county?

A. They were.

Q. Now, I will ask you whether or not you visited those three posts from time to time?

A. Daily.

Q. Following the injunction what, if anything, did you observe with respect to those posts and surroundings?

A. Well, on two occasions we found a revolver and shotgun and rifle hidden in the weeds alongside of the picket posts.

Q. And following the order of injunction, was anything taken from any of these men in the way of clubs or things of that kind?

A. There was some occasions I think we found clubs on them, and we took them off of them.

Q. Did you have any pictures made of those clubs taken off of the men in the County Part?

A. I did.

Q. And who took the picture?

A. Mr. Grether of the Canton Police Department.

Q. Did you see the picture taken?

A. Yes, sir.

Q. Did you have charge of taking these clubs to Mr. Grether?

A. We had him come to the County Jail to take the picture.

MR. PONTIUS: Please identify this as Respondent's Exhibit No. 8.

(The document above referred to was marked as Respondent's Exhibit No. 8 for identification.)

Q. Handing you Respondent's Exhibit No. 8.—

TRIAL EXAMINER LINDSAY: Pardon me, did I understand the witness to say that the pictures were taken right out at the time he took the clubs away from these men?

MR. PONTIUS: No, no.

TRIAL EXAMINER LINDSAY: Read the last answer.

(The record was read by the Reporter.)

TRIAL EXAMINER LINDSAY: I don't know whether that is misleading or not. It misled me.

MR. PONTIUS: Perhaps I can clear it up, if there is any doubt about it.

TRIAL EXAMINER LINDSAY: It made me think the picture was taken at the time he took the clubs off of these men.

MR. PONTIUS: No.

TRIAL EXAMINER LINDSAY: Clear that up.

Q. (By Mr. Pontius) You testified, Mr. France, that the clubs were taken out there from the men in County Part?

A. Yes, sir.

Q. Where were those clubs taken to?

A. To my office in the County Jail.

Q. And were the photographs made of this at the County Jail after that?

A. Yes, sir.

Q. By whom?

A. Mr. Grether of the Canton Police Department.

Q. Handing you Respondent's Exhibit No. 8, I will ask you if that is a fair representation of the clubs that you had taken, that you have spoken about?

A. Yes, sir.

MR. LAUTER: Object to the form of the question and move that the answer be stricken out.

MR. PONTIUS: Well, I am going to call Mr. Grether to identify it.

MR. LAUTER: Well, this witness is not qualified to testify as to whether a picture is a fair representation. He is not qualified as an expert photographer.

MR. PONTIUS: All right.

MR. DAY: Well, that is—

TRIAL EXAMINER LINDSAY: Now just a minute. The word "fair" does not mean anything. If you want to ask the question, is it an exact duplicate of the clubs, why of course that is very different. Or a true picture.

Q. (By Mr. Pontius) Well, I will ask you, Mr. France, if that is a true picture of the clubs that were taken and about which you have told us?

A. It is.

MR. LAUTER: I object to that question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

MR. LAUTER: Exception.

MR. PONTIUS: Well, I think in connection with this witness' testimony I will offer this in evidence.

MR. LAUTER: I object to it, object to the picture as incompetent, irrelevant and immaterial and in no way connected with any of the issues in this case.

(Counsel submits picture to the Examiner.)

MR. LAUTER: I call your attention to the fact, Mr. Examiner, that none of the items there that have been photographed are tagged in any way and that is the usual custom of police officers picking up any clubs of any kind.

MR. PONTIUS: It may be so, down in New York or some place else—

MR. LAUTER: Well, it is true right here.

MR. PONTIUS: It is not true right here.

TRIAL EXAMINER LINDSAY: Well, I will take this under advisement for the time being.

MR. PONTIUS: Very well.

Q. (By Mr. Pontius) Now, Mr. France, do you know Mr. Carl Meyers of the Republic Steel?

A. Yes, sir.

Q. Did you have any conversation with him at any time, at any place, following the strike?

A. Yes, sir.

Q. And where did you have this conversation?

A. The Onesto Hotel.

Q. Can you tell who was present at that time?

A. Chief Switter of Massillon, City Solicitor, and Mr. Hoffman, I think he is police prosecutor.

Q. In Massillon?

A. Yes, sir.

Q. Do you know when or about when that was?

A. It was during the period of the strike, before the Massillon plant opened up. It was while they were down.

Q. Do you know when or about when the Massillon plant was opened up?

A. I don't know. I don't recall.

Q. It has been testified here that the troops came into the county. Do you know when they came in?

A. No, sir.

Q. You don't know that? You remember the occasion, however?

A. I remember that.

Q. The date you don't have? Now, do you know how you came to be called to this meeting?

A. Yes, I was called by Mr. Meyers that there was to be a meeting at his room in the Onesto, and he would like to have me sit in with him.

Q. When you got there you found these gentlemen that you have named? Now, tell the Trial Examiner as fully as you can the conversation that you had there on that occasion? The conversation that took place between you men.

A. The conversation at the beginning was relative to getting sustenance into the plant at Massillon to take care of those fellows that were maintaining the plant, and then Mr. Meyers asked our department, the sheriff's department, to increase our force enough, and asked Chief Switter the same thing, to increase his department enough so we could prevent any occasion of the Chicago riot that they had, that they didn't want any loss of blood or any fights.

Q. Now, was there anything further said in that conversation that you can relate, that you can recall?

A. Only that they would have a meeting at a future date to decide what they would do relative to getting sustenance into the plant for the maintainers at Massillon.

Q. Can you relate the conversation, or the substance of it?

A. Well, I have given it to you as near as I can relate it. I don't recall the words.

Q. I will ask you if, following that conversation, from time to time, you had conversations with Mr. Meyers on the subject of law and order and violence? I don't care to have you detail the entire conversation, but did you have subsequent talks?

A. Well, I had several, well I will say four or five talks with Mr. Meyers along the line of increasing the sheriff's department in the number of men. That is what he seemed interested in.

Q. What was his statement on all occasions with respect to this order or anything of that kind?

A. His statements were that his hopes were that there would be no rioting of any kind. He did not want any trouble. He thought if we could put enough sheriffs out there, that they could to prevent it.

TRIAL EXAMINER LINDSAY: We will have a short recess now.

(A short recess was had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

Q. (By Mr. Pontius) Mr. France, following the time that you were in Bandi's Hall, as you have told about, did you come in contact with a man by the name of John Rossi?

A. Yes, sir.

Q. And who is he?

A. He is a picket for the CIO that lives on the Georgetown Road.

Q. And did you have any conversation with him with respect to the boy that was injured?

A. Yes, sir.

Q. And where did you have a talk with him?

A. At his home.

Q. Was anyone with you at that time?

A. Yes, sir.

Q. Who was with you at that time?

A. Deputy Frank.

Q. And what conversation did you have with him, with respect to this matter?

A. My conversation was relative to he hitting the Bechtel boy with a stone.

Q. What did he say?

A. He first denied it and then we took him down to jail and he admitted it.

MR. PONTIUS: That is all.

Cross Examination

Q. (By Mr. Lauter) What happened to Mr. Rossi, was he convicted?

A. Pending.

Q. What is that?

A. The case is pending.

MR. LAUTER: I move that the testimony with reference to Mr. Rossi be stricken from the record.

TRIAL EXAMINER LINDSAY: I will take that under advisement.

Q. Now, when did this incident that you have just described to us take place; when was that?

A. About June 13th.

Q. June 13th?

A. Yes.

Q. Do you know what day today is?

A. Yes.

Q. Today is September 9th?

A. Yes.

Q. When did you become Chief Deputy Sheriff?

A. Three years ago.

Q. Have you ever had any prior experience?

A. Yes, I was with the Pennsylvania Railroad Company.

Q. In what capacity?

A. Sergeant and lieutenant of police.

Q. How long were you with the Pennsylvania Railroad Company as sergeant and lieutenant of police?

A. Oh, about 20 years service.

Q. What strikes did you participate in?

A. I was out at a strike called in Girard. I can't recall the year but it was quite a long while ago. We were there to protect the Pennsylvania Railroad Company property.

Q. Was that the only strike that you acted in as a policeman?

A. Just a moment. I was with the Railroad company when the railroad shop men had a strike, too.

Q. What year?

A. I believe that was 1922.

Q. Were you a sheriff when the Berger strike took place in 1935?

A. What is that?

Q. Were you a sheriff when the Berger strike took place?

A. Yes, sir.

Q. Were you active in that strike?

A. I beg your pardon?

Q. Were you active in that strike? Were you on duty?

A. Yes, sir.

Q. Now, when did the strike take place here in Canton?

A. May 25th, it was.

Q. About the same time as the one in Massillon took place, is that right?

A. Yes; the entire plant I think declared a strike.

Q. You say you went down to the headquarters or the plant, rather, in Canton the night of the strike?

A. Yes mean the picket headquarters?

Q. Yes.

A. No, I wasn't at the picket headquarters.

Q. Did you go around the plant at that time?

A. Yes, sir.

Q. You saw all the men carrying clubs, is that correct?

A. Yes, sir.

Q. About how many did you see carrying clubs?

A. Oh, I would say that all the ones that were doing picket duty were carrying clubs or pipes or irons or something.

Q. About how many men would you say there were?

A. I would say about 200 that was on the picket line.

Q. How many?

A. I'd say in the neighborhood of about 200 or 250.

Q. You testified that subsequent to that conditions got worse?

A. Yes, sir.

Q. That is up to the time of the injunction?

A. Yes, sir.

Q. At the time of the injunction how many men were picketed around the Canton plant?

A. At the time of the injunction was issued I would say 300.

Q. They were all carrying clubs?

A. Yes.

Q. There was no definite picket lines at that time?

A. Yes, sir.

Q. Did conditions get worse?

A. They were worse than when we started.

Q. In what respect?

A. In the actions of the pickets; in their conduct.

Q. Did you ever see a picket use a club?

A. You mean strike somebody?

Q. That is right.

A. I never saw a picket strike somebody but I saw one run up in front of a car and raise that club to strike the machine.

Q. Is that the only time you ever saw that?

A. Except when they struck at me.

Q. They didn't strike at you with a club, did they?

A. He didn't have a club.

Q. Now, between May 25th and the time of the issuance of the injunction—

TRIAL EXAMINER LINDSAY: Just a moment. Will you read that last answer?

(The last answer was read.)

Q. (Continuing) Did you do anything to take the clubs away from the men?

A. Yes, we took some of the clubs away from them but after the proclamation was issued we took all of them away.

Q. May I ask you whether that was from May 25th until—

A. Some of them.

Q. But you permitted some of them or the majority of them to retain their clubs, is that correct?

A. The majority of them carried clubs.

Q. You permitted them to do that?

A. We suffered them.

Q. You didn't take the majority of them, did you?

A. I would say the majority was taken away from them prior to the injunction.

Q. When were the majority of the clubs taken away from them; fix the time.

A. I would say at the time of the proclamation.

Q. I am asking you if it was between May 25—when was the proclamation issued?

A. The 25th of June.

Q. When?

A. The 25th of June.

Q. Between May 25th and June 25th; that is one month; did you take any clubs away?

A. Some.

Q. Did you permit the majority of them to carry clubs?

A. The majority of them carried clubs.

Q. Did you take the stones away?

A. They were piled—

Q. You didn't take them away, did you?

A. No.

Q. Now, approximately how many clubs did you take away at the time of the injunction was issued?

A. I would say 50 or 60.

Q. When did you say you took those away; what period of time?

A. We took all of them away at the time the proclamation was issued.

Q. When did you take the 50 or 60?

A. At that time.

Q. At the time of the proclamation?

A. Yes, sir.

Q. Do you know when the proclamation was issued?

A. No.

Q. Do you know how long after the proclamation was issued? A month or two months?

A. Not two months.

Q. A month?

A. Shorter than that, I would say. I don't know.

Q. Now, did you take any pictures of the 50 or 60 clubs that you took away from them?

A. No.

Q. This is the only picture you have taken, is that correct (indicating)?

A. Yes. I didn't take this; Grether took that.

Q. Did you take any of the 50 or 60 clubs; did you take pictures of those clubs that you took away?

A. No.

Q. Did you tag any of those 50 or 60 clubs that you took away?

A. I didn't tag any of them.

Q. Have you ever tagged a gun or a club?

A. I never tagged a club; I have tagged a gun.

Q. Isn't it a custom to tag those missiles?

A. It is; it is customary.

Q. You testified about being attacked yourself? When did that occur?

A. I can't fix the date. I would say prior to the injunction.

Q. You mean some time after June 25th?

A. Well, I wouldn't say about that.

Q. But that was the date of the issuance of the proclamation?

A. Near that time.

Q. You can't remember before or after?

A. Yes.

Q. You are sure it was before the injunction was granted?

A. No.

Q. You are not sure of that, are you?

A. No.

Q. You say you arrested the man?

A. Yes.

Q. What was his name?

A. I told you I haven't got the file.

Q. What is that?

A. I told you that his name is on the file down in the office and I haven't got it with me.

Q. You can't tell me the date that he was arrested either?

A. No.

Q. You can't.

A. No.

MR. LAUTER: Your Honor, at this time I would like to make a formal request that Mr. France produce to this Court a copy of the arrest of this man so that we may have it for this case.

TRIAL EXAMINER LINDSAY: Yes; produce it for the court.

Q. You testified to the arrest of a man by the name of Bartolic?

A. Bartolic, yes.

Q. What was the name of the man you testified you arrested for carrying concealed weapons?

A. Ivan Bartolic.

Q. Is his case also pending?

A. He is bound over to the Grand Jury.

MR. LAUTER: I move that all the testimony with respect to Ivan Bartolic be stricken from the record as incompetent and immaterial and irrelevant and in no way as being connected and that there is no evidence of his being convicted.

TRIAL EXAMINER LINDSAY: I will take that under advisement.

Q. You testified also about finding a revolver; a shotgun; a rifle alongside of the picket post?

A. Yes.

Q. Did you arrest anyone?

A. No, sir.

Q. You didn't identify any of them?

A. No, sir, they denied that and having it.

Q. Did you take any pictures of those?

A. No.

Q. You testified to a meeting at which Carl Meyers was present?

A. Yes.

Q. Remember the date of that?

A. No.

Q. Was it at the Hotel Onesto?

A. Yes.

Q. Who else was present at that meeting?

A. Chief Switter, the City Solicitor and the Police Prosecutor of Massillon.

Q. Who else was present?

A. That is all.

Q. That is all?

A. Yes, sir.

MR. LAUTER: For the purpose of the record, will you state what your recollection as fully as you can what Mr. Meyers said at that time?

A. Mr. Meyers wanted to make some arrangements to get food into the plant: That was the matter he took up. Chief Switter then—he took that matter up with Chief Switter; then he says that the Chief of Massillon ought to increase his department in the number of men, and the Sheriff ought to increase his department in the number of men that they should be able to prevent any riot or bloodshed.

Q. Are you able to identify the clubs in this photograph as having been used by any individuals or carried by any individuals?

A. I can't identify.

Q. Can you identify them as being carried by the C. I. O. pickets or by any particular man?

A. No particular man, no, sir.

Q. Did you have anything to do with the deputizing of the Canton police?

A. No, sir.

Q. Did you know they were deputized?

A. Yes, sir.

Q. Do you recall the evening of July 11th and the incident that occurred in Massillon near the C. I. O. headquarters at which some deputy sheriffs present did some shooting?

A. I wasn't there.

Q. Know anything about it?

A. What I heard.

Q. Did any deputy sheriffs report to you?

A. Reported?

Q. Yes.

A. They reported to me every day.

Q. Who were the deputy sheriffs that reported to you of the incident of July 11th?

A. Deputy Heinz, Deputy Neumacher and Deputy Van Arsdale, and I don't recall who else were there. There were four of them.

Q. Were you on duty on July 11th?

A. I was on duty but I don't know what part you mean.

Q. At any time were you on duty?

A. Yes, I was on duty.

Q. What time were you on duty?

A. Well, I had no regular time to come and no regular time to quit.

Q. What time were you on duty?

A. All—I was usually out at 7 o'clock.

Q. Were you on duty on the evening of July 11th?

A. Well, at the time of the occasion I was at home.

Q. Did you go down to your headquarters that night?

A. Yes, sir.

Q. Had you been advised that any of the deputy sheriffs broke into any of the homes on Columbia Heights section, in Massillon?

A. Visited any of them?

Q. What is that?

A. Did you say visited any of them?

Q. Broke into them is what I said.

A. Oh, no, none of them broke into them. If they did, they didn't report it.

Q. Did you hear that they visited homes, some of the homes?

A. What is that?

Q. Did you hear that they visited some of the homes?

A. I understood that they did, yes.

Q. Did you hear that after their visits they made arrests of people who lived in those houses?

A. Yes. There were arrests made over there that night.

Q. How many were taken down to County Jail, do you know?

A. I couldn't tell you, now, how many were.

Q. Approximately how many, then?

A. I can't.

Q. 100 or 1000.

A. I am just guessing when I am talking about it.

Q. That is all right, give us your approximation.

A. I would say ten.

Q. Ten were the total number that were taken down to County Jail?

A. A lot of them locked up in the Massillon Jail.

Q. Referring to the city jail?

A. What is that?

Q. Are you referring to the city jail?

A. Massillon City Jail, yes, some were locked up there.

Q. How many were locked up in County Jail?

A. I am telling you I am guessing, I will say ten.

Q. Were any of those found—were any weapons found on any of those arrested, do you know?

A. I can't tell you, I didn't arrest them.

Q. Do you recall receiving any reports about whether or not they did have weapons, or not?

A. I don't recall such a report, no.

MR. LAUTER: That's all.

MR. DAY: Do you want Mr. France to get that record right now so you can finish up with him?

TRIAL EXAMINER LINDSAY: Oh, no, not right now. He may produce it.

MR. LAUTER: Sometime in the next day or two.

MR. PONTIUS: Sometime today. He wants to get away.

TRIAL EXAMINER LINDSAY: Today or tomorrow is all right.

MR. PONTIUS: I think that is all.

Redirect Examination

Q. (By Mr. Pontius) Would you get that report and bring it back today?

A. Yes.

Q. And prior to the time you were with the Pennsylvania Railroad, did you have any police experience?

A. City of Alliance.

Q. In what way?

A. Chief of police.

Q. Chief of Police at Alliance?

MR. PONTIUS: That is all. Get that report for me, will you?

(Witness excused.)

ORIN PAULI

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?
A. Orin Pauli.

Q. Where do you live?
A. R. D. 2, Dalton.

Q. How far is that from Massillon?
A. Five and one-half miles.

Q. Where do you work?
A. Republic Steel.

Q. What is your job there?
A. Working on the slitter.

Q. Working on the what?
A. Slitter.

Q. Slitter? What kind of work is that?
A. You cut the coils down to different widths.

Q. How long have you worked for Republic?
A. Four years.

Q. Were you working there at the time that the strike was called by CIO?
A. Yes, sir.

Q. May 25th last?
A. Yes, sir.

Q. Did you stop work at the time the strike was called?
A. Yes, sir.

Q. When did you go back to work again?
A. July 3rd.

Q. Did you go to work on the night of July 11th, 1937?
A. July 11th? Yes, sir.

Q. What was your shift then?
A. 3 to 11.

Q. Did you come out of the plant that night?

A. Yes, sir.

Q. About what time?

A. 2 o'clock in the morning.

Q. What time would you ordinarily come out?

A. 11.

Q. What did you do about 11 o'clock?

A. Oh, we drove up to the entrance, there they stopped us, they had started to shoot.

Q. You say "we" drove up?

A. Yes.

Q. Did you drive up in an automobile?

A. Yes, sir.

MR. LAUTER: Well, I move the answer of the witness be stricken out, unless he identifies the persons he means by "they". He says "they stopped us".

TRIAL EXAMINER LINDSAY: Yes, unless he tells who stopped him.

Q. (By Mr. Day) Well, who were in the car with you, first?

A. Glen Baquelet.

Q. Who else?

A. Clem Hoyman.

Q. Were they men that worked in the mill with you?

A. Yes, sir.

Q. And whose car were you riding in?

A. Mine.

Q. Who was driving?

A. I was.

Q. Now, just tell what happened when you got up to the gate.

MR. LAUTER: I want a ruling on my motion.

MR. DAY: I am going to try to clear that up now.

MR. LAUTER: I would like to have a ruling on my motion; five or six questions have already gone by.

TRIAL EXAMINER LINDSAY: The motion is granted for the time being. Let the record show an exception.

MR. DAY: Exception.

Q. (By Mr. Day) Well, what happened when you got up there?

A. Well, we were about four or five cars back from the main entrance, when the first ones were stopped.

Q. Now, who stopped them?

A. The police.

Q. What police?

A. Republic Steel police, they would not let us out.

Q. Where were these Republic Steel police stationed at the time they stationed these cars?

A. Right at the main entrance, back at their police booth.

Q. Main entrance, or what? Gate No. 1 was that?

A. Yes, gate No. 1.

Q. I want you to look over at this plat here for a minute, and see if you can identify the gate here. That is north, up at the top; that is south down at the bottom; this is east and that is west. Now there is Erie Street south; there is the viaduct and Oberlin Road.

A. Right here is the main gate where we were stopped.

Q. Indicating about where it says "Gatehouse"?

A. That is it.

Q. That is where you stopped, right there?

A. Yes, sir.

Q. Now, after you stopped how long were you held up there?

A. Oh, we were there until about 1:30 or a quarter to 2:00.

Q. And what did you do when you were stopped?

A. Hid behind some machines.

Q. What, if anything, did you see happen while you were there?

A. I seen them firing.

Q. Well, where did you see any firing coming from?

A. CIO Hall.

Q. And about how far were you from the CIO Hall?

A. I would judge about 400 yards.

Q. When you say you saw them firing from the CIO Hall, what did you see?

A. You could see the flash of the fire coming out.

Q. What else, if anything, did you see?

A. I didn't see anything else, but we heard the bullets.

Q. Now, you say you heard the bullets; now where did you hear that noise?

A. Passing over the machines and hitting on the rolling mill and the Enterprise Aluminum.

Q. Passing over what machines?

A. That was parked there.

Q. Including your machine?

A. Yes, sir.

Q. And from where did those bullets come?

A. From the north down.

Q. From the north down? And can you give us any idea about how many sounds of bullets you heard?

A. No, I don't. There were quite a few.

Q. And you say you heard them striking up against where?

A. The rolling mill on the Republic Steel, and the Enterprise Aluminum Roof.

Q. The Enterprise Aluminum Company is marked right here, on the map, is that where you mean?

A. Yes.

Q. And the Republic Steel is right over here, is that right?

A. Yes.

Q. Now, did you see anything else or hear anything else there?

A. No, I didn't.

Q. Did you see any people there?

A. Yes, I seen people.

Q. What did you see them doing?

A. Why, you couldn't see what they were doing, because it was dark and the lights went out then.

Q. Did you see any other shots besides those that came from the CIO Hall vicinity that you told about?

A. I seen some tear gas guns shooting the other way. I imagine they were.

Q. And about how long were you there looking over what was happening?

A. From about 11 o'clock until a quarter of 2:00.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) What kind of work do you do at the mill, Mr. Pauli?

A. Working on the slitter.

Q. How long have you worked there?

A. Four years.

Q. When the strike took place did you go out?

A. I was out.

Q. Did you work on May 25th?

A. No, sir.

Q. What was your turn on that day?

A. 11 to 7.

Q. 11 at night to 7 in the morning?

A. Yes, sir.

Q. Did you work on May 26th?

A. No, sir.

Q. Came back on July 3rd?

A. July 3rd.

Q. Who suggested to you that you ought to go back?

A. Nobody.

Q. Nobody?

A. Nobody.

MR. PONTIUS: I want to object on the ground that it is not proper cross-examination.

TRIAL EXAMINER LINDSAY: Objection overruled. Exception may be noted.

MR. PONTIUS: Exception.

Q. Did you call your foreman?

A. Yes, sir.

Q. What is his name?

A. Mr. Gray.

Q. When was the first time that you called him?

A. Sir?

Q. When was the first time then that you called him after you left the plant?

A. On the 2nd.

Q. The night of the 2nd?

A. Yes, sir.

Q. Had you called him before that?

A. No, sir.

Q. Did you call him or did he call you that night?

A. I called him.

Q. State what the substance of that conversation was.

A. Well, I read the Independent and seen that they went back to work and I called him and asked him when my job was ready. He said the next day come in.

Q. Did you sign a Back-to-Work petition?

A. No, sir.

Q. Where did you say the No. 1 gate was?

A. Right there (indicating).

Q. Where was the No. 1 gate house on this map?

A. Right here (indicating).

Q. Over there?

A. Yes, sir.

Q. Now, can you give me any idea whether or not the land slopes down from Oberlin Avenue?

A. It slopes?

Q. Yes.

A. Not very much from Oberlin Avenue.

Q. Where does it slope?

A. It is level there.

Q. Does it slope at any point from the gate house to the C. I. O. headquarters?

A. Not very much; maybe a little.

Q. Which direction does it slope?

A. South.

Q. South?

A. Yes.

Q. And it slopes down toward the gate house?

A. Very little.

Q. Now, what buildings are there in between the gate house and the C. I. O. headquarters?

A. Well, the hospital, the office is here (indicating), and the main office is here (indicating). There was one house there and then the C. I. O. Hall.

Q. Any doors around there?

A. No.

Q. Are those the only buildings there that you have just named?

A. There are some on the other side of the street.

Q. There were a number of buildings in that vicinity, is that correct?

A. Yes.

Q. There are no buildings that block your view of the C. I. O. headquarters?

A. No.

Q. You can't actually see from where you are the C. I. O. headquarters itself, is that correct?

A. Yes, sir.

Q. How much of that building can you see?

A. Two-thirds of it.

Q. The front two-thirds or the rear two-thirds?

A. The front two-thirds.

Q. The front two-thirds?

A. Yes, sir.

Q. How high can you see? The first or the second story?

A. What is that?

Q. The first and the second story?

A. Yes, sir.

Q. How much in front of the building can you see?

A. The whole front of it.

Q. Can you see in the street in front of that, too?

A. Yes.

Q. Now, you saw firing from the vicinity of the C.I.O. headquarters?

A. Yes, sir.

Q. Did you see any actual shots coming out from the C. I. O. headquarters?

A. I seen the flashing of guns.

Q. Did you see any actual shots coming out of the C. I. O. headquarters?

A. Yes, sir.

Q. What part of the C. I. O. headquarters?

A. Out of the windows.

Q. What is that?

A. Out of the windows.

Q. The front windows?

A. The front and the side.

Q. You saw shots coming out of the front windows, is that correct?

A. I saw the flashing.

Q. The front windows of the C. I. O. headquarters?

A. Yes, sir.

Q. Had you ever driven by that C. I. O. headquarters?

A. Yes, sir.

Q. Do you know how many windows there are there?

A. I could not—there is one big one that I know of.

Q. Where is that?

A. In the front.

Q. On what side?

A. From the west side.

Q. What side?

A. The west side.

Q. The front of the building is on the north side, isn't it?

A. No, sir.

Q. This is the north side up here (indicating)?

A. Yes, sir.

Q. This is the south side down here (indicating)?

A. Yes, sir.

Q. The front of the building runs that way (indicating); is that correct?

A. Yes, sir. The front of the building is right on here (indicating), on Cleveland Avenue.

Q. Where is this building you say?

A. Right on Cleveland Avenue.

Q. Are there any doors to that building?

A. Yes.

Q. How many?

A. One.

Q. One door?

A. Yes, on the side of the C. I. O. Hall.

Q. How many doors are facing Cleveland Avenue?

A. One.

Q. One door?

A. Yes.

Q. How many windows would you say there are on the ground floor?

A. There was a doorway in the center that goes to the apartment house above where they live.

Q. Now, how many windows are there on the ground floor?

A. I can't answer that, about the number of windows.

Q. Do you know how many there are upstairs?

A. No.

Q. Can you tell where the flashes came from?

A. From out of the south side and the west side out of the big windows.

Q. Out of the south side?

A. Yes, sir.

Q. You mean this side (indicating)?

A. Yes, sir.

Q. The west side of the building on the front facing Cleveland Avenue?

A. Yes, sir.

Q. You could see them from down here (indicating)?

A. That is right.

Q. How many flashes did you see coming out of the windows?

A. I don't know.

Q. Do you know how many came out of the windows?

A. No, I don't know how many there were.

Q. Now, tell me, can you give me an approximation of how many you saw?

A. I don't know.

Q. You don't know whether it was 1 or 10 or 50?

A. No.

Q. Less than 50?

A. I can't tell you.

Q. Well now, was it less than 50?

A. I can't tell you.

Q. Can you tell me if it was less than 75?

A. I can't tell you.

Q. Or a hundred?

A. I can't tell you that.

Q. You have no idea?

A. I don't know, I can't tell you how many

Q. When did the shooting start coming out of the building?

A. About 11 o'clock.

Q. How long did you see flashes coming out of the building?

A. Well, I can't tell you how long it was.

Q. Could you tell whether it was an hour or a half an hou or an hour and a half?

A. Well, it was in a half hour when it was in that time.

Q. You say the shooting started at 11 o'clock?

A. It might have been a little before 11 or 11.

Q. Or a little after 11?

A. No, it wasn't a little after 11.

Q. You are sure it was 11 or before 11?

A. Yes, sir.

Q. What time did you work that night?

A. Until 3 to 11.

Q. What time did you quit?

A. 10:30.

Q. And this happened between 5 to 11 and 11 o'clock?

A. I wouldn't say 5 to 11.

Q. Was it 11 o'clock?

A. No.

Q. Was it 5 after 11?

A. Somewhere between a quarter to 11 and 11.

Q. That is when the shooting started?

A. Yes, sir.

Q. How long did the shooting continue?

A. Continued—oh, I should judge an hour.

Q. And during that hour you saw flashes coming out of the C. I. O. headquarters?

A. I did when it first started.

Q. How long did you see the flashes coming out of the C. I. O. headquarters?

A. I don't know.

Q. Do you know whether or not it was half an hour or an hour?

A. I don't know.

Q. You don't know how many shots you saw coming out and you don't know how long it kept coming out?

A. No.

Q. You were hiding behind your automobile?

A. Yes, and between the firing.

Q. What?

A. Between the firing.

Q. How long did you hide behind your car?

A. Well, we were standing back of the car from when it started until about a quarter to 2.

Q. Was it firing all the time?

A. No, not all the time.

Q. Were you standing or hiding in back of your car?

A. Standing.

Q. Did you hide at any time in back of your car?

A. No.

Q. Did you hear the police come by?

A. Yes, sir.

Q. Did you duck?

A. Sure.

Q. Back of your car?

A. Yes, sir.

Q. What is that?

A. Yes, sir.

Q. But you didn't consider that hiding in back of your car?

A. I just considered that ducking.

Q. Just ducking?

A. Yes, sir.

Q. Now, what shooting did you hear at that time?

A. I heard shots coming from the overhead bridge on Oberlin Road.

Q. Did you see any tear gas being fired?

A. Not over there.

Q. Did you see any on Cleveland Avenue?

A. I think it was tear gas, I couldn't say.

Q. Did you see the flashes?

A. Flashes from when it hit the building.

Q. When did you say they started?

A. What?

Q. When did you hear that start?

A. When the shots was coming down from the C. I. O. Hall.

Q. Did you hear the tear gas fired first or the shots?

A. The shots.

Q. The shots?

A. Yes.

Q. You have no idea how many shots came along there?

A. No, sir.

Q. Do you know how many tear gas shells or projectors you heard?

A. I seen two or three hit the building.

Q. About what time was it that they started shooting tear gas?

A. I couldn't tell you.

Q. Do you know if it was 11 o'clock or a quarter to 11?

A. I couldn't tell you.

Q. A quarter to 11?

A. I don't know.

Q. You don't know when they began to shoot tear gas projectors, is that correct?

A. No, it was after the shooting started.

Q. What?

A. It was after the shooting started.

Q. But you don't know whether it was 11 o'clock or a quarter to 11?

A. It was in between a quarter to 11 to 11.

Q. You do know when they started to shoot tear gas?

A. What?

Q. You know when they started to shoot tear gas?

A. I couldn't tell you the exact time. I don't know when they started to shoot tear gas.

Q. What?

A. I don't know when they started to shoot tear gas.

Q. You have no idea at all?

A. It was in—it was a little after 11 or 11.

Q. So it might have been before 11?

A. It was after the shooting came from the C. I. O. Hall.

Q. Might it be before 11?

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A. No.

Q. Now you are fixing the time as after 11, is that right?

A. I would say around 11.

Q. Around 11?

A. Yes.

Q. You know that?

A. Yes, sir.

Q. How long did they keep shooting tear gas?

A. I don't know.

Q. You don't know whether it was an hour or two hours?

A. Well, it was stopped when we left.

Q. What time did you leave?

A. Around a quarter to 2.

Q. Was that tear gas fired in the direction of the mill?

A. No, sir.

Q. All in the direction of the C. I. O. headquarters?

A. Yes, sir.

Q. Now, from a quarter to 11 to a quarter to 2, were you near your car during all the time?

A. Yes, sir.

Q. Were you looking in the direction of the C. I. O. headquarters?

A. Yes, sir.

Q. And you saw shooting from 11 to 11:30 coming out?

A. Between a quarter of 11.

Q. To 11?

A. Yes.

Q. But you don't know whether you saw any shooting coming out after that?

A. No, sir.

Q. You don't know how many shots?

A. No, sir.

Q. It was pretty dark at that time?

A. What?

Q. It was pretty dark at that time while you were there?

A. After the light was out of there.

Q. The light where?

A. Across from the C. I. O. Hall.

Q. About what time did that light go out?

A. I don't know.

Q. Was it 11 o'clock or 12 o'clock or 1 o'clock?

A. I don't know.

Q. You have no idea?

A. It was out shortly after the fighting started.

Q. What was that?

A. It was out shortly after the fighting started.

Q. When did the fighting start?

A. Between a quarter to 11 and 11, I guess.

Q. It went out shortly after that?

A. Yes, sir.

Q. Within an hour?

A. Yes.

Q. What is that?

A. Yes.

Q. You are sure it went out within an hour?

A. Yes.

Q. Did it go out within a half an hour?

A. I don't know.

Q. Did you hear any cars drive up in front of the C. I. O. headquarters?

A. Yes, sir.

Q. How many cars did you hear drive up in front of the C. I. O. headquarters?

A. I couldn't tell you.

Q. Did you see any go away?

A. Yes, sir.

Q. Do you know how many went away?

A. I couldn't tell you.

Q. Were any cars parked there when the shooting started?

A. Yes, sir.

Q. Any idea how many?

A. No, sir.

Q. Did you see any police coming down Oberlin Road?

A. I couldn't tell whether it was police or who.

Q. Did you see any people coming down there?

A. No.

Q. What is that?

A. I seen machines coming down Oberlin Road.

Q. What time did you say you stopped work?

A. 10:30.

Q. You say you went to the No. 1 gate?

A. After I rung out.

Q. Do you remember what time you rang out?

A. No, I don't; I don't remember what time it was.

Q. The Republic police stopped you at the gate?

A. Yes, sir.

Q. What did they say to you when they stopped you?

A. Didn't say nothing to me. It was four or five cars back of me—I was four or five cars back.

Q. Did you have any conversation at all with the police that night?

A. No, sir.

Q. Did you have any conversation at all that night with those who were up in the first couple of cars?

A. No, sir.

Q. Who was in the car with you?

A. Glenn Paculate and Clem Hoyman.

Q. Did you hear any shooting before you were stopped by the Republic police?

A. No, I didn't.

Q. How soon after you were stopped did you hear shooting?

A. About a couple of minutes.

Q. How far was your car from the car in front of you when it stopped?

A. Four or five cars behind me.

Q. How far were you from the car to—directly in front of you? How far were you from the car in front of you when it was stopped?

A. How far?

Q. That is right.

A. Oh, about two feet.

Q. Were you in the car when you heard the first shots?

A. No.

Q. You had gotten out of the car?

A. Yes, I got out of the car.

Q. Where were you standing when you heard the first shot?

A. Alongside of the machine.

Q. Which side?

A. The east side.

Q. Right side of your car?

A. Yes, sir.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) Did you keep time on these various things with a watch that night?

A. No, sir.

Q. You are just giving us your best recollection?

A. Yes, sir.

MR. DAY: That is all.

MR. LAUTER: That is all.

(Witness excused.)

Afternoon Session

(Whereupon, at 1:15 p. m. the hearing was resumed and the following proceedings were had:)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Thereupon the Reporter continued to read the testimony of the witness Orin Pauli.)

MR. DAY: I was to ask a question or two.

ORIN PAULI

having been previously duly sworn, resumed the stand and testified as follows:

Redirect Examination

Q. (By Mr. Day) I asked you about the gate at which you went out, and I think you indicated the gate over here where it says "Gatehouse," is that right?

A. Yes.

Q. Now, is that the No. 1 gate entrance or the No. 2 entrance?

A. That is the main entrance.

MR. DAY: Now, I want to state, Mr. Examiner, I described that as the No. 1 gate. I have found out since that this is the main gate, it is not the No. 1 gate. I want to correct that. I think the No. 1 gate is up here and the main or No. 2 gate is there (indicating).

THE WITNESS: I don't know what the numbers are.

Q. (By Mr. Day) But you went out the main gate?

A. The main gate.

Q. Was there anybody else with you besides the men you have named?

A. No, sir.

Q. Do you know a man named Akey?

A. Yes, sir.

Q. Was he with you?

A. He came up after we stopped.

Q. He was not in your car?

A. He was not in our car.

Q. Now, the shots that you said you heard coming—saw the flashes—by the way, did you see any shots or did you just see flashes?

A. I just seen flashes.

Q. And when you were talking about shots or tear gas, you meant flashes, is that right?

TRIAL EXAMINER LINDSAY: Oh, now, let him testify.

Q. (By Mr. Day) Well, did you see shots or did you see flashes?

A. I seen flashes, and the minute you would see the flash you would hear the roar.

Q. And these bullets—these flashes that you saw coming from the CIO Hall, state whether or not you saw them at the beginning of the shooting?

A. At the beginning.

MR. DAY: I think that is all.

MR. LAUTER: Will you read that question and answer?

(Thereupon the following question and answer was read by the Reporter:

"Q. What did you do about 11 o'clock?

"A. Oh, we drove up to the entrance. There they stopped us. They had started to shoot."

Recross Examination

Q. (By Mr. Lauter) Now, is that correct?

A. No, sir.

Q. That statement is not correct?

A. We drove up to the entrance—

Q. Just one second, is that statement correct?

A. I was out of the machine when they started to shoot.

Q. Is that statement correct?

A. Not the way it is down there.

Q. But that is what you said, didn't you?

A. Right there?

Q. That is right.

A. We drove up to the entrance—

Q. Is that statement the statement you made on direct examination?

A. That there one.

Q. Yes. Now you want to change it, is that right?

A. Why, I wasn't in the machine.

Q. Do you want to change it now?

MR. DAY: I think he ought to have a chance to answer the question.

TRIAL EXAMINER LINDSAY: I think he ought to answer that question yes or no.

Q. Do you want to change the testimony now?

A. No.

Q. Is that statement correct there?

A. No.

Q. That statement is not correct?

A. No.

Q. Do you want to change it?

A. I was out of the machine.

Q. Do you want to change that statement?

A. Yes.

Q. Did you testify on cross examination that you were not in the machine when the shots were fired?

A. I was not.

Q. And that is in contradiction to that statement there, isn't it, in the direct examination, isn't that correct?

A. I guess so.

MR. LAUTER: If you please, Mr. Examiner, I want to make a formal recommendation to the Board at this time that an action in perjury be commenced against this witness.

TRIAL EXAMINER LINDSAY: Well, I will

take that under advisement. You understand an oath, don't you?

THE WITNESS: Not very good.

TRIAL EXAMINER LINDSAY: What is your interpretation of an oath?

THE WITNESS: Well, you are supposed to tell the truth.

TRIAL EXAMINER LINDSAY: And what would happen if you don't tell the truth?

THE WITNESS: I don't know. That there statement, I drove up to the gates there—

TRIAL EXAMINER LINDSAY: Now just—you don't know what would happen if you don't tell the truth?

THE WITNESS: No.

TRIAL EXAMINER LINDSAY: Is that right?

THE WITNESS: No.

TRIAL EXAMINER LINDSAY: That is all.

MR. DAY: Read the question in direct examination.

(Thereupon the following question and answer was read by the Reporter):

"Q. What did you do about 11 o'clock?

"A. We drove up to the entrance. There they stopped us. They had started to shoot."

Redirect Examination

O. (By Mr. Day) Well, now at the time that—what did you mean by that answer?

MR. LAUTER: I object to the form of the question.

MR. DAY: I think that is fair, under all of the circumstances.

MR. LAUTER: I do not think that the witness may testify as to what he meant.

MR. DAY: Well, I know, but—

TRIAL EXAMINER LINDSAY: Well, I do not think that is a proper question, Mr. Day. If this man has given some wrong testimony, you surely would not want to back him up on it.

MR. DAY: I am not trying to back him up on it.

TRIAL EXAMINER LINDSAY: No, I understand.

MR. DAY: He said one thing in direct examination; he said another thing in cross examination. Now I think it is fair to ask him whether or not—what he meant to say, by that.

MR. LAUTER: I think what he said is what counts, not what he meant to say, reasons for it.

TRIAL EXAMINER LINDSAY: Yes, he said he wanted to change that testimony, Mr. Day. I do not think that is a proper question to ask him.

MR. DAY: Well, in view of the recommendation or the suggestion that is made, here, I think that a man ought to have a chance to explain his testimony. He has testified one way on cross examination and another way in direct examination.

TRIAL EXAMINER LINDSAY: This is off the record .

MR. DAY: Yes.

(Discussion held off the record.)

(Witness excused.)

HOWARD SCOTT

itness called by and on behalf of the Respondent, hav- been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. Howard Scott.

Q. Where do you live?

A. Massillon, route No. 1.

Q. Where do you work?

A. Republic Steel in Massillon.

Q. How long have you worked for Republic Steel?

A. A little over a year now.

Q. In what division of Republic Steel are you employed?

A. Sheet pickler.

Q. Sheet pickler? Do you remember the night of July 11th, Mr. Scott?

A. Yes.

Q. Where were you that night?

A. Getting ready to work at 11 o'clock.

Q. We don't hear, talk up so we can hear you.

A. Getting ready to work about 11 o'clock that evening.

Q. In what department were you getting ready to work?

A. Sheet pickling department.

Q. And where is that department located?

A. South of the Oberlin Road.

Q. I call your attention to this plat, Respondent's Exhibit No. 1, and ask you to look at it, and assuming that this is Oberlin Road here, and here is the viaduct and South Erie Street, where is the building? Were you working inside of a building?

A. Yes.

Q. Where is that building located?

A. Right in here (indicating).

Q. That is on the south side of Oberlin Road?

A. Yes.

Q. And do you know where No. 1 gate and No. 2 gates are, to that plant?

A. No, I never did know them by the numbers.

Q. Do you know where the main entrance is?

A. Yes.

Q. Which way from the main entrance is the building that you were in?

A. East.

Q. Between that and the entrance to the east, is that right?

A. Yes.

Q. Now, are you familiar with the lay of the land between there and the C. I. O. Hall?

A. Yes.

Q. What is the condition of the land there between that and the C. I. O. Hall?

A. No buildings excepting the one house between Oberlin Road and the C. I. O. Hall.

TRIAL EXAMINER LINDSAY: Will you talk a little louder?

A. No buildings between Oberlin Road and the C. I. O. Hall excepting one house.

Q. And do you know where that house is located?

A. South of the C. I. O. Hall.

Q. About how near to the C. I. O. Hall?

A. Well, that I can't say; I don't know.

Q. Do you know whether or not from the building where you are or where you were that night you could see to the C. I. O. Hall or any part of it?

A. Yes.

Q. What can you see?

A. I can see the front; I mean the southwest corner of the front of the building, and then the majority of the back of it.

TRIAL EXAMINER LINDSAY: Will you read that answer?

(The last answer was read.)

Q. In respect to the street in front of the C. I. O. headquarters, how about seeing that down there?

A. Well, I can see the majority of the street out to the C. I. O. headquarters.

Q. Now, did anything attract your attention there that night?

A. Not until my crane man didn't respond to the signals.

Q. Your crane man didn't respond to the signals?

A. Yes, sir.

Q. Just describe to the Trial Examiner what a crane man's way of doing work is.

A. I had listed the pack carrier and I was going to set it down and I gave the signal man a signal to lower it; he didn't move and I wondered what was wrong.

Q. What was he doing at that time, to your knowledge?

A. Well, as far as I know—

TRIAL EXAMINER LINDSAY: Not as far as you know. Either you know it or you don't know it.

Q. Just describe what he was doing at that time.

A. Well, he was looking out of the windows.

Q. On which side of the building was that window?

A. On the east side.

Q. Then what followed that, did you observe? Did you have a conversation with him?

A. No.

Q. You didn't have a conversation with him? Not what you said? Did you have a conversation?

A. No.

Q. What followed after that?

A. Well, I lifted up the window myself then and saw what was going on.

Q. Now, where was this on—

TRIAL EXAMINER LINDSAY: Just a moment. "Saw what was going on" is stricken from the record.

MR. PONTIUS: Yes.

Q. Where was the window that you looked out? What side of the building?

A. To the north side—

Q. The building that you were in?

A. The north side.

Q. Where were you at that time; on the surface of the floor of the building or up higher?

A. On the floor.

Q. Now, what if anything did you observe as you looked out of the window?

A. Well, I didn't see anything right then.

Q. Well, what followed after that?

A. I was starting on my work again and then I heard some shooting over there.

Q. Then what did you hear following the shooting, if anything?

A. Well, nothing more than the shooting.

Q. Now, did you see anything more than that shooting then?

A. Yes.

Q. What did you see?

A. Well, it was off and on for half to three-quarters of an hour that there was shooting going on.

Q. Could you tell where that shooting took place?

A. Well, by the way it looked from where I was, it was around the C. I. O. headquarters.

Q. Now, did you hear anything following that?

A. In what turn do you mean, may I ask?

Q. What?

A. What do you mean? In what form?

Q. Well, I can't testify. Is that all you know about this?

A. That is all I know about the shooting from there, yes.

Q. At any time that afternoon or evening, did you hear anything further than you have told?

A. Well, only that we took it for granted—

TRIAL EXAMINER LINDSAY: Now, just a moment.

MR. PONTIUS: Not what you took for granted. What did you see?

TRIAL EXAMINER LINDSAY: Strike that out of the record.

THE WITNESS: Will you read that question again?

TRIAL EXAMINER LINDSAY: Read the question for him.

(The last question was read.)

A. No.

MR. PONTIUS: That is all.

Cross Examination

Q. (By Mr. Lauter) Now, what is the name of the building you worked in?

A. The sheet pickler.

Q. How close is that to the main gate?

A. About five or six hundred feet.

Q. Is that east or west?

A. East.

Q. Is that about the right of the gate house? That is to the east of the gate house?

A. Yes.

MR. LAUTER: That is all.

MR. PONTIUS: That is all.

(Witness excused.)

RALPH SCOTT

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) You are Mr. Ralph Scott?

A. Yes, sir.

Q. Where do you live, Mr. Scott?

A. 1610 Tremont Avenue, Massillon.

Q. You are an employee of the Republic Steel?

A. I am.

Q. How long have you worked for the Company?

A. 11 years.

Q. In what department?

A. Chief pickling.

Q. Now, do you know where you were on the evening and night of July 11th last?

A. I went to work on the 11 o'clock turn.

Q. What time did you go to work that night?

A. 20 minutes after 10 when I rang in.

Q. Was there a system there that you rang in and out of that plant?

A. Yes, sir.

Q. What sort of a system is it?

A. It is a card system; you ring a clock.

Q. Why do you refer to it as going on the 11 o'clock turn?

A. Well, it was a Sunday night and it was my turn to start it up.

Q. What do you mean by that?

A. Well, the building—the pickling had not worked from Saturday night at 11 o'clock until Sunday night when I started it up.

Q. Your department was open on Sunday night?

A. Yes, sir, it was down.

Q. Now, you rang in at 10:20?

A. Yes, sir.

Q. Following that, what did you do?

A. Well, I had my work; my regular work in getting the acid solution ready to go ahead with my pickling work.

Q. Now, where were you engaged in working? What building?

A. The building to the extreme north of the Republic Steel.

Q. Where is that building situated?

A. Extreme north of the Republic Steel. The first building south of Oberlin Road.

Q. Do you know where the C. I. O. headquarters were at that time?

A. I do.

Q. What is the surroundings there between that building in which you worked and the C. I. O. headquarters?

A. There is nothing of anything that you can see excepting a small house right next to the C. I. O. headquarters.

Q. What part of the C. I. O. headquarters could you see from this building in which you were working?

A. You could see the front of the rear of it.

Q. Now, what if anything did you first notice that evening?

A. The first I noticed was one of the men called my attention to a large crowd at the C. I. O. Hall.

Q. Were there any lights up around there?

A. There was, yes.

Q. What kind of lighting was there?

A. Street lights and those buildings.

Q. Now, had you prior to that day observed the crowd up there?

A. Yes.

TRIAL EXAMINER: Will you fix the time?

MR. PONTIUS: Yes, I will do it.

Q. About what time did you look up there at that hall?

A. A few minutes before 11.

Q. Have you a definite way of fixing the time?

A. No, I haven't.

Q. How do you fix it as a few minutes before 11?

A. Possibly 5 or 10 minutes before.

TRIAL EXAMINER LINDSAY: Listen to his question.

Q. How do you fix it at that time? What makes you fix it at that time of night?

A. Well, that was the time the man called my attention to the crowd there.

Q. Now, what compelled—as compared with other occasions how was this crowd in size?

A. Much larger.

Q. Go forward and tell what you observed. What happened after that?

A. Well, shortly after that I heard shooting over there and I went to call my foreman, to tell him the situation, and when I was calling him one of my men came and said there was bullets coming against the building and through the open windows.

Q. Then what did you do?

A. The foreman said I should call the Police Department at the Republic Steel, which I did, and he told me to take my men out of the building.

Q. Now, did you hear anything there further that night?

A. I heard two shots hit the roof of the building.

Q. Anything further that you heard?

A. No, there wasn't; that was all I heard. Outside of the shooting that was going on after that from in front of the C. I. O. Hall.

Q. Now, at any time did you discover anything there at the building?

A. I did.

Q. And when was that?

A. The following night.

Q. What did you find there in the building?

A. I found a bullet in the building.

Q. Where did you find that?

A. I found that between the back—between two layers of iron it was.

Q. What windows are there on that building to the north that you were working on?

A. Well, there is quite a few windows all along the front of the building. It has two windows all along the front of it.

Q. By the front you mean the east side of the building?

A. By the north of the building.

Q. You say you found this bullet in a pile of what?

A. Steel, sheet steel.

Q. Where was that pile located in the building?

A. Sitting along the north wall, second bay of windows from the east side of the building, along the north wall.

Q. Have you got that bullet?

A. I have.

Q. Let me see it.

A. (Witness produces bullet.)

(The bullet above referred to was marked as Respondent's Exhibit No. 9 for identification.)

Q. Handing you this exhibit, Respondent's Exhibit No. 9, I will ask you if that is the bullet you picked up?

A. Yes, sir.

Q. That you have told about?

MR. PONTIUS: We offer that in evidence.

MR. LAUTER: Object on the ground incompetent, irrelevant and immaterial; on the further ground it is not connected up with any party to this case.

TRIAL EXAMINER LINDSAY: I think at this time I will sustain that objection. Let the record show an exception.

MR. PONTIUS: Exception.

TRIAL EXAMINER LINDSAY: May I see that bullet?

Q. Now you say this sheet—these—this pile of sheets was piled up. How were they piled up?

A. They were piled up in what we call lifts. There was four or five lifts piled one on top of the other, separated by four by four's.

Q. And how close to the north side of that building was this pile of sheet?

A. Approximately 18 inches from the window.

Q. The window, on which side of the building?

A. North window.

Q. And where in this pile did you find this bullet?

A. I found the bullet between the top and the next lift.

Q. By lift what do you mean?

A. Well, two stacks of iron, they piled them together anywheres from 18 to 20 inches in height.

Q. And what is between the piles?

A. Four by four's.

Q. That is wood four by four's?

A. Yes, sir.

Q. Where did you find this bullet?

A. In the center of the two lifts which was held apart by four by four's.

Q. I mean as to the lift?

A. It was between the two lifts of iron, laying on top of the second lift.

Q. Now, from its location there, where was it with respect to any window on the north side of that building?

A. The iron, you mean?

Q. No, the bullet?

A. Well, it evidently came in the north window and went between the two lifts of iron.

Q. How high a building is this that you were working in there?

A. To the comb of the roof it was 80 feet or better.

Q. This sheet iron, where is that piled?

A. On the floor, along the north wall.

Q. Where is this window with respect to that pile that you have referred to?

A. The window is in the north wall about five feet off the floor.

Q. How large a window is that?

A. It is quite large. I couldn't say how large it really was.

Q. About how large?

A. Probably 15 feet square.

Q. Now, do you know whether or not that window was open that night?

A. It was open.

Q. That was the night when you heard this shooting?

A. Yes, sir.

Q. Had you ever, prior to that time, found any bullets in that building?

A. No, sir.

Q. Had you ever seen a bullet in there?

A. No, sir.

Q. How long had that sheeting been piled there?

A. I don't know, it was piled there the week before, sometime.

Q. Well—

MR. LAUTER: Please, just one second. I want to object to any further testimony with respect to the finding of the bullet and move to strike any testimony with respect thereto, including the testimony as to whether or not this witness happened to find or did not happen to find a bullet in the building at any time previous to July 11, on the ground incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Yes, I can't see where it has anything to do with the lawsuit. I will sustain that.

MR. PONTIUS: Exception.

TRIAL EXAMINER LINDSAY: I am granting the motion that testimony relative to the bullet is stricken from the record, let the record show an exception.

MR. PONTIUS: We again renew our offer to introduce in this record Respondent's Exhibit 9, the bullet.

MR. LAUTER: I object to the offer.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 9 is not received in evidence.

MR. PONTIUS: Exception.

TRIAL EXAMINER LINDSAY: Let the record show an exception.

MR. PONTIUS: I believe that is all.

Cross Examination

Q. (By Mr. Lauter) Are you related to Howard tt?

A. I am; brother.

Q. You work in the same department?

A. Yes, sir.

Q. You worked together that night?

A. Yes, sir.

Q. That was the night of July 11th?

A. It was.

Q. Did you have any conversations with him that ht?

A. Yes.

Q. When did you start to speak to him the first time?

A. The first I rode to work with him that night.

Q. Well, did you expect trouble that night?

A. No, I didn't.

Q. Did you have any conversation with him in the l?

A. With my brother?

Q. That is right.

A. Yes, sir, I instructed him as to what he should do.

Q. Are you a foreman in the mill?

A. I am.

Q. How many men work under you?

A. 15.

Q. Have you seen any of the Back-to-Work petitions that have been signed by men in the plant?

MR. PONTIUS: The same objection, not proper cross examination.

TRIAL EXAMINER LINDSAY: Objection overruled, let the record show an exception.

MR. PONTIUS: Exception.

Q. Will you answer that question?

A. What was that question?

(The question was read by the Reporter.)

A. No, sir.

Q. Did you hear that they were being circulated?

A. I heard that.

Q. Did any of the men in your department sign it?

A. No, not to my knowledge.

Q. Did you call any men to go back to work?

A. No, sir.

Q. When the strike came, did you stay in the plant?

A. No, sir.

Q. When did you return to work?

A. July 2nd.

Q. Did the men in your department return the same day?

A. Some of them.

Q. Did you have any conversation with them prior to their returning?

A. No, sir.

Q. How high did you say the building is in which you work? The room of the building?

A. Approximately 80 feet.

Q. Is that a straight room or a curved room?

A. It is not straight, it slants from the comb down.

Q. From the comb down?

A. Yes, sir.

Q. What kind of material is it made of, do you know?

A. Brick. The roof was sheet metal.

Q. How far is that building from the edge of the plant property in the direction of the CIO headquarters?

A. 30 or 40 feet.

Q. How far is it to CIO headquarters to that building?

A. Possibly 300 yards.

Q. And you say you heard two shots hit the roof?

A. I did.

Q. Are you sure they were shots?

A. I don't think anyone would throw stones up there.

Q. Well, how do you know they didn't throw stones up there?

A. Sir?

Q. I say, you are sure they were not stones?

A. I couldn't be sure about it, no.

Q. You testified in direct examination that two bullets hit the room?

A. Yes, sir.

Q. Now you say you couldn't be sure of it?

A. No, I couldn't be sure they were bullets, but what else could they have been?

Q. I am not here to answer questions, you are. But you are not sure they were bullets, is that right?

A. My knowledge—

Q. Is that what you just told me, you were not sure they were bullets?

MR. PONTIUS: Let him answer.

A. Yes, I said that.

Q. What is that?

A. Yes, I said that.

Q. You testified about some bullets coming through an open window, is that correct?

A. Yes, sir.

Q. Did you see any bullets come through?

A. No, I didn't see none come through.

Q. Did someone tell you that they had come through?

A. Yes, sir.

Q. Who told you?

A. One of my men.

Q. What is his name?

A. Richard Watkins.

Q. Did your brother tell you anything about bullets coming through the window?

A. No, sir.

Q. Did you have any conversation with him after 11 o'clock in the mill?

A. Yes, sir.

Q. State the substance of that conversation?

A. I probably instructed him—

Q. I am not interested in what you probably instructed him. Just tell the conversation.

A. I instructed him as to the work that he was supposed to do.

Q. Yes.

A. All at the present time that I did.

Q. What is that?

A. That is all that I instructed him to do, at the present time. You start up a turn, you have—each man under me has so much work to carry out, which he does.

Q. Did you talk to him about the shooting?

A. Sir?

Q. Did you talk to your brother about the shooting?

A. No, sir.

Q. Did he speak to you about it?

A. No, sir.

Q. Did you tell him that you had seen a large crowd?

A. Yes, sir.

Q. About what time did you tell him that?

A. About a little before 11 o'clock.

Q. How large a crowd did you see there?

A. Several hundred people.

Q. Can you give me an idea of how many hundred?

A. No, sir.

Q. Will you say that it was three, four, five, six, seven or eight?

A. I couldn't say that, I didn't look at it that long.

Q. Did you look at it long enough to see that it was a larger crowd than usual?

A. Yes, sir.

Q. When was the last time prior to July 11th that you looked out at the crowd?

A. Possibly Saturday night on the 3 to 11 turn.

Q. Was it as large a crowd that night?

A. No larger than usual.

Q. What is that?

A. The crowd was no larger that night than any other night.

Q. Was it about as large as Sunday night?

A. No.

Q. How much smaller was it?

A. A good deal smaller.

Q. Can you give me an idea in the terms of number of people present?

A. No, sir.

Q. Have you ever looked—What was the first time before Saturday night or prior to Saturday night that you looked at the crowd?

A. Possibly every turn I worked.

Q. You looked out at it whenever you came to work?

A. Yes.

Q. Did you look out at it the previous Sunday?

A. I don't know.

Q. Well, you say you looked at it every turn you worked. Do you remember?

A. I can't recall whether I worked the previous Sunday or not.

Q. Have you ever looked at it on a Sunday night prior to July 11th?

A. I don't know.

Q. Have you heard that the crowds were usually larger there on Saturday nights?

A. No, sir.

Q. You don't know that?

A. No, sir.

Q. You don't remember whether or not you ever saw it on Sunday night?

A. No, sir, I don't.

Q. You have no basis of comparison, then, between July 11th and any other Sunday, is that correct?

A. That is right.

Q. Now, about what time was it that you looked out and saw the crowd?

A. Well, between 11:15 and 11:00 o'clock.

Q. About what time did you call the police, the Republic police?

A. I never called the public police.

Q. Who called them?

A. I don't know.

MR. PONTIUS: Pardon me. He didn't understand that, I don't believe.

Q. Did you call the Republic police?

A. Oh, yes, I did.

Q. What time did you call them?

A. About five minutes after 11:00.

Q. And the reason that you called them was because you heard some shots on the roof?

A. Yes, sir.

Q. Who responded to your call?

A. I don't know.

Q. How many policemen came?

A. There is only one came in the building.

Q. Did he immediately order you out of the building?

A. No, sir, I had already sent the men out.

Q. What time did you say he came?

A. Between 11:15 and 11:30.

Q. Between 11:15 and 11:30? What happened?

A. He came and said the men should use their own judgment about going back into the building to work that night.

Q. What time had you sent them out?

A. At 11 o'clock or a few minutes later.

Q. What time had you looked out at the crowd?

A. Between 11:15 and 11 o'clock.

Q. When you looked out at 10:45 or 11:00 did you see any shooting at that time?

A. Yes. A few minutes before 11:00, when they first started some shooting.

Q. How long did you look out of the window?

A. Well, I looked out quite a few times between—in those 15 minutes.

Q. And did you hear the first guns that were fired?

A. I don't know.

Q. Did you see any tear gas being fired?

A. Yes.

Q. In what direction was the tear gas being fired?

A. What looked to be tear gas to me was fired north.

Q. That is in the direction of CIO headquarters?

A. Yes, sir.

Q. Did you have the conversation over the telephone with one of the mill policemen?

A. I did.

Q. Do you know who that conversation was with?

A. No, sir.

Q. What was the substance of that conversation?

A. About the bullets hitting the building and coming through the window.

Q. What did the policeman say?

A. He told me to take his men into clear until he came down and talked to me.

Q. At that time did your brother leave with you?

A. He did.

Q. What time was that, did you say?

A. A few minutes past 11:00.

Q. How much of the time between 10:45 and 11:05 or a few minutes after 11:00 did your brother spend with you?

A. We were all in the building together.

Q. How far away from you was he during that time?

A. Probably the length of the building at different times.

Q. Did he look out of the building also?

A. I couldn't say.

Q. You didn't see him?

A. No, sir.

Q. You had no conversations with him during that time except to give him instructions?

A. That is all.

MR. LAUTER: That's all.

MR. PONTIUS: That's all.

(Witness excused.)

RICHARD WATKINS

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) Please state your name.

A. Richard Watkins.

Q. Where do you live?

A. 57 Third Street S. W.

Q. Where? What town?

A. Massillon.

Q. How long have you lived in Massillon?

A. Three years now.

Q. Where do you work?

A. Central Steel.

Q. In what department?

A. Pickling sheet.

Q. And who was your foreman there?

A. My foreman is Ray Henry.

Q. Do you know this Mr. Scott who just testified here?

A. I do. He is my turn foreman.

Q. What?

A. He is my turn foreman.

Q. He is your turn foreman? Now, were you at work on that night? Were you at the plant of Republic Steel on the night of July 11th?

A. At night?

Q. Yes.

A. Yes, I was.

Q. What?

A. Yes, I was.

Q. In what department were you working?

A. Sheet pickling.

Q. Do you know what time you went to work that night?

A. I do.

Q. What time was it?

A. About 10:30 when I ring in.

Q. And after you rang in, where did you go?

A. I went and got ready to go to work.

Q. When you got ready to go to work, what did you do?

A. I work on the pickler.

Q. What?

A. I work on the pickler.

Q. Work on the pickler?

A. Yes.

Q. But to get ready to work what did you do, after you rang in?

A. I rang in, and got ready to work.

Q. Got ready to work?

A. Yes, sir.

Q. I see. Well, now, where is the building located in which you were working that night, with respect to Oberlin Road?

A. It was located in Oberlin Road, is right.

Q. Do you know where CIO headquarters was at that time?

A. I do.

Q. Where? What direction was CIO headquarters from where you are working?

A. North.

Q. Do you know whether you could see from the building in which you were working—could you see CIO headquarters?

A. Yes, I could.

Q. Now, what part of CIO headquarters could you see?

A. I could see the front and the rear from where we were working.

Q. Did anything take place there that night?

A. It did.

Q. What was the first thing you noticed?

A. I beg your pardon, not on the 9th this is that—

Q. What?

A. This was the 11th, not the 9th.

MR. LAUTER: "July 11th, not the 9th."

THE WITNESS: O. k.

Q. I beg your pardon, I made a mistake, I guess. July 11th?

A. Yes.

Q. I see. What was the first thing you observed?

A. The first thing I observed?

Q. That you saw?

A. Well, the first thing I saw after we started to work, we started to work 10:45 and I goes and gets a drink of water and the first thing I noticed, I didn't notice it but I heard a shot, you see, and I goes to the window, to look out the window, and I saw flashes from guns but now who was firing the shots I don't know.

Q. Yes, I understand.

A. After a bullet hit the pickling department, inside the pickling department, I don't know whether inside or the roof, but I know one thing—

Q. Don't talk so fast, take your time.

(The last answer read by the Reporter.)

THE WITNESS: O. k.

Q. Just tell what you observed there.

A. We all ran up and went into the needle (annealing) department, we all ran up into the needle (annealing) department.

Q. State whether or not there were any windows on the north side of the building?

A. Yes, there is quite a few.

Q. What size of windows were there?

A. What size?

Q. Yes.

A. I don't exactly know the size of the windows.

Q. Are they large or small or how are they?

A. Well, I guess about—I would say a medium size windows.

Q. Do you know whether they were open or closed?

A. Some were closed, some were open. Not all closed.

Q. All of them?

A. Not all of them.

Q. What else if anything did you observe there?

A. Well, I wasn't there very much then; I couldn't tell you very much what happened there.

Q. Then where did you go, Mr. Watkins?

A. In the needle department.

Q. Where?

A. In the needle department.

Q. The needle department?

A. Yes.

Q. Where is that with respect to the place where you were in?

A. That is just south of the sheet pickling department.

Q. South?

A. Yes, south of the sheet pickling department.

Q. Did you hear anything else there before you left that room that you have told about?

A. What?

Q. Did you hear anything else before you left the pickling department?

A. All I could hear was shooting.

Q. What?

A. All I could hear was shooting, yes, sir.

Q. Did you hear anything there in your room?

A. No, I didn't hear anything there.

Q. You didn't?

A. No.

MR. PONTIUS: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Did you hear Mr. Ralph Scott testify here?

A. Who?

Q. Ralph Scott.

A. Ralph Scott?

Q. Yes.

A. Yes.

Q. The man just before you?

A. Yes.

Q. He is your turn foreman?

A. Yes.

Q. Did you say that you heard two shots?

A. I don't know how many shots I heard. I didn't tell you that, how many shots I heard. I told you I heard a shot and a bullet hit the pickling department. I don't know how many hit because I didn't take time to find out.

Q. You say a shot?

A. Yes, sir, a shot.

Q. A shot?

A. Yes, sir.

Q. What—that was one shot?

A. That is all I heard hit the pickling. How many more, I don't know, because I wasn't there.

Q. Where did it hit the pickling department?

A. Where?

Q. That is right.

A. I don't know where it hit the pickling department but it hit the pickling department. I don't know whether it hit the roof or inside or what.

Q. You don't know whether it was a shot, do you?

A. Yes, I know it was a shot. You see—

Q. What is that?

A. Yes, I know it was a shot.

Q. You are sure it wasn't a rock or a stone?

A. Yes.

Q. You are sure of that?

A. Quite sure it was a shot.

Q. Do you know where the shot came from?

A. I don't know.

Q. Do you know who fired it?

A. I don't.

Q. Do you know how long it is from the building to the edge of the property?

A. From the building where?

Q. Yes, from the building to the edge of the property?

A. No, not exactly, I don't.

Q. Well, approximately?

A. Approximately?

Q. Yes.

A. The building to what property?

Q. The Republic Steel property.

A. From the building to where I worked?

Q. From the edge of it facing the C. I. O. headquarters?

A. Well now, I don't know how much property they got there. They is all in the road.

Q. How far is it to Oberlin Road?

A. How far?

Q. Yes.

A. About 12 feet from the building; maybe some place not that far.

Q. Did you look out of the window and see the shooting?

A. I did.

Q. From the time you looked out of the window to Oberlin Road how far is it from there?

A. How far from where?

Q. From where you looked?

A. That is on the first street?

Q. How many feet is it?

A. 14 or 15 feet; maybe not that far.

Q. How far is it to the C. I. O. headquarters?

A. I guess about a good ways from where we was working.

Q. Do you know what kind of material the roof of these pickling departments are made of?

A. I don't know what kind of metal—it is sheet or tin.

Q. What time did you ring in?

A. 10:30.

Q. What time did you start to work there?

A. 10:45.

Q. What time did you leave the pickling department?

A. What time?

Q. Yes.

A. Around 11 o'clock when the bullet hit the pickling department; around 11 o'clock.

Q. Did anybody else hear the shooting?

A. What?

Q. Did anybody else hear the shooting or hear the shots hit the pickling department?

A. I guess we all heard it.

Q. Did you tell Mr. Ralph Scott that you heard it?

A. Yes, sir.

Q. You told him it was one shot?

A. I told him it was one shot; that is all I heard.

Q. Did he tell you what he heard?

A. What?

Q. Did you have any conversation with Mr. Ralph Scott?

A. Yes.

Q. What did he say to you?

A. What did he say to me?

Q. Yes.

A. He didn't say very much to me because he was calling up his home and I didn't want to bother with him in any conversation. He was talking over the phone.

Q. Did you have a conversation with Mr. Scott?

A. Did I?

Q. Yes, sir.

A. Yes, I did.

Q. What was the conversation?

A. What was it?

Q. Yes.

A. About the shot.

Q. What did he say to you?

A. I saw the shot hit the pickling department.

Q. What did he say to you?

A. I can't remember.

Q. What is that?

A. I can't remember.

Q. You can't remember?

A. No.

Q. How long did he speak to you?

A. How long?

Q. Yes.

A. A couple of minutes.

Q. You can't remember a single word he said in a couple of minutes conversation?

A. He didn't say a single word.

Q. Didn't talk to you?

A. He talked to me.

Q. What did he say?

A. That I can't remember.

Q. Do you mean to say you can't remember a single word?

A. No, I can't remember not what he told me that night.

Q. Did you say anything about shots being fired?

A. That I can't remember.

Q. Did he say anything about shots being fired?

A. Oh, I told him but I can't remember what he said. I told him about shots being fired.

Q. But you can't remember whether he told you about shots being fired?

A. No.

Q. Did you have any conversation with Howard Scott?

A. Howard Scott?

Q. Yes. Mr. Ralph Scott's brother?

A. No.

Q. Do you know him?

A. Yes.

Q. Was he working there that night?

A. Yes, sir.

Q. How many men were working there in the pickling department?

A. How many men?

Q. Yes, how many men were working in the pickling department that evening?

A. I don't understand.

Q. How many men were working there in the pickling department about 11 o'clock.

A. Let me see; about 17 men.

Q. Did you have any conversation with any of the other 17 men?

A. No, only ordinary.

Q. When you heard the shot you say all the other men must have heard it, too?

A. Sure.

Q. What did they do?

A. We all ran out.

Q. You all ran out?

A. Yes.

Q. Did you run out before you had the conversation with Mr. Scott or before?

A. Before.

Q. You ran out first?

A. Yes.

Q. Where did you go?

A. To the needle department; in the office to the south end and then told him about it.

Q. Did you hear him make a telephone call to a policeman?

A. No, I didn't hear him. I was looking at him when he called.

Q. How large a room is the pickling department?

A. How large?

Q. Yes, how large a room?

A. How long?

Q. How large?

A. I can't exactly say because I don't know.

Q. Is it a square room or an oblong room?

A. It is a long room; it is not so much of square; it is more long than square.

Q. About how many windows are there on the north side of the building?

A. That I can't say. I didn't count them; there are lots of them.

Q. Did you see some sheet steel piled up there outside the windows?

A. Yes.

Q. How far from the windows was the sheet steel piled up?

A. Some two and some three feet from the windows.

Q. Three feet was the greatest distance from the windows?

A. From the windows?

Q. From the window.

A. It all depends on how far you pile that stuff back.

Q. I am asking you whether on July 11th three feet was the greatest distance that sheet steel was piled from the window.

A. Yes.

Q. Did you happen to go over there and look at it?

A. Look at the steel?

Q. Yes.

A. That wasn't my job to look at it.

Q. What?

A. That wasn't my job to look at the steel.

Q. But you know what the distance was that night?

A. What?

Q. You know what the distance was that night?

A. I know the distance.

Q. Did you sign a Back-to-Work petition.

A. Yes.

Q. Where did you sign it?

A. I just don't remember it now. I don't want to say anything wrong; I think it was the Merchants Hall in the Commerce Building.

Q. How did you happen to go there?

A. Where?

Q. To the Bank Building?

A. Everyone else went and I went, too.

Q. Whom did you speak to before you went there?

A. Nobody.

Q. Who was your foreman?

A. Ray Henry.

Q. Did you speak to him before?

A. No.

Q. What time did you go back to work?

A. On the 4th of July.

Q. Did you speak to the foreman before you wert back?

A. No, I didn't.

Q. Did you speak to him after you went back?

A. Sure, why not?

Q. Did you speak to him about the job before you went back?

A. No, sir.

Q. How did you happen to go back on July the 2nd?

MR. PONTIUS: He said July 4th.

MR. LAUTER: I beg your pardon.

Q. How did you happen to go back to work on July 4th?

A. I happened to go back on the 4th—he wanted me to go back on the 2nd but I had to make a trip out of town so I went back to work on the 4th.

Q. You say you went back to work on the 4th?

A. Yes.

Q. When did he tell you that he wanted you to go back to work on the 2nd?

A. On the 2nd?

Q. Yes. Where did he tell you that?

A. At my house.

Q. Did he come to your house?

A. He did.

Q. What is his name?

A. Ray Henry.

Q. He is your foreman?

A. Yes, sir.

Q. On July 2nd he told you he wanted you to come back and July 3rd?

A. That is right but I had to make a trip and I couldn't get back until the 4th.

Q. But you had to make a trip and you came back on the 4th?

A. Yes.

Q. How long did he speak to you?

A. Not long.

Q. How long?

A. Just a few words.

Q. How long?

A. Just a few words.

MR. LAUTER: That is all.

MR. PONTIUS: That is all.

MR. LAUTER: (To the Reporter) Will you read that question back to me about where the witness testified about the foreman?

(The last question was read.)

MR. LAUTER: I want to recall this witness, Mr. Watkins. Will you read that question?

(The last question was read.)

Q. Is that answer correct?

A. No, I spoke to him before I went back to work; before I went back to work.

Q. Is the answer which you gave to my question which the Reporter took down before and which the Reporter just read to you correct or not?

MR. DAY: I object. He has already testified and answered that question.

TRIAL EXAMINER LINDSAY: Overruled. Note an exception.

MR. DAY: Exception.

A. I did.

Q. Wait until the Reporter finishes reading that.

MR. LAUTER: Will you read the question?

(The last question was read.)

Q. Is that answer correct?

A. Right. I spoke to the foreman before I went back to work.

Q. Did you speak to him before you went back?

A. I told him I wanted for me to go back to work. I said before I went back to work, I had to make that trip.

Q. Didn't you testify on cross-examination that you didn't speak to the foreman before you went back to work?

MR. DAY: I object.

A. I didn't say I didn't; I told you I did. I said he called me.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

MR. PONTIUS: I object.

A. I say I didn't say I didn't. I told you I did, because he came for me, why should I speak to him?

MR. LAUTER: That's all.

THE WITNESS: Thank you.

(Witness excused.)

JUDSON MOODY

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) You are Judson Moody?

A. Yes, sir.

Q. Please talk up so we can all hear you. You live in Massillon?

A. What is that?

Q. Where do you live?

A. I live in Massillon.

Q. Where in Massillon?

A. 135 South Street, Massillon, Ohio.

Q. Where do you work?

A. Work at Republic Steel, Massillon.

Q. How long have you worked for the company?

A. About four years.

Q. Were you working the night of July 11th?

A. I was.

Q. This year? And in what department were you working that night?

A. Sheet pickle department.

Q. About what time did you go to work?

A. Well, I went to work about 10:20 when I rang in.

Q. Now, did you notice anything in particular that night, following the time that you went to work?

A. No, I didn't.

Q. At any time that evening?

A. No, I didn't.

Q. What?

A. No, I didn't notice any time particular.

Q. You didn't notice anything particular?

A. No.

Q. Well, what, if anything, did you see or hear while you were there at work?

A. What did you say?

Q. What, if anything, did you see or hear that night?

A. Oh, I didn't see anything, no more than what they usually see as I went to work.

Q. Well, after you went to work, did you see anything?

A. Oh, yes, after I went to work, start to work, why I heard some shooting.

Q. Did you hear anything else?

A. No.

Q. Other than shooting?

A. Didn't hear nothing else.

Q. Do you know about what time it was that you heard this shooting?

A. Oh, around about 11 o'clock.

Q. Where were you when you heard the shooting?

A. Why, I was down in the pickle room about where you drank water, to get a drink.

Q. Now, after you heard the shooting, what did you do?

A. Why, I got up in the window, I thought it was kind of fireworks, looked towards the shooting was going on, toward the CIO Hall, and while I was up there I heard a bullet or something hit the window and I jumped down and ran then.

Q. Now, were you in the same building that Scott was in?

A. I was.

Q. And this man Watkins was in?

A. Yes, sir.

Q. You say you got up and looked out the window?

A. Yes, sir.

Q. Where you say you got up, where did you go to?

A. Well, I went to the window, got up in the window.

Q. In front of it?

A. Yes.

Q. Did you climb up any place? How did you go to the window?

A. Just stepped up on a lift of iron.

MR. LAUTER: I object to leading the witness. Object to the form of the question.

TRIAL EXAMINER LINDSAY: Oh, in this case it is all right. I will overrule the objection, show an exception.

MR. PONTIUS: I am not trying to lead him.

Q. Just tell us where you went. You stepped up, what did you do?

A. Well, when I first heard the shot why I stepped up in the window, stepped up on a lift of iron, stepped up in the window to see what was going on. I stepped up there a few minutes and something hit up there pretty close by me, I don't know where it was, it hit like a bullet, to me, and I jumped down and ran.

Q. Did you go pretty fast?

A. Go as fast as I could go.

MR. PONTIUS: That is all.

Cross Examination

Q. (By Mr. Lauter) You say it was a bullet or something?

A. Yes, it hit just like a bullet to me.

Now, I didn't see it and I didn't take time. It hit like a bullet.

Q. You don't know whether it was a bullet or not, do you?

A. No, sir, I don't know whether it was a bullet or not. I couldn't swear that it was a bullet because I didn't see it. I just heard it.

Q. It might have been a rock?

A. Didn't sound like a stone.

Q. It might have been something other than a bullet, is that right?

A. Yes, it might have been. I will tell you what it sounded like to me.

Q. I am only discussing what it sounded to you, because you didn't see it, did you?

A. No, I didn't see it.

Q. You are only testifying by what you heard?

A. Yes.

Q. Whether it was a bullet or something else you don't know who threw it or shot it, is that right?

A. No, I don't know who threw it or shot it.

Q. Now, was Ray Henry your foreman?

A. Yes.

Q. Now, when did you go back to work?

A. I don't know exactly what the date.

Q. July 2nd or 4th, rather?

MR. DAY: I object to this on the ground it is not proper cross examination.

TRIAL EXAMINER LINDSAY: Overruled. Let the record show an exception.

MR. DAY: Exception.

A. I don't know the date but I went back.

Q. Was it Sunday?

A. No, it wasn't on a Sunday, I went back on a Friday—Thursday or Friday.

Q. About July 2nd, do you think?

A. I think it was.

Q. Did Ray Henry come to see you before he went to work?

A. He did.

Q. Came to your house?

A. Yes, sir.

Q. Told you when to come back to work?

A. Yes, sir.

Q. What else did he tell you?

A. What is it?

Q. What was the conversation you had with him?

A. Oh, he just asked me did I want to go back to work, did I want to go back to work Tuesday. I said I did. He said he would put me on the third shift. I told him I was ready to go.

Q. How many times did he come to your house?

A. He didn't come but once to my house.

MR. LAUTER: Read back the last answer.

(The record was read by the Reporter.)

Q. Did you so state a moment ago that he asked you —your foreman asked you whether or not you had signed a Back-to-Work Petition?

A. I did.

Q. You said that, is that right?

A. I said that.

Q. Did you sign a Back-to-Work petition?

A. I did.

Q. The foreman asked you when he come to your house whether you had signed up, is that right?

A. Yes, sir, he did.

Q. Where did you sign it?

A. Chamber of Commerce, Merchants Bank; Chamber of Commerce.

Q. Who told you to go up there?

A. Why, I saw it in the paper.

Q. What did you see in the paper?

A. What is that?

Q. About signing that?

A. I saw it in the paper where you could sign to go back to work, anybody wanting to go back to work, those that wanted to go back to work, so sign it to go back.

Q. Did your foreman speak to you about going there to sign up a petition?

A. He did not.

Q. Did you speak about signing the petition to any other employee, before you went up there?

A. I did not.

Q. When you went up there to sign a petition who was there?

A. Why, I don't know them fellows that was up there. Several of them up there, but I didn't know his name.

Q. Had you seen them before?

A. Some of them I might have, but I didn't know them. I didn't know them.

MR. LAUTER: That's all.

MR. PONTIUS: That's all.

TRIAL EXAMINER LINDSAY: We will have a short recess.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

EDWARD LUSTIG

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) You are Mr. Edward Lustig?

A. Yes, sir.

Q. Please speak up.

A. Yes, sir.

Q. Where do you live, Mr. Lustig?

A. 821 Wallace Avenue, Massillon, Ohio.

Q. Where are you employed?

A. Central Steel office.

Q. How long have you been employed at that office?

A. Four years.

Q. Where is that office located?

A. What?

Q. Where is that office located in Massillon?

A. Located?

Q. Yes.

A. Down here at the mill.

Q. On Oberlin Road?

A. Oberlin Road.

Q. What is the nature of your work?

A. Why, watchman; watchman now. In the wintertime firing.

Q Now, do you recall when the strike came on?

A. Sir?

Q. Do you recall when the steel strike came on there?

A. Yes, sir.

Q. Did you remain at work?

A. Why, yes, sir.

Q. How long did you remain at work?

A. I was locked up two weeks and three days.

Q. Two weeks and three days?

A. Yes.

Q. Where were you locked up?

A. In the office.

Q. And then after that did you go out?

A. Yes, sir, we had orders to leave.

Q. And when next did you go back to work?

A. Why, I think I was home two weeks and three days, I can't just—

Q. Then you went back to work?

A. Yes.

Q. Now, were you there at that office the night of the riot, the so-called riot there?

A. Yes, sir.

Q. What was the character of your work there in the office that night?

A. Watchman.

Q. Do you know where the CIO headquarters were located at that time?

A. Yes, sir.

Q. And from the office, the office building there, what is there between the office building and the CIO headquarters to obstruct your view, if anything?

A. Well, there is a tile building there, but on the east side of the building if you can get half—about half of the CIO building; on the south side you can't get all, together, but practically about in the center of the building you get the door, and the other part on up the street, you can't get any view of the building of the CIO from where I was.

Q. Where in the office building were you that night?

A. On the second floor.

Q. On which side of the office building?

A. On the east side.

Q. How did you happen to be there?

A. Well, when I came into work my partner met me at the door, opened up the garage door for me to drive in and he told me, he says, "There is a lot of trouble here tonight." And I asked him, "What is wrong?" And he said, "They have been wrecking cars," and he said, "there is a crowd standing over here on the other side, we don't know what is going to happen," so I asked him if everything was checked in the building, and he told me yes, so I went—

Q. Was that the man you relieved?

A. Yes, so I went up on the second floor.

Q. About what time did you get there that night?

A. Well, it was about half past 10:0C, I relieved the man at 10 o'clock.

Q. Where did you go on the second floor of the building?

A. Why, I was on the east corner of the building, northeast, the far end, as close as I could get over to where the crowd was, that I could take a view on both sides from the road down and over from where the big crowd was standing at CIO.

Q. Did you see from where you were over to the CIO Building?

A. Yes, sir.

Q. Tell us what you observed when you went there and looked from the building that you were in?

A. Well, when I got—went there to the window, I raised up the window and put up the screen and I looked right straight over from where I was standing, and there was a crowd of people and machines there and they seemed to be officers, and there was a man walked up the street towards the CIO, and he got part ways up there and I heard some noise and hollering and all at once why there was five shots fired from CIO, and this somebody hollered in the back for him—for somebody to come forward and they started to shoot this tear gas.

Q. Now, could you tell us about what time that was?

A. Oh, I couldn't exactly; about 11 o'clock. It might have been five or ten minutes after 11, or it might have been just 11:00. I couldn't just exactly tell just what time it was.

Q. Now, could you see from where the shots came?

A. Yes, sir.

Q. Where did they come from?

A. They come from the CIO.

Q. Now, did you observe anything more there?

A. Sir?

Q. Tell us anything further that you saw.

MR. LAUTER: Just one second, I move that the answer of the witness to the effect that they come from the CIO be stricken out as vague and indefinite.

MR. PONTIUS: We will try to make it clear, if we can.

TRIAL EXAMINER LINDSAY: Well, I will sustain that objection unless you clear it up.

MR. PONTIUS: All right.

Q. Just tell us from where you saw the shots fired as you observed them.

A. Well, right from the CIO Building, right from the sidewalk down—there was a man standing there as close as I could see from the distance I was away from him, and he fired five straight shots and this man—the way the fire came from the gun, why I was looking for this man to drop but—

Q. Not what you were looking for; what happened then?

A. Yes, this man just shot—

TRIAL EXAMINER LINDSAY: Just strike out, strike that out of the record.

Q. Yes, not what you were looking for, what did you see, that is what we are trying to get.

A. Well, I seen this man fire.

Q. Yes, and then what followed.

A. Well, then the other side walked forwards and started to fire back.

Q. Could you tell how this man that walked forward was dressed, from where you were?

A. No.

Q. What, if anything, became of him, did you observe?

A. Sir?

Q. The man that was walking forward, what became of him?

A. Well, I didn't take notice what became of this man walking forward because there was more shooting then straight down into—from the corn field up towards the office, and then I left from there when I seen the firing from below there.

Q. Do you know the name of the street just east of the office building there?

A. I think it is Oberlin Road, they call it, the bunk house there—

Q. No, what street is this CIO headquarters on, do you know?

A. Oberlin Road I think they call it. No. I couldn't just tell you the name of the street.

Q. Well, you say you saw some shooting from a corn field?

A. Yes, sir.

Q. What direction was that corn field from CIO headquarters?

A. Why, that is on the east side.

Q. Could you tell the direction those shots were taking, or that shot was taking?

A. Well, it was coming—you could just—all I could tell, you know, from the fire from the gun.

Q. What direction was it coming?

A. Why, it was coming from the—it was going from —coming from the east, going west.

Q. And then what did you do?

A. Why, then I left that window.

Q. Why did you leave there?

MR. LAUTER: Object to the form of the question.

A. Well, I didn't want to get mixed up with any of those bullets.

MR. LAUTER: May I have a ruling on my objection, Mr. Examiner, please? I move the answer be stricken, also.

TRIAL EXAMINER LINDSAY: Yes, I will sustain that objection.

MR. PONTIUS: Exception.

Q. Now, did you observe anything further that night than you have told us?

A. No, sir.

Cross Examination

Q. (By Mr. Lauter) Is your eyesight pretty good, Mr. Lustig now?

A. Sir?

Q. Is your eyesight pretty good?

A. Pretty fair.

Q. Do you wear glasses?

A. No, sir.

Q. What kind of work do you do at Republic?

A. I am watchman now.

Q. Sir?

A. Watchman.

Q. You have been watchman all the time?

A. No, sir.

Q. What did you do before you became a watchman?

A. I fire the boilers in the wintertime. Summertime I watch.

Q. And on May 25th were you working?

A. Yes, I was working.

Q. Do you know when the strike was called?

A. No, I don't.

Q. Do you know what day of the week May 25th was?

A. No, sir.

Q. Did you work on the 26th of May?

A. Yes, I worked on the 26th of May.

Q. After the strike was called, did you stay in the building?

A. Yes, sir.

Q. That is the Republic Steel Corporation district office, main office, whatever it is called?

A. Yes, sir.

Q. How long did you stay there?

A Two weeks and three days.

Q. Did you want to stay there?

A. Sir?

Q. Did you want to stay there?

A. Sure.

Q. You didn't want to leave?

A. No.

Q. You didn't try to leave?

A. No, sir.

Q. You waited until you got orders to leave?

A. Yes, sir.

Q. Before you left?

A. Yes, sir.

Q. And what day was it then you left?

A. I can't recall what day it was on; it was on Tuesday or Wednesday I think it was.

Q. Sometime in June or July?

A. July.

Q. What is that?

A. July.

Q. July?

A. Yes.

Q. You only stayed in the plant two weeks and three days?

A. Yes, sir.

Q. After the strike started?

A. Yes, sir.

Q. How soon did you go back after you left the plant?

A. I was home two weeks and three days.

Q. You stayed in the plant two weeks and three days? You stayed home the other two weeks and three days?

A. Yes, sir, about two weeks and three or four days, I can't just recall, after I was left out.

Q. When you went back, was that June or July?

A. July.

Q. Don't you know that the strike took place on May 25th?

A. May—yes.

Q. When did you go back to work?

A. Well, I don't know what date it was when I went back to work.

Q. Do you know what month it was?

A. No.

Q. You don't remember what month?

A. No.

Q. Do you know what month it was you left the plant?

A. No.

Q. Can you see what time it is over there now?

A. Yes.

Q. What time is it?

A. I think it is twenty minutes after 4:00.

MR. LAUTER: Let the record show—

THE WITNESS: Or three.

MR. LAUTER: —that it is twenty-five minutes after 3:00.

THE WITNESS: After three, is it?

MR. LAUTER: Twenty-six minutes after 3:00.

THE WITNESS: Twenty-six minutes after 3:00.

Q. (By Mr. Lauter) How far is that building that you were in from CIO headquarters?

A. Oh, about 300 or 350 or 400 feet.

Q. Maybe 500? Sure it is not 500?

A. No, sir.

Q. Maybe it is 500?

A. It may be 500, if it was measured.

Q. Might be 1000?

A. No, it is not that far.

Q. What is that?

A. It is not that far.

Q. Well, are you sure it is not 900 feet?

A. No.

MR. DAY: I object to that line of cross examination.

TRIAL EXAMINER LINDSAY: The objection is overruled, let the record show an exception.

MR. DAY: Exception.

Q. What time did you get to work on July 11?

A. July 11th?

Q. Did you go to work on July 11th?

A. I don't know what time I did go back to work.

Q. Do you know whether or not you were at work on July 11th?

A. No.

Q. You don't know whether you worked on July 11th?

A. No.

MR. LAUTER: Well, I move the testimony of this witness be stricken in its entirety. He has testified as to certain events that took place on July 11, and now he states he does not know whether he was working on that day.

MR. DAY: Well, of course, the night of the riot—he might know what happened without knowing the date.

THE WITNESS: I know what happened, but I didn't pay no attention to the date.

TRIAL EXAMINER LINDSAY: Now, just a minute. I will deny the motion. Let the record show an exception. Take it for what it is worth.

MR. LAUTER: Exception.

Q. (By Mr. Lauter) Did you go to work on the night that there was some shooting? Did you go to work on the night that there was some shooting?

A. I went to work in the machine every night.

MR. LAUTER: Read the question.

(The last question was read by the Reporter.)

A. No.

MR. LAUTER: Well, I want to renew my motion to strike the evidence and the testimony of this witness on the ground that he never went to work one evening when there was some shooting.

MR. DAY: Oh, I don't think so. He is telling what happened the night of the riot.

TRIAL EXAMINER LINDSAY: Well, now, Mr. Day, the witness after all, is testifying.

MR. DAY: Yes, he testified.

TRIAL EXAMINER LINDSAY: He just said he didn't go to work when there was some shooting.

MR. DAY: He testified to what he saw out of the window.

TRIAL EXAMINER LINDSAY: Question him a little further. I will take the motion under advisement.

Q. (By Mr. Lauter) Did you work in the plant during the month of July, do you know?

A. Yes, sir.

Q. Do you remember July 11th? Do you remember that evening?

A. Yes, sir.

Q. What is that?

A. Yes, sir.

Q. Do you remember what day that was? What day of the week that was?

A. What day of the week?

Q. That is right.

A. 4th of July.

Q. The 11th of July?

A. The 11th of July?

Q. Yes.

A. No.

Q. You testified on direct examination about some shooting. Do you recall that? In answer to questions by Mr. Pontius, you testified about some shooting.

MR. DAY: Can you hear the question?

TRIAL EXAMINER LINDSAY: Yes, he can hear them, I am sure. If he can't, we will read them to him.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: Did you hear that question?

THE WITNESS: No.

MR. LAUTER: Repeat the question.

TRIAL EXAMINER LINDSAY: Are you a little deaf?

THE WITNESS: Oh, a trifle, kind of a little deaf. That is my ears—

TRIAL EXAMINER LINDSAY: All right, talk louder, Mr. Lauter, please.

MR. LAUTER: Will you read the question, Mr. Reporter.

(The last question was read by the Reporter.)

A. Yes.

Q. Now, were you present and in the plant when that shooting took place?

A. I was in the office when the shooting took place.

Q. What time did you arrive at work that night?

A. About 10:30.

Q. How did you come to work?

A. In the automobile.

Q. Did you come alone?

A. Yes, sir.

Q. Drive your own automobile?

A. Yes, sir.

Q. What turn did you work that night?

A. I worked from 11:00 to 7:00.

Q. What is the name of the man that you relieved?

A. Swarm.

Q. When was the first time that you first looked out of the window and heard some shooting?

A. Well, when I looked, was when my partner told me there was an awful mix-up the other night, and I asked him if everything was "O. K."—

MR. LAUTER: Will you listen to my question?

Will you read the question?

(The last question was read.)

A. The first time?

Q. Yes.

A. Why, when I got upstairs and opened up the window and it was about 11 o'clock. Stayed there watching it, and all at once, why, this man walked up the road, while he was walking up the road—

MR. LAUTER: Just a minute.

Q. I asked you what time it was.

A. About 11 o'clock.

Q. About 11 o'clock?

A. Yes; I wouldn't say for sure.

Q. Did you see the shooting after you opened the window or before you opened the window?

A. I had the window opened before the shooting.

Q. The shooting started after you opened the window?

A. Yes, sir.

Q. How soon after you opened the window did the shooting start?

A. Oh, about two or three minutes afterwards.

Q. You were looking down at the crowd for those two or three minutes?

A. Yes, sir.

Q. Tell me what you saw down there.

A. Well, I saw a bunch of officers down this way (indicating) and then one man walked up—

Q. You say you saw a bunch of officers?

A. Yes, sir.

Q. That is south of the C. I. O. headquarters?

A. Yes, sir.

Q. These officers were lined up across the street?

A. What?

Q. Those officers were lined up across the street?

A. No, sir.

Q. How were they standing?

A. They sort of were standing in a bunch.

Q. All in a bunch?

A. Yes, sir.

Q. About how many officers did you see?

A. About; I could not say whether—about 25 or 30.

Q. Do you know whether or not they had any arms or ammunition?

A. No, sir.

Q. Did you see whether they had any rifles?

A. No, sir.

Q. Any pistols?

A. No, sir.

Q. Any gas guns?

A. Well, I seen one have a tear gas gun.

Q. How many officers did you see with tear gas guns?

A. I just saw one.

Q. Did you see any guns in their hands?

A. No, sir.

Q. Did you see the officer shoot off a tear gas gun?

A. Did I what?

Q. Did you see the officer shoot off a tear gas gun?

A. Yes.

Q. Did you see anyone throw a gas bomb?

A. No, sir.

Q. About what time was it that you saw a tear gas gun shot off?

A. About 11 o'clock.

Q. About 11 o'clock.

A. Yes, sir.

Q. Did you see anyone with a sub-machine gun?

A. No, sir.

Q. Do you know what a sub-machine gun is?

A. Sir?

Q. Do you know what a sub-machine gun looks like?

A. A sub-machine gun?

Q. Yes, sir.

A. No, I don't know what a sub-machine gun looks like but I know what a tear gas gun looks like.

Q. You say you saw one shoot a tear gas gun that night?

A. Yes, sir.

Q. Do you know what officer had a tear gas gun?

A. I don't know what officer.

Q. You say you saw him shoot it off?

A. I saw the officer was shooting it off.

Q. What direction did he shoot the tear gas gun?

A. Towards the C. I. O.

Q. How many times did he shoot it off?

A. Oh, I couldn't tell you.

Q. Tell me as best you can.

A. They made—I think they made a round, and then someone yelled for them to lay down, and then I looked down there over in the corn field and I seen fire coming up from there.

Q. About what time did you see that firing coming from the corn field?

A. Just before they yelled for somebody to lie down—the fellows that was shooting.

Q. About what time was that?

A. About 11 or 5 or 10 after 11; I don't—when it was, I don't know, because I came in the building at 10:30 and then fooled around and ran around in different places. It could have been just before 11 o'clock when the first firing started. This man at the bunk house—

Q. Never mind about the bunk house. I want to know about the gun in the corn field.

A. Yes.

Q. Could you see the firing from the corn field?

A. Yes, you could see the firing from the corn field.

Q. Do you know how many officers were there?

A. I don't know.

Q. Do you know who was shooting?

A. I don't know who was shooting.

Q. About how many shots did you see?

A. When there was two shots fired I left the place.

Q. When there were two shots fired from the corn field, you left?

A. Yes. From the way the gun came—

Q. About what time in the evening did you see the shots come from the C. I. O. headquarters?

A. Just about 11 o'clock.

Q. A little after 11?

A. Well, I couldn't just tell.

Q. Could you tell whether it was a little after 11, before 11 or after 11; or exactly what time?

A. Just before 11 o'clock.

Q. Didn't you say someone threw a gas bomb before the shooting?

A. No, sir.

Q. You are sure?

A. No, sir.

Q. Did you see anyone shoot off a tear gas gun before the shots in the C. I. O. headquarters?

A. No, sir.

Q. You are sure of that?

A. Yes, sir.

Q. How large was the crowd in front of the C. I. O. Hall?

A. I couldn't say; it was an awful crowd there.

Q. How many would you say; as best you can?

A. About 100 or 150.

Q. About 100 or 150?

A. Yes; about 200.

Q. Now, when you saw the five shots how far away was the man from the front of the building?

A. Well, I couldn't estimate that. He was on the sidewalk there in front of the building.

Q. He was on the sidewalk?

A. Yes.

Q. You are sure he wasn't on the steps or in the doorway?

A. No, it didn't look that way to me from the light there.

Q. How far away from the doorway was he?

A. Well, I couldn't think.

Q. Were the people out in front of the building?

A. Yes, sir.

Q. Was he among the people there?

A. Yes, sir.

Q. How many people were in the front of the building?

A. Well, it looked about 150 or 200 people there.

Q. Were there any men and women there?

A. I didn't notice any women.

Q. Did you see any children?

A. No, sir, I couldn't tell; I didn't see none.

Q. Now, can you give us your best judgment how far away from the door of the building was the man who fired the gun?

A. Well, it looked to me just like he was standing on the sidewalk when he fired this gun.

Q. Now, how far is the sidewalk from the front of the building?

A. Oh, I wouldn't know. Just about eight or ten feet from the building.

Q. Sure it isn't about 15 feet?

A. I can't tell you.

Q. Or 20 feet?

A. I can't tell you.

Q. You don't know.

A. Yes.

Q. Now, about what height did the man hold the gun?

A. What?

Q. Was he shooting it from the side or from his hip or from where?

A. I couldn't tell; the distance was too far.

Q. Too far?

A. Yes, sir; all I could see was the firing.

Q. Were there a lot of people?

A. Yes.

Q. You don't know whether he held the gun over his head?

A. No, sir.

Q. After those five shots—is that right, five shots?

A. Yes, sir.

Q. You are sure there weren't four?

A. I counted five.

Q. You counted five at that time?

A. Yes.

Q. Do you remember counting five at that time?

A. Yes.

Q. Were they in rapid succession?

A. Yes, sir.

Q. One right after the other?

A. Yes, sir.

Q. And you counted five?

A. Yes, sir.

Q. Sure it wasn't six?

A. No, I don't think it was six; it was five shots.

Q. Did the people move away from in front of the man after the firing or did they remain?

A. No, they remained there until they started to fire with tear gas.

Q. How long after that?

A. Just a few seconds after that.

Q. And a few seconds after the five shots were fired they started to go away?

A. Yes, sir.

Q. Was there any more firing from the C. I. O. headquarters?

A. Only from down there; from where I could notice to that corn field.

Q. Did that corn field—that was some distance from the house, wasn't it?

A. Yes, sir.

Q. From the vicinity of the house, was there any more firing?

A. Any more shots fired after the five shots?

Q. That is right.

A. I can't tell; the firing was going rapidly on both sides.

Q. Did you see the police fire any revolvers or pistols or use any sirens?

A. No, I don't think so.

Q. Did you see any men fall?

A. When they started to fire I watched the crowd. They broke away and I went through and came over there.

Q. Did the policemen stand up or fall to the ground?

A. When the firing first started?

Q. Yes.

A. They were standing, and somebody hollered "lay down."

Q. Do you know who it was? The party that hollered?

A. No.

Q. Do you know Captain Curley?

A. I know Mr. Curley.

Q. Was he there that night?

A. Yes, he was there that night.

Q. Do you know whether it was he who shouted for them to lie down?

A. Sir?

Q. Do you know whether it was Captain Curley that shouted at the officers?

A. No.

Q. Now, did you see an automobile drive up to the C. I. O. headquarters while you were looking out?

A. Sir?

MR. LAUTER: Will you read that question?

(The last question was read.)

A. No.

Q. Do you know whether there were any automobiles parked?

A. Yes, down further there was automobiles parked. There was an automobile parked close to the dividing line.

Q. Were there any trucks or automobiles parked in front of the C. I. O. headquarters?

A. That night?

Q. Yes, sir.

A. Yes, there was some automobiles parked there that night.

Q. Were they directly in front of the C. I. O. headquarters?

A. No, they was on the side.

Q. Do you know whether any were in front of the building?

A. I don't know.

Q. If there were any, you don't know?

A. No, sir.

Q. How many doors are there in the building?

A. The C. I. O. Hall?

Q. Yes.

A. No.

Q. Are there any windows?

A. Yes, on the side.

Q. Are there any windows on the front?

A. Some windows on the front.

Q. Do you know how many there are?

A. No.

Q. From where you were in the building, how much of the front of the building did you see in front of the C. I. O. building?

A. I could see the north side of the building and then part of the front. There is a tile building obstructed half of the building from where I was.

Q. You don't mean the north side? You mean the south side?

A. The south side, yes.

Q. You could only see half of the front of the building?

A. Yes, sir.

Q. Did you see any doorways from where you were?

A. No, sir.

Q. That is, if there were any doorways in front of the building, you could not see them from where you were?

A. No.

Q. If the firing took place out of the doorway, you could not see it from where you were, is that correct?

A. Yes, sir.

(The record was read for the Examiner by the Reporter.)

MR. DAY: Did your Honor find out what the testimony was?

TRIAL EXAMINER LINDSAY: Yes, he said it was 350 or 400 or maybe 500 feet if measured.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Pontius) Mr. Lustig, will you please take your time and look at that clock and tell us what time it is?

A. Five minutes to 4:00.

MR. LAUTER: I want the record to show that it took the witness ten seconds to tell the time.

MR. DAY: Did you time him?

MR. LAUTER: Ten seconds. I timed him.

MR. DAY: Have you got a stop watch?

MR. LAUTER: I have got a watch.

TRIAL EXAMINER LINDSAY: Let the record show that it was then six minutes to 4:00 when he took the time. It is not yet five minutes to 4:00.

MR. PONTIUS: That is all.

(Witness excused.)

FRANK SWARM

a witness called by ~~and on~~ behalf of the Respondent, having been first duly sworn, testified ~~as follows~~:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Frank Swarm.

Q. Where do you live?

A. 711 Euclid, S. W. Massillon, Ohio.

Q. What is your business?

A. Night watchman.

Q. For what company?

A. Republic Steel, Massillon, Ohio.

Q. How long have you worked for Republic?

A. About 20 years.

Q. Do you remember some trouble down at the plant and CIO headquarters on a Sunday night last July?

A. I do.

Q. Were you at work that day?

A. I was.

Q. And what was your shift?

A. 3 to 11 in the afternoon.

Q. What time did you go to work that day?

A. Well, I reported in, I think around 2:35.

Q. And how long did you work?

A. Well, my shift extended to 11 o'clock. I was there until about 2:30 in the morning.

Q. Where were you?

A. In the building.

Q. Now what building?

A. The main office.

Q. I call your attention to this map that has been marked Respondent's Exhibit No. 1. This is Oberlin Avenue where I have the pointer now and there is the viaduct; that is the north up there; south, east and west and Erie Street. Here is Cleveland Avenue.

Q. Now where was the office building that you were in?

A. Well, the office building is located—which is Erie Street? Right in here (indicating).

Q. Well, now, this building that is marked "district office" is that where you—

A. That is it, yes, sir.

Q. How large a building is that? How many stories is it?

A. Three stories with an attic.

Q. And you say you were there from 3 o'clock until 2 o'clock?

A. About 2:35 to 2:30 that morning, the following morning.

Q. And your shift was over when?

A. 11 o'clock.

Q. What, if anything, did you do about 11 o'clock that night? Where were you, first?

A. At 11?

Q. Yes.

A. Well, about 10:30 why I made my beat. Then I went to the east end wing of the building, overlooking Cleveland Avenue.

Q. And on what floor were you then?

A. The first floor.

Q. Now what did you do?

A. What did I do? I was looking out the east window.

Q. The east window?

A. On the first floor.

Q. On the first floor.

A. Yes, sir, the east side of the building.

Q. Now, about what time did you do that?

A. Oh, I was in that room practically all the time from about 8 o'clock until after 11:30, with the exception of the time that I was making my beats.

Q. Now, when you looked out of the window of the office building, after your shift was up what, if anything, did you see?

A. I saw plenty.

Q. Well, now—

TRIAL EXAMINER LINDSAY: Strike out that word "plenty".

Q. Yes, now don't tell us you saw plenty. What did you see?

A. Well, at 11 o'clock I was in that room, and the 11 o'clock whistle had blowed—do you want the time for leaving, about 11 o'clock, or after 11?

Q. I just want you to tell what you saw over there.

A. At 11 o'clock or before?

TRIAL EXAMINER LINDSAY: Repeat the question, Mr. Reporter.

(The question was read by the Reporter.)

A. I saw shooting.

Q. About what time was that?

A. Well, the 11 o'clock whistle had blown, and the sound of the whistle had not died down, you could hear the sound of the whistle and there was a commotion and shooting over on Cleveland Avenue.

Q. And you saw it?

A. I did.

Q. Now, where did the shooting come from?

A. From in front of the CIO headquarters.

Q. You say you saw shooting, what did you see?

A. Well—

Q. You say "shooting"—what did you see of it?

A. I saw the fire from guns.

Q. Can you tell us how many shots?

A. There was five shots from the front of the headquarters.

Q. Then what next did you see?

A. Well, really leading up to the shooting, there was two men walked up Cleveland Avenue, in front of the headquarters, and they got right up near the headquarters, and there was five shots fired. Two men dropped and they started back towards the police department, they had strung across Cleveland Avenue. After the fifth shot was fired, the Massillon city police started to shoot tear gas.

Q. Then about how much of tear gas was shot there?

A. I wouldn't estimate but there was quite a bit.

Q. Now go forward and tell us in your own way what you saw. Tell us.

A. Well, directly after the shooting I saw several ambulances pull up.

Q. Yes.

A. And then the shooting—there was a round of shots. Then there was a couple of seconds interval in between. Then a second firing of shooting started, and in the meantime you could hear people hollering and a commotion up there. Of course, you heard that beforehand.

Q. Now, did you see anybody else arrive there besides the Massillon police?

A. I did.

Q. Whom did you see arrive there?

A. The Canton Police Department.

Q. About when did the Canton Police Department arrive there?

A. Well, I won't know the exact time but it was in the neighborhood of around 11:20 or 11:30.

Q. And after the Canton Police Department arrived, what did you see?

A. Well, I saw the Canton Police Department give a new supply of tear gas to the Massillon Police Department.

Q. And then what happened?

A. There was another volley of firing; shooting started from up in front of the hall again. The Massillon police came back and responded with tear gas. Shortly after that the Ohio National Guards came on the job.

Q. And then what did you see happen?

A. Well, the Ohio National Guards started to round up quite a few and bring them to the Canton jail.

MR. DAY: Well, you didn't see that.

THE WITNESS: I didn't see that but I saw them round them up and load them into the trucks.

Q. All right. And then what?

A. I understand they brought them—

Q. Don't tell us what you understand.

MR. DAY: That may go out by consent.

Q. Now, you tell generally what you saw there that night.

A. Sir?

Q. Tell us what you saw there that night. Tell us what else you saw.

A. Well, you asked from 11 o'clock on, did you?

Q. Yes.

A. Well, quite a few things before 11 o'clock—

Q. Now, what did you see before 11 o'clock?

A. Well, about 9:30 there was trouble started on the east end of the viaduct.

Q. Could you see that from where you were?

A. Well, I could see a commotion over there but I couldn't see exactly what was wrong. A party came across the viaduct. I said: "What is the commotion there?"

Q. Don't talk about a commotion unless you can clearly tell us what you heard.

A. All right. About eight o'clock I went in the building and I saw quite a few people in front of the C. I. O. headquarters. I would say between 150 and 200 gathered there between 8 and 11 o'clock. There was a commotion over there.

TRIAL EXAMINER LINDSAY: Just a moment.

Q. Now, you say there was a commotion. You can't say that.

MR. DAY: That may go out by consent.

Q. Don't say commotion. What did you see them do?

A. Well, there was milling around over there, and talking, and crowding; jamming. Automobiles moving in and out, parking. Automobiles on the south side of the building moving in and out and reparking.

Q. And you left the building about what time of the night?

A. About 2:30 in the morning.

Q. Those first flashes that you saw came from where?

A. Directly in front of the C. I. O. headquarters.

Q. In what direction?

A. Coming south from the headquarters towards Oberlin Road.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Mr. Swarm, you have just testified to a number of things which happened in the vicinity of Cleveland Avenue, is that correct?

A. Yes, sir.

Q. Now, did the things that you have testified about you saw yourself?

A. I did.

Q. Is that also true with respect to the National Guard?

A. Sir?

Q. Is that also true with respect to the National Guard?

A. Yes, sir.

Q. Did you see the National Guard round up any men?

A. I did.

Q. Now, where did you see the National Guard round the men up?

A. Rounded up in Cleveland Avenue.

Q. Whereabouts?

A. Well, right along headquarters there and a little bit south of headquarters—C. I. O. headquarters.

Q. Are there any buildings south of the C. I. O. headquarters?

A. There is one frame dwelling on the east side of the street.

Q. Is that where you saw them round them up?

A. Around in there and a little bit north.

Q. About what time did you see them round them up?

A. Well, I would say it was around 1 or a little after 1 o'clock.

Q. What did you see them do?

A. Loaded them in trucks.

Q. Before they loaded them in trucks, what did you see them do?

A. Well, they lined them up.

Q. Where did the men come from?

A. Around in the headquarters; the C. I. O. headquarters.

Q. Took them out of the C. I. O. headquarters?

A. I don't know if they took them out or not but they were around that headquarters.

Q. How long had the men been there?

A. How long before?

Q. That is right.

A. I don't know exactly how long before.

Q. Weren't you working out on the scene all this time?

A. I was.

Q. Could you give us some idea?

A. Some of them might be early comers; some of them might be late comers in the evening.

Q. Tell me when the earlier comers came, after they were rounded up.

A. I can't tell you that because I don't know what time they got to headquarters.

Q. But you were looking down on the scene all the time?

A. I was.

Q. But you couldn't give me any idea?

A. If there were 75 to 100 men standing in front of the building, do you think that I can tell you how many there were?

Q. Don't ask me any questions. I am asking you questions.

A. I can't give you any definite time they arrived at headquarters.

Q. The men that were rounded up and put in National Guard trucks, about what time did they start rounding them up and putting them in?

A. I would say around 1:45—12:45 or 1 o'clock; maybe a little later.

Q. How many men did you see in front of the C. I. O. building about 11 o'clock?

A. Well, I would say there was at least 200.

Q. What were those people doing there?

A. Milling around, talking around, talking to each other in a nervous state of mind.

TRIAL EXAMINER LINDSAY: Just a minute. Strike out the word "nervous," and the word "milling." Tell what you saw.

A. There was walking around in front of the building back and forth and talking to each other.

Q. Were their actions any different than an ordinary crowd of 200 people?

A. There was.

Q. In what respect were their actions different?

A. Nervous disposition.

TRIAL EXAMINER LINDSAY: Strike out the word "nervous." Were their actions any different from any crowd of 200 people?

A. They seemed excited.

Q. How did that manifest itself; their excitement?

A. Sir?

Q. How did they manifest their excitement?

A. Why, by the disposition; by the way they was walking around.

Q. Were they running around or walking around?

A. They was walking. They couldn't have run around in a crowd like that.

Q. They were walking?

A. Yes, sir.

Q. Now, you heard five shots?

A. I did.

Q. About what time was that?

A. Well, it wasn't much after 11:02 or 11.03. The sound of the whistle hadn't died down yet when I heard the shots.

Q. Where did the shots come from?

A. In front of the C. I. O. headquarters.

Q. Where, in front?

A. In front.

Q. In front you say?

A. Yes, in front of the building.

Q. How far in front?

A. Well, I would say it wasn't over two or three feet if it was that much.

Q. Sure it wasn't from the doorway?

A. Well, I wouldn't be surprised if some didn't come from the doorway.

Q. You say you wouldn't be surprised. Did you see where they come from?

A. They came from directly in front of the building.

Q. But you don't know whether it was from the doorway or the sidewalk?

A. I wouldn't be positive, no.

Q. Do you know if there are any steps to the building?

A. I think there is.

Q. Do you know how many?

A. No.

Q. Would you be surprised if they came from the steps of the building?

A. Well, would that be directly in front of the building?

Q. Just answer my question and don't ask me any questions. Are you sure they didn't come from the steps of the building?

A. They came from the front of the building.

Q. But are you sure they didn't come from the steps of the building?

A. No, it wasn't that close.

Q. All right. That is what I want to know. Do you know where the sidewalk is in front of the building?

A. I do.

Q. How long is the sidewalk from the doorway to the building?

A. Well, I couldn't tell you that exactly. I have never been that close to that or measured it.

Q. Do you know how many doorways there are to the building?

A. I know there is one; I couldn't say if there was any more or not.

Q. How much of the front of the building could you see from where you were standing?

A. About two-thirds of it.

Q. Now, were you standing anywhere near where Mr. Edward Lustig was when you were looking out?

A. I wasn't.

Q. Where was he, over north or south?

A. He was over further to the south.

Q. About what time was that when he was farther south?

A. About 11 o'clock and immediately after.

Q. You didn't see where he was standing, did you?

A. No, he was on the second floor; I was on the first.

Q. I say, you didn't see where he was standing?

A. I didn't.

Q. And you don't know exactly where he was standing?

A. I don't.

Q. Now, you saw the Canton police arrive?

A. They did.

Q. About what time did they get there?

A. Well, I would say around 11:30 or shortly thereafter.

Q. What was there about them to distinguish them and make you recognize them as Canton police?

A. Their blue uniforms.

Q. When did the Massillon police get there?

A. Sir?

Q. When did the Massillon police get there?

A. Well, there was some of them there all evening.

Q. When did they arrive?

A. Well, I don't know exactly. They was there quite a while before 11.

Q. Quite a while before 11?

A. Yes, sir.

Q. How long before 11?

A. I can't tell you exactly.

Q. How many were there quite a while before 11?

A. Well, the biggest part of them.

Q. How many is the biggest part?

A. Well, anything from 20 to 30 police on duty that night. I am safe to say 15 to 20 of them was there if not all of them.

Q. Were they there before 11?

A. Yes, sir.

Q. Quite a while before 11?

A. Yes, sir.

Q. Would you say a half an hour or an hour before 11?

A. I would say around an hour, if not longer.

TRIAL EXAMINER LINDSAY: If not longer?

THE WITNESS: Yes, sir.

Q. Then between 10 and 10:30 there was at least 20 to 25 policemen there?

A. Yes, sir.

Q. What did you notice those policemen doing?

A. What did I notice them doing?

Q. That was my question.

A. Why, they were standing there; they saw the crowd up above in front of the C. I. O.

Q. Never mind what they saw. Tell what you saw.

TRIAL EXAMINER LINDSAY: Just a minute. Strike out from the record in regard to what they saw.

Q. Go ahead.

A. They was on Cleveland Avenue.

Q. Go ahead.

A. Some of them were standing close together and some of them were strung out on Cleveland Avenue and some of them were strung out across the street.

Q. When you say they were strung out, what do you mean?

A. Sir?

Q. When you say they were strung out, what do you mean?

A. Well, I would say from around 10:30 on—

Q. How many of them did you see strung out across the street?

A. Well, I would say the biggest part of them.

Q. How many would that be?

A. Well, I would say between 20 and 25 were on duty that night around there on Cleveland Avenue. I would say at least around 20 was strung out.

Q. From 10:30 on?

A. Well, I would say so, yes.

Q. Did you notice whether or not they had any pistols, rifles, or tear gas guns?

A. They had a tear gas gun.

Q. What else did they have?

A. Well, there was several rifles.

Q. What else?

A. I guess that is about all.

Q. Didn't you see them with any pistols?

A. They had on their regular police uniforms, if I am not mistaken. I know several of them did.

Q. Did they carry pistols?

A. On regular duty they do.

Q. I am not asking you about regular duty. I am asking you if they carried pistols that night.

A. I think there was several on them.

Q. Did you notice whether or not they had any pistols?

A. I think one man did.

Q. Who was that?

A. Officer Moore.

Q. Did he also have a rifle?

A. No, I don't think he did.

Q. Who had the rifle?

A. I can't tell you.

Q. How many rifles were there?

A. There was several.

Q. Would you say three or four or 10 or 11?

A. No, not 10 or 11.

Q. Five or six?

A. No, I didn't count them. I didn't check them that close.

Q. How many would you say there were?

A. I wouldn't estimate.

Q. You couldn't estimate one or nine?

A. I couldn't estimate.

Q. I am asking you to state whether or not there was less than nine?

A. I have told you I wouldn't estimate the amount of rifles there was.

Q. Were there more than five?

A. I couldn't estimate the number of them.

Q. Were there more than one?

MR. DAY: I object to that.

A. I am not estimating.

MR. LAUTER: Well, I will request the Trial Examiner to ask this witness to answer my question.

TRIAL EXAMINER LINDSAY: If you know, you better answer the question.

A. I can't tell you exactly because I am not sure.

TRIAL EXAMINER LINDSAY: All right.

MR. LAUTER: The witness has testified that he saw several rifles there. That is more than one rifle.

TRIAL EXAMINER LINDSAY: Go ahead.

Q. Did you see more than one rifle there?

A. I can't tell you if there was more than one or not.

Q. Did you see one then?

A. Yes.

Q. Now, where was the one that you saw?

A. Some officer had it.

Q. When was the first time that night that you noticed a rifle?

A. When the firing started.

Q. About what time was that?

A. 11 o'clock or 11:02.

Q. How did you happen to notice the rifle?

A. Well, I don't know just how I did notice it.

Q. Was it being fired?

A. I don't think it was.

Q. Did you know that it was being fired?

A. I am not positive.

Q. In whose hand was it in?

A. I don't know who the officer was.

Q. Where was the officer standing?

A. Cleveland Avenue.

Q. What side of Cleveland Avenue?

A. I don't know if he was in the side of Cleveland Avenue or in the center.

Q. Do you know whether or not he was there?

A. He was there.

Q. How far away was he?

A. How far?

Q. Yes. How far?

A. About 150 yards.

Q. 150 yards?

A. Or 175 yards south of headquarters of Cleveland Avenue.

Q. Are you sure you mean yards or feet?

A. Sir?

Q. Do you mean feet or yards?

A. Yards.

Q. Do you know how many feet there are in a yard?

A. Sure, I ought to know, I went to school.

Q. How many feet are there?

A. Three there used to be.

Q. You don't think it has been changed, do you?

A. No, I don't think so.

Q. Now, you say it is 150 to 175 yards south of the C. I. O. headquarters?

A. Yes.

Q. Do you know how far Oberlin Road is from C. I. O. headquarters?

A. I never measured it.

Q. Give me your approximation of it.

A. Sir?

Q. Give me your estimation of it.

A. 250 to 300 yards I would say.

TRIAL EXAMINER LINDSAY: Will you read that last question and answer?

(The last question and answer were read.)

TRIAL EXAMINER LINDSAY: Was this man that far from C. I. O headquarters?

THE WITNESS: No, sir.

Q. How far away were you from C. I. O. headquarters?

A. How far was I?

Q. That is right.

A. Well, about 150 to 175 yards south of headquarters.

Q. Could you give me some idea of the distance that the man was with the rifle from C. I. O. headquarters?

A. I would say a little further than where I was.

Q. Was he a little more than 175 yards?

A. Sir?

Q. Was he a little more than 175 yards away?

A. A little less.

Q. How far away were you from the man with the rifle?

A. Well, I would say 150 feet.

Q. When the shooting started was the man with the rifle there?

A. I think he was.

Q. I am not interested in what you think. Was he there?

A. He was.

Q. What did he do?

A. Well, he was—I imagine he was there.

Q. I am not asking you what you imagine. What did he do?

A. I don't know.

Q. Did you see him?

A. I saw him there, yes.

Q. What did he do when the shooting started?

A. I don't know if he shot the rifle.

Q. What did he do when the shooting started?

A. I don't know.

Q. Didn't you see him?

A. I saw the man there, but I couldn't pick out any such man and watch his tracks, during a time like that.

Q. Did you see him at all later that evening ?

A. Sir?

Q. Did you see the man with the rifle later that evening?

A. I think I did.

Q. What was he doing?

A. Walking around.

Q. Did you see him shoot at any time that evening?

A. I did not.

Q. Did you see any officer use a pistol that evening?

A. I didn't.

Q. Did you see them shoot any tear gas?

A. I did.

Q. How many did you see shoot tear gas?

A. I couldn't tell you how many was shooting tear gas.

Q. Did you see one?

A. Yes, there was more than one.

Q. About how many more than one?

A. Well, I didn't make an accurate check on that, I didn't count them, but there was quite a few.

Q. Would you say seven or eight?

A. What?

Q. Would you say ten?

A. Well, I would not say ten, no. I will say seven or eight.

Q. Shooting off tear gas guns?

A. They were.

Q. When did they start to shoot off tear gas guns?

A. When did they stop?

Q. When did they start?

A. After the fifth shot was fired from in front of the CIO headquarters.

Q. How many started to shoot off tear gas guns at that time?

A. I couldn't tell you.

Q. How long did they continue shooting?

A. Well, I will say five or six, maybe seven minutes.

Q. And then how long did they stop?

A. Well, there was an intermission in there of several minutes, maybe five minutes or more.

Q. And when did firing start again?

A. After the shooting started from the CIO headquarters.

Q. That was the second time they shot?

A. The second time.

Q. Where did these shots come from?

A. From headquarters. All around headquarters.

Q. All around?

A. Right up in front.

Q. What did you mean, "all around"?

A. Well, right in the vicinity of headquarters.

Q. Now, in front or around? What do you mean b "around"? Do you know where those shots came fron did you see?

A. I do.

Q. You describe where you saw the second shots com from?

A. You mean the second volley of shots?

Q. That was my question.

A. Right in front of headquarters.

Q. In the doorway?

A. I couldn't say if it came from the doorway or no

Q. Would you say it came from the sidewalk?

A. Either the sidewalk or the street.

Q. During that intermission were there any peopl in the street?

A. Plenty.

Q. When the tear gas was fired, was anyone left?

A. Sir?

Q. When the tear gas was fired, did you see anyon left?

A. I hope to tell you they left, quite a few of them.

Q. I am not interested in what you hope to tell me Just tell me what you saw.

A. Yes, sir, there was—

Q. About how many remained there after the first volley by the police?

A. I couldn't make a check up from where I was. I couldn't count them.

Q. You say there were about 200 people around in the beginning there?

A. There was.

Q. How many were there when the second volley of shots was fired?

A. I couldn't tell you. I wasn't close enough to check them.

Q. Were you close enough the first time?

A. No, sir, I was not.

Q. You said there was 200 the first time?

A. I said there was between 150 and 200. There was a large crowd.

Q. You were close enough to make that judgment, weren't you?

A. I saw a large crowd.

Q. You saw 150 to 200, didn't you?

A. I would imagine there was.

Q. I am not interested in what you imagine.

MR. LAUTER: I move that the answer be stricken out from the record, as to what this witness imagines.

TRIAL EXAMINER LINDSAY: Oh, yes, that will be stricken.

Q. (By Mr. Lauter) You also imagine there were 150 to 200 when the second volley was fired?

A. No, there wasn't that many when the second volley was fired.

Q. You were near enough to see there weren't that many?

A. I was close enough, because I could see them running in all directions.

Q. Would you say there were more or less than half of the crowd?

A. Sir?

Q. Would you say there was more or less than half of the crowd when the second volley was fired?

A. Well, I would say the biggest part of the crowd started to run after the first volley because I could see them going over the Heights and all directions.

Q. How many shots did you see fired the second time?

A. I don't know how many was fired the second time because the Massillon police force responded directly with tear gas.

Q. In what direction did the shots go, the second volley of shots?

A. From what side?

Q. Well, the shots—

A. What do you mean?

Q. The shots were fired by—

A. The shots came south, the pistol shots came south from the CIO Hall.

Q. You are sure they were pistol shots?

A. I imagine they were.

Q. Not what you imagine.

A. I know they were, yes.

Q. Did you see the pistols?

A. I saw the firing.

Q. Did you see the pistols?

A. I didn't see the pistols but I saw the fire.

Q. How do you know they were not rifles?

A. Well, they might be rifles.

Q. They might be pistols, they might be rifles?

A. Yes, sir.

Q. But you know they were pistol shots, weren't they?

A. I won't say they were pistol shots or ammunition, they was bullets. You could see the fire coming from the guns. Whatever it was, I don't know.

Q. You can't estimate how many there were?

A. No, I would not estimate because the Massillon police force responded directly with tear gas.

Q. Did they continue shooting from the CIO headquarters after then?

A. No, they did not.

Q. How many men did you see rounded up by the National Guard trucks that night?

A. Well, I saw several, maybe two or three trucks taking men out. I will say there was from eight to ten men in a truck, or in other words, 24 to 30 men on the three trucks.

Q. Did you see anybody throw stones that night?

A. I did not.

Q. Before the five shots were fired, did you see any stones thrown?

A. I did not.

Q. Did you hear any?

A. I did not.

MR. LAUTER: That's all.

MR. DAY: That's all.

MR. LAUTER: Just one second.

Q. (By Mr. Lauter) When did the ambulances come up?

A. When did the ambulance?

Q. That's right.

A. Shortly after the first round of shooting.

Q. How much time elapsed between the first and second round?

A. Well, not over five to ten minutes.

Q. In between five and ten minutes, the ambulances came up?

A. They did.

Q. How long did the ambulances stay there?

A. Well, several of them was there up until 2 o'clock and after.

Q. I am asking you between the first and second rounds, how long did the ambulances stay there?

A. Between the first and second?

Q. Yes.

A. Half an hour to three-quarters.

Q. And how many ambulances came up?

A. I know there was two—I am not sure about the third one.

Q. In between the first and second volley?

A. Yes, sir.

Q. What did the ambulances do?

A. Well, they stood there on the corner of Oberlin Road and Cleveland Avenue quite a while. Then the one ambulance drove up on Cleveland Avenue, loaded up one person, took them to the hospital.

Q. Where did they load them from?

A. From up around headquarters. Then the—Well, I won't say directly in front of headquarters, but in that vicinity.

Q. Didn't they take someone out of headquarters?

A. I don't know.

Q. Did you see where the man came that they loaded into the ambulance?

A. Sir?

Q. Did you see where the man came from that they loaded into the ambulance?

A. I did not.

MR. LAUTER: That's all.

MR. DAY: That's all, sir.

(Witness excused.)

HOWARD SPEES

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. Howard Spees.

Q. Where do you live?

A. Ohio Avenue, N. E. Massillon.

Q. What is your business?

A. Motor inspector.

Q. Republic Steel Corporation?

A. Republic Steel.

Q. How long have you worked for Republic Steel Corporation?

A. About three and one-half years.

Q. How long have you lived in Massillon?

A. Well, all my life.

Q. Married man?

A. Yes, sir.

Q. Were you working for Republic Steel Corporation on Sunday, July 11 last?

A. Yes, sir.

Q. What shift were you working on?

A. 3 to 11.

Q. From 3 in the afternoon until 11:00 at night?

A. Yes, sir.

Q. What time did you leave the plant that night, if you left?

A. I hit Oberlin Road about 11 o'clock.

Q. Were you driving your car?

A. Yes, sir.

Q. Your own car?

A. Yes, sir.

Q. Anybody else with you?

A. Yes, sir.

Q. How many men?

A. One man.

Q. Was he somebody worked in the mill also?

A. Yes, sir.

Q. And where were you bound for?

A. Home.

Q. And which way did you drive after you left the mill?

A. We turned east on Oberlin Road.

Q. Down Oberlin Road?

A. Turned east on Oberlin Road.

Q. East on Oberlin Road?

A. Yes, sir.

Q. Then which way did you go?

A. Across the viaduct, up South Erie.

Q. Now just tell us what, if anything, happened while you were driving up South Erie that night on your way home from work?

A. Well, just as I hit Oberlin Road why the shooting started. There was three or four cars ahead of me and I kept following them cars across the viaduct, and there was a traffic jam on the end of the bridge, and the Massillon police was trying to get that straightened out. Well, they got that straightened out and they run us up South Erie.

Q. Now, as you went up South Erie what happened?

A. One block north of the viaduct I left this man out, that is where he lived, and as I started out there was a crowd along the sidewalk on both sides, and they started throwing stones. One of the stones happened to hit my headlight.

Q. Hit your headlight?

A. Yes, sir.

Q. What happened to the headlight?

A. It broke.

Q. And about where was your car when the stone was thrown that broke the headlight?

A. About in the middle of the block.

Q. And what block is that?

A. Well, I don't just recall the name of the street.

Q. Well, how far north of the viaduct intersection was it?

A. A block and a half.

Q. How many stones were thrown?

A. Oh, three or four.

Q. Could you tell from what side of the street the stones came?

A. Both sides.

Q. What if anything else did you see happen?

A. There was a car drove up alongside of my automobile and tried to crowd me into the curb.

Q. And what if anything else—

MR. LAUTER: Just one second. I move the answer be stricken, this man's judgment about whether they tried to crowd him, as incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Oh, I will let it stand. Objection overruled, let the record show an exception.

MR. LAUTER: An exception.

Q. What, if anything, did you notice about that car?

A. I saw that it had CIO stickers on its windshield.

Q. And how many men were in that car?

A. Four.

Q. What, if anything, did they do or say?

A. Why, they called me a scab and vile names.

Q. Then what did you do?

A. Why, I stepped on the gas and got away from them.

MR. DAY: I think that's all.

Cross Examination

Q. (By Mr. Hoskins) Mr. Spees, how long did you say you worked in the mill, please?

A. Three and one-half years.

Q. Your job there was as motor inspector?

A. Yes, sir.

Q. Have you been motor inspector all that time?

A. Yes, sir.

Q. Were you working on May 25th?

A. Yes, sir.

Q. Did you stay in the mill that night?

A. Yes, sir.

Q. How long were you in the mill?

A. Nine days.

Q. You were in there nine days?

A. Yes, sir.

Q. During the time that you were in the mill those nine days, Mr. Spees, how many hours a day did you work?

A. Eight hours.

Q. And how many hours a day were you paid for?

MR. DAY: I would like to save the record. I will object to this on the ground improper cross examination.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

Q. How many hours a day were you paid for?

A. 14.

Q. 14?

A. Yes, sir.

Q. And when did you go back to the mill after you left at the end of nine days?

A. The 4th of July.

Q. You went back the 4th of July?

A. Yes, sir.

Q. How did you happen to go back on that day?

A. I called them up.

Q. You called who?

A. My boss.

Q. Who is your boss?

A. J. D. Kelvie.

Q. When did you call Mr. Kelvie?

A. Saturday.

Q. That was the preceding Saturday?

A. Yes, sir, the 3rd.

Q. Is that the first conversation you had with him?

A. Yes, sir.

Q. Since you went out?

A. Yes, sir.

Q. Had you talked to any others of your superiors?

A. No, sir.

Q. Did he tell you to come back on the 4th?

A. He told me to come back on the 4th.

Q. Did you sign a Back-to-Work petition?

A. I did.

Q. Whereabouts?

A. Chamber of Commerce Building.

Q. At whose request did you sign it?

A. My own.

Q. Had anyone asked you to sign it?

A. No.

Q. Had anyone told you about it? How did you know that it existed?

A. I read it in the Independent, that they were circulating them, signing them in the Ohio Merchants Bank Building.

Q. Do you remember what day you went down there to sign?

A. No, I don't just recall.

Q. Who all was up in the office when you went up to sign the Back-to-Work petition?

A. There was two or three men there that I don't know them by name.

Q. Were there any that you did know?

A. No.

Q. These two or three men that you don't know by name, had you ever seen them before?

A. Oh, yes.

Q. Where had you seen them?

A. Around the mill office.

Q. Around the mill office? Do you know what they do at the mill?

A. No, I couldn't tell you.

Q. By "in the mill office" do you mean they were clerks or what?

A. I imagine they were foremen or something, clerks, in charge of the mill there.

Q. Now, you say on July 11th you were working from 3 to 11:00?

A. I was.

Q. Do you know what time you rang out that night?

A. About 10:50.

Q. About 10:50?

A. Yes.

Q. What gate did you drive up?

A. No. 2 gate.

Q. Referring for a moment to Respondent's Exhibit No. 1 here; this is Oberlin Road running through the center.

A. Yes, sir.

Q. I call your attention to this roadway indicated on here and marked "No. 2 Entrance." Is that the road out of which you drove?

A. Yes, sir.

Q. Now, whereabouts on this map was your car parked when you got into it?

A. My car was not parked on that road. It was by the blast furnace.

Q. Where is the blast furnace with reference to any of the objects on this map?

A. Well, back of this building (indicating).

Q. But you are coming out of this road, is that right?

A. Yes, sir.

Q. Do you have any idea when you passed this spot marked "Gate House" on that map?

A. Why, I would say 11 o'clock.

Q. 11 o'clock?

A. Yes, sir.

Q. Did you see any accumulation of automobiles on the road at the gate house at that time?

A. No, I didn't.

Q. Do you remember whether there were any cars there at the gate house?

A. No, there wasn't. I was out on Oberlin Road at 11 o'clock.

Q. You were not stopped by the police as you went out?

A. No.

Q. How wide is that road there?

A. 25 or 30 feet.

Q. When you, as you say, turned into the road you heard some shooting?

A. Yes, sir.

Q. When you first heard shooting do you know when it was?

A. As soon as I hit Oberlin Road.

Q. As soon as you got on Oberlin Road?

A. Yes, sir.

Q. You told us that was around 11 o'clock?

A. 11 or a few minutes after.

Q. Could you describe the shooting you heard then?

A. No, I just heard the shooting, that was all.

Q. How many shots did you hear?

A. I can't remember; I didn't count them.

Q. Approximately?

A. I couldn't count them. I didn't try to count them. I had enough trying to keep on the road.

Q. Could you tell from what direction those shots came from?

A. They came from the C. I. O. headquarters on Cleveland Avenue.

Q. Did you see the flashes of guns?

A. Yes, I seen flashes.

Q. Could you tell which direction the shots were moving?

A. No, I couldn't tell that.

Q. Now, you say you turned off and turned south on Erie Street?

A. North on South Erie Street.

Q. North on South Erie Street?

A. Yes.

Q. Then you say about a block and a half away, what happened?

A. A block and a half away he left me off. Later on was where the stones were.

Q. Now, how many men were down there?

A. In the neighborhood of 50 to 75 strung along there—parked alongside.

Q. How many stones hit your car?

A. Two.

Q. Two stones?

A. Yes.

Q. One hit the headlight?

A. Yes.

Q. Where did the other one hit?

A. The other one hit the hub cap.

Q. Could you see the men who threw the stones?

A. No.

Q. Could you recognize any of them?

A. No.

Q. You don't know who threw the stones that hit your car?

A. No.

Q. You don't know?

A. No.

MR. HOSKINS: At this time, Mr. Examiner, I move to strike all of the testimony of this witness relative to the stone throwing. There is no evidence at all here to connect it up with any parties in this case or any of the issues in this case.

TRIAL EXAMINER LINDSAY: I am taking that motion under advisement.

Q. Now, this car that you testified about that approached you as you drove down the street, the men shouted some language after you?

A. Yes.

Q. Did you recognize any of those men?

A. No.

Q. Had you ever seen any of those men before?

A. No, sir.

MR. HOSKINS: That is all.

MR. PONTIUS: That is all.

(Witness excused.)

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

HORACE T. WERTZ

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Horace T. Wertz.

Q. Where do you live, Mr. Wertz?

A. In Massillon, Route 2.

Q. What is your business?

A. Fireman; locomotive fireman.

Q. Locomotive fireman for what Company?

A. Republic Steel.

Q. Republic Steel?

A. Yes, sir, in Massillon.

Q. How long have you worked for Republic Steel?

A. Four years the 3rd of last month.

Q. Were you working for the Republic Steel on the night of Sunday, July 11th?

A. Yes, sir.

Q. What was your turn then?

A. 11 to 7.

Q. That is 11 o'clock at night to 7 o'clock in the morning?

A. Yes, sir, 11 o'clock at night to 7 o'clock in the morning.

Q. Just tell what happened that night; just tell what you saw.

A. We went to work about—relieved the crew about twenty-five minutes of 11:00. We got the locomotive ready at the blast furnace, understand, blast furnace division, and shortly after 11 o'clock, the conductor told us to pick up an empty open top ladle and go to the open hearth and bring another one back.

So we picked up this ladle and went down the hill, that is, to go down to the open hearth furnace, we go down along the hill to the south about—in the neighborhood of half a mile, when we cross over and come back up to the open hearth, from three-quarters to a mile. We left those switches, when we passed through the three switches, we left them lined for us to come back, because there was no other crew in there, we knew that. We went up to look up this other ladle, we took coal on the engine and got hold of this ladle and it had been relined, and all we heard there had been some trouble, that is all. We didn't know nothing about that, and went back, started back to the furnace. Going down towards the bottom of the hill, I told the engineer, I says, "Now we better watch our heads a little bit."

Q. Don't tell what you told the engineer. This was at the main plant in Massillon?

A. Sir?

Q. This is at the main plant in Massillon?

A. Yes, sir.

Q. Don't tell what you told the engineer, just tell what happened?

A. Well, we went back to the bottom of the hill, what we call it from the blast furnace; when we got to the switches, we found everything against us, every switch was turned against us, which we had left lined for us when we went up.

Q. Yes, sir.

A. And I figured then that we was—

Q. Don't tell what you figured, just tell what happened.

A. All right, so the brakeman rode the front end or the back end, rather, we were backing up—rode right out there in the open, got off and throwed the first switch, the second and the third. We backed right through and started up the hill. Of course, they were ahead of us then on the caboose, ahead of an open top ladle, ahead of our locomotive. We got about 100 feet north of the switch, I heard a stone hit the cab. Well, I was already in the clear and I hadn't any more than heard that one until the engineer—two of them come in by his head on his side and he hollered to me, "Duck."

I said, "You are a way late on this ducking stuff, because I have been that way, I suspicioned it."

Well, we went on up the hill, the ground crew never knew nothing about this until we got up to the scale house.

Q. About how many stones were thrown at your train?

A. Well, I picked up four, I don't know how many more hit, that didn't come in, but four came in the cab and laid there on the deck until we got up to the furnace.

Q. That occurred about what time of the night?

A. Well, it was right after 11 o'clock when we went down, I would judge that was in the neighborhood of an hour later, I would say, after midnight.

MR. DAY: That is all. Just wait a minute, these gentlemen may want to ask some questions.

MR. HOSKINS: Mr. Examiner, we move to strike all of the testimony of this witness. There is nothing to show any connection of the incidents he has related with any of the parties in this case.

MR. DAY: It was all the same night, the 11th of July, down in the same plant, and about midnight.

TRIAL EXAMINER LINDSAY: Yes, I know what the witness testified. Yes, I will grant that motion.

MR. DAY: Note an exception.

TRIAL EXAMINER LINDSAY: Let the record show an exception.

MR. DAY: That is all.

MR. HOSKINS: That is all.

MR. DAY: That is all.

(Witness excused.)

GEORGE MAC KENZIE

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name.

A. George MacKenzie.

Q. Where do you live?

A. 517, 7th S. W. Massillon.

Q. What is your business?

A. Engineer.

Q. For what company?

A. Republic Steel.

Q. How long have you held that position?

A. Since 1923, I will say 14 years.

Q. Were you working as an engineer on that night of Sunday, July 11th?

A. Yes, sir.

MR. DAY: I want to say to the Trial Examiner that the testimony of this witness will be to the same effect as the testimony of the last witness.

MR. HOSKINS: In that event, if your Honor please, we object at this time to the introduction of any evidence or any testimony from this witness, on the same ground.

TRIAL EXAMINER LINDSAY: You may proceed. I will rule on the motion when made.

MR. DAY: All right.

Q. Now, where were you about midnight that night?

A. At 12 o'clock I was at the open hearth, coming back from the open hearth.

Q. Where is the open hearth located?

A. Oh, I can't just say the distance from the blast furnace. It is located on the south side of Oberlin Road.

Q. Well, is it part of the Republic plant over there?

A. Yes, sir.

Q. And were you acting as an engineer on the engine?

A. Yes, sir.

Q. Now, just tell us what happened.

A. I can't tell you any more than what Mr. Wertz said, we were going to take the ladle to the open hearth, to get it relined.

Q. Go ahead.

(The last answer was read.)

A. Yes, sir.

Q. Go ahead.

A. On our way back we found the switches lined against us, as Mr. Wertz said, the switches were all lined against us.

Q. Where was it that you found the switches lined against you?

A. Right at the foot of what they call the blast furnace hill that serves the plant, alongside of the B & O side. After they were lined back into position, we went right through them and started up the hill. Went around 100 feet I would say, until the rocks began to fly.

Q. How many rocks flew?

A. Oh, well, there were a good many, I know there were four came in the cab, and I know a good many went on the outside of my head, on the outside of the cab.

Q. Did you recognize anybody who threw the rocks?

A. No, sir.

Q. You don't know who they were?

A. No, I don't know.

Q. About how large a crowd were they?

A. I couldn't say. It was dark.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Hoskins) Mr. MacKenzie, do you know how it happened that the switches were lined against you on your return trip?

A. I don't know who turned them.

Q. You don't know?

A. No.

MR. HOSKINS: Well, then, at this time, Mr. Examiner, we move to strike out all of the testimony of this witness for the same reasons stated in connection with the witness Horace T. Wertz, there being no connection, no evidence of who threw the rocks; any kid might have thrown the rocks for that matter.

TRIAL EXAMINER LINDSAY: Yes, I will grant that motion. Let the record show an exception.

MR. DAY: Exception. That is all, Mr. MacKenzie.

(Witness excused.)

DAVID DIAMOND

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) What is your name?

A. David Diamond.

Q. Where do you live, Mr. Diamond?

A. In Massillon, 709 South Erie.

Q. Where do you work? Where are you employed?

A. Republic Steel, Massillon.

Q. How long have you been working there?

A. Four years.

Q. In what department?

A. Shipping department.

Q. Now, do you know a man by the name of Yourny?

A. Sparos Yourny.

Q. Sparos Yourny?

A. Yes, sir.

Q. Do you know where he was employed prior to the strike?

A. Yes.

Q. Where did he work before the strike?

A. He worked chipper too.

Q. Same room that you worked in?

A. Yes.

Q. Do you know whether or not he belonged to the C. I. O.?

A. Yes, he belonged to the C. I. O.

MR. LAUTER: Just a moment. Is that shipper or chipper?

A. Yes, chipper.

Q. Now, did you have any conversation with this man at any time?

A. No, none.

Q. At your home?

A. He came one day about the 14th of July in the house.

Q. He came to your house on the 14th of July?

A. Yes, at 9 o'clock.

Q. What?

A. 9 ~~o'clock at~~ night.

Q. 9 o'clock at night?

A. Yes.

Q. Was there anyone with him?

A. No, I don't see no one.

Q. Now, did you have a talk with him or did he have a talk with you at that time?

A. Yes, he came in my house and he told me: "You work down there—" "You come back to the Republic Steel and work?" I says: "Yes, sir." He told me: "Don't you go any more because I cut your head off." And then he go away. Two days later he meet me outside the house, and he catch me when I come back from work and he told me: "Don't you go any more for work because I smash your head, I break your head, cut everything else."

Q. Anything else said?

A. He stay about 20 minutes and tell me lots of things.

Q. What did he say?

A. He told me: "Fucker, and son-of-bitch." Lots of things.

Q. Now, anything else said at that time? Anything more said than you have told us?

A. He told me lots; I don't know—about 20 minutes.

Q. What else did he say, if anything?

A. He told me: "Don't you go to work because if you don't go to work Company sign with Union."

Q. Now, was there anybody there when you had this conversation?

A. Yes.

Q. Who was present?

A. One more man, George Banagiot.

Q. Who?

A. We call him George Banagiot.

Q. What if anything did you say to this Mr. Yourny? What did you say?

A. I no tell him anything.

Q. What?

A. I no tell him anything. He mad like hell. He asked for trouble, you know, I no tell him anything.

MR. DAY: I believe that is all.

Cross Examination

Q. (By Mr. Lauter) Now—

MR. LAUTER: Will you read that last answer of the witness?

(The last answer was read.)

Q. Your name is David Diamond?

A. Yes, sir.

Q. You are in the chipping department?

A. Yes, sir.

Q. How long have you worked there?

A. Four years.

Q. In the same department all the time?

A. Yes, sir, the same one.

Q. Do you know when the strike took place?

A. The strike?

Q. Yes. Do you remember about a strike being held?

A. Yes, sir, I remember.

Q. You remember?

A. Yes.

Q. When did that take place?

A. The 25th of May.

Q. Where were you working that day?

A. Yes—no, I no work on that day.

Q. Did you work the next day?

A. No, before.

Q. When did you go back to work?

A. I come back to work on the 8th of July.

Q. The 8th of July?

A. Yes, sir.

Q. Now, who was your foreman?

A. My foreman is Mr. Peppert.

Q. Mr. Peppert?

A. Yes, sir.

Q. Now, do you know Mr. Angstadt?

A. What?

Q. Now, do you know Mr. Angstadt?

A. No.

Q. Did you have a conversation with Mr. Peppert before July 8th?

A. No.

Q. Didn't he come to your house?

A. No, never.

Q. You didn't speak to him?

A. No.

Q. Did you call him on the phone?

A. No.

Q. How did you know to come back on July 8th?

MR. DAY: I object to this line of questioning as not proper cross-examination.

TRIAL EXAMINER LINDSAY: Overruled. Let the record show an exception.

MR. DAY: Exception.

A. I remember.

Q. What?

A. I remember the day.

Q. How did you go to come back to work on July 8th? Why did you go to work on that day?

A. Because I see plant was starting to work.

Q. Wasn't it working on the 7th?

A. No.

Q. Why didn't you go back to work on the 7th?

A. Because I no have machine.

Q. What is that?

A. I no have machine to go to work.

Q. How did you go to work on the 8th? By machine?

A. Yes, sir.

Q. Who took you to work?

A. Some of my friends who go into work, too.

Q. What is the name of the man with the machine?

A. George Skadanes.

Q. Is he a foreman?

A. No.

Q. What kind of work does he do in the mill?

A. Chipper like me.

Q. Did he tell you that he was going back to work on July 8th?

A. What?

Q. Did you see him before you went back to work?

A. Yes.

Q. You saw him on July 7th?

A. Yes.

Q. Did you have a conversation with him then?

A. No.

Q. Did you speak to him?

A. No; only I asked him if he wants to take me in his machine and he says: "All right, I will take you."

Q. Did he tell you he was going to work on July 8th?

A. Yes.

Q. Did he tell you anything about whether his foreman told him to come to work?

A. No.

Q. You both had the same foreman?

A. We change foremen every day there.

Q. Did you sign a Back-to-Work petition?

A. Yes, sir.

Q. Where did you sign it?

A. At the Ohio Merchants Bank.

Q. When did you sign it?

A. I signed—I don't remember the day but I went a week before I go back to work.

Q. How did you happen to go there to sign the petition? How did you know they were signing petitions there?

A. Some of my friends told me.

Q. Didn't the foreman tell you?

A. No, he don't see me—foreman.

Q. You are sure you didn't see the foreman?

A. Sure; no.

Q. When you left the plant on May 25th or May 24th—

A. May 24th.

Q. —you didn't go back to work until July 8th?

A. Yes.

Q. Did you see Mr. Peppert in between May 24th and July 8th?

A. No.

Q. You never spoke to him?

A. No.

Q. Didn't call him on the telephone?

A. No.

Q. He didn't call you?

A. No.

Q. Now, on July 14th you had a conversation with Mr. Yourny?

A. Yes, sir.

Q. What is his first name?

A. Sparos—Wanges.

Q. Sparos Yourny?

A. Yes. I am not sure. That is what I think in my language.

Q. Now, you say he is a member of the C. I. O.?

A. He is a member.

Q. Are you sure?

A. Sure, because he told me: "Don't you go to work if you know—"

Q. Wait a minute. Is that the only reason you say he is a C. I. O. member; is that correct? Because he told you not to go to work?

A. Yes.

Q. That is the only way you know he is a C. I. O. member, is that correct?

A. Yes, sir.

Q. Now, on July 14th, what did he say to you?

A. He told me close to 9 o'clock in my house—

Q. Where were you at that time?

A. In my house.

Q. Who else was there?

A. And he told me: "No, you go to work down there to Republic Steel because I am going to cut your head off." Then he run away.

Q. Then he ran away?

A. Two days—

Q. Just a moment. We will come to that. How long did he stay there when he had that conversation with you?

A. The first time?

Q. That is right.

A. Only he go.

Q. Where do you live?

A. 709 South Erie, Massillon.

Q. What kind of house is that? Is it a frame house or a brick house?

A. Frame house.

Q. How many stories are there?

A. One story and the rooms upstairs; I live upstairs.

Q. You live upstairs?

A. Yes, sir.

Q. How many flights up to the rooms where you live? How many stairs up there?

A. Stairs?

Q. Yes.

A. 10 or 12.

Q. Did he come up the stairs to see you?

A. No, we went downstairs. He found me in the kitchen.

Q. He found you in the kitchen?

A. Yes, sir.

Q. You are married?

A. Yes, sir.

Q. Did he come in the kitchen?

A. Yes.

Q. What rooms are there before you get to the kitchen?

A. Store there.

Q. What is that?

A. A store.

Q. It is a store?

A. Yes.

Q. You have to walk through the store to get to the kitchen?

A. Yes.

Q. Did he walk through the store?

A. Yes.

Q. What kind of store is it?

A. A beer garden.

Q. What is that?

A. A beer garden.

MR. DAY: What is that?

THE WITNESS: A beer garden.

Q. You live in the back of the beer garden or you live upstairs?

A. I live upstairs but the beer garden is in the back.

Q. You were in the kitchen when he came in?

A. Yes.

Q. How many more people were in the kitchen?

A. One more.

Q. What is his name?

A. George Kokenos.

Q. This is at 709 South Erie Street, is that right?

A. Yes.

Q. Did George Kokenos hear your conversation with Sparos?

A. Yes.

Q. He heard every word of it, is that right?

A. Yes.

Q. Now, how many people were there in the beer garden?

A. I don't know; I don't see at that time—

Q. He was there about 9 o'clock?

A. Yes.

Q. Weren't you there?

A. Yes.

Q. Weren't there some people in the beer garden at that time?

A. I don't know.

Q. Weren't there a couple of people there?

A. I can't tell you.

Q. When you came down to go into the kitchen—

A. I was in the kitchen two hours before; I was cooking—

Q. Now, after Mr. Sparos said to you—spoke to you, he ran out of the room?

A. Yes.

Q. Do you know whether or not he ran out of the beer garden?

A. No, he ran right out through the beer garden; right out to the street and go.

Q. What did Sparos say to you? He was going to cut your head?

A. Yes.

Q. Is that all?

A. If I go to work any more.

Q. Is that all he said to you?

A. Yes, sir.

Q. You didn't say anything to him?

A. No.

Q. Did you say anything to Mr. George Kokenos?

A. Well, after Sparos ran out I told George—

Q. What did you say to him?

A. He said—George told me—"Maybe that guy is crazy."

Q. Who said it, you?

A. Yes, me.

Q. You said: "Maybe that guy is crazy?"

A. Yes. If he talk like that guy to cut heads off of the mens.

Q. He sounded to you like a crazy man?

A. What?

Q. He sounded to you like a crazy man?

A. That is what George told me. He might be crazy if he start to cut head off of the people.

Q. What did you say to George?

A. Oh, nothing.

Q. What?

A. I laughed with him.

Q. You laughed at the man who came in and ran away?

A. No, I laughed with George.

Q. Did you say anything to George?

A. I told him the same thing.

Q. What did you tell him?

A. I don't remember.

Q. Now, try and remember what you said. George said he sounded like a crazy man and you laughed?

A. Yes; I told George: "Maybe he is crazy."

Q. You said: "Maybe he is crazy, too?"

A. Yes.

Q. Now, you saw the same man again?

A. Yes, sir, he meet me outside.

Q. Outside where?

A. Outside the house.

Q. Were you alone outside or was someone with you?

A. At that time George was with me and he talk with me.

Q. Then this man that seemed like a crazy man came again on July, met you with George, and then said he was going to smash your head?

A. Yes, and everybody down in the mill.

Q. And everybody down in the mill?

A. Yes, sir.

Q. Did you have any conversation with George after he left?

A. Oh, yes.

Q. What did you say to him?

A. George told me: "Why, maybe he is going to hit you."

Q. What did you say to George then?

A. I no afraid.

Q. You weren't afraid?

A. No.

Q. He didn't frighten you at all?

A. No.

Q. This man whom you said seemed crazy?

A. No.

Q. Now, you don't know whether he is a CIO man, do you?

A. Yes, I know, because—

Q. Wait a minute. Do you know or don't you know? Do you know whether he is a CIO member?

A. I no see no button.

Q. You didn't see a button?

A. No, I no see.

Q. You don't know whether he is a member, do you?

A. Well, I know he is a member because he talked mad like.

Q. That is the only way you know?

A. Yes, sir.

Q. He didn't tell you he was a CIO member, did he? He didn't tell you that he was a CIO member, did he?

A. He didn't tell me he was.

MR. HOSKINS: That is all. I move that the testimony of this witness be stricken on the ground it is not connected up with any of the parties to this action.

TRIAL EXAMINER LINDSAY: Oh, I will overrule that motion. Let the record show an exception. Any other questions?

MR. PONTIUS: No, that is all.

(Whereupon, at 5:30 p. m., September 9, 1937, an adjournment was taken to 9 o'clock a. m., September 10, 1937.)

Courtroom No. 1, Stark County Courthouse, Canton, Ohio
Friday, September 10, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 9 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., Oscar Grossman, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., Thomas F. Veach, Esq., and Arno G. Erdrich, Esq., (Cleveland, Ohio), and H. C. Pontius, Esq., (Canton, Ohio), appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MILTON J. BETZ

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) You are Mr. Milton J. Betz?
A. Yes, sir.
Q. Where do you live, Mr. Betz?
A. 1008 Fourth Street, N. E., Canton, Ohio.
Q. Canton?
A. Yes, sir.
Q. How long have you lived in Canton?
A. All my life.
Q. How old are you?
A. 32.
Q. Are you a married man?
A. No, sir.
Q. Now, where are you employed?
A. Republic Steel.
Q. At what Division of Republic Steel?

A. Stock rolling mill.

Q. Is that in Canton, Ohio?

A. Yes, sir.

Q. How long have you been employed there?

A. Approximately 11 years.

Q. What is the character of your work?

A. I am a bar shear man.

Q. Shear man?

A. Yes, sir.

Q. Were you working on the 25th day of May of this year?

A. Yes, sir.

Q. When did you quit working on that day; what turn were you on?

A. I was on the day turn; quit at 3 o'clock.

Q. Quit at 3 o'clock?

A. Yes, sir.

Q. Did you go back—did you attempt to go back at any time?

A. On the morning of the 26th I went out and I saw a picket line around the plant.

Q. On the morning of the 26th?

A. Yes, sir.

Q. What were the conditions there on the morning of the 26th?

A. Well, they just had approximately 30 pickets there and they said there was a strike on; you can't go in.

Q. What if anything did these pickets have?

A. I didn't see anything at that time.

Q. When next did you go back to work?

A. I can't say for sure; it was the day—the first day that we could get back under protection.

Q. Do you know about when that was?

A. I don't know the exact date.

Q. Now, do you know where you were on June 11th of this year?

A. Yes, sir.

Q. Where were you on that day; on the evening of that day?

A. I was out talking to my dad where he is a night watchman at the Canton Malleable.

Q. Where is that Company with respect to the stock rolling mill?

A. It is across the creek on 13th Street.

Q. Do you know where Bandi's Hall is?

A. Yes, sir.

Q. Where is that Company located in reference to Bandi's Hall?

A. Approximately four blocks away.

Q. Now, don't state any conversation with your father. What if anything occurred there that evening?

A. Well, after I talked to Dad; after I left when I came outside four fellows grabbed me and said I was going to make an attempt to get some fellows into the mill.

Q. Do you know who those four fellows were?

A. No, I don't.

Q. What time of the day was that?

A. It was around 10 o'clock in the evening.

Q. It was dark at that time?

A. Yes, sir.

Q. After they grabbed you, what if anything took place?

A. They just took me in a car and took me to Bandi's Hall.

Q. Was that your car or some other car?

A. No, I don't own a car.

Q. Tell the manner of their putting you in the car.

A. Well, I saw there was no reason to resist—

Q. What did they say to you?

A. They said they were going to take me over and work out on me.

Q. What happened after that?

A. Well then, they took me over to Bandi's Hall and took me down into the cellar. Just as soon as I got down the steps I got a crack on the head and I didn't know any more after that.

MR. LAUTER: I object to this line of testimony as not connected with any issues in this case and not connected with any parties in this case.

TRIAL EXAMINER LINDSAY: For the time being, I will overrule the objection. Let the record note an exception.

MR. LAUTER: Exception.

Q. You say you got a crack over the head. What, if anything, did you observe?

A. A piece of gas pipe. I saw it coming at me but I couldn't get out of the way of it.

Q. Did you recognize anyone in the hall at that time?

A. Yes, sir.

Q. Whom did you see there?

A. A fellow that works over in the tin mill by the name of Freddie Grauer.

Q. What, if any, connection did he have with the C. I. O., if you know?

A. Well, he is a—he must be a member, he was down there and had a badge on himself and seemed to have a lot to say.

MR. LAUTER: I move that the statement of the witness that he seemed to have a lot to say be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. What, if anything, did you observe on him there?

A. He had a badge on him, that is all.

Q. What kind of a badge?

A. One of them little yellow badges.

Q. Were you familiar with the kind of a badge that the C. I. O. men wore at that time?

A. Yes. Yes, it says C. I. O. right on there.

Q. Now what, if anything, happened to you there after that?

A. Nothing. When I came to there was nobody around me, I just got up and walked out and went to the hospital, that is all.

Q. What hospital did you go to?

A. Aultman hospital.

Q. How long did you remain there?

A. Two days.

Q. What was your physical condition?

A. I got three gashes on my head about two and one-half inches long. My mouth was busted open. I was black and blue all over.

Q. What, with respect to your sides, how were they?

A. Well, every rib there, you could see where they, I imagine, put the boots to me.

Q. Well, you can't say what you imagine.

A. They were all black.

Q. How about your back?

A. I had a place on my back about eight inches wide.

Q. Now, you walked out—

MR. LAUTER: May I have the last answer read?

(The last answer was read.)

THE WITNESS: Black and blue.

Q. Whereabouts on your head were these gashes?

A. One was right here in front, the hair does not grow back in yet. The other one on the side, the other one back here.

Q. Indicating in the back of your head?

A. Yes, sir.

Q. Were you ever at Bandi's Hall on other occasions?

A. Yes, sir, I was taken there the night of the 18th of June.

Q. Now, on the evening of June 18th where were you?

A. Martindale Road and 26th Street, I was.

Q. In the City of Canton?

A. Yes, sir.

Q. How did you go there?

A. I went there in a machine with a man named Anderson.

Q. What is Anderson's first name?

A. Raymond.

Q. Raymond Anderson?

A. Yes.

Q. Now, where is Martindale Road and 26th Street in this city? What part of town?

A. Northwest. It is located right up Market Street.

Q. The main street of the town running north and south is Market Street?

A. Yes, sir.

Q. Now about how far from the center of town is that point, would you say?

A. Oh, I should judge a mile and a half, maybe.

Q. Now, how did you happen to go up there?

A. Well, we were told—heard that there was a Back-to-Work Movement went on, and we went up, and we were going to go to work.

Q. This man that you were with, was he an employee of Republic?

A. Yes, sir.

Q. Whose car did you have?

A. His car.

Q. Now, what time did you go up there?

A. Why, it was just around 6 o'clock, a few minutes before or after, I couldn't say.

Q. Who, if anybody, did you see when you got there?

A. Well, there were, I imagine, 15 cars around there, a bunch of fellows that I work with and I thought that everything was all right.

Q. Well, not what you thought, that may go out. Now move forward and tell what happened there.

A. Just as we got out of the car why these fellows started down Market Street and they come over to where we was and they said, "There is the guy we had last week," and said, "there is Dan Allen, company representative with him, too.

Q. Whom did you see there outside of this crowd-- who were the men that you saw that you recognized up there?

A. I recognized Jerry Birchfield, Alec Kulic, and Bob Moore.

Q. Do you know whether or not those men were CIO men?

A. Yes, sir.

Q. Were they?

A. Yes, sir, they are.

Q. You say Dan Allen and this man you have named were there?

A. Yes, sir, I was talking to Dan.

Q. You were talking to Dan? Out of your car or in your car?

A. I had just got out.

Q. Where was Dan?

A. Dan was coming towards me and he was, well, when I first saw him I imagine he was 20 feet behind me. Then he started towards me and just as we started to talk is when they came up.

Q. Now, just go forward and tell what happened there with respect to yourself and Allen or anything else.

A. Well, they took me in one car and took Dan in another and as they took me across to the other side of the street, one of them hit me in the back with a club.

Q. How did they take you across the street?

A. They dragged me across.

Q. Just describe that as fully as you can.

A. Well, I didn't want to go back for any more, and I tried to pull away from them and they jerked me right on across the street?

Q. How many men?

A. There was three.

Q. What, if anything, did you see with respect to Dan Allen, there?

A. They took Dan Allen, they started a different direction. I don't know where they took him.

Q. How many men did you see about him?

A. Oh, there was more than three with him.

Q. Who is Dan Allen?

A. Dan Allen works over at the Alloy side. I used to live neighbors with Dan, that is how I knew him.

Q. Now, did you know any of these men that took you in the car?

A. No, I did not.

Q. What part of the car did they put you in?

A. They put me in the front seat.

Q. And just describe what these men did as you went?

A. Well, as they took me across the street and this one fellow hit me on the back with a club, one guy said "Get in here". Then after they got in the car, these three fellows got in the back and there was a fellow in the front with me and he had a red sticker on his car "Official Car". So on the way coming back, just as we left the police came and they hollered out of the—they run the windows up so they couldn't hear me.

Q. That is, some police came up there before they—you left the place?

A. We were just leaving as the police drove up.

Q. Did you know these fellows?

A. One fellow said, "We are not supposed to take him to Band's Hall." One of the fellows in the back, and the driver said, "Yes, that is my orders," so he turned around, I don't know which roads he went over or anything like that, but he went around about—

Q. Was that daylight at that time?

A. It was still light, yes, sir.

Q. All right.

A. He went a round about way and took me to Bandi's Hall. When I got there, this Homer Downer says, "Oh, you are back for more".

Q. Who is Homer Downer?

A. Homer Downer is president of All Nations Lodge.

Q. That is a CIO Lodge?

A. Yes, sir.

Q. Did you see anybody else in the hall that you recognized?

A. Yes, sir, Martin Beckner, Johnnie Johns.

Q. Who is Martin Beckner?

A. Stark County Lodge.

Q. Who is Johnnie Johns?

A. Secretary of All Nations local.

A. (Continuing) This Martin Beckner was in there, Johnny Johns.

Q. Who is Martin Beckner?

A. He is head of the Stark County C. I. O.

Q. Who is Johnny Johns?

A. Secretary of the All Nations Local.

Q. Now, did you see any other men in there that you recognized?

A. I didn't know the men at that time that was got beat up.

Q. You can't say that.

MR. PONTIUS: That may go out by consent.

Q. Did you see anybody else?

A. No, sir.

Q. At that time that you recognized?

A. No.

Q. Did you know a man by the name of Charles McGaughey?

A. Yes, sir, I did.

Q. Did you know him at that time?

A. No, I didn't.

Q. Do you know him now?

A. I know him now, yes.

Q. I will ask you if you saw him that night.

A. Yes, I did.

Q. Now, where did they take you?

A. They took me—well, there is a a main—there is a main hall there and off to the side there is a little room. It is marked "Special Room, Private." They took me back there and locked it.

Q. Whom did you see in that room?

A. That is where I saw Johnny and this Beckner and this Johnny Johns.

Q. Where did you see this man McGaughey?

A. He was in there at that time.

Q. Any other persons in that room at all, can you recall?

A. About six—there were six besides myself and Chuck McGaughey.

Q. Now, what happened to you, if anything?

A. Nothing happened to me then.

Q. Nothing occurred there except what you have related?

A. Well, they just turned around and called me a stool pigeon at that time, and said: "You ought to have sense enough to keep out of the hospital after you just got back."

Q. Anything else said?

A. I don't believe at that time.

Q. Now, you observed the condition of Mr. McGaughey?

A. I did, yes.

Q. Describe what you saw with reference to him.

A. He was stripped to his waist and just had his trunks and his shoes. One eye was black and he had body marks on.

Q. Anything else?

A. There was a sign on him when they took me in.

Q. What did you see; state with respect to that.

A. They said they were going to make him walk the street that way.

Q. Did you see anything on that sign?

A. The only thing I could make out was "Scabs."

Q. Now, when you got down to Bandi's Hall that night, state what you saw on the outside of the hall there.

A. Oh, there was maybe 500 women there and a bunch of men. I couldn't see how many because they rushed me in right through.

Q. Now, how did they rush you in?

A. Why, them there fellows—the fellow that drove the car didn't take me down; he left right there.

Q. How did they take you down?

A. Just pulled me on through the crowd.

Q. In what way? Just describe how they pulled you through.

A. I didn't want to go again. I was making all the effort to get away from them.

Q. How did they do it?

A. They had me by the arms.

Q. Where did they have you by the arms?

A. Right around here (indicating).

Q. Indicating the forearm and the upper arm?

A. Yes.

Q. Well, where in respect to the side or in the front?

A. One was on each side.

Q. I will ask you if you went into that hall voluntarily?

A. No, sir.

Q. I will ask you if you struck a woman down there that night?

A. No, I didn't.

Q. Now, what happened then while they had you by the arm. Now, go forward and tell what happened.

A. They just told me I was next—they no more than said that when the police came in.

Q. The Canton City police, do you know?

A. Yes, sir.

Q. Then what happened?

A. They said: "What is going on here?" Beckner said; "Nothing." They said: "Now, how come this man has got his clothes off?" They said: "He is going to walk the street that way." They said: "Oh, no, he isn't." They told him to get his clothes on. While that was going on, they told me to get dressed. While I was getting dressed this one policeman took me outside into the City car.

Q. Do you know who that policeman was?

A. Yes, sir, called George Young and another Frank Bernowski.

Q. Where were you taken?

A. I was taken to the Police Headquarters.

Q. Any other person taken with you?

A. Yes, sir, McGaughey.

Q. McGaughey?

A. Yes, sir.

Q. What was McGaughey's condition?

A. Well, he had a black eye and several other marks on him—black and blue marks.

Q. What happened when you got to the police station?

A. Well, they didn't make any report on me because I hadn't been molested. After I left the police station I started to walk up north of Market Street.

Q. That is the police station in the center there?

A. Yes, sir. I turned onto Fourth Street to go home and I met a fellow by the name of Morris, and I was standing there talking to him.

Q. Don't tell the conversation. You can't do that. What happened after that?

A. He told me there was a fellow wanted to see me.

Q. Who is Morris?

A. Morris is a motor inspector out there at the stock division.

Q. After that where did you go?

A. I went to Sixth and Market where this fellow was. There was a couple of fellows there, Matt Burns and Charles Burket.

Q. Who are they?

A. They worked out to the mill where I was.

Q. Did you have some talk with them?

A. Yes.

Q. Then where did you go?

A. Then I started toward Sixth Street to my home. Just as I got to the corner, why this car turned up and they said: "There he is; go get him." So I turned around and I ran up towards the police station.

Q. Then you left the police station again?

A. Then I left the police station in a City car.

Q. You were sent home?

A. Yes.

Q. Now, do you know about what time it was when you got home that last time?

A. About 15 minutes after 8.

Q. What occurred then after that?

A. That night?

Q. Yes, that night, if anything?

A. Well, I went home to change my clothes and I started to go back up town. I saw these three fellows standing at the corner right up to my house but I didn't pay any attention to them, and they walked slow in front of me.

Q. Do you know who these three fellows were?

A. No, I don't.

Q. How did you happen to leave your home again that night?

A. Well, I got a call that somebody wanted to talk to me.

Q. What did you learn about that call?

A. It was a fake.

Q. A fake?

A. Yes.

Q. What if anything else occurred that night?

A. On Sixth Street between that place there is where these three fellows tackled me. One of them had a mallet about that long (indicating)—a wooden mallet; another had a black jack. The third one didn't have anything.

Q. Did you have some scuffle there?

A. Yes, sir.

Q. You succeeded in getting away from them?

A. Yes, sir.

Q. Now, did you have any medical attention in respect to what happened on this night of June 18th to you?

A. Just an orderly there from the Mercy Hospital which was about a half a block from where I was, and he said: "You need some medical attention." And he went with me back home and he fixed me up; an orderly from Mercy Hospital.

Q. Now, going back to the evening of June 11th, what was your physical condition? What took place that evening?

A. Pretty bad shape.

TRIAL EXAMINER LINDSAY: What was that answer?

(The last answer was read.)

MR. DAY: That may go out.

Q. Not that.

A. In what way do you mean?

Q. After that attack, where did you go on the night of June 11th?

A. To the Aultman Hospital.

Q. First, where did you go?

A. When do you mean?

Q. After the assault?

A. To the Sheriff's office.

MR. LAUTER: I object to leading questions.

THE WITNESS: I went to the Sheriff's office.

TRIAL EXAMINER LINDSAY: Yes. Let us try to refrain from leading questions.

Q. You said that you got up and left Bandi's Hall?

A. And I went to the Sheriff's office.

Q. Where was the Sheriff's office with respect to Bandi's Hall?

A. It is three blocks away.

Q. What was the condition of your body in respect to how you looked and all that?

A. My clothes were all bloody, my mouth was busted open, I had a black eye. My head was busted open in three places.

Q. How did you go to the hospital?

A. With a taxicab.

MR. PONTIUS: That is all.

Cross Examination

Q. (By Mr. Lauter) Why didn't you take a taxicab when you went out of the hall?

A. There is no phone down there.

Q. Did you go to the Sheriff's office to make a call?

A. Yes, sir, that is the nearest place.

Q. Is that the nearest place you could make a call?

A. I wanted to get away from the hall.

Q. Was three blocks away the nearest place you could make a call?

A. The nearest I could see. I wanted to make a call.

Q. How many blocks do you say it is from Bandi's Hall to the sheriff's office?

A. About three blocks.

Q. Are you sure it is three, not six?

A. No, it is not six.

Q. Can you name the streets?

A. Why, you just come over to Belden Avenue, off Belden onto Mahoning and it is right on Mahoning.

Q. Three blocks.

A. Not any more than that.

Q. You testified to a number of meetings.

A. Yes, sir.

Q. Contact with a number of people that threatened to beat you, can you identify any person?

A. One person I can identify that struck me, is Freddie Grauer.

Q. When did he strike you?

A. The 11th—on the night of the 11th of June.

Q. Where was he when he struck you?

A. Standing right in front of me at Bandi's Hall.

Q. Where, in Bandi's Hall were you?

A. I had just got off the steps.

Q. The steps of what?

A. Of the cellar, where you go down into the cellar.

Q. On the way down into the cellar or on the way out? Were you on your way in or out of the cellar?

A. On my way in.

Q. Where did he hit you?

A. Hit me right in the mouth.

Q. How long did you work at the mill?

A. Approximately 11 years.

Q. Did you work on May 26th?

A. No, sir, the last turn I worked was the 25th of May.

Q. When did you go back to work again?

A. I don't know just exactly the date, the first day that the troops were here.

Q. Sometime in July?

A. It was in July sometime—No, it wasn't July. Yes, that is right, sure, it was July.

Q. Did you ever try to take any men back into the mill?

A. No, sir, I have not.

Q. Who is your foreman?

A. Phil Floto.

Q. Before going back to work did you have any conversation with him?

A. No, sir, I did not.

Q. Did you sign a Back-to-Work petition?

A. Yes, sir, I did.

Q. Where did you sign it?

A. I signed it of my own free will, right over here.

Q. I am asking you where you signed it.

A. Right over here on the corner of West Tusc and Cleveland Avenue.

Q. And when did you sign it?

MR. DAY: May we make the same objection we made before, that it is not proper cross examination of this witness?

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. DAY: An exception.

A. I just don't know the date, but it was before we went to Martindale Road, though.

TRIAL EXAMINER LINDSAY: You were permitted to go into that type of cross examination on the other side, and they should be permitted on this side.

MR. DAY: I am just saving the record, your Honor.

TRIAL EXAMINER LINDSAY: All right.

Q. How long before you went to Martindale Road?

A. A day or two before.

Q. Where did you say you signed it?

A. Right over here at the corner of West Tusc and Cleveland Avenue.

Q. Whose office?

A. It is nobody's office.

Q. What sort of an office is it?

A. It is an old bank, the bank isn't there any more.

Q. What time of the day did you sign it?

A. Around 1 o'clock.

Q. Who was there when you signed it?

A. Well, there was a fellow by the name of Don Starky.

Q. Who is he?

A. Works out at the mill where I was.

Q. What is his position?

A. Roller.

Q. Roller?

A. Yes, sir.

Q. It is one of the highest paid jobs in the mill, is it?

A. Yes, sir.

Q. He is, in effect, a boss?

A. No, he has charge of a crew, he is not a boss. He is only responsible for his iron. He is a boss in a sense, but he has no right to hire or fire.

Q. Who else were there?

A. A fellow by the name of—I can't think of his name—Murphy, I don't know his first name, but that is his last name.

Q. What is his position, do you know?

A. He is a rougher.

Q. Does he have men working for him, too?

A. No, he does not.

Q. What was your conversation with these men?

A. I met them right over here and we went over and signed. I asked them if they were going to sign Back-to-Work Movement, and they said yes, they were tired of loafing.

Q. Where did you meet them?

A. Right over here at the corner of West Tusc.

Q. Did you have an appointment to meet them?

A. No, sir, I did not.

Q. On June 18th you testified that Mr. Beckner said, "We are going to make him walk the streets." Referring to whom is that?

A. What is that?

Q. Who was he referring to?

A. This Chuck McGaughey.

Q. The police came in that night, is that right?

A. The police were right there when that remark was made.

Q. And did they arrest him?

A. No, they did not arrest him.

Q. Did they arrest any C. I. O. men that night?

A. They didn't arrest nobody that I saw.

Q. Did you suggest to them that they might be arrested for what they had done?

A. No, I was glad to get out, I didn't suggest nothing.

Q. Did you ever complain to the police about your treatment on June 11th and 18th?

A. Yes, sir.

Q. Was anything done about it?

A. In what way?

Q. Well, was any action taken on it? Has anybody been arrested?

A. No, there has not been.

Q. Were you active in the Back-to-Work Movement?

A. Only to sign it, that is all I done.

Q. Is that the only thing you ever did?

A. Yes, sir.

Q. Do you know what position Martin Beckner has in the union?

A. What is the question?

Q. Do you know what position Martin Beckner has in the union?

A. Why, he is head of the Stark County C. I. O.

Q. Do you know what position Johnnie Johns has?

A. Secretary of All Nations Lodge.

Q. Do you know what position Homer Downer has?

A. He is president of All Nations Lodge.

Q. You are not a member of the C. I. O.?

A. No, I am not.

Q. You never have been?

A. I have been, yes, sir.

Q. When were you a member?

A. I was a member before I was beat.

Q. How long were you a member?

A. I joined the C. I. O. that afternoon that I was beat up, June 11.

Q. Were you ever a member before that?

A. No, sir.

Q. When did you stop being a member?

A. I stopped being a member, isn't once or twice enough?

Q. Don't ask me questions. When did you stop being a member?

A. Right then.

Q. That same day?

A. My dues were paid. I suppose I automatically was put out.

Q. What time of day did you join?

A. Around 2 o'clock.

Q. Where did you join?

A. Right at Bandi's Hall.

Q. You came in yourself?

A. Yes, sir, I came in myself.

Q. Nobody took you in?
A. No, sir.
Q. You were not molested, were you?
A. I was not molested.
Q. Who called you a stool pigeon?
A. Homer Downer.
Q. Do you know what a stool pigeon is?
A. Yes, I do.
Q. Are you one?
A. No, sir.
MR. LAUTER: That's all.
MR. PONTIUS: That's all.
(Witness excused.)

JOHN G. STEWART

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.
A. John G. Stewart .
Q. Where do you live?
A. 1432, 16th Street N. W. Canton.
Q. Are you a married man?
A. Yes, sir.
Q. How long have you lived in Canton?
A. It will be 15 years the first of this coming year.
Q. What is your business?
A. I am a sheet mill worker.
Q. Employed where?
A. Republic Steel, south division.
Q. In Canton?
A. Yes, sir.
Q. For how many years have you worked for Republic?

A. It will be 15 years the 1st of January.

Q. When I say "Republic" I mean either Republic or some of the companies succeeded by Republic. Where is the South Division?

A. It is at the southern end of Harrison Avenue, in the city limits, rather southwest of the Timken plant proper.

Q. Do you remember when the strike occurred in Republic in Canton?

A. Yes, sir.

Q. Were you working at that time?

A. Yes, sir.

Q. Did I ask you what you did for Republic? If not, I ask you now.

A. I am a sheet mill roller.

Q. Did you stop working the day the strike was called?

A. No, sir, we worked up to Saturday morning following the Tuesday.

Q. The strike was called on a Tuesday and you worked up until that Saturday?

A. Saturday morning.

Q. At the south division?

A. Yes, sir.

Q. Well, then did that division close down, then?

A. In the morning about 5 o'clock, daylight; I suppose there was 50 or 60 pickets or whatever you wanted to call them, 85 per cent, I presume at least, with clubs surrounding the plant.

Q. I am just asking you now whether or not—that may go out as far as I am concerned—Did the South Division close down? That is what I am asking you.

A. Yes, sir.

Q. About that Saturday?

A. Yes.

Q. Do you recall where you were on the afternoon of June 18th last?

A. Yes.

Q. Where were you in the afternoon?

A. In the first place I was down here at the city hall and I was spokesman of a meeting of Back-to-Work Movement of the men, with the Mayor.

Q. About what time did that take place?

A. I believe at the time that we had the appointment with the Mayor was 11 o'clock.

Q. Well, now, did you see the Mayor?

A. Yes, sir.

Q. About how many men were down there, or were there?

A. I judge there was twelve or fifteen hundred men.

Q. You say the Back-to-Work Movement.

A. Yes, sir.

Q. What, if anything, did you have to do with that? Were you a member of any committee or anything of the kind?

A. I was chosen by a group of workmen to act as the spokesman.

Q. Of that Back-to-Work?

A. Back-to-Work Movement, asking for protection.

Q. I will ask you whether or not you were chosen by the men?

A. Yes, sir.

Q. Now, what men did you mean when you say "they"?

A. Well, a group of men then was doing guard duty principally around town, working out of the Belden Hotel.

Q. Working out of the Belden Hotel?

A. Guarding the homes of families of non-strikers which were working in the plant.

Q. By the way, can you give us any idea how many men stayed at work in any of these plants in Canton after the strike was called?

A. We, in the South Division, stayed in 100 per cent up until this Saturday morning. Out at what we term the Alloy Division, northeast end, in the Alloy there was in the neighborhood of two thousand.

Q. Stayed at work?

A. At work. The Stark division, which shut down, was approximately close to 1000 men there that they sent out when the called the strike.

Q. That is the alloy division men stayed there all during the time after the strike was called up until the troops came in?

A. Yes, sir.

Q. And the Stark men, you say about 1000 stayed how long?

A. In the evening that the strike was called, they sent them back out, told them they were going to close the plant.

Q. Well, did the Stark shut down at that time?

A. They did.

Q. Now, what took place down there at this conference with the Mayor?

A. There was a committee of six of us that were to see the Mayor personally, were in the Mayor's office with three or four newspaper reporters, waiting on the Mayor. I had went out into another office, and the secretary of the Mayor introduced Mr. Beckner to me, telling me he wanted to talk to me.

Q. Mr. Martin Beckner?

A. Martin Beckner.

Q. Did you know him before that?

A. No, I did not know him until that time.

Q. Did you have a talk with him then?

A. Yes, sir.

Q. What was said?

A. He asked me if he could talk to the committee.

Q. Yes?

A. I told him he could, there was nothing to hide. I took him into the room, the Mayor's office, rather, where our committee was, introduced him. He went on to tell us if we went ahead with this meeting, that we were taking blood on our hands, we would have blood on our hands. I want here to correct the statement that he made on the stand.

Q. No, no, don't do that. We will come to that. Go ahead, what else was said?

TRIAL EXAMINER LINDSAY: Now, just who made the statement?

THE WITNESS: A statement that he made, Mr. Beckner made pertaining—

A. (Continuing) And I give Mr. Beckner permission to talk to the Committee which he did and left.

Q. Did you have a conference with the Mayor that day?

A. Yes, sir.

Q. Now, I will ask you whether or not you were influenced to any extent in becoming a member of this Committee by any officer of the Republic?

A. No, sir.

Q. Now, after you had your talk with the Mayor, where did you go?

A. After I had the talk with the Mayor I went down to the Belden Hotel.

Q. About what time of the day was that?

A. I judge it was one o'clock when we got out of there.

Q. Did you go up to Martindale Road that evening?

A. Yes, sir.

Q. About what time?

A. I left the hotel about 5 o'clock.

Q. How did you go out to Martindale Road?

A. In Mr. Schauer's car.

Q. What is his first name?

A. Phillip.

Q. Anybody else go with you?

A. Mr. Stokoe.

Q. What is his first name?

A. Raymond.

Q. Now, Martindale Road, as I understand it, is a continuance of Market Street that runs up right east of the court house right here?

A. It runs off of Market.

Q. It runs off Market?

A. Yes.

Q. How far is Martindale Road from Market Street from the Court House here?

A. I didn't hear that question.

Q. How far east from the Court House? How far up the street is Martindale Road? How far from the Public Square?

A. I would say it is a mile and a half.

Q. North?

A. Yes, from the Court House.

Q. Were you driving a car?

A. Mr. Schauer was there.

Q. You were riding in it?

A. I was riding in it.

Q. When you got to Martindale Road, what, if anything, did you observe?

A. The fact that there was nobody there.

Q. Nobody there?

A. Nobody there; that is, parked at the time we arrived.

Q. Now, just tell us what happened after that.

A. We arrived there and stopped the car; saw cars cruising around the cross-walk in a triangular direction—there is a small road off Martindale Road that runs in a triangular direction. Seen possibly eight or ten cars. These cars began to stop where we were parked. These men started to unload—I was sizing them up and I began to figure—

Q. Don't tell what you began to figure.

MR. DAY: That may go out by consent.

THE WITNESS: O. K.

Q. Mr. Stewart, just tell us what you saw and what you did.

A. These men got out of the cars; they came up around to our car and asked us what we were doing there.

Q. First, did you recognize any of the men?

A. I recognized one. I can name one of the men, Mr. Cooley.

Q. What is his first name?

A. Clyde.

Q. Clyde Cooley?

A. Yes, sir.

Q. Where had you known him before? Had you seen him before?

A. I met him the first time to know him, who he was, when we attempted to hold our election in the auditorium; possibly the week previous.

Q. Now, what if anything were these men wearing?

A. They had C. I. O. buttons on; some of them had clubs and—it was somewhat dark—some of them had stickers on their cars.

Q. Just tell the Trial Examiner what transpired there.

A. These men started surrounding us and one there asked what we were doing there. I told them I was expecting to meet a few friends there. The man that seemed to be acting as spokesman for the group, he said: "What about these friends?" I said: "Men that are interested in going back to work. They began talking about taking us back to headquarters. One of the party proceeded to frisk me. I said: "Brother, you don't have to frisk me. I never carried a gun in my life and I don't intend to now."

Q. What do you mean by "frisking?"

A. Well, he went over me, all over my body, coming down.

Q. Did you have a talk with him while he was frisking you? Did you say anything to him or he to you?

A. No, he didn't say nothing to me and I didn't say nothing to him while he was frisking me. Well, they kept talking about taking us to headquarters. They put Mr. Schauer and I in one car. Then somebody said: "Take them in separate cars." So they took me out and put me in a separate car and took me to Bandi's Hall.

Q. Before they took you to Bandi's Hall, was anything said by them?

A. Not to any degree.

Q. Now, could you tell anything that was said?

A. Nothing more than taking me to headquarters.

Q. Did you see anything?

A. No.

Q. Did you say anything?

A. No.

Q. How many were riding in the car on the way to headquarters?

A. Two in a car. A model A coupe—in the car I was in.

Q. Did you know either of those men?

A. No.

Q. Now, where did you go then?

A. Went down to Maple Avenue, to Bandi's Hall.

Q. That would be in which general direction?

A. Well, we went due east, then south until we came to 12th Street. From that, east again, and then south into Bandi's Hall.

Q. Did you get to Bandi's Hall?

A. Yes.

Q. Then tell the Trial Examiner what happened when you got there.

A. We arrived at Bandi's hall and got out of the car. We were standing around there. I was speaking to them.

Q. Do you recall what was said?

A. Nothing more than bidding the time of day.

Q. When you got to Bandi's Hall, did you see anybody there?

A. Yes, I seen there possibly a couple of, or 300 at the outside.

Q. What did you see or what happened?

A. Well, started taking me down in the basement. Somebody hit me over the back on the shoulder.

Q. Did you see who it was?

A. No, I didn't.

Q. Then what happened after you were hit in the manner that you have described?

A. You mean where it was?

Q. Yes.

A. I was hit at the head of the stairs at Bandi's Hall on the way to the basement.

Q. Then what happened?

A. We arrived at the foot of the stairs. The party that brought me down, he left me there. Mr. Cooley walked up in front of me—that was the man that I seen on the road. I said: "Well, we will meet again." He declined to talk.

Q. Now, whom else did you see there?

A. I seen a party by the name of Mechin.

Q. Who is he?

A. He is a workman at our plant; the South Division.

Q. Who else if anybody was there?

A. Mr. Beckner.

Q. Martin Beckner?

A. Martin Beckner and Mr. Sweeney.

Q. Who was that?

A. Guy Sweeney.

Q. Guy Sweeney?

A. Yes.

Q. What took place after you saw those men in there?

A. Everybody walked away from there. I stood there a little bit and walked over and pulled up a folding seat and sat down.

Q. Anything else? Go forward and tell us what happened, then.

A. And I spoke to him; and I sat down alongside of him—why,—

Q. Who do you mean by him?

A. A party came up to me and I spoke to him. He sat down alongside and I talked to him. I told him it was due to a difference of opinion as to why I was in there. "This will never settle it as far as I am concerned."

Q. Do you know who that man was?

A. I don't know. He was very diplomatic.

Q. Do you know whether or not he was a C. I. O. man?

A. I don't. He had shirt sleeves and no hat.

Q. Were you carrying on a conversation?

A. I asked him where he worked and he told me. I told him where I worked. We stayed there for a while and then two officers came in. They walked up past where I was towards this anteroom in the room which is called a special room. I immediately thought that this was my opportunity.

Q. Not what you thought. What you saw and what you did.

A. I immediately got up, walked up to those men. I says: "Men, they have got two of my men in the back room being held against their wishes."

Q. Who were those two men?

A. Mr. Schauer and Mr. Stokoe.

Q. Go forward and tell us what happened then.

A. One officer started to go into the back room. The other officer, Mr. Bernowski, was with me. There was possibly 10 or a dozen started surrounding me.

Q. What do you mean? Officer of what?

A. An officer of the law; a policeman.

Q. A policeman?

A. Yes, sir.

Q. Go ahead.

A. These men started surrounding me in a menacing attitude; threatening me. I started backing up. I was at one end of the hall and I started backing up towards the other end. They called me back—called me to take my glasses off. I declined. Mr. Berkner was cautioning them to hold back. Mr. Beckner seemed to be the main aggressor. We was practically at the back of the room. Mr. Bernowski and I—he reached down towards his holster and said: "Stop." In the meantime one party which grabbed my glasses off, he handed my glasses back to me. Mr. Bernowski had stopped him.

Q. You say Mr. Bernowski; who is he?

A. He is an officer of the law.

Q. Go forward.

A. At that moment he said: "Come on, let us get out of here." This man Beckner said: "We will get you yet, you yellow son-of-a-bitch. You are lucky." These words was repeated by about a dozen about my being lucky and so on. Mr. Bernowski takes me out of the steps out of Bandi's Hall and out into a police cruiser. We had no sooner gotten there than some men and women surrounded the police cruiser which had probably—

Q. Did you get out of there all right?

A. Yes, sir.

Q. You were not assaulted except what you have told?

A. Except this rap on my shoulder.

Q. Well, while you were in this place, I think you said something about Schauer and Stokoe. Did you see anything transpire there with relation to Stokoe and Schauer?

A. When I arrived there before the officers came they brought Mr. Stokoe and Schauer in. Mr. Stokoe—

Q. Just tell us what you saw happen.

A. Mr. Stokoe, they were beating. One man had him by the left arm throwing it over and over, kind of coming over with it like this (indicating). I saw Stokoe when they brought him in and took him in this special room. Mr. Schauer came down—he wasn't being molested.

Q. You stated something about a meeting or a proposed meeting at the auditorium. What was done?

A. This strike that we were anticipating about—years before we had had a strike and had taken a vote on it and found out it was a small minority. The plan of the men—the opinion of the strikers was to take a vote—I mean that it was the opinion of this minority to see how many men was in favor of it.

Q. Now, you say it was the plan of the men?

A. Yes.

Q. I want you to be a little more definite about that. Was that discussed?

A. Yes.

Q. Was that just before the strike was called?

A. Yes, sir.

Q. Where was it discussed?

A. Well, it was more by the men in the northeast plant which you understand I am in the southeast division.

Q. Did you attend any of those discussions?

A. No.

Q. You weren't there yourself?

A. No.

Q. After the strike was called, did you attend any discussion of the men concerning the taking a vote on the strike?

A. Yes, sir.

Q. Was the strike in Canton on the 25th the—

TRIAL EXAMINER LINDSAY: Just a moment. This was after the strike was called?

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: I don't think it is material at all.

MR. DAY: What is that?

TRIAL EXAMINER LINDSAY: I don't think it is material at all.

MR. DAY: Well, I would like to state the purpose of it.

TRIAL EXAMINER LINDSAY: Not on the record.

MR. DAY: All right. Not on the record.

(Discussion had.)

(Discusison held off the record.)

(Recess had.)

MR. DAY: Reserving the right, if the Court please, to recall this witness upon any other phases of the case concerning which he has knowledge, we now close our direct examination.

TRIAL EXAMINER LINDSAY: The right to recall this witness is granted.

Cross Examination

Q. (By Mr. Lauter) How long have you worked at the mill, Mr. Stewart?

A. It will be 15 years, the 1st of January.

Q. You are a roller, is that correct?

A. Yes, sir.

Q. When the strike was called, you stayed in the plant?

A. Yes, sir.

Q. You stayed until the Friday following the Tuesday the strike was called?

A. We were not bothered with pickets is the reason we stayed.

Q. I asked you whether you stayed in the plant until Saturday after the Tuesday the strike was called?

A. No, I went back home after my turn, and went back and forth to work.

Q. You went there every day?

A. Yes, sir.

Q. How many hours a day did you work after the strike was called?

A. After the strike was called I didn't work any. That is, after this Saturday morning.

Q. Until the Saturday morning, how many hours did you work?

A. Until Saturday morning I worked 32 hours.

Q. How many hours each day?

A. Eight.

Q. How much did you get paid for?

A. Approximately $28 a day.

Q. Well, did you get paid for eight hours or for more than eight hours?

A. I worked six days that week, the last day they paid time and a half time, that was the sixth day in the week.

Q. I mean for this particular period, did you get more than your regular pay?

A. No, sir, except the sixth day in the week.

Q. How many people do you have working under you?

A. In the crew ten or twelve.

Q. And did they work during the period that you have now described, from Tuesday to Saturday?

A. Yes.

Q. And when did you go back to work after Saturday?

A. Friday previous to the 4th of July, would be about the 2nd, I believe.

Q. Did the ten men that were working under you go back at that time?

A. The majority of them did.

Q. Did you have any conversation with them before they went back?

A. Some of them had been to my home wanting to know what they were going to do about getting back to work.

Q. Had you been to any of their homes?

A. No, too busy.

Q. Name some of the men you had conversations with.

A. Mr. Deamer.

Q. What was the conversation you had with him and where did you have it?

A. Well, I couldn't tell you definitely when we had it. He was to my home several days different times during the period.

Q. You told him when to come back?

A. No.

Q. When did he come back?

A. On this Friday previous to the 4th of July.

Q. You say you had conversations with him before he went back?

A. Yes, during the strike.

Q. How many conversations did you have with him?

A. I couldn't tell you that.

Q. Do you remember any of them?

A. I don't remember more than pertaining to the strike, his views.

Q. What were the statements pertaining to the strike?

MR. DAY: Who is this talk with? A man named Deemer, now?

MR. LAUTER: That's right.

MR. DAY: Has he been identified?

MR. LAUTER: An employee there, works under this man.

MR. DAY: All right.

A. That he felt we ought to get together and go in on it. That was his theory. I was advocating- -

Q. Was that your theory too?

A. No.

Q. What was your theory as you expressed it?

A. My theory, that it was just a case of you inviting trouble, possibly some of the men hurt.

Q. When was the date of this conversation, approximately?

A. I can't tell you that definitely.

Q. In July?

A. July—June.

Q. The latter part of June?

A. I couldn't say definite.

Q. Or the early part of July?

A. It was in either one. Quite a few times.

Q. You had a conversation in which you said—repeat what you said to him.

A. Yes.

Q. Repeat that again, please?

A. Pertaining to going back to work, he picked—

Q. What did you say?

A. Pertaining to going back to work.

Q. What did you say? Repeat what you said, the theory that you expressed, it might be inviting trouble?

A. Yes, providing they would go down there with force in a body, to go in.

Q. This was the latter part of June or early part of July?

A. During June and July, more so June, I would say.

Q. You testified about doing some guard duty?

A. Yes, sir.

Q. When did that start?

A. Shortly following the strike.

Q. How shortly?

A. Well, I would say within the first week.

Q. Did that particular guard group have any name?

A. No.

Q. How many were there in the guard?

A. Well, possibly they had 30 to 35 men.

Q. How was that organized?

A. By the men.

Q. By whom?

A. Well, I was one of them.

Q. When did you start to form men?

A. Possibly a week after the strike was called. Violence—

Q. I asked you when you started? About a week after?

A. I presume a week.

Q. Where did the first meeting take place?

A. Down in the Belden Hotel.

Q. Did you call that meeting?

A. No, sir.

Q. Who did?

A. It was an informal gathering, just there.

Q. Who called the people to that gathering, informal gathering?

A. There was no call. We met there.

Q. How did you happen to meet there?

A. That was the headquarters we had for such things as trying to keep the morale of the families of the workmen that was in the plant up.

Q. Who had their headquarters there? Who had headquarters?

A. We had them.

Q. Who is "we"?

A. The workmen.

Q. Now, who paid for those headquarters there?

A. I don't know.

Q. You don't know who paid?

A. No.

Q. What was your activity in connection with this group?

A. Well, I was possibly to a certain degree more or less supervisor, having these boys stationed around the homes where they were being threatened, molested, windows broken, dynamited, and so forth.

Q. You testified about dynamiting, do you know about any houses being dynamited?

A. I know of a house after it was dynamited.

Q. Do you know who did it?

A. I couldn't say definitely.

Q. Now you tell me who called together that crowd, or suggested they meet—that a meeting be held of the group that was going to do guard duty?

A. It was just to get these men together. We began to get complaints from homes, women scared and nervous, we started putting in—

Q. I am asking you where and when this took place; you said Belden Hotel, is that correct?

A. That is correct.

Q. Give me as near as you can the day that took place.

A. The date?

Q. This meeting of that group of 30 or 35 men.

A. Well, the day that they aimed to have our election, that they broke our plans up, down here, would not permit us to have an election, we went directly over there.

TRIAL EXAMINER LINDSAY: Just a minute, strike that out of the record, on the election. Read the question.

(The question was read by the Reporter.)

A. I would say we started meeting immediately following the strike, some of us. As the strike went on, we grew.

Q. Did you start the day after?

A. I couldn't say.

Q. Two days after?

A. I couldn't say definitely.

Q. Give me your approximation of how soon afterwards? A day or two or three or four.

A. I would say that it was within that time.

Q. Within three or four days?

A. Yes.

Q. Did you take space at the Belden Hotel within that space of time also? Did you arrange for getting space?

A. No, sir.

Q. Who did?

A. I couldn't say definitely.

Q. You say you couldn't say definitely?

A. I couldn't say, I believe that it was Mr. Lappin.

Q. Who was Mr. Lappin?

A. One of our workmen.

Q. Do you know what arrangements were made for space there?

A. No.

Q. How much space did you have there?

A. Two rooms.

Q. Were any funds collected by this guard group, or the group of men that met at the Belden Hotel?

A. Your question again, please?

Q. Were any funds collected by the group that were on guard duty, or the group that were interested in getting the men back to work?

A. Funds? What do you mean by any funds?

Q. Money?

A. Money, yes, but I know—but how do you mean this? Money collected by them?

Q. I don't know how it was collected, I am asking you whether it was collected by this group?

A. No.

Q. They never collected any money at all?

A. No.

Q. What were some of the other expenditures they had, besides having rooms at the Belden Hotel?

A. Paying these men that were doing guard duty.

Q. The pay for them?

A. They were paid.

Q. By whom?

A. By Republic Steel.

Q. Who were the men who were on guard duty?

A. Well, there was one—

Q. Just one second.

A. I was one.

Q. You were one?

A. Mr. Stokoe.

Q. He is the man you testified had been out to Bandi Hall? Go ahead, is Schauer another?

A. Yes.

Q. Name some more?

A. Dan Allen.

Q. Who else?

A. There was quite a few of them.

Q. There were 30 or 35?

A. Yes, 30 or 35.

Q. How many more can you name?

A. Why, Deffenbaugh.

Q. Who else?

A. A fellow by the name of Hyler.

Q. Who else?

A. This man Lappin.

Q. Lappin was the man who arranged for the rooms at the Belden Hotel, is that correct?

A. I couldn't say definitely on that.

Q. You think so? Who else was there?

A. Well, there was men in and out of there, now I don't know how many of them definitely. They were all on this—

TRIAL EXAMINER LINDSAY: This is off the record.

(Discussion held off the record.)

THE WITNESS: I couldn't say for a fact that

I even know these men were paid, as far as that is concerned.

Q. Now, there were about 30 or 35 of these guards, is that right?

A. (Witness nods head.)

Q. Well, do you know that is so? Isn't that so?

A. I couldn't know the exact count.

Q. Well, approximately 30 or 35?

A. Yes.

Q. These were all paid by Republic Steel Corporation?

A. I don't know that.

Q. Well, you were paid?

A. I was.

Q. How much did you receive?

A. My average daily wages.

Q. When did you start receiving your average day's wages?

A. After I went on duty there.

Q. When did you go on duty there?

A. Within the first couple or three days after the strike.

Q. Was that the day after the strike?

A. (Witness nods.)

Q. You have never lost a day's pay, have you?

A. No.

Q. All during this strike, you have been paid, is that correct?

A. I was working, yes.

Q. Well, you were not working in the plant, were you?

A. I was working for Republic Steel.

Q. That is right.

A. In guarding the homes.

Q. You were guarding homes?

A. Yes.

Q. Working for Republic Steel, guarding homes?

A. Of their employees who were being molested.

Q. Now, who else was paid for guarding the men?

A. I couldn't say.

Q. Do you know whether Stokoe was paid?

A. I don't know.

Q. Schauer?

A. I don't know.

Q. Do you know if Dan Allen was paid?

A. I don't know.

Q. Never had any conversation with him about being paid?

A. No.

Q. Now, when you are on guard duty, did you carry any weapons on you?

A. No.

Q. Did any of the other guards carry any weapons?

A. Not to the best of my knowledge. They had at the homes where they were at.

Q. What is that?

A. They had weapons at the homes where they were at. Shotguns. The majority of home owners had asked for protection and most of them had weapons.

Q. Know who had shot-guns?

A. The guards.

Q. All those 30 or 35?

A. Not all.

Q. How many would you say?

A. Well, I can't answer that.

Q. Do you know one of them?

A. No.

Q. Where did they get the shot-guns, from the Republic Steel Corporation?

A. No.

Q. Do you know where they got them from?

A. From friends and some of the families had them where the men were working.

Q. How long did you do guard duty out there?

A. Up until the guards came in there—the National Guards.

Q. Who requested you to do guard duty?

A. Among the men we started to protect the homes from complaints that were coming in. Complaints about women and homes being broken—women molested.

Q. Did you have any conversation with any of the officers of the Republic Steel Corporation? That is, about guarding the homes?

A. No.

Q. But you knew you were going to receive pay for guarding the homes?

A. No.

Q. You did receive pay?

A. Yes, I did receive pay.

Q. Now, was it at the Belden Hotel that they had—

A. No.

Q. What activities went on?

A. About guarding homes mostly.

Q. What else went on?

A. Our group—our group that we selected to go to the Mayor.

Q. Did you spend most of your time at the Belden Hotel?

A. Yes.

Q. Tell me what you did in the course of a day.

A. In the course of the day the biggest part of the job was around those homes that was being threatened.

Q. Did you go around to the homes? The ones that were being threatened?

A. Yes, sir.

Q. You did?

A. Yes.

Q. You also protected some of the men in going to their homes?

A. Yes, sir.

Q. Some of the men were employees or were they all employees?

A. All.

Q. Now, was there any particular section of town that you covered?

A. No, we had the complaints coming from all over.

Q. When did you start doing that? A day or two days after the strike?

A. Well, a day or two. The first week that they started this violence. It didn't start immediately when the strike was called.

Q. What didn't start immediately?

A. Such as breaking of windows and so on.

Q. That didn't start immediately?

A. No, it was a couple of days after.

Q. About how long was it that the first act of violence was reported to you?

A. It was very shortly after.

Q. Was it three or four days or a week or what?

A. When we got the complaint we arranged to get a man there to go around.

Q. I am asking you what the time was with respect to the time that the strike took place, that the first complaint was received by you.

A. That I couldn't say definitely.

Q. Approximately? A week or—

A. Within the first week.

Q. Within six or seven days?

A. Less than that.

Q. Now, when was your Committee formed, before or after?

A. The Committee just formed and started moving. These fellows started moving and they kept going.

Q. Your committee was formed after the first report was received?

A. Yes.

Q. This informal group that you speak about, you were together before any act of violence was reported to you, is that correct?

A. Yes, we were trying—

Q. Now, describe the first informal gathering at the Belden Hotel. Tell me what time of day it was just as nearly as you can to May 25th.

A. That gathering came—we came over to that place following the election trying to form a solution. Then when we went out from the auditorium—

Q. Suppose you describe what happened at the auditorium? What did they do?

A. The strike was on the 25th; that was Tuesday—it was on Thursday at the auditorium and I happened to be there. At the election we tried to—

Q. Just a minute. Where is the auditorium?

A. Right down here on Cleveland Avenue and 4th and 5th.

Q. Who arranged for the meeting there?

A. The Committee probably. The boys from the Northeast Division.

Q. Were you one of them?

A. No, I wasn't in the Committee.

Q. Were you present at the meeting?

A. Yes. Not at the meeting. I was there when they was going to hold an election.

Q. Were you at the auditorium meeting?

A. Yes, sir.

Q. Did you speak at that meeting?

A. No.

Q. Were there any officers of any kind there?

A. No.

Q. Any Committee people up there?

A. No.

Q. Describe what action was taken there.

A. The meeting was to be an election.

Q. Now, what action was taken by the group?

A. No action.

Q. How long were they there?

A. Three hours.

TRIAL EXAMINER LINDSAY: The wo "election" may be stricken from the record.

Q. How long were you there?

A. I would say three or four hours.

Q. How many people were there?

A. There was several hundred on the outside. The was pickets, workmen; possibly 40 on the inside.

Q. About 40 people at this meeting?

A. At the gathering there with the purpose—

Q. I am asking you how many were there.

A. I have told you how many were there.

Q. About 40, is that correct?

A. Yes.

Q. What notice was given that this meeting—

MR. DAY: I object, Mr. Trial Examiner; M Lauter refers to this as a meeting. I don't think th the evidence shows it was a meeting. As a matter fact, it wasn't a meeting.

TRIAL EXAMINER LINDSAY: Well now

(Discussion had.)

TRIAL EXAMINER LINDSAY: Regardless what you say, the record speaks for itself.

MR. DAY: It was not a meeting.

THE WITNESS: This gathering was for ele tion purposes.

Q. You characterized it as a gathering?

A. Yes.

Q. This gathering, how did you happen to co there? How did you know there was going to be a gathering?

TRIAL EXAMINER LINDSAY: Just a minute. "Election" is off the record.

Q. What notice did you get to come to this gathering at the auditorium?

A. I had different ones of the men that spoke about their holding an election. We are back at election again.

TRIAL EXAMINER LINDSAY: Strike out that word from the record.

THE WITNESS: We weren't going to have a tea party.

Q. Who told you there was going to be a gathering?

A. I can't recall.

Q. Did you initiate that meeting?

A. No.

Q. Have you seen any of the Back-to-Work petitions signed?

A. I didn't know there were any Back-to-Work petitions here in Canton until I came here in the Court Room. I heard of them being in Massillon.

Q. How long did you maintain the space at the Belden Hotel?

A. Until the troops came into town and we had an opportunity to go back to work.

Q. And then you vacated the Belden Hotel, is that right

A. Yes, sir.

Q. Was a bill presented to you or any of the other members of that group?

A. I don't know.

Q. You never saw a bill?

A. No.

Q. Who handled the finances of that group?

A. I don't know.

Q. Do you know whether the Republic Steel Corporation paid for that space?

A. I don't know.

Q. Now, you left the mill on the 25th? You worked on the 26th and you worked until Saturday of that week?

A. Yes.

Q. Now, the Monday following the Saturday; the last Saturday that you worked in the mill; you didn't work in the mill, is that correct?

A. No.

Q. But you did work in connection with this group of which Stewart, Schauer and Stokoe were members?

A. Yes.

Q. Where were you first informed that you were going to be paid?

A. I was never informed until I received the check.

Q. Were the checks mailed to your home or did you go to the plant to get paid?

A. They were given to me by one of the group; I can't remember which.

Q. One of this group of 30 or 35 men brought a check to you?

A. Yes.

Q. Do you remember who that was?

A. I think it was Lappin.

Q. Did he have checks for the others also?

A. I don't know.

Q. When he handed you this check you didn't notice whether he had checks for the others, is that correct?

A. No.

Q. Is that correct?

A. No.

Q. You had no conversation with him as to whether or not the others were being paid?

A. No.

Q. You don't know whether Mr. Lappin paid for the hotel expenses?

A. No.

Q. Now, when he brought the check to you, did you have any conversation with Mr. Lappin?

A. I talked to him, sure.

Q. Do you remember the first time he brought the check to you?

A. Yes.

Q. Did you express surprise to him that you were being paid?

A. I don't know what he would term it.

Q. What did he say?

A. I can't recollect.

Q. Well, you tell in a general way the general conversation which you had with Mr. Lappin the first time he brought a check to you.

A. Why, I don't remember what was said.

Q. You can't remember a single word of that conversation?

A. No, not definitely.

Q. You can't remember a single word that he said, is that correct?

A. No.

Q. He handed the check to you?

A. Yes.

Q. Where were you at that time?

A. I can't say definitely on that where that was.

Q. You were at the Belden Hotel?

A. I don't know.

Q. Remember the second check you got?

A. No, I don't.

MR. LAUTER: Will you read that question?

(The last question was read.)

A. I remember—

Q. Remember the second check you got after you stopped work in the plant?

A. On getting paid?

Q. Yes.

A. I got it. I don't know where I was when I got it.

Q. Did Mr. Lappin give you that check?

A. No.

Q. What is that?

A. No.

Q. He didn't?

A. No.

Q. Who did?

A. Why, we got it through my regular pay check.

Q. What is that?

A. With my regular pay check.

MR. LAUTER: Will you read that last answer?

(The last answer was read.)

Q. Now, was that your total pay check or in addition to your pay check?

A. Maybe only for part time that was. I can't answer that definitely.

Q. Now, was the money that you received for doing that guard duty in addition to that which you designated as part time work?

THE WITNESS: May I have the question?

MR. LAUTER: Read the question to him.

(The last question was read.)

A. I didn't have any other income. I wasn't working outside of this guard duty.

Q. You testified that you didn't lose any pay during any of this period. Is that correct?

A. Yes.

Q. Did you get more than your regular pay?

A. No; average.

Q. What is that?

A. Average.

Q. Now, the second check that you got, do you recall where you got that?

A. I couldn't say definitely but I believe I got it at the plant from my regular pay check. You see you have your pay all the time. The chances are this thing finished up and then I went to work.

Q. Now, you didn't go back to work until some time in July?

A. July 2nd.

Q. When was the first check you got after May 25th?

A. I couldn't say.

Q. Was that some time in June?

A. I couldn't say.

Q. What?

A. In June.

Q. The early part of June or the latter part of June?

A. If it was in June, it was the latter part.

Q. How often did you get paid?

A. Twice a month when I am working.

Q. Did you get paid twice a month in June?

A. No.

Q. What is that?

A. No.

Q. Did you get paid once?

A. This period of the strike was at different times.

Q. You were paid twice during the entire period?

A. Yes.

Q. For all your pay?

A. Yes.

Q. Then from May 25th until about July 3rd or 4th or whenever you went back to work you were only paid twice?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. At the time Mr. Lappin brought the check the first time was at the Belden?

A. Yes, sir.

Q. The second time you testified was in the plant?

A. Yes, sir.

Q. Do you recall who gave you a check in the plant?

A. No.

Q. Who is Mr. Lappin?

A. One of our workmen.

Q. What is his position in the plant?

A. He is the first assistant roller in the bar mill.

Q. Assistant roller in the bar mill?

A. Yes, sir.

Q. Is that the same mill that you worked in?

A. No.

Q. What is the name of the mill that you worked in?

A. I am in the South Division in the sheet mill.

Q. Now, does Mr. Lappin also have a group of men under him as assistant roller?

A. I can't answer that. I am not familiar with that.

Q. Do assistant rollers in the mill also have men under them?

A. I am not familiar with that.

Q. Did you have an assistant?

A. Yes.

Q. You and your assistant have a group of men under you?

A. I am responsible for them.

Q. You are responsible and the assistant is the man who helps you?

A. Well, there is no hiring.

Q. I understand that, but he is your assistant and then there are some men under you?

A. Yes.

Q. Do you know whether or not there is any distinction between a roller in your part of the plant and the other part of the plant?

MR. DAY: Will you read that question?

(The last question was read.)

A. There is, I think.

Q. With respect to their supervisory positions?

A. I can't answer that.

MR. DAY: Will you talk up a little louder, Mr. Stewart? I can't hear you.

Q. Do you know or don't you know?

A. I do not know.

Q. You talked about Martindale Road and the fact that you were going to meet some friends on June 18th, is that correct?

A. Yes.

Q. Now, who was meeting at that time?

A. Sir?

Q. Who was meeting at that time?

A. The report I got was the men was wanting to go back to work.

Q. Whom did you get the report from?

A. A general conversation around the meeting.

Q. Whom did you get the report from?

A. I can't answer that.

Q. When did you get the information they were going to be out there?

A. Along in the afternoon about four o'clock.

Q. On June 18th?

A. Yes, sir.

Q. And you went out with some people, is that correct?

A. Yes.

Q. Who were the people you went out with?

A. Mr. Schauer and Mr. Stokoe.

Q. Both of them are members of this group that operated from the Belden Hotel, is that correct?

A. Yes.

Q. Where did you meet them before you went out to Martindale Road?

A. Mr. Stokoe I met at the parking lot in back of the Belden Hotel and Mr. Schauer I met inside.

Q. Did you have any conversation about meeting the group of employees at Martindale Road?

A. I did with Mr. Schauer.

Q. What was the conversation?

A. That—let me see—at the meeting in the morning up here at the Mayor's office—the meeting of the group—

Q. Just tell me what your conversation was with Mr. Schauer.

A. That we go out—I asked him if he would go out along and help try to discourage these men going back to work.

Q. You spoke to Mr. Schauer and Mr. Schauer told you this?

A. Yes.

Q. That you are now relating?

A. I told Mr. Schauer.

Q. You told that to Mr. Schauer, that you wanted to go out there to discourage the men from going back to work?

A. Yes.

Q. They were going to meet out at Martindale Road, is that correct?

A. That is correct.

Q. What did Mr. Schauer say?

A. He would go along.

Q. Did he say whether or not he would help you to discourage men from going back to work?

A. I cannot recall him making a statement to that effect.

Q. Do you recall him saying anything at all?

A. He was willing to be a party and go along.

Q. When you got out there you didn't see any men, is that correct?

A. Not when we arrived, that is right.

Q. Did you see any employees out there after you remained there for a while?

A. They were strangers principally to me, outside of about two men.

Q. You didn't know whom you were going to meet out there, did you?

A. Not personally.

Q. You were not given the names of the men who were going to be present, were you?

A. No, sir.

Q. Did Mr. Schauer tell you whether or not he had called any of those men to be present there?

A. No, sir.

Q. Do you know whether any officials had arranged for the employees to be present out at Martindale Road?

A. Not to my knowledge.

Q. Do you know whether or not any employees had met there before, before the date you went out there, June 18th?

A. . I do not know.

Q. About what time did you get there?

A. Your question again, please?

Q. What time did you get there?

A. Approximately five or ten minutes after 5:00.

Q. Were any other members of this group of 30 or 35 that did guard duty out there then?

A. Mr. Schauer, Mr. Stokoe was with me.

Q. Those were the only other two?

A. Yes, sir.

Q. Will you describe the area out there, Martindale Road? Empty lots or buildings or what?

A. It is a section that is not very well built up; vacant lots around. Right off of Market Road which is our main street here.

Q. Where were you going to meet, there? Martindale and where? Martindale Road near where?

A. On Martindale Road.

Q. Any particular place? Martindale Road is a long road, is it?

A. Oh, no.

Q. How long is it?

A. Possibly—what I understand is, Martindale Road is a mile or something like that.

Q. Where in that mile of road were you supposed to meet?

A. There was no definite place I know of.

Q. Just to ride up and down that mile until you found a group of boys who wanted to go back to work?

A. No, I didn't ride up and down.

Q. I say, you were supposed to, in order to find them?

A. I wasn't supposed to.

Q. How were you going to find them?

A. I was going on my own initiative.

Q. How were you going to find them on Martindale Road which is a mile long, you didn't know where to meet them on Martindale Road?

A. I went to Martindale Road, this end, I would come in on it from the city of Canton.

Q. What is that?

A. They would come from Canton to it. That is where the men were supposed to be from, that was going to work.

Q. Do you know whether any men did meet out on Martindale Road that day?

A. Only hearsay.

Q. What was the hearsay, you tell me?

A. That they arrived up there, and most of them met a few streets further south, they didn't go on up to Martindale Road due to—

Q. Do you know how many?

MR. DAY: Let him answer. Do you want to finish?

TRIAL EXAMINER LINDSAY: Yes, tell us.

MR. DAY: Go ahead.

THE WITNESS: I couldn't answer that, how many was there. I wasn't present. I understood there were several hundred. That is hearsay.

Q. Do you know how they happened to come there, select that place to meet?

A. I do not know.

Q. You can't identify the persons who took you to Bandi Hall, is that correct?

A. No.

Q. You can't identify the persons who you say struck you on the shoulder, is that correct?

A. No.

MR. LAUTER: I want to move to strike the testimony of this witness with respect to being taken to Bandi's Hall, and also with respect to having been hit, on the ground he failed to connect it with any of the parties in this case; unrelated to any issues in this case; incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Well, I will overrule the motion—I will deny that motion. Let the record show an exception.

MR. LAUTER: Exception.

TRIAL EXAMINER LINDSAY: We will have a short recess.

MR. DAY: Are you through?

MR. LAUTER: Yes, I am through.

MR. DAY: I can finish him up, in just a second.

Redirect Examination

Q. (By Mr. Day) Why did you try to discourage the men going back to work?

A. I realized there would be violence, men would get hurt.

MR. LAUTER: I move that the answer be stricken, as to what he realizes:

TRIAL EXAMINER LINDSAY: Yes.

Q. Well, don't tell what you realized. Tell why it was that you tried to discourage the men going back to work.

A. In the first place, Mr. Beckner, the officer, told me—C. I. O.—told me we would have blood on our hands if we went through with the Movement at 11 o'clock the same day.

Q. You were a ruler in what department? In what mill?

A. South Division, stainless steel.

Q. Is that a sheet mill?

A. Sheet mill, yes.

Q. And are there rulers at any other kind of a mill besides sheet mill?

A. Yes, sir.

Q. What kind?

A. Bar mills I think principally.

Q. I want to ask you just one more question at this time; Tell us again what pay you received when you were a member of this committee you have told us about, between the time the strike was called and shortly thereafter, and the time that you went back to work?

A. What pay?

Q. Yes.

A. To what degree?

Q. Well, what pay did you get while you were a member of this committee? You say you got your money from Republic. How much was it?

A. Something around a little over $500 for the five weeks.

Q. I didn't mean the amount of it so much, I mean how was it figured?

A. It was equivalent to my wages, my wages as—

Q. Figured on how many hours a day?

A. Eight hours a day. I was putting 16 in and 20 in.

Q. But you got paid on the basis that you would have received if you had been there working eight hours a day?

A. Yes, sir.

Q. Is that right?

A. Yes, sir, that is right.

MR. DAY: Now, reserving the right again that you have kindly granted to me to call this man upon other phases of the case, that is all.

Recross Examination

Q. (By Mr. Lauter) You received $500 for five weeks and you didn't work in the plant, is that correct?

A. Yes, sir.

Q. Do you have the right to hire and fire?

A. No, sir.

MR. LAUTER: That's all.

Redirect Examination

Q. (By Mr. Day) You say you received $500 and you are a roller, aren't you?

A. Yes, sir.

MR. DAY: That is all.

TRIAL EXAMINER LINDSAY: This is entirely off the record.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: Hearing called to order.

(Record read to the Examiner by the Reporter.)

TRIAL EXAMINER LINDSAY: All right, that is far enough. All right, go forward with the next witness.

(Witness excused.)

R. B. STOKOE

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Pontius) Will you state your name?

A. R. B. Stokoe.

Q. Where do you live?

A. 1317, 9th Street, N. W.

Q. Canton, Ohio?

A. Yes, sir.

Q. Where are you employed?

A. Republic Steel.

Q. How long have you been employed by that company?

A. I started in 1927, in October; worked until 1930, until the depression. I had work slack, I left there until 1933; I have been there since.

Q. That is, since 1933 you have been there continuously?

A. Yes, four years.

Q. What is the character of your work?

A. Structural work, structural steel.

Q. In what plant have you been employed since 1933?

A. The alloy plant.

Q. That is out in what part?

A. Northeast division.

Q. Now, do you know where you were on the 18th of June last?

A. Yes, sir.

Q. And during that day where were you?

A. Late in the afternoon of June 18th I went uptown to meet John Stewart and Phil Schauer at the parking lot just off Market on Sixth Street behind the Belden Hotel. And they asked me if I wanted to take a ride. I said I didn't mind, and I got in their car.

Q. Where did you go?

A. Headed up north Market to Martindale Road.

Q. Did you know, from any conversation, the purpose for which you were going up there?

A. When I entered the car I hadn't even asked them where they were going. I didn't know. I asked them after we had entered the car where we were going. They said to Martindale Road.

Q. About where, on Martindale Road, did the car stop if it did?

A. I would say about one thousand feet east of Market.

Q. Martindale Road is a road that runs east from Market?

A. That is right.

Q. When you got there, what did you do with respect to remaining in the car or getting out, or what did you do?

A. When we first stopped that car we saw no one around any place. We stepped outside of the car and we saw cars driving down another road a little further east. I do not know what road that is, I couldn't name it. But we waited there possibly three or four minutes and these cars circled around and came back to where we were standing. There were several cars, I didn't count them. I couldn't say just how many there were, possibly eight or ten, maybe more than that. Afterwards I believe there were more than that gathered there.

Q. About what time in the day was it that you come up there?

A. It was a little after 5 o'clock.

Q. Now, go forward and tell us what happened next.

A. The cars pulled up alongside of us, some of them were across the road from us and some were on the same side of the road headed the same as we were.

The fellows began to get out of their cars and walk over to where we were standing. And they surrounded us and started to ask questions about what we were doing there and what this movement was that was on hand, and what time it was to be.

The most of the questions, though, seemed to be pointed at Mr. Schauer and Mr. Stewart. I was standing half the length of a car away from them at the back end of the car and I couldn't catch all of the answers that they gave them.

Q. Well, then—

A. Then a few of the fellows, possibly three or four of them, gathered around me, started to ask me questions about—they asked the same questions, what we were doing there.

Q. What did you say, if anything?

A. I told them that really it wasn't any of their business, that this was a public highway. Then I noticed another car pull up, a coupe and I saw a fellow in the car that I recognized.

Q. Who was that fellow?

A. Claude Cooley.

Q. Do you know whether he had any connection with the C. I. O.?

A. He is an organizer. I walked around the car.

Q. How long had you known Claude Cooley?

A. Oh, I don't know just how many years it had been, I was not much more than a kid, I guess, when I first knew him.

Q. Then you walked around what?

A. I walked around the car and he run his window glass down, he asked me what the hell I was doing there and I says, "Well, this is a public highway," and I says, "it seems to me that these fellows here want to cause trouble."

I thought that from the menacing attitude they had taken towards us.

MR. LAUTER: I move the remarks of the witness—

Q. Not what you thought, that may go out.

TRIAL EXAMINER LINDSAY: Yes, that is stricken out.

A. And I told him that these were his men, that he should do something about it, something in those words, I don't recall just the exact words, and he never answered. If he did, it was inaudible, I didn't catch the answer.

Q. Then what did you do?

A. I walked around a way and he started to pull away, I walked around behind his car to where the other two fellows were standing.

Q. That is, by "the other two fellows" whom do you mean?

A. Schauer and Stewart.

Q. Yes, sir. Just describe what you saw.

A. Well, there was three or four fellows, two fellows grabbed me and a third man begun to go over my clothes, to search me.

Q. Where did these men grab you?

A. By the arms, pinned my arms behind me.

Q. While you say some third man searched you?

A. The third man searched me.

Q. Just describe how he searched you.

A. Just by running his hands over me, my coat pockets, trouser pockets.

MR. LAUTER: If it please the Examiner, at this time I want to object to any further questions with respect to what happened in Martindale Road, and also with respect to what happened after that on the ground it is outside of the scope of the issues in this case. The issues in this case involve interference, violation of Section 8-1 of the Act, by respondent, with the subordination of the employees of the plant, in violation of Section 8-2 and 8-3 of the Act; any violence that may have occurred is entirely outside of the scope of the issues.

TRIAL EXAMINER LINDSAY: Well, I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. Go forward as to what happened there.

A. I said to the fellow that was searching me that he had no business doing that.

TRIAL EXAMINER LINDSAY: Now, just a minute. I think, Mr. Pontius, that the word "searched" should not be used. As I understand it, they did not go through his pockets or anything like that, they felt him up and down, is that right?

MR. PONTIUS: That is right.

Q. (By Mr. Pontius) What, if anything, did you say to that gentleman?

A. I told him he didn't have any business doing that, he wasn't an officer, he said that didn't make any difference, whether he was or not. And then he backed away from me and they continued to hold my arms behind me and one of the parties suggested that "we take them to the hall," which they proceeded to do.

Q. How did they do that? Just describe fully what happened.

A. They started forcing me towards the car, to one of the cars that set further down the road, a sedan, and they forced me into the car, two fellows sitting in the back seat with me.

Q. Just describe further how they forced you into the car.

A. Just opened the door and one man got in ahead of me and then they shoved me in behind him, and I sat in the middle, one on each side of me. One on one side of me, I remember distinctly, held a club in his hand, possibly 18 inches long, and between an inch and an inch and a half in diameter.

And he says to me, "when we get you down to the Hall, you will talk."

Then there wasn't anything said for part of the distance on the way to the hall, and finally they asked me again if I would tell what I knew. I says, "I don't know what you are talking about, I don't know what it is that you want to know." Well, they wanted to know all about the Martindale affair, this Back-to-Work Movement that was on hand. I told them that I didn't know very much about it, that all I knew is what I heard about it. I hadn't known anything about it, where it was to be, until I got in the car and got up to Martindale Road with these two gentlemen.

Q. Now, did you go up with those men with the intention of going back to work at that time?

A. How is that?

Q. Did you go with Schauer and Stewart with the intention of going back to work?

A. No, I hadn't.

Q. All right, proceed. They took you then where?

A. They took me then to Bandi's Hall. They stopped just a few feet west I believe it is, between the bridge and the hall, and they parked the car there and opened the rear door, the fellows in the front seat had gotten out. One fellow on the far side of me got out. He told me to get out. When I stepped out of the car they made a remark to the people on the sidewalk, "Here he is, let him have it."

Q. Then what happened?

A. Why, I had no more than set foot on the sidewalk until somebody struck me a blow and I got hit.

MR. LAUTER: I object to this line of examination. I want to move the answer be stricken out on the ground it is outside of the scope of the issues; incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Well, the objection is overruled. Let the record show an exception.

A. Well, after the first blow was struck, from then on it was just a rain of blows from the side and the rear.

Q. Where were you struck?

A. I was struck in the back, between the shoulders and on down my back, the back of the head, behind the ears, in the neck.

Q. Where were these men, if you know, who came down there—with you in the car? What were they doing.

A. Why, one of them had me by the left arm, another one by the right arm. I believe it was the same fellows. In the mix-up I couldn't hardly—I didn't notice whether they were the same two or not. I believed that they were. Anyhow, they kept hammering away and I was ducking, trying to dodge some of them and maybe I did, but I took a lot of them in the back of the head anyway.

Well, then somebody kicked at me from the front attempted to kick me in the groin, and I seen the shoe coming and I ducked then and just at that time why somebody managed to get me on the head with a club from the front. I could see the club coming but I couldn't get out of the road of it. I just ducked sideways enough to get it on the side instead of the top of the head, and they continued to force me towards the entrance of Bandi's Hall.

Q. How were they doing that?

A. Sort of half dragging me and pushing me and the crowd—the crowd had as much to do with pushing, I imagine as they were. The crowd surged around me.

Q. Were many people about there?

A. Yes, I would say there were two or three, possibly four. The sidewalk was jammed with people, men and a few women.

Q. Well, go forward. Where were you taken then?

A. Then I was taken to Bandi's Hall. I went down the steps—the last flight of steps down the basement—a fellow by the name of Guy Sweeney—

Q. Did you know him?

A. Yes, I knew him personally.

Q. Who is he?

A. An organizer for the C. I. O.

Q. Go forward and describe what happened down there.

A. When we got to the top of the steps this Guy Sweeney stopped me and grabbed me by the necktie and pulled me towards him and said: "You got a lot of nerve trying to fight back all these guys." He said: "Anyone of these guys could give it to you." I said: "Maybe they could but they don't seem to have nerve enough to try it."

Q. What was the position of Mr. Sweeney?

A. He was standing directly in front of me. They were still holding me by the arms. So then we proceeded down the steps to the basement with the guy at the left arm still twisting it like he was trying to break it. When we got in—I guess it was the main room—

Q. Is that upstairs or downstairs?

A. It was downstairs in the basement. Somebody there said: "Take him to the special room." They turned me around and I seen across the hallway was a door with "Special Room" marked on it in large letters written on it. Then we came in there and there was several men in there.

Q. Did you recognize any of the men in there?

A. Only faces; nobody I could name at that time. Then when I got in there they says: "Now, are you going to talk?" I says: "No." I says: "I don't have anything to talk about," which I didn't. I didn't know what it was they wanted to know. Then they began to beat me again. The blows seemed to come mostly from behind me.

Q. Do you know now any of those men; who they were?

A. They had pulled me around there, there was a gentleman walked in there. It was Beckner; this Martin Beckner. He came in with a handful of cards. I didn't know what the cards were, but I could guess.

Q. But you didn't know what the cards were, did you?

A. No, I didn't know what the cards were.

Q. Did he say anything?

A. I don't know just what he said. He—it was a lot of talk going around me—foul names and so on. Some of them was: "Let's make him talk" and so on. Then just after Martin Beckner came in, somebody hit me from the rear again and I turned to see where it came from; and just as I turned to face Beckner again, a blow came. I didn't see who struck that blow.

Q. Was Beckner there at that time?

A. Yes, he was there at that time. The blow caught me on the jaw; whether I went down or not, I don't know from then on. I remembered being there and being on my feet part of the time. Whether I was on my feet all the time, I don't know; and from then on everything seemed to be in a sort of a daze. Then after that a policeman walked in—one of the city policemen—and asked what was going on.

Q. Did you hear any conversation there?

A. I don't remember what was said after that; I don't recall what was said.

Q. Then what happened?

A. The policeman turned around and backed up, and sort of motioned me to follow behind him, to follow him. There was nothing said then that I recall hearing but when we reached the sidewalk and we were halfway between the steps and the car I heard a blow struck. The sound of a blow—I turned just to see and I saw Sheriff Grant, his hands to his face as though he had been struck, which afterwards I learned that he did.

Q. At any time was Mr. Schauer in this room?

A. He was in this special room all the time I was in; then we got into a police cruiser and went to the police station.

(Discussion had.)

Q. Do you know what day it was?

A. Wednesday, July 1st.

Q. Wednesday, July 1st?

A. Yes.

Q. Now, were you given any medical attention that day?

A. Yes, I had a doctor's attention later in the evening.

Q. Now, you mentioned Claude Cooley. Did you see him later that day after you saw him at Martindale Road?

A. That is so far back. It seems to me I did see him after we got down in the hall—in the hall again.

MR. DAY: I believe that is all at this time.

MR. LAUTER: I want to make a motion at this time to strike all the testimony of this witness relating to Martindale Road and Bandi's Hall on the ground that it is incompetent, immaterial and irrelevant and outside of the scope of the issues in this case.

(Discussion had.)

MR. LAUTER: Will you read my motion?

(The last motion was read.)

MR. LAUTER: May I have a ruling on my motion, Mr. Examiner?

TRIAL EXAMINER LINDSAY: Just a moment, Mr. Laufer.

MR. LAUTER: Do I understand the ruling is reserved?

TRIAL EXAMINER LINDSAY: I will take the ruling under advisement. We will adjourn now until 1:30 o'clock p. m.

(Thereupon at 12:05 o'clock p. m., an adjournment was taken to 1:30 o'clock p. m.)

Afternoon Session

(Whereupon, at 1:30 o'clock p. m. the hearing was resumed and the following proceedings were had):

TRIAL EXAMINER LINDSAY: Judge Pontius is ordered home by his doctor. He has agreed that Mr. Day may carry on as far as he can this afternoon in the absence of his presence.

R. B. STOKOE

the witness on the stand at the time of adjournment, having been called by the Respondent and having been heretofore duly sworn, testified further as follows:

MR. DAY: Will you read the last few questions and answers?

(The last two questions and answers read.)

MR. LAUTER: Will you read my motion?

(The last motion was read.)

Cross Examination

Q. (By Mr. Lauter) How long have you worked at the mill, Mr. Stokoe?

A. How long?

Q. That is right.

A. About four years.

Q. What was your position at the mill?

A. Structural iron workers rigger we called it.

Q. You were on an hourly wage?

A. Yes, sir.

Q. How much did you make an hour?

A. 83 cents.

Q. Get time and a half for overtime?

A. Yes, sir.

Q. Who was your foreman?

A. Lawrence McKimm.

Q. You had no supervisory task yourself?

A. No.

Q. Had no men working under you?

A. No, sir.

MR. DAY: May I make the same reservation as to the right to recall this witness that I made with respect to the witness Schauer?

TRIAL EXAMINER LINDSAY: Let the record show that the Respondent may recall this witness.

Q. Did you sign a Back-to-Work petition?

A. What is that?

Q. Have you signed a Back-to-Work petition?

A. No, sir.

Q. Do you know whether any of the men in your department did?

A. What is that?

Q. Do you know whether any of the men in your department did?

A. I can't say for sure, because I don't know.

Q. Now, you were on that so-called Committee of Guards?

A. I was.

Q. Along with Mr. Stewart, Mr. Schauer and Dan Allen and others who were members?

A. Yes, sir.

Q. What was the first time that you met with that group of men?

A. On the evening of May 25th.

Q. That is the day the strike was called, is that correct?

A. That is right.

Q. Where did you meet?

A. I just can't think of the fellow's name; we met at a fellow's house. We had that meeting—I can't think of his name—a roll turner at the mill; he also was one of the men with us.

Q. What is that?

A. I can't think of the fellow's name now.

Q. How did you happen to go to this fellow's home with Mr. Stewart, Mr. Dan Allen and Mr. Schauer when you met on the evening of the strike?

A. Why, we had decided early that evening that we would meet at his place.

Q. When you say "we," whom are you referring to?

A. The men of this group had gathered at the plant early that evening.

Q. Now, will you tell me where in the plant you gathered?

A. That part in—I believe they call it the assembly room of the Eighth Street office.

Q. About what time did you meet there?

A. I should say 7 o'clock.

Q. What was your shift—was your turn on May 25th?

A. From 7:30 to 4.

Q. That is from 7:30 in the evening until 4 o'clock in the morning?

A. From 7:30 in the morning until 4 o'clock in the afternoon.

Q. You were at the plant at 7 o'clock in the morning until 4 o'clock in the evening?

A. In the evening.

Q. Had you remained there from 4:30 on at the time you met?

A. No, sir.

Q. Where were you?

A. At home.

Q. Who called you to the plant at 7 o'clock?

A. One of the fellows in the group. I don't know who it was. I just got the call to come out to the meeting room to the gathering there.

Q. When you say "assembly room," what room is that?

A. It is a hall in the back end of the main office building on the second floor that is used for nothing else only meetings of different kinds.

Q. Is that where the representatives or the employees' representatives met?

A. We had been using that as a meeting place.

Q. When you say "we," do you mean the representatives?

A. The representatives of the employees.

Q. How long?

A. Two years.

Q. Was Mr. Carl Lappan also a representative?

A. Yes, sir.

Q. Was Dan Allen a representative?

A. Yes, sir.

Q. Was Mr. Schauer a representative?

A. No, sir.

Q. Who was some of the other representatives who were among this group of men known as the committee of guards, we will call it, for the purpose of this hearing?

A. Ones at that meeting, you mean?

Q. Ones at that meeting at 7 o'clock?

A. The ones besides the ones that you named, there was Ray Lilly, and Frank Gelt; Joe Cox, Roy Deffenbaugh, and a fellow by the name of Fisher, I don't recall the first name.

Q. And who else?

A. George Doyle.

Q. These were all representatives or former representatives?

A. Former representatives.

Q. What about Huyler, was he there?

A. Huyler was there, yes.

Q. Also a former representative?

A. No, sir.

Q. How many representatives or former representatives do you recall who were there?

A. The ones that I named were the former representatives. The only ones that I can recall right now that were there. I may have missed some, I don't know.

Q. Were the majority of those that were there former representatives in the group, would you say?

A. I believe that the majority were.

Q. With respect to the strike, was this meeting held before the strike was called?

A. Yes, sir.

Q. The strike was called, I believe in the evening at 11 o'clock, is that right?

A. Yes, sir.

Q. May 25th? This meeting took place in the plant assembly room sometime around 7:00, is that correct?

A. That is right. I received the call at 7:00 o'clock.

Q. Then you came down to the plant?

A. That is right.

Q. And these other men were there? How long did that meeting last?

A. Oh, I would say two hours.

Q. Did anyone preside at that meeting?

A. No. It was just a general discussion.

Q. Did you participate in the discussion?

A. I don't believe I voiced an opinion the whole evening.

Q. In a general way what was the discussion about?

A. The discussion concerned a pending strike, and the action that would be taken by this group of men on the outside, if the strike was called, which had already been discussed, the vote that had been planned in case of strikes, to determine whether the men in the plant—that is, the employees of this plant—wanted to work or wanted to strike.

Q. Now, did you have a discussion with some of the other men who were present, about who had called them?

A. Who had called them?

Q. Yes, who had called the other men? Were they on that turn, or had they been called from their homes also?

A. Well, if I remember right, most of them—

MR. DAY: Pardon me just a minute.

TRIAL EXAMINER LINDSAY: We will suspend for a few minutes.

(Recess had.)

Q. Mr. Stokoe, you were telling us about a meeting which took place at about 7 o'clock on May 25th?

A. That is right.

Q. What was the highest position held by any of the men that were there?

A. I believe Assistant Roller.

Q. Well, Mr. Stewart was there, wasn't he?

A. No, sir.

Q. Wasn't Mr. Stewart there at that meeting? Did any of the officials get in, during the course of the meeting? Any of the officials of the company?

A. No, sir.

Q. The management representatives under the Plan?

A. No sir.

Q. Did anyone send any messages of any kind ?

A. Yes, sir.

Q. What message was sent?

A. We met with the plant superintendent before we went out and told him our plan.

Q. You met with the plant superintendent?

A. That is right.

Q. Who was the plant superintendent?

A. B. R. Richardson.

Q. And you say you met with him?

A. And told him our plans.

Q. Where did you meet with him?

A. In his office.

Q. Was this after the meeting in the assembly room?

A. Yes, sir.

Q. About what time did you meet with Mr. Richardson, the plant superintendent?

A. It must have been around 8:30 I would guess, it was around that time.

Q. And how many of this group went to see Mr. Richardson?

A. I believe there were 12 of us.

Q. How were they selected?

A. Well, that is something I can't say, I don't know.

Q. You were one of the 12?

A. Yes, sir.

Q. Well, do you remember how you were selected to go?

A. Yes, sir.

Q. How were you selected?

A. Mr. Frank Geltz told me that I would work on the outside.

Q. What is that?

A. Mr. Frank Geltz told me that I would work on the outside with him.

Q. That you would work on the outside with him?

A. Yes, sir.

Q. What do you mean, "work on the outside with him"?

A. Well, this vote that we had planned previous to that time, to be held on the outside.

Q. Now, who is Mr. Geltz?

A. He was a former chairman of the representative body.

Q. When you say "former" do you mean until very recently? Don't you?

A. Yes, sir.

Q. Within a period of two or three months?

A. Yes, sir.

Q. In fact, up to and including the day of the strike?

A. No, sir.

Q. When did he cease to be chairman?

A. We were elected for a period of one year, and that time expired June 14.

Q. Now, this was on May 25th, wasn't it? This meeting you are testifying about?

A. That is right. He was still representative at that time.

Q. He was still chairman of the employees' representative plan?

A. Representative association.

Q. And at that time were you a representative?

A. Yes, sir.

Q. And all these other men whom you have referred to as former representatives were, in fact, representatives on May 25th?

A. They were at that time, not all of them. The ones that I referred to, yes, as former representatives.

Q. That is right.

A. Sure.

Q. Now, Frank Geltz told you you would work on the outside with him?

A. That is right.

Q. And you would be paid?

A. He didn't tell me at the time that I would be paid, no.

Q. Well, you were paid, weren't you?

A. Yes, sir.

Q. Have you lost any pay since the strike?

A. No, sir.

Q. Is that true of any of the other representatives?

A. I can't say, I don't know.

Q. Did you work in the mill from May 25th on?

A. No, sir.

Q. When did you return to the mill?

A. On July—I don't recall whether it was the 2nd or 3rd.

Q. From May 25th until July 2nd or 3rd, you did no work in the mill, is that correct?

A. That is right.

Q. But you were paid your average wages during that period?

A. Yes, sir.

Q. Were you paid any time for overtime?

A. Yes, sir.

Q. How much overtime did you put in, in that period?

A. I would say 14 hours a day, an average of 14 hours a day.

Q. Where were you during that period on May 25th to July 2nd or 3rd?

A. Well, we were doing guard duty at nights. That is what we were being paid for.

Q. Is that what you were being paid for?

A. Yes, sir.

Q. Who told you you were being paid for that?

A. Well, I presume that that is what we were being paid fo . That is the work that we were doing.

Q. Well, did anybody tell you to do that work?

A. Well, I don't just recall how that came about.

Q. Now, you try and see if you can't remember.

A. Because when we first went out, we went out with the intention of taking care of the vote. Then, of course, the house wrecking came into effect—

Q. Just one second. You went out on May 25th, is that right?

A. Yes.

Q. And that night the strike was called?

A. Yes, sir, that is right.

Q. When did you go on guard duty?

A. I believe it was that same week.

Q. Who told you to go on guard duty?

A. Why, that is something I can't recall, who it was that told me.

Q. Now, you went on guard duty every night, didn't you?

A. Every night after—that is right. No, at first I wasn't on guard duty.

Q. I know, but every night after you started you continued on guard duty, didn't you?

A. Every night after I started guard duty.

Q. From the time you started you continued? Who gave you your instructions where to go and what to do?

A. Instructions came through Carl Lappin.

Q. He was a representative?

A. Yes, sir.

Q. He was at that meeting at 7 o'clock?

A. Yes, sir.

Q. Now, after that meeting at 7 o'clock, you testified about attending another meeting, is that correct, that same day at someone's home?

A. When we left the plant we assembled, a few of us did, at this gentleman's home, I can't think of his name. It wasn't a meeting, we just—it wasn't a planned meeting, I mean. We just gathered there that evening.

Q. Did all of you gather there that evening?

A. No.

Q. How many of you gathered there?

A. There was only four or five of us, I believe.

Q. Who were the four or five?

A. I believe Phil Schauer was one, and a fellow by the name of Huyler, myself, and Joe Cox.

Q. Joe Cox? Now, whose house was that, did you say?

A. I can't think of the man's name. I have been trying to think of it.

Q. Was he also a representative?

A. No.

Q. And who suggetsed that you go to his house?

A. He suggested it.

Q. The man whose house you went to? Now, you finished the meeting that began at 7 o'clock, until about 8:30, is that correct?

A. Something around that time. I couldn't tell exactly.

Q. And you went to the plant superintendent?

A. That is right.

Q. About twelve of you, is that correct? But you don't remember how you twelve were selected, although you were one of them?

A. I told you I was told by your chairman that I was to serve as one to go outside.

Q. You were told by Frank Geltz?

A. That is right.

Q. I am asking you now how you happened to be one of the twelve that went to see the plant superintendent?

MR. DAY: I just got that call.

(Recess had.)

Q. Now, about 8:30 you went to see the plant superintendent in his office, is that correct?

A. That is right.

Q. With a group of about 11 others?

A. Yes.

Q. Where is the plant superintendent's office located in the plant?

A. It is in the exact opposite end of the building away from the room where we held our meeting; it would be in the west end of the building on the second floor.

Q. Now, during the course of the meeting did you say there were some messages or there were no messages from the plant superintendent?

A. No, none that I know of.

Q. Did any of the men go out and consult the plant superintendent?

A. Not that I know of.

Q. Do you know whether they met with him before that meeting was held?

A. I don't know.

Q. After the meeting about 12 went to see him in the office in the same building at the other end?

A. That was this group in our meeting.

Q. 12 of that group?

A. If there were 12.

Q. Approximately?

A. Yes.

Q. I am just trying to get the approximate figure. Now, how long did you stay with the plant superintendent?

A. Just a few minutes; now, just a few minutes.

Q. Did he prepare the plans that you outlined to him?

A. I can't remember what his remarks were.

Q. Can you remember anything he said?

A. No, I can't.

Q. What is that?

A. I can't remember exactly.

Q. Well, will you state in a general way what took place there? Just tell me what he said.

A. When we gave him our plans it seems to me he said something about: "Just go ahead and do as you planned." And I don't know what else.

Q. Did he say anything about the fact that the company was going to help you carry out the plans?

A. I don't recall.

Q. Did anyone make any inquiry as to whether or not they would be paid?

A. I didn't hear anyone make any inquiry.

Q. Did you or anyone else inquire from anyone out there as to whether or not you would be paid?

A. Yes.

Q. Whom did you inquire from?

A. Afterwards I asked Geltz if we would be paid for our work on the outside and his answer to me was he thought we would be. It was just generally understood that we would be.

Q. How soon after May 25th did you receive the first check?

A. The first regular pay day after that—let me see —we didn't receive our checks on the regular pay day, I guess.

Q. Did you get it before or after?

A. After and I received a check from my regular work in the plant.

Q. Now, you testified that you got paid for 14 hours each day, is that correct?

A. That is right.

Q. Now, how many hours did you put in on guard duty?

A. Every night from dark until daylight, whatever the hours were, and then in the daytime we made calls. I would say I put in from 15 to 20 hours every day.

Q. Where did you make calls?

A. On homes that had been threatened; others that had had windows broken or damaged.

Q. Where did the complaints come in there?

A. The complaints came into our rooms in the hotel.

Q. You are referring to the two rooms or more that were occupied?

A. The two rooms in the Belden Hotel.

Q. What floor in the Belden Hotel were those two rooms?

A. The eighth floor.

Q. Remember the numbers of those rooms?

A. 818 and 819.

Q. How long were those two rooms occupied?

A. Well, I can only say that I was in the two rooms the last time on a Wednesday, July 1st, I believe it was. How long they were occupied after that I don't know.

Q. When did you start occupying those rooms?

A. I was there first on Tuesday, the day after the strike was called.

Q. May 25th.

A. That is right. No, that would be—

Q. The 25th I believe?

A. No, Tuesday—that would have been on Wednesday, the day after the strike was called—the strike was called on Tuesday night.

Q. It would be May 26th?

A. It would be May 26th.

Q. Now, who suggested that you go over to the Belden Hotel?

A. Carl Lappin.

Q. When did he suggest to you that you go there?

A. I met him on the street on Tuesday night.

Q. That is after the meeting at the home of the individual whose name you can't remember?

A. That is right.

Q. And on Tuesday night he told you to come to the Belden Hotel to those two rooms on May 26th?

A. We went there the next day.

Q. About what time did you get there on May 26th?

A. I don't recall what time it was.

Q. Morning or afternoon?

A. I believe it was in the afternoon; some time in the afternoon.

Q. Who else was there when you got there?

A. Carl—

Q. Carl Lappin?

A. That is right.

Q. Was Mr. Stewart there?

A. No, sir.

Q. Schauer there?

A. I can't recall just who the fellows were that were there.

Q. Well, they were some of the group with whom you met the day before?

A. Some of the group I know.

Q. Some of those representatives, is that correct?

A. That is right.

Q. Now, about those rooms being fixed up. Were beds in them?

A. Yes, sir, there was a bed in one; an in-a-door bed; and then another bed.

Q. What other materials were there in those rooms: Typewriters and desks? Just what else was there? Describe the appearance of those two rooms.

A. The first time I saw the rooms I saw one room was fixed up just like a sitting room, two chairs, and a sort of a library table and a floor lamp, that is all.

Q. How was the other room fixed up?

A. Just an ordinary bedroom; a small room.

Q. Was the aspect of those rooms changed while you were there during the month and a half?

A. Additional chairs was put in.

Q. Were meetings held in those rooms?

A. Yes, sir.

Q. Meetings of this group of representatives?

A. That is right.

Q. But you didn't hold representative meetings there, did you?

A. No, sir.

Q. Just a meeting of this Committee of Guards was called?

A. That is right.

Q. Now, whatever persons would visit these rooms apart from the representatives?

A. Just other fellows that afterwards were helping out with the guard work.

Q. Were they also being paid?

A. I couldn't say.

Q. Did the plant superintendent ever come down there?

A. I never saw him.

Q. Any of the officers come down there?

A. Never.

Q. You don't remember any of the officers coming to the Belden Hotel?

A. I don't remember; I would say they had not.

Q. Now, did you also use the ball room in the hotel?

A. The which?

Q. The ball room?

A. At what time—after we went back to work they all used another room—a large room. Whether it was the ball room, I couldn't say.

Q. Was it prior to the 2nd day of July?

A. No.

Q. There was another large room in that hotel, wasn't there, besides the ball room?

A. I wasn't acquainted with the hotel. I know there is another large room there; I don't know what it is.

Q. Did they use it at any time from May 25th to July 2nd?

A. No, sir.

Q. Now, who paid for the expenses of the two rooms, do you know?

A. I don't know.

Q. Was there a treasurer of this group?

A. I don't believe there was a general treasurer.

Q. Was there at any time?

A. Not of that group, no.

Q. Did the treasurer of the representation plan act as treasurer?

A. Not that I know of.

Q. Who took care of the funds after that?

A. Well, I never saw any there, so I can't answer that question.

Q. There were no funds collected for that group as fas as you know?

A. As far as I know, there were no funds collected.

Q. You don't know how the two rooms were paid for although they were occupied for a month and a half, at least?

A. All I know is that Carl Lappin had those rooms rented in his name.

Q. Carl Lappin was ostensibly in charge?

A. That's it.

Q. He handed you your check also?

A. One check.

Q. Did you see him hand checks to anybody else?

A. No, sir.

Q. Do you remember the time that you received your first check?

A. Yes, sir.

Q. What day was that?

A. I don't remember the exact day, no. It was some time after our regular pay day. Our regular pay—I believe it was on the 23rd—no, the strike was called on June 25th.

Q. It was called on May 25th?

A. Yes; the next pay would come in June; the 8th, I believe. I don't believe the pay came on that day; I think it was the following week. Three or four days later, it was, that I received our check at the First National Bank Building—all the employees were paid there.

Q. Were you on the Committee that went to see the Mayor on the Back-to-Work movement?

A. No, sir.

Q. Now, prior to June 15th, when you went out for an automobile ride with Stewart and Schauer, what were your activities in connection with the Back-to-Work movement?

A. I had not had anything to do whatever with it.

Q. Was there any discussion on May 25th at any of the meetings in the plant or in the home of the man whose name you don't know, at which the question of getting the men in the mills, or getting them to return to work, was discussed?

A. Not that I know of other than that this was our plan.

Q. What was your plan?

A. This vote.

Q. Your vote had to do with whether or not the men wanted to go on strike?

A. That is right.

Q. And the strike was called that night of May 25th and then you had formed this Committee of Guards, is that right?

A. That is right.

Q. And the strike—you men on June 18th went with Mr. Stewart and Mr. Schauer on an automobile ride out on Martindale Road, is that correct?

A. That is right.

Q. At that time you were going to meet a group of men that wanted to go back to work?

A. That is the understanding I had.

Q. I presume after you got in the automobile of Mr. Stewart and Mr. Schauer you had a conversation?

A. I just can't remember the conversation; they told me where they were going to; that is all.

Q. They told you where they were going?

A. That is right.

Q. You didn't get out of the car, did you?

A. No.

Q. You went with them?

A. I went with them.

Q. Did you also want to discourage those men from going back to work?

A. Well, I went as far—

Q. Now, was that your reason for going out with them that you wanted to discourage them from going back to work?

A. I had not expressed that opinion or my feelings when I got into the car.

Q. After you got into the car—

A. I had not expressed my feelings when I got into the car—

Q. Had you—

MR. DAY: Let him finish the answer.

A. After I got into the car I found out where they were going. I thought probably it would be a good idea to go along whether I could do anything or not, it sure wouldn't do any harm.

Q. To go out with these men who were going to go out to work?

A. That is right; we didn't expect any trouble.

Q. You didn't expect any trouble?

A. That is right.

Q. Did you want to discourage them from going back to work?

A. After those conditions, yes.

Q. After what conditions?

A. The notices posted around the plants and different places; the entrances in the mill; the large group of men that were out there. The fact that they attempted to go in, there would have been trouble.

Q. Had you discouraged any men from going back to work before that?

A. I didn't talk to anyone.

Q. Hadn't talked to any other employees?

A. No, sir.

Q. Talked to anyone at that time?

A. I can't remember talking to anyone about going back to the mill.

Q. Now, you testified about a number of blows that rained on you. Did you identify anybody?

A. I can't name anybody.

Q. That is what I am asking you, if you could identify anybody that hit you?

A. No.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) Mr. Stokoe, I understood you to say that the vote that you had in mind was whether or not there should be a strike, or was it whether or not you should go back to work?

A. The vote was to determine whether they wanted to strike, stay on strike, or go back to work.

MR. LAUTER: I object to the question.

THE WITNESS: Probably there would be a lot of them out of work—

TRIAL EXAMINER LINDSAY: Just a minute.

MR. LAUTER: If it please, Mr. Examiner, the question which I directed to the witness was about the meeting which was held prior to the actual calling of the strike.

MR. DAY: That is what I am referring to.

TRIAL EXAMINER LINDSAY: He does not understand the question.

Q. (By Mr. Day) The meeting that was held on the 25th of May before the strike was called, that is right, isn't it?

A. That was to make plans for this vote.

Q. Now, what was this vote at that time that was planned?

A. To gather at the auditorium on the following day or as soon as possible and notify all the men on the outside and give them an opportunity to go to the auditorium and cast their ballot.

Q. Now, was that a ballot whether or not they would go on strike or whether or not they would go back to work?

A. Well, it was whether they wanted to work, wanted to go back to work, or to strike.

TRIAL EXAMINER LINDSAY: No; wait a minute, now.

Q. Well, at that time the strike had not been called, had it?

A. When we held our meeting, you mean?

Q. Yes.

A. No, it had not been called.

Q. Did you expect to strike that night?

A. We expected to strike that night.

Q. Now then, the vote that was to be held the next day, was that a vote as to whether or not the men wanted to go back to work?

A. That is right.

(Discussion had.)

Q. Now, when did you go there? How soon after the strike was called?

A. The following week.

Q. Now, you went there the following week?

A. That is right.

MR. DAY: Now, we reserve the right to recall this witness for redirect examination.

TRIAL EXAMINER LINDSAY: Just one second.

(Discussion had.)

Recross Examination

Q. (By Mr. Lauter) You say that you knew there was going to be a strike or expected a strike to be called that night?

A. Yes, that is right.

Q. Who advised you that the strike was going to be called that night?

A. Why, I got it earlier in the evening before I got the telephone call that there was to be a strike that night.

Q. Did you get the word before you left work at four o'clock?

A. No.

Q. Did you get it between 4 o'clock and 7 o'clock before you came home?

A. No, I didn't; I didn't know when I got the telephone call.

Q. When did you get word that there was going to be a strike called that night?

A. After I got out to the plant.

Q. You mean the question of the strike being called was discussed by the representatives at the meeting?

A. I didn't know it was discussed other than they decided—they said they heard that the strike was to be called that night—some time that night.

Q. And that was the reason why they were meeting?

A. That is right.

Q. And that is the reason why the representatives were meeting in the assembly room in the plant?

A. I believe that was the reason.

Q. Because they expected a strike to be called that night?

A. That is right.

MR. LAUTER: That is all.

MR. DAY: That is all.

TRIAL EXAMINER LINDSAY: Just a moment.

(Discussion had.)

Recross Examination (*Resumed*)

Q. (By Mr. Lauter) While you were on guard duty, did you carry a gun?

A. I had a gun in the car.

Q. Did you have a permit for that gun?

A. No, sir.

Q. What is that?

A. No, sir.

Q. Where did you get the gun?

A. It is my own gun.

Q. Is a permit necessary for that gun, Mr. Stokoe?

MR. DAY: Objection, that is a conclusion; it is not binding on him.

TRIAL EXAMINER LINDSAY: I will sustain the objection.

Q. Who gave you that gun?

A. I had that gun for several years lying around the house.

Q. When did you start to carry it in your car?

A. After the affair on Martindale Road, I carried it in my car.

Q. Were you deputized?

A. No, sir.

Q. Did you use that gun at any time during the strike?

A. No, I didn't.

Q. You carried it while you were on guard duty so-called?

A. The gun was in the car. The only time it was on my person was from the car to the house.

Q. What did carrying on guard duty consist of?

A. Just being at those surroundings that had been threatened.

Q. What did you do? Stand in front of the house or what?

A. I sat in the car in front of the house or in the driveway, if there was a driveway, or just in front of the house.

Q. Were those houses of employees working in the mill during the strike?

A. Yes, sir.

Q. And you would sit there all night protecting the house?

A. Yes.

MR. LAUTER: That's all.

Redirect Examination

Q. (By Mr. Day) You say that it was after the Martindale Road incident you carried a gun?

A. Yes, sir.

Q. And why did you carry it?

A. For my own protection.

MR. LAUTER: I object to that question and move that the answer be stricken.

MR. DAY: Oh, I think that is a proper question.

TRIAL EXAMINER LINDSAY: Yes, that calls for a conclusion, Mr. Day. I will grant the motion. It may be stricken from the record.

MR. DAY: Well, note an exception. That is all, sir.

Recross Examination

Q. (By Mr. Lauter) You say before June 18 you didn't carry a gun?

A. No, sir.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

CHARLES McGAUGHEY

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. Charles McGaughey.

Q. Where do you live?

A. I live at 126 Cleveland Avenue NW.

Q. Canton?

A. Yes, sir.

Q. What is your business?

A. I am a loader in the white sheet warehouse.

Q. Republic Steel?

A. Yes, sir.

Q. Are you married?

A. No, sir.

Q. How long have you lived in Canton?

A. I imagine it has been around 8 years.

Q. How long have you worked at Republic?

A. A little over a year.

Q. I will ask you if you remember being up on Market Avenue near Martindale Road the late afternoon of last July 18th?

A. Yes, sir.

Q. About what time were you there?

A. Oh, it was approximately 5:30.

Q. And how did you go there?

A. I went up in my car.

Q. Why did you go there?

A. I went up to attend a meeting for the fellows that wanted to go back to work.

Q. Were you a member of any guard committee or anything of the kind?

A. What do you mean by that statement?

Q. Well, do you know of some men that had their headquarters at the Belden Hotel?

A. No, sir.

Q. Were you one of those?

A. No, sir.

Q. All right. Now, you went up there to attend a meeting of men who wanted to go back to work, is that right?

A. That is right.

Q. How long had you been out of work?

A. From May 25th until that time, around May 25th.

Q. At the time the strike was called?

A. Yes, sir.

Q. Did you go back to work after that?

A. I went back to work on, I believe it was June 30th.

Q. Now, what happened when you got up to the corner of Martindale and Market Avenue that afternoon?

A. Well, I turned into Martindale Road.

Q. Were you alone or was somebody with you?

A. I was by myself.

Q. All right, driving your own car?

A. Yes, sir.

Q. All right, go ahead.

A. I drove into Martindale Road and I would say that it was approximately around 1000 feet, there was a truck parked there and I pulled up in back of the truck, and a bunch of fellows came running over to the car and said, "Are you ready to go in?" And I didn't recognize anyone, I didn't know any of the fellows. I told them that I didn't know what they was talking about, and there was around four of them come over to the car and they opened the door and one fellow showed me a revolver and he says, "See this?" And he says, "Get out." And I got out and there were about, oh, around five or six around the car at that time and they practically all of them had rubber hose or something in their hand.

MR. LAUTER: I move that "or something" be stricken.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. Go ahead.

A. And they were—

Q. By the way, did you identify—did you recognize any of those men?

A. No, sir, I didn't recognize a one of them.

Q. Were they wearing anything?

A. Why, there was a few of them had a CIO badge on. And so I got out of the car and they searched me, took my cigarettes out of my pockets, and they took me out in

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front of the truck.

There was another car parked there and they put me in this car with three other fellows, and I sat on the middle fellow's lap and for some reason or other they changed their minds about that, took me back to my own car. I had a '33 Chevie coupe.

TRIAL EXAMINER LINDSAY: Just a minute. "For some reason or other they changed their minds" is stricken from the record.

Q. Go ahead, then you went over to your car, is that right?

A. Yes. They took me over to my car.

Q. Yes.

A. And put me in the middle of my car and the fellow at the beginning that had a gun, gave the gun to the fellow that was sitting on the right of me and he got in the car and drove my car, and there was another fellow sitting on the lap of the fellow to the right of me, and there was a fellow on the running board and there was one in the turtle-back of the car.

And from there they started to take me to what turned out to be Bandi's Hall. On my way down they were discussing different things there with me, and they set about wondering about what they should do with me, and one fellow said they ought to shoot me, hang me up to a tree where everybody could see me.

And they took me down to—went through Crystal Park at the light, and went straight through in front of Bandi's Hall, and there was a crowd of, I would say around two or three hundred people there or maybe four, and when we pulled up in the middle of the road there, in front of Bandi's Hall, they stopped the car for a minute and one fellow jumped on the running board and put his hand in on the wrist of the fellow that had the gun, and sort of wrestled with him for a few moments, to take the gun away from him, and he flashed some kind of a badge, it looked to me like a deputy sheriff's badge—special deputy sheriff's badge, but I would not say what it was, and just then one of the fellows said, "C. I. O." and he says, "Oh, all right."

And they told him to drive around in back of Bandi's Hall quick and so they took me around to the back of Bandi's Hall and they left me out and the group of men that took me to Bandi's Hall stayed there and another group started me down into the cellar of Bandi's Hall.

On the way down, down into Bandi's Hall, one fellow standing there in the crowd took a swing at me and I ducked and he missed me, and they took me down through a large room, down a flight of steps into another little place and to the left of that there was a small office of some kind and they took me in there.

When we got in there they set me down in a chair beside a table, and I sat there for a while and one fellow took a swing at me and that seemed to be the signal, they all started in on me, there was about five of them used their fists, and there was one fellow that was either on top of the table, or he was on the other side of the table reaching over, beat me across the back with a club and then when they stopped they says, "Now talk, and talk fast," and I asked them what they wanted me to talk about, and they asked me a few questions which I don't remember the questions now.

And then the one fellow that was doing the most of the talking at the time asked me how I liked to do something for the C. I. O. Then he says, "How would you like to sit in a room, a darkened room without any lights at all, where there was no light, with your head back to the ceiling for 48 hours?"

And the fellow by the name of Johnnie Johns said that they would not do that, and right around that time they brought Mr. Betz or Best in.

Q. Betz?

A. And they proceeded to strip me of all but my trunks and my shoes and then Johnnie Johns made up two signs, one for my chest and one for my back, they tied with strings around me, and he had on these "T. K. Harris' Scab," something like that language, and I stood there for a while and they had taken my cigarettes, and I asked one of them for a cigarette and he told me that no scab got cigarettes around that place.

Q. By the way, do you know who T. K. Harris was?

A. Well, I heard quite a bit about him. That is, he was a real estate man here in town.

Q. Well, had you heard that he was the head of the Law & Order League?

A. Yes, sir.

Q. And then what happened?

A. Well, they brought Betz in there then and they stripped me and put these signs on me and had me sit down, back down in the chair and then that one fellow said to Betz that, "We ought to take this Betz for a one way ride, he has been causing too much trouble here," and Betz went to say something and he told him to keep his mouth shut or he would hit him, and they were in there for a little while and all this time they kept the door locked except when someone would come up and rap to get in, that they knew who it was.

Around this time the two city policemen came in, one of them was Bernoski and I don't know the other policeman, come and they stayed in there for a little while with the police, and they had me get dressed, took the signs off of me and they took me out and put me in the patrol car and took me up to City Hall and they released me there and I went home, and my folks were looking at my back and face, and I went back up to Murphy Hospital and got treated up there for my bruises, and they told me to go to VanDyke and that the company would take care of all of the bills. And I told the copper about my car when they took me away from Bandi's Hall and he said that he would have a tow truck or something go out and pick it up for me, and later that evening they found the car out on Superior—I believe that was right off of Superior on 20th, all smashed up.

MR. LAUTER: Read that answer.

(The last answer read by the Reporter.)

Q. That is VanDyke the doctor?

A. Yes, sir.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Did you go to a doctor?

A. Yes, sir.

Q. Where was the Company doctor when you went to see him?

A. I didn't go to the Company doctor that day.

Q. When did you see him?

A. I can't just tell you what day it was I went to see him.

Q. How soon after this happened did you go to see him?

A. I believe it was about two or three days.

Q. Was it at that time that he told you that the Company would take care of the bills?

A. No, sir. They told me that at the hospital.

Q. Who told you that at the hospital?

A. I guess it was an interne—there was a nurse and two internes—I believe it was.

Q. What is that?

A. There was one lady nurse and two internes.

Q. Two internes?

A. I believe they were internes; I don't know.

Q. They told you that Vandyke would take care of it or did Vandyke say that the Company would take care of it?

A. They told me to go to Vandyke and the Company would take care of the bills.

Q. Did you go to Vandyke?

A. Yes, sir.

Q. Did the Company take care of the bills?

A. Yes, sir.

Q. What were your bills? How much did the bills amount to, do you know?

A. No, I don't.

Q. Did the Company take care of it directly?

A. I can't even say that. I don't—all I did was go to the doctor that Vandyke sent me to; that is all I heard about it.

Q. How many times did you go to the doctor?

A. I was up to see Vandyke once and I—

Q. Did you see Vandyke for a physical examination; did he examine you?

A. Yes, sir.

Q. Yes.

A. And I went to, I believe it was—Brandon in the First National Bank Building; he is a nose specialist.

Q. What is that?

A. He is a nose specialist.

Q. Was your nose injured?

A. Yes, sir.

Q. At Bandi's Hall?

A. Yes, sir.

Q. After you had gotten out of Bandi's Hall you asked for some cigarettes?

A. Yes, sir.

Q. They wouldn't give them to you?

A. No, sir.

Q. Did the Company take care of your car also?

A. No, sir.

Q. Was it damaged in any way?

A. Yes, they got $25 for it in junk.

Q. Now, did you earn anything between May 25th and June 30th?

A. What dates was that?

Q. Were you paid anything between May 25th and June 30th?

A. No, sir.

Q. What was the day you went back to work?

A. What day?

Q. Yes.

A. On the 30th.

Q. Yes.

A. I am pretty sure it was on that day because we had one day on that pay. It was 30th—that is right, because it started again from the 1st to the 16th.

Q. What was the name of your foreman?

A. Fred Wilson.

Q. What department are you in?

A. In the white sheet workers in the Stark Division.

Q. Did you have a conversation with Mr. Wilson before June 30th?

A. No, I didn't talk to Fred. He was—

Q. How did you happen to go back on June 30th?

A. Well, one of my fellow workmen told me that they were going back.

Q. What time did you go back to work that day?

A. We left in the morning; I can't tell what time it was. I don't believe we got in there before eight o'clock.

MR. LAUTER: That is all.

MR. DAY: I think that is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will take a short recess.

(Recess had.)

H. M. REBSTOCK

vitness called by and on behalf of the Respondent, hav-
g been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name, please?

A. H. M. Rebstock.

Q. Where do you live?

A. R. D. 7, North Canton.

Q. And North Canton is about five miles from here?

A. I suppose like that, yes.

Q. How long have you lived in North Canton or Can-
n?

A. Well, I have lived in Stark County all my life
y present location, I lived there now three years.

Q. What is your age, Mr. Rebstock?

A. 58.

Q. Where do you work?

A. Republic Steel.

Q. How long have you worked for Republic Steel?

A. Going on four years.

Q. What is your work there?

A. Well, at the present time I am doing most every-
ing, since we went on eight hours, why I am working
fferent jobs, some days I am on one job and some days
am on another.

Q. What are some of the jobs? Just tell us.

A. Well, at the present time I am working as charger
the mill, one of the mills.

Q. A what?

A. As charger on the back end of one of the furnaces.

Q. Charger?

A. Yes, sir.

Q. What is a charger? What does he do?

A. Well, you put the iron into the furnace.

Q. Were you working for Republic at the time the strike was called?

A. Yes, sir.

Q. And did you stop work—in what plant were you working?

A. Stark division, sheet mill.

Q. When did you stop working there, with relation to the time that the strike was called?

A. I was on the last shift that was worked at the time the strike was called. I was one of the last men to leave the plant, last bunch of men.

Q. And after the strike, when the strike was called, did you then quit work there?

A. Yes, sir.

Q. And when did you go back?

A. July 2nd.

Q. Mr. Rebstock, on the evening or late afternoon of June 18th last, were you out in the vicinity of Market Avenue, 26th Street and Martindale Road?

A. Yes, sir.

Q. How did you get there?

A. I drove there in my car.

Q. Did you go alone or did somebody go with you?

A. I went with a neighbor of mine by the name of Johnnie Speck, or he went with me, rather.

Q. Did Johnnie Speck also work at Republic?

A. Yes, sir.

Q. Did he at that time?

A. Yes, sir.

Q. And where did you go?

A. Went down, we was supposed to go to Martindale Road, and when we got to Martindale Road things didn't look so good for us there, so we drove on down Market Street and stopped along possibly between 25th and 26th.

Q. And then what happened?

A. Well, we got out of the car there; I saw a man across the street that I had known pretty—very well, so I went over and talked with him. Mr. Speck seen another party that he knew very well up the street a piece, and he went up there.

Q. Why did you go up there at all that afternoon? What was the purpose of it?

A. Well, I was downtown in the afternoon and I was told there was to be a meeting up there and make some arrangement about getting back to work, that was our purpose of being there.

Q. Now, go on and tell what happened.

A. So I got out of the car and walked across the street, talked to Mr. Lappin. Mr. Speck, of course, went up the other way. After I got through talking with Mr. Lappin why of course I was separated from my partner and I kind of walked up the street to locate him and in doing this why a bunch of men came running down the street. Someone says, "Here they come," and I looked around and of course I was kind of walking down the street and they were very near on top of us before I seen them and they hollered at me, wanted to know where I was going, what I was doing there.

Of course, I kind of hesitated and stopped a little bit and finally I told them I lived right down the line. They wanted to know where I lived, I told them I lived down the line, so I didn't any more than tell them then when they grabbed me.

Q. Did you recognize any of those men?

A. I did not.

Q. Were they wearing anything?

A. Well, they had badges on them and they had clubs in their hands.

Q. Well, did you see what kind of badges they were?

A. I couldn't recognize what the badges were.

Q. What did they look like?

A. Well, they had those buttons on their coats and on their shirts.

Q. Then what happened?

A. Well, about five or six of them surrounded me there and grabbed me, pulled me across the street backwards. When they started to go across the street why they were pounding me. When they got about half across one of them, why I don't know, I can't swear which one, but they pulled my glasses from my head and they were pounding me and everything else, and they got me over on the opposite side of the street, there was a car standing there and they forced me into this car and said they were going to take me to headquarters.

When they got me in the car there was four in the car with me and they started—

Q. Before that I want to show you a photograph, which I will mark Respondent's next exhibit.

(The photograph was marked as Respondent's Exhibit No. 10 for identification.)

Q. I will ask you to look at Respondent's Exhibit 10 and ask you, are you in there?

A. I certainly am.

Q. Where are you?

A. Right there (indicating).

Q. Indicating the man in the middle?

A. Yes, sir, but I don't have any glasses on because they tore—

Q. Never mind, I am not asking you about that, now. Do you remember the picture being taken at all?

A. Yes, sir, I seen it flash.

MR. DAY: Have you seen that?

(Counsel submits document for inspection.)

Q. (By Mr. Day) Did you know at that time who either one of these other two men are, that are shown here?

A. No, sir, I did not.

Q. Have you since discovered who they were, your-?

A. Well, the one there, I don't know, possibly, but I ık I can—

Q. Don't tell what you think. You haven't discovered t yourself?

A. Not particular, no.

MR. DAY: I want to offer this in evidence. Would you like to see it?

(Exhibit submitted to Trial Examiner for inspection.)

Q. (By Mr. Day) Now go on and tell us about it.

A. Well, they forced me into the car and said they e going to take me to headquarters, started the car in tion, and a good many cars were parked there, of course vasn't very easy to get out, they tried to get out and of rse in doing so they had a little trouble to do that and t about that time why the police cruiser pulled up over the opposite side of the street and of course I seen them re and I threw up my hand like this (indicating) draw- the attention of the officer. My face was all over blood, uppose he could recognize that. He come over and got out of the car.

Q. You say your face was all over blood. What, if thing, happened to your face there?

A. Well, they pounded me in the face, that is what de my nose bleed.

Q. Well, with what did they pound you?

A. That I couldn't tell you. They were pounding. I ld not tell. I was trying to dodge. I didn't see what y did have, all.

Q. Then what happened?

A. Well, after the police officer came over, then, he k me out of the cruiser—out of their car—out of this car t I was in, took me over to the opposite side of the street l put me in the cruiser car. Of course I set in there, I didn't know just how long, I suppose maybe ten minutes or something like that, and the patrol wagon came. They took me out of the cruiser then, put me in a patrol wagon and they took one of these men that was in the other car with me and myself, and a fellow by the name of Mr. Coleman, took us three down to headquarters, and they put me in the lock-up and locked me up there for approximately two hours and a half at least, until they could get in touch with my wife to bring a deed to the property down in order to sign a $50 bond.

Q. Yes.

A. After they got her down there to sign, she had to bring the deed to the property along, of course, and after they got that fixed up, then I was released.

Q. You say you were wearing glasses. What happened to your glasses?

A. Well, they simply took them off of me. I asked for my glasses after that, after they got me into the car, and nobody seemed to know anything about them.

Q. Did you recognize any of the men that were in the matters you are telling us about at the time? Did you know any of these men?

A. No, sir, I didn't know them.

Q. Have you since ascertained who any of them were?

A. I think I could pick out one of them.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) You say you can't identify any of the men?

A. Well, I could possibly identify one of them since this thing has happened.

Q. Do you know his name?

A. Yes, sir.

Q. Had you learned that name since the Martindale Road incident?

A. Yes, since.

Q. Now, you have been shown a photograph. Could you identify any of the two men in the photograph?

A. Well, not just as sure. I rather think one of them I could.

Q. You aren't sure?

A. No.

Q. Now, who told you to go to Martindale Road?

A. Well, I was downtown this afternoon and word was passed on from one to another. I can't say who it was.

Q. Now, try to recollect.

A. I can't remember. Where it was passed around. I would not make any effort to—

Q. You would not make any effort?

A. Well, if I did it would be wrong.

Q. Now, try and think. Who told you to go to Martindale Road? Take your time and think.

A. Well, I wouldn't know, to tell you that, because I would tell you wrong; the wrong party. We were downtown and there were a bunch of us. I wouldn't want to tell—it was one fellow.

Q. Whom were you talking to?

A. Quite a lot of them.

Q. About what time was that?

A. In the afternoon some time, I couldn't say definitely.

Q. What time did you go to Martindale Road?

A. I suppose approximately a quarter after five o'clock I got there.

Q. Did you leave from home or downtown?

A. From home.

Q. How long prior to your going home had you been downtown talking to the bunch of men?

A. I suppose along the middle of the afternoon; possibly about 2 or 3 o'clock.

Q. Now, between 2 and 3 o'clock, how many men did you speak to?

A. I can't tell you that.

Q. Well, two or a hundred?

A. Well, it wasn't a hundred.

Q. Was it more than two?

A. Well, I would say two or three.

Q Can you give me the names of some of those men?

A. Well, Mr. Speck was one of them; outside of that, I can't tell you.

Q. What is his position with the mill?

A. He works in the white sheet.

Q. What does he do there?

A. He is a checker.

Q. A checker?

A. Yes, sir.

Q. Did you arrange for him to go there with you to Martindale Road?

A. Yes, sir.

Q. Were you to meet him at home or were you to take him up there?

A. Well, we lived side by side.

Q. Now, exactly what does a checker do?

A. Well, you know as much as I do about it.

Q. You don't know anything about a checker?

A. No, sir, I didn't work in that department. I don't know anything about it.

Q. Is that comparable to a foreman?

A. I don't know whether it is a foreman or not.

Q. What is that?

A. I don't know if it would be anything to a foremanship or not.

Q. How long have you known Mr. Speck?

A. Since about April, I believe.

Q. April of this year?

A. Yes, sir.

Q. Now, who is Mr. Lappin? You referred to Mr. Lappin.

A. Well, Mr. Lappin worked in the South Division.

Q. You met him out at Martindale Road?

A. No, Market Street.

Q. Market Street?

A. Yes, sir.

Q. You talked to him?

A. Yes, sir.

Q. What was the conversation?

A. What?

Q. What was the conversation?

A. Well, we just talked about the gathering we supposed to be there.

Q. What did he do?

A. What?

Q. What did he do?

A. What do you mean?

Q. Well, what did he say?

A. He didn't say anything about it. He said there was supposed to be a kind of gathering there—to meet there.

Q. Did he tell you that they were going to meet out at Martindale Road?

A. He didn't say about Martindale Road.

Q. Where did he tell you they were going to meet?

A. What?

Q. Where did he tell you they were going to meet?

A. He didn't tell me they were going to meet any place.

Q. Well, you knew about the meeting?

A. No, I didn't say that I did.

MR. LAUTER: Mr. Reporter, will you read that question?

(The last question above referred to was read.) "What was the conversation?"

MR. LAUTER: Now, will you read the answer to that question.

(The answer above referred to was read.) "Well, we just talked about the gathering we supposed to be there."

Q. Did you talk about the gathering?

A. Well, we did, to a certain extent.

Q. Well, you tell me, to a certain extent. Tell me to what extent to which you talked about the gathering.

A. I don't know if I can recall that or not.

Q. Now, tell me as much as you can recall.

A. Well, I don't know. I would probably get things mixed up. It is a good while ago. I am not going to make anything up out of my memory.

Q. Tell us as best you can.

A. We only talked, I don't suppose—I don't suppose we talked over a minute or two.

Q. I am not asking you how long you talked. Tell us what was said.

A. This is pretty hard to figure out. Well, I would not like to give you an answer on that because I can't recall it.

Q. You talked about a gathering, is that correct?

A. No doubt we did, to a certain extent—maybe.

Q. You say "maybe." Did you or didn't you talk about a gathering?

A. What?

Q. Did you or didn't you talk about a gathering?

A. I say we may have and we may not.

Q. Didn't you testify a little while ago—

TRIAL EXAMINER LINDSAY: Just a minute.

(Discussion had.)

TRIAL EXAMINER LINDSAY: You better answer those questions.

A. Well, that is pretty hard to tell just what you remember about in that long time. It is pretty hard to get that all in your mind what you did talk about.

TRIAL EXAMINER LINDSAY: You remember everything else. You ought to remember something about it.

A. Well, there is one thing he said. He said he heard the meeting was called off.

Q. You remember that?

A. Yes, that I remember. He said there wasn't going to be any meeting.

Q. What time did he tell you that?

A. Well now, that was right after I talked to him. I suppose it was a quarter after five or 20 after—along there —right when I got there.

Q. When you got where?

A. To this Market Avenue meeting.

Q. To the Market Street meeting?

A. Yes, sir, that is where we stopped.

Q. Is that anywhere near Martindale Road?

A. Well, it is about, I would say, two or three blocks south of Martindale Road.

Q. Now, did you see Mr. Lappin in the afternoon prior to 5 o'clock?

A. No.

Q. And the first conversation you had with him was when you got out where this meeting was expected to take place?

A. Yes, sir.

Q. You met Mr. Lappin at that time out there?

A. Yes, sir.

Q. At that time he told you that there wasn't going to be any meeting?

A. Yes, sir.

Q. What else did he tell you?

A. I don't know if he said much of anything. Only

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MICRO CARD

he said he was going to get ready to go home.

Q. Now, you remember two things.

A. Well, we wasn't there, only two or three minutes.

Q. He said he was going to get ready to go home?

A. Yes, sir.

Q. And did he go home?

A. Well, he left there. I don't know whether he went home or not.

Q. How many people were around there when you were talking to Mr. Lappin?

A. Well, there wasn't anybody right there. Only there was a car there. Now, I don't remember whether he was in the car—

Q. Was he in the car or out of the car?

A. He was standing outside the car.

Q. Were there a number of other cars there at the same time?

A. Well, one was up the street there—there was.

Q. Were those cars occupied by men who were meeting there?

A. Well, I can't say.

Q. What did you say to Mr. Lappin when he told you he was going home?

A. Well, I said if there was no meeting I don't know if I am going with you or not.

Q. How long had you been there?

A. Just long enough to go across the street.

Q. What else did you do?

A. I walked back up the street trying to locate Mr. Speck.

Q. Did you know Mr. Lappin?

A. Did I know Mr. Lappin?

Q. That is right.

A. Sure.

Q. What is his position?

A. I am not sure.

Q. You say you know who he is?

A. Yes, sir.

Q. He works in the mill?

A. Yes, sir.

Q. He was a representative on the representation plan, is that right?

A. Not that I know of.

Q. You know Lappin?

A. Yes, sir.

Q. What is his first name?

A. William.

Q. Do you know what he does?

A. I think he is a roller.

Q. Do you know whether he is a roller or an assistant roller?

A. Well, at the present time I can't tell you. He worked in the South Division and I worked in the East Division.

Q. How do you spell his name?

A. L-a-p-p-i-n.

Q. I mean at the time you were meeting him at that time or some months prior to that time, did you know what he was?

A. That is something I don't know.

Q. You don't know?

A. No, sir.

Q. How many times did you see Mr. Lappin before you came out there?

A. Well, this meeting that night?

Q. That is right, June 18th?

A. Well, I hadn't seen him for some time before that.

Q. Did you stop working on May 25th?

A. Yes, sir.

Q. Have you received any pay since May 25th to June 18th?

A. No, sir.

Q. Did you have any conversations with Mr. Lappin between May 25th or June 18th apart from the one you have now described?

A. No, sir.

Q. Were you a representative of the plan?

A. No, sir.

Q. What is the name of your foreman?

A. Well now, we call him Benny Seccomb, he is a turn foreman. There is a superintendent and there is an assistant superintendent. I don't know which one is the real one there.

Q. Had you had any conversations with any of those men before you went back to work?

A. No, sir.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) You talked about having a conversation with a man by the name of William Lappin?

A. Yes, sir.

Q. Has he a son?

A. Yes, sir.

Q. Do you know his son's name?

A. Yes, sir.

Q. What is his name?

A. Carl.

MR. DAY: That is all.

MR. LAUTER: That is all.

(Witness excused.)

MARCUS SNYDER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. Marcus Snyder.

Q. Where do you live?

A. 1386 Roslyn Avenue, S. W.

Q. Canton?

A. Yes, sir.

Q. What is your business?

A. Working for Republic Steel.

Q. In what capacity?

A. Sir?

Q. What is your job there?

A. Job annealer.

Q. What does a job annealer do?

A. Heats sheets.

TRIAL EXAMINER LINDSAY: What type of work do you do?

THE WITNESS: Just heat the sheets.

Q. You do what?

A. I heat the sheets.

Q. Heat the sheets? How long have you worked for Republic?

A. 20 years.

Q. Are you a married man?

A. Yes, sir.

Q. When you say you worked at the Republic 20 years you mean Republic and the companies that were there before Republic took them over?

A. Yes, sir, yes, sir.

Q. Were you working there at the time the strike was called?

A. Yes, sir.

Q. Now, on June 18th last, in the afternoon, were you up near the corner of Martindale Road and Market Avenue?

A. Yes, sir.

Q. How did you go up there?

A. A fellow by the name of Baker drove in a car and I drove with him.

Q. Who is Baker?

A. Janitor, I believe, at the Republic office.

Q. What division do you work in, by the way?

A. Stark division.

Q. And where did you drive to?

A. Martindale Road and Market Street, about—

Q. What did you see there?

A. Well, we drove out there and we—about 1000 feet off of Market Street why—

MR. LAUTER: Excuse me just a moment. I want to object to that question and move that the answer as far as it has been given be stricken from the record on the ground it is incompetent, irrelevant and immaterial. I want to note formally for the record my objection at this time to any further happenings of the same kind on Martindale, on the ground it is cumulative. It is entirely possible that there may have been 500 people that gathered there. Is it the intention of counsel for the Respondent to put on 500 people to testify what happened there that night?

MR. DAY: No, it is not.

MR. LAUTER: We have had a half dozen already.

MR. DAY: We do not intend to put on 500.

MR. LAUTER: Well, that is some consolation.

TRIAL EXAMINER LINDSAY: With this particular witness I am going to deny your motion. Let the record show an exception.

MR. LAUTER: Exception.

Q. What happened? What did you see there?

A. We drove up there, we seen a couple of cars there and we—when we drove up there we heard of a Back-to-Work Movement and the fellow employees said we would meet up there and we will go back to work. I drove up there and we seen a bunch of cars there and when we drove up there they didn't look very good.

Q. Don't tell that.

TRIAL EXAMINER LINDSAY: Strike that out.

Q. (By Mr. Day) Don't tell whether they looked good or not. Just tell what you saw.

A. Well, we saw some men aside of the road wearing C. I. O. buttons.

Q. Men on the side of the road wearing C. I. O. buttons? About how many of them did you see wearing C. I. O. buttons?

A. Well, probably I would say 20.

Q. What did they do?

A. They didn't do nothing to us. We seen it wasn't our bunch, so we parked maybe a minute or so and drove off.

Q. Were these men carrying anything?

A. Clubs, pipes, some had guns, stones.

Q. What, if anything, did you see them do?

A. Sir?

Q. What did you see them do, if anything?

A. We saw them make some fellow raise up his hand and search him.

Q. Now, when you say "search him" just what did they do?

A. Well, they—he put up his hands and they went like that (indicating.) I don't know what they were searching for.

Q. When you say "search" you mean that they felt of him?

A. Yes.

MR. DAY: Let the record show that they felt him, where he said "searched," if there is no objection to that.

Q. Did you see Monk Stewart there that night?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: Now, Mr. Day, you have gone far enough with leading questions. Ask him what he saw up there.

MR. DAY: Well, I thought that was the most direct way to get at it.

Q. (By Mr. Day) Whom did you see there?

A. Monk Stewart.

Q. What did you see?

A. Two C. I. O. men that I recognized, and one I know was a C. I. O. man but didn't have no button on him. I know he was C. I. O.

Q. What did happen to Monk Stewart, if anything?

A. Nothing that I seen, they just surrounded him and that is all.

Q. That is all you saw?

A. That is all I seen.

Q. Now, then, what did you do?

A. Well, Baker and I drove out and went home.

Q. And that is all that happened?

A. Yes, sir.

MR. DAY: That is all.

MR. LAUTER: I move to strike the testimony of this witness, and I think it is a scandalous exhibition, Mr. Trial Examiner, to put witnesses on of this kind, and I object to any further inquiry on what happened on Martindale Road.

TRIAL EXAMINER LINDSAY: Well, I am going to now grant the motion that this testimony be stricken from the record. Let the record show an exception.

MR. DAY: Yes, and let the record show that we resent the statement that this is a scandalous exhibition. That is all, sir.

(Witness excused.)

MR. DAY: Now, Mr. Examiner, that is about all the witnesses I have up to date, to put on the stand.

TRIAL EXAMINER LINDSAY: Mr. Lauter and Mr. Hoskins, come up here.

(Conference held between the Examiner and Counsel.)

MR. DAY: I want to make this statement in the record. Now this is in the record: At this time the Respondent asks the Trial Examiner to postpone the further hearing of evidence in this case until next Monday morning at 9:30, September 13. In this connection we state to the Trial Examiner that Judge Pontius, one of counsel for the Respondent, saw a doctor this noon at the recess and the doctor gave a written statement to the effect that he is suffering from cellulitis and that he had advised the Judge to go home and stay there several days. I haven't that letter, but with the Examiner's permission, I would like to have the letter put in, and the Examiner saw the letter.

I want to also state that Mr. Veach, one of my partners, who has had a very active part in all of our labor matters, has been ever since Labor Day in Cumberland, Maryland, in connection with another Labor Board hearing which, so far as I am advised, began yesterday, and so far as I am advised now is still in progress, though I have no absolutely definite information on that subject.

Judge Pontius, together with some of the Canton men connected with the Respondent, has had active charge of the preparation of the Canton defense evidence. I think that it would expedite the hearing in this case if we could have a postponement until next Monday and devote some of the time tomorrow and perhaps Sunday to arranging and marshalling our evidence.

I wish to say also that before determining the full scope and force of our defense, I am very anxious to talk to my associate, Mr. Veach, and if possible, Mr.

Pontius.

I also wish to say that if the Trial Examiner feels that holding a night session or night sessions next week would make up for any time lost by the request for delay, we will arrange to do that. However, I would appreciate it very much if no night session be held next Monday.

TRIAL EXAMINER LINDSAY: Well, as much as I dislike to adjourn until Monday morning, I feel that because of the sickness of the Judge and because of the fact that Mr. Veach is also absent from the hearing, and further because of the fact that Mr. Day advises me that he has no more witnesses to whom he has personally talked, it is almost incumbent upon me to adjourn the case until Monday morning.

MR. DAY: I would like to say that there are some witnesses to whom I have talked, to some extent in conferences, but there is none—

TRIAL EXAMINER LINDSAY: I didn't understand that.

MR. DAY: Yes, but there are no witnesses that I would feel that I should put up on the stand at this time, having sufficient knowledge of his testimony.

MR. LAUTER: May I just make one comment for the record and that is that although requested to appear with copy of the police records show the name and other data of the person who was alleged to have attacked Deputy Sheriff France, on September 10th, the Deputy Sheriff France has thus far failed to appear with those records, although he had been requested to do so the previous date, and had agreed to do so, on September 9th, 1936.

MR. DAY: Well, we will endeavor to get in touch with Deputy Sheriff France.

MR. LAUTER: Just a formal statement. I wish you would. I want to see it, and that is all.

MR. DAY: And see about getting the records in. We will co-operate with the Trial Examiner and counsel for the Labor Board in that regard.

TRIAL EXAMINER LINDSAY: You might state in the record there that I will not grant any more adjournments. The hearing is adjourned until Monday morning at 9:30.

(Whereupon at 5:00 o'clock p. m., September 10, 1937, an adjournment was taken to 9:30 a. m., September 13, 1937.)

Council Chambers, City Hall,
Canton, Ohio,
Monday, September 13, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., (Cleveland, Ohio), appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: **The hearing is called to order.**

DAN ALLEN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?
A. Dan Allen.
Q. How old are you, Mr. Allen?
A. 36.
Q. Married or unmarried?
A. Married.
Q. Where do you live?
A. East Canton.
Q. What is your business?
A. Guide setter.
Q. For Republic Steel Corporation?
A. Yes, sir.
Q. How long have you worked for Republic?
A. 20 years.
Q. That is Republic and the companies that preceded it?
A. Yes.
Q. Mr. Allen, on the afternoon of June 18th about 5:30 or 6 o'clock in the evening, where were you?
A. On 25th Street and Market Avenue.
Q. About what time did you get there?
A. About 20 minutes till 6, I should imagine something like that.
Q. Why did you go up there; what was the occasion of your going there?
A. I heard in the afternoon that they were going to move and go back to work, and I drove up intending to go in to see if they were in.
Q. When did you stop working for the Republic?
A. It was the 25th of May.
Q. When you went up there, did you go in?

A. I parked half a block up on Market Street. I met a fellow up on Market Street. I don't know his name. I got out of the machine—I never seen the fellow after he got out of the machine any more.

Q. Now, after you got out of this car, will you tell us what you observed?

A. I got out of the car and this fellow got out with me. There was quite a crowd there and I parked my car on Market Street and Gordon Hess was disbursing the crowd and he told me I couldn't go up there. Then I seen Jim Davies—

Q. Let us stop there at Gordon Hess. Tell what happened; go forward.

A. The crowd was gathered to go inside.

Q. Gordon Hess is whom?

A. Gordon Hess?

Q. Yes, Gordon Hess is *connected with the Republic* over in Massillon?

A. Yes.

Q. Now, you were going to say something about Jim Davies.

A. Jim Davies told me to go ahead and finish disbursing the crowd so there wouldn't be any trouble. If anybody wanted to go in there—the law or the Republic Steel or anybody—they was ready for disbursing them. There was three boys standing on the corner of Market.

Q. Do you know Mr. Hess' position with the Republic?

A. I didn't know Gordon Hess until he introduced himself after.

Q. Do you know if he is an officer of the Republic?

A. Yes, sir.

Q. Do you know what he does?

A. Superintendent of the South Works Division.

Q. Superintendent of the South Works Division?

A. Yes.

Q. Now, go forward and tell what happened.

A. Well, I was speaking to Milton Betz and another boy that I didn't know at that time; and another boy, I didn't know his name; and found it out later.

Then several cars came down Market, I paid no attention to them because my back was to Market Street and I was talking to these boys and I started to my car, to go home. I turned around and somebody hollered my name and I turned around and recognized a fellow by the name of Virchfield, a crane man.

Q. He was what?

A. A crane man at Republic Steel.

Q. Does he belong to the C. I. O.?

A. Well, I can't say for sure he did.

Q. All right.

A. But I was hit on the head, and my memory, from then on until around Crystal Park, I can't account for. When my memory came back to me I was crossing that bridge at Cook's Creek, Cook's Park.

Q. Now, crossing the bridge at Cook, was that on the—where was that with reference to this Market Avenue and 26th Street? About how far away, if you know?

A. I imagine five miles, almost.

Q. A mile?

A. Oh, approximately three miles.

Q. Three miles? Then what happened?

A. Well—

Q. Now, you say your memory came back to you?

A. Yes, sir.

Q. When that happened who were you with?

A. I was in a car with two—one man in the back seat and two in the front seat.

Q. Did you know them?

A. I did not.

Q. Well, then what happened?

A. Then I asked them, then, where I was going, and they said, "Bandi's Hall." I asked them why they had to beat a fellow up to take him over there and he just said, "We had to get you, and that that is all there is to it." Then I was taken to the corner of Beldon Avenue and Mahoning Road.

Q. Yes.

A. And they told me to wait until they went to the hall. They came back out, meantime they were showing me a picture of Monk Stewart in the paper that night, asked me if I knew him. Then I sat there probably five minutes in the car with—

Q. Now, what Stewart, that is John Stewart?

A. John Stewart.

Q. Yes.

A. I stood there probably five minutes and they come back out of the Hall, they said, "Take him around to the back.". And I imagine at that time the police were not come, anyway, they took me—

Q. What you imagine may go out by consent.

A. All right. They took me between the Crystal Park Hospital and the post office, back into the slight ravine-like, let me sit for a while, then they got me out and took me to the hall, back over towards the hall.

Q. Now, the car that you were riding in, was that your own car?

A. No, sir.

Q. When you got to the hall what happened?

A. They took me up, started me into the hall, and something happened that they ordered me back, and when I started to walk I had a severe pain in the back of my head, from walking. And they took me back to the car and I sat there probably 20 minutes and Homer Downer came out and talked to me.

Q. What talk did you have with Mr. Downer?

A. Well, Homer, he just told me that Republic Steel would never start up unless they recognized the C. I. O., and he said then after he started to leave, he said, "I suppose it is no use to ask you to sign?" And I didn't answer that.

Q. What was your condition when you were in there?

A. Well, I had a—they hit me on the back of the head, my lips were badly cut, my eyes were bruised up bad, and my ribs were hurting, but not much.

Q. Do you know whether or not you signed a card in there, C. I. O. card?

A. Sir?

Q. Do you know whether you signed a C. I. O. card?

A. They gave me one but I don't remember of signing a C. I. O. card. The card, however, I got was supposed to be my signature is not my signature, and I don't remember of signing a C. I. O. card.

Q. You don't remember one way or the other about it?

A. No, sir, I would have, under the conditions, if I would have been asked, but I wasn't asked. We walked into the hall and they said, "This boy wants a card."

Q. You don't remember whether you signed one or not?

A. I do not. I have a card and a picket card, both.

Q. Well, what else happened next?

A. Well, Downer left me and Sweeney came up there, asked me when we were going into the mill. I told him 5:30. "Well," he says, "it is after 5:30 now." I says, "That is all I know." That was finished. He says—I says, "I don't know anything more about it." It was rumored uptown that it was going at 5:30, but I didn't know any more about it after 5:30.

Q. Then what happened in the Hall?

A. Well, you mean—

Q. In Bandi's Hall after Sweeney came up?

A. Well, Beckner came up there later.

Q. That is Beckner—

TRIAL EXAMINER LINDSAY: Just a minute, off the record.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: Will you go back and read the testimony?

(The testimony of the witness read by the Reporter.)

MR. DAY: That is right.

TRIAL EXAMINER LINDSAY: Every one of your questions is putting him in Bandi's Hall.

MR. DAY: I thought he said he was in Bandi's Hall.

TRIAL EXAMINER LINDSAY: He was sitting out in the car.

THE WITNESS: They took me back.

Q. Oh, I see, this took place while you were out in the car?

A. Yes, sir.

Q. All right then.

TRIAL EXAMINER LINDSAY: Will you read back that direct examination?

(The testimony read by the Reporter.)

TRIAL EXAMINER LINDSAY: You see, he was out in the car all this time.

Q. I see. Now, the talk that you have given us with Downer, was that out in the car, and when the car was outside?

A. In the car, yes, sir. I was still in the back seat of the machine. They put me back in the back.

Q. Did you see Sweeney when you were on the outside of the hall?

A. Not until he came out to the car.

Q. When he came up to the car, what happened?

A. He sat down in the car and asked me questions about when we were to go in, that is when I told him that we were going in at 5:30, which the rumor was. And he said, "Well, it is after 5:30 now." I said, "That is all I know, then."

Q. And you say that Mr. Beckner came up, was that when you were out in the car?

A. Yes, sir, and Sweeney left and one of these boys in the car told me, he says, "The best thing you can do is to sign up with us and save yourself more trouble." Well, Beckner came up and he looked at me and he says, "We are going to take pictures of you."

Q. Is that when you were out in the car?

A. Still in the car, yes, sir. He says, "Take him out."

So they started—I started to get out of the car and this one boy helped me out, he says, "Take a card, and don't take any more punishment." Well, they took me from there over to the creek bank and put a sign around me and took three flashlight pictures of me.

Q. Can you remember what was on the side?

A. I didn't—I couldn't see so good but I was told after I was to the hospital what was on the side.

Q. Just tell us that. If you don't remember, yourself, don't tell us.

A. I did not.

Q. Then what else happened out there?

A. After the pictures was taken?

Q. Yes.

A. These two boys came back together, two boys came up and took me then into the hall.

Q. Took you into the hall?

A. Yes, sir, from there.

Q. I see, now, after you got into the hall what happened?

A. They took me down and when we walked into the steps there was, I imagine, probably three steps, maybe only two, from the landing into where there is a long bench. I don't remember of leaving those steps, they gave me this card and a picket card and a boy that was with me told me to come out, he was captain, I guess, of this line, anyhow, he told me to come out on the Georgetown Road and Wheeling, Lake Erie tracks.

Q. Yes.

A. That is No. 8 picket post, I believe.

Q. Yes.

A. Well, when I started to turn away and go away a big colored boy by the name of Stokes says to me, "Put him on No. 7, I am captain of that line. I want the office force to see him."

Q. All right.

A. So I just shook my head at Stokes, I didn't feel much like arguing. They took me out then and I asked—they asked me where my car was. I told them I would go to the car if they would let me out. So they took me, these boys in the same car, took me up on the corner of East Tuscarawas and Belden Avenue and let me off.

Q. Did you ever go out on picket duty?

A. No, sir.

Q. Then where did you go from there?

A. I started to walk and this pain got in the back of the head again and I sat down on the corner of Belden Avenue and East Tusc, down below there probably half a block. I sat there probably 20 minutes and I got up and I walked a couple of blocks more and I sat down again. The next time I walked down to a filling station on the corner of Waynesburg Road and Belden Avenue and I sat there a while on the curb. Then I went over to Harry Lehman's house and asked Mrs. Lehman if she would take me up to get my car, which she did.

She let me off up 25th Street and I came back and got in my car and drove a while and then I stopped and I drove from then on and went to 4th Street southeast.

Q. I don't want that in detail. Did you afterwards go to a hospital?

A. I went to the hospital, yes, sir.

Q. How long were you there?

A. Nine days.

Q. Mr. Allen, were you a member of this Back-to-Work Committee?

A. No, sir.

Q. Well, were you a member of the Committee at the Belden Hotel?

A. Yes, sir.

Q. That had to do with the Back-to-Work and the guarding of the homes?

A. Yes, sir.

Q That is the same Committee that Mr. Stewart testified about?

A. Yes, sir.

Q. You belonged to that Committee?

A. Yes, sir.

Q. That had to do with Back-to-Work and guarding homes?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: Well now, just a minute. Strike that out and ask him what the activities were.

Q. What were the activities?

TRIAL EXAMINER LINDSAY: He has testified—he is testifying, Mr. Day, not you.

MR. DAY: All right.

Q. I don't want to ask you, Mr. Allen—what was the purpose of the Committee as you understood it?

A. We came out of the mill and we held a vote at the Auditorium.

Q. About Back-to-Work?

A. Yes, sir.

MR. DAY: I think that is all.

MR. LAUTER: Will you read that second question?

(The question and answer were read.)

Cross Examination

Q. (By Mr. Lauter) Well, it was an active Back-to-Work movement, this Committee?

A. Yes, sir.

Q. Now, were you a representative of the Employees Representative Plan?

A. Yes.

Q. How long were you represented?

A. One year.

Q. What year was that?

A. 1936 and 1937.

Q. And you were a representative until some time in June, 1937?

A. Yes, sir.

Q. Any steps had been taken about the employees' representatives at the plant?

A. Yes, sir.

Q. What is that?

A. Yes, sir.

Q. Were those steps taken on the day you testified; some time in June?

A. No, it was taken after the 1st of May.

Q. What is that?

A. After the 1st of May.

Q. What steps were taken?

A. We organized an Employees Representative Association.

Q. Who organized that? This boy and the former representatives? The representatives who brought the employees' representatives?

A. Yes, sir.

Q. Now, you stopped work in the mill on May 25th?

A. Yes, sir.

Q. Have you lost any pay since the strike?

A. Yes, sir, one pay, while I was off sick.

Q. What is that?

A. Yes, sir; one pay, while I was off sick.

Q. That is since May 25th?

A. On the 18th of June I was on the sick relief; from then until I went back to work on the 20th of July.

Q. Now, from May 25th to June 18th you were paid, is that correct?

A. Yes, sir.

Q. How many hours a day were you paid for?

A. 14, I guess.

Q. Now, who is Frank Geltz?

A. Chairman of the body.

Q. And he is an employees' representative or a Company representative?

A. An employees' representative.

Q. And this Mr. Stewart, what was his position in the plant? Was he a Company representative?

A. No, sir.

Q. Or an employees' Representative?

A. No, sir.

Q. How about Stokoe?

A. He was.

Q. What was he?

A. Employees' representative.

Q. How about Schauer?

A. No, sir.

Q. Neither?

A. Neither.

Q. Neither an employees' representative or a Company representative, is that correct?

A. No.

Q. How about Roy Deffenbaugh?

A. He was an employees' representative.

Q. And Hiley?

A. No, sir.

Q. And Lappin?

A. Yes, sir.

Q. What was he?

A. Employees' representative.

Q. And Ray Lilly?

A. Employees' representative.

Q. Joe Cox?

A. Yes, sir, representative.

Q. Which?

A. Employees.

Q. Feder?

A. Yes, sir.

Q. Who was he?

A. Employees' representative.

Q. George Doyle?

A. Yes, sir, representative.

Q. Now, did Mr. Lappin bring you a pay check?

A. No, sir.

Q. At the Belden Hotel?

A. No, sir.

Q. Were you at the meeting that was held in the plant on the day of the strike?

A. No, sir.

Q. You were at the meeting at someone's home on May 25th? The day of the strike there was a meeting held at someone's home; the person who has not been identified?

A. It was Walter Lorrah on Market Street. We just gathered there; there was no meeting there.

TRIAL EXAMINER LINDSAY: Will you read that answer?

(The last answer was read.)

Q. Now, who was at that gathering?

A. I don't just remember who was there—Lappin, Hiley, Lorrah,—the other ones I can't remember.

Q. Was Mr. Geltz there?

A. Yes, he was there and Hiley and Lorrah.

Q. What time did that gathering get together?

A. Must have been 11:30 or 12 o'clock, I imagine.

Q. Were you working that day? Did you work that day?

A. Yes, sir, I work from 4 until a quarter to 12.

Q. That is from 4 in the afternoon until 12 at night?

A. Yes, sir.

Q. Who advised you to come to Lorrah's home?

A. I intended to work. I called my wife to come and get me in the car; she came and got me, and then I seen Frank, and it was decided then that I should go out there.

Q. What is that?

A. It was decided then that I should go out. He appointed me to go out. Before I went out there, I went down and changed clothes to go out, which I did.

Q. Was Frank Geitz the man who told you to go to Lorrah's house?

A. He told me to meet him in front of Lorrah's house, and that is where we met.

Q. Who else did you meet there?

A. Most of the fellows that were in the Committee?

Q. How does it happen that only a few of them congregated in Mr. Lorrah's house?

A. We went up there—I went up there first, and then I went back home to change clothes. When I came back they said we should go up to the Belden Hotel. That is how we got to the Belden Hotel.

Q. Was there a meeting between the time of the Lorrah's gathering and the Belden Hotel?

A. No, sir.

Q. When did you get to the Belden Hotel?

A. About 1 o'clock in the morning.

Q. That is the night of the strike?

A. The morning after.

Q. The 26th?

A. Yes, sir.

Q. Now, did Mr. Geltz tell you who appointed you? Was that his own appointment?

A. His own appointment.

Q. Did you know whether or not he appointed anyone else; of any of the others?

A. Oh, all of them were appointed by him.

Q. Were you told what you were expected to do as a result of your appointment?

A. Only on this vote proposition at the Auditorium.

Q. When were you informed about the fact that you were to guard homes?

A. Well, the trouble started for me the third day of the strike. The men started calling my home.

Q. Is that the first you knew that you were going to guard homes?

A. I went to do that myself; yes, sir—

Q. I am asking you whether or not you got any instructions by Mr. Geltz or anyone connected with the Company concerning the fact that you were expected to guard homes?

A. No, sir, I didn't.

Q. Were you told by Mr. Geltz that you were appointed by him?

A. You mean at the mill?

Q. That is right.

A. Oh, I was told that we were to go out and help.

Q. Then you met in front of Lorrah's house? How long did you stay there?

A. About 20 minutes.

Q. What was said there?

A. I don't just remember.

Q. Do you remember what the general topic of the conversation was?

A. Strike, mostly.

Q. What were the activities of this group expected to be, in connection with this strike?

A. Well, we had settled about two years ago on a vote and then we decided to do the same thing.

Q. Was any action taken?

A. Yes, sir.

Q. Then you went to Mr. Lorrah's house?

A. Yes, sir.

Q. You testified a number of people were there?

A. Yes, sir.

Q. How long did that gathering there take place?

A. I was there only probably a half an hour.

Q. Was there any discussion about going back to work at that time?

A. No, sir.

Q. Had you heard a strike had been called?

A. The strike was called before I left the plant.

Q. Before you left the plant?

A. Yes, sir.

Q. The strike was called about 11 o'clock?

A. I imagine around in there some time.

Q. Did you have any conference with the plant superintendent?

A. I didn't.

Q. Did any of the other men, as far as you know?

A. No, sir, not as far as I know.

Q. Subsequent to May 25th, did you have any conference with the plant superintendent or with any other Republic men?

A. What is that?

Q. Subsequent to May 25th, did you have any conference with the plant superintendent or any other Republic men?

A. Only on the meeting of cases.

Q. What is that?

A. Only on the meeting of cases. That is the case that would come up in the mill.

Q. Subsequent to May 25th?

A. Yes, sir.

Q. What cases? Before or after the strike?

A. Since the strike?

Q. Yes, sir.

A. I never had cases before the strike.

Q. Did you have any conferences with the plant superintendent?

A. Nothing outside of bidding him the time of the day.

Q. Where were you, back in the mill after May 25th?

A. No, sir, not until July 20th.

Q. That was the first time?

A. Yes, sir.

Q. Not even for a casual visit or just to go back?

A. I didn't go back at all.

Q. When you got to the Belden Hotel on May 26th, who was there?

A. Joe Cox, Carl Lappin, Deffenbaugh, and Stokoe, and I think a couple of roll turners were there, too.

Q. What did you do there that night?

A. Sir?

Q. What did you do there that night?

A. Well, we made arrangements for this vote at the Auditorium as best we could.

Q. When was that to take place?

A. I think on Thursday at 9 o'clock; Thursday morning.

Q. Do you recall whether or not 818 and 819 were the rooms that were used by the Committee?

A. That is right.

Q. Do you know who paid for the use of those rooms?

A. I don't.

Q. Do you know whether Mr. Lappin ever paid for them?

A. Not that I know of. I left there on the 18th and

I had nothing to do with the rooms whatever. I never seen nothing like that.

Q. Were meals served in the rooms there?

A. No, sir.

Q. Did you pay for your own meals?

A. Yes, sir, on the outside.

Q. Well, were any meals or any refreshments served there?

A. Not that I know of.

Q. Were you there from May 26th to June 18th each day?

A. Sometimes I wouldn't report there; not all the time.

Q. The majority of the time you were there?

A. At the Belden?

Q. That is right.

A. I wouldn't be there the majority of the time.

Q. You got paid for that entire period for every day?

A. That is right.

Q. Do you know whether or not the foreman got in touch with any of the people at the Belden Hotel?

A. Not to my knowledge, no.

Q. Or the plant superintendent?

A. Not to my knowledge.

Q. Now, did you guard any homes?

A. Yes, sir.

Q. Who gave you instructions to guard homes?

A. My instructions came from my own men.

Q. What do you mean "my own men?"

A. Well, the men that were in the mill.

Q. The men that worked in there with you?

A. Not worked in there with me. The men I represented. They started to call my home up the third day of the strike. They called me at my home of men coming through there and threatening them with damages and so on.

Q. You testified about Gordon Hess and the fact that he urged a crowd to disburse that gathered at Market and 25th?

A. That is right.

Q. How far is Market and 25th from the plant?

A. You mean right from the plant?

Q. Yes, right from the plant where these men were going to go back to work

A. I should judge about four miles.

Q. What is Gordon Hess' position?

A. I don't know.

Q. He is an officer of the Company?

A. That is right.

Q. He has a high supervisory position, is that correct?

A. I wouldn't say.

MR. DAY: Will you read that question?

(The last question was read.)

MR. DAY: I can get you his position, if you want it. He is assistant sales manager of the alloy sales.

Q. Do you know how Gordon Hess happened to be there at Market and 25th?

A. I don't know.

Q. How long was he there?

A. Was he there?

Q. Was he there or were you there? How long?

A. About probably 20 minutes.

Q. Had you had any contact with him on that day prior to his coming there?

A. I had not.

Q. Who told you that they were supposed to go back in the mill at 5:30 on that day?

A. It was rumored through town in the afternoon, that is how I picked that up: I went home and made preparations for that.

Q. From whom did you hear that rumor?

A. On the street, just from different individuals I would talk to.

Q. Do you remember any of the individuals?

A. No, I don't.

Q. Do you know how Market and 25th Street happened to be selected as the place where the men were to gather?

A. No, sir, I didn't.

Q. You had nothing to do with the selection of that place?

A. Sir?

Q. You had nothing to do with the selection of that place?

A. I had not.

Q. Do you know whether any of the members of your committee had?

A. Not to my knowledge.

MR. LAUTER: That's all.

TRIAL EXAMINER LINDSAY: Off the record.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: On the record.

Redirect Examination

Q. (By Mr. Day) Was that vote held at the auditorium?

A. No, sir.

Q. Were you at the auditorium at the time set to hold it?

A. Yes, sir.

Q. Just tell the Trial Examiner what, if anything, you saw happen up there?

A. Well, we gathered there before 9 o'clock, probably, I think there were 39 of us when the time come for the door to open, and Frank Geltz went for police protection, there were no policemen there at the time; they sent two police over and from what I get from them, Frank—

Q. Don't tell what you got from them. Please just state what you saw and if you didn't see any more than that, don't tell us about it.

A. Well, I can't tell any more, then, because Geltz handled it from then on.

Q. Geltz handled it from there on?

A. Yes, sir.

MR. DAY: I think that is all, sir.

MR. LAUTER: That's all.

(Witness excused.)

PHILLIP SCHAUER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. Phillip Schauer.

Q. Where do you live?

A. R. D. 1, Canal Fulton.

Q. Where do you work?

A. Republic Steel.

Q. At what plant?

A. At their Canton plant.

Q. Canal Fulton is about how far from Canton?

A. About 12 miles, four miles from Massillon Square.

Q. Are you a married man?

A. Yes, sir.

Q. Do you work for Republic Steel Corporation?

A. Yes, sir.

Q. How long have you worked at Republic Steel?

A. At both plants it has been a little over 15 years, counting Massillon and Canton.

Q. And that, of course, includes work for companies that were afterwards taken over by Republic, doesn't it?

A. That is right.

Q. What is your job at Republic?

A. Roll turner.

Q. Roll turner? Where were you on the afternoon of June 18th last, about 5 o'clock or along in there?

A. About 5 o'clock I was down at the Belden—well, I think I just left the Belden Hotel at 5 o'clock.

Q. And where did you go?

A. I went down to get in my car with Stewart.

Q. Is that John Stewart?

A. I can't tell you his first name. All I know him by is Stewart.

Q. Anybody else?

A. Well, we was going to get in the car, going to the parking lot, and before we got to the car, why at that time I wasn't acquainted with these representatives or any of those fellows, and this Stokoe, I hadn't met him much but meantime I knew his name was Stokoe, why Stewart invited him to go along and Stokoe says, "I have nothing to do, sure I will ride along."

Q. Well, did he go along, never mind the conversation?

A. He went along.

Q. And the three of you went together?

A. Three of us went together and we drove up there, we got up there, it was five minutes after 5:00 to Martindale Road.

Q. What did you do after you got out there?

A. Well, I wasn't supposed to do anything only take Stewart up. So I got out of the car on the driver's side and I was away off of the brick road, and my arm on the window and foot on the running board and waiting. Stewart went down a little further but I couldn't say, I wasn't there very long, a few minutes, some cars started to coming up. Stewart motioned for them to turn around. Of course, I am no sheet steel man, I figured Stewart knew them, was going to tell them about not going back to work. And meantime one car parked right across from me and they didn't turn around, they just kept heading towards Market Street.

TRIAL EXAMINER LINDSAY: Read the last answer for me.

(The previous answer was read down to the following:

"A. . . . Of course, I am no sheet steel man, I figured Stewart knew them, was going to tell them about not going back to work.")

MR. DAY: That may certainly go out.

TRIAL EXAMINER LINDSAY: That part, we will strike out.

MR. DAY: Yes.

Q. (By Mr. Day) Just tell what you did and what you saw, what happened to you.

A. We parked, waited there and first we noticed some fellows get out, and there was a gang got around me and asked me what I was doing there.

"Well," I says, "I just come up here." I seen the expression on their faces, it was a little different than what I figured I was up there for. I heard them ask Stewart the same thing.

They said to me, "Do you belong to the C. I. O.?" I says, "No, sir." "Well, what are you doing up here?" "Well," I says, "I just drove up here," so well there was —they kept talking, and the first thing you know a guy threw my coat back and he says, "Oh, you are one of them God damn rats deputies."

"Oh, no," I says, Well, they were all going to take a poke at me, started to search me, thought I had a gun.

"Oh, no," I says, "you are badly mistaken." I pulled my credentials out, showed them my credential sheets figuring from January sometime.

Q. That you were what?

A. Special deputy.

Q. From January sometime?

A. From January.

Q. Deputy what?

A. Sheriff. And so they read it, they handed them back to me, handed the credentials back. "Well, you are going with us."

And I had a lot of stuff in the car and I says—pleaded with them to let me lock the car up. Every time I would open my trap there was some guy ready to take a poke at me.

There was one man there from Massillon, he told me, he says, "That is my friend from Massillon," he says, "leave him alone."

And they put me in another car, in a sedan, and the guy from Massillon was on the left of me and another guy on the right of me. There was three guys in the front seat.

Q. Where did you go then?

A. Well, we drove and stopped at Bandi's Hall.

Q. Then what happened to you after you got to Bandi's Hall?

A. When they got to Bandi's Hall why they took me out and says, "He is one of them God damn rats deputies." They says, "Take him down."

So they took me down the steps, a couple of guys kicked me a couple of times, tried to take a swing at me and I wasn't—it only just—didn't hurt me to any extent.

Q. All right.

A. So they took me down to a turn to the right in the back end of the hall and took me in a little room there.

Q. Yes.

A. I was in there a while and they told me—wanted to know who I was, so I showed these credentials and at the time I didn't know who he was, but it was Martin Beckner, so he kept the credentials and he came over and he threw my coat back and seen the badge, took his fingers and ripped it off.

Q. All right.

A. Threw it on the floor, he says, "That don't mean a God damn thing to us."

Q. Go on.

A. Well, meantime, then, of course, there was a lot of fists that was going to take a poke at me when I was sitting on a chair, this fellow standing on the right of me from Massillon, he said he was from Massillon, and of course I didn't know him, I have no doubt met him since, he stopped them from hitting me, he says, "You leave him alone, he is my friend from Massillon." Meantime they bring Stokoe in, bring him in, and the guy Sweeney came in with him.

Q. What, if anything, happened to you in the hall?

A. There was nothing happened to me, that is being hit in the hall.

Q. Then what happened, what did happen to you?

A. Well, when I got out on the sidewalk with the cop, why the guy took and smashed me then, I don't know whether he hit me with his fist or a club.

Q. Where did he hit you?

A. On this side of the face (indicating). I don't know whether it was a big—broke my jaw inside, top and bottom. I don't know what he hit me with.

Q. Did you ever go to see some doctor because of that?

A. Yes, they called a doctor.

Q. Now, what, if anything—did you see Mr. Stokoe in there?

A. I seen them bring him in.

Q. What, if anything, did you see happen to Stokoe when he was in there?

A. When they brought Stokoe in, why then they says, "Here is another one of them God damn rats representatives," so they took him back in the corner and his head was cut open. Of course, I didn't know at the time what happened to him, and they slapped him and knocked him down, and he got up and they knocked him down—I know three times he was hit, they wanted him to talk. Of course, what the questions were they were asking him, I know the man didn't know what to answer.

Q. How long were you there altogether in Bandi's Hall?

A. Well, the predicament you are in, it would be hard to swear to it, I imagine 10 to 15 minutes.

Q. Then where did you go from there?

A. Well, I went from there, they put us in the police cruiser and took up to the police station, Stokoe and I in the same car.

MR. DAY: I think that's all.

Cross Examination

Q. (By Mr. Lauter) Were you charged with any offense at the police station?

A. No, sir.

Q. Whom did you say called the doctor?

A. Why, I think it was Carl Lappin, I would not say for sure. It was somebody up there in the Belden Hotel.

Q. Belden Hotel?

A. Belden Hotel.

Q. How did you get to the Belden Hotel that day?

A. Mr. Stewart called a taxi, and we taxied back up, the three of us, up from the police station.

Q. Was that from the police station?

A. From the police station, yes, sir.

Q. You didn't go to the hospital that day, did you?

A. No, sir.

Q. Can you identify anyone who struck you?

A. Sir?

Q. Can you identify anyone who struck you?

A. No, I couldn't.

Q. Can you identify anybody who struck Stokoe?

A. No, I couldn't.

Q. When did you leave the mill?

A. 3 o'clock the day the strike was called.

Q. What turn did you work, that day?

A. Day turn, 7 to 3.

Q. Are you a member of the committee of guards so called, that guarded the homes, that was interested in the Back-to-Work Movement?

A. Well, I know the folks they call that now. At the time I didn't know any of them only Carl Lappin.

Q. And you were a member of that group?

A. I was not. Not.

Q. What time did you become a member?

A. Well, in fact I didn't know I was a member. I was called—I was the president of the roll turners and our committee had met, there, three men that I had appointed, and I found out the brick layers' union was going to stay in, they wasn't coming out.

Q. Just one second. You were president of the roll turners?

A. Roll turners organization, I was at that time.

Q. How large an organization is that?

A. Well, it is a national organization, it takes in—well, whatever roll turners there is in each city or adjoining counties.

Q. Were you president of the whole organization, or just local?

A. Just the local, I was at that time, until we had the last election.

Q. How many roll turners are there here in this community?

A. Well, I should judge about thirty some—thirty I would say, one way or the other—a couple less, one way or the other, at Republic.

Q. Is that the Massillon plant?

A. At the Canton.

Q. Canton plant?

A. At Massillon, none of them belonged to it. They did, though.

Q. You are employed at the Canton plant, is that correct?

A. Canton plant, and the Timken roll turners belong.

Q. And does the thirty include Timken as well?

A. The union does, yes, sir.

Q. How many are there of Republic, at the Canton plant?

A. Republic Canton plant, well, it is like I say, it is maybe 28 or 32 or maybe 30. I said 30 would come up, one way or the other, I don't just exactly know.

Q. Where did you hold your meetings?

A. On a Sunday.

Q. Where?

A. On South Market, it is called the Cooty Club now.

Q. The what?

A. Cooty Club.

Q. You say you appointed some men?

A. I had appointed a committee, like any union does, appoint a committee, a grievance committee.

Q. Well, did you appoint a committee in connection with this strike?

A. That was before the strike, this committee was appointed.

Q. What was it appointed for?

A. Appointed before the strike, to take care of the men's grievances in the mill.

Q. You met with this committee, you say?

A. Yes, sir.

Q. When did you meet with them?

A. I met with them, Hyler called me up about 6 o'clock at home and I said I got to the main office—I asked him where he was and he says, "The main office."

Q. Hyler was at the main office at 6 o'clock?

A. He called me up at 6:00.

Q. Yes.

A. And I asked him where he was and he said he was at the main office; six or shortly after, I don't know just what time.

Q. Yes.

A. So I got in the car and I had to dress, I was working out in the yard, and I got ready and went down and he was there. Well, I didn't know where he was, I asked for him in the lobby and somebody says, "He is in there." So I went in and him and Lorrah was in there, he was one of the committeemen too.

Q. This is the main office at the plant?

A. Main office at the plant.

Q. Who were the other members of the committee which you appointed, who were present?

A. Why, they was all—there was another roll turner there by the name of "Smitty" Smith.

Q. Was Lorrah a roll turner?

A. Yes.

Q. Is that the complete committee, Lorrah, Smith and yourself?

A. Burkenbeil was one of the committee.

Q. Did he come down also?

A. He was in the mill working.

Q. Did he come to the main office at this time?

A. Yes.

Q. About what time did you say you got to the main office?

A. Well, I should judge about 7 o'clock.

Q. Whom did you go to see, then?

A. I seen Hyler and this Lorrah and Smitty was in there.

Q. Did you attend the 7 o'clock meeting that was held at the plant in which the representatives were present?

A. There was a couple representatives in there but at the time I didn't know them.

Q. Well, did you go to that gathering or group that met there to discuss, that night?

A. No, I did not, no meeting with the representatives.

Q. What did you do when you got to the mill? Tell me what happened.

A. I asked these gentlemen if the bricklayers was going to stay in? And he says, "There is the president of the bricklayers' union, right there."

Q. Who was that?

A. Well, I can't—can tell you in a minute. Teeters, I think the name was.

Q. Yes.

A. So I went over there, the men at the mill was wanting to find out what was going on, so I asked him and he says, "My men are staying in."

"Well," I says, "I guess if your men is ours is too."

So I should judge about 7:30 then they wanted some roll turners on the outside and some bricklayers.

Q. What do you mean, on the outside?

A. Well, that is all I knew at the time. Those going —they would meet us, make a certain meeting place, Lorrah says, "Well, you can meet at my place." This Lorrah, you know. So he had rooms up across, I would say across from that theatre there on North Market.

Q. Is that Loew's?

A. Across from Loew's.

Q. Yes, you say he had rooms there?

A. He had rooms, his wife lives there, he has five room apartment there, I should judge.

Q. Yes?

A. So Hyler and I and Lorrah, I don't think there was anybody else left with us, we went up there and we went up in the rooms.

Q. About what time was that?

A. Oh, I should judge we got up there, it was about 8 o'clock or so.

Q. Now, did you see the plant superintendent before you left the plant?

A. No, sir, I did not.

Q. Did you go straight to the plant from Lorrah's apartment?

A. Straight to Lorrah's apartment.

Q. What was the reason for meeting at Lorrah's apartment?

A. Well, we were supposed to meet, I think it was Carl Lappin who said that, he was the only representative I knew at that time, he said to, "Go up there, we will meet you there." And it proved—instead of standing on the streets, why that is where we met, up there.

Q. Did he say why he will meet you there?

A. Not that I can recollect.

Q. How long did you stay at Lorrah's apartment?

A. Well, that is pretty hard to tell, now, I imagine it was about 9 or 10 o'clock, one of them—Dan Allen came up, and saw Frank Geltz and Carl Lappin.

Q. Did you discuss the Back-to-Work Movement up there?

A. Nothing was discussed there at all.

Q. What is that?

A. Nothing was discussed there at all.

Q. What did you do all the time?

A. Well, they talked then about getting a place at some hotel. Of course, I had nothing to do with it. So they said there was supposed to be some other men down on the street. So they came back up and they said, "Well, we have decided to go to the Belden Hotel."

Q. Who told you they had decided?

A. Carl Lappan. So from Lorrah's place we went to the Belden Hotel.

Q. And what time did you get to the Belden Hotel?

A. Well, I imagine about 1 o'clock in the morning, of course, that is just a guess now.

Q. Did you know at that time the strike had been called?

A. Yes, sir.

Q. What did you understand to be your function of going to the Belden Hotel?

A. Well, in fact, there wasn't anything at all, to tell the truth about it at that time.

Q. What is that?

A. There wasn't anything at all.

Q. Why were you going to the Belden Hotel?

A. Oh, we was out, we wasn't in the mill working.

Q. Why did you go to the Belden Hotel? Why didn't you go some place else?

A. Well, there—them fellows all went to the Belden Hotel, and I went with them.

Q. Did they discuss why they went?

A. They hadn't at that time.

Q. You didn't know why you were going?

A. I didn't know a thing about it at that time.

Q. How long did you stay at the Belden Hotel that night?

A. I stayed there until 12 o'clock in the morning.

Q. You don't know why you stayed there that long?

A. Well, they were talking then about so many men wanting to go back to work and being—trying to get a meeting at the Auditorium.

Q. What was the discussion about the men who wanted to go back to work, at 1 o'clock, after the strike had been called at 11?

A. Well, they was going to try to get the auditorium to call a vote, the men either wanted to go back or stay out.

Q. Well, did any of the men there express their interests in getting the men back to work?

A. Not any more than they expressed the men's interest of going back to work.

Q. Well, what did they say?

A. Well, there wasn't a whole lot said. This talking about trying to get the Auditorium to hold this vote, that is all I can tell you is the fact about it, that is all that was discussed.

Q. Now, have you lost any pay since May 25th?

A. No, sir.

Q. You are a roll turner, is that correct?

A. That is right.

Q. You went out on May 25th?

A. On May 25th.

Q. When did you go back to the plant?

A. Oh, I think the second day, after they opened up.

Q. Second? What day is that? In July?

A. Well, when they opened up to let the men in, I couldn't tell you, I don't remember what day I went in.

Q. Wasn't that the early part of July sometime?

A. Oh, that was when they first started going back and forth to work?

Q. How much do you make a week?

A. Why, my job now?

Q. Well, at the time in May and June?

A. May? Well, the first check I got was about $190 some dollars.

Q. For what period was that?

A. Around—I imagine for two weeks, and in fact, at the time I got it I didn't know I was going to get paid.

Q. But you did get paid?

A. I did.

Q. You weren't doing any work?

A. Well, all the work I done was, if anybody called in they had a window smashed, I went out and seen if they wanted a window put in or board it up. That is all I did, all the time.

Q. You didn't do any work in the mill?

A. No work in the mill.

Q. Frank Geltz was the man who appointed you?

A. I couldn't say that he appointed me.

Q. Or advised you?

A. When they had a meeting at the hotel there was so much wrangling, they finally said that they ought to have a leader or representative, that is what was said. Well, he—so we had as much voice in appointing Frank Geltz as the chairman, as what you would call the representatives. I didn't know much about them.

Q. Did Lappan bring you your check?

A. Carl Lappan handed me the check.

Q. And he gave you your assignment as to the way you would do the guard's duty?

A. Well, I imagine they would come in—all I could tell you, when I—

Q. Well, who gave you your assignment as to where to go?

A. Well, whoever would be there, when I would come in in the morning, whoever there were, they would say where somebody's window was broke that night, why they would send me there to see whether they wanted one put in or boarded up.

Q. How long did you stay on duty in front of these homes?

A. I didn't stay on duty in front of these homes at no time.

Q. But you did stay outside a couple of homes?

A. Just where the windows were broken and so on.

Q. How many hours a day on the average were you being paid for that kind of work?

A. Well, I would go out there at 8—7 or 8 o'clock in the morning. Sometimes I would be around, maybe, 9 or 10 o'clock.

Q. Well, you wouldn't be gathered out all day?

A. Well, I wouldn't stay there if there wasn't anything to be done. If there was no homes—if there wasn't anything to be done, I didn't do nothing.

Q. Well, did you get paid for approximately 14 hours a day as the others did?

A. To tell you the truth, I never paid no attention to it. My general pay was $140 for two weeks.

Q. $140?

A. Yes, sir.

Q. And this time you got $197, is that correct?

A. Well—

Q. Approximately?

A. 192 or 190, somewheres along in there.

Q. Did you have the same job that you had before while you were a roll turner?

A. Well, I was a roll turner.

Q. Now, on June 18th you went out to Martindale Road about 5 after 5, is that correct?

A. I left Canton at 5 o'clock and got to Martindale Road about 5 after 5.

Q. Do you know who told you or told Mr. Stewart about going out on Martindale Road?

A. I was just coming out of the hotel and Mr. Stewart asked me if I would drive him to Martindale Road; that there was fellows who wanted to go to work and the Company didn't want them.

Q. Do you know who told Mr. Stewart?

A. No.

Q. You don't know how they had the meeting out there?

A. I can't tell you. I hadn't heard in town or anything.

MR. LAUTER: That is all.

MR. DAY: That is all.

MR. LAUTER: Just a few more questions, Mr. Schauer. Do you mind?

Q. When did you become a deputy?

A. Along in January some time. The exact time, I haven't any idea.

Q. At that time were you working in the mill?

A. At that time I was working in the mill.

Q. Were there any other Republic employees that became deputies at that time?

A. I can't tell you.

Q. How did you happen to become a deputy?

A. Well, at the election time we had a vote and most of us was deputized. They had no protection then.

Q. Was that a municipal election?

A. A presidential election.

Q. And you continued to be a deputy right along?

A. Sir?

Q. And you continued to be a deputy since January?

A. Up until the incident of Martindale Road.

Q. And you have ceased to be a deputy?

A. I have ceased to be a deputy.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) Crystal Springs is a little town up the canal in Massillon?

A. Yes, sir.

MR. DAY: That is all.

(Witness excused.)

CHARLES D. PAULMAN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name?

A. Charles D. Paulman.

Q. How old are you, Mr. Paulman?

A. I am 46.

Q. Where do you work?

A. Down at the Republic Steel.

Q. How long have you worked at the Republic Steel?

A. About 3 years and 5 months.

Q. What is your job?

A. Sub-station operator.

Q. On the 23rd of May, last, what if anything do you recall with relation to pickets?

A. On the 31st of May between 9 and 10 o'clock p. m. I got a call in the plant from the doctor that my wife is sick and I—

Q. Now, Mr. Paulman—(Discussion off the record). Don't tell about your wife—(Discussion off the record). Did you see any pickets that night?

A. I seen plenty of them.

Q. About what time did you come in contact with the pickets?

A. It was about 10 or 10:30.

Q. Whereabouts was that?

A. Well, on my way out of the plant I was in a taxicab and a police cruiser was following me to take me home, and then we reached Belden—Belden and Eighth—and the pickets jumped on the cab. One of them had a cue stick and another had a broom handle—

Q. Then what happened? Where did you go?

A. I stayed in the cab and the police got out of the cruiser. And I told them they were supposed to take me home, and take me home safe, and the police officer told me: "It won't be long; they won't hurt you." Then the picket took the cab down Eighth Street; on the corner of Carnahan Avenue, on the corner of Mahoning, and back into Belden and into Bandi's Hall.

Q. When you got to Bandi's Hall, what happened?

A. Well, they took me down the steps first, and I went into a big hall, and that guy on the desk wanted me to sign up with the C. I. O. and I refused. Another guy came in. He looked like a leader to me. He was dressed; and ordered the two pickets, they—

MR. LAUTER: I object to "it seemed like a leader." I move that it be stricken.

MR. DAY: That may go out.

TRIAL EXAMINER LINDSAY: Yes, it may go out.

Q. All right. What happened?

A. Well, right then they took me and called me different kinds of names. So I answered him back. So the pickets started to poke me with the clubs.

Q. And then what happened?

A. Well, we got into quite a little argument, and I got my share of it, and then they wanted me to sign up with the C. I. O.—

MR. LAUTER. I move that "got my share of it" be stricken.

MR. DAY: Yes, that may go out.

TRIAL EXAMINER LINDSAY: Yes, strike that out.

Q. What happened if anything to you? Don't tell about getting your share. What happened?

A. Well, it was prodding and poking in front with the—they all poked in front with the clubs.

Q. Whereabouts?

A. Right in the groin and on the legs.

Q. Then what happened?

A. Well, they wanted me to sign up and they told me to go down into the front hall. Then I wanted to sign up. They told me to go to the hall again and they wanted $4 of me and I didn't have it. I only had $2 in a small purse, and I threw it on the table but all I wanted is that I should get home safe. So he said he would leave it go with $1, and then they sent me down in the front hall. I don't know the guy's name, only when he gave me the receipts he gave me two receipts and a button. Then when they let me go out I got in a cab and went home.

Q. Did you go home?

A. Yes, I went home, I did.

Q. You said you signed a C. I. O. card. Did you ever go out to the picket line or anything like that?

A. No, sir.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Mr. Paulman, you got prodded and poked?

A. Yes, sir.

Q. You weren't hurt, were you?

A. What is that?

Q. You weren't hurt, were you?

A. I got hurt plenty. I had black and blue marks on my body for six or seven weeks.

Q. Seven weeks?

A. Yes, sir, and I got witnesses for it, too.

Q. Witnesses for what?

A. That they see the black and blue marks on my body.

Q. They asked you for $4 and you only had $2?

A. Yes.

Q. And they gave you a dollar back?

A. Yes.

Q. Then what happened on May 31st?

A. May 31st, that night?

Q. What day of the week was that?

A. Monday.

Q. Monday?

A. Yes, sir, it was Monday.

Q. When did you first see the pickets?

A. Around 10 or 10:30 when I left the gate.

Q. What happened between 9 and 10 o'clock?

A. Between 9 and 10 o'clock?

Q. Yes, sir.

A. I was waiting for the cab and the police cruiser.

Q. Did the police cruiser come?

A. Yes, sir, the police cruiser came and the cab came and we went down Belden and Eighth.

Q. How many taxis came there?

A. One cab.

Q. Were you going out of the plant alone with a police cruiser?

A. The police cruiser was for seeing me home.

Q. You were going out of the plant alone and with nobody else?

A. I came out alone.

Q. How did it happen that you were leaving early?

A. I had a call from the doctor.

Q. Do you know what policemen were in the cruiser?

A. No, sir, but they ought to have that down in the record.

Q. Did you ever recognize seeing them before?

A. No, sir, I didn't.

Q. Have you seen them since?

A. No, sir, I didn't go to no—I didn't go to no meetings. I stayed home. I had a reason—

MR. LAUTER: I ask that the last remark of the witness be stricken.

TRIAL EXAMINER LINDSAY: Strike the last part out.

Q. Were they City policemen?

A. Sir?

Q. Were they City policemen?

A. City policemen.

Q. Regular policemen's uniforms?

A. Regular policemen's uniforms.

Q. Now, they started—the gate was in front or in back?

A. They opened the gate and went out to Belden.

Q. What happened then?

A. The pickets got on the cab. The police cruiser stopped. The policemen saw the pickets get on.

Q. The policemen saw the pickets get on; is that correct?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. They didn't mind it?

A. They didn't mind it.

Q. Didn't pay no attention?

A. No, sir.

Q. You don't know who the policemen were?

A. No, sir.

Q. How long were you in the hall altogether; Bandi's Hall?

A. The exact time I don't know but probably an hour or hour and a quarter.

Q. What time did you get home that night?

A. A quarter after 12 sharp.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) Were you working in the mill that night?

A. Yes, sir.

Q. And you say somebody called up about a doctor?

A. Yes, sir.

Q. Then you were led out to go home?

A. Yes, sir.

MR. DAY: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will take a short recess.

(Recess had.)

MICHAEL KRISTOFF

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. Michael Kristoff.

Q. Where do you live?

A. 1711 Ohio.

Q. Ohio?

A. Avenue, N. E.

Q. In Canton?

A. In Canton, yes, sir.

Q. What is your work?

A. I work in the South Division, sheet mill.

Q. In what capacity? What is your job?

A. Finisher.

Q. How long have you worked in the sheet mill?

A. Just about 30 years.

Q. Now, on the Saturday of June 19th last, about 10 o'clock, where were you?

A. I was in the restaurant and beer garden about 400 feet away from Bandi's Hall on the opposite side of the street.

Q. What happened?

A. Why, I was in there just about 10 or 15 minutes, and a woman by the name of Eva Neneth walked in. She walked in there and I was talking to the bartender there. I was talking to the bartender and looking at the baseball score, and she asked me how I stood, and I said: "What about it?" And she said: "About the C. I. O." And I said: "What about the C. I. O.?" She says: "Are you signed up?" And I says: "No, not yet." I said: "I haven't made my mind up yet." And she says: "Why not?" And I said: "Well, I don't think it is any of your business." I believe I said that and then she said: "Come outside." They wanted to talk to me. There was an awful mob outside already and I says: "I will come out when I am good and ready." Then she walked out, and in about 10 or 15 minutes she came back in there with three men. I didn't notice their coming. I wasn't paying no attention.

Q. Did you—

MR. LAUTER: I move to strike all the testimony with respect to the conversation as being incompetent, irrelevant and immaterial and outside of the scope of the issues, and not connected in any way with the parties in this action.

MR. DAY: Will your Honor refrain from passing on that until he sees that I can connect that up?

TRIAL EXAMINER LINDSAY: Yes, I will take the ruling under advisement.

Q. Now you say that after you had this conversation with this lady, what next happened?

A. She asked me to come outside. They wanted to talk to me outside.

Q. Now, did you go outside?

A. No, sir.

Q. Then tell us what happened.

A. She went outside and she came back in there with three men. I didn't notice the whole thing.

Q. Yes.

A. I didn't notice the whole thing about her coming back in there; I wasn't paying no attention to the whole thing because—

Q. Now, did you recognize any of those men?

A. No, I couldn't recognize enough of them. I do know one of them that got hold of me—when she asked me back in there, one fellow tapped me on the shoulder. I didn't know the fellow. I could recognize him if I would see him. He asked me if I signed up the C. I. O. and I told him the same thing that I told the lady that I didn't make my mind up yet.

Q. Yes. What happened?

A. I was talking to him.

Q. Before you tell that, I want to see if I understand the situation.

(Discussion off the record.)

(The witness steps off the witness stand at the request of the Trial Examiner.)

MR. DAY: Come on back.

(The witness resumed the stand.)

MR. DAY: I will withdraw this witness at this time. I would like to make a further investigation.

MR. LAUTER: Then at this time I renew my motion to strike all the testimony of this witness.

TRIAL EXAMINER LINDSAY: The motion is granted; it may be stricken.

MR. DAY: All right.

WALTER KNOTTS

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name, please?

A. Walter Knotts.

Q. Where do you live?

A. 1526, 3rd Street, S. E.

Q. What is your business?

A. Three high operator at Republic Steel.

Q. What kind of an operator?

A. Three high, roughing mill operator.

Q. How long have you worked for Republic, or one of its predecessor companies?

A. About 15 years.

Q. Where were you on the morning of June 6th about 2 o'clock or 2:15?

A. Well, we met at the Catholic church on the corner of Mahoning Road and Superior N. E.

Q. Who met?

A. The crowd that it had been passed along to me, there if they wanted to go into the plant to go to work.

Q. When had you quit work?

A. At 12 o'clock, about 12 o'clock May 25th, 12 p. m.

Q. When the strike was called?

A. Yes, I was working that turn.

Q. Now, what happened when you had that meeting there?

A. Well, we met there and they said when it was ready they would let us know and we were to go into the mill. And at about 12 o'clock or a little after they said everything was o. k. and we proceeded down Superior, south on Superior to about midway between 13th and 14th, when we noticed quite a gathering of men at the end of Superior which is a dead end street, at 13th, and which we thought to be pickets and we turned to an alley up Edwards—turned west through an alley to Edwards Street and then went south on Edwards to 13th where we made this break to go—to enter the mill, and in crossing the street they started to shoot from our left.

Q. You heard some shooting?

A. Yes, sir.

Q. About how many shots?

A. Well—

MR. LAUTER: I want to move to strike the testimony "we saw some pickets".

TRIAL EXAMINER LINDSAY: Yes, that is stricken out from the record.

MR. LAUTER: "We thought they would be pickets."

MR. DAY: But he heard the shooting is in, as I understand it, is that right?

MR. LAUTER: I want to move to strike the testimony in regard to shooting on the ground it is not identified who did the shooting, and not connected with the issues.

TRIAL EXAMINER LINDSAY: Yes, that is stricken unless you show—

MR. DAY: Note an exception, please.

Q. (By Mr. Day) Well, then afterwards did you meet anybody?

A. Yes, sir.

Q. See anybody?

A. Yes, sir.

Q. What happened?

A. Well, when I got about ten feet or more from the sidewalk I tripped and fell over a cable that was stretched around the fire plug so that the cars that was parked at the back of the factory there would not park too close to this fire plug, I tripped and fell over.

MR. LAUTER: Just one second. I move the testimony of the witness with respect to the purpose for which the cable was thrown across the street be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. Then what did you see?

A. Before I could get to my feet, there was three men in front of me.

Q. Yes.

A. One of them gripped me by the arm and twisted it until it hurt me for a week or so afterwards, saying, "Well, you go along to headquarters and sign a card, whether you want to or not."

Q. And then what happened?

A. Well, then the police cruiser came down, and it was turning off Mahoning Road onto 13th Street and frightened these men that they went back in the field.

MR. LAUTER: Excuse me. I move that the witness' testimony with respect to the fact that these men were frightened be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken. Mr. Witness, tell what you saw and what you did, and let the rest of it out of your testimony.

A. Well, then I went—after they left me go, I went across the street to some colored people there, they had a house and I asked them if I could sit on their house until the excitement died down, and went home; about 3:30 I started for home.

Q. Now, these men that accosted you, or men that met with you, were they carrying anything?

A. No, not that I noticed.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Can you identify any of these men?

A. No.

Q. Do you know whether they were C. I. O. members or not?

A. I don't know, only from the remark they made.

Q. What?

A. Only from the remark they made.

Q. Now, you say you went to Mahoning and Superior on June 6th?

A. Yes, we first was to meet back of the workhouse, then we proceeded to—

Q. Back of the Workhouse? Where is that?

A. That is on the corner of Maple right at the Stark Electric Streetcar Line.

Q. Who told you to meet there?

A. Well, the word was passed along the day before that we were to meet there.

Q. Who passed the word along to you?

A. Well, some man that works in the mill passed it to me.

Q. Who works in the mill, that passed it to you? Tell me his name.

A. I can't tell you his name. I met him uptown.

Q. What is that?

A. I can't tell you his name. He asked me if I wanted to return.

Q. Why not?

A. I don't know his name.

Q. Do you know what position he has in the mill?

A. No, I don't.

Q. Where did he tell you that?

A. He told me uptown, I met him uptown on Friday afternoon.

Q. How do you know he is a mill worker?

A. Well, I have seen him out in the mill.

Q. What kind of work did you see him do there?

A. I didn't see him do any work, just going in the plant, going to work.

Q. Is he a foreman?

A. No.

Q. How do you know he is not a foreman?

A. Well, I know he is not a foreman, he doesn't dress like a foreman.

Q. Is this the Canton plant, with respect to which you have been giving testimony?

A. Yes.

Q. Or Massillon?

A. It is the Canton plant.

Q. Now, the crowd of men out there at Mahoning and Superior, did you have any conversation with any of them out there?

A. Yes, we talked some while we were waiting.

Q. Did you find out how the other men happened to be there?

A. Just as the word was passed along, I wasn't acquainted with so many of them, five or six probably in the crowd.

Q. How did the men that you spoke to know that you wanted to go back to work?

A. Well, when we met uptown we talked that over.

Q. Where did you meet uptown?

A. Well, just chance meeting uptown, when we would go up town.

Q. When?

A. Any time.

Q. When did you particularly meet this man of whom you speak?

A. Why, in front—about the front of the George E. Harter Bank.

Q. Were there other men in front of the Bank?

A. Not when he talked to me.

MR. LAUTER: I move to strike out the testimony of this witness on the ground incompetent, irrelevant and immaterial, in no way connected with the issues in this case, not connected in any way with the parties to this action. The witness has failed to identify any of the persons with whom he had conversations at the time he said that he was going to be taken to headquarters.

TRIAL EXAMINER LINDSAY: Yes, I will sustain that motion.

MR. DAY: Note an exception. That is all.

(Witness excused.)

JOHN COOK

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. John Cook.

Q. Where do you live?

A. 1417 Willett S. E.

Q. In Canton?

A. Yes.

Q. Where do you work?

A. Republic Steel.

Q. What?

A. Republic Steel.

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Q. How long have you worked at Republic Steel?

A. Off and on the last 14 or 15 years.

Q. What has your job been?

A. Catcher.

Q. What, if anything, happened on that June ninth about 10:30 or 11 o'clock?

A. Last June ninth my brother and I were standing on the corner of Blicker and Cunningham, was around 11th, but after I learned the street was Blicker and Cunningham, all of a sudden some fellow run up and hit me aside of the head with a rubber hose and I have got a scar there yet.

Q. Now, after that what, if anything, did you see?

A. Well, at that time I looked around and there was about 40 or 50 men coming running up the road.

Q. What, if anything, did you observe about those men?

A. Well, they all had clubs. Some of them had clubs, different things.

Q. Anything else?

A. Well, after they hit me, why—

Q. Well, do you know whether or not they were C. I. O. men?

A. Yes.

Q. What did you see about that?

A. Well, a couple of them had buttons on.

Q. All right, now, go ahead.

A. They ran up and hit me aside of the head, and so at that time one grabbed me on the arm and said, "We will take him to the hall," and they carried me on down to the hall. And this John Sisseia, I know him well, and so he continued to hit me in the jaw, so—so he asks me where was I going. I told him I was out here attending to a little business, and he tried to make me say that I was going back in the mill, and I wouldn't say it. And he says, "Oh, you are a damn liar."

So they carried me to the hall, gets me into the hall and talking, and every time he would ask me a question and I would go to answer he would hit me in the jaw. So he hit me on the jaw and he asks me why I don't join the C. I. O.

I told him I hadn't given it a thought and he said, "Don't you know this means to you as much good as it will be anyone else?" I say, "Maybe it do," so he kept on hitting me, some fellow, he told him, he says, "Hey, didn't I tell you not to hit anybody else in here " And it looked like that meant for him to hit me more.

MR. LAUTER: Now, one second. I move the last remark of the witness be stricken.

TRIAL EXAMINER LINDSAY: Yes. The last remark is stricken.

Q. (By Mr. Day) All right, go ahead.

A. And it looked like it was a signal for him to hit me more.

MR. LAUTER: I move that be stricken out.

TRIAL EXAMINER LINDSAY: I just said it was stricken.

A. Oh. Well, I just stayed there about five or ten minutes and they decided, some fellow says, "Well," he says, "we'll take these boys home."

MR. LAUTER: Just one second. I object to what they decided.

Q. What did they say?

MR. DAY: What they decided may go out.

Q. What did they say?

A. Well, he told some fellow to get a machine so he says, "All right, boys, get up." We got up and go out, a machine was up there and they put us in the machine, and instead of taking us down Mahoning they turned up Mahoning, well, they carried us on up, was a good little piece, just pull up there, there is that foundry, so this guy continued to beat me, so they started out—after they stopped up there a good little while, they started out a little while and went on up there by the foundry, was going around about 10 or 15 miles an hour and I jumped out of the car and ran, see?

And then John Sisseia and another fellow, he ran after me and so when I looked up and seen it was but those two, well, I turned around and tried to fight them, so in the scramble, so one of them knocked me down and I gets up and this other fellow knocked me down and then John Sisseia, when I fell the second time he kicked me in the mouth and kicked out these two teeth (indicating).

And so at that time some fellow he come in a Chevie on the sidewalk and says, "Hey," he says, "let that guy alone, because he is hollering too loud." So they jumped up and ran, got in the car, so at that time I gets out and I goes and sits on some fellow's porch and he came out and he says, "Hey, fellow," he says, "you have got to get away from here, because those guys will come in and take me out," and so I stood there and I goes on across the street and goes up on a back porch up there, and at the same time I seen fellows flashing lights up around there, I guess they were looking for me, so I stood there —

MR. LAUTER: I object to what the witness guesses.

TRIAL EXAMINER LINDSAY: Yes, that goes out of the record.

Q. (By Mr. Day) Well, did you get home?

A. Well, I stays up there about an hour or so, so I come on down, I comes right back across the street where they had been and goes down the alley, ran up on the garage down there and there was one fellow sitting in the front seat, one was in the back, I knocks on the window and the fellow in the back—

Q. I don't want to ask you about that.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) When did you leave the plant, Cook?

A. May 25th.

Q. When did you go back to work?

A. June 30th.

Q. What is that?

A. June 30th.

Q. Who is your foreman?

A. Bennie Second.

Q. Did he speak to you on June 29th?

A. No, he did not.

Q. How did you happen to go back on June 30th?

A. How?

Q. How did you happen to go back on June 30th?

A. Well, I learned it around about 7 or 8 o'clock that night.

Q. What did you learn?

A. Well, one of my fellow workmen told me—

Q. What is his name?

A. Well, his name is—I don't know his name.

Q. Where did he tell you?

A. Well, he came down to my house and told me.

Q. How long did he stay there?

A. Well, he didn't stay very long, just knocked and told me that he heard we were going back to work next morning.

Q. Did he tell you who told him?

A. He did not.

Q. Are you sure your foreman didn't have any conversation with you before you went back?

A. Right.

Q. He did not?

A. He did not.

Q. Could you identify any of the C. I. O. men with clubs?

A. Yes.

Q. What were their names?

A. One of them was named John Sisseia, another was named James something, I forget his last name.

Q. How did you know that John Sisseia was a C. I. O. man?

A. Well, I know it by having talked with him when he used to work in the mill.

Q. What did he say to you?

A. Well, he just asked me—well, if I wanted to join it.

Q. Did he tell you that he was a C. I. O. member?

A. Well, in facts he did.

Q. What is that?

A. He did.

Q. He did? When did he tell you that he was a C. I. O. member?

A. Oh, I reckon that it is—after, oh, about a year ago, maybe.

Q. Are you sure that it was a year ago?

A. Somewhere around in the neighborhood.

Q. Well, was it six months or twelve months?

A. Well, I would say that it was just about the time that C. I. O. gets coming into existence.

Q. When did the C. I. O. come into existence?

A. Well, I don't know. When I heard it, it was about a year ago.

Q. And that was at the time you had a conversation with him?

A. It was.

Q. He told you at that time that he was a member of the C. I. O.? Do you think that you could give the month?

A. I cannot.

Q. Now, about a year ago would be September, wouldn't it?

A. Well, I wouldn't say positive.

Q. Well, would you say positive October or November?

A. Well, it was somewhere in the neighborhood, I know that it was last winter when I worked over there in the galvanized, when he was working over there.

Q. What did he say to you when he told you that he was a C. I. O. man?

A. Well, he only asked me why I didn't join—I told him—asked him did he join? He says, "Yes, I am one already."

Q. He was the fellow hit you in the jaw?

A. Yes, sir.

Q. Now, there were a couple other men you say who had clubs, also had buttons?

A. Yes.

Q. Did any of them hit you?

A. Well, now, no more than this James—I don't know his last name, I know him, I have been knowing him for 15 years or more.

Q. Was he wearing a button?

A. No. I didn't see any button on him.

Q. Did you see a button on anybody else who hit you who was carrying clubs?

A. No, I didn't, all the buttons I seen was at the hall when they carried me down in.

Q. The only man you have identified is John Sisseia?

A. And "Big John", I don't know his last name, I always call him "Big John" in the mill.

Q. John Sisseia?

A. No, John something, I don't know his last name.

Q. Where did you see Big John?

A. Big John, he was the fellow tried to get them to leave me go.

Q. Where did you see him?

A. I seen him on the corner of Blicker and Mahoning.

Q. All this happened when?

A. Around about July 9th.

Q. July or June?

A. June 9th.

Q. How many men were there out there where you were?

A. What do you mean?

Q. When you were hit with the hose?

A. Well, I guess about 30 or 40 of them.

Q. Were you with your brother?

A. I was.

Q. What happened to your brother?

A. About the same thing, I guess.

Q. Are you guessing or are you telling us the truth?

A. Well, about the same thing.

Q. Did he lose two teeth, too?

A. No, my brother can tell that better than I can.

Q. Do you know what happened to him?

A. I do not.

Q. About what time of the night were you out there?

A. Around about 10 or 11 o'clock.

MR. LAUTER: That's all.

MR. DAY: That's all.

TRIAL EXAMINER LINDSAY: We are going to take our noon period right now.

(Thereupon, at 12 o'clock m. an adjournment was had to 1:15 o'clock p. m.)

AFTERNOON SESSION

(Whereupon, at 1:15 o'clock p. m., the hearing was resumed and the following proceedings were had):

TRIAL EXAMINER LINDSAY: The hearing will come to order.

JOHN C. MORGAN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?
A. John C. Morgan.
Q. Where do you live?
A. In Massillon. 673 East Third Street, S. E.
Q. And you live in Massillon?
A. Yes, sir.
Q. What is your age?
A. 45.
Q. Are you married or single?
A. Single.
Q. Do you work for the Republic Steel Corporation?
A. Yes, sir.
Q. In what department?
A. Transportation.
Q. What?
A. Transportation.
Q. How long have you worked there?
A. 15 years.
Q. Did you ever work for the old Central Steel?
A. Yes, sir.
Q. Were you working in the Republic Steel when the strike was called by the C. I. O. on May 25th, last?
A. I was out; I wasn't working.
Q. How long had you been out?
A. I was supposed to go to work 11 o'clock that night.
Q. But you had been working up to that time?
A. Yes, sir.

Q. When did you go back to work?

A. Well, I wanted to go back to work; yes.

Q. When did you go back to work?

A. How is that?

Q. When did you go back to work?

A. I went back—I don't know just when it was. After the strike was settled.

Q. Did you sign a Back-to-Work petition, Mr. Morgan?

MR. LAUTER: I beg your pardon. Will you read that answer?

(Last answer read.)

A. Yes, sir.

Q. Did you sign a Back-to-Work petition?

A. Yes, sir.

Q. At Massillon?

A. Yes, sir.

Q. Where did you sign that?

A. Chamber of Commerce.

Q. About when was that?

A. Well, I can't just say what day.

Q. Fix it as near as you can.

A. Well, that has got me; I can't think of it.

Q. Did you sign it when the other boys signed it at the Chamber of Commerce Hall in Massillon?

MR. LAUTER: I object to the question.

TRIAL EXAMINER LINDSAY: Yes. He signed it. It doesn't make any difference when he signed it.

MR. DAY: Not if there is any question about the petition.

(Discussion off the record.)

Q. Mr. Morgan, I will ask you whether or not you signed that petition of your own free will?

MR. LAUTER: I object to the form of the question as calling for a conclusion.

MR. DAY: I would like to be heard on that.

TRIAL EXAMINER LINDSAY: That is not necessary. Objection overruled. Note an exception.

MR. LAUTER: Note an exception.

Q. State whether or not when you signed that petition you were influenced to any extent by the Republic Steel Corporation or any of its officers or agents.

MR. LAUTER: I object to the form of the question.

MR. DAY: The same proposition.

TRIAL EXAMINER LINDSAY: I will let it stand. Objection overruled. Note an exception.

MR. LAUTER: Exception.

Q. What is your answer?

A. None of them.

Q. You quit work at the time the strike was called? That was on the 25th of May, is that right?

A. Yes, sir, I got down that morning at 7 o'clock.

Q. State whether or not you wished to continue working at that time.

A. I did.

Q. Did you wish to go on strike then?

A. No, sir.

Q. Are you a member of the Independent Association of Republic Employees, a new Union there?

A. Yes, sir.

Q. Did you sign an application card for membership in that Union?

A. I did.

MR. LAUTER: I want to object to the line of this questioning as outside of the scope of this case as incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Yes. I don't see how—

MR. DAY: I want to be heard on that.

TRIAL EXAMINER LINDSAY: Just come up here.

MR. DAY: Yes.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: You may step down.

(Witness withdrawn.)

MR. DAY: I will reserve the right to recall this witness.

TRIAL EXAMINER LINDSAY: You do not have to do that.

MR. DAY: That is all we want for this afternoon.

TRIAL EXAMINER LINDSAY: On those matters, Mr. Day, I never take advantage of whether it is in or out of the record, it makes no difference to me.

MR. LAUTER: I understand I will have the right to cross examine, should Mr. Day not wish to question him further.

MR. DAY: Oh, yes, I will give you the same privilege.

NICK LINCKENHELY

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. Nick Linckenhely.

Q. Where do you live?

A. Massillon.

Q. What is your age?

A. 49.

Q. Are you a married man?

A. Yes, sir.

Q. Where do you work?

A. Republic Steel Corporation.

Q. What plant?

A. Massillon plant.

Q. The main plant there?

A. Yes, sir.

Q. In what division?

A. Machine shop.

Q. How long have you worked there?

A. About 15 years.

Q. And then you worked for the old Central Steel?

A. Yes, sir.

Q. Central Alloy?

A. Central Alloy.

Q. And then Republic?

A. Yes, sir.

Q. What are your duties as a machinist?

A. I operate a machine there. I do any kind of a machine work the foreman or assistant foreman tells me to do.

Q. Do you have any men working under you?

A. No, sir.

Q. To whom do you report directly?

A. To the foreman or the assistant foreman.

Q. Are you familiar, Mr. Linckenhely, with the Employees Representative Plan at the Massillon plant?

A. Yes, sir.

Q. When was that Plan started, if you know?

A. As far as I know, it was started in Massillon.

Q. When?

A. In June, 1933.

Q. Were you an officer of the first organization under that Plan?

A. No, sir, I was not.

Q. Well, what office did you ever hold under the Employees Representative Plan?

A. Outside of being chairman of the committees, and the fourth year I belonged to it, I was chairman of it.

Q. Well, were you elected as a representative?

A. Yes, sir.

Q. I said "officer", I mean you were a representative?

A. I was a representative.

Q. Of the employees?

A. Of the employees, yes, sir.

Q. Under the Plan?

A. Yes, sir.

Q. Starting when?

A. 1933, June.

Q. And also representative of what department?

A. Of the maintenance department.

Q. Now, how long have you been an employees' representative?

A. For four years.

Q. That would be June, 1933?

A. June, 1933, up to some time around in April when they—well, up to the time they were out on strike.

Q. That would be April, 1937?

A. April, 1937. That is—

Q. Then you were in from June, 1933, for a year. For one year?

A. Yes, sir.

Q. Then you were in 1934 and 1935?

A. Yes, sir.

Q. And the next year was 1935 and 1936?

A. Yes, sir.

Q. Then you stayed until some time until last spring?

A. Yes, sir.

Q. Now, did you vote for an employees' representative in June, 1933?

A. Yes, sir.

Q. Did you vote in 1934?

A. Yes, sir.

Q. 1935?

A. Yes, sir.

Q. 1936?

A. Yes, sir.

Q. Following the election in June, 1933, when did the elected representatives hold their first meeting?

A. The following Monday.

Q. What happened or transpired at this meeting?

A. We elected our officers and formed our Committees.

Q. How many representatives were there that got together at that meeting?

A. I didn't get just the exact number but I believe it was 19.

Q. In the Massillon plant?

A. The Massillon plant.

Q. Is that just the big plant there?

A. Yes, sir.

Q. That does not include Union Drawn?

A. No, sir.

Q. Some of the representatives came from different departments?

A. From all departments; each department had their own representative.

Q. And the number of representatives was determined by what method?

A. By approximately 200. Each representative represented approximately 200 men.

Q. Were you ever an officer of the general body?

A. From 1936 to the end.

Q. What officer were you?

A. Chairman.

Q. 1936—was that about last June, 1936, to the end?

A. It was last June, a year ago.

Q. That is June, 1936?

A. Yes, sir.

Q. You were the Chairman?

A. Yes, sir.

Q. Were you a member of any of the standing committees of the plant?

A. I was a member of the No. 2 Committee for three years until I was called—last year I was elected Chairman.

Q. What were the duties of that Committee?

A. In regards to wage and employment and working conditions.

Q. Now, I think I have asked you about standing committees. What was the meaning of a standing committee in your plan?

A. That was the committee composed of five men. There were four committees of it.

Q. Now, were the members of these committees—where did they come from?

A. Came from any departments.

Q. What I mean, and what I am getting at, were they members?

A. They were members.

Q. All of them?

A. All of them.

Q. How many in each committee?

A. Five.

Q. How many standing committees were there?

A. Four.

Q. How were they designated?

A. Well, No. 1 took care of rules, wages and means. No. 2 took care of wage, employment and working conditions. No. 3 took care of welfare and health and safety. No. 4 was for the appeal and advisory committee.

Q. Now, were the officers and members of the standing committees and so forth the same for the first year as they were for the next year?

A. The same ones.

Q. Now, did the planning committee have any officers?

A. Yes.

Q. Chairman and so forth?

A. They had a chairman and a recording secretary.

Q. How were the officers selected?

A. The Chairman generally picked and appointed the No. 2 Committee, and the No. 2 Committee selected the other three committees, and each committee appointed their own Chairman and Secretary.

Q. Did you have anything to do with the nominating or the nomination or election of the members representatives in 1934 and 1935 and 1936?

A. Yes, sir.

Q. Were you on any Board; any Election Board?

A. I was on the Election Board.

Q. Now, how were the elections and nominations conducted?

A. We put up notices to that effect a few days before the election, notifying the men on all the bulletin boards, notifying them that we was going to have an election held. We put up ballots where it was handy for the men to vote. That had all the names of those men who were eligible to be elected. The men that received the highest vote—there was three for each department, for each man that was to be elected.

Q. You mean if there were three men nominated and each one elected?

A. The three with the highest vote on the nomination was put up for election.

Q. How many were elected?

A. One out of three. That is one out of—approximately out of 200 employees.

Q. When you came to nominating the men, did each department vote only for the man in its own department or did they vote for the other department?

A. They all voted for the men in their own departments.

Q. Who conducted the election?

A. The representatives.

Q. Just tell us how that was done.

A. What do you mean? How the election was done?

Q. Yes. You have told us about the ballots and the booths. Who furnished the election booth?

A. The Company furnished those and the ballots for the nomination of the representatives and the help that the representatives hired—they generally got two men out of their own department to help them on their own election. Those men counted the votes.

Q. Where were those nominations and elections held?

A. All through the plant.

Q. On Company property?

A. On Company property.

Q. When was the voting? When did that take place?

A. The voting took place starting on Tuesday and election generally took place on Friday.

Q. Now, just what do you mean by that? When did the men drop the votes in the ballot boxes?

A. In the morning or at noon—just as the men came into work.

Q. How many days did that take?

A. It generally took two days for the nomination; two for the election.

Q. How soon after the nominations were over were the elections held?

A. About two or three days afterwards, as soon as we were ready to start with the election.

Q. Now, state whether or not anyone acting in a supervisory capacity for Republic had anything to do with the selection of the men who assisted in the nominations and elections?

A. Never.

Q. Did anyone acting in a supervisory capacity for the corporation assist the Employees Representatives in the holding of nominations or elections?

A. No, sir.

Q. Who had charge of the nominations and elections?

A. The representatives.

Q. Any particular committee?

A. No. 1 committee.

Q. That is, their rules, ways and means committee?

A. Rules, ways and means.

Q. And who was chairman of that Committee in June, 1936?

A. Harold Steiner.

Q. What is his job?

A. He is a piler in the billet shed.

Q. Did he do any work in a supervisory capacity?

A. No, sir.

Q. State whether or not, within your knowledge, anyone connected with the corporation in a supervisory capacity interfered or sought to dominate the nominations or elections under this plan?

MR. LAUTER: Object to the form of the question.

A. Not that I know of.

MR. LAUTER: Just one second.

MR. DAY: I should like to be heard.

TRIAL EXAMINER LINDSAY: Objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. (By Mr. Day) You did answer it, didn't you?

A. I said "Not that I know of."

Q. Who furnished the stationery that was used for the nominations and elections?

A. The company.

Q. And how did the company furnish the necessary stationery?

A. We notified them what we needed, and about how many we needed and they printed them for us and gave them to us.

Q. Who gave them to you?

A. The manager representative.

Q. And what is his name?

A. Mr. Lohneis.

Q. And to what committee did he give the stationery, if you know?

A. To No. 1.

Q. Were the men that conducted the nominations and elections paid for the time they spent doing that?

A. Yes. They received the time that they were losing at work.

Q. Now, explain that a little more fully. What do you mean by that?

A. Well, there would be time they lost during working hours, they received that in pay the same.

Q. Would that mean, supposing if he stayed at work and hadn't taken part in election, would make so many dollars; if he worked part of the time, and part of the time worked on the election, would he get more or less or what? Do you understand my question?

THE WITNESS: I didn't quite get that.

TRIAL EXAMINER LINDSAY: Read the question.

(The last question read by the Reporter.)

TRIAL EXAMINER LINDSAY: I think you better restate the question.

MR. DAY: I will restate the question.

Q. You say the men were paid for the time that they spent on elections, is that right?

A. Yes, sir.

Q. Well, supposing a man whose regular work was eight hours—

A. Yes, sir.

Q. On election days, he spent four hours at work and four hours on the election. Would he get more than he would have gotten if he had worked the eight hours?

A. No, he would get the same amount of pay of what he has been paid in the shop with the working hours.

Q. All right, now supposing a workingman would work eight hours and supposing he spent eight hours at work and two hours on the election; is he paid extra for that two hours?

A. Yes, sir, he would get paid for those two hours.

Q. At what rate, do you know?

A. At the same rate he got down at the shop.

Q. How many hours did some of these men work on the nominations and elections days, do you know?

A. Some worked eight, some worked twelve, some of them, No. 1 committee put in more time.

Q. Who counted the ballots after the polls were closed?

A. The representatives.

Q. And where were the ballots counted?

A. In the Industrial Relations Building.

Q. Of Republic?

A. Yes, sir.

Q. Where is the building?

A. Right across from the main office.

Q. What is that building used for?

A. Well, in the basement they got the hospital, and then they got the insurance office there and the hall is upstairs, where we generally used to meet.

Q. You mean that the representative groups met in that building?

A. Yes, sir.

Q. Well, who counted the ballots? Who were they? Not the names of the men, but what class of men counted the ballots?

A. Well, we all counted the ballots, outside of the men. Now, for instance, I was running, say I was elected for maintenance department, I wasn't allowed to count those ballots. I had to help on other departments.

Q. Well, you say "we all counted the ballots". Whom do you mean by "we all"?

A. All the representatives and the help that they had.

Q. Was anybody present from the company?

A. No, sir.

Q. At the time of the counting of the ballots? I mean, any supervisory man or anything of that kind?

A. No, sir.

Q. After the ballots had been counted, did you notify the employees--

A. No. 1 committee.

Q. —that they had been elected?

A. Put notices up on the bulletin boards in regards to that.

Q. How many representatives were elected in 1936?

A. 21.

MR. DAY: Will you please mark this for identification Respondent's Exhibit No. 11?

(The document above referred to was marked Respondent's Exhibit No. 11 for identification.)

Q. Mr. Linckenhely, I hand you a paper that is marked for identification Respondent's Exhibit No. 11 and ask you to tell us what that is, please?

A. That is one of the nomination ballots.

TRIAL EXAMINER LINDSAY: Blank ballot.

MR. DAY: Blank ballot, yes. I would like to offer that in evidence in connection with the testimony of this witness.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 11 is received in evidence.

(The document previously marked Respondent's

Exhibit No. 11 was received in evidence.)

MR. DAY: I should like to read into the record a statement, here.

TRIAL EXAMINER LINDSAY: Well, it is there itself, isn't it?

MR. DAY: Yes, but if there is no objection I would like to read it into the record.

TRIAL EXAMINER LINDSAY: What do you mean, read it? It serves no purpose.

MR. DAY: We will read it anyway: "The voter, by using this ballot, approves the holding of Nominations and Elections as stated in the posted notice issued by the Employees' Committee under the Plan of Employee Representation at this Plant and expresses his desire that those elected shall represent him in collective bargaining and for the other purposes stated in the notice."

Q. (By Mr. Day) Now, is that the form of nominations ballot that was used in all of the elections?

A. No, there was another ballot for the election.

Q. Well, this is the kind that was used for all of the nominations, so far as you know?

A. Yes, sir.

MR. DAY: Now, it says here: "This ballot is issued to qualified voters to nominate candidates for Employees' Representatives. Each qualified voter is entitled to nominate twice the number of representatives to which his department or voting division is entitled."

Q. (By Mr. Day) Now, I think you have said that there were three places in nomination for each one that was elected, is that right?

A. Yes, sir.

Q. I will now hand you a paper marked for identification Respondent's Exhibit No. 12 and ask you what it is?

(The document above referred to was marked as

Respondent's Exhibit No. 12 for identification.)

Q. What is that, please?

A. That is one of the election ballots.

TRIAL EXAMINER LINDSAY: May I see that, Mr. Day?

MR. DAY: Yes, indeed.

Q. (By Mr. Day) I notice that has some names on it. But is that the form of the ballot that was used generally?

A. Yes.

Q. Can you recognize the names of these men?

TRIAL EXAMINER LINDSAY: Just a minute. then, Mr. Day.

(Discussion held off the record.)

Q. (By Mr. Day) Those are the nominees of what department if you can identify them by looking at them?

A. That is from the billet shed, is where it shows.

MR. LAUTER: Do I understand this document has been offered in evidence?

MR. DAY: Yes.

MR. LAUTER: I wish to state that I have no objection to the exhibit.

MR. DAY: Yes, sir.

TRIAL EXAMINER LINDSAY: No, you haven't offered it yet.

MR. DAY: Well, offer it now.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 12 is received in evidence.

(The document previously marked as Respondent's Exhibit No. 12 is received in evidence.)

MR. DAY: I would like to read into the record this notice of voters: "By using this ballot the voter approves the holding of nominations and elections as stated in the posted notice of this election issued by the Employees Committee under the Plan of Employee Representation at this plant and expresses the desire to be represented for collective bargaining and the other purposes stated in the notice, by representatives elected under the plan."

Q. Was that the form of ballot that was used in the year 1936?

A. Yes, sir.

Q. Did you ever serve as a teller at any of the elections?

A. Yes, sir.

Q. State whether or not you served as a teller at the 1936 election.

A. Yes, sir, I did.

Q. In what way did you serve as a teller?

A. In what way?

Q. In what department, I mean.

A. The miscellaneous department.

Q. What is the miscellaneous department? What does that mean?

A. That is the main office and the different offices all through the plant.

Q. What did that include? Name some of them.

A. The office down in the mill, the stove room, the coke room, the sheet mill, and the main office.

Q. How did you conduct that particular election in 1936?

A. We had all the names of those that were eligible to vote and to be elected on the bulletin board, and the men would come and ask for ballots. We would give it to them and check them off as they voted. After they voted, why, they dropped the ballot in the ballot box.

Q. What happened to the ballot boxes then?

A. We had a lock on them.

Q. Who had the key on the lock?

A. The No. 1 Committee.

Q. State whether or not the election and nominations were held by secret ballot.

A. Yes, sir.

Q. After the votes had all been cast, how did you get at the ballots to count them?

A. We took the ballot box over to the Industrial Relations Building and turned it over to the Committee.

Q. That is the Ways and Means Committee?

A. That is the Ways and Means Committee; and in turn they appointed fellows to count the ballots.

Q. Was there any way for anyone except the tellers to tell who was elected?

A. No, sir.

Q. Continuing until after the entire count was made?

A. Yes.

Q. Now, you said a minute ago that the men were given a list of eligibles. Who gave that list? Who produced that list?

A. The Company did.

Q. And did you men do anything by way of checking that list or looking it over or anything?

A. Well, you took practically every man from different departments, that is true, whether the man is eligible or not. When they came to vote we checked them off.

Q. How long did a man have to work in the mill before he was eligible to vote or run for office?

A. Run for office one year.

Q. How long would you have to be employed by the Company before you would have a right to vote?

A. As soon as he received a pay.

Q. The first pay?

A. Yes, sir.

Q. You had a constitution and by-laws, or a constitution, at least?

A. Yes, sir, we had some.

Q. Were they in printed book form?

A. Yes, sir, a kind of blue cover.

MR. DAY: I think, Mr. Lauter, that all these constitutions you have offered in evidence yourself?

MR. LAUTER: That is right.

Q. Were they amended from time to time, if you know?

A. Yes, sir.

Q. You made reference to a notice of elections. Posted on all the bulletin boards. You said there was a notice of elections.

(Discussion had.)

MR. DAY: Will you mark this Respondent's Exhibit No. 13 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 13 for identification.)

Q. I will hand you a paper which has been marked for identification as Respondent's Exhibit 13 and ask you if that is one of the notices of the kind of notice to which you referred in your testimony before?

A. Yes, sir, that is one.

Q. This relates to an election June 12th, 1936?

A. Yes, sir.

Q. Do you know whether or not that was the last election under this plan?

A. It was the last one.

Q. It was?

A. Yes, sir.

MR. DAY: I should like to offer this in evidence in connection with the testimony of this witness.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 13 may be received in evidence.

(Thereupon the document heretofore marked as Respondent's Exhibit No. 13 was received in evidence.)

Q. Do you know how many men voted for the employees' representatives in June, 1936?

MR. LAUTER: Objection, unless the witness has personal knowledge.

TRIAL EXAMINER LINDSAY: Read the question.

(The last question was read.)

A. 2800.

Q. Now—the vote—confine your answer to your personal knowledge on this subject. Do you know from your own personal knowledge?

A. 2800 and more, it was.

TRIAL EXAMINER LINDSAY: Just a minute. Objection overruled. That is, of your own knowledge, do you know?

Q. Do you know approximately how many men were employed at Massillon?

MR. LAUTER: May I have an exception?

TRIAL EXAMINER LINDSAY: Yes.

Q. (Continuing) At the Massillon plant exclusive of foremen and superintendents and those in a supervisory capacity in June, 1936, at the time this election was held?

A. About 3000.

Q. How many representatives were elected in June, 1936?

A. 21.

Q. At that election how did you figure the number of representatives to be elected?

A. About 1 from each 200.

Q. Can you tell us how complaints and grievances of the employees were handled by the employees' representatives under this plan? Now, just start a case that you may have. Suppose I am a member now that has a grievance. Now let us have the first thing that would happen.

A. Well, you would come to the representatives and put in your complaint?

Q. Now, what was the next thing?

A. In turn the representative would go to the foreman or the superintendent with that complaint.

Q. Now, tell us what was the next thing, if no settlement of his complaint after he consulted the foreman or the superintendent, was made?

A. Then he would fill out some blanks that we had there to put the complaints on. Give two of them to the superintendent, one he kept, that is, he kept himself, and one to the manager's representative.

Q. What do you mean by the manager's representatives?

A. He took care of those cases.

Q. That was Mr. George—

TRIAL EXAMINER LINDSAY: Just a minute, Mr. Day.

(Discussion had.)

Q. You say he took care of those cases. Tell us so far as you know how he did it? What did he do; this manager's representative?

A. This manager's representative kind of corresponded with us—between us and the Company. At different times he called the Committees together—the management and the superintendent together, and the representatives, and then any kind of grievance that we wanted to settle, he would get us together and have us meet.

Q. Now, you used the term that the manager's representative corresponded. What do you mean? He wrote letters or he just communicated?

A. We communicated through the telephone or sent word.

Q. Now, if it could not be settled with the superintendent, then what happened next?

A. Then the case would be taken to the regular committee—the standing committee.

Q. That is, committee of what?

A. Whatever complaint was belonged to. Whatever it belonged to.

Q. Now, was that a committee of employees that you are talking about?

A. A committee of representatives.

Q. And they are composed of what? Employees?

A. Of employees.

Q. Elected in the manner you have described?

A. Yes, sir.

Q. Now, if a complaint or a grievance was not settled then, what was the next thing that would happen?

A. The case was taken to a joint committee. It was composed of five Company representatives and five employees' representatives.

Q. Now, what were the five employees' representatives? Who served on the joint committee that was selected?

A. They were selected by the representatives. As I have said before, the Chairman generally selected a No. 2 Committee, and the No. 2 Committee appointed the four committees.

Q. Now then, if you had a meeting of the joint committee and still the grievance was not settled, what happened then?

A. It was taken to No. 4 joint committee.

Q. What is the No. 4 joint committee?

A. That is the appeals committee.

Q. Who composed that?

A. That was composed of a chairman and secretary and three other representatives. And five of the Company representatives.

Q. Now, if that Committee didn't settle or adjust that grievance, then what was the next thing that happened?

A. We took the case to the manager.

Q. What manager would that be?

A. Of the Massillon District.

Q. Now, if the manager of the Massillon District failed to adjust that grievance, then what next?

A. Then we had a chance to talk it out with the president of the Republic Steel Corporation.

Q. Now, if you got to the President of the Republic Steel Corporation through these various steps that you have told us about, and there the case was not settled, or the grievance was not settled satisfactorily, what else could be done?

A. We had a chance to put it to an arbitration board.

Q. Composed of whom?

A. Of three members.

Q. How were those members selected?

A. The Company would select one and the members would select another one and the joint ones would appoint one that was favorable to each side.

MR. DAY: Will you mark this Respondent's Exhibit No. 14 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 14 for identification.)

MR. LAUTER: No objection.

Q. I will hand you a set of four papers which has been marked as Respondent's Exhibit No. 14 and ask you what they are.

A. Those are the forms that were used if they could not come to an agreement with the superintendent.

Q. I notice there are four papers on different colors. What are the different papers?

A. The two first ones would go to the superintendent, and the pink one or the third one would go to the manager's representative, and the blue one, we keep ourselves.

MR. DAY: I offer Respondent's Exhibit No. 14 in evidence.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 14 may be received in evidence.

(Thereupon the document heretofore marked as Respondent's Exhibit No. 14 was received in evidence.)

Q. Now, tell us how many cases your representatives handled under the Employees Representative Plan from June 3rd—

A. About 280 or 300.

Q. Continuing from June 3rd to April and May of 1937 until the Plan ceased to operate? About 300?

A. Yes, sir.

Q. Now, does that include—

TRIAL EXAMINER LINDSAY: Just a minute, the testimony was 280 to 300.

MR. DAY: That is what he said?

TRIAL EXAMINER LINDSAY: Yes.

(The record was read by the Reporter.)

Q. You said 280 to 300, is that right?

A. Yes.

Q. Does this include all of the cases handled by the representatives?

A. No, not including the cases that were settled with the foreman or superintendent individually.

Q. I understand that number does not include cases which were taken up and settled by the foreman or superintendent?

A. Yes, sir.

Q. Now, can you give us some idea of the number of cases that were settled by the foreman or superintendent before they got higher up as you have been telling us about?

A. I couldn't say about other departments, but I had something about 100 cases myself.

Q. In the company that you were on?

A. Maintenance department.

Q. Within your knowledge, did Republic Steel Corporation, its officers and agents, in any way dominate or interfere with the administration of the Employees Representation Plan?

MR. LAUTER: I object to the form of the question.

A. No, sir.

MR. LAUTER: I move that the answer be stricken.

MR. DAY: I think that is a proper question.

MR. LAUTER: It calls for a conclusion.

MR. DAY: I have got a brief on it if the court wants to see it.

TRIAL EXAMINER LINDSAY: Well, I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. (By Mr. Day) How long did the Employees' Representative Plan that you have described remain in effect at the Massillon Plant of Republic Steel?

A. Up until the time that the Supreme Court called the Wagner Labor Act constitutional.

Q. About when was that?

A. About the middle of April if I recall right.

Q. Of this year?

A. Yes, sir.

Q. Well, now, then, what happened within your knowledge to the Representative Plan after it was announced that the Supreme Court had upheld the constitutionality of the Wagner Act?

A. Manager called us together and notified us that all financial aid was going to be taken away from us in regards to the Representative Plan.

Q. Who told you that?

A. Mr. Meyers, manager.

Q. What is his first name?

A. Carl Meyers.

Q. And he is the district manager?

A. Yes, sir.

Q. Well, Mr. Meyers, you say was the district manager over what district?

A. Massillon district.

Q. Well, do you know whether or not he was also district manager in Canton?

A. I understand he is over Canton and Massillon.

Q. Do you know who was the manager before him?

A. Mr. Ed. Portz.

Q. Do you know whether or not he was sick?

A. Yes, sir.

Q. He has been sick for a long time?

A. Yes, sir, he has been sick for sometime.

Q. And Mr. Meyers has been acting district manager?

A. Yes, sir.

Q. Now, after that took place and you had that conference with Mr. Meyers or meeting and he said the company could not further furnish financial support to the plan, what next, within your knowledge, was done?

A. As soon as Mr. Carl Meyers left the hall, we got together and formed an organization which was called Employees Representatives' Association.

Q. Now, you say "we got together". Who got together?

A. The employees that was there at the time.

Q. The Employees Representatives?

A. Yes, sir.

Q. State whether or not there was anybody else present besides the employees representatives?

A. No, sir, there was not.

Q. Did anyone connected with the Republic Steel Corporation or its management, or acting in a supervisory capacity, have anything to do with the formation of this plan you are telling us about now?

A. No, sir, they did not.

MR. LAUTER: Object to the form of the question and move the answer be stricken out.

TRIAL EXAMINER LINDSAY: Well, I am going to overrule the objection. Let the record show an exception. But I think, Mr. Day, you should not ask those questions calling for a conclusion. Let him state who was there, and let the record show for itself.

MR. DAY: Well, I will do that, but I think it is fair to state that we have conducted some research along the line and found that it is proper to ask whether or not the man has been influenced or induced to do something by anybody else, and I will be glad if the Examiner wants to see our brief on it, to hand it to you.

TRIAL EXAMINER LINDSAY: Why, no, it is not necessary.

MR. DAY: All right. But I will try, of course, to stay within the ruling you just made, anyhow.

Q. (By Mr. Day) Now, you say this is the Employees Representative Association?

A. Yes, sir.

Q. And the original plan was called what?

A. Representative Plan?

Q. Employees Representative Plan, sometimes referred to as E. R. P.?

A. That is right.

Q. Your new organization or Employees Representative Association?

A. Yes, sir.

Q. State whether or not the corporation contributed any financial or other support to the Employees Representative Association?

A. No, sir.

Q. State whether or not the corporation or any of its officers or agents in a supervisory capacity dominated or interfered with the formation of the Employees Representative Association?

MR. LAUTER: Object to the form of the question.

A. No, sir.

TRIAL EXAMINER LINDSAY: Read the question.

MR. LAUTER: I move the answer be stricken out.

TRIAL EXAMINER LINDSAY: Just a minute. Don't be so quick with your answers. When you hear an objection, keep still until there is a ruling on it.

(The last question read by the Reporter.)

TRIAL EXAMINER LINDSAY: Yes, I am going to sustain that objection this time.

MR. LAUTER: I move the answer be stricken from the record.

MR. DAY: Note an exception.

TRIAL EXAMINER LINDSAY: The answer is stricken.

MR. DAY: Note an exception.

TRIAL EXAMINER LINDSAY: Let the record show an exception. Off the record entirely.

(Discussion held off the record.)

Q. (By Mr. Day) I will ask you to state whether or not, within your knowledge—

TRIAL EXAMINER LINDSAY: Now, just a minute, Mr. Day.

(Discussion held off the record.)

MR. DAY: If I may address the Court, there is another remark I wish to make. There is a direct charge here that the corporation did dominate and interfere with this union. Now, this is the chairman of the union. He is a member of the union. I haven't asked him about his office. Perhaps he is not, I don't know. It seems to me that under the rule of evidence that applies in cases of this kind I have a right to ask him the direct question, whether or not, to his knowledge—

TRIAL EXAMINER LINDSAY: Yes, if you frame your question right, you may have that privilege.

Q. (By Mr. Day) I will ask you to state whether or not, to your knowledge, the company in any way interfered with or dominated this new union—the formation of the Employees Representative Association.

MR. LAUTER: Object to the form of the question. I want to state the reason for my objection, that it calls for a conclusion. It is one of the questions in this case, ultimate facts to be proved and the question for the Board to decide is whether or not the particular Employees Representative Association has been dominated and controlled by Republic Steel Corporation. I object on the ground further that the question is incompetent, irrelevant, and immaterial.

TRIAL EXAMINER LINDSAY: Well, I am going to overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

TRIAL EXAMINER LINDSAY: And, of course, you have a perfect right to cross examine him to find out to what extent he does know, but I do dislike so many of those questions asking for a conclusion. I think to get at the facts of the thing you should bring out facts and not conclusions.

MR. DAY: Well, I understand he can answer that question?

TRIAL EXAMINER LINDSAY: Yes.

(The last question was read by the Reporter.)

A. No, sir.

MR. LAUTER: May I have an exception on my objection?

TRIAL EXAMINER LINDSAY: You already have it.

Q. (By Mr. Day) Who are the officers of the Employees Representative Association?

A. I was chairman of it, Mr. Nathan Brown was secretary.

Q. Did you have a treasurer?

A. Yes, sir.

Q. Who is he?

A. Mr. Paul Hoffman.

Q. How were these officers elected?

A. By the members in the hall.

Q. How long, if you know, did this new Employees Representative Association continue in effect?

A. Up until July 6th.

Q. Ninety-thirty [nineteen-thirty]—

A. 1937.

Q. This year?

A. Yes, sir.

Q. Then what happened?

A. We formed a new organization called the Independent Association of Republic Employees.

Q. The Independent Association of Republic Employees?

A. Yes, sir.

Q. Who started that new organization?

A. I did, myself.

Q. How did you start it?

A. I gathered men from different departments, from practically all of the departments of the mill. I put the proposition to them on account of so many complained about the representatives' name, I told them about organizing this new organization. They all agreed on it. We went to town that evening and had cards printed, we had a meeting on the following day and passed the cards around and told the men to go and sign them up.

MR. LAUTER: Will you fix the date of that?

A. Which they did.

Q. (By Mr. Day) Will you fix the date of that?

A. It was two days later, the 8th.

Q. Of July?

A. Of July.

Q. And how many men were present at that meeting?

A. About 16.

Q. Well who were those men?

A. Men from different departments, workingmen.

Q. How many meetings did this Independent Association of Republic Employees—how many meetings have they held since the first meeting?

A. About seven, I believe, to be sure.

Q. Where was that first meeting held?

A. Down at the plant.

Q. Whereabouts in the plant?

A. In the pipe shop?

Q. What time of day or night?

A. At noon hour.

Q. Now, you talked about six other meetings, making seven in all. Where were the other six meetings after that first meeting held?

A. At the lodge room.

Q. Lodge room of what? Where?

A. Of Independent Association of Republic Employees.

Q. Where is that?

A. Above the Arcade Market on West Main Street.

Q. Is that lodge room on company property, Republic property?

A. No, sir.

Q. Do you know who pays the rent for that room?

A. The Independent Association of Republic Employees.

Q. About when was the first meeting of that Association held?

A. July 8.

Q. 1937?

A. 1937.

Q. Within your knowledge, did Republic Steel Corporation have anything to do with the formation of the Independent Association of Republic Employees?

MR. LAUTER: Object to the form of the question.

A. No, sir.

MR. LAUTER: I move the answer be stricken out.

TRIAL EXAMINER LINDSAY: No, I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. State whether or not, since the organization of the Independent Association of Republic Employees, the corporation has contributed financial support to it?

A. No, sir.

Q. What, if anything, has the corporation had to do with the administration of the association?

A. I didn't get that.

Q. State whether or not Republic has had anything to do with operating or running the Independent Association?

A. Haven't got nothing to do with it whatsoever.

Q. How often does the Independent Association of Republic Employees hold its meetings?

A. We hold our meetings every two weeks now.

Q. And who attends those meetings?

A. That is committees from all departments.

Q. And where are those meetings held?

A. At the Independent Association of Republic Employees Hall, local hall.

Q. State whether or not anybody attends those meetings outside of the employees who belong to the association?

A. No, sir, nobody.

Q. Can you tell us approximately how many members there are in the Massillon plant of those Independent Association of Republic Employees?

A. About 2400, the last count we made.

Q. Can you tell us about how many would be eligible for membership, that is how many employees in the plant are eligible for membership?

A. Let's see, maybe about 2450, around there.

Q. Do you have an initiation fee for the association?

A. Yes, sir.

Q. What is it?

A. 50 cents.

Q. What are the monthly dues, if any?

A. 50 cents.

Q. Who were the officers of this Independent Association of Republic Employees?

A. William Perry is chairman.

Q. All right.

A. Nick Linckenhely is vice-chairman.

Q. Yes.

A. Tommy Burkett is treasurer. Gottrell, I don't know his first name, is financial secretary. George Kreinahl, he is recording secretary.

Q. How were these officers elected?

A. By the members present.

Q. Were they elected by the whole membership or by a committee?

A. Just by the committee.

Q. Well, now, what committee was that?

A. The committees that were elected by the employees.

Q. What was the character of those committees? What kind of committees were those?

A. We haven't appointed different committees yet. It is just a committee of the whole.

MR. LAUTER: If you please, Mr. Examiner, I do not recall whether or not this particular federation is named in the complaint. If it is not named in the complaint I want to object to any further inquiry along this line and move that all of the testimony with respect to this particular organization be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, it is stated in the complaint.

MR. DAY: You say that it is?

TRIAL EXAMINER LINDSAY: Not as far as Canton is concerned.

MR. DAY: I think it is named as far as Massillon is concerned. Let's see if it is.

TRIAL EXAMINER LINDSAY: Paragraph 26, I believe.

MR. DAY: In paragraph 29 it does not seem to be named. "Respondent by its officers and agents has dominated and interfered with the formation and administration of Employees Representative Plan and Employees Representative Association, labor organization at its plant in Massillon, State of Ohio, contributed financial and other support to such labor organizations." Now, the name of this is Independent Association of Republic Employees. If it may be understood that there is no reference made in the complaint or any charge made in the complaint with relation to that organization, then, of course, I take it that the objection is well interposed.

MR. LAUTER: I withdraw my objection to this line of inquiry.

(The last question read.)

Q. (By Mr. Day) How were the committee men selected?

A. Each department went to the lodge room and elected them there through secret ballots.

Q. How many departments are represented in this committee of 27?

A. I don't believe I made a check on that, as yet. Practically all departments outside of one that I know of.

TRIAL EXAMINER LINDSAY: Just a minute. If you don't know, why don't answer. If you haven't made a check on it, naturally you would not know, would you?

THE WITNESS: Well, I knew the one didn't belong to it yet.

MR. DAY: Are we going to recess soon, now?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: Because I want to look this over and see whether I want to pursue this line.

TRIAL EXAMINER LINDSAY: We will have a short recess.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing will come to order.

(Discussion off the record.)

MR. DAY: Now that is all upon this one subject. We would like to have the right to recall this witness.

TRIAL EXAMINER LINDSAY: That privilege will be granted.

Cross Examination

Q. (By Mr. Lauter) Mr. Linckenhely, what position did you have with the Republic Steel Corporation?

A. Machinist.

Q. What is your pay as a machinist?

A. 98 cents and a half an hour plus a little bonus once in a while.

Q. What did you get bonus for?

A. Working.

Q. What is that?

A. Working on the different jobs that we make quicker than the time requires we get a bonus.

Q. You were a representative since 1933?

A. Yes, sir.

Q. You received pay for attending meetings?

A. Yes, sir.

Q. When the meetings were not held during the working hours, you got additional pay, is that correct?

A. Yes, sir.

Q. Now, were there any dues paid into the Employees Representative Plan?

A. No, sir.

Q. All the expenses were paid by the Republic Steel Corporation for the operation of that Plan?

A. Yes, sir.

Q. That includes the furnishing of the ballot boxes, the printing of the ballots, the minutes, the notices, the meeting notices, and the grievance forms and all their places, is that correct?

A. Yes, sir.

Q. Now, you became a Chairman of the Employees Representative Plan in 1936, is that correct?

A. Yes, sir.

Q. You served until June, 1937? That was the period for which you were elected?

A. I served in that capacity up until the Supreme Court called the Wagner Act constitutional.

Q. Did you stop on the day the Court upheld the Act?

A. After Mr. Meyers called us and told us he was going to take away the financial support from us we called the Plan out.

Q. Who called the Plan out?

A. We, ourselves.

Q. How did you do it?

A. As soon as Mr. Meyers left we formed a different organization.

Q. Did you take any steps to dissolve that old organization?

A. We didn't bother; we just went ahead.

Q. I am asking you if you took any steps to dissolve the old organization itself? The old Employees Representative Plan?

A. No.

Q. Now, after the Act was upheld, were any grievances handled by the various committees?

A. Yes, sir.

Q. They continued the handling of grievances, is that correct?

A. Yes, sir.

Q. Now, for how long a period of time did that continue; the handling of grievances?

A. Until May 25th.

Q. The day of the strike?

A. Yes, sir.

Q. So to that extent, at any rate, it wasn't dissolved, is that true?

A. We handled grievances the same as before.

Q. Now, were you paid for handling grievances?

A. Yes, sir.

Q. And you were paid for handling grievances up to May 25th, is that correct, of 1937?

A. May 25th?

Q. That is right. The day of the strike?

A. Yes, sir.

Q. And some grievances were handled after the Act was upheld?

A. Some grievances, yes.

Q. Now, you said: "We formed the Employees Representation Association?"

A. Yes, sir.

Q. And the "we" you referred to the employees' representatives under the old plan? The Employees Representation Plan?

A. Yes, sir.

Q. Now, will you state again who the officers were?

A. Linckenhely was the Chairman—

Q. That is yourself?

A. Yes, sir. Nathan Brown was the Secretary; and Paul Hoffman was the Treasurer.

Q. Now, you were Chairman under the old Plan; that is the E. R. P.?

A. Yes, sir.

Q. And you became President under the E. R. A.?

A. Yes, sir.

Q. Now, Brown was the Secretary?

A. Yes, sir.

Q. He became Secretary of the E. R. A.?

A. Yes, sir.

Q. Were there other officers under the E. R. P. who became officers under the E. R. A.?

A. No. There wasn't outside of Brown. We called him that day—that is, Hoffman, I mean.

Q. Hoffman?

A. Yes, sir.

Q. He was an old—

A. He was a representative.

Q. Of the E. R. P.?

A. Yes, sir.

Q. Where did they hold its initial meeting? Its first meeting?

A. The only meeting we had was at that time, was the same day that Mr. Meyers notified us about taking the financial aid away from us.

Q. You held that meeting in the same room?

A. We held that meeting in the same room.

Q. Who called the meeting when Mr. Brown said that he was going to take the financial aid away?

A. The management.

Q. The management called that meeting?

A. Yes, sir.

Q. When Mr. Meyers left you just remained in the same room and formed a new organization?

A. Yes, sir.

Q. Now, was that organization ever dissolved, if you know ?

A. Dissolved, yes, sir.

Q. What steps were taken to dissolve that organization?

A. We just changed the name, and the organization we forgot about it, and started a new organization.

Q. You mean whenever you thought there was something wrong with that organization you would forget about it?

A. No, there wasn't nothing wrong about it. The employees in general didn't like the first representation plan. They wanted to change it.

Q. Now, did you contact the employees?

A. We contacted a number of them.

Q. How many would you say?

A. Well, in my department they didn't seem to care but in other departments they didn't like it.

Q. Did you voice any opinion in your department at any meeting held under the E. R. A.?

A. Yes, sir.

Q. How many meetings were held under the E. R. A.?

A. There wasn't one held as far as I know of.

Q. And you didn't voice an opinion in your department at any meeting of the E. R. A., did you?

A. No, outside of the Committees that would get together.

Q. You heard my question, didn't you?

A. Yes, sir.

Q. Now, there was only one meeting, and that was after Mr. Meyers left the room, is that correct?

A. Yes, sir.

Q. And the next thing you knew you forgot about the E. R. A.?

A. Yes.

Q. When was that?

A. On the 6th of July.

Q. You forgot about the E. R. A.?

A. Yes, sir.

Q. Now, how many members were there in the E. R. A.?

A. 1100, approximately—1100.

Q. How did those people indicate that they wanted to be members?

A. They signed application cards.

Q. Where were those application cards circulated?

A. In the plant.

Q. By whom?

A. By committees and by representatives.

Q. Selected at this meeting which Meyers had left?

A. Yes, sir.

Q. Were they appointed or elected?

A. They got to serving them the same as under the Representation Plan.

Q. The same committees continued functioning under the E. R. A. that was in existence under the E. R. P.?

A. Yes, sir.

Q. They took around the cards under the E. R. A.?

A. Yes, sir.

Q. You got 1100 people to sign those cards? Employees of the plant?

A. Yes, sir.

Q. And you never held another meeting, and you forgot about the E. R. A.?

A. After the strike.

Q. I am asking you about the E. R. A. You testified there was only one meeting, is that correct?

A. One meeting, yes.

Q. After that you forgot about the E. R. A., that is your testimony, isn't it?

A. Well, we didn't forget about the E. R. A. The committees got together and talked about it but we never held regular meetings in the hall.

Q. You never held a meeting for those 1100 employees?

A. No, sir.

Q. Did they voice their ideas as to whether or not that organization should be forgotten about?

A. No.

Q. Did they ever take any formal steps to forget about it?

A. The members didn't. The committee representation talked with the members about it—that they would like to have that out.

Q. Did you hear my statement? I asked you whether they took any formal steps? Did they pass a resolution or hold a meeting at which they expressed a desire to dissolve that organization of the members who signed the membership cards?

A. No, they didn't.

Q. Did you sign up anybody in the E. R. A.?

A. Yes, sir.

Q. How many did you sign up?

A. Quite a number of them; I couldn't say.

Q. Well, approximately?

A. I would have to make a check before I could tell you.

Q. Well, 100 or 1000?

A. Not 1000.

Q. A hundred?

A. More than that.

Q. 200?

A. Approximately.

Q. Give it to me approximately; I am not interested in pinning you down to the exact number.

A. About 200.

Q. Where did you sign them up?

A. We signed a few up at the plant and a lot at the mass meeting that we had at the Republic Steel dance hall.

Q. Where was this meeting at the dance hall?

A. In the main office building.

Q. What was the date of that?

A. May 11th.

Q. Was it a dance or a meeting?

A. A mass meeting that we held at the Republic Steel dance hall.

Q. What was the date again?

A. May 11th; if I am sure.

Q. Now, did you get paid for the time that you spent in signing up the men?

A. Well—

Q. While they were in the plant after the E. R. A.?

A. We signed mostly—

Q. Was that before or after?

A. We signed mostly before work or at the noon hour.

Q. Did you sign any during working hours?

A. Yes, a number of them.

Q. Isn't it a fact that you were given time off to have some of them sign?

A. No, my hours—my machine was operating.

Q. What is that, your machine was operating?

A. Yes, my machine was going.

Q. Did you always sign up in your department?

A. Yes, sir.

Q. Now, your name is spelled out on that card; the Employees Representative Association?

A. Yes, sir.

Q. And you distributed hundreds of those cards for the men to sign up, is that correct?

A. Approximately 100 or 150.

Q. I am not referring to you, yourself, but to the other representatives who carried around the cards. There were hundreds of those cards also that were brought around with your name on it, is that correct?

A. Yes, sir.

Q. Now, they signed up men, is that correct?

A. I couldn't say for the other fellows.

Q. Don't you know that some of the other men signed up employees on Company time?

A. Well, I would hate to say what the other fellow did.

Q. If you don't know, say so.

A. I don't know.

Q. Are you sure that you don't know—

A. Yes.

Q. —that some of the employees' representatives under the old plan spent time in the plant, on Company time, signing up men on this white card, on Company time?

A. I don't know.

Q. Was the constitution ever adopted for the ERA?

A. Yes, we made quite a few changes in the one which we did have.

Q. Now, you are referring to the E. R. P.?

A. Yes.

Q. You made certain changes in the constitution and by-laws of the E. R. P.?

A. Yes, sir. We revised—

Q. Did that become the working or functioning constitution for the new organization?

A. Now we revised practically everything that was in it.

Q. I show you Exhibit 47, Plan of Employee Representation, Massillon Plant, as amended April 22, 1937, and ask you whether or not that is the revised plan about which you have been just testifying?

A. Yes, sir.

Q. And that is Board's Exhibit No. 47 was used for the Employee's Representative Association, is that correct?

A. Yes.

Q. Now, the white cards that were used to sign up employees in the plant, who paid for those?

A. We paid for those ourselves.

Q. When you say "we" whom are you referring to?

A. Representatives. We tipped in together and had them printed.

Q. Did you tip in at the meeting that was held after Mr. Meyers left the room?

A. Yes, sir.

Q. How much did you collect at that time?

A. We each tipped in a dollar.

Q. How many representatives were there, then?

A. If I remember right there was 20 there.

Q. You got $20?

A. Yes, sir.

Q. Now, who took charge of having the cards printed?

A. I did.

Q. Where did you have them printed?

A. At the Massillon Printing Company.

Q. Do you know what date they were printed?

A. How?

Q. Do you remember what date they were printed?

A. We were to have them printed that day.

Q. You were to have them printed that day?

A. That we had the meeting—the date I don't recollect.

Q. How close can you come to it?

A. Well, it was the same day that we had the meeting with Mr. Meyers.

Q. Is that May 11th. I am not sure of the date myself.

A. No, May 11th was the mass meeting we had.

Q. About April 15th, somewhere around there?

A. Somewhere around there, yes .

Q. You had charge of printing the cards also for the Independent Association of Republic Employees? Independent Federation of Republic Employees, is that correct?

A. Independent Association for Republic Employees?

Q. Yes.

A. Yes, sir.

Q. Did you have the cards printed for them also?

A. Yes, sir.

Q. Followed the same form?

A. Yes, sir.

Q. Did you decide on a name?

A. How?

Q. Did you decide on the name, Independent Federation of Republic Employees?

A. No, the committee that met decided on the name.

Q. Was it the following day you met and decided on the name?

A. How?

Q. What was the date or the day that the committee met and decided on the name?

A. July 6th.

Q. Were minutes kept of that meeting?

A. I don't know if there were minutes taken.

Q. There were minutes taken?

A. If I recall it right, there was.

Q. What is the name of the secretary?

A. Nathan Brown, he was secretary.

Q. That is of the I. F. R. E., is that right? Independent Federation of Republic Employees?

A. He was at the time.

Q. What is that?

A. He was at the time of organizing. At the time, that date.

Q. That is the same Nathan Brown?

A. He is not any more.

Q. That is the same Nate Brown who was secretary of the E. R. A. and he was an officer under the E. R. P., is that correct?

A. Yes.

Q. And you were vice-president of the Independent Federation is that correct? At that time, at the time of its formation?

A. I was president.

Q. President?

A. Chairman.

Q. What is that?

A. I was chairman of it.

Q. Chairman of the Independent Federation?

A. Yes, sir.

Q. You had been chairman of the E. R. A.? And of the E. R. P., is that correct?

A. Yes, sir.

Q. I am sorry, I am advised I am using the word "Federation" and the word is "Independent Association".

It is the Independent Association of Republic Employees?

A. Independent Association.

Q. Who suggested that name to you?

A. Well, we all kind of decided on the different names, and that is the name that we planned on having.

Q. Well, now, do you know who suggested that name?

A. I couldn't tell you.

Q. Are you sure?

A. Maybe I did, myself.

Q. Are you sure, now? What is that?

A. Maybe I did, myself, I don't know. I don't recall it.

Q. Don't you remember that you did?

A. We finally decided on the name.

Q. And don't you remember that you made the suggestion of the name?

A. I might have.

Q. That was on July 6th, is that right?

A. Yes, sir.

Q. Who suggested that name to you?

A. Well, on the 6th, twenty of us talked about it and—

Q. No, I am asking you who suggested the name to you?

A. You mean Employees Representative Plan?

Q. Independent Federation, or Independent Association of Republic Employees? Who suggested that name to you?

A. As I told you before we talked about it and we planned on some names and we finally decided on that name.

MR. LAUTER: I move the answer be stricken and I will ask that this witness be directed to answer the question.

TRIAL EXAMINER LINDSAY: Yes, that answer is stricken. Now, read the question back.

(The last question read.)

A. I could not tell you that.

Q. Did you discuss the name of the organization with anybody before the meeting?

A. Not before the meeting. We didn't know anything about it.

Q. Did you discuss it with anybody before the meeting?

A. No.

Q. And you think that you suggested the name, is that correct?

A. I might have.

Q. Did you discuss the name of the organization with any official of the company?

A. No, sir.

Q. Did you know that similar organizations were being called by the same name in other Republic plants?

A. There was similar to them.

Q. Did you hear about that before you went to the meeting?

A. Yes, sir.

Q. Is that where you got the idea?

A. Yes, sir.

Q. Just from hearing that they were calling other organizations by the same name?

A. No, we have had a meeting in Cleveland, that is what they call Central Council, we had talked about it at that meeting.

Q. I want you to describe those Cleveland meetings. What was the first meeting you went to in Cleveland?

A. It was last fall sometime, we decided we ought to have a central council, that is, members from all the plants of the Republic Steel Corporation. We asked the company about it and they granted us the permission of meeting with each other in Cleveland. So there was two men from each district.

Q. There were ten districts, is that right?

A. I believe there was nine districts.

Q. Nine districts? Those were the northern districts, is that right?

A. Yes, sir.

Q. There were about 18 representatives?

A. 18 representatives.

Q. You were one of the two selected from your area?

A. Yes, sir.

Q. Who was the other one?

A. Nathan Brown.

Q. How many meetings did you attend at Cleveland?

A. Well, I believe there was altogether three of them.

Q. Don't you recall attending more than three?

A. No.

Q. The first one was held in the fall of 1936?

A. Yes, sir.

Q. How long did you stay in Cleveland?

A. One day.

Q. Were you paid for that day by the company?

A. Yes, sir.

Q. Were all expenses going there and coming back paid by the company?

A. We got our day's wages out of it.

Q. Is that all you got?

A. And I believe we got two hours extra, ten hours for it.

Q. Did they serve any meals there?

A. Yes, they did serve us meals.

Q. They paid for them?

A. Yes, sir.

Q. Now, what happened at the first meeting? Describe as fully as you can.

TRIAL EXAMINER LINDSAY: There is one question that has not been answered. Read the record.

(Record read by the Reporter as follows:

"Q. Were all expenses going there and coming back paid by the company?

"A. We got our day's wages out of it.)

TRIAL EXAMINER LINDSAY: Now, that question right there has not been answered.

Q. (By Mr. Lauter) Will you answer that question?

A. Yes, they were.

(Question read by the Reporter as follows:

"Q. Now, what happened at the first meeting? Describe as fully as you can.")

A. That is the time that we revised those by-laws. We met, representatives met together and revised those by-laws. We had a meeting with the management in regards to them.

Q. Are you now stating that Board's Exhibit 47, which bears on the face of it, "As amended April 22, 1937," was a revision of the E. R. P. by-laws sometime in the fall of 1936?

A. No, it wasn't it.

Q. Now you try to tell us what took place at the first meeting sometime in the fall of 1936?

A. I know we went over a lot of grievances which different plants—in regards to wages and conditions, to find out whether each plant had the same wage in regards to wages and working conditions, we done that. What more, I don't quite recollect any more.

Q. Let's go to the second meeting. Do you remember the second meeting?

A. Yes, sir.

Q. When was that held?

A. It was around the first part of March.

Q. Who called that meeting?

A. By the chairman of Cleveland of the central organization.

Q. Was that held at the Republic Steel Corporation offices in Cleveland?

A. Yes, sir, it was.

Q. How long did you stay in Cleveland at that time?

A. If I recollect quite right, we stayed there two days.

Q. All expenses going there and while you were there, were paid for by the Republic Steel Corporation?

A. Yes, sir.

Q. Including meals?

A. Yes, sir.

Q. And the regular salary kept coming just the same, is that correct?

A. Yes.

Q. Now, when did the third meeting—

MR. DAY: When you say "salary" you mean the wages and compensation?

MR. LAUTER: That is right. Well, he has already testified in respect to the first meeting, at any rate they got paid for ten hours.

MR. DAY: I thought the word "salary" might be misleading.

TRIAL EXAMINER LINDSAY: I think he means salary and wages as one and the same thing.

MR. DAY: Yes, all right.

TRIAL EXAMINER LINDSAY: Is that right, Mr. Lauter?

MR. LAUTER: Yes.

Q. (By Mr. Lauter) When did the third meeting take place in Cleveland that you attended?

A. The third meeting was called by the—in the group of Independent Association of Republic Employees.

Q. Wasn't there a meeting at which you revised the minutes or the by-laws, rather, of the Employees Representation Plan?

A. Yes, there was a meeting for that, but that wasn't the meeting.

Q. It wasn't that meeting?

A. The meeting—first meeting in March, that wasn't the meeting we revised the by-laws.

Q. There was a meeting held, whether it was the third, second, third or fourth or fifth you attended, at which they revised the old by-laws?

A. Yes, there was one.

Q. And it was the same group of employees that made the by-laws, that had met back in the fall of 1936?

A. Yes, sir.

Q. And that was the same group that later met as the Independent Association or Independent Federation of Republic Employees, is that right?

A. Yes, sir.

Q. Now, it was at one of those meetings in Cleveland that the name was suggested, is that correct?

A. Yes, but the Chicago gang had already organized under that plan, and that name was suggested up there at that time.

Q. Then you came back and you made the suggestion at one of the meetings here?

A. I made the Chicago at one of the meetings, yes.

Q. Now, do you recall when the meeting was held in Cleveland, of the Independent Federation or Independent Association of Republic Employees?

A. That was called August 2nd and 3rd, I believe we had a meeting up there at that time.

Q. Who called that meeting?

A. Chairman of the Central Council.

Q. The same one who called a meeting for the E. R. P. and the E. R. A., is that right?

A. Yes, sir.

Q. And were the same representatives present, there?

A. No.

Q. Who participated in the earlier meetings?

A. There was different ones. There only was a few of us, of old representatives there.

Q. Did the company pay the expenses?

A. No, sir.

Q. Did you lose any time when you were there?

A. Yes, sir, I lost two days.

Q. You didn't get paid for those two days?

A. No, sir.

Q. They haven't been made up in any other way?

A. No, sir.

Q. How long did they stay there?

A. Two days. We stayed one day and we went back the next day. We went back home.

Q. Was that the first meeting of the representatives under this Independent Federation of Republic Employees?

A. It was.

Q. In Cleveland?

A. Yes, sir.

Q. You say that was August 2nd?

A. August 2nd.

Q. And 3rd?

A. And the 3rd.

Q. Did you adopt any constitutional by-laws or discuss the adoption?

A. We discussed that, yes.

Q. Has any constitution and by-laws been adopted?

A. We are working on them now, at the present time.

Q. You testified that under this Independent Association there were dues, initiation fees, and so on, is that correct?

A. Yes, sir.

Q. And the initiation fees were 50 cents, and the dues were 50 cents a month?

A. Yes, sir.

Q. You testified of about 2400 members?

A. Yes, sir.

Q. Are you referring to the paid up membership?

A. Well, no, not exactly.

Q. How many of those are paid up members?

A. Approximately 1900 paid up-to-date.

Q. When you say that, you mean paid initiation and paid monthly dues, is that correct?

A. Yes, monthly dues, paid initiations.

Q. How many months have gone by since the commencement of the collection of dues?

A. August and September we have started—we started the 6th of August—I mean the 6th of July.

Q. Yes.

A. That is July and August. It is two months.

Q. And have you waived the collection of dues in the case of any particular members?

A. We give some a chance. That is, if he didn't have the money or if they were hard up and weren't able to pay, we gave them a chance.

Q. Where did you collect the dues?

A. Anywhere.

Q. You collected them in the plant?

A. Sometimes during working hours.

Q. Sometimes you collected them during working hours?

A. Somebody comes along and hands it to you.

Q. You collected them during working hours?

A. Yes, sir.

Q. Now, has any committees been set up under this Independent Association?

A. Yes, we have. Independent Association of Republic Employees.

Q. How do these committees of the Independent Association compare as to form of organization with the committees under the old E. R. P.? And E. R. A.? You have the same types of committees.

A. Well, they are all new men.

Q. By the same types of committees, you have a rules and ways committee?

A. No, we haven't yet.

Q. But you have the form?

A. Not yet. We wanted to draw up a by-laws first.

Q. Tentatively, what have you?

A. We have a committee of 27 men representing the men down there.

Q. What committees then are set up besides this 27 men committee?

A. Outside of the officers that have been elected we haven't appointed any committees.

Q. How did you say these men are selected? The 27.

A. Each department went up to the lodge room and voted these men in.

Q. When were those meetings held?

A. After work.

Q. How many departments voted?

A. All departments but one.

Q. Was there a representative for each department?

A. Yes.

Q. You had 27 departments voting, is that correct?

A. The committee—

Q. You had 27 departments voting, is that correct?

A. No, some departments got more than one.

Q. That is less than 27 departments are voted, is that correct?

A. Oh, yes, less.

Q. How many representatives are in a given group of men?

A. Well now, we take the sheet mill and that has got four committee men.

Q. How many are there in the sheet mill?

A. I believe there is about 700 men.

Q. There is 1 to every 200?

A. Approximately. We have that. Outside of the maintenance department we got about 200 men but on account of the department being so spread out that we got 2.

Q. Well, it was under the same plan as the E. R. P. and the E. R. A., is that correct?

A. Yes, sir.

Q. How many did you say were eligible for membership in the Independent Association?

A. About 450, as close as I can figure it out.

Q. You testified about a July 8th meeting. There was 16 men present. Where was that meeting held?

MR. DAY: Was that the 8th or the 6th?

Q. Was there a meeting on the 8th or on the 6th only?

A. On the 6th.

Q. What was the date of the first meeting of the Independent Association, on the 6th?

A. The 6th of July.

Q. Now, were you advised by anybody to start the formation of the Independent Association?

A. No, sir, I wasn't.

Q. Why was it started?

A. We wanted to have an organization down there so we could deal with the management.

Q. Did you have the Employees Representative Association?

A. No, we didn't have that any more. The men wanted it abolished on account of the name.

Q. Was that the only reason why you started an Independent Association?

A. That is the only reason we changed the name and formed a new one.

Q. When you say that is the only reason you changed the name and formed a new one from the E. R. A. to the Independent Association—

A. Yes, sir.

Q. Is that the only reason for the formation of the new organization because of the name?

A. No, we wanted to have a way of dealing with the Company representing the men so that we could deal collectively with the Company.

Q. Wasn't the E. R. A. a way of dealing with the Company?

A. Well, it—after the strike and all that, it didn't seem to function right, and we just wanted to start something new. Start all over new.

Q. Now, how many men were present on July 6th, did you say?

A. About 16.

Q. Who were the men who were present there?

A. Men from different departments.

Q. Were you present?

A. Yes, sir.

Q. Nate Brown was present?

A. Yes, sir.

Q. Was Hoffman there?

A. Yes, sir.

Q. Were there the same men at the Independent Association as were at the E. R. P.?

A. Don Burkett I believe was the only one.

Q. Anybody else?

A. Henry Gonder.

Q. Was Shaw there?

A. No, sir.

Q. He was the Financial Secretary?

A. Hoffman was.

Q. That is, of the Independent?

A. Yes, sir; he was until—

Q. So those are the only representatives that you can think of who were present at the July 6th meeting?

A. Yes, sir.

Q. How were you selected?

A. I can't push the thing along.

Q. What do you mean?

A. I mean I am the one that sent word to those fellows to come to the meeting.

Q. Were you selected or did you name yourself?

A. I was elected as temporary chairman to go on with the booth.

Q. How did you happen to go to the meeting on July 6th? Did somebody elect you to go?

A. No, I started the thing; I started the organization.

Q. Did anybody elect the other men?

A. After we got the organization—

Q. Did anybody elect the other men on July 6th or did you just call them?

A. I just called them or asked them to come or sent word around for them to come.

Q. Was that during the working hours that they were to come?

A. Before and during working hours, yes, sir.

Q. Now, was the basis of your selection—what was your basis of the selection of these 16 men?

A. So I could talk to the men—

Q. How did you know whom to select?

A. I talked to different men about it; different working men about it.

Q. Is that the only basis for the selection of those 16 men?

A. Yes, sir.

Q. The fact that you had previously spoken to them?

A. Yes, sir.

Q. And you had not spoken to anybody else about the selection of any particular individual?

A. No.

Q. You decided that all for yourself?

A. Yes, sir.

Q. What kind of notice did you send?

A. I just sent word from mouth to mouth; sort of sent it around that way.

Q. Telephone any of them?

A. I did talk to them the week before about it, that I would like to have a meeting that day.

Q. Whom did you speak to a week before?

A. At the Chamber of Commerce office when we signed up the men that wanted to go back to work.

Q. Whom did you speak to there?

A. It was Tony Walsh, Paul Hoffman, Don Burkett, Tommy Burkett.

Q. What was the last name?

A. Tommy Burkett. And some of them that I can't quite tell you the names but I would know them if a saw them.

Q. Who decided to leave out some of the former employees' representatives?

A. Well, they just simply didn't seem to take no active part in it, and we just left them out and forgot about them.

Q. Who decided to leave them out?

A. The new committee.

Q. Well, when you were talking about the Chamber of Commerce office, you were talking to those men there at the Chamber of Commerce office?

A. Yes, sir.

Q. And you talked to them at that time, about a week before July 6th, is that correct?

A. Yes, sir.

Q. And the week before you selected 16 men from various departments?

A. Not all of them. I spread it around that I wanted them.

Q. Some of those are representatives, is that correct?

A. Yes, a few

Q. Which ones are representatives?

A. Burkhart was one.

Q. Hoffman?

A. Hoffman and Brown I guess was the only ones was present and myself.

Q. Did you leave the mill on May 25th? The day of the strike?

A. I went out the day before and I didn't go back.

Q. How does it happen that you weren't working on May 25th?

A. I didn't know anything about it. I went home that Tuesday night and I was notified that pickets were at the plant that night. My son-in-law, he came out at 11 o'clock shift.

Q. Did you work on Tuesday?

A. I worked on Tuesday, yes.

Q. Did you work on Wednesday?

A. No, sir.

Q. When did you go back into the plant?

A. July 6th.

Q. Were you paid between May 25th and July 6th?

A. Hell, no.

Q. Didn't get paid for any of that time?

A. No.

Q. You were at the Chamber of Commerce office?

A. Yes, sir.

Q. When you assisted men in signing up the Back-to-Work?

A. Yes, sir.

Q. Is that where the petitions were signed?

A. Yes, sir.

Q. Were the petitions circulated from the Chamber of Commerce?

A. No, the men had to come in to sign up.

Q. Did you send out any men to come out to the Chamber of Commerce?

A. We put ads in the paper notifying the men about it.

Q. Who paid for those ads?

A. The Citizens League.

Q. The Citizens League—the Citizens Committee of the Chamber of Commerce?

A. The Citizens Committee of the Chamber of Commerce, yes.

Q. They paid for the ads, is that right?

A. That is the Citizens Committee that formed. I don't know whether they were members of the Chamber of Commerce; I don't know.

Q. They paid for those ads?

A. Yes, sir.

Q. And then you used the space in the Chamber of Commerce office?

A. We did.

Q. Yes, you did?

A. Yes, we had one room at that time.

Q. Did you send out men to the various homes to have the petitions signed?

A. No, sir. We did at first but about two weeks before that, we tried that.

Q. What date are you referring to when you say about two weeks before?

A. We wrote petitions and ran around and tried to sign up men on the street, and some went to the homes and asked them to sign but towards the last it got so that the men were afraid to sign them up and we dropped that method.

Q. Who paid for sending those men out to the various homes?

A. Nobody. That was done free of charge.

Q. Were any of those foremen?

A. No, sir.

Q. Can you name some of the men that went to the various homes?

A. Well, I understand Hoffman did.

Q. What is his position in the mill?

A. He is—I don't know if he is piler or inspector, one of the two in the billet shed.

Q. That is equivalent to a foreman's job, isn't it?

A. Oh, yes—no, he is not a foreman at all.

Q. Well, inspector job is equivalent of a foreman's job, isn't it? About the same rank?

A. I can't say that.

Q. Don't you know it is the same rank?

A. No.

Q. You don't know that? Well, is it higher than a foreman's job?

A. No, it is not a foreman's job, it is a common job.

Q. Now, do you say that none of the men who went out with those petitions were foremen?

A. Not that I know of.

Q. You say the first meeting—there was a meeting on July 6th, is that correct?

A. Yes, sir.

Q. Where did you say that meeting took place?

A. We met down in the pipe shop at noon hour.

Q. That was the day you went back to work?

A. Yes, sir.

Q. Whom did you speak to about getting permission for that room?

A. We didn't speak to anybody about it. We just took the—

Q. You didn't speak to anybody before the meeting was called?

A. No, sir, outside of—

Q. What time was that meeting called?

A. It was called at noon, 12 o'clock.

Q. How long did the meeting last?

A. Oh, about half an hour, little over.

Q. What other expenses were incurred by E. R. A., apart from printing of those cards, if any?

A. The Independent Association?

Q. No, I am talking about E. R. A., you collected about $20?

A. Employees Association?

Q. Employees Representative Association?

A. Employees Representative Association?

Q. You say that at the meeting you collected about $20 and had some cards printed, is that correct?

A. Yes, and we had a stamp made, too, that cost sixty cents.

Q. Did you pay for that, too, out of the $20?

A. Yes, sir, I paid some out of my pocket, too.

Q. Were you ever reimbursed for what you put out of your pocket?

A. Not yet.

Q. Do you expect to?

A. I don't care if I do.

Q. You don't expect Republic to pay for that?

A. Oh, I expect more than that in my days for labor.

Q. Did the General Body of the E. R. P. meet after April 12th, 1937?

A. What is that?

Q. Did the General Body meet, under the Employees Representation Plan—meet after April 12, 1937? April 12, was the day that the Supreme Court upheld the Wagner Act. Maybe I can refresh your recollection. You testified, I believe, that the Employees Representatives continued to handle grievances after the Act was upheld. Do you recall that?

A. That is with the foreman and superintendent we did, but I don't recollect of any meetings.

Q. You don't remember whether any General Body meetings were held?

A. I don't recollect that, no. But we kept on functioning the same as before. That is, committees seeing the foreman about grievances and superintendents.

Q. Well, this meeting you had, at which Mr. Carl Meyers left the room, wasn't that meeting of the E. R. P.?

A. Well, that is the time we changed over to the association.

Q. That was sometime after April 12, 1937?

A. No, that was the same day.

Q. The same day?

A. Yes, as soon as Mr. Meyers left why we got into a huddle.

Q. Well, it was after the Act was upheld that they told you they couldn't give you any more finances, is that correct?

A. Yes.

Q. It was after April 12th that you held this General Body meeting at which Mr. Carl Meyers left the room?

A. That was the same day.

Q. The same day, April 12th?

A. If Carl Meyers was there April 12th, that is the day it was.

Q. He would not have spoken to you before the Act was upheld, would he? He spoke to you after the Act was upheld?

A. Yes, sir.

Q. I am saying there was this General Body meeting after the Act was upheld, either on that day or any subsequent day?

A. It was the same day, as soon as he left, why we discussed our new organization.

Q. I do not think you understand my question, Mr. Linckenhely. Whatever the date was that Mr. Meyers came and spoke to you, that day certainly was the day the act was upheld or a day later, or a couple of days later, is that correct?

A. I believe that was a day later.

Q. Day later?

A. Day after.

Q. Day after?

A. Yes.

Q. And that was a meeting of the General Body of which you spoke, is that correct?

A. Yes, when Mr. Meyers called us in.

Q. And you were paid for attending that meeting, at any rate?

A. Yes.

Q. Have any grievances ever been taken up with the president of the company, as far as you know?

A. They had never got that far.

Q. It never got to the arbitration committee you referred to?

A. No, it didn't.

MR. LAUTER: That is all.

MR. DAY: That is all, right now.

TRIAL EXAMINER LINDSAY: Now, you say you have no more witnesses for today?

MR. DAY: We haven't any, this afternoon. I think I told you why, the situation I was in.

TRIAL EXAMINER LINDSAY: Well, you get all of those witnesses around for tomorrow morning, Mr. Day.

MR. DAY: Get them all here?

TRIAL EXAMINER LINDSAY: Yes.

(Discussion held off the record.)

(Whereupon at 4:30 p. m. September 13th, 1937, an adjournment was taken to 9:30 a. m. September 14, 1937.)

Council Chambers, City Hall,
Canton, Ohio,
Tuesday, September 14, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

JOHN T. LINDSAY, Trial Examiner.

Appearances:

MARK LAUTER, Esq., and
JOSEPH A. HOSKINS, Esq., appearing for the National Labor Relations Board.
LUTHER DAY, Esq., (Cleveland, Ohio), and
J. G. KETTERER, Esq., (Canton, Ohio), appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing will come to order.

NICK LINCKENHELY

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

Direct Examination

Q. (By Mr. Day) I want to ask you some questions today about this Back-to-Work movement. Who started that, if you know, in Massillon?

A. Well, there was a committee of six that started it; they were formerly representatives.

Q. Who were on the Committee?

A. I was, myself, Nathan Brown, Paul Hoffman, Henry Gonder, Sam Schilling—(To the Reporter) Is that six?

THE REPORTER: Five.

Q. Is that all you can name now?

A. Yes, at the present time.

Q. Now, what was the jobs of these men?

A. Well, we met the day of the strike; the following day—

Q. I mean, where did they work in the mill?

A. Well, they are all working men. The one works up in the office, the one works down in the billet shop, the one down in the blooming mill, I, myself, in the machine shop.

Q. Who became active in the movement after you started it?

A. Well, we went along trying to get the feeling of the men, trying to see what possibly could be done in getting the men back to work.

MR. LAUTER: I move that the remarks of the men with regard to their feeling be stricken from the record.

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: Yes, that may be stricken.

Q. Just tell what you did.

A. We went around to talk to different men, and they also contacted us up until the middle of June. Why, the men got pretty dissatisfied—

TRIAL EXAMINER LINDSAY: That is stricken from the record.

MR. DAY: Yes. Don't tell about that—

TRIAL EXAMINER LINDSAY: "Pretty dissatisfied" is stricken from the record.

Q. Were there any foremen in this movement?

A. Yes, there was two of them. They got in contact with us in the middle of June.

Q. Can you tell us their names?

A. Paul Rider.

Q. Now, he was the foreman in what plant of the shop?

A. Billet shop.

Q. To your knowledge, did he circulate any petitions of his at all?

A. Not that I know of.

Q. Who was the other foreman?

A. Emell.

Q. To your knowledge, did he circulate any petition of his at all?

A. Not that I know of.

Q. Were there any other foremen that you can recall who were active in this movement outside of those two men that you have mentioned?

A. No, there wasn't.

Q. Now, you have said the first man you have named was a foreman in one department. What department was the other one in?

A. The blooming mill.

Q. Now, you say the first meeting took place where?

A. It was over at my house; they came out to see me.

Q. And those six men were up there at that time?

A. Yes, sir.

Q. Now, just tell us what happened; don't give—

MR. LAUTER: May we have the date fixed?

Q. Fix the date as near as you can at the meeting at your house.

A. The 26th of May.

Q. That was right after the strike, wasn't it?

A. The following day after the strike was called.

Q. Well, who called that meeting?

A. They all came to see me.

Q. Well, do you know how they came to see you?

A. Well, being chairman, they naturally came up to see me the following day.

Q. Well, not "naturally", but did they come up to see you the following day?

A. The 26th day.

Q. Now, what took place at that meeting? Just tell what happened. Don't give your own conclusions or deductions from what happened, but tell what happened.

A. We talked about the strike, how quick it was pulled, and no reason whatever, they talked about it.

TRIAL EXAMINER LINDSAY: That "no reason whatever" is stricken from the record.

Q. (By Mr. Day) What, if anything, did you do? Answer the question directly, what, if anything, did you do at that time about a Back-to-Work Movement?

A. We talked about it, trying to contact the men in regards to it.

Q. And then after you talked about it, state whether or not you attempted to contact the men?

A. We did.

Q. By what means?

A. By talking to them on the street and forming little meetings.

MR. LAUTER: May I have the last answer read?

(The last answer read by the Reporter.)

Q. Were any petitions circulated?

A. Yes, sir.

Q. And when was that done?

A. About the middle of June when we started with petitions.

Q. Now, what became of those petitions? How were they circulated?

A. We gave them to different men that wanted to go out and get signers and we signed some ourselves.

Q. Well, now, what happened to those petitions?

A. There is one party I believe has got them yet but we did not pay no attention to those petitions any more after we started the big move.

Q. When was it you started what you have just called the "big move"? When was that? About when?

A. About the 20th of June, around there.

Q. The 20th of June?

A. Yes, sir.

Q. And what was done in connection with that move?

A. First we called a meeting at the City Hall.

Q. How was that meeting called? Was it advertised in any way?

A. By telling each of us—each one of us going around telling different fellows to be there.

Q. And what time? When was that meeting held? Let's have the date of that as near as you can remember, that meeting at the City Hall?

A. Might have been around the 20th of June.

Q. And how many attended that meeting?

A. There might have been in the neighborhood of 200 or 250, I can't exactly say the figures.

Q. Now, were there anybody there besides the men? I mean, were there any Chamber of Commerce people there or—

A. Not that I know of.

Q. —or Citizens Committee?

A. Not that I know of.

Q. What happened at that meeting?

A. A committee of us went in to see the Chief of Police and the Mayor and the Safety Director.

Q. And what happened?

A. We talked to them in regards to having police protection and told them that we wanted to get back to work.

Q. Now, after that what happened?

A. Do you mean after the meeting?

Q. Yes.

A. We arranged a meeting the following day at Willowdale.

Q. Willowdale? Where is Willowdale?

A. It is out on the other side of McDonaldsville.

Q. And did you have that meeting?

A. Yes, sir, we did.

Q. About what time of the day was that?

A. 2:00 o'clock in the afternoon.

Q. About how many attended?

A. There might have been 450 to 500 there.

Q. Now, what happened at that meeting? Just tell us about that in your own way.

A. Then we arranged—we talked about getting back to work, the men were very anxious of trying to get back, some of them were getting violent and we tried to—

TRIAL EXAMINER LINDSAY: Just a minute.

MR. DAY: That may go out by consent.

TRIAL EXAMINER LINDSAY: "Some were getting violent" is stricken out of the record.

Q. Just tell what happened at the meeting, not your own conclusions about what happened to the men or anything of that kind, but just tell us what happened and what took place at the meeting, that is all.

A. I talked at the meeting, and a couple more got up and talked, and they wanted some more of those meetings. So we arranged a meeting for two days later.

Q. Where was that meeting held?

A. At Sippo Park, yes, sir, it was.

Q. What took place generally at that meeting?

A. Well, we talked some more, and they were anxious of getting back to work, and kept on talking towards that way.

Q. About how many came to that meeting at Sippo Park?

A. There might have been 700 or 800 at that meeting.

Q. Were any other meetings of that kind held?

A. The following Monday there was a meeting held in front of the City Hall.

Q. About how many attended that meeting?

A. Around 600 or 650.

Q. Was the same general topic discussed?

A. Yes, sir, it was in regards to a protest, that they met there.

Q. Can you fix the date of that meeting in front of the City Hall, as near as you can, so we can have it and counsel for the Labor Board may have it?

A. I could not, unless I could get the calendar.

Q. Well, approximately is all you have to do.

A. It was the following Monday after the meeting at Willowdale.

Q. Well, all right, then, did you hold any more of that kind of meetings?

A. No, we tried to have one at Sippo Park, we advertised it strong, but we were stopped from holding it.

Q. By whom?

A. Chief of police.

Q. Switter?

A. Switter, yes, sir.

Q. Now, state whether or not your committee or the group to which you belonged had any conferences with anybody connected with the Citizens Committee?

A. Yes, we did.

Q. When did you first have any conferences with them?

A. About the 20th of June after we came here to see the sheriff, we went back to Massillon, we called on the Chamber of Commerce for assistance.

Q. And where did that meeting take place?

A. At the Chamber of Commerce office.

Q. And who else was there?

A. There was J. Lester, Glen Langham, Mr. Poe, Mr. Quinn from O. P. S., quite a number of others that I can't just name.

Q. That is all right, that is enough. What took place at that meeting?

A. Well, they all talked about the Back-to-Work

Movement and how to find a way and means of trying to get the men back to work.

Q. State whether or not there was any discussion at that meeting about a place, getting a place?

A. Getting what?

Q. A place for the men to sign or anything of that kind?

A. Why, no, they didn't.

Q. There was no such discussion?

A. That day there was nothing said about that, at that time.

Q. Then when did you meet again with somebody from the Citizens Committee or Chamber of Commerce?

A. Well, we met with them practically every day.

Q. What, if anything, was done about getting a place to have the men sign up?

A. I got that idea the following Monday—no, the following Tuesday after that mass meeting that we was going to hold it at Sippo Park. I got the idea that if we would have an office where the men could go and sign up to go back to work and really find out how many men wanted to go back to work.

Q. What did you do along that line?

A. I met Mr. Case on the main street and I put the proposition to him and he said: "Well, we will see about it." At the same time Mr. Langham came along, and Mr. Case asked him about it, and he said: "How about this Union Bank that is closed down; I guess we will be able to get that place." I said: "If we will be able to get it, that will be fine." We went to see the head men of the State Bank. We found out that they owned that place. Of course, right away they wanted $25,000 insurance on it. Well, we made arrangements to get that for them the next day but we was to start the following morning in signing the men up. The following morning when we came there to open up the place, well, they wouldn't let us open up. They wanted more insurance on it.

Q. Well then, what happened?

A. I got word that the Chief of Police wanted to see me so I went down with Paul Hoffman and Johnny Walsh and Fred Becker.

Q. Yes.

A. He tried to tell me not to do it so I told him, I says: "The men wanted to go ahead with it." And I says: "I can't see why I should stop it at this time." So he says: "Well, just wait a minute." And he called up the captain of the National Guards in Canton.

Q. Did you hear what was said?

A. I didn't; I heard his conversation that he told the Captain that I wanted to go ahead, and that I found a place to have the men sign up and go back to work, and afterwards the Chief, when he hung up, he told me, he says: "The Captain said you should not go ahead, you should call it off." In the meantime I met Case coming in the office and I asked him whether we could use his office upstairs to sign up the men because we couldn't get any other place, so he said: "Sure, go on use it." So the whole Committee went up there and we got the petitions ready and got a couple of desks lined up in the office, and we marked up the ad in the mill, and all the men knew about it, those on the street, and we—

TRIAL EXAMINER LINDSAY: "Knew about it" is stricken from the record.

Q. You said they were on the street—

A. They were on the street and waiting.

Q. They were waiting on the street. All right.

A. And a few of us went down and notified them to go down to the Chamber of Commerce office to sign up, and we started at 10 o'clock.

Q. Now, can you tell us what day it was that they started to sign the petitions in the Chamber of Commerce office as nearly as you can fix the time?

A. It was on Wednesday morning.

Q. I see we have a calendar on the wall there with August, September and October but I don't see June or July. Well, you say it was on a Wednesday. Can you fix the time approximately to your best recollection; the date it was?

A. How many days are there in the month of June?

Q. Was it the beginning or the end of June?

A. It was the end of June.

Q. Now then, what happened after that after you had this place set up? What happened?

A. Well, the men came up and signed. They would come in the office; they wanted to know where to sign, and we would ask them what department they belonged to, and told them what petition to sign.

Q. Now, how much of the time were you there? How much did you spend there?

A. Well—

Q. In the first place, how many days were consumed in the signing of this petition?

A. Wednesday, Thursday, Friday and Saturday of that week.

Q. Now, can you recall how soon after that or when it was that the mills opened up?

A. It was the week of that—that the mill opened up that week. The mill opened on Friday.

Q. Now then, were you with the men that signed up all of the time or part of the time?

A. Yes, sir, most of the time I was there; I was there anywhere from eight to ten hours a day.

Q. Did you see them sign up?

A. Yes.

Q. Tell us what was said to them.

A. They would come up and they would ask where to sign. We would ask them what department they belonged to and we showed them what petition to sign.

Q. Do you know where the petitions themselves were gotten up?

A. Why, the first petition was signed in the middle of June, and we used that headline—the same headline.

Q. Do you know who got up the headline? Who composed the headline?

A. As near as I can make it, Fred Becker and Johnny Walsh.

Q. Then you used the same headline?

A. Yes, sir.

Q. Now, I want to mark this Respondent's Exhibit 15. I will hand you a series of papers pinned together and marked for identification as Respondent's Exhibit 15 and ask you if you know whether those are the papers—have you examined those papers first?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 15 for identification.) A. Yes, sir.

Q. Can you state whether or not those are the papers that were signed in the Chamber of Commerce?

A. Yes, sir, they were.

Q. They were?

A. Yes, sir.

MR. DAY: I want to offer this in evidence in connection with the evidence of this witness.

MR. LAUTER: I want to object on the ground that it is incompetent, immaterial and irrelevant.

TRIAL EXAMINER LINDSAY: Well, I will take this under advisement. I haven't time now to go through all those papers.

MR. DAY: I understand.

Q. You didn't see all the names signed but you were there part of the time?

A. Yes, most of the time.

Q. You were?.

A. Yes.

MR. DAY: I will ask no more about it at this time.

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Mr. Linckenhely, you named some six men who were active in the Back-to-Work movement, is that correct?

A. Yes, sir.

MR. DAY: May I ask one more question of this witness?

MR. LAUTER: Yes.

Redirect Examination

Q. (By Mr. Day) Were you present when any adding was done on this?

A. Yes, sir.

Q. You didn't do the adding yourself?

A. No, the Committee that was up there at that time.

Q. How many names were added up there?

A. Why, there was something around 2500 but we took from those the Union Drawn Steel out of it and it left around 2200 for the Republic Steel Corporation.

Q. You didn't manipulate the adding machine yourself but you were there at that time?

A. Yes, sir, I didn't, but we counted them up.

MR. DAY: That is all.

Cross Examination

(Continued.)

Q. (By Mr. Lauter) Will you read that last question and answer?

(The last question and answer were read.)

A. Yes, sir.

Q. Now, did they include a Mr. Brown?

A. Yes, sir.

Q. Nate Brown?

A. Yes, sir.

Q. He was a representative of the E. R. P.?

A. Yes, sir.

Q. And an officer under the E. R. A.?

A. Yes, sir.

Q. And also active in the Independent Association?

A. No, he wasn't; just when we organized it.

Q. What was his position? I forgot what you said the day before.

A. He works.

Q. What was his position in the Independent Association?

A. Secretary. He was taking care of the shop.

Q. He did the same job under all three plans?

A. Yes, sir.

Q. Do you know a Mr. Hoffman?

A. Yes, sir.

Q. He is also an officer and representative in all three Associations called the E. R. P., the E. R. A., and the Independent Association?

A. Yes, sir.

Q. The third one was yourself?

A. Yes, sir.

Q. And you were Chairman of all three, is that correct?

A. Yes, sir.

Q. Now, I didn't get the names of the other three? What were they?

A. The other three what?

Q. The other three men who were interested?

A. Henry Gonder.

Q. Was he active in any of the other plans?

A. Yes, sir, he also.

Q. What was he in the E. R. P.?

A. Nothing outside of a member.

Q. A representative?

A. Yes.

Q. What was he under the E. R. A.?

A. Same thing; a representative.

Q. He was in the Independent Association?

A. He helped to organize.

Q. He was one of the Committee of 27?

A. Yes, sir.

Q. Who was the fifth one?

A. Sam Schilling.

Q. Sam Schilling?

A. Yes, sir.

Q. What was he in the E. R. P.?

A. He was a member of it.

Q. A representative?

A. Yes, sir.

Q. Was he also represented under the E. R. A.?

A. Yes, sir.

Q. And also the Independent Association?

A. Well, he was—

Q. He was a member of that first Committee of 27, is that correct?

A. Yes, sir. 16.

Q. 16?

A. Yes, sir.

Q. Who was the sixth one?

A. You have got Burkhart down here?

Q. Burkhart?

A. Yes, sir, Don Burkhart.

Q. He, of course, was a representative?

A. Yes, sir.

Q. Of the E. R. P. and the E. R. A.?

A. Yes, sir.

Q. And also was active among the 16 men in the Independent Association?

A. Yes.

Q. You testified about a meeting being held in your house on May 26th?

A. Yes, sir.

Q. At which six men were present?

A. Yes, sir.

Q. You recollect that?

A. Yes, sir.

Q. About what time of the day did that meeting start?

A. It was in the morning around 9 o'clock.

Q. Had you met those men the day before?

A. No, I didn't.

Q. Had you met with any of those men the day before?

A. No; it was the following morning that we got together on the strike.

Q. Had you met with any of those at all on May 25th?

A. No.

Q. You hadn't seen them at all?

A. No, we worked that day.

Q. Now, will you describe how they happened to come to your house at 9 o'clock in the morning?

A. Being Chairman, naturally, they came to see me along—

Q. No, not naturally.

MR. LAUTER: I move that that be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes.

Q. Did you tell them to come to your house?

A. No, I didn't.

Q. When they came to your house, did they come and make any statement as to why they come?

A. Yes.

Q. What did they say?

A. We spoke about the strike.

Q. Who spoke?

A. We all spoke about it. What is doing in regard to going back to work; what could be done; what action to take and so on and so forth.

Q. You say the meeting started about 9 o'clock in the morning?

A. Yes, sir.

Q. How long did it last?

A. Oh, about two and a half hours; around there.

Q. These men just dropped in on you or they called you before they came?

A. Some of them called me up before and I asked some of them and I spoke to some of them and told them; and the others came. They said Brown happened to be there.

Q. The men who called you on the phone, did they tell you that they were coming?

A. I suggested to them to come up; I wanted to talk to them. Paul Hoffman was there and at that time they took Brown, and I told the others to come.

Q. How many men came first before you spoke to the others?

A. Nathan Brown and Hoffman.

Q. They came?

A. No.

Q. They called you before they came?

A. No.

Q. They just dropped in?

A. They just dropped in.

Q. About 9 o'clock in the morning of May 26th some time around there, then the other three got in touch with you?

A. The other three called. Burkhart didn't call; he came up. The other two called and I told them to come up.

Q. You started this meeting at 9 o'clock the morning of May 26th and it lasted about two and a half hours?

A. Yes, sir.

Q. What were the concrete actions decided upon at that meeting?

A. Well, we didn't decide much of anything outside of wanting to see Chief Switter about holding a vote in the City Hall. We went and contacted him about it but he talked as if at the present time we was out.

Q. You discussed at that time the means by which the men would return to work?

A. Yes.

Q. You testified about a so-called little meetings that were called which were arranged by this group?

A. Yes, sir.

Q. That was up at the Chamber of Commerce, is that correct?

A. Yes, sir.

Q. Where were those meetings held?

A. They came out to Crystal Lake, my summer resort, that I am running, numerous times. We talked things over out there and we met on the street different times.

Q. This was for the purpose of inducing these men to go back to work, is that correct?

A. Yes, sir.

Q. Now, you talked about an advertisement; advertising about a meeting at Sippo Park, is that correct?

A. Yes, sir.

Q. What was the form that that advertisement took?

A. How?

Q. What was the form that that advertisement took?

A. It was a full page ad that we put in the paper about advertising the meeting that was going to be held at Sippo Park that afternoon.

Q. What was the date of this advertisement, do you recall?

A. If I recall it right, it was the Saturday before the men went back to work that we—

Q. What paper was that placed in?

A. In the Independent; the Massillon paper.

Q. Was any other form of advertisement used?

A. No, outside of telling the different men; contacting the men downtown.

Q. Was that the only advertisement that you placed in the papers?

A. That is, outside of one we put in when we started to sign the petitions.

Q. Did you put a full page ad at that time?

A. Yes, sir, we did.

Q. How many full page ads did you have in the Independent?

A. Two; one for the mass meeting and one for the petition to sign.

Q. How much did those ads cost?

A. That I don't know. I understood it was supposed to be $100.

Q. Were those paid for?

A. That I don't know. The Citizens League was supposed to offer to pay for them.

Q. The Citizens League offered to pay for them?

A. Yes, sir. They told us to go ahead; they will pay for it.

Q. What other expenses did they pay for?

A. Well, they printed these petitions for us, the Chamber of Commerce did.

Q. Yes.

A. Outside of that I don't know of any expense that there was.

Q. Who paid for the insurance that you obtained?

A. The Citizens League was going to pay for that, but it was not taken out.

Q. You didn't take out the $25,000?

A. No. After they wanted more, the following day, why we just dropped that.

Q. Did you make arrangements to take the $25,000, before it was dropped?

A. Yes, we did.

Q. With whom did you make those arrangements?

A. How?

Q. With whom did you make those arrangements?

A. With different insurance agencies. The insurance agency didn't want to take it all upon themselves, so they inquired around about three or four insurance agencies, I believe it was.

Q. Now, did you conduct the negotiations with the Citizens Committee or members thereof, for incurring these various expenses?

A. Yes, sir.

Q. With whom on the Citizens Committee did you carry on these discussions?

A. Well, we met in Mr. Elson Wefler's office.

Q. Who is Elson Wefler?

A. He was the attorney, him and Franklin Maier is connected with him. And J. Lester was there and Mr. Poe.

Q. Mr. who?

A. Mr. Poe, he is at the head of the Ohio Drilling Company, I understand. Mr. Hall from the First Savings & Loan Company.

Q. Mr. Case?

A. Mr. Quinn from the O. P. S. Mr. Shafer was there from the Shafer Lumber Company.

Q. Mr. Case was there?

A. Mr. Case. Mr. Lenham.

Q. How many times did you meet with this group at the Chamber of Commerce?

A. Oh, about a dozen times, I suppose.

Q. Did you meet with them prior to your placing this advertisement in the Independent?

A. You mean before we put the ad in the paper?

Q. That is right.

A. Yes.

Q. And did you discuss with them their incurring the expenses?

A. Yes, sir.

Q. Paying, rather, for the expenses that you incurred?

A. Yes, sir.

Q. That was true in respect to the other advertisement regarding the Back-to-Work Petitions, is that correct?

A. Yes, sir.

Q. And also with respect to the insurance?

A. Yes, sir.

Q. They agreed to pay for all of these expenses?

A. Yes, sir.

Q. Now, you testified about getting certain desks, were those desks immediately available in the office of the Chamber of Commerce?

A. Yes, they were right in the office, we just took one out of the next office they had there and put them together.

Q. Do you recall whether or not those advertisements indicated that the expenses were being paid by the Citizens Committee?

A. That was discussed and they agreed on doing it, paying the expenses.

Q. I am asking you whether the advertisements themselves indicates that the expenses of the advertisements were being paid for by the Citizens Committee?

A. What do you mean by "advertisements"?

Q. Did the advertisement itself indicate anything as to who was paying for it? The advertisement in the paper?

A. Well, that is what they told us, to go ahead and get it.

Q. I am asking you whether the advertisement in the paper indicated who paid for it?

(The last question read by the Reporter.)

MR. DAY: I want to say we are going to produce the advertisement.

TRIAL EXAMINER LINDSAY: Well, he has a right to cross examine him.

MR. DAY: Of course, he has.

A. No, I don't think they did. That was understood with the Independent and the Citizens League.

Q. Well, you testified about a Paul Ryder and Chick Emmel, that they were foremen, that they were active in the Back-to-Work Movement?

A. Yes, to a certain extent they were.

Q. Well, to what extent were they active?

A. Well, they met with us at the meetings and hauled us around in their machines and other small things of that kind.

Q. Well, tell us some of the other small things.

A. Outside of being at the meetings and talking things over with us.

Q. What are the other small things?

A. Chamber of Commerce meeting.

Q. Did they attend the Chamber of Commerce meeting at which arrangements were made for paying for these advertisements?

A. That I couldn't say.

Q. Well, did they attend any of those meetings with the Chamber of Commerce?

A. Yes, they did, yes.

Q. Did they attend any meetings at which the question of paying for the advertisements regarding the petitions was discussed?

A. I couldn't say.

Q. Do you know whether or not they attended meetings at which there was discussion concerning the insurance?

A. That I couldn't say, because Mr. Case and I discussed that among ourselves, at first.

Q. You and Mr. Case discussed the question of paying for these ads?

A. Yes, sir.

Q. Even before the Citizens Committee got together with the Back-to-Work Group?

A. No, not about the ads, but about the insurance.

Q. About the insurance?

A. Yes, Mr. Case said it would be taken care of.

Q. Did these foremen take you to the homes of various men?

A. What?

Q. Did these foremen take you to the homes of various employees?

A. No.

Q. What were their machines used for?

A. To go over there to see the sheriff, and then we took down to the Workhouse, we had to drive around before we could find him. And to go to different meeting places that we—where we had our meetings, out at Willowdale and then once they had a meeting out in the country at some party's farm.

Q. Whose farm was that?

A. Clyde Christy.

Q. Clyde what?

A. Clyde Christy.

Q. Who is Clyde Christy?

A. He was a catcher, I believe, in the sheet mill or something of that kind.

Q. Was he interested in the Back-to-Work Movement?

A. Yes.—Well, he was.

Q. Was he one of the 16?

A. No, no.

Q. How does it happen that a meeting was held out there?

A. That I couldn't say. I was told one morning that there was going to be a meeting held and they wanted me to come there. I didn't know a darn thing about it until this party came out there and got me.

Q. Who came out and got you?

A. Fred Becker.

Q. Was either Paul Ryder or Chick Emmel at that meeting?

A. If I can recall it right, Paul Ryder was there but not Chick Emmel.

Q. Did you go out to that meeting with Paul Ryder?

A. No, I was in another machine.

Q. Did Paul Ryder —

A. That Sam Schilling drove.

Q. Did Paul Ryder speak at that meeting?

A. There wasn't much speaking done. I done most of the speaking.

TRIAL EXAMINER LINDSAY: Just a minute. Answer the question, please.

(The last question was read by the Reporter.)

A. Not that I know of.

Q. Do you recall his speaking in any of these meetings?

A. Yes, at one of the meetings. At Willowdale he spoke.

Q. Where was that meeting held at Willowdale? Where in Willowdale was that held?

A. Where? Right close to the big hall there that they have got in the park.

Q. An outdoor meeting? Was this an outdoor meeting?

A. Outdoor, yes.

Q. About how many people were present there?

A. About four—350 or 400, around there.

Q. What did Paul Ryder have to say?

A. Well, he talked in regards to the way they were kept out of the plant and that so many men came to him, wanted to know if anything could be done about getting back to work.

Q. Did he speak about making arrangements for going back to work?

A. He spoke on that line.

Q. How long did he speak there?

A. How long?

Q. That is right, how long?

A. Oh, maybe five minutes.

Q. Now, what did Chick Emmel do? Was he present there at that meeting?

A. Yes, sir, he was.

Q. Did he speak?

A. Not that I can recollect.

Q. At what meetings did Chick Emmel speak?

A. I don't know that he spoke on any of them.

Q. You don't remember a single meeting at which Chick Emmel spoke?

A. I don't. I do not.

Q. Do you remember any other meetings at which Paul Ryder spoke, other than the Willowdale meeting?

A. If I can recall it right, I believe he spoke at Sippo Park, that meeting we had.

Q. Where was that meeting held at the park, was that an outdoor meeting?

A. Outdoor meeting, yes, sir.

Q. How many were present there?

A. What?

Q. How many were present there?

A. About 650 to 700.

Q. How long did that meeting last?

A. Oh, about two hours or a little longer.

Q. Who spoke at that meeting?

A. I did.

Q. Who else?

A. Fred Becker. Fellow by the name of Shriber from Union Drawn Steel, and a fellow by the name of Murphy, I believe, if I am sure, from Union Drawn Steel.

Q. Do you know what Murphy and Shriber's positions are at Union Drawn Steel?

A. No, I don't. I couldn't tell you.

Q. Do you know whether or not those are foremen?

A. No, he is not a foreman because he was a representative down there and he couldn't have been a foreman.

Q. Who was representative down there?

A. Mr. Shriber.

Q. How about Mr. Murphy?

A. I couldn't tell you that.

Q. Who was the other person who spoke besides yourself? Paul Ryder and who else?

A. Mr. Ryder, myself, Mr. Shriber, Mr. Murphy.

Q. You named one other person?

A. Fred Becker.

Q. What is Fred Becker's position?

A. Metallurgist.

Q. How long did Mr. Paul Ryder speak?

A. Oh, about three or four minutes.

Q. What did he have to say?

A. In regards to the same line of getting back to work.

Q. Making arrangements for going back to work?

A. Not making arrangements, but of trying to urge the men along, that wanted to get back to work.

Q. Urging men to get back to work?

A. Yes, to help.

Q. What other meetings did Paul Ryder speak at, besides at Sippo Park and Willowdale?

A. I don't know of any others.

Q. Was he present at the meeting at City Hall?

A. Yes, he was present.

Q. What did he do there?

A. He was one of the committees when we went in to see the chief and the mayor, at that meeting, the first meeting that was held.

Q. Did he speak at that meeting?

A. He didn't have much to say.

Q. Did he speak at that meeting?

A. No, he did not.

Q. Didn't he say a word?

A. Not at the meeting. There wasn't practically anything said at all, at the meeting. After we came out of the chief and mayor's office why we had the chief and the mayor to talk to the men.

Q. Well, did he speak to the chief and the mayor at the conference which you held with the chief and the mayor?

A. He might have asked them a few questions, when we were asking.

Q. Do you remember what they were?

A. No, I don't.

Q. Well, state what activities, what he said or what he did at any time during that day when that conference was held at City Hall?

A. Well, Fred Becker and Johnny Walsh and I done most of the talking.

Q. What did Mr. Paul Ryder do?

A. He attended that meeting, he was there.

Q. What did he say?

A. I could not tell you that.

Q. You don't remember?

A. I don't remember if he said anything.

Q. What other activities were there by Mr. Paul Ryder, apart from what you have already related, namely his attendance and speaking at the meeting at Sippo Park, Willowdale and attending the City Hall Meeting, also driving around in his machine on various occasions?

A. He attended some of the Citizens League meetings with the Chamber of Commerce.

Q. In other words, he participated in this Back-to-Work Movement just the way the rest of the 16 did, is that right?

A. Just to a certain extent.

Q. Do you know how the Citizens Committee was formed?

A. It came about through the Chamber of Commerce.

Q. Well, do you know anything about the initiating—the initial stages?

A. It happened at the time when that priest spoke at Washington Heights.

Q. Do you know who organized the Citizens Committee?

A. That is when it started, yes.

Q. Do you know who organized it?

A. I think the Chamber of Commerce done it.

TRIAL EXAMINER LINDSAY: Well, if you don't know, don't tell us what you think.

A. That is as close as I can recollect.

Q. You testified that petitions were signed in the Chamber of Commerce office?

A. Yes.

Q. Were they signed any other place?

A. Not those last petitions.

Q. Well, any petitions? Any Back-to-Work petitions?

A. Those that we started were signed on the street, and some fellows went to the houses and we signed them wherever we met anybody, we asked them to sign the petition. They had those in the middle of June.

Q. Did Mr. Paul Ryder help you with getting those petitions up?

A. Not that I know of.

Q. Was he active with the committee at the time that the petitions were gotten up?

A. He met with us but he didn't take much action in regards to—

Q. Well, whatever action your committee took, he was present when that action was taken, is that correct?

A. At some of the meetings. Not all of them.

Q. He was present at those meetings at which action was taken on Back-to-Work petitions, wasn't he?

A. Most of those meetings were held on the street.

Q. Was he or wasn't he present at meetings at which action was taken on Back-to-Work petitions?

A. Well, at some of them, yes.

Q. Can you fix the date when he first became active?

A. I could not.

Q. Fix it as nearly as you can?

A. Well, that is a hard thing to do.

Q. Well, was it before the strike or the day after or June or July?

A. No, it was around the middle of June.

Q. Do you know how he became active? I mean, did he come to you or did you call for him or what?

A. No. They had a committee appointed, Chick Emmel, him and Johnny Walsh, Fred Becker, and they came and contacted with us. We had already met in regards to that.

TRIAL EXAMINER LINDSAY: Just a minute, read the answer.

(The last answer read by the Reporter.)

Q. You say he had a committee appointed?

A. I won't say that Paul Ryder did.

Q. Who did?

A. He and Chick Emmel were a committee that came in contact with us when we first started with the petitions.

Q. Did that committee have any name?

A. How?

Q. Did that committee have any name?

A. No.

Q. Do you know how it was formed?

A. No, they just met on the street and came and met with us.

Q. Do you know when it was formed?

A. Around the middle of June.

Q. You say they started to meet with you when you started to get up the Back-to-Work petitions, is that correct?

A. Yes.

Q. You say they had already met with you? What do you mean by that?

A. I didn't say that.

Q. Well, I got the impression that you said that prior to that time they had met with you, is that correct or isn't it? That is, prior to the time when you started to get up the Back-to-Work—

A. That was after the middle of June.

Q. Did they start meeting with you at or about the time when you started to get out the Back-to-Work petitions? Is that correct?

A. Yes, sir.

Q. And they assisted you in that work?

A. Yes.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) I wanted to ask you one question. I notice on these petitions here that the Examiner has under advisement, there are some numbers after the men. What are those numbers?

A. Check numbers.

Q. Check numbers?

MR. DAY: That is all, sir.

(Discussion held off the record.)

(Witness excused.)

LLOYD G. HERSHBERGER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name, please?

A. Lloyd G. Hershberger.

Q. Is that Lloyd George Hershberger?

A. Yes, sir.

Q. Where do you live?

A. 917 Concourse, S. W., Canton.

Q. In Canton?

A. Yes, sir.

Q. Where are you employed, Mr. Hershberger?

A. Time department, Republic Steel, Canton.

Q. How long have you worked at Republic Steel?

A. About four years.

Q. Were you working on the night of May 25th, 1937?

A. Yes, sir.

Q. What happened that night?

A. Do you mean—

Q. Well, was that the night of the strike?

A. The night—

Q. Was that the night of the strike?

A. Well, there was —

Q. No, I am just asking you. There is no dispute about it. It was the night of the strike, was it?

A. Yes, sir.

Q. How long did you keep on working there after that?

A. Until the night of the 30th of June. No, I beg your pardon, I think it was the 24th of June.

Q. And did you leave at that time?

A. I did.

Q. Will you please describe the circumstances under which you left the plant?

A. Well, I wanted to go home and I felt that under the conditions it wasn't safe for me to go home without protection.

MR. LAUTER: I object to this statement "not safe for me to go home".

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: Will you step up here a minute?

(Consultation held, off the record.)

(The last question was read.)

A. My son was sick, had been for some time, became quite serious and the doctor thought that—

Q. Not what the Doctor thought. Was there any communication of any kind between any member of your family and yourself, while you were in the plant?

A. Yes, sir.

Q. By what means?

A. By telephone up until the time that the wires were cut. And then by letter.

Q. Now, on the night of the 24th of June that you said you left the plant—

MR. LAUTER: I object to "up until the time that the wires were cut" and move it be stricken.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. On the night of the 24th of June when you left the plant, state whether or not anybody got in communication with you.

A. Yes, sir, I talked to her by telephone.

Q. Your wife?

A. Yes, sir.

Q. Now, what if anything did she tell you about any condition existing at home?

A. I talked to her twice that day. The first time she said the boy was very sick; his temperature was up to 104; and I told her I would come home if I could. I called her later again in the evening and she said the child specialist had been out. They were going to have a consultation that evening. The doctor would be back again in the morning. They said she [he] would have to be taken to the hospital.

Q. After you got that message did you take up the matter with anyone in the mill?

A. I did.

Q. Whom?

A. With the Chief Clerk and—the Chief Clerk in the Superintendent's office.

Q. What is his name?

A. Fred Werner.

Q. Afterwards state whether or not you left the mill.

A. Yes, I did.

Q. Where did you go?

A. I went home.

Q. By what method did you go home?

A. I might say I had talked to Werner about two days before about going home. He asked me if I wanted to go home then and I said: "No, I don't want to go today." I said I wanted to know if means could be provided to take me home if it became absolutely necessary to go home. Then on the night of the 24th I went up to his office and I told him the boy was worse. I asked him if I could go. He asked me if I wanted to go right away. I said: "No; it is not necessary to go immediately." I said: "But I would like to go home immediately." He said: "Just wait a minute; wait a little, we will have to make arrangements to go out in the police cruiser." Then he called, and he came back out again; I would say five or ten minutes and said a police cruiser was coming and bringing a representative from the Governor's office. He said if it was all right if I could wait and I said: "Yes." I waited until they came in, and took the representative from the Governor's office out, and they took me home.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Do you know who the representative of the Governor's office was?

A. He was the Captain of the National Guard but I don't recall his name.

Q. What kind of work do you do in the plant?

A. Well, practically any work that goes in connection with timekeeping. Do you want me to go into details?

Q. What plant is that?

A. At the present time?

Q. Yes.

A. The Canton plant.

Q. The Canton plant?

A. Yes.

Q. During the time that you stayed in the mill after May 25th until June 24th, how many hours a day did you work?

MR. DAY: I want to object to this on the ground that it is not within the scope of the direct examination and under no circumstances is it proper cross-examination.

TRIAL EXAMINER LINDSAY: Objection overruled. Note an exception.

MR. DAY: Exception.

MR. LAUTER: Will you read the question?

(The last question was read.)

A. Well, I can't say exactly; I didn't keep a record. Some days more than others.

Q. You were timekeeper?

A. Yes, sir.

Q. And you don't keep a record of your own time?

A. Yes, sir.

Q. Any approximate idea how many hours you averaged?

A. Well, some days, sometimes 10, and sometimes 12.

Q. How much did you get paid for?

A. You mean—may I ask a question? You mean under normal conditions or under the strike?

Q. I mean the period that you were in the mill.

A. From May 25th until June 24th?

Q. Yes, from May 25th until June 24th. When you were in the mill is the period we are discussing. Can you give us some idea of the average number of hours?

A. I would say the average number of hours can't be over 8 or 10.

Q. How many hours did you get paid?

A. I got paid by the month.

Q. Did you get paid for more than 8 or 10 hours?

A. No.

Q. Sure of that?

A. I said I got paid by the month regardless of how many hours I put in.

Q. Did you get the same pay that you received prior to the strike?

A. Yes, sir.

Q. What is your pay?

MR. DAY: I object to that; I don't think it is material.

MR. LAUTER: I withdraw the question, Mr. Day.

MR. DAY: All right then. I will withdraw the objection.

Q. When did you return to the mill again?

A. On the morning of July 2nd.

Q. How did you happen to return on that day?

A. Because that was the day following when the National Guards were in giving protection, and the men going back, and I read in the paper that on Thursday morning, I believe it was, that the men were going back and I called in to find out whether they were going back and forth, and they did, and I went in that morning.

Q. Who informed you?

A. I beg your pardon?

Q. Who informed you that they were going to work?

A. I am not quite sure. I talked to a couple of men. I tried a number of times to get somebody on the telephone; I am not absolutely sure who it was.

Q. Who was your foreman?

A. Frank Jones.

Q. Did you speak to him?

A. Yes.

Q. What did he say?

A. I asked him whether I could go in with him in the morning, or whether he was driving so I could ride in with him. He said he was going in with another party, and I don't remember just what man was that. After that I called Carl Glepenstein.

Q. Yes. You had a conversation with him?

A. He said I could. I met him at Walnut.

Q. Whom did you meet?

A. What.

Q. Whom did you meet?

A. I met him.

Q. Who?

A. Carl Glepenstein.

Q. What is his position?

A. He works in the cost department.

Q. Was Frank Jones going in with Glepenstein?

A. No, sir.

Q. Did you go in with Glepenstein?

A. Yes, sir.

Q. On July 2nd?

A. Yes, sir.

Q. Now, it is not clear to me the conversation that you had with Frank Jones. Will you repeat that again, please?

A. I told him I wanted to go back in again, and I asked him if I could go with him, if he was driving, if I could drive along with him. I didn't want to walk. He said he was riding with another party—so I think that was about the end of the conversation.

Q. Did he suggest to you about speaking to anybody else about getting into the mill?

A. I can't say that I recall.

Q. Do you recall Glepenstein?

A. I do.

Q. Did you call him at Jones' suggestion?

A. What?

Q. Did you call him at Jones' suggestion?

A. Yes, sir.

Q. Then you drove in with Glepenstein, is that correct?

A. That is right.

Q. Did Jones tell you whom he was taking in?

A. I beg your pardon?

Q. Did Jones tell you whom he was taking into the mill?

A. He wasn't taking anybody in.

Q. He said he was driving in with another party?

A. No, he was going in with another party; another party was driving.

Q. Did he tell you who that other fellow was?

A. Clem Adair, I believe.

Q. Do you know his position in the mill?

A. Yes, he works in the cost department.

Q. Jones was the foreman of this man?

A. Yes, sir.

MR. LAUTER: That is all.

THE WITNESS: (Continuing) That is, he is a foreman over Adair, not over Glepenstein.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will take a short recess.

(Recess had.)

ROOSEVELT BROWN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. Roosevelt Brown.

Q. Is your first name Roosevelt?
A. Theodore Roosevelt Brown.
Q. Where do you live?
A. 1427 Second, S. E.
Q. Canton?
A. Yes, sir.
Q. Do you work for Republic?
A. Sure.
Q. How long have you worked for Republic?
A. Four years.
Q. What is your job there?
A. Grinding.
Q. What plant did you work in there?
A. I beg your pardon?
Q. At what plant did you work?
A. What?
Q. What shop; what plant?
A. Department 5; billet shift.
Q. The main plant?
A. I beg your pardon?
Q. The rolling mill?
A. No, the grinding department.
Q. The grinding department?
A. Yes.
Q. Were you in there when the strike was called?
A. Yes.
Q. How long did you stay in?
A. 28 days.
Q. When did you leave?
A. I believe June 22nd.

Q. Now, on the day that you left, just tell us the circumstances. What happened the day you left?

A. Well, I had a telegram from my sister in Washington, D. C. that she was on the point of death.

Q. What did you do then?
A. Well, I notified the Superintendent.

Q. Which Superintendent?

A. Mr. Hopkins.

Q. Did you talk to anybody else at the plant outside of Mr. Hopkins?

A. Not concerning going away.

Q. Well, what took place between you and Mr. Hopkins? What happened?

A. Well, I told him the condition, that I received a telegram from my sister in Washington that she was on the point of death, and I would have to go out under some conditions. Well, I didn't know how I was going to get out and he said he was sorry to hear the sad news, and I said I was going some way, and he told me to go ahead but be careful.

Q. And did you get out?

A. Yes.

Q. How did you get out?

A. Under police protection.

Q. How did you get the police protection?

A. Well, they sent me out from the office—from the employment office.

Q. Did you get home?

A. Yes, sir.

MR. DAY: I believe that is all.

Cross Examination

Q. (By Mr. Lauter) Did you say that Mr. Hopkins didn't know how you were going to get out?

A. Well, I told—I stated the condition.

TRIAL EXAMINER LINDSAY: Just a minute. Read the question.

(The last question was read.)

A. He asked me how I was going to get out. I told him I was going to get out anyhow.

Q. Did you ask him to arrange for your getting out?

A. No, I didn't.

Q. When did you have this conversation about getting out?

A. June 22nd.

Q. Is that the day that you got out?

A. Yes, sir.

Q. Where did you speak to Mr. Hopkins?

A. I beg your pardon?

Q. Where did you speak to Mr. Hopkins?

A. Down in the plant.

Q. How long did the conversation take?

A. Just a few minutes. I guess it only took that long because I was in a rush to get out.

Q. What did he say to you?

A. I told him that I received word from my sister in Washington that she was on the point of death; that the telegram was for my mother to come down. I had to get out at once. I didn't ask him to arrange for anything. I went to the employment office. The employment arranged for me to get out.

Q. Didn't Mr. Hopkins say when you told him you had a telegram—what did he say when you told him you wanted to get out?

A. Well, he said he was sorry to hear the sad news and to go ahead.

Q. Was it at that time that he said he didn't know how you were going to get out?

A. He asked me how I was going to get out and I told him I was going out.

Q. He asked you how you were going to get out?

A. Yes; I imagine he was going to arrange—

Q. Don't tell us what you imagine.

TRIAL EXAMINER LINDSAY: Will you read that question and answer?

(The last question and answer were read.)

A. He asked me how I was going to get out.

MR. LAUTER: I move to strike out what the witness imagines.

TRIAL EXAMINER LINDSAY: Yes. That may be stricken from the record.

Q. At that time, Mr. Hopkins asked you or said to you that he didn't know how you were going to get out?

A. That is correct—

Q. Is it not correct?

A. No.

Q. Now, what did he say?

A. He asked me how I was going to get out and I told him I would get out.

Q. Now, what did he say to you?

A. I told him I would get out.

Q. Did you ask him to make arrangements to get out?

A. No.

Q. Did he suggest to you that he would make arrangements to get you out?

A. No, I didn't get time.

Q. You didn't get time for what?

A. To make arrangements.

Q. Did he suggest to you that he would make arrangements to get you out? Didn't he tell you that?

A. I don't remember if he did or not. To be fair, I was kind of excited; maybe he did. I know he would have anyhow.

MR. LAUTER: I object to "I know he would have anyhow" and ask that it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That may be stricken.

Q. Then whom did you go and see after you spoke to Mr. Hopkins?

A. Well, I caught a few thoughts and I went up to the main office.

MR. LAUTER: I object to what the witness caught a few thoughts and ask it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That may be stricken.

Q. Where did you go?

A. To the main office.

Q. Whom did you speak to there?

A. Mr. Ake; and the General Superintendent.

Q. The General Superintendent?

A. Yes.

Q. Who is the General Superintendent?

A. I can't just recall his name right now.

Q. Did you tell Mr. Ake and the General Superintendent about your conversation with Mr. Hopkins?

A. Yes.

Q. Did you tell them that Hopkins asked you how you were going to get out?

A. No, that wasn't mentioned.

Q. You didn't say a word about that to them?

A. No.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) What did you tell Mr. Ake and the General Superintendent?

A. I told him I received a telegram from my mother in Washington that my sister was on the point of death and to come at once.

Q. What did they say then?

A. Well, I asked him to arrange to be left out, before they had time to say anything I asked them to arrange because I hadn't any way of getting out; there was so many pickets outside.

Q. What did they say?

A. They said they would arrange.

Q. How long after that did you leave?

A. What?

Q. How long after that did you leave the plant?

A. I imagine it was a half an hour or so; I didn't notice the time.

MR. DAY: That is all.

Recross Examination

Q. (By Mr. Lauter) Did you try getting out during the hour and the half hour that you referred to?

A. What?

Q. Did you try getting out during that time?

A. All I tried—

Q. Yes.

A. I made only an effort.

Q. Did you try?

A. Yes, I made one effort to get out on the train.

MR. LAUTER: That is all.

(Witness excused.)

DALLAS L. HOSTETLER

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Ketterer) What is your name?

A. Dallas L. Hostetler.

Q. You live in the City of Canton?

A. That is right.

Q. What is your occupation?

A. I am Secretary of the Canton Chamber of Commerce.

Q. How long have you been Secretary of the Canton Chamber of Commerce, Mr. Hostetler?

A. About three years.

Q. Are you connected with the Chamber of Commerce during that period?

A. Yes, sir, I was.

Q. For what period have you been connected with the Chamber of Commerce?

A. I have been associated with the Chamber of Commerce for 12 years.

Q. As Secretary?

A. Yes, sir.

Q. Were you Secretary in May, 1937?

A. Yes, sir.

Q. I will ask you, Mr. Hostetler, whether or not you recall having a meeting with the employees of the Republic Steel Corporation in May, 1937?

A. I do.

Q. Where was that meeting?

A. The meeting was held at our office.

Q. Can you tell us approximately the date of the meeting?

A. The date of the meeting was either Friday afternoon, May 28th, or Saturday, May 29th. Saturday morning, May 29th.

Q. Now, who was present at that meeting, if you know?

A. There was present at that meeting a committee of Republic Steel employees. The Chairman of which was a Mr. Geltz. Included in which were a Mr. Teeter, a Mr. Deffenbaugh, and four or five other gentlemen whose names I don't recall.

Q. Had you ever seen any of those men prior to that time?

A. Not to my knowledge.

Q. Now, did you have any conversation with them there on that day?

A. I did.

Q. Now, give us the substance of the conversation that you had with these men in your office on that day?

A. The gentlemen who came to our office stated that they were a committee of Republic Steel Employees and that they represented at least 3500 Republic Steel employees whom they knew wanted to return to work. They asked us whether they might devise some means of taking a vote among the Republic Steel employees in Canton to determine how many wanted to go back to work, how many did not or rather to prove their point that they did represent 3500 employees whom they definitely knew did want to go back to work.

Q. Now, going back just a moment. Do you recall of an attempted election at the City Hall a day or so after the strike in the city of Canton?

A. Yes.

MR. LAUTER: I object to that question as leading the witness.

TRIAL EXAMINER LINDSAY: Yes, I will sustain that objection.

MR. KETTERER: All right, I will withdraw the question.

Q. You may state whether or not, Mr. Hostetler, you recall of any attempted election at the City Hall in the city of Canton a day or so after the strike?

MR. LAUTER: I renew my motion.

TRIAL EXAMINER LINDSAY: Yes, I will sustain it.

(On the record.)

Q. (By Mr. Ketterer) Mr. Hostetler, what, if anything, took place?

TRIAL EXAMINER LINDSAY: Just a minute.

MR. KETTERER: I will withdraw that question, your Honor, and strike that. Consent to that.

Q. (By Mr. Ketterer) Mr. Hostetler, do you recall of any occurrence at the City Hall prior to this meeting that took place in your office?

A. Well, in following our conversation with the committee, the committee pointed out that a strike had been called at the Republic Steel Corporation at Canton on May 25th and then at a day or two later—if I may refer to my notes—on Thursday May 27th they advised me an attempt had been made to hold a strike vote at the City Auditorium in Canton.

MR. LAUTER: Excuse me, I want to object to what they advised this witness.

TRIAL EXAMINER LINDSAY: Yes, and that "strike vote" that is out.

Q. (By Mr. Ketterer) Was this a part of the conversation, Mr. Hostetler?

A. This was part of a conference, because they were trying to convince us that there was something to be done here in the city.

MR. LAUTER: Object to what they were trying to convince this witness of, move that it be stricken out of the record.

TRIAL EXAMINER LINDSAY: That is stricken out of the record.

Q. (By Mr. Ketterer) I will ask you to state, Mr. Hostetler, whether these men told you at that time that this vote was to determine whether or not they wanted to go back to work

A. That is right.

MR. LAUTER: Object to that question as leading; I move the answer be stricken.

TRIAL EXAMINER LINDSAY: Well, it should be, but I will let it stand. Let the record show an exception.

MR. LAUTER: Exception.

Q. (By Mr. Ketterer) Now, will you proceed with the conversation that you had with these men there at this conference in your office?

A. Beginning again with the motive of their visits at our office—

MR. LAUTER: I object to what the motive at their office was.

TRIAL EXAMINER LINDSAY: Yes, that is stricken out of the record. Now, listen, Mr. Witness, you are under oath.

THE WITNESS: That is right.

TRIAL EXAMINER LINDSAY: And quit putting in things as to your ideas. You can only tell what the facts are and what transpired. Now, we do not care anything about your theory in this case. Well, then, leave your theories out of your answers.

(The last question read by the Reporter.)

MR. LAUTER: Did you fix the time of that conference? If so, I do not recall it.

MR. KETTERER: I think he did, either Friday afternoon or Saturday.

TRIAL EXAMINER LINDSAY: On the 28th or 29th.

MR. KETTERER: The 28th or 29th?

MR. LAUTER: Thank you.

A. Mr. Geltz and his committee told us that an attempt had been made to hold a vote at the City Auditorium and that that particular vote had been picketed and that the mayor of the city of Canton had cancelled or discontinued or stopped the voting at the City Auditorium because of that fact. "Therefore," they said, "we are asking you whether the Chamber of Commerce can by any means take a vote of Republic Steel Employees to determine whether or not a majority of the employees want to go back to work or want to strike."

TRIAL EXAMINER LINDSAY: Now, the last part "or want to strike" is out of the record. The strike was already called and in existence for three or four days.

THE WITNESS: I should have said "or wanted to continue the strike."

TRIAL EXAMINER LINDSAY: Well, what you should have said and what they told you are two different things. Now, you were talking about a conversation.

THE WITNESS: I can't quote them exactly, Mr. Examiner.

TRIAL EXAMINER LINDSAY: Well, if you can't quote them exactly, don't try to fill in with what you wish to put over here as perfect English.

Q. Now, Mr. Hostetler, following that conference what, if anything, did you do?

A. I called a meeting of—I asked our president to call a meeting of our Board of Directors.

Q. And was such a meeting had?

A. Yes, sir.

Q. What, if anything, did the Board of Directors decide to do in that connection?

A. The Board of Directors had a meeting on Saturday evening, immediately following our conference with these gentlemen, Saturday morning. May I refer to my notes for the date?

TRIAL EXAMINER LINDSAY: Well, that is--

A. Well, anyway, Saturday, immediately after these gentlemen had been to our office. That meeting was held at our office. The sole purpose of it was to decide whether or not we should take action upon the request that that particular committee had made of us, and if we decided to take action upon that request, what procedure we should follow in carrying out the request.

It was decided at that meeting of our Board of Directors that a poll by mail, by secret ballot, should be made of all Republic Steel employees in Canton, the poll to be made by sending a first class envelope to each Republic Steel employee in Canton, enclosed in which was a letter explaining why we were taking such a poll, and at the bottom of which was a ballot on which they might vote and vote to go back to work or to vote to stay out or "I do not care to cast my ballot." Something of that nature.

Q. Now, what, if anything, did you do following that action by the Board of Directors?

A. I contacted Mr. Carl Meyers of the Republic Steel to ask him whether or not the Canton Chamber of Commerce might secure from him a certified list of the names and addresses of all Republic Steel employees in Canton.

Q. And what did Mr. Meyers tell you, if anything?

A. He asked me why I wanted it and I told him of the action of our Board of Directors.

Q. Now, I will ask you, Mr. Hostetler, whether or not, up to that time, you had had any contact with respect to this vote, with any executive or officer of the Republic Steel Corporation?

A. Not up to that time, I had not.

Q. Now, what, if anything else did Mr. Meyers say?

A. Well, he suggested that in addition to getting his views on the matter that I probably should discuss it also with officials of his company at Cleveland.

Q. And did you go to Cleveland then?

A. I did.

Q. And when was that?

A. I went to Cleveland on Sunday, May 30th.

Q. And with whom did you talk when you went to Cleveland?

A. I talked with Mr. Voss.

Q. Of the Republic Steel Corporation?

A. That is right.

Q. Now, what conversation did you have with Mr. Voss in a general way about this?

A. Well, I told him of the visit we had at our office by Republic Steel employees committee, I told him of the action taken by our board of directors, then I repeated my request for a list, a certified list of the names and addresses of Republic Steel employees.

Q. What, if anything, did Mr. Voss say as to giving you that list?

A. He said he thought he would be able to provide it for me.

Q. Now, did you have a proposed form of ballot with you then?

A. I did have.

Q. And what, if anything, did you do with that?

A. I showed him a copy of the letter and the ballot which we proposed to mail to employees of this company.

Q. And after you showed it to him, what, if anything, did you do with it?

A. I told him that I would need to know how many such letters and ballots I would have to have printed. And I also told him that we were very anxious to have the ballots printed outside of the city of Canton for two reasons, one of which was so that the ballot might not be duplicated or counterfeited so easily, and secondly so that it would not be possible for any employees of the Republic Steel Company to know of the vote being taken until they received their ballot in the mail.

Q. All right, what further conversation did you have with Mr. Voss then?

A. I asked Mr. Voss whether he knew of a printer in Cleveland to whom I might go, to have the ballots printed.

Q. And what did he say?

A. And he told me he might call several printers and see whether he could locate a printer who might be available over the holiday to do the work I had to do.

Q. And did he locate a printer?

A. He did locate a printer.

Q. Well, then, what if anything did you do with the ballot, after a printer was located up there that day?

A. I went to the printer's shop, his workshop and gave him the copy of the ballot and of the letter, and discussed with him the fact that it was a job which had to be done in a hurry, and a job which we were particularly anxious could not be duplicated.

Q. Now, who, if anybody went with you to the printer's establishment up in Cleveland?

A. A young man who was employed by the Republic Steel Corporation took me to the printer's place of business.

Q. Did anybody go in there with you?

A. The young man — I do not recall whether the young man went in with me or not.

Q. Now, did you have those ballots prepared?

A. Yes.

Q. Do you have a copy of that letter and the ballot with you?

A. I do.

Q. May I have it, please?

MR. KETTERER: Mark that, please.

(The document above referred to was marked as Respondent's Exhibit No. 16 for identification.)

MR. KETTERER: Does your Honor wish to examine it before we have testimony?

TRIAL EXAMINER LINDSAY: Yes, I would like to see it.

MR. KETTERER: I will hand you, Mr. Hostetler, a paper which has been marked with the identification of Respondent's Exhibit No. 16 and ask you if you can tell us what that is.

A. That is the official letter written by the Canton Chamber of Commerce to all employees of the Republic Steel Corporation, at the bottom of which is one of the official ballots used in the mail election or mail vote.

MR. KETTERER: We offer this in connection—

TRIAL EXAMINER LINDSAY: Strike out that word "election."

MR. KETTERER: I beg your pardon?

MR. LAUTER: I object to it on the ground incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: I am inclined to take the exhibit under advisement.

Q. Now, do you recall when it was that you received those letters from Cleveland; the attached ballots?

A. They were delivered to us by the printer on the morning of Monday which was Memorial Day, or the 31st of May.

Q. Now, who was it that brought these ballots to your office, if you know?

A. I don't recall who brought them to our office.

Q. Now, Mr. Hostetler, what if anything was done with these ballots after they were received in the Chamber of Commerce office?

A. Those ballots were in our offices and we called the Republic Steel Headquarters asking them to make available to us a staff of girls and men in sufficient number to fold and enclose, stamp, and seal all of the votes; all of the ballots that were to be mailed out.

Q. When was that done?

MR. LAUTER: I beg your pardon. Will you read that answer?

(The last answer was read.)

MR. KETTERER: Now, will you read my question?

(The last question was read.)

A. That was done on Monday, May 31st.

Q. How many ballots were mailed out?

A. Approximately 6500.

Q. Do you have the exact number?

A. I do have, yes.

Q. Will you tell us the exact number that were mailed out?

A. The official report of the judges of the balloting provides that number exactly.

Q. By the way, Mr. Hostetler, in connection with this plan of voting, was there any arrangement made as to the manner of counting the ballots after they were returned?

A. Yes, the arrangement was that we were immediately to get a committee of three judges for this voting, said committee to be composed of clergymen of the City of Canton; said committee to begin immediately its work of supervising, not only of the mailing but all other processes incident to the voting.

Q. Who were on that Committee?

A. On that Committee was Rev. O. C. Mees, of the Martin Lutheran Church. Rabbi Charles T. Latz of McKinley Avenue Temple; and Father Rothenberger of St. Benedict's Catholic Church.

Q. Now, were any of those clergymen present at the time these ballots were being mailed out?

A. They were.

Q. And during what period of time were they present?

A. Well, I would say between the time that all three clergymen and myself, that there was always one or two of us on hand while the ballots were being prepared for mailing.

Q. Did you receive a certified list of employees from the Republic Steel Corporation; employees in the City of Canton?

A. I did.

Q. When in respect to the time that this mailing proposition was started?

A. I can't tell you. I don't remember the date.

Q. Now, what was done with these ballots when they were returned?

A. When the first ballots began gathering, we placed them immediately in our safe, and when they grew to sufficient number within a day or two we packed them in a box and sealed them, and took them and put them in the safety deposit vault of the Harter Bank; and I delivered other subsequent ballots as they were received.

Q. Now, in connection with the original mailing of those ballots, what is the fact as to whether the employees of the Canton Tin Plate were originally omitted?

A. I believe that the employees of the Canton Tin Plate Corporation were originally omitted from the list submitted to us, but the error was discovered within several days, and ballots were sent to all Canton Tin Plate employees on the certified list made available to us by the Republic Steel Corporation.

Q. Now, can you tell us the date upon which these ballots were counted?

A. These ballots—these ballots were counted on June 7th, I believe.

Q. Who was present when that count was made?

A. The staff of girls and the three clergymen and myself and perhaps a few of our own office employees.

Q. Where was that done?

A. It was in our office.

Q. Now, do you have the result of that counting available?

A. Yes, sir.

Q. May I see that, please?

A. Yes, sir.

(The witness hands a paper to Mr. Ketterer.)

MR. KETTERER: May I have this marked as Respondent's Exhibit No. 17 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 17 for identification.)

Q. I hand you here a paper that has been identified as Respondent's Exhibit No. 17 for identification and ask you if you can tell us what that tells?

A. That is the official report of the three clergymen who consented to serve as judges in the voting taken by the Canton Chamber of Commerce of Republic Steel employees and gives results of that particular voting.

MR. KETTERER: We offer this in connection with the testimony of Mr. Hostetler.

MR. LAUTER: Objection on the ground that it is incompetent, irrelevant and immaterial and outside of the case. I want to object further to any inquiry along this line on the ground that it is outside of the scope of the issues in this case and in no way related to it. Whether a vote was taken has nothing to do with the issues in this case. The characterization of this witness as the result being official means absolutely nothing except that he thinks it is official.

MR. DAY: May I suggest that we continue our evidence on this? The transaction won't take much longer and then we will have the whole matter passed on.

TRIAL EXAMINER LINDSAY: I am going to take the admissibility of Respondent's Exhibit 17 under advisement.

THE WITNESS: Can you permit me to make a statement?

TRIAL EXAMINER LINDSAY: No, I will not permit you to make a statement in which no question is asked. You are just a witness.

(Discussion off the record.)

Q. Now, Mr. Hostetler—

TRIAL EXAMINER LINDSAY: Just a minute. The objection of Mr. Lauter as to the striking of all this man's testimony and further examination is also taken under advisement for the time being.

Q. Now, Mr. Hostetler, were you present when these ballots were counted?

A. I was.

Q. Was anything developed in connection with the ballots that were returned as to being the same ones that were sent out?

MR. LAUTER: I object to the question as leading the witness.

TRIAL EXAMINER LINDSAY: Read the question.

(The last question was read.)

TRIAL EXAMINER LINDSAY: Yes. That last part of that phraseology of that question is absolutely leading. Now I don't think there is any necessity to ask a witness of this type any leading questions.

MR. KETTERER: All right.

Q. Now, Mr. Hostetler, was any comparison made of the ballots that were returned?

A. Yes, there was. We made a comparison of a sample ballot on one that we had left over with those which were returned.

Q. What did that comparison reveal among the ballots that were returned with the sample ballot that you had there?

A. Well, it revealed—if my figures are correct—that 3600 of the ballots, or approximately according to this report, 3600 or more were valid ballots. 2516 ballots returned were counterfeit ballots.

Q. Now, when you say—

TRIAL EXAMINER LINDSAY: Now, that "valid" is stricken from the record.

Q. Now, this number of 3600. How did that compare, Mr. Hostetler, with the sample ballots that you retained in your possession?

A. Well, my figure is approximately—the report of the judges shows how many were returned but about 2600 of the ballots were all of one kind.

Q. What kind were they?

A. They were of the same kind as those that were sent out.

Q. Now, were there other ballots received?

A. There were 2516 returned which were not of the kind that were sent out.

Q. Now, did you make any comparison and inspection of the 2516 ballots that were returned?

A. Yes, I did.

Q. Tell us what difference there was between those ballots and the ones that were sent out.

A. The ballots which were sent out were of a certain width which were intentionally cut one-eighth of an inch off of the standard width that the printer used. They were of a very obsolete kind of bond paper and they were—the—

TRIAL EXAMINER LINDSAY: May I see the ballot?

A. (Continuing) And they were of a bond paper which is not in common use; not easily available. They were an eighth of an inch either longer or shorter than the other ballots which were compared—which we compared them with. The perforation rulings were of a certain width, and the process by which they were made were of a process of a type face. The only one which didn't appear exactly as this was the ballots which were counterfeited and they varied an eighth of an inch in width, had different perforation rulings, were of a very inferior grade of paper as compared with the ballot stock we used, and I believe were printed by a photographic process which clearly—

MR. LAUTER: I object to what the witness believes.

MR. KETTERER: That may go out.

MR. LAUTER: I object to any further description as unnecessary as to the description of the ballots.

TRIAL EXAMINER LINDSAY: Yes. That is immaterial.

Q. Now, was there any comparison made of the envelopes?

A. There was.

Q. What did that reveal?

A. The type face on the return address was not the same on 2516 envelopes as it was on the return envelopes we sent out.

Q. Now, what if any other action did you take as Secretary of the Chamber of Commerce in having these 2516 inspected?

A. We had a Committee of three or four local printers come to our office and look at both kinds of ballots and tell us whether they were all printed at the same time, in the same way, on the same paper, and in the same form.

Q. Now—

MR. LAUTER: Will you fix the date of that, if you can?

Q. When was that, by the way, Mr. Hostetler? Can you tell us when that was?

A. I can't fix the date, no.

Q. What did those printers tell you about these 2516 ballots?

A. Those printers told us—our Committee—that the 2516 ballots apparently were counterfeit; they didn't look at all the 2516 you understand—they looked at a number of samples of those, and they were plainly counterfeit, and that the 3600 and some ballots were like those which were sent out as did Mr. Schoenberg, the gentleman who printed the ballots and who made an affidavit to that effect.

Q. Did he come down from Cleveland to inspect them?

A. He did.

Q. Now, who paid the expenses of this balloting?

A. The Canton Chamber of Commerce.

Q. How much did the amount come to, approximately?

A. I thin kthe postage and printing cost about $450 or $500.

MR. KETTERER: That is all.

Cross Examination

Q. (By Mr. Lauter) You were Secretary of the Chamber of Commerce?

A. That is right.

Q. You were Secretary for three years, is that correct?

A. Yes, sir.

Q. You are a Republic Steel Corporation member?

A. Sure.

Q. When did they become a member?

A. I haven't the least idea when they became a member.

TRIAL EXAMINER LINDSAY: Will you read that second question back?

(The last question was read.)

Q. Is the Republic Steel Corporation a member of the Canton Chamber of Commerce?

A. Yes, sir.

Q. When did they become a member?

A. More than 12 years ago.

Q. Who were some of the other members?

A. Of the Canton Chamber of Commerce?

Q. That is right. Are they local industries?

A. Do you want me to go into classifications?

Q. Are they local industries?

A. They are business and professional men, retailers, commercial houses, and industrials.

Q. Now, how many members are there on the Board of Directors?

A. 15.

Q. Are any of the officers of the Republic Steel Corporation on the Board of Directors?

A. An executive of the Berger Manufacturing Company is on the Board of Directors.

Q. When you say the Berger Manufacturing Company you are referring to a plant owned by the Republic Steel Corporation?

A. That is right.

Q. What is the name of that individual?

A. L. S. Hammocker.

Q. Now, how many meetings have been held since May 25th, the day of the strike?

A. Of what?

Q. Of the Board of Directors of the Chamber of Commerce?

A. Since May 25th?

Q. That is right.

A. I would say about five meetings of our Board of Directors.

Q. Were any meetings held directly prior to May 25th?

A. I don't recall. The meeting of May 25th was a special called meeting; was a special meeting.

Q. Now, did Mr. Hammacher attend any of the five meetings?

A. Mr. Hammacher has attended one of the past six or seven meetings of our Board of Directors.

Q. Do you know whether or not at the particular meeting he attended whether matters affecting the strike were discussed?

A. Not at all; that meeting was held a week before he attended.

Q. Did he attend the meeting of May 25th?

A. He did not.

Q. What was the last meeting before that, that he attended?

A. Mr. Hammacher, because he is out of the city so much—

MR. LAUTER: Object to "because he is out of the city so much."

TRIAL EXAMINER LINDSAY: Yes, leave that out. Now, you do not have to start making excuses for this gentleman at all. You can tell what you know and forget the rest.

(The question read.)

Q. When was the last meeting?

A. I haven't the least idea.

Q. Do you know how long before the strike?

A. Well, it wasn't within a month or two of the strike, I know that.

Q. Was he the only official of the Republic Steel Corporation that is on the Board of Directors?

A. Yes, sir.

Q. Where do you hold meetings in the Canton Chamber of Commerce? Board of Directors' meetings?

A. Our board of directors' meetings are usually held at luncheon, at the Onesto Hotel.

Q. You don't recall the date of the meeting which Mr. Hammacher attended?

A. Mr. Hammacher attended one of the few meetings, our board meetings that he has attended, within the last ten days, at the Onesto Hotel.

Q. You are stating that no matters affecting the strike were discussed at that meeting?

A. Absolutely not.

Q. Were minutes taken at that meeting?

A. Of the very last meeting we held?

Q. The meeting that Mr. Hammacher attended?

A. Yes.

Q. Have you got those minutes with you?

A. No.

Q. Those are regular minutes which you have, as secretary of the Chamber of Commerce, in your office?

A. Sir?

Q. Now, the other meetings that were held subsequent to May 25th and including May 25th special meeting, were minutes of those meetings taken?

A. Yes, there were.

Q. Do you have those in your office?

A. Yes, sir.

Q. Can you produce those today?

A. Sure.

Q. Will you bring them back after lunch, please?

A. Yes, sir.

Q. Now, sometime in May, 1937, Mr. Frank Geltz and a group of other Republic employees came to the office of the Chamber of Commerce and spoke to you, is that correct?

A. That is right.

Q. Had you seen Mr. Frank Geltz before?

A. Not to my knowledge.

Q. Well, you know whether you saw him or not, don't you? You are testifying about your own knowledge, aren't you, on these matters?

A. Well, that is the first that I met him to know him. Yes.

Q. Now, who were the other members of that committee?

A. Well, of the committee, I recall the names of only three. Mr. Geltz, Mr. Teeters and Mr. Deffenbaugh.

Q. Do you know what connection Mr. Frank Geltz has with the employees representation plan, or did have?

A. I don't.

Q. Did you know at that time?

A. I didn't, at that time.

Q. Didn't you know that he was chairman, or rather representative under that plan?

A. No, sir.

Q. You stated that he told you that this group represented some 3500 men in the mill who wanted to go back to work, is that correct?

A. That is right, that is right.

Q. Did you ask him what evidence he had of representation?

A. Well, we questioned him at length regarding that. He and his committee, to make sure.

Q. You say "we." Whom are you referring to when you say "we"?

A. The president also, I think, was there. President Mr. Helbig, at that conference, or some other director of the chamber. I do not recall who it was.

Q. Yes.

A. We wanted to be absolutely sure that what he said was correct.

MR. LAUTER: I move that the last remark of the witness be stricken.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. (By Mr. Lauter) Did you question him as to his representation?

A. No.

Q. When he said that he represented some 3500 men, you asked no questions as to whether or not that was accurate and true?

A. He didn't say that. He stated he and his committee represented 3500 men.

Q. That is right, and you asked him no questions, is that correct?

A. Well, we had a conference, I do not recall specific questions.

Q. That is what I am asking you, whether you recall asking him any questions concerning whether or not he actually represented those men?

A. Yes.

Q. You don't remember asking any questions?

A. No, I remember asking him questions about it.

Q. What were those questions?

A. I do not recall.

Q. You can't recall a single question?

A. No, I recall that the answers that he gave me were sufficient to convince me, that his statements appeared to be true, to the extent that we were satisfied—

MR. LAUTER: I move that the last remark of the witness be stricken as to what appeared to satisfy him.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. (By Mr. Lauter) You can't recall a single remark that he made in that connection?

A. I have previously quoted—

Q. I am asking you whether you can remember a single remark that he made in that connection?

A. In what connection?

Q. In connection with his representation of 3500 men, or the representation by that committee?

A. Not except that he said that he and his committee represented.

Q. I heard that statement.

A. That is all I can—

Q. Is there any other remark that you can remember?

A. That is all I can remember that he—

Q. Do you remember a single question that you asked him about that subject?

A. I would not say that I can remember a question that I asked him.

Q. Now, you have testified about a conversation with Mr. Carl Meyers?

A. That is right.

Q. That you called him, to get a certified list of employees?

A. That is right.

Q. And prior to that there was a Saturday evening meeting of the board of directors?

A. Correct.

Q. Do you recall that meeting?

A. I beg your pardon?

Q. Do you recall that meeting, that Saturday evening?

A. Of our board of directors?

Q. Yes.

A. That is right.

Q. Who was present at that meeting?

A. Present at that meeting were members of our board of directors including Mr. E. J. Helbig, our president, he is also president of the Sanitary Milk Company—

Q. I am not asking you for a description of their position. Who was present? Give the names.

A. Mr. Helbig, Mr. Vodrey, Mr. Grady.

TRIAL EXAMINER LINDSAY: Do you have to look at those names? You ought to know who was there.

THE WITNESS: I can't testify without looking at my records, as to exactly which members of our board attended that Saturday evening meeting.

Q. (By Mr. Lauter) Do you remember any others that were present?

A. I remember that Mr. Helbig—

MR. DAY: Just a minute, Mr. Examiner. I ask that if he cannot testify without refreshing his recollection—

TRIAL EXAMINER LINDSAY: This is cross examination, Mr. Day, and if he can't, he has made a statement that he can't—

MR. DAY: I suggest that he be allowed to consult any records he has.

TRIAL EXAMINER LINDSAY: He has all those names written down on the outside of this cover which contains some papers, and every time he gives a name he looks over and takes it off of the cover on this paper. Now, this is cross examination.

MR. LAUTER: I respectfully submit, Mr. Examiner, that I have a right to examine this witness as to his independent recollection.

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: Certainly that is within the scope of cross examination.

TRIAL EXAMINER LINDSAY: If he doesn't know, of course, he has a right to say he doesn't know.

MR. DAY: That is all right, he has a right to refresh his recollection.

Q. (By Mr. Lauter) Now, are you testifying that you cannot remember a single other name of a person who attended that meeting Saturday evening, apart from Helbig, Vodrey and Grady?

A. Helbig, Vodrey and—

Q. Yes, and Grady?

A. Grady.

Q. Who else?

A. And other members of the board present were, Mr. Thurin, Mr. William H. Miller. Further than that I cannot give you any names without my record.

Q. Who is Mr. Helbig?

A. Mr. Helbig is president of the Sanitary Milk Company.

Q. Who is Mr. Vodrey?

A. Mr. Vodrey is managing editor of the Canton Repository.

Q. Grady, who is Mr. Grady?

A. Mr. Grady is a foreman at the Pennsylvania Railroad.

Q. Who is Mr. Thurin?

A. Mr. Thurin is a merchant.

TRIAL EXAMINER LINDSAY: If you have no objections or if you do not want to finish the cross examination, I want to adjourn to 1:15.

(At 12:00 m., an adjournment was taken to 1:15 p. m.)

Afternoon Session

(Whereupon, at 1:15 o'clock p. m., the hearing was resumed and the following proceedings were had):

TRIAL EXAMINER LINDSAY: The hearing will come to order.

MR. LAUTER: Will you read back several questions and answers?

(Last three or four questions and answers were read.)

DALLAS L. HOSTETLER

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

Cross Examination

(Resumed)

Q. (By Mr. Lauter) Who is Mr. Miller?

A. Mr. Miller; Mr. William H. Miller is an attorney.

Q. An attorney?

A. That is right.

Q. Now, have you those meetings that you referred to this morning?

A. I do have.

Q. Do you mind if I look at them?

A. Yes, sir, here they are (handing some papers to Mr. Lauter). I can help you find them.

Q. Will you find the minutes of May 25th; the special meeting to which you referred to this morning?

A. Yes.

Q. Now, you discussed the conversation which you had with Mr. Carl Meyers. Can you recall that?

A. Recall what?

Q. Recall the certified list of employees?

A. That is right.

Q. About when did you contact Mr. Meyers?

A. I contacted him after the meeting of our Board of Directors on—it was held on a Saturday evening.

Q. That was the Saturday evening after May 25th and May 29th, is that right?

A. That is right.

Q. Did you call him on the phone or did you go to see him personally?

A. I may have called him on the phone first and I did go to see him personally, I believe.

Q. Where did you go to see him?

A. I went to see him at the Onesto Hotel.

Q. About what time of the day did your conversation take place with Mr. Carl Meyers?

A. I don't recall.

Q. Was it in the morning or the afternoon?

A. Afternoon, yes. I mean it was afternoon time.

Q. It was after the Saturday evening following May 28th and 29th?

A. Yes.

Q. How long did you stay with Mr. Meyers?

A. I don't recall.

Q. A half an hour or four hours?

A. I can't recall; I don't know how long I was with him.

Q. You have no idea of the length of time you stayed with him?

A. No.

Q. I mean, tell when it was, half an hour or a day.

A. Well, I saw him after our meeting of Saturday evening and it couldn't have been a half an hour because I was—I went home after I had seen him that night.

Q. Now, let me get this straight. You say after our meeting of Saturday evening. You are referring to the Board of Directors?

A. That is right.

Q. You saw Carl Meyers after that?

A. That is right.

Q. Where did you see him then?

A. At the Onesto Hotel.

Q. About what time of the evening was that?

A. Well, it was probably within an hour or so after our meeting adjourned.

Q. About what time did the meeting adjourn?

A. I haven't the least idea.

Q. At 12 or 1 or 2?

A. I don't know.

Q. Do you know when it started?

A. The minutes would show when it started, yes.

Q. We will look at the minutes later. They do not appear to show the time either of the commencement or end of the meeting. But that meeting was held in the evening, was that correct?

A. That is right.

Q. On Saturday evening, May 29th?

A. That is right.

Q. After that meeting was over, you went to the Onesto Hotel and saw Mr. Carl Meyers?

A. That is right.

Q. Will you state what conversation you had with Mr. Carl Meyers when you saw him there on that evening?

A. I said that our board of directors had decided at a meeting just held within the hour or two, to send a ballot by mail to all employees of the Republic Steel Corporation in Canton.

Q. What did Mr. Meyers say?

A. Well, in response to my request for a certified list, which I told him I would have to have, he said he thought I could get it, but that I probably should consult some officials of the Republic Steel at Cleveland for final permission to get it.

Q. Did he say that he would get permission, or that you would have to get permission?

A. I don't recall which he said.

Q. Now, had you seen Mr. Meyers prior to that Saturday evening you are now relating, May 29th?

A. I don't recall whether I had or not. But not in connection with this matter, if I had seen it.

Q. Had you ever seen him on any business connected with the Chamber of Commerce?

A. Oh, yes.

Q. Well, you do remember seeing him, don't you?

A. Certainly.

Q. And you saw him on business connected with the Chamber of Commerce?

A. Yes.

Q. Was that since the strike?

A. I have seen him on various matters of business both before and after the strike.

TRIAL EXAMINER LINDSAY: Just a minute. Read that question, Mr. Reporter.

(The last question read.)

TRIAL EXAMINER LINDSAY: Now, was it since the strike or not?

THE WITNESS: Yes.

Q. Had you seen him prior to the strike?

A. Yes.

Q. How long prior to the strike?

A. Well, I have seen him on numerous occasions ever since he has been—

Q. What was the first time prior to the strike that you saw him?

A. I haven't the least idea.

Q. Did you see him in connection with matters affecting Republic employer and employee relations?

A. Never have.

Q. Either before or after the strike?

A. No, sir.

Q. Apart from your conversation on May 29th?

A. Not to my knowledge.

Q. Well, have you seen him since May 29th?

A. Yes, sir.

Q. What was the next time you saw him after May 29th?

A. I don't know when it was.

Q. Approximately when?

A. Well, I have seen him numerous times since that.

Q. Did you see him within a week after May 29th?

A. Undoubtedly I did, yes.

Q. Well, didn't you confer with him, then, about employer and employee relations?

A. I don't know what you mean by that because that is not a part of our business.

Q. Did you discuss the matter of the vote there?

A. I discussed the matter of the vote with him, on the Saturday evening when I went to ask him for the certified list of names.

Q. Is that the only time you discussed the matter of the vote with him?

A. No, that is not the only time.

Q. When was the next time that you discussed the matter of the vote with him?

A. I don't know.

Q. Well, give me your approximate date? I am not trying to pin you down to dates. I want you to give an idea of approximately how soon after June 29th you spoke to him.

A. Well, I saw Mr. Meyers very frequently, sometimes once every other day, and it is quite possible that during the week after the strike a vote was taken, that I saw him every other day or every day. I do not recall.

Q. Well, do you recall what you discussed with him during that period?

A. I would not have the least idea.

Q. You can't remember a single thing that you spoke to him about?

A. No. Because I can't remember any one specific time that I went to see him about anything.

Q. Let's see if I can't help you.

A. All right.

Q. When you got back from Cleveland, did you speak to him about the vote?

A. When I got back from Cleveland?

Q. That is right, after you saw Mr. Voss, didn't you speak to Mr. Meyers?

A. Well, I may have reported to him that—yes, I probably saw him and reported to him that it was—it was agreed at Cleveland that Republic Steel would furnish us with the names and addresses of Republic Steel employees.

Q. Yes.

A. And from what point on, he was authorized to secure for me or give me, from his Canton office records, those names and addresses.

Q. Now, do you recall any other conversation you had along the same line with him? Or anything that he said? Is that all?

A. That is all that I recall.

Q. Did he state whether or not he himself had personally called Cleveland to check on whether or not your statement to his attorney was confirmed and correct?

A. I don't recall whether he did or not.

Q. As far as you know, he accepted your statement that Cleveland authorized him to do those acts that you have related?

A. I presume he did as to my statement but no doubt he checked with the Cleveland office.

MR. LAUTER: I move to strike from the record "no doubt he checked." I am not interested in that.

TRIAL EXAMINER LINDSAY: Yes. That may go out.

Q. Now, you received a certified list of employees. From whom did you get it?

A. I got it from the paymasters of Berger Manufacturing Company and Republic Steel.

Q. Did you go yourself personally to get it or was it brought to you?

A. I think it was brought to me.

Q. Now, those showed the employees as of what date?

A. I believe the affidavits accompanying the names give that information. I can't give it to you. I would have to check my records to see.

Q. Did you ask for employees as of any particular date?

A. Yes, I asked for the most recent and most correct list of employees available; perhaps the names of employees on the payroll a week prior to the strike.

Q. Is that what you asked for?

A. Not specifically, no, but approximately. I don't remember what I asked for.

Q. Did you ask for it in writing or over the phone or in person?

THE WITNESS: Will you read that question?

(The last question was read.)

A. Well, I didn't ask in writing; I may have asked in person or I may have asked by telephone.

Q. You don't recall which?

A. I don't recall.

Q. Did you ask for all the employees from the production and maintenance employees?

A. I asked for all employees of the Republic Steel in Canton.

Q. Do you know whether the list with which you are furnished was of all the employees?

A. The affidavits state that.

Q. So that that vote which was taken or the ballots which were given out was a list of all employees?

A. All employees of the Republic Steel.

Q. That would include foremen, clerical workers and other men in the production and maintenance department, is that correct?

A. I think that is right.

Q. Including officials of the Company?

A. I think not.

Q. Do you know or don't you know?

A. To the best of my knowledge, it didn't include the names of officials of the Company.

Q. Do you consider a general superintendent an official?

A. I am not qualified to say.

Q. Did you check that list to see whether or not it included general superintendents?

A. I would not want to say whether I did.

Q. Do you know whether you did or didn't you; don't you know?

A. The affidavit which was presented—

Q. Did you or didn't you check the list to see whether or not it included general superintendents?

A. I didn't check to see for that particular classification because there are numerous classifications; I probably checked some—

Q. I am not interested in your different classifications. I am interested in your best recollection of what you actually did.

A. My best recollection is—

TRIAL EXAMINER LINDSAY: Will you read the question?

(The last question was read.)

TRIAL EXAMINER LINDSAY: Read that question once more to the witness.

(The last question was once more read.)

MR. LAUTER: I respectfully submit to you, Mr. Trial Examiner, that this witness is capable of a yes or no answer. I object to this fencing on the part of the witness.

TRIAL EXAMINER LINDSAY: Yes, he can answer.

Q. I am quite sure that the Judge's—

TRIAL EXAMINER LINDSAY: Answer that question yes or no

A. I probably didn't.

MR. LAUTER: I again move that the answer be stricken. I am not interested in this witness' probabilities.

TRIAL EXAMINER LINDSAY: Answer the question. Did you or didn't you?

Q. Don't you know whether you did or didn't?

A. Those judges that—

MR. LAUTER: I object and again respectfully move your Honor to strike that remark from the record.

TRIAL EXAMINER LINDSAY: Mr. Reporter, read the question once more to the witness. That means did you check, Mr. Witness?

A. To the best of my knowledge, I did not personally check that list to see whether it included general superintendents.

Q. You find a great difficulty in answering that question yes or no.

A. I have found a great difficulty in answering that question.

Q. Now, you visited Cleveland on May 30th, is that correct?

A. The date, please?

Q. May 30th you testified you visited Cleveland?

A. Yes, sir.

Q. That was a Sunday?

A. That is right.

Q. How did you go there?

A. I went there with an employee of the Republic Steel Corporation.

Q. What was his name?

A. I don't recall his name.

Q. How did you happen to go?

A. I was instructed—

Q. How did he happen to go with you, Mr. Hostetler?

A. He was instructed to drive me there; I believe by Mr. Meyers.

Q. When did Mr. Meyers instruct that employee, if you know?

A. At the time—at the time he told me I should go to Cleveland to see some of the officials of the Company.

Q. That was on May 29th?

A. It was.

Q. Now, you are testifying under oath that you don't remember the name of the man whom you drove to Cleveland with, is that correct?

A. I don't recall his name. I doubt whether I would know him if I saw him. I would not want to guess his name.

Q. I am not interested in a speech. Just tell me whether you know it or not.

A. I would not be able to tell you his name.

Q. You don't know, is that correct?

A. I don't know it.

Q. Now, did he drive you back also?

A. Yes, sir, he did.

Q. How long did you stay in Cleveland?

A. I stayed in Cleveland probably from 10 in the morning until 6 o'clock in the evening.

Q. You didn't pay for that transportation, did you?

A. I didn't.

Q. Were any other expenses paid by Republic?

A. I don't recall any other expenses.

Q. Did you pay for your own meal that day?

A. I wouldn't recall that; I haven't the slightest idea.

Q. Now, you spoke to Mr. Voss there, is that right?

A. I spoke to Mr. Voss.

Q. Do you know who Mr. Voss is?

A. Yes, sir.

Q. Do you know what position he has with the Company?

A. Yes, sir.

Q. When did you speak with him; on Sunday, May 30th?

A. I spoke with him over—very shortly after I arrived in Cleveland.

Q. About what time did you arrive there?

A. Oh, between 9:30 and 10 o'clock in the morning.

Q. When did you leave Canton?

A. Oh, about two hours prior to that time.

Q. How long did you speak with Mr. Voss?

A. I haven't any idea; not very long. It was a very short time.

Q. A half an hour?

A. Not any more than that.

Q. Where did you speak to Mr. Voss?

A. At the Republic Steel offices.

Q. In Cleveland?

A. That is right.

Q. You testified that Mr. Voss sent an employee with you to a printer. You have given the name of that printer as Schoenberg?

A. That is right.

Q. Is that a Republic Steel Corporation printer?

A. I don't know.

Q. What were you told when a Republic employee was sent with you to that printer?

A. I was told that the Republic Steel Corporation knows that particular gentleman.

Q. Mr. Voss told you that he knew him?

A. Yes, sir.

Q. Did he tell you whether or not he had worked —whether he had done work there by Republic before?

A. He may have told me that. That is right.

Q. Have you been billed by that printer for the ballots?

A. Yes, sir.

Q. And the envelopes?

A. That is right.

Q. You say that bill has been paid?

A. That bill has been paid.

Q. It approximates $500?

A. No, that bill approximates between $175 and $185.

Q. What account was that paid out of; can you tell us?

A. Out of our general Chamber of Commerce budget.

Q. What particular account in that budget?

A. I wouldn't say we had any particular account. We have a general budget which we use for various Chamber of Commerce expenses.

Q. Well, you have a budget that includes salaries?

A. Yes, sir.

Q. And headquarters?

A. Yes, sir.

Q. Posters and a number of other items?

A. Yes, sir.

Q. In what category did you pay for the expenses of printing those envelopes and ballots?

A. Our records would show that. I wouldn't want to testify in any particular category or expenditure but our records would show that.

Q. It would show the particular category but you don't recall offhand?

A. No, sir, I wouldn't.

Q. Was there any special assessment in connection with that expense?

A. No, sir, there wasn't.

Q. Was there any contribution by any firm?

A. No, sir, none whatever.

Q. Was there any contribution?

A. No, sir.

Q. Was there any special assessment?

A. No, sir.

Q. Only various dues that have been paid?

A. Yes, sir.

Q. When are those dues paid?

A. When are those dues paid?

Q. That is right.

A. They are paid at various times depending on the time when the member joins because they are billed once each year. The date each member joins until the following year.

Q. Do you happen to know when Republic dues become due?

A. No, sir, I don't; it might be May 1st or October 1st.

Q. I want you to state as fully as you can the conversation you had with Mr. Vose on May 30th.

A. I told Mr. Voss what I had told Mr. Meyers, that our board of directors in following out a request of a committee of Republic Steel employees, had decided to take a vote by mail of Republic Steel employees; and that in order to take that vote we would absolutely have to have a certified list of the names and addresses of all Republic Steel employees, and that his office being the only place where we could get such a list, we were coming to him and asking him to give it to us.

Q. Now, after— And then Mr. Voss suggested the name of Mr. Schoenberg, is that right?

A. Yes, sir.

Q. And sent you with an employee of Republic down to his office or his place of business?

A. That is right.

Q. Did you return again that day to speak to Mr. Voss?

A. I am quite sure that I didn't.

Q. How long did you stay down at the printer?

A. I stayed with the printer for, oh, possibly an hour or two.

Q. Who drove you to the printer's?

A. The same gentleman who took me to Cleveland.

Q. And you were accompanied by an employee of Republic on that ride to the printer?

A. The gentleman who drove me was a Republic Steel employee.

Q. Is that the same employee you are referring to?

A. That is right, the same one.

Q. He knew about the printer, Schoenberg?

A. No, he and I were given the name and address of the printer and we drove to that name and address and found the printer there.

Q. What conversation did you have with the printer?

A. I told the printer that I represented the Canton Chamber of Commerce; that I wanted him to print me a letter and a ballot in the quantity of 6500. That I needed the work done as quickly as I could get it, and that particular pains should be taken in preparing it so it could not successfully be duplicated.

Q. Did you prepare a form of ballot and letter?

A. I think our board of directors prepared the letter and the form of the ballot.

Q. On what date?

A. On the Saturday evening at which they had their meeting.

Q. Are you sure of that?

A. Well, I didn't prepare it. They prepared it there and gave me a copy of it—told me what we might say and what we might not say in the letter.

Q. Who handed you the copy?

A. The copy was presented at the board meeting?

Q. Do you mean it was prepared before the board meeting?

A. It was drawn in rough draft by me, before the board meeting; corrected quite generously by the board, to be perfectly unbiased in every way.

MR. LAUTER: I object to the characterization of this witness and move it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that will be stricken from the record.

Q. Did you prepare the draft?

A. I prepared the rough draft.

Q. Before the meeting?

A. Immediately prior to the meeting.

Q. Did you collaborate with anyone in preparing that draft?

A. I might have collaborated with our president or with one of the attorneys on our board of directors.

MR. LAUTER: Well, at this time, if you please, Mr. Examiner, I am going to object to the qualified answer of this witness. I want an answer one way or the other, if he does not know, let him say so.

TRIAL EXAMINER LINDSAY: Yes. Every answer of yours is "I might have" or "I may have". Now you either did or you didn't. Now, read that question.

(The last question was read.)

TRIAL EXAMINER LINDSAY: Strike out that answer.

(The last answer was read.)

A. I can't answer yes or no to that because I consult members of our board in preparing things of this sort.

Q. I am asking you about that particular draft, not things of this sort. Did you or didn't you?

A. Yes, I did.

Q. Whom did you consult with about that particular draft?

A. Either—Either Mr. Clayton Hoffman, a member of our board or Mr. Elmer Helbig, the president of our organization.

Q. Now, do you remember where you consulted with them? Either of them?

A. If it was Mr. Helbig, I consulted with him at his home. If it was Mr. Hoffman, I probably read what I had drawn up, on the telephone, to him and with the understanding that it would be revised and perfected by the Board itself at the meeting.

Q. When you went to Cleveland you had an approved draft, is that right, to be printed?

A. A draft approved by our board of directors.

Q. Did you show that to Mr. Voss?

A. Yes, sir.

Q. Did Mr. Voss approve it also?

A. Yes, sir. He couldn't approve it. It is our letter, but he approved—he permitted us to use his name. His names and addresses of his employees.

Q. Did he make any changes in it?

A. He did not.

Q. You showed it to him and he thought it was all right?

A. I was instructed that there couldn't be a word changed in that thing, when I showed it to him

Q. You showed it to him and he thought it was all right? Expressed satisfaction with it?

A. Our board of directors—

TRIAL EXAMINER LINDSAY: Wait a minute, put that question.

MR. DAY: I object to the question. There are about three questions in one, there.

MR. LAUTER: I will withdraw the question.

TRIAL EXAMINER LINDSAY: Read the question.

Q. (By Mr. Lauter) Did you show the form of ballot and letter to Mr. Voss?

A. Yes, sir, I did.

TRIAL EXAMINER LINDSAY: Just a moment. I want this record straightened. Now, he withdrew his question, so you withdraw your objection?

MR. DAY: Why, sure, if the question is out, the objection is out. No use having an objection if there is no question.

TRIAL EXAMINER LINDSAY: Well, I want it so that the record is corrected.

MR. DAY: That is right.

Q. Did Mr. Voss say anything about that?

A. About the ballot, do you mean? And the letter?

Q. That is what I am asking you about.

A. He said he had no objection to the Canton Chamber of Commerce mailing such a letter and such a ballot to Republic Steel employees.

Q. Did you tell him you were going to mail them to all employees?

A. Yes, I told him that, in asking him for a list of all his employees.

Q. And to whom did he refer you, for a list?

A. He referred me back to Canton for that list, back to Mr. Meyers. And Mr. Meyers referred me either to the paymasters or some official of each of the two companies represented.

Q. Now, on May 31st these ballots and letters were delivered to you, is that correct?

A. Yes, the morning of May 31st.

Q. And you called the Republic Steel Corporation that day and requested some people to assist you in folding and mailing them?

A. I probably had done that the day before, in order that they might call people in to do the work.

Q. Well, you saw Mr. Meyers the day before? Did you speak to him at that time about it?

A. I either spoke to him or to Mr. Gubbens about it at that time.

Q. On Sunday?

A. Yes.

Q. And they agreed to furnish you with the necessary help in order to fold and mail out?

A. Yes, sir, they did.

Q. The ballots?

A. That is right.

Q. Subsequently some employees did come from Republic and assist you?

A. Yes, sir.

Q. How many came?

A. Between 20 and 30, I presume.

Q. And when did they come, the first time?

A. Well, they all came during that one day. They all came about 9 or 9:15 in the morning to our offices.

Q. How long did they stay?

A. They stayed until all of the work was done, which was practically the entire day.

Q. Did they come again?

A. No, the work was finished at that time.

Q. Well, not for that particular work, but for counting—Did they come again?

A. I can't recall whether we employed outside girls to help with the counting or whether we asked Republic Steel to cooperate with us at that time again, in counting the ballots. Our records would show that.

Q. Well, were you present when the ballots were counted?

A. Yes, sir, I was.

Q. And you don't remember whether or not you made the arrangements to have Republic employees count them?

A. I asked one of the young ladies in our office to take care of getting the girls in.

Q. Well, what did you tell her? Did you tell her to call Republic?

A. I don't recall whether I told her that or not.

Q. You are sure you don't recall?

A. I absolutely am sure.

Q. Now, you testified the count of the ballots, there were tellers there to count the ballots, is that correct?

A. To count the ballots?

Q. Who counted the ballot?

A. There were, I recall very distinctly that we paid the girls who came to our office to count the ballots, and therefore they were not Republic Steel employees, so I would like to correct our answer on that.

Q. All right, go ahead.

A. And those young ladies opened the envelopes, sorted them out, and the actual work of tabulating was done by the three clergymen who were the judges of the ballot—of the vote.

Q. You have referred to this ballot as an official ballot?

A. I did not—I referred to the official report from our committee to our president, but not to the ballots as being official. I refer to them as being a counterfeit or authentic.

Q. When you say "official ballots" what do you mean by the word "official"? It means that the Chamber of Commerce conducted them, is that what you mean?

A. I mean the ballots which we mailed out were our official ballots. I would rather use the word "authentic ballots".

Q. Yes, rather than official.

A. All right.

Q. But these ballots that were mailed out, resulted in what you call a secret vote, is that correct?

A. We called it secret because we carefully guarded against—

TRIAL EXAMINER LINDSAY: No, strike that out.

Q. (By Mr. Lauter) I am interested in whether or not you have referred to this as a secret vote, is that correct?

A. Yes, we have referred to it as that.

Q. Isn't it a fact that anyone could open that envelope, who received it, and put in the name of the employee and mail it back to you?

A. Yes, that would be possible.

TRIAL EXAMINER LINDSAY: Well, may I suggest that you correct that?

MR. LAUTER: Yes, it has been called to my attention by my associate here that the name is not appended in any way to the ballot, and all one has to do is sign yes or no, or if he couldn't vote either way, state why.

Q. (By Mr. Lauter) So that anyone receiving the envelope could have mailed it back, is that correct?

A. It was mailed only to Republic Steel employees, but anyone who received it at that particular receiving address could open it and send it back.

Q. Or destroy it?

A. Or destroy it.

Q. If an employee's wife had picked it up, she could have thrown it out?

A. Yes, sir.

Q. Do you know what the Mohawk Valley Plan is?

MR. DAY: I didn't hear that.

(Question read by the Reporter.)

A. I do not.

Q. Never heard the term used before?

A. I have heard the term, but I haven't the least idea what it is.

Q. For breaking strikes?

A. I don't know that much about it.

Q. Do you mean as secretary of the Chamber of Commerce you have heard the term Mohawk Valley Plan but you are not sure of whether or not—you are not sure of exactly what that term means, is that correct?

A. If I ever heard of it I would not know what it means.

Q. Now, at the time of this vote, you testified there were a number of ballots that were counterfeit?

A. Yes, sir.

Q. Who adjudged these votes counterfeit? Were they the persons who actually counted the ballots?

A. They were all persons present who participated in the opening of the envelopes and the sorting of the ballots, could see the fact that they were obviously counterfeit.

MR. LAUTER: I move the answer be stricken.

TRIAL EXAMINER LINDSAY: Yes, that is stricken. Repeat that answer back to the witness.

(The last answer read by the Reporter.)

TRIAL EXAMINER LINDSAY: Now, listen, you are under oath and you know better than to give an answer like that. Repeat the question again.

(The question read by the Reporter.)

A. The judges—

TRIAL EXAMINER LINDSAY: Yes, or no, was it? Read the question.

(The question read by the Reporter.)

A. Well, they were the three gentlemen who were the judges of the voting, who said that they were not authentic.

Q. I refer you to Board's Exhibit—Respondent's Exhibit No. 17 for identification and call your attention to the fact that the three gentlemen you have referred to have signed their names to this document which contains the following passage: "We found 2516 returned ballots which did not conform to the official ballots." Is that statement correct?

A. That is the statement made by the three judges. That is right.

Q. Did they personally inspect the 2516 ballots, do you know?

A. Yes, sir.

Q. And they found these discrepancies?

A. Yes, sir, every one of them.

Q. Now, you testified that or there has been some testimony about advertisements in a local newspaper. Has the Chamber of Commerce paid for any advertisements in local newspapers?

A. About what subject?

Q. In connection with the strike?

A. In connection with the strike? The Chamber of

Commerce has never prepared, submitted, or published, or paid for any strike information.

MR. DAY: I want to raise a question whether this witness did testify as to any advertisement.

TRIAL EXAMINER LINDSAY: Well, he didn't say that he did, Mr. Day.

MR. LAUTER: I corrected my question.

TRIAL EXAMINER LINDSAY: The question was: You heard that testimony given by another witness.

MR. DAY: I thought Mr. Lauter said "you testified".

TRIAL EXAMINER LINDSAY: Well, he changed it.

MR. DAY: Well, I didn't catch that last. Repeat the question.

(Question read by the Reporter.)

(Answer read by the Reporter.)

TRIAL EXAMINER LINDSAY: All right, the only thing that is in answer to that question is that you didn't pay for. Strike the rest of it out.

MR. LAUTER: At this time, if it please, Mr. Examiner, I would like to request a short recess for the purpose of examining the minutes of the meetings which this witness has testified to. I would like a recess.

TRIAL EXAMINER LINDSAY: Yes. We may have a short recess. How long? About 10 minutes?

MR. LAUTER: That will be about all.

(Recess had.)

TRIAL EXAMINER LINDSAY: We will come to order.

Cross Examination (Continued)

Q. (By Mr. Lauter) Mr. Hostetler, how often were meetings of the Chamber of Commerce held?

A. Do you mean of our Board of Directors?

Q. That is right.

A. Our Board of Directors met on an average of once every month.

Q. Do you know whether or not they held any meetings in May and July of this year?

A. Our records would show that; I presume they did.

Q. If there are no minutes in this minute book that would mean that they held no meetings?

A. That is absolutely correct?

MR. DAY: Will you read that question? I did not hear it.

(The last question was read.)

Q. I want to call your attention to a meeting dated March 19, 1937, which meeting refers to a request for the Canton Development Corporation for a subscription of $1000, and the following passage in the minutes, and ask you whether or not the minutes are correct as they are here; that the Chamber of Commerce financial situation clearly indicates the lack of sufficient funds for any other purpose than essentially Chamber of Commerce in so far as that statement is correct?

A. Correct.

Q. That was a request for $1000, is that right?

A. Yes, sir.

Q. What is the total amount of money spent by the Chamber of Commerce in connection with this strike?

A. About $500.

Q. Now, I call your attention to the minutes of May 7, 1937, that is 18 days before the strike, and ask you whether or not it is not true that Mr. Hammacher, an official of the Republic Steel Corporation, was present at that meeting?

A. Yes, sir, he was.

MR. LAUTER: That is all.

MR. KETTERER: One more question, Mr. Hostetler, please, that I neglected to ask you this morning. You testified that there were 2500 and some odd ballots which the Committee of judges determined were not the same as the original ballots that you retained for comparison. I will ask you to state what answer appeared on each of those 2500 ballots, if you know.

TRIAL EXAMINER LINDSAY: Now, just a minute.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Read the question.

(The last question was read.)

A. The answer on every one of the 2516 ballots was a vote "No" "I vote to stay out."

MR. KETTERER: That is all.

Q. (By Mr. Lauter) Did you personally inspect those 2516 ballots that you testified about?

A. Yes, sir.

Q. And in each case the answer is no?

A. Yes, sir.

MR. LAUTER: That is all.

MR. KETTERER: That is all. Thank you very much.

(Witness excused.)

E. D. GIBSON

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. E. D. Gibson.

Q. Where do you live, Mr. Gibson?

A. Middle Branch.

Q. How—by whom are you employed?

A. Republic Steel.

Q. How long have you worked for the Republic Steel Corporation? Or its predecessor corporation?

A. Since February, 1934.

Q. And in what department do you work?

A. In the bar mill.

Q. The power mill?

A. No, the bar mill.

Q. The bar mill?

A. Yes, sir.

Q. What is your job in the bar mill?

A. Strander.

Q. How do you spell that?

A. S-t-r-a-n-d-e-r.

Q. How long have you worked for the Republic Steel in that particular department?

A. About two and a half years.

Q. I will ask you to state whether or not you were so employed in May, 1937, when this strike commenced out here?

A. I was.

Q. Now, do you recall the day on which that strike started?

A. I do.

Q. What day was that?

A. The evening of the 25th of May.

Q. What turn did you work on the 25th of May?

A. The day turn.

Q. What period of hours did that cover?

A. 8 to 4.

Q. Now, during the strike I will ask you whether or not you were on the inside of the plant or on the outside?

A. Inside.

Q. Now, Mr. Gibson, will you tell us the circumstances of your going into the inside of the plant, so that you were in there during the time of the strike?

A. Well, it had been rumored and—

MR. LAUTER: Objection to what has been rumored and move that it be stricken from the record.

MR. DAY: Well, let the witness finish the answer.

TRIAL EXAMINER LINDSAY: Tell what you know.

THE WITNESS: Is it stricken?

TRIAL EXAMINER LINDSAY: That is stricken.

A. (Continuing) It has been published in the papers—

MR. LAUTER: I am sorry I have to interrupt again but I move that the answer be stricken.

MR. DAY: If the Court please, he is going to tell why—

TRIAL EXAMINER LINDSAY: Just a minute. I think that probably is proper. The question had been asked.

MR. DAY: All right.

MR. KETTERER: Will you read that question?

(The last question was read.)

A. It had been published in the papers that the Committee of Industrial Organization appeared to be ready to strike—

TRIAL EXAMINER LINDSAY: "Appeared to be ready to strike" is stricken from the record.

A. (Continuing) Was going to strike against little steel. My not being a member, I wasn't interested in what they done but interested in what I do.

MR. LAUTER: I move what this witness is interested in be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. (To the

Witness) The fact is, you stayed at the plant, is that it?

THE WITNESS: That is right.

TRIAL EXAMINER LINDSAY: All right.

Q. Now, proceed, Mr. Gibson. Do you remember the question now, Mr. Gibson?

A. I just recall part of it.

MR. KETTERER: Will the Reporter please read my question?

(The last question was again read.)

TRIAL EXAMINER LINDSAY: May I ask the purpose of showing all these circumstances?

MR. DAY: Just this, your Honor—

TRIAL EXAMINER LINDSAY: Just a minute.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Proceed.

MR. KETTERER: Will you read the question once more, Mr. Reporter?

(The question was again read.)

A. (Continuing) To be there and protect my job when the strike—when the rumored strike was called.

Q. Now, on the evening of the 25th of May, 1937, what is the fact as to whether you received any information that the strike was to be called that night?

A. Will you state that again?

TRIAL EXAMINER LINDSAY: Read the question, Mr. Reporter.

(The last question was read.)

A. Only that from rumors.

Q. What if anything did you do then when you heard a rumor?

A. Prepared myself to enter the plant.

Q. What time was that?

A. Immediately before 8 o'clock that evening.

Q. On the 25th of May, 1937?

A. That is right.

Q. Now, I will ask you to state, Mr. Gibson, whether or not prior to the 25th of May, 1937, or on that day you ever received any direction from your foreman or any other officer of the Republic Steel Corporation that in the event of a strike you were to report there for work during the period of the strike.

MR. LAUTER: I object on the ground that it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Yes, that is sustained; it is not material.

MR. KETTERER: Now, if the Court please, I would like to make an offer of proof. I don't know the procedure exactly down here. I would like to be informed on the proper procedure.

(Discussion off the record.)

MR. KETTERER: We offer to prove that that witness didn't receive any order or any direction from any officer or superintendent of the Republic Steel Corporation to report for duty in the event of a strike on or about May 25th, 1937, and we believe that the witness would so testify if permitted to answer.

(Discussion off the record.)

Q. Now, Mr. Gibson, how long did you remain in the plant of the Republic Steel Corporation after the 25th of May, 1937, when you said you went in?

A. The forenoon of June 30th.

Q. June 30th?

A. Yes.

Q. Now, during that period of time, I will ask you to state whether or not you observed the presence of pickets around the various entrances to the plant.

A. I did.

Q. Describe, Mr. Gibson, what if anything you observed those pickets having in their hands.

MR. LAUTER: May we have the time fixed; and also some identification?

MR. KETTERER: What?

MR. LAUTER: The time when this took place.

MR. KETTERER: During the time he was in the plant.

MR. LAUTER: Well, I will object to the question on the ground that it is vague and indefinite.

TRIAL EXAMINER LINDSAY: Yes. It is leading. You may ask the man what he observed but when you go on and specify and lead it right down, that is going a little far.

MR. KETTERER: I will withdraw the question.

Q. Describe what you saw in respect to the pickets around the plant during the time you were in there from the 25th of May until the 30th of June.

MR. LAUTER: I will withdraw my objection for the clearance of the record since the previous question has been withdrawn.

MR. KETTERER: Will you read my question?

(The last question was read.)

A. What I saw in regard to what?

TRIAL EXAMINER LINDSAY: Now, just a minute. Read that question for him, Mr. Reporter.

(The last question was read.)

A. The forepart or the latter part of May and the first of June the pickets were armed with defensive weapons.

MR. LAUTER: Object to the phrase "defensive weapons."

MR. DAY: That may go out by consent.

TRIAL EXAMINER LINDSAY: Yes.

Q. Just tell us what these pickets had, if anything.

A. They were armed with clubs.

Q. Can you describe those clubs in any more detail?

A. Well, there was a club on the order of a ball bat.

Q. Now, during the time that you were—

MR. LAUTER: I want to object to the question and move that the answer be stricken and object to any further inquiry along this line. There has been an adequate description of the pickets and of what they carried.

MR. DAY: We would like to be heard on that, your Honor.

TRIAL EXAMINER LINDSAY: Read the question.

(The last question was read.)

MR. LAUTER: That has been answered.

TRIAL EXAMINER LINDSAY: Yes. That has been answered; he described the clubs.

MR. LAUTER: I believe there is an answer on the record. Will you please read that, Mr. Reporter?

(The last answer was read.)

(Discussion off the record.)

Q. During the time that you were there from the 25th of May, 1937, until the 30th of June, 1937, I will ask you to state what various entrances of the Republic Steel plant you visited.

A. The main office—the gate at the main office, the Trump entrance and the blast furnace entrance across from the—some foundry across from the water tower of the Pennsy track, the Berger entrance, and the Eighth Street and Carnahan—the Eighth Street and Belden.

TRIAL EXAMINER LINDSAY: Just a minute. Mr. Ketterer and Mr. Day and Mr. Lauter, will you come up here?

(Discussion off the record.)

(The question and answer read by the Reporter.)

Q. (By Mr. Ketterer) Now, Mr. Gibson, I will ask you to state whether or not the pickets that you observed at these various entrances which you visited, carried clubs of the kind that you have described?

MR. LAUTER: I object to that question, incompetent, irrelevant and immaterial, and upon the further ground that the time has not been fixed.

TRIAL EXAMINER LINDSAY: Well, I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

A. Will you read that again?

TRIAL EXAMINER LINDSAY: That is, if you fix the time.

MR. KETTERER: He fixed the time, your Honor, as being between the 25th of May and June 30th, previously, I think; yes.

(The question read by the Reporter.)

A. They did.

TRIAL EXAMINER LINDSAY: Now, I think that you really should ask him what he observed at that time. That is purely a leading question.

MR. KETTERER: I understand that that is something in the nature of a leading question, your Honor, but in the interests of saving time you can ask questions in that fashion. But if you want me to ask them the other way, we will be glad to do so.

TRIAL EXAMINER LINDSAY: The only type of witness I am very lenient with, on the question of leading questions, is a witness who does not understand English very well, and who has not had very much schooling. Now, I think we should limit ourselves to those particular types of witnesses, when we do ask those particular types of questions.

MR. KETTERER: I will be very glad to conform to your Honor's suggestion. I will withdraw the question.

MR. DAY: Well, I think the objection was overruled, to that one.

TRIAL EXAMINER LINDSAY: What?

MR. DAY: Did you sustain the objection to that, on the ground that it was leading?

TRIAL EXAMINER LINDSAY: No, I am just instructing counsel.

MR. DAY: How to act in the future?

TRIAL EXAMINER LINDSAY: To refrain from doing that.

MR. DAY: All right.

MR. KETTERER: All right. Did he answer that?

TRIAL EXAMINER LINDSAY: Yes.

Q. (By Mr. Ketterer) Now, Mr. Gibson, do you recall the occasion of a freight train coming into the plant of the company, while you were there?

A. Several did.

Q. Now, directing your attention to the time when a train came in without any crew in charge of it. Do you recall the occasion of that?

A. I do.

MR. LAUTER: I object to that question as leading and highly improper.

MR. KETTERER: I am not asking for anything excepting whether he recalls that occasion. That is not leading.

TRIAL EXAMINER LINDSAY: Oh, I will overrule your objection. Let the record show an exception.

MR. LAUTER: Exception.

TRIAL EXAMINER LINDSAY: Please ask the witness what he observed and what he saw, and let him testify.

MR. KETTERER: Will you read the question?

(The question read by the Reporter.)

Q. (By Mr. Ketterer) All right, now, just describe what you saw on that occasion with respect to that train?

TRIAL EXAMINER LINDSAY: Just a minute. He has not yet said that there was any train there.

MR. KETTERER: I understood him to say he recalls that occasion, your Honor.

TRIAL EXAMINER LINDSAY: Well, I didn't get it.

(The record read by the Reporter.)

TRIAL EXAMINER LINDSAY: I am sorry, I didn't get that.

MR. KETTERER: All right.

MR. LAUTER: I would like to have my objection in the record to this line of inquiry; outside of the scope of any issues in this case, incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Well, I do not think that it is material, but I will overrule your objection. Let the record show an exception.

MR. LAUTER: Exception.

(The question read by the Reporter.)

Q. (By Mr. Ketterer) Just what you saw.

A. On the morning that the Pennsylvania and the Wheeling starting shifting freight at the Republic, I was at the battery of the coke plant watching them shift and the train—this particular engine pulled down below Trump Road under the overhead bridge, and was there for a few moments. I observed a group of 25, more or less, fellows come running down Trump Road; they went down the bank on the other side. Now, that is all I saw from where I was. But the apparent result—

Q. No, no, now.

TRIAL EXAMINER LINDSAY: No.

Q. Don't give anything except what you saw.

A. The engine—in a few minutes the engine came back through there with a wide open throttle and there was no one that I could see was in the cab, no one on the train.

Q. And what happened?

MR. LAUTER: Just a second. I want to move to strike the testimony with respect to this incident.

MR. DAY: Can't we wait until he finishes the incident?

MR. LAUTER: I will permit it to go on a little further before I raise my objection.

Q. (By Mr. Ketterer) Now, what, if anything, happened to that train on the inside of the plant that you saw?

A. I saw the results. I didn't see it happen.

Q. All right, now describe that.

MR. LAUTER: Well, if you please, Mr. Examiner, at this time I would like to note my objection to this line of inquiry. There is no identification of the persons who were involved in this incident. The witness testified that as far as he could see there was no one in the engine. I do not see how it is related to any parties in this action. Entirely incompetent, irrelevant, and immaterial.

TRIAL EXAMINER LINDSAY: Yes, I am going to strike the motion to strike that testimony.

MR. DAY: May the record show—

TRIAL EXAMINER LINDSAY: Let the record show an exception.

MR. DAY: May the record show this also, that we think the circumstances are such as to demand that a clear inference be drawn that the persons involved in this transaction were members of the strikers and CIO?

TRIAL EXAMINER LINDSAY: Oh.

MR. LAUTER: Well, now that is utterly absurd as an inference.

MR. DAY: Who else would do it?

MR. LAUTER: Well, now, that is a question.

TRIAL EXAMINER LINDSAY: Now, just a minute, Mr. Day. You know that that is entirely improper.

MR. DAY: I do not think it is improper.

TRIAL EXAMINER LINDSAY: Oh, yes.

MR. DAY: Now, you had the same situation over in Youngstown.

TRIAL EXAMINER LINDSAY: Well, that doesn't make any difference. You know very well that such an inference could not be drawn.

MR. DAY: We think—Now, we think—Now, since you say that I know very well, let me tell you why I think that inference should be drawn.

TRIAL EXAMINER LINDSAY: This is off the record, this discussion.

MR. DAY: Well, if it is off your record, I would like to have it in our record.

TRIAL EXAMINER LINDSAY: Then we are not going to go into any discussion.

MR. DAY: All right.

(Consultation held between counsel and Examiner off the record.)

(The last question was read by the Reporter.)

A. The results was three tangled and twisted cars, coal cars, and one—the derailing of one box car.

Q. (By Mr. Ketterer) You saw that yourself?

A. I saw that.

MR. LAUTER: I renew my motion to strike on the grounds already stated.

TRIAL EXAMINER LINDSAY: Yes, the motion is granted.

MR. KETTERER: Exception.

Q. (By Mr. Ketterer) Now, during the time that you were in there, Mr. Gibson, from the 25th of May, 1937, until the 30th of June, 1937, I will ask you to state whether or not any order was given you [by] any officer or superintendent or foreman of the Republic Steel Corporation, directing that you could not leave the plant during that period if you so desired.

A. May I have the question re-read?

(The question read by the Reporter.)

A. No, sir. There was no order given me.

Q. What is the fact, Mr. Gibson, as to whether you would or would not have gone home if it had not been for the presence of the pickets at the various entrances of the Republic Steel plant during that period of time?

MR. LAUTER: I object to that, it calls for a conclusion. I don't think counsel is seriously asking that question.

TRIAL EXAMINER LINDSAY: I sustain the objection to that question. Let the record show an exception if you want it.

MR. KETTERER: We will withdraw the question.

MR. LAUTER: I will withdraw my objection.

Q. (By Mr. Ketterer) Will you tell us why, during that period of time, you did not leave the plant of the Republic Steel Corporation to go home?

MR. LAUTER: I object to that question. The reasons being that the motive of this witness is not relevant or material in this case.

MR. DAY: We would like to be heard.

MR. LAUTER: This is direct examination. I would like to remind counsel.

TRIAL EXAMINER LINDSAY: Now, gentlemen, let's get down to actual facts in this case. Now, if you want to go on and ask this man if he attempted to leave the plant, so on and so forth, that is perfectly all right. But not these concluding questions that are constantly being asked.

MR. DAY: Now, I want to just—

TRIAL EXAMINER LINDSAY: Now, you may go ahead and ask, if he attempted to leave the plant, all that sort of thing. If he was driven back, that is one thing.

MR. DAY: On that subject I would like to make a statement in support of our position. Now certainly we have a right to make a statement in the record in support of our position why we are asking certain questions. Now, the claim is made in this case that these men were kept in the plant against their will by the company, and questions have been asked by Mr. Lauter many times tending to show that the men did not care to leave the plant. Now, we think we have the right to show why they did not leave the plant and go home.

TRIAL EXAMINER LINDSAY: And no one, Mr. Day, is denying you that right, if the questions are asked properly.

MR. DAY: Well, but we think we have a right to show why they did not leave and go home, whether they did or did not actually physically make the attempt to go home. That is clearly an issue in this case.

TRIAL EXAMINER LINDSAY: You may show what was done. There is no doubt about that, but that doesn't mean anything. I could sit back in the plant for 40 years and come out and say that I was afraid to come out.

MR. DAY: Well, if it develops in this lawsuit that these men were kept in the plant because of illegal and unlawful picketing by the C. I. O.—

TRIAL EXAMINER LINDSAY: But you are not showing that by that question.

MR. DAY: Well, now, we asked him why it was that he did not leave the plant and go home.

TRIAL EXAMINER LINDSAY: Well, explain what he did.

MR. DAY: Well, supposing he didn't do anything?

TRIAL EXAMINER LINDSAY: We are not going to argue that any more. That is my ruling on it.

MR. DAY: Now, this is in the record, isn't it?

TRIAL EXAMINER LINDSAY: I haven't taken it out, have I?

MR. DAY: All right. Well, it is in. Go ahead.

MR. KETTERER: I will withdraw that question.

Q. (By Mr. Ketterer) Mr. Gibson, did you at any time from the 25th of May, 1937, until the 30th of June, 1937, attempt to leave the plant of the Republic Steel Corporation and go home?

A. No.

Q. Now, will you give us the reasons why you did not attempt to leave the plant and go home during that period?

MR. LAUTER: Object to the form of the question.

MR. DAY: Now, that is the same matter we have the brief on; we will be glad to show it to the Examiner. I have it here.

TRIAL EXAMINER LINDSAY: Oh, if it will expedite matters, I will overrule the objection. Let him answer.

MR. LAUTER: Exception.

Q. (By Mr. Ketterer) All right, go ahead and answer.

A. Violent picketing.

TRIAL EXAMINER LINDSAY: The word "violent" is stricken out.

MR. KETTERER: That is all.

Cross Examination

Q. (By Mr. Lauter) You stayed in the mill on May 25th, is that correct?

A. Did I what?

(Last question read by the Reporter.)

A. That is not correct.

Q. Were you in the mill on May 26th?

A. Yes.

Q. How long did you stay in the mill?

A. Until June 30th.

Q. Did you get paid during that time?

A. I did.

Q. How many hours a day did you work?

A. I worked eight hours a day.

Q. How much did you get paid for?

A. My average rate.

Q. Is that all you got paid for? Your average rate?

A. Will you state the question again, please?

(Last question read by the Reporter.)

A. My average rate per hour.

Q. That is your average rate before you went out on strike, you got paid the same about after?

A. I didn't go out on strike.

Q. Well, before the strike took place?

A. Yes.

Q. You got the same pay after you had stayed in the mill, subsequent to May 26th, is that correct?

A. Per rate per hour, the average rate per hour.

Q. For how many hours a day did you get the average rate?

A. Time and three-quarters on the eighth.

Q. Time and three-quarters?

A. Yes.

MR. LAUTER: Will you read back all of the testimony of this witness, please?

(The cross examination of the witness read by the Reporter.)

Q. What was your average rate prior to May 25th?

MR. DAY: You mean per hour?

MR. LAUTER: That is right.

A. $1.32 .

Q. $1.32 per hour?

A. That is right.

Q. You got that for eight hours for each day?

A. That is right.

Q. May 26th to June 30th, how much did you get per hour?

A. I told you there.

Q. Just answer my question. From May 26th to June 30th, how much did you get per hour?

A. $1.32.

Q. $1.32?

A. Yes.

Q. For eight hours?

A. For 14 hours.

Q. For 14 hours?

A. Time and three-quarters.

Q. And you got $1.32 for 14 hours for how many days each week during the period from May 26th to June 30th?

A. Will you state that again, please?

MR. LAUTER: Read the question to him, Mr. Reporter.

(The last question was read.)

A. Six; seven. Seven days in the week.

Q. You went out of the mill on June 30th?

A., That is right.

Q. Is that correct?

A. Yes, sir.

Q. When did you return?

A. That evening.

Q. And worked every day after that after June 30th?

A. I did.

Q. Have you lost any time between May 25th and July 15th?

A. I didn't.

Q. Are you still receiving pay for time and three-quarters?

A. I am not.

MR. DAY: I didn't hear the answer. Will you read that, Mr. Reporter?

(The last answer was read.)

Q. You testified about a freight train. Can you identify any of the persons; some 25 persons.

MR. LAUTER: Has that been stricken?

MR. DAY: I thought it was.

TRIAL EXAMINER LINDSAY: Yes, Mr. Lauter.

MR. LAUTER: I withdraw my question.

Q. Now, I am only asking as to whether or not you worked on May 25th or not. I am not clear on that. Did you work that day?

A. I worked that day.

Q. What turn?

A. 8 to 4.

Q. Did you go back to the mill that day?

A. That evening.

Q. What time?

A. Before eight.

Q. What was the name of your foreman?

A. You mean the—

Q. What is the name of your foreman out there on May 25th?

A. Watkins.

Q. Watkins?

A. Yes.

Q. Did you have a conversation with him before you returned at 8 o'clock?

A. No.

Q. Did you have a conversation with any other employees between 4 and 8 that day?

A. That day?

Q. That is right.

A. Yes.

Q. Some of the employees in your department, did they return at the same time you did?

A. Yes.

Q. Whom did you return with?

A. A Mr. Himton.

Q. How do you spell that?

A. H-i-m-t-o-n.

Q. Where did you meet him?

A. I picked him up at his house.

Q. What is Mr. Himton's position in the mill?

A. A weigh master.

Q. A weigh master?

A. That is right.

Q. What department is that?

A. The bar mill.

Q. What is the work of a weigh master?

A. Weighs the finished steel.

Q. Did you say you picked him up or he picked you up?

A. I picked him up.

Q. In your automobile?

A. That is right.

Q. And you drove him down to the plant?

A. That is right.

Q. Anybody else?

A. Berrang.

Q. How do you spell that?

A. B-e-r-r-a-n-g.

Q. Did you pick him up also?

A. I did.

Q. What is his position?

A. Mill laborer.

Q. Whom else did you pick up that day, if anyone?

A. That is all.

Q. About what time did you pick up Mr. Himton?

A. I would say shortly after seven.

Q. What time did you pick up Mr. Berrang?

A. Around 6:30.

Q. Who suggested to you that you pick up each of these men?

A. We had talked it over.

Q. Who had talked it over?

A. The three of us.

Q. You worked in the same department?

A. We did.

Q. That is, in the bar mill department?

A. That is right.

Q. When did you talk it over?

A. We had talked it over three or four days.

Q. When did you start your first conversation with these two gentlemen?

A. I don't recall.

Q. What was the substance of it?

A. What we would do if there would be a strike.

Q. What did you decide about it?

A. We made inquiry to see if the mill would operate.

Q. From whom did you make inquiry?

A. Well, I can't recall any one set person that I asked, but I know I asked various fellows in the mill. We found out that the mill was going to operate if they had enough men.

Q. Whom did you find it out from?

A. From the various rumors.

Q. You found out from the various rumors that the mill was going to operate?

A. That is right.

Q. Was that as high as you went in order to inquire as to whether or not the mill would operate?

A. That is right.

Q. That is as high as you went?

A. That satisfied me.

Q. The rumor satisfied you that the mill would operate?

A. It did.

Q. If there were enough men?

A. Yes.

Q. Did you speak to your foreman about it?

A. I did.

Q. What is his name?

A. Watkins.

Q. What is that?

A. Watkins.

Q. How long before May 25th did you speak to him?

A. I don't recall.

Q. A day or two?

A. Possibly.

Q. Longer than that?

A. I wouldn't say.

Q. You don't remember?

A. No.

Q. Do you remember speaking to him?

A. I remember mentioning it.

Q. Mentioning what?

A. That if the mill worked I would be back in.

Q. What did he say?

A. I don't know.

Q. You don't remember a word he said?

A. No.

Q. How many times did he speak to you?

A. That is all.

Q. Just once?

A. Yes.

Q. Is that right?

A. Yes.

Q. All you said to him was what? Let me have it once more.

A. I told him that if the mill operated I would be back in.

Q. You considered that an inquiry? Was that an inquiry that you made of him?

A. No, that was a statement.

Q. Did you make an inquiry of anyone else except the employees?

A. No.

Q. Did you make no other inquiry?

A. No.

Q. That is the only foreman you spoke to?

A. Yes.

Q. Did you speak to any superintendent?

A. He is a superintendent.

Q. Now just exactly what is his title?

A. He is a bar mill superintendent.

Q. You aren't a foreman yourself, are you?

A. No, sir.

Q. How long did you say you worked in the mill?

A. Since the early part of 1934.

Q. And you are a strander?

A. That is right.

Q. You got $1.32 an hour?

A. That was our average.

Q. Mr. Watkins, is he your bar mill superintendent; is that correct?

A. That is right.

Q. Was there a foreman between Mr. Watkins and yourself?

A. There is.

Q. What is his name?

A. He is an assistant.

Q. What is his name?

A. Deibel.

Q. How do you spell it?

A. D-e-i-b-e-l. I wouldn't say for sure.

Q. You had no conversation with him?

A. I didn't.

Q. Was there a foreman also?

A. Yes.

Q. What was his name?

A. Cunningham.

Q. Now, Cunningham is the foreman, is that correct, and not Watkins?

A. Cunningham is the turn foreman.

Q. Turn foreman?

A. Yes.

Q. Now, did you have any conversation with either of these three men about the fact that you were going to get time and three-quarters for the time that you would spend in the mill after you went back?

A. I didn't.

Q. When was the first time that you knew that you were going to get that much money?

A. I don't recall.

Q. Well, you got paid in the mill, didn't you?

A. Yes, sir.

Q. When was the next pay day after May 25th?

A. Some time in June.

Q. You got paid twice a month?

A. That is right.

Q. What were the pay days, if you can recall?

A. Close to the 8th and the 23rd.

Q. Was that the 8th and the 23rd?

A. Yes.

Q. So that by June 8th you knew that you were going to get paid time and three-quarters? You received your check on that day, is that right?

A. That is right.

Q. Now, when you men got into the mill on May 25th, were there cots there?

A. What?

Q. Cots—c-o-t-s?

A. I didn't see any.

Q. Did you sleep in any?

A. When?

Q. On May 25th?

A. Not on May 25th.

Q. Where did you sleep that night?

A. I didn't go to bed until after midnight.

Q. After midnight?

A. That is right.

Q. Where did you sleep?

A. Well, I slept on a cot.

Q. How long past midnight did you go to sleep, do you recall?

MR. DAY: Will you read that question?

(The last question was read.)

A. I can't say; around 2 o'clock possibly.

Q. And you saw cots then, did you?

A. A cot.

Q. You say you saw a cot?

A. That is right.

Q. Where did you get the cot?

A. Will you read that?

MR. LAUTER: Read the question to him.

(The last question was read.)

A. Where did I get the cot?

Q. That is right.

A. I got it in the bar mill stock house.

Q. Were there a lot of other cots there?

A. Possibly two or three there, I think.

Q. Those were all the cots that you saw there?

A. That is all I saw.

Q. Now, you went back with a man by the name of Berrang?

A. Yes.

Q. Did they sleep on cots, do you know?

A. I can't tell you.

Q. Did you see any other men take any cots out of the storehouse?

A. Will you read the question?

MR. LAUTER: Read the question to him.

(The last question was read.)

A. No.

Q. Did you see any other men take any cots out of the stock house?

A. No.

TRIAL EXAMINER LINDSAY: (To the Witness) Don't you hear well?

THE WITNESS: Not at times; it all depends on my head.

TRIAL EXAMINER LINDSAY: Just talk a little louder, Mr. Lauter.

Q. Did you see any taken out of the stock house?

A. No.

Q. Now, did you eat in the plant during all this time?

A. I did.

Q. Did you have to pay for the food that you got?

A. I did.

Q. Where was that food served?

A. In the restaurants.

Q. Is that served at the regular price or did you get a reduced rate on it?

A. Served at regular prices.

Q. Did you get any tickets in order to get food?

A. I did.

Q. Were those tickets sold at reduced prices?

A. They were not.

Q. The same price as previously, or had there never been tickets before?

A. Will you read the question?

MR. LAUTER: I will withdraw the question.

Q. Prior to the strike, did they still have tickets in the plant?

A. They did.

Q. Were those the same tickets?

A. The same kind.

Q. And the same prices?

A. That is right.

MR. LAUTER: That is all.

MR. KETTERER: That is all, Mr. Gibson.

(Witness excused.)

HARLEY A. GATHERS

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Your name is what, please?

A. Harley A. Gathers.

Q. And you live where, Mr. Gathers?

A. On Kent Street, N. W., Canton, Ohio.

Q. And where are you employed?

A. At Republic Steel.

Q. How long have you worked for the Republic Steel Corporation?

A. 15 years last March.

Q. In what capacity are you employed there at the present time?

A. I am a heater in the 35-inch mill.

Q. Were you so employed on the 25th of May, 1937?

A. I was.

Q. Now, what turn did you work on the 25th of May, 1937?

A. 4 to 12 in the afternoon.

Q. 4 to 12 in the afternoon?

A. Yes, sir.

Q. Now, what is the fact as to whether or not the strike had started before the end of your turn on that date?

A. It did.

Q. Did you attempt to leave the plant--

A. I didn't.

Q. —on that date?

A. I didn't.

Q. Did you go out to the main gate or the entrance you used in going from the plant?

A. No, sir.

Q. How long did you remain in the plant after the 25th of May, 1937?

A. I stayed there until I believe it was the 30th of June when they started to going back and forth to work.

Q. You say that you made no attempt to leave the plant during that period of time?

A. I didn't.

Q. Will you give your reasons for not attempting to leave the plant at that time?

MR. LAUTER: I object to the question.

TRIAL EXAMINER LINDSAY: Yes. I will sustain the objection.

(Discussion off the record.)

MR. KETTERER: I withdraw the question for the time being.

Q. Now, at the time that you were in there from the 25th of May, 1937, until the 30th of June, 1937, describe what you saw, if anything, around the various gates or entrances to the plant of the Republic Steel Corporation.

A. Well, there was only two entrances that I ever went to.

Q. All right. Which ones were they?

A. The one at the main gate, at the office; and the one at the Eighth and Belden.

Q. Now, what did you observe around those gates, if anything?

A. Well, sometimes we would go up to the main office and there would be maybe 50 or 75 pickets up there; all armed with clubs; and maybe the next time we would go up there, there would only be a dozen or so. One day I was up at the gate and they had the street completely blocked with automobiles, and they would not leave anybody go up and down the street, and the sheriff—the deputy sheriffs—his car was there, and arguing with them, trying to get the street open, and I don't know how long they had been there before he was there but I was there possibly a half an hour before they finally got them to disburse and open the street up; and in the meantime, well, they were taken—while they were talking to the sheriff there was a loud speaker up there, and they hollered through the loud speaker that if we didn't come out they was coming up after us. I didn't go around the different picket lines; that is the one that I saw mostly, and it was the one at the office. I didn't have any occasion to go around the other ones. We did have ball games on Sunday afternoon and we would see pickets walking up and down the railroad track, and they would all carry clubs.

Q. (By Mr. Ketterer) Now, I will ask you, Mr. Gathers, whether at any time when you were in there from the 25th of May, 1937, until the 30th of June, 1937, you ever received any direction or order from any officer or superintendent or foreman of the Republic Steel Corporation, ordering you to stay in the plant during the period of the strike commencing on the 25th of May?

A. I did not.

Q. You may state whether or not during that period of time you observed any other men leave the plant of the Republic Steel Corporation?

A. I did. I was up at the office one day when I took some laundry up to mail it home and while I—when I went through the gate, the police gate going over to the office, there was a fellow that worked in the open hearth, I don't know his name, Big Joe is what he is known by in the mill, I didn't know his name, and his wife was there crying and coaxing him to go home, she said she had been threatened and she was afraid to stay at home alone.

And after I got in the office I saw him going out with her. And after they got over to the picket line they stopped and talked to the pickets for a while and then went on down the street, and I do not know where they went. I couldn't see any farther than that.

Q. Now, will you tell us your reasons for not leaving the plant of the Republic Steel Corporation during the period from May 25th until the 30th of June, 1937?

MR. LAUTER: I object to that question, incompetent, irrelevant, immaterial; calls for motives and speculation of this witness.

TRIAL EXAMINER LINDSAY: Oh, I will overrule the objection. Let the record show an exception. You may cross examine on it.

MR. LAUTER: Exception.

MR. KETTERER: Will you read the question?

Q. (The last question was read by the Reporter.)

A. Well, in the first place, our department wasn't organized. I didn't know of a man in our department that belonged to the C. I. O., and that is the reason we stayed in there. Well, I would say I stayed in there, I can't speak for the rest. And if you would go up and take a look at the crowd on the picket line why you would have to have plenty of nerve—

TRIAL EXAMINER LINDSAY: Now, that last.

MR. LAUTER: I move that be stricken out.

MR. KETTERER: That last may go out.

TRIAL EXAMINER LINDSAY: That last is stricken out of the record, entirely.

Q. Just your reasons, now, why you did not leave the plant. Now your conclusions as to—

TRIAL EXAMINER LINDSAY: I think he has stated his reason. Read me the last answer that was not stricken out.

MR. KETTERER: He only stated part of it, if your Honor please.

(The answer read by the Reporter.)

TRIAL EXAMINER LINDSAY: That last part is stricken out.

MR. KETTERER: That last part is stricken out.

Q. (By Mr. Ketterer) Now, is there any other reason other than the one that you have given for your staying in the plant during that period?

A. Well, as I said, the plant—our department not being organized, I couldn't see why I should go out of there and leave my job and go home and miss working while that strike was on.

Q. Were you paid for the time that you worked?

A. I was.

Q. And how many hours a day did you work?

A. Eight hours.

Q. And at what rate were you paid during that period from the 25th of May, 1937, until the 30th of June, 1937?

A. You mean the rate, or the hours?

Q. The hourly rate?

A. Well, we worked on a tonnage basis, our rate will average somewhere around $1.50 an hour.

Q. And during the period of time from the 25th of May, 1937, until the 30th of June, at what hourly rate were you paid for an eight hour day?

A. Well, we got time and three-quarters, which was 14 hours, for working eight.

MR. KETTERER: That is all.

Cross Examination

Q. (By Mr. Lauter) Did you leave the mill on May 25th?

A. I was there.

Q. I say, did you leave the mill on that day?

A. No, sir.

Q. You stayed in the mill from May 25th to June 30th, is that correct?

A. That is correct.

Q. Now, the strike was called prior to 12 o'clock May 25th, is that correct?

A. Well, I couldn't say what time the strike was called. We heard in the mill that there was pickets up there at 9:30, around 9:30, so I imagine that the strike was called before the pickets were sent out there.

Q. Well, did you work until 12 o'clock?

A. I did.

Q. Or did you knock off work a little before that?

A. No, sir, we change shifts at a quarter of 12:00?

Q. Well, on May 25th did you work until a quarter of 12:00?

A. I did.

Q. And what did you do at a quarter of 12:00?

A. Well, we—

Q. Not "we" what did you do personally? What did you do?

A. Well, I believe the first thing I did after I got through, I went back in the shower room and took a shower and cleaned up and went over to the restaurant and got a cup of coffee and ate a sandwich, and sit around and talked to different fellows in there, and of course naturally we discussed the strike, what the outcome was going to be.

Q. Now, at 12 o'clock, prior to your stopping work, you knew there was a strike on, is that correct?

A. That is correct.

Q. Now, did you have any discussion with any of the other employees about whether or not you or they would stay in the mill?

A. Oh, yes, we had been talking about it for several days.

Q. Well, with whom had you talked about it for several days?

A. What was the question?

Q. With what other employees had you talked about it for several days?

A. Well, I couldn't name them exact, but the crew on the soaking pit, your—the other heater and boiler makers, pit recorder, the cranemen, and practically all of the men that works on the soaking pit.

Q. Did you have any group meetings at which you discussed this question?

A. No.

Q. Well, did you talk to each other only individually, or did you talk with some of them in groups?

A. Well, if we had time, if the mill had a delay or something, and there was a group of men around, they would naturally talk about it, maybe five or six men, something like that.

Q. Now, where did you speak to these five or six men? Right in the mill?

A. Right on the soaking pit floor.

Q. On the soaking pit floor? Where is the soaking pit floor located? In what plant is that?

A. That is, do you mean what department of the mill?

Q. That is right, what department?

A. Well, that is in the 35 inch blooming mill.

Q. It is not clear to me whether you work in Canton or Massillon?

A. Canton.

Q. Canton? And do you recall any of these discussions with five or six men on the soaking pit floor? Do you recall when they took place, for example?

A. Well, I couldn't say that.

Q. I am not trying to pin you down to the particular hour or minute, but did they take place a day or two or three days before the strike?

A. Well, practically every day for, oh, I would say three or four days before the strike, why the fellows were expecting the strike and they naturally was discussing it.

Q. Now, what is the name of your foreman?

A. William B. Parry.

Q. And would he be around when these discussions took place?

A. Well, sometimes he might happen along, and he is just—is human like everybody else, he would talk about the strike once in a while, just an offhand way.

Q. Well, he was present when some of these discussions took place, is that correct?

A. Well, I would not say that he wasn't present when any of them was discussed. He may have happened along when a group of men would be talking, and he would stop and talk right along with us.

Q. Well, I appreciate that a superintendent is human, like anyone else, or foreman. Now, he stopped off and he heard these discussions that took place, is that correct? At least one, to your own recollection?

A. He probably did.

Q. This was on the soaking pit floor?

A. That is right.

Q. And this is in the Canton plant and you are a heater, is that right?

A. That is right.

Q. That is the 35 inch mill?

A. That is right.

Q. What was the nature of the discussions that you had with these men?

A. Well, they would—the men would talk a lot on what they were going to do if a strike was called, and that is the reason I said that I didn't know of a man that belonged to the C. I. O. because everyone you talked to on the soaking pits, they said they were going to stay in if there was a strike called. So that was generally the nature of the conversation, if the strike was brought up, why you would hear this fellow say, "Well, if they pull a strike I am going to stay in here."

And we even sort of made it up among ourselves that if we got any tip around the mill or anything that we thought there was going to be pulled a strike, why we would notify some of the other men on the outside so they could get in.

Q. Did you notify any of the other men on the outside?

A. We did.

Q. About how many men did you notify?

A. Well, we notified the men on the soaking pit and we left the mill crew take care of themselves. That was up to them.

Q. How many men are there in the soaking pits?

A. Well, there is six heaters, nine boiler makers, nine crane men, a recorder and a cinder man and coke man.

Q. Is that for all of the shifts or just for each turn?

A. That is—well, now, I named all of the heaters and crane men and boiler makers for all shifts. But there is one cinder man and one coke man on each shift.

Q. I see.

A. That would be three of each of those.

Q. Did you notify any of these men?

A. No, I didn't, because they were practically all in there, before we really knowed ourselves, because they had got the evening paper and they saw in the paper—

TRIAL EXAMINER LINDSAY: Now, wait a minute.

THE WITNESS: Well—

MR. LAUTER: I move that remark of the witness as to what they saw in the paper be stricken.

TRIAL EXAMINER LINDSAY: Yes, that is stricken from the record.

Q. Well, do you know whether any of them were notified by any of the men in the mill?

A. I don't know for sure.

Q. You don't know whether any of them were called up and told about the fact that they ought to get back into the mill?

A. Well, I couldn't say for certain if anyone had called anyone else up that evening, I couldn't say that.

Q. Well—

A. I know there was a lot of the fellows intended to do that. That was the agreement. But I couldn't actually say that anyone did it that evening.

Q. Well, was there any agreement as to who was to do the calling?

A. No, each man sort of made it up with his buddy, the man that relieved him, that he would call him.

Q. And was Parry to call someone?

A. Not that I know of.

Q. Well, he was present when the agreement was made, wasn't he?

A. No, I wouldn't say so; I don't know if he was.

Q. You don't recall whether he was present at the conference?

A. No.

Q. Was the discussion about an agreement?

A. Well, we may not have been talking about that particular thing when he was there. Now I wouldn't say that; I wouldn't know anything about that agreement.

Q. You don't know whether or not they had an agreement on that, do you?

A. What?

Q. You don't know whether or not the men actually did call anybody, is that right?

A. No, I don't.

Q. Now, when those men came into the mill, the men who were on duty at that time, did you have any conversations with them that evening?

A. Yes, I did.

Q. Well, did they tell you how they happened to be there in the mill?

A. Well, I tried to answer that question.

TRIAL EXAMINER LINDSAY: Wait a minute. We don't need that at all. Answer the questions when they are asked.

Q. You state what conversation you had with them.

A. Well, the men said they read in the paper that there was to be a big mass meeting down at the Music Hall; down at East Tuscarawas Street, and they took it for granted that there was to be a strike held in the mill, so they came in before that strike was called.

Q. Now, how many men did you speak to? Who told you that story?

A. Now, I don't think I talked to anyone outside of the night crew on the soaking pits.

Q. How many did your crew on the soaking pits consist of?

A. Well, I didn't go to all of them.

Q. About how many did you speak to?

A. Probably half a dozen or so.

Q. And some of them had been called to come to work?

A. I can't say for sure.

Q. Well, I am asking you whether or not in the conversations that you had with them, did anyone tell you that they had been called to come to the plant?

A. No.

Q. You testified a man by the name of Big Joe. Remember that testimony on direct examination?

A. Yes.

Q. You saw him leave the plant, is that right?

A. Yes.

Q. Now, prior to that you saw his wife crying and coaxing him to go home?

A. That is right.

Q. Where were you at the time you saw his wife crying and coaxing him?

A. Well, when you go out of the mill to the office you have to pass the police booth.

Q. Now, are you referring to the main office?

A. That is right.

Q. Here in Canton?

A. That is right.

Q. Yes.

A. His wife and he were standing at the police booth talking, and I had to pass, to walk past them to go over to the office.

Q. And you overheard the conversation as you went by?

A. No, I didn't.

Q. Well, how did you know that she was coaxing him to go home?

A. Well, I just took it for granted that that was going on.

Q. That is, you don't know really what conversation took place?

A. I didn't hear the conversation.

Q. Then you passed them and went on before you saw him actually leave, is that correct?

A. That is right.

Q. Did he leave through a gate near the police booth?

A. That is right.

Q. About how far away from the police booth were you when you saw him leave?

A. Well, you see, I didn't see him leave the police booth because there is a garage between the office and the police booth and I was up in the office on the first floor, and I saw him after they got past the garage walking up towards Eighth Street.

Q. Now, you say you saw him when he was outside the plant?

A. He was still on Company property but he wasn't out to the street yet. He was between the police booth and the street.

Q. I see. About how far away from him were you at that time?

A. Well, I suppose that office is probably 100 or 150 feet from the booth where you walk out to the street.

Q. Did you say there was some conversation between the deputy sheriffs and others on one occasion about clearing streets?

A. That is right.

Q. Was that the same time that Big Joe went out?

A. No, it wasn't.

Q. Well, the time that Big Joe went out, were there any pickets out there?

A. There was.

Q. Did they have clubs in their hands?

A. Some of them.

Q. About how many of them were there at that time?

A. Well, that day I would say possibly between 15 and 20.

Q. 15 and what?

A. 15 and 20.

Q. How many of those men had clubs?

A. Well, I couldn't say; I wouldn't say they all had clubs in their hands but some of them did.

Q. You have testified about a case where there were 50 or 75 persons outside of the gate?

A. Yes.

Q. On that occasion, did they all have clubs?

A. Well, I would say the most of them did; I wouldn't say they all did, but the majority of them did.

Q. If you testified on direct examination, and that testimony would show that all of them had clubs, would you want to change it?

A. Yes, if they says they all had, why, I couldn't say that, that they all did.

Q. That is not correct, is it?

A. No, but the majority of them had.

Q. Now, on this occasion when you say 15 or 20 were there, they didn't all have clubs, did they?

A. I couldn't say they all had.

Q. Approximately how many did have clubs?

A. Well, I couldn't say for certain; probably half of them; maybe more than that.

Q. You didn't see any injury done to Big Joe, did you?

A. No, I didn't.

Q. He is the only one that you saw try to leave the plant?

A. No.

Q. Whom else did you see try to leave the plant?

A. Well, I saw a couple of other fellows going out under the same conditions but I can't tell you what their names are.

Q. Well, they left when there were pickets there with clubs in their hands, is that right?

A. That is right.

Q. You saw them get injured?

A. No.

Q. Have you ever seen anyone get injured by a picket with a club?

A. No, I never did.

Q. Can you identify any of the persons who carried a club?

A. I never saw a man out there that I knew. Only one night I did see a fellow was driving a truck and was taking sandwiches around to the pickets; that is the only fellow that I could say I identified on the picket line.

Q. He wasn't carrying a club, was he?

A. Well, I didn't see what he carried in the cab.

Q. Well, you didn't see it?

A. No, I didn't.

Q. Now, you got how much pay for staying in the plant?

A. We worked 8 hours and got paid for 14; that was time and three-quarters.

Q. Do you know what previous arrangements had been made for men in the plant?

A. No, I didn't.

Q. Well, you slept on a cot, didn't you?

A. Yes.

Q. They had provided for on the night of the strike?

A. Well, not right away.

Q. When?

A. We didn't have any cots for several hours that night, and everybody was around asking, and everybody else where they was going to get a place to sleep, and finally a truck came down between the blooming mill and the open hearth and it had a lot of cots and mattresses, and we got a cot and took it back in the washroom and went to sleep.

Q. About what time did you get your cot?

A. Well, I would say it was around 4 o'clock in the morning.

Q. Prior to that some of the men did have some cots?

A. That was the first one I saw.

Q. Do you know who brought those cots in?

A. No, I don't; it was a Company truck that had them on but I couldn't say where he got them.

Q. It was a Company truck that was carting the cots?

A. That is right.

Q. Had you previously brought any clothes in there to stay for the duration of the strike?

A. No, sir.

Q. You had your regular working clothes, didn't you?

A. Yes, sir. I just had a change of clothes there.

Q. You had a normal amount of clothes?

A. Yes, sir.

Q. You had not prepared yourself for the strike?

A. No, sir.

Q. When did you just find out that you were going to get an increase in pay for remaining in the plant?

A. Well, I can't say for certain but I would say it was the third or fourth day after we were in there.

Q. Who told you you were going to get an increase?

A. Well, we put it up to our superintendent; then he said the Committee should go up to Richardson's office; that is the plant superintendent, and he told us what our pay would be.

Q. You say you put it up to him?

A. We—yes, we put it up to our superintendent, and he said—I don't know for sure what arrangements they were working—and he asked us to form a Committee of our own and go up to the office and see Richardson—that was the plant superintendent.

Q. Did you form such a Committee?

A. Yes, sir.

Q. Were you on the Committee?

A. I was.

Q. Did you go to see Mr. Richardson?

A. That is right.

Q. What took place there?

A. Well, we talked to him and told him what we wanted up there, so he asked what we thought the men would be satisfied with, so we argued back and forth for a while, and finally he told us they would pay us time and three-quarters.

Q. Did you ask for more than that when you went up there?

A. No, they—you know, it is generally a fact amongst men when they ask for a raise, they try to get all they can; naturally they all asked for more but—

Q. Did you ask for more?

A. All of us; but that is what we agreed to.

Q. Did you ask for more when you went up to Mr. Richardson?

A. Some of the men, they thought they should get double time.

Q. And Richardson cut them down to time and three-quarters?

A. That is right.

Q. Now, did you represent a particular group that went up there?

A. Yes. It was Robert Cook—

Q. Without naming them, was it a particular group of workers in the plant?

A. Yes, sir.

Q. Soaking pit workers?

A. No, it was a group all over the blooming mill—that is the 35-inch mill.

Q. I am referring to the group that you represented.

A. That is what I am talking about.

Q. Did these other men represent the same group?

A. When they formed a Committee to go out, the Committee was representing the whole department.

Q. Did you report back to the men what they were going to get?

A. That is right.

Q. This happened about two or three days after the strike began?

A. Yes, sir.

Q. Did these men think it was satisfactory?

A. They did.

Q. When you went to see Richardson, did he indicate whether or not that time and three-quarters was going to be paid the rest of the mill?

A. Yes, he gave us to understand that was going to be the standard set up all over the plant.

Q. Did he tell you when that was going to be?

A. No, he didn't.

Q. But he knew that two or three or four days after the strike had begun?

A. That is right.

Q. My question is whether or not he told you that that was going to be namely: That the entire plant knew it was going to receive time and three-quarters?

A. Well, he didn't say exactly that was decided. I suppose that he got his orders in there—but he didn't say just when he got those orders; just how much he was going to pay the men.

Q. Did you get paid for seven days a week while you were in the mill during that period?

A. I did.

MR. LAUTER: That is all.

MR. KETTERER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will take a short recess.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

E. D. GIBSON

fore. I want to ask him another question.

MR. KETTERER: This witness has testified be-
resumed the stand and testified further as follows:

Direct Examination

Q. (By Mr. Ketterer) Mr. Gibson, you testified in this hearing a little while ago, is that a fact?

A. That is right.

Q. Now, I will ask you whether or not you want to correct the testimony that you gave a little while ago in any particular?

A. I wish to.

Q. Now, in what respect do you wish to correct that testimony?

A. In respect to the meal books that were issued.

Q. Now, will you tell the Court the fact as you now understand it in respect to the meal books?

A. Why, previous to the strike when a meal book was issued to you, you signed a receipt to that effect; that was deducted from your pay. During the strike you were given a requisition, received the meal book but that was not deducted from your pay.

MR. KETTERER: That is all.

Cross Examination

Q. (By Mr. Lauter) Did you get a meal book subsequent to the strike?

A. Yes.

Q. Did you use that meal book?

A. I did.

Q. Was any deduction made from your pay?

A. You mean, did I get a meal book before the strike?

Q. No, after the strike.

A. Yes, after the strike I did.

Q. And was any deduction made from your pay for that meal book?

A. Not for that meal book, no.

Q. And you used that meal book to get meals?

A. That is right.

Q. In the plant?

A. That is right.

MR. LAUTER: That is all.

TRIAL EXAMINER LINDSAY: Just why did you not divulge that truth on cross examination?

THE WITNESS: I became confused and was thinking of the fact of the requisition, there would be a receipt for practically the same thing.

TRIAL EXAMINER LINDSAY: But you were asked the direct question if you had to pay for those meals during the time you were in there and you said no.

THE WITNESS: Well, they were—I paid for them, but with the meal book.

TRIAL EXAMINER LINDSAY: Yes, but you didn't pay for them. You got the meal book for nothing, isn't that right?

THE WITNESS: That is right. But I still paid for the meals with the meal book money.

TRIAL EXAMINER LINDSAY: But you didn't pay for the meal book itself?

THE WITNESS: That is right.

TRIAL EXAMINER LINDSAY: Therefore the conclusion is, you got them for nothing?

THE WITNESS: That is right. That is where I became confused.

MR. DAY: That is all.

(Witness excused.)

WILLIAM C. GREENWALD

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Ketterer) You may state your name, please.

A. William C. Greenwald.

Q. Where do you live, Mr. Greenwald?

A. 412 Post Court, N. W.

Q. By whom are you employed?

A. Republic Steel.

Q. For how long were you employed by Republic Steel?

A. About 19 years.

Q. And in what capacity are you employed at the present time?

A. Heater.

Q. In what mill?

A. The 35 inch mill.

Q. Were you so employed on the 25th day of May, 1937?

A. I was.

Q. Will you tell us what turn you worked on that day?

A. I worked 8 to 4:00.

Q. From 8 in the morning until 4:00 in the afternoon?

A. That is right.

Q. When, prior to midnight of the 25th of May, 1937, did you go into the plant after your 4 o'clock turn ended?

A. I quit at 4 o'clock, came up to the Square, got off of the bus, got a drink of water and I heard a couple of fellows say, "They are pulling a strike tonight." I went home and ate, went right back to work.

Q. About what time was that?

A. I think it was around 5:30 that I went back in the mill.

Q. 5:30?

A. 5:30 that night, I think it was about 5:30.

Q. Now, for what period of time did you stay there?

After the 25th of May, 1937?

A. The 30th of June.

Q. Now, did you at any time visit any of the entrances of the Republic Steel Corporation in the City of Canton during that period of time from the 25th of May, 1937, until the 30th of June, 1937?

A. Sometimes.

Q. Well, how often on an average did you visit the entrances?

A. Well, when I wasn't working I would go around there to see who was out there.

Q. Now, just tell the Court what you observed on the occasion of these visits to these various entrances.

A. Well, I just seen the pickets out there; some had clubs; some didn't.

Q. Now, did you visit all of the gates during that period of time?

A. Well, we went around at different times. We went around the different ones that we just looked around to see who we could see.

Q. Now, did you see anybody attempt to leave the plant while you were there from May 25th, 1937, to the 30th of June, 1937?

A. No.

Q. You didn't?

A. No.

Q. Now, I will ask you to state, Mr. Greenwald, whether or not you received any instructions from any foreman or any superintendent or any officer of the Republic Steel Corporation—

A. None at all.

Q. —directing you to report to the plant on or about May 25, 1937?

A. None at all.

Q. And during the time that you stayed in the plant from May 25th, 1937, until the 30th of June, 1937, I will ask you to state whether or not you received any order or direction from any foreman or superintendent or officer of the Republic Steel Corporation directing you to stay in the plant?

A. None at all.

Q. Will you tell us your reasons for not leaving the plant during that period of time?

MR. LAUTER: I object to the form of the question.

TRIAL EXAMINER LINDSAY: I really don't see the purpose to be served by those questions. I will sustain the objection. An exception may be noted in the record.

MR. LAUTER: Exception.

(Discussion off the record.)

MR. KETTERER: Will you mark this Respondent's Exhibit 18 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 18 for identification.)

Q. Now, Mr. Greenwald, I hand you a paper designated Respondent's Exhibit 18 for identification and ask you if you ever saw a paper like that before (handing a paper to the witness)?

A. I have.

Q. Where?

A. There was an airplane flew across the Republic Steel and dropped a bunch of those out in the mill yard.

Q. When was that?

A. Well, right after a ball game that we had.

Q. In respect to the date of May 25th or June 30th?

A. It was in between there but I couldn't tell you the date because I didn't keep the record. I was in there working.

Q. What is the fact as to whether it was in between those two dates: May 25th, 1937, and June 30th, 1937, during the strike?

A. It was in between those two dates, but I can't recall the date.

MR. KETTERER: We offer Respondent's Exhibit 18 in evidence in connection with the testimony of this witness.

MR. LAUTER: I object to it on the ground that it is incompetent, irrelevant and immaterial and it does not show as to who operated the airplane that dropped these cards. May I state at this time further, Mr. Trial Examiner, that this whole line of testimony is improper and irrelevant and immaterial? That they have shown on direct examination a considerable number of acts of violence and trailing of organizers and then there has not been any defense testimony offered in that respect but instead that we have a lot of irrelevant and immaterial leaflets circulated by some airplane that has not been identified some time in between May 25th and June 30th.

MR. DAY: May I suggest that this is the first leaflet we have introduced?

MR. LAUTER: It is not the first one that is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: I will take Exhibit No. 18 under advisement.

MR. KETTERER: That is all.

Cross Examination

Q. (By Mr. Lauter) You are on the 8 to 4 turn on May 25th, is that correct?

A. That is right.

Q. You went home and you ate and you came back at 5:30?

A. About 5:30.

Q. Did you have any conversation with any of the men in the plant or any foreman in the plant?

A. No, only I got out there to the Square and I got a bus and I heard a couple of fellows saying there was going to be a strike, so I went back in.

Q. Is that the only reason you went back in?

A. Well, I wanted to protect my job. We didn't belong to any organization or to the C. I. O. so I didn't see any reason for me to come out because I didn't belong to the C. I. O.

Q. Did you speak to your foreman about it?

A. No, sir.

Q. What is his name?

A. Hankes.

Q. You didn't speak to him about that?

A. No, sir.

Q. Before you went back?

A. No, sir.

Q. You testified about certain individuals carrying clubs. Could you identify a single individual carrying one?

A. Well—

Q. You know what the word "identify" means? Could you identify a single individual carrying a club?

A. Well, it was too far; maybe—

Q. Before you say maybe, could you or couldn't you identify a single person carrying a club?

A. I can't.

Q. Did you also get paid for 14 hours a day while working in the mill?

A. Yes, sir.

Q. You got your meals for nothing?

A. Yes, sir.

Q. You had cots provided for you?

A. Yes, sir.

Q. When did you go back after June 30th?

A. We went back—I think I was working the 12 to 8 turn—I think I went back on the 12 to 8 turn.

Q. Can't you say when you went back after you left the plant on June 30th? Did you go back the next day or did you stay out for any period of time?

A. I went back on the same night—the 12 to 8.

Q. Have you lost any time at all during the strike?

A. No, no time at all. Only when we had to work seven days. We only had to work six days ordinarily.

Q. I realize you are on a six-day basis. Is that the only time that you have lost?

A. Yes, sir.

Q. And during the period from May 25, 1937, to June 30th, 1937, you received time and three-quarters?

A. Yes.

MR. LAUTER: That is all.

MR. KETTERER: That is all.

(Witness excused.)

JOHN F. COSTELLO

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. John Costello.

Q. Where do you live?

A. I live at the Rich Apartments in Canton, Ohio.

Q. You work for the Republic Steel Corporation?

A. I do.

Q. How long have you worked for the Republic Steel Corporation?

A. 16 months.

Q. Were you working there on the 25th day of May, 1937?

A. I was.

Q. Now, I will ask you to state whether or not you remained in the plant from the time of the strike; from the 25th of May, 1937, until June 30th, 1937?

A. I did.

Q. Would you tell us, Mr. Costello, whether from the time of May 25th, 1937, you received any order or direction or any report from any superintendent or foreman or officer of the Republic Steel Corporation—

A. I didn't.

Q. —directing you to report for duty in the event of a strike on the 25th of May, 1937?

A. I did not.

Q. And during the period of time that you remained in the plant from the 25th of May, 1937, until the 30th of June, 1937, what is the fact as to whether or not you received any order or direction from any officer or foreman or superintendent of the Republic Steel Corporation, directing you to remain in the plant during the period of the strike?

A. I did not.

MR. KETTERER: We have no further inquiry.

MR. LAUTER: That's all.

MR. KETTERER: That's all.

(Witness excused.)

KARL KUHNS

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Your name is Karl Kuhns?

A. Yes, sir.

Q. Where do you work, Mr. Kuhns?

A. Republic Steel, Canton.

Q. For how long have you worked for Republic Steel Corporation, at Canton?

A. I started there in 1913, the old Hiner Steel Company.

Q. You worked continuously since that time?

A. Except when I was in the Army.

Q. Yes.

A. And for about two weeks at another time that I left.

Q. Now, Mr. Kuhns, you were employed by Republic Steel on the 25th of May, 1937?

A. I was.

Q. In what capacity?

A. Charge of the shipping to the trade.

Q. I will ask you to state whether or not you were in the plant during the strike from the 25th of May, 1937, until the 30th of June, 1937?

A. I was.

Q. Continuously?

A. Continuously.

Q. Now, Mr. Kuhns, I will ask you to state whether or not prior to the 25th of May, 1937, you received any order from any superintendent or foreman or officer of the Republic Steel Corporation asking you to report for duty at the plant in the event of a strike on the 25th of May, 1937?

A. I received an order from the man for whom I worked, the evening of the 25th.

Q. Well, now, what was that?

A. That there was going to be a meeting that night, and they were looking for the strike to be called.

Q. And following that you went into the plant?

A. I went in the plant about 8 o'clock that evening.

Q. When did your turn end prior to 8 o'clock that evening?

A. I beg your pardon?

Q. When did your turn end?

A. I work all day turn.

Q. I see.

A. In the office.

Q. Well, Mr. Kuhns, during the period of the strike, that the strike was on from the 25th of May, 1937, until the 30th of June, 1937, I will ask you whether or not you received any order compelling you to remain in the plant during the period of the strike?

A. I did not.

MR. KETTERER: That's all.

Cross Examination

Q. (By Mr. Lauter) You say that the man for whom you worked told you about a meeting on May 25th?

A. Yes, sir.

Q. Who was the man for whom you worked?

A. Ralph Cornell.

Q. And he told you this on May 25th?

A. Yes, sir.

Q. What is his position?

A. He had charge of the order and shipping department.

Q. Charge of the order and shipping department?

A. That is right.

Q. Is that your department?

A. I had charge of the shipping, yes.

Q. What is that?

A. I had charge of the shipping under him.

Q. Now, what is his position? What is his title in the mill?

A. Well, he has charge of the order and shipping, I would not just say he has a title.

Q. Well, is he a foreman or general foreman or superintendent? What is his position or title?

A. Well, it would be superintendent, in other words, of the ordering and shipping.

Q. Superintendent, and you are a foreman?

A. No, sir.

Q. What is your position?

A. I am chief shipper.

Q. You are what?

A. Chief shipper.

Q. Well, are you an employee or foreman? Have you a title?

A. Chief shipper.

Q. You have no title?

A. Well, shipper is the title I have.

Q. Shipper is all your title?

A. Yes.

Q. You took your orders from Ralph Cornell, is that correct?

A. Yes, direct orders from him. He is my direct boss.

Q. What did he tell you on May 25th?

A. Well, he said there was going to be a meeting of the C. I. O. and it looked very much as though a strike was going to be pulled that evening and I should arrange to get in before or by 9 o'clock that evening.

Q. Where did he tell you this?

A. In his office.

Q. Where is his office?

A. On 8th Street, main office.

Q. Is that the working part of the mill?

A. I beg pardon?

Q. You talk about the 8th Street office.

A. That is the main office of the mill.

Q. Is that his office, his regular office?

A. Yes, he has an office in there.

Q. And did he call you to the office?

A. Yes, sir.

Q. And he told you to get back in the mill by 9 o'clock?

A. We should be back by 9:00.

Q. What else did he tell you at that time?

A. Not much else at that time.

Q. Now what turn did you work?

A. He did—I worked in the office, all-day turn.

Q. Now, what are the hours of the all-day turn?

A. 8 to 5:00.

Q. 8 to 5:00? About what time did he call you into his office?

A. About a quarter after 5:00.

Q. He told you to go back at 9 o'clock?

A. He did.

Q. What did you tell him?

A. I told him that I would be there.

Q. Is that all that he said to you?

A. No, he instructed me to call five other boys from my office, and get them the message.

Q. Give them the message?

A. Yes, sir.

Q. To what effect?

A. That—the same thing that he told me, we try to be back by that time.

Q. Had to be back by 9 o'clock?

A. He didn't say he had to be back.

Q. He didn't say he had to be back? I am sorry, I thought you did say that?

A. No.

Q. What did he say?

A. Try to be back by 9 o'clock.

Q. Try to be back?

A. Well, yes.

Q. Did he use "try" or "had", do you remember?

A. I don't just recall.

Q. Just take a moment.

A. He had me call them to have them get back, to be in there by that time. I think that is the words he used.

Q. Who are the five boys you called?

A. Do you want the names?

Q. I would like them, yes.

A. Lloyd Moinette, Gust Pedrody, Glen Daley and Lee Tressel.

Q. That is four, who is the fifth?

A. And Hal Jones.

Q. Are these men all in your department?

A. Yes, sir, they work for me.

Q. The same department with you?

A. They work for me.

Q. And did you get in touch with each one of these men?

A. I called them by phone.

Q. At their homes?

A. Yes, sir.

Q. You told each one of them to be at the plant at 9 o'clock?

A. That is the word I was told to give them, yes.

Q. Were these men at the plant at 9 o'clock?

A. They were all in.

Q. How long did you stay in the mill?

A. From the—about 8 o'clock on the 25th of May until about 6 or 6:30 on the 30th of June.

MR. LAUTER: Would you mind reading back the testimony of this witness, beginning with the question that was asked him with respect to the order to report for duty? Find that question, please.

(Thereupon the Reporter read from the direct testimony of Karl Kuhns at page 4173, line 15 to 24 inclusive.)

Q. Did you receive time and three-quarters for the time you stayed in there?

A. No, sir.

Q. How much did you receive?

A. I received my regular salary.

Q. Did you get your meals for nothing?

A. Yes, sir.

Q. Were you provided with a cot?

A. Yes, sir.

Q. What else did you receive?

A. Do you mean financially or any other way?

Q. That's right.

A. Well, they gave us—after it was over they gave us a check, supposed to be sort of a bonus for our services for staying in, in place of the one and three-quarters per cent that they paid the hourly men and that was—gave me an increase—I forgot to mention, I also draw tonnage on the open hearth, they gave us one and three-quarters per cent tonnage on the open hearth based on the fifteen days of May—first fifteen days of May. Outside of that just regular salary.

Q. How much of a bonus did you get?

A. $49.50.

Q. $49.50?

A. Yes, sir.

Q. For the period from May 25th to June 30th?

A. Well, it wasn't given for any particular period. They just handed it to you in an envelope.

Q. And was there any designation in the envelope?

A. No, sir.

Q. Indicating for what it was?

A. No, sir.

Q. Now, you are a snipper, is that correct?

A. Yes, sir.

Q. Your exact title is what?

A. Just shipper of the U. S. division.

Q. Did you vote under the employees representation plan?

A. No, sir, I didn't have a vote.

Q. You didn't have a vote?

A. No, sir.

Q. Is that because you are considered as a—

A. A foreman.

Q. A foreman?

A. That is right.

Q. These other five men that you testified you called were not foremen?

A. No, sir.

Q. Is that correct?

A. That is right.

Q. They are all employees entitled to vote under the Plan?

A. That is right.

Q. Did they receive a bonus?

A. There was three of them were on an hourly rate, they were getting the one and three-quarter per cent; and two of the other ones—or the other two, rather, are on a salary. They received, I believe, the same as I received. Now, I didn't see their checks.

Q. Well, they told you and you understood from them what they received, is that where you got your information from?

A. No, I don't believe they told me what they received.

Q. Well, did you tell them what they were going to receive?

A. No, I didn't know.

Q. How do you know what they were going to receive?

A. I don't know.

Q. Well, how did you know, now?

A. That is what I say, I don't know.

Q. In other words, your answer was in the nature of a speculation, as to what they received, based on what other men in the plant got, is that correct?

A. Do you mean the hourly men?

Q. That's right.

A. Or did you mean the salary men?

Q. Salary?

A. Well, I would think they got about the same as I did.

Q. Well, what I am asking you is, you did answer and say that three of the men got one and three-quarters time?

A. Hourly rate, yes.

Q. I just asked you how you happened to know that, that these three men did get that?

A. I knew that.

Q. How did you know that?

A. Well, they worked for me and I knew what they were getting.

Q. Well, when did you know?

A. Through Mr. Cornell—oh, when, did I know that?

Q. That is right.

A. Oh, I would say three or four days after the strike had started.

Q. How did you know it?

A. Well, from the different reports, they told me that they were on the—that they were included in that category also, getting this one and three-quarters per cent.

Q. Who told you that?

A. They did.

Q. Did Mr. Cornell tell you that also?

A. I don't recall, whether he did.

Q. When were you first advised that you were going—that these men were going to get an increase in wages for the time they stayed in?

A. About that time, about three or four days after.

Q. And did you tell that to the men when you told them that they had to be in the plant by 9 o'clock?

A. No.

Q. On May 25th?

A. No, sir.

Q. Did you tell that to the men while they were in the plant, after you found out from Mr. Cornell?

A. I think Mr. Cornell told them.

Q. He told them in person?

A. Yes.

MR. LAUTER: That's all.

Redirect Examination

Q. (By Mr. Ketterer) Mr. Kuhns, just a minute, one further question. Prior to the 25th day of May, 1937, had you had a conversation with your superintendent concerning the prospects of a strike?

A. Well, we had talked it over.

Q. And what, if anything, was said in that connection?

A. Well, he told us that the plant—they intended to operate the plant, and in the event it operated and they called a strike, why he would like to have us in there

Q. What, if anything, did you say?

A. I was—I told him I would be there, but I preferred going in before the thing happened, rather than to try to get through the line.

MR. KETTERER: That is all.

Recross Examination

Q. (By Mr. Lauter) Now, you say Mr. Cornell told you that they intended to operate the plant?

A. That was the conversation, yes, sir.

Q. How long prior to May 25th did you have that conversation with Mr. Cornell?

A. I would say about a week previous.

Q. Did you communicate that conversation to any of these men?

A. Oh, yes, we talked it over.

Q. That is, these five men?

A. Yes.

Q. You communicated to them the conversation you had with Mr. Cornell?

A. Yes.

Q. New, let's have that conversation, please.

A. Well, I couldn't just recall the exact words.

Q. Well, in substance?

A. That he had called me in his office and we had talked it over, then I mentioned it to the boys that in the event a strike was called, it was the intention of the management to operate the plant.

Q. Is that the extent of that conversation with Mr. Cornell?

A. Yes, about—that is about all of it, yes, sir.

Q. Did you have any other conversation with him about what would happen in case of a strike was called?

A. Just different times we talked about it and not anything definite. It was a matter of common conversation out there, you know. Speak to him about it—I wouldn't realize how many times I would speak to him about it.

Q. Was the common conversation out there for the—

A. No, sir.

Q. (Continuing) To tell you or to communicate with the plant in case a strike was called?

A. No, sir.

Q. Now, what was common conversation there?

A. Well, I really didn't talk to any of the superintendents outside of Mr. Cornell told me. I considered him my boss and I got my information from him.

Q. Now, did you communicate that information with any of the other men; that is correct?

A. That is right.

MR. LAUTER: That is all.

TRIAL EXAMINER LINDSAY: Just a minute. Mr. Day and Mr. Lauter, come up here, please.

(Discussion off the record.)

Q. (By Mr. Lauter) Did the salaried men all receive a bonus?

A. As far as I know they did.

Q. They did?

A. You see, they give it to us individually; what they got I don't know.

MR. LAUTER: That is all.

MR. KETTERER: That is all.

(Witness excused.)

C. F. PRICE

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Clifton F. Price.

Q. Keep our voice up, Mr. Price, so we can all hear the answers.

A. Yes, sir.

Q. Where do you live, Mr. Price?

A. Massillon, R. D. 1.

Q. By whom are you employed?

A. Republic Steel.

Q. In what capacity?

A. Assistant superintendent on the open hearth.

Q. Were you so employed on the 25th day of May, 1937?

A. Yes, sir.

Q. Now, I will ask you whether or not you had working in your department prior to the 25th of May, 1937, a man by the name of Sam Christ?

A. Yes, sir.

Q. How long has he worked for the Republic Steel Corporation or its predecessors?

A. It has been several years; 12 or 13. I would not be positive of it but it is a long time.

Q. And he worked in your department, did he?

A. Yes, sir.

Q. Now, was he working at the time operations were suspended in Massillon just preceding the strike?

A. I think he worked on a Monday and preceding the strike Tuesday.

Q. Now, following the reopening of the plant on the 5th of July, 1937, what if anything did you do in respect to rehiring Sam Christ as a member of the Republic Steel Corporation?

A. Well, I don't know where Sam Christ lived. I wasn't there; I told my turn foreman and the recorder about telling him his job was open.

Q. When was that?

A. That was probably towards the middle of July.

Q. 1937?

A. Yes, sir.

Q. Now, what were the names of those two men you just mentioned?

A. Streisy.

Q. And the other man?

A. Schwarm; Charles.

Q. Charles Schwarm?

A. Yes, sir.

Q. Did you yourself ever contact Sam Christ following the reopening of the plant in July, 1937?

A. No, I endeavored but I couldn't.

Q. Now, just tell us what you did in respect to your endeavors to contact him after the reopening of the plant.

A. I stopped at his house on a Saturday afternoon after I left the plant. He wasn't home. I told his wife to have Sammy come up to my house in the morning; I would be there. She said: "All right." She would have Sammy there. I stopped there Sunday noon and Sammy still wasn't home.

Q. Now, at any time since the reopening of the plant has Sam Christ ever come to you and asked for re-employment of his old job?

A. No, sir.

Q. Now, your department in the Massillon plant, Mr. Price, I will ask you whether or not you have a man by the name of Tefir Tahir, also known as Taffy?

A. Yes, sir.

Q. Now this man, Mr. Price, who is known by the name of Taffy, how long has he worked in your portion of the Republic Steel Corporation or its predecessor corporations in the Massillon plant?

A. He was in the plant for several years; several years ago in the open hearth, and then he left, but he came back in 1933 and 1934; I can't tell you the date but he has been there two or three years, maybe longer than that.

Q. Was he working at the time the plant suspended operations at or immediately prior to the strike?

A. Yes, sir.

Q. Now, what if any steps did you take following the reopening of the plant in July, 1937, to rehire this man referred to by the name of Taffy?

A. The same as Sammy: I asked his foreman, I would like to locate him, telling him we were starting up again.

MR. DAY: Will you read that answer?

(The last answer was read.)

Q. Was there anything else told this man? To refresh your recollection, did you tell him anything in respect to his old job being open?

A. Yes, I told him about it, oh, about his old job being open—that he could get his old job back.

Q. Now, did you visit this man Taffy's home at any time?

A. No, sir.

Q. I will ask you, Mr. Price, whether or not since the plant reopened in July, 1937, if this man Taffy has ever come to you and asked to be rehired as an employee of the Republic Steel Corporation?

A. No, sir, I haven't seen him since the strike.

Q. Mr. Price, did you at any time know that either of the men that you have spoken about, that you sent Mr. Schwarm to leave any notes at the home of this man Taffy or Sam Christ?

A. I didn't.

Q. Did you authorize such a procedure?

A. No, sir.

MR. KETTERER: That is all.

Cross Examination

Q. (By Mr. Lauter) How long have you worked for Republic Steel, Mr. Price?

A. Oh, about 20 years.

Q. What is your position in the plant?

A. Assistant open hearth superintendent.

Q. How many men are employed under you?

A. We have about 200 in the open hearth.

Q. I didn't hear you.

A. About 200 in the open hearth.

Q. Did you stay in the mill after the strike?

A. We were in there until the heats was out.

Q. When was that?

A. Probably the first two or three days of July. We didn't try to operate the plant at all.

Q. Well, the strike took place on May 25th?

A. The 26th, I believe.

Q. Well, the 26th?

A. Right.

Q. When did you leave the plant?

A. Probably June 2nd or 3rd.

Q. You stayed in the mill until June 2nd or 3rd?

A. Yes.

Q. And left at that time?

A. Yes, sir.

Q. Were you interfered with in any way when you left?

A. What?

Q. Did you suffer any bodily injury when you left?

A. No.

Q. Any pickets attack you?

A. No.

Q. Now, was there a worker in that department known by the name of Chuck?

A. Yes, sir.

Q. His initials are C. S.?

A. Charles Schwarm.

Q. I hand you Board's Exhibits Nos. 49 and 50 and ask you whether or not the statements on these exhibits conform substantially to the directions which you gave to Mr. C. S. Schwarm who is a recorder. His initials are C. S. Schwarm (handing a paper to the witness).

A. No, sir, I authorized no note whatsoever.

TRIAL EXAMINER LINDSAY: He didn't ask you that question.

MR. LAUTER: Will you read that question of mine, Mr. Reporter?

(The last question was read.)

A. How do you want that answered?

(Discussion off the record.)

A. The contents of the note are not what—

TRIAL EXAMINER LINDSAY: Read the question once more to the witness.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Read that note.

A. No.

Q. Will you read that note?

A. I haven't the note and the answer is no.

MR. DAY: Will somebody read that note out loud?

MR. LAUTER: All right. I will. "Taffy: Report to work Sunday morning (tomorrow) at 7 a. m. if you want your job. See Sam Christ also. Price per C. S."

Q. Now, you did give some instructions to Chuck, is that right?

A. Yes, sir.

Q. Now, you told him to go and see Mr. Taffy and another gentleman named Sam?

A. Yes, sir.

Q. Tell Chuck to tell them?

A. To tell those boys that their jobs was starting now. It was being opened. That they should come back to work.

Q. When were they asked to come to work?

A. There was no definite time set.

Q. Now, mention was made of the men reporting on Sunday?

A. No, sir.

Q. When did you tell Chuck to go and see Taffy and Sam?

A. It was probably the day before Sunday—Saturday—I am not positive as to the time when they should.

Q. Did I understand that you did tell Chuck to report—to have these men report to work?

A. I told him to tell them to report to work.

Q. And you told Chuck to tell these men to report for work and you are saying that this statement on Board's Exhibit No. 50 is not substantially the same as: "Sam: Report to work at the pits July 18th, 1937, Sunday morning, at 7 o'clock if you want your job. Price per C. S." You say that is not substantially what you told Chuck?

A. No, sir.

Q. You didn't set the date?

A. I didn't set no time limit on it.

Q. Apart from the fact that you didn't set any time limit on it, was there anything else that differs from your instructions to Chuck?

A. Just to tell them to report to work.

Q. Look at this and tell me if there is anything else that differs from your instructions to Chuck except that on this Board's Exhibit No. 50 there is instructions to report at 7 o'clock.

A. There is a note written.

MR. LAUTER: Will the Reporter read the question?

(The question was read.)

MR. LAUTER: Look at the exhibit if you wish in answering that question.

A. A note was written.

Q. I am talking about the contents of the note.

A. I have repeated that two or three times.

MR. LAUTER: Will you read the question once more to the witness?

TRIAL EXAMINER LINDSAY: That doesn't make any difference. Answer the question.

A. No.

Q. Then do I understand your testimony to be, Mr. Price, that you did tell Chuck to tell these men to report to work?

A. Yes, sir.

MR. LAUTER: That is all.

MR. KETTERER: That is all, Mr. Price.

(Witness excused.)

CLIFFORD W. STREBY

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your full name, please?

A. Clifford W. Streby.

Q. Where do you live?

A. R. D. 4, Massillon.

Q. Where are you employed?

A. Republic Steel.

Q. How long have you worked for Republic Steel Corporation?

A. Between 10 and 11 years.

Q. And in what capacity are you employed there at the present time?

A. Turn foreman.

Q. In what department?

A. Open hearth pits.

Q. And is Mr. C. F. Price, who just left the witness stand, your immediate superior?

A. He is my superintendent.

Q. Were you employed as turn foreman in the open hearth department at the Massillon plant when the plant closed on account of the strike?

A. No, sir.

Q. In May, 1937?

A. No, sir.

Q. What job did you have then?

A. Steel pourer, and first ladle man.

Q. When was it that you returned to work at the plant following the strike?

A. The first day after they opened up, I think it was the 5th.

Q. Of what month?

A. July.

Q. Now, are you acquainted with the man who was referred to here in the record as Taffy?

A. Yes, sir.

Q. And did he work in the department prior to the time that the mill closed immediately preceding the strike?

A. He wasn't working on our turn, but he was working. He was working on another turn.

Q. Now, you may state whether or not you received any directions of any kind from Mr. Price, your superintendent, in respect to notifying Taffy about his being re-employed following the re-opening of the plant after the strike?

A. I did.

Q. Do you recall about when that was?

A. I think it was on the first Sunday I reported to work as foreman.

Q. The first Sunday?

A. First Sunday.

Q. Was that the first Sunday after the plant opened?

A. No, it was the second Sunday.

Q. Second Sunday What instructions did you receive from Mr. Price about this man Taffy?

A. To come down to tell him his job was open, he should report to work.

Q. What did you do after you received those instructions?

A. Why, I didn't go, the first day. I told this recorder to go and see him because it was on his road home. I didn't know where he lived. So he went and seen him and reported to me on Monday morning.

Q. Well, you weren't with the recorder?

A. That is Mr. Schwarm, is my recorder.

Q. But I say, you were not with him when he went?

A. Not with him when he went and stopped at Taffy's house, no, sir.

Q. Did he make a report to you on Monday in respect to these directions that you had given him?

A. Yes, sir, when he returned he made reports that he had stopped at his home and nobody was there.

Q. I see. Now, following that Monday when you got this report from Schwarm, did you make any effort yourself to contact this man Taffy?

A. Two different occasions I did.

Q. Now, when was that?

A. Well, I can't give you the exact dates, but it was about a week after he was there the first time.

Q. And where did you go?

A. To his home where he boards.

Q. What, if anything—And whom did you see at the home there?

A. Well, I don't know whether it was his boarding lady or his wife, but it was some lady came to the door and I asked for him and she said he wasn't there.

Q. Did you give her any message?

A. Not the first time.

Q. Well then, when did you go back the second time?

A. Oh, about a week later.

Q. And whom did you see on that occasion?

A. The same lady.

Q. And did you give her any directions then?

A. I asked for him.

Q. And anything else said?

A. She wanted to know what I wanted with him.

Q. And what did you tell her?

A. I told her I wanted to know—I wanted to know whether he wanted to come back to work, that his job was open.

Q. Have you ever seen this man Taffy at the plant since that time?

A. No, sir.

Q. Are you acquainted with a man named Sam Christ in the same department?

A. Yes, sir.

Q. And was he working at the time the mill closed just preceding the strike?

A. He and Taffy worked on the same turn.

Q. Worked on the same turn? Now, following the reopening of the plant, after the strike, did you receive any instructions from your superintendent, Mr. Price, concerning the re-hiring of this man Christ?

A. The same order I got for this Taffy.

Q. And that was what?

A. To go to tell him his job was open, he should report for work.

Q. All right, now what did you do pursuant to that order?

A. Well, I sent this man Schwarm the first Sunday, I didn't know where he lived so he stopped—he told me the same thing about him as he told me about Taffy. He wasn't at home.

Q. Now, did you go to Christ's home following that?

A. I waited a few days and then I stopped on my road home.

Q. Can you fix the time when you stopped the first time?

A. Not the exact date, no, it was only two or three days after.

Q. Did you see anybody at home then?

A. Nobody home the first time I stopped.

Q. Then did you stop a second time?

A. I stopped sometime later than that, and then I talked to his wife; she was home.

Q. You talked to his wife?

A. I talked to his wife.

Q. Now, what conversation did you have with her about it?

A. Well, I just asked her whether she knew whether Sammy wanted to come back to work.

Q. And what did she say?

A. She said she thought he did, but he was afraid.

Q. And what did you say, if anything?

A. I said I didn't see why he had to be afraid, going in and out every day, why he had to be afraid. I would stop and haul him in and out in my car, if he would come back.

Q. And did you make any other arrangement about taking them in?

A. No, sir.

Q. Did you stop on any other occasion?

A. I stopped one Sunday after that.

Q. And was anybody home at that time?

A. Well, she was home at that time and I wanted to see him, and she said he wasn't there. And I said, "Well, will you have him here at 7 o'clock in the evening?" And she said, "I will; if he comes home for supper." So I went home and went back at 7 o'clock in the evening and nobody was there.

Q. Did you see this Mrs. Christ around there any place?

A. I saw her sitting in the corner—across the street on the front porch, with some other people.

MR. KETTERER: That's all.

Cross Examination

Q. (By Mr. Lauter) You were not afraid of the pickets, were you?

A. No, sir.

Q. No pickets ever did you any bodily harm?

A. No, sir.

Q. You saw the pickets?

A. Yes, sir.

Q. Now, you are a turn foreman?

A. Now, yes, sir.

Q. When did you become turn foreman?

A. Around about the 18th of July.

Q. That was prior to your leaving these notes that are in evidence as Board's Exhibit 49 and 50?

A Well, that did happen while I have been turn foreman.

Q. That is what I am asking you?

A. Yes.

Q. You became turn foreman before you left Board's Exhibit 49 and 50?

A. Yes, sir.

MR. KETTERER: Did I understand you to be interrogating him about leaving notes?

MR. LAUTER: That's right.

MR. KETTERER: He didn't testify—

THE WITNESS: I didn't leave no notes.

Q. I am asking you now whether you left notes?

A. No, I left no notes.

Q. You left no notes?

A. No notes to nobody.

Q. Did you give instructions about leaving notes?

A. No, sir.

Q. Yes, sir, you are not the "C. S." who left the notes, is that right?

A. No, sir.

Q. Now, what is the name of the person who is "C. S." who left the notes, do you know?

A. It is supposed to be Charles Schwarm.

Q. Let me get that straight. Did you tell Charles

Schwarm to tell Taffy and Sam to report for work?

A. No, I didn't tell him, he asked me whether I was going to stop off on the road home. I told him no, I didn't know where they lived, I couldn't stop, that he should stop.

Q. I see.

A. So he stopped.

Q. And he left those notes, is that correct?

A. I don't know whether he did or not.

Q. Did he tell you whether he did?

A. He didn't say a thing about the note until this trial came up.

Q. Well, has he told you that he did leave the notes there?

A. Yes, sir.

Q. What else did he tell you?

A. That is all he told me.

Q. Concerning this case?

A. That is all he told me.

Q. Didn't he tell you that he left them in pursuance to instructions from Mr. Price?

A. No, sir.

Q. To tell these men to report back to work?

A. No, sir. He knows—

Q. What is that?

A. He says to me the other day he was sorry he left the notes.

Q. Is that all he said to you?

A. Yes, sir.

Q. He didn't tell you why he was sorry?

A. Why, because he had no authority to leave them.

Q. Is that what he said?

A. Yes, sir.

Q. What else did he say about being told to tell these men?

A. That is all.

Q. Is that all the conversation you had with him?

A. Yes, sir, about the note.

Q. That he told you he was sorry—What is that?

A. That is all the conversation we had about the note.

Q. Where did you have the conversation? In the shop?

A. In the office.

Q. Was that in your office?

A. No, it is in the office of the pit. Not my office, I don't have an office.

Q. Whose office was that?

A. Mr. Price's office.

Q. Now, have you hauled any other men back and forth from work?

A. Yes, sir.

Q. That is while you were turn foreman?

A. Yes, sir.

Q. While the strike was on?

A. Yes, sir.

Q. Did you tell any other men that they needn't be afraid, that you would take them to and from the plant?

A. Only the men that I haul now.

Q. What is that?

A. Only the men that I haul now.

Q. You told them?

MR. LAUTER: Mr. Reporter, did you get the nod of the head?

THE WITNESS: The men I am hauling now I hauled then.

Q. There was a question which I asked, you nodded "yes" when I said, "You told them"?

A. Yes.

Q. What orders did you get from Price, if any, with respect to Sam and Taffy?

A. Who?

Q. What orders or instructions did you get from Mr. Price with respect to Sam and Taffy?

A. To go to notify them that the job was open and they should report to work.

Q. Was there anything said in the event they didn't report to work?

A. No, sir.

Q. Do you know whether or not their jobs have been filled since then?

A. Yes, sir.

Q. They have been filled?

A. Yes, sir.

Q. When did you say you went to see them? When were you told to go to see them?

A. The first time was the first Sunday. I went into work as a foreman that first Sunday.

Q. When was that?

A. The first time was on that Sunday?

Q. Have you got the approximate time on that?

A. No approximate time, no. I think it was the 18th, though.

Q. Now, were there jobs filled after that or before that date?

A. No, they were filled a long time after that.

Q. A long time after that?

A. Yes, sir.

Q. Now, how many times did you go to Sam's house or Taffy's house?

A. I went to Taffy's house twice and Sam's house four times.

Q. On each occasion you left word that someone should—you left word with someone or with somebody, or were there occasions when you visited the home of Sam and Taffy and were able to find them in?

A. Once I left word at Taffy's, and three times at Sam's house.

Q. That they were to report to work if they wanted the job?

A. That is what I told his wife. If he wanted the job he should come to work.

Q. That they were to report to work?

A. Yes, sir.

MR. LAUTER: That is all.

MR. KETTERER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will adjourn until 9:30 in the morning.

(Whereupon at 5 o'clock p. m., September 14th, 1937, an adjournment was taken to 9:30 o'clock a. m., September 14th, 1937.)

Council Chambers, City Hall, Canton, Ohio,
Wednesday, September 15, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq. and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., Arno G. Erdrich, Esq., (Cleveland, Ohio), and J. G. Ketterer, Esq., (Canton, Ohio), appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing will come to order.

(Discussion off the record.)

SAM DAVEY

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Your full name, please?

A. Samuel Davey.

Q. And where do you live, Mr. Davey?

A. 304 25th Street, N. W., Canton, Ohio.

Q. Are you employed at the present time?

A. I am.

Q. In May, 1937, by whom were you employed?

A. Republic Steel Corporation.

Q. In what capacity were you employed in May, 1937, by the Republic Steel Corporation?

A. Superintendent of the Canton Tin Plate Division of Republic Steel.

Q. How long had you been connected with the Tin Plate Division of the Republic Steel in Canton?

A. Oh, about 14 months; up until the 15th of August.

Q. Of 1937?

A. 1937, yes.

Q. You are no longer with the Republic Steel at the present time?

A. No, sir.

Q. What did you say your capacity was out there?

A. Superintendent of the Tin Plate Division; of the Canton Division.

Q. Now, what you referred to as the Tin Plate Division of the Republic Steel Corporation, had you had any contact with that during the time it was owned by the Republic Steel?

A. Yes, I was one of the owners of the plant.

Q. When was that sold to Republic Steel?

A. July 1st, 1936.

Q. July 1st, 1936?

A. Yes, sir.

Q. Then you remained on as superintendent continuously after that time until August, 1937?

A. Right.

Q. Now, at the time the Republic Steel took this plant over in July, 1936, what was the character of the operations that were being conducted in that plant?

A. When they took it over?

Q. When they took it over.

A. It was manufacturing tin plate; about 80%, and about 20% black plate.

Q. Will you distinguish this, or distinguish this tin plate from the black plate?

A. The same product up to the point where it is coated with tin.

Q. Coated with tin?

A. Yes.

Q. Now, Mr. Davey, by what means was tin plate made in the Canton Tin Plate Division here?

A. What is known as the four part system.

Q. The four part system?

A. Yes, it is known as the four part system.

Q. Will you describe that a little more in detail for us?

A. Well, it is practically all hand work with the exception—in other words, it is the same process that has been in effect for the last 50 or 60 years.

Q. Is it correct to state that the operation of this plant could be characterized as a hand operated tin mill?

A. Yes, sir.

Q. Now, is there any other tin mill process besides that?

A. Oh, yes.

Q. What is that?

A. There is the three part which is somewhat similar to others with a mechanical doubler; there is a mechanical doubler. There is also a continuous strip rolling process—which is the most modern process.

Q. Which is the most modern process?

A. The continuous strip rolling process.

Q. That is the most modern?

A. Yes, sir.

Q. Now, generally in the Tin Plate Division what has been the experience, to your knowledge, of plants operating the hand mill of the character that this plant was out here in operation?

A. In the past two years they are gradually going out of the picture; the larger companies—they are going out of the picture.

Q. They are going out of the picture?

A. The hand mills are.

Q. To your knowledge, has that been your experience?

A. They constructed one at Niles, commencing about last September, and finished it around February, a modern strip mill for tin plate only.

Q. And that was at Niles, Ohio?

A. Niles.

Q. And operations commenced at that plant when?

A. Around about the 1st of February.

Q. Of what year?

A. 1937.

Q. Then what happened at the Canton Tin Plate Division in respect to the production of tin plate?

A. Tin plate was discontinued at the Canton Tin Plate Division.

Q. That is—

A. That is, coating of the plate; coating department was discontinued.

Q. And what was done with the tin plate production of the Republic Steel Corporation, to your knowledge?

A. Tin Plate production, that is rather—what do you mean? The tin plate production of Republic Steel?

Q. Yes.

A. Oh, that was taken to Warren and to the new strip mill at Niles.

Q. And from about February 1st, 1937, when the operations at this new Niles mill commenced, I will ask you to state, Mr. Davey, what business was conducted in the former tin plate division of the Republic here in Canton?

A. After that date?

Q. After that date.

A. Why, we were attempting to get sufficient black plate from various parts of the country to continue operations on the black plate basis.

Q. What is the capacity of this mill in the black plate production out here?

A. Between 750 and 800 tons a week.

Q. Now, you have testified that you were there from July, 1936, until August, 1937?

A. Right.

Q. I will ask you whether or not you are familiar with the production of black plate in the Canton plant here from February 1st, 1937, by weeks—scheduled production?

A. As to the tonnage?

Q. Yes.

A. Yes.

Q. Can you tell us what that is?

A. I have some figures taken from my schedules.

Q. You can't tell without referring to that memorandum?

A. Not without referring. There are too many figures.

Q. All right.

A. I would not attempt to remember them. Beginning with the week of February 22nd, 515 gross tons. March 1st, 761. March 8th, 425; March 15th, 654; March 21st, 497; April 5th, 541; April 12th, 888; April 19th, 609; April 26th, 921; May 3rd, 315; May 10th, 0; May 17th, 0; May 24th, 650 tons; at which time the strike was called, we only worked two turns on that week, and of course there were no operations in the week of May 31st, June 7th, June 14th, June 21st, June 28th, July 5th; and on July 12th we had had 200 tons, and on July 19th 248 tons.

Q. Now, in a black plate mill of this kind out here are there any ordinary standard sizes of sheets that are made?

A. Yes, anything under 14 square feet is considered black plate product. That is, anything under that. That is the maximum size, in other words. Anything beyond that is considered sheet mill product.

Q. Now, for the purpose of increasing the production of the tin plate division out here, what, if anything, was done by using other sizes of black plate in the production of the tin plate division?

A. We were — as operating heads, myself and the manager of the order department, we continually solicited the other departments for additional tonnage. We managed to get approximately 100 to 125 tons a week, which is included in this figure, of sheet mill products made on black plate mills.

Q. What is the fact as to whether or not that additional tonnage was at the result of increased cost to the Republic Steel Corporation?

A. Oh, yes, it cost more money to make that on tin mill process.

Q. Can you give us that approximate increase, in percentage?

A. 15 to 18 per cent more.

Q. Due—

A. That is in direct labor.

Q. Now, in the pickets that you have given us, it appears that on the week ending May 10th there was no production scheduled?

A. Nothing on the books. No, sir.

Q. And again on the week of May 17th there was no production scheduled. What, if anything, happened, if you know to account for the fact that there was no production scheduled for those two weeks?

A. Well, the most outstanding thing was the fact that the Canton tin plate—the Canton Stamping & Enameling Company called a strike on Friday, April 29th. April 29th—and they were one of our large customers, Canton Stamping & Enameling.

Q. Now, was there any shut-down at the plant, in the tin plate division of the Republic Steel, on or about the 1st of May?

A. The 1st of May? Yes, our tonnage—referring to our tonnage there, there was no tonnage on May 10th and May 17th we had no tonnage whatsoever to operate.

Q. And will you tell us why the plant was shut down in the early part of May, 1937?

A. We had no tonnage. Of course, the tin plate business is somewhat seasonal, it begins to taper off in December, and black plate business would have their commitments and it is very difficult to break into a new customer at that season of the year.

Q. Now, at the time of the Canton Stamping & Enameling Company's strike, commencing as you have said, on the 29th of April, did you have any stock of black plate on hand?

A. Oh, yes, we had a large stock for that particular customer and other customers too, but that was the largest customer. We had approximately 1400 tons in the plant, which is equivalent to two weeks' work in process and some of it was finished.

Q. And what, if anything, happened to orders from the Canton Stamping & Enameling Company at the time of this strike?

A. They ceased, immediately.

Q. You couldn't make any further deliveries?

A. Couldn't make any further deliveries.

Q. Now, the plant reopened after the shut-down, on what day?

A. I think it was June 20th.

Q. No, I mean the May shut-down.

A. Oh, after the May shut-down? We started, after the May shut-down, we had—on May 24th we had 650 tons we started up.

Q. And for what period of time did you work on the 24th of May?

A. We worked two eight-hour turns, or one and a half, in other words we didn't get the second turn finished. I would say approximately one and one-half turns.

Q. And the plant was not operated during the strike?

A. No, sir.

Q. That division?

A. That division was not.

MR. KETTERER: That's all.

Cross Examination

Q. (By Mr. Lauter) Mr. Davey, you are no longer connected with Republic Steel Corporation?

A. No, sir.

Q. Have you left them because of the way they handled their labor problems?

A. Absolutely not.

Q. How long have you been with Republic, will you say?

A. About 14 months.

Q. When did you start?

A. Well, I was at the plant until I turned the services over to Republic Steel on July 1st, 1936.

Q. Now, the plant shut down on what day, did you say?

A. Well, which shut-down are you referring to?

Q. The May shut-down.

A. The May shut-down; May 10th we did not operate. These schedules operate Mondays and this covers the first day of the week (indicating.)

Q. That is, the shut-down may have taken place on a Friday?

A. Yes, the Monday after that Friday.

Q. You opened on May 24th?

A. May 24th, right.

Q. How complete was that shut-down?

A. The hot mills were completely down. The finishing departments were operating—the cold department and the rolling department.

Q. More than the Tin Plate shut down or only the Tin Plate?

A. The hot mill in the Tin Plate was down.

Q. Approximately how many men remained at work on that shut-down?

A. I would say 50% of the men.

Q. About how many men are there in that Tin Plate Division?

A. When we were working it is 640 to 680. When we discontinued we had 570.

Q. During this period from May 1st to May 24th you say that the mill was operating?

A. I wouldn't say that the mill was operating, just those that were necessary to finish the products.

Q. After that you had just maintenance men?

A. After that only maintenance men.

Q. In other words, it was a complete shut-down except for the maintenance men?

A. That is until May 24th.

Q. That is right.

A. Yes.

Q. Now, have you told any of your employees not to join the C. I. O.?

A. Absolutely not.

Q. Do you know whether any of the superintendents of foremen ever told any of your employees not to join the C. I. O.?

A. Not to my knowledge.

Q. Or within your hearing?

A. Not within my hearing.

Q. Do you know an employee by the name of Johnny John?

A. Yes, sir.

Q. Have you ever had any conversation relative to the C. I. O. with him?

A. I did, yes.

Q. Sometime in the middle of February, did you come to his office or wherever he works about 10 o'clock at night and told him: "If you fellows think you are going to run this plant, you are mistaken. You fellows have got to give up this organizing for C. I. O.?"

A. Absolutely not.

Q. Did you also say to him: "If the C. I. O. keeps this up it will cause this plant to shut down?"

A. Absolutely not. I came to his office and found he and three others in the office capable of handling one man and not doing their work. I happened to be in the plant as I sometimes do at 10 o'clock at night, and told them to go out and attend to their work or I would turn him in.

MR. DAY: I beg your pardon. Will you repeat that answer? I didn't hear it.

(The last answer was read.)

Q. Did you ever have any discussion out there with him about the C. I. O.?

A. Yes, I did.

Q. Did you ask him how many had joined the C. I. O.?

A. I didn't.

Q. What was the discussion that you had about the C. I. O. at that time?

A. Not the C. I. O. but labor organizations generally. I wouldn't say the C. I. O.

Q. Well, tell me what the discussion was that you had with him at that time?

A. Well, that I believed we were very well—being very well represented with the representation that we had.

Q. You mean by the Plan?

A. Yes.

Q. That was the Employees Representation Plan?

A. The Employees Representation Plan which had been in effect since 1933.

Q. What else was said there either by you or by him?

A. I am just—

Q. I am only interested in getting the substance of the conversation as best you can remember.

A. I can't remember. He asked me my opinion about it and I said I didn't believe it would succeed.

Q. What would succeed?

A. The organizations they were going to have.

Q. You mean the C. I. O.?

A. Not the C. I. O.

Q. What organizations are you referring to?

A. The general unrest that was around the plants.

Q. When you say the organizations and the general unrest, what organizations and unrest are you referring to?

A. Well, if you want to call it C. I. O., yes. I didn't believe the C. I. O. would succeed; that was my opinion.

Q. I realize that it is only your opinion—

A. It was my opinion and not Company policy.

Q. Yes, I realize that but I am only interested in getting into the record your conversation at that time.

A. I think I discussed with Mr. John my experience in the steel industry and gave the young fellow the benefit of my experience.

Q. Now, what did you say to him?

A. I beg your pardon?

Q. What did you say to him?

A. Well, that I had seen these things in the past and that I didn't think they would succeed.

Q. Referring to what?

A. Labor unrest and the methods they were using in getting about; or the manner in which they were getting about.

Q. Did you comment about the manner in which they were going on?

A. The general purpose, yes.

Q. (By Mr. Day) I am trying to get into the record your statement of what was said at that time, and if you can recall, I wish you can tell us what you said.

A. I can't remember my conversation that length of time. I don't believe you could or anyone else.

Q. Well, is that as much as you remember of that conversation?

A. Yes, that is as much as I remember there.

Q. Do you remember making the following statement: "I have been square with you fellows but the Republic Steel will be on my neck as to why the Tin Mill is so well organized. I want to be fair with you fellows but the Republic will want to know why I didn't get after you C. I. O. fellows, and if I have to be tough I am going to be."

A. That is an absolute lie.

Q. You didn't say that?

A. Absolutely not; I didn't use such language.

Q. In substance, did you say that?

A. No, sir.

Q. Did you at that time say: "That if the C. I. O. didn't quit organizing the plant will be shut down?"

A. That is absolutely a falsehood.

Q. Well, did you say that to any of the old men there?

A. Absolutely not.

Q. Were there any old men working there?

A. There is a lot of old men working there.

Q. Did you point to any of the old men there at that time?

A. No, sir.

Q. Did you make any comment about that?

A. I may have made this comment but there was men there that had followed this industry for 30 years, had no other trade, and continuously worked in the mills and had no protection; and I wondered what was to become of those men when the continuous mill would come in.

Q. You made no remark about what would happen to them?

A. Absolutely not.

Q. Did you have any other conversation with Mr. Johnny John after that?

A. I think I did have a conversation with him. He came down the next morning to see me and wanted to know if he should resign from the C. I. O. as the Secretary. He told me that in my office and I told him to use his own judgment.

Q. You didn't suggest to him—

A. Absolutely nothing was suggested. I told him to use his own judgment. He made a trip the next morning, not at my solicitation, but he wanted to see me. He wanted to know about his resigning and I said that was a matter for him to decide, not me.

Q. He didn't make any statement as to what prompted him to do that?

A. No.

Q. Can you remember any more of that conversation?

A. No, I don't remember any more.

Q. Well, did you have any conversation subsequent to that morning that you are now referring to?

A. Well, the conversation you are—

Q. I mean, can you relate any?

A. No.

Q. Your brother is Jim Davey?

A. Yes.

Q. And you both owned the Canton Tin Plate before it was taken over by the Republic Steel Corporation?

A. Yes, we were both stockholders.

Q. What is that?

A. We were both stockholders.

Q. Jim Davey worked with the Republic?

A. Yes.

Q. And he is still employed by them?

A. Yes.

Q. Now, did Johnny John some time in the latter part of February come to see you with your brother, Jim Davey?

A. Not with brother Jim Davey. I don't remember him coming to see me with him. I don't remember him coming to see me.

Q. Well, did he come alone?

A. Well, I just mentioned the time.

Q. You three boys never discussed around there on any occasion?

A. I don't remember.

Q. When did Jim Davey and Johnny John come to see you?

A. That I don't remember.

Q. Do you recall an occasion that you suggested to Johnny John that he speak to Ed Kirkland?

A. No, not—Ed Kirkland, I remember saying to Johnny John: "If you want advice, why don't you talk to some of the older men who have gone through these things?"

Q. What things?

A. Labor.

Q. And labor organizations?

A. Yes.

Q. That is what I mean.

A. I don't remember all of it. I do remember saying to Johnny: "If you want advice, why don't you talk to those old men that have been in here all their lives?"

Q. Are you referring to Ed Kirkland?

A. I may have; those are the old type of men that are there.

Q. Do you remember saying anything about Owens?

A. Owens—yes.

Q. Ed Kirkland was there?

A. Yes.

Q. Now, when did that conversation take place?

A. I don't remember.

Q. Was that in your office?

A. If there was any—this is the—if there was any conversation it was in the mill. I don't remember any conference in the office.

Q. I mean in the mill; some part of the mill?

A. Yes, on the property; some part of the mill.

Q. Did you suggest to him that he speak to Ed Kirkland or Owens?

A. I suggested that he go have a talk with those boys rather than with me.

Q. And that is because they had been—

A. They had been in the mills for 40 years. Mr. Owens; particularly Ed Kirkland. Owens was there for some time but Kirkland not so long.

Q. Well, did you discuss with him the Employees Representation Plan at that time?

A. I did, yes.

Q. What did you say about it at that time?

A. I said it had been working and functioning successfully since 1933 and I believed we could handle any difficulties that might arise in the future as in the past.

Q. Did you make any comment about Homer Downard?

A. What is that?

Q. Did you make any comment about Homer?

A. No, sir.

Q. Didn't say anything about him?

A. Not that I remember.

Q. Do you remember making any mention about Homer Downard or having any conversation about him?

A. I don't recall.

Q. Had you spoken about Homer, to Homer about any one of the employees at the Canton Tin Plate?

A. I don't remember.

Q. You don't remember?

A. I don't remember.

Q. Have you ever told Johnny John or any of the other employees that you would shut down if they continued their organization activities?

A. Absolutely not. What right would I have to say that?

Q. I don't know. Who is Mr. Thomas?

A. He was the hot mill superintendent.

Q. Do you know whether or not he made any comment of that character? That is, with respect to shutting down?

A. Well, I don't know that; not with my instructions.

Q. None were made within your hearing?

A. No.

Q. In the early part of January did you watch some men distributing literature in front of the Belden Avenue entrance to the Berger plant?

A. Absolutely not.

Q. You weren't with John Thomas up and down there in the plant?

A. No, sir.

Q. You didn't call in your office the men that were distributing literature?

A. I didn't.

Q. Have you ever addressed any safety meetings in the plant?

A. No, sir.

Q. Those were all addressed by your brother, Jim?

A. No, sir, by the department heads. They were while Brother Jim was with me but after he left the heads of the various departments held their meetings in their own departments.

Q. But Brother Jim did occasionally hold a safety meeting?

A. Occasionally but not all of them.

Q. Now, to whom else outside of Johnny John did you express the idea that the Employees Representation Plan had adequately handled labor problems?

A. I presume a great many men in the plant.

Q. Now, you say a great many men in the plant. Did you talk to any of those men in the plant?

A. I did, yes. A lot of them would come to me for advice which they had always done.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Ketterer) One further question. After the Republic Steel took over the Tin Plate plant in July, 1936, what if anything was done shortly thereafter in respect to the wages of the employees of the Canton Tin Plate? Did they bring them up to the level of the Republic Steel?

A. Why, they were all brought up to the level; that is, the various departments: The mechanical, maintenance, I think it was—there was considerable work done. The rate of pay was raised considerably, then there was a 10% increase and a 15% which was general; but previous to that there had been an adjustment of pay.

Q. Have you any idea what the average in proportion was?

A. No, I wouldn't have any idea. I could make a guess. That is all it would be.

Q. No, we don't want a guess.

A. That is all I could give you.

Q. No.

MR. KETTERER: That is all.

(Discussion off the record.)

MR. LAUTER: That is all.

(Witness excused.)

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P.V.

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402909
Sup Ct

Vol. VI

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 14

REPUBLIC STEEL CORPORATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD AND STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 7, 1940.

CERTIORARI GRANTED MAY 20, 1940.

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EDWARD HOPKINS

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name?

A. Edward John Hopkins.

Q. Where do you live?

A. 1413 Roland Avenue, N. E.

Q. In Canton?

A. Yes, sir.

Q. How long have you lived in Canton?

A. About 25 years, or 30.

Q. Are you a married man?

A. Yes, sir.

Q. What is your position?

A. Superintendent of the 35-inch billet sheds.

Q. Of Republic Steel Corporation?

A. Yes, sir.

Q. Of what plant?

A. Canton plant.

Q. Now, will you tell us, and tell the Trial Examiner what a billet shed is?

A. A billet shed is a cleaning department.

Q. And what is that?

A. That is, after the mill rolls the steel, it comes into our supervision; then we take it and clean the defects from the surface of the steel.

Q. Now, just what is a billet?

A. A billet—a steel billet can be four by four size and section.

Q. That is, Mr. Hopkins, in inches? Four by four inches?

A. Yes, sir.

Q. Of steel?

A. Yes, sir.

Q. Now, I want to ask you something about these things. What is a four by four?

A. Or it can be larger than that; different sizes.

Q. Of steel?

A. Yes, sir.

Q. How much did they run in diameter and width?

A. Well, they run up to around 18 and 19 inches square.

Q. How low down do they run?

A. About two and a half square.

Q. How long are the billets?

A. Well, they will vary from, I would say, 30 inches to about 25 feet.

Q. You say they came to the billet shed from where?

A. From the blooming mill and from the 18-inch mill and other mills: the finishing mills.

Q. When you get them to the billet shed, I understood you to say you cleaned the billet?

A. Yes, sir, we took the defects from the surface of the steel.

Q. And you say they came to the billet shed from where?

A. From the blooming mill, and also from the 18-inch mill and other mills—finishing mills and from different mills.

Q. And when you got them to the billet shed I understood you to say that you clean them?

A. Yes, sir.

Q. Cleaned the billet?

A. We take the defects from the surface of the steel.

Q. Now, do you have working there in your department men who are known as chippers?

A. Yes, sir.

Q. I wish you would describe for the record what a chipper does?

A. A chipper removes the defects from the steel with a chipping hammer. A chipping hammer is forced with compressed air. That is what goes through the hammer and when he pushes the trigger on the hammer, why that forces the chip. That is how he takes out the defect, by pushing on the trigger, the compressed air takes the chip off of the surface of the steel.

Q. Now, does the chipper do anything else than that?

A. He does a little handling when he turns over his billets on the chipping beds, that is all.

Q. When he turns his billets under the chipping bed?

A. On the chipping bed.

Q. Yes, sir, on the chipping bed?

A. That is when he has one side finished, he has to turn it over.

Q. There has been some reference made in this case to the inspectors, the chipping inspectors?

A. Yes, sir.

Q. What do they do?

A. They mark the steel, they mark the defects. They look after the quality of the steel, to see that all of the defects are chipped out.

Q. Now, Mr. Hopkins, have you ever known a man named Will S. Wright?

A. Yes, sir.

Q. And did he work under you?

A. Yes, sir.

Q. In what capacity did he work?

A. He worked as a chipper.

Q. Can you tell us when he worked under you as a chipper?

A. I have known Mr. Wright for the past four years and I understand he started there in '22.

Q. Well, how long have you been superintendent of the billet shed?

A. About five years.

Q. And you have known Will Wright during four of those five years?

A. I would say about four years.

Q. And during that time that you knew him, was he employed, and if so, in what capacity?

A. As a chipper.

Q. During all of the time?

A. As far as I know, yes, sir, all the time.

Q. Do you remember when Will Wright ceased to work for Republic last?

A. Yes, sir.

Q. About what was the date?

A. About April 27th, 1937, this year.

Q. Well, prior to that time do you remember whether or not Will Wright was laid off at any time?

A. Yes, sir, he was laid off in '35, about March or about—yes, about March or May. Yes, it was about May, 1935.

Q. Do you remember when the Berger strike took place?

A. Yes, sir.

Q. When was the Berger strike?

A. About May 28th.

Q. And can you tell us when Will Wright was laid off, with relation to the time of the Berger strike?

A. He was laid off on the 22nd.

Q. Well, when was that? Before the Berger strike or after?

A. Before. That was six days before the Berger strike.

Q. When did he get back to work, if you know?

A. He came back to work in '36.

Q. Have you got his card there?

A. Yes, sir.

Q. Will you let me have all those cards?

MR. DAY: I just want to use these, if I may, to refresh my recollection in examining the witness.

Q. (By Mr. Day) He came back to work then when, in '36?

A. I couldn't tell you the month, but I know that it was in the year '36.

Q. And then how long did he work, that time?

A. Well, he worked right up until he was laid off in May—or in April the 27th, 1937.

Q. Now, why was Will Wright laid off?

A. Reducing the force.

Q. Reducing what force?

A. The force of chippers.

Q. I wish you would tell us in detail what the facts are within your knowledge as to the reduction of the force of the chippers at that time?

A. We didn't have enough tonnage going through the department to work all of the chippers and I might say that several of the older chippers came to me personally and thought they should not be penalized for the same as the younger men. Therefore, I took it up with Mr. Richardson.

Q. Who is Mr. Richardson?

A. Mr. Richardson is the plant superintendent.

Q. Yes.

A. And he advised me, after we thought the matter over, that it might be the thing to do to lay off some men, so he advised me to look it over. So we looked over our list, that is the length of service list, and we took the youngest men in service and started up the line and we took off about 45 men; 37 of those men was laid off and about 8 or 10 were transferred to other work.

Q. Do you know approximately where Will S. Wright came in that line?

A. Yes, sir, he was the 34th man.

Q. What does that mean, he was 34th man?

A. From the bottom. That is, he was the 34th in service, to be laid off.

Q. And state whether or not at that time some men whose service was longer than Mr. Wright's, were laid off?

A. Yes, sir, up to 45 men, whatever—just the way we worked, right from the bottom up.

Q. Over what period of time were these men laid off?

A. About five days.

TRIAL EXAMINER LINDSAY: Pardon me. Now, this is all back in '32, as I understand?

MR. DAY: No, this is '37.

THE WITNESS: '37.

MR. DAY: This is the time involved in the complaint, I am sorry if I have got it mixed up in any way, but that is the fact.

TRIAL EXAMINER LINDSAY: Well—

Q. (By Mr. Day) You are talking about April '37 situation, aren't you?

A. Yes, sir, the last lay-off.

Q. All right.

TRIAL EXAMINER LINDSAY: Well, now this is entirely off the record.

(Discussion held off the record.)

Q. Do you know a man named Sabri Shaban?

A. Yes, sir.

Q. Who is he?

A. He is a chipper.

MR. DAY: Mentioned in paragraph four, I think it is, of the complaint. Yes, paragraph four.

Q. (By Mr. Day) Who is Sabri Shaban?

A. He is a chipper.

Q. Did he work in your department?

A. Yes, sir.

Q. Can you tell when he first started to work there?

A. I couldn't say when he first started to work, but I know when he was laid off.

Q. Were you working in the billet shed before you became superintendent?

A. Yes, sir.

Q. In what capacity?

A. I worked as laborer, I worked as loader, worked as foreman, worked in the office.

Q. I want to ask you now, in determining the length of service, what is taken into consideration? The time that a man first starts, or the last stretch that the man has been working?

A. The last stretch. There is a ruling in the plant that when a man loses over thirty days, except—without being sick—he automatically loses his service record.

Q. That is the way you understood it?

A. Yes, sir.

Q. And that is the way you operated it?

A. Yes, sir.

Q. Now, Sabri Shaban, can you tell when he came back to work, when he worked the last stretch up until the time that he was laid off?

A. In '36 he came back.

Q. In '36?

A. Yes, sir.

Q. And when was he laid off?

A. He was laid off at the same time as Mr. Wright, about the same time.

Q. And he was also a chipper?

A. Yes, sir.

Q. Will you state why he was laid off?

A. Reducing the force.

Q. You have testified that in connection with the laying off, or at the time that Will Wright was laid off, you talked to Superintendent Richardson?

A. Yes, sir.

Q. At that time did you discuss any of these other men with him?

A. No, we didn't discuss any other men, only the number of men that we were going to lay off, and he told me to go ahead, it was o. k.

Q. Can you remember, or have you refreshed your recollection as to see where, on the length of service list, Sabri Shaban stood?

A. He stood about the 20th man.

Q. Do you know of your own knowledge, and if it is not your own knowledge, don't tell me, whether Sabri Shaban worked for Republic after he was laid off, before the strike?

A. I couldn't answer.

Q. What was the date of the lay-off of Sabri Shaban?

A. About April 27th, 1937.

Q. I will ask you if you know a man named Mike Ugranovich?

A. Yes, sir.

Q. And who is Mike Ugranovich?

A. He is a grinder.

Q. What department?

A. In the 35 inch billet shed.

Q. Well, what is the work that is performed by a grinder?

A. Removing defects from the steel with a grinding wheel.

Q. What I am going to ask you, for the information of all of us, is whether there is any difference between the work done by a chipper and the work done by a grinder?

A. The only difference is that one removes the steel or chips with a chisel and the other with a wheel, with a grinding wheel.

Q. And Ugranovich was—

A. The grinder.

Q. —was a grinder?

A. Yes, sir.

Q. Now, do you recall when or approximately when—

have you refreshed your recollection to ascertain when he was laid off?

A. It was in February, about the eighth day, 1937.

Q. Did you lay him off?

A. Yes, sir.

Q. Will you please tell the Court the circumstances under which you laid him off?

A. I laid him off for being intoxicated. He came to work on the 12:00 to 8:00 turn, on the 8th—that is, the 12:00 to 8:00 a. m. in the morning, and the inspector noticed that this man—there was something wrong with him.

Q. Just don't tell what the inspector noticed, but you can testify what—well, did you see the man in any state of intoxication yourself?

A. No, sir.

Q. Well, did you have any conversation with anybody in your department on this subject?

A. Yes, with the turn foreman.

Q. And state whether or not the turn foreman worked under you?

A. Yes, sir, he works under me.

Q. And what turn foreman did you talk to upon this subject?

A. Charles Eichelberger.

Q. What did Mr. Eichelberger say to you?

A. He says to me that when he came to work that evening, or midnight, that is, his attention was called to this man by his direct foreman, which we called the grinder boss.

Q. Who was the grinder boss, do you know?

A. Eugene George.

Q. Go ahead, give us the rest of Eichelberger's talk with you.

A. So Mr. Eichelberger went up to the grinding department and he noticed this man and he also smelled alcohol on his breath.

TRIAL EXAMINER LINDSAY: Now, just a minute. Is that what he told you?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: All right.

Q. (By Mr. Day) That is, you are just telling—at least, I just want you to tell what Eichelberger said to you.

A. Yes, sir.

Q. Is that what he said to you?

A. He said that to me in the morning, 8 o'clock.

Q. Go on, tell us what happened then.

A. So he sent the man home.

Q. Yes.

A. And told him to come out and see me in the morning.

Q. All right, then what happened?

A. So Ugranovich came out, I would say about 9 o'clock in the morning, so I told him that I was going to lay him off indefinitely because he had come to work intoxicated, and I don't think he said a whole lot to me at that time.

Q. Now, whether he said a whole lot or not, can you recall anything he said, or the substance of anything he said?

A. He tried to tell me that he was not intoxicated.

Q. Yes.

A. I told him that he was because my two foremen had told me that; that is, his direct foreman, the grinder boss and the turn foreman, and we knew that the inspector had noticed it—three men.

Q. What effect on the men, with the work that Ugranovich was doing, would his being intoxicated have, if you know? If there is any effect?

A. Very dangerous to the other workmen.

Q. Why is that true?

MR. LAUTER: I object to that answer.

MR. DAY: That is one of the cases involved here. He is named in the complaint.

TRIAL EXAMINER LINDSAY: Oh, I think you have gone into that far enough, Mr. Day.

MR. DAY: All right, sir.

TRIAL EXAMINER LINDSAY: I will let that answer stand. You may have the record show an exception.

MR. LAUTER: Exception.

Q. State whether or not, if you know, Will S. Wright was discharged in May, 1935?

A. He was not discharged. He was laid off with about 20 or 25 other men.

Q. I will ask you whether or not, at about the time of the termination of the Berger strike, you remember having any talk with Mr. Wright upon the subject of his going back to work?

A. No, sir.

Q. I will ask you whether, at that time, you said to Mr. Wright in words or in substance "Bill, if you want to work here you have to stick with the company, you cannot have one foot over here and one foot over there and expect the company to stick with you?

A. I did not.

Q. And whether at that time you said to him "You are depending on the company for your living, aren't you?" And he said, "Yes."

A. I don't remember saying anything to him about that.

Q. When did Will Wright come back to work? That is, after the Berger strike?

A. In 1936?

Q. Yes, when?

A. In 1936.

Q. Do you know the date; can you refresh your recollection?

A. I can't tell you the date.

MR. DAY: Will the Trial Examiner bear with me for a little time while I am trying to use this record?

TRIAL EXAMINER LINDSAY: That is all right.

Q. I will ask you whether or not at—did you sometimes address safety meetings?

A. Yes, sir.

Q. Now, just tell us what safety meetings are.

A. The set-up of the Company by the Safety Department is that each direct foreman or either turn foreman must hold a meeting once a month with his men; a safety meeting. So they discussed in these safety meetings the hazards of the department and the surroundings.

Q. I will ask you whether or not you had a conversation with Mr. Wright in 1935 when he came back into the office in which you said: "Hey, you back" and Wright said: "Yes, sir, right back here." And you said: "Sit down." And said: "What are you going to do this time? Are you going to stick with the Company or not?" "Well" he said, "I am; I would like to work, and if sticking with the Company means work, that is just what I got." And you said: "Hell, I told you before you must stick with the Company but I am going to give you your job back if you stick with the Company" and he said: "Thank you, I will stick with the Company." That was after the Berger strike.

A. That was in 1936 when he came back. I might say when we were going—

Q. Answer the question. Did you have that conversation that I have just detailed to you, or that in substance with Will Wright?

A. No, sir. I might have said to him: "Are you back?"

Q. Now then, did you have a talk with Will Wright when he came back to work after the Berger strike some time in 1936?

A. Yes, sir.

Q. Can you recall what that conversation was or the substance of it?

A. When a man starts to work—

Q. Not when a man starts to work but I will ask you if you can recall what talk you had with Will Wright?

A. Only what I said to him there. I said to him: "Are you back?" He says: "Yes."

Q. Now, did you have any practice when a man started to work for the first time, or if a man was stopped working, and then comes back, what talk did you have with him?

MR. LAUTER: I object.

Q. Answer that yes or no.

MR. LAUTER: I object and ask that it be stricken.

A. I do.

TRIAL EXAMINER LINDSAY: Yes, I think that is not proper.

MR. DAY: Well, I will not press it if there is an objection to it; I will not press the question.

TRIAL EXAMINER LINDSAY: Objection sustained; the answer may be stricken out.

Q. I will ask you whether or not you remember attending a safety meeting in June, 1936.

A. I remember the date but I didn't attend safety meetings.

MR. DAY: By the way, let the record show that my previous question is withdrawn.

TRIAL EXAMINER LINDSAY: All right.

Q. In June, 1936, did you attend a safety meeting in which you said to the men, the workmen there: "You fellows don't want to be messed up with no outside Union because it is no benefits for you to be messed up with no outside Union if you want to work you cannot be tied up with no Unions." Did you say that or that in substance?

A. No, sir.

Q. Now, do you recall what you did say to the men at those safety meetings or other safety meetings held on or about that time?

A. I could not; I don't have any record with me to show.

(Discussion off the record.)

Q. I will ask you whether you had a talk with Mr. Wright at or close to the time he was laid off in your office, in which you said to him in words or in substance: "The old men are kicking, the old men are raising Cain; they ain't making enough hours." And in which Will Wright said: "All right." And said to you: "Mr. Hopkins, you are cutting off the old men" and you said: "Yes." He said: "Mr. Hopkins, I started to work in 1922" and you said: "You were laid off once, wasn't you?" And he said: "Yes." And you said: "You know I told you before when I taken you back here that you had to stay on the right side of the fence if you wanted to work for the Company. That you couldn't have one foot over here and one foot over there if you wanted to work for the Company." Did you have that talk with him?

A. No, sir.

Q. Do you know whether or not you had a talk with Will Wright?

A. Yes, sir, when he was laid off.

Q. Now, what did he say?

A. I explained to him why the lay-off.

Q. Explain the substance as nearly as you can recall.

A. I explained to him the reason for the lay-off. We were reducing the force; we were taking the younger men in service and laying them off, I also said to him that the older men were complaining that they were being penalized in short turns. They were working only turns of seven or six hours a turn. That is why the old men were complaining.

Q. I will ask you whether or not if at the time of the lay-off or about that time Mr. Wright told you: "Mr. Hopkins, when Mr. Ake brought us boys from Pennsylvania you told me and Mr. Bell down there on the platform that we was entitled to a job down there as long as we worked for the company. That even as long as they laid off any men we would have a job with the Company." And you said: "I am running this now." And he says: "Well, I am on the right side of the fence when I work." And you said: "You aren't gone, you know what I mean." Did you have that conversation with him?

A. No, sir.

Q. Do you recall having a talk with Mr. Ake and with Mr. Wright?

A. I wouldn't say that I did. I may have said something about it. He came in in 1922; I didn't have supervision at that time.

Q. Do you recall that?

A. No, sir.

TRIAL EXAMINER LINDSAY: We will have a short recess at this time.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

Q. (By Mr. Day) I have asked you to state whether or not you had certain conversations with Mr. Wright, and you have answered those questions, and I have attempted to fix the dates. Except as you have answered, did you have those conversations with him on any dates, except the way you have answered?

A. That is all.

Q. Do you remember of Mr. Shabin?

A. Yes, sir.

Q. Going to the old country?

A. Yes, sir.

Q. I will ask you whether you said to him, when he went to the old country in words—did you have any talk before he went to the old country—about his getting a position upon his return?

A. I don't remember whether I had any conversation with him but I must have, because it is always customary for me to give out the lay-off slip when it is possible to do so. But I can't remember what I told him at that time.

Q. That is, you don't remember what you told him?

A. No, sir.

Q. Well, do you know whether or not you said to him in words or substance: "When you get back I will give you a job."

MR. LAUTER: I object to that question. The witness has testified that he can't remember.

MR. DAY: This is the exact words of the other witness, and I think I have the right to meet it.

TRIAL EXAMINER LINDSAY: Yes, I will overrule the objection. Let the record show an exception.

Q. (By Mr. Day) If you can't remember, all right.

A. That is right.

Q. You can't remember what you said to him?

A. No, sir.

MR. LAUTER: May I have an exception to my objection?

TRIAL EXAMINER LINDSAY: Yes, let the record show an exception.

MR. LAUTER: Exception.

Q. (By Mr. Day) I will ask you whether or not you had a talk with Shabin on or about October 25, 1936, in which you—I will ask you whether you had this conversation: "I am going to give you a job if you listen to me." That is, you said that to him, and he said, "What, Mr. Hopkins, you say?" And you said, "If you listen to me, what I am going to say to you,'' and he says, ''That is all right, Mr. Hopkins, because I know I have no penny in my pocket, I ain't have no penny.'' And you said, ''You will listen to me, I am going to give you a job.'' And he said, ''All right, Mr. Hopkins, I have to listen, I am going to listen, sure.'' And did you say to him, ''You belong to a union,'' and he says, ''No,'' and did you say, ''Did you belong to the C. I. O.,'' and he says, ''No.'' Did you have that conversation with him?

A. No, sir.

Q. Do you recall what conversation you did have with him, if you had any, upon his return?

A. Only instructing him on safety and other things that we do with all new men when they come back.

MR. LAUTER: I object to what they do with all new men.

TRIAL EXAMINER LINDSAY: Yes, that is stricken from the record. Let the record show an exception.

MR. DAY: Exception.

Q. (By Mr. Day) I will ask you whether he said to you—you said to him, ''What are you going to say to me now,'' and did he say, ''I know I no have to sign my name, because I am hungry.''

MR. DAY: I wonder if that ought not to be ''I do have to sign my name''. This is outside the record, for a minute.

(Discussion held off the record.)

MR. DAY: Now, we will make a correction on page 840 of the record.

TRIAL EXAMINER LINDSAY: Yes, and this is off the record for the time being.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: This part is for the record: The corrections to be made in the record are to be gone over by at least one of the attorneys for the Board and one of the attorneys for the Respondent, and if there is any error in the record, that should be agreed upon as to the correctness by the attorneys representing the Board and the attorneys representing the Respondent, and made a part of the record as corrected.

MR. DAY: This is in the record?

TRIAL EXAMINER LINDSAY: Yes, this is in the record.

MR. DAY: We shall be very glad to cooperate with the Trial Examiner and opposing counsel to that end.

TRIAL EXAMINER LINDSAY: And when the record is completely corrected and gone over—

MR. DAY: Yes.

MR. LAUTER: May I state for the record that one of the counsel for the Board is at the present time engaged in going over the record and searching it for such incorrectnesses as may appear there.

MR. DAY: I will say that we will put somebody on the job just as soon as it is physically possible.

TRIAL EXAMINER LINDSAY: And that agreement is entirely satisfactory.

MR. DAY: Yes, sir, it is.

Q. (By Mr. Day) Now, going back again, I will ask you if you said to him in October, 1936, you said to him: "What are you going to say to me now?" And he said, "I know I do have to sign my name because I am hungry," and if you said, "If you will listen to me that way, I am going to give you a job right now." And he said, "All right, Mr. Hopkins." Did that conversation take place?

A. I wouldn't know what he would sign.

Q. What?

A. I would not know what he meant by saying he would sign, he had to sign.

Q. Well, did you have that conversation with him?

A. No, sir.

Q. In words or in substance?

A. No, sir.

Q. Now, he started back to work about the 29th of October, 1936, is that right? Mr. Shabin?

A. What is that again?

Q. Shabin started back to work in October, 1936?

A. Yes, sir, sometime in 1936.

Q. And I think you have already testified that he was laid off?

A. Yes, sir.

Q. April?

A. The 27th.

Q. April 27th, 1937? Now, I will ask you whether or not about three or four days before April 27, 1937, you had a talk with him in which you took from his pocket a steel worker's paper?

A. That is not true.

Q. Did you have any talk concerning a steel worker's paper with him?

A. No, sir. I would have to talk with a lot of them if I did, because they handed them out at various departments.

MR. LAUTER: I move that answer go out.

MR. DAY: Yes, I think that ought to go out.

TRIAL EXAMINER LINDSAY: That will go out.

MR. DAY: Except "no, sir", I think should stay in.

TRIAL EXAMINER LINDSAY: That is all.

Q. Did you at that time, three or four days, say to him: "Listen to me, what I will say to you." And then did you say, "Why you no listen to me when I say I would give you a job." Did you have any such a talk as that with him?

A. No.

Q. Did you have a talk with him later before April 27th, or close to that time, 1937, in which you said to him in words or in substance that he had not listened to you, and you gave him a job, and that you had found out that he belonged to the C. I. O.?

A. No, sir.

Q. Did you ever have any talk with him about the C. I. O.?

A. No, sir.

Q. Now, I have asked you certain conversations with Mr. Shabin and I have tried to give the dates. Except as you have already stated, did you have those conversations with him at any time?

A. No, sir.

Q. As you have already stated?

A. Yes, sir.

Q. But to that extent only?

A. Yes, sir.

Q. Well, do you know of your own knowledge whether or not, after April 27, 1937, Mr. Shabin worked for any other department of Republic Steel?

MR. LAUTER: Object. The witness has already testified he doesn't know.

MR. DAY: That was the other man, Mr. Will Wright.

MR. LAUTER: I am sorry.

MR. DAY: Maybe I am wrong about that.

Q. (By Mr. Day) I think you said you didn't know about Shabin?

A. No, sir, I don't know.

MR. DAY: Well, this was handed to me, and I asked that question improperly.

(The record was read.)

MR. LAUTER: Mr. Day withdrew his question and I withdrew my objection.

Q. (By Mr. Day) Do you know a man named Stokes?

A. Yes, sir.

Q. What is his first name?

A. Sam.

(Discussion held off the record.)

Q. (By Mr. Day) Who is Sam Stokes?

A. He is a grinder.

Q. How long did he work before the strike? That is, did he work up until the strike?

A. Yes, sir, he worked up to the strike.

Q. Do you know a man named Schnierle?

A. Yes, sir.

Q. What was his position before the strike?

A. Billet classifier.

Q. Was he at that time a foreman in your department?

A. No, sir.

Q. Do you know a man named William Dunn?

A. Yes, sir.

Q. What is his position in your department?

A. He is a loader.

Q. Does he, as you understand it, hold the position of a foreman?

A. No, sir, he does not.

Q. I will ask you whether or not you recall having a conversation with Sam Stokes concerning his going to the washroom or making trips to the washroom?

A. I don't remember of any.

Q. You don't remember whether you did or did not, is that right?

A. That is right.

Q. I will ask you whether or not, just before the strike or shortly before the strike you stood for sometime and watched Sam Stokes talking with William Dunn?

A. No, sir.

Q. Now, in the first part of April of this year, do you recall that there was a meeting between you and some of the men in your department about laying off grinders and so forth?

A. Yes, sir.

Q. And was Sam Stokes there?

A. Yes, sir.

Q. Where was that meeting held?

A. They came, first, into my office.

Q. Who came in, if you remember?

A. Well, I was at the main office when they came in. I was not in my office.

Q. Yes.

A. And I was called down to my office because there was a group of men in there had a complaint.

Q. Well, was Sam Stokes one of them?

A. He was one of the spokesmen.

Q. Now, how many men came in?

A. About 15 men, I would say.

Q. And were they men that you knew?

A. They were grinders, yes, sir, working there.

Q. By "grinder" they were working in your department and had been working there?

A. Yes, sir.

Q. Is that right?

A. That is right.

Q. Now, just tell us what took place at that meeting as you remember it, what was said?

A. When I came down from the office I noticed a group of men was in the office. The first thing, I said to the men: "What was the trouble?" They said: "We had heard," they said, "that we were going to lay off so many men a turn." That it takes five men or six men a turn in preference to laying the men off entirely. So he said they didn't want that; they weren't satisfied with that. Well, I said: "You haven't done what is right, why don't you go to the representative? Why did you come to me? Why don't you go to the representative like you have in the past?" Well, he said: "They don't want to talk with the representative." He said they said they wanted to speak to me personally. I said: "All right." Being there wasn't enough room in my office I asked them to go somewhere else and we went to the Wheel Room; we went down with the representative.

Q. Now, who was the representative?

A. George Schnierle.

Q. George Schnierle?

A. Yes.

Q. By the way, was Mr. Dunn represented too?

A. Yes, sir.

Q. Mr. Dunn was a representative under the Employees Representation Plan?

A. Yes, sir.

Q. And so was Mr. Schnierle?

A. Yes, sir.

Q. Now, what department was that for, if you know?

A. Sir.

Q. For what department?

A. For the 35-inch billet.

Q. Now, you were telling us about going down into this room. What happened there?

A. So we went down to the Wheel Room, and all the grinders came in. So I tried to explain to them about their coming to me was not right like that; wasn't right. That they should have taken it up with the representatives. I explained to them what we were trying to do.

Q. What did you say?

A. I told them what we wanted to do was to lay so many of them off a day in preference to laying them off entirely. They didn't want that. I said it is either one thing or another. It is either laying so many men off a day or laying them off entirely. They didn't want the men to be laid off daily; so later on we laid them off—we decided—the superintendent and the other head men decided to lay them off.

Q. What happened? Did you see Schnierle after that?

A. My foreman came to me and says: "I believe that Sam or someone is telling some things; Sam is not doing this himself." So I asked the foreman to have Sam come in to the office at the end of this turn.

Q. Now, what talk did you have with Sam?

A. I said: "Sam, you haven't done what is right in bringing the group of men in the office." So I said to him: "What you want to do is use your own judgment; don't let other men tell you what to do." He said: "I believe you are right."

MR. LAUTER: I object to "I believe you are right." I move that it be stricken from the record.

TRIAL EXAMINER LINDSAY: That part of the answer is stricken.

Q. Now, did you have any other talk with Sam Schnierle at that time?

A. Later on, shortly after we laid him off, Sam came to me one day and asked me if I wouldn't change, and lay so many men off a day. I said I couldn't do it. I said I have already laid the men off. "We can't let men go and bring them back; it is not easy to do." He was the only man that came to me and made a complaint. He was the man that came in the office and didn't want to let so many men off a day. He wanted to change that back. I couldn't do it. The men were already laid off.

Q. Do you recall seeing a C. I. O. button on Sam Schnierle?

A. No, sir.

Q. You have no recollection?

A. No, sir, on nobody at that time. I didn't see any.

Q. Did you pass out any petitions in the mill to the effect everybody was satisfied?

A. No. sir.

Q. I will ask you whether or not you ever said to Ugranovich—Mr. Ugranovich—"Don't belong to the outside Union. You got to stick with the Company Union. If

I find any more men outside he cannot work for me." Did you say that?

A. No, sir.

Q. Did you ever make that statement at that time at the plant?

A. No, sir.

Q. Did you ever say: "If you fellows are foolish enough to spend your money outside you better get your money, keep your money in the—in your pocket, you don't have to spend anything?"

A. No, sir.

Q. I will ask you if about the time Ugranovich was discharged you had a talk with him in which he said: "What is going on, Mr. Hopkins?" And you told him something about his work being slow?

A. He was a capable worker.

Q. Did you ever have any talk with him about his work being slow?

A. That is not true.

Q. About what kind of a worker was he?

A. A capable worker.

Q. What kind of a worker was Schnierle?

A. I would say Schnierle was a good worker.

Q. Well, what kind of a worker was Wright, the colored fellow?

A. A chipper.

Q. I will ask you if you had a talk with Ugranovich in which he said: "What is going on, Mr. Hopkins?" Just about the time he was laid off.

A. Well—

Q. You said: "You have got some slow work five or six weeks on a job. You have worked almost three years doing my work. Don't you mind that strike in the plant." And he said: "Yes, sir." And you said: "I give you a chance that time, and still now there is something else outside, some kind of a name, C. I. O., and you are in it already."

A. No, sir, nothing about the C. I. O. at that time.

Q. Do you know a man by the name of Kutchell?

A. Yes, sir.

Q. Now, who is Kutchell?

A. Kutchell is an inspector.

Q. In the chipping department?

A. He works in the chipping department but he does not come under my direct supervision. He comes in the inspection department.

Q. Then you didn't have anything directly to do with Kutchell?

A. No, sir.

Q. That was handled by whom?

A. That was handled by Elsasser.

Q. Do you know anything about there being some change in the position of Mr. Kutchell?

A. Yes, sir, I do.

Q. You have your own knowledge on that?

A. Well, I know there was a change, yes, sir.

Q. Well, was it made under your supervision?

A. No, sir.

Q. Well, what was he before the change?

A. He was a chipping inspector in the chipping shed.

Q. Then what was he made afterwards?

A. He was made a worker on the scarfing bed.

Q. What is this scarfing bed? What is the process of scarfing?

A. Scarfing is a new operation for cleaning steel. It is something new, really. It is steel in an instrumental stage. It is a torch where we use oxygen and acetylene and we burn out the defects instead of using a chisel or a grinding wheel.

Q. Was Kutchell changed from chipping to scarfing?

A. Yes, sir, he was put on a scarfing bed as an inspector.

Q. Now, tell whether or not that would be a demotion or a promotion or an even change?

A. In wages it was a demotion. The hourly rate was less.

Q. Was he put over there, do you know, permanently or temporarily or what?

A. He was put out there permanently.

Q. He got less money?

A. Yes, sir, as far as I know.

Q. You don't know about the details of that?

A. No.

MR. DAY: Now, that is all except that I would like to recall this witness after the noon hour.

TRIAL EXAMINER LINDSAY: In other words, you may wish to recall this witness?

MR. DAY: Yes. I may but I hope I won't have to.

Cross Examination

Q. (By Mr. Lauter) Mr. Hopkins, during the period of the strike, were there any machine guns in the plant?

MR. DAY: I object to that on the ground that it is not proper cross-examination.

TRIAL EXAMINER LINDSAY: Objection overruled. Note an exception.

MR. DAY: Exception.

A. I didn't see any.

Q. You are sure you didn't see any?

A. No, sir, no machine guns.

Q. You don't know whether there was any there or not?

A. No, sir, I don't.

Q. How many men worked under you?

A. About 400 men.

Q. What is the name of your department?

A. 35-inch billet shed.

Q. During the strike, did some of the men in your department stay at work?

A. The last strike you have reference to?

Q. That is right.

A. Yes, sir.

Q. Were they furnished meals?

A. Yes, sir.

Q. Without cost?

A. Yes, sir.

Q. They got time and three-quarters?

A. Yes, sir.

Q. When did you notify them that they were going to get time and three-quarters?

A. About the third or fourth day.

Q. Did you make the decision yourself to pay them that much money?

A. No, sir, I got the decision from the main office. They called up and told me.

Q. When did they call up and tell you?

A. Three or four days.

Q. Told you to pay all the men in your department time and three-quarters?

A. Yes, sir.

Q. When did they tell you to bring cots in the plant?

A. About the second—about the first or second day. We started to get them in there then.

Q. Did you get any the first day of the strike? The night of the strike?

A. I can't answer that; I don't remember that. It was about the second day, I would say.

Q. What is that?

A. It was about the second day, I would say.

Q. You don't remember whether or not there were cots on the first night of the strike?

A. No, sir.

Q. Where did you sleep?

A. I slept in the office.

Q. You didn't have a cot?

A. No, sir.

Q. Any of the other men use a cot?

A. Not as I know; not the first night. I am not sure of that.

Q. What is that?

A. I am not sure of that.

Q. You are not sure of what?

A. Of the first night or if they had cots or what. I didn't have a cot, and the second night I would say yes.

Q. Did you arrange for bringing cots in there?

A. Yes, sir, I talked with the storekeeper.

Q. Storekeeper in the plant?

A. Yes, sir.

Q. And you arranged about the second night—

A. Yes, sir.

Q. —for cots to be brought in?

A. Yes.

Q. You are sure you don't recall about making arrangements for cots the first night?

A. Yes, sir. I might have called up but I could not get them possibly. It was possible we didn't get them. I don't remember whether they had them.

Q. Well, if witnesses testified on the stand, or employees, that they slept on cots the first night, you would not say their testimony was wrong, would you?

A. No, sir.

Q. But you don't remember machine guns being in the plant?

A. I don't.

Q. You didn't hear there were any?

A. No, sir.

Q. No one told you that there were machine guns in the plant?

A. No, sir.

Q. Do you know Mr. Theodore Roosevelt Brown?

A. Yes, sir.

Q. Did you have a conversation with him while he was in the plant?

A. Yes, sir.

Q. Will you detail that conversation?

A. Sir?

Q. Will you relate that conversation?

A. Why, I believe something happened in regard to sickness—

MR. LAUTER: I move that the witness' remark be stricken from the record.

TRIAL EXAMINER LINDSAY: Just tell us what you said to him and what he said to you and nothing else.

THE WITNESS: About what?

Q. The time that you had the conversation with him? Just relate the conversation.

A. I don't remember having a conversation other than what I am going to explain to you about those things relative to sickness.

Q. All right. Just state what he said and what you said.

A. In regard to the sickness?

Q. In regard to the conversation you had with him.

A. He came to me and told me there was somebody dying or someone sick.

Q. Yes.

A. I said to him: "Maybe you better go home." And I suggested to him that he should go home. He said that he was going home. So I asked him how he was going to get out, so he says: "I don't know." Well, I said: "I will see what I can do for you." And I called up the clerk in Mr. Richardson's office, which we had to do in any case of that kind—we had to report to them. I understand he did get home.

Q. You say you had to report to Mr. Richardson?

A. Yes, sir.

Q. In any case?

A. Yes, sir.

Q. What do you mean, that you had to report to Mr. Richardson?

A. Well, where a man called up about going home, and then they would take care of it. I didn't have the power to call up the police patrol or anything of that nature. It was up to him.

Q. Did you have the power to let him go out of the plant?

A. I had the power to let him go out of the plant, sure, if they wanted to go. I didn't stop anybody.

Q. Did any of the others ask you to let them go out of the plant?

A. I don't remember.

Q. So Theodore Roosevelt Brown was the only one you can remember who asked you to go out of the plant?

A. Yes, sir.

Q. That is the only one you can recall?

A. Yes, sir. There may have been others but I can't remember.

Q. Now, you addressed some of the safety meetings at the plant, is that correct?

A. Yes, sir.

Q. At those meetings questions of safety were discussed?

A. Yes, sir.

Q. Was that the purpose of the meeting?

A. Yes, sir.

Q. Did you at any of those meetings discuss the Employees Representation Plan?

A. Yes, sir.

Q. Do you recall any of the meetings at which you discussed the Employees Representation Plan?

A. I can't recall the meeting because I wouldn't get into these meetings. The group meetings you have reference to that the men—I would get in there maybe three or four months; something like that.

Q. Is that as often as you attended the safety meetings; three or four months?

A. Well, there was various safety meetings held which foremen held. Each foreman held a meeting.

Q. I am asking you whether or not that is as often as you personally attended safety meetings in the plant, once in three or four months?

A. No, sir.

Q. How often would you attend safety meetings in the plant?

A. I attended one safety meeting every month.

Q. Is that as often as you attended safety meetings?

A. Yes, sir.

Q. Just one a month or at least one a month?

A. One a month. If I would go into these other meetings I would be in twice.

Q. Two a month?

A. Two a month.

Q. Now, these two a month meetings. Tell me what you said in substance to the men about the Employees Representation Plan.

A. I would show them the good things of it. The first thing I would tell them they wouldn't need to pay anything; I would tell them it was free: No monthly dues. If there were any complaints, they could take care of it with the men in the plant; get it settled quicker.

Q. What else?

A. That is all I told them about representation.

Q. Now, did you mention whether or not the C. I. O. required dues?

A. No, sir.

Q. What did you say about the C. I. O.?

A. I might say there was individuals in the plant that came to me personally—

Q. I am not interested in the individuals that came to you personally. I am interested in what happened at these safety meetings.

A. Just I am trying to show you what I would tell them.

TRIAL EXAMINER LINDSAY: Just a minute. It doesn't make any difference about what you tried to tell them. The fact is, did you or didn't you? Mr. Reporter, read that question.

(The last question was read.)

Q. Did you say anything about that at the safety meetings?

A. I didn't say nothing about the C. I. O. to them.

Q. Did you make any comparison between the E. R. P. and the fact that it didn't require any dues, and the C. I. O. and the fact that they did require dues?

A. No, sir. I did tell them this: That a man in that didn't need to belong to any organization.

Q. You told them that?

A. Yes, sir.

Q. You are now testifying that you never mentioned a word about the C. I. O. or any other organization other than the E. R. P. at any of these safety meetings?

A. That is right.

Q. Not a single safety meeting did you ever mention the C. I. O., is that correct?

A. That is right.

Q. But you did talk about the E. R. P.?

A. Yes, sir.

Q. Now, what else did you say about the E. R. P.?

A. That is about all I told them; that is what I told them.

Q. Now, how often would these safety meetings be held?

A. About once a month by each foreman.

Q. And you attended at least two safety meetings a month?

A. Yes, sir.

Q. At these meetings you would mention what you have already said?

A. Yes, sir.

Q. About the E. R. P.; is that correct?

A. Yes, sir.

Q. Were any records kept of these safety meetings?

A. Yes, sir, the foreman—

Q. Are there minutes of those meetings?

A. Yes, sir.

Q. Who has custody of the minutes of the safety meetings?

A. The foreman makes out the report and sends one to the safety department and I keep one myself.

Q. That is, you have a copy of the minutes of these various safety meetings?

A. Yes, sir.

Q. The minutes are taken by whom, did you say?

A. By the foreman in whose place I would go in and speak for, in that meeting.

Q. If you spoke about Employees Representation Plan at any of those meetings, those minutes would reflect what you said, is that correct?

A. I would not be sure, to say that they would. Not all of them.

Q. What is that?

A. I would not say that they would.

Q. You mean there might be some meetings at which you spoke about Employees Representation Plan and they are not reflected in the minutes?

A. That is right.

Q. No minutes were taken of what you said about Employee Representation Plan?

A. I don't think so.

Q. Well, do you know whether or not minutes were taken at any of these meetings about what you said about Employees Representation Plan?

A. I don't think so.

Q. In other words, you spoke at a safety meeting about Employees Representation Plan?

A. Yes, sir.

Q. And told about its virtues?

A. Yes, sir.

Q. And yet it does not appear in the minutes that were taken of the safety meetings?

A. That is right.

Q. And if you spoke against the C. I. O., that is also not in the minutes, is that correct?

A. That is right.

Q. Now, you characterize Mr. Wright as a fair chipper, is that correct?

A. That is correct.

Q. And Sabri Shaban as a good worker?

A. I would say a good worker.

Q. And Ugranovich is a fair worker and not slow?

A. That is right.

Q. What was the first date that you made a check of your list for the purpose of the lay-off sometime in April?

A. The first time?

Q. That is right.

A. I would say about between the 18th and the 20th of April, along in there.

Q. Did you decide at that time how many men you were going to lay off?

A. No, sir, we didn't know until we looked the list over.

Q. That is what I am asking you.

A. Yes, sir.

Q. When you looked the list over,—when did you look the list over, about the 18th or the 20th of the month?

A. About the 20th, along in there.

Q. How many men did you decide to lay off?

A. We decided to lay off about 45 men.

Q. On April 27th how many men did you lay off?

A. On that certain date?

Q. That is right.

A. I can't tell you, on that certain date.

Q. Well, if the record should show that you said you laid off about 20 to 25 men, would that statement be correct, on April 27?

A. I wouldn't want to say that because it took four or five days to lay the men off.

MR. LAUTER: Read the question.

(The question was read.)

MR. DAY: You mean he said it in direct examination?

MR. LAUTER: That is my impression.

A. I would say about that time.

Q. That is, about April 27th you laid off about 20 to 25 men, is that correct?

A. Yes, sir. Well, it was 37 men altogether.

Q. What is that?

A. There was 37 men altogether.

Q. On April 27th?

A. Laid off—there was 37 men laid off.

Q. On April 27th, is that statement correct, that there were 20 to 25 men laid off by that date.

A. That should be corrected to 37 men, that is what I—

Q. Did you hear my question? I am asking you if, upon direct examination, you said that on April 27th, 20 to 25 men were laid off? Was that statement correct?

A. No, sir.

MR. DAY: You mean were, or had been?

MR. LAUTER: Had been by that date.

Q. (By Mr. Lauter) That statement is not correct?

A. Well, I would say which had been, yes.

Q. Laid off?

A. Yes, sir.

Q. About 20 to 25 men?

A. I would say.

Q. And that is the total number, is that correct?

A. Yes, sir.

Q. Now, you said that Will Wright was No. 34 on the list, is that correct?

A. That is right.

Q. If that appears in direct examination?

A. 34 is right.

Q. Do you know what date Will Wright was laid off?

A. He was laid off on the 27th of April.

Q. Now, Ugranovich was not laid off, he was discharged, is that correct

A. He was laid off indefinitely, yes, sir.

Q. Well, it is a discharge, is that right?

A. Yes, that is right.

Q. Well, you know the difference between a lay-off and a discharge, don't you?

A. Yes, sir.

Q. And Ugranovich was discharged?

A. Yes, sir.

Q. Is that right?

A. That is right.

Q. You took his badge from him, didn't you, personally?

A. Yes, sir.

Q. Now, you don't know personally that he was drunk, as you have testified on a certain date?

A. That is right, I do not.

Q. What was the day he was discharged, do you know?

A. He was discharged February 8th, of this year.

Q. And you didn't smell liquor on his breath?

A. No, sir.

Q. But you were told by the turn foreman?

A. Yes, sir.

Q. General foreman and the inspector, is that right?

A. Turn foreman, his grinder boss, the turn foreman and inspector, yes, sir.

Q. How many men told you that they smelled liquor on his breath?

A. How many men told me?

Q. That is right? That is, in a supervisory capacity?

A. I would say two of them.

Q. And what are their positions?

A. The turn foreman and grinder boss.

Q. Subsequently Ugranovich spoke to you and told you that he was not intoxicated, is that correct?

A. He did, that morning.

Q. You tell me what kind of a hearing you gave him on that subject.

A. I told him why he was laid off, that he was intoxicated.

Q. What else did you do?

A. That is about all I told him.

Q. Did you call in either the turn foreman or the boss inspector?

A. Yes, sir.

Q. To confront Ugranovich with those men?

A. No, sir, I did not.

Q. Well, the extent of the hearing which you gave

Ugranovich was to tell him that he was drunk, is that correct?

A. Yes, sir, and he was laid off.

Q. Or discharged?

A. Or discharged.

Q. That is the extent of the hearing, is that correct?

A. Yes, sir.

Q. Do you generally give that kind of a hearing when you discharge men?

A. Yes, sir.

Q. Now, you testified about Sammy Stokes bringing in a group of men to see you?

A. That is right.

Q. And if I am correct—And you can correct me if I am not—you said they should have taken it up with the representatives?

A. Yes, sir.

Q. The group should not have come in, is that correct?

A. That is right.

Q. Well, were grievances always handled by the representatives?

A. Yes, sir.

Q. Is that the only meeting that they handle grievances in the plant?

A. Yes, sir.

Q. Do you mean that groups don't have a right to come to your office to speak to you about grievances?

A. They have the right if they want to come, but I still do not think it is right.

Q. You do not think it is right?

A. No, sir, not when they have representatives, representing them, that they voted for.

Q. Did you tell him that someone else was telling him things?

A. Yes, sir, I told him after this meeting. I called him into the office and had a talk with Sam.

Q. And you criticized him for the action he had taken because someone else was telling him things, is that correct?

A. That is right, I tried to advise him, was what I was trying to do, trying to advise him.

Q. That it was wrong for him to act because someone else was telling him things, is that right?

A. That is right, and bringing in a group of men like he did.

Q. And if the C. I. O. was telling him to do things, that was wrong?

A. I didn't know whether the C. I. O. told him at all. I don't know that. I know there was other men told him. I don't know nothing about the C. I. O., whether they belonged to C. I. O. or not, I couldn't tell you that. It wasn't C. I. O.—

Q. What is that?

A. It wasn't C. I. O. as far as I know, I don't know anything about that.

Q. You don't know whether it was or wasn't, is that right?

A. That is right.

Q. You are not testifying now that it was not the C. I. O. told him, are you?

A. As far as I know, I don't know.

Q. Had Ugranovich ever been drunk before?

A. Not to my knowledge, but I know that one of the foremen had smelled alcohol on his breath before that time that he was laid off.

Q. Who was that?

A. Eugene George.

Q. Is that the same foreman?

A. His foreman, yes, sir.

Q. And did he complain to you at that time that he smelled liquor on his breath?

A. No, sir.

Q. When did you find that out?

A. I found that out when I laid him off.

Q. How long before you laid him off?

A. That morning.

Q. That he had smelled liquor on his breath before?

A. That they had smelled it on his breath before and warned him.

Q. And the turn foreman had not reported that to you?

A. No, sir.

Q. How many times did they smell liquor on his breath?

A. They tell me about two or three times.

Q. Prior to the time that you discharged him?

A. Yes, sir.

Q. And they didn't report it to you?

A. That is right.

Q. Is it customary for the men who work under you to report to you the fact that they smelled liquor on the employee's breath?

A. All depends on how bad it was.

Q. Oh, there are measurements, now?

A. Yes, sir.

Q. What are the standards? You tell me what the standards are?

A. Well, if a man came in there, I would say in wobbly condition—

Q. Not what you would say—

MR. DAY: Well, you asked him what the standards were.

MR. LAUTER: I am asking what the standards are, not what he would say.

MR. DAY: He is trying to tell you. I submit he is trying to tell you.

Q. (By Mr. Lauter) Go ahead.

MR. LAUTER: Read the question, please.

(The last question was read by the Reporter.)

A. Well, if—I would say that the standard is, if I just smelled it on a man's breath but there was nothing wrong with him, it is o. k., I would say let him work.

Q. And that was the prevailing custom in the plant, in your department?

A. Yes, sir.

Q. That a man could drink and have liquor on his breath and you would not fire him?

A. If the man just smelled it on him, there was nothing else wrong with him, I should say he should be reprimanded and told not to come in that way again. I would not want to lay a man off the first time for that kind—

Q. Or the second or third or fourth? Is that right?

A. I would say—yes. I would say if he goes too far he should be—he should be reprimanded, I would say about the second or third time, after he was told, he should be laid off, temporary lay-off. If he wasn't wobbling in any way, but if he comes in after that and be drunk, I would say he should be laid off indefinitely.

Q. Now, when you—when Ugranovich came in was he wobbly, this last time he was discharged?

A. The foreman says he was.

Q. The foreman said that he was wobbly?

A. Yes, sir.

Q. Is that what you are testifying now?

A. That is right.

Q. Which foreman said that?

A. Mr. Eichelberger.

Q. Said he was wobbly?

A. Yes, sir.

Q. Did the other foreman also? Did the boss inspector say he was wobbly?

A. I didn't speak to the boss inspector.

Q. The boss chipper, the other person who told you that he smelled liquor?

A. No, he did not tell me that.

Q. Now, let's get this straight: There was a turn foreman who spoke to you, is that correct?

A. That is right.

Q. And told you that he smelled liquor and that he was wobbly?

A. That is right.

Q. Was there another man who came and told you? What was his position?

A. He didn't come and tell me directly. He told the turn foreman. That was his direct foreman, the grinder boss.

Q. Are you now testifying that only one man came and told you about the fact that Ugranovich—that they smelled liquor on Ugranovich's breath?

A. That is right, the turn foreman.

Q. And he is the only one who told you that he smelled liquor on his breath, in a supervisory capacity?

A. No, the direct foreman smelled it on his breath before that time. He had told me that, that morning.

Q. Well, I will ask you once again. How many men told you personally that there was — that they smelled liquor on Ugranovich's breath? Now, tell me what the names of the persons were.

A. That morning?

Q. Yes.

A. Charles Rikelberger.

Q. What is his position?

A. Turn foreman.

Q. Now, who else?

A. That is all. They told me that they smelled it on his breath. That—

Q. He is the only person who told you before you discharged Mr. Ugranovich—

A. Yes.

Q. —that he smelled liquor on his breath, is that right?

A. Yes.

MR. LAUTER: At this time it is 12 o'clock and I would like to ask the Trial Examiner to recess for lunch so that I can check with the Reporter the direct testimony of this witness.

TRIAL EXAMINER LINDSAY: We will adjourn until 1:15.

(Thereupon, a recess was taken until 1:15 o'clock p. m.)

(After recess.)

(Whereupon, the hearing was resumed, pursuant to recess, at 1:15 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing will come to order.

EDWARD HOPKINS

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

(The direct testimony of the witness was read by the Reporter.)

Cross Examination (Continued)

Q. (By Mr. Lauter) Is that statement correct?

A. I would say that the—

Q. I am asking you if that statement is correct.

A. No, sir, that is not; I would like to correct that.

Q. Did you know that was incorrect when you gave it?

A. No, I didn't.

Q. Was there any other testimony in your direct examination in answer to Mr. Day's questions that you now want to change?

A. That is all I know of.

Q. How do want to correct it now?

A. I would say that the turn foreman told me that he was intoxicated.

Q. The turn foreman told you that he was intoxicated; that Ugranovich was intoxicated?

A. Yes, sir.

Q. I want you to state for the record at this time everything that the turn foreman told you.

A. He told me that the man was intoxicated and he also told me that he would recommend that he would be laid off.

Q. When did he tell you that he was intoxicated?

A. That morning at 8 o'clock; about 8 o'clock.

Q. That is the same morning you discharged Ugranovich?

A. The same morning.

Q. The same morning you discharged him?

A. Yes, sir.

Q. Did you testify about a talk with Ugranovich after his discharge; at the time of his discharge?

A. Just at the time he was discharged.

Q. Did the turn foreman send him home, do you know?

A. Yes, sir.

Q. Now, when did the turn foreman send him home?

A. Shortly after midnight.

Q. Shortly after midnight?

A. Of the 8th, yes, sir.

Q. Of what date?

A. Of the 8th.

Q. When did you speak to Ugranovich?

A. About 9 o'clock that morning—that same morning.

Q. What turn was he working on then?

A. 12 to 8.

Q. 12 to 8?

A. 8 a. m., yes, sir; that was the turn. He was supposed to work but he didn't work.

Q. And you told me or stated in the record everything that the turn foreman told you, is that correct?

A. That is right, other than—that is what the turn foreman told me, yes, sir.

Q. What time did you see the turn foreman did you say?

A. Shortly after 8 o'clock, I would say; 5 after 8. Along after 8.

Q. Did he tell you—

A. Quitting time.

Q. About what time did you speak to Ugranovich?

A. About 9 o'clock.

Q. About 9 o'clock?

A. He came out and got his time.

Q. Did you tell Ugranovich that the foreman had told you that he was intoxicated to the effect—namely that Ugranovich was intoxicated?

A. I couldn't say whether I told him whether it was the foreman that told me. I told him he was intoxicated.

Q. You told him he was intoxicated?

A. Yes.

Q. That he was intoxicated?

A. Yes.

Q. But you don't know whether or not you told him that the turn foreman had told you that?

A. I told him it was reported to me that he was intoxicated.

Q. Did you tell him who reported it to you?

A. I couldn't say; I would not want to say.

Q. Now, state everything that you told Ugranovich at that time.

A. That is all I told him; that he was—

Q. That he was intoxicated?

A. That I was laying him off because he was intoxicated. It had been reported to me that way.

Q. Now, you have stated in the record the entire conversation between you and the foreman, between yourself and Ugranovich with reference to his discharge, is that correct?

A. That is right.

Q. Did the turn foreman tell you that Ugranovich was wobbly?

A. Yes, sir. I asked him how bad he was.

Q. Now then, you haven't stated the whole conversation that the turn foreman told you?

A. No; not word for word.

Q. Now I am asking you again. State for the record the full conversation that you had with the turn foreman. Everything he said and everything you said.

A. Well, I would add that I had asked him how bad he was.

Q. Are you adding this on or is this something the turn foreman told you at that time?

A. He told me that morning that he was wobbly; that he was intoxicated and I might say I asked him how bad he was, and he told me he was wobbly.

Q. Now, again, I am asking you whether or not you have stated for the record the full conversation you had with Ugranovich at 9 o'clock?

A. Yes, sir.

Q. Then you didn't tell Ugranovich that he was wobbly; you didn't tell him that the foreman had told you that?

A. No, I didn't; I told him he was intoxicated.

Q. Now, the reason that you discharged Ugranovich was because he was wobbly, is that correct?

A. And he was intoxicated.

Q. Now, you testified before that the fact that someone smells liquor on the breath does not mean that he gets discharged, did you?

A. If he is able to work in the steel mill?

Q. That is right.

A. I wouldn't say discharged. I wouldn't discharge a man for the first time for that.

Q. But if a man were wobbly you would discharge him, is that correct?

A. No, I would send him home for his first offense if he was wobbly.

Q. You would send him home?

A. Yes, sir. If you have never seen anything else on him before that I would reprimand him for two or three days.

Q. Now, if you smelled liquor on his breath a couple of times and he was wobbly, would you discharge him?

A. No, I would reprimand him for smelling it on his breath.

Q. Why did you discharge Ugranovich?

A. Because he was intoxicated.

Q. Because he was wobbly, is that correct?

A. Yes.

Q. But you didn't say that to Ugranovich, did you?

A. No, sir.

Q. You didn't tell him the reason for his discharge?

A. He was intoxicated.

Q. That is the only reason you gave him, is that right?

A. That is right.

Q. You said the reason why you discharged him was because he was wobbly, isn't that correct?

A. I discharged him because he was intoxicated.

Q. Well, let us go all through this question, Mr. Witness. You stated of Ugranovich that he was discharged because he was intoxicated, is that correct?

A. That is right.

Q. And you have stated in the record the fact that you smell liquor on the breath of a man employee does not mean that you would discharge him, is that correct?

A. That is right, the first time. And he wasn't intoxicated.

Q. Even if he was wobbly, the first time you would not discharge him for that?

A. I would reprimand him.

Q. And if you smell liquor on his breath several times, and you found him wobbly again, you might reprimand him or discharge him for that, is that right?

A. That is right.

Q. And when you discharge such a person, would you tell him why you were discharging him?

A. I would. I would tell him.

Q. You would tell him that he was intoxicated and wobbly?

A. I might say—add to it that he was wobbly, that is intoxicated, means he was drunk. Means—

Q. You didn't say to him that was wobbly, is that correct?

A. No, sir, that is right. I didn't state it.

Q. So that he had no opportunity to say to you that he wasn't wobbly, is that correct?

A. That is right.

Q. All that he could say was that he wasn't intoxicated, which is what he said?

A. That is right.

Q. And you never confronted him with the turn foreman who had told you that he was wobbly, is that correct?

A. That is right.

Q. Now, you have changed your testimony in certain respects, is that correct?

A. That is right.

Q. You have testified about the grinder boss? Now, he is not the turn foreman, is that correct?

A. He is not the turn foreman.

Q. You testified about an inspector?

A. That is right.

Q. And he is not the turn foreman?

A. That is right.

Q. Did both of those men tell you about the fact—what did they tell you? Withdraw that. What did they tell you about Ugranovich's condition on the 8th, the day that you discharged him?

A. I don't know whether they told me anything on the 8th.

Q. Did they tell you anything on the 9th?

A. I don't know just when they told me, but I do know that they—

Q. Did they tell you on the 9th? If you know, say that they did, or if you don't know, say you don't.

A. I don't know.

Q. So that on the 8th or 9th as far as you can recall neither the grinder boss nor the inspector told you anything about Ugranovich's condition on the 8th, is that correct?

A. That is right.

Q. Did either of those men tell you that he was intoxicated at any time subsequent to the 8th?

A. Before that time?

Q. At any time subsequent to the 8th? The day he was discharged?

MR. DAY: He means after the 8th.

Q. After the 8th?

A. After the 8th? Oh, not after that.

Q. They never told you—

A. No, the turn foreman told me on the 8th.

Q. —that he was intoxicated—what is that?

A. The turn foreman told me on the 8th.

Q. He is the only one told you about Ugranovich's condition on that day?

A. On that day.

Q. Now, if the record should show that you said that if a man has liquor on his breath twice and is wobbly the third time you would discharge him—you wouldn't discharge him but you would reprimand him, is that statement correct?

A. Read that, please.

Q. (The last question was read by the Reporter.)

A. I would not. Yes, sir, that is correct.

Q. How many times before had you been told that Ugranovich had liquor on his breath?

A. About two or three times.

Q. And who told you that?

A. His grinder boss. That is, his direct foreman.

Q. And had you been told that, before the 8th, the day you discharged him?

A. Yes, I would say yes, before that time.

Q. And did you ever speak to Ugranovich and tell him that you had been told that?

A. No, sir.

Q. Did you instruct the turn foreman to speak to him and tell him, that is, tell Ugranovich that he had smelled liquor on his breath?

A. No, sir.

Q. Did you lay off Will Wright sometime in 1935?

A. Yes, sir, he was laid off in 1935.

Q. Did you lay him off?

A. Yes, sir.

Q. And is it your understanding of the company policy that if you lay off a man and he is absent from employment for 30 days that he loses seniority rights?

A. Other than if he is sick or in an accident of some kind.

Q. If you laid off a man tomorrow in your department and took him back home and a month later he would lose his seniority right, is that correct?

A. If there was work there for him, yes, sir.

Q. If there was work there for him?

A. Yes. If there was work there for him he would lose his rights, if there was work for him and he didn't come back, and he just automatically quits, himself.

Q. I see what you mean. You mean at the end of the month?

A. Yes.

Q. If he didn't come back?

A. He automatically quits himself.

Q. Supposing he came back?

A. It would be all right.

Q. Would he lose his seniority rights?

A. No, sir.

Q. If you laid him off for 30 days?

A. He would not.

Q. Well. you laid off Will Wright, didn't you?

A. I laid off Will Wright, yes, sir.

Q. And he lost his seniority rights when he came back?

A. Yes, sir.

Q. Did he lose his seniority rights?

A. Yes, I think he did lose his rights.

Q. Well, you don't know, is that right?

A. That is right.

Q. You don't know?

A. That is right.

Q. Now, when you came to lay off the men in 1937—

A. Yes, sir.

Q. You didn't know then whether Will Wright had lost his seniority rights either, did you?

A. Sure I knew, yes.

Q. Are you saying now that you knew then on April 27th that he had lost his seniority rights?

A. Yes, sir.

Q. But that you don't know it now today?

A. According to the records he lost his seniority rights.

MR. LAUTER: Read back about four or five questions and answers of this witness.

(Record read by the Reporter.)

Q. (By Mr. Lauter) Is that answer correct, that you don't know whether or not he lost his seniority rights?

A. I would say it is not correct.

Q. You would say that the answers which you just gave there is not correct, and you want to change that, is that correct?

A. I would like to change it.

Q. Now, what do you want to change it to?

A. That he lost his rights, seniority rights.

Q. Now, do you recall the hypothetical case I gave you of a man being laid off by you today, for 30 days, for a month and then be taken back to work? Do you remember that case that I gave you? I asked you a question about it.

A. Do you mean Will Wright?

MR. LAUTER: Read the question.

(The last question was read.)

Q. (By Mr. Lauter) Do you understand my question?

A. No, I do not.

Q. I will try to make it simple for you. I asked you a short time ago whether or not, if you laid a man off today—

A. Yes, sir.

Q. For a month, and then took him back yourself, whether or not he would lose all of the seniority rights he ever had?

A. If a man came back within 30 days. 30 days.

Q. No, more than 30 days? You laid him off for more than 30 days?

A. He would lose his rights.

Q. He would lose all his rights, is that correct?

A. Yes.

Q. So that you could go down to the plant today and lay off a man more than a month and wipe out all his seniority rights, is that what you are saying? Is that what you have answered? Is that right?

A. Repeat that question.

MR. LAUTER: Read the question.

(The last question was read.)

A. If he didn't show up.

Q. What is that?

A. If he didn't show up at all, he would.

Q. No, that is not the question I am asking you.

MR. LAUTER: Please, Mr. Examiner, this witness here has testified and stated what the company policy is.

TRIAL EXAMINER LINDSAY: May I put the question?

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: Well—

MR. LAUTER: I will withdraw any remarks.

TRIAL EXAMINER LINDSAY: Now go ahead.

MR. LAUTER: It is o. k.

MR. DAY: Listen to the Examiner.

TRIAL EXAMINER LINDSAY: Yes. There is

no reason at all for hedging or fencing on this question, regardless of who it hurts.

THE WITNESS: That is right.

TRIAL EXAMINER LINDSAY: Or the result of it. You have gone up here to tell exactly what the truth is. Now, if it hurts the Board's case that is perfectly all right; if it hurts the Republic Steel's case it is also perfectly all right. Now, is that understood?

THE WITNESS: That's right. That is understood.

TRIAL EXAMINER LINDSAY: Now read the last question.

(Question read by the Reporter as follows:

"Q. So that you could go down to the plant today and lay off a man more than a month and wipe out all his seniority rights, is that what you are saying?")

TRIAL EXAMINER LINDSAY: There is no reason for anyone coming up here on this witness stand and trying to give anything but the exact truth. Now, I am not saying that this man is—

THE WITNESS: I am trying to tell the truth. That is what I am trying to tell.

TRIAL EXAMINER LINDSAY: Read the question.

(The same question was read by the Reporter.)

TRIAL EXAMINER LINDSAY: Now, that is a simple question and you have employed men for a long time and you know the answer.

A. I could not.

MR. DAY: What is the answer?

(The answer read by the Reporter.)

Q. (By Mr. Lauter) What would happen to some man who laid off more than 30 days? Would he lose his seniority?

A. Not if he tried to come back within that time.

Q. Not within that time, that is more than a month, if you laid off a man for more than 30 days, he would not lose his seniority, is that what you are saying?

A. He would not lose his seniority.

Q. Do you know when Mr. Wright first came to work at Republic?

A. In 1922. According to the records. I didn't know him at that time. The records—

Q. Did you consult the records on or before April 27th, to find out how long he had worked for Republic?

A. No, sir, I happened to look at the records.

Q. What is that?

A. I looked at the records.

MR. LAUTER: Read the last question.

(Question was read by the Reporter.)

A. I did.

Q. Well, when—what did you find out as result of your consultation of the records, as to how long Will Wright had worked for Republic?

A. He doesn't have a very good record before that time?

MR. LAUTER: I move the answer be stricken.

TRIAL EXAMINER LINDSAY: The answer may go out.

MR. KETTERER: I will consent, that may go out.

Q. (By Mr. Lauter) With respect to the length of time he worked for Republic, what did you discover on and before April 27th?

A. I first noticed that he was laid off in '25.

TRIAL EXAMINER LINDSAY: That is not an answer to the question.

MR. LAUTER: I move the answer be stricken. Read the question.

TRIAL EXAMINER LINDSAY: The answer is stricken. Read the last question, Mr. Reporter.

(Last question read.)

MR. DAY: Now, with respect to what?

TRIAL EXAMINER LINDSAY: The time, that is in there.

MR. DAY: When he started to work, do you mean?

TRIAL EXAMINER LINDSAY: How?

MR. LAUTER: I will withdraw that question.

MR. DAY: Yes.

Q. (By Mr. Lauter) On or before April 27th—

A. Yes, sir.

Q. —did you look at Will Wright's employment record?

A. Yes, sir.

Q. Did you look to see on that record when he began working?

A. Yes, sir.

Q. I am not asking you what you looked on since April 27th, today or any day preceding today. I am asking you whether on April 27th you looked at his record to see how long he had been employed by Republic?

A. On that day?

Q. That is right.

A. All right, on that day. I looked before that.

Q. How long before did you look?

A. Oh, I would say about four or five days before that.

Q. You looked at his record and you saw when he began work, working there, is that correct?

A. Yes, sir.

Q. And what did you find out with respect to how long—Withdraw that—What did you find out by consulting the records as to when he began working for Republic?

A. Well, I found out the day that he started.

Q. What date was that?

A. I don't know, in 1922.

MR. LAUTER: That is all.

MR. DAY: That is all. I want to call Mr. Ess.

(Witness excused.)

T. J. ESS

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name please?

A. T. J. Ess.

Q. Where do you live, Mr. Ess?

A. Massillon. 739 Medilla Avenue.

Q. You live at Massillon?

A. Yes.

Q. That is M-e-d-i-l-l-a?

A. That is right.

Q. Where do you work?

A. Republic Steel at Massillon.

Q. You work in Massillon?

A. That is right.

Q. Where do you work, Mr. Ess?

A. Republic Steel in Massillon.

Q. In what capacity?

A. Combustion engineer.

Q. How long have you worked for Republic?

A. 1923.

Q. And did you work for Republic since 1923—when I say Republic there—

A. That was in that time.

Q. The different companies of the Republic Steel.

A. Central Steel, Central Alloy and so forth.

Q. Did you work in that Massillon rolling mill?

A. No, it was the Central Steel.

Q. And you are combustion engineer, is that right?

A. Yes, sir.

Q. As a combustion engineer, what do you have to do with any part of the machinery at the Massillon plant?

A. Well, we supervise the fuel, the power, and the utility usage and distribution. That is a rough idea.

Q. Were you in the Massillon plant on the evening of May 20th last?

A. I was.

Q. What happened there under your supervision or through your observation?

A. There was trouble experienced with the main turbo-generator unit which generates power for the plant of the Massillon department.

Q. What is the turbo-generator unit?

A. That is an electrical generator which makes power—generates power for the use of the mills in the Massillon plant.

Q. How many of the mills are connected up with the generator relative to this turbo-generator, I am asking you about?

A. The entire plant is connected to that.

Q. The entire generator plant?

A. And in addition to the power system of the Ohio Public Service Company.

Q. Then did you get a call that night that there was trouble with the turbo-generator unit?

A. Yes, sir.

Q. Where were you then?

A. I had been at Canton and the call was waiting at the house when I came back.

Q. What did you do?

A. I immediately went out to the power house.

Q. What did you discover with relation to the turbo-generator?

A. Well, we got down to the power house and the machine was vibrating very badly; it looked as though it had thrown a blade or shrouding from the turbine rotary.

Q. Now, after you found that that unit had something wrong with it, did you also make a further investigation to see what was the situation?

A. Well, it was immediately apparent that it was a very dangerous condition which we could not leave to continue very long.

Q. Then what was done with the turbo-generator?

A. Well, we had a little consultation on the power distribution end of it and agreed that it was necessary to shut down certain units of the plant.

Q. Now, what units of the plant were then and there shut down, if any?

A. The sheet mills, the 12 and 18-inch mill, and the hot strip mill.

Q. Well now, what did that leave open unaffected by this operation or cessation?

A. Well, of course the blooming mill was running, the open hearth, and some of the minor auxiliaries departments.

Q. About what time was the turbine shut down?

A. 10:45 p. m.

Q. How long was it down?

A. About three days; it came back on the line on the 23rd.

Q. Then did it start up again?

A. Yes.

Q. Well now, while the turbine generator was being repaired, were those plants down?

A. Those plants were down.

Q. Then you say they started up again?

A. Yes.

MR. DAY: I believe that is all.

Cross Examination

Q. (By Mr. Lauter) What is your position, Mr. Ess?

A. Combustion engineer.

Q. How long have you worked for Republic?

A. Since—for—

Q. Or its predecessors?

A. Since '23.

Q. The trouble you are referring to took place on May 20th?

A. May 20th.

Q. And you were shut down to May 23rd, is that correct?

A. That is right.

Q. Where do you live in Massillon?

A. 739 Medilla Avenue.

Q. How far is that from the plant?

A. About three miles.

Q. How long did it take you to get to the plant?

A. Depends on how—

Q. Your average time?

A. It can be 10 minutes.

Q. 10 minutes?

A. Yes, sir.

Q. How long did it take you to get down to the plant on May 20th?

A. Maybe 8.

Q. Maybe 8?

A. Yes, sir.

Q. What time were you called?

A. The call was waiting when I got back from Canton; it was just previous to 7 o'clock; I wouldn't know exactly.

Q. You were called before 7?

A. That is right.

Q. It took you about 8 minutes to get down there?

A. That is right.

Q. When did you leave your home?

A. I don't know exactly the time.

Q. About 7 o'clock?

A. I suppose.

Q. Or a little before?

A. I don't know.

Q. Or a little after?

A. I don't know.

Q. Well now, let us see if you can't remember. Was it an hour or was it an hour after 7?

A. No, it was close to 7.

Q. Close to 7?

A. Yes.

Q. You remember that?

A. Yes.

Q. The shut-down was at 10:45, right?

A. About.

Q. What time did you get to the plant?

A. I would say 10 minutes after 7.

Q. 7:10?

A. Yes.

Q. Now, was the turbine generator the cause of the trouble?

A. The turbine of the turbo-generator unit.

Q. Had that turbine been installed about 5 years before that, if you know?

A. No, that turbine was installed in 1926.

Q. In 1926?

A. Yes, sir.

Q. Eleven years before?

A. Yes.

Q. That particular turbine you are referring to?

A. Yes.

Q. Had that broken down at least twice before?

A. I have hearsay that it was. I heard at the previous break-down that there was a similar break-down when I was off ill.

Q. You were off ill?

A. That is right.

Q. Do you remember when that was?

A. No, not other than it was in the summer of 1936.

Q. The plant didn't shut down then, did it?

A. I really don't know.

Q. Now, you heard hearsay about whether the plant shut down?

A. No, I didn't.

MR. DAY: May I object to hearsay?

MR. LAUTER: That is the witness' phraseology, if it please, Mr. Examiner.

TRIAL EXAMINER LINDSAY: Just a minute. Objection overruled.

MR. DAY: Exception.

TRIAL EXAMINER LINDSAY: Proceed.

MR. DAY: All right.

MR. LAUTER: Read the question.

(The last question was read.)

A. I didn't.

Q. You don't know whether or not—

A. I didn't know what units were shut down.

Q. Do you know whether any were shut down on the previous break-down?

A. I don't.

Q. Are you testifying that you don't know whether any were shut down?

A. I don't know whether any or there were none.

Q. When did this happen?

A. In 1936. I don't remember the month.

Q. How long were you out ill?

A. 13 months.

Q. When did you hear that there had been a break-down of that same unit before?

A. In the summer of '36 while I was ill.

Q. And you didn't hear anything about whether or not the plant had been shut down on account of that break-down?

A. No.

Q. When was the first break-down prior to that?

A. You mean of this same nature?

Q. That is right.

A. I really don't know. As I say, this happened some time—it was in 1936.

Q. I am talking about another break-down of this same unit.

A. That is right. That is when it happened.

Q. This other one broke down in the same year, 1936?

A. Yes, sir.

Q. Another one of the same year?

A. That is the one.

Q. Of the same nature?

A. That is right.

Q. When was it?

A. On the 28th of May.

Q. I am not discussing the one on the 28th of May. Isn't it true that there were two previous break-downs?

A. I think there were in the summer of '36, two.

Q. There were two?

A. Yes.

Q. You don't know whether or not on the other break-down there was a break-down in the plant, in the summer of 1936?

A. I don't know.

Q. You don't know that they switched to the Ohio Power Service?

A. It would be necessary to switch to the Ohio Power Service any time that that unit would be down.

Q. Are you stating that you don't know that they switched to the Ohio Power Service in the break-down in the summer of 1936?

A. I don't know.

Q. Was there a provision for switching for that service?

A. Yes.

Q. There was a regular understanding between the Ohio Power Service and the Republic Steel Corporation?

A. There is a connection.

Q. So that whenever there is a break-down of this unit they can switch to the Ohio?

A. Yes, sir; with a demand charge involved.

Q. With a charge?

A. That is right.

Q. That is a simple operation of throwing a switch, isn't it?

A. Yes; you don't even have to throw it.

Q. You don't even have to throw a switch?

A. That is right.

Q. Now, what were the departments affected by the shutting down again?

A. The sheet mill, the 12 and 18-inch mill, and the hot strip.

Q. What are included in that, the ones you have mentioned?

A. Yes, sir.

Q. What are excluded, if any? What mills were not shut down?

A. The blooming was the only mill of any consequence that kept on.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) I don't understand this arrangement that the Republic Steel had with this Power Company. I want to ask you this question. Was it a matter of expense to have used the power from the Power Company instead of shutting down the mill?

A. Absolutely.

Q. Have you any idea how much?

A. You mean what it would have cost us?

Q. What I mean is this. Something has been said about your having a tie-up with the Power Company by which power could be thrown on by turning on a switch?

A. Yes, sir.

Q. You say there would have been some expense to Republic if that had not been done?

MR. LAUTER: That is not the testimony.

MR. DAY: Read my question.

(The last question was read.)

Q. State whether or not—

MR. LAUTER: May I enter an objection? I want to object to that question. My objection is that unless this witness has personal knowledge with respect to the subject matter of that question—

(Discussion off the record.)

MR. LAUTER: Read that question once more, Mr. Reporter.

(The last question was read.)

MR. DAY: I will withdraw the question.

MR. LAUTER: If that is the case, then I will withdraw the objection.

MR. DAY: That is all.

MR. LAUTER: That is all.

(Witness excused.)

JAMES G. DAVEY

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. James G. Davey.

Q. Where do you live, Mr. Davey?

A. 1615 Harvard Avenue, N. W., Canton.

Q. By whom are you employed at the present time?

A. Republic Steel Corporation.

Q. And in what capacity?

A. First Divisional Superintendent of the Stainless Divisions.

Q. I believe you are a brother of Mr. Sam Davey who testified here this morning?

A. That is right.

Q. How long have you been with the Republic Steel Corporation?

A. Since the 1st of last July, 1936.

Q. Have you during that period of time been with the Republic Steel Corporation?

A. No, sir, I was formerly with the Canton Tin Plate Division.

Q. When was it that you were transferred from the Canton Tin Plate Division to the Stainless Division?

A. On October 15, 1936.

Q. On what date?

A. October 15, 1936.

Q. And you have been in the Stainless Steel Division ever since?

A. Since that time, yes, sir.

Q. Now, in what plants is the Stainless Steel Division of the Republic Steel located? In Canton or in Massillon?

A. In Canton and Massillon. One division is in Canton and some units of the Stainless Steel Division are in Massillon. There is one unit in Canton which we term the South Division but there are three units in Massillon where the finishing off work is done.

Q. Now I believe there has been testified here that the Canton Tin Plate Division was started in Republic Steel Corporation at the time of the sale of your plant to

Republic on July 1st, 1936.

MR. LAUTER: I don't think that is the testimony.

THE WITNESS: I don't believe that question is clear.

TRIAL EXAMINER LINDSAY: I don't believe the testimony shows that just the way you have it.

THE WITNESS: Will you state that question again?

MR. KETTERER: I will withdraw that question.

Q. When was it then that you and your brothers who owned the Canton Tin Plate Company sold that plant to the Republic Steel Corporation?

A. July 1st, 1936.

MR. LAUTER: That is correct.

MR. KETTERER: Yes.

TRIAL EXAMINER LINDSAY: Yes, but that is not your question.

MR. KETTERER: All right.

Q. Prior to July 1st, 1936, did you have anything to do with the operation of the Canton Tin Plate Company?

A. Yes, sir, I was the operating superintendent of that company at that time.

Q. Now, during that time that you were the operating superintendent of the Canton Tin Plate Company and later, while you were with the Republic Steel Corporation, and at that plant, did you ever know a man by the name of Kenneth Poorman?

A. Yes, sir.

Q. Do you recall when he was employed by the Canton Tin Plate Corporation?

A. No, I could not but I would imagine that would be around '31, I think. I would not want to swear to that as being the truth because I don't know.

But he had been for a period, I would say, of approximately five and one-half years that I know of.

Q. (By Mr. Ketterer) Now, did he continue to work at the tin plate division of the Republic Steel Corporation after July 1st, 1936?

A. Yes, sir. He was there when I left that division.

Q. In October of 1936?

A. Yes, sir.

Q. Now, do you recall, Mr. Davey, of any meeting of any employees of the Canton Tin Plate Division of the Republic Steel Corporation, sometime after the 1st of July, 1936, at which you talked to the men?

A. I do.

Q. Now, will you tell us what the purpose of that meeting was?

A. Yes, sir. To explain to them the new group insurance which was being sold or attempting to be sold to the employees by the Republic Steel Corporation, the real purpose of having that group together was to specifically let them know that there was no one in that group or plant who was being forced to purchase any of the insurance. The only thing in relationship to that, that I said to those men, was that I thought it was a good thing at any time to purchase good cheap insurance in a safe company. That was the purpose of calling the men together, to discuss that with them.

Q. Was there more than one meeting of that kind?

A. If I recall properly too, I think I attempted to cover the entire plant by having first the one day turn, that is the first turn in the morning, when they finished in the afternoon, and then the afternoon turn or midnight turn which we term the 12:00 to 8:00 turn, is the midnight turn, try to come out to the plant approximately 8 o'clock, so as to catch both of those. There is one comes on and one was coming out. One was going home and one was coming in. Now at that time, in addition to the morning meeting, at that time did I describe to them regarding the group insurance plan.

Q. Now, was there anything else said by you that you can recall now, at those meetings of those employees, called for that purpose of explaining the group insurance plan?

A. Yes. It is this way, that in all my industrial experience I have always tried to speak—

Q. No, just tell us what you told.

A. What I will have to do, Mr. Ketterer, is to explain the way I did it, if you will permit me to start it that way.

MR. LAUTER: I think Mr. Ketterer will consent that the last remark of the witness be stricken from the record.

MR. KETTERER: That is all right, we consent to that. Just read the question again.

(The last question was read.)

A. Yes, there was.

Q. Now, tell us as nearly as you can and as nearly as you can recall, what you said in addition to your discussion of the proposed group insurance plan?

A. In addition to that?

Q. In addition to that?

A. I recall discussing the fact that there seemed to be some contention around, not specifically stating any kind or type of contention, but I did say this, that I was rather concerned of anything happening to the group there that would disrupt the family that they had come to be, which was a lot of employees, approximately 750 who had worked together and knew each other well and I could not see any reason for anything happening, or any reason for anything happening at this particular time. Beyond that I don't know that I discussed generally with them or for them anything pertaining to labor troubles or difficulties.

Q. Now, do you recall whether or not there was anything said by you in substance that "this is an old and obsolete mill, the Warren mill is of a newer type"?

A. Yes. We had to do that, appreciating the tonnage, Mr. Ketterer—

Q. Tell about that.

A. The statement I made there was this: Appreciating the fact that newer type of mills were coming into being, which is in our parlance the strip mills for continuous operation, I was fearful that perhaps when that unit started in Niles, Ohio, naturally—which Republic were rapidly pushing to completion—that it would mean the changing over of types of tonnages, which would mean that the tin plate angle of the Canton Tin Plate probably would be moved where it would be possible to make a better product cheaper. In that relationship I drew this comparison, that the Canton plant was nearly an obsolete plant and being a hand-operated mill, naturally the cost would be higher. I asked them to stay together with this view in mind, that it would be possible to gain enough tonnage from other sources other than the tin plate end of it, to be able to keep that plant running.

Q. Now, I will ask you whether or not you said to them—made this statement or this statement in substance at that meeting: "If we stay out of labor troubles this can be the mill to operate?"

A. No, I didn't say that.

Q. I will ask you to state, Mr. Davey, whether or not you made this statement or this statement in substance to the men at that meeting: "That you knew that there was an organizer in the mill, and that you would not raise a finger to do anything against this organizer?"

A. Mr. Ketterer, had I said that, I would have been perjuring myself.

MR. LAUTER: I object.

Q. Just answer the question.

TRIAL EXAMINER LINDSAY: Did you say that or didn't you say it?

THE WITNESS: I didn't say it.

MR. LAUTER: I assume with consent that the preliminary remarks of the witness will be stricken out.

MR. KETTERER: Yes, disregard that.

THE WITNESS: I didn't say such.

TRIAL EXAMINER LINDSAY: The preliminary remarks are stricken.

MR. KETTERER: That is all right.

Q. I will ask you, Mr. Davey, whether or not you made this statement, or this statement in substance, to the men at that meeting: That if we insisted in getting ourselves into a bunch of labor trouble, that you would resign and leave the mill?

A. No, sir. I did say in substance, as you asked, "If you get in any trouble, I want you to know one thing, that I don't believe I would be here to fight your battles for you."

Q. When you made that statement what information did you have if any concerning a possible transfer from the tin plate division to any other division in Republic Steel Corporation?

A. I had had the understanding that I would be transferred, without any verification as to where I was going.

Q. And subsequent to this meeting you were transferred to another division of Republic Steel?

A. That is right, Stainless Steel Division.

Q. That is, Stainless Steel Division where you are now?

A. That is correct.

Q. Now, Mr. Davey, I will ask you whether or not during the time that you were at the tin plate division of the Republic Steel Corporation, or the Canton Tin Plate Company, its predecessor, you knew an employee whose name is Ross Schwartz?

A. I did.

Q. How long have you known Mr. Schwartz?

A. That is indefinite, but I would say approximately three years.

Q. Now, did you have any talk with Mr. Schwartz at any time that you can recall now, concerning a meeting of Timken men?

A. Yes, sir.

Q. Just tell us what was said by you as nearly as you can recall it, that conversation?

A. I was driving down Tuscarawas Street east, a rather cold day in December. I don't remember just where I happened to see Mr. Schwartz, but being a cold day and he was headed up town and I had nothing particularly to do I turned my car and picked Ross up.

Q. When was this, as near as you can tell?

A. I would not want to set that date, because I do not believe it would be authentic, I imagine around about the 12th of December, somewhere around in there.

Q. And at that time you were not connected with the Tin Plate Division?

A. No, I was not.

Q. All right.

A. When Mr. Schwartz got into my car and I said, "Where are you going?" He said, "Uptown." Well, I said, "I will take you up."

Part way up we passed the old Music Hall which I think is called the German Tunverein or something of that kind, and as we came up there was signs posted outside and I said to Mr. Schwartz, I said, "I understand they are having a mass meeting at that hall today?" He said, "Yes, they are."

I says, "I wonder what it is all about?" He says, "I don't know." I said, "I understand that there may be a sit-down strike at Timken's."

He said, "Would you like to know?" I said, "Well, I have no reason for wanting to know, but I am just curious enough to know."

"Well," he said, "I will find out." I drove on up approximately two blocks, if I recall properly, to the corner of Cherry and Tuscarawas Street and he got out, and later that evening Mr. Schwartz called me and all he said to me, "Jim, you are wrong on that, there is to be no sit-down strike at Timken's." It was just natural curiosity on my part, and no other reason.

Q. Now, at the time that he got out of the automobile and left your car on that day, I will ask you whether you made this statement or this statement in substance: "I will keep your nose clean and take care of you?"

A. I did not.

Q. Now, do you recall ever having a talk with Mr. Schwartz at any subsequent time after you—

A. I do not recall even seeing Ross from that time until this.

Q. Do you recall ever having had a conversation with him in the restaurant at the tin plate division of the Republic Steel Corporation?

A. I do not.

Q. I will ask you to state whether, at any time subsequent to the first conversation that you had with him, and which you have related here, you met him in the restaurant in the Canton Tin Plate Division and said to him in substance—or he said to you, "You are very nearly a stranger," to which you replied, "Yes, I know everything that is going on."

A. I believe I do recall that, but that was later than the time that you spoke about a few moments ago in your question. I would not want to try to recall when it was. I believe that I can relate that circumstance.

I had been called to the Canton Tin Plate to inspect what we termed a slitter that had been re-installed there and I had lunch there at that time. Now, Ross may have been in the restaurant that day and I may have spoken to him, I would not want to say yes to that and run the risk of being right or wrong. However, I am not sure I did, or I would not say that I did not.

Q. Now, do you recall whether or not you said to him, or he said to you at that time, "Well, I told you the truth, didn't I?" And you replied, "Ross, get away from it." Or words to that effect?

A. No, sir, I did not say that.

Q. Now, Mr. Davey, are you acquainted with a man by the name of Verne F. Holderman?

A. I am.

Q. Has he ever worked in any department of the Republic Steel over which you had supervision?

A. Yes, sir.

Q. In what department?

A. In what we term the 80 grinding room of the stainless steel division at Massillon.

Q. And when did you first become acquainted with him as an employe of the Republic Steel Corporation?

A. Being a new man in the division it was a long time before I even picked up the names of individuals. I presume that it was sometime probably in the early part of November before I ever knew who Verne Holderman was.

Q. Of what year?

A. 1936.

Q. That was after you had transferred?

A. That is right.

Q. From Tin Plate to the Stainless Steel?

A. That is right.

Q. Now, I will ask you to state whether or not Verne Holderman was working in that department on the day of the strike at Massillon plant of the Republic Steel Corporation?

A. You say the day of the strike? Now, do you mean the evening of the time of the strike?

Q. Yes.

A. Yes, sir, he was.

Q. Can you tell us what turn he worked on that evening?

A. From 3 until 11:00—3 in the afternoon until 11:00 that night.

Q. Now, did that division of the plant operate during the strike?

A. No, sir.

Q. Now, will you tell us when, after the strike, that work was resumed in that department of the stainless steel division?

A. 7:00 a. m. on July 2nd.

Q. July 2nd?

A. July 2nd, 7:00 a. m., yes, sir.

Q. Now, were the men in the polishing and grinding department of the stainless steel division notified when the department resumed operations on July 2nd?

A. The ones that we could reach were, yes.

Q. Now, did this Verne Holderman return to work on the 2nd day of July, 1937, to your knowledge?

A. No, sir, he did not.

Q. Did you have any telephone call from him on or about that date?

A. No, sir.

Q. About returning to work?

A. I did not.

Q. When was the first time after the 2nd of July, 1937, that you had any conversation with Mr. Holderman, whether it was oral or by telephone, concerning his return to work?

A. On the afternoon of July 21st, I believe, approximately a quarter to 3:00 in the afternoon.

Q. I will ask you to state, Mr. Davey, whether, prior to the 21st of July, 1937, you ever talked with Verne Holderman between that date and the 2nd of July?

A. I did not.

Q. About returning to work?

A. I did not.

Q. Now, where did this conversation on the 21st of July take place?

A. Just outside the stockroom door in the finishing room of the polishing plant.

Q. Had any arrangement been made with you prior to that time to see the man at that particular time?

A. Yes, Mr. Schludecker, head of the polishing and grinding department, had made arrangements with Mr. Holderman to come in to see me personally at 2:45 on the afternoon of the 21st—I think it was the 21st.

Q. Now, did you see Mr. Holderman at that time?

A. I did.

Q. Did you have any conversation with him?

A. I did. I met him outside the door of the stockroom. I went up to him and I asked him what he had on his mind. He said something about "Well, when am I going back to work?" I asked him where he had been since July 2nd. He told me that he had been out of town on fishing trip, and I told him then, I said, "Well, that puts us in a rather peculiar position, because I can't read people's minds, and I didn't know where you were."

Q. Now, was there anything else said?

A. Just about that time, while discussing that, a group of men came out of the grinding room, which is the 80 side, led by a spokesman by the name of George Chapman. He stepped up and asked me if I would please leave. I said, "What for?" He said, "We'll handle this case." Which I did, I walked away.

Q. Where did you go?

A. Into the office, which is approximately 25 or 30 feet from where Mr. Holderman was standing.

Q. All right, now, did you see Mr. Holderman at any time later that day, the 21st of July?

A. Yes, probably ten minutes later I came out of the office and Holderman was just leaving the plant, and he came back and he said something relative to "Well, the boys have voted me out of a job."

I said, "Well, that is too bad, and I am sorry." "Well," he said, "what am I going to do about it?" And I said, "Well, what can I do about it?"

"Well," he said, "then the men are running the plant?" I said, "I would not say that." He said, "You are no longer superintendent?" I said, "I think I am."

I asked him again, after he had said something else regarding—I don't remember just what that was, I asked the question, "Well, what can I do about it, and I was sincerely asking the question."

MR. LAUTER: I object to that.

MR. KETTERER: That may go out and be disregarded.

MR. LAUTER: As to the sincerity of this witness.

MR. KETTERER: Yes, that's all right.

Q. (By Mr. Ketterer) Now, was there anything else said that you can recall?

A. Yes, Mr. Holderman left, threatening to take it up with someone else, I don't know who. He said, "higher authority," I believe he said. Since that time I have not seen nor heard from Mr. Holderman.

Q. Has he ever made any further application to be returned to his employment?

A. No, sir, he has not.

Q. Now, I will ask you, Mr. Davey, whether prior to the time that Mr. Chapman came out, and when you were talking with Mr. Holderman, you had any knowledge of any action taken by the men in his department about his returning to work?

A. I did not.

Q. Mr. Davey, what is the fact as to whether or not you intended to put Mr. Holderman back to work when he came in on the 21st of July?

MR. LAUTER: Object to the form of the question, what the witness intended to do is entirely improper.

TRIAL EXAMINER LINDSAY: Yes, that is sustained. Let the record show an exception.

MR. KETTERER: All right. That is all, Mr. Lauter.

Cross Examination

Q. (By Mr. Lauter) Republic took over the plant that you and your brother owned, on July 1st, 1936?

A. Yes, sir.

MR. KETTERER: Excuse me just a minute, please, Mr. Lauter. If your Honor please, we would like to make an offer to prove on that.

TRIAL EXAMINER LINDSAY: Now, listen, I would not accept an offer to prove on that question. Now, if you ask a question, you ask it right and get the same answer.

MR. DAY: Ask what, if anything, he intended to do with relation to Holderman.

MR. KETTERER: All right.

Direct Examination

(Continued)

Q. (By Mr. Ketterer) What, if anything did you intend to do on the 21st of July?

TRIAL EXAMINER LINDSAY: That is not a proper question, either. "What did you do on the 21st?" You can get the same purpose in there if you ask it right, without his intention.

MR. KETTERER: All right, we do not care to make any further inquiry.

Cross Examination

(Continued)

Q. (By Mr. Lauter) Is there an unanswered question by me?

(The record read by the Reporter.)

Q. Subsequent there was a meeting which you addressed, is that correct?

A. I don't believe I understand—

MR. DAY: Read that first question and answer.

(The record was read by the Reporter.)

A. Do you mean previous to that?

Q. My recollection is that on direct examination you have testified to a meeting of Republic employees sometime in October, I believe it was?

A. Yes, but that was after the absorption by—

Q. That is what I say, it was subsequent to July 1st, 1936?

A. That is right.

Q. Can you fix the date of that meeting?

A. No, I cannot.

Q. Just come as closely as you can? Let us have the month.

A. I think some time in September; I am not definite.

Q. September of 1936?

A. That is right, I think so.

Q. It was then that the meeeting was held about which you have given testimony on direct examination?

A. Yes, that is correct.

Q. And it was at that meeting that you asked the men to stay together, is that right?

A. That is right.

Q. That is correct?

A. Yes, sir.

Q. Now, what else did you say in connection with staying together?

A. At that meeting, you mean?

Q. That is right.

A. Well, as I explained before, I had the men meet, and on the afternoon meeting I only talked to them in the first part of that meeting relative to Company insurance.

Q. I understand that. I am asking you what you said in connection with their staying together.

A. Only that we had been together for so many years and I didn't want to see anything happen to disrupt the work that had been going on for so long. We had understood each other's problems—those were not exactly the words but the sense of it. That I wanted them to stay together as we had in the years past which were four or five.

Q. Now, there was an Employees Representative Plan in operation?

A. That is right.

Q. Prior to the absorption by the Republic Steel Corporation?

A. That is right.

Q. And subsequent to that, that same Employees Representation Plan—had it continued in existence?

A. It did.

Q. And you are referring to this plan of representation when you spoke to these men?

A. I made no reference to the Plan; of any kind. Just service. I made no reference to any group of any employees about the Plan or anything else.

Q. What do you mean when you say you wanted them to stay together?

A. I wanted to fight their battles.

Q. What do you mean when you say fight their battles?

A. I had more or less always fought the battles for the men in the plant and I did not want the men to become disrupted. I had worked with these men for so long and I did not want them to change. If they had any troubles I did my best. For years that is what I had done. That is what I mean when I made that reference to staying together.

Q. Now, had you spoken to them there at that meeting or at any other meeting previously about the Employees Representative Plan?

A. No, sir.

Q. Was there any change in labor policy after the Republic Steel Corporation took over your plant?

A. No, sir, there was no reason for any change.

MR. LAUTER: I move that that remark be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes.

THE WITNESS: I am sorry.

TRIAL EXAMINER LINDSAY: That remark may be stricken from the record.

Q. Are you sure that there was no change in labor policy after the Republic Steel Corporation took over the plant on July 5, 1936?

A. You mean by that, then, was the policy of the operations of the plant changed?

Q. I am talking about the labor policies of the operations of that plant.

A. None that I know of.

Q. Now, did you on any occasion speak in favor of the Employees Representation Plan either to a group of employees or to a single individual employee?

A. I may have done that in a group but I don't recall it and never to an individual.

Q. Now, what group of employees have you told, and on what occasion have you spoken to them about the Employees Representation Plan?

A. I don't believe I could understand; how do you mean that?

MR. LAUTER: Will the Reporter read the question?

(The last question was read.)

A. None that I can recall, Mr. Lauter.

Q. Maybe I don't understand you. I thought you said you had spoken to a group of employees?

MR. DAY: He said he may have.

Q. Were you speculating when you said you may have or are you recalling what actually happened because we are not interested in speculative testimony?

A. Speculation in what relation?

Q. You said that you may have spoken to the employees about the Employees Representation Plan, or do you mean that you may have or that you actually did?

A. No, I didn't know; not being definitely sure.

Q. You did say that you may have?

A. I may have.

Q. When you said that, you were speculating?

A. I think you mentioned about speculating.

MR. LAUTER: I move that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That may be stricken.

Q. Now, are you stating under oath that you never spoke in favor of the Employees Representation Plan? Or in favor of it to any individual?

A. I beg your pardon.

MR. LAUTER: Will you read that question to the witness?

(The last question was read.)

A. I think probably at different times I have talked about Representative Plans.

MR. LAUTER: I again ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: I am not interested in probabilities.

TRIAL EXAMINER LINDSAY: That may be stricken from the record.

MR. LAUTER: Just a minute. I object to wha the witness may have done or what he probably did I move that the answer be stricken.

TRIAL EXAMINER LINDSAY: Yes. Those ar things that do not mean anything. Either you did o you didn't do it.

A. I will answer the question that I did, Mr. Lauter

Q. Now, when did you speak to any group or an individuals about the Employees Representative Plan or i favor of it?

A. That I don't recall.

Q. Do you recall what you said?

A. No, sir.

Q. Are you saying now that you don't recall wha you said in substance when you spoke in favor of this Plan

A. Yes, because I don't recall.

Q. I am not asking you what you don't recall. I a asking you whether or not you spoke in favor of this Pla

A. I would have to answer that I don't recall.

Q. I am not asking you for the words that you use I am asking you if you remember in substance what yo said.

A. I don't recall Mr. Lauter.

Q. Not a single word?

A. No, sir.

Q. And on any single occasion?

A. No, sir.

Q. Now, at that meeting some time in Septembe 1936, did you speak in favor of the Plan?

A. No, sir, I didn't.

Q. You didn't say a word about the Employees Representative Plan to any of the employees?

A. I have—I think I made—

MR. LAUTER: Will you read that question?

(The last question was read.)

MR. LAUTER: Will you finish that answe

Mr. Witness?

A. I think I made that clear in my previous testimony, Mr. Lauter.

Q. Yes, I understand that, but I am asking you whether or not you did or didn't say anything about the Employees Representative Plan at that meeting in September, 1936.

A. Not as an Employees Representative Plan.

Q. Did you refer to the representatives of operating under that Plan?

A. No, sir.

Q. Did you say that was a good Plan?

A. I did not.

Q. Now, how many times have you spoken in favor of the Employees Representative Plan?

A. That I would not want to state because I don't know.

Q. Try and recollect how many times? Twice or a hundred? Did you speak in favor of it twice or more?

A. I don't recall of ever speaking in favor of the Employees Representative Plan as a Representative Plan.

MR. LAUTER: (To the Reporter) Will you read back the cross-examination of this witness?

TRIAL EXAMINER LINDSAY: Let us take a short recess at this time.

(Recess had.)

Q. (By Mr. Lauter) Mr. Davey, the record is not very clear as to whether or not you have spoken to any groups of individuals about the Employees Representative Plan. Will you tell us for the record once more?

A. Is that the Employees Representative Plan, Mr. Lauter?

Q. That is right.

A. No, sir, I haven't.

Q. You have never spoken to any groups of individuals?

A. Not to my recollection?

Q. Have you spoken to any individual members at the plant about the Employees Representative Plan?

A. Not that I can recall.

Q. Did you testify in cross-examination that you may have spoken to them about the plan?

A. I believe I did.

Q. And you now recall that you didn't or that you don't recall!?

A. I would rather state that I don't recall, Mr. Lauter.

Q. Now, your answers, of course, are directed and include that you talked to the employees, which refers to the Employees Representative Plan in operation at the Republic Steel Corporation, is that correct?

A. That I have given?

Q. Yes, sir.

A. Yes.

Q. For the sake of clarifying the record you are stating that you don't recall ever speaking to any group of individuals or group of men about the Employees Representative Plan, is that correct?

A. No, sir, I never did.

Q. Now, for the meeting in September, 1936, for how long a period, if at all, was the plant shut down in order that you might make your speech?

A. I would say approximately 10 or 12 minutes. That was the safety measure because we don't dare leave the hot mills idle. It would necessarily have to be a short session—10 or 12 minutes.

Q. How many were present at that meeting?

A. The evening meeting I would say, approximately 150 or 160; around there.

MR. DAY: Mr. Davey, will you talk a little louder, please? I can't hear you.

THE WITNESS: Yes, sir. I am sorry. Approximately 150 men at the evening meeting.

Q. Now, Mr. Davey, did you or didn't you say that you had very good representatives, and any time you have any kind of grievances they are capable of handling them?

A. No, sir, I don't recall saying that.

Q. Do you recall whether or not you met Johnny John in the latter part of February at the clock house or what is known at the watchman's shanty?

A. I believe so.

Q. Did you speak to him at that time about the C. I. O.?

A. I didn't.

Q. Do you recall what conversation you had with Mr. John?

A. Yes, sir.

Q. Will you relate what the conversation was to us?

A. As nearly as I can remember it is this. John seemed to be in need—Mr.—

MR. LAUTER: I object to "John seemed to be in need." I ask that it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That may go out.

A. (Continuing) He wanted advice relative as to what he should do as a member.

Q. He didn't mention any organizations?

A. Not that I recall. My only advice to him was that I was no longer connected with the Canton Tin Plate Company and I advised him to see Mr. Sam Davey. He was my superior; and he proceeded to give him the best advice he needed.

Q. Did you take him to Sam Davey?

A. No, sir.

Q. Did you accompany him at that time?

A. No, sir, I didn't.

Q. You weren't present when Sam Davey and Johnny John talked out there?

A. Not that I recall.

Q. Did you at any time tell any of the individual members or group of members that the mill was old and obsolete?

A. Yes, sir.

Q. And urged them to stay out of labor troubles?

A. I don't believe I urged them to stay out of labor troubles. I made a statement that I hoped they would stay out of labor troubles. I believe that was the tenor of my meeting.

Q. You said that the reason you were interested in knowing about a sit-down at the Timken Company was a natural curiosity?

A. Yes, sir.

Q. That was the only explanation you gave—

A. Yes, sir.

Q. —to a Mr. Schwartz about the reason?

A. Yes, sir.

Q. About the shut-down?

A. Shut-down, Mr. Lauter?

Q. The sit-down?

A. Yes, sir.

Q. (By Mr. Lauter) You had a conversation with Mr. Verne Holderman on or about July 22nd?

A. July 21st, that's right.

Q. In which you asked him where he had been?

A. Yes, sir.

Q. Do you know the strike is still on?

A. Sir?

Q. Do you know that the strike of the C. I. O. is still on?

A. I am not familiar with that strike, I don't know whether the strike is still on or not.

Q. What is your position in the mill?

A. Division superintendent.

Q. And you don't know that the CIO strike is still on?

A. I know that there is a strike. You asked a question, do I know that the strike is still on?

Q. That was my question.

A. I know that there is a strike on. That has been the strike on, Mr. Lauter, yes, sir.

Q. Well, what did you mean when you said before you didn't know? What question were you answering?

A. Well, the only thing that I had in mind is that my plant was operating and I thought that you had—

Q. I am not interested in whether your plant was operating. Answer my question.

A. Yes, I know there is.

MR. LAUTER: Read the question, please.

A. I know there is a strike.

MR. LAUTER: Now, just a minute. Read the question, Mr. Reporter. Let me have the answer read back, too.

(The record was read.)

THE WITNESS: Now, Mr. Lauter—

Q. (By Mr. Lauter) Is that answer correct?

A. No, that is not correct, I would like to change that answer.

Q. How do you want to change the answer?

A. That I know there is a strike still on.

Q. Did you know on July 21st there was a strike of the C. I. O. on at that time?

A. Yes, sir.

Q. That was the day that Mr. Verne Holderman came to see you?

A. That is right.

Q. And you had a conversation with him?

A. That is correct.

Q. And at that time he asked you whether you were still superintendent?

A. Yes, sir.

Q. And you stated to him that you were?

A. Yes, sir.

Q. At that time he asked you whether the men were running the plant or whether you were running the plant?

A. He did.

Q. And you said that—what did you answer him?

A. I said that I thought I still was.

Q. Was it at that time that a spokesman came to you, a spokesman for a group of men, and told you that they had voted not to work—

A. No, sir.

Q. —with Mr. Holderman? What did the spokesman tell you?

A. No, sir. It was after that occasion, Mr. Lauter.

Q. Well, how soon after that occasion did he come and tell you that?

A. I would say approximately eight to ten minutes afterwards.

Q. About eight to ten minutes afterwards?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: Just a minute, Mr. Lauter. There is one of your questions is not quite clear to me. You didn't mean that—

THE WITNESS: No, sir, that was—

TRIAL EXAMINER LINDSAY: No, I am talking to Mr. Lauter.

THE WITNESS: I beg your pardon.

TRIAL EXAMINER LINDSAY: "Voted not to work."

(The record read by the Reporter.)

Q. (By Mr. Lauter) Is it true that at about this time that this group of men—

A. Mr. Lauter, may I—

Q. —came with a statement—

A. If I may interrupt your question just a moment, the thing that I meant to say by that was that the question was asked and it seemed to indicate that you wanted me to answer that Holderman had said these things to me previous to our conversation.

Q. No.

A. I am sorry, I misunderstood.

Q. I am only interested in knowing whether or not, at about that time, a group of men headed by a spokesman came to you and told you that they voted not to work with Holderman?

A. No, sir, they didn't tell me that.

Q. What did they tell you? What was it they told you?

A. They came up to where I was talking to Mr. Holderman, asked me to leave and I said, "Why?" And they said, "We'll handle this case," and I immediately walked away from where Mr. Holderman was standing.

Q. You were the superintendent at that time, weren't you?

A. That is correct.

Q. And the question of hiring and firing was within your province, is that correct?

A. That is correct.

Q. And you could have told these men to go back to their machines right then and there, couldn't you?

A. I presume so.

Q. Well, you know your authority, don't you?

A. Yes, sir.

Q. And that was your authority?

A. Yes, sir.

Q. You could have told them to go back to their machines?

A. Yes, sir.

Q. But you didn't?

A. I did not.

Q. You let them handle the question of whether or not this man could go back to work?

A. Yes, sir.

Q. And when they voted not to work with him, you accepted their decision?

A. Only in this way—

Q. Well, just one second. Did you or didn't you accept their decision?

A. I did.

Q. And he is not working there today?

A. He could be.

MR. LAUTER: Well, I ask that the answer of the witness be stricken.

Q. (By Mr. Lauter) Is he working there today? You know the answer to that question.

A. He is not, no, sir.

Q. Have similar cases happened with other men?

A. No, sir, not to my knowledge.

Q. You don't know that other men have been voted on, as to whether or not they shall go back to work?

A. In my department?

Q. In the plant?

A. No, sir, I do not know that.

Q. Do you know whether it has happened in your department?

A. No, sir, I don't think so.

Q. Is that the only case that you know of?

A. Yes, sir.

Q. Will you state for the record why Mr. Holderman is not working in the plant?

A. Now?

Q. That is right.

A. As before stated, just because the men refused to have him back in that particular department.

Q. That is the only reason, is that correct?

A. That is absolutely so, yes, sir.

Q. You stated that the men were notified that operations would be resumed?

A. Yes, sir.

Q. That was sometime about July 2nd?

A. The night of July 1st and the morning of July 2nd, Mr. Lauter.

Q. Whom did you advise to notify the men?

A. The foreman of each department.

Q. What were they instructed to do?

A. To contact the men that they were reasonably certain did want to get back to work, and to notify them that their jobs were starting up on the morning of July 2nd.

Q. Did you say "to contact the men they were reasonably certain wanted to go back to work?"

A. Yes, sir. We were opening the plants for their jobs, and to get in touch with those men and tell them that the plants were opening on July 2nd at 7 o'clock.

Q. Was that the limitation placed upon them. And their activity? That they were to be reasonably certain of the men who wanted to go back to work, before they contacted them?

A. I don't believe that—in fact, I know, Mr. Lauter, I didn't put any limitations on them, I simply told them that we were starting the plants and to get the men lined up sufficiently to work the plants, and for the men to come in to work, which was done.

Q. In other words, what you told the foremen was to advise the men to report back to work in the plant, is that correct?

A. That is correct, yes, sir.

Q. And that was on July 2nd that you so instructed the foreman?

A. It was the night of the 1st and the morning of the 2nd.

Q. The 1st and the 2nd?

A. Yes, sir.

Q. And pursuant to your instructions the foremen did go out and either personally call employees or telephone them?

A. They did.

Q. Or at any rate, did get in contact with your employees to advise them to report to work, is that correct?

A. That is correct.

Q. Have new men been hired since the strike?

A. In my department, Mr. Lauter?

Q. That is right.

A. No, sir.

Q. No new men?

A. We have two or three borrowed men who are not employees of that particular department, and those men will be sent back to their own jobs.

Q. I am not asking you what will become of them.

A. Well, new men have not been hired, then.

Q. That is in your department?

A. That is correct.

Q. Do you know whether or not that is true with respect to the mill?

A. I don't know.

Q. You don't know whether or not new men have been hired?

A. In other departments, you mean?

Q. That is right.

A. I do not know, no, sir. I have 800 headaches to care for, and I don't know.

MR. LAUTER: I move the remark of the witness be stricken about headaches.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

MR. LAUTER: That's all.

MR. KETTERER: That's all, Mr. Davey. Thank you.

(Witness excused.)

JOHN G. STEWART

resumed the stand, and, having been previously duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) You are Mr. Stewart?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: You have been sworn?

MR. DAY: This man was on. I am calling him on another matter.

Q. (By Mr. Day) Were you working for Republic when the Employees Representative Plan was started at Canton plant?

A. Yes, sir.

Q. And what, if anything, did you have to do with the plan in nineteen hundred and thirty—When was it started, first?

A. In June, in 1933.

Q. In June. Did you have any connection with the Plan in 1933?

A. I was a representative, 1933 and '34.

Q. You were representative in 1933?

A. Yes, sir.

Q. And were you re-elected in 1934?

A. No, sir.

Q. Were you there the first year?

A. Yes, sir.

Q. Now, were you a representative after that?

A. I was representative in 1935 and '36, the third year of our Plan.

Q. When you were not representative, had you kept in close touch with it?

A. Yes, sir.

Q. When was the Employees Representative Plan begun in Canton Plant? In what month of 1933?

A. June.

Q. Do you know how it was started?

A. There was notices posted about a plan and we held an election to nominate, followed by an election to elect our representatives.

Q. Now you say "we held an election." Now just tell us what plants you included in that answer? Employees of what plants?

A. The Employees of what we termed the Northeast Plant, Alloy Division and South Division.

Q. About how many men are employed there?

A. Well, supervisory and all, that is about as far—I don't know, possibly five thousand.

Q. That is your estimate?

A. Yes.

Q. And can you give us any estimate as to how many of those five thousand work in a supervisory capacity?

A. No, I couldn't.

Q. While we are on that subject, do you know how many men remained in the East End Plant from the time the strike was called until work was resumed generally?

MR. LAUTER: Object until this witness can testify of his own personal knowledge as to the number of employees.

Q. Yes, I do not want you to guess at it. If you haven't any personal knowledge, don't answer the question. Have you any personal knowledge on the subject?

A. I have no personal knowledge, I was not on the inside.

TRIAL EXAMINER LINDSAY: All right. Then the objection is sustained.

MR. DAY: Well, I will withdraw the question.

Q. Now, you say that there were—when the Plan was inaugurated, there was some bulletin posted at—

A. Notices.

Q. Can you recall the substance of what those posters or bulletins said?

A. They went on formulating the plan; we had representatives elected from different departments to handle their grievances and other working conditions.

Q. State whether or not that was the first knowledge you had of the Employees Representation Plan?

A. It was.

Q. When, according to your best recollection, did you first see a notice of that kind?

A. The only way I can place the time on that was the early part of June, June to—I know that it was in that time that we held our election.

Q. Of '33?

A. Yes.

Q. Now, were you elected an employee representative then?

A. Yes.

Q. For what department?

A. South Division.

Q. How many Employee Representatives did the South Division have?

A. The first year we only had one.

Q. Did the Employees Representative Plan in Canton, in 1933, at the time that it was inaugurated, cover all of the Canton plants?

A. Yes, excepting Berger, Truscon, which was not a part of the plant.

Q. Well, did Republic at that time own Berger?

A. I think they did.

Q. Well, did they come into the plan later?

A. Not to our plant, no.

Q. Not to your plant?

A. No.

Q. What was the method of selecting the employee representatives under the employee representative plan that was inaugurated in 1933?

A. Our No. 1 committee on rules and ways and means had charge of our elections. They posted notices, when our nomination was to be, and a person could vote for two for each party to be elected. Following the nomination there was three names on the election ballot for each party to be elected as a representative.

Q. That is, there were three nominations for an office to which one was elected, is that right?

A. Correct, yes.

Q. Go ahead, I do not want to interrupt you. Go ahead.

A. They followed with their election, which was held by secret ballot at our booths, the same as any city election. Ballots was placed in boxes.

Q. I want to ask you about that a little more in detail. How many representatives were selected at the beginning, for the plants that were included in the Representative Plan?

A. You mean the first year?

Q. Yes.

A. First year, operations was down a little. I believe there was some 21 or 22 at our first election; it was around 20.

Q. Now, you say that the nomination was first held; where was it held?

A. In the plant.

Q. On company property?

A. Yes, sir.

Q. And was the election also held on company property?

A. Yes, sir.

Q. And do you know who furnished the booths that were used for the voting?

A. The company, as far as I know.

Q. And the ballots that were used to evidence the intention of the voters, who provided them?

A. The company.

Q. And can you give us some idea of the time that was taken up in making the nominations and elections?

A. It was about ten or twelve hours a day, average about 2 days for nominations and two days for election.

Q. Who had charge of the supervision of the conduct of the election?

A. Our No. 1 committee, rules, ways and means.

Q. Did you have anything to do with the conduct of the election?

A. I acted as teller.

Q. At the first election?

A. No, not the first election. At the second and fourth.

Q. Not at the first? Did you vote at the election in '33 yourself?

A. Yes, sir.

Q. And at subsequent elections?

A. Yes, sir.

Q. Well, after the nominations had been made and the selections of representatives of employees representation plan had been made, were there any meetings held of the elected representatives?

A. Yes, sir. An organization meeting.

Q. Can you tell us about when that was?

A. It was on the Monday following our election. That meeting was held—

Q. Where was this meeting held?

A. In the Industrial Relations Building.

Q. Of the Republic Steel?

A. Of the Republic Steel.

Q. On company property?

A. Yes, sir.

Q. Now, what, if you recall, transpired at that first meeting of the Representatives selected in June, 1933?

A. We elected a chairman, a secretary, and the chairman and secretary, in turn, selected two or three men, representatives, to assist them in selecting the other committees.

Q. What did you have to do with that, back at the beginning, back in '33?

A. I was selected as one of the representatives to help select the other committees.

Q. Well, how was it determined at the beginning of this organization who belonged to it?

A. An employee of Republic Steel.

Q. What I am getting at, was there a voting for these representatives, first, before there was any membership? Were there membership cards at the beginning? Anything of that kind?

A. No, they had no membership cards. There was a list of the employees eligible to vote.

Q. Would all those who voted be—automatically become members of the organization?

A. Yes, sir.

Q. And that was the only method of identifying the membership, is that right?

A. Yes, sir.

Q. Do you recall whether or not, at the beginning or around about the beginning, you adopted a constitution or a constitution and by-laws?

A. Yes, sir.

MR. DAY: Now, Mr. Examiner, in the evidence, counsel for the Labor Board put in the Canton by-laws. Will you see if we can find it?

Q. You were connected with the Alloy, were you not?

A. South Division .

Q. Not the Tin Plate?

A. No.

Q. Alloy? I am asking you, so I can get the right book.

A. We all had the same book, alloy division, as you term it.

Q. I am showing you a little booklet here that has already been introduced into evidence by counsel for the Board, identified as Board's Exhibit 21. Now, will you take a look and tell us whether that is the book of the Plan of the Employees Representation Plan, Central Alloy district, Canton Works, 1933?

A. It is.

Q. And do you know of your own knowledge whether or not the Plan was amended from time to time in 1933 or after that?

A. Yes.

Q. And were those amendments duly carried into the constitution?

A. Yes, sir.

Q. Now, the officers that were elected of the plant served for how long?

A. For that year they were elected.

Q. Now, can you remember the officers elected at this first election in this Union I am asking you about; this Plan I am asking you about?

A. Mr. Paul Bosky was Secretary. I can't think of the Chairman's name right now.

Q. Well, was Frank Geltz Chairman for some time?

A. Frank Geltz was Chairman in 1936 and 1937.

Q. Not at the beginning?

A. No, he wasn't a member.

Q. Well, if you can recall any of the other officers, tell us.

A. No, I can't.

Q. Well, we will show it by some other means. If it becomes important, we can show it. What if anything was done to form or establish Committees for this Employees Representation Plan?

A. They elected officers; that is, the Chairman and our Secretary, they in turn selected two or three men which chose the members for the other various Committees.

Q. I think you stated you were one of those men?

A. Yes.

Q. Now, tell us what Committees were set up.

A. It was what we call a No. 1 Committee; with the rules, ways and means.

Q. Now, what did that Committee do?

A. They had charge of elections and the change in laws.

Q. What was your next Committee?

A. The No. 2; rules, wages and working conditions. They handled grievances pertaining to wage adjustments. No. 3 was a sanitary and health safety. No. 4 appeals committee. Cases which could not be settled. If it was not settled with the other Committees it automatically came up with this Committee.

Q. How many representatives were on each Committee the first year?

A. The first year, I don't believe we had 20; some of our Committees only had four members, so I think it was less. After the membership, due to operations, came up to the point where they had five on each Committee. That was the maximum.

Q. What Committee were you a member of?

A. The Appeals Committee.

Q. What was the Appeals Committee?

A. To handle cases that could not be handled by the other Committees.

Q. You say handle cases. Now, will you tell us and describe in your own way the steps by which cases were handled by the Appeals Committee by the Employees Representative Plan established in 1933? In the first place, when you say cases, do you mean grievances?

A. Yes.

Q. Now, what was the first step if a man working in the plant had a grievance?

A. The first step, if a man working in the plant had a grievance, he would go before a Committee man, a representative; he in turn to his foreman or superintendent, and if they could not get the matter adjusted they took it up with the No. 2.

Q. Let us take one step at a time. If a man had a grievance where did he go first?

A. To his representative.

Q. What do you mean by representative?

A. The representative of the department where he works.

Q. Now, what was the function of the representative to do if a man presented his grievance to him?

A. His duty was to go to his foreman and see if he could have this grievance straightened up and corrected.

Q. Then would the representative go to the foreman?

A. Yes.

Q. Or would he go by himself or would the man with the grievance go with him?

A. The man could go along if he so chose.

(Discussion off the record.)

Q. Now, assume that the grievance is not satisfactorily adjusted after the man with the representative, or the representative alone, goes to the foreman. Now, what was the next step?

A. Took it up with the superintendent of the department.

Q. Assume that the representative has taken the matter up with the superintendent of the department, and no adjustment has been made. What is the next step?

A. He filed the case in writing with the No. 2 Committee.

Q. Is that the Appeals Committee?

A. No, that was the Committee on Wages and Working Conditions.

Q. Now, what then happened, if anything, before this No. 2 Committee? What was the procedure?

A. The procedure?

Q. Yes.

A. His first step was to take his grievance to the representative and the foreman.

Q. Now, you have got your grievance before the No. 2 Committee. Now, what was the procedure of handling the matter or disposing of it there? The No. 2 Committee?

A. The No. 2 Committee took the matter up from there with the management.

Q. Before they took it to the management, did they give it any consideration?

A. Yes, sir.

Q. Now, what was the method of handling that consideration?

A. They reviewed the grievance. It was in writing at that stage. A copy had been given to the Company—or the management representative, and I believe two copies to the management, and one was kept by the employee.

Q. Now, you have mentioned the management representative. Who were they?

A. The first year was a Mr. Phillips.

Q. Just one?

A. Yes.

Q. Then do I understand that the No. 2 Committee would take the grievance up with the Management representative?

A. Yes, sir.

Q. All right. Now, suppose that nothing was done by way of satisfactorily adjusting the grievance. What was the next step?

A. The next step was taken with the Joint Committee.

Q. Now, what was the Joint Committee?

A. The Joint Committee consists of a number of employees' representatives and Company representatives.

Q. How many were there, do you remember?

A. The first year, in two of the Committees there was only four I believe.

Q. All right. Now then, you say there was an equal number of Company representatives and an equal number of employees' representatives, is that correct?

A. Yes, sir.

Q. Now, would that mean that they were both equal in number?

A. Yes.

Q. Now, suppose that they could not agree satisfactorily? What was the next thing that would happen?

A. It was taken to the District Manager.

Q. Who was the District Manager in 1934?

A. Portz.

Q. Portz.

A. Yes.

Q. How long did he remain the District Manager?

A. He is still District Manager. It is due to sickness that he is inactive.

Q. Who is the District Manager now?

A. Carl Meyers.

Q. Carl Meyers?

A. Yes, sir.

Q. Now, if the matter was not satisfactorily adjusted with the District Manager when it was taken there, what was the next step after that?

A. It came to the Appeals Committee.

Q. The Appeals Committee?

A. Yes, sir.

Q. And is that the Committee that you are a member of?

A. Yes.

Q. Now, what was the Appeals Committee? How did they operate?

A. They had to take it up with the President of the organization trying to get an adjustment.

Q. Would the Appeals Committee itself try to do anything before taking it up with the President or was it the function of the Appeals Committee to take it up there?

A. The Appeals Committee.

Q. Were there any Company representatives on the Appeals Committee?

A. It was a joint Appeals Committee.

Q. A joint Appeals Committee?

A. Yes, sir.

Q. If they would not agree they went way up, is that correct?

A. Yes, sir.

Q. At the nomination and election in 1933, back at the beginning, did anybody act in a supervisory capacity for the Company or have anything to do with it?

A. No, sir.

TRIAL EXAMINER LINDSAY: Just a minute. Will you read that question and answer?

(The last question and answer were read.)

Q. By whom were the nominations and the elections conducted?

A. By No. 1 Rules and Wages Committee.

Q. That, as I understood you to say, was a Joint Committee?

A. No, that was a Standing Committee.

Q. A Standing Committee?

A. Yes, sir.

MR. DAY: May I have these three papers marked for identification?

(Thereupon the documents above referred to were marked as Respondent's Exhibits Nos. 19, 20 and 21 for identification.)

Q. I have here three exhibits that were marked Respondent's Exhibits 19, 20 and 21 and I will ask you whether or not 19 and 20 are the forms of nomination and election ballot that were used as far as you know (handing two papers to the witness)?

A. The yellow is the nomination; the white one—

Q. Were those the forms that were used as far as you know?

A. Yes, sir.

Q. I have here Exhibit 21 that seems to be a notice of election June 9th, 1936 and signed by Gathers, Dunn and Cox. Were they men in your organization?

A. Yes, sir.

Q. I will ask you whether or not that is a general form of election notice that was used.

A. That was the notice that was posted around the bulletin boards around the plant.

Q. They were?

A. Yes.

MR. DAY: I want to offer them in evidence; these three exhibits.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibits 19, 20 and 21 may be received in evidence.

(The documents heretofore marked "Respondent's Exhibits Nos. 19, 20 and 21" for identification were received in evidence.)

Q. Do you know whether or not grievances were disposed of before they reached any of these Appeals Committees or things of that kind by the foremen or by the superintendent?

A. Yes, the majority of our grievances was settled before it ever reached a Committee.

Q. You are just testifying to what you have knowledge of yourself, is that right?

A. Yes, sir.

Q. And others that were not settled were put up along the line, is that right?

A. Yes, sir.

Q. In 1936 were you a representative?

A. Up to June, 1936. At the time of the election up to the discontinuance of our Plan I wasn't.

Q. Then you were not a member—a representative?

MR. LAUTER: Do I understand that there was a discontinuance? May I have that answer read?

(The last answer was read.)

Q. I understand what you mean is that you were elected a representative in 1935, is that right?

A. '35, yes.

Q. And then you served from 1936?

A. Yes, sir.

Q. But regardless of discontinuance of the Plan you were not elected a representative until your term expired in 1936, is that right?

A. That is right.

Q. That is all Employees Representative Plan? E. R. P.?

A. Yes, sir.

Q. Employees?

A. Yes, sir.

Q. Did you have anything to do with the E. R. A.?

A. Nothing more than joining it and signing a card.

Q. You joined it and signed a card?

A. Yes.

Q. Now, when did you sign a card for the E. R. A.; and I understand that means Employees Representative Association, is that right?

A. Yes.

Q. Now, I will refer to that as E. R. A. as contrasted to E. R. P.; the original Employees Representative Plan. Did you attend any meetings—were you present at any meetings of the representatives under the E. R. P. before the E. R. A. came into existence? You were not a member, were you?

A. No.

Q. Then you signed a card for the E. R. A.?

A. Yes, sir.

Q. Now, can you remember about when that took place?

A. Along in May, I believe.

Q. About 19 what?

A. 1937.

Q. This year?

A. Yes; possibly earlier than that it may have been; I am not definite on that time.

Q. Well now, can you describe the activities of the E. R. A. from your own personal knowledge or not?

A. I know of no activities.

Q. Now, do you have any knowledge of the organization; the still newer Union at the Canton plant?

A. Yes, sir.

Q. What if anything did you have to do with the organization of that Union?

A. I work at South Division and following our strike we went back to work. When we got back to work we got to talking and we thought we needed an organization to protect ourselves.

MR. LAUTER: I object to what the men got to talking about and move that it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That is stricken from the record.

Q. Now, during the strike, where were you? I think you have already told us about it. Tell us again so we can recall the situation.

A. I was working out of the Belden Hotel in charge of a bunch of men who were guarding the homes of fellow workmen in the plants.

Q. When did you first attend a meeting or gathering that had to do with the organization or creation of a new Union?

A. At my home.

Q. About when was that?

A. That was on the Tuesday previous to the 23rd of July. Yes. I think that was on a Friday; it was a Tuesday at my home.

Q. About that time you had a meeting?

A. Yes.

Q. About what time of the day was this gathering held?

A. 7:30 or 8 o'clock.

Q. Was that after the troops had come in or before?

A. After.

Q. At that time what was the condition of the Canton plant as to being open or otherwise?

A. We had troops—the town give us police protection.

Q. I don't care about that.

A. The plants were open.

MR. LAUTER: I ask that that answer be stricken from the record.

MR. DAY: The answer may go out by consent.

TRIAL EXAMINER LINDSAY: Yes, that answer may be stricken.

Q. Were the plants open?

A. Yes; being picketed.

MR. LAUTER: I ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. Strike that answer.

MR. DAY: That may go out by consent.

Q. Just answer my question and don't volunteer anything.

TRIAL EXAMINER LINDSAY: You don't have to be too anxious to volunteer anything unless your attorney asks you questions.

Q. I am trying to fix the time. When the strike was called, the plants in Canton closed down, didn't they?

A. Yes.

Q. Now, what plants went down?

A. The South Division, the Canton Tin Plate, the South Division worked to the end of the week following the Tuesday. The other plants closed.

Q. Now, can you tell us about when it was that the plants that had been down after the strike was called, resumed work?

A. At the South it was about the 1st. The last day of June or the 1st of July; it was on a Friday.

Q. That is where you worked?

A. Yes, at 6 or 7 o'clock in the evening.

Q. When you had this meeting at your house that you were going to tell us about, were all the plants open?

MR. LAUTER: Objection unless this witness can testify from his personal knowledge.

Q. Yes. Do you know whether or not they were open?

A. They all were—I can't say about the Canton Tin Plate; I don't know. They may have.

Q. Now, was this meeting after the troops had come nto Canton?

A. Yes.

Q. Now, who gathered at your house on that occasion?

A. Fellow workmen.

Q. Now, name some of them who came in.

A. Mr. Reese.

Q. Let us take their jobs as you name them. What was Mr. Reese's job?

A. He was a job mill roller.

Q. All right. Who else?

A. Mr. Kirkland.

Q. Mr. Kirkland?

A. Yes.

Q. Do you know what was his job?

A. His job was a sheer man in the finishing department.

MR. LAUTER: May we have the first name?

Q. Give us the first name of Mr. Reese first for Mr. Lauter; he wants his first name.

MR. LAUTER: I want Mr. Kirkland's first name.

THE WITNESS: Charles.

Q. All right. Who else?

A. Mr. Deerer.

Q. His first name?

A. Charles.

Q. What was his job?

A. He is a rougher in the A Mills.

Q. Now, who else?

A. Mr. Grah.

Q. How do you spell that?

A. G-r-a-h.

Q. What was his position?

A. He is a clerk.

Q. Who else?

A. Mr. Dice.

Q. Dice?

A. Yes.

Q. How do you spell that?

A. D-i-c-e.

Q. What was his job?

A. A pipe fitter.

Q. (By Mr. Day) Now, so far as you know, were any of those men working in a supervisory capacity?

A. No, sir.

Q. They met at your house?

A. Yes, sir.

Q. Now, tell us, refraining from giving your own conclusions, what was said at that meeting that gathered, as near as you can recall it?

A. We discussed the plan of forming the organization for collective bargaining with our employer. Proceeded to lay plans for that purpose.

Q. Now, can you tell anything that was said with relation to the Plan or setting up the Plan, if you can, who said it?

A. I don't get your question clear.

Q. Will you tell us what anybody said, or what was said by anybody present that day, what language they used, what was spoken, or the substance of what language was used or words spoken?

A. Well, the opinion of the men was that we should have some—

MR. LAUTER: I move that be stricken.

TRIAL EXAMINER LINDSAY: Yes, that is stricken out of the record. Let the record show an exception.

MR. DAY: Exception.

Q. You say the opinion of the men is your own conclusion. What did the men say?

A. Our discussion was that we needed an organization to protect ourselves against the same thing we just came out of.

MR. LAUTER: I move that the answer be stricken out.

Q. Well, was that said?

A. That was said.

TRIAL EXAMINER LINDSAY: Yes.

Q. Well, now "discussion" does not mean anything.

MR. LAUTER: I move the answer be stricken.

TRIAL EXAMINER LINDSAY: That is all

stricken out. Now tell us what they said and what you said. "Discussion" does not mean a thing.

A. We said that we wanted to form an organization for collective bargaining with our employer.

Q. Was anything said as to the purpose of the organization or the reasons for it or anything of the kind?

A. Yes, we would have a repeat of the same condition we just had, without it.

Q. Did somebody say that?

A. Yes, that was the general discussion.

Q. Do you know—

MR. LAUTER: I move the answer be stricken. The witness has said something about "general discussion" there. Let's have—

MR. DAY: Well, leave the general discussion out of it.

TRIAL EXAMINER LINDSAY: Yes, that may be stricken out.

MR. DAY: Strike that out.

Q. (By Mr. Day) Do you know whether or not these men that came to that meeting, or some of them, had been in the Canton mill during a part of the strike?

A. They were all out.

Q. They were all out, then?

A. Yes, during the strike.

Q. They were all out? They all had been out during the strike?

A. Yes.

Q. Was there anybody at that meeting who was in during any part of the strike?

A. No, sir.

Q. About how long did that preliminary—or that discussion and talk at this gathering take?

A. Two or three hours.

Q. Where did these men come from, from what division?

A. South Division.

Q. Were they all South Division?

A. Yes, sir.

Q. Now, following that what, if anything, did you do with relation to this new union?

A. I had a conversation with Mr. Geltz.

Q. Now, who is Mr. Geltz?

A. Mr. Geltz is an employee of Republic Steel, working in the 8 inch mill, Alloy Division.

Q. What, if anything, did Mr. Geltz have to do with the E. R. P.? What office did he hold?

A. He was chairman of the General Body, the last year.

Q. The last year? Where did you have that talk with Mr. Frank Geltz?

A. Over the telephone.

Q. What was said upon the subject of the new union?

A. I told him about our meeting, he told me that they had been talking the same thing of having a meeting for similar purposes on the coming Sunday.

Q. Now you say "they". Who is "they"?

A. "They" the ex-representatives.

Q. The ex-representatives? That the ex-representatives had had a talk about having a meeting on the coming Sunday?

A. Yes, coming Sunday.

Q. Upon the same subject?

A. Yes, the same.

Q. Or the same general subject? Now, then, after that, what was the next thing that happened?

A. I went to work, the thought struck me and I called —

Q. Don't tell what the thought struck you, again, just tell what you did, Mr. Stewart.

A. All right.

Q. All right.

A. I went to work, I called Mr. Geltz, suggested to him that he get several of the men to come to my home on Friday evening and we would discuss what our plan was at South, which they did. They met at my home on Friday evening, the same week.

Q. Can you give us the approximate date of that Friday evening?

A. A calendar would not be hard.

Q. What?

A. A calendar would not be hard.

TRIAL EXAMINER LINDSAY: Just give the approximate date.

Q. Give the approximate date it occurred. Just give the—

A. I would say about the 16th or 17th.

Q. In July?

A. Yes, the 23rd, I believe, was Friday following that.

Q. July?

A. Yes.

Q. Now, who met at your house at that time?

A. It was Mr. Geltz, Ray Lilly.

Q. Now, Mr. Geltz was chairman of the Representative Plan?

A. Yes.

Q. Ray Lilly, what, if any, connection had he had with the representative plan?

A. Ray Lilly?

Q. Yes.

A. He had been secretary.

Q. All right. Who else?

A. A man by the name of Fisher.

Q. Had he been a representative?

A. Yes.

Q. Had he been an officer of the E. R. P.?

A. I couldn't say that. He wasn't in that part, last year.

Q. Who else?

A. Mr. Lappin.

Q. Carl Lappin?

A. Carl Lappin.

Q. Had he been a representative?

A. Yes.

Q. An officer?

A. I couldn't answer that.

Q. All right, who else?

A. I can't recall.

Q. Well, about how many got there?

A. Three, four, or five. There was half a dozen.

Q. Now, were any of the men there at that meeting that had been at the first meeting you told us about?

A. No, sir.

Q. South Division, were you the only South Division man there?

A. I was the only South Division man there.

Q. What other men were from what plant?

A. The Alloy division.

Q. What, if anything, was said at that gathering that you just described, upon the subject of a new union?

A. They discussed the plan of forming a new union among us. I told them our plans.

Q. What did you say your plans were?

A. Of getting organized together for our own protection.

Q. Yes, go ahead.

A. And we decided on a meeting on Sunday, to get a cross-section picture of the whole plant.

Q. Was that discussed there?

A. Yes, sir, the plan was—

Q. Now, just tell us, if you can remember, what was said, at that meeting, and don't tell us anything that wasn't said, or don't put your own conclusion on what was said. Tell us what was said, if you can remember anything else?

A. Mr. Geltz was to contact the different representatives, requesting them to come to a meeting on Sunday, the place to be decided upon and chosen and made arrangements for by him and I.

Q. All right.

A. Which we did, on Saturday, I went to the Belden Hotel and made arrangements for a meeting place.

Q. Met at the Belden Hotel?

A. Yes, sir.

Q. Now, can you fix approximately the date of the meeting at the Belden Hotel?

A. Would be about the 19th, 18th or 19th.

Q. Of July?

A. July.

Q. Now, what was the date of the previous meeting?

A. The previous meeting was on Friday evening.

Q. All right, now, who came to the meeting or gathering at the Belden Hotel?

A. There was 36.

Q. How many men, first?

A. The latter part of your question?

Q. How many men came there, or gathered there?

A. There was 36 men. There was two men from South Division, I was one of them. The rest of them was from the Alloy and Stark Division.

Q. Well, do you know how the men who gathered there at the Belden Hotel had been selected or designated as the ones who should go there?

A. The ex-representatives, through Mr. Geltz, had been requested to come and bring other men, a man or two men from their different departments, to the meeting.

Q. About 36 gathered?

A. Well, 36.

Q. Can you give us any idea how many of that 36 had been former representatives under the E. R. P.?

A. I don't believe over ten or a dozen of them was there.

Q. Was anybody chosen to preside at that meeting?

A. I was chosen to preside at that meeting.

Q. What happened at that meeting?

A. At that meeting we elected temporary officers. I was chosen temporary chairman and the men wanted me —made a motion to the effect that I select a chairman from the different divisions. I requested them to choose their men and I would approve them, which they did, five; one representing South, one Stark, one Alloy-A, one Alloy-B, and one the Furnace Division.

Q. Was there any secretary chosen, if you know?

A. Yes, Mr. Lilly was chosen as temporary secretary and Mr. Geltz was temporary treasurer.

Q. What day of the week was that?

A. Sunday.

Q. When, if at all, did you discuss the application cards or application for membership cards?

A. These five men representing the different divisions, secretary, and Mr. Frank Bow, an attorney, we met in the Belden Hotel on the Monday following.

Q. The next day?

A. Yes.

Q. Now, Frank Bow is a member of the Bar here in Canton?

A. Yes, sir, he was also present in our meeting or part of the time, on the Sunday previous.

Q. What, if anything, had Frank Bow to do with the injunction case that was filed here, Smith and somebody against certain parties?

A. He jointly with Mr. Unger was our attorneys.

Q. Now, at the meeting of the Monday after the Sunday, when Mr. Frank Bow was present, what was done?

A. We arrived at a name.

Q. What was your name?

A. Steel Workers Union of America. We also, with the help of Mr. Bow, had our application card drawn up. Notices of our organization.

Q. Had your new union ever had or considered any other name than the Steel Workers of America?

A. Yes, there was several names considered and discussed there that evening.

Q. But none had been either definitely or tentatively agreed upon except this "Steel Workers?"

A. That was finally agreed on.

Q. All right. Well, were any application cards actually printed?

A. Yes, sir.

Q. Was anything else printed besides application cards?

A. Notices.

Q. Notices of what?

A. Of our forming of our organization, in placard form.

Q. Did I ask you who paid for the printing?

A. You did not.

Q. Well, I will ask you now, who paid for that printing?

A. I did, or rather the men through their initiation fee.

Q. Well, at that time was there an organization set up? Was the temporary organization or tentative organization set up?

A. Yes, temporary organization set up.

Q. And you told the officers, or some of them? Now, were there any other officers talked about at that meeting besides, I think you said somebody was temporary chairman and somebody was secretary?

A. Treasurer; and these five men from the five different divisions, which was chosen by the men present in the meeting, I presume.

Q. What were they called, anything?

A. Chairmen of their various divisions for organization purposes.

Q. Can you tell me who the chairmen of these various divisions were?

A. Yes, sir, Mr. Gene Rowland, South Division.

Q. What is his work?

A. He is in the laboratory, I couldn't—

Q. Laboratory?

A. Yes.

Q. All right, who else?

A. Mr. Alvin Booth, Stark Division. Mr. Joe Yuhos.

Q. What was Mr. Booth's job? What is his business?

A. He is a roller, sheet mill roller.

Q. Mr. Yuhos' job is what?

A. He is an annealer.

Q. Annealer?

A. Yes.

Q. All right.

A. Robert Guth.

Q. What was his position?

A. He is a heater in the 35 inch mill.

Q. All right, who else?

A. And Mr. Webster of the furnace division, William Webster.

Q. Yes?

A. But he has later been superseded by a Mr. Blair.

Q. Blair?

A. Yes.

Q. What is his job?

A. He is a rigger.

Q. So far as you know, have any of those men got any supervisory capacity?

A. No, sir.

TRIAL EXAMINER LINDSAY: I think we will have a short recess now.

MR. DAY: Thank you.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing will come to order.

Q. Have you with you any of the membership application cards that were printed?

A. I have.

Q. May we have one of them?

A. (The witness hands a card to Mr. Day.)

Q. Is this it?

A. Yes.

MR. DAY: May I have this marked as Respondent's Exhibit 22?

(Thereupon the document above referred to was marked as Respondent's Exhibit 22 for identification.)

Q. I hand you a card which has been marked as Respondent's Exhibit No. 22 for identification and ask you if that is one of the application membership cards that you had printed.

A. Yes, sir.

Q. You did?

A. Yes, sir.

MR. DAY: I would like to offer this in evidence in connection with the testimony of this witness.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 22 may be received in evidence.

(The document heretofore marked "Respondent's Exhibit No. 22" for identification, was received in evidence.)

Q. What if anything has been done with regard to circulating those cards for membership?

A. These five Chairmen of the different Divisions have circulated through the various workmen and signed up the members.

Q. Have you circulated some?

A. No, sir.

Q. Do you know where they have been circulated?

A. Yes, sir.

Q. Where were they circulated?

A. They were circulated in the South Division, in the Stark Division, Alloy, A, and Alloy, B, and Furnace Division.

Q. Now, those plants that you have designated, they are Republic Steel Corporation plants?

A. Yes, sir.

Q. And as Chairman of the new Union, have you been advised that they have been circulated right in the plant?

A. Yes.

Q. You say they have been circulated in those various plants. You mean on the Company property where the plants are?

A. Yes, the men have.

Q. Have you been advised whether or not some of those cards have been signed on the various Company properties that you have been told about?

A. It is hearsay to me.

Q. Have you been told that?

A. I have been told that, yes.

Q. As Chairman of the new Union?

A. Yes, sir.

Q. Have you any information as to the proportion or percentage of the total number of cards that have been signed and that have been circulated around the Company property or don't you know that?

A. No, I don't know.

Q. You haven't got with you one of those notices or placards that you referred to in your testimony?

A. No, but I have at home.

Q. Can you furnish us with one?

A. Yes.

Q. Do you know approximately how many application cards have been signed up?

A. Between 25 and 2700.

Q. Now, have you been advised to that effect?

A. Yes.

Q. And your answer is based on the information you have obtained, is that right?

A. Yes, sir.

Q. And that is in the plants that you have named?

A. Yes, sir.

Q. Who is eligible to membership in your new Union?

A. He must have to be an employee of the Republic Steel Corporation and not in a supervisory capacity; not a policeman which we barred.

Q. Then does it include office workers or not?

A. Office workers that are not in a supervisory capacity.

Q. They are eligible to membership?

A. Yes, sir.

Q. And policemen are not?

A. No, sir.

Q. And anyone in a supervisory capacity is not?

A. No.

Q. How do you classify a foreman with relation to supervisory capacity?

A. He cannot be a member.

Q. He can't be a member?

A. No.

Q. Well, do you know or can you give us some estimate based on your own personal knowledge as Chairman of this new Union how many men are eligible to belong to this new Union in these plants?

A. I believe there was 3900.

Q. Now, would they be considered eligible for membership?

A. Yes, but I don't believe our employment has as many men in the plant today as was before.

Q. And your estimate as to the number of members is from your own count?

A. No.

Q. So your estimate of members is not from your own count but from information that has been carried to you as Chairman?

A. Yes, sir.

Q. Now, what is provided in the way of payment of dues?

A. 50 cents dues a month.

Q. Any initiation?

A. A dollar initiation fee which includes your first month's dues.

Q. Now, based upon your own personal knowledge and information which has been carried to you as Chairman of the new Union, to what extent have the dues been paid?

A. Between thirteen and fourteen hundred has already paid.

Q. Is that based on information given you?

A. By our Treasurer on money in the bank.

Q. Not based on any knowledge of your own?

A. No.

Q. You have been telling us about some meetings that were held with this new organization. Have there been further meetings?

A. Yes.

Q. Has there ever been a meeting of the entire membership or the existing membership of the organization?

A. No, sir.

Q How frequently did you hold meetings?

A. We have held meetings—we have been holding them. Two.

Q. Has the new Union any meeting place or what is generally known as a lodge room?

A. No.

Q. Where have you been holding those meetings?

A. Our meetings have been in the Belden Hotel;

several at my home.

Q. Has your constitution and by-laws or your book of regulations been completed yet?

A. We have a temporary set of by-laws subject to amendments. When our permanent organization is set up—

Q. Who prepared them?

A. Frank Bow, an attorney.

Q. That is the same Frank Bow, the lawyer, about whom you were talking a while ago?

A. Yes, sir, he is our legal advisor.

Q. Is he a lawyer now for your organization?

A. Yes, sir.

Q. So far as you know, is the Republic Steel Corporation or any of its supervisory officers or agents taken any part in the formation of your Union?

A. No, sir.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Approximately how many meetings have been held of the Steel Workers Union of America?

A. We have held two meetings; the cross-section of the plant. The first one was 36 men. Following the first one it was 40 men.

Q. Those were all the meetings you have held thus far?

A. No, sir.

Q. What?

A. No, sir.

Q. How many meetings have you held?

A. The definite number I can't give you but approximately eight or ten meetings have been held.

Q. Where have they been held?

A. In the Belden Hotel and at my house.

Q. Minutes have been taken of those meetings?

A. Sir?

Q. Have minutes been taken of those meetings?

A. No, not in any degree.

Q. What do you mean, not in any degree?

A. Well, there is generally meetings that we had where our 36 men and 40 was, and our Secretary took minutes.

Q. Are those the only two meetings in which you took minutes of?

A. As far as I know.

Q. What is the name of the Secretary?

A. Wille.

Q. What was his position under the Employees Representative Plan?

A. He is Secretary; he is temporary Secretary.

Q. He held the same position under the Employees Representative Plan?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. As far as you know, he only has minutes of two meetings?

A. As far as I know, yes.

Q. Have you seen those minutes?

A. No.

MR. DAY: May I interrupt just a moment, Mr. Lauter?

MR. LAUTER: Yes.

(Discussion off the record.)

Q. (By Mr. Lauter) Now, you testified that at one meeting there were 36 men and that at another meeting there were 40 men, is that correct?

A. Yes, sir.

Q. Both of those meetings held at the Belden Hotel?

A. Yes, sir.

Q. What rooms were they held in?

A. They were held, I believe—I believe that one was in the Assembly Room on the 4th floor.

Q. Who paid for the cost?

A. We did.

Q. Who did?

A. We.

Q. How did you do it?

A. We took up a collection.

Q. At the meetings?

A. Yes, sir.

Q. What was the cost of those rooms, can you recollect?

A. Something around $18 or $20.

Q. You took up a collection among the 36 men and they paid for it?

A. Yes, sir.

Q. And then you took up a collection among the 40 men to pay for the rooms?

A. Yes, sir.

Q. Now, were there any other meetings at the Belden Hotel?

A. Yes, sir.

Q. How many more?

A. There weren't many more. They were not held in the same rooms. They were held in a smaller room.

Q. Did the hotel give you those rooms for nothing?

A. Yes, sir.

Q. Who made the arrangements with the hotel for the use of those rooms?

A. I did.

Q. Is that because you had taken space previously?

A. I don't know their reason for that.

Q. Did you ask them to give you those rooms for nothing?

A. No, sir.

Q. Or did you speak to someone about them?

A. The desk man; the manager.

Q. What did you say?

A. I asked him for the rooms. I told him how many men and how many rooms I wanted.

Q. What else?

A. He told me he would give me those rooms because we had business with him before.

Q. What business you had had, is that right?

A. Yes. If we bought a can of beer he possibly had a profit on it.

Q. And no minutes were taken of those meetings?

A. No.

Q. Now, at the first meeting of 36 men you testified there were about 10 or 12 who were former representatives, is that correct?

A. I wouldn't judge; possibly that number.

Q. You asked them to bring men they themselves selected to the meeting?

A. No.

Q. What instructions did you give to these men?

A. Mr. Geltz gave them instructions to gather them; the group.

Q. Did you say anything to Mr. Geltz as to whether or not they should bring men with them?

A. Yes, sir.

Q. What did you say to Mr. Geltz?

A. What?

Q. What did you say?

A. I suggested to Mr. Geltz that he contact the different representatives and they should request them to bring one or more men from the different departments.

Q. Did these representatives select men and bring them to the meeting?

A. Some of them did; they were there with them.

Q. Do you have any idea how many they brought with them?

A. No.

Q. Now, who else was present except the representatives and the men they brought with them?

A. Attorney Frank Bow.

Q. Is that the only other person?

A. Yes, sir.

Q. And that is all outside of the men that were brought there?

A. Yes, sir.

Q. Did that meeting authorize the attorney to be there?

A. The meeting had started and one of the men had called Attorney Bow to give us a talk on our injunction.

Q. Who was the man?

A. Mr. Lappin.

Q. Mr. Lappin?

A. Yes, sir.

Q. A former representative of the Plan?

A. Yes, sir.

Q. You testified that he was your legal advisor, this attorney, is that correct?

A. Yes.

Q. Who selected him to be your legal advisor?

A. I did.

Q. You alone?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And you never referred to any of these meetings without authority, is that correct?

A. Yes.

Q. Has there been a Treasurer's report at any of these meetings?

A. No.

Q. Did you also have the membership cards printed yourself?

A. Yes, sir.

Q. Was the printing of these membership cards discussed at any of the meetings?

A. Yes, sir; at the meeting Monday evening following the meeting of the 36 men the cards was formed and discussed.

Q. Is that the meeting of 40 men?

A. No.

Q. Is that the meeting at your house?

A. No.

Q. Was that at the Belden Hotel?

A. Yes.

Q. How many men were present?

A. There was the five men; Mr. [illegible]illy and Attorney Bow and myself.

Q. What five men are you referring to?

A. The five men; the Chairmen of the different Divisions.

Q. The men who had been elected or selected with your help?

A. Yes.

Q. Now, you said that the Steel Workers Union of America was the name that was selected, is that correct?

A. That is right.

Q. That was selected after their names—after other names had been suggested?

A. Yes.

Q. Was one of the other names the Independent Federation of Republic Employees?

A. No.

Q. You are sure it wasn't?

A. No.

Q. Well, do you recall?

A. Well, there was quite a few there; I am not sure about it.

Q. You are not sure about it?

A. No.

Q. Who decided what the initiation fee was to be?

A. That was decided at a meeting in Attorney Bow's office—

MR. LAUTER: Just a minute.

(Discussion off the record.)

MR. DAY: Will you read that answer?

(The last answer was read.)

A. (Continuing) This meeting at Attorney Bow's office.

MR. LAUTER: Will you read my question?

(The last question was read.)

A. They were there for the purpose—

Q. I am not interested in the purpose. Just answer the question without telling the purpose.

A. That was decided at Attorney Bow's office.

Q. Who was present at Attorney Bow's office?

A. A group of men; I presume possibly 12 or 14.

Q. Who were those men that had selected that?

A. Well, I had different ones to be there for the purpose of going over our temporary by-laws.

Q. Did those men include former representatives—

A. Some of them.

Q. —or men that they had selected?

A. That had been done when we organized the movement.

Q. I am asking you whether it included men from the representatives.

A. Yes.

Q. And those were the men who decided what the initiation fee was to be?

A. Yes.

Q. Now, these cards were circulated in the plant, is that correct?

A. Yes, sir.

Q. You so testified, didn't you?

A. Yes, sir.

Q. They were circulated on Company property on Company time, is that correct?

A. By men while they were in the plant.

Q. Is it correct or isn't it correct that they were circulated on Company property and on Company time?

A. When you are in the plant—

Q. Answer that question yes or no.

A. If that is Company time, yes. Then if a man is fixing—

Q. Is it?

A. If a man got his spell done and finished his job.

Q. During the 8 hours that he is working?

A. Yes, sir.

Q. And he takes around those cards?

A. Yes.

Q. But you didn't circulate any cards?

A. No.

Q. You are temporary Chairman of the organization?

A. Yes, sir.

Q. And you are interested in seeing the membership grow?

A. Yes, sir.

Q. But you didn't circulate any cards?

A. No, sir.

Q. (By Mr. Lauter) Now, there is an initiation fee of $1, is that correct?

A. That is correct.

Q. Does the employe become a member before he pays the initiation fee?

A. Yes, sir, if he signs up, up until the time that our permanent organization is completed.

Q. And there is somewhere between 1200 and 1300 persons who have signed up, but who haven't paid, is that correct?

A. Yes.

Q. What is the name of the treasurer?

A. Frank Geltz.

Q. And you have held no membership meetings, is that correct?

A. Not of the complete membership, no.

Q. Well, you have some 1300 or 1400 paid up members, is that correct?

A. Yes, sir.

Q. Paid up in the sense that they paid in $1?

A. Paid in $1.

Q. They have held no membership meetings?

A. No, sir.

Q. You testified that on a certain date in July a man named Reese, Kirkland, Deerer, Grah and others came to your house?

A. Yes, sir.

Q. Is that correct?

A. That is correct.

Q. Did you say that was July 20th?

A. No, that was earlier than that, that was the first meeting.

Q. What date did you say that was?

A. I didn't say the date.

Q. How close can you come to the date?

A. Well, the date was possibly the 13th or 14th or 15th, in there some place. It was on a Tuesday in the week previous to the 23rd, which was Friday.

Q. On the 13th or 14th, you think, is that correct?

A. I presume.

Q. Were you working in the mill at that time?

A. Yes, sir.

Q. You were back, actually working in the mill?

A. We were back actually at work, yes.

Q. The period when you had received $500 for not working in the mill had passed already, is that correct?

A. That had passed, yes, sir.

Q. You are the witness who did $500 from Republic Steel Corporation when you were not actually working in e mill, aren't you?

A. How is that question again, please?

(The last question was read.)

A. I am.

Q. Did you have any conversation with these men be-re they came to your house on July 13th or 14th?

A. Yes, sir.

Q. When had you had a conversation with them prior that date?

A. At work.

Q. Is that while you were working in the mill?

A. Not while I was working, I couldn't talk while I am orking, but there is a lot of time I am not working, while am there.

Q. I asked you when it was.

A. While I was at the plant.

Q. You said while you were working, is that right?

A. At the plants, not while I was working.

Q. Where in the plant did you have discussion with em?

A. Well, what we call the standing, where my work around.

Q. Did these men come to you?

A. Came to me and I went to them.

Q. Did they come in a group or come individually?

A. Individually principally.

Q. Well, did they also come in a group?

A. Well, others come back at different times.

Q. I am asking you these particularly certain named lividuals?

A. They didn't all come at one time in one group.

Q. Did they at any time come together?

A. No.

Q. They came to you individually in the mill?

A. Individually.

Q. While you were at work, is that correct?

A. And I went to them.

Q. You went to them?

A. Yes.

Q. During working hours?

A. Yes.

Q. How often did they come to you and how often did you come to them, prior to July 13th or 14th?

A. I couldn't answer that question definitely.

Q. Well, now let's take them individually. You testified about a man named William Reese?

A. Yes, sir.

Q. And he was one of a group of men that came to your house on July 13th or 14th. Prior to that had you had conversations with him in the mill?

A. Yes, I had talked to him quite frequently.

Q. About this organization that was going to be formed?

A. We had talked this organization, the necessity of it, yes.

Q. That is right, that is what I am talking about.

A. For quite some time.

Q. For quite some time?

A. Yes.

Q. About how long, would you say?

A. Well—

Q. Two or three weeks? A month?

A. Yes, we talked that, we thought that for possibly a year or two, that we should be by ourselves down there, even under our representative plan.

Q. I am discussing whether or not you had conversations with him two or three weeks or a month prior to July 13th or 14th?

A. Not concerning this move, definite move that we are talking about here.

Q. Now, I will repeat my original question, did you have conversation with these men who came to you on July 13th and 14th, prior to that date, with respect to the formation of a new organization, Steel Workers Union of America?

A. Yes.

Q. Did you have conversations with these men approximately two or three or four weeks before that?

A. Not before we got back to work. Definitely. We wanted to do something.

MR. LAUTER: Read that question.

(Last question was read.)

A. We weren't back to work three weeks.

Q. What is that?

A. We were not back to work three weeks before that. We only went to work about the 1st of July, I believe, and this was—

Q. From the 1st of July on is when you had the conversations with these men in the mill?

A. Yes, we talked this matter among us.

Q. Had you had any conversation with these men before you went back into the mill?

A. Not on the organization.

Q. You had spoken to them for about a year, hadn't you?

A. Oh, about that we needed it, yes. We thought we needed something. Even our Representative Plan, we felt we should be divorced from the other group over here, due to our isolated—isolated geographically from where they are, four or five miles.

Q. Did you speak to these men during the period that you were at the Belden Hotel?

A. Yes.

Q. Did you speak to them—

A. Which period do you have in mind here? Now, I was there different periods.

Q. During the time you were getting $500?

A. No.

Q. You didn't speak to them during that period?

A. No.

Q. You didn't speak to a single one of them?

A. I spoke to them but not on this issue, that I can recollect.

Q. If they raised this issue, you stopped talking?

A. No.

Q. They didn't raise the issue?

A. Not to the best of my knowledge.

Q. Not a word said about it?

A. No.

Q. During that five weeks they forgot all about it?

A. They had other things—

Q. Is that right?

A. As far as I know.

MR. DAY: He didn't testify he forgot about it.

MR. LAUTER: I will withdraw that.

Q. Did they say nothing at all about this during the five weeks?

A. Not to the best of my knowledge.

Q. Did they know you were getting paid at that time?

A. No.

Q. Now, when they came to you on July 13th or 14th, did they call before they came?

A. I invited them to my home.

Q. You invited them to your home? At that time they said that they wanted to form an organization for collective bargaining with our employers, is that correct?

A. Yes.

Q. Is that what they said to you?

A. That was the thought we discussed among us.

Q. What is that?

A. That was discussion among us.

MR. LAUTER: I move the answer be stricken.

Q. (By Mr. Lauter) I am asking what they said to you. Did they say that?

TRIAL EXAMINER LINDSAY: Yes, the answer

is stricken out. Let the record show an exception.

A. Well, our talk was on the procedure of forming an organization.

MR. LAUTER: I ask that the answer be stricken.

Q. I am asking you whether or not they said that? Now, you testified on direct examination "They did". I want to know whether they said it or did not say it?

TRIAL EXAMINER LINDSAY: Yes, answer the question. Strike out the previous answer, let the record show an exception.

A. Yes, they said it.

Q. (By Mr. Lauter) Who said it?

A. Well, the various men that was there, that that was the purpose.

Q. Each one of them?

A. Well, I wouldn't say they all was aggressive.

Q. How many of them said that?

A. I couldn't name that number.

Q. One? Did one person say it?

A. At least one. We had to have two to carry on a conversation, it takes two.

Q. At least one said that, is that right?

A. Yes.

Q. Did they suggest those words, that you form an organization for collective bargaining with our employer?

A. Possibly not in them words.

Q. No?

A. Exactly.

Q. Not in those words? That is the substance of it. is that right?

A. That is the substance of it.

Q. Can you think of the person that said that in substance?

A. Yes, sir.

Q. What is their name?

A. Well, I can't recall the name.

Q. Can't recall the name of the person who said that? Do you recall how long they were there?

A. Two or three hours.

Q. But you can't recall a certain person who said that they wanted to form an organization for collective bargaining with our employer, is that correct?

A. Not in them words, no.

Q. In substance?

A. In substance, no.

Q. You can't recall a single person who said that?

A. I can't say definitely who. We carried a conversation, discussion—

Q. You can't remember, is that correct?

A. Well, I can remember it, but if I knew this was up, I would have had minutes taken of it.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: Well, now, we will adjourn until 7 o'clock this evening.

(Thereupon, at 4:45 o'clock p. m., a recess was taken until 7 o'clock p. m. September 15, 1937.)

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 7:15 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

JOHN C. MORGAN

a witness heretofore called by and on behalf of the Respondent, was recalled for further examination and testified further as follows:

Direct Examination (Continued)

Q. (By Mr. Day) State your name, please.

A. John C. Morgan.

Q. Now, talk up a little louder, please.

A. Yes.

Q. Where do you live?

A. 673 Third Street, Massillon.

Q. What is your business?

A. Railroad.

Q. And you work for what company?

A. Republic Steel Company.

Q. How long have you worked for the Corporation?

A. Well, I worked for the old Central Steel; I have been about 15 years.

Q. Did you sign the petition to return to work at the Massillon plant?

A. Yes, sir.

Q. After the strike was called?

A. Yes, sir.

Q. Where did you sign the petition to return to work?

A. Chamber of Commerce Hall.

Q. State whether or not you signed that petition of your own free will.

A. I did.

MR. LAUTER: I object to the question and move that the answer be stricken from the record; it calls for a conclusion and the state of mind of the witness.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign a petition to return to work.

A. Well, I seen a notice in the paper that they were going to sign up and go back to work, to return to work at Massillon, Ohio, and I went and signed up.

Q. State whether or not you were influenced in any way whatsoever in the signing of the petition to return to work at Massillon, Ohio, by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. No, sir.

MR. LAUTER: Will you read that question?

(The last question was read.)

Q. Answer that.

A. No, sir.

MR. LAUTER: I will object to the question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer may be stricken.

MR. DAY: Exception. May he answer tentatively?

TRIAL EXAMINER LINDSAY: Yes; his answer is in.

Q. Answer the question.

A. No.

Q. Do you remember when the strike was called at Massillon on May 25th last?

A. Yes, sir.

Q. State whether or not you wished to continue at work.

A. I did.

Q. State whether or not you wished to go out on strike.

A. I did not.

Q. Are you a member of the Independent Association of Republic Employees at Massillon, Ohio?

A. Yes, sir, I am.

Q. Did you sign an application card for membership in that Independent Association of Republic Employees?

A. I did.

Q. Where did you sign that?

A. At home.

Q. State whether or not you signed that application for membership in the Independent Association of Republic Emlpoyees of your own free will.

A. I sure did.

MR. LAUTER: I object to that question and move that it be stricken.

TRIAL EXAMINER LINDSAY: I will sustain that question. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Independent Association of Republic Employees.

A. Well, everybody else was signing up so I just signed my card.

Q. State whether or not anybody asked you to sign the application card.

A. No, sir, they didn't.

Q. State whether or not in the signing of the application card for membership in the Independent Association for Republic Employees at Massillon, Ohio, you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. No, sir.

MR. LAUTER: I object to the form of the question and ask that it be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception. That is all the questioning.

(Discussion off the record.)

Cross Examination

Q. (By Mr. Lauter) Mr. Morgan, when did you sign the card for the Independent Association for Republic Employees?

A. Well, I couldn't say just what date I signed it on.

Q. What month was it?

A. It was in July.

Q. July?

A. Yes.

Q. At that time did you pay initiation fees?

A. Yes.

Q. How much did you pay?

A. A dollar.

Q. Where did you sign the card?

A. At home.

Q. Where did you get the card?

A. I got the card from Mr. Burkhart.

Q. Mr. Burkhart?

A. Yes.

Q. Is he a former representative under the Employees Representative Plan?

A. No, he is just a railroad man.

Q. What?

A. No, he is just a railroad man.

Q. A railroad man?

A. Yes, sir.

Q. In the plant?

A. Yes.

Q. Do you know whether or not he was a representative under the Employees Representation Plan?

A. I think he was.

Q. He gave you a card?

A. Yes, sir.

Q. And you signed the card?

A. I signed the card.

Q. Where did you hand it back to him?

A. I took it down to him personally.

Q. You took it down to him personally?

A. Yes, sir.

Q. Is that at the plant?

A. Yes, sir.

Q. During working hours?

A. Well, I was coming to work.

Q. Did you actually give him a dollar and the card there during working hours? ✓

A. Yes, sir.

Q. Now, have there been any meetings of the Independent Association for Republic Employees?

A. Yes, sir.

Q. Did you attend any of them?

A. Yes, sir; above the Arcade Market in Massillon.

Q. Is that outside of the plant property?

A. Yes, sir.

Q. Do you know whether or not the first meeting was held in the time shop on plant property?

A. I don't know.

Q. You don't know about it?

A. No.

Q. What?

A. I don't believe so.

Q. Do you know whether or not it was held there?

A. No, I don't.

Q. You don't know?

A. No.

Q. (By Mr. Lauter) Now, since July have you paid any dues into the organization?

A. Yes.

Q. What is that?

A. I did.

Q. How much dues did you pay?

A. I paid 50 cents, and then I paid $1.00, and I am paid up to next month, yet.

Q. Are you paid up through September or October?

A. October.

Q. You are paid up through October?

A. Yes, sir, I paid $2 altogether.

Q. Where did you pay the balance of the money?

A. Down in the hall.

Q. Have you voted for any offices in the Independent Association?

A. Yes, sir.

Q. What offices did you vote for?

A. I voted for the men in our department.

Q. And where was that meeting held?

A. That was held down in the hall.

Q. Do you remember when that was held?

A. No, I couldn't just say, but it was this last week one evening, Tuesday night, I think.

Q. Where did you receive notice that meeting was going to be held last Tuesday night?

A. Well, they had notices up down there.

Q. Down where?

A. Down in the mill.

Q. Down in the mill?

A. That our department would have a meeting.

Q. Where was that notice posted?

A. Why, in our shanty, railroad shanty; switchman's shanty.

MR. LAUTER: May I speak to you, Mr. Day?

MR. DAY: Certainly.

(Consultation held with the Trial Examiner.)

Q. (By Mr. Lauter) A number of questions were asked of you on direct examination by Mr. Day. Now, has a form been sent out to you incorporating in substance those questions?

A. No, sir.

Q. What is that?

A. No, sir.

Q. Do you understand my question?

A. No, I didn't understand it.

Q. Well, then don't answer the question until you understand.

MR. LAUTER: Read the question back to the witness.

(The question read by the Reporter.)

A. No, not that I know of.

Q. Have you ever seen a mimeographed sheet?

A. No.

Q. Which was circulated in the plant, containing in substance the questions which Mr. Day asked you on direct examination, and which you signed your own name to?

A. No, I didn't see any of those, the only thing I signed my name to was the card.

MR. DAY: Step up here a minute.

(Discussion held off the record.)

Q. (By Mr. Lauter) Were you asked at any time, at the plant of the Republic Steel Corporation, in substance, the questions that Mr. Day asked you on direct examination?

A. No, sir.

Q. Do you know Mr. Paul Blantz?

A. I know him, yes.

Q. Did he call you into his office or into an office at Republic Steel Corporation and ask you a number of questions?

A. No, sir.

MR. DAY: Wait a minute. Let's find out who did question him.

TRIAL EXAMINER LINDSAY: This is off the record.

(Discussion held off the record.)

MR. DAY: Mr. Coldren did.

Q. (By Mr. Lauter) Did Mr. Coldren call you into the office and ask you a number of questions?

A. Well, they sent me up there and that man was in the office.

Q. Do you know his name now? Mr. Coldren?

A. Yes, sir.

Q. Is that the man, sitting at the counsel table?

A. Yes, sir, I know him now, yes.

Q. For the Republic?

A. I know him.

Q. Did he propound a number of questions to you from a mimeographed sheet?

A. He had that lying there and he asked me questions and I just told him.

Q. Now, were those questions in substance the questions that Mr. Day asked you while you were on the witness stand this evening?

A. Yes, sir.

MR. LAUTER: That's all.

MR. DAY: That's all. Now, your Honor, I would like to have the Stenographer transcribe those questions for me so I can put the same questions to the next witness.

TRIAL EXAMINER LINDSAY: All right, then we will stop right now, and you write them up.

MR. DAY: And bring them right back.

(Witness excused.)

MARK H. REAM

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. Frank H. Ream.

Q. Where do you live?

A. 517 Harvard, Massillon.

Q. Where do you work?

A. Republic Steel Corporation.

Q. In what department?

A. Inspection department.

Q. How long have you worked there?

A. About ten years.

Q. Did you sign a petition to return to work at the Massillon plant after the strike was called?

A. Yes, sir.

Q. Where did you sign this petition to return to work?

A. In the Chamber of Commerce office.

Q. State whether or not you signed this petition of your own free will?

A. I did.

MR. LAUTER: Object to the form of the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: I will sustain the objection. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign this petition to return to work?

A. I noticed the notice in the paper and I went down the following morning and went up and signed the petition after I read the petition over.

Q. State whether or not you were influenced in any manner whatsoever—

A. No, sir.

Q. Wait a minute—in signing the petition to return to work at Massillon, Ohio, by anything that was said or done by Republic Steel Corporation or any of its officers or agents?

A. I was not.

MR. LAUTER: I object to the form of the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: I will sustain that objection. The answer may be stricken and let the record show an exception.

MR. DAY: Exception.

Q. State whether or not you signed the petition to return to work at the Massillon plant of your own free will?

A. I did.

MR. LAUTER: I object to the form of the question and move the answer be stricken out.

(The question read by the Reporter.)

MR. DAY: Now, that is in there once before, and ought to be withdrawn. Strike that one out.

TRIAL EXAMINER LINDSAY: Yes, that is stricken by consent.

MR. DAY: By consent, yes, sir.

Q. (By Mr. Day) Do you remember when a strike was called at Massillon when you worked there on May 25th last?

A. Yes, sir.

Q. State whether or not you wished to go out on strike?

A. I did not.

Q. State whether or not you wished to continue to work?

A. I did.

Q. Are you a member of the Independent Association of Republic Employees?

A. I am.

Q. Massillon, Ohio?

A. Yes, sir.

Q. Did you sign an application card for membership in that association of Republic Employees?

A. Yes, sir.

Q. Where did you sign that application?

A. In the plant.

Q. Card?

A. In the plant.

Q. Whereabouts in the plant?

A. Well, it was around the 18 inch mill.

Q. State whether or not you signed that application for membership in the Independent Association of Republic Employees of your own free will?

A. I did.

MR. LAUTER: Object to the form of the question and ask the answer be stricken.

TRIAL EXAMINER LINDSAY: I will sustain the objection to that question. The answer may be stricken from the record; show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Independent Association of Republic Employees?

A. Well, I figured it was a good organization.

MR. LAUTER: Object to what the witness figured; move it be stricken.

TRIAL EXAMINER LINDSAY: Yes, that part is stricken. Let the record show an exception.

MR. DAY: Exception.

A. I signed the card and handed it back to him after I read it over.

Q. Why did you do it?

A. My own free will.

MR. LAUTER: I move the answer be stricken.

TRIAL EXAMINER LINDSAY: Yes, it is not responsive, the answer may be stricken out. Let the record show an exception.

MR. DAY: Exception. Read him the question, will you please?

(The last question read by the Reporter.)

Q. The question is, state how you came to sign the application card for membership in the Independent Association of Republic Employees? Don't give a conclusion. How did you come to do it?

A. Well, the card was handed to me and I read it over and signed it and handed it back. Is that what you want?

Q. State whether or not anybody asked you to sign the application card?

A. John Walsh.

Q. Who is John Walsh?

A. He is an inspector there on the 18 inch mill.

Q. State whether or not, in the signing of the application card for membership in the Independent Association of Republic Employees at Massillon, Ohio, you were influenced to any extent whatsoever by anything that was said or done by Republic Steel Corporation or by any of its officers or agents?

A. I was not.

MR. LAUTER: Object to the form of the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is sustained and the answer may be stricken from the record. Show an exception.

MR. DAY: Exception.

Q. Do you know Mr. Coldren, sitting here?

A. Yes, sir.

Q. I will ask you whether or not you were called into the office in Massillon and whether or not Mr. Coldren then asked you in substance the questions I am asking you?

A. He did.

MR. DAY: Now when I say that, Mr. Trial Examiner, I do not mean that he asked every one of them, but he asked in substance the questions. That is all.

Cross Examination

Q. (By Mr. Lauter) You were handed a card by John Walsh, an inspector? That is a card in the Independent Association of Republic Employees?

A. Yes, sir.

Q. Was that in the plant during working hours?

A. Yes, sir.

Q. Have you paid the dues into the Independent Association?

A. The initiation fees and the first month.

Q. Did you attend any of the meetings?

A. No, sir.

Q. At the time you were handed the card what did Mr. John Walsh say to you?

A. He just handed me the card and I read it over and I seen that it was headed as an Independent Employees Association, so I—

Q. I am asking you what he said to you?

A. He just handed me the card.

Q. Said nothing?

A. Nothing.

Q. He said nothing about how much it cost?

A. Well, at the time, no.

Q. He said nothing to you?

A. No, sir.

Q. Did you see him again after that?

A. Why, I saw him every day.

Q. Did you see him again after that with respect to these cards, the cards that he handed you?

A. Do you mean after I signed it?

Q. That is right, did you sign it when he handed you the card?

A. Yes, sir, I handed it right away and handed it back to him.

Q. He handed you the card and said nothing to you?

A. I read that card, signed it and handed it back to him.

Q. Is he your inspector?

A. He is an inspector, yes.

Q. In your department?

A. Not in my department. In the department I work.

Q. In the department that you work?

A. Yes, sir, we both work in the same department.

Q. Are you also an inspector?

A. Yes, sir.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

ALVIN GARBER

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Alvin Garber.

Q. Where do you live, Mr. Garber?

A. R. D. 2, Massillon.

Q. Where do you work?

A. Republic Steel.

Q. In what capacity?

A. Weigh man.

Q. How long have you worked for Republic?

A. Four years.

Q. Did you sign a Back-to-Work petition at the Massillon plant after the strike was called?

A. I did.

Q. Where did you sign the petition to return to work?

A. Chamber of Commerce Hall.

Q. State whether or not you signed that petition of your own free will.

A. I did.

MR. LAUTER: I object to the question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the petition to return to work.

A. I was told in the newspaper and went down to sign it.

Q. State whether or not you were influenced in any manner whatsoever in the signing of the petition to return to work at Massillon, Ohio, by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I was not.

MR. LAUTER: I object to the form of the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. Do you remember when the strike was called at the Massillon plant on May 25th last?

A. I do.

Q. State whether or not you wished to go out on strike.

A. I did not.

Q. State whether or not you wished to stay at work.

A. I did.

Q. Are you a member of the Independent Association of Republic Employees at Massillon, Ohio?

A. Yes, sir.

Q. Did you sign an application card for membership in the Independent Association of Republic Employees at Massillon, Ohio?

A. I did.

Q. Where did you sign the application card?

A. In the mill.

Q. Whereabouts in the mill?

A. In the shipping department.

Q. State whether or not you signed the application card for membership in the Independent Association of Republic Employees of your own free will.

A. I did.

MR. LAUTER: I object to the form of the question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: I will sustain the objection to that question. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Independent Association of Republic Employees.

A. I was handed the card and looked it over and signed it and returned it later.

Q. State whether or not anybody asked you to sign the application card.

A. Yes, sir.

Q. Who asked you?

A. Ray Stevens.

Q. Who is he?

A. One of the boys that works with me.

Q. State whether or not in the signing of that application card for membership in the Independent Association of Republic Employees you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or by any of its officers or agents.

A. No, I was not.

MR. LAUTER: I object to the form of the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. Do you know Mr. Coldren sitting here at our table (indicating)?

A. Yes, sir.

Q. I will ask you whether you recall ~~on~~ the 9th of September, a short time ago, being called into the office at Massillon and being asked certain questions by Mr. Coldren, and giving certain answers.

A. I do.

Q. And were those questions substantially the questions I have propounded to you?

A. They were.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Who is Mr. Ray Stevens?

A. Boy that works with me in the shipping department.

Q. What is his position?

A. Crater.

Q. What?

A. Crater.

Q. And did he ask you to sign the card?

A. He handed me a card and asked me to sign it.

Q. Is that at the plant during working hours?

A. Yes, sir.

Q. Did you pay any dues into the organization?

A. Not yet.

Q. How is that?

A. Not yet.

Q. When did you sign the card?

A. Sometime in July, right after I went back to work.

Q. You have not paid either initiation dues or any other dues of any kind?

A. Not yet.

Q. Attended any meetings?

A. One.

Q. Where was that meeting held?

A. In the Arcade Market Building, Massillon.

Q. Do you know whether or not a meeting was held at the plant?

A. Never heard of any.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

LEO P. DONANT

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Leo P. Donant.

Q. Where do you live, sir?

A. 47 Third Street, Massillon.

Q. Massillon?

A. Yes, sir.

Q. Where do you work?

A. Republic Steel.

Q. How long have you worked there?

A. Two years.

Q. What is your job there?

A. Warehouse stoker.

Q. Did you sign an application to return to work at the Massillon plant?

A. I did.

Q. Where did you sign the application to return to work?

A. Chamber of Commerce office.

Q. State whether or not you signed that application of your own free will.

A. I did.

MR. LAUTER: I want to object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application to return to work.

A. I was downtown the morning they started to sign up at the Chamber of Commerce office, and I inquired about what was going on, and when one of the men notified me they was signing up, so I went up and signed.

Q. State whether or not you were influenced in any way whatsoever in the signing of the petition to return to work at Massillon, Ohio, by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I was not.

MR. LAUTER: I object to the question and ask that the answer be stricken out.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. Do you remember when the strike was called at Massillon on May 25th last?

A. I do.

Q. State whether or not you wished to go out on strike.

A. I did not.

Q. State whether or not you wished to stay at work.

A. I did.

Q. Are you a member of the Independent Association of Republic Steel Employees at Massillon, Ohio?

A. Yes, sir.

Q. Did you sign an application card for membership in that Independent Association of Republic Employees?

A. I did.

Q. Where did you sign the application card?

A. In the plant.

Q. Whereabouts in the plant?

A. In the shipping department.

Q. State whether or not you signed that application for membership in the Independent Association of Republic Employees of your own free will.

A. I did.

MR. LAUTER: I object to the form of the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: I will sustain the objection to that question. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Independent Association of Republic Employees.

A. Sir?

Q. State how you came to sign the application card for membership in the Independent Association of Republic Employees.

A. I was—it was handed to me.

Q. By whom?

A. By Mr. Miller.

Q. Who is he?

A. A car locker.

Q. State whether or not anybody asked you to sign the application card.

A. They didn't.

Q. State whether or not in the signing of the application card for membership in the Independent Association of Republic Employees at Massillon, Ohio, you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. No, sir.

MR. LAUTER: I object to the form of the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is sustained. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. Do you know Al Blantz?

A. I do.

Q. I will ask you whether or not a few days ago you remember being called into the office and some questions being asked you.

A. Yes, sir.

Q. And were those questions in substance the questions I put to you?

A. Yes.

MR. DAY: I make the statement, Mr. Trial Examiner, in connection with these questions, as you know, that all of the questions in detail were not propounded to the persons and I want that understood when I asked this person.

TRIAL EXAMINER LINDSAY: But they were in substance?

MR. DAY: Yes; you have seen them.

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Do you know what Mr. Blantz's position is in the mill?

A. Yes, sir.

Q. What is it?

A. Safety man.

Q. Safety man?

A. Yes, sir.

Q. And prior to your signing the Back-to-Work Petition did you speak to any foreman?

A. I did not.

Q. Or any other official of the company?

A. No, sir.

Q. When you were handed a card for the Independent Association of Republic Employees, were you asked to sign it?

A. I was.

Q. What was the name of the man who asked you?

A. Read the question please?

(The last question read by the Reporter.)

A. I was not.

Q. Who handed it to you?

A. Mr. Miller.

Q. Who is Mr. Miller?

A. A car blocker.

Q. Is he an employee in your department?

A. No, sir, he is in the finishing department. He is practically in the same department.

Q. Were you handed that card on company property, during working hours?

A. I was.

Q. Do you know whether or not similar cards were handed to other employees?

A. To my knowledge they were, yes.

Q. How many employees were handed similar cards during working hours at the plant?

A. Well, offhand I don't know how many.

Q. Well, approximately how many?

A. Well, I only saw three or four, probably six.

Q. Were all of the men in your department handed cards?

A. Yes, sir.

Q. How many in your department?

A. Well, on our turn there is 12.

Q. 12?

A. At that particular time there were.

Q. And did Mr. Miller hand them all cards?

A. Well, I don't know, I know that somebody handed them cards. I didn't see him hand them cards, only three of them.

Q. But you saw later that all of them received cards or were handed cards, is that correct?

A. Yes, sir.

Q. During working hours?

A. Yes, sir.

Q. When you shake your head they can't get the answer.

MR. LAUTER: Did you get the answer to those questions, Mr. Reporter?

(The record read by the Reporter.)

(Consultation held off the record.)

TRIAL EXAMINER LINDSAY: That is all.

(Witness excused.)

RAY STEVENS

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. **Ray Stevens.**

Q. Where do you live?

A. 320 15th Street, S. W., Massillon, Ohio.

Q. What is your business?

A. Crater.

Q. And you worked where?

A. Republic Steel.

Q. How long have you worked there?

A. Four years the 18th day of last June.

Q. Did you sign a petition to return to work at the Massillon plant after the strike was called?

A. I did.

Q. Where did you sign the petition to return to work?

A. At the Chamber of Commerce Hall.

Q. State whether or not you signed the petition to return to work of your own free will.

A. I did.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

MR. LAUTER: At this time, if it please, Mr. Examiner, I want to object to this line of inquiry for the following reasons: This witness is the fifth witness that has been asked substantially the same questions and the four that preceded him. First I want to state that I think it is entirely incompetent, irrelevant and immaterial as to why this particular witness stayed at work, and whether they wanted to; and also that it is incompetent, irrelevant and immaterial as to whether or not they wanted to go on strike on May 25th; and further I want to object to the whole line of inquiry to the entire series of questions that is being asked this witness on the ground that it is incompetent, irrelevant and immaterial.

During the course of the Board's case and on cross-examination the witnesses for the Respondent, facts have been developed which show concrete evidence and specific instances of instructions to employees of the Republic Steel Corporation ordering them to be at work at a particular time; and in one instance on the cross-examination of one of the witnesses for the Respondent there was elicited testimony that a foreman ordered at least five of the employees of the Respondent, pursuant to instructions, from his general superintendent, to quote this foreman: "To be at work at the plant at 9 o'clock on May 25th."

Now, further, in connection with this objection to the line of inquiry that is being pursued by counsel for the Respondent I want to state that on Page 3322 of the record during the testimony of one William Norris—the—

TRIAL EXAMINER LINDSAY: The record of what date?

MR. LAUTER: The record of September 8th, 1937.

In response to a question the witness testified that if you wanted to go back to work you would have to sign up one of the Back-to-Work petitions. Now in answer to these specific acts and specific cases that are of ordering men to report to work or ordering them to sign Back-to-Work petitions, there has been no defense testimony, instead, counsel for the Respondent Company has offered to show that their employees of the Respondent were neither ordered to report back at a particular time or were not influenced in any way in signing Back-to-Work petitions.

Briefly stated, it seems to me, and I urge my objection on these grounds: That for the—if it is shown in the record that Employees A, B and C have been induced by Foremen X, Y and Z that they are to report for work or to sign Back-to-Work petitions, it is no defense to show that they are employees of the Respondent, and have neither been influenced in any way to report to work, to sign Back-to-Work petitions, or ordered to work.

I want to object on the further ground that the testimony of this witness would only tend to be cumulative. There has been already four witnesses testified about identically the same facts or substantially the same questions.

MR. DAY: I want to say at this time that we expect to call, upon the same subject matter as is involved in the testimony given by the witnesses tonight, and in the proffered testimony by this witness, substantially 2000 or more witnesses, employees of the Republic Steel Corporation at its Massillon plant, whose testimony will be similar and practically identical with that already given, and in legal fact and evidentiary purport, the same as the evidence already given.

MR. LAUTER: In view of Mr. Day's statement as counsel for respondent company, I want to renew my motions which I have previously made, and particularly addressing myself at this time to the cumulative effect of the testimony which he purports to introduce.

TRIAL EXAMINER LINDSAY: In view of the reasons advanced by Mr. Lauter, Attorney for the Board, and further because of the statements made by counsel representing the Respondent, that he states that he intends to call over 2000 witnesses, who will testify in substance as the four witnesses who have been put on the witness stand this evening, I will sustain the objection to further testimony being offered on those particular points brought out by the four preceding witnesses, for the reason it would serve no purpose, and I feel is not a direct defense to specific instances of witnesses who have testified both on direct and on cross examination that they were asked to sign the petition to go back to work. And the mere fact of bringing a great number of witnesses to testify that they themselves were not asked to sign the petition to go back to work, or the card to become a member of the new Union, is not meeting the evidence established in the case both by direct examination and cross examination of specific instances as above stated. For the further reason that the testimony would serve no purpose other than being cumulative, and would consume a great deal of unnecessary time with no purpose to be served thereby.

The objection made by Mr. Lauter and the ruling of the Trial Examiner on that objection and motion is in effect a ruling only on the hearing pertaining to the Massillon part of the case.

MR. DAY: Inasmuch as we have in the courtroom now some witnesses from the Canton plant whom we desire to offer upon the same subject, we would appreciate it if the Trial Examiner would permit us to make our offer to prove with relation to the Massillon testimony tomorrow morning, and at the same time state in the record why we believe this evidence is relevant and material and should be received.

TRIAL EXAMINER LINDSAY: Well, you have already stated that.

MR. DAY: No, I haven't stated that. I should like to make a statement on that in the morning after my Canton witnesses are passed on.

TRIAL EXAMINER LINDSAY: Well, this is entirely off the record.

(Discussion held off the record.)

MR. DAY: I will state now, if I may—

TRIAL EXAMINER LINDSAY: I shall take no advantage.

MR. DAY: May I make that statement in the morning, as to both Canton and Massillon witnesses?

TRIAL EXAMINER LINDSAY: Oh, yes, it is not necessary to go in the record.

MR. DAY: As to why I think it should be received. Then I guess you had better step down.

(Witness excused.)

(Thereupon the ruling of the Trial Examiner was read by the Reporter.)

MR. DAY: I would like to note an exception at this time to the action of the Trial Examiner in striking out the testimony of the four witnesses who have just—

TRIAL EXAMINER LINDSAY: Wait a minute, I haven't struck out any testimony.

MR. DAY: I would like to note an exception at this time to the action of the Trial Examiner in refusing to the Respondent the right to call further witnesses in its behalf to testify to the same effect as have testified the four witnesses who have already taken the stand.

Now, if you will step up.

(Consultation held with Trial Examiner off the record.)

(Thereupon the record was read by the Reporter.)

TRIAL EXAMINER LINDSAY: It is agreed here that if there is any error, here, that we will all agree to correct it.

MR. DAY: Absolutely.

TRIAL EXAMINER LINDSAY: Is that right?

MR. DAY: Yes, sir.

TRIAL EXAMINER LINDSAY: All right, now you may proceed.

HOWARD GRAU

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Howard Grau.

Q. Where do you live?

A. 3048 Grovewood, S. W., Canton.

Q. What is your business?

A. I work for Republic Steel.

Q. In what capacity?

A. Warehouse.

Q. Were you working there the 25th of May last?

A. Yes, sir.

Q. When the strike was called?

A. Yes, sir.

Q. State whether or not you wished to go out on the strike when it was called?

A. I did not.

MR. LAUTER: Object on the ground, incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: That objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. (By Mr. Day) State whether or not you wished to remain at work?

A. I did.

MR. LAUTER: Object to that question on the ground incompetent, irrelevant, and immaterial

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. Did you sign an application card for membership in the Steel Workers of America at the Canton plant?

A. Yes, I did.

Q. Where did you sign that application?

A. I signed it in the warehouse.

Q. State whether or not you signed the application card for membership in the Steel Workers Union of America, Canton plant, Republic Steel Corporation, of your own free will?

A. Yes, I did.

MR. LAUTER: Object to that question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is sustained. Let the record show an exception, and the answer may be stricken.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Steel Workers Union of America, Canton plant of the Republic Steel Corporation?

A. Well, a few of us got together and decided we needed an organization of some kind.

MR. LAUTER: Object to what they decided they needed.

MR. DAY: Why did you do it?

TRIAL EXAMINER LINDSAY: Just tell why you signed it.

Q. (By Mr. Day) How did you come to sign it, never mind the rest of them, how did you come to sign it?

A. I was—

MR. LAUTER: May I have a ruling on my objection?

TRIAL EXAMINER LINDSAY: That may go out by consent.

Q. (By Mr. Day) The question is, state how you came to sign the application card for membership in the Steel Workers Union of America?

A. I received a card to this, an application card and signed it and returned it.

Q. How did you come to sign it?

A. Well, we—

Q. No, just what you did? Not what somebody else did.

A. I thought it was—

MR. LAUTER: I object to what the witness thought.

Q. (By Mr. Day) Well, you can state what you believed. The question is, how did you come to sign it? Answer it in your own way.

A. Well, I received a card and talked it over with a few fellows and thought it was a good idea and we needed—

MR. LAUTER: Object to what the witness thought.

MR. DAY: I think he may tell what he thought, they have asked him why he did something.

TRIAL EXAMINER LINDSAY: Yes, I will overrule your objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. (By Mr. Day) Go ahead.

A. So we discussed it with several of them and I signed the card.

Q. Did I ask you if you signed that card of your own free will, or not?

TRIAL EXAMINER LINDSAY: Yes, he did.

MR. DAY: The application card for membership in the union?

TRIAL EXAMINER LINDSAY: I am not so certain about it, but you did the first one.

(Record read by the Reporter.)

MR. DAY: Very well.

Q. (By Mr. Day) State whether or not, in signing the application card for membership in the Steel Workers Union of America, you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its agents or officers?

A. I was not.

MR. LAUTER: I object to that question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: Yes, that objection is sustained and let the record show that the answer is stricken out; and let the record show an exception.

MR. DAY: Exception. That is all—By the way, wait a minute:

Q. (By Mr. Day) Were some questions substantially similar to those I have asked you, propounded to you today in the office of Lynch, Day, Pontius & Lynch?

A. Yes, sir.

Q. And do you know who asked those questions?

A. No, I don't know his name.

Q. But anyway, it was done in the law office today?

A. That is right.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Who handed you the card to the Steel Workers Union of America?

A. John Rowland.

Q. What is that?

A. John Rowland.

Q. What is his position in the mill?

A. He is a metallurgist, I believe.

Q. When did he hand you the card?

A. He handed me the card during working hours. I don't know just the exact date.

Q. During working hours in the plant?

A. Yes, sir.

Q. How long ago?

A. Oh, about a month ago.

Q. Did you sign the card?

A. Yes, sir.

Q. Did you pay any initiation fee?

A. No, sir.

Q. Any dues?

A. No.

Q. Attend any meetings?

A. No.

Q. Do you know whether other employees were handed cards by the same John Rowland?

A. Yes, sir.

Q. Were all of the employees in your department handed cards?

A. Yes.

Q. During working hours in the plant?

A. Yes.

Q. Do you know whether any of them have paid any initiation fees or dues?

A. Yes.

Q. Some have?

A. Yes.

Q. Do you know where the first meeting was held?

A. I don't know, no.

Q. Do you know whether any meetings have been held in the plant during working hours?

A. No, there wasn't any meetings held.

Q. Do you know, or don't you know?

A. I do.

Q. You do know that there were no meetings held in the plant?

A. Yes, sir.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

PAUL R. SMITH

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. Paul R. Smith.

Q. Where do you live, Mr. Smith?

A. 1409 Arnold Avenue, Canton.

Q. What is your business?

A. Work for Republic Steel Corporation.

Q. In what capacity?

A. Blooming mill, shear man

Q. How long have you worked for them?

A. A little over 11 years.

Q. At Canton?

A. At Canton.

Q. Do you recall when a strike was called at the Canton plant, Republic Steel Corporation, about May 25th, last?

A. I do.

Q. State whether or not at that time you wished to go out on a strike?

A. I did not.

Q. State whether or not you wished to continue to work?

A. I did.

MR. LAUTER: Object to both questions and move that the answers be stricken on the ground incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: The objection is overruled, let the record show an exception.

Q. Are you a member of the Steel Workers Union of America, Canton plant?

A. I am.

Q. Republic Steel Corporation?

A. I am.

Q. Did you sign an application card for membership in that organization?

A. I did.

Q. Where did you sign it?

A. In the plant.

Q. State whether or not you signed that application card for membership in that organization of your own free will?

A. I did.

MR. LAUTER: Object to that question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: That objection is sustained. The answer is stricken and let the record show an exception.

MR. DAY: Exception.

Q. (By Mr. Day) State how you came to sign the application for membership in that organization?

A. Well, the card was given to me and I felt the need of some such organization, especially a local organization, so I signed the card.

MR. LAUTER: Object to the witness' statement about what he felt the need of.

MR. DAY: The question is how he came to do it.

TRIAL EXAMINER LINDSAY: What is that?

MR. DAY: The question is, how he came to do it.

TRIAL EXAMINER LINDSAY: That is not what you meant, when you asked, but it is immaterial. I will let that stand. Let the record show an exception.

Q. (By Mr. Day) State whether or not anybody asked you to sign the application card?

A. No.

Q. State whether or not in the signing of the application card for membership in the Steel Workers Union of America, you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents?

A. No, sir.

TRIAL EXAMINER LINDSAY: Now, just a minute, don't answer that.

MR. LAUTER: I object to that question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is sustained. The answer is stricken and let the record show an exception.

MR. DAY: Exception.

Q. Did you answer certain questions today in the law office of Lynch, Day, Pontius & Lynch in Canton?

A. I did.

Q. And were they substantially the same as I am now putting to you?

A. Yes, sir.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Did you sign the card, Mr. Smith, during working hours in the plant?

A. Yes.

Q. Who handed you the card?

A. Birnbaum.

Q. What is his position in the mill?

A. 18-inch mill gauger.

Q. What is that?

A. 18-inch mill gauger.

Q. At the time you were handed cards, were any other employees handed cards?

A. Yes, I suppose so.

Q. Do you know?

A. No, because I didn't see.

Q. You had a conversation with Mr.—what is his name?

A. Birnbaum.

Q. What did he say to you?

A. He handed me a card and said: "Look it over." And said: "What do you think?"

Q. What did you say to him?

A. I said: "It was all right."

Q. Did you look it over?

A. I did.

Q. Did you sign it there?

A. No.

Q. You were alone?

A. Yes, sir.

Q. Is that the extent of the conversation you had?

A. Yes, that was all.

Q. When did you sign the card?

A. About a week later.

Q. And did you return it to some person?

A. Yes, sir.

Q. Did you have a conversation with him then?

A. Nothing than handing the card to him and saying: "Here, I signed it."

Q. What did he say?

A. He said: "All right."

Q. What else did you say, if anything?

A. Nothing. He gave me a receipt for the dues I paid him.

Q. How much were the dues?

A. One dollar.

Q. You paid your dues to date?

A. Sir?

Q. You have paid your dues since then?

A. No, sir.

Q. Attended any meetings?

A. No.

Q. Who is your foreman?

A. W. B. Perry.

Q. While you were handed this card during working hours in the plant, was your foreman around?

A. No.

Q. Were any foremen around?

A. I don't know. I didn't notice.

Q. Did any foremen make any objection to you about the fact of the card being handed to you during working hours in the plant?

A. No.

Q. Do you know whether any other employees received similar cards?

A. Yes, they received cards, but I don't know where.

Q. Did you have any conversation with them during which they told you they received cards?

A. No.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Discussion off the record.)

(Witness excused.)

MARTIN MORTENSON

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please.

A. Martin Mortenson.

Q. M-o-r-t-e-n-s-o-n?

A. Yes, sir.

Q. Where do you live?

A. 200 Park, S. W., Canton.

Q. What is your business?

A. Working in the steel mill.

Q. Republic Steel Corporation?

A. Yes, sir.

Q. In what capacity?

A. Work in the hot mill.

Q. How long have you worked for the Republic Steel Corporation?

A. Since they have had these plants I have been working out here 15 years.

Q. Have you worked for some of the Companies that afterwards became a part of the Republic Steel Corporation, is that right?

A. Yes.

Q. Do you remember when the strike was called at the Republic on May 25th last?

A. Yes.

Q. State whether or not you wished to go out on strike?

A. I didn't.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

Q. State whether or not you wished to continue at work.

A. I did.

MR. LAUTER: I object to the question on the ground that it is incompetent, immaterial and irrelevant and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

Q. Are you a member of the Steel Workers Union of America, Republic Steel Corporation, Canton plant?

A. Yes, sir.

Q. Did you sign an application card for membership in that organization?

A. Yes, sir.

Q. Where did you sign it?

A. In the hot mill.

Q. State whether or not you signed the application for membership in that organization of your own free will.

A. I did.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in that organization.

A. Well, they posted a notice a couple of days before they distributed cards. I read the notice and the rules and regulations and I signed—it sounded good. When they passed the card around I signed it.

Q. State whether or not anyone asked you to sign the application card.

A. No, sir.

Q. State whether or not in the signing of the application card you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. No, sir.

MR. LAUTER: I object to the question and ask the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken.

MR. DAY: Exception.

Q. Today, Mr. Mortenson, were you asked substantially the questions I am now asking you in the office of Lynch, Day, Pontius & Lynch in Canton, Ohio, counsel for the Republic Steel Corporation?

A. Yes, I was.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) In what plant do you work, Mr. Mortenson?

A. In the Stark Company.

Q. Is that in Canton or Massillon?

A. Canton.

Q. What turn do you work?

A. 3 to 11.

Q. 3 to 11, did you say?

A. Yes.

MR. DAY: Will you read that answer? I didn't hear it.

(The last answer was read.)

Q. You say a notice was posted on the bulletin board?

A. There was a little poster up there, yes.

Q. What is that?

A. There was a poster up there.

Q. Do you know who put the poster up?

A. I believe the Chairman of the organization; the temporary Chairman, Al Booth.

Q. What is that?

A. Al Booth.

Q. Al Booth?

A. Yes, sir.

Q. Did you see him put it up?

A. No, I didn't see him put it up.

Q. Do you know when it was put up?

A. A couple of days before that. I just can't say exactly. It is a month or two ago.

Q. Was Al Booth a representative under the old Employees Representative Plan?

A. No, sir, he wasn't.

Q. Was he in any way connected with that Plan?

A. No, sir.

Q. Who handed you the card to sign?

A. The roller passed them out to the crew.

Q. The roller?

A. Yes.

Q. A roller is a rather important job in the mill, isn't it?

A. Yes, sir, he is usually the boss of the crew.

Q. The boss of the crew?

A. Not exactly; he is the head of the men.

Q. A roller is the boss of the crew, isn't he?

A. In a way, yes.

Q. Well, he gives the instructions, doesn't he?

A. Well, we all have our work to do.

Q. The roller is one of the highest paid men in the mill, isn't he?

A. Yes.

Q. He is substantially the boss of the crew?

A. Yes, sir.

Q. How many men are there in that crew?

A. Eight with myself.

Q. Did he pass out cards to all the eight men?

A. He laid them on the bench that we were on. We picked them up and carried them.

Q. Did he speak to you at all about them?

A. Never said anything.

MR. DAY: Will you read that last question and answer?

(Last question and answer read.)

Q. When did that happen?

A. Oh, in the neighborhood of two months ago, I believe.

Q. When did you sign the card?

A. At the time they were passed out.

Q. The same day?

A. Yes, the same day they were passed out.

Q. Did you pay an initiation fee?

A. Yes, $1.

Q. Any dues?

A. Not yet.

Q. Have you paid any dues since then?

A. No, I haven't.

Q. To whom did you give your dollar?

A. To Al Booth.

Q. Where was Al Booth when you gave him the dollar?

A. He was right in the mill where I worked.

Q. Was that during working hours?

A. Yes.

Q. You handed him the card?

A. Yes, sir.

Q. And it was during working hours that the cards were left there so you could pick them up?

A. Yes, sir.

Q. Who is your foreman?

A. Seckerman.

Q. Was he present when the cards were left?

A. No.

Q. Was he present when the cards were signed and handed back to Al Booth?

A. No.

Q. He is just the turn foreman, is that correct?

A. Yes.

Q. He has as responsible a position as the roller?

A. He is over the roller. He tells the roller what to do.

Q. He tells the roller what to do?

A. Yes.

Q. And the roller tells the crew?

A. He looks after the crew.

Q. You work on the 3 to 11 crew?

A. Yes.

Q. You were working today?

A. No.

Q. Were you paid for today?

A. I don't know.

Q. Were you told you were going to lose any time today?

A. No, I was told to come up here.

Q. By whom?

A. Al Booth.

Q. Al Booth told you to go where?

A. To come up here.

Q. Tonight?

A. Yes.

Q. When you went to Judge Pontius' office today, did Al Booth tell you to go there?

A. That is where I was sent.

Q. By whom?

A. Al Booth.

Q. Where did Al Booth tell you that?

A. In the mill before I started to work. I was in the restaurant.

Q. Where is that?

A. I was in the restaurant in the mill before I started to work.

Q. And Al Booth told you to go to Judge Pontius' office?

A. Yes.

MR. DAY: I don't know if he told him that. Judge Pontius is sick.

TRIAL EXAMINER LINDSAY: Just a minute. Let his man testify.

MR. DAY: All right.

Q. What time did that happen?

A. About 2:30.

Q. That was before the 3 o'clock turn you were going to work on, is that correct?

A. Correct.

Q. When you left the mill?

A. Yes.

Q. When did you leave the mill?

A. 3 o'clock, I guess.

Q. What is that?

A. In the neighborhood of 3 o'clock.

Q. How long did you stay at Judge Pontius' office?

A. Oh, a couple of hours.

Q. While you were there, you were asked questions by someone in his office?

A. Just the questions I have been asked here.

Q. Substantially the same questions?

A. The same ones.

Q. Did Al Booth tell you whether or not you would lose any time or not?

A. I didn't discuss that.

Q. As far as you know, the procedure is the same today as any other day, is that correct?

A. I didn't get your understanding.

Q. Did you make any inquiry as to whether or not you would lose any time?

A. I didn't ask.

Q. Did you speak to anyone in any supervisory capacity there at the mill about coming here?

A. I spoke to the Safety Director.

Q. Who is he?

A. I don't know his name.

Q. What did you say to him?

A. I told him. He was in the office. He was the only one there I seen. I told him I was going. He said: "All right."

Q. What is that?

A. I told him I was going and he said it was all right.

Q. Now, do you generally report to the Safety Director when you leave the mill?

A. No. He was the only one in the office. The turn foreman is the man we usually see.

Q. You didn't report to the turn foreman?

A. No.

Q. You followed Al Booth's instructions and went to Judge Pontius' office?

A. Yes, sir.

Q. After you left that office, did you return to the mill?

A. No.

Q. You haven't been back to the mill?

A. No.

Q. You made no inquiries as to whether or not you would lose any time or not?

A. I did not.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will adjourn until 9:30 in the morning.

(Whereupon at 8:45 o'clock p. m. September 15th, 1937, an adjournment was taken to 9:30 o'clock a. m., September 16th, 1937.)

Council Chambers, City Hall, Canton, Ohio, Thursday, September 16, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:45 o'clock a. m.

Before

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., Arno G. Erdrich, Esq., (Union

Trust Building, Cleveland, Ohio), and J. G. Ketterer, Esq., (First National Bank Building, Canton, Ohio), appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing will come to order.

ROY MARKLEY

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) State your full name, please.

A. Roy Markley.

Q. Where do you live?

A. 11th Street, N. W.

Q. By whom are you employed?

A. Republic Steel Corporation.

Q. What department of the Republic Steel Corporation do you work in?

A. In the blast furnace department.

Q. In Canton?

A Yes, sir.

Q. Mr. Markley, talk a little louder, will you, please, so that we can all hear you? How long have you worked for the Republic Steel Corporation or its predecessors?

A. About eight months.

Q. Did you sign an application card for membership in the Steel Workers Union of America?

A. I did.

Q. Where did you sign it, Mr. Markley?

A. In the service house.

Q. When—do you recall about when it was?

A. It was about 20 minutes to 4.

Q. On what day?

A. Well, it was—I would say around the last four or five days of July.

Q. State whether or not you signed that application card for membership in the Steel Workers Union of America of your own free will.

A. I did.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign that application card for membership in the Steel Workers Union of America, Mr. Markley.

A. Well, we had finished up work and went to the service house to take showers and change clothes; and Mr. Glen Riggs was passing cards, and he had given them to a couple of men, and I asked for one, and I got one and signed it.

Q. State whether or not anybody asked you to sign that application card.

A. No one asked me to sign the application card.

Q. State whether or not in the signing of that application card for membership in the Steel Workers Union of America you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I wasn't.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State whether or not you wanted to go out on strike on May 25, 1937.

A. I didn't.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Well, I think it was immaterial but I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. State whether or not you wanted to continue working, Mr. Markley.

A. I did.

MR. LAUTER: I object to the question on the ground that it is immaterial, incompetent and irrelevant and ask that answer be stricken.

TRIAL EXAMINER LINDSAY: Same ruling. Objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. Mr. Markley, I will ask you whether or not you went to the office of Lynch, Day, Pontius & Lynch where questions similar to the ones that have been asked you here today were asked you?

A. I did.

Q. Did you fill out a sheet?

A. I did.

Q. Containing those questions?

A. I did.

MR. KETTERER: That is all.

TRIAL EXAMINER LINDSAY: Just a minute.

(Discussion off the record.)

Cross Examination

Q. (By Mr. Lauter) Did you see a notice posted in the plant with respect to Steel Workers Union of America?

A. I did not.

Q. What is the name of the man who handed you a card for the Steel Workers Union of America?

A. Glenn Riggs.

Q. What is Mr. Riggs' position in the mill?

A. He is millwright.

Q. Is that in the same department with you?

A. It is.

Q. What is your position?

A. Millwright.

Q. What plant?

A. Blast furnace, Canton.

Q. Canton plant?

A. Yes.

Q. You say you saw him hand cards to other men in the plant?

A. Not in the plant. In the service house.

Q. In the service house?

A. Yes.

Q. Where is the service house located in the plant?

A. It sits north—or east of the blast furnace.

Q. Is that during working hours?

A. It was not.

Q. During what time of the day did you see him hand—

A. Along about twenty minutes of 4:00.

Q. Is that before or after your working hours?

A. After our working hours.

Q. Have you ever seen any foreman pass out the cards?

A. I never did.

Q. How soon after you received the card did you sign it?

A. I signed it right away.

Q. Did you speak to Mr. Riggs at all?

A. Well, we talked to him about it.

Q. What did you talk to him about?

A. Well, just about the fact that it would be a good thing to belong to, due to the fact that you would have local men at the head of it, men who worked in your department, who would understand the little things that would arise.

Q. Is that what you said?

A. That is what we talked about.

Q. What did you say?

A. Well, I guess I talked—

Q. I am not interested in what you guess. Tell me what you said, if you remember?

A. Well, I told him that I—I said that—we talked about that being a good thing, to have local men,—

Q. I am not interested in what "we" talked about. Did you say anything about it?

A. Yes, I said part of it.

Q. Now, you tell him what part you said?

A. I just don't recall right now.

Q. You don't recall what you said to him?

A. No, I don't.

Q. Is that right?

A. That is right.

Q. Do you recall what he said to you?

A. Well, I recall that he said that the men who would be the head of it would be elected by the members of the union, from among the ranks, the men that we worked with.

Q. Do you know whether or not that has transpired?

A. I do not.

Q. What is that?

A. I do not.

Q. You haven't interested yourself to find out?

A. I have not.

Q. Did you pay any dues into the organization?

A. I have.

Q. Pay an initiation fee?

A. I did.

Q. And are you paid up to date?

A. Yes, sir.

Q. Now, you were asked in direct examination whether or not you went to Judge Pontius' office. Did you go there?

A. I did.

Q. When did you go there?

A. Yesterday afternoon.

Q. Who else was there when you got there?

A. Why, there was a couple of attorneys, I believe.

Q. Well, weren't there any employees there?

A. Yes, there were.

Q. Who are they?

A. I don't know them. I haven't worked out there very long.

Q. Well, did you ever see them before?

A. The only persons that I saw that I knew was Mr. Blair and Mr. Wharnby.

Q. Do they work in your department?

A. Yes, sir.

Q. Who told you to go to Judge Pontius' office? Well, you know who told you, don't you?

A. Yes, I do.

Q. Well, speak up and answer.

A. The fellow that is the private secretary or clerk in the office, said that I was wanted down at Mr. Pontius' office.

Q. When did he tell you that?

A. Yesterday afternoon about twenty minutes after 4:00.

Q. What turn were you working yesterday?

A. Day turn.

Q. What time?

A. That is from 7:00 in the morning until 3:30.

Q. You were told after working hours?

A. I was.

Q. In the mill?

A. In the service house.

Q. What is the name of the man that told you?

A. Ed. Warren.

Q. Ed. Warren?

A. Ed. Warren.

Q. Was he a representative under the old plan?

A. Not to my knowledge.

Q. Has he any connection with the Steel Workers Union of America?

A. Not to my knowledge.

Q. Did you have any conversation with the other men in Judge Pontius' office as to how they were called?

A. I did not.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

THEODORE A. GERKE

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Theodore A. Gerke.

Q. And where do you live, Mr. Gerke?

A. 906 25th Street, N. E., here in Canton.

Q. By whom are you employed?

A. Republic Steel.

Q. In what capacity?

A. I am a heater on the 35-inch mill.

Q. At the Canton plant?

A. Yes.

Q. How long have you been employed by the Republic Steel Corporation or its predecessors?

A. Well, it was 17 years.

Q. Did you sign an application card for membership in the Steel Workers Union of America?

A. I did.

Q. Where did you sign that application card, Mr. Gerke?

A. In the shop on a day when I was coming to work.

Q. State whether or not you signed that application for membership in the Steel Workers Union of America of your own free will.

A. I sure did.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the answer be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Steel Workers Union of America, Mr. Gerke

A. There had been some discussion in the plant among the men about forming some such organization. I heard about it; I had seen one of the cards one day on my way to work, and as I was changing clothes a man handed me that card and asked me if I would sign it and I said: "Yes."

Q. Do you know who that man is?

A. Wellin.

Q. How do you spell that?

A. I don't know how to spell it but I think his name is Wellin.

Q. State whether or not in the signing of that application card for membership in the Steel Workers Union of America you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. Absolutely no.

MR. LAUTER: At this time, if it please, Mr. Examiner, I should like to point out that the record now has five witnesses employed in the Canton plant of the Republic Steel Corporation who have testified to substantially the same facts and replied to substantially the same questions as propounded by counsel for the Respondent. I want to object to this line of inquiry on the ground that it is incompetent, irrelevant and immaterial and further on the ground that it is cumulative, and in addressing my remarks on this line of inquiry I want to renew my motion and objections that have been applied to the witnesses who have testified with respect to the Massillon plant.

(Discussion off the record.)

MR. DAY: At this time the Respondent advises the Court that there are approximately, according to our present information which may be corrected and changed later when checked, some 2500 employees of the Respondent Company at Canton whom the Respondent now seeks to call as witnesses, and to whom the Respondent desires to propound questions heretofore propounded by the Respondent to the witnesses who have already testified with relation to Canton, and such other questions as may be necessary in individual cases to elicit the facts in connection with the conduct of these witnesses in the matters heretofore involved.

MR. LAUTER: At this time, if it please, Mr. Trial Examiner, in view of the statement made by counsel for the Respondent Company, I now renew my objection and restate the motions, and direct your attention particularly to my argument that the testimony would tend to be cumulative in view of the statement just made by counsel for the Respondent Company about calling 2500 witnesses, that their testimony would be substantially the same, and would be substantially as to the same facts.

TRIAL EXAMINER LINDSAY: I will sustain the objection made by counsel for the Board for the reasons as stated in the ruling covering the testimony pertaining to the Massillon part of the hearing, so that the ruling just now passed upon pertains to the Canton part of it and is the same as that pertaining to the Massillon part of the case.

MR. DAY: May we have an exception?

TRIAL EXAMINER LINDSAY: Let the record show an exception is granted.

MR. DAY: Exception.

(Discussion off the record.)

MR. DAY: First as to Massillon. As to the witnesses who have testified and whose evidence has been in part excluded.

The Respondent represents to the Trial Examiner and offers to prove that these witnesses each and all signed the Back-to-Work petition and signed the application cards for membership in the Independent Association of Republic Employees of their own free will and without being influenced in that regard to any extent whatsoever by the Respondent or any of its officers and agents and the Respondent believes that if permitted these witnesses would so testify as to the above.

As already indicated the Respondent now seeks to call as witnesses in this hearing approximately 2000 employees of the Respondent at Massillon and to propound to said witnesses and each of them the questions heretofore propounded by the Respondent to the witnesses who have already testified and such other questions as may be necessary in individual cases to elicit the facts in connection with the conduct of these witnesses in the matters hereinbefore noted. The Respondent represents to the Trial Examiner and offers to prove that each and all of these witnesses did not wish to go on a strike but did wish to continue at work at the Massillon plants of the Respondent, and that they signed the Back-to-Work petition at Massillon and application cards for membership in the Independent Association of Republic Employees of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the Respondent, its officers or agents.

The Respondent believes and represents to the Court that each and all of these witnesses would so testify if permitted by the Trial Examiner.

The Respondent in connection with its offer of the evidence of these approximately 2000 witnesses states that such evidence is admissible, relevant, competent and material under the issues presented by the complaint and answer in this case and the evidence introduced by the Labor Board, and that the Respondent has the right and should have the opportunity to offer this evidence as a part of its defense under the express provisions of the National Labor Relations Act.

The Respondent also believes that this evidence is not cumulative in character and subject to objection upon that ground.

TRIAL EXAMINER LINDSAY: Now, as to Canton.

MR. DAY: I think I had better read it right into the record.

(Discussion held off the record.)

MR. DAY: As to the witnesses who have testified, and whose evidence, has been in part excluded, the Respondent represents to the Trial Examiner an offer to prove that these witnesses each and all signed the application cards for membership in the Steel Workers of America of their own free will, without being influenced in that regard to any extent whatsoever by the Respondent or any of its officers and agents, and the Respondent believes that if permitted, these witnesses would so testify. The Respondent now seeks to call as witnesses in this hearing approximately 2500 employees of the Respondent at Canton and to propound to said witnesses and each of them the questions heretofore propounded by the Respondent to the witnesses who have already testified and such other questions as may be necessary in individual cases to elicit the facts in connection with the conduct of these witnesses in the matters hereinbefore noted. Respondent represents to the Trial Examiner and offers to prove that each and all of these witnesses did not wish to go on a strike but that all wished to continue at work at the Canton plant of Respondent and they signed the application cards for membership in the Steel Workers Union of America of their own free will without being influenced in that regard in any manner whatsoever by anything that was said or done by the Respondent, its officers or agents.

The Respondent believes and represents to the court that each and all of these witnesses would so testify if permitted by the Trial Examiner.

The Respondent in connection with its offer of the evidence of these approximately 2500 witnesses states that such evidence is admissible, relevant, competent and material under the issues presented by the complaint and answer in this case and the evidence introduced by the Labor Board, and that the Respondent has the right and should have the opportunity to offer this evidence as a part of its defense under the express provisions of the National Labor Relations Act.

I want to say at this time that the figures of 2000 at Massillon and 2500 at Canton are in accord with our present information; that a check is being made on it and we would like to have the right to amend it if, when the check is concluded, we find the facts to be different.

I want to also add as to Canton that Respondent also believes that the evidence of these witnesses is not cumulative in character and subject to objection upon that ground.

MR. LAUTER: I want the record to be clear, that in making its offer of proof, there is a statement to the effect that counsel for Respondent company proposes to ask such other questions as may be necessary in individual cases to elicit the facts. My inquiry is directed as to whether or not that is not intended to be limited to such matters as affect the Back-to-Work Petition and the application cards and not to go beyond the type of questions that have already been asked of witnesses who have already testified in connection with this hearing both with respect to Canton and Massillon.

MR. DAY: It does relate and is intended to relate only to Back-to-Work petitions and membership applications in the Union, and on the question, Mr. Lauter, as to whether or not these men wanted to go out on the strike.

TRIAL EXAMINER LINDSAY: Now, off the record.

(Discussion held off the record.)

MR. LAUTER: I should like to point out for tl record at this time that this case does not involve vi lation of subdivision 5 of Section 8 of the Act, ar that sub-section 9-C of the Act is also not involved i this case.

TRIAL EXAMINER LINDSAY: Is there ar further testimony?

MR. DAY: If the Court please, this concludes tl evidence and testimony which the Respondent desir to offer at this Canton and Massillon hearing. We d wish to say, however, that we are investigating certai matters in connection with Canton and Massillon, ar it may be in the presentation of the case at Clevelar or Youngstown something may develop reflecting o Canton and Massillon that we might wish to put i evidence at either Youngstown or Cleveland.

TRIAL EXAMINER LINDSAY: Under thos circumstances, if the attorneys representing the R spondent give me some idea of what that testimony i and if I feel it is material, that right shall be granted

MR. DAY: And I want to also say that I haven had a chance to check up this matter with either Judg Pontius or Mr. Veach for reasons which your Hono knows. That is an additional reason why I migl want to offer something at Canton and Massillon— mean concerning Canton or Massillon, at Youngstow or Cleveland.

TRIAL EXAMINER LINDSAY: Well, let th record show that I will give you every courtesy in tha regard that is possible.

MR. DAY: Thank you.

TRIAL EXAMINER LINDSAY: Now, the hea ing is adjourned, and we will reconvene the hearing a Youngstown in the County Courthouse at 10 o'clock i the forenoon of September 17, 1937.

(Thereupon at 10:30 a. m., September 16, 1937, a adjournment was taken until 10 o'clock a. m. September 17, 1937.)

Court of Appeals Room, Mahoning County Court House, Youngstown, Ohio, Friday, September 17, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and A. Erdrich, Esq., of the firm of Day, Veach & Young, Union Trust Building, Cleveland, Ohio; .

Judge Chas. F. Smith, David E. Jones, Esq., Harry S. Manchester, Esq., R. D. Huxley, Esq., and Geo. Renner, Esq., of the firm of Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio, appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing will come to order.

(Discussion off the record.)

CAPTAIN CHARLES RICHMOND

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) Your name, Captain?

A. Charles Richmond.

Q. How are you employed?

A. Employed with the City of Youngstown in the Police Department.

Q. In what capacity are you employed there in the City of Youngstown?

A. Acting Captain; Acting Captain.

Q. When did you first become a member of the Youngstown police?

A. April 1st, 1913.

Q. Has your service with the Police Department been continuous over the period of that to the present time?

A. No, sir.

Q. For how long were you on before there was an interruption?

A. About five years and six months.

Q. Then what happened?

A. I resigned in September, 1918, and came back August 1st, 1919.

Q. Has the service been continuous since then?

A. Yes, sir.

Q. What different positions in the Police Department have you held?

A. I have been in all the services as a patrolman, detective, sergeant, and acting captain.

Q. How long have you been acting as captain in this particular period?

A. About a year and six months.

Q. What was your vocation during the time, and prior to the time you were not with the Police Department?

A. Railroader.

Q. What is that; with what company?

A. Erie Railroad.

Q. How many years were you engaged in that occupation?

A. About seven years.

Q. Well, in what capacity were you working?

A. First as a brakeman in train service and as a detective in the Police Department.

Q. While you were working on the railroad, were you a member of any Union?

A. Yes, sir.

Q. You are not a member now, there being no Union for your particular vocation, is that correct?

A. That is it.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and move that the answer be stricken as to whether or not this witness is a member of any Union or not. I am not going—

MR. SMITH: I will not insist upon it if you want it out.

Q. Was there any prejudice that you have against the Union?

A. No, sir.

MR. LAUTER: I object to it on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken. "Prejudice that you have against the Union."

TRIAL EXAMINER LINDSAY: Yes. That is a complete conclusion.

MR. SMITH: I will not press that.

TRIAL EXAMINER LINDSAY: The answer is stricken.

Q. Captain, when did you first have anything to do in connection with the recent strike here in this valley; the steel strike?

A. May 26, 1937.

Q. What was that occasion?

A. I was driving a City car in company with a sergeant over Division Street in the Brier Hill Section when I was stopped by pickets who informed me they were closing the road, and had closed the road; and after some persuasion I went through and came out through Federal and Division Streets, when I was stopped again and they told me that they had closed the road and I could not come through; I would have to come back the way I went.

MR. LAUTER: I am sorry I will have to interrupt. I am not able to wait until the end of this witness' answer. I want to object to the statement of the witness where he makes the reference to persuasion. I move that that be stricken from the record and move that the witness be instructed not to state any conclusions but the conversations themselves.

TRIAL EXAMINER LINDSAY: Yes; that is sustained. The word persuasion is stricken from the record. (To the witness) You must understand, Mr. Witness, that you can only tell what actually transpired. What they said and what you said. You can't draw your conclusions and then give your conclusions.

THE WITNESS: (Continuing) They told me I could not get through; that the road was closed. When I asked them why I could not get through they told me there was a strike on, and I told them that was a public highway and a strike should not close that road. I got through and came out through Division and West Federal and they stopped me and told me I could not go through there; I could not go out through Division and Federal Streets. I got through and called the police box for men to be detailed at that point to keep the road open, and started back through Division Street, and at the first point where I was stopped I was stopped again and told I could not get through. I got through there and went back over to the first point where I had been stopped and the pickets left the Division and Federal Street intersection and went to the mill gate where they attempted to stop traffic there.

MR. LAUTER: I move that it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, it may be stricken.

A. (Continuing) They did stop traffic until the Sergeant and I came there; until by getting the automobiles in motion opened up the streets up again.

MR. LAUTER: At this time I want to object to this line of inquiry; to this particular question; and ask that it be stricken on the ground that it is incompetent, irrelevant and immaterial as to what the pickets did at that particular time as being out of the scope of the issues in this case.

TRIAL EXAMINER LINDSAY: Ruling reserved.

MR. SMITH: You say you reserve the ruling?

TRIAL EXAMINER LINDSAY: Yes.

Q. In what way was the traffic stopped?

A. It was—

Q. (Continuing) That you spoke of at this point, Captain?

A. The pickets would blockade the road by standing in groups and tell the automobile drivers to turn around and go back the other way.

MR. LAUTER: I object to that question and ask that the answer be stricken unless the witness has personal knowledge of that incident.

MR. SMITH: Do you have personal knowledge of this situation as to what they were doing?

THE WITNESS: Yes, sir.

Q. Did you hear the pickets—

A. Yes, sir.

Q. —talking to the drivers of the automobiles?

A. Yes, sir.

Q. Just state what they said?

A. They said, "This road is closed, you can't get through."

Q. Was there any blockade of any kind in connection with any of the streets there that night?

A. No, sir.

MR. LAUTER: May I have the question reread?

MR. SMITH: Any blockade?

MR. LAUTER: I object to that.

Q. (By Mr. Smith) Other than the pickets stand~~ing~~ in the street?

A. No, sir.

MR. LAUTER: Just one second, I will object to that question and move that the answer be stricken on the ground—

MR. SMITH: He says, "No."

MR. LAUTER: Well, I say, I move that the answer be stricken on the ground that the use of the word "blockade" calls for a conclusion.

TRIAL EXAMINER LINDSAY: Yes, that is stricken. So is the answer.

MR. SMITH: All right. He says, "No."

TRIAL EXAMINER LINDSAY: Let's have this understood, we will get along much faster and much better if, in your questions you will leave out conclusions. Now, you know that to establish what a blockade is you must show facts.

MR. SMITH: I will endeavor not to include anything of that kind. I will endeavor to avoid it.

TRIAL EXAMINER LINDSAY: Because what you think a blockade is may not be a blockade according to the idea of someone else.

MR. SMITH: That is right. I will endeavor to avoid that.

Q. (By Mr. Smith) Do the statements or testimony that you have given, cover about what you observed on that night? The night of the strike?

A. Yes, sir.

Q. May 26th?

A. I believe they do.

Q. Well, now, when did you next make any observations in connection with this strike after the night of the 26th of May?

A. Well, I don't recall the exact date.

Q. Can you give us an idea of how long it was after May 26th?

A. It was in the first part of June.

Q. The first part of June?

A. Yes, sir.

Q. And where were these observations made?

A. On the Cente Street Bridge.

Q. Well, now, just tell us what you observed there?

A. I was driving west on Poland Avenue, turned north over Center Street Bridge where I heard a whistle and I paid no attention to it, and was glancing right and left over the bridge, and suddenly I saw a man at my left side with a ball bat in his hands raised in a manner like that (indicating).

Q. Now, by "in a manner like that" you mean with his hands up over his shoulders?

A. Yes, sir. The ball bat raised in the air.

Q. Yes.

A. I stopped and asked him what the trouble was. He says, "Oh, I didn't see who you were." I asked him what the occasion was for raising the ball bat. He said he was there to stop cars that were going too fast. He was standing on the east side of the bridge, not on the sidewalk, but in the roadway.

Q. And how fast were you going, Captain?

A. I would judge about 30 miles an hour.

Q. You were permitted to proceed, then, were you?

A. Yes, sir.

Q. Now, when was the next incident that you recall, or observations in connection with this strike?

A. Well, frequently at night, I can't recall the dates, I was on the night turn from 11 p. m. to 7 a. m. about sometimes—oh, the middle of June, when we were on twelve hours.

Q. That is, you were working on eight hour tricks before?

A. Yes, sir.

Q. Now, directing your attention up until when you went on the twelve hour trick, work per day, just state what you observed in connection with it, up until that time?

A. At the mill entrances pickets were armed with clubs, gas pipes, and weapons of different types, in the shape of clubs.

Q. About how large would you say those clubs were that you observed?

A. Oh, they varied from six-inch piece of steel to base ball bats, common baseball bats.

Q. Now, in going at those times, did you make any survey around the picket line?

A. Yes, sir.

Q. And at what places did you observe these pickets that were armed, as you have suggested, or have stated?

A. Well, at the entrances to the Sheet & Tube main plant in Briar Hill and at the office entrance on West Federal Street, under Market Street Bridge at Republic; Front street at the side of the Bessemer plant of the Republic; Tube Street, off Poland Avenue; stop 5; stop 7, Center Street Bridge; Edgewood Street and stop 14 at the Sheet and Tube Campbell Street.

MR. LAUTER: I think counsel for respondent will consent to withdrawing the testimony of observations of this witness with respect to the Youngstown Sheet & Tube.

MR. DAY: Yes, we will.

TRIAL EXAMINER LINDSAY: All right, that may be stricken.

Q. (By Mr. Smith) In the questions that I ask you now, confine yourself to what you observed in connection with the Republic Steel Corporation plants?

A. The reason I mentioned these other plants is because—

MR. LAUTER: I object.

A. —I was in charge of the entire strike zone.

MR. SMITH: Just a minute now.

TRIAL EXAMINER LINDSAY: Understand that when a counsel gets up and starts to make an objection, that you are supposed to stop immediately.

THE WITNESS: All right, sir.

MR. LAUTER: I move that the remarks of the witness be stricken.

TRIAL EXAMINER LINDSAY: For the time being now, all of the remarks are stricken from the record. Restate that question.

(Question read by the Reporter.)

Q. (By Mr. Smith) Will you just state what you observed in connection with Republic Steel Corporation plants?

A. The pickets were armed with baseball bats, pieces of pipe and other weapons of that nature, and the main office entrance, Republic Iron & Steel, under Market Street Bridge, alongside of the Bessemer plant, and Front Street at Tube Street entrance to the Republic, stop 5 entrance to the Republic, stop 7 entrance to the Republic, Center Street Bridge and along Edgewood Street beside the Republic.

Q. Now, what part did you take in the strike, as to this area, after the time that you went on twelve hour a day turn?

A. I was detailed to the strike zone only.

Q. What did the strike zone that you were detailed to cover, or consent [consist] of?

A. All the gates and entrances to the plants on strike. Streets in those areas.

Q. Well, now, that covered any other plant than the Republic, also?

A. Yes, sir.

Q. Now, do you remember on or about the 9th of June a disturbance at the Market Street Bridge?

A. Yes, sir.

Q. Were you there?

A. I was.

MR. LAUTER: What was the date of that, please?

MR. SMITH: June 9th.

Q. (By Mr. Smith) Just state in your own way what occurred as near as you can, and when you went down there and what you observed and saw?

A. I went down there—

MR. LAUTER: Just one second. I want to object to this question, object to this line of inquiry. There is no testimony in the Board's case with respect to June 9th. Outside of the scope of the issues in this case; incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: May I see the complaint and the answer?

(The following question and answer were again read:

"Q. Just tell in your own way what occurred as near as you can when you went down there; what you observed and saw.

A. I went down there.")

(Discussion off the record.)

A. I went down there under the Market Street Bridge as I was ordered about 5 minutes to 11; a food truck was sent into the Republic mill. Pickets on duty there and others who came later were around the mill entrance; that is the driveway to the mill; and also the main office. There was some confusion there and presently Bobby Burke—

MR. LAUTER: I move that the answer be stricken with regard to confusion.

TRIAL EXAMINER LINDSAY: Yes. That is stricken.

Q. Were there a number of pickets around there?

A. At the beginning about 25.

Q. How many pickets were there later in the evening?

A. I would say 200 or 250.

Q. Now, do you know who was in charge of the gatherings there in behalf of the C. I. O. or anyone on behalf of them?

A. Bobby Burke—

MR. LAUTER: I object to that question and ask that the answer be stricken unless the witness has testified as to his own personal knowledge as to who was in charge that night.

Q. Do you know Bobby Burke—

MR. LAUTER: Let us get a ruling on the objection first.

TRIAL EXAMINER LINDSAY: The objection is sustained.

MR. LAUTER: The answer is stricken?

TRIAL EXAMINER LINDSAY: The answer is stricken.

Q. Do you know Robert Burke?

A. Yes, sir.

Q. Do you know whether or not he was an C. I. O. organizer and leader?

A. From his own statements, yes, sir.

Q. Did you see him there that night?

A. Yes, sir.

Q. Just tell what you heard and saw there.

A. I don't recall all his speech. I heard him addressing the crowd from the steps leading from Market Street Bridge level to the street level under the bridge.

Q. Yes.

A. I heard him say to one of the men coming down the steps down there—he turned and glanced at him and said: "Get out of here, you son-of-a-bitch" and he turned around to the crowd and said: "Go get that son-of-a-bitch." Four or five men pushed by me up the steps and started. I started to call the office for men to be sent to the bridge level at the top of the bridge, and I heard, when I came back from the office where I had sent the men to call on the telephone, I heard this man calling for help—I heard a call for help, rather, from the top of the bridge. I sent men around in a car from underneath to the top, and they came back and said a man had been shot and sent to the City Hospital.

Q. Now, what else did you observe there? As to the pickets that were there; as to what occurred.

A. They were very angry.

TRIAL EXAMINER LINDSAY: That is stricken.

Q. Now, state what it was that they did; what they said; what you observed.

A. I heard Burke says: "These cops have machine guns in their car and gas in their pockets". And I invited him to inspect our car. There was no machine gun in it and he knew it when he looked at it.

Q. Did he inspect it?

A. He did.

Q. Did he find anything of the character which he suggested?

A. He didn't.

MR. LAUTER: Mr. Reporter, will you read back four or five questions and answers?

(The last five questions and answers were read.)

MR. LAUTER: Is that the same day.

MR. SMITH: Oh, yes, the same day; the same day at night.

Q. Now, did you observe any identification marks of any kind in connection with the crowd that was there?

A. They had C. I. O. buttons on; some of them.

Q. What did you observe as to anything they carried in their hands?

A. Only one man that I saw had a club.

Q. How many policemen were down there?

A. I saw, I would say, about 15 or 18.

Q. You may state what, if anything, occurred as to any injury to any policeman.

A. Later two of the men were injured when they came down the steps.

Q. Now, to get this picture a little bit clearer as to the picture, just tell us—

MR. LAUTER: Excuse me, Judge Smith. I want to object to this question and ask that the answer be stricken as to the injury of the two policemen on the ground that it is incompetent, irrelevant and immaterial and outside of the scope of the issues in this case.

TRIAL EXAMINER LINDSAY: Yes, it is stricken, unless you can establish those facts; and the answer is stricken.

MR. SMITH: We expect to have both of these men on the witness stand that will tell it themselves.

TRIAL EXAMINER LINDSAY: Then the whole answer is stricken.

Q. Did you observe these men that you spoke of—the policemen when you said they were injured or not? Were you present?

A. No, sir, I wasn't.

Q. You didn't see it?

A. No, sir, I talked to them later.

Q. Now, let us get a little better description of this situation. I believe that Market Street Bridge is the level of the bridge, that it is considerably above the ground level at that point of the Republic plant?

A. Yes, sir.

Q. About how high is it?

A. The best estimate I can give is 50 or 60 feet.

Q. Now, this occurrence that you spoke of occurred down on the ground level under the bridge; the Market Street Bridge?

A. Yes, sir.

Q. How do you at that point reach the ground level from the top of the bridge; otherwise to go up to the bridge?

A. By a series of steps which run kind of zigzag; steps lead to it.

Q. Was there a platform?

A. Yes, sir, there are steps; then a platform; then steps kind of turned around and you reach the top that way.

Q. Now, you spoke of Mr. Burke standing on the steps. Was it on these steps that you spoke of?

A. Yes, sir.

Q. Was it the same steps that this man came down when he called this man the names and told the men to go get him?

A. Yes, sir.

Q. You say there were about 15 policemen there?

A. I would say 15 or 18.

Q. They came as a result of your call to the office for help?

A. Yes, sir.

Q. Were there any other officers there aside from the City police?

A. Not at that time.

Q. Did any come later?

A. Yes, sir.

Q. What officers were there?

A. Deputy sheriffs and the sheriff from the County Jail.

Q. How many of these came, do you know?

A. No, sir, I didn't see how many there were.

Q. Did you hear any shots fired other than the one you mentioned?

A. Yes, sir.

Q. About how many?

A. I would say two.

Q. Were there any shots fired by the police?

A. No, sir.

Q. Were there any shots fired?

A. No, sir.

Q. Was there any gas used in connection with this?

A. Later, yes, sir.

Q. Who used that gas?

A. The sheriff's men used gas and we used some gas.

Q. At that time were there any of the strikers there from the crowd that was arrested?

A. Yes, sir.

Q. Do you know about how many?

A. No, sir, not personally.

Q. Were they arrested by the City police or the sheriff?

TRIAL EXAMINER LINDSAY: Just a minute.

(Discussion off the record.)

(Record read by Reporter.)

Q. What did you observe in connection with this situation down there as to anything done by the pickets in connection with your police department? Were there any missiles of any kind that were used in connection with this?

MR. LAUTER: Well, I want to object to that question as leading the witness so clearly that—

TRIAL EXAMINER LINDSAY: Yes, let's try not to lead the witnesses who are—

MR. SMITH: Just—Well, may I proceed?

TRIAL EXAMINER LINDSAY. Yes. Just withdraw that question, Mr. Smith.

MR. SMITH: Yes, I will withdraw that question.

Q. (By Mr. Smith) What did you observe as to any weapons or anything else in connection with the pickets there, other than this one club you spoke of?

A. There were stones piled up in different positions around the fire that the pickets had in an oil drum.

Q. Did you observe anything that was done with those?

A. No, sir, I didn't. I was too far back.

TRIAL EXAMINER LINDSAY: Just a minute. Entirely off the record.

(Discussion held off the record.)

MR. SMITH: May I proceed?

TRIAL EXAMINER LINDSAY: Yes.

Q. (By Mr. Smith) Do you know of your own knowledge who placed these stones there?

A. No, sir.

Q. Did you have occasion—

MR. LAUTER: Now, does the record show the witness' answer?

MR. SMITH: He said, "No."

A. No, sir.

MR. LAUTER: I didn't hear the answer. I just saw him shake his head.

Q. (By Mr. Smith) Did you have occasion at different times other than this night of June 9th, to be under the Market Street Bridge?

A. Yes, sir.

Q. What did you observe in there in connection with any stones or any other missiles of any kind, when you were there at other times?

A. This space under Market Street Bridge is under the control of the County, and the space—the space rather under the bridge is kept clear for the parking of cars and trucks owned by the County, machines of different types—

MR. LAUTER: I move this answer be stricken.

MR. DAY: We are entitled to that.

MR. LAUTER: He is not entitled to state that this property is owned by the County.

MR. DAY: What he had seen it used for, we are entitled to.

MR. LAUTER: Well, I move the statement as to who owns that property be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken. Tell what you saw. Go on.

A. This space was kept clear, up to the time the pickets came.

Q. And what did you observe afterwards?

A. They had a coal pile there. They had an oil drum for a fire, and they had piles of small stones back away from the fire about 10 feet.

Q. Did you observe anything else done, there?

A. Well, they had a water bottle and cooler and things of that type, that is about all.

Q. Did you observe those before or after the night of June 9th?

A. They were there a few nights before June 9th. I don't recall the exact date.

Q. Did you observe them at any time afterward?

A. Some of it. Yes, sir, the coal was taken away, the pile was reduced and the oil drum was taken out of there.

Q. Now, does that cover about what happened on June 9th that you observed and heard?

A. That is all I can think of, yes, sir.

Q. I wish to direct your attention to the night of June 19th and to Stop 5 entrance of the Republic mill and ask you if you were there on that night at that point?

A. Yes, sir.

Q. Now, just state what occurred at that time, what you saw?

A. About 7 o'clock in the evening I passed through there in an automobile and saw large groups of men and women on both sides of the street. The women were seated in chairs in the driveway of the Republic, and on the sidewalk of the city on the north side of Poland Avenue.

Q. Was the point where they were sitting on Republic property?

A. Yes, sir.

Q. What did you observe as to any identification marks on the people who were there?

A. Some of the men had buttons on, C. I. O. buttons, and I didn't notice anything on the women. They were dressed in various colored dresses.

Q. What did you observe as to anything they had in their hands? Not the women, the men.

A. I didn't—I don't recall seeing anything at that time in their hands.

Q. That was at what time in the evening?

A. About 7 o'clock.

Q. Now, just proceed as to what you did?

A. I stopped at C. I. O. headquarters and inquired for Mr. Fagin who was, I believe, the manager or leader here in that group.

Q. Where is C. I. O. headquarters there?

MR. LAUTER: Object. At this time in order to save the record, if you recall, I want to move that all of the evidence with respect to the June 9th incident, which has been testified to by this witness be stricken from the record, on the ground incompetent, irrelevant, and immaterial, outside the scope of the issues in this case. On the grounds, if it please the Trial Examiner, there is no identification of any of the persons there. He has testified as to a small pile of stones. He is unable to state as to who gathered those stones. He states positively in the record that he saw no stones thrown. Now, that testimony can't possibly mean anything in this case. It is unrelated to the issues. I understand that you reserved ruling on my objection at the time that I made it. I respectfully request that you at least reserve ruling on my motion, that is ruling on the motion to strike, as I made before, to that line of inquiry.

MR. SMITH: That applies to June 9th.

MR. LAUTER: That is correct. And in order not to interrupt again, may I at this time make my objection to this line of inquiry with respect to June 19th, if substantially the same type of evidence is going to be adduced with respect to that date.

MR. SMITH: Well, the evidence that will be adduced there will be very much greater and covering a longer period of time.

MR. LAUTER: Well, when I say "substantially the same" I mean acts of violence of individual pickets or members of the C. I. O., as being unrelated to the issues in this case, in no way connected with it.

TRIAL EXAMINER LINDSAY: Well, I will also reserve my ruling on that. It is 12 o'clock, so we will adjourn until 1:15.

(Thereupon, a recess was taken until 1:15 p. m.)

After Recess

(Whereupon, at 1:30 o'clock p. m., the hearing was resumed and the following proceedings were had):

TRIAL EXAMINER LINDSAY: The hearing will come to order.

CAPTAIN CHARLES RICHMOND

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

MR. SMITH: Will you read back the last two questions and answers, please?

(The last two questions and answers were read.)

Q. Where is C. I. O. headquarters located there on Poland Avenue?

A. At that time it was 1656 Poland Avenue.

Q. Where is that with reference to Stop 5?

A. Oh, about two blocks east on Poland Avenue.

Q. East on Poland Avenue?

A. Yes, sir.

Q. That is farther out?

A. Yes, sir.

Q. Did you see Mr. Fagin around?

A. No, sir.

Q. Did you talk with anyone else there?

A. Yes, sir.

Q. Who?

A. I talked to John Debozzy. He was a picket captain on days.

Q. Where was Debozzy stationed as a picket captain?

A. At Stop 5.

Q. Now, just tell us what your conversation was with Mr. Debozzy.

A. I told Mr. Debozzy I noticed women were seated in the driveway and on the sidewalks of the street, and that the pickets were massed in groups on the north side of the street and also on the south side of the street.

Q. At what location?

A. At Stop 5. I asked him to instruct those pickets to resume their walking as they had been doing up to that day; and I asked him to instruct the women to take their chairs and leave the sidewalk and the driveway, and if they wanted to join the pickets in the line—if they wanted to do that, that was O. K.

Q. You had that conversation?

A. Yes, sir.

MR. LAUTER: I think, Judge Smith, if you will point out to the Trial Examiner, who may not be familiar and may not know this area that Stop 5 is the fifth stop as I understand it on the bus that goes out in that direction. You might ask the witness to explain that location in order to make that clearer.

MR. SMITH: I will do that.

Q. For the purpose of getting the location, can you designate what Stop 5 means?

A. Stop 5 is an old streetcar stop that has been in effect there for years before they started to stop at the different streets; that was the fifth stop after leaving the Square.

Q. On account of usage this Stop 5 has become the name of a location?

A. Yes, sir.

Q. That Stop 5 is located out east near the entrance to the mill at that point?

A. Streetcars and busses stop directly opposite the entrance to the mill.

Q. There is a railroad located immediately south of the—east a short distance and south of Poland Avenue, isn't it?

A. The Youngstown and Suburban Railroad is a switch connected with the Pennsylvania Railroad; that is south of Poland Avenue.

Q. Now, I mean the same railroad that runs across on the north side of the Republic plant.

A. That would be north of Poland Avenue.

Q. Yes.

A. Yes, sir.

Q. About how high is that embankment, if you know?

A. I would judge about 15 or 16 feet.

Q. Above the level of the ground on each side of it?

A. Yes, sir.

Q. The land on the outside, on the south side of this embankment and in between that Poland Avenue was connected with a parking space there, is that right?

A. Yes, sir.

Q. About how far to the east of the entrance of the plant does that parking space extend?

A. I would say between six and seven hundred feet.

Q. Now, there will be probably reference made to the Security Lumber Company. Where is that located?

A. That is at the east end of that parking lot.

Q. There will be probably reference to Bolevich's Cafe. Where is that located with reference to that?

A. Almost opposite the driveway of the entrance to the Republic land.

Q. Where is that with reference to Stop 5?

A. About two blocks east on Poland Avenue.

Q. That is further out?

A. Yes, sir.

Q. Did you see Mr. Fagin?

A. No, sir.

Q. Did you talk with anyone else there?

A. Yes, sir.

Q. Whom?

A. I talked to John DeBozzy, who was picket captain on days.

Q. Where was DeBozzy stationed as picket captain?

A. At Stop 5.

Q. Now, just tell what your conversation was with Mr. DeBozzy?

A. I told Mr. DeBozzy I had noticed women were sitting in the driveway and on the sidewalks of the street after the pickets were massed in groups on the north side of the street and also on the south side of the street.

Q. At what location?

A. At Stop 5, and I asked him to instruct those pickets to resume their walking, as they had been doing up to that day, and to ask the women to leave the chairs—to take their chairs and leave the sidewalk and the driveway, if they wanted to join the pickets in the line that was o. k.

MR. LAUTER: I think Judge Smith will have no objection if we point out to the Trial Examiner, who may not know, because he is not familiar with this area that Stop 5 is the fifth stop, as I understand it, on the bus that goes out in that direction? You might ask the witness to explain the location of this so it can be made clear to the Examiner.

MR. SMITH: All right, I will do that.

Q. (By Mr. Smith) For the purposes of getting the locations, can you designate what Stop 5 means?

A. Stop 5 is an old street car stop that has been in effect there for years, before they started to stop at the different streets. That was the fifth stop after leaving the Square.

Q. I see; and on account of the usage of that kind, this Stop 5 has become the name of the location?

A. Yes sir.

Q. And that Stop 5 is located at or near the entrance to the mill at that point, is it not?

A. Street cars and busses stop directly opposite the entrance to the mill.

Q. I see. Now, there is a railroad located immediately south—a short distance out of Poland Avenue, isn't there?

A. The Youngstown and Suburban Railway has a switch connected with the Pennsylvania Railroad that is south of Poland Avenue.

Q. Well, now, I mean the steam railroad that runs across on the north side of the Republic plant?

A. That would be north of Poland Avenue.

Q. Yes.

A. Yes, sir.

Q. About how high is that embankment, if you know?

A. I would judge about 15 or 16 feet.

Q. And above the level of the ground on each side of it?

A. Yes, sir.

Q. And the land on the outside, on the south side of this embankment and between that and Poland Avenue I believe was used as a parking place there, was it not?

A. Yes, sir.

Q. And about how far to the east of the entrance to the plant does this parking space extend?

A. I would say between six and seven hundred feet.

Q. Now, there will probably be reference made to the Security Lumber Company, where is that located?

A. That is at the east end of this parking lot.

Q. Yes; and there will probably be references made to Bolevich's Cafe, where is that located with reference to that?

A. Almost opposite the driveway of the entrance to the Republic mill.

Q. Now, probably reference will be made to some garage; where is that located with reference to Bolevich's Restaurant?

A. The Motor Express has a loading station in the rear, a building extending, I would say, 200 feet parallel with Poland Avenue, in the rear of the Bolevich Cafe, and between Bolevich's Cafe and the Motor Express was a series of garages connected on Bolevich's property.

Q. And going back to this garage, how do you approach it?

A. Through a driveway between Bolevich's Cafe and a boarding house operated by Bolevich just east of the cafe.

Q. About what is the distance or the width of this driveway?

A. I imagine about 14 to 16 feet.

Q. And that extends back between these buildings and ie garage?

A. Yes, sir.

Q. And that is south of Poland Avenue and about at ight angles to Poland Avenue, isn't it?

A. Yes, sir.

Q. And Poland Avenue runs east and west at that oint, doesn't it?

A. Almost east and west.

Q. Now, reference will probably be made to the Standrd Oil Filling Station. Will you describe where that is ocated, in that vicinity?

A. That is at the corner of Powersdale and Poland venue, about 300 feet east of the entrance to the mill at top 5.

Q. And on the south side of Poland Avenue?

A. Yes, sir.

Q. And Powersdale is a street that runs north and outh and runs off at right angles from Poland Avenue, is iat correct?

A. Yes, sir.

Q. Now, there is Powersway, where is that located?

A. That runs from Center Street, the end of the Center treet bridge in a southeasterly direction.

Q. Off from Poland Avenue?

A. From Poland Avenue, yes, sir.

Q. About what distance is Center Street Bridge or owersway from Stop 5?

A. I would judge pretty close to half a mile.

Q. What did Mr. DeBozzy say to you as to your reuest, in answer to your request?

A. I got no answer from him at all.

Q. Now, just state what you did following that?

A. I left there in the car and went over Center Street ridge, over Edgewood and Jackson, and turned there, ame back over Center Street Bridge, east on Poland Avenue to Stop 14. Turned there, came back up Poland Avenue. I crossed Center Street Bridge again to Edgewood Street, and stopped there for several minutes. When I started again I came over Center Street Bridge and turned west on Poland Avenue towards Stop 5.

MR. LAUTER: If you please, Mr. Trial Examiner, we have had a rather lengthy description of this area; have had a lengthy description by this witness of his peregrinations around that area. I would like at this time to inquire from counsel for respondent what the purpose of all this description is? It may not delay the proceeding in this case unduly.

MR. SMITH: I assure you, I thought that by following it in chronological order that I probably was hastening or getting through with it, and I thought that by giving a description of the locations there that it would give you a better opportunity to understand the testimony that will be later introduced. Now, he is coming back directly to Stop 5 at this point.

MR. LAUTER: I have no objection to this being the explanation of the area; I would like some statement of the reason for it, because if they are going to have any more testimony concerning violence by unidentified persons similar to the testimony that has already been given with respect to June 9th, I would like to make my objection at this time to this line of inquiry, instead of pursuing it for several hours without any explanation of what is going to happen.

MR. SMITH: I sincerely hope that the passage of time of several hours—it seems to me to have been probably a couple of minutes in getting the witness to state what he was doing. If it is not desired that I do that in detail, I will bring him right back to Stop 5 and ask him directly as to that.

MR. LAUTER: Perhaps counsel misunderstood me. It vas not my intentions to state for the record that it had taken several hours, but that several hours might be consumed from now on going into a phase of the case to which I think I may have a perfect right to object.

TRIAL EXAMINER LINDSAY: Yes, you have a right to object. There is no doubt about it.

MR. LAUTER: We have heard, now, testimony from this witness—he has been the only witness on the stand—I have heard testimony from this witness about incidents on June 9th, and on my objection to that testimony and my motion to strike, the ruling has been reserved. I would like at this time, if similar testimony is going to be offered with respect to incidents on June 19th, concerning which I have offered absolutely no evidence at all in the Board's case in chief—as I say, I don't want to interrupt Judge Smith in the presentation of his case, but if he is going to relate similar incidents, I want the record to preserve my right, not spend the time.

MR. SMITH: It will be, instead of similar instances, as to acts of violence that occurred at that point at that night, in which there was a riot there and several people killed and injured.

(Discussion held off the record.)

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: We will adjourn to tomorrow at 9 o'clock.

(Whereupon, at 3:05 p. m. September 17, 1937, an adjournment was taken to 9:00 o'clock a. m. September 18, 1937.)

Court of Appeals Room,
Mahoning County Court House, Youngstown, Ohio,
Saturday, September 18, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9 o'clock, a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Arno G. Erdrich, Esq., of the firm of Day, Veach & Young, Union Trust Building, Cleveland, Ohio;

Judge Chas. F. Smith, David E. Jones, Esq., Harry S. Manchester, Esq., R. D. Huxley, Esq., and Geo. Renner, Esq., of the firm of Harrington, Huxley and Smith, 1200 Mahoning Bank Building, Youngstown, Ohio, appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

CAPTAIN CHARLES RICHMOND

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

(Discussion off the record.)

(The last three pages of the hearing of September 17th was read.)

MR. LAUTER: If it please, Mr. Trial Examiner, to preserve my record at this time I should like to make certain objections and motions. Evidence has been introduced in this hearing with respect to certain acts of violence on June 9th, 1937; and counsel for the Respondent Company has indicated he intends to introduce evidence of certain other alleged acts of violence on June 19th, 1937.

I wish to object to the further introduction of any evidence of alleged acts of violence on June 9th, 1937, and June 19th, 1937, and specifically to this general line of inquiry.

I object to it on the ground that it is incompetent, irrelevant and immaterial. I wish to state for the record that no evidence was presented with respect to any occurrences on June 9th, 1937, and June 19th, 1937, and specifically state that no evidence respecting any violence was presented by counsel for the Board in the Board's case in chief during the presentation of the testimony regarding Youngstown. Now, counsel for the Board has alleged in the complaint and shown during this hearing specific instances of interference by the Respondent Company in violation of the National Labor Relations Act. For example: The trailing of S.W.O.C. organizers by identified Republic policemen. No defense testimony has been offered with respect to these specific instances of interference. Now counsel for the Board has alleged and shown specific instances of interference with peaceful picketing.

It is no defense to the proof of specific instances of interference with peaceful picketing for Respondent to attempt to show that on other occasions picketing was not peaceful. Further it is no defense to the proof by counsel for the Board of specific instances of peaceful picketing for Respondent or counsel for the Respondent to attempt to show what the police have alleged to have done when the picketing was not allegedly peaceful. Counsel for the Respondent Company was permitted a complete opportunity to present unlimited testimony in connection with the incidents which occurred at Massillon on July 11th, 1937; concerning which counsel for the Board presented evidence during the Board's case in chief. Counsel for the Respondent Company was permitted at Canton the greatest latitude in the introduction of testimony of alleged violence, not only in connection with certain acts and certain instances of July 11, 1937, with respect to which the Board's counsel has presented in chief but counsel for the Respondent Company was permitted the greatest latitude in presenting testimony concerning acts of violence in no way connected with the incidents of July 11, 1937, not occurring on that day or in the same vicinity.

Now, on this hearing the Respondent Company is charged in this case with the violation of Section 8, Subdivision 1, 2, and 3, of the National Labor Relations Act. I do not wish in any way to limit the right which counsel for the Company has to introduce any testimony concerning the violations of the National Labor Relations Act which have been alleged and which have been shown during this hearing.

No objection has been made to any showing of particular acts of alleged violence by any individuals specifically named in the complaint as having been discriminatorily discharged, laid off, or refused reinstatement.

I respectfully submit that a considerable body of testimony by the Respondent's counsel, consuming a vast amount of time, was introduced at Canton during which there was shown a great number of acts of alleged violence in no way connected with the parties involved in this proceeding; and I offer by way of illustration the incident of a railroad train of the Respondent Company running wild, and the conclusion of counsel for the Respondent that the responsibility of the act was by inference that of the C. I. O., by his comment; "Who else would do it?" at Page 4144 of the record as illustrating the position of the Respondent in this case.

I respectfully state, Mr. Trial Examiner, that it is shown by counsel for the Respondent that a member of the C. I. O. who is identified and named as committed an act of alleged violence cannot be tantamount to fixing responsibility upon all strikers in the locality of the alleged violence at the time of its occurrence. That if the individual who has committed an act of violence is not named but is identified because for example: He wore a C. I. O. button, his actions cannot bind the entire membership of the C. I. O., and that if as in so many instances of proof of alleged acts of violence in Canton and Massillon, the party committing the act of violence was identified only as a member of the group, some of whom were C. I. O. members; certainly no responsibility can be fixed for the action. The Respondent in this case in its proof at Canton and Massillon has gone to even greater lengths and has introduced testimony of acts of alleged violence by individuals in no way identified or connected with the C. I. O.

By way of illustration I refer to the testimony of David Diamond offered by Respondent on Pages 3625 to 3641, and Horace T. Wertz on Pages 3617 to 3621, and George McKenzie on Pages 3621 to 3625, and E. D. Gibson on Pages 4110 to 4115: The violence by unidentified individuals is most certainly in this case not in issue. It was to be hoped that after the testimony introduced in Canton and Massillon counsel for the Respondent would commence to meet the issues and offer some defense to the proof of specific instances of violations of the National Labor Relations Act by Respondent Company to the specific evidence introduced by counsel for the Board that organizers for the Steel

Workers Organizing Committee would be trailed by the agents of Republic in Canton, Massillon and Youngstown and other cities in which Republic has plants. The Respondent significantly has failed to introduce any defense testimony.

I therefore respectfully object to the testimony concerning alleged acts of violence on June 9th, 1937, and June 19th, 1937, and state that my objection is based on the fact that it serves only to delay the proceedings in this case; and I object further and restate it on the ground that it is incompetent, irrelevant and immaterial and also that it has not been gone into in the Board's case in chief, and that it is outside the scope of the issues of this case, and that it is incompetent, irrelevant and immaterial.

MR. DAY: May I ask you at this time whether or not you contend that the Board has introduced some evidence in support of each and every charge in the complaint?

MR. LAUTER: Well, in respect to that, if you please, Mr. Trial Examiner, the record is the best evidence of what we have shown in connection with the allegations.

TRIAL EXAMINER LINDSAY: Yes, that is right.

MR. LAUTER: I think it will have to speak for itself.

MR. DAY: May I ask you this question. Assuming that according to your theory of the admissibility of certain evidence, the witnesses are able to identify one or all of the persons engaged in the riot or violent and disorderly conduct—

TRIAL EXAMINER LINDSAY: Well, may I stop you there?

MR. DAY: Does that make the evidence admissible as against him?

TRIAL EXAMINER LINDSAY: May I stop you right now on that line of questioning because Mr. Lauter is not on the witness stand.

MR. DAY: I am just trying to find out how broad his position is.

TRIAL EXAMINER LINDSAY: I do not permit those things, Mr. Day.

MR. DAY: All right, now I want to state, Judge Smith may also have some statement to make as to why we believe this evidence is admissible. In the first place we believe and submit that the evidence is competent, relevant and material under the charges presented in the complaint, under the assertion and allegations of the answer of the Respondent and under the issues presented by the complaint and the answer not limiting ourselves to any particular charge contained in the complaint we call attention at this time to paragraph 38 of the complaint as follows: "The respondent by its officers and agents at its plants, Youngstown, Canton, Massillon, Warren, Niles and Cleveland in the state of Ohio has interfered and still does interfere with the right of its employees peacefully to picket said plant and has and does intimidate its employees of said plant by shooting at them and by throwing bottles and other dangerous missiles thereby interfering with restraining and coercing said employees in the exercise of their right in self-organization in the meaning of Section 8 Subdivision 1 of the said Act."

We submit that the evidence here under consideration is admissible with relation to this paragraph of the complaint and that it tends to show whether or not the picketing by the strikers in whose behalf the S. W.

O. C. has sought to institute this action has in fact been peaceful. We think we have the right to show under this paragraph and the issues joined thereon the character of the picketing. If the picketing is unlawful violent or in any other way violates the law governing these subjects Respondent has the right to show it. We believe also that this evidence is clearly admissible, not limiting ourself to any particular allegation in either the complaint or the answer in support of Subdivision N on page 9 of the respondent's answer.

Your Honor will note that in the answer the Respondent says that the complaint should be dismissed for certain reasons and then proceeds to set forth various reasons as marked by a letter subdivision, subdivision 9 is that the complaint should be dismissed because the individuals, groups and organizations in whose behalf the Steel Workers Organizing Committee purports to act in filing the charges aforesaid with the National Labor Relations Board have themselves been guilty of many and repeatedly wholly unprovoked and unjustified acts of violence, coercion and intimidation against the respondent and its employees such as to deprive those who filed the charges aforesaid, of any standing as to them and to require the National Labor Relations Board to dismiss the complaint predicated upon such charges. In view of the character of this proceeding and of the relief which may be granted the complainant in seeking any specific relief and not being required so to do as we understand it under the terms and provisions of the National Labor Relations Act, we think evidence relating to the conduct of those in whose behalf these charges have been filed is clearly relevant, material, admissible and competent and should be received and considered by the Board.

This proceeding is somewhat in the nature of an equitable proceeding. Relief is being sought in behalf of those represented by the S. W. O. C. We think that the Board should consider the evidence relating to the conduct of the strikers whether or not they have acted lawfully, whether or not they have been guilty of violence as bearing upon the question as to whether or not they are entitled to any relief and if so the extent and character of that relief. In other words, take the position that when charges are filed in behalf of those who are on strike at the places named in the complaint and the character of the relief is to be based upon the facts found and there is no statement in advance of the relief sought that we have the right to offer evidence in behalf of the Respondent tending to show that the strikers in whose behalf this action has been brought has been guilty of violence and unlawful conduct. They carry clubs, gas pipes, baseball bats and without enumerating the various acts of violence that we many generally go into that whole subject as bearing upon the question as to whether or not they who seek relief here are, upon all of the facts in the case and the law applicable to those facts entitled to the relief sought or to any relief, upon the state of the record.

Something has been said here about the character of the evidence introduced by the Board. We wish to say now and to make it quite emphatic—

TRIAL EXAMINER LINDSAY: Mr. Day, on that particular point—this is off the record at the present time.

(Discussion off the record.)

MR. DAY: Mr. Lauter has called attention to the fact that the Board has introduced evidence tending to show some specific acts upon the part of the respondent with relation to the strikers in whose behalf this action is brought and has suggested that the evidence in that regard by the respondent or that the evidence offered by the respondent should be limited to some extent by the evidence offered by the Board. That is, that the respondent should be limited to evidence which meets the specific charges contained in the evidence offered by the Board. We take the position that that is absolutely unsound, that the Board cannot select specific instances of alleged unlawful conduct upon the part of the respondent with relation to certain strikers or those allied with the strikers and then limit the introduction of respondent's testimony to that which meets directly the evidence thus introduced by the court.

MR. LAUTER: I don't like to interrupt Mr. Day, but that is not the position which I have taken in my statement.

MR. DAY: I think you took it on that one branch of the case. I want to state my position. I want to say now that the respondent takes the position that the complaint here is not broad enough to be made the basis of any order requiring the reinstatement of any employees of the respondent now allied with the strikers except who are definitely named in the complaint, as having been discriminated against by the respondent.

TRIAL EXAMINER LINDSAY: Well, just a minute now, Mr. Day.

MR. DAY: I want to make this statement in the record.

TRIAL EXAMINER LINDSAY: It is in the record, but I want to talk to you.

MR. DAY: All right.

(Discussion held off the record.)

MR. DAY: When I say "now allied" I want to say "now allied" or at any time since the strike was called allied with the strike. If the Court should hold as suggested by Mr. Lauter that evidence of any unlawful conduct upon the part of persons actually named in the complaint could be offered by the Respondent, we contend as a proposition of evidence and as a proposition of law that those who are named in the complaint as having been discriminated against, are liable not only for their own conduct and their own unlawful conduct and any violation, if such appear to be the proof, but that they are all liable also for the conduct and acts and unlawful acts of the other strikers with whom they have allied themselves and with whom they have been acting in concert in this proceedings. We take the position as a matter of evidence and as a matter of law that the evidence in this case having disclosed that a strike was called by those in whose behalf this action was instituted, that picket lines have been established, that the members of the C. I. O. are party to that strike and are participating therein. That they are acting together and in concert in conducting the picket lines. That each and everyone of those strikers, under those circumstances, as a matter of evidence and as a matter of law are responsible for the conduct of each and all of the others. That being true, we contend that if Abie is named in the complaint as having been discriminated against by the respondent, that in considering his case we have the right, for the respondent, to offer evidence tending to show that Abie has been guilty of unlawful conduct and violence and so forth and, more than that, that those with whom Abie has allied himself and with whom he has acted in concert, have been guilty of acts of violence and unlawful conduct and, in short, we contend, with respect to the contention made by Mr. Lauter, counsel for the Board, it isn't necessary for us, in order to make the evidence of violent acts and conduct, which we are offering and shall continue to offer, admissible, for us to identify any man named in the complaint as having been discriminated against or for us to identify any individual in the unlawful acts. That if the evidence shows that the unlawful acts have been committed by those who are strikers, who have entered upon the picket line and have and are engaging in acts and conduct of unlawful and violent nature, that that is sufficient to make the evidence admissible in behalf of the Respondent.

Mr. Lauter referred to some evidence in relation to a railroad train. I want to state our position upon that subject.

We believe that evidence was admissible and still think it was admissible for the reason that the evidence disclosed that on the night of July 11th at Massillon there was a disturbance and riot, in which strikers participated, at the east end of the viaduct; that shortly after that there was a disturbance and riot, concerning which both sides have offered evidence, in and around C. I. O. headquarters; that the same night or the morning, after midnight of that same period of time, a railroad train was stoned. We could not identify those who threw the stones, but we think the fact that they were thrown, under the circumstances detailed, made the throwing of the stones something which we had the right to introduce into evidence. There may be other reasons why we believe this evidence is admissible. We haven't prepared any written statement of it, we are simply stating from our recollection of it at this time, and are expressing to the court the ideas and views which occur to us at this time.

We do not wish to be limited at any time and I don't think the Examiner will seek to limit us at any time to merely the thoughts and views here expressed. In conclusion, as far as I am concerned, I want to say that it seems to me that if we are not permitted to offer and have received and considered evidence of the character or nature in a proceeding of this kind that those who are allied with the strikers will be granted greater rights and greater consideration than the courts have given to those similarly situated in similar proceedings.

By way of illustration, we do not believe that if the evidence in this case discloses that the strikers had burned down one of our plants or had murdered some of our officers or employees that we would not have the right to show, in this kind and character of proceeding that they had done those things, as having a bearing upon the proposition whether or not they were entitled to any relief at all or whether or not they, the Labor Board should dismiss the complaint because of those acts of misconduct. Now, of course, there is nothing like that in this case, that is an extreme illustration suggested, as your Honor well realizes, only for the purpose of illustration. But we think the evidence of witnesses for the Respondent offered and sought to be offered as to acts of violence and lawlessness is of the character to a lessened degree much lessened degree than that mentioned.

The act itself provides, as the Court well knows, that the persons so complained of shall have the right to file an answer to the original or amended complaint and appear in person or otherwise and give testimony at the time and place—at the place and time fixed in the complaint. We think that under that provision we have the right to offer any evidence which we believe is relevant, competent and material and that it should be received by the Trial Examiner and should be considered by him in making his findings of fact and that we are deprived of a right guaranteed to us by the Labor Act itself if this evidence is not received.

Now, it is further provided that, in Subdivision C of Section 10—

TRIAL EXAMINER LINDSAY: What page?

MR. DAY: I haven't got the same book you have, Judge.

JUDGE SMITH: It is 23 on your book, I think. Is your book the same as this one?

TRIAL EXAMINER LINDSAY: Yes.

JUDGE SMITH: It is on page 23.

MR. DAY: "That if the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice then the Board shall state its findings of fact * * * requiring such person to cease and desist" * * * and so forth * * * "such unfair practice, and take such affirmative action with or without back pay that will advocate the policy of this Act." Then it says "that if upon all of the testimony taken by the Board, shall be of the opinion * * * is engaging in any such unfair labor practice * * * and the Board shall state its findings of fact * * * shall issue an order dismissing the said complaint."

We believe that under the provisions of that part of the act we have the right to offer this evidence, have it admitted and received and have the findings of the Trial Examiner as to the facts, predicated upon this evidence, together with all of the other evidence that the Board has introduced and the evidence which we have introduced, in addition to this now under discussion; for these reasons and other reasons which may undoubtedly occur to us, there being no limitation, I understand, as to all the reasons, I am giving now orally, we believe the evidence here is competent, relevant, material, and admissible under the issues joined here and under the charges in the complaint, under the express allegations of the answer, under the Labor Relations Act itself, and that it would deprive us of rights guaranteed to us by the Act to have that evidence ruled out.

TRIAL EXAMINER LINDSAY: May I have the complaint, please?

JUDGE SMITH: I would like to make a short statement.

TRIAL EXAMINER LINDSAY: It will have to be very short, Judge.

JUDGE SMITH: I have some ideas that I want to put into this record, your Honor, and I'll try to limit them as short as I can, but I think the reason I have is good reason—

MR. DAY: I want to say also, Mr. Trial Examiner, with due respect, I think that—

TRIAL EXAMINER LINDSAY: I am not referring to your statement.

MR. DAY: You are not? I thought you were characterizing that as an argument. All right.

JUDGE SMITH: The reason why we think that this evidence is competent and evidence of this character is competent, and as I understand it, the objection extends not only to the evidence that has been—that we expect to introduce by this witness but all evidence of a similar character. Now, without—

TRIAL EXAMINER LINDSAY: May I state, all evidence of a similar character which may be attempted to be produced, is that your understanding?

JUDGE SMITH: Yes. Now, calling attention to paragraph 17 on page 5 of the complaint and without in any way limiting this statement to that, but to the other matters, it is alleged that the respondent has compelled a considerable number of employees at its Warren plant, Warren, Ohio, plant, to remain at their jobs within said plant, and has threatened said employees with discharge and loss of seniority right and vacation privileges if they left its said plant and joined the employees who went out on strike, thereby interfering with, restraining and coercing its employees in the exercise of their right to self-organization within the meaning of Section 8, Subdivision 1 of the said Act.

In order to meet the issue of this charge, this evidence is admissible to show the character of picketing as bearing on whether the employees in the plant could have left or could have returned to the plant in the event they did leave, this bearing on the question whether the employees in the plant could leave the plant in the manner in which they ordinarily did, as to whether they felt they would suffer injury or bodily harm; bearing on the character of picketing that was done. We also think that this is admissible, based on the sections of statutes of Ohio—

TRIAL EXAMINER LINDSAY: Well, that's entirely out. We are not trying the case under the Laws of the State of Ohio.

JUDGE SMITH: Your Honor, we expect to offer two sections of the Ohio statutes in which is described a mob and the liability of a mob for any acts of the mob.

MR. LAUTER: At this time—

JUDGE SMITH: —and I wish to read, as a part of the reasons why I think this is competent, Sections 6278 of the Ohio Statutes—

TRIAL EXAMINER LINDSAY: May I see those just a minute? We are getting into just the thing we should not get into.

(Discussion off the record.)

JUDGE SMITH: I also desire to read into, as a part of the reasons why this evidence is admissible, Section 6287 of the Ohio Statutes.

(Discussion off the record.)

JUDGE SMITH: Now, we think this testimony is competent, of this witness, for the reason that he has already testified that he found the pickets massed across from the entrance to the Republic at Stop 5, and that a number of women, working in concert with the pickets, that were seated in the entrance, and that he went to the headquarters of the C. I. O. to interview Mr. Fagin, Mr. Charles Fagin, who was in charge of that territory, in charge of the C. I. O. in that territory where they were picketing, and that Mr. Fagin not being there, that Mr. DeBozzy who he recognized as the captain of the pickets that had charge of the pickets in the vicinity of Stop 5, and that he requested him to comply with this, and that it was not done and this testimony would show the results of the failure on the part of Mr. DeBuzzy who is in charge of these pickets to comply with his request as an officer of the law.

We also think this is admissible for the reason that the conditions in the city of Youngstown and in the strike area had gotten beyond the control of the civil authorities, and that the civil authorities were reinforced by—

MR. LAUTER: This is all argument on the merits of the case.

TRIAL EXAMINER LINDSAY: Yes, I'll have to sustain an objection to that type of argument because the evidence—After all, Mr. Smith, we have to go into the things that are absolutely in the record when you talk about evidence.

JUDGE SMITH: We can't confine it to these things that are already in the record for the reason you are not allowing us to put in the facts and conditions that are existing here. If you will permit us to do that, we will stay in the record. I feel that on account of this situation, that, here was an unlawful riot, and conditions here had gotten to such—

TRIAL EXAMINER LINDSAY: Off the record for the time being entirely.

(Discussion off the record.)

JUDGE SMITH: We contend that this is competent, and cannot concur with the conclusion reached by Mr. Lauter, that where there are isolated acts, that they are to be treated in the same manner as acts of persons in concerted action.

Now, it is our contention that, at this point, there was a concerted act there; that these strikers and the pickets were acting under the leadership of their recognized superior officers that were in this organization and, therefore, that when they are acting in concert and that when they are acting in there, in that capacity, under an organization, they have entered into a conspiracy to carry out this purpose and if that purpose is an illegal purpose, that every person who takes part in this concerted action becomes a part of it and is responsible for everything that is done by any of them. Now, that is our contention.

We believe this to be competent on that ground and that being true, it is a defense to the claim that they make in their petition especially as to lawful picketing and peaceful picketing. Now, if we are charged with interfering with peaceful picketing, we certainly have a right to show that it was not peaceful picketing, and we have testimony already in this record that shows throughout the time of this—that these pickets were on the line—were on the picket line, they were carrying clubs and conducting it in an unlawful manner and not in a peaceful manner.

Now, this evidence that we desire to introduce reaches that point exactly and in our opinion is competent for the purpose of refuting the charge that is made against us, that is, as to interfering with peaceful picketing. We further contend that it is competent from the standpoint that the Wagner Act does not in any way curtail the right of the employer to select and hire an employee and that in showing the attitude and the things that happen at this point, that the employer is entitled to take those matters into consideration, of the unlawful acts in connection with rehiring or discharging an employee. That is all I can think of now.

MR. DAY: May I add this and I will be very brief about this. We think this evidence is also admissible as tending to show that the strike was an unlawful strike from the time the pickets carried clubs, gas pipe, ball bats and similar weapons, if I may use that expression, and engaged in acts of violence, and that if the strike was unlawful and had become unlawful everyone engaged in the strike is charged with that unlawfulness and that that issue is in this case as bearing upon the question as to whether or not and to what extent these strikers are entitled, or *any of* them are entitled, to be reinstated. Thank you.

TRIAL EXAMINER LINDSAY: After having heard arguments by counsel for the Board and arguments by counsel for the respondent, the objection made by Mr. Lauter representing the Board is sustained for the reasons stated in his argument, that is, the argument of Mr. Lauter. The sustaining of that objection does not cover anything except as stated by the attorney representing the Board, and let the record show an exception. We will recess at this time.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: We will adjourn to Monday morning, September 20, 1937, at 9:30 a. m.

(Whereupon, at 11:45 a. m. September 18, 1937, an adjournment was taken to 9:30 a. m. September 20, 1937.)

Court of Appeals Room,
Mahoning County Court House, Youngstown, Ohio,
Monday, September 20, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Arno G. Erdrich, Esq., of the firm of Day, Veach & Young, Union Trust Building, Cleveland, Ohio;

Judge Chas. F. Smith, David E. Jones, Esq., Harry S. Manchester, Esq., R. D. Huxley, Esq., and Geo. Renner, Esq., of the firm of Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio, appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

WILLIAM HODGE CUMMINGS

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) Now, may the record show that permission to withdraw Captain Richmond and substitute Mr. Cummings as the witness is given?

TRIAL EXAMINER LINDSAY: Yes.

Q. Your full name, Mr. Cummings?

A. William Hodge Cummings.

Q. Where do you live?

A. 1520 Kensington Avenue, Youngstown, Ohio.

Q. You are employed by the Republic Steel Corporation?

A. I am.

Q. In what capacity?

A. As a machinist.

Q. I beg your pardon?

A. As a machinist particularly looking after the welding equipment; welding and acetylene equipment.

Q. How long have you been so employed?

A. It will be five years in April.

Q. Where were you employed prior to the time you became an employee of the Republic Steel Corporation?

A. Jones & Laughlin Corporation of the Aliquippa Steel Corporation.

Q. How long were you there?

A. 21 years.

Q. Do you remember when the Employees Representative Plan in the Republic Steel Corporation was first started?

A. No, I don't.

Q. Well, it was—

A. It was in existence, I think, when I came here if I am not mistaken; I am not just certain about that.

Q. Well, on this—did you have any official position with the Employees Representative Plan?

A. None.

Q. Did you participate in elections that were held in the plant after the Employees Representative Plan—

A. I voted.

Q. Yes. Did you hear anything in regard to any change of any kind that was made in this Plan after the

Supreme Court had passed on the Act along in April of this year?

A. Yes, sir.

Q. What was it that you heard as to the change?

A. I heard that owing to the passage of the Wagner law that the Representative Plan automatically ceased to exist—

TRIAL EXAMINER LINDSAY: Now, just a minute.

(Discussion off the record.)

Q. Do you refer to the passage of the Supreme Court decision on the Act?

A. Well, probably the Supreme Court decision was what—I based—

Q. At any rate, the change you speak of was in April of this year, is that correct?

A. About that time.

Q. So that in reality you refer to the Supreme Court decision instead of the passage of the Act?

A. Yes.

Q. About the time that you speak of, of this change in the plan, was there any—

MR. LAUTER: I am sorry to interrupt you, Mr. Smith. I want to note an objection in the record and strike the answer with respect to the organization of the Employees Representative Plan "ceasing automatically" as of a certain date. This witness apparently from the testimony—

TRIAL EXAMINER LINDSAY: It should be stricken.

MR. LAUTER: May I finish my objection, Mr. Trial Examiner?

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: This witness, as it appears from the testimony already given, held no office in the organization. Although he worked for the Respondent, he does not realize that he was there when the organization was formed. Generally has very little knowledge about it, from the testimony thus far given. I move to strike the answer with respect to whether or not the organization known as the Employees Representation Plan ceased to exist automatically on a certain date.

THE WITNESS: Well, I beg your pardon, that was just my understanding of it.

TRIAL EXAMINER LINDSAY: Well, as far as the word "automatic" is concerned, that is stricken from the record. Change your question, find out whether or not he actually knows, if he is testifying from the fact, or if he is testifying from his knowledge.

Q. (By Mr. Smith) Do you know what, if any, change was made in the Representation Plan in connection with the Supreme Court decision? Do you know of your own knowledge about that?

A. Well, my own knowledge was just news from what was in the newspapers; and what I heard in the plant.

Q. Yes.

A. That the corporation could no longer have an organization at least that they controlled, and that the working men would have to effect an organization of their own, if they wanted it.

Q. I see. That was your understanding?

A. That was my understanding.

MR. LAUTER: May I have the answer read back?

TRIAL EXAMINER LINDSAY: Yes.

(The last answer read by the Reporter.)

TRIAL EXAMINER LINDSAY: Now, the rest of your objection is overruled and let the record show an exception. In other words, the only part sustained is as to the one word "automatic" and that is stricken from the record. All right, you may proceed.

Q. About this time, Mr. Cummings, was there any activity relative to a strike of the employees of the Company, and if so, what?

MR. LAUTER: May we have the time fixed?

JUDGE SMITH: Latter part of May.

A. Oh, yes, certainly. Everyone knew of it.

Q. Do you recall of there being a petition circulated in the mill for signatures prior to the time this strike was called?

MR. LAUTER: Sorry to interrupt. I want to move to strike the last answer in respect to 'what everyone knew.'

TRIAL EXAMINER LINDSAY: Yes, that part is stricken. Mr. Witness, you can't testify to about what someone else knows; in fact, you don't know just what Mr. Smith is just thinking of therefore you could not testify to that fact, so only testify to facts you yourself know.

THE WITNESS: Well, I knew—.

JUDGE SMITH: Read him the last question, please.

MR. LAUTER: Object to the question as leading and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Well, your objection is overruled; let the record show an exception.

Q. (By Judge Smith) What, if anything, did you have to do with either the preparation or circulation of this petition, Mr. Cummings?

A. I dictated a petition and had it typewritten and took it to the men in the machine shop to have them sign it.

Q. Yes, sir.

MR. LAUTER: I can't hear what the witness is saying.

TRIAL EXAMINER LINDSAY: Read the answer, will you please? And talk just a little louder.

THE WITNESS: Yes, sir.

(Question repeated.)

Q. (By Judge Smith) Do you have that petition?

A. No.

Q. Do you know what became of it?

A. No.

Q. What was the nature of the petition, that you prepared and circulated, and the purpose of it?

A. The purpose of it was to ask the Mayor for police protection so that those who did not strike could have protection going to and from work in the event of a strike, that's the substance of it. I don't recall the words.

Q. Did you sign that petition?

A. I did.

Q. Did you discuss this matter with any of your fellow employees?

A. I didn't.

Q. Just state how you came to prepare the petition and circulate it, Mr. Cummings.

A. There was going to be a strike; to the best of my knowledge. I didn't want to strike, and anxious to do anything I could to avert the strike, and for that reason I prepared this petition.

Q. Was it for the same reason you circulated it and caused it to be circulated?

A. It was for the same reason that I took it around through the machine shop.

Q. And in taking it around through the machine shop, what was your purpose for that?

MR. LAUTER: Objection to what the purpose of the witness was.

MR. DAY: I think that it is relevant.

MR. LAUTER: I object to it on the ground it is incompetent, irrelevant and immaterial.

JUDGE SMITH· Certainly he—

TRIAL EXAMINER LINDSAY: Wait a minute.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: I will sustain the objection to that question. Let the record show an exception.

JUDGE SMITH: Exception.

Q. Do you know whether or not the men or the number of men in the machine shop that signed the petition, if any did?

A. I don't know the exact number. About one-half.

Q. About one-half?

A. Yes. That is, on the day turn.

Q. Yes. You were working on the day turn, were you?

A. Yes, sir.

MR. LAUTER: I move that the answer be stricken because it is vague and indefinite. One-half as a figure does not mean anything.

TRIAL EXAMINER LINDSAY: Well, it is an estimate. You may cross-examine on it. Objection overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. Do you know how many people were working in the machine shop on the day turn? Approximately?

A. Oh, no. Approximately—

MR. LAUTER: Will you read that answer?

(The last answer was read.)

THE WITNESS: Approximately—

MR. LAUTER: If the answer is "No," I move to strike any further answer.

MR. DAY: He is giving his answer.

MR. LAUTER: His answer was "No," as far as I could make out.

TRIAL EXAMINER LINDSAY: Well, objection overruled. Let the record show an exception.

MR. LAUTER: Exception.

A. I don't know accurately how many signed it, nor do I know accurately how many were working on the day turn. I would say about 60, at least.

MR. LAUTER: I move that the answer be stricken unless that answer be amplified. Either 60 signed the petition or 60 were on the day turn.

JUDGE SMITH: I asked how many were there.

MR. LAUTER: It is not clear to me. Will you clear that up, Judge Smith?

TRIAL EXAMINER LINDSAY: Just a minute; stop arguing.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Will the Reporter read the last question and answer in full?

(The last question and answer were read.)

TRIAL EXAMINER LINDSAY: The answer is ambiguous because we don't know what he is talking about. So clear that up.

JUDGE SMITH: I will ask him on that.

Q. The sixty that you speak of, do you mean that there were approximately 60 men who worked in this plant on the day turn, or approximately 60 who signed the petition?

A. Men working.

Q. Yes. Then your former answer as to half would mean one-half of your approximation of 60 men, is that correct?

A. Yes, sir.

Q. Did you attend a meeting in what is known as the district office somewheres along around the middle of May of 1937, at that plant?

A. Yes.

Q. Do you recall of a meeting being held on the 19th of May?

A. Not that particular date. I don't recall the date.

Q. I refer your attention to a meeting that was held there in which, I believe, there was an election of temporary officers for the Independent Federation of Employees. Do you recall that meeting?

MR. LAUTER: I object. The question is obviously leading the witness.

MR. SMITH: I am directing his attention to a meeting that was held. He does not have the exact date, but I am asking him if he remembers that meeting.

MR. LAUTER: Judge Smith is testifying for the witness with respect to a meeting which may or may not have taken place, as to an election which may or may not have taken place.

TRIAL EXAMINER LINDSAY: Judge Smith, now try not to lead him.

MR. SMITH: I am only asking him for the purpose of directing his attention to the meeting, and inquire as to what took place.

MR. LAUTER: There is no evidence that the meeting was ever held, except Judge Smith's statement.

MR. SMITH: I understand, but I am directing his attention to a meeting at that time and asking him if he attended.

TRIAL EXAMINER LINDSAY: Well, listen, now, quit asking those leading questions. After all, the witness is supposed to give his testimony on the witness stand.

MR. SMITH: I will change that. But, your Honor, I have always understood that in examining a witness you had a right to direct his attention to a certain thing and ask him what he knew about it.

TRIAL EXAMINER LINDSAY: Read the question.

(The last question was read by the Reporter.)

TRIAL EXAMINER LINDSAY: Now, that has your own conclusion in that question, that there was an election and that the officers were elected. Now, there is not a bit of proof in the testimony that there has been an election; there is nothing in the testimony to show that there has been officials elected to anything, and if that is not a leading question, why then there isn't any such thing. I will sustain objection to that question.

MR. SMITH: May I have an exception, if you please?

TRIAL EXAMINER LINDSAY: You may have an exception.

Q. Did you attend a meeting at the district office along about the middle of May, 1937?

A. I did.

Q. You may state what occurred there, Mr. Cummings, as near as you recall.

A. Well, the mechanical department had a number of meetings there.

MR. LAUTER: Object to the answer as not responsive and move that it be stricken.

TRIAL EXAMINER: Yes, that may be stricken.

Q. I refer to a meeting around the middle of May, if you remember of any such meeting.

A. All the meetings were around the middle of May.

MR. LAUTER: Object to the answer and move it be stricken as not responsive.

THE WITNESS: I recall a meeting—.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

THE WITNESS: —at which there was a temporary organization.

Q. A temporary organization of what?

A. To take the place of the organization that had passed out of existence.

Q. Do you recall when that meeting was held?

A. In May.

Q. And where was it held?

A. In the old—, I think they call that the old Board Room.

Q. Now just state what took place at that time as you recall it?

A. At that particular meeting the main thing that took place was the election of temporary officers.

Q. Do you recall who were elected as temporary officers?

A. Mr. John Smith was elected president. Mr. Axelson was elected treasurer, the other man, I don't recall his name, Chinelworth or something like that. It starts with C-h-i-n—, I don't just recall.

Q. You just don't recall his exact name?

A. I don't recall his name. He was secretary.

Q. Did you participate in any way in that meeting?

A. Well, I was asked to talk at the meeting and I talked.

Q. Now in connection with this, after your temporary organization that you speak of, do you [know] what, if any, activities there was prior to the time of the strike?

MR. LAUTER: Object to the question as containing a conclusion. There is no testimony given by this witness that the organization was temporary. It is an assumption of state of facts that are not on the record.

JUDGE SMITH: He said that temporary officers were elected.

TRIAL EXAMINER LINDSAY: Well, I'll overrule your objection. Let the record show an exception. Mr. Smith, just try to get this in briefly.

JUDGE SMITH: I am just asking him what he knew of the acts.

TRIAL EXAMINER: Let him do the testifying.

JUDGE SMITH: I don't know how more general I could ask him than to describe what activity he knows of, of his own personal knowledge prior to the strike.

THE WITNESS: Read me the question.

(Question repeated.)

JUDGE SMITH: On the part of this temporary organization.

TRIAL EXAMINER LINDSAY: Just a minute. Doesn't the organization have a name?

JUDGE SMITH: Yes.

Q. What was the name of it?

A. Independent Federation of Republic Employees, I believe.

TRIAL EXAMINER LINDSAY: Now, strike out "temporary organization" from the record as a part of that question and call it Independent Federation of Republic Employees.

JUDGE SMITH: Let me withdraw that and I will reframe the question. If I may withdraw it, I will reframe it?

TRIAL EXAMINER LINDSAY: Yes.

Q. After the night you speak of where the temporary officers were elected, state what activities you know of that occurred prior to May 26th; the day of the strike of the Independent Federation of Republic Employees.

A. There was one—at least one meeting after that and maybe two.

Q. Did you attend the meeting?

A. I attended at least one of them.

Q. Now, state what was done; what was the purpose of the meeting.

A. Well, the real purpose of the meeting was to try to avert the strike.

Q. What if any action do you know of was taken at that meeting in connection with that purpose?

A. I don't recall any particular action. That was the general purpose of the thing.

Q. Now, do you recall the date on which the strike occurred?

A. The 27th, I believe.

MR. LAUTER: I didn't hear the answer. Will you read that?

(The last answer was read.)

JUDGE SMITH: I think it will be agreed that May 26th was the strike. We will establish that.

Q. Were you working the day of the strike?

A. I was.

Q. What time did your turn finish?

A. 3:30 p. m.

Q. Do you know what time the strike was called for on that day? That is the day that the men went out?

A. Only by general information that it was at 11 o'clock.

Q. Then you weren't in the mill at the time the strike occurred?

A. No.

Q. Did you go back in the mill following the strike?

A. I did.

Q. When

A. The day the gates were open.

Q. How long was that after the time that the strike occurred, if you recall?

A. About a month.

JUDGE SMITH: I see.

Q. Now, do you know anything about the activities of this Independent Federation, after the strike and before the time you went back to work?

A. They had offices in the Dollar Savings & Trust Building and were active in—

TRIAL EXAMINER LINDSAY: Strike out the word "active". You can tell only what they did.

A. They had offices in the Dollar Savings & Trust Building.

Q. That is, were you ever in their offices?

A. Almost every day.

Q. Who was in charge of the office there if you know?

A. Mr. John Smith.

Q. You refer to the John Smith who was elected president of the Independent Federation?

A. Yes, sir.

Q. And who else was in there, if you know?

A. Oh, a number of men, in and out.

Q. Do you know what was being done at this office, and the purpose of having an office there?

A. They had a petition to go back to work.

Q. That was in the office?

A. Yes, sir.

Q. Who had that petition?

A. Well, it was just in the office.

Q. You may state whether or not you signed that petition?

A. I did.

Q. Did you do anything yourself in connection with procuring or trying to procure anyone else to sign it?

A. No.

Q. Do you know of your own knowledge whether other employees did sign it?

A. I do, yes.

Q. Do you remember when it was you signed it?

A. No.

Q. Do you remember the day at which, as you speak of here, the mills opened, that you went back to work? Do you remember what day in the month it was and what month?

A. I do not recall the date.

MR. SMITH: Now, your Honor, that has been established by so much evidence, may I have the right to call his attention to the date and then refer to that from there on.

TRIAL EXAMINER LINDSAY: This is off the record.

(Discussion held off the record.)

Q. What work did you do when you went back to the mill and went to work?

A. As soon as I got back I fixed up around my bench and went to work.

Q. At your same job?

A. At my same job.

Q. Have you, Mr. Cummings, attended since that time any meetings of the Independent Federation of Republic employees?

A. I have.

Q. And where was the meetings that you have attended held?

A. Central Auditorium.

Q. Where is that?

A. Over here on Boardman Street.

Q. And what was the nature and the purpose of the meetings that you attended?

A. Adopting a constitution and by-laws.

Q. Of what?

A. For the Independent Federation of Republic Employees.

Q. Now who was there officially in charge of that meeting, if you know?

TRIAL EXAMINER LINDSAY: Strike out the word "officially."

JUDGE SMITH: All right.

Q. Who was there, if you know, in charge of the meeting?

A. I don't know the name of the man who presided at the meeting, nor do I know the name of the lawyer who read the constitution over, section by section.

Q. And it was read over, was it, section by section?

A. It was.

Q. And what, if anything, was done as the sections were read over?

A. Then each section was voted on.

Q. And were the documents there presented—, you may state whether or not the documents there presented, this constitution and by laws, was adopted at the meeting you refer to?

A. It was.

MR. LAUTER: Object to the question and move the answer be stricken on the ground, the minutes of the meeting are the best evidence of what happened in respect to action taken. I am not objecting to the testimony as to the meeting, I am objecting to the testimony whether or not particular action was taken by that body on the constitution and by-laws.

TRIAL EXAMINER LINDSAY: Yes, he would have a right to testify that a vote was taken, but that is as far as he could go. There is no doubt about that, so the objection is sustained. Let the record show an exception, and the answer is stricken.

Q. Was there a vote taken at this meeting on the constitution and by-laws?

A. There was.

Q. Did you hear any announcement from the Chairman who was presiding at this meeting as to what the result of that vote was?

A. The result was affirmative. That is, the constitution was adopted.

Q. Was that announcement made by the Chairman after the vote had been taken?

A. Yes.

JUDGE SMITH: Pardon me just a moment.

(Discussion off the record.)

JUDGE SMITH: You may cross-examine.

Cross Examination

Q. (By Mr. Lauter) Mr. Cummings, you are a machinist, is that correct?

A. I am.

Q. How long have you been working for the Republic Steel Corporation?

A. Five years in October.

Q. Do you know whether or not the Employees Representation Plan was inaugurated in the plant during the time you were working there?

A. I do not know that.

Q. You don't know?

A. I don't know.

Q And if it was started some time in June, 1933, you don't know that, is that correct?

A. No.

Q. Do you know whether or not the Employees Representation Plan was ever formally dissolved?

A. I do not know that.

Q. Do you know whether a motion was ever passed either by the Representatives or the membership, dissolving the organization?

A. I do not know.

Q. You testified about a petition that you dictated?

A. Yes, sir.

Q. Did you dictate the petition?

A. I did.

Q. Yourself?

A. I did.

Q. To whom?

A. I don't know the man's name. He is a stenographer in the locomotive crane repair shop.

Q. Do you remember what day it was that you dictated the petition?

A. No.

Q. Do you remember the phraseology?

A. No, not exactly. "To the Honorable"—

Q. What was the substance of it? In substance, what was it?

A. "To the Honorable Lionel Evans. We, the undersigned, not wishing to strike, in the event of a strike, ask for police protection to enter and leave the plant." Now, that is merely the substance.

Q. Is that the substance of the petition that you yourself dictated?

A. Yes, sir.

Q. Did you dictate it alone?

A. Yes, sir.

Q. No one else was around?

A. Why, the stenographer was there.

Q. Besides the stenographer?

A. Well, there was several of the employees at the office at the time.

Q. Did they help you dictate it?

A. No, sir.

Q. It was your own phraseology?

A. It was my own phraseology.

Q. It was also your own idea?

A. Yes, sir.

Q. No one suggested it to you?

A. No, sir.

Q. You are sure of that?

A. I am absolutely sure of it, that is, no individual.

Q. What do you mean, no individual?

A. Well, I had heard of such things being done.

Q. Before you did it?

A. Yes.

Q. Where did you hear that such things were being done?

A. I can't remember exactly whether I got from the newspapers or had heard of it.

Q. Don't you recall whether or not it was being done in the plant before you did it?

A. No.

Q. Do you think you were the first one to draft a petition of that kind?

A. As far as I know, yes, sir.

Q. You said something about the newspapers, said you might have got the idea from the newspapers?

A. I said I might have gotten the idea from newspaper talk or something I had heard, that when there was a strike, that this had been done; now I don't recall whether or where, I didn't burden my mind particularly.

Q. Did you burden your mind with remembering when you did it?

A. I don't remember the date.

Q. Do you remember the place?

A. Yes, sir.

Q. That was in the plant, is that correct?

A. Yes, sir.

Q. On Company property?

A. Yes, sir.

Q. On Company time?

A. Yes, sir.

Q. And to whom did you go to have it typed?

A. I went to the—well, I went to the foreman of the locomotive train repair shop and asked him if I could have a stenographer typewrite a petition and he said: "That depends on what it was."

Q. Did you tell him what it was?

A. He stood there while I was dictating it and the stenographer—I was dictating it to the stenographer.

Q. Now, if I understand you correctly he said you could take it and have it typed if he knew what it was?

A. If he knew what I was dictating.

Q. Now, did he say what you were dictating? Did he see it typed?

A. I don't know that. No, I think not.

Q. Did he hear it dictated?

A. Yes.

Q. And did he register any disapproval?

A. No.

Q. Now, what happened after it was taken from the typewriter?

A. Then I went around to the members of the machine shop and asked them to sign it.

Q. Did you do that during the day?

A. Yes, sir.

Q. On Company property?

A. Yes, sir.

Q. On Company time?

A. Partly on Company time and partly on my own time and during the lunch hour.

Q. Do you know how many men there are in the machine shop?

A. Oh, I don't know. I would say about 60.

Q. I don't want you to say if you don't know. Have you got a reasonably clear idea of the approximate number of men that are working there?

A. About 60 men on that turn, I think.

Q. How many did you get to sign it?

A. The exact number, I don't have.

Q. Now, when you testified that about half signed it, is that correct?

A. About half.

Q. How do you know that half signed it?

A. Well, that is just the estimate in my own mind.

Q. Did you take it around and have half of them sign it themselves?

A. I took the petition around—

MR. LAUTER: Read the question to the witness.

(The last question was read.)

A. I believe all who signed it signed it when I presented it. Whether that is exactly half, I don't know.

Q. Now, you took it around and had approximately 30 men sign it, is that correct?

A. Yes, sir.

Q. You yourself took it around?

A. On the day turn.

Q. What is that?

A. On the day turn.

Q. That is right. Now, after you finished having the last one sign it, what did you do with the petition?

A. Whitey—a man by the name of Whitey—now, that is not his real name. It might have been another fellow and I don't know his name. Asked me to see a copy of that petition. I give it to him.

Q. And that was the last that you saw of the petition?

A. That is the last I saw of it.

Q. Now, that petition was addressed to the Mayor, is that correct?

A. Yes, sir.

Q. And you dictated the petition yourself?

A. Yes, sir.

Q. And you had the men sign it?

A. Yes, sir.

Q. And you were going to send it to the Mayor?

A. Yes. That was my intention.

Q. But you never did?

A. I never did.

Q. You handed it over to Whitey?

A. Yes, sir.

Q. Now, who is Whitey?

A. Well, he is an employee in the locomotive repair shop.

Q. Does he have any connection with the Employees Representation Plan?

A. I don't know.

Q. You don't know who he was? What his standing is in the plant?

A. Well, he is an employee there.

Q. Have you ever seen him before?

A. Oh, yes.

Q. Did you ask for the return of the petition?

A. I don't mind that I ever did.

Q. Didn't you care what happened to it? Whether it ever got to the Mayor?

A. Well, he was a very much more active man than I was.

Q. Active in what sense?

A. Well, he was a younger man.

Q. Was he active during the strike?

A. How is that?

Q. Was he active in presenting the strike? In trying to prevent it, do you know?

A. He seemed to be.

Q. Is that the reason you turned it over to him?

A. Yes, sir.

Q. Now, what else?

A. He asked me—the reason that I have turned him over it was that he asked me for it.

Q. How did he know that you were circulating the petition?

A. I don't know that.

Q. Did he come to you during working hours at the plant?

A. I presume so.

Q. And he asked you for the petition?

A. Yes, sir.

Q. Did you have much of a discussion about whether or not you would give it to him, or not?

A. No, I don't mind that there was.

Q. Now, you remember pretty well, don't you? That discussion that you had with him?

A. No.

Q. You don't remember it at all?

A. All—He and another gentleman, and they were very active men—I don't mind—I knew they were active in trying to avert a strike.

Q. Now, who was the other man, the other gentleman?

A. I don't know his name.

Q. What is that?

A. I do not know his name.

Q. Did he come along with Whitey?

A. Yes, sir.

Q. Now, what did they say to you when they came over to you?

A. Well, I don't remember that.

Q. Well, you try and recall.

A. Whitey asked me for a copy of that petition and I gave him the petition. I don't mind what was said.

TRIAL EXAMINER LINDSAY: Now, just a minute. Off the record entirely.

(Discussion held off the record.)

Q. Well, was there more than one petition?

A. I saw some afterwards, but so far as I was concerned, there was just one.

Q. There was just the one that you had dictated and had circulated?

A. How is that?

Q. The one that you had dictated and circulated?

A. In the machine shop, yes, sir.

Q. That is the only one you knew about at that time?

A. At that—

Q. At that time?

A. Yes, at that time.

Q. And that is the one that you handed over to Whitey when he asked you for it?

A. Yes.

Q. What else did you say to Whitey and the other gentleman? You try and recall the best you can.

A. Well, I do not recall.

Q. You do not recall saying a word to him?

A. I suppose we had some conversation, but I can't recall what that conversation was.

Q. All that you can remember of that conversation is that he came to you with another gentleman; Whitey asked you for the petition and you gave it to him, is that correct?

A. Yes.

Q. That is as much as you can remember of that incident?

A. Yes.

Q. You testified about a meeting in the district office sometime in the middle of May. Do you recall that meeting?

A. Yes, sir.

Q. Do you remember what time of day it was held?

A. In the evening.

Q. Did you get a notice of that meeting in advance of the meeting?

A. Yes, sir.

Q. Who gave you the notice that there was going to be a meeting?

A. I don't remember that.

Q. Was it a written notice?

A. No, just a verbal.

Q. Did you get that notice while you were working in the plant that day?

A. I presume so, I do not know that.

Q. Well now, you just try and recall, take a little time off and try to think whether you can remember that you got notice on that day in the plant?

A. No use of my trying to recall because if I would know at all, I would know at once.

Q. Now this is September, you know what month this is, what month is this?

A. This is September.

Q. And this meeting was some time in May, is that correct?

A. Yes, sir.

Q. Now let's see how much you remember of that meeting; you remember it was held in the District Office?

A. Yes, sir.

Q. You remember it was held at night?

A. Yes, sir.

Q. You don't remember who gave you notice of the meeting?

A. I do not.

Q. About what time did the meeting start?

A. Along about seven thirty.

Q. About how many people were there?

A. Well, the room was filled to overflowing, I would say a hundred and fifty.

Q. Who spoke at that meeting?

A. Almost everybody.

Q. Who was on the platform, who presided?

A. Now we are talking about the meeting when John Smith was elected, is that right?

Q. That is right.

A. Mr. Mark Murphy.

Q. Do you know what position Mark Murphy had under the Employees' Representation Plan?

A. Well, he was, he came to be head man of that, so far as the employees were concerned.

Q. Well, don't you know what position he held?

A. No, I don't.

Q. Do you know that he was chairman of the Plan?

A. No, I didn't even know that.

Q. Do you know he is an officer of the Plan?

A. Of the—

Q. Of the Employees' Representation Plan?

A. Of the Plan?

Q. That is right.

A. Yes, I knew he was some kind of officer.

Q. Did you see a number of other men sitting up on the platform that day, that night?

A. Well, Mr. Axelson, the treasurer, was there, and the gentleman who was the secretary. You understand, there is no platform, it is only just a plain room.

Q. Well, up in front weren't there a group of other representatives under the Plan, sitting there along with Mark Murphy, don't you remember that?

A. Beg pardon?

MR. LAUTER: Read that question.

(question repeated)

THE WITNESS: You mean officials of the Representative Plan?

MR. LAUTER: That's correct.

THE WITNESS: What?

MR. LAUTER: That is correct.

A. I don't think I knew any of them, only Mark Murphy.

Q. So that if there were other representatives, you wouldn't have recognized them, is that correct?

A. No.

Q. You testified that this was to take the place of the organization which had passed out of existence?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. That is, the Independent Federation of Republic employees?

A. Was to take the place of the Plan that had passed out of existence.

Q. When you talk about 'having passed out of existence' you don't know whether it actually passed or it didn't, do you?

A. No, I don't know that.

Q. When you say it had passed out of existence, you don't mean that, do you?

A. Well, that was my general understanding of it, that's as far as I could go.

Q. But you don't know of any steps being taken to dissolve it?

A. No, I don't know anything about that.

Q. Do you know how the new organization got its name?

A. Well, the name was proposed there that night, who proposed it, I don't recall.

Q. Were there any fees under the new organization, the Independent Federation of Republic Employees?

A. How is that?

Q. Any fees, or initiation fees?

A. There was no initiation fee, we were to pay dues not to exceed fifty cents a month.

Q. Have you paid any dues?

A. Yes.

Q. You signed a card?

A. Yes, sir.

Q. And did you become active in the new organization?

A. Not very active.

Q. Well, you were up to the Dollar Bank Building office every day, weren't you?

A. Yes, sir; I had no place else to go.

Q. Is that why you went there yourself?

A. Principally.

Q. Did you do any work there?

A. No.

Q. Did you see what happened there while you were there?

A. Well, about all there was to do.

Q. You did?

A. Yes.

Q. Did you see them come up there to sign the Back-to-Work petitions?

A. I saw the petition lying on the table there.

Q. Didn't you see the men coming in to sign it?

A. What?

Q. Didn't you see the men coming in there to sign it?

A. I don't mind whether I ever saw anyone sign it. I signed it.

Q. You were there every day, is that correct?

A. Practically every day.

Q. And you saw the petition lying there?

A. It wasn't on the table all the time.

Q. Where was it?

A. I don't know that; I didn't have charge of it.

Q. When it was on the table, did you see anyone sign it?

A. When I signed it.

Q. And is that the only time you saw it when it was on the table and you signed it?

A. I believe, yes.

Q Apart from that, that petition wasn't in the room there?

A. I didn't see it.

Q. And you were in the room?

A. I was; along about 5 or 10 minutes each day.

Q. Is that as often as you were there, five or ten minutes each day?

A. I will say I was never there longer at any time than ten or fifteen minutes at the outside.

Q. Do you know where the location of the room was, that was used by the Independent Federation of Republic Employees, in the bank building?

A. **Second floor.**

Q. Do you know whether or not it was adjacent to rooms that were occupied by the Youngstown Sheet & Tube Federation of Employees?

A. It was.

Q. Were those rooms used interchangeably?

A. I don't know that.

Q. Did you ever see John Smith walk into the other rooms?

A. No.

Q. Did you ever see any of the officers walk into the other room?

A. No, not that I know of.

Q. Did you see any of the Youngstown Sheet & Tube men come into the Republic offices?

A. I don't know any of them, that I know of.

Q. All that you know is that they were adjacent to each other, is that right?

A. Yes, sir.

Q. And that meeting that we referred to before as taking place sometime in May, at which Mr. John Smith was elected president, that was held on company property, is that correct?

A. It was.

Q. Do you know whether or not that was on company time, for some of the men who were working there?

A. No. I don't know that.

Q. Well, that meeting was held in the evening?

A. Yes, sir.

Q. The plant works in the evening, doesn't it?

A. Yes, sir.

Q. Don't you know that some of the men who attended that meeting were going there on company time?

A. I don't know that any of the men off of the second turn were there.

Q. If they were, you would not recognize them?

A. No.

Q. Now, you went back to work the day the gates were opened, is that correct?

A. Yes, sir.

Q. Do you remember what date that was?

A. No, sir, I don't.

Q. You have no idea?

A. What?

Q. You have no idea?

A. Not the date. No.

Q. Do you know what month it was?

A. Well, it would be June, wouldn't it?

Q. Don't ask me, I am asking you.

A. It was—I have no way of fixing the date. I don't—

Q. Or the month?

A. Nor the month.

Q. Nor the month? No way of fixing the month either, is that correct?

A. Not exactly.

Q. How did you happen to go back to work?

A. I just walked into the office up in the Dollar Bank Building and Mr. Axelson told me that the gates were opened and anyone could go back to work.

Q. Did anyone else tell you to go back?

A. What?

Q. Did anyone else tell you to go back to work?

A. No, it wasn't necessary.

Q. Did your foreman speak to you about it?

A. I didn't see the foreman until after I got in the plant.

Q. Do you know he paid for gasoline, that is the Independent Federation of Republic Employees paid for the cost of gasoline of those who were taking around the petitions to have them signed?

A. I don't know that.

Q. Did you know that people were taking around petitions to have them signed?

A. Not of my own knowledge, I don't know.

Q. Well, did anybody tell you that they were?

A. Well, that was my general understanding, that they were out having men sign up to go back to work.

Q. Who was out having the men sign up? The Independent Federation of Republic Employees?

A. Men who belonged to that. Yes.

Q. And do you know whether or not they went around in their automobiles to the various homes of the employees?

A. I don't know that, only from hearsay.

Q. Well, that is what I mean, from hearsay? Do you know that from hearsay?

MR. SMITH: Now—

A. I have heard that. Yes, sir.

Q. Have you also heard that they paid for the gasoline that they used in going around?

MR. SMITH: Now—

A. No, sir.

MR. LAUTER: I don't know who is testifying here.

Q. Did you say you do know or don't know?

A. I do not know that there was any gasoline bought, if that is what you mean.

Q. Now, at that time did the Independent Federation of Republic Employees have any money so far as you know?

A. I do not know that.

Q. Did you pay any dues at any time?

A. One night down at one of the meetings something was said about dues and I handed Mart Murphy a dollar.

Q. Do you remember the date of that?

A. No, I don't.

Q. Do you know whether that was in June or May or July?

A. It was about the time, I presume, the meeting at which Mr. John Smith was elected.

Q. Now, did you get—

A. I am not certain about it.

Q. You don't remember whether it was at that meeting?

A. Not positively, no, sir.

Q. Now, was there a meeting between that meeting and the time you went back to work?

A. Between that meeting when John Smith was elected?

Q. That is right.

A. I believe I attended one meeting at the same place before the strike.

Q. One more meeting, or just one meeting altogether?

A. One more meeting. I think that I was there at one meeting after John Smith was elected, and before the strike actually occurred; I believe there was one meeting.

Q. Do you remember what happened at that meeting?

A. Oh, just what happened at most of such meetings, mostly talk.

Q. What did they talk about?

A. Well, the strike seemed to be the all absorbing question.

Q. What did they say?

A. I don't remember what they said.

Q. Do you recall who spoke at the meeting?

A. There was one man—, I think Mr. Smith asked me to say a few words just until he got things together to start and I said a few words. Then—.

Q. What did you say?

A. I don't remember what I said, I was burdening my mind with those things. I spilled out whatever was on the tip of my tongue, it was relative to the strike, and to the advisability of not striking, that was the line of it.

Q. And doing everything you could to prevent a strike?

A. Yes, I was. Then there was one other man spoke, he was a member, so he said—, now I don't know that he said, but that was the expression, that he was a member of the CIO, he spoke probably five or ten minutes.

Q. Now the strike took place on May 26th, is that correct?

A. So they said here.

Q. You don't remember it exactly?

A. Not the exact date, no.

Q. Now, I am going to ask you what the purpose of the Independent Federation of Republic Employees was before the strike? Was it to prevent a strike?

A. That seemed to be—might I answer this way? We started to—they, rather—started to organize the thing —that is, the men. So we would have some sort of an organization to represent us if we hadn't any.

Q. Are you saying that the Independent Federation of Republic Employees was an organization for collective bargaining? Is that what you are trying to say? Are you saying that it was an organization to prevent the strike?

A. Well, to prevent the strike seemed to be—that was the all absorbing topic.

Q. That was the purpose of it, is that correct?

A. Yes, sir.

Q. After the strike took place, isn't it correct to say that the all absorbing purpose of the organization was to get the men back to work?

A. Yes, sir.

MR. LAUTER: That is all.

JUDGE SMITH: That is all.

THE WITNESS: Now, do I have to remain here, if the Court please?

TRIAL EXAMINER LINDSAY: No, I guess not, unless your attorney wants you to.

MR. DAY: No, we are through with him.

TRIAL EXAMINER LINDSAY: We will have a five-minute recess at this time.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing will come to order.

JOHN L. SMITH

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) You may state your full name, please.

A. John L. Smith.

Q. Where do you live, Mr. Smith?

A. 69 Wildwood Drive, Boardman Township.

Q. Where are you employed?

A. Republic Steel Corporation.

Q. And in what capacity?

A. Mechanic in the electrical welding.

Q. How many years have you been employed by the Republic Steel Corporation?

A. Approximately ten.

Q. And has your work been in the Youngstown plant during all that time?

A. Entirely so.

Q. Where were you employed prior to the time that you accepted employment with the Republic Steel?

A. Pittsburgh & West Virginia Railroad Company.

Q. How is that?

A. Pittsburgh & West Virginia Railroad Company.

Q. In what capacity were you employed there?

A. Superintendent of motor power.

Q. During all of the period you were there?

A. Yes, sir.

Q. Do you remember, Mr. Smith, when the Employees Representative Plan was first commenced in the Republic, originated in the Republic Steel Corporation? What year it was in?

A. I couldn't say what year it was. I remember when it was, though.

Q. Yes.

A. That is, at the time of its formation.

Q. Yes. I believe you were not an officer of that, the first year, were you?

A. No, sir, I was not.

Q. Did you serve as a representative during any of the period?

A. I served as an alternate. I was an alternate for four months, the latter part of the second year of it.

Q. Are you familiar with the working of this Plan and method of operation under it?

A. Partially so, yes.

Q. Now, I believe there are different committees that are provided for under this Plan?

A. There was.

Q. Do you remember how many committees there were?

A. Four, if my memory serves me right.

Q. Now which of these committees, during the time you were alternate, did you serve on?

A. None.

Q. Well, that is then, you were an alternate of the general body?

A. Yes, sir.

Q. But you did not have occasion to serve on any of the committees during the time you were alternate?

A. No, sir.

Q. Do you remember of any change being made in connection with your Employees Representation Plan along in April, 1937; I am referring you to the Supreme Court decision in connection with the National Labor Relations Act, did you hear of that?

A. I heard of it, yes, sir.

Q. Now you state, if you know, at this time what changes were made in connection with the operation of the Employees Representation Plan after that decision?

A. I cannot answer that question.

Q. That is you—. Well, did you know of any change being made in it or hear of any?

A. I did.

Q. Well, would you state what your understanding of this change was?

A. At the time the Supreme Court ratified the Wagner Act, the men then in charge of the Representatives Plan changed their constitution so as to divorce it entirely from any Company operation, or in any way connected with the Company. Now that was what I understood, while I was not thoroughly conversant with any of the facts of that because I was not approached by any members of the Representative plan as to any membership, so I could not answer any further on it.

Q. Well, do you recall about that time of this: as to whether or not there was any strike activity or any discussion as to a strike in connection with the Republic plant?

A. Not that I had heard of.

Q. That is, I mean now, I am directing your attention to this time after April?

A. There were rumors then, there were rumors in the air of a strike but nothing had been said definitely that I had heard of.

Q. Do you recall when the strike did take place?

A. Question again please.

Q. Do you recall when the strike did take place, what was the date of the strike?

A. Yes, I do.

Q. Now, what was that date?

A. May 29, if I remember.

Q. I believe it was May 26th?

A. 26th or the 29th.

JUDGE SMITH: We are all agreed on that, that it was the 26th.

Q. Well, state whether or not you had heard anything in connection with the possibility or probability of a strike prior to the time the strike actually occurred.

A. Several weeks prior to that, yes.

Q. Do you recall of a meeting that was held in the—what is known as the District Office, I believe, in connection with the organization of the Independent Federation of Employees?

A. I do.

Q. You were present at that meeting, were you?

A. I was.

Q. Well, now, will you just tell the Court what occurred at that meeting? As near as you can. First, I will ask you who presided at the meeting, when it opened.

A. Mr. Murphy presided at the opening of the meeting.

Q. Now, what was done in connection with this organization at that meeting?

A. There was an election of officers held that night.

Q. Do you remember who were elected?

A. Yes, I do.

Q. Just state.

A. Myself—that is the question you asked?

Q. Yes.

A. Myself, Chairman; Raymond Snyder, Vice-Chairman; Edward Chinowith, Secretary; Alfred Axelson, Treasurer.

Q. That Chinowith is C-h-i-n-o-w-i-t-h, is that correct?

A. I couldn't answer that, sir.

Q. Now, state whether or not there was any discussion that night in connection with the strike question?

A. Certainly, the discussion was there that the majority of the men in there did not wish to strike, and we wanted to remain at our work.

Q. Yes, and state whether or not there was any action taken?

MR. LAUTER: Excuse me, Judge Smith. I would like to have that question and answer read back, please.

(The last question and answer read by the Reporter.)

MR. LAUTER: I move that the answer be stricken, and the question, on the ground too vague.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

MR. SMITH: Well, it seems to me on this, that that answer would be competent as stating his understanding of it, and as to what occurred there.

MR. LAUTER: No objection to testimony concerning what particular individuals said, named or unnamed, Mart Murphy, what he or anybody else said. But his understanding of the general discussion, what the general discussion was with respect to the majority of men not wanting to go out on the strike—that is purely a conclusion.

TRIAL EXAMINER LINDSAY: Yes, that is drawing a conclusion. There is no doubt about that. The answer is stricken from the record.

MR. SMITH: May I have an exception, please?

TRIAL EXAMINER LINDSAY: You may have an exception.

Q. An objection has been made, Mr. Smith, on the grounds that your statement that a majority of the employees—

TRIAL EXAMINER LINDSAY: Now, just a minute. You are not going right into that question, after I sustained objection?

MR. SMITH: No, I am trying to explain to him—

TRIAL EXAMINER LINDSAY: No, that is not necessary at all. You ask him another question. That is also stricken from the record.

Q. (By Mr. Smith) State what you heard said there by any of the men in connection with this matter?

A. The whole theme of the subject was that we did not want to strike.

Q. Well—

MR. LAUTER: I move the answer be stricken.

TRIAL EXAMINER LINDSAY: That is not responsive, it is stricken from the record.

Q. Mr. Smith, you can't give your conclusions as to what you think it was. State what you heard said there, and then whatever conclusion will be drawn by the court from what you heard said and testified as to being said. Do you understand what I mean?

A. I can't see how I can answer it any other way, when that was the whole theme of the subject there that night.

MR. LAUTER: I move the remarks of the witness be stricken.

TRIAL EXAMINER LINDSAY: Yes, they are stricken from the record. So is that long question.

TRIAL EXAMINER LINDSAY: That is all there is to that. You can only tell facts in the case; in other words, what Jones said at that meeting or what you said at that meeting. Now is that understandable?

THE WITNESS: Judge—

TRIAL EXAMINER LINDSAY: Just a minute.

You understand what you can testify to?

THE WITNESS: Why, if I can't testify as to what the conversation was, what should I testify to?

TRIAL EXAMINER LINDSAY: That is up to you, I am not testifying.

Q. (By Judge Smith) Now, Mr. Smith, I want to ask you if you will state what you heard anybody say down there, who talked at that meeting?

A. Well, that meeting was just a general discussion amongst the members, ourselves, that night there.

MR. LAUTER: Move the answer be stricken as not responsive.

JUDGE SMITH: He said it was a general discussion among the members who were there, I think that is entirely proper isn't it?

TRIAL EXAMINER LINDSAY: I will leave that stand, the objection is overruled, let the record show an exception. Now, Mr. Smith and Mr. Lauter, come up here a minute.

(Discussion off the record).

Q. In your meeting that you had where you were elected Chairman, can you state who discussed any question there that evening? Who made a talk?

A. Well, Mr. Murphy was the floor man, I, myself, for another one.

Q. Anyone else?

A. Well, there was several had the floor but I can't recall what the names are.

Q. Well, now, state to the Court the substance of what you said at that meeting.

A. Well, my theme was that I—

Q. Now, listen. I want to know what you said, not what your theme was or your conclusion. What did you say in substance?

A. Well, I thanked the Board for making me Chairman and putting me in the job. I told them that if there was anything I could do to prevent a strike by talking to the boys, I would do what I could. That is what I said.

Q. Now, state as near as you can what Mr. Murphy said in connection with this meeting. Not his theme, you understand, or any conclusion, but what you remember about what he said.

A. His talk was along the same lines as my own was.

Q. Now, did you have any other meetings than this one before the strike?

A. Several.

Q. Do you remember what night this meeting was on or what day this meeting was held that you heard you were elected?

A. Well, it was held the following week. As to the date or not, I couldn't answer that question.

Q. Were you working in the mill the day of the strike?

A. I was, sir.

Q. What time did you get through?

A. 3 o'clock.

Q. And you were not in there at the time the strike actually occurred?

A. I was not.

Q. When did you go back to the mill?

A. The 29th day of June.

Q. 29th of June? So, after the strike, what, if anything, did you have to do in connection with this Independent Federation or any activities of it?

A. Well, I proceeded, along with the other officers, to organize the Federation into what we expected to have a collective bargaining agency with our company.

Q. Well, now, was that immediately after the strike?

A. It was, sir.

Q. And before you returned?

A. No, sir, it was after we returned to work.

Q. I am talking about after the strike and during the time you were out, what activities were there in connection with your Federation?

A. I was looking after the Back-to-Work Movement at that time.

Q. Just state what you did in connection with the Back-to-Work Movement?

A. Well, in the first place, I opened an office in the Dollar Bank Building.

Q. What was the number of that room?

A. 210.

Q. And then what did you do?

A. I proceeded to make out petitions.

Q. What were your petitions? What there those petitions? What was the character of them?

A. Just simply a piece of foolscap paper, typewritten, with a heading on it that—

Q. Do you have that with you?

A. I have them laying in the chair, there.

Q. Yes. Are the papers that I am handing you the petitions that you referred to in your testimony?

A. "We, the undersigned employees of the Republic Steel Corporation"—

MR. LAUTER: I object.

TRIAL EXAMINER LINDSAY: Just a minute.

Q. Just a minute.

MR. LAUTER: I move the answer be stricken out.

Q. (By Mr. Smith) The question I asked—maybe you didn't understand—I say, are these the petitions—

A. They are, sir.

Q. That you referred to?

A. They are.

TRIAL EXAMINER LINDSAY: Now, that first part of his answer is stricken from the record?

MR. SMITH: Yes.

THE WITNESS: Yes, that is right.

Q. Now who prepared these petitions, Mr. Smith?

A. The officers of the Association.

Q. Did you have any part in it?

A. I did, sir.

Q. Now what was done with these petitions after you had them prepared?

A. They were kept, some of them in the office there and some of the boys took them in their pockets and when they met any of the workers on the street, why, they presented them to them. If they wished to sign them, they could; if they didn't want to, they didn't have to.

Q. Now when someone would come into the office in connection with this petition—?

TRIAL EXAMINER LINDSAY: Read the last answer back, please.

(Last answer repeated.)

Q. (By Judge Smith) State whether or not that is a statement you made to the people who came into the office to sign them?

A. Absolutely.

Q. Do you know of your own knowledge just how many signatures there were to these petitions?

A. Between forty-one and forty-two hundred.

Q. And are the papers that I show you here the petitions that have the signatures of between forty-one and forty-two hundred of the Republic employees?

A. They are, yes, sir.

Q. During what period of time was covered by the signatures, the circulation of these petitions?

A. I don't get that question.

Q. Well then, maybe I didn't get it very plain to you. Withdraw it and I'll state it again. State whether or not these signatures on the petitions were made prior to the time of going back to work?

A. They were.

Q. When was it you opened your office in the Dollar Bank Building? If you remember the date?

A. About the 28th of May.

Q. The 28th of May?

A. Yes, sir. I think it was the morning of the 28th of May.

Q. Did you have anybody in your office helping you in this work?

A. Yes. I had numerous volunteers helping there.

Q. Well, tell who they were that were helping you. The people that were helping you, who were they?

A. Republic employees.

Q. Do you remember the date on which the mills were opened and the employees went back to work?

A. I believe it was June 29th, if I am not mistaken.

Q. You say you think it was June 29th?

A. Yes.

JUDGE SMITH: Well, I think it has been established here that it was the 25th. I think we are all agreed on that.

THE WITNESS: Yes, June 25th.

TRIAL EXAMINER LINDSAY: Well, just let him testify.

JUDGE SMITH: Yes.

Q. Did you go back at that time?

A. Yes.

Q. And when you went back to your employment, were you started to work out there?

A. Yes, sir, I was.

Q. What job were you started on?

A. My old job.

Q. Now, what if any activities has there been in connection with the Independent Federation since the time you went back to work? Have you had any meetings?

A. We have.

Q. Have you had any meetings?

A. We have.

Q. Now, when was your first meeting after you went back to work?

A. At 60 Indianola.

Q. What is the number?

A. 60 Indianola Avenue.

Q. What was the purpose of that meeting?

A. The purpose of that meeting was for the Independent Federation of Republic Employees to drop the old Representative Plan or combine the two of them together as one.

Q. Well, what was done at your meeting there?

A. Well, at that time the officers of the Representative Plan resigned and we took over the reins.

Q. Well, state whether or not the Independent Federation was a separate organization itself—

MR. LAUTER: I object to the question as leading the witness.

Q. Well, you may state whether or not it was.

TRIAL EXAMINER LINDSAY: Yes; that is sustained.

MR. LAUTER: He has already testified that this organization took over the Employees Representation Plan and combined with them. I object to any questioning as forming a conclusion.

Q. What was done in connection with your organization subsequent to the—at your meeting at 60 Indianola? What action was taken, if any, by your body?

A. That is, by the Back-to-Work Body, do you mean?

Q. No, I am talking about Indianola, at the meeting you have spoken of out there?

A. Why, as I stated to you before, we called that meeting for the purpose of combining the old Representative Plan.

Q. I am asking you what you did at the meeting, if any action was taken?

A. Yes, it was, we combined the two.

Q. Well, what did you do?

A. We combined the two organizations together.

Q. State what you did, Mr. Smith, please. What action was taken?

A. Well, as I say, we put it up to a vote of the two organizations.

Q. Did you have any meetings subsequent to that time?

A. No, no.

Q. I mean, since the meeting at Indianola, have you had any other meetings of the Independent Federation?

A. Numerous ones.

Q. What action has been taken at those meetings in connection with your organization?

A. That was principally getting up our constitution and by-laws.

Q. Did you have a constitution and by-laws prepared?

A. No, we did not.

Q. I say, since that time?

A. Yes, we have.

Q. Have you had them prepared?

A. We have, since that time, yes.

Q. How was that done? How did you go about it, to get those? Who prepared them?

TRIAL EXAMINER LINDSAY: We will have to adjourn to 1:15.

(Thereupon, a recess was taken until 1:15 p. m.)

After Recess

(Whereupon the hearing was resumed, pursuant to recess, at 1:15 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

JUDGE SMITH: Mr. Smith, will you take the stand? Repeat the last question.

"Q. How was that done, how did you go about it to get those, who prepared them?"

A. At our meeting at 60 Indianola Avenue we appointed a by-laws committee.

Q. Do you remember who was on that by-laws committee?

A. George Wheaton—

MR. LAUTER: Sorry, but I can't hear.

Q. I'll withdraw that and ask you how many were appointed on the committee?

A. Five.

Q. Then did you serve as a member of that committee?

A. I did.

Q. And you met with the committee when they met, did you, as Chairman of your Independent Federation?

A. I did.

Q. Now state whether or not you employed anybody for the purpose of preparing your constitution and bylaws?

A. We did.

Q. Who did you employ?

A. Attorney W. O. R. Johnson.

Q. I believe he has an office in Struthers, has he not?

A. Room 710 Mahoning Bank Building.

Q. Mahoning Bank Building?

A. Yes, sir.

Q. Did your Committee—just state what was done in connection with meeting Mr. Johnson as to this preparation.

A. The question again?

Q. What was done in connection with your employment of Mr. Johnson; what followed that?

A. We just simply proceeded to draw up a set of constitution and by-laws which we thought would be agreeable to the membership, and which was presented to them for ratification at a later date.

Q. Now, did you have more than one meeting with Mr. Johnson?

A. Numerous meetings.

Q. Can you tell us about how many?

A. Eight or ten.

Q. And where were those meetings being held?

A. In Mr. Johnson's office in the Mahoning Bank Building.

Q. Was your Committee with you in those conferences? The members of this Committee?

A. Yes, sir.

Q. Then after these eight or ten meetings that you speak of, what was done in connection with the by-laws and constitution?

A. We called a meeting of the members of the Federation.

Q. Where was that meeting called for?

A. In the Central Auditorium on Boardman Street.

Q. On Boardman Street?

A. Yes, sir.

Q. In Youngstown?

A. Yes, sir.

Q. Do you remember when that meeting was held?

A. That was on a Friday, I think; July 25th. I wasn't present; I was away at the time. It was July 25th or 26th.

Q. So you are not personally—you have no personal knowledge of what occurred at that meeting?

A. I haven't sir.

Q. Did you see the minutes of that meeting later?

A. I did.

Q. Do you know what action was taken from your record? What action was taken on the constitution and by-laws?

A. They were accepted as read by the membership.

Q. Now, have you had any meetings since that time?

A. No mass meeting, no.

Q. No?

A. No.

Q. Have you had meetings of the officers of the Committee since that time?

A. Officers and membership committee.

Q. Now, what was done in regard—you say "membership committee"—was there a committee appointed for that purpose?

A. The officers appointed a committee for that purpose.

Q. Do you have a copy of your by-laws and constitution?

A. I have.

Q. That was prepared by Mr. Johnson?

A. I have.

MR. SMITH: I will ask to have that marked for identification as Respondent's Exhibit 23.

(The document above referred to was marked as Respondent's Exhibit 23 for identification.)

Q. I show you a book that has been marked Respondent's Exhibit 23, and ask you to state what that is.

A. That is a constitution and by-laws of the Republic employees.

Q. That is—

A. The Independent Federation of Republic employees.

Q. And this is the book that you speak of as having been prepared by Mr. Johnson?

A. It is.

MR. SMITH: I desire to introduce Exhibit 23 in evidence.

MR. LAUTER: May I see the offered exhibit?

MR. SMITH: Yes, sir.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 23 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit No. 23 was received in evidence.)

MR. SMITH: Also mark this Respondent's Exhibit 24.

(The document above referred to was marked as Respondent's Exhibit 24 for identification.)

Q. I show you a card that has been marked as Respondent's Exhibit 24, and ask you to state what that card is for?

A. That is an application card for membership in the Independent Federation of Republic Employees.

Q. When was this card prepared, Mr. Smith?

A. At the formation of our organization.

Q. Well—

A. After we returned to work.

Q. Well, just state, now, where was it that you had your meeting at the time this card was discussed?

A. Indianola Avenue.

Q. Yes, and is that the time that the by-laws and constitution committee were appointed?

A. It is, sir.

Q. You may state who prepared this application card?

A. The committee, ourselves.

Q. Now what is necessary in connection with anyone desiring to join the Independent Federation, what is necessary for them to do?

A. Just what do you require men is, what it says on the card; they sign it of their own free will, there is no compulsion about it, with a fifty-cent monthly due.

JUDGE SMITH: I desire to introduce the Exhibit 24.

(The document previously marked for identification as Respondent's Exhibit No. 24 was received in evidence.)

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 24 received in evidence.

Q. (By Judge Smith) Mr. Smith, I wish you would state whether or not anybody connected with the Republic Steel Corporation or any of its officers or representatives were present at your Indianola meeting?

A. No sir, they were not.

Q. And was there anyone from Republic Steel Corporation, its officers or agents, present at any of the conferences your committee had with Mr. Johnson in connection with the preparation of this constitution and by-laws?

A. There was not.

Q. What is the purpose of this organization and the membership you are now acquiring at the present time?

A. How is that question, please?

Q. I say, what is the purpose of this organization that you have effected, of which—?

JUDGE SMITH: The by-laws and constitution, I presume, they are the best evidence of it. If there is an objection to that, I'll withdraw that question.

MR. LAUTER: There is an objection.

JUDGE SMITH: I'll withdraw the question.

Cross Examination

Q. (By Mr. Lauter) Mr. Smith, what is your position in the mill?

A. Pardon me?

Q. What is your position in the mill?

A. My occupation?

Q. That is right.

A. Mechanic.

Q. How long have you worked in the mill?

A. Between nine and ten years.

Q. Now you attended the meeting that was held at which you were elected a chairman, is that correct?

A. Yes, sir.

Q. And that organization was called the Independent Federation of Republic Employees?

A. It was.

Q. It is?

A. It is.

Q. Where was that meeting held?

A. In the Administration Building.

Q. That is Republic property, is that right?

A. Yes, it was.

Q. And about what time did that meeting start?

A. About eight o'clock.

Q. About how many persons attended that meeting?

A. I should judge between what was in the room and what was out in the corridor—between 300 and 350 men.

Q. Who gave you notice of the fact that there was going to be a meeting there?

A. That was public—common knowledge around the plant.

MR. LAUTER: I move that the answer of the witness be stricken as not responsive to the question.

TRIAL EXAMINER LINDSAY: Yes; the answer is stricken.

Q. Who gave you notice of the fact that there was going to be a meeting there that night?

A. I cannot answer that, not more than what was said around the plant amongst the boys, that there was going to be a meeting.

Q. Don't you recall who told you to go to the meeting?

A. Personally, nobody said anything to me.

Q. Didn't any of the boys tell you there was going to be a meeting?

A. Maybe lots of them did that but just who it was, I can't answer that question.

Q. Now, Mark Murphy attended the meeting, is that correct?

A. He did, sir.

Q. He was a Chairman under the Employees Representation Plan?

A. He was, sir.

Q. Were there any other employees' representatives present at the meeting?

A. I can't answer that.

Q. Don't you know?

A. I do not know; there may have been.

Q. You didn't see any?

A. Not as I recall.

Q. Did anybody ask you to run for office?

A. They didn't, sir.

Q. Before the meeting?

A. They didn't, sir.

Q. What?

A. They didn't, sir.

Q. Now, do you recall what Mr. Murphy said at the meeting?

A. How is that question?

MR. LAUTER: Repeat that question.

(The last question was read.)

A. Yes, I recall Mr. Murphy at the meeting.

Q. Do you recall what he said?

A. Not word for word, no.

Q. Tell me what he said, in substance.

A. Well, as I recall, he said that these meetings was called for the purpose of talking to the men and trying to prevent a strike. That was practically all I can tell you on that.

Q. Was that the reason for the formation of the Independent Federation of Republic Employees, to prevent a strike?

A. It was.

Q. And after the strike was over, was the purpose of the Independent Federation of Republic Employees to get the men back to work?

A. That was when the strike was on; that was the intent of it, yes; not after it was over.

Q. After it was called, is that correct?

A. After the strike was called.

Q. That was the purpose of the organization, is that correct?

A. Yes.

Q. Now, how many general membership meetings have you had of the Independent Federation?

A. We only had one of the entire membership.

Q. Was that the first meeting at which you were elected?

A. No, sir.

Q. When was the membership meeting to which you are referring, held?

A. There was a membership meeting held of the Federation of Republic Employees as it now stands, was called —that was either the 28th or the 29th of July. I could not answer that truthfully because I was not in town at that time. That was handled by the vice-president.

Q. Now, did you, in substance, at that meeting, make the same statement of purpose that Mart Murphy had?

A. I didn't get that question.

Q. Well, at the meeting that was held on May 19th, what did you say?

A. That was the meeting in the assembly hall?

Q. That is right.

A. I told the boys there, if there was anything I could do to prevent them from going out on strike, that I was willing to do it.

Q. How soon after that meeting did you take space in the bank building, the Dollar Building?

A. That was after the strike was called.

Q. Do you know what day that was?

A. That was May 26th—25th or 26th, I don't remember that.

Q. With whom did you make arrangements about taking space in the building?

A. Mr. Boyd.

Q. Mr. Boyd? Is the assistant trust officer, is that correct?

A. Yes, sir.

Q. Did you go in there alone, to make arrangements with him, or did you go with somebody else?

A. Well, I made my arrangements with Mr. Boyd, myself.

Q. Do you know Mr. Guy Thomas?

A. Pardon?

Q. Do you know Guy Thomas?

A. Thomas?

Q. Who was the man who was active in the Youngstown Sheet & Tube Back-to-Work Movement? What was his name?

A. Oh, that Mr. Thomas—Yes, I know him.

Q. You know him?

A. Yes, I do.

Q. Did you make any arrangements with him about taking space in the building?

A. Never had no conversation with Mr. Thomas.

Q. Do you mean about taking space in the building?

A. About taking space in the bank building.

Q. Well, you had conversations with him while you were up in the bank building office, though, didn't you?

A. Well, he had an office, yes, up there.

Q. And his office was adjacent to yours, is that correct?

A. That was, sir.

Q. And he had quite a suite of offices there, didn't he?

A. He did.

Q. And you used his offices interchangeably with your own, is that correct?

A. I did not.

Q. Now when people came up to see you in the office that you hired, Room 210—?

A. Yes.

Q. Did you ever take them into the Youngstown Sheet & Tube offices?

A. Yes, I took you because you wanted a private conference.

Q. Well, you didn't hesitate to use their offices, is that correct?

A. I went and asked for permission that afternoon, is the only time it was ever used.

Q. Is that the only time you ever used their offices?

A. Yes, sir, it was.

Q. Have you ever paid for the use of that office?

A. Yes sir, I have.

Q. At the time you made arrangement to take that space, did you also arrange for how much you were going to pay?

A. Yes sir, I did.

Q. How much did you agree to pay for the use of that room?

A. I don't—, is that question relevant?

MR. DAY: Yes, answer the question.

A. I paid a dollar a day for it.

Q. Paid a dollar a day?

A. Yes, sir.

Q. You arranged with Mr. Boyd to pay a dollar a day at the time you took the room?

A. Yes, sir.

Q. Did you sign a lease?

A. No, sir.

Q. And have you paid for the use of the room?

A. Yes, sir.

Q. Now when was the second meeting of the Independent Federation of Republic Employees held?

A. Which body are you referring to, the "Back-to-Work" body or the present Federation?

Q. There is no difference, is there; it is the same name, isn't it?

A. Oh no, oh no, that is altogether different now.

Q. Wasn't the organization of which you were elected a temporary chairman called the Independent Federation of Republic Employees?

A. That was, yes. "Back-to-Work" movement, at that time.

Q. And isn't that the same name as the new organization?

A. Yes.

Q. In respect to which you have testified, constitution and by-laws have been drafted?

A. It is, and it has been adopted as the name for the organization by the membership.

Q. That is the same name, isn't it?

A. It is the same name, yes.

Q. And you are still the chairman?

A. Yes, sir.

Q. Now at the time it was a "Back-to-Work" movement and a movement to prevent the strike, is that correct?

A. Yes—, no, no, the time it was organized it was to prevent a strike.

Q. And after the strike was called?

A. It was a "Back-to-Work" movement.

Q. It was a movement to get the men back to work?

A. Yes.

Q. That is still the Independent Federation of Republic Employees?

A. It is, yes sir.

Q. Have you ever paid any of the individuals who took around the "Back-to-Work" petitions to have them signed?

A. I have not, sir.

Q. Did you ever pay for the use of gasoline by those individuals?

A. I did some, yes.

Q. Now at that time was there any funds in the Independent Federation?

A. There was.

Q. Did you have a treasurer?

A. I did.

Q. Has a report ever been made of finances of that new organization?

A. As to the organization, yes.

Q. At what meeting was the report made?

A. The Indianola meeting.

Q. Now that is the meeting about which you testified that they are going to combine the ERP, the Employees' Representation Plan with the Independent Federation, is that correct?

A. That was a meeting that was called for that purpose, yes.

Q. Let me understand you clearly that the purpose of that meeting, that is, the Indianola meeting, is, as you have testified, to combine the Employees' Representative Plan with the Independent Federation, is that correct?

A. It was.

Q. Who was present at that Indianola meeting, and let us have the date of that meeting?

A. I couldn't answer you who was present.

Q. Which one of the employers' representatives was present at that meeting?

A. Practically their entire membership was present at that meeting.

Q. I am referring to the officers, were the officers of the employers' Representation Plan present at that Indianola meeting?

A. That was my answer to you, that they were.

Q. And when did you say that meeting took place?

A. About a week after we went back to work, I couldn't tell you the date on it.

Q. Now you suppose you fix it as near as you can, start off and tell me what month it was?

A. How is that?

Q. What month was it that the meeting was held?

A. That was in about the first part of July, the early part of July.

Q. Now, going back for a moment. Do you remember the meeting on May 19th in the assembly hall at which you were elected?

A. I do.

Q. Do you remember a rally that was held at Carpenters Field?

A. I do.

Q. Now, that is also Republic property, isn't it?

A. It was.

Q. That was the second meeting of the organization, is that correct?

A. Yes.

Q. Then on May 28th about that date you opened offices in the Dollar Bank Building, is that correct?

A. Yes, sir.

Q. Now, between May 19th and May 28th, how many meetings were held, if any?

A. I am not prepared to answer that question offhanded.

Q. You were the Chairman of the organization at that time?

A. I was.

Q. You don't recall whether or not during those nine days, whether any meetings were held apart from the rally at Carpenters Field?

A. No; not after Carpenters Field. We had a couple of meetings that was after the strike.

Q. I am not asking you if you had any meetings—

A. Yes, there was a meeting held.

Q. You are sure they were meetings?

A. Pardon?

Q. You are sure there were meetings held?

A. Yes.

Q. Where were those meetings held?

A. Down in the assembly hall.

Q. That is Republic property?

A. It was.

Q. Were those membership meetings or meetings of the officers?

A. No, sir, just meetings of employees; department meetings.

Q. So those were the only meetings that you held during that period?

A. Those meetings were all for the purpose of trying not to go out on strike.

Q. I am not asking you whether those were the only meetings that were held. Were the department meetings held on Republic property?

A. Those were the only meetings that were held on Republic property.

Q. I am not asking you whether those were the only meetings held between May 19th and May 28th—

A. Those were all on Republic property.

Q. Are those the only meetings that you held?

A. Yes, sir.

Q. Did you call those meetings yourself?

A. Yes, sir.

Q. Did you send out notices yourself?

A. Yes, sir.

Q. Now, what form of notice did you use for those meetings?

A. Those notices were given out among the departments to the men.

Q. Did you handle the matter of giving out notices?

A. Sir?

Q. Did you handle the matter of giving out notices yourself?

A. I announced from the Chair that we would hold a meeting at such and such a night and that we would hold a meeting.

Q. How did the employees in a particular department get notice of the fact that there was going to be a meeting of their department?

A. Why, through employees that was there.

Q. Do you mean that the employees of one department, attending a departmental meeting, would be told that the employees of another department were going to meet, next night?

A. Why, certainly.

Q. Is that correct?

A. Why, certainly.

Q. Is that the only notice that was given?

A. Yes, sir.

Q. What would happen to the employees who actually attended the meetings and were told that the employees of another department were going to have another meeting next night? Did they go back into the plant and tell the other employees?

A. Why, sure.

Q. Do you know whether they did that on company property and company time?

A. Well, in the course of common conversation.

Q. I am asking you whether or not that was done on company time. Now, do you know, or don't you know?

A. Why, I couldn't answer it any other way than what it was. We went backwards and forwards to work.

Q. Are you saying that it was done on company time?

A. I won't answer that.

MR. LAUTER: Well, I respectfully ask—

TRIAL EXAMINER LINDSAY: Well, just a minute. If you know the truth and you can answer it, you may answer it. That is what you are here for. Now, answer the question.

MR. LAUTER: Just one second. Read back about three or four questions.

(Record read by the Reporter down to the following point:

"A. Why, I couldn't answer it any other way than what it was.")

MR. LAUTER: Just stop right there.

Q. Is that statement correct, that you couldn't answer it any other way but what it was?

A. Why certainly, that statement is correct.

Q. That they did do it on company time.

A. Yes, if that is the way you want it, yes, that is the way it was done. Yes, if that is what you want.

Q. Well, I don't want it any other way but what it was. That is what you are testifying to, aren't you?

MR. SMITH: Well, your Honor, let me make this suggestion: He has answered that two or three times the same way.

TRIAL EXAMINER LINDSAY: Well, I know, but what we want to know is the truth, and that is all there is to it. There is no harm in this cross examination.

MR. SMITH: Your Honor, he said he couldn't answer it any other way, and then he asked him if that was correct and he said, "It certainly is." Now, he is pursuing the same question.

MR. LAUTER: I have no further questions to ask with respect to whether that was done on company time. I think the record is clear.

Q. Now, at these departmental meetings at which you acted as chairman, did you at any time raise a question of whether or not office space would be taken in the Dollar Building, and obtain any approval from the employees who attended these meetings?

A. I did not.

Q. Have you ever at any time obtained approval for the expenses incurred in taking that space?

A. With the officers of the association, yes.

Q. And when did you do that? Prior to taking the space, or after taking the space?

A. Prior to taking the space.

Q. And where was that meeting held?

A. That meeting was held at the Indianola Church.

Q. Is that the meeting at which the Employees Representation Plan representatives attended?

A. That was the time it was formed, yes.

Q. Now, are you saying that at that time you took up, at that meeting, the question of opening the offices in the Dollar Bank Building?

A. Yes, sir, with the officers of the Federation.

Q. Did you do that in an open meeting or in a closed meeting with the officers?

A. That was at the open meeting of the officers, yes.

Q. How many officers attended that meeting at which you took up that question?

A. There was the four of us.

Q. What are their names again?

A. Myself, Mr. Snyder, Chinelworth and Axelson.

Q. Now, did I understand you to testify that you took up the question of incurring the expense for the use of Room 212 prior to your actual obtaining that space, or after? Which is correct?

A. Well, that was taken up with the officers of the Association, what we should do about that.

Q. I am asking you, when you took that up with the officers of the Association? Prior to taking the space, making the arrangements with Mr. Boyd, or after that?

A. That was before I made arrangements with Mr. Boyd.

Q. Now, you are sure that you took that up with the officers before you made arrangements with Mr. Boyd, is that correct?

A. I am.

Q. And you say that the first time that you took it up was at the Indianola meeting?

A. That is where it was taken up, yes, sir.

Q. No, that the Indianola meeting was held sometime in July?

A. Pardon?

Q. Wasn't the Indianola meeting held sometime in July?

A. Early part of July.

Q. Did you take the space there as early as May 28th?

A. I may have made application for the space at that time, yes.

Q. When did you actually move into the offices?

A. That I cannot answer, I don't know.

Q. Well, don't you know that you moved in there some time in May or June?

A. No.

Q. Are you stating for the record that you weren't in the Dollar Bank Building some time in June, in Room 212 or 210?

A. 212 was in May, yes, in the latter part of May; I am talking about the regular Federation offices now, not about 2 and 210.

Q. We will go back over the whole thing. You took a room in the Dollar Bank Building, is that correct, in connection with the activities of the Independent Federation?

A. Yes, sir.

Q. Some time in May, is that correct?

A. That is correct, yes.

Q. I am asking you; who gave you the authority to take that space?

A. Who gave it?

Q. Yes.

A. I took that upon my own responsibility at that time.

Q. That is what I am getting at.

A. Yes, sir.

Q. You didn't consult with any officers or any members?

A. At that time we had no officers.

Q. But you opened that in the name of the Independent Federation, didn't you?

A. Yes, sir.

Q. And you carried on activities of the Independent Federation, didn't you.

A. Yes.

Q. And at that time there were a temporary set of officers?

A. At that time we had temporary set of officers, four of us.

Q. And at that time you were holding departmental meetings?

R. In the administration building, yes sir.

Q. And you never consulted the officers or members, is that correct?

A. No, I did not at that time.

Q. That is all. I hand you Board's Exhibit for identification 113, and ask you whether or not you received that before, or copy of it?

(The document above referred to was marked as Board's Exhibit No. 113 for identification.)

JUDGE SMITH: May I see it?

MR. LAUTER: As soon as I make my offer, Judge Smith, I will be very glad to show it to you.

A. Yes, I seen that before.

Q. Is this a copy—, is Board's Exhibit No. 113 a copy which you sent to Madame Frances Perkins?

A. It is.

MR. LAUTER: I offer in evidence Board's Exhibit 113.

JUDGE SMITH: We will object to the introduction on the grounds it is incompetent, immaterial and not germane to the issues in the case.

TRIAL EXAMINER LINDSAY: Objection overruled. Board's Exhibit 113 received in evidence. Let the record show an exception.

(The document previously marked for identification as Board's Exhibit No. 113 was received in evidence.)

Q. I call your attention, Mr. Smith, to the fact that this Board's Exhibit 113 is dated June 23rd, 1937, is that the date on which you sent the telegram?

A. According to that, it is.

Q. Do you remember, or have you any recollection of anything that would make you believe that is not the date?

A. Pardon me?

Q. So far as you can recall, is that the date on which you sent the telegram?

A. It is.

Q. Now between May 19th, when you were elected temporary chairman and June 23rd, 1937, how many general membership meetings did you say there were?

A. Why, there was no general membership meetings between that time, that was entire "Back to Work" movement there.

Q. Now, I want you to listen to the question, Mr. Smith.

A. I beg your pardon?

Q. I am asking you, Mr. Smith, how many membership meetings there were.

A. None.

Q. If there were none, just say there were none.

A. None.

Q. That is, of the Independent Federation, is that correct?

A. No, there were none.

Q. There were no meetings?

A. No.

Q. And when you sent this telegram, did you consult any of the officers or any of the members of the Independent Federation?

A. That was made up between the officers that was in the meeting with us.

Q. What meeting was that?

A. Well, that office was open from 8 o'clock in the morning until 8 o'clock at night.

Q. I am asking you at what meetings formal action was taken approving the sending of this telegram on May 23rd.

A. As I just quoted to you, it was at a meeting where we had our registration where all the officers were at all times.

Q. Are you saying a formal action was taken?

A. I told you there was no meetings during that time.

Q. I am not referring to the membership meetings but to meetings of the officers.

A. No, there was none.

Q. There were no meetings of the officers?

A. During that period.

Q. Did you assume the authority to send out this telegram?

A. I did.

Q. And this was your composition on it, is that right?

A. Ye , sir, a copy of it; yes.

Q. Now, I hand you Board's Exhibit No. 114 which has been marked for identification and ask you whether this is a copy of a postcard that you sent out to Republic employees, also in the name of the Independent Federation of Republic Employees (Handing a card to the witness)?

A. Yes, sir.

(Thereupon the document above referred to was marked Board's Exhibit No. 114 for identification.)

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 114.

JUDGE SMITH: No objection.

MR. LAUTER: May we have a ruling on it, your Honor?

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 114 is received in evidence.

(Thereupon the document heretofore marked as "Board's Exhibit No. 114" was received in evidence.)

Q. Where did you get the list of names to send out these postcards?

A. My secretary got those; I can't answer that question, where he got them from.

Q. Well, you sent them out to Republic employees, didn't you?

A. Yes, sir.

Q. Did you get them from the Corporation?

A. They may have been; I can't answer that question. I can't say but I know we sent out those names. I sat down and sent them out.

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MICRO CARD

Q. You sent out those cards similar to Board's Exhibit 114 to employees of the Republic, is that correct?

A. Yes, sir.

Q. And those postcards in each instance urged these men to sign up for the Back-to-Work movement?

A. Yes.

JUDGE SMITH: I object to that. The men themselves can state as to what they were urged. The cards are in evidence.

Q. Did you send out similar cards to all Republic employees—

TRIAL EXAMINER LINDSAY: Just a moment.

JUDGE SMITH: I am objecting to his interpretation in asking the witness that question about the cards.

MR. LAUTER: All right. I will withdraw the question, if your Honor please.

JUDGE SMITH: If you will withdraw your question, then I will withdraw my objection.

Q. Did you send out cards similar to Board's Exhibit 114 to employees of the Republic; is that correct?

A. Yes.

Q Don't you know that the names that appear on the front of these cards that you sent out to Republic employees were obtained from the Corporation?

A. I presume that is where they did come from originally.

Q. What do you mean "originally?" That is where they came from, didn't they?

A That is what you say.

Q. I am asking you what you say.

A. Yes.

Q. Didn't they?

A. Yes.

MR. LAUTER: That is all.

THE WITNESS: Thanks.

Redirect Examination

Q. (By Judge Smith) Mr. Smith, there was some questions raised in regard to the office in the Dollar Bank Building. Does the Independent Federation now have an office in the Dollar Bank Building?

A. We have.

Q. And the ratification or approval that you spoke of, in connection with your Indianola meeting, as to the renting of that office and authorizing it, is that the one you refer to as being authorized there?

A. That is the one I referred to, the present one I am in.

MR. SMITH: That is all.

MR. LAUTER: Just one second.

Recross Examination

Q. (By Mr. Lauter) What was the room number of the room—the first room that you took in the Bank Building?

A. Room 210.

Q. Now, with respect to room 210 you never got authority, is that correct?

A. Pardon?

Q. With respect to Room 210 you never got authority?

A. No, sir.

Q. And that was the room with respect to which you made arrangements with Mr. Boyd, assistant trust officer, is that correct?

A. Yes, sir.

Q. And that is the room that is right next to the Youngstown Sheet & Tube offices, is that correct?

A. It is—It was, sir.

Q. Do you know whether or not Mr. Argetsinger is vice-president of the bank?

A. I do not, sir.

Q. You don't know that?

A. No, sir.

(Witness excused.)

G. O. McGRANAHAN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Smith) What is your full name?

A. G. O. McGranahan.

Q. You reside where?

A. 374 Cohasset Road, Youngstown.

Q. How long have you lived here?

A. 27 years.

Q. What is your occupation?

A. Commercial photographer.

Q. How many years have you been engaged in that work?

A. 24 years.

MR. SMITH: I would like to have these marked Respondent's Exhibit 25 and 26.

(The photographs above referred to were marked as Respondent's Exhibits No. 25 and 26 for identification.)

Q. I show you a photograph that has been marked as Respondent's Exhibit 25, and ask you if that is a reproduction of a picture that was taken by you?

A. Yes, sir.

Q. And where was that taken, Mr. McGranahan?

A. That was taken from the roof of the Sharp Lumber Company.

Q. And what location? What is the location?

A. That is up on the hill.

Q. Well, on what street is it? What part of town, Mr. McGranahan?

A. Well, it is right—

Q. What street?

A. It is right opposite Jones Street. I don't know the name of the street. It is a little short street in there.

Q. Well, is that near Stop 5 on Poland Avenue?

A. Yes, sir, it is right across, over the hill from there.

Q. And I'll show you another photograph which is marked Respondent's Exhibit No. 26 and ask you if that is a reproduction of a photograph that you took?

(The document above referred to was marked as Respondent's Exhibit No. 26 for identification.)

A. Yes.

Q. And where was that taken from?

A. That was taken on the railroad track just above the tunnel that goes into the mill at Stop 5.

Q. That is, into the Republic Steel production plant?

A. Yes, sir.

Q. Does this photograph correctly represent the surroundings, the view, from the top of the Sharp Lumber plant in connection with Stop 5 of the Republic?

MR. LAUTER: I suggest, Judge Smith, that you refer to document by exhibit number so we will know what you are talking about.

JUDGE SMITH: That is Exhibit 25.

A. Yes, sir.

MR. LAUTER: That is, Exhibit for identification?

JUDGE SMITH: That is right.

Q. (By Judge Smith) And I refer you to Exhibit No. 26 and ask you if that is a correct showing of the conditions and the locations in looking from a point on the railroad track above the entrance to the Republic Steel Corporation at Stop 5?

A. Yes, sir.

JUDGE SMITH: I would like to offer these two Exhibits.

MR. LAUTER: Object on the ground that they are incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: I find it necessary to take that under advisement.

JUDGE SMITH: Do you wish to inquire?

Cross Examination

Q. (By Mr. Lauter) You say you are a commercial photographer?

A. Yes sir.

Q. How long have you been a photographer?

A. Twenty-four years.

Q. Were these photographs taken in the regular course of your business?

A. Yes, sir.

Q. At whose instructions?

A. At Mr. Johnson's.

Q. Who is Mr. Johnson?

A. He is with the City of Youngstown.

Q. City of Youngstown?

A. Yes, sir.

Q. When did you take these photographs?

A. Those were made July 15th, 1937.

Q. And can you state for what purpose they were made?

A. Well, they just wanted to have the location so they could identify them.

Q. Identify what?

A. The different locations from the bridge and Stop 5.

Q. Republic Steel Corporation asked you to take those pictures?

A. No, sir.

Q. Did they ask you for copies of them?

A. Yes, sir.

Q. How soon after you took them, did they ask you for copies of them?

A. That I can't say.

Q. Try and remember; when did you take the pictures?

A. July 15th.

Q. And when did you sell copies of them to the Republic?

A. I would have to look up the records to see when it was.

Q. Would you say a week or a day, or when?

A. No, it was longer than that.

Q. Longer than that? A month?

A. I would say it was close to a month.

Q. Some time in August?

A. Yes, sir.

Q. Who asked you for copies of the photographs?

A. Mr. Jones.

Q. Mr. Jones?

A. Yes, sir.

Q. What is his position?

A. He is an attorney.

JUDGE SMITH: This gentleman here.

Q. Is he the gentleman sitting at the counsel table for the Republic?

A. Yes, sir.

Q. He asked you for copies of the photographs?

A. Yes, sir.

Q. Were these part of the number of photographs that you took at that time?

A. Yes, sir.

Q. On July 15th?

A. Yes, sir.

Q. When you took these photographs, were you given any instructions in respect to what angle to take the pictures from?

A. Yes, sir.

Q. Who gave you those instructions?

A. Police Department.

Q. Who in the Police Department?

A. There were two policemen with me instructing me what to do.

Q. There were?

A. Yes, sir.

Q. What are their names?

A. I couldn't say.

Q. Where did you meet them?

A. At the City Hall, or the Police Department, rather, at the Chief of Police's office.

Q. Let me get this straight: There was someone of the City of Youngstown asked you to take photographs?

A. Yes, sir.

Q. What was his name?

A. Mr. Johnson.

Q. Mr. Johnson?

A. Yes, sir.

Q. You met two policemen and you went out and took some pictures.

A. Yes, sir.

Q. And the two policemen told you at what angle to take the pictures?

A. Told me what they wanted.

Q. Told you what they wanted?

A. Yes, sir.

Q. Did they say what they wanted them for?

A. No, sir.

Q. You don't know what these pictures were taken for?

A. Not at the time, no.

Q. Subsequently, did you find out?

A. Later, yes.

Q. What were they taken for?

A. Court work.

Q. What was that?

A. For court work.

Q. By the City of Youngstown?

A. Yes, sir.

Q. And then Mr. Jones came to your place of business?

A. No.

Q. And asked you for copies?

A. They called me on the 'phone.

Q. And you had a conversation with Mr. Jones?

A. Yes, sir.

Q. What did Mr. Jones say?

A. Just told me he would like to have copies of them.

Q. Did he say which photographs?

A. Yes, sir.

Q. Just these two?

A. No, some others, too.

MR. LAUTER: That is all.

JUDGE SMITH: That is all.

ALBERT HAENNY

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Judge Smith) What is your full name?

A. Albert Haenny.

Q. You reside where?

A. City of Youngstown on Park Cliff Avenue.

Q. How long have you lived in Youngstown?

A. All my life.

Q. What is your occupation?

A. I am Commissioner of Engineering for the City of Youngstown.

Q. Prior to that time, how were you employed?

A. I was in the practice of civil engineering.

Q. And then for how many years—

A. Well, it has been my lifetime work. I have been practicing for myself for 18 years.

Q. Now, were you called upon by the City of Youngstown some time ago to make a map on the location of Stop 5?

A. Yes. The Law Director of the City of Youngstown asked our Department to prepare a map of Stop 5 of the Poland Avenue line.

Q. Did you go out and make a map of that kind?

A. Yes, I did.

Q. Now, in getting the data for the map, how did you get that? How did you arrive at that?

A. Well, through measurements and field work with our field corps. That is the City of Youngstown civil engineering corps, and from other records that we had.

Q. And the field work was done under your supervision and direction?

A. Yes, it was.

Q. And the making up of the map, was that done under your supervision?

A. That was also done. Yes, under my supervision and direction.

Q. Now, do you have with you—

A. I have the original.

Q. You have the original?

A. Yes, of the map here.

JUDGE SMITH: Now, your Honor, may I have this understanding of having the copy marked as an exhibit in the event that this is permitted to go in, so the original may be taken away by Mr. Haenny?

TRIAL EXAMINER LINDSAY: Yes. I see no objection to that. However, the ruling on the question as to Stop 5 pertaining to violence, the objection to that testimony has been sustained and I would like to know what the purpose of offering these exhibits really are.

JUDGE SMITH: Well, we would like to have the conditions existing around there in the record so that it would be easier to apply the evidence that has been or will be introduced.

TRIAL EXAMINER LINDSAY: Well, they are not being offered with any thought in mind of showing any act of violence?

(Discussion off the record.)

JUDGE SMITH: I would like to have it identified. The reason I asked your Honor that question before was as to whether or not there would be any objection on the grounds of using the copy.

TRIAL EXAMINER LINDSAY: If it is received in evidence, and the copy is an exact copy of the original, there will be no objection of letting the copy be substituted for the original.

JUDGE SMITH: Then we can have the original marked, and then have the record show the substitution, is that correct?

TRIAL EXAMINER LINDSAY: Yes.

JUDGE SMITH: May I have that marked as Respondent's Exhibit 27 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 27 for identification.)

Q. I show you a map which has been marked for identification as Respondent's Exhibit 27, and ask you if that map is correct as to the locations that it purports to show in and around Stop 5, on and near the entrance to the Republic Steel Corporation on Poland Avenue?

A. Yes, it is.

MR. SMITH: Do you care to examine it? You have looked at it, I suppose?

MR. LAUTER: Have you made an offer, yet?

MR. SMITH: I have not yet made an offer. I am going to ask you if you wanted to examine it before that time. Now, I offer this Respondent's Exhibit 27 in evidence.

MR. LAUTER: I object on the ground incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Ruling reserved.

MR. SMITH: Do you want to ask anything?

MR. LAUTER: At the present time do I understand the original is not remaining in evidence, and that you are making request that copy be substituted in its place?

MR. SMITH: Yes.

MR. LAUTER: Is that the copy?

MR. SMITH: That is the copy.

MR. LAUTER: I suggest you make request at this time in the record, so that it may be clear that the original is not to remain in evidence.

MR. DAY: You had better mark the copy.

TRIAL EXAMINER LINDSAY: Not any of it has been received.

MR. LAUTER: I understand you have reserved the ruling, but on the other hand you are probably going to remove this original from the courtroom today, is that correct?

MR. DAY: I suggest we mark the copy as an exhibit.

MR. SMITH: May we have the Stenographer mark the copy as an exhibit, if the objection will not go to the fact that it is a copy?

MR. LAUTER: No, my objection won't go to the fact that it is a copy.

MR. SMITH: All right, then.

MR. LAUTER: That is, if this witness testifies under oath that that is an exact copy of the original.

MR. SMITH: He has testified.

MR. LAUTER: Then there is no objection that it is a copy.

Q. (By Mr. Smith) I think I have asked you that question.

A. No, you haven't.

Q. Will you examine this copy that is on this easel here, and see whether it is an exact reproduction of this original map that you made?

A. Yes, it is a copy, an exact reproduction of the original map, made by our office, to show the location and opposite surroundings, Stop 5 entrance.

MR. SMITH: I would like to have the Stenographer now mark that copy over there, instead of marking on the original.

(Copy of the document above referred to was marked as Respondent's Exhibit No. 27 for identification.)

MR. SMITH: I have no further questions to ask.

Cross Examination

Q. (By Mr. Lauter) What is your position with the City?

A. Commissioner of Engineering. The City Engineer, but under the charter form our title is Commissioner of Engineering.

Q. At whose request did you make the original of Respondent's No. 27?

A. Mr. Vern Thomas, Director of Law of the City of Youngstown.

Q. And for what purpose was the map made?

A. So far as I know, map was made for the purpose of presenting at a case in Columbus. I wasn't there and it wasn't identified there, or the map wasn't taken there but it was made for that purpose.

Q. Was the original made by you or under your direction?

A. Yes, sir.

Q. And was that copy made by you or under your direction?

A. Under my direction, yes.

Q. And who requested that a copy be made?

A. There wasn't any definite request made, on the copy being made. We make considerable number of copies.

Q. Is this original and that copy City property?

A. I don't know where that copy came from.

Q. I don't want your speculations; if you know, say you know, if you don't know, say you don't know.

A. I couldn't say which one—, I made about ten copies of that map, now what particular copy—.

Q. So if that is that one of the ten copies you made, that would be City Property, is that right?

A. Yes, sir.

Q. And that original you have in your hand, that is City property?

A. That is city property, yes, sir.

Q. Have you any authority to part with either one of those copies?

A. I am not parting with the original.

Q. Have you any authority, or were you given any authority to part with that copy?

A. No, I don't think it would be necessary.

Q. Did you bring this original into court?

A. I brought this, yes.

Q. From whom did you get permission to bring the original into Court?

A. I wouldn't—, that's my own Department affair, I don't know of whom I could possibly get permission other than myself.

Q. Were you subpoenaed to bring that into Court?

A. No.

Q. You were merely requested?

A. Merely requested.

Q. And you brought it in?

A. Yes.

Q. And you don't know whether that is a copy which you prepared; take a look at the copy and see whether or not that is one of the ten copies which you prepared, the one that is pinned onto a placard here in the Courtroom.

A. It is one of those copies because it's of that particular type.

Q. You say that is one of those copies?

A. Yes.

Q. And you have charge of that copy as well as the original, is that correct?

A. Yes.

Q. When did you part with that copy?

A. I couldn't tell you, sir.

Q. Were you ever requested for that copy?

A. No, I gave copies to the Law Department of the City of Youngstown, now that is probably one of those copies, that is what I was going to tell you before.

Q. So far as you know, is there any authority on the part of the Law Department to part with that City property?

MR. DAY: I'll object to that.

MR. LAUTER: I'll withdraw the question.

Q. Where are the copies generally kept by the City?

A. These are matter of record in Department of Public Works.

Q. Is that a Department over which you have any control?

A. I am in charge of that Department.

Q. And these maps are directly under your charge, is that correct?

A. That is true.

Q. And if one of those maps were to be missing or disappear you would be charged with the responsibility for that map, is that correct?

A. Well, perhaps so. Of course, copies—

Q. Well, you are in charge of the maps, aren't you?

A. That is true.

Q. That original and ten copies?

A. That is true.

Q. And you say that is one of the ten copies, and you don't know when you parted with it?

A. That is right.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Judge Smith) I understood you to say you turned over some of these copies to the Law Department of the City of Youngstown?

A. That is true.

Q. Now, do you say that is true?

A. Yes, sir.

JUDGE SMITH: Now, I wish to state into the record, your Honor, that we got this copy from the Law Department of the City of Youngstown, and I just want the record to understand that this man has not in any way turned over any copy to us at all. We got it from the Law Department of the City of Youngstown.

That is all, Mr. Haenny.

TRIAL EXAMINER LINDSAY: We will have a recess at this time.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. LAUTER: At this time, Mr. Trial Examiner, in order to preserve my record, I would like to state an objection made originally concerning the introduction of these maps and pictures on the ground that it is incompetent, irrelevant and immaterial. I want to state further that if the purpose of introducing these documents is to show acts of violence, I wish to note my objection that I have already made with respect to the testimony of one Charles Richmond.

TRIAL EXAMINER LINDSAY: Ruling reserved.

WILEY McCREARY

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Jones) Will you state your full name, please?

~~A.~~ Wiley McCreary.

Q. Keep your voice up, please.

A. Wiley McCreary.

Q. Where do you live, Mr. McCreary?

A. Niles.

Q. Where are you now employed?

A. Republic Steel Corporation.

Q. At the Niles plant?

A. At the Niles plant.

Q. How long have you been in their employ?

A. About a year.

Q. What is the nature of your employment there?

A. Electrician.

Q. What?

A. Electrician.

Q. Are you a foreman?

A. (No response.)

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Q. Were you employed in this same capacity before the strike?

A. Yes, sir.

Q. Are you a foreman?

A. No.

Q. Were you a foreman at the time or before the strike?

A. No.

Q. You were employed as an electrician at the time of the strike?

A. Yes, sir.

Q. At the time the strike was called on that day, when did your turn or trick end?

A. 11 o'clock at night.

Q. Did you stay in the plant during the strike?

A. I did.

Q. I will ask you whether or not any foreman, superintendent or officer of the Republic Steel Corporation ordered you to stay in the plant during the strike.

A. No, sir.

Q. About when was it on the day that the strike was called that you first knew there was going to be a strike?

A. About around 6 or 7 o'clock, I would say.

Q. In the evening?

A. Yes, sir.

Q. And your trick ended at 11 o'clock in the evening?

A. 11 o'clock.

Q. Did you leave the plant on that night?

A. No.

Q. How long did you stay in the plant until you did leave?

A. June 12th.

Q. Is it your understanding, Mr. McCreary, that the strike was called on May 26th?

A. Absolutely.

Q. So from May 26th until June 12th you remained in the plant?

A. Yes, sir.

Q. I will ask you ordinarily if you were accustomed to go to and from your home or place of abode—

A. Yes.

Q. —while you worked at the plant?

A. Yes.

Q. Why was it that you didn't do that between May 26th and June 12th?

A. Afraid to get my head knocked off.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Yes. Objection sustained. Let the record show an exception.

MR. JONES: Exception.

TRIAL EXAMINER LINDSAY: The answer is stricken out.

MR. JONES: May we make our offer to prove?

TRIAL EXAMINER LINDSAY: Not on a question like that. It is calling for a conclusion based on nothing.

Q. Mr. McCreary, during the period of time from May 26th until June 12th, during the time that you were in the mill, I will ask you to state whether or not you observed pickets in and about the Niles plant.

MR. LAUTER: I object to the question as leading the witness.

TRIAL EXAMINER LINDSAY: That is leading the witness.

MR. JONES: On that question, your Honor, I wanted to get simply a yes or no answer.

TRIAL EXAMINER LINDSAY: Ask him what he saw.

Q. Did you or didn't you, Mr. McCreary, observe pickets in and about the plant between May 26th and June 12th? Answer that yes or no.

A. Yes.

MR. LAUTER: I ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Just a minute, now. (To the witness) When a question is asked and there is an objection, you just wait and give me a chance to rule on it. Now on that basis alone, the whole thing is stricken; the question and the answer. Start all over again.

Q. Will you please, Mr. McCreary, describe what you saw about the plant, not in the plant, between May the 26th and June 12th?

A. They had a cable out in front of our driveway, which was blocked with automobiles.

MR. LAUTER: May we have the place of that cable more definitely?

Q. Where was that, Mr. McCreary?

A. It is on the main road between Niles and Warren.

Q. Is that along one side of the plant?

A. Along one side, it is the gateway to the plant, yes.

Q. That is, does the entrance or gateway that you mention, open on to that highway?

A. It is.

Q. Describe what you saw between those dates on that highway, adjacent to the plant?

A. Well, there were pickets there twenty-four hours a day, it would be pretty hard to describe everything you saw the twenty-four hours a day it was picketed; there were numerous men there.

Q. I just want what you saw, Mr. McCreary; will you describe the appearance of the pickets as you saw them?

A. Well, there were fellows you wouldn't want to meet in the dark.

TRIAL EXAMINER LINDSAY: No, no, that is stricken out.

MR. JONES: Yes.

Q. Just what you saw, Mr. McCreary, not your conclusions.

A. Well, I saw men walking up and down there.

Q. Where?

A. Along the public highway, the sidewalks, along the Erie railroad tracks, which is in the rear of the plant.

Q. Is that a boundary of the plant?

A. It is.

Q. What was the extent of the space wherein you say these pickets were walking up and down, as you have told us, on this public highway or sidewalk?

A. Probably half a mile.

Q. I'll ask you if it extended the entire length of the Company's property?

A. It did.

Q. What, if anything, did they have in their hands as you saw them?

MR. LAUTER: Object to that as leading the witness.

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: And there is no testimony that they had anything in their hands?

MR. JONES: I'll withdraw the question, Your Honor.

Q. Did any of the pickets at any time have anything in their hands?

A. They did.

Q. Describe what you saw?

MR. LAUTER: I want an objection on the grounds of incompetent, irrelevant and immaterial; what they had in their hands, is not involved in this case, outside of the scope of the issues.

TRIAL EXAMINER LINDSAY: For the time being, I'll sustain that objection. Let the record show an exception.

MR. JONES: May I make an offer to prove, Your Honor?

TRIAL EXAMINER LINDSAY: You may make an offer to prove at any time when you build your witness up to that point.

MR. JONES: May I now dictate into the record our offer to prove with respect to this question?

MR. LAUTER: If it please, Mr. Trial Examiner, if an offer of proof is now going to be made in respect to a subject matter that you have now ruled as incompetent, irrelevant and immaterial, I respectfully submit that we shouldn't be bound here. Now I don't see that it is in any [way] involved in this case if pickets go out there with something in their hands.

MR. DAY: What was the last question?

(The last question was read.)

(Discussion off the record.)

MR. LAUTER: I will withdraw my objection.

MR. JONES: Do I understand that this witness may answer this question?

TRIAL EXAMINER LINDSAY: For the time being.

MR. JONES: Will you read the question?

(The last question was read.)

A. One of them showed me a gun one day.

Q. What else did you see?

MR. LAUTER: Will you read that last answer?

(The last answer was read.)

Q. What else did you see?

A. Most of them had clubs.

Q. What were the size of the clubs?

A. Probably about a foot long and about an inch or an inch and a half in diameter.

MR. LAUTER: At this time, if it please, Mr. Trial Examiner, I wish to renew my motion. I am objecting on the ground that it is incompetent, irrelevant and immaterial and outside of the scope of the issues in this case.

MR. DAY: Inasmuch as that objection is made on that ground, we want to make a statement that this evidence is competent, relevant and material and not with relation to the violence matter that the Court has already passed upon but upon the issues in the case as to why certain men remained in the plant, did not leave the plant and go home.

MR. LAUTER: If it please, Mr. Trial Examiner, with respect to that issue, I want to point out within the complaint it is alleged in Paragraph 17: "The Respondent has compelled a considerable number of employees at its Warren, Ohio, plant to remain at their jobs within said plant, and has threatened said employees with discharge and lose of seniority rights and vacation privileges if they left said plant." With respect to that allegation there has been certain proof in this case, and certain instances in which employees had remained and had been influenced in remaining in the plant. In connection with those allegations and that proof, there has not been any defense testimony offered here in this case; instead the Respondent Company has put on other witnesses to show that these other witnesses were kept in the plant for other reasons not in any way related to the allegations contained in the complaint.

Now this witness may have remained in the plant for any number of reasons, one of which may have been that he was afraid to go out because there were pickets outside of the plant. That fact is not in issue in this case. What is an issue in this case is whether or not certain of the employees of the Respondent Company were influenced in connection with their remaining in their plant; and since Mr. Day has raised the issue so sharply, I want to state my position in this case. I want to state further that it seems to me that a considerable period of time has been spent in showing violence on both sides and we have shown in our case the violence spoken of by the Respondent Company. In connection with that violence we ~~have~~ opened the door. We have never objected—at least I have never objected to the introduction of any defense testimony either at Canton or Massillon, but I respectfully submit in view of the fact that there wasn't one shred of evidence dealing with violence introduced here or in the hearing at Youngstown that I want to object to any further testimony with regard to this witness or any other witness with respect to what they say about guns or clubs or any other weapons.

I would like a ruling on my objection, if your Honor please.

MR. DAY: I want to say that inasmuch as the statement is made here that the hearing in this case is merely a subterfuge to get around the ruling that the Trial Examiner made last Saturday, that is not the fact, and on that issue we are bound by what the Trial Examiner said, and the Trial Examiner has said that we will be permitted to pursue that line in preservation of our rights on that issue. We think that when it is charged in the complaint that the Respondent has compelled a considerable number of employees to remain in the plant, that we have a right to show why the employees stayed there and we are not confined as to the specific instances pointed out by the Labor Board in the presentation of its case. Now we are not going to put on any others until—we are going to ask leave of the Trial Examiner of what would be fair on that issue.

MR. LAUTER: I respectfully submit, Mr. Trial Examiner, that the respondent company has no right to put on any testimony with respect to this matter; that the fact that it requests to put on seven or eight or three or four in no way mitigates my argument.

MR. DAY: I do not think it does, either. We do not wish to be understood that way. That is to say—

MR. LAUTER: This is exactly the same issue which was raised with respect to peaceful picketing. It is alleged in the complaint that the respondent company interfered with peaceful picketing. In defense of interfering with peaceful picketing, the company attempts to come forward and show that on certain occasions picketing was not peaceful. Attempts to offer evidence showing that on those occasions when it was not peaceful what the police did. How can that possibly be considered a defense to what they did, the respondent company, in interfering with peaceful picketing? We have exactly the same proposition with respect to men remaining in the plant. Certain men were influenced in remaining in the plant, by the respondent company. Now, the respondent company wants to come forward and show what it did with respect to other men whom they allege they did not influence. We respectfully submit that that is outside of the scope of the issues in this case.

MR. DAY: We have already stated our position.

TRIAL EXAMINER LINDSAY: I will sustain the objection.

Let the record show an exception.

MR. JONES: Exception. Was that the last question, your Honor?

TRIAL EXAMINER LINDSAY: Yes, it is to any question going into the discussion or evidence purporting to show violence or what the pickets were doing at that specific time.

MR. DAY: Now, we want the record to show that we do not offer this record solely for the purpose of showing actual violence upon the part of the strikers, but we offer this evidence as tending to show why this man did not leave the plant, go home, and come back to work.

TRIAL EXAMINER LINDSAY: Off the record.

(Discussion held off the record.)

(Record read by the Reporter.)

Q. Did you leave the plant, Mr. McCreary?

A. I did.

Q. On what day?

A. June 12th.

Q. How did you go out of the plant? By what gate or what entrance, or in what vicinity?

A. There wasn't any gate.

Q. Where did you go out?

A. I slipped out between the pickets.

Q. At the main gate?

A. No.

Q. What part of the plant?

A. It was along the eastern boundary some place.

Q. What gate was it that you ordinarily went in and out before the strike?

A. The east gate.

Q. Is that the same gate that opens on to the Warren-Niles Road that you told us about?

A. Yes, sir.

Q. Why did you not attempt to go out at that gate when you did leave the plant?

MR. LAUTER: Object to the question as calling for a statement of motives and mental operations of this witness.

TRIAL EXAMINER LINDSAY: Objection is sustained. The record may show an exception.

MR. JONES: May I at this time make my offer to prove on that, Your Honor?

TRIAL EXAMINER LINDSAY: We will reserve that for the time being and you make your offer to prove in writing, as I want to examine it very thoroughly and a written offer of proof is better than oral, anyway.

MR. DAY: And we would like, if we could, if I have it with me, and I think I have, hand to your Honor a memorandum upon the question as to whether that kind of an answer is admissible; I really would.

TRIAL EXAMINER LINDSAY: All right.

Q. (By Mr. Jones) Mr. McCreary, did you later attempt to get into the plant?

A. I did.

Q. At what place did you attempt to enter the plant?

A. Just south of the main gate at the office.

Q. Is that the main gate that you referred to as opening onto the Warren-Niles Road?

A. Yes.

Q. When was it that you attempted to enter that main gate?

A. The first time on the 13th.

Q. Now when was that with reference to the time that you 'snuck' out through the pickets, as you called it?

A. The next morning about three o'clock, four o'clock.

Q. Three or four o'clock on the morning of June 13th?

A. 13th.

Q. How did you come up to that main gate?

A. I didn't get within only about a square from it.

Q. Well, up to that point, how did you come, were you riding or walking?

A. No, I walked up there.

Q. And from that point, how did you go up?

A. Well, there was four fellows came out of some bushes—

Q. Oh, pardon me, were you stopped at that point?

A. Yes.

Q. Then did you get in the plant at that time?

A. No.

MR. LAUTER: Excuse me, at this time I want to object to this line of inquiry as outside of the scope of the issues; incompetent, irrelevant and immaterial whether or not this particular individual now testifying did or did not succeed in his attempt to get back into the plant. I contend that is not relevant to the issues of the case.

TRIAL EXAMINER LINDSAY: As long as they leave violence out of it, I'll overrule your objection there. Let's finish this witness and then we will have a ruling on the complete testimony.

Q. (By Mr. Jones) Did you again attempt to get into the plant?

A. I did.

Q. When was that?

A. The next morning on the 14th.

Q. About what time?

A. At three o'clock exactly in the morning.

Q. Where was it that you attempted to get into the plant at that time?

A. The main office door.

Q. Is that the same gate that you have told us about?

A. Yes.

Q. How did you come up to the gate on that morning?

A. In a taxicab.

Q. Where did the taxicab stop?

A. He didn't stop, I hopped off and let him go.

Q. Where did you hop off?

A. Right in front of the main office.

Q. After you hopped off the taxicab, where did you go?

A. I tried to go over on to the lawn.

Q. What lawn?

A. The office lawn.

Q. Did you go?

A. No, I was stopped.

Q. How far did you get before you were stopped?

A. One foot up on the curbstone at the sidewalk.

Q. Is that the curbstone on the same side of the street that the entrance is on?

A. Yes.

Q. What happened when you were stopped?

A. Well, they hit me over the head with a club.

Q. Was that someone from the front or the rear?

A. From the front.

Q. Were you knocked down?

A. I would have been if someone hadn't come running up behind me and caught me.

Q. From there, where did you go?

MR. LAUTER: Excuse me, at this time I want to object to this line of inquiry and my objection is as previously stated.

TRIAL EXAMINER LINDSAY: Yes, I am going to sustain the objection.

MR. JONES: May we have an exception, Your Honor?

TRIAL EXAMINER LINDSAY: Yes.

MR. JONES: Does Your Honor desire to have us submit a written offer of proof, the same as in connection with the other question?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: Then do I understand, Your Honor, that all of the evidence as to this witness trying to get back is out, is that right?

TRIAL EXAMINER LINDSAY: Yes, that is im-

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material, irrelevant and incompetent.

MR. DAY: All right. We note an exception to the striking of it all out.

TRIAL EXAMINER LINDSAY: Yes, you may have an exception.

(Discussion off the record.)

MR. JONES: That is all, your Honor.

Cross Examination

Q. (By Mr. Lauter) When did you leave the plant, Mr. McCreary?

A. How is that?

Q. When did you leave the plant, Mr. McCreary?

A. June 12th.

Q. You stayed in there from May 26th, is that correct?

A. Absolutely.

Q. How many hours a day did you work?

A. How is that?

Q. How many hours a day did you work?

A. Eight.

Q. How many did you get paid for?

A. Eight.

Q. You were in the plant on May 26th, is that correct?

A. Yes.

Q. You stayed until June 12th?

A. Yes.

Q. And you worked eight hours a day?

A. Yes, I worked eight hours every day.

Q. Seven days a week?

A. Yes.

Q. Didn't you get paid for 14 hours—

A. Several times I worked a little overtime.

Q. Did you get paid for 14 hours?

A. How is that?

Q. Did you get paid for 14 hours?

A. I never figured it up in hours; I never figured it —what I did get paid for.

Q. You testified a moment ago that you got paid for eight hours a day, is that correct?

A. Yes, at least eight hours.

Q. Did you get paid for 14 hours a day?

A. I never figured it up exactly in hours. They paid us time and a half for overtime.

Q. I am asking you whether or not it is not true that you got paid for 14 hours a day while working? Are you still willing to state under oath that you didn't get paid for 14 hours a day?

A. No.

Q. Are you sure you didn't?

A. What is that?

MR. LAUER: Will you answer that question?

(The last question was read.)

A. We got paid for time and a half for overtime.

Q. I am asking you what you got paid for and I am not asking you about overtime. I am asking you if you didn't get paid for 14 hours a day. Now you understand the question, don't you?

A. I can't answer it.

Q. You did answer it before, didn't you?

A. No, not that way.

Q. Didn't you say you got paid eight hours a day?

A. I said I worked eight hours a day; I didn't understand your question.

Q. Now, just a second. How much did you get an hour?

MR. JONES: You mean while he was in the plant?

Q. Prior to the strike, how much did you get an hour?

THE WITNESS: Must I answer?

TRIAL EXAMINER LINDSAY: Why, certainly.

A. 83 cents.

MR. DAY: Tell him about it.

MR. LAUTER: Thanks, Mr. Day, for the suggestion to the witness.

MR. DAY: If he got paid, I want him to state it.

Q. Maybe he will tell us if he got paid for 14 hours a day. Will you tell us that?

A. I can't tell you, to be truthful with you. I never figured it up that way.

Q. And you got 83 cents an hour?

A. Absolutely.

Q. For eight hours a day before the strike?

A. Before the strike?

Q. That is right.

A. Yes.

Q. Now, during the strike and from May 26th to June 12th, did you get 83 cents an hour?

A. Yes, but we got paid time and a half for overtime.

Q. I am asking you for the first eight hours that you got paid 83 cents an hour or more.

A. As far as I know, it was 83 cents.

Q. Now, is that what you are testifying to?

A. As far as I know, it was 83 cents.

Q. Don't you know how much you got paid?

A. What is that?

Q. Don't you know how much you got paid?

A. No. So far as I know, it was 83 cents an hour.

Q. Now, let us see. When did you get paid for the first time after May 26th? Did you get paid in the plant?

A. Yes.

Q. When did you get paid?

A. June 8th, I believe.

Q. June 8th? Do you remember how much you got at that time?

A. I do not.

Q. You have no idea?

A. No, I don't.

Q. No recollection?

A. No, I don't.

Q. And is it your impression that you only got 83 cents for each hour that you worked in the plant during the strike?

A. With time and a half for overtime.

Q. Well, did you work any over time?

A. I did.

Q. During the strike?

A. I did.

Q. And for the time that you worked overtime, you got time and a half?

A. Absolutely, that is what we get, right along.

Q. And are you saying that you got no more for working in the plant during the strike than you received before you went out—before the strike was called?

A. Yes, it amounted to more, but how much I can't tell you. That I don't know. I never figured it up.

Q. Now, you do know that you got more pay when you were in there during the strike?

A. I do know it. Yes, absolutely I do.

Q. Do you know whether you got paid for time and three-quarters for each eight hours you worked?

A. I couldn't tell you for I don't know. I never figured it up.

Q. If you stated in the record that you were paid for each eight hours only eight hours' pay, would you want to change that testimony?

A. Yes, if that is the way it was intended.

Q. No, if that is what you stated?

A. I don't think I stated it that way, if I understand that question right.

MR. LAUTER: Read the cross examination of this witness.

(Record read by the Reporter down to the following point:

"Q. How many did you get paid for?")

Q. (By Mr. Lauter) Just one second. Did you understand that question, "How many did you get paid for?"

A. Do you mean each day?

Q. That is right.

A. For each eight hours?

MR. JONES: If your Honor please, I would like to object to this question. I think it is confusing the witness.

TRIAL EXAMINER LINDSAY: Oh, he is not confused.

MR. JONES: On the ground—

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception. Proceed with the examination of this witness.

MR. JONES: If your Honor please, may I suggest this, if this witness were asked a total about he was paid, it might clear up—

TRIAL EXAMINER LINDSAY: Listen, he doesn't even remember that. He so testified. Let Mr. Lauter examine him.

MR. JONES: Note an exception, please.

(The record was read by the Reporter as follows:

"Q. How many did you get paid for?

"A. Eight.")

Q. (By Mr. Lauter) Is that answer correct?

A. Well, at times we worked a little more than eight hours.

Q. I am asking you whether or not that answer is correct that you gave there?

A. No.

Q. Now, do you want to change it?

A. Yes.

Q. What do you want to change it to?

A. At times we worked more than eight hours. If we had something to do, or a break-down, we had to stay until—that is, we didn't have to, but we did stay until it was finished.

Q. Was there any other testimony you have given that you would want to change?

A. Maybe we would stay two or three hours.

Q. Just listen to my question. Is there any other testimony that you have given, that you want to change?

A. No.

Q. Do you understand what an oath is?

A. I think I did, if I understand your—what you are trying to get at.

Q. Do you understand what an oath is?

A. I do.

Q. You took an oath when you got on the stand?

A. Absolutely.

Q. Do you know what happens if you don't tell the truth?

A. Well, it is a pretty serious offense.

Q. You understand that?

A. Absolutely.

Q. Now, is there any other testimony that you want to change besides the answer to that particular question?

A. Relative to what?

Q. Relative to anything that you have testified on?

A. Well, you have got me pretty badly twisted up, I don't know what I did testify, now.

Q. Well, when you testified, did you testify to the truth?

A. I thought I did, as near as I could.

Q. And when you said that you—

A. I am not here trying to—trying to pad anything.

Q. No, but when I asked you whether or not you got paid for eight hours' work, only eight hours' pay, what did you say?

A. Yes, but I forgot, I didn't add that we worked some overtime.

Q. Now, you left the plant on June 12th, did you?

A. Yes.

Q. When did you return to work again?

A. The day the soldiers came.

Q. Do you know what day that was?

A. I can't tell you what day it was.

Q. Who was your foreman in your department?

A. Mr. Woodside.

Q. Did you have any conversation with him before you went back to work on the day the soldiers came in?

A. I called him on the telephone, I don't know whether it was that day or the day before, and asked him what the chances were of getting in. And the first time he told me not to try it, that there was a ruling against coming in.

Q. Ruling by whom? Did he say?

A. I took it from the Governor.

MR. LAUTER: I move that the answer be stricken unless the witness can amplify the statement.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. Was there anything more to that conversation?

MR. JONES: Pardon me, may we have an exception to that ruling, if your Honor please?

TRIAL EXAMINER LINDSAY: Yes.

Q. (By Mr. Lauter) Was there anything more said at that conversation?

A. Not that I recollect.

Q. Now that conversation took place the day before you went back, a day or two?

A. A day or two before. I called him up numerous times, I don't just remember what day it was, I called him several times while I was out, and—

Q. Mr. Woodside ever tell you when to come back to work?

A. No.

Q. How did you happen to go back the day the troops came?

A. I was in Warren the day they came in.

Q. Yes.

A. And after they had opened the—after the first bunch that were in there came out, we got passes to get back in again. I was sent, I think, to the Sheriff's office, to get a pass. We got stickers for the windshield, you know.

Q. Who sent you to the Sheriff's office to get a pass?

A. I don't mind who it was now, but somebody on the street, I believe it was in Warren, told me that they were issuing passes at the Sheriff's office, stickers for your windshield.

Q. Do you work at the Niles plant or the Warren plant?

A. The Niles plant.

Q. You had several conversations with your foreman before you went back to work?

A. Yes, I called him several times.

Q. He advised you as to whether or not you should or should not go back each time that you called him?

A. He didn't have anything to say about it, he said there was work for me there if I got in, but he didn't know anything about getting me in, whether I could or couldn't.

Q. Now is that the only reason that you went into the plant the day the troops came in? Because you saw they were there? And someone told you to go to the Sheriff's office and get the pass?

A. Yes.

Q. And you had no conversation with your foreman about going back to work on that day?

A. No.

Q. So that when you got back to the plant, you didn't know whether or not you would be able to get in, is that correct?

A. Well, I wasn't sure whether I would, no, I needed to go in, I needed the work.

MR. LAUTER: Well, I move that that answer be stricken as to whether or not the witness needed the work, as not at issue in this case.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. (By Mr. Lauter) Yes, did you sign a "Back to Work" petition?

A. No, I heard some talk about it.

Q. You testified about seeing certain pickets; can you identify any of the pickets that you saw?

A. Well, one or two of them, maybe.

Q. By name?

A. One of them I have been told his name. I don't know him by—

Q. Can you identify any persons that committed any act of violence there at that time?

MR. DAY: Well, now—

MR. LAUTER: I'll withdraw the question.

TRIAL EXAMINER LINDSAY: That last question is withdrawn.

Q. (By Mr. Lauter) Did you stay in the plant from May 26th to June 12th?

A. Yes.

Q. You didn't try to get out; is that right?

A. No.

Q. Did you speak to any official about going out, of the Company?

A. No.

Q. Did you want to stay in the plant?

A. Yes.

Q. You stayed in voluntarily, is that right?

A. Absolutely.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Jones) I'll ask you, Mr. McCreary, if you wanted to go home every night and come back to work in the morning?

MR. LAUTER: I'll object to that question on the ground that the witness has already answered that question.

TRIAL EXAMINER LINDSAY: Well, it is not material anyway. Go ahead and answer it. Objection overruled. Let the record show an exception.

MR. JONES: The Court says you may answer the question. Do you know what it is now?

THE WITNESS: Yes.

MR. JONES: Answer it, please.

A. Yes.

MR. JONES: That is all, Mr. McCreary. Thank you.

Recross Examination

Q. (By Mr. Lauter) Just one second, now let's read that question and answer back, please? The last question and answer.

(Record referred to) You wanted to go out each night and come back into the plant, is that correct?

A. Naturally.

Q. Between May 26th and June 12th?

A. Naturally.

Q. And you spoke to no official about going out, is that correct?

A. No, I didn't speak to any of them about going out.

Q. And you made no attempt to go out, is that correct?

A. Yes.

MR. LAUTER: That is all.

MR. DAY: That is all.

CAPTAIN JOSEPH PARILLA

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Jones) Will you state your full name, please, Captain Parilla?

A. Joseph Parilla.

Q. Where do you live?

A. 816 Lexington City.

Q. Youngstown?

A. Yes, sir.

Q. How long have you lived in Youngstown?

A. 38 years; practically all of my life.

Q. Are you an officer of the Ohio National Guard?

A. Yes, sir.

Q. What official connection do you have with the Ohio National Guard?

A. I am captain of one of the line companies.

Q. Of which company?

A. H Company, 146th Infantry.

Q. You have been connected with the Ohio National Guard for how long?

A. Ever since the war. Right after the war, 19 years. 18 years, something like that.

Q. In May of this year, were you a captain?

A. Yes, sir.

Q. I will ask you to state whether or not some time in the vicinity of May 26th of this year you received an official assignment from some superior officer to act as an observer in this vicinity?

A. I did, sir.

Q. From whom did that order come?

A. From the Adjutant General of the State.

Q. Where were you ordered to make your observations?

A. The entire valley.

Q. What do you mean by "the entire valley"?

A. Well, all of the territory affected by the strike.

Q. Do you recall at what time that order came to you?

A. Oh, I would say between 10 and 11 o'clock in the evening; the evening of the strike, that it went into effect.

Q. That is after the strike was called?

A. I understood the strike was to go into effect at 11 o'clock and I received my order just prior to that hour.

Q. In substance, what were you ordered to do?

A. Just observe the situation.

Q. In what locations?

A. Just the entire district.

Q. Were you to act alone or in conjunction with any other person or persons?

A. Alone for the moment until other men were to arrive the next day.

Q. Where did you make your first observations?

A. The Brier Hill District.

Q. Now, the Brier Hill District is where?

A. It is the west end of the city proper and the Sheet & Tube District.

Q. Of the City of Youngstown?

A. Yes, sir.

Q. In connection with the Brier Hill plant of the Sheet & Tube?

A. Yes, sir.

Q. Where did you next make your observations?

A. Well, I made an entire tour of Youngstown and vicinity; of the east here.

Q. How long did you continue, Captain Parilla, as an observer?

A. During the entire period.

Q. That extended from May 26th when you received your order until what time?

A. I might add—change that statement, for a period I acted in a dual capacity. I acted as an observer up to the time that the troops arrived, and then in a few days I acted in a dual capacity; I had other assignments besides being an observer.

Q. What date would you fix that as: the time the troops arrived?

A. The 22nd of June, I believe.

Q. The 20th of June?

A. The 20th of June, if I am not mistaken.

Q. The period from May 26th to June 22nd covered the period that you were an observer?

A. Yes, sir.

Q. During that period of time did you wear a uniform or civilian clothes?

A. Civilian clothes.

Q. Did you make observations from time to time in and about the plant of the Republic Steel Corporation?

A. I did, sir.

Q. In Youngstown?

A. Yes, sir.

Q. Any other plants than in Youngstown?

A. Niles and Warren.

Q. With respect to those observations that were made in the City of Warren, when did they begin?

A. The 27th—pardon me. The 27th is correct; the day following the strike was called.

Q. When you made your first observation in Warren, did you go down to the vicinity of the Republic Steel plant?

A. Not to the entrance of the plant.

Q. How far down did you go?

A. As far as Walnut Street and Pine; Walnut and Pine.

Q. (By Mr. Jones) That is, you started down Pine Street?

A. To Walnut, yes, sir.

Q. To Walnut?

A. Not beyond that point.

Q. I will ask you with reference to Pine Street, if hat runs past the plant?

A. Yes, sir, it does.

Q. And when you got down to the corner of Walnut nd Pine Street, had you come to the plant yet?

A. No, sir.

Q. How far were you from the plant?

A. I would say approximately 400 yards—three to four hundred yards.

Q. When you got to Walnut Street what did you observe?

A. A barricade there with many people congregated here.

MR. LAUTER: Object and move to strike the word "barricade"; a conclusion of the witness.

TRIAL EXAMINER LINDSAY: Yes, that is stricken from the record.

Q. (By Mr. Jones) Will you please describe what you saw, that you have referred to as a barricade?

A. Many people standing there and no one permitted beyond this.

MR. LAUTER: Well, I move that the observations of this witness be stricken, incompetent, irrelevant and immaterial whether or not there were a group of people there that didn't permit anyone to go by is not in any way related to the issues in this case. Another example of attempting to get in violent action in one form or another, into the record.

TRIAL EXAMINER LINDSAY: Read the last answer back.

(The last answer read by the Reporter.)

MR. JONES: May the answer be excluded, your Honor, and I ask the witness another question?

TRIAL EXAMINER LINDSAY: Well, the objection is sustained and the answer is stricken from the record. If you want an exception, you may do so.

Q. (By Mr. Jones) Captain, I wish you would describe what it was that you referred to as a barricade?

MR. LAUTER: I want to renew my objection to that question and to this line of inquiry. It is perfectly obvious that counsel for the company is attempting to bring out certain actions taken by pickets in that particular area, attempting to bring it out by this witness as an observer for the National Guard. Now, the general conduct of pickets at that particular point on a particular date which has, as yet, not even been identified for the record, is not material to the issues in this case.

TRIAL EXAMINER LINDSAY: The objection is sustained. Let the record show an exception.

MR. DAY: Does that mean, Mr. Trial Examiner, that this witness will not be permitted to tell anything he saw with relation to the pickets at any of the Republic plants in Youngstown, Niles or Warren?

MR. LAUTER: May I state, if you please, Mr. Trial Examiner, that my objection is not as broad as that. I am not objecting to the previous witness giving his observations when he was inside the plant and during the period that he was in there. I do object to having the witnesses put here on the stand as either being in the plant or observers for anyone, testifying on the stand with respect to pickets carrying clubs or weapons or seeing a gun or barricades. Now, it is quite clear what the reason for putting that evidence on is.

MR. DAY: No, it is not that reason. The reason for the fact that this is not another subterfuge is illustrated by another question I just asked the Trial

Examiner. I want to know whether the scope of the ruling is wide enough so as to prevent or prohibit him from telling anything he saw with relation to the pickets. Now, if it is not—

TRIAL EXAMINER LINDSAY: It covers—

MR. LAUTER: My objection is not that broad. The ruling on my objection can't conceivably—

TRIAL EXAMINER LINDSAY: It covers anything that touches upon my preceding ruling.

MR. DAY: That is what I want to know.

TRIAL EXAMINER LINDSAY: No question about it.

MR. DAY: Yes, I am asking you whether or not your preceding ruling is intended to be broad enough so as to prohibit this witness and other witnesses from telling what they saw with relation to these pickets, the number of pickets, what they were doing, and so forth, as distinguished from violence.

MR. LAUTER: No objection has been made to any testimony concerning the number of pickets and what they were doing, excluding violence.

MR. DAY: Now, that brings us down to the question, suppose that a witness testified that a picket is carrying a club, is that violence?

MR. LAUTER: I don't want to get into a supposition of counsel. When the testimony is introduced I think I will make the proper objection and the Examiner will make proper ruling.

TRIAL EXAMINER LINDSAY: All right.

MR. DAY: All right, we will go ahead on that basis.

(The last question read by the Reporter.)

Q. At the intersection of Pine Street and Walnut Street, I'll ask you if you observed any pickets there when you were there the first time, as you stated, on May 28th?

A. I observed a large gathering there.

Q. Did you observe any persons there that had buttons or signs or identification marks on them?

A. I did, sir.

Q. What did you observe on those persons?

A. Wearing these buttons of the organization.

Q. Which organization?

A. CIO organization and possibly a few lapel ribbons, I don't just recall offhand.

Q. About how many persons did you see at the intersection with CIO buttons, or lapel ribbons, as you have told us about?

A. I saw many, I couldn't give you a number on that.

Q. As you came down to that intersection, were you in a vehicle or walking?

A. No, I parked short of this point a few blocks and walked to this point.

Q. Where were these persons that you saw?

A. Rather assembled all along Pine Street, but the large gathering, the largest gathering was there at Walnut and Pine.

Q. Were they on the sidewalks or in the street, or both?

A. Both.

Q. Did you make any attempt to proceed beyond where you saw this assemblage of people?

A. No, sir.

Q. Did you see any persons there wearing the CIO insignia that you have described, carrying clubs?

A. Yes, sir.

MR. LAUTER. Object to the question as leading, also on the grounds of incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Yes, it's stricken. Objection sustained and answer is stricken.

Q. I'll ask you, Captain Parilla, to state, what if anything, you observed in connection with these persons that had the CIO insignia on, that you have told us?

A. The best way I can state that would be that they seemed in control of the situation.

MR. LAUTER: Object, and move that the answer be stricken; the expression of this witness that "they seemed to be in control of the situation".

TRIAL EXAMINER LINDSAY: Yes, that may be stricken.

Q. Did these persons have anything in their hands, Captain?

A. You are speaking of this crowd at Walnut and Pine?

Q. Persons that you saw had the CIO insignia on?

A. Yes, sir.

Q. What did they have in their hands?

MR. LAUTER: Object to the question on the grounds of incompetent, irrelevant and immaterial, what these persons that were there gathered, as having been identified as CIO members, had in their hands, is in no way related to the case. I wish to state that this repetition as to the type of conduct and type of trial that was conducted in Massillon and Canton, whether or not there were a large gathering of pickets around the plant armed with clubs, is in no way entitled to permit anybody to commit a violation of the National Labor Relations Act.

TRIAL EXAMINER LINDSAY: I'll sustain the objection. Let the record show an objection. It will be all covered in your offer of proof.

MR. DAY: That is what I am trying to find out.

(Discussion off the record.)

MR. JONES: May we make an offer to prove here or in the manner you suggested before?

TRIAL EXAMINER LINDSAY: In the manner I suggested before.

(Discussion off the record.)

MR. JONES: Your Honor, that is all we have on direct examination of this witness. We will include in our—

(Discussion off the record.)

MR. DAY: Let the record show this: That we expect to include the evidence of this witness in our offer to prove with relation to evidence which on Saturday the Examiner held was not admissible under the issues in this case. We called this witness to the stand and asked him certain questions because we were not aware as to the scope of the ruling made by the Examiner last Saturday.

MR. JONES: That is all.

Cross Examination

Q. (By Mr. Lauter) Now, Captain Parilla, you were an observer for the Ohio National Guard, is that right?

A. Right.

Q. And you began your observations on May 26th or May 27, is that correct?

A. The evening of the 26th.

Q. The evening of the 26th?

A. Yes.

Q. You testified about having visited Warren, is that correct?

A. Yes.

Q. And you made certain observations there?

A. Yes.

Q. Could you identify any one of the persons that you saw wearing a C. I. O. button? Can you give us the name of a single individual?

A. A few, I suppose.

Q. Whom you saw there that night?

A. No.

Q. What is that?

A. No, not that night.

MR. LAUTER: That is all.

(Discussion off the record.)

MR. DAY: May we adjourn at this time?

TRIAL EXAMINER LINDSAY: Adjournment until tomorrow morning at 9 o'clock.

(Whereupon at 4:45 o'clock p. m. September 20th, 1937, an adjournment was taken to 9 o'clock a. m., September 21st, 1937.)

Court of Appeals Room, Mahoning County Court House,
Youngstown, Ohio, Tuesday, September 21, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 9 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board;

Luther Day, Esq., and Thomas F. Veach, Esq., and Arno G. Erdrich, Esq., of the firm of Day, Veach & Young, Union Trust Building, Cleveland, Ohio; Judge Chas. F. Smith, David E. Jones, Esq., Harry S. Manchester, Esq., R. D. Huxley, Esq., and Geo. Renner, Esq., of the firm of Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio, appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 25 is rejected. Let the record show an exception.

JUDGE SMITH: Exception.

TRIAL EXAMINER LINDSAY: As I understand it, Mr. Smith, after you made your offer, that the only purpose of offering these exhibits was to show a picture of the general layout of the plant, and possibly there might be some evidence to connect it up at a later date.

JUDGE SMITH: No, it was also in connection with evidence already introduced.

TRIAL EXAMINER LINDSAY: The ruling is the same. The exhibit is rejected.

JUDGE SMITH: May we have an exception?

TRIAL EXAMINER LINDSAY: The objection made by Mr. Lauter to the admission of Exhibit No. 25 is sustained. Let the record show an exception.

JUDGE SMITH: Exception.

TRIAL EXAMINER LINDSAY: The objection made by Mr. Lauter as to Exhibit No. 26 is sustained. Let the record show an exception.

JUDGE SMITH Exception.

TRIAL EXAMINER LINDSAY: The objection to Exhibit No. 27 is sustained. Let the record show an exception.

JUDGE SMITH: Exception.

TRIAL EXAMINER LINDSAY: Now on Saturday, Mr. Smith, I made a ruling on Mr. Lauter's objections to the objection of further testimony on the question of violence not related to the discriminatory cases named in the complaint, and not connected up with any issues stated in the complaint. Now that ruling based on the reasons stated by Mr. Lauter at the time of his objection has not been changed. At that time Mr. Day stated he would like to make an offer to prove. I granted that right to Mr. Day. Mr. Day stated he would like to have a little time to work it out in writing; that is his offer to prove. I granted that privilege and requested that he present it on Monday. I requested Respondent's counsel to have the witnesses here for Monday morning and start putting in evidence related to the issues. It has not been done. The offer to prove has not been presented. Instead more witnesses were produced on matters affected by my ruling on Saturday. I called counsel for Respondent to the bench repeatedly and requested Respondent to start putting in their evidence on the issues in this case. I advised that such issues stated in the complaint are covered by Section 8, Subdivisions 1, 2 and 3 of the Wagner Act.

Now instead we have testimony brought in here such as the testimony of the witness yesterday, of Mr. McCreary. Now we took up considerable time yesterday of this witness trying to show that that witness was kept in the plant. Now on cross-examination he admitted that he wanted to stay in the plant, and he did stay in the plant during the time of the strike and until a later date. During that time he never made any effort to get out until the day he did. Now what is the purpose of that testimony? It is not meeting the issue.

If Mr. X testified that he was forced to stay in the plant during the time of the strike—

JUDGE SMITH: Mr. who?

TRIAL EXAMINER LINDSAY: We will say Mr. X for example. That if he were forced to stay in the plant during the strike and so testified it is not meeting that issue by bringing in A, B, C, D, E, F, G and H and so on, to testify that they were not forced to stay in the plant. You have got a straight cut issue to meet because he says that he was forced to stay in the plant. Now there is only one way of meeting that issue. That is to show that X was not forced to stay in the plant. Now that type of testimony, if you have it, is the type of testimony that should be produced in this hearing. That is the type of testimony that I want, if you have it, to be presented. You have some discrimination cases here at Youngstown. There is only one way of meeting that issue; it is a straight-cut issue. That they were discriminated against or they were not. Now you can only show that they were not discriminated against by positive proof from people who know whether they were or were not. In other words, there is only one way to admit it and that is by direct evidence on that particular issue. As I have said, I have repeatedly requested, off the record and probably sometimes on the record, until we get down and meet this issue, and that is, what will be done?

JUDGE SMITH: Your Honor—

TRIAL EXAMINER LINDSAY: I don't want a lot of witnesses produced here on things that are not material to this issue; it takes up unnecessary time and is not getting us anywhere.

JUDGE SMITH: May I state our position in regard to that in the record, your Honor?

TRIAL EXAMINER LINDSAY: It isn't necessary.

JUDGE SMITH: We would like to.

TRIAL EXAMINER LINDSAY: These are clear-cut issues, Judge.

JUDGE SMITH: I would like to have the explanation made.

TRIAL EXAMINER LINDSAY: We have too many statements.

JUDGE SMITH: Your Honor, am I not permitted, on the statement that has been made by the Court, to make an explanation of this situation?

TRIAL EXAMINER LINDSAY: An explanation, that's all right, but we must get down to try this case, that's all there is to it.

JUDGE SMITH: That is what we have been trying to do, Your Honor, ever since we have started here. I would like to say in connection with this situation as to the issues that are raised and the specific charges, that this complaint, in addition to the specific persons that are named in the complaint, makes general allegations, one of them as to the interference of peaceful picketing. Now it is our contention when we are charged with interfering with peaceful picketing that we have the right to show the character of picketing that was being carried on. We are also charged with keeping men in the plant against their will; now we think we have a right to call witnesses who were in that mill to testify as to the situation, so far as they are concerned. Now if this question is to apply to any more men than those who are specifically named in the complaint, then we think we have the right to meet that, by calling other men who were in the mill, and then as to what the situation and condition there, as to whether anyone was free to leave that wanted to, and whether instructions of that kind were given so that it was generally known. Now those are two things that, in our opinion, we have right of, under those circumstances to show those things as bearing on the charges made in this complaint on this, as to our interfering in those particulars. Now that is the reason why that we are calling witnesses of that character, Your Honor, and we feel that we got the interests of our clients here to protect, and we are endeavoring as best we know how to protect the rights of our clients in the charges being made against it, and we are in absolutely good faith coming in here based upon our experience as lawyers in the trial of cases, and I think that the counsel that is trying the case in this defense has had sufficient experience in connection with the defense of cases, that they have some conception of what is necessary to present such a defense, and we are in good faith in trying to carry that out.

Now there isn't any intention on the part of counsel for the defense or the Respondent in this case to in any way prolong this hearing or to avoid any issues or anything else. We are in good faith bringing witnesses in here to your Honor for the purpose of trying to put up what we conceive to be a proper defense of the complaint in this case. I hope that the Court will give us credit for doing this in good faith.

TRIAL EXAMINER LINDSAY: There is no question raised as to good faith. The fact is that I insist that those witnesses be brought on here and issues be met, and that's all there is to be said about it.

JUDGE SMITH: Well, your Honor, on this question I would like to make this question. I never yet have tried a lawsuit but what there were some places in it that the Court probably differed in the theory of the case from the theory that I had in connection with it, but I never yet have tried a case in a court that the court didn't permit me, when I was in good faith, of presenting what my theory of the case was, so that it could be presented and if necessary, to go to a reviewing court, that the reviewing court would see whether I was wrong in my contention or the court was wrong in his contention.

MR. LAUTER: In view of Judge Smith's statement in the record, I would like to say that my position has been stated on the record already, that in connection with actual incidents of interference with peaceful picketing by respondent Company is no defense to show that some of the picketing might have been other than peaceful, that all of it was not peaceful. Further, that in connection with proof offered by the Board's counsel with respect to certain individuals being kept in the plant, that it is no defense by respondent Company to show that other individuals were not kept in the plant by the respondent, that it would not be sound, it is not sound, rather, for counsel for the Respondent Company to take the position which he has in the statement which he has made, and that it would be equally unsound for the Respondent to defend against the discriminatory discharge by showing that other employees of the Respondent were not discriminatorily discharged or were not discriminatorily refused reinstatement.

JUDGE SMITH: In answer to that I want, in view of the staement made by Mr. Lauter, to state our position on that. It is our claim that we have the right to show only as to specific instances as to how the picketing was carried on, but if we can show that under the rules of law and under the definition of lawful picketing at all times, that this picketing was unlawful and was not carried on in a peaceful manner, and that the pickets were carrying clubs and weapons of different sorts in which they were threatening—

TRIAL EXAMINER LINDSAY: Now wait a minute, just a second. Are you making an offer of proof right now?

JUDGE SMITH: No, I am not, I am stating in the record the answer to the statement made by Mr. Lauter as to what our position is.

TRIAL EXAMINER LINDSAY: Now leave clubs out of it and so forth, because that is going into the offer of proof.

JUDGE SMITH: I understand that—

TRIAL EXAMINER LINDSAY: Just leave that out, you can answer that without those things.

JUDGE SMITH: All right, then I'll not say anything about that feature of it, but we have a right, it is our contention that we have a right to show the character of picketing that was carried on at all times there, and if in the showing of that character of picketing that was carried on, that it shows that it was all unlawful picketing, then we certainly are meeting the charge that we interfered with lawful picketing. Now it is our claim that the picketing was unlawful throughout and that our evidence would show that it was unlawful picketing from the inception and during the entire period that is covered by this complaint.

Now, therefore, we do not feel that we are limited to the question of specific instances, as Mr. Lauter claims, and that therefore, any item of unlawful picketing is competent with the defense of this case.

MR. LAUTER: The allegation of the complaint does not refer to interference with lawful or unlawful picketing. It relates solely to peaceful picketing, and the charge as made, of interference, and proof of interference, that deals with peaceful picketing, and it cannot be seriously urged by counsel for respondent company that at all times picketing by the pickets was not peaceful.

TRIAL EXAMINER LINDSAY: Now, listen, we have had plenty of statements on this; I am sure you have both had opportunity to fully state the questions and I believe that under the rules of practice that the last statement is made as a matter of fact—the plaintiff in most any case usually has a last word on these matters as to a statement made, argument on any matter. The argument on any question is entirely up to the discretion of the court.

MR. SMITH: I bow to that. I bow to that.

TRIAL EXAMINER LINDSAY: There is no doubt about it.

MR. SMITH: None whatever.

TRIAL EXAMINER LINDSAY: I must call a halt somewhere, so I am calling it now, and let's proceed with the hearing.

MR. SMITH: The only thing I had in mind was the play on the difference between "unlawful" and "peaceful" picketing.

TRIAL EXAMINER LINDSAY: Well—

MR. SMITH: I meant to say that I mean the same thing.

TRIAL EXAMINER LINDSAY: All right.

MARTIN J. CARNEY

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Smith) What is your full name, Mr. Carney?

A Martin J. Carney.

Q. And where do you reside?

A. 115 Park Avenue, Youngstown.

Q. How long have you lived in Youngstown?

A. All my life.

Q. How are you employed?

A. I am the clerk of the municipal court of the City of Youngstown.

Q. How long have you been serving in that capacity?

A. Well, I have been serving as clerk of the municipal court, this is the twenty-fourth year.

Q. Now, as clerk of the municipal court, do you have charge of the records, the criminal records of your court?

A. I do.

Q. Have you, at our request, made an examination of those records as to one Jerry L. Simcox?

A. I have.

Q. Do you have your records with you on that?

A. Yes.

Q. I wish you would let us have the record you have. (Witness produces document.)

TRIAL EXAMINER LINDSAY: May I see the complaint?

MR. SMITH: He is one of the cases.

TRIAL EXAMINER LINDSAY: Simcox is not in the complaint.

MR. SMITH: Your Honor, I am in error as to him being in the complaint, but he testified in the case, in the Board's case in chief.

TRIAL EXAMINER LINDSAY: Then your only purpose, there, would be to discredit the testimony?

MR. SMITH: That is right.

Q. (By Mr. Smith) From your records, Mr. Carney, what does that show as to any arrest and conviction or pleading guilty of Mr. Simcox to any charge?

A. Well, this paper is a complaint and warrant signed by Carl H. Cook against—

TRIAL EXAMINER LINDSAY: Now, just a minute on that. There is a well defined procedure to get that into the evidence.

MR. SMITH: Well, I thought that—

TRIAL EXAMINER LINDSAY: All that is necessary to ask is, "Was this man convicted of an offense". Now, if it is a felony, that is one thing. If it is a misdemeanor, that is another thing. If he was either by his plea or by a jury or a court—

MR. SMITH: All right, I will ask him that.

TRIAL EXAMINER LINDSAY: But to go into all of the details is a matter which is entirely for cross examination.

MR. SMITH: All right.

Q. (By Mr. Smith) Was this man Simcox convicted of any offense in the Municipal Court of Youngstown?

A. He entered a plea of guilty on July 15, 1935, to obtaining—

TRIAL EXAMINER LINDSAY: Just a minute, now. He was convicted, then, by his own plea, of a criminal offense?

THE WITNESS: He pleaded guilty.

Q. (By Mr. Smith) Now, what was that offense?

TRIAL EXAMINER LINDSAY: That is a matter for cross examination.

MR. SMITH: I thought we have a right to show what the offense was, that he was convicted of.

TRIAL EXAMINER LINDSAY: The only thing that you could do to discredit a man's testimony is to show that he was convicted of a criminal offense.

Q. (By Mr. Smith) Was this a criminal offense or charge?

A. Yes.

MR. SMITH: Frankly, it was my understanding that we had a right to show the offense of which he was convicted.

TRIAL EXAMINER LINDSAY: No, that is the procedure and—

MR. SMITH: All right.

TRIAL EXAMINER LINDSAY: That is up to cross examination.

Q. (By Mr. Smith) What year was that that he pleaded guilty?

A. 1935.

Q. All right.

MR. SMITH: I would like to have an exception on the refusal of the Court to permit him to answer that question.

MR. LAUTER: I am making no objection, Mr. Trial Examiner, if counsel for the respondent company wishes to question along this line.

TRIAL EXAMINER LINDSAY: Under those circumstances he may ask him about that. Go ahead.

Q. What was the offense of which he pleaded guilty?

A. Well, the offense was obtaining Federal Emergency Relief; a grocery order. Taking groceries from Federal Relief Emergency Administration.

MR. SMITH: You may cross examine.

Cross Examination

Q. (By Mr. Lauter) Is that a misdemeancr?

A. (No answer).

Q. Do you know whether that is a misdemeanor?

A. Yes, a misdemeanor.

Q. May I see the records from which you are reading?

A. This is the record of the case (handing a paper to Mr. Lauter).

Q. Is that also a part of the record?

A. They were in the files. One is a bond.

TRIAL EXAMINER LINDSAY: To clear the record, since you did ask that question, Mr. Smith then you withdraw the exception?

MR. SMITH: Yes, surely, withdraw the exception that I asked for in connection with the question as to the effect to which he pleaded guilty.

Q. Testifying in this case, have you been referring to the docket of the Municipal Court of the City of Youngstown?

A. No, I haven't.

Q. Well, is there a docket on this case?

A. Yes, sir.

Q. And have you that docket here in Court?

A. Nc, I haven't.

Q. Well, what are the papers that I now hold in my hand?

A. The affidavit, and complaint and a bond—that letter. I don't know just what that letter is.

Q. Now, what is this (indicating)?

A. Those are the records—

Q. Let me finish my question. Are the papers which I now hold in my hand a part of the official docket of the case?

A. They are a part; they are a record made by the Judge.

Q. Do you know Mr. Jerry Lee Simcox?

A. No, I don't.

Q. Do you know whether or not the person who has been convicted of taking and obtaining from the Federal Emergency Relief Administration a grocery order to the amount of $7.61 by false pretenses, and saying that he was in dire need, is the same Jerry Simcox who is named in this case?

A. I don't.

Q. And when the name appears on this docket here as Larry and Cora Simcox, you don't know whether that is the Jerry Simcox that is in this here (indicating)?

A. No.

Q. If there is a letter contained in this file referring to a Robert Simcox, and an arrangement made with the Republic Steel Corporation whereby he is also to work at the plant, and also spend sometime in jail, you don't know whether Robert Simcox is the one in this case?

A. No, I don't.

(Discussion off the record.)

MR. SMITH: Now, so far as these records are concerned, I have no objection to these records being marked and a copy substituted for them, but we certainly don't want to take the official record.

TRIAL EXAMINER LINDSAY: The fact is that you would not be permitted to take the official record out of the Court, but you do have a photostatic arrangement here in the city, is that right?

MR. SMITH: We can have it photostated.

TRIAL EXAMINER LINDSAY: Therefore, you will [have] this photostated, and a photostat of the original may be substituted and become an exhibit in this record.

MR. SMITH: I will say on this if there is any question in regard to the identity of this man, we will supply evidence showing that it is the same party.

TRIAL EXAMINER LINDSAY: Well, the records still have a right to be made a part of the case as a matter of record by exhibits.

MR. SMITH: Yes.

TRIAL EXAMINER LINDSAY: If that is the desire of counsel representing the Board. So I suggested that you have photostated copies made of this.

MR. LAUTER: Until such time as photostatic copies are made, I should like to read into the record the documents taken from the official document file of the Municipal Court of the City of Youngstown, Docket 3578 and 3579, there is contained therein the following letter: "July 22nd, 1935, Sheriff of Mahoning County, Youngstown, Ohio, Dear Sir: You are hereby authorized to arrange for Robert Simcox, who is now in jail on sentence of $50.00 and costs, and sixty days, to see that he goes to work at the Republic Steel Corporation, where he is employed under Check No. 5521, to serve the rest of his spare time in jail. In other words, release him one hour each day for work and he shall return to jail each day not later than one hour after he is through with his day's employment. You will check with the officials of the Republic Steel Corporation as to his working.

I am informed that he is going to go to work at three o'clock this afternoon, take care of this matter and oblige. Yours very truly,'' and there is a line under which there appears the word 'Judge' and the initials on the side are HPB:B.

Q. (By Mr. Lauter) Do you know who HPB is?

A. Let me see the letter; that's Henry P. Beckenbaugh, he is now judge of the Court of Domestic Relations.

TRIAL EXAMINER: Just a minute, was he at that time?

THE WITNESS: He was at that time Judge of the Municipal Court.

MR. LAUTER: That is as much of the official records that we are interested in putting into the record at this time.

JUDGE SMITH: I wish the record to show that when Mr. Lauter read from the affidavit, or the complaint, he spoke about Laurie and Cora Simcox, that that is followed by ''alias Jerry Simcox.'' The portion of ''alias Jerry Simcox'' was not read and that does appear in this complaint.

MR. LAUTER: I'll stipulate that it appears on one of the documents contained in the official docket.

THE WITNESS: Docket No. 20, page 163.

MR. LAUTER: On Docket No. 20, page 163, that that is one of the several documents contained in that docket record.

JUDGE SMITH: What is that?

THE WITNESS: That is the jacket.

JUDGE SMITH: Do you want a photostatic copy of this since you read it into the record?

MR. LAUTER: No, that is not necessary. Let me ask you this further question—

JUDGE SMITH: I guess these haven't been marked, in order to be introduced. I don't care anything about them; if he wants them marked, it is up to Mr. Lauter.

MR. LAUTER: I haven't offered them yet. The only document I want entered I read in.

JUDGE SMITH: Then we will retain them at the present time, as to whether or not they should be presented. I guess that is all, Mr. Carney.

MR. LAUTER: Just one more question.

Q. (By Mr. Lauter) The conviction was for taking seven dollars and sixty-one cents, is that correct; that this man said he needed direly?

A. I can't hear you very well.

JUDGE SMITH: I object to that question. Read the last question, please, that he stated.

(Question read by reporter.)

JUDGE SMITH: Now there is nothing in this record that would warrant any such conclusion and question. I move that that question be stricken out.

MR. LAUTER: That is the statement contained on the face of the complaint.

JUDGE SMITH: Then read it in the complaint.

TRIAL EXAMINER LINDSAY: There is no necessity for arguing.

MR. LAUTER: I'll withdraw the question.

JUDGE SMITH: All right. Then I'll withdraw my objection.

MR. LAUTER: That is all.

JUDGE SMITH: That is all, Mr. Carney.

RALPH MONDORA

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Judge Smith) What is your full name, Mr. Mondora?

A. Ralph Mondora.

Q. And where do you live?

A. 873 East Philadelphia.

Q. In Youngstown?

A. Yes, sir.

Q. Where are you employed?

A. Republic Steel Corporation.

Q. How long have you been employed by that Company?

A. Fourteen years.

Q. In what capacity are you employed?

A. Superintendent clerk of the butt and lap tube, Furnace Department.

Q. How long have you held that position?

A. A year and a half.

Q. Had you been employed in other capacities with the Republic prior to that time?

A. Yes, sir.

Q. What other capacities?

A. Laborer and all other jobs, whenever I first started.

Q. That is, you didn't have regular employment, do you mean, when you first started?

A. I did, as a laborer and different jobs throughout the mill in the department.

Q. Do you recall when the Employees' Representative Plan was introduced in Republic Steel Corporation plant?

A. Yes, sir.

Q. When was that?

A. 1933.

Q. Do you remember the month?

A. June.

Q. Were you elected to any position in connection with that plan?

A. Yes, sir.

Q. Just tell the Court how the matter first came up to the employees in regard to the formation of this organization?

A. Why the start of the plan, there was a committee selected to put this plan through, and that was given out by the corporation.

Q. Well who called the committee? How was that arranged?

A. Why, it was just arranged through the well-known fellows throughout the plant, different departments.

Q. Well who called the meeting, Mr. Mondora, if you know?

A. Why the company called the meeting.

Q. The company called the meeting?

A. Yes, sir.

Q. And do you know about how many people were present at that meeting?

A. I imagine about eight.

Q. Were you one of them?

A. Yes, sir.

Q. And was there at that time submitted any papers or book or any form of this plan?

A. Yes, sir.

Q. And do you remember, or can you state to the Court what the discussion was, at this meeting you speak of?

A. Why it was to get this plan out amongst the plant, and the nomination and election.

Q. What was done in connection with—you say, now, "nomination." Tell us what was done in regard to nomination and election?

A. Why there was ballots and books given out to the employees for this plan. And it was put out to the men for an election for representatives. Was about—oh, I imagine about June 15th or 10th.

MR. SMITH: Mark this Respondent's Exhibit 28.

(The document above referred to was marked as Respondent's Exhibit 28 for identification).

Q. I show you a paper that has been marked as Respondent's Exhibit 28. I will ask you whether that is the kind of nomination paper you referred to?

A. Yes, sir.

Q. Well do you remember who furnished the blanks for this, if you know?

A. The company.

MR. SMITH: I desire to introduce Respondent's Exhibit 28.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 28 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit No. 28 was received in evidence.)

Q. What was done with those nomination blanks, after you received them?

A. Why, we didn't receive them. They was put in the voting booths. These papers.

Q. Well who had charge of this nomination and election?

A. Why, this committee that was elected, had arranged different booths and places for the election to take place.

Q. When that committee met, there, did you organize, and elect officers of your committee?

A. Yes, sir.

Q. And who was elected chairman of the committee, at that meeting?

A. At that meeting, Mart Murphy was the head man of this committee.

Q. And then at the nomination, did the different members vote, at the nomination?

A. Yes, sir.

Q. As to who was to be nominated?

A. Yes, sir.

Q. Now what arrangement was made in connection with that nomination, and the voting on the nomination?

A. Why all of the men was informed about the election for nomination for representatives, and they are all to go to our voting booths and vote for whoever man that they wanted to have represent them.

Q. Well suppose you were a candidate for one of the offices; how would you get your name on this nomination paper?

A. I would go out and tell the fellows. Tell the fellows who to vote for. If I wanted to run, why I would tell them to vote for me.

Q. And how long after the nomination was it, before you held your election?

A. About five days.

Q. Now who was in charge of the voting booths at the time of your nomination?

A. Why this committee that had been picked to put this plan out.

Q. Was there any representative from the Republic Steel Corporation, that participated in that nomination?

A. No, sir.

Q. Or had anything to do with the conduct of the election on the nomination?

A. No, sir.

Q. Voting on the nomination?

A. No, sir.

Q. Or the counting of the ballots?

A. No, sir.

Q. Now you say they were booths were put up, there. What do you mean by that? Similar to an election booth?

A. That is right.

Q. At the ordinary election?

A. That is right.

Q. Now when they went in to vote on this, either for elections or nominations, how was that taken care of, as to being—anybody knowing what the party voted, how he voted?

A. Secret.

Q. How was that handled?

A. That was secret ballot. That was up to the man going in to sign his ballot.

Q. Just state the operation, how that occurred when you went up there, if you were going up to vote, what would you first do?

A. Why if you was going up to vote, they would have your name and check number on the books, and as you come in, you would tell them who you was.

Q. Yes.

A. And the other fellow would hand you a ballot.

Q. Well now that would be, one of your committee, or one of your officers?

A. That is right.

Q. Of the Employees' representative?

A. At the table.

Q. Then what would you do?

A. Then you would take your ballot and walk over and mark it, over in your booth.

Q. Did anybody see into the booth, when you were marking it?

A. No, sir. That is up to the man, himself.

Q. Now what would you do with your ballot after you had voted?

A. Why you come over and after you had voted, you would drop it in the ballot box.

Q. What kind of a ballot box was it?

A. Why, a sheet and iron box. You might call that that kind. The same as you have in voting booths.

Q. Was it locked up so no one could get it?

A. Yes, sir.

Q. Do you know who has a key to the ballot boxes?

A. The chairman of this committee had all the keys.

Q. How many of these voting booths were there? How many would there be, if you know?

A. Well, they was distributed at the first time we had held an election—it was new to us and we had them distributed and placed throughout the plant.

Q. Now, we have been referring to the first election. Now, do you know of your own knowledge how many nominations there were of the officers in this company? Representatives in this company representation plan?

A. There were eighteen the first year.

Q. 18?

A. Yes.

Q. Were there more nominees than that?

A. Yes, sir.

Q. How many nominees were there, do you know?

A. Three to each man to be elected. That was arranged that different departments where they have so many representatives.

Q. What was the purpose of having the three for each office?

A. Why there was one representative for about every 200 employees in the division—what you call the department.

Q. Well, would some that acted as delegates, and some that acted as representatives, and some that acted as alternates?

A. That is right.

Q. Now, how is that taken care of?

A. Why, the men receiving the highest vote would become the representative, and the fellow next to him would become the alternate. In case anything happened to him or he would give the job up, regardless of what happened.

Q. That gave him the right as an alternate to perform the duties of a representative when the representative was not present, is that correct?

A. That is right.

TRIAL EXAMINER LINDSAY: Let the record

show that in my citing the subdivisions of Section 8, meaning 1, 2, and 3, I was not referring to the section to subdivision 6 and 7 of the Act which are also included in the complaint.

Q. I show you a paper that has been marked as Respondent's Exhibit 29 for identification, and ask you to state what that represents (handing a paper to the witness)

A. This represents the nominations for the men that were running for representative.

Q. That is those men who were nominated on the voting of the nominations?

A. That is right.

Q. And that is the form of ballot, was it, that is used in this connection?

A. Yes, sir.

JUDGE SMITH: I desire to introduce in evidence Respondent's Exhibit 29.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 29 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit 29" was received in evidence.)

Q. I show you a paper that has been marked as Respondent's Exhibit 30 for identification and ask you what that form is for (handing a paper to the witness)?

(Thereupon the document above referred to was marked Respondent's Exhibit 30 for identification.)

A. This form was used for the nomination of fellows that had been elected at nominations, and were posted throughout the plant for the men to see who were nominated.

Q. Now, you say posted. What do you mean, on the bulletin board or something of that sort?

A. At departments; at the entrance of departments that was put up for the men to see.

Q. Have you the names of those who had been placed on nominations of the votes of the nominees that were named on this form and posted so the employees would know who they were, is that correct? Is that the way it was?

A. That is right.

JUDGE SMITH: I desire to introduce Respondent's Exhibit 30 in evidence.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 30 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit 30" was received in evidence.)

Q. I show you a paper that has been marked as Respondent's Exhibit 31 for identification and ask you what that is (handing a paper to the witness)?

(Thereupon the document above referred to was marked Respondent's Exhibit 31 for identification.)

A. This was the names—the candidates—the nominated candidates that was posted throughout the mill. The number of votes that each had received.

Q. Is that for the candidates?

A. Yes, sir.

Q. And the number of votes received?

A. That is right.

JUDGE SMITH: I desire to introduce that in evidence as Respondent's Exhibit No. 31.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 31 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit 31" was received in evidence.)

Q. I show you a paper that has been marked as Respondent's Exhibit No. 32 for identification. I ask you to state what that is (handing a paper to the witness)?

A. This here was the employees that were elected on that day, and the Chairman, and the Vice-Chairman, and so on, of the different committees.

Q. What does the upper part of this paper represent (indicating)?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 32 for identification.)

A. Just a notice.

Q. Notice as to what?

A. To the employees—to the election. The plan of the Employees Representatives.

Q. Well, this purports to show the date of nomination in which the vote is to be taken, and also the date of the election at different votes, is that right?

A. That is right.

Q. So that the plan that was followed there in serving the notice was so the employees would know of the date of nomination and of the election?

A. Yes, sir.

JUDGE SMITH: I desire to introduce Respondent's Exhibit No. 32 in evidence.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 32 may be received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit 32" was received in evidence.)

JUDGE SMITH: Now the next Exhibit, please. Respondent's Exhibit 33.

(The document above referred to was marked as Respondent's Exhibit No. 33 for identification.

Q. (By Judge Smith) I show you a paper that has been marked as Respondent's Exhibit 33 and ask you what is the purpose of that form?

A. That was for the nominees that was elected to the Plan.

Q. In other words, a certificate showing who had been elected as representatives, is that correct?

A. That is right.

JUDGE SMITH: I desire to introduce the Exhibit No. 33.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 33 received in evidence.

(The document previously marked for identification as Respondent's Exhibit No. 33 was received in evidence.)

Q. Now at the time that this plan was started, was there any book or pamphlet of a constitution and by-laws that were presented to your committee at the time you met before the nomination and election?

A. Yes, sir.

JUDGE SMITH: Mark that Respondent's Exhibit 34.

(The document above referred to was marked as Respondent's Exhibit No. 34 for identification)

Q. (By Judge Smith) I will ask you as to the book or pamphlet that has been marked as Respondent's Exhibit No. 34, as to whether or not that is the pamphlet that was presented to the committee at the time this meeting was called?

A. Yes, sir.

JUDGE SMITH: Mr. Lauter tells me that these three books have been introduced in the Board's case.

Q. (By Judge Smith) Now was the pamphlet that you have just identified, was that submitted to the employees for adoption, and did you adopt it?

A. Yes, sir.

Q. I believe there were some amendments made to that at different times during the period of the existence of this Employees' Representative Plan?

A. Yes, sir.

Q. Were you elected as a representative at the first election in 1933?

A. Yes, sir.

Q. And you were representive representing what department?

A. Butt and lap Furnace Department.

Q. And how many representatives were there in that department?

A. Why, in the Tube Work Department, let me see, there was six of them, six representatives.

Q. How were the representatives apportioned, Mr. Mondora?

A. One to approximately every two hundred employees to a department.

Q. Now were you elected at the different periods, years, while this Plan was in force?

A. Yes, sir.

Q. So that you served as a representative throughout the time this Employees Representative plan was in force in the plant?

A. That's right.

Q. Now under this Plan, I believe there were different committees; will you state how many committees?

A. Four committees.

Q. And how were they designated?

A. Number 1 Committee was Rules, Ways and Means; Number 2 was Wages and Working Conditions, Number 3 was Safety and Sanitation, Number 4 was the Appeals Committee.

Q. Now were these referred to as standing committees?

A. Yes, sir, standing committees.

Q. Now what do you mean by that?

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A. Why, a standing committee was just the representatives alone, that we attended the meetings; we would attend once a month, that was four standing committees, and we had other committees which we called Joint Committees.

Q. That is, your standing committee would be the meeting of the representatives that were elected by the employees alone?

A. That's right.

Q. Now did those standing committees meet every month by themselves?

A. Once every other month.

Q. Now, on your joint committee, when you would meet with the representatives appointed by the Company, did you call that a joint meeting or joint committee?

A. Yes, sir, joint committee.

Q. And how often would those meetings be held?

A. Once every other month.

Q. That is, on alternate months to the month in which you met by yourselves?

A. That's right.

Q. Now did you have another committee known as the General Body?

A. Yes, sir.

Q. Now of whom did that consist?

A. Of all the representatives, the employees' representatives.

Q. The ones that were elected by the employees?

A. That is right.

Q. Now how often were those meetings held?

A. Once a month.

Q. They were held once a month?

A. That's right.

Q. Now the standing committee by itself met once every other month?

A. That is right.

Q. And the joint committee once every other month?

A. That is right.

Q. But the general bodies met every month?

A. That's right.

Q. And at the meetings of the general bodies committee, or the standing committee, were there any officials or representatives of the Company present at those meetings?

A. At the general or standing committee?

Q. Yes.

A. No, sir.

Q. Now when your representatives, after they were elected, how would you arrange for the officers of the Representative Plan?

A. The representatives would elect the officers, these different groups; we would elect our own officers.

Q. And the chairman would call the meeting, the chairman of the previous committee, is that right?

A. That is right.

Q. And then you would meet and elect officers?

A. That is right.

Q. Now what officers would be elected?

A. Why, we would first elect a chairman and then we would select and elect a vice-chairman and a secretary, and our chairman and vice-chairman would name the other committee on Number 1, 2, 3 and 4, they would appoint the members of those committees.

Q. Now the committee that was appointed by the chairman would, then, every other month, have joint meetings with the committee appointed by the corporation?

A. That is right.

Q. Do you know of any regulation, as to who should announce their committeemen that met in joint committee, first? Whether it was the employees of the company?

A. They would elect their side, their groups?

Q. Yes.

A. That would be up to them. We had nothing to do—

Q. Well I mean, were you notified—if you know, now—whether the chairman was notified of who the company committee would be, before he appointed his own committee from the employees?

A. No, sir.

Q. I see. I mean that from the purpose of whether there would be any conflict of having an employer officer and employe on the same committee? Do you know anything about that?

A. No, sir.

Q. Whether that was arranged, or not?

A. (Witness shakes head.)

Q. Now what was the situation in regard to making of claims, Mr. Mondora?

A. Making of claims?

Q. Complaints?

A. Complaint? Why, grievance—a man would either go to the foreman or come to the representative.

Q. Well, now, just explain how—say that in your department, when you were a representative there, if someone would come to you and make a complaint, just tell the court how you would handle it?

A. Why, when they would come to me and make a complaint, if—it was my procedure of the job, I would take it to my foreman if I wanted to. I didn't have to. I could skip the foreman. I could go up to the superintendent, in written form.

Q. Oh, by the way—

MR. SMITH: Just mark this exhibit 35.

(The document above referred to was marked as Respondent's Exhibit 35 for identification.)

MR. LAUTER: I want to point out all those forms are already in the record.

MR. SMITH: Yes.

Q. On this, I will show you Respondent's Exhibit 35 and ask you what that form was used for?

A. This is a form, we would file our cases.

Q. Now, if you were taking this up to the superintendent, would you fill it out on this form? Is that what you mean by your "written form"?

A. Yes, sir.

MR. SMITH: I desire to introduce Exhibit 35.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 35 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit 35 was received in evidence.)

Q. Now, when you took this complaint in, if you went to the foreman, what would happen if you didn't get an adjustment made to your satisfaction?

A. To the foreman?

Q. Yes.

A. I would make this written request out here, form, and send one copy—

Q. You refer to Respondent's Exhibit 35 when you say "this request"?

A. That is right. There was four copies. I would mail two to the superintendent, one to Mr. McCoy, who was management representative, and one I would keep for my file.

Q. What is Mr. McCoy's title, do you know?

A. Relations—Wait a minute.

Q. Well, if you don't remember, why it is all right.

A. I don't remember. At that time McCoy was management representative.

Q. Now, after you had filed the complaint, that is, you had sent these copies that you spoke of, then what would be the next step?

A. Why, the company had fourteen days—or the department superintendent had fourteen days prior to get his final decision on it. That was his grace in there, he was allowed 14 days.

Q. Well, suppose, on that that his decision was favorable to your claim. Then what would happen?

A. If it was favorable to my claim, why we dropped the case.

Q. And if it was unfavorable, what would happen?

A. Then I would, with a written form—not a form but letter—I would send in to Mr. McCoy, stating that I wanted this case to be taken to the proper committee.

Q. And the proper committee was determined by the character of complaint it was, is that correct?

A. That is correct.

Q. Then you would take that up with Mr. McCoy and just follow the procedure, now, from there?

A. We would follow the procedure from there, would be the case would be taken into a committee and we would have this fourteen day grace, it didn't make any difference to us when they would settle it in our favor, because after that fourteen day, prior to the day that the foreman filed, these men would receive back pay when the case was settled in our favor.

Q. I see. That is, if it was a question of wages?

A. That is right. Most of them were.

Q. Most of them were, were they?

A. That is right.

Q. And you mean by that, that the action of the committee was retroactive to the date of the filing of the complaint, is that what you mean, Mr. Mondora?

A. That is right.

Q. So that any delay, if it was a question of wages, any delay in connection with it did not in any way work harm to the complainant on account of not receiving the full amount back to the date of his claim, if there was delay, is that correct?

A. That is right.

Q. Now, suppose that that goes to your complaint has gone, now, to this committee, after you have notified Mr. McCoy. Now, what is your procedure then before this committee?

A. Why, this case will be—is brought up before a joint committee. That is five members of the committee and five of us representatives.

Q. Yes.

A. And we argued this case out. Mr. McCoy is their defense and the fellow, whoever placed the—

Q. I am talking about your claim, now. We are carrying it through.

A. Why, we—

Q. That is, somebody you would file a complaint for, what would you do then?

A. I would be the man to fight the case.

Q. That is, you would present your arguments in favor of your claim to this joint committee?

A. That is right.

Q. And Mr. McCoy would present his arguments against it to the joint committee?

A. That is right.

Q. And then after submitting that the committee, I suppose, would take some action on it?

A. They would take a vote.

Q. Yes.

A. There would be a vote taken.

Q. Well, now, what would happen on that? Suppose that that vote was adverse to you, what procedure would you follow?

A. Well, there was two votes taken on each committee. We was allowed—we had made—set up a ruling to allow two votes. After the first had failed, why we would argue the case over again.

Q. You could have a re-hearing on it?

A. That is right, and have another vote taken after the hearing was all set.

Q. Well, if that was finally disposed of in that way, what was the disposition that could be taken?

A. Why, I had three days to file this case with the Appeals Committee, within three days.

Q. Now, the Appeals Committee, was that No. 4 Committee?

A. No. 4 Committee.

Q. Now, assuming that you had a case that you wanted to appeal from, just state the procedure, or what you would do with this case of yours, in going to the Appeals Committee?

A. In putting this case in the Appeals Committee, I would have to file within three days, with Mr. McCoy, to have this case put in No. 4 Committee.

Q. Well, now, what do you file, in connection with that? Would you just—would you write a letter or—

A. Just write a written form of letter to Mr. McCoy, stating my procedure.

Q. I see. Then by you doing that, would that take it before the Court of Appeals without any action on the part of Mr. McCoy?

A. Why, some cases it would, yes. On some cases they might give us a settlement before it would get through to the Appeals.

Q. But I say, if you didn't get a settlement, your notifying Mr. McCoy was all that was necessary for you to bring your matter to the Appeals Committee, is that correct?

A. Yes, sir, that is right.

Q. Now, what is your procedure, before the Appeals Committee, when you get your case up there?

A. Why, we would appeal the case to that committee, he same as we did with No. 2 committee.

Q. I see, and you would appear and represent your arty, and Mr. McCoy would appear to represent the com-
any?

A. That is true.

Q. And you would argue your case to the Appeals Committee?

A. That is right.

Q. Now, what was the situation in the event that the Appeals Committee did not give you the relief you thought ou ought to have?

A. If they didn't give us any satisfactory answer, we ad a right to go before the president of the company with t.

Q. Yes, and then suppose that that is taken before he president of the company, then what was the situation f that wasn't in your favor?

A. Well, then it was taken to the arbitration board.

Q. And how was the arbitration board to be set up?

A. That was to consist of an employee representative lected by the employees representatives, and one to consist f the company man, and the other one would be elected y the two appointed.

Q. Selected by the two?

A. That is right.

Q. And then your board of arbitration would finally ispose of the proposition?

A. Yes, sir.

Q. Is that correct?

A. That is correct.

TRIAL EXAMINER LINDSAY: We will have a short recess.

MR. SMITH: Thank you.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

JUDGE SMITH: I should like to have the question as to how the Board of Arbitration was appointed, and the answer read.

(Whereupon the Reporter read the following questions and answers:)

"Q. How was the Arbitration Board set up?

A. That was to consist of an employee representative elected by the employees' representatives, and one to consist of the Company man, and the other one would be elected by the two appointed.

Q. Selected by the two?

A. That is right.

Q. And then your Board of Arbitration would finally dispose of the proposition?

A. Yes.

Q. Is that correct?

A. Yes, sir."

Q. Now, Mr. Mondora, did you want to change your answer as to who would compose the Board of Arbitration?

A. Yes, sir.

Q. Now, just state what you have in mind as to the change there.

A. The election of the Arbitration Board by the Chairman—not the Chairman—the Appeals Committee—the Arbitration Board on the employees' representative side would be appointed from the Appeals Committee.

Q. From the Appeals Committee?

A. Yes, sir.

Q. And how would the second arbitrator be appointed?

A. By the Company.

Q. And then the third member would be appointed how?

A. By the two elected and selected; the third man.

Q. During the time that you have been on this Board, has there ever been an occasion where it became necessary to appeal to either the President of the Company or to a Board of Arbitration?

A. No, sir.

Q. So that all matters have been adjusted within the machinery of the Employees Representative Plan that you have detailed—

A. Yes, sir.

Q. —during that period?

A. Yes, sir.

Q. Mr. Mondora, do you remember hearing of a Supreme Court decision about April 12th of this year placing a construction on the National Labor Relations Act?

A. Yes, sir.

Q. What is your understanding as to what that decision did?

A. Threw out the representation plan throughout the plant.

Q. Now, right after this decision was handed down, you may state what, if any, communication was given to you, to your Committee by the Company or anyone representing the Company.

A. Why, our Chairman of our General Committee had called a special meeting, and he had told us then that this plan was out, being that the Wagner Act was constitutional, and it threw our plan out. He advised us.

Q. Then in connection with his conversation, was there anything said as to the Company participation or otherwise in it?

A. Yes, sir, they had told us—the Chairman had told us that the Company would not donate any funds towards our plan.

Q. Now, prior to this time had you as a Company representative received pay from the Company for the time that you devoted to the duties of the Company Representative Plan?

A. Yes, sir.

Q. Will you just state how that was taken care of?

A. We was paid by the Company at an hourly rate that we received on our jobs.

Q. That is, if you spent some time on your duties as a representative under this plan?

A. Yes.

Q. You would receive the same hourly wage while you were so engaged that you would while you were working at your job?

A. Yes, sir.

Q. Is that correct?

A. That is correct.

Q. Now, also as to the expenses and these forms and things of that sort, and printing of any amended constitution and by-laws, how was that expense taken care of prior to this decision?

A. What decision was that?

Q. This decision as to the Wagner Labor Act.

A. By the Company.

Q. Did the Company pay for that before this time?

A. The Company paid for all stationeries and different things before the Wagner Act.

Q. That is what I mean.

A. Yes, sir.

Q. Now, did the Wagner Act—by the Wagner Act you refer to the decision of the Supreme Court that you have just mentioned when you refer to that?

A. Yes, sir.

Q. Don't you?

A. Yes, sir.

Q. Now, during the time, Mr. Mondora, that you were acting as an employee's representative under this plan, I wish you would tell the Court whether or not any officers, superintendents, foremen, or other persons representing the Republic Steel Corporation at any time attempted to dominate or interfere with you in the duties that you were performing as such representative.

MR. LAUTER: I object on the ground that it calls for a conclusion of the witness.

JUDGE SMITH: Well, your Honor, this is a conclusion—

TRIAL EXAMINER LINDSAY: Yes.

JUDGE SMITH: May I suggest the reason why I think it is competent?

TRIAL EXAMINER LINDSAY: The question is entirely leading and calls for a conclusion. Objection sustained. Let the record show an exception.

JUDGE SMITH: Exception.

TRIAL EXAMINER LINDSAY: Proceed.

Q. Was there any interference with you in the performance of your duties during the time you were there?

MR. LAUTER: I object on the same ground as to the previous question.

JUDGE SMITH: Your Honor, this man certainly knows, and he is the only person who can know whether anybody in any way attempted to interfere with his duties. Now it is alleged in this complaint that this Company, that the Company dominated them, and this was a Company Union, and dominated by the Company.

MR. LAUTER: The testimony of this witness supports the allegation, but the mere fact that he supported the Company Union, and the fact whether they did or did not financially support this Employees Representative Plan calls for a conclusion as to whether or not they were in any way dominated or coerced. That is something for the Labor Board to decide, not this witness.

TRIAL EXAMINER LINDSAY: I will sustain the objection. Let the record show an exception.

JUDGE SMITH: Exception.

(Discussion off the record.)

JUDGE SMITH: Well, your Honor, may I make an offer to prove as to what this witness would say if he was permitted to answer?

TRIAL EXAMINER LINDSAY: I don't think an offer to prove is proper here.

JUDGE SMITH: Your Honor, it may be that I am dumb but I cannot understand how, if there is anybody but the man that is in that position that can really state as to whether or not there was any interference with, or attempt to dominate him. Now we have an allegation of that kind here. Now certainly this man is in the best position, if anyone, to state whether or not there was any attempt on the part of the Company, or anybody representing it, to in any way interfere in the performance of his duty. Now that certainly is not a conclusion; it is a statement of the fact that nobody but this man could know.

MR. LAUTER: It seems to me entirely proper for this witness to state what he did, and state what the officers of the Company did, but not for him to state what his conclusion was that the Company did or did not dominate, or that he was not influenced.

JUDGE SMITH: I didn't ask as to the Plan—

TRIAL EXAMINER LINDSAY: You may ask him as to what happened.

MR. LAUTER: Let me understand—

TRIAL EXAMINER LINDSAY: You may ask him as to what was done, what he did, what others did. Leave the conclusions out. Proceed.

Q. In the performance of your duties, Mr. Mondora, tell us just what you did.

MR. LAUTER: Speaking of the performance of his duties in connection with the operation of the Plan or his duties in connection with his job at the plant?

JUDGE SMITH: Well now, that is not clear but I will make it clear, Mr. Lauter.

Q. In the performance of your duties as a representative elected by the Employees of the Republic Steel Corporation under the Employees Representative Plan, Mr. Mondora, just state how you performed your duties?

A. You mean the different cases?

Q. Yes, Your duties?

A. The grievances?

Q. All of your duties.

A. I took all grievances that the men had brought up to me—they would bring to me cases and I would take them through the proper channel.

MR. LAUTER: I move that the comment of the witness as to the quotation "proper channel" be stricken from the record.

TRIAL EXAMINER LINDSAY: The word "proper" is stricken out.

Q. Well now, what channels do you refer to?

A. Just as I—written forms and through the superintendent of the department.

Q. And in accordance with what you testified before?

A. Yes, sir.

Q. In the performance of your duties in connection with these claims, did you consult with anybody else as to how you should perform in connection with it?

A. No, sir.

Q. Did you use your own judgment as to what should be done?

A. Yes, sir.

Q. Were you in any way influenced in the performance of your duty by anyone else other than yourself?

MR. LAUTER: I renew my motion on the grounds stated in the previous question concerning whether this witness was influenced by any officer of the Company.

TRIAL EXAMINER LINDSAY: I will sustain the objection. Let the record show an exception.

JUDGE SMITH: May we have an exception?

TRIAL EXAMINER LINDSAY: Yes.

Q. You may state whether or not in the performance of your duties if you consulted only yourself, and your conscience, and your own conclusions as to what you should do.

A. Yes, sir.

Q. Now, Mr. Mondora, after the chairman had advised you, as you have testified, that the Company would not give any further financial aid to the Employees' Representative Plan, what if any action was taken by the representatives that had been elected by the employees after that date?

A. Why, they took action in trying to form their own representation plan.

Q. That is, you mean separate and apart from the Company participation?

A. Yes, sir.

MR. LAUTER: Object to the question as leading, move the answer be stricken.

TRIAL EXAMINER LINDSAY: Yes, that is a leading question, Mr. Smith.

MR. SMITH: It is a leading question, I agree with you both—.

TRIAL EXAMINER LINDSAY: It is very leading, objection sustained. The question is stricken.

JUDGE SMITH: May I have an exception to it?

TRIAL EXAMINER LINDSAY: Yes.

Q. (By Judge Smith) Just state what you did and what you know, and what other of the employee representatives did, after the withdrawal of the Company from this Plan?

MR. LAUTER: I object to that question, as to testimony in this record that the Company withdrew from the Plan.

JUDGE SMITH: Why, he already testified to it.

TRIAL EXAMINER LINDSAY: We will stop all argument.

MR. LAUTER: May we make an objection for the record?

TRIAL EXAMINER LINDSAY: Yes, you may. Read the question.

(Question repeated by the reporter)

MR. LAUTER: Object to the question as it contains a statement of a set of facts not testified to by this or any other witness.

TRIAL EXAMINER LINDSAY: I'll sustain the objection on the grounds that the question is improperly framed.

JUDGE SMITH: I'll try to reframe it.

TRIAL EXAMINER LINDSAY: And further for the reasons stated by Mr. Lauter, representing the Board.

Q. (By Judge Smith) After your chairman had stated to you that the Company, due to the Supreme Court decision, would withdraw from further financial aid to the Representative Plan, you may state what you did or what you know, of your own personal knowledge, that other representatives who were elected by the employees, did, subsequent to that time?

A. They tried to form their own organization, financed through the employees. We tried it and got to a point that there wasn't no funds, and we quit; I quit it as I wasn't going to use my time up representing anybody, so I dropped out.

Q. And did you take any part—, or state what, if any, part you have taken in connection with the Independent Federation of Republic Employees?

A. Why—.

Q. I'll ask you; do you belong to that organization?

A. No, sir.

MR. LAUTER: May we have the previous question and answer withdrawn?

JUDGE SMITH: I'll withdraw the other answer.

TRIAL EXAMINER LINDSAY: Not only the other answer but the other question also.

JUDGE SMITH: The other question also. What is the question that is out, and the last that is in, and what is out?

(The record was referred to by the reporter.)

JUDGE SMITH: Have the record show that I withdrew that last question.

Q. (By Judge Smtih) Were you present at the meeting on May 19th at the District Office when Mr. John L. Smith was elected as chairman of the Independent Federation?

A. No, sir.

Q. Do you recall of a petition being circulated in the plant prior to the strike, addressed to the Mayor of Youngstown?

A. Yes, sir.

Q. Did you sign that petition?

A. Yes, sir.

Q. Did you have anything to do with circulating it?

A. No, sir.

Q. After the strike was called, are you familiar with the so-called "Back to Work" movement that has been referred to?

A. No, sir.

Q. Did you have anything to do with it?

A. No, sir.

Q. You may state whether or not you signed a petition to go back to work?

A. No, sir, I didn't sign any.

JUDGE SMITH: By the way, my attention has just been called by Mr. Jones that in connection with Mr. Mondora's testimony, that he made the statement of signing the ballots. Now I want to clear that up and see whether or not he meant that.

Q. (By Judge Smith) At the voting, when you voted either on nominations or elections, the ballots were not signed, were they, or were they or were they not?

A. No, sir, they weren't signed.

Q. And then if that statement was made by you in answer to a question, it was made in error, is that correct?

A. That is right.

JUDGE SMITH: There has been another thing that my attention has been called to; I would like to have the record read back to the question immediately before the one where I asked him if he belonged to the Independent Federation of Republic Employees, to see whether or not the record is clear that that was the organization I was directing his attention to, when he said he did not belong.

(The record was referred to and the following questions and answers repeated by the reporter:

"After your chairman had stated to you that the Company, due to the Supreme Court decision, would withdraw further financial aid to the Representative Plan, you may state what you did, or what you know of your own personal knowledge that other representatives who were elected by the employees did, subsequent to that time?

A. They tried to form their own organization, financed through the employees. We tried it and got to a point that there wasn't any funds, and we quit; I quit it as I wasn't going to use my time up representing anybody, so I dropped out.

Q. And did you take any part—, or state what if any part you have taken in connection with the Independent Federation of Republic Employees?

A. Why—

Q. I'll ask you; do you belong to that organization?

A. No, sir.")

Q. (By Judge Smith) Where you say you didn't belong to that organization, you referred to the Independent Federation of Republic Employees, don't you?

A. That's right.

JUDGE SMITH: That is all.

Cross Examination

Q. (By Mr. Hoskins) What is your job at the mill, Mr. Mondora?

A. Superintendent Clerk at the butt and lap, Furnace Department.

Q. What are the duties of a Superintendent Clerk, are your duties as a Superintendent Clerk?

A. My duties in the butt and lap Furnace Department, I have charge of the whole department in clerical work, and ordering of all different items, different reports, all clerical work of that department; that is, the furnace department.

Q. Do you act as an assistant to the Superintendent?

A. No, sir.

Q. Now you stated that you were elected a representative in 1933?

A. Yes, sir.

Q. And when were you elected again?

A. 1934.

Q. And again in '35?

A. That is right.

Q. And again in '36?

A. That's right.

Q. Now you were elected a representative at the time you were a superintendent clerk, is that right?

A. No, sir.

Q. Didn't you state that you had been a superintendent's clerk for one and a half years?

A. That's right.

Q. Was your previous answer 'no sir?'

JUDGE SMITH: Well, he thought he referred to the original election.

TRIAL EXAMINER LINDSAY: Now wait a minute, Mr. Smith. This is cross examination. How do you know what he thought?

JUDGE SMITH: It is so obvious.

TRIAL EXAMINER LINDSAY: Maybe it is and maybe it isn't; proceed with the cross examination.

Q. (By Mr. Hoskins) When you were elected a representative in '36, were you at that time superintendent's clerk?

A. No, sir.

Q. When did you become superintendent's clerk?

A. About—, right after election,—; at the finish of 1938, that was in June.

Q. Now when did you become superintendent's clerk?

A. Right after then, right after the election.

Q. What do you mean by 'right after,' a month, two months, three months?

A. Well, I can't tell you the date right offhand.

Q. Can you give me some idea; was it one month or six months?

A. Well, about four months after that.

Q. In other words, it was around October, is that correct?

A. That is correct.

Q. That was in 1936?

A. That is right.

Q. And this is September, 1937, is that correct?

A. That is right.

Q. Then you haven't been a superintendent's clerk for one and a half years?

A. I says 'about one and a half years.'

Q. Now you were working in the mill at the time the employees Representation Plan started, is that not correct?

A. That is correct.

Q. Was that plan presented to the men, were they allowed to vote on it to determine whether they wanted to accept it or not?

A. No, sir.

Q. Did the men have any opportunity to express themselves in that?

A. Between election, about ten days before the election.

Q. What do you mean, about ten days before the election?

A. Well, the election was held around June 15th and this committee had been formed to put this Plan out amongst the men about ten days before that, prior to the election.

Q. But the men had no opportunity to state whether or not they wanted membership in the Plan, is that not right?

A. That is right.

Q. The mere fact that the work in the mill was the same—, they had their membership by working in the mill?

A. That's right.

Q. Now when was the last meeting that you attended as a representative of this Plan?

A. The last meeting that I attended was the one that our chairman—, at this special meeting that our chairman had called to discontinue the Plan.

Q. When was that?

A. That was around, I imagine, after the 15th somewhere, about two days after the constitution, under the Wagner Act.

Q. That would be the 15th of April?

A. That is right.

Q. That was the last meeting you attended?

A. Around that time.

Q. Did you do any work as a representative after that?

A. No, sir.

Q. You handled no grievances?

A. No, sir.

Q. Did any of the men come to you to have their grievances handled?

A. Yes, sir.

Q. What did you do, just turn them down?

A. Just turned them down, told them there isn't no such thing.

Q. Who was it told you that the company would no longer donate funds? That was the chairman?

A. The chairman of our committee.

Q. What is his name?

A. Mart Murphy.

Q. That meeting was held on the 15th of April, about?

A. About that.

Q. Where was that held?

A. General office.

Q. And what time of the day?

A. Around 9 o'clock.

Q. In the morning or evening?

A. Morning.

Q. What was your turn, on that day?

A. Day turn.

Q. You were on day turn?

A. Yes, sir.

Q. Did you get paid for the time you spent at that meeting?

A. No, sir. I didn't get paid.

Q. You got docked for that time?

A. Yes, sir.

Q. From your next pay check? Are you sure of that?

A. The last meeting?

Q. The meeting on April 15th, at which Chairman Martin Murphy told you the company would no longer donate funds?

A. Yes, sir, I didn't get paid for that.

Q. You left your work to go to that meeting, is that correct?

A. Yes, sir, that is correct.

Q. How long did that meeting last?

A. Why, we stayed there until noon, went out for lunch and come back at 1 o'clock. Some of us didn't get back until 1:30.

Q. What time did you get back to your job?

A. Didn't go back to my job.

Q. How long did you work in the morning before you went to the meeting?

A. Two hours.

Q. You worked two hours, and you are willing to state under oath that you were only paid for two hours' work on that day?

A. Yes, sir.

Q. Now, these joint committees you have told about, how many men were on those joint committees?

A. Five on the standing committees.

Q. I ask you about the joint committee.

A. Joint? There was ten.

Q. Ten men?

A. That is right.

Q. How was that composed? How many employee representatives?

A. Five.

Q. And five management representatives?

A. Five management.

Q. Is that correct?

A. That is correct?

Q. What happened to a cause that was presented to the joint committee and came out in a tie vote?

A. They would argue the case out after the first vote was taken.

Q. And if the second vote was also a tie?

A. Tie? It was—within three days I—if it was my case I had a chance to appeal it to the No. 4 committee.

Q. Did you keep any record or do you have any idea how many cases presented to this joint committee came out in a tie?

A. No, sir.

Q. You don't have any idea?

A. Not now, I don't know.

Q. You know, as a matter of fact, that the majority of the cases or grievances that were presented for the men did come out in a tie vote, don't you?

A. Yes, sir.

Q. Now, this general body, when was the last regular meeting they held, that you attended?

A. That was at the main office.

Q. When?

A. Around April 15th.

Q. Is that before or after this special meeting at which Chairman Mart Murphy spoke?

A. That was the same day.

Q. Same day?

A. Yes, sir.

Q. What time of the day was it?

A. 9 o'clock.

Q. You did not attend it, then?

A. Yes, sir.

Q. How did you attend both meetings?

A. Well, this is the same meeting. That is the last meeting.

Q. Didn't you state that this meeting wherein Mart

Murphy spoke was a special meeting?

A. Well, that is the one I am talking about now.

Q. Well, I asked you when the last regular meeting of the general body was?

A. That was in the end of the month.

Q. The end of what month?

A. We always—the general body meeting would meet on the 30th of each month, the end of each month.

Q. All right, now, when was the last meeting of the general body which you attended?

A. March 30th.

Q. You held no regular meeting of the general body in April?

A. In April?

Q. Yes.

A. Just this special meeting.

Q. No regular meeting?

A. No, sir.

Q. Now, you spoke of grievances being presented to this general body and their being voted on? Well, first of all I want to ask you one question on the composition about this general body. How was it composed?

A. The general body?

Q. Yes.

A. By all of the representatives, 31 representatives.

Q. Any management representatives?

A. No, sir.

Q. Did this general body have power to do anything?

A. Yes, sir.

Q. To do what?

A. They had power to take their cases to the president of the company.

Q. But the general body had no power to correct any grievance, did it?

A. No, sir.

Q. They had no power to raise wages?

A. No, sir.

Q. No power to improve any particular condition in the plant? They had no power to really adjust any grievance, did they?

A. No, sir.

Q. Now, the standing committees, did they have any power?

A. Yes, sir.

Q. What power did they have?

A. To a certain extent, they had power to bring up different grievances, to hand them out to the management of the company, to have adjusted.

Q. But they had no power to adjust them, themselves?

A. No, sir.

Q. Is that correct? All they could do was to transfer it to the management representatives?

A. That is right.

Q. And then only some of the grievances?

A. That is right.

Q. Now, were minutes taken of the meetings of the general body?

A. Yes, sir.

Q. Who took those?

A. The secretary.

Q. The secretary of the general body?

A. Yes, sir.

Q. Was there anybody else in those meetings taking minutes?

A. No, sir.

Q. And you were furnished with copies of those minutes? As a representative?

A. Yes, sir.

Q. When was the last time you received any minutes?

A. The last time I received minutes of the general body, do you mean?

Q. Yes.

A. It was a meeting of March 30th that we had, was the last.

Q. When did you get those?

A. Oh, I couldn't tell you the exact date.

Q. Well, generally speaking, how long after the meeting did you get copies of the minutes?

A. Why, about three or four days.

Q. Were copies of this special meeting of April 15th, furnished you?

A. No, sir.

Q. You didn't get any copies of those?

A. No, sir.

Q. Do you know who paid for those minutes that you got?

A. The company.

Q. Now, you stated on direct examination, I believe, that the grievance went up, concerning wages, that when it was adjusted the company always made that retroactive and gave back wages?

A. That is right.

Q. Did they do that in every case?

A. Yes, sir, in every case that was written out in written form.

Q. Every case that was adjusted?

A. That is right.

Q. How many cases did you have adjusted on wages during the last year?

A. During the last year?

Q. Yes.

A. Why, I had one paid out, last year. I didn't have any adjusted then but—

Q. You had none adjusted?

A. No.

Q. How many did you present?

A. What do you mean? In one year?

Q. During the last year?

A. Well, I can't tell you that. I don't know.

Q. Well, about? What is your approximation?

A. Well, I should say about—different cases—I should say sixty, fifty.

Q. You personally presented fifty or sixty cases?

A. Yes, sir. Not written forms.

Q. Well, I am not interested in whether you put it in written form or not?

A. All right.

Q. I am asking you whether you presented them.

A. Yes, sir.

Q. And you had none adjusted?

A. None adjusted? Sure, I had them adjusted.

Q. Did you present any case for wage increase, and have them adjusted, last year?

A. No, not in 1937.

Q. I am limiting my question at the present time to the year 1936-37, which is your last term of office.

A. All right.

Q. Now, how many cases did you present for wage grievance during that year?

A. None.

Q. You presented none?

A. That is right.

Q. How many did you present during the preceding year?

A. I was involved—

MR. SMITH: I didn't hear the answer.

(The answer read by the Reporter.)

Q. (By Mr. Hoskins) Finish your answer.

A. I was involved in, I think it was three.

Q. How many of those were adjusted?

A. Three of them.

Q. All, with back wages?

A. Yes, sir.

Q. I believe you stated that the by-laws and the rules provide that if a grievance is taken to the general body—I think I have this procedure correct—then to the standing committee, and the joint committee, and still there is no adjustment, you have a right to go to the president?

A. Yes, sir.

Q. Is that correct?

A. File with the president.

Q. I further—I think you stated that you never went to the president with a grievance?

A. That is right.

Q. Do you know of any representative who did?

A. No, sir.

Q. Were all grievances adjusted satisfactorily?

A. Yes, sir.

Q. By the time they finished the committees?

A. Yes, sir.

Q. There were no grievances that you really cared to carry forward, is that correct?

A. Forward to where?

Q. To the president.

A. That is, they was adjusted. I didn't have to take them that far.

Q. You got every one of your grievances adjusted in the committee?

A. Yes, sir. That I had filed.

Q. Now, isn't it true, as a matter of fact, that a grievance, to be carried from the president to this arbitration board or arbitration committee, whichever you call it, could only be done with the consent of the president?

MR. HOSKINS: May I see these by-laws?

MR. SMITH: I would say on this, your Honor, that the real evidence on the matter, the exhibit is in evidence, of the plan, and as to what the plan says, is the best evidence as to how this arbitration matter is set-up.

TRIAL EXAMINER LINDSAY: Oh, he has a

right to produce that exhibit, if it is in evidence, and question him about it. There is no doubt about your theory that it is the best evidence.

MR. SMITH: Yes. So that it would be just what his interpretation or understanding of it was.

Q. (By Mr. Hoskins) Mr. Mondora, I refer you to a booklet which has previously been marked as Respondent's Exhibit for identification No. 34, a copy of which I believe was in evidence as Board's Exhibit, previously. Noting section 9, subdivision 3, I ask you if that procedure was changed?

A. No, sir.

Q. Doesn't that state that "if the president shall so agree?"

MR. SMITH: Which book is that? What year is that you are showing the witness?

MR. HOSKINS: This is your exhibit for identification. 34.

MR. SMITH: Well, that is '33, the first one, is it?

MR. HOSKINS: I am asking him if that was changed.

A. No, sir, that wasn't changed.

Q. That was still in effect at the present time?

A. Yes, sir.

Q. To the best of your knowledge?

A. Yes, sir.

MR. HOSKINS: Will you mark this booklet for identification?

(The booklet above referred to was marked as Board's Exhibit No. 115 for identification.)

Q. Mr. Mondora, I show you Board's Exhibit for identification No. 115 and ask you to describe that pamphlet (handing a booklet to the witness)?

A. That is the first plan that we have had.

Q. That is the first plan, you say?

A. Yes.

Q. This states that it was amended in March, 1937?

A. That is the first plan we have had. June 9th, 1933, adopted.

Q. Does this not say that it is a true copy of the by-laws of the Employees Representation Plan in effect in March, 1937?

A. I can't tell you that; I don't know that.

Q. Well, are these the by-laws that covered the Committee—

A. Yes.

Q. —in March, 1937?

A. I don't know.

Q. Covered the plan?

A. I don't know; I can't tell you. There is different copies.

Q. Well, this exhibit states Republic Steel Corporation, Youngstown District, Plan of Employees Representation, adopted June, 1933; amended June, 1934; amended March, 1937. Have you ever seen a copy of that before?

A. Yes, sir, if it is the last book that we was handed in 1937.

Q. Well, is that a copy like the last one you were handed?

A. I can't tell you.

JUDGE SMITH: I am willing for the record to show that it is; if you want it to be that way.

MR. HOSKINS: Since Judge Smith stipulates that this is a copy of the by-laws of the Employees Representation Plan as amended in March, 1937, I would like to offer it in evidence.

JUDGE SMITH: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit 115 is received in evidence.

(Thereupon the document heretofore marked

"Board's Exhibit 115" was received in evidence.)

TRIAL EXAMINER LINDSAY: It is now 10 minutes after 12. We will adjourn until 1:15.

(Thereupon, a recess was taken until 1:15 o'clock p. m.)

After Recess.

(Whereupon the hearing was resumed, pursuant to recess, at 1:15 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

RALPH MONDORA

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

Cross Examination (Continued)

Q. (By Mr. Hoskins) Mr. Mondora, one or two more questions, please. As a representative—at least up until the latter part of this year you were to continue for the time being as a representative?

A. Yes, sir.

Q. Now, were you paid by a separate check or was that included in your pay check?

A. Separate check.

Q. Do you recall when your last check was received by you? When was that for representative work?

A. Why, the pay for the last general meeting we had, around April 15th.

Q. Now, you stated, I believe, that it was your understanding that the Supreme Court decision threw out the Representative Plan.

A. Yes, sir.

Q. Were any steps ever taken to formally dissolve the Employees Representative Plan?

A. Before the Wagner—

Q. No. After the Wagner Act was declared constitutional by the Supreme Court?

A. Why, at that general body meeting it was automatically—it was thrown out by the Chairman.

Q. You say it was thrown out by the Chairman. Isn't it true that all of the members in the plant were members of this Employees Representation Plan?

A. Yes, sir.

Q. And it was never presented to them for a formal vote to be dissolved?

A. No, sir.

Q. It was never presented to the representative for a formal vote?

A. No, sir.

Q. In other words, one man took the responsibility for it to be thrown out? The Chairman?

A. Yes, sir.

Q. Of course, that wasn't a formal action on his part representing the entire group?

A. No. Why, it was disbanded by all of us representatives at that meeting. The Chairman told us it was through.

Q. But it was no formal vote to dissolve it?

A. No, sir.

Q. No formal action of any sort?

A. No, sir.

TRIAL EXAMINER LINDSAY: Will you read the last two or three questions and answers?

(The last three questions and answers were read.)

Q. Now, you stated that after this meeting of April 15th that there were some steps taken by the representatives to try to form a new Union?

A. Yes, sir.

Q. Did that Union ever get a name?

A. Yes, sir.

Q. What was the name of it?

A. Employees Representative Plan of Republic Steel Corporation. I think that is right.

Q. Is that the new Union?

A. That is the new Union.

Q. What were your activities in that? What were your duties in connection with it?

A. I didn't do anything on it. No activities in it. All I was, was a member prior to the time we had dropped the plan. I just stood the same as the representatives.

Q. Did you do any work for the new Union after April 15th?

A. Yes, sir.

Q. What work did you do?

A. Why, I solicited members for the new Union.

Q. And you stated that you voluntarily gave that up?

A. After that came to a point that we didn't have any money to carry on.

Q. Did you have any money at all?

A. No, sir.

Q. At any time?

A. We did after we started our plan.

Q. Is that in the form of dues?

A. Yes, sir, that is right.

Q. Dues that were collected?

A. Yes, sir.

Q. You stated that you gave it up because you were not going to use up your time?

A. That is right.

Q. And you belonged to the Independent Federation of Republic Employees?

A. No, sir.

Q. Have you ever attended any of their meetings?

A. Yes, sir.

Q. When?

A. I attended two meetings.

Q. When were they held?

A. Why, one was held the last Monday, and one was prior to after they had elected a Chairman—a temporary Chairman. The first meeting they held I attended.

Q. You attended a meeting where they elected a temporary Chairman?

A. No.

Q. After?

A. Yes, sir.

Q. Where was that?

A. Up on Indianola Avenue.

Q. That was the meeting that was called for the purpose of combining the old Employees Representation Plan with the new Independent Federation of Republic Employees?

A. Yes, sir.

Q. You attended that meeting?

A. Yes, sir.

Q. And you also attended a meeting last Monday?

A. Yes, sir.

Q. Where was that?

A At the same place.

Q. At Indianola Avenue?

A. Yes, sir.

Q. And you stated that prior to April 15th the Republic Steel Corporation paid all of the expenses of the Employees Representation Plan, is that correct?

A. Yes, sir.

Q. That includes printing of the minutes, printing of the by-laws, ballots, nomination forms that have been introduced in evidence?

A. Yes, sir.

Q. As well as paying for the men who attended the meetings?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

MR. HOSKINS: That is all.

Redirect Examination

Q. (By Judge Smith) I refer you to Respondent's Exhibit 29 that is headed "Election Ballot for Employee Representatives." I will ask you to read the first paragraph of that exhibit out loud.

A. "By using this ballot the voter approves the holding of nominations and elections as stated in the posted notice of this election issued by the Employees Committee under the plan of Employee Representation at this plant and expresses the desire to be represented for collective bargaining and the other purposes stated in the notice, by representatives elected under the plan."

Q. Now, all votes that were cast at any of these elections were cast on ballots similar to this, is that correct?

A. That is right.

Q. Now, Mr. Mondora, in connection with your services and your duties in the Employees Representative Plan, I wish you would tell the Court about what percentage, if you can, of the complaints that you took up were carried to a Joint Committee meeting and were not adjusted prior to their reaching there?

A. You mean in any one year?

Q. Yes. In any one year.

A. The full time?

Q. At any time in the year or in the last year. I will put it the last year.

A. Why, the last year I had one case; one case that I had brought up to a Joint Committee that was to be filed to a Joint Committee as a hearing.

Q. How many cases altogether did you have that were adjusted prior to reaching that point?

A. I couldn't name the number of different grievances and cases that we had that had been given to that Committee.

Q. Can you give us your approximate judgment as to how many altogether you had during that period?

A. Oh, I would say about 40 to 50 cases.

Q. About 40 to 50 cases?

A. Yes, sir.

Q. In that year?

A. Yes, sir.

Q. The last year?

A. Yes, sir.

Q. Out of the entire group that was the only one that was not adjusted before you got to the Joint Committee?

A. That is right.

Q. Now you spoke of attending a meeting at Indianola—at a church on Indianola Street in Youngstown?

A. That is right.

Q. Do you remember the exact date of that meeting?

A. Yes, sir, this last meeting?

Q. No. The first meeting you attended on Indianola?

A. No, I don't know.

Q. Well, by reference, was it before or after the men had gone back to work?

A. Before.

Q. Before the men went back to work?

A. Now, wait a minute—no, this was after the men had gone back to work.

Q. Yes.

A. Yes, sir.

Q. Can you give us an idea about how long after that?

A. About three weeks afterward; after the men had gone back to work.

Q. What, if anything, do you remember in regard to that meeting as to what anything was said or done in connection with the constitution or by-laws?

A. Why, this plan that we had started—put it in ourselves—the Employees Representation Plan we had donated these members to this new organization, and we had dropped it out of the picture—we discontinued our plan but was willing to reunite our members with theirs and leave us out of it.

Q. You mean that you resigned from any relationship with it?

A. Yes, sir.

Q. The question was, do you remember anything at that meeting being done in regard to a constitution and by-laws after the Federated Employees of the Republic?

A. Why, at that meeting there was—the men that were elected as temporary Chairmen and officers were to be as just until the further time that they would have money to support and re-elect officers for the—

JUDGE SMITH: I think that is all.

Recross Examination

Q. (By Mr. Hoskins) Just one or two more questions. You stated just a minute ago that you donated your members to this new Union, is that correct?

A. We was willing to donate them to this new organization; hand them over to them.

Q. Did you actually donate them?

A. As far as I know, I don't know yet if they have.

Q. Was any vote ever put to the members to determine whether or not they were willing to be donated?

A. At this meeting?

Q. Yes.

A. Yes.

Q. Did all of the members of your old plan attend?

A. The majority of them did.

Q. Did they express a willingness to be donated?

A. Yes, sir.

Q. Now, you stated you resigned from this organization.

A. Yes, sir.

Q. Did you tender a formal resignation at this meeting?

A. When we resigned at this meeting we had resigned right there and then.

Q. Whom do you mean by "we?"

A. Why, the representatives that attended this meeting.

Q. All of the representatives resigned?

A. Yes, sir.

Q. Did you submit written resignations?

A. No, sir.

Q. You just left the meeting?

A. That is right.

Q. Now, to just clear up one point, Mr. Mondora. These members that you stated attended the meeting over on Indianola Avenue that were to be handed over on this donation—they were members of which organization, now?

A. Why, they was members there of the new Representation Plan and there was members of this Independent Federation.

Q. The members you spoke of who were to be donated were the members of the Representation Plan?

A. The new Representation Plan.

Q. You are referring to the one that the representatives tried to form after May 15th?

A. That is correct.

Q. How large a membership did you have in that plan?

A. In which Plan do you mean?

Q. In the new Representation Plan.

A. Employees' Representation? Well, the last I heard was around twenty-seven hundred.

Q. How many people were at this Indianola meeting?

A. I would say around twenty-five to thirty.

Q. Twenty-five to thirty people present at the meeting?

A. That's right.

Q. I thought I understood you to say that a large part of the membership of this Plan was present there?

A. Yes, sir.

Q. You had twenty-seven hundred members in the Plan, is that correct?

A. In the Plan, yes.

Q. And there are twenty-five to thirty people present at the Indianola meeting?

A. This was all the officers of this Employees' Representation that was present there.

Q. But there were no members present?

A. No, no members.

Q. Had the question ever been put to the members, and whether they wanted to become affiliated with this Independent Federation?

A. No, sir.

Q. Whether they wanted to be donated?

A. No, sir.

Q. That was an action that the officers were taking without the consent in any way of the members, is that correct?

A. That is correct.

Q. Now the officers of the new Representation Plan, as distinguished from the old, were they ever elected?

A. No, sir.

Q. Or just assumed—, the representatives who had been elected under the old plan just assumed the offices under the new, is that correct?

A. That is right.

MR. HOSKINS: That is all.

Redirect Examination

Q. (By Judge Smith) Well, to clear the record, we don't confuse you, the new Employees' Representative Plan that you refer to was the organization that you attempted to form prior to the time of the strike and was not the Independent Federation of Republic Employees, was it?

A. No, sir.

JUDGE SMITH: That is all, that is all, Mr. Mondora.

(Witness excused.)

WILLIAM F. QUINLAN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Judge Smith) Just state your full name, Mr. Quinlan?

A. William F. Quinlan.

Q. You reside in Youngstown?

A. Yes, sir, I do.

Q. How many years have you been a resident here?

A. About forty years.

Q. You are the Clerk of the Court of Common Pleas, I believe?

A. That is correct.

Q. Now as such clerk, do you have one of your criminal dockets with you?

A. I do.

Q. I wish you would turn to Page 14665 and, what is the number and name of this docket?

A. This docket is criminal docket of the Mahoning County Common Pleas Court No. 29.

Q. Now referring to that page, I'll ask you if there is a record there in regard to one Walter Chizmas?

A. There is.

Q. And what does the record say as to whether or not he has been indicted for any offense?

TRIAL EXAMINER: Wait a minute.

MR. LAUTER: Object to it as to showing whether or not Mr. Chizmas was indicted; it is incompetent, irrelevant and immaterial.

JUDGE SMITH: I would like to state my reason for presenting this.

TRIAL EXAMINER LINDSAY: If it's an indictment, it's absolutely out.

(Off the record.)

JUDGE SMITH: May I just make this one further statement as to this, that the testimony that we desire leave to be presented, in accordance with the Court's ruling, in the written offer to prove, if we desire to present it?

TRIAL EXAMINER LINDSAY: Yes.

JUDGE SMITH: That is all, Mr. Quinlan.

(Witness excused.)

B. J. GILLEN

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Jones) Will you state your name?

A. Yes, sir, Barney J. Gillen.

Q. Where do you live?

A. Warren, Ohio.

Q. You occupy what position in Warren?

A. Chief of Police.

Q. How long have you been chief of police in Warren?

A. Oh, about 18 years.

Q. During the strike in Warren, were you on duty during that time?

A. Yes, sir.

Q. I will ask you to state whether or not, in connection with your duties, certain complaint were made to you about persons kept in Republic mill in Warren?

A. Yes, sir.

Q. About when was that, that those complaints were made to you, Mr. Gillen?

A. I couldn't exactly say the date; the time that the men was in there and not coming out.

Q. When was it in reference to the time the strike started?

A. Probably two or three weeks after that; a couple of weeks, probably.

MR. LAUTER: May I have the answer read?

(Answer read by the Reporter.)

Q. About how many such complaints were made to you, would you state?

A. Oh, I don't know, maybe ten or fifteen came to me.

Q. Were those complaints all made at the same time or over a period of time?

A. Different days, different times. Sometimes days, sometimes nights.

Q. Did you make any investigation of those complaints at all?

A. I made an investigation with the sheriff.

Q. I see; well, I mean when the complaints were made, did you make investigation, or what did you do concerning them?

A. I sent the complainant over to the sheriff, because Trumbull Steel is outside of the city limits.

Q. Sometime later, I will ask you to state whether or not a committee was gotten together to investigate those complaints?

A. Yes, sir, there was.

Q. Who gathered that committee together?

A. The sheriff.

Q. The sheriff of—

A. Trumbull County.

Q. Trumbull County?

A. Mr. Hardman.

Q. Who else was on that committee?

A. Well, the Mayor Bjorson, City Law Director, and myself. That is, they asked me to go down.

Q. That is, the Mayor of the City of Warren?

A. Yes—and Safety Director.

Q. And you?

A. And the sheriff, four of us.

Q. That is, a committee which was composed of four?

A. Yes, sir.

Q. The sheriff was the one that got the committee together?

A. Yes, sir.

Q. Did this committee do something about investigating these complaints?

A. Yes. They went down there.

Q. About when was that, chief?

A. I couldn't exactly give you the date. The sheriff has got that. I just merely went along.

Q. Could you give me approximately the date?

A. Probably three weeks after the strike, after the strike happened. Probably. Maybe two or three, I don't know. I didn't mark it down. I couldn't tell you that. I just merely went with these people.

Q. Did all four of you men go down to Republic together?

A. Yes, sir.

Q. When you got down there, whom did you see?

A. Mr. Flynn.

Q. Do you know what position Mr. Flynn occupies?

A. I guess he is the manager of the Trumbull Steel.

Q. Did one or more members of your committee have some conversation with Mr. Flynn at that time?

A. They had conversation there, right in front of all of us.

Q. Who did the talking for your committee?

A. The sheriff.

Q. What did the sheriff say?

A. He said they came down there on complaints that they had, they had about fifty complaints where people said that their folks was in the mill and couldn't get out. They were holding them against their own free will.

7 Q. What did Mr. Flynn then say, if anything?

A. Mr. Flynn said, "You know I would not do anything like that." He says, "I will tell you what you do, go down through the mill and then go over to Mr. Donovan's office and fetch them in, anybody you want to talk to."

Q. Subsequent to that, where did the committee go?

A. Went down through the mill and talked to different people.

Q. Now, just before you come to that, did anyone go with you or with the committee?

A. Yes, there was some fellow went, there. I don't know what his name was.

Q. How did he happen to go with the committee?

A. Why, Mr. Flynn said this man would take us down, any place we wanted to go.

Q. Now, how extensive was your walk through the mill before you came back to Mr. Donovan's office?

A. Well, we took quite a walk down through the mill, I don't know how far we were in, there, because I had never been all through the mill, yet, but we went down through where people were working, turned, went down the left side and then come up around into Mr. Donovan's office.

Q. Now, in your walk through the mill, did you personally talk with men or persons inside there?

A. Yes, sir, I talked with some men in there.

Q. What did you ask those persons that you talked to?

A. I asked them if they were getting enough to eat and if they wanted to go out and they said—

Q. What answer did you receive?

A. They said they didn't want to go out, they were getting all they wanted to eat.

Q. Did you see anyone there in the mill that you knew?

A. Oh, yes.

Q. Whom did you see whom you know?

A. I saw some Angstedt boys in there, talked to them.

Q. Who is that?

A. The Angstedt boys.

Q. Did you see any persons that were related to you?

A. Yes.

Q. Whom did you see?

A. Those were the Angstedts.

Q. They were relatives of yours?

A. Yes, sir, my sister's sons.

Q. Did you hear any of the remarks that were directed by any of the other members of the committee to persons working in the mill?

A. No, I didn't pay any attention to that, at all.

Q. Did any employee working in the mill tell you that they wanted to leave?

A. Not one. Any time that anybody called up from the mill that they wanted to leave, there was an officer went down and escorted them out. We never took anybody in, but we took them out.

Q. I see.

A. Yes, sir.

Q. Then after you walked through the mill, you came back to some office?

A. Went back to Mr. Donovan's office.

Q. Who was present there, the whole committee?

A. Mr. Donovan was there and the committee was there, yes, sir.

Q. Five altogether?

A. And the man that escorted us, down there.

Q. What was done after you arrived in Mr. Donovan's office?

A. The sheriff talked to Mr. Donovan and told him the complaint we had about women being in there and couldn't get out, men being in there and boys couldn't get out. He said he had a lot of complaints down there, he came in to investigate it. He says, "All right, you send out, give us the name of anybody you want to come in, here, and we'll fetch them in," which they did, fetched them in one at a time.

Q. The sheriff—Pardon me.

A. Fetched them in one at a time, sent a man out—the sheriff did all of the questions, the whole bunch that was there, they fetched in; we never found one in there that wanted to go out, men or women.

Q. About how many persons were brought into Mr. Donovan's office before the committee in question?

A. Well, I should think there was about 40. Of course, I couldn't just say that. The sheriff had all of the complaints on the paper. I didn't have them.

Q. Who did all of the questioning?

A. The sheriff did.

Q. In your presence?

A. Yes, sir. I sat right there and heard it.

Q. Were there women employees who were questioned as well as men?

A. Yes, sir, everybody we had their names, the sheriff fetched them in, and asked them.

Q. As they were brought in before the committee, how did they come? In a group or individually?

A. Individually, one at a time. They seemed perfectly satisfied.

MR. LAUTER: I move the comment of the witness be stricken, that they seemed to be satisfied.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. (By Mr. Jones) Did any person that was brought into the office state that he or she desired to leave the mill?

A. Not one, no, sir.

Q. Did any person who was brought before the committee state in words or in substance that he or she was being retained in the mill against their will?

A. No, sir, not one.

Q. What, if anything, was said about the food that was being served in the mill?

A. We asked them—I asked my relations if they were getting all they wanted to eat and they said "Yes, sir."

Q. Was anything stated about sleeping accommodations?

A. Yes, sir.

Q. What was stated about that?

A. We talked to the men about the sleeping, they said they had good beds. Talked to the women about the same thing and they said that—one woman especially says, "Well, I have lived about 30 years, but I never got into a Pullman car before in my life, and I am sleeping in one and I am going to stay here''—that is just exactly what she said in front of the committee.

Q. I will ask you to state if, in your presence, the sheriff made any statement to these persons about their right to leave the mill and his protection, if they desired to leave?

A. Yes, sir, he did.

Q. What, if anything, did he say in reference to that?

A. He told him who he was and what he was down there for, and that there was complaints—their folks made complaints, said they couldn't get out. He told them he was sheriff of Trumbull County, he didn't come down there to take them out, or take them in, but if they wanted to come out they had a perfect right to go out.

Q. About how much time was consumed by this committee in this investigation that was made?

A. Oh, we went down about 1 o'clock and we got away from there about half past 4:00.

Q. During that time were you continually occupied in this investigation matter?

A. No, we walked down through the mill, went back up to Mr. Donovan's office all that time.

Q. That is, in doing the things you have told us about?

A. Yes, sir. Yes, sir, absolutely.

Q. I will ask you to state, Chief, if, prior to this investigation or subsequent to this investigation, at any time a request was made of you or your department, by the company, that persons leave the mill?

A. Did we have request?

Q. Yes.

A. Yes, sir.

Q. Please state what was said on those occasions and what was done.

A. Well, they always called up and said, "We have a man wants to leave. Will you send down an officer?"

"Yes, sir." We never refused to take anybody out of the mill.

There was only one thing I refused to do, I said I would not take any cars out of the Trumbull Steel, because that was outside and we wasn't going to open up the gates at Trumbull Steel and have trouble, we would be blamed for it. I says, "Any man or woman wants to go out, we will take them out, go with them." The boys was instructed to that effect—the sergeant and the captain, to take anybody out at any time they wanted to go out, but nobody will ever say they were refused company to go out. Yes, sir.

Q. Now, on the other hand, Chief, what, if anything, was done about taking or assisting men to get into the mill?

A. Never took anybody in while the strike was on there until—

Q. What is that?

A: Not until after the Judge's decision come on—put the injunction on, we never took anybody in before, no sir.

Q. Is the Republic Steel plant itself in the city of Warren?

A. No, sir.

Q. Where is it with reference to the city limits?

A. Well, it is inside the city limits, but you go around—

Q. How is that?

A. It starts right at the—well, probably was within a mile of the city limits, goes clear past the Trumbull Steel, but steel is on one side and the road divides them.

Q. That is, the plant itself is outside of the city?

A. Yes, sir, on the right side. That is the west side of the street.

Q. I will ask you how about the building that is known as the main building or the administration building? Is that in the city?

A. Yes, sir. The office is inside of the city.

Q. I understand the boundary runs right between them?

A. Yes, sir, that is right.

Q. What street or streets are there, Chief, that runs from the downtown or the middle of Warren out to—or that you would take to get to the Republic Steel plant?

A. Pine Street, straight street from Market Street.

Q. Market Street is one of the main streets of the city?

A. Yes, sir, you go south on Pine Street right to Trumbull Steel, straight street.

Q. Now, during the course of the strike in Warren, did you have any occasion to go down Pine Street toward the Republic Steel plant?

A. Yes, sir.

Q. I will ask you to state whether or not in making such a trip you saw any pickets.

A. Well, I seen lots of pickets.

Q. How is that?

A. I seen lots of pickets.

Q. As you were going down Pine Street towards the Company's plant, where was it that you ordinarily, if it is true, met the first group of pickets?

A. Pine and Walnut.

Q. How far is that from the Company's plant?

A. Oh, about two blocks.

Q. State whether or not on the occasions that you were there or went down there, Pine Street, if there were approximately the same numbr of pickets at Pine and Walnut, or would the number vary?

A. It varied.

Q. I wish you would state within what limits, that is, what the greatest number of pickets were you ever saw there and what the least number of them were there.

A. Well, let me see; about a thousand there one night. About 4:10 when a fellow got his car upset. It was about a thousand people there.

TRIAL EXAMINER LINDSAY: "Fellow got his car upset" is stricken from the record.

JUDGE SMITH: Exception to that ruling.

TRIAL EXAMINER LINDSAY: Read the answer.

(The last answer was read.)

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: "A fellow got his car upset" is stricken from the record as not responsive to the question.

JUDGE SMITH: May we have an exception?

TRIAL EXAMINER LINDSAY: Yes, you may have an exception.

Q. Is that, Chief, your answer, with respect to the greatest number of pickets you saw there at any one time at that intersection?

A. Yes, sir; that one corner.

Q. That one corner?

A. Yes, sir.

Q. Where were they located as you saw them with respect to the sidewalk and the street?

A. On the sidewalk and the street; both ways.

Q. I will ask you to state what was the condition in the street as when you observed it, or as you observed in going down Pine Street.

A. Well, there was a big crowd. I would call it a big crowd. I can't tell you how many.

Q. Was the street completely covered or not?

A. Yes, sir—not completely. No, you could walk down through there on both sidewalks. People on both sides of the sidewalk of the street clear up on Clinton Street; that is probably about four blocks.

MR. LAUTER: May we have the date fixed?

Q. How far is that?

MR. LAUTER: I would like the date fixed.

Q. About when was this, Chief?

A. Let me see. I think it was about the 2nd of May. I have it here, when the fellow got arrested—

TRIAL EXAMINER LINDSAY: Strike that out. You know better than that.

THE WITNESS: I know the date.

TRIAL EXAMINER LINDSAY: Strike that out.

MR. JONES: Exception.

THE WITNESS: I am getting the date.

TRIAL EXAMINER LINDSAY: You know better than to be offering those statements on this record.

THE WITNESS: The date—

TRIAL EXAMINER LINDSAY: Look for the date; that is all right.

THE WITNESS: The date?

TRIAL EXAMINER LINDSAY: Yes.

JUDGE SMITH: May we have an exception, if your Honor please?

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: For the sake of orderliness, I would like to know which counsel is conducting the examination of this witness. If exceptions are going to be taken, I assume they are going to be taken by the counsel who is conducting the hearing and not by the counsel who are sitting at the table.

TRIAL EXAMINER LINDSAY: Yes. It is highly improper. Let us understand each other. We are going to have some concrete order on this thing. Now if I tell a witness not to do a certain thing and he starts to talk back to me—(To the Witness) Now, you know what an oath means?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: And you know what you are on the witness stand for?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: And you know you haven't any right to talk back to anyone handling the case?

THE WITNESS: Yes.

JUDGE SMITH: Now, may we have an exception on the statements made by the Court to the witness?

TRIAL EXAMINER LINDSAY: Well, I am conducting this hearing. You know yourself, Mr. Smith, that when a man is on the witness stand and is under oath and he is asked a question he is supposed to answer questions. He is not supposed to completely and constantly offer testimony which is not responsive to the question so as to get it into the record. Now if you want to ask those questions to bring out those types of answers, all right.

JUDGE SMITH: May we have a ruling on that?

TRIAL EXAMINER LINDSAY: Now you surely don't wish to have a statement in the record that you are supporting the witness doing that?

JUDGE SMITH: No; I want to state in the record—

TRIAL EXAMINER LINDSAY: You don't want to back up your witness?

JUDGE SMITH: I do not when the witness is doing it for any other purpose than that.

TRIAL EXAMINER LINDSAY: I will not allow it—

JUDGE SMITH: I would like to state in the record the reason why I would like an exception. This witness in connection with his testimony was referring to something about a date that he had been asked for, and the Court, it seemed to me, thought that he was doing it merely for another purpose, and I don't believe the Court should have chastised him.

TRIAL EXAMINER LINDSAY: My theory is that he was not doing it for that purpose. He knows better.

MR. JONES: May we have the last question?

JUDGE SMITH: Before we go into that, I would like to make one other observation.

MR. LAUTER: I object to any—

TRIAL EXAMINER LINDSAY: One moment. There won't be any other observations. Let us try this question. Every time that a statement is asked here, three or four attorneys get up and make observations and reservations and objections and exceptions. We will never get this thing finished. Proceed.

JUDGE SMITH: Mr. Lauter was making statements instructing me—

TRIAL EXAMINER LINDSAY: Listen, Mr. Smith. Now I said proceed with your examination of this witness, and Mr. Jones is doing that. Now there is just such a thing as carrying a thing too far. Now I am constantly trying to get the defense in here to meet this issue and that is what I want. I haven't deprived you or any other attorney representing the Respondent Company any right. Now, proceed with this case. There is a way to handle a situation like this. Now, I just call your attention to one other thing that a Trial Examiner when he instructs a witness what to do, and I would like to know who is in charge of this witness if it is not the Trial Examiner and if it is not the Judge in the proceedings?

JUDGE SMITH: I would like to answer that—

TRIAL EXAMINER LINDSAY: I instructed the witness not to inject any answers into any questions, things that are not asked for.

JUDGE SMITH: Now, you have asked me a

question and I would like to answer it.

TRIAL EXAMINER LINDSAY: No, it is not necessary to be answered. I didn't ask it with that view in mind at all.

JUDGE SMITH: Well, it seems to me, your Honor—

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Now, Mr. Jones, you are conducting the examination of this witness. Proceed.

Q. Do you understand the question, Chief?

A. Yes, sir.

Q. What is your answer?

A. The 23rd day of June.

JUDGE SMITH: What was that answer?

(The last answer was read.)

Q. I will ask you, Chief, to please state about what the usual number of pickets were that you observed down on Pine Street in the vicinity of this intersection and Walnut.

A. When do you mean? After the injunction?

Q. Before the injunction and after the strike.

A. I can't tell you; it was a large crowd.

Q. Now, can you give us any approximation at all as to the number of pickets?

A. Probably a couple of thousand people.

Q. How is that?

A. About a couple of thousand.

Q. Now, did this condition exist south of this intersection?

A. Which intersection?

Q. Walnut and Pine.

A. Yes, sir.

Q. How long did that condition exist? How far down did that same condition exist?

A. Probably maybe a mile.

Q. And was that beyond the Company plant?

A. Yes, sir.

Q. About how many pickets did you observe at any time that were down at the entrance of the Republic Steel on Pine Street?

A. Oh, I couldn't tell you how many was there at the gate. I couldn't tell you that. I don't know. I didn't put any much time there.

Q. Were you down there many times?

A. Back and forth.

Q. Can you give us some idea about the number of pickets that were there?

A. I couldn't say that I ever seen over 50 there.

Q. That is, at the main gate?

A. Yes, sir.

Q. I will ask you to state whether or not from Walnut Street and Pine Street, down Pine Street, to the Company's plant and beyond, pickets were ordinarily there as you observed at certain points or scattered all over?

A. Scattered all over the street at the start.

Q. Did you observe anything in the vicinity of Walnut and Pine Streets besides pickets at any time that you went down there?

A. In the street?

Q. Yes.

A. I don't understand that.

Q. Was there anything in the street that you saw?

A. A barricade we put up ourselves.

Q. What was it composed of?

A. It was composed of two horses put up in there to keep the public and sight-seers out.

Q. Who directed traffic at that barricade?

A. The pickets directed for a while.

Q. For how long did the pickets direct traffic?

A. I couldn't say as to that.

Q. Well, beginning with the time of the strike, was it?

A. Yes, sir.

Q. That they directed traffic?

A. Yes, sir.

Q. And extending down for about how long after that?

A. Probably until that injunction was served.

Q. And do you have any idea as to when that was?

A. No, I do not.

Q. Could you tell me approximately whether it was a week or longer than a week, or longer than a month, or do you know, after the strike?

A. I won't say that, I don't know.

Q. In connection with the pickets directing traffic at the barricade at Walnut and Pine Streets, I'll ask you to state whether or not the officials of the CIO ever had a conversation with you about it?

A. Yes, sir.

Q. And who was that man?

A. Mr. Wines.

Q. What is his first name?

A. I can't tell you.

Q. Do you think you would know his first name if you heard it?

A. I don't know, I never heard it.

Q. Was he known to you as an official of the CIO?

A. Yes, sir.

Q. What conversation did he have with you?

A. Well, they said there was lot of people running through traffic and no arrests made on it, and I told him when the policeman is watching traffic there, when his men would get off the street and my men would work traffic, any man that went through traffic would be the same as going through traffic uptown.

Q. Did you have any conversation with him subsequent to that about that matter?

A. Oh, I can't say about that.

Q. Do you know whether or not there was a committee in charge of the strike in Warren?

A. Committee in charge of it?

Q. Yes.

A. Yes, sure.

Q. Do you know who composed that committee?

A. No, I don't. I know some of them but I don't know who they are.

Q. Do you know whether or not Mr. Wines was on that committee?

A. He was.

Q. Do you know how many composed that committee?

A. No, I do not.

Q. Do you know whether or not a man by the name of Hall, or Hallberg, was on that committee?

A. Yes, sir.

Q. Do you know what his first name was?

A. I do not.

Q. Do you know whether or not his first name was Gus?

A. I couldn't tell you.

Q. Would you be able to state, Chief, whether or not at some time that you know of this barricade at Pine and Walnut Streets was taken away?

A. Yes.

Q. About when was that?

A. Well, it hasn't been very long ago, I couldn't just say. When things got pretty well cleared up, we took the barricade away.

Q. Was it after the injunction was granted by the Court?

A. Yes, sir.

Q. Would you be able to state about how long after the injunction was granted?

A. No, sir, I would not.

Q. When the barricade was cleared away, what, if anything else, was found there?

MR. LAUTER: I object to the question as leading the witness.

MR. JONES: I'll withdraw the question.

Q. (By Mr. Jones) I'll ask you to state whether anything else was found there when the barricade was removed? Answer it 'yes' or 'no.'

A. Yes.

Q. What was it, Chief?

A. A box of bricks.

Q. What was the answer?

A. A box of bricks was there.

Q. Where was that?

A. In the middle of the street.

Q. And where with reference to the barricade?

A. Right where the barricade was, right between the two horses, the two horses crossed the street.

Q. And anything else?

A. No, sir.

Q. Did you at any time go around or make any observation at any other sides of the plant, other than the Pine Street side?

A. Yes, I went clear down Pine to Niles, and up the river side on the other side, then clear around the plant with the Sheriff.

Q. That would take you clear around the plant?

A. Yes, sir.

Q. When did you do that?

A. Why, when the strike was on, before the injunction was put on to it, probably the second week of the strike.

Q. About the second week of the strike?

A. Maybe the first. I wouldn't say. I didn't make any notation of that.

Q. When you made that trip, was it then that you saw the large crowd of pickets on Pine Street that you have told us about heretofore?

A. I made that trip before that.

Q. Before that?

A. Yes.

Q. Well, on the time that you made that trip with the Sheriff, I wish you would state what the number of pickets were that you observed on Pine Street, as you went down towards the plant and past the plant?

A. I couldn't tell you, I haven't got the least idea, it was a big crowd, but I have no idea how many were there.

Q. You wouldn't be able to give us any approximation?

A. No, sir, I don't know.

Q. I'll ask you if you can state as to this; as you go down Pine Street along the side of the plant, what side is that, according to the compass?

A. The south side.

Q. That is the south side?

A. South side of the city, yes, sir.

Q. Is that the south side of the plant, too?

A. No, the plant, the way it is faced, runs north and south.

Q. But as you go down Pine Street, are you going down the east side of the plant, then?

A. Yes, sir.

Q. Tell us what the condition was as to the number of pickets all along the east side of the plant as you took this trip?

A. There was pickets clear around the plant.

Q. You mean on all sides?

A. Yes, sir, clear around the plant.

Q. And state, if you will, as to the number of them at different places, as you remember them?

A. I couldn't tell you that, I can't tell you the number, it was a large crowd of them all around there, but I couldn't tell you exactly how many there was, I didn't count them at all.

Q. Did you make any observation in or about the Niles plant of the Republic Steel?

A. No, sir, I did not.

Q. During this particular trip that you have told us about when you went clear around the plant, did that happen on one occasion or more than one occasion?

A. One.

Q. Now I want to direct your attention to that particular time and ask you to state, if you will, please, what, if anything, you observed in the hands of the pickets as you made that trip?

A. Well, they all had baseball bats.

MR. LAUTER: Object to that question and move that the answer be stricken, as incompetent, irrelevant and immaterial, and outside of the scope of the issues in this case.

TRIAL EXAMINER LINDSAY: Yes, the objection is sustained and show an exception.

MR. LAUTER: Ruling on our motion to strike?

TRIAL EXAMINER LINDSAY: It may be stricken.

MR. JONES: I just want to ask you, in connection with the testimony of this witness, without pressing this matter further, if we might incorporate it in our written offer to prove?

TRIAL EXAMINER LINDSAY: Just how far are you going in this matter, after this order has been made by me in regard to this type of evidence? Is it your intention to pile a great number of witnesses so as to make it accumulative and then incorporate it in your offer of proof?

MR. JONES: No, I wasn't speaking about other witnesses, Your Honor—.

TRIAL EXAMINER LINDSAY: I don't know how many we have had already. The ruling has been made and I definitely stated this morning that you have the right to make your offer of proof, which is a general one, covering all these facts. There has been no change on the matter; I definitely stated this morning that I thought you had enough witnesses along that type, that it became accumulative. I just want to know where this is going to on that particular matter.

MR. JONES: That is just what I want to ask your Honor, if we might include in our offer to prove additional questions that might be asked of this witness along that same line that I am asking.

TRIAL EXAMINER LINDSAY: If I say 'yes' you can go on and put on another one; it will take an hour and a half to get up to a certain point and then ask it, and then ask if you have the right to make the offer of proof on that. The principal thing of a hearing is to get after the material facts and the issues, as I stated repeatedly, and now the mere fact if it were conceded that X-Y-Z were carrying clubs, that still doesn't meet the issues in this complaint.

MR. JONES: I understand Your Honor's position.

TRIAL EXAMINER LINDSAY: And I am willing to go along and grant everything that is possible to grant, but I just don't know how far you are going with that type of testimony. Now I don't know how many witnesses you have had on this subject; do you know, Mr. Lauter, how many we have had:

MR. LAUTER: There were number of witnesses testified as to the facts that there were pickets, carried clubs and had bricks and what-not; I think we have gone far enough to establish the record by this time. Apart from the accumulative facts, the fact that they are entirely into this on objection to this line of questioning.

JUDGE SMITH: May we explain—?

TRIAL EXAMINER LINDSAY: I understand that Mr. Jones is handling this witness. If I have to listen to five or six lawyers on each proposition that comes up, I think it is unreasonable; wait until Mr. Jones at least gets through. So far as this witness is concerned, you may show a general offer to prove, but now I don't think it is proper to constantly bring this issue up on a lot of testimony that pertains to nothing, and then expect me to grant all these favors. After all, this record is a thing that is based entirely upon facts and there isn't one supposition that will be considered, not one. It's either yes or no on this proposition, it's either a fact that is material to the issue and that is the whole proposition. Now I dislike very much to have to be so stern on this matter, but it looks to me that if advantage is taken of these things, it isn't pleasant to sit up here and 'wash your hand' of it, and I would like to see the case handled and the facts presented, the facts that are material to the issue, and you have certain well-defined principles to follow, as I stated this morning; and let us attempt to follow them. When a Court makes a ruling, it isn't necessary to constantly try to fight that ruling, you aren't going to make me change it.

MR. JONES: Could I say something, Your Honor?

TRIAL EXAMINER LINDSAY: Yes.

MR. JONES: I have been most courteous, I think, in my demeanor to the Court, I have tried to be; I simply asked the Court a question.

TRIAL EXAMINER LINDSAY: Yes, I realize. There isn't any question about that and there is nothing that can be considered as personal, it is just one thing that I have repeatedly said, that this type of testimony has been ruled out. I have granted privilege of making a general offer of proof covering all this.

MR. JONES: My question is: May this witness be included in that, that is all I want to know?

TRIAL EXAMINER LINDSAY: Yes, we have the understanding and I am telling you now that in addition to that, that I don't believe it is necessary to constantly call witnesses in order to get that question in your offer of proof. I thought I had a thorough understanding with counsel on the matter. Now we have been here since last Saturday and yet there hasn't been a word of testimony introduced, which is in contradiction to your discrimination cases named in the complaint.

TRIAL EXAMINER LINDSAY: There is one angle of the case. So far we haven't even touched it. That is my only reason for trying to drive home the situation as it really is.

MR. JONES: Of course, we are not through with our case yet, your Honor.

TRIAL EXAMINER LINDSAY: Well, I suggest you get busy and put on these witnesses. You have to meet the issues in the complaint.

MR. JONES: Well, I am sorry that this witness did not meet the issues as your Honor sees it, but I think that this evidence was very material, meeting the issue.

TRIAL EXAMINER LINDSAY: Regardless of what you think, I have ruled on it, haven't I? That is the principal thing.

MR. JONES: I am talking about the testimony of this witness, prior to the last.

TRIAL EXAMINER LINDSAY: Oh, yes, but you went through a great deal of testimony to get up to that. Now, it is perfectly all right to put on your witnesses, any witness you feel like putting on; any testimony that is material to this issue, that in any way is connected up with the issues in this complaint. And your discriminatory cases will be given all the consideration there is to be given. There is no argument on that, at all.

MR. JONES: I was simply trying to show this court as I thought a courtesy by—

TRIAL EXAMINER LINDSAY: Well, then, I think, as a matter of courtesy, you should leave those questions alone that you are going to put into your general offer of proof.

MR. JONES: By giving you the information ahead of time, if it were agreeable. If not, we can proceed some other way.

TRIAL EXAMINER LINDSAY: We have had at least eight or ten or more witnesses on that very thing.

MR. JONES: You may cross examine.

MR. SMITH: Do we have an exception, your Honor, to the ruling of the Court on that?

TRIAL EXAMINER LINDSAY: Yes, sir.

Cross Examination

Q. (By Mr. Lauter) Mr. Gillen, how do you spell your name?

A. G-i-l-l-e-n.

Q. And you are the chief of police of Warren?

A. Yes, sir.

Q. How long have you been chief of police?

A. About 18 or 19 years.

Q. You testified about a committee that the sheriff got up, who visited Mr. Flynn?

A. Yes, sir.

Q. Manager of the Republic Steel Corporation?

A. Yes, sir.

Q. How many visits did that committee make to the plant?

A. I only made one.

Q. Well, do you know whether—

A. I don't know about the other.

Q. You were a member of the committee, is that right?

A. I was only down there once with the committee.

Q. I say, you were a member of that committee?

A. They just called me to go with them, that is all I can tell you. The sheriff got the complaints. And the mayor and safety director and myself went down.

Q. Now, apart from your one visit, do you knew any other visits they made?

A. Not they made. I don't know what they done. But I didn't make any more personally.

Q. When you call it a committee, you were referring to this group of men that were called together, that went down to see Mr. Flynn?

A. Yes, sir.

Q. It wasn't a committee that had any name or title?

A. No, no, just the complaints. The sheriff got the complaints.

Q. A group of men?

A. The sheriff had the complaints. He had the paper with the names of the people on there, that the people was complaining about, and he took us down with him to go through with them, that is all, somebody would go to them and make a complaint.

Q. Just one second. Do you understand my question?

My question is whether or not this committee had any name?

A. No, sir.

Q. It was not a formal organization of any kind?

A. Absolutely not. Nothing but the mayor and the safety director and his chief.

Q. It was an informal group of a few men who went down at least once that you know about, to see Mr. Flynn, is that correct?

A. That is all I went down, yes, sir.

Q. Now, the sheriff had gotten a number of complaints about people being kept in the plant, is that correct?

A. Yes, sir.

Q. And he asked you and the safety director and the mayor to go along with him?

A. Yes, sir.

Q. Now, who else went on that trip, to see Mr. Flynn? Just the four of you?

A. Yes, sir.

Q. Have you ever received any complaints?

A. Yes, sir.

Q. Yourself?

A. Yes.

Q. And make a note of those complaints?

A. No, I sent them over to the sheriff.

Q. That is, every time you received a complaint you sent them to the sheriff?

A. Yes. If they called me, I told them to call the sheriff.

Q. Can you fix the date that you went over to see the manager of the Republic Steel mill?

A. No, I could not.

Q. Well, now try to fix the month. What month was it?

A. I can't do it. I can't tell you that.

Q. You can't tell me whether it was May, June, July, or August?

A. Well, it was shortly after the strike was called.

Q. Do you know when the strike was called?

A. It was probably maybe a couple of weeks after the strike was called, when the complaints started coming in.

Q. Do you know when the strike was called?

A. No, I can't tell you.

Q. You don't know whether it was May, or April, or June?

A. I think it was May.

Q. You think it was May?

A. Yes, sir.

Q. And you think you went to see Mr. Flynn about two or three weeks after the strike was called, sometime in May?

A. I think it was a couple of weeks after, yes, sir.

Q. No complaints had come in prior to the strike being called, had they?

A. No.

Q. They started coming in after the strike was called, is that correct?

A. Yes, sir.

Q. And it was during that three-week period between the starting of the strike and your visit to Mr. Flynn that you, yourself, and the sheriff received complaints, is that correct?

A. Yes, sir.

Q. Now, how many complaints did you receive?

A. Oh, I couldn't tell you, maybe ten or fifteen, maybe something like that.

Q. And you, yourself, personally received about ten or fifteen complaints?

A. I think it was about that many.

Q. When did the sheriff tell you that he was going to go over to see Mr. Flynn?

A. He didn't tell me about it until he called me up and said that he would like to have me go down with him.

Q. That is the day that you went over?

A. He came down and got me. I didn't go over.

Q. All right, then, he come over and got you?

A. Yes, sir.

Q. Took you up there to Mr. Flynn, it was three weeks after the strike was called?

A. I think it was about three weeks.

Q. That was the first time that you ever went to visit Mr. Flynn or in any way raised the issue with Mr. Flynn or any other official of the company about the complaints that you yourself had been receiving, is that correct?

A. Yes, sir. Yes, sir.

Q. In other words, you received about ten or fifteen complaints over a period of about two or three weeks, and you took no action on that until the sheriff called you up, to see Mr. Flynn?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. And then the complaints—those complaints were by citizens of Warren?

A. Yes, sir.

Q. Who had—

A. Well, I don't know about all of them, some of them were telephone calls.

Q. Well, whatever they were?

A. Yes.

Q. However they came to you, on the ten or fifteen complaints that you didn't investigate, at all?

A. Yes, sir.

Q. They were complaints by people who were relatives of persons working in the plant?

A. I don't know.

Q. Or in some way connected with it, is that correct?

A. I can't tell you that. I can't tell you that. I don't know.

Q. Well, they complained about the fact that someone was kept in the plant?

A. They made the complaint, yes. I don't know who they were.

Q. And you made no investigation to find that out?

A. I told them to get ahold of the sheriff.

Q. I am asking you whether or not you made any personal investigation to find out who they were?

A. No.

Q. Either the persons who made the complaints to you, or the persons whom they complained about?

A. No, sir, I did not.

Q. And when the sheriff called you up you went over with him to see Mr. Flynn?

A. Yes, sir, absolutely.

Q. And do you remember what time of day that was?

A. I think it was about 1 o'clock.

Q. In the afternoon?

A. Maybe a little after 1:00, yes, sir.

Q. And you went over to see Mr. Flynn?

A. Yes, sir.

Q. How long did you stay there in that office?

A. With Mr. Flynn?

Q. That is right.

A. Why, probably ten or fifteen minutes, not over ten minutes, I don't think.

Q. Now, is that all the time you spent with Mr. Flynn?

A. Yes, sir.

Q. And was it during that ten or fifteen minutes that the persons who were complained about as having been kept in the mill, were brought before you and the sheriff and the mayor and the safety director?

A. Was what?

MR. LAUTER: Read the question.

(Question read by the Reporter.)

A. They wasn't fetched into Mr. Flynn's office.

Q. Where were they fetched into?

A. Mr. Donovan's office.

Q. Mr. Donovan's office?

A. Yes, sir.

Q. How long were you in Mr. Donovan's office?

A. Well, probably from about 2 o'clock to about 4:30.

Q. About two and one-half hours?

A. I think so.

Q. How many people were fetched in there?

A. Probably 45 or 50.

Q. Tell me who was present in Mr. Donovan's office?

A. I can't tell you.

Q. Apart from the four of you?

A. The four of us with Mr. Donovan, I don't know who the other party was that went out and fetched in the people. I can't tell you.

Q. Who else was there besides Mr. Donovan?

A. The mayor, safety director.

Q. No, I am leaving out the mayor and the safety director.

A. I don't know who the other party was, at all. They know. I don't have his name.

Q. Were there a number of persons?

A. There was a number of them, yes.

Q. Employed by Republic Steel Corporation, in the room while these other persons were being fetched in?

A. The man that went out and fetched them in.

Q. Apart from the man that went out and fetched them in, who else was in the room besides the four of you?

A. I don't think there was anybody else in there.

Q. There was no else in the room besides the four of you?

A. No, sir.

Q. And the man that went out, to fetch them in, is that correct?

A. The party that fetched them in.

Q. The sheriff was the only one that asked the questions?

A. Yes, sir, he asked all the questions.

Q. He asked all the questions?

A. Yes, sir.

Q. Were the questions that he asked typewritten, or were they oral? I mean, did he—

A. Just asked them right off the reel, asked all the questions.

Q. And he hadn't typewritten questions?

A. No.

Q. Do you remember what the questions were that he asked them?

A. No, he just asked them—he showed them—he told them he had a complaint there from some of their folks, he had the papers. I never even seen the papers. He had the people's names on there, that made the complaints.

Q. When the sheriff asked you to go along to see Mr. Flynn about these complaints, did you have a conversation with him at that time?

A. With who?

Q. The sheriff?

A. No, he just come down there and picked me up, the mayor and the safety director, and him, come down, picked me up at my office, went right down to the Trumbull Steel.

Q. What did he tell you when he picked you up?

A. He said he had a lot of complaints about people being held in there against their will.

Q. Yes.

A. He wanted to go out there, investigate it, and I said, "I will."

Q. Did you consider it a part of your function, to assist in the investigating of these complaints?

A. With the sheriff?

Q. That's right.

A. Sure.

Q. Did you investigate?

A. Yes, I went with him.

Q. Tell me what you did personally as to investigate these complaints?

A. I didn't do anything personally. Outside of—

Q. What you did was to go along and sit there?

A. It was outside the city. I don't go outside the city on investigation.

Q. You did go outside the city that day?

A. I went with him, when he asked me to.

Q. That is right.

A. I will again, when he asks me.

Q. I know you will. You went down there and you sat there, is that right?

A. Yes, sir.

Q. But you didn't ask a question?

A. No, sir, I did not, absolutely not.

Q. Did you ever report back to any of the persons who complained about being kept in the plant? Registered the complaints?

A. To anybody that calls me up and asked me if I was down there, I said "Yes."

Q. Told them what you found out?

A. Yes, anybody that we talked to didn't want to get out so—

Q. These ten or fifteen people that made complaints to you, you say you turned over to the sheriff?

A. I turned them over to the sheriff.

Q. You don't know whether the sheriff, in turn, made any report on those complaints?

A. I don't know anything about that.

Q. You don't know what action was taken, after you went out there? To Mr. Donovan's office, is that correct?

A. No. After we went to Donovan's office—

Q. That is correct.

A. After the sheriff went out of there.

Q. After the four of you went out of there?

A. No, I don't know anything about it, no.

Q. You were taken home again?

A. I came up to my office.

Q. And the sheriff came down and he picked you up, took you out to Mr. Donovan and Mr. Flynn, and after you had sat there and asked them questions, they put you back, is that right?

A. After they asked the people.

Q. What is that?

A. After he asked the people.

Q. Yes.

A. Yes. He took me back to my office.

Q. That is what you did on that trip?

A. Yes, sir.

Q. Now, you testified about some of the employees sleeping in Pullman cars?

A. Girls.

Q. Do you know how many Pullman cars there were, there?

A. One. One is all I seen. I don't know how many was there.

Q. And they were sleeping in these Pullman cars?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir, that is what they said.

Q. Now, prior to the injunction being issued, you didn't take any men into the plant, is that correct?

A. No, sir, I didn't.

Q. And if they wanted to come out, you took them out?

A. Yes, sir.

Q. But after the injunction, you took men into the plant, is that correct?

A. I didn't take anybody in. We didn't stop them from going in.

Q. Just one second. Are you sure you didn't testify on direct examination that after the injunction was issued, you took men into the plant?

A. No, I never took nobody in.

Q. Well, now, let me repeat the question once more. Maybe I have not made myself clear. It is my recollection —I may be wrong, and you can correct me—now, on direct examination, you testified that after the injunction was issued, you took some men into the plant?

A. No, sir.

Q. You never took any men into the plant?

A. Never took anybody in.

Q. And if it so appears in direct examination, that is incorrect, is that correct?

A. Absolutely. I never took them in.

Q. Now, you testified about a crowd of 1000 people?

A. Yes, sir.

Q. And you referred to them as 1000 pickets, is that correct?

A. Why, I don't know whether they were all pickets or not, but there was a thousand people there at the corner.

Q. No, that is what I want to ask. You don't know whether they were pickets or not?

A. I don't say so.

Q. You don't know whether they were C. I. O. members or not, is that right?

A. Well, the biggest part of them was.

Q. How do you know?

A. Why, they had pins—had buttons on.

Q. When you say the biggest part of them were, is that what you say?

A. Yes.

Q. That more than 500 people there, you yourself personally will testify were C. I. O. members because you saw them with buttons?

A. Well, I know a lot of the faces, too.

Q. I am asking you whether or not you can testify that the great majority or substantially—I mean a majority of that thousand people there was C. I. O. members?

A. Well, I couldn't swear to that, I didn't count them.

Q. Would you swear to the fact that there were a thousand people there?

A. Yes, sir, yes, sir.

Q. You testified on another occasion there were two thousand people?

A. Not on that—I said on the street.

Q. Yes.

A. I didn't say at the corner of Pine and Walnut, if that is what you are talking about.

Q. No, I am merely referring to the number you saw?

A. Do you mean on the street, or on this one corner there?

Q. At either place or both places?

A. Well, on the street there were probably 3000 people.

Q. 3000?

A. From the headquarters their C. I. O. headquarters was on Pine Street.

Q. About 3000 then?

A. From the headquarters down, of course, we had the traffic stopped.

Q. Now, do you know whether or not they were all C. I. O. men?

A. I don't know anything about that.

Q. You just saw a big crowd there?

A. Absolutely, yes; I can't tell you.

Q. Now, you also testified about pickets directing traffic?

A. Yes, sir.

Q. Were they peaceful in directing traffic?

A. I don't know.

Q. Well, you are the Chief of Police, is that correct?

A. Yes, sir.

Q. Is that in or outside of the city limits?

A. Inside the city.

Q. Were they peaceful in directing traffic?

A. I wasn't down there; I didn't see it.

Q. What was that?

A. I wasn't down there.

Q. Well, let us get this straight. The testimony that you gave on direct examination, and you are now saying you were not down there?

A. I said I wasn't working on traffic down there. The traffic men was there with them. I wasn't down there directing traffic. Whether it was peaceful or not, I don't know.

Q. I am asking you whether or not if you didn't say on direct examination concerning the directing of traffic is something that you personally witnessed or not?

A. I seen some; some I didn't. 24 hours a day.

Q. Did you see it on any occasion?

A. Yes.

Q. When you say they were there directing traffic; that is, the strikers or pickets; was the direction of traffic there peaceful?

A. No, it wasn't.

Q. It wasn't?

A. No.

Q. When you say it wasn't peaceful, what do you mean?

A. Yes, sir.

Q. What?

A. It wasn't peaceful because they had a big ball bat in their hands and they had people stopped.

Q. Did you take any action there?

A. Yes, sir.

Q. How many times did you go down there?

A. I wasn't down there all the time. I was down there, I noticed, about that traffic.

Q. When you noticed that traffic there, did you take any action?

A. Yes, sir.

Q. What did you do?

A. I made them pull their machines off the street. They had had it blocked off—we first put up that barricade and we put two horses to keep the sightseers out of there from coming down there. Later it rained a little bit and then the fellows put two machines across the street, and a fellow that had a box factory across the street came to me and made a complaint about it. He told me—he said that the C. I. O. fellows had left the machines across the street and that he couldn't get to work, and I went down there and made them take the machines away.

Q. Did they take the machines away?

A. They took the machines away.

Q. You shut off the traffic there, is that correct, by putting two horses there?

A. Yes, sir.

Q. And the C. I. O. fellows came in there and it was raining and they put two automobiles there, is that correct?

A. Yes, sir.

Q. And when you got a complaint you ordered them to take the two automobiles away, is that right?

A. Yes, sir.

Q. Did they take them away?

A. Yes, sir, they took them away.

Q. Is that the extent of their lack of peacefulness?

A. Oh, no.

Q. On that occasion when you were there—if you—

A. Do you want me to tell about the complaints?

Q. No, I am interested in that visit you made down there.

A. That is all I can testify.

Q. That is what I want to know.

A. Yes, sir.

Q. Is that all you know?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: We will adjourn for a recess. It is 5 minutes to 3.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Jones) Mr. Gillen, in cross-examination you stated there was no formal committee. I believe that during my examination of you I used the word "committee" a great many times. I will ask you to state if when I used that word "committee" what you understood of it then.

A. Well, I understood about the committee going to the mills; what the gentlemen told me and spoke to me about.

Q. The foremen of whom you were one?

A. Yes, sir.

Q. You understand that every time I used the word committee, didn't you?

A. Yes, sir.

Q. Also in connection with your cross-examination, I think Mr. Lauter used the words "took no action" referring to the time after which these telephone complaints were made to you. I wish you would please state what you did after the telephone communications or complaints were made to you.

A. Sent them over to the sheriff.

Q. That is, you didn't make any investigation of them yourself?

A. No, sir.

Q. And your department?

A. No, sir.

Q. I don't know whether it is clear or not. Were these 10 or 15 complaints that you talked about all telephone calls to you or were some telephone calls or some in person?

A. Some was persons.

Q. Those that came in person you sent to the sheriff?

A. Yes, sir.

Q. Those that called you up, what did you tell them?

A. I referred them to the sheriff.

Q. In the cross-examination I think Mr. Lauter used the words "All you did you just sat there." With reference to the time that you were in Mr. Donovan's office. I will ask you to state what it was that you did with reference to this investigation before you got to Mr. Donovan's office.

A. Talked to some people as we went down through the mill.

Q. That is the walk that you took through the mill?

A. Yes, sir.

Q. I didn't understand on your direct examination with reference to Pine Street. Also with reference to Pine Street and Walnut Street whether the barricade that you told us about was put there first across Pine Street or whether it was first put there after some automobiles had been removed in connection with your orders.

A. Well, the barricade was put there at the time the strike was declared to keep the sightseers from going in there.

Q. That was the first thing that was there?

A. Yes, sir, on the corner of Pine and Walnut.

Q. Yes.

A. Yes, sir.

Q. Now, there were some questions that Mr. Lauter asked you respecting automobiles blocking the street. Were they at this same point?

A. Yes, sir.

Q. And you stated that you wanted them to be removed?

A. Yes, sir.

Q. Now, when were they ordered by you to be removed? Was that before or after the barricade?

A. I said after. It started raining—

Q. Yes.

A. —and the policemen didn't stay there when it was raining, and they put two machines right across the street, and a man couldn't get down to work that was working at the box factory and he complained to me, and I went down personally with him and I found out who owned the machines, and I told them to remove them and they removed them.

Q. Was that before or after the barricades were placed there?

A. No, the barricade was still there.

Q. The barricade was still there?

A. Yes.

Q. Did the barricade cover the whole of Pine Street?

A. Not practically. The two big horses would not cover the street but enough to keep the people from coming down there.

Q. Where were those automobiles placed?

A. Right close to the barricade.

Q. What?

A. Right close to the barricade.

Q. They would block the rest of the street?

A. No, right where the horses were.

Q. And you went down there?

A. Yes, sir.

Q. Were they in such a position as to block the traffic on the street?

A. Yes, sir.

Q. You wanted them removed?

A. Yes, sir.

Q. You discovered whose cars they were?

A. I asked the fellows who owned the cars and they said they did, and I told them to remove the cars and they removed the cars.

Q. Did these men who removed the cars have C. I. O. buttons or badges on?

A. Yes, sir.

Q. These C. I. O. badges that you have told us about?

A. Yes, sir.

Q. With respect to the peacefulness of these persons who were directing traffic at the corner of Walnut and Pine Street, I wish you would please tell us about that if you know or if you have any personal knowledge as to whether or not the direction of traffic by these persons, that you were asked about on cross-examination, was or was not peaceful?

A. No, I couldn't say it wasn't peaceful. I said before I told them that they had baseball bats and they was there directing the traffic and stopping them the other way with baseball bats.

Q. Some question was asked and an answer was made by you on cross-examination as to the lack of peacefulness. What did you mean by that?

A. In a general way?

Q. Yes.

A. At the corner of Pine or where?

Q. Wherever you observed the condition to exist.

A. The condition was along the picket line; where they throwed some bricks.

Q. How is that?

A. Where they throwed some bricks.

Q. Where is that?

A. On Walnut Street.

Q. Now, you are telling what you saw yourself?

A. No, I didn't see that. Those were complaints to me.

Q. You are telling now about the complaints that came to you?

A. Yes, sir, I didn't see any.

Q. Did they come to you in your department; did they come to the Police Department of Warren?

A. Yes, sir.

Q. And came to your attention as Chief of Police of that department?

A. Yes, sir.

Q. I wish you would tell us where these complaints that came to you respecting the lack of peacefulness on the part of the pickets during the strike in Warren.

A. The people came to me and told me that they was throwing nails on the streets, and throwing bricks at automobiles and I give the policemen orders to go down there on the lines which they did; on Walnut and Pine Street.

Q. When were these complaints made relating to the activities of the pickets on Walnut Street?

A. Well, the first complaint came in after they opened the mill. After the Judge said they had a right to go to work.

Q. When was that with reference to any particular time? Can you fix it?

A. No; I didn't put any time on them. When the Judge put the injunction on and said the men had a right to go back and forth to work without being molested.

Q. It was after this complaint was made?

A. Yes, sir.

Q. Did you order some investigation to be made of this complaint on Walnut Street?

A. I ordered men on there, yes, sir. Had men on there—three shifts. From 6 o'clock in the morning until 20 minutes to 7, and then from 2 o'clock until 20 minutes after 3 and then from 10 o'clock until 20 minutes after 11: three shifts.

Q. How many officers were there that you detailed to this job?

A. Well, I had some special men; I can't tell you.

Q. How is that?

A. I had only 27 men altogether.

Q. Well, how many officers that you detailed on this job on Walnut Street?

A. Probably 16 men on it.

Q. What were the orders that you gave to them?

A. Gave them orders to go down there and keep order.

Q. Did you receive any report as to what was the condition there?

A. There was some arrests made.

Q. About how many?

A. Probably a dozen.

Q. What is that?

A. Probably a dozen arrests.

Q. Were those reports made to you; to your department?

A. Yes, sir.

Q. Did the reports say what the arrests were for?

A. Yes, sir.

Q. What did they say with respect to that?

A. I can't say about all of them; they were different ones.

Q. What?

A. They was different ones. Arrests were made for some disturbances. I can't tell you. I haven't got that record here with me; didn't come down here for that at all.

MR. LAUTER: At this time, Mr. Trial Examiner, I would like to object to any further testimony along this line on the ground, first, that the testimony with respect to the arrests is not valid and is incompetent. First, no records are being produced here concerning the arrests that were made by the Police Department; secondly, even if it were produced that would not be relevant and material; I object to any further testimony along this line because nothing that I went into on cross-examination entitles counsel for the Respondent Company to go into the reports of the acts of violence that were made to the Chief of Police.

TRIAL EXAMINER LINDSAY: Yes. I will sustain the objection. Let the record show an exception.

MR. JONES: Exception.

MR. JONES: The reason I asked this line of questioning Your Honor, is because Mr. Lauter clearly opened the door in cross examination just before Your Honor ordered an adjournment, if I mis-state not.

MR. LAUTER: Nothing that I opened the door—, there was nothing in my cross examination that opened the door to the extent of any inquiry as to acts of violence by unidentified persons. It seems to me quite clear, if it please Mr. Trial Examiner, that this is just another occasion in which we are faced with the proposition of having acts of violence going into the record, in this case, not even identified by any person in any way. Now I didn't make objection to this point because I had hoped that counsel for the Respondent would drop this line of inquiry, but this is inevitably going to happen on every witness that is going to be called to the stand, that by one point or another, they are making every attempt to get this line of questioning into the record.

MR. JONES: May I have the record read at the close of Mr. Lauter's examination

TRIAL EXAMINER LINDSAY: You may have that read; the only thing I recall the witness saying anything at all was not violent, that some of the pickets had clubs and waved at cars to stop. I believe that is all that went on in cross examination.

MR. JONES: I was under the impression that it had gone further than that, Your Honor.

TRIAL EXAMINER LINDSAY: But not only that; the witness said in answer to your re-direct examination that he could not say the picketing was not peaceful, that you will find in your testimony on your re-direct examination of this witness.

MR. JONES: I wonder if I may have that read back?

TRIAL EXAMINER LINDSAY: Yes, you may have it all read back if you so desire.

(The last three pages just before recess adjournment were referred to.)

MR. JONES: I think what I have in mind begins on that page (third page from end of take, just before recess adjournment).

TRIAL EXAMINER LINDSAY: Objection is sustained and let the record show an exception.

MR. JONES: Now, Your Honor having received the several sheets of the record immediately preceding the recess that was requested, and having looked them over, may I state the reasons from them why it is that I think Mr. Lauter opened the door to permit this line of re-direct examination?

TRIAL EXAMINER LINDSAY: Yes.

MR. JONES: I find in the cross examination that Mr. Lauter asks these questions and elicited the answers following:

"Q. Now you also testified about pickets directing traffic.

A. Yes, sir.

Q. Were they peaceful in directing traffic?

A. I don't know.

Q. Well, you are Chief of Police, is that correct?

A. Yes, sir."

MR. JONES: There is another question which I'll omit which has nothing to do with this, I quote:

"Q. Were they peaceful in directing traffic?

A. I wasn't down there, I didn't see it.

Q. What was that?

A. I wasn't down there.

Q. Well, let us get this straight; the testimony that you gave on direct examination and you are now saying you were not down there?

A. I said I wasn't working on traffic down there, the traffic men was there with them, I wasn't down there directing traffic; whether it was peaceful or not I don't know.

Q. I am asking you whether or not if you didn't say on direct examination concerning the directing of traffic is something that you personally witnessed or not?

A. I seen some, some I didn't, twenty-four hours a day.

Q. Did you see it on any occasions?

A. Yes.

Q. When you say they were there directing traffic, that is the strikers or pickets, was the direction of traffic peaceful?

A. No, it wasn't.

Q. It wasn't?

A. No.

Q. When you say it wasn't peaceful, what do you mean?

A. Yes, sir.

Q. What?

A. It wasn't peaceful because they [had] a big ball bat in their hands and they had people stopped.

Q. Did you take any action there?

A. Yes, sir.

Q. How many times did you go down there?

A. I wasn't down there all the time, I was down there, I noticed about that traffic.

Q. When you noticed that traffic there, did you take any action?

A. Yes, sir.

Q. What did you do?

A. I made them pull their machine off the street. They had had it blocked off. We first put up that barricade and we put two horses to keep the sightseers out of there from coming down there. Later it rained a little bit and then the fellows put two machines across the street, and a fellow that had a box factory across the street came to me and made a complaint about it. He told me, he said that the CIO fellows had left the machines across the street and that he couldn't get to work, and I went down there and made them take the machines away.

Q. Did they take the machines away?

A. They took the machines away."

MR. JONES: Omitting several questions which I don't think are applicable:

"Q. Is that the extent of their lack of peacefulness?

A. Oh no.

Q. On that occasion when you were there—, if you—,

A. Do you want me to tell about the complaint?

Q. No, I am not interested in that visit you made down there.

A. That is all I can testify.

Q. That is what I want to know.

A. Yes, sir.

Q. Is that all you know?

A. Yes, sir."

MR. JONES: Then the Examiner adjourned for recess. Now that is what I believe opened the door.

TRIAL EXAMINER: Well, he didn't testify there was violence at all. The question of violence wasn't really entered into; he didn't establish any violence by the fact of testifying that these men supposedly had clubs in their hands directing traffic, so therefore the objection is sustained and let the record show an exception.

MR. JONES: Now may I revert back to that question I asked your Honor before, as to—, on the matter of the offer to prove without going into that now, may we later go into it on the preview order of the Court respecting a written offer of proof?

TRIAL EXAMINER LINDSAY: I suppose.

MR. JONES: That is all unless, Mr. Lauter has something else.

MR. LAUTER: That is all.

(Witness excused.)

DR. CHARLES WESLEY THOMAS

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Judge Smith) What is your full name, Doctor?

A. Charles Wesley Thomas.

Q. And you live where?

A. Warren, Ohio.

Q. And you are engaged in what profession?

A. Practicing medicine and surgery.

Q. How many years have you been so engaged?

A. Thirty-three years.

Q. Has all of that been in Warren?

A. Well, except a year and a half, which was at Lakeside Hospital in Cleveland, after I come to Warren and been there since.

Q. You are a graduate of what college?

A. Western Reserve University.

MR. LAUTER: Sorry, I didn't get the last answer.

THE WITNESS: Western Reserve University.

Q. (By Judge Smith) Now, Doctor, do you have anybody associated with you in your professional practice?

A. Yes, sir.

Q. How many doctors?

A. One, Dr. J. J. Tyler, of Warren, is my assistant.

Q. Now do you have employment with the Republic Steel Company in any capacity, in connection with their plant at Warren?

A. I have.

Q. What is that employment?

A. Surgeon.

Q. And what are the duties in connection with that employment, Doctor?

A. Well, I do all the surgical work for the accident cases, and my assistant and I make all the medical examinations of all the employees, and we have a hospital, a plant hospital, where we employe four nurses who oversee the care of the hospital and the welfare of the patients at the mill.

Q. How many years have you been employed as Company surgeon for the Republic?

A. 1913, ever since Trumbull Steel was established.

Q. That was formerly the Trumbull Steel Company?

A. Trumbull Steel in 1913, and then bought over by the Republic.

Q. And during all of that period, both prior to and since, Republic acquired the plant, you have acted in that capacity?

A. Yes, sir.

Q. Do you remember, Doctor, the date of the strike in May of this year?

A. Yes, sir.

Q. Do you recall what day it was?

A. Wednesday, the 26th.

Q. Of what month?

A. May.

Q. I forgot that I had used the word 'May' in my question. Were you in the plant the night of the strike?

A. I was not, except I was called down by Mr. McClain, the local secretary of Industrial Relations, and the object of my first visit that night was to bring some insulin down. Mr. McClain called me and said that one of the bricklayers had diabetes and needed insulin, and I got down with the insulin about eight P. M. Wednesday night.

Q. Did you have any difficulty in getting in the mill that night?

A. I was advised by Mr. McClain over the telephone that there was a strike on and if I met difficulty, not to stop, to secure some other way.

MR. LAUTER: Move the remarks of the witness be stricken from the record as not responsive.

TRIAL EXAMINER LINDSAY: Yes, it is stricken.

Q. Not what Mr. McClain told you or any instructions—.

A. I took the insulin down to administer to this man.

Q. I asked you if you had any difficulty in getting into the mill that night.

A. I did, yes, sir.

Q. Just state what occurred?

A. I noticed going down Pine Street that lot of men had gathered all over the sidewalk and I went on and got to the mill gate on South Pine; there I was stopped by a crowd of men around the gate. I came over into the roadway and they started to attack my car and immediately Mr. Wines spoke up, whom I have known very well, and said, "That is Dr. Thomas, let him in." He had agreed with Mr. McClain that I should go in with this insulin. They folded up and let me in.

MR. LAUTER: Move the remarks of the witness that 'they started to attack him' be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken, it doesn't mean anything.

JUDGE SMITH: May I have an exception to that ruling, please?

TRIAL EXAMINER: Yes.

Q. (By Judge Smith) State what, if anything happened to your car in going in there?

A. Several fellows hit it with their clubs on the fenders.

Q. And that was just at the entrance?

A. At the entrance to the gate before they opened up the crowd and let me through.

Q. Now who is Mr. Wines?

A. Mr. Wines happens to be a friend of mine, of good many years standing; I think he is president of the local CIO, he is one of the officials, I know.

Q. Do you know whether or not he was in charge of the men who were located at this gate that night?

A. He seemed to because at his word, they obeyed the signal.

MR. LAUTER: I object. Remarks of the witness be stricken from the record, 'they seemed to be.'

TRIAL EXAMINER LINDSAY: 'They seemed to be' may be stricken.

Q. (By Judge Smith) Do you know whether or not he was?

A. He acted in that capacity.

MR. LAUTER: I move the answer be stricken.

TRIAL EXAMINER LINDSAY: Tell us what he did. That is stricken.

THE WITNESS: He said "Fellows, this is Dr. Thomas and he has the right to go through," and they opened up the crowd and I went through the gates.

Q. Was there any further beating of your automobile after he said that?

A. No, sir.

Q. Now did you remain in the mill after you got in there?

A. I did until about midnight that night, then I went out and went home.

Q. Did you have any difficulty in getting out?

A. No difficulty whatever.

Q. When did you next come back to the mill, if you did come back?

A. It is my custom to go to the mill every morning about ten-thirty to do the surgical work, the dressings and assist the nurses, and so on, but in the meantime, before ten-thirty Mr. Bill Clark, who is a local labor man, secured a permit for me from Mr. Hall, which gave me permission to go back and forth on Pine Street. I just showed that permit—.

Q. And went through the picket line?

A. And went through the picket line, I just held the permit, a blue slip, up in my car window and that gave me permission to go through.

MR. SMITH: I wish you would mark that as Respondent's next exhibit.

(The document above referred to was marked as Respondent's Exhibit 36 for identification.)

Q. (By Mr. Smith) Doctor, I show you a card that has been marked for identification as Respondent's Exhibit 36.

Q. I ask you if that is the card you referred to?

A. That is it.

MR. SMITH: I wish to introduce Respondent's Exhibit 36 in evidence.

MR. LAUTER: I object on the ground incompetent, irrelevant, and immaterial.

TRIAL EXAMINER LINDSAY: I will reserve ruling. May I state that the question there about striking this car with clubs is stricken from the record. Let the record show an exception.

MR. SMITH: Do I understand, your Honor, that that testimony has been stricken out?

TRIAL EXAMINER LINDSAY: Yes, you may include that in your offer, general offer.

MR. SMITH: I see. The Court is doing that on its own motion?

TRIAL EXAMINER LINDSAY: Yes.

MR. SMITH: There wasn''t any objection to it.

TRIAL EXAMINER LINDSAY: It doesn't make any difference.

MR. SMITH: All right. I just want the record to show that it was on the Court's own motion.

TRIAL EXAMINER LINDSAY: Well, it shows it anyway.

MR. SMITH: Yes. All right. May I have an exception to it?

TRIAL EXAMINER LINDSAY: You may have it.

Q. (By Mr. Smith) Doctor, who is Gus Hall, if you know?

A. I don't think I met Gus Hall. No, sir, I didn't.

Q. I see.

A. This was secured through Mr. William Clark.

Q. Were you permitted, then, from that time on, to go in and out as you pleased?

A. I was, until Sunday morning, that would be May 30th.

Q. Yes.

A. At which time I was informed by Ed James, who was a very, very old patient of mine—got into my car on Sunday morning and said that he wanted to inform me this, he didn't want any of the other fellows to tell me, that I was to either stay in or stay out.

Q. Of the mill?

A. Of the mill.

Q. Now, this Mr. James, that you speak of, he was on the picket line?

A. He was. He was at the gate.

Q. And what did you do, Doctor?

A. Well, I said, "I have to—I am going in, to stay in, but before I do that, I have got to go back to the city hospital." I had a case prepared for operation, and he very kindly assented to go with me. And while I was operating he went home and got his Sunday dinner and came back and picked me up and took me down to the mill, about 2 that afternoon.

Q. I see.

A. And in the gate with me, and then left at the gate.

Q. And you remained in the mill from that time on?

A. Yes, sir, until June 23rd, except one or two or three—three occasions, I think I had to leave, to operate some emergency—two were for the relatives to the C.I.O. boys who wanted me out to do it. The other was a private case that we had to attend to, and the sheriff took me out at this time.

Q. Now, on getting out to operate for these emergencies, how did you accomplish it? What did you do?

A. Well, our chief of police, Mr. Hanna would communicate with Mr. Hardman and tell him the urgency of the occasion.

Q. Now, Mr. Hardman, that is who?

A. Sheriff.

Q. Yes.

A. And he or his deputies took me out, each time, and brought me back.

Q. I see. Doctor, while you were in there, did you have occasion to investigate or examine the facilities for feeding the men who were in the mill?

A. Yes, sir. A committee who was composed of Mr. George McLain and myself and Mr. Dye usually made trips throughout the mill, investigating the restaurants and sleeping quarters about twice a week, and we furthermore ate in these different restaurants on the occasions where we went.

Q. What was the result of your investigations as to the condition of the food supply and the food that was furnished?

A. Well, the food supply was scarce until Sunday the 30th, when an airplane landed. After that we had abundant food and the best food they could buy.

Q. And did you examine the refrigeration end?

A. Yes, sir.

Q. What do you say as to the condition of that?

A. Absolutely as good as could be had. Every frigidaire was working 100 per cent.

Q. Some testimony has been given as to a Mr. Riffle and someone else, I believe, that remained in the mill and probably the day following the strike—

A. Yes, sir.

Q. Do you remember that incident?

A. I remember Mr. Riffle because I had operated on him. I know him personally. He comes to my mind. He come in the next day, was very nervous, and he says, "Doctor, I want to go home. I am sick." We had instructions that any man that wished to go home, that was sick, had first to come through the hospital and to be o. k'd. as sick. Then, of course, we were allowed to have him go home, which we did that day.

Q. Yes.

A. He complained that his stomach was off, his stomach was disturbed, and indigestion, and so on, but he did not have any diarrhoea and he hadn't vomited. I thought it was a clear case of nervous indigestion, and put it down as such.

Q. And do you recall who the other man was, that was with him at the time or about the same time?

A. I do not. No, sir, I don't recall that.

Q. Albert Lewis, does that help you any, Doctor, when I mention his name?

A. No, it don't. I have forgotten it.

Q. Well, from your diagnosis, would you say that the food in the mill had anything to do with this illness?

A. Nothing whatever.

Q. Now, you say you ate this same—at this same—

A. I ate three times a day.

Q. At this dining table there?

A. Yes, sir.

Q. What do you say as to whether or not the food that was there, was wholesome, and what do you say as to the quantities of it, in connection with the men that were in the mill?

A. I can only say that by direct communication with the men, they were all very well satisfied. Many men told me they ate much more than they did at home.

MR. LAUTER: I move the remarks of the witness with respect to their being well satisfied be stricken out as incompetent, irrelevant, and immaterial.

Q. (By Mr. Smith) You are not permitted to testify, Doctor, as to a conclusion. You may state—

A. The men told me they were very well satisfied.

TRIAL EXAMINER LINDSAY: That is stricken from the record.

MR. SMITH: Yes.

Q. Now, the men told you what?

A. The men told me they were very well satisfied.

Q. Oh, they told you that?

A. They told me that. Numerous men. That is my chief business, to go looking into the social set-up and the care of the men. The nurses took care of most of the minor accidents, whatever they were; minor sicknesses, with my supervision.

Q. Doctor, what did you observe there in regard to any entertainment that was furnished to the people in the plant?

A. We had a social committee which looked after that. They saw to it that we had moving show brought in, sent in by airplane, and we had a change of scene every night. Most all of the time that the strike was on.

Q. Yes.

A. On Sunday we arranged it that we had three church services, one for the colored, one for the Catholics, and one for the Protestants, every Sunday morning.

Q. Now, did you have occasion, Doctor, while you were there, to make any investigation of the quarters of the women who remained in the plant were located?

A. Several occasions, yes, sir.

Q. Just tell the Court what you observed?

A. Well, the nurses—we have a hospital with four beds downstairs in a large room. The nurses made that their quarters, the four female nurses; and had about 14 girls in the tin house, we had a Pennsylvania sleeper for them. And they had their restroom which they entertained themselves in, and got along perfectly fine.

Q. Now, as to bathing facilities, what would you say as to that?

A. We set up—just as the strike started—two or three shower baths in these quarters for the nurses, just opposite their restroom, not in the cars.

Q. Well, were the ladies and women who remained in the plant—were those accessible to them also, as well as the nurses?

A. Accessible to the nurses and to the female help in the refractory plant.

Q. What did you learn, Doctor, as to whether or not the proper privacy was maintained?

A. Oh, absolutely.

Q. For the women workers there?

A. Absolutely. Each bath was curtained off with heavy canvas. It is strictly in the women's quarters, where no one was allowed to go, but these 14 or 15 women.

Q. How many years do you say you have been practicing medicine?

A. 33.

Q. Do you consider, in that length of time, in your practice, that you are in a position to testify as to what is the normal health of a group of people?

A. I think I would be entitled to that much judgment, medical judgment.

Q. What do you say, Doctor, as to whether or not the people who remained in the mill during this period were—had normal health?

A. Excellent health, I would say. Excellent. I would, considering our statistics—we had no serious sickness, no epidemic, no contagion, no intestinal toxemia which might be with improper food. Just the ordinary headaches and indigestions and things like that.

Q. Yes.

A. Minor accidents. I don't think we had a man laid off with an accident during the whole strike.

Q. Now, Doctor, did you have occasion while you were in there to observe any instructions or directions that were given by the officers in connection with the men in the mill—

A. In what respect?

Q. Well, as to whether or not any instructions as to their remaining or their being allowed to leave?

A. We had a meeting—I happened to be on the Executive Committee and we had a meeting in Mr. Flynn's office and all that was threshed out and we insisted that any man that wanted to go home, that didn't want to remain but who wanted to go home—

MR. LAUTER: I move that "threshed out" be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

JUDGE SMITH: That is a conclusion, Doctor.

Q. Now, just state—you say you were a member of the Executive Committee?

A. Yes, sir.

Q. That was an organization in connection with this strike situation?

A. Yes, sir.

Q. State whether or not there was a discussion of that matter with your Executive Committee.

A. There was.

Q. And in connection with your Executive Committee what were the instructions that you heard given by the management in connection with their allowing any men who wished to go home?

A. He may go home.

Q. Do you know whether or not those instructions were given to the superintendents and foremen?

A. Yes, sir, there were always a lot of superintendents in that office in the morning.

Q. During the entire time you were there, did you observe any incident of anyone who was prevented from leaving or desired to do so?

A. Absolutely not.

Q. Do you know anything, Doctor, in regard to anyone from the Board of Health or the Sanitary Offices of the County—

A. Yes, sir.

Q. —coming into the mill at the time you were there?

A. Yes, sir.

Q. Will you tell us about that?

A. On June 10th the President of the Board of Health who was Dr. Connell called me up at the mill and said that he had heard some stories about improper food and improper housing and that there was a general critical and destructive criticism going around the town; so I invited him up to come there and he came the next morning about 11 o'clock. The Committee took him all over the plant. He happened to have lunch with me. He investigated everything—Frigidaires, meats, saw where we kept all the foods, canned goods and cheese and that stuff. He wrote me a very excellent letter passing out with an A rating on the housing of the food and the manner of administration.

In fact, he said that he had a better dinner there than he would have had uptown.

Q. Do you know of any report that was made by Mr.—

A. I do (handing a paper to Judge Smith).

JUDGE SMITH: Will you mark this Respondent's Exhibit 37 for identification?

Q. Doctor, I show you a copy of the Warren Tribune Chronicle bearing date of Warren, Ohio, Friday evening, June 11th, 1937, and which has been marked for identification as Respondent's Exhibit No. 37, and ask you if the report you referred to is contained in that paper?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 37 for identification.)

A. Yes, sir, that is that.

Q. Doctor, on this newspaper that you referred to, is the article "Trumbull Health Commissioner says Mill Conditions are O. K."

A. Yes, sir.

Q. The article that you refer to as the report of this doctor?

A. Yes, sir.

JUDGE SMITH: Now, your Honor, I desire to introduce a portion of this newspaper that is covered by the article just referred to.

MR. LAUTER: Objection on the ground that it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. LAUTER: Exception.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 37 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit No. 37" was received in evidence.)

JUDGE SMITH: Your Honor, in regard to this, I think this covers the portion of it aside from—I would like to have this statement taken in the record—

TRIAL EXAMINER LINDSAY: I don't know what you are driving at.

JUDGE SMITH: I wish you would permit me to tell you on this—

(Discussion off the record.)

JUDGE SMITH: I wish the record to show that there is additional testimony—

TRIAL EXAMINER LINDSAY: No; I thought you were going to ask a question; ask the question. We will rule on it.

Q. Doctor, during the time you were in the plant, did you observe pickets around the plant?

A. Around the hospital, yes, sir.

Q. And during this time did you observe whether or not they were carrying anything in their hands?

A. Yes, sir, I observed it.

Q. What was the character of the things that you found them carrying in their hands?

A. Clubs—

MR. LAUTER: I object on the ground that it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Objection sustained. It is going right back into the same ruling before and you may include it in your general offer to prove.

JUDGE SMITH: May I have an exception on the ruling?

TRIAL EXAMINER LINDSAY: You may have an exception.

JUDGE SMITH: Exception. That is all.

Cross Examination

Q. (By Mr. Lauter) Dr. Thomas, what is your full name?

A. Charles Wesley Thomas.

Q. Is that W-e-s-l-e-y?

A. Right.

Q. You are a medical doctor?

A. Oh, I do 90% of my work in surgery.

Q. Well, are you a specialist in the field of surgery?

A. No, I wouldn't call myself a specialist because I do general practice.

Q. 90% of your work is in the field of surgery?

A. I would say 90%, yes.

Q. Are you on the payroll of the Republic Steel Corporation?

A. I am.

Q. In what capacity have you been hired by them?

A. Surgeon to take care of all the medical work.

Q. You say you are hired as a surgeon to take care of all the medical work?

A. Surgery and taking care of all their medical work.

Q. Now you testified that you were graduate of what college?

A. Western Reserve University, Cleveland, Ohio.

Q. And are you also a college graduate?

A. Yes sir, got my AB in 1900.

Q. And that is from Western Reserve?

A. Yes, sir.

Q. I see a pin on your chain, is that a Phi Beta Kappa?

A. Exactly, yes sir.

Q. You got that while you were attending Western Reserve?

A. Yes, sir.

Q. After you got out of Western Reserve, you got your AB, you went to Western Reserve Medical School?

A. Yes, sir.

Q. Did you specialize in any field there?

A. No, in medicine, you say?

Q. Yes, that is right.

A. No, we took our general work in medical field, four years, you know.

Q. After you got out of medical school, did you specialize in anything?

A. No, I wouldn't say I specialized, I came to Warren about a year and a half after that and did general practice for a number of years and gradually drifted into the field of surgical work.

Q. You say you gradually drifted into the field of surgery?

A. Yes, sir.

Q. Now is Western Reserve University Medical School a Grade A school?

A. Well, I guess it is.

Q. Well, you know it is?

A. I know it is, sir, emphatically so.

Q. And how soon after you graduated did you drift into the field of surgery?

A. When I came to Warren, I assisted the old surgeon who used to do all the surgery, practically, of Trumbull County for about ten years, I would say, and I have been going east on different occasions, taking up medical work in the summer, surgical work, and in about 1910, I guess, or '12, a little later than that, I started to do my own surgery and have since then done it.

Q. And since then, ninety percent of your practice has been in surgery?

A. Gradually increased.

Q. You say it has been increased?

A. Since then it has been gradually increased; into surgery. We are talking about surgery?

Q. Yes, we are speaking about surgery.

A. Yes, sir.

Q. And you are primarily interested in surgery?

A. Yes sir. Right now it is chiefly surgery but in the years gone by it has been general practice.

Q. You say right now it is chiefly surgery, is that correct?

A. Yes, sir.

Q. Now you went into the mill on about May 30th, you say?

A. I went in to stay exactly May 30th, two P. M., but I had been going out and in from the 26th, evening, Wednesday, you know, Thursday, Friday and Saturday, and then I stayed in the afternoon.

Q. Now on May 30th, 1937, when you went in, your primary interest as a professional man was surgery, is that correct?

A. You mean inside the mill or outside the mill?

Q. Outside and inside.

A. No, I wouldn't say primarily surgery inside the mill. When I am in the mill I am doing general work, some welfare work even.

Q. But I mean your general interest is in the field of surgery, and hadn't been changed by the fact that there was a strike?

A. Oh no.

Q. And wasn't changed by the fact that you went into the mill?

A. No, sir.

Q. Your general interest in surgery persisted?

A. Yes, sir.

Q. And the fact that a strike was called, that doesn't change your profession particularly in the field of surgery?

A. No sir, but there was a cessation of it, however, for about twenty-six days.

Q. There was a cessation?

A. Of surgery.

Q. That is what I want to get—

TRIAL EXAMINER LINDSAY: Let's not have any laughing in the room. You better come over here and sit somewhere else.

Q. You testified about shower baths in the plant, is that correct?

A. Yes, sir.

Q. And you testified that they provided the proper privacy?

A. Yes, sir.

Q. And you testified that they were curtained with heavy canvas?

A. Yes, sir.

Q. How many shower baths did you inspect?

A. I think two, if my memory serves me right. I think two in that department where the women are, and they had several other shower baths, one in the main office in the cellar and several in the hot mills. The old shower baths are still there, but I refer to the two shower baths for the girls.

Q. That is, your testimony was limited to the two shower baths for the women?

A. Yes, sir.

Q. Now did both of them provide the proper privacy?

A. I would say "yes."

Q. And both of them were curtained with heavy canvas?

A. Yes, sir.

Q. Do you know what type of shower bath they were?

A. No, I don't.

Q. You don't know whether they were needle shower or any other kind?

A. No, sir.

Q. You didn't come that close to the shower baths?

A. No.

Q. Well, how close did you come in making your inspection of the shower baths?

A. Just passed by the canvas and there was no one in the bath, of course; the water wasn't turned on and we saw to it that it was clean and wholesome and supplies were handy.

Q. You say there was no one in the shower bath?

A. No, not when I was passing.

Q. And the curtain was pulled back, or was it open?

A. The curtain was closed.

Q. This heavy canvas curtain you testified to was closed at the time you inspected it?

A. Yes, sir.

Q. But you did observe that it was a heavy canvas curtain?

A. Yes sir. The superintendent of that department, a woman, was with us demonstrating everything, every time we went she was along.

Q. She demonstrated—, you say she demonstrated everything as you went along?

A. Yes, showed us the shower baths.

Q. And what did her demonstration consist of in connection with the shower baths?

A. Just pulling back the canvas and letting us see that it was clean inside and they had soap, each girl had her own towel.

Q. As you approached the shower baths—, there was two of them there?

A. Yes, sir.

Q. As you approached the first one, was the canvas pulled, spread out?

A. Closed. I think they were always closed.

Q. And the woman who accompanied you, she pulled out the canvas?

A. Yes, sir.

Q. And then did she pull it back again?

A. I suppose it went back again of its own weight.

Q. That is, she pulled it out, this heavy canvas?

A. Yes, sir.

Q. And it went back of its own weight?

A. Yes, sir.

Q. How close did you come to the canvas as you inspected it?

A. Just about like this, brushed alongside of it.

Q. Felt it with your hands?

A. Yes.

Q. And the result of the feeling with your hand, you testified it was a heavy canvas, is that correct?

A. Yes, you could see it was heavy when it was opened, too; the way canvas folds you can tell whether it is heavy or light canvas.

Q. About how long did she hold the canvas open?

A. A moment.

Q. Just a moment?

A. Yes, sir.

Q. We are now, of course, confining ourselves to the first shower bath; there were two that you actually inspected, is that correct?

A. Yes, sir.

Q. And what else did the woman do who demonstrated everything show you in connection with the first shower bath?

A. Just opened up the canvas and showed us that it was cleaned after every girl that used it, she cleaned it up.

Q. You mean she told you that; she didn't show you that?

A. She told us that.

Q. She told you that it was cleaned up after everyone took a shower?

A. Yes, sir.

Q. Now is there a tub there also or just a shower bath?

A. There is no tub there, these baths were installed after the strike started.

Q. And these shower baths have tile floor?

A. I don't think they did, no, they didn't have tile floor.

Q. What kind of floor did they have?

A. I don't recollect, I don't know.

Q. Was it a portable shower or permanent shower?

A. It was built for the occasion and made permanent; in fact, I think it is still up, but as to the tile, I don't know what material it is, I didn't see that.

Q. Now this shower was in a room?

A. No, it was just off the room, between the sleeper where the girls had a sleeper and their rest room, it led right out from the rest room.

Q. Is this on the train or off the train?

A. Oh no, it is right off the rest room where the girls were sleeping.

Q. That is, in one of the buildings?

A. Yes, sir.

Q. Now you testified there were two shower baths?

A. Yes, sir.

Q. And that this woman took you around and demonstrated it to you?

A. Yes, sir.

Q. When you came to the second shower bath, did you also run your hand along the canvas?

A. Yes, sir.

Q. And from that you determined it was a heavy curtain canvas?

A. Yes, sir.

Q. And did you also—, I mean, what else did you do in connection with your inspection of that shower?

A. That was all of the shower bath, it wasn't really the purpose of investigating minutely.

Q. I am not interested in your statement of purpose, I am just interested in your statement of what you did, and I understand that you are primarily interested in surgery. You have stated that for the record. Now you went around to the second shower bath; how long did you stay there?

A. Just passed by very quickly.

Q. Did you spend as much time at the second shower bath as you did at the first?

A. That's no longer than we had to because that wasn't—, we weren't spending time.

Q. Don't tell me it isn't your purpose. I know you are interested in surgery, but you had to inspect shower baths; how long did you stay at the second shower bath?

A. Perhaps just passed by, perhaps didn't stop.

Q. You say perhaps; tell me what you actually did?

A. I don't remember, I think we stopped at the first and not at the second.

Q. You stopped at the first and didn't at the second. Do you remember how long you stopped at the first?

A. Oh, perhaps a minute.

Q. About a minute? And did you have a conversation with the woman who was demonstrating everything as you were standing?

A. Yes, sir.

Q. Let me finish my question, please. Did you have a conversation with the woman who was demonstrating everything, as you were standing in front of the first shower?

A. We didn't ask her any questions, we didn't converse with her, no sir.

Q. Did she make any statements to you?

A. I don't recall it.

Q. Well, do you recall whether anything was said at that time, or whether there was absolute silence?

A. I do not remember.

Q. Are you saying now that when you stood in front of Number 1 shower, we will call it Number 1 shower, that you had no conversation with anyone at that time?

A. Just this young lady who was demonstrating it to us, she opened the—, perhaps I would state "it is all right" or something like that; we weren't there to converse with her, we were inspecting it.

Q. I am not interested what you were there for, so far as conversation, I am asking you what happened. Do you recall whether or not she said anything to you?

A. I don't recall it now.

Q. And you don't recall whether you said anything to her?

A. No, sir.

Q. Do you recall that it was a heavy curtained shower?

A. Yes, sir.

Q. Now then, you went on to the second shower and you didn't stop off as you inspected that?

A. No, sir.

Q. Just walked by? It also had a heavy curtain shower?

A. Yes, sir.

Q. Did you have any conversation with the woman as you were passing by?

A. I do not remember.

Q. Don't recall?

A. No, sir.

Q. Now, you testified about Frigidaires, said they were working?

A. Well, the meat in them was kept cool, that is the extent to what they were working, they were in order.

Q. How many Frigidaires did you inspect?

A. I can't tell exactly, I think about three, one for the hot mill, one for the open hearth and one for the main office cafeteria.

Q. Your inspection of these Frigidaires had no relationship with your interest in surgery?

A. Not at all, but I was employed by the mill at this moment to take care of those things.

Q. And you inspected Frigidaires?

A. Yes, sir. That is, that inspection, it was more minute when the Board of Health was down inspecting it. We just accompanied him and he was doing the inspecting.

Q. Who are you referring to?

A. Dr. Connell, he is the County Board of Health Superintendent.

Q. Is he the gentleman you refer to as having invited into the mill?

A. Yes, sir.

Q. And I forget what else you testified to at that time; you say you invited him in and he had lunch with you?

A. Yes, sir.

Q. That is, it was at your request that he came there?

A. Oh no, it was not at my request that he came.

Q. Let me get you straight. My recollection is, and you can correct me if I am wrong, that there were complaints and criticisms in the community about what was happening in the plant, and you invited him to see something or other that was going on, is that correct?

A. No, he called up and told me about the complaints, and at his suggestion only, that I invited him down to make a personal tour of the plant; and incidentally, because he came—,

Q. What's that?

A. Because he came near the noon hour I had him stay for lunch, there was no intention of having him come at that moment.

Q. I am only interested in finding out, Dr. Thomas, whether you invited him into the plant, and I understand you did.

A. I invited him down after he told me about this complaint but I hadn't called him at first and asked him to come down; it was on his suggestion.

Q. Does he generally inspect the plant?

A. He tends to the health of the County.

Q. What is that?

A. He tends to the health of the County.

Q. I am asking whether or not it is his practice, in the general course of his business, to inspect the plant?

A. I would say yes sir, in the County.

Q. And when was the time previous to your invitation to him that he actually inspected the plant?

A. Never before.

Q. Never before?

A. No, sir, to my knowledge.

Q. How long have you worked for Republic?

A. Well, for Trumbull since 1913, and ever since for Republic whenever they took it over, I think along about '28, or maybe before that.

Q. Do I understand you to say, in the general course of his business, he would inspect the plant or not?

A. No, I think he only inspects those places on requests by somebody, it would fall under the sanitary policeman of the City of Warren, whose business it is to inspect all those places, not the physician who is the City health doctor. He is Dr. Knappenberger, but the County has a different set-up.

Q. (By Mr. Lauter) I am interested in knowing whether or not—

MR. LAUTER: Just read back the last answer.

(Answer read by the Reporter as follows:

"A. No, I think he only inspects those places on request by somebody"—)

MR. LAUTER: Stop right there.

Q. (By Mr. Lauter) Now, is that correct, that he only inspects these places on the request by somebody?

A. I think so, because the County does not have any of those places.

Q. I am asking you whether or not that is correct.

A. I think so, yes, sir.

Q. That he inspects the places on the request of somebody?

A. Yes, sir.

Q. And that you did invite him to inspect the Republic?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. I am reading to you from the Respondent's Exhibit 37 and I want to ask you whether or not this statement contained in the Exhibit is correct: "Doctor Connell said the inspection was made by him merely in line with his general duties, and at his own instigation and without request from outside sources." Is that correct?

A. He told—

Q. Now, is that correct? Just answer.

A. That is not correct.

Q. That is not correct?

A. No, sir.

Q. That is all. Now, you inspected a number of frigidaires?

A. Yes, sir.

Q. How many did you say you inspected?

A. I remember three. There are three frigidaires that I know of.

Q. Do you know what the makes of those frigidaires are?

A. No, I don't.

Q. You don't know the makes?

A. No, sir.

Q. Are they white enamel frigidaires?

A. One is. I think the one up in the cafeteria is, but I do not recall the other two because I had occasion to go into the cafeteria of the main office, the frigidaire, passing by there, because we ate there, often frequented that, but the other two, I don't know.

Q. Where—

A. In the cafeteria frigidaire, that is the one where the office men ate, clerks and so on.

Q. Is that where you ate?

A. Yes, sir.

Q. All the time that you were in the plant, except on tours?

A. When we went to the other restaurants to eat. Tested out the meals.

Q. You ate with the office clerks and who else?

A. Well, the clerks and—really, the men who are easily accessible to the upper restaurant, the men in the main office.

Q. Tell me what their capacity was in the plant.

A. Well, of course, during the strike there was a good many clerks who did the other work.

Q. Now—

A. Like waiting on table.

Q. Do you know or don't you know whether they were generally clerks, white collar workers?

A. They were mixed up.

Q. Were there manual laborers?

A. Oh, many.

Q. Eating in the same restaurant?

A. Manual laborers, in overalls eating up there, yes, sir.

Q. You say you inspected that frigidaire?

A. Yes, sir.

Q. The frigidaire that took care of that?

A. Yes, sir.

Q. Eating establishment? Can you remember that that was made of—a white enameled—

A. Yes, sir. The outside is white enamel.

Q. You don't remember the make of it?

A. No, sir.

Q. Is that an electric frigidaire?

A. I imagine it is, yes, sir.

Q. Well, you didn't inspect it?

A. I don't know surely, no.

Q. I say, you are speculating as to whether or not it was electricity or gas?

A. I don't know.

Q. Do you know the size of the frigidaire?

A. No, I don't know the size. It contained a lot of goods that were stored there for usage.

Q. And these other frigidaires, you say there two others that you inspected?

A. Yes, sir.

Q. Do you remember what makes they were?

A. No, sir.

Q. Do you remember whether they were made of white enamel?

A. I don't remember.

Q. Do you remember the size of them?

A. I don't remember.

Q. Do you remember whether or not they were electricity or gas?

A. I don't know.

Q. Do you know where they were located?

A. Sir?

Q. Do you know where they are located?

A. I said one was located in the hot mill department; the other one was in the open hearth department.

Q. Now, you didn't get any chance to practice surgery in the plant during your stay in there, did you?

A. Oh, yes. Yes, I had three or four major operations I went out to do.

Q. No, I am talking about the plant?

A. Oh, no, we didn't do any major surgery in the plant.

Q. Well, you didn't have an opportunity to do any surgery, did you?

A. Yes, we had some lacerations and crushed fingers and things like that; minor surgery; I would call it.

Q. Is the accident ratio unusually high for Warren plant?

A. I don't believe it is.

Q. Well—

A. Compared—

Q. Do you know how it compares with the other Republic plants?

A. I think it is—it has the next to the best record, the last four months, I think, of any of them.

Q. What would you say about the last four years?

A. I don't know.

Q. Have you ever made a check, to find out?

A. I have seen the records numbers of times but I don't remember. I know we have been well up to the top of the list.

Q. During the last four years?

A. Yes, sir.

Q. Accidents?

A. Yes, sir.

Q. Now, you testified that your chief business was to take care of the social set-up in the plant?

A. During the strike it was. Just with the strike.

Q. Who told you that that was your chief business?

A. Mr. McClain. He is the secretary of internal—industrial relations at the plant.

Q. And he gave you those instructions?

A. With other men. I was simply a party to the committee.

Q. And you arranged for the church services?

A. We arranged the church services. I didn't arrange for the pictures.

Q. You what?

A. The picture show—we had movies brought in. I think a fellow named Job took care of that.

Q. But you arranged for inspecting the restaurants and shower baths, to see whether the frigidaires were working?

A. No, sir I didn't "arrange" for the inspection of those.

Q. Well, you did inspect them?

A. With Mr. McClain and Mr. Dye.

Q. But you arranged the entertainment? Took care of the church services?

A. Helped to, yes, sir.

Q. A good many things not directly connected with your interest in surgery, is that correct?

A. Of course, why certainly.

Redirect Examination

Q. (By Mr. Smith) Doctor, I show you this newspaper article that is in Respondent's Exhibit No. 37, and I will ask you to state whether or not a part of that article shows it is a quotation from the Doctor, and whether or not a part of the article is the statement of the Reporter who wrote the article?

A. There are quotation marks.

MR. LAUTER: Well, just one second, now. I object to that question and move that as much as the answer as has been given be stricken on the ground that the exhibit is the best evidence as to what it purports to show.

MR. SMITH: All right, now, I will—

MR. LAUTER: I understand you are withdrawing your question?

TRIAL EXAMINER LINDSAY: The objection is sustained. Let the record show an exception.

MR. LAUTER: If you are withdrawing the question, I will withdraw my objection.

MR. SMITH: No.

TRIAL EXAMINER LINDSAY: Let me see it.

Q. (By Mr. Smith) In the newspaper article which is Respondent's Exhibit 37, I direct your attention to the fact that part of it is in quotation lines and part is not?

A. Yes, sir.

Q. And I ask you whether or not the sentence that Mr. Lauter called to your attention, that "Doctor Connell said the inspection was made by him merely in line with his general duties, at his own instigation without any request from outside sources"—whether that is in quotations or not?

MR. LAUTER: Well, now, I will object to that question on the same ground that I objected to the previous question. That is, that the exhibit is the best evidence of what it purports to show.

TRIAL EXAMINER LINDSAY: Oh, well—

MR. LAUTER: Surely counsel for the company is not contending that the Trial Examiner or the Board cannot read a newspaper and see as well as Doctor Thomas, whether the remark is in quotation marks or not.

MR. SMITH: I hope, your Honor—I want to speak to you instead of to Mr. Lauter, because I do not really believe that it is necessary for me to receive instructions from Mr. Lauter about how I conduct my side of this lawsuit.

TRIAL EXAMINER LINDSAY: Well, now, let's—the objection is sustained. Let the record show an exception.

MR. SMITH: I think that—

TRIAL EXAMINER LINDSAY: We will surely be able to understand whether it is or is not a quotation.

MR. SMITH: I had understood that you had overruled the objection, first.

TRIAL EXAMINER LINDSAY: Well, I changed my ruling.

MR. SMITH: I see

TRIAL EXAMINER LINDSAY: I hadn't finished my ruling on it.

Q. (By Mr. Smith) Now, something has been said to you, Doctor, in regard to the ash boxes or the refrigerators that you inspected. What is the extent of this plant, down there, Doctor, as to the length of it?

A. Oh, I would say two miles and a half.

Q. Now, were the restaurants in different parts of this plant?

A. There are four or five, in regular times, I think.

Q. And what was the purpose of having these restaurants at different parts of the plant?

A. Well, to make it so that the food can be transmitted right to the tables, without having to ride around or be transported in taking the time—its accessibility of the frigidaires to the place where they are served.

Q. And also does the location of the dining rooms have any connection with the accessibility of the employees to the dining room?

A. The dining rooms are so located that they can accommodate more employees than otherwise, if they were scattered around. It is a nucleus.

Q. Yes, and you, in your inspections, did you go to these different dining rooms and examine them?

A. Yes, sir.

Q. And did you have occasion, Doctor, at any times, to eat in any other dining room?

A. A number of times.

Q. —than the one where—

A. Yes, sir.

Q. —what would be those occasions?

A. Well, I would say twice a week Mr. McClain and Mr. Dye and I would meet and eat in the different places just to—for one thing, it was the sociability of it, to let the fellows know we were with them, we were just common with them.

Q. Yes.

A. Set-up.

Q. About how many people were in this plant, Doctor?

A. Saturday there was 2300 and it fluctuated; a little less, and then it went up to 2700 when the gates were opened.

MR. LAUTER: I object to the question and ask that the answer be stricken unless the witness has personal knowledge of the figures he is testifying here about.

JUDGE SMITH: Well, I wasn't asking for accurate information. I asked him approximately.

MR. LAUTER: Well, personal knowledge means approximate number, naturally.

TRIAL EXAMINER LINDSAY: I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

JUDGE SMITH: All right. That is all.

MR. LAUTER: That is all.

JUDGE SMITH: I have the photostatic copies here of that complaint at Warren that were offered this morning that I would like to have exchanged for the originals, your Honor.

TRIAL EXAMINER LINDSAY: Do I understand that you are of the opinion that the originals were offered in evidence?

JUDGE SMITH: I understood so. With the understanding that photostatic copies would be substituted.

TRIAL EXAMINER LINDSAY: My statement was this: That if you so desired to offer them in evidence, and if they were so received, that the photostatic copies may be made of them and substituted for the exhibit but you never offered the original. I understood if that was done that Mr. Lauter would have the photostatic copies made.

JUDGE SMITH: Well then, I wish to introduce them as the exhibit of the Respondent. Will you mark this Respondent's Exhibit 38-A and B for identification and Respondent's Exhibit 39-A and B for identification?

(Thereupon the documents above referred to were marked Respondent's Exhibits 38-A and B and Respondent's Exhibits 39-A and B for identification.)

JUDGE SMITH: Now, these having been marked for identification, I desire to offer in evidence Respondent's Exhibit 38-A and B and Respondent's Exhibit 39-A and B.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 38-A and B and Respondent's Exhibit 39-A and B may be received in evidence. They are received with the understanding that those are the photostatic copies?

JUDGE SMITH: Oh, yes. We are offering Respondent's Exhibit 38-A and B and Respondent's Exhibit 39-A and B in connection with the testimony of Mr. Carney, the Clerk of the Municipal Court of the City of Youngstown, Ohio.

TRIAL EXAMINER LINDSAY: However, that is not Mr. Carney.

JUDGE SMITH: Yes, it is; Martin J. Carney.

TRIAL EXAMINER LINDSAY: Yes, that is right.

(Thereupon the documents heretofore marked "Respondent's Exhibit 38-A and B and Respondent's Exhibit 39-A and B" were received in evidence.)

TRIAL EXAMINER LINDSAY: We will adjourn until 7:30 o'clock this evening.

(Whereupon at 4:50 o'clock p. m. September 21st, 1937, an adjournment was taken to 7:30 o'clock p. m., September 21, 1937.)

AFTER RECESS

(Whereupon the hearing was resumed, pursuant to recess, at 7:30 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

CHESTER CROSBY

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name, please?

A. Chester Crosby.

Q. Where do you live?

A. 24 North Hazelwood Apartment 4.

Q. What is your business?

A. You mean my occupation?

Q. Yes, sir.

A. Ladle craneman at the Republic Steel.

Q. How long have you worked for Republic?

A. I have been there approximately six years.

Q. Did you sign a petition to go back to work?

A. I did.

Q. After the strike was called?

A. I did.

Q. Where did you sign that petition?

A. At 212 Dollar Bank Building.

Q. State whether or not you signed that petition of your own free will.

A. I did.

MR. LAUTER: I object to the question and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. The objection is sustained. The answer is stricken from the record. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the petition to return to work.

A. Well, I thought the thing over in my own mind—

MR. LAUTER: I move that the remarks of the witness about what he thought in his own mind be stricken from the record.

MR. DAY: I think it should be in. I asked him how he came to do it.

MR. LAUTER: Well, I will withdraw my objection.

MR. DAY: All right.

Q. Go ahead, please.

A. I thought the thing over in my own mind because I went through—I went through two steel strikes in this town prior to that and I figured this one was going the same way, and I wanted to go to work.

MR. LAUTER: I object to the answer and ask that it be stricken from the record.

MR. DAY: I asked him that same question; I asked him how he came to do it and that is his answer.

TRIAL EXAMINER LINDSAY: Well, that is an absolute conclusion.

MR. DAY: I think all of that is on the same question we had the other day. I think he has a right to give his conclusion as to his mental reaction in this kind of a situation.

MR. LAUTER: I respectfully submit, Mr. Trial Examiner, that the mental observations and ratiocinations are not involved in this case. What he actually did; or what someone said to him in connection with him about going back to work is relevant.

TRIAL EXAMINER LINDSAY: Yes, I will sustain the objection. Let the record show an exception.

MR. DAY: Exception.

Q. How did you come to do it?

A. I wanted to go to work.

MR. DAY: All right.

Q. State whether or not you were influenced in any manner whatsoever in the signing of that petition to return to work by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I was not.

MR. LAUTER: Object to the question and ask that the answer be stricken out.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken out.

MR. DAY: Exception.

Q. Do you remember when the strike was called on May 26th, last?

A. I do.

Q. State whether or not you wished to go out on strike.

A. I didn't.

Q. Did you sign an application for membership in the Independent Federation of Republic Employees?

MR. LAUTER: Just one second, please. With respect to the last question, I want to object to it on the ground that it is incompetent, irrelevant and immaterial and I ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Will you read that last question and answer?

(The last question and answer were read.)

MR. DAY: That is admitted.

TRIAL EXAMINER LINDSAY: All right. Objection overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. Did you sign an application for membership in the Independent Federation of Republic Employees?

A. I did.

Q. Where did you sign the application?

A. At 606 Dollar Bank Building.

Q. State whether or not anybody asked you to sign the application.

A. J. C. Smith.

Q. Who is he?

A. He is a fellow worker in the mill.

Q. State whether or not you signed that application for membership in the Independent Federation of Republic Employees of your own free will.

A. I did.

MR. LAUTER: Object to the question and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken from the record.

MR. DAY: Exception.

Q. State how you came to sign the application for membership in the Independent Federation of Republic Employees.

A. Well, I felt that if the Wagner Act—the Employees Representative Plan was out, and the C. I. O. was out, so far as I was concerned, we thought that we wanted some representation in the mill.

MR. LAUTER: I move that the remarks of the witness be stricken from the record.

MR. DAY: I think it ought to stay in; I think we are entitled to that.

TRIAL EXAMINER LINDSAY: Strike that whole answer. Ask the question again.

MR. DAY: Exception.

Q. Now, don't tell your mental observations. How did you come to sign an application card for membership in the Independent Federation of Republic Employees?

A. Because I wanted some representation in the mill.

Q. State whether or not anybody asked you to sign the application card for membership in the Independent Federation of Republic Employees.

A. They didn't.

Q. State whether or not in the signing of the application card for membership in the Independent Federation of Republic Employees at Youngstown you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I wasn't.

MR. LAUTER: I object to the question and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken.

MR. DAY: Exception. That is all.

Cross Examination

Q. (By Mr. Lauter) Your occupation is that of ladle craneman?

A. Yes, sir.

Q. How long have you worked for Republic?

A. I have been there about six years now, close to it this time.

Q. You signed a petition to "Back-to-Work" movement at Room 212 Dollar Bank Building, is that correct?

A. That is correct.

Q. And you say Mr. J. L. Smith asked you to sign it?

A. Yes, sir.

Q. Did he ask you to sign it up in the building there?

A. He did, yes, sir. I went up there, I heard it was there and I went up there.

Q. Who told you he was there?

A. I just heard them talking on the street about if you want to go to work, go up there and find out; that's what I done.

Q. And who was your foreman?

A. My foreman? Johnnie Graft is the general foreman, Charlie Ritchey is my sub-foreman.

Q. Before you went up to sign the "Back-to-Work" petition, did any of those men speak to you?

A. They did not because they were in the mill and I was on the outside.

Q. And you joined the Independent Federation?

A. Yes, sir.

Q. And you signed the card?

A. Yes, sir.

Q. You paid dues?

A. Yes, sir.

Q. Attended meetings?

A. Yes, sir.

Q. Did you attend the meeting at Indianola?

A. Yes, sir.

Q. Now was that the meeting in which they sought to combine the Employees' Representation Plan with the Independent Federation?

A. I don't know nothing about that, I wasn't at that meeting.

Q. Weren't you at the Indianola meeting?

A. Not every one of them. They had different meetings there.

Q. Had you been to any one of those meetings in which they sought to combine the Employees' Representation Plan with the Independent Federation?

A. No sir, I was not.

Q. Did Mr. J. L. Smith ever tell you that that was the purpose of the Independent Federation, to combine itself with the Employees' Representation Plan?

A. He did not, no sir .

Q. If you knew that that was the purpose of the new organization, would you have joined it?

MR. DAY: I object.

A. Well, I don't know whether I would—.

TRIAL EXAMINER LINDSAY: Just a minute.

THE WITNESS: Pardon me.

MR. LAUTER: I'll withdraw the question.

Q. (By Mr. Lauter) Now you say you wanted some representation, is that correct?

A. That's it.

Q. Did you have representation under the Employees' Representation Plan?

A. We did, yes sir.

Q. And that was representation of the employees in the plant?

A. Yes, sir.

Q. And you wanted the same kind of representation under the Independent Federation?

A. I don't know as if I would say that, but the representation that I ever got there suited me very well.

Q. I am sorry, I didn't hear your answer.

A. I say I don't know as I would say that, but the representation I got there, under the Employees' Representative Plan suited me very good.

Q. And Independent Federation Representation Plan, also suited you?

A. Suits me, yes sir.

TRIAL EXAMINER LINDSAY: May I interrupt just a minute? Due to the fact that Mr. Lauter withdrew his question, do you wish to withdraw your objection?

MR. DAY: Oh sure.

MR. LAUTER: That is all.

MR. DAY: That is all. Thank you.

(Witness excused.)

WILLARD THOMAS

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. William J. Thomas.

Q. Where do you live?

A. 524 West Evergreen.

Q. And what do you do?

A. I am an analyst.

Q. Of what Company?

A. Republic Steel Corporation.

Q. How long have you worked for Republic?

A. Twenty-two years.

Q. Did you sign a petition to return to work at the Youngstown plant of Republic after the strike was called?

A. I did.

Q. State whether or not you signed that petition of your own free will?

A. I did.

MR. LAUTER: Object to the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection is sustained, the answer is stricken and let the record show an exception.

Q. State how you came to sign the petition to go back to work?

A. One of my fellow employees came out to our house and talked to me, and I decided that I wanted to go back to work, and I signed the petition.

Q. State whether or not you were influenced in any manner whatsoever in signing this petition to return to work, by anything that was said or done by Republic Steel Corporation or any of its officers or its agents?

A. No, I wasn't.

MR. LAUTER: Object to the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection is sustained and the answer is stricken, and let the record show an exception.

Q. Do you remember when the strike was called, on the 26th of last May here in Youngstown?

A. I do.

Q. State whether or not you wished to go out on a strike?

A. I did not.

MR. LAUTER: Object to the question on the grounds of incompetent, irrelevant and immaterial, move the answer be stricken.

TRIAL EXAMINER LINDSAY: Reserve ruling.

Q. (By Mr. Day) Are you member of the Independent Federation of Republic Employees of Youngstown?

A. I am.

Q. Did you sign an application card for membership in that organization?

A. I did.

Q. Where did you sign it?

A. In the plant.

Q. State how you came to sign the application for membership in the Independent Federation of Republic Employees?

A. I was approached by Mr. Smith and he talked it over with me and asked me if I wouldn't become one of the organizers, to help get the organization going, and I consented to this and I signed the card.

Q. State whether or not you signed that application for membership in the Independent Federation of your own free will?

A. I did.

MR. LAUTER: Object to the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained and the answer is stricken from the record, and let the record show an exception.

Q. You may state whether or not, in the signing of the application cards for membership in the Independent Federation of Republic Employees, you were influenced to any extent whatsoever by anything said or done by the Republic Steel Corporation or any of its officers or agents?

A. I was not.

MR. DAY: That is all.

MR. LAUTER: I object to that question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is sustained, the answer is stricken. Let the record show an exception.

Cross Examination

Q. (By Mr. Lauter) You signed a card, Mr. Thomas, in the plant, is that correct?

A. Yes, sir.

Q. Was that on company property?

A. Yes, sir.

Q. Company time?

A. Yes, sir.

Q. Mr. J. L. Smith asked you to become an organizer?

A. Yes, sir.

Q. How long ago did he speak to you about becoming an organizer?

A. Will you state that question again, please?

Q. How long ago did he ask you to become an organizer?

A. Well, I can't say the exact date, but it was about a week after we went back to work.

Q. Do you remember when you went back to work?

A. Yes, sir, it was on a Friday, June 25th.

Q. And about a week later he spoke to you about becoming an organizer?

A. Yes, sir.

Q. Now, that conversation was held in the plant on company time?

A. Yes, sir.

Q. Where, in the plant, was that conversation held?

A. It was held in the lavatory.

Q. How long did that conversation last?

A. Well, I can't just exactly say the time; but about 15 or 20 minutes.

Q. Did Mr. Smith work in the same department with you?

A. No, Mr. Smith works in the electric weld.

Q. Was he speaking to you about becoming an organizer on his own time?

A. No, he wasn't. He was in our department for some reports and I happened to be the one who made the reports, and he talked to me at that time.

Q. You say "made the reports". Made the reports on what?

A. On some electrodes.

Q. And it was while you were speaking about business affecting the Republic Steel Company that you had a conversation for about 15 or 20 minutes about your becoming an organizer, is that correct?

A. No, I said that that was his business, to come into our plant, was to get the report on these electrodes. And after I handed him the reports, then he asked me if I wouldn't become one of the organizers.

Q. That is what I say in effect, I am asking you whether or not that was during the time that he was conducting business for the Republic Steel Company that he asked you to become an organizer; and you had a conversation of about 15 or 20 minutes?

A. Yes.

Q. Now, you didn't become an organizer, did you?

A. Yes, I did.

Q. You did?

A. Yes, I did.

Q. And that is not a paid organizer?

A. No, sir.

Q. Voluntary organizer?

A. Voluntarily.

Q. What are your duties as organizer for the Independent Federation?

A. Sir?

Q. What are your duties as organizer for the Independent Federation?

A. Well, I talk to the men and I also had the application cards, and I asked them to sign the application cards.

Q. Now, you talk with the men in the plant, is that correct?

A. Yes, sir.

Q. On company time?

A. On some company time, and some on my own.

Q. And do you request them to sign the card, to join the Federation, is that right?

A. Yes, sir.

Q. And during the time that you have asked men in the plant to sign the cards for the Independent Federation, have you ever been observed by any of your superiors?

A. No, sir.

Q. Do you mean that the time you have been spending, that is company time, in signing up men, has not been observed by the company?

A. No, sir.

Q. Not as far as you know, at any rate?

A. Not as far as I know.

Q. What are the dues in the Independent Federation?

A. The dues?

Q. That is correct?

A. 50 cents a month.

Q. And have you held any meetings?

A. Yes, sir, I have attended two.

Q. Where were those meetings held?

A. On Indianola Avenue.

Q. Now, Mr. J. L. Smith, who was temporary chairman, has testified in these proceedings that there was a meeting held for the purpose of combining the employees of the Representation Plan with the Independent Federation. Did you attend that meeting?

A. No, sir.

Q. Did you attend any meetings held in the plant, of the Independent Federation?

A. No, sir.

Q. Did you know that meetings were held by the Independent Federation in the plant?

A. None that I know of.

Q. Do you know about a rally being held at Carpenters' Field?

A. At Carpenters' Field?

Q. That is right.

A. Yes, sir, I knew about that.

Q. Did you attend that?

A. Yes, sir.

Q. That is the public property, isn't it?

A. Yes, sir.

Q. How long did that rally take place?

A. Well, I can't just exactly say, but I think it lasted about an hour and a half.

Q. And that was some time in the latter part of June?

A. No.

Q. Well, was it the early part of May?

A. Just let me think, please.

Q. Just go right ahead and take all the time you need.

A. It was after the strike was called.

Q. Do you recall how long after the strike was called?

A. No, sir, I can't say.

Q. Now, who spoke at the meeting at Carpenters' Field?

A. Well, the only name that I can tell is Mr. Cummings.

Q. Who is Mr. Cummings.

A. He is a man that worked for the Republic Steel Corporation in the machine shop.

Q. Did Mr. Smith speak at that meeting?

A. Mr. Smith?

Q. Yes.

A. I think he opened and closed the meeting; that is all that Mr. Smith talked. I don't quite remember.

Q. Do you remember how long that meeting lasted?

A. About an hour and a half.

Q. Is that the only person you can remember speaking at that meeting is Mr. Cummings?

A. There was two other men I think. I can't quite remember but I don't know their names.

Q. Do you know of any other meetings that were held on Republic property besides the meeting at Carpenters Field?

A. No, that is the only one.

Q. That was the meeting that was held after the strike was called?

A. After the strike was called.

Q. Were you a representative under the old Employees Representation Plan?

A. I was.

Q. Were you a representative elected in 1936?

A. 1936?

Q. Yes.

A. No.

Q. What term did you serve under the old Employees Representation Plan?

A. I served the first two years.

Q. That is, 1933 to 1934 and 1934 to 1935?

A. I can't tell you the exact date and the years but it was the first two years of the Representative Plan.

Q. Was yours a supervisory job in the mill?

A. You mean my job?

Q. Yes.

A. No.

Q. You were an office worker?

A. No, I am an analyst; I work for the laboratory.

Q. What laboratory is that?

A. That is the open hearth laboratory.

Q. What?

A. The open hearth laboratory.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

HUGH PRITCHARD

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Your name is Hugh Pritchard?

A. That is right.

Q. Where do you live?

A. At 22 Main Street, Girard.

Q. What is your business?

A. Analyst.

Q. Working for what company?

A. Republic Steel Corporation.

Q. How long have you worked for Republic Steel Corporation?

A. 25 years.

Q. Did you sign an application to return to work at the Youngstown plant of the Republic Steel Corporation after the strike was called?

A. Yes, sir.

Q. How did you come to sign that application to return to work?

A. I wanted to work.

Q. State whether or not you signed that application of your own free will.

A. I did.

MR. LAUTER: I object to the question and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken.

Q. State whether or not you were influenced in any manner whatsoever in the signing of the petition to return to work by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I didn't.

MR. LAUTER: I object to the question and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. Do you remember when the strike was called at Youngstown on May 26th, I think it was?

A. I do.

Q. State whether or not you wished to go out on strike at that time.

A. I didn't.

MR. LAUTER: Objection to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken from the record.

MR. DAY: Exception.

Q. Are you a member of the Independent Federation of Republic Employees at Youngstown, Ohio?

A. I am.

Q. Did you sign an application card for membership?

A. I did.

Q. State how you came to sign that application card for membership in that organization.

A. I was approached by a fellow worker.

MR. LAUTER: Object to the question and ask that the answer be stricken out. I am objecting to the question on the ground that it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. State whether or not you signed that application for membership in the Union of your own free will.

A. I did.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken from the record.

MR. DAY: Exception.

Q. State whether or not the signing of that application card for membership in the Independent Federation of Republic Employees you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I was not.

MR. DAY : That is all.

MR. LAUTER: I object to the question and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken from the record. Let the record show an exception.

MR. DAY: Exception.

MR. LAUTER: That is all.

MR. DAY: Mr. Lauter has suggested that we ought to show in what plant the three men who just have testified worked? They all worked in the Youngstown plant. May the record show that they all worked in the Youngstown plant?

TRIAL EXAMINER LINDSAY: The record may show that the three preceding witnesses worked in the Youngstown plant.

(Witness excused.)

SAM G. DeBLOIS

a witness called by and on behalf of the Respondent, being first duly sworn was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) State your name please?
A. Sam G. DeBlois.
Q. D-e-B-l-o-i-s?
A. Yes, sir.
Q. Where do you live, Mr. DeBlois?
A. 583 West Evergreen.
Q. And what is your business?
A. Carpenter.
Q. And where do you work?
A. Republic Steel Corporation.
Q. How long have you worked for Republic Steel?
A. One year.
Q. In the Youngstown plant?
A. Yes, sir.
Q. Did you sign a petition to return to work at the Youngstown plant of Republic after the strike was called?
A. Yes, sir.

MR. LAUTER: At this time, if you please, Mr. Trial Examiner, I should like to object to any further inquiry along this line that counsel for the Respondent Company. Counsel for the Respondent Company has, and is at this time, asking a series of question similar to the questions that were asked of a number of witnesses who were employed by the Republic Steel Corporation and at its Canton and Massillon plants. I wish the record to show that I have exactly the same objections to offer with respect to the continuation of witnesses testifying with respect to these questions here in Youngstown, as I did have at the time that I offered my objections and made my motions regarding the Canton and Massillon witnesses, and I respectfully request that I not be required to repeat all of the objections and motions which I made at that time; and counsel for the Company will agree that they apply to this set of witnesses.

MR. DAY: Counsel for the Respondent will be glad to agree that the motions and the grounds for the motions, and what counsel for the Board said at that time, may be considered as having been said at this time, and may so appear in the record.

TRIAL EXAMINER LINDSAY: The objection is sustained. Let the record show an exception. The objection is sustained for the same reason as it was when the same question came up in such hearing at Canton. Let the record show the reasons stated by Mr. Lauter and referred to as becoming a part of this particular phase of the case at Youngstown, is the reason for the sustaining of the objection and let the record show an exception.

MR. DAY: At this time the Respondent advises the Trial Examiner that there are a large number of witnesses, the exact number not as yet ascertained, and which we would like to put into the record at some future time when ascertained.

TRIAL EXAMINER LINDSAY: You mean the number?

MR. DAY: Yes, who are employees of the Respondent at its plant in Youngstown, whom the Respondent now seeks to call as witnesses and to whom the Respondent desires to propound questions heretofore propounded by the Respondent to the witnesses who have already testified, with relation to Youngstown, and such other questions that may be necessary in the individual cases to elicit the facts in connection with the conduct of these witnesses in the matter hereinbefore noted. There may be some witnesses called on one, and some on two and some on all of the questions.

MR. LAUTER: In view of the statement by Mr. Day, I want to renew my objections and renew the motions which were made in Canton and Massillon, and apply them here with respect to the witnesses that have been introduced and witnesses that Mr. Day proffers in connection with these questions in Youngstown.

TRIAL EXAMINER: The objection is sustained and let the ruling be the same here as it was at Canton, and let the record show an exception.

MR. DAY: At this time I would like, for the record, to show the following as to the witnesses, first, who have been called, and who worked in the Youngstown plant and whose evidence has been, in part excluded.

The Respondent represents to the Trial Examiner and offers to prove that these witnesses each and all signed the Back-to-Work Petitions and the application cards for membership in the Independent Federation of Republic Employees at Youngstown, of their own free will, and without being influenced in that regard to any extent whatsoever by the Respondent or any of its officers and agents, and that these witnesses did not wish to go on a strike at the time the strike was called, and the Respondent believes that if permitted these witnesses would so testify as to the above.

As I have already indicated, the Respondent now seeks to call as witnesses in this hearing a large number of employees of the Respondent at Youngstown, and to propound to said witnesses the questions heretofore propounded by the Respondent to the witnesses who have already testified, and such other questions as may be necessary in individual cases, to elicit the facts in connection with the conduct of these witnesses in the matters hereinbefore noted.

The Respondent, so far as Youngstown is concerned, may not propound to each and all of the witnesses all three questions, but may propound only one or two of those questions to an individual witness.

The Respondent represents to the Trial Examiner and offers to prove that these witnesses did not wish to go out on a strike but did wish to continue and work at the Youngstown plant of the respondent, signed Back-to-Work petition at Youngstown and application for membership in the Independent Federation of Republic Employees, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents. The respondent believes and represents to the Court that these witnesses, when interrogated as to some or all of the questions suggested, would so testify if permitted by the Trial Examiner.

And Respondent, in connection with its offer of the evidence of these additional witnesses, states that such evidence is admissible, relevant, competent, and material under the issues presented by the complaint and answer in this case, and the evidence introduced by the Labor Board; that the respondent has the right and should have the opportunity to offer this evidence as a part of its defense under the express provisions of the National Labor Act.

The Respondent also believes that this evidence is not cumulative in character and subject to objection upon that ground. That is all.

TRIAL EXAMINER LINDSAY: That is all, I guess. Did you want to cross examine?

MR. LAUTER: No.

HARRY E. KREY

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Harry E. Krey.

Q. K-r-e-y?

A. Yes, sir.

Q. Where do you live, Mr. Krey?

A. South Tod Avenue, Warren.

Q. What is your business?

A. Service man in the coke sales department.

Q. How long have you worked for the Republic Steel Corporation?

A. Approximately six years.

Q. Do you remember when the strike was called at Warren?

A. Yes, sir.

Q. State whether or not you wished to go out on strike.

A. No, sir.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken from the record. Let the record show an exception.

MR. DAY: Exception.

Q. Did you sign an application card for membership in the Employees Independent Association?

A. Yes, sir.

Q. State how you came to sign the application card for membership in that organization.

A. It appeared like a good idea for representation.

MR. LAUTER: I object to the question as incompetent and irrelevant and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. State whether or not you signed that application card for membership in the organization of your own free will.

A. I did.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken from the record.

Q. State whether or not anybody asked you to sign the application card for membership.

A. No, sir.

Q. State whether or not in the signing of the application card for membership in the Employees Independent Association at Warren, Ohio, you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I wasn't.

MR. DAY: That is all.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken from the record. Let the record show an exception.

MR. DAY: Exception.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Will you read that question and answer?

(The last question and answer were read.)

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Mr. Krey, you are an employee of the Republic Steel Corporation?

A. Yes.

MR. LAUTER: That is all.

(Witness excused.)

ALVIN BONAR

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Your name is?

A. Alvin Bonar.

Q. And you live in Warren?

A. Yes, sir.

Q. Where do you work?

A. Republic Steel Corporation.

Q. What plant?

A. Warren plant.

Q. Warren plant? What is your business?

A. I am a weighmaster there.

Q. How long have you worked for Republic?

A. Twelve years.

Q. Do you remember when the strike was called? At the Warren plant of Republic, on 26th of last May?

A. I do.

Q. State whether or not you wished to go out on a strike at that time?

A. I did not.

MR. LAUTER: Object to the question on the ground that it is incompetent, irrelevant and immaterial and move the answer be stricken out.

TRIAL EXAMINER LINDSAY: The objection is sustained, let the record show an exception.

Q. (By Mr. Day) Did you sign an application card for membership in the Employees' Independent Association at Warren?

A. I did.

Q. State how you came to sign that application card for membership?

A. I was approached by a fellow worker, a craneman there.

MR. LAUTER: Objection to the question on the grounds of incompetent, immaterial and irrelevant, and move the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is overruled, let the record show an exception.

Q. (By Mr. Day) State whether or not you signed your application for membership in the Employees' Independent Association of your own free will?

A. Yes, sir.

MR. LAUTER: Object to the question on the ground of being immaterial, incompetent and irrelevant, and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection is sustained, and let the record show an exception, and the answer is stricken.

Q. (By Mr. Day) State whether or not, in the signing of the application card for membership, in the Employees' Independent Association at Warren, you were influenced to any extent whatsoever by anything that was said or done by Republic Steel Corporation, or any of its officers or agents?

A. No, sir.

MR. LAUTER: Object to the question as being incompetent, irrelevant and immaterial, and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection is sustained, the answer is stricken, let the record show an exception.

MR. DAY: That is all.

MR. LAUTER: That is all.

(Witness excused.)

HENRY GERALD HANNA

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. By Mr. Day) State your name?

A. Henry Gerald Hanna.

Q. Where do you live?

A. 2415 Youngstown Road, Warren, Ohio.

Q. Where do you work?

A. Republic Steel.

Q. What plant?

A. Warren plant.

Q. Do you remember when the strike was called at the Warren plant of Republic on May 26th last?

A. I do.

Q. State whether or not you wished to go on strike?

A. I did not.

MR. LAUTER: Object to the question as being incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Objection sustained; let the record show an exception and the answer is stricken out.

Q. (By Mr. Day) Did you sign an application card for membership in the Employees' Independent Association at Warren?

A. I did.

Q. State how you came to sign the application card for membership in that Association?

A. I wanted representation.

MR. LAUTER: Just one second. If you please, Mr. Trial Examiner, at this time I should like to address the same objections and the same motions which I have made with respect to witnesses who have testified at Canton, Massillon and Youngstown, with respect to the same form questions which have been put to the witnesses there by Mr. Day, and I would like to have for the record, without re-stating each and every objection and motion, the same objections and motions with respect to witnesses who are testifying in respect to Warren, Ohio, and again I request that I not be asked to repeat all of the objections and motions with respect to the Warren witnesses and that counsel for the Company stipulate in respect to that fact.

MR. DAY: Well, we will be glad to agree that what counsel for the Labor Board wishes in the record in regard to that stated, may be there without repetition. Mr. Jones suggested that I, in talking about Warren plant, perhaps I should state Warren and Niles district.

MR. LAUTER: That is all right. There is no objection to that.

MR. DAY: May I have that correction then, as to these witnesses?

TRIAL EXAMINER LINDSAY: Yes, and the objection is sustained, and the ruling is the same, based on the same reasons made by counsel for the Board at Canton, Massillon and Youngstown.

MR. DAY: At this time the Respondent advises the Court that there are a large number of witnesses employees, of the Respondent Company, in the Warren-Niles district, whom the Respondent now seeks to call as witnesses, and to whom the Respondent desires to propound the questions heretofore propounded by respondent to the witnesses who have already testified with relation to the Warren-Niles district, and such other questions which may be necessary in individual cases to elicit the facts in connection with the conduct of these witnesses in the matters heretofore noted. The Respondent states to the Trial Examiner that some of the questions may be propounded to some of these witnesses and some to others not necessarily all to all witnesses, and we cannot state the number now of witnesses but we will do that with the Trial Examiner's permission when we make the necessary checking up and research.

MR. LAUTER: In view of Mr. Day's statement I want to renew my motions and objections to this line of inquiry, and say for the record at this time, in respect to the Warren and Niles district, the same objections and motions which I have addressed to the Canton, Massillon and Youngstown employees that have been on the stand, namely that it is incompetent, irrelevant and immaterial, is outside the scope of the issues in this case, that the testimony of great numbers of witnesses will only be accumulative.

TRIAL EXAMINER LINDSAY: Objection is sustained for the reason stated by counsel for the Board, and let the record show an exception.

MR. DAY: And I think, in sustaining Mr. Lauter's motion originally, you gave me an exception, is that right?

TRIAL EXAMINER LINDSAY: Oh, yes.

MR. DAY: Thank you.

TRIAL EXAMINER LINDSAY: At least I think I did. If I didn't—

MR. DAY: Well, if you didn't, we will put it in?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: As to the Warren and Niles district witnesses, as to the witnesses who have testified and whose evidence has been in part excluded, the respondent represents to the Trial Examiner, and offers to prove that these witnesses, each and all signed, the application cards for membership in the Independent—Employees Independent Association of their own free will without being influenced in that regard to any extent whatsoever by the Respondent or any of its officers and agents, and that each and all of these witnesses did not wish to go out on a strike when a strike was called.

Respondent believes that if permitted these witnesses would so testify as to the above.

As already indicated, the Respondent now seeks to call as witnesses in this hearing a large number of employees of the Respondent at its plant in the Warren and Niles district, and to propound to said witnesses all or some of the questions heretofore propounded by the Respondent to the witnesses who have already testified, and such other questions as may be necessary in individual cases to elicit the facts in connection with the conduct of these witnesses in the matters hereinbefore noted.

And the Respondent represents to the Trial Examiner and offers to prove that these witnesses did not want to go on a strike and the plants in the Warren and Niles district, and that they signed application cards for membership in the Employees Independent Association of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the Respondent, its officers and agents.

Respondent believes and represents to the Court that these witnesses would so testify if permitted by the Trial Examiner.

The Respondent, in connection with this offer of the evidence of these witnesses, states that this evidence is admissible, relevant, competent, and material under the issues presented by the complaint and answer in this case, and the evidence introduced by the Labor Board, and that the Respondent has a right and should have the opportunity to offer this evidence as a part of its defense, under the express provisions of the National Labor Relations Act. The Respondent also believes that this evidence is not cumulative in character and subject to objection upon that ground. That is all.

MR. DAY: Your Honor will remember that you have excluded the evidence of witnesses sought to be offered by the Respondent with relation to certain acts of alleged violence and alleged unlawful conduct on the part of the pickets and strikers and members of the C. I. O. We have in addition to the evidence of Captain Richmond who was called to the witness stand, the evidence of approximately 75 witnesses whom we wish to offer upon the same phase of the case: That is, the violence and unlawful conduct on the part of the pickets, strikers, and members of the C. I. O. I wish to state at this time that this evidence will fall within the ruling which the Trial Examiner has announced with relation to the evidence of Captain Richmond, and that none of the witnesses whom we seek to call will be able to identify as a participant in any of the alleged unlawful acts or conduct any person who is named in the complaint in this case as having been discriminated against.

We believe this evidence is admissible for the reasons which we have stated in the record, and —we have stated it quite fully—both Judge Smith and myself, last Saturday morning. We now ask at this time that we be permitted to offer these witnesses by placing them one at a time on the witness stand, and by propounding to them, one at a time, questions, and by making with relation to them individually and one at a time offers to prove—separate offers to prove if their evidence is excluded.

MR. LAUTER: If it please, Mr. Trial Examiner, in order that the testimony be clear upon the record, I wish to restate for the record the fact that the narrow construction placed both upon my objection to the type of testimony Mr. Day is seeking to offer and the ruling which you have made with respect to my objection places incorrectly in the record the position of the counsel for the Board.

It is not my intention to object to the testimony by Mr. Day showing acts of violence unless those acts of violence are connected up with the discriminatory discharge or discriminatory refusal to reinstate alleged in the complaint. Originally I stated in my objection to an offer of proof on the acts of violence that it be either connected up with someone specifically mentioned in the complaint or that it be connected up with one of the issues raised by the complaint in the answer in this case.

Now my original objection as I say was much broader than Mr. Day stated at that time, and I believe your ruling at that time was broader. So there may be no confusion at this point, and that the record may be clear, I am not objecting to the introduction of any acts of violence which are connected up with the issues in this case. Now what the issues in this case are are clear to Mr. Day, myself and the Trial Examiner.

TRIAL EXAMINER LINDSAY: Well, I will deny the right to make separate offers to prove on each individual witness—

MR. DAY: Will you note an exception?

TRIAL EXAMINER LINDSAY: The same purpose can be served by filing a general offer to prove covering all of the facts which you would attempt to show by individual offers of proof; and therefore there would be no purpose in taking up a considerable time on the individual offers of proof. The Respondent will be granted the right to file a general offer of proof covering those particular facts in issue as to violence.

MR. DAY: Then I take it, if the Court please, that the Respondent's request to put these witnesses on one at a time and to put to them the questions one at a time is denied by the Court. May we have an exception?

TRIAL EXAMINER LINDSAY: That is the ruling and you may have an exception.

MR. DAY: Now, we have in separation individual offers to prove as to a great many of these witnesses, which we are prepared shortly to submit to the Court. However, we of course reserving our exception to the ruling of the Court we will, just as soon as is practicable under all of the circumstances, prepare a general offer to prove.

We would like perhaps to hand in to the Court at the same time our individual offers.

TRIAL EXAMINER LINDSAY: Now, there is one other question. An application has been made for some subpoenas to be served here on witnesses at Youngstown. As yet I have not received those. However, my understanding is that they cover the same facts pertaining to—or rather cover the facts pertaining to the same issue, which is violence. And will it be agreeable, if those subpoenas are issued, to have those witnesses also appear at Cleveland? I think there are only four.

MR. DAY: This is outside of the record.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: Now, I ask Mr. Day if he is willing without objecting, to take the matter of issuing the subpoenas or serving them, rather, and having the witnesses come to Cleveland, if that is the thing decided upon?

MR. DAY: Certainly, I am willing to do it. I will raise no question about it.

MR. SMITH: Now, your Honor, there is an exhibit that was refused.

TRIAL EXAMINER LINDSAY: Yes, there is one exhibit that has not been received.

MR. SMITH: Yes.

TRIAL EXAMINER LINDSAY: And send that right along and I will rule on it the first thing when I get up there.

MR. SMITH: All right. (Referring to Respondent's Exhibit 36.) Now, there are three exhibits here that were introduced, that were rejected.

TRIAL EXAMINER LINDSAY: Yes.

MR. SMITH: Now, may these exhibits that were offered but rejected, be attached or taken in connection with the record, other than the official record, that we receive, showing the introduction, and that they were refused, and then have these connected with that record?

MR. LAUTER: I should think the Trial Examiner prefers it to be kept, as is customary, by counsel for the company. An unreceived offer is generally kept by the company.

TRIAL EXAMINER LINDSAY: Yes.

MR. SMITH: On this we want it, though, so that it will be that we are saving the question as to the introduction of them.

TRIAL EXAMINER LINDSAY: That is very easily saved. All you have to have on that matter is, the Reporters give you a copy of the offer, and the objection and the ruling on the objection, and that covers everything.

MR. SMITH: And then we retain the exhibits to be presented if we ever need them in connection with our part of the record.

TRIAL EXAMINER LINDSAY: That is right.

MR. DAY: Come up here.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: This hearing is now adjourned to Cleveland, to the County Courthouse in Cleveland until Thursday, the 23rd, at 10 o'clock a. m.

(Whereupon, at 8:50 o'clock p. m. September 21st, 1937, an adjournment was taken to 10 o'clock a. m. September 23rd, 1937.)

Court Room 3, Common Pleas Court,
Cuyahoga County, Cleveland, Ohio,
Thursday, September 23, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Veach & Young, Union Trust Building, Cleveland, Ohio;

Judge Chas. F. Smith and David E. Jones, Esq., of the firm of Messrs. Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio, appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

WILLIAM I. MANLEY

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) Your full name is William I. Manley?

A. That is right.

Q. Where do you live, Mr. Manley?

A. 125 LaBelle Avenue, Youngstown.

Q. How long have you resided in Youngstown?

A. Approximately all my life. I have been away twice for six months at two different times—working out of town.

Q. Where are you now employed?

A. Republic Steel Company at Youngstown.

Q. How many years have you been so employed?

A. With the exception of twice for two six-months periods since 1913.

Q. What position do you hold with the Republic Steel Corporation, Mr. Manley?

A. Superintendent of the mechanical department.

Q. Now, as superintendent of the mechanical department, how many men do you have under your control?

A. I have 1600 men.

Q. Will you just explain what your duties in this connection are; what departments are covered in your term of mechanical department?

A. The mechanical department covers all utilities such as pumps, boiler houses, hydraulic, the service water pumps, and the maintenance or crew or millwrights in the mills, and the operating engines in the mills, the locomotive engineers and firemen, and also all service shops except roll and electric shops.

Q. Is the foundry included within your department? The foundry I refer to is the one at which Thomas White was employed?

A. That is right.

Q. Do you know Thomas White?

A. Yes, I do.

Q. The testimony of the Labor Board in chief showed that the foundry was closed and discontinued on the 13th of March, 1937. Do you concur in that being the date on which it was closed?

A. That is right.

Q. I wish you would state the reason why the foundry was discontinued at that time, if you know?

A. There was a large back log of Bessemer orders; as I understand it they needed the Bessemer Steel very badly and in order to get more Bessemer Steel they had to get the iron from the blast furnaces.

In order to get the iron from the blast furnaces there was only one thing to do, was to shut the foundry down and take the iron up there, it paid to take the iron we had for Bessemer Steel, rather than buy Bessemer Steel from somebody else.

Q. Now, you may state whether or not there had been any conferences covering a period of say thirty or sixty days prior to the closing in which this matter was discussed and analyzed?

A. At least thirty days previous to the shut-down, there had been talk of how bad they needed iron at the Bessemer Plant, and they had went into it from every different angle.

MR. LAUTER: Object to the fact that they were having a talk and move it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken unless you tell what was actually done, what was actually said.

MR. SMITH: Well, your Honor, may I suggest on this—

TRIAL EXAMINER LINDSAY: Well, that is the ruling now, and Mr. Smith, remember this one thing: When I make a ruling that ruling is made and you may have an exception. It is not necessary to constantly go into argument because it is not going to do you any good. I sustained the objection. Now ask a question.

MR. SMITH: Well, let me ask this question of your Honor—

TRIAL EXAMINER LINDSAY: Now just a minute.

MR. SMITH: I would like to ask one thing.

TRIAL EXAMINER LINDSAY: Just examine your witness. There is not going to be any fighting.

MR. SMITH: I would like to know it for my own understanding as to how to proceed. I would like to ask if, when a question is objected to—

TRIAL EXAMINER LINDSAY: I have—Just a minute.

MR. SMITH: If I would have the opportunity to state my reason why I think it is competent before the Court rules?

TRIAL EXAMINER LINDSAY: Well, I have ruled it out. Now proceed with examining this witness.

Q. Now, what was the amount of iron, if you know, that would be provided for use at the Bessemer by the discontinuance of the foundry?

A. Would be close to 700 ton. Between six and seven hundred ton per month.

Q. Per month?

A. Yes.

Q. Had you had conferences—without saying what they were—had you had conferences with the operating heads of the Bessemer department in connection with the iron condition—their iron supply there?

A. Yes, sir.

Q. From what period of time would you say that those conferences occurred?

A. Something over 30 days.

Q. After having had these conferences in connection with the condition of their iron supply, you may state what the determination was in connection with the foundry.

A. To discontinue the foundry. That is the question you wanted there? The first thing on it was to try out—

TRIAL EXAMINER LINDSAY: Just a minute. Will you read that question and answer?

(The last question and answer were read.)

TRIAL EXAMINER LINDSAY: In the first place, the question is misleading in that he said that they had talks. Now he didn't specify who the people were with whom he talked and with whom he talked to.

MR. SMITH: I think if you will read the question back, your Honor will see the mistake. Will you read the previous question?

(The previous question was read.)

TRIAL EXAMINER LINDSAY: Now, read the answer.

(The last answer was read.)

TRIAL EXAMINER LINDSAY: I beg your pardon. Proceed.

Q. State whether or not the reasons you have given was the reasons for closing the foundry on March 13th.

A. Yes, sir, it was.

Q. It has been testified to by Mr. Thomas White that on March 12th, 1937, that he had been elected to an office in connection with one of the C. I. O. lodges of Republic, and that the foundry was closed down the following day on the 13th of March. I wish you would state whether or not at the time the determination was reached for closing down the foundry, and the order for closing it down, whether or not you knew he had been elected to such an office.

A. I did not know.

Q. And did the fact that Mr. White was elected to that office have anything to do in connection with the closing of the foundry?

(Discussion off the record.)

Q. And did the fact that Mr. White was elected to that office have anything to do in connection with the closing of the foundry? So far as you know?

A. No, it did not.

(The answer read by the Reporter.)

A. No, it did not.

TRIAL EXAMINER LINDSAY: Now, Mr. Smith and Mr. Day; and Mr. Lauter and Mr. Hoskins: Will you come up here just a minute. This is entirely off the record.

(Consultation held.)

Q. (By Mr. Smith) How many men were in the foundry prior to the discontinuance of it, Mr. Manley?

A. Fourteen men.

Q. Did you know or do you know now as to how many of these employees were members of the C. I. O.?

A. I did not at that time know. I have seen, since, the names of two of them in the paper, listed that way.

Q. Has the foundry reopened since the 13th of March?

A. It has not.

Q. Do you know how many of the 14 men who were employed there are now employed in the Republic?

A. I know that in our department we have two. There is two more working on steel casting boxes and the open hearth. My recollection is that I spoke to three or four others of men, there, but I am not positive about the number. I would say about seven or eight altogether.

Q. And these men were employed on other work than foundry work?

A. That is right.

Q. Did you have a talk with Mr. Thomas White at or about the time of the closing of the foundry?

A. In this way: I went over and talked to all the foundry men on shutting down the foundry; to Tom specifically, no.

Q. What did you say to them at the time you went over to them for a talk?

A. I told them I had bad news for them. That we were shutting down the foundry; and I went on and told them that they needed iron over to both Bessemer and the open hearth. That due to that cause, that they had put all the scrap they possibly could to keep the open hearth iron. The only way to keep Bessemer iron was to shut down the foundry.

Q. You explained that to them?

A. Yes, sir, I told them just that.

Q. Do you remember a man by the name of Charles B. Fagin?

A. I do.

Q. Where was he employed?

A. He was a second-class molder at the foundry.

Q. Now, before leaving Mr. White and taking up with Mr. Fagin, did Mr. White ever talk to you about employment in the plant after the discontinuance of this work?

A. Not Tom White. Brother James did; not Tom.

Q. Was Tom there at the time?

A. Tom White was standing under the bridge at the time James White came into the hall. He was coming into the office and James White and two other boys came into the office and talked to me.

Q. What was the procedure that would be necessary in connection with any of the employees of the foundry after the discontinuance, in connection with getting their work in the mill?

A. They would be transferred over by the employment office to the other jobs. That is—

Q. What, if anything, was necessary—what action was necessary to be taken by any such method in order to have that happen?

A. To either—there was two. Either to find out whether there was a job and have the foreman there to transfer him over, and then take it up to the employment office; have it recorded there; and the other one was to go to the employment office and find out if they knew of any job that he could be transferred to.

Q. Do you know of your own knowledge whether or not Mr. White did register at the employment office?

A. I do not know that of my own knowledge.

Q. Now, that Mr. Fagin, he was one of those same 14 men working in the foundry?

A. That is right.

Q. Did you have a conversation with Mr. Fagin at or shortly after the discontinuance of the foundry? You may answer that by yes or no.

A. Yes.

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Q. Now, do you recall when it was you had this conversation?

A. I would say probably two weeks afterwards.

Q. Do you remember where the conversation was held?

A. Yes, sir, at the coke works, right back of the coke works office.

Q. What was Mr. Fagin doing at the time you had that conference with him?

A. He was working in the labor department. They were putting in a foundation for a scales down there. He was right close to that job. He was working close to it. I believe on the job.

Q. Do you know of your own knowledge whether or not Mr. Fagin registered at the employment office?

A. No, I don't. Other than he must have, in order to have been re-employed.

MR. LAUTER: Object to what he must have. Move it be stricken from the record.

TRIAL EXAMINER LINDSAY: Just a minute, when an objection is made, just quit talking, please.

(The last question and answer read.)

TRIAL EXAMINER LINDSAY: All right with "No, I don't." From there on, strike it out. Let the record show an exception.

Q. (By Mr. Smith) Do you know of your own knowledge that after the foundry discontinued, that Mr. Fagin was working in the plant at other employment?

A. Yes, sir, I do.

Q. Do you know of your own knowledge what would have been necessary for him to have done, to have been so employed in connection with registering at the employment office?

A. It would be necessary to have a transfer put through the employment office, to go to the employment office and have a transfer made.

Q. Will you relate, please, the conference, the conversation you had with Mr. Fagin at the coke works, where he was so employed at this time you have designated?

A. Mr. Fagin stopped me and asked me for a crane job. I said, "Sure, I will give you a steam crane job, Charles, if you can run a steam crane." He said, "Oh, not a steam crane, an electric crane." "That is different," I said, "I don't have a thing to do with electric cranes. They don't come under me."

He says, "Who do they come under?" I says, "The electric department." "All right."

Q. Did you have a job at that time on a steam crane open?

A. Yes, sir, we had requisitions for steam crane men, or calls for steam crane men.

Q. Had you any knowledge either from Mr. Fagin telling you so or otherwise, as to him having had experience with cranes?

A. No.

Q. Or running a crane?

A. No, only that talk, there.

Q. Did he say anything to you in this conversation relative to any experience he had had in connection with operating cranes?

A. No, he didn't.

Q. He just asked you for a crane job?

A. Yes.

Q. Did you ever have any conversation with Mr. Fagin subsequent to that time?

A. Other than speaking "Hello" going through the mill yards, no.

Q. Do you know of your own knowledge anything in regard to whether or not Mr. Fagin was given a vacation with pay shortly subsequent to this time, or sometime subsequent to it?

A. I know that our list as sent down, he was listed for vacation. Because I had him listed from the foundr at that time.

Q. Do you know whether he took the vacation or not

A. Not positive. I understand he did, but not posi tive.

Q. In order for him to be on that list that was sen down, you say that would have to be done by you?

A. No, their length of service depended on the vaca tion, and that list was made up and sent on to us. Well, i he had of stayed in our department, we would have o. k' the slip for his vacation, according to that list.

Q. What would you say if he took a vacation, as t whether or not it would show continuous employment i the company up to the date of his vacation?

A. Absolutely.

MR. LAUTER: May I have the question read?

(The last question and answer was read by th Reporter.)

Q. The vacation you referred to would be with pay wouldn't it?

A. Yes, sir, that is the only vacation list we have ou there, would be with pay.

Q. Do you recall the date on which the strike wa called?

A. May 26th.

Q. Did you remain in the plant, Mr. Manley?

A. I did.

Q. Do you know the date on which the gates wer opened and men were permitted to come back, and that number did return to work?

A. June 25th, I believe.

Q. Yes. Now, subsequent to June 25th did you hav any conversation with Mr. Fagin?

A. No.

Q. Subsequent to June 25th did you have any con versation with Thomas White?

A. No.

Q. Do you know of your own knowledge as to where Thomas White is now employed, if employed?

A. I heard that he was at Columbiana; I don't know.

Q. You may state, Mr. Manley, as to whether or not there was any different treatment accorded to Mr. Thomas White or Mr. Charles B. Fagin, different from the same treatment all of the other employees that had been working in the foundry up to the time it was discontinued.

MR. LAUTER: I object—

Q. So far as you know?

MR. LAUTER: I object to it as calling for a conclusion. Let him state what treatment they did get, Fagin and White and the other employees, in the foundry, without stating a conclusion.

TRIAL EXAMINER LINDSAY: Yes. The objection is sustained. Let the record show an exception.

MR. SMITH: May we have an exception?

TRIAL EXAMINER LINDSAY: Let the record show an exception.

MR. SMITH: Your Honor, I would like to make an offer to prove in connection with that question.

TRIAL EXAMINER LINDSAY: Now, just a minute. You are asking questions that call for conclusions.

MR. DAY: So far as he knows.

MR. SMITH: I asked, so far as he knew.

TRIAL EXAMINER LINDSAY: I didn't catch that last part. Anyway, that calls for a conclusion. So as I understand the examination of the witness he asked what exactly transpired relative to the layoff or the discharge or whatever it is proved to be. All the facts leading up to that discharge or that layoff. Then the conclusion to be drawn from that set of facts is to be made by the deciding party which will be the National Labor Relations Board. That is the only thing on which anyone can make a deduction and that is on actual facts. What happened; what transpired. Now, here is another angle that puts possibly the Board's attorney in the position of being unable to cross-examine the man on the facts. The facts are necessary. On that particular question I might refuse you the right to make your offer to prove. However in doing so, I am not going to refuse you to examine the witness on bringing out all the facts relative to that discharge or the layoff.

MR. SMITH: Now, your Honor, I want to have the record show why we are offering it—

TRIAL EXAMINER LINDSAY: I am not through yet.

MR. SMITH: I beg your pardon.

TRIAL EXAMINER LINDSAY: This idea of making an offer to prove on certain things on the mental feeling of a man is not the proper thing to do. I am constantly having that thing coming up in your examination of witnesses. Now, facts are what we want here and not a conclusion of any witness on anything.

MR. SMITH: Here is a man, your Honor, who has been working since 1924 in charge of these departments. Now, I have asked him if, as far as he knows, whether any different treatment accorded to these two men was given other than that was accorded to the other employees there. A man who has had that length of experience in connection with it seems to me to be in a position to give a conclusion based upon his knowledge of the facts.

TRIAL EXAMINER LINDSAY: Now, Mr. Smith, I am again instructing you if you have any further questions on facts pertaining to that layoff or discharge, you may ask them, and let the witness testify as to what those facts are so that in any cross-examination at least a chance should be given to the Board's attorneys to make their cross-examination on those facts. Now, proceed. You may have an exception on my ruling.

MR. SMITH: I wish an exception to your ruling.

TRIAL EXAMINER LINDSAY: This is not a hearing which is going to be completely drawn out by these things.

MR. SMITH: I beg your pardon. I didn't hear you.

TRIAL EXAMINER LINDSAY: This is not a hearing which is going to be completely drawn out by those things. I am not refusing you any privilege which you may have here or which you may think you have in this hearing if you will continue the examination of your witness on facts. Now, you may proceed on facts. That is what we want.

MR. SMITH: Now, your Honor, I just want to—

TRIAL EXAMINER LINDSAY: You made your statement; now ask the question.

MR. SMITH: I want to say this in connection with the statement you have just made—

TRIAL EXAMINER LINDSAY: Now, just a minute. Off the record.

MR. SMITH: All right. Off the record.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Proceed with the examination of your witness or Mr. Day will take charge of the examination.

MR. SMITH: I just want to say—

TRIAL EXAMINER LINDSAY: Go ahead and ask the questions, if you have them. Ask him on facts.

MR. SMITH: Well, I just want to say this one further word and then I will quit.

TRIAL EXAMINER LINDSAY: Now, listen. I am not going to tolerate any more of this arguing, Mr. Smith, on any ruling that I made. Now, you either examine your witness or someone else will. Now, proceed.

Q. The Board's case in chief, Mr. Manley, refers to a meeting that was held in the machine shop, I believe, or at the planer table somewhere around the middle of April, he says. Do you recall a meeting being held there in which you spoke?

A. Not about the middle of April, no.

Q. Do you recall of speaking at a meeting at that location?

A. Yes, sir.

Q. Now, what do you say as to the date of that meeting?

A. During the first week in April; early in April.

Q. Early in April?

A. Yes, sir.

Q. Now, Mr. Walter says that at that meeting that you made these statements, that you had talked with Thomas White, the President of Republic Lodge, I believe it was called, and that you had told Thomas White that he had better watch out or words to that effect in his connection with the C. I. O.?

A. I never made any such statement.

Q. And further that you had said at that meeting that the officers of the C. I. O. would sell them out, and that Thomas White had told you he had his price and would sell out?

A. I never talked about C. I. O. to Tom White, and I never told anybody that I did.

Q. Did you ever have any conference with or conversation with Thomas White, in which you discussed the C. I. O. and Thomas White said to you this, or substantially this: That he had his price and would sell out?

A. No, sir, never.

Q. In this meeting which has been referred to, which you say is in the first week of April, Mr. Walters testified in substance that you had told the employees at that meeting in the talk that you made, that if they wanted to hold their job they should join the Employees Representative Plan?

A. No, sir, I never made such a statement.

Q. And further, in substance, that you threatened the employees with either discipline or discharge, if they belonged to the C. I. O.?

A. I never did.

Q. Now, referring to this same meeting in the planing mill, I wish you would state in substance what you talked about at that time?

A. There was a number of complaints at the time we knew of a good deal of going around and talking through the mills and we had had individuals, talked to individuals told them we didn't care—I told them that I didn't care what was done outside, but inside the plant I didn't want them running around visiting and talking, organizing, or whatever they wanted to call it. I wanted them, while they were on company property and on company time, to quit it. What was done on the outside, I did not care. And in this meeting I also told them that they didn't have to join anything to get or hold a job with Republic Steel Corporation.

Q. Now "anything"—what did you mean by the word "anything?"

A. Any society, C. I. O., representative plan or anything else. I just said that they did not have to join anything to get or to hold a job with Republic Steel. That is the way we were told.

Q. You may state whether or not you had heard or seen any printed matter or heard anyone saying that it was necessary, in connection with the C. I. O., to join it in order to hold their jobs and to protect their rights?

A. The feeling was very—seemed to be—

Q. No, answer my question. Did you hear—

MR. LAUTER: May I have the question read, please?

(The last question read by the Reporter.)

A. To protect their rights, yes. I seen printed matter to that effect.

Q. And in the discussion that you had there at the planer table, was it in explanation of the printed matter that you had seen, that you made the statement you have already testified to?

A. That is right.

MR. LAUTER: Well, that question is a little leading.

MR. SMITH: I know it is leading.

MR. LAUTER: I wish counsel would refrain from asking leading questions. It puts me in an embarrassing position of objecting to them.

MR. SMITH: All right, I will withdraw the question and ask it in another way.

Q. (By Mr. Smith) You have testified to seeing printed matter in which it stated that it was necessary, to protect their rights, to join the C. I. O. What was the nature of the printed matter that you saw? What was it?

A. Oh, there was considerable matter thrown off the bridge, there, every couple of days. And while I can't recall the exact wording of it, it was to the effect that the men had to get into the C. I. O. in order to get the necessary protection and a living wage out of the steel mills, and I can't be specific on that. That is a pretty hard question to answer. I had seen—We had had fellows come in and complain that they were being bothered through the mill and told this and that, that they had to join the C. I. O. or it was going to cost them $50, and the like of that.

And that is the real reason for the meeting.

Q. What do you mean "join the C. I. O. or it was going to cost them $50?"

A. They couldn't keep a job, or if they did keep a job after the strike was over or after Republic signed up, they would have to pay $50 to join.

Q. Those were the complaints that were made to you?

A. That is the complaints that we were getting, right along.

Q. Now, this printed matter that you refer to, was there anything on the printed matter that purported to show who was putting it out?

A. Yes, I don' remember the heading, whether it was S. W. O. C. or C. I. O., but it was headed up, all right. There was the names on it.

Q. It was one of those two organizations?

A. Yes, sir, that is right.

Q. Now, after having seen that printed matter and after having had these oral complaints, you may state what you did about it, if anything?

A. In two or three specific cases or more than that, probably a dozen specific cases we called men in and told them individually to quit bothering the men in the mill, that we would not stand for it on company time or company property. There had been so many complaints came in that I thought the thing to do was to get the men together, tell them in a body rather than waste my time and the individual's time, getting them into the office and talking to them.

Q. Did you do that?

A. I did.

Q. Well, was that the meeting that you are now referring to?

A. That is the meeting, yes, sir.

Q. Do you know a man by the name of Felix Valezissi?

A. Not by that name.

Q. Do you know a man by the name of Felix Varancick?

A. Yes, sir.

Q. Do you know whether or not it is the same man?

A. My understanding is that it is. I am fairly certain that it is.

Q. Were you in the courtroom at the time that this man under the name of—that I first spelled out—testified?

A. No, I was not in the courtroom at the time, but he speaks of the same job.

Q. The man is Felix--How do you call that Varancick?

A. Yes.

Q. As you have him on the company register?

A. That is right.

Q. Where was he employed?

A. Hydraulic pump man at the butt and lap tube mill.

Q. Now, the butt and lap refers to the method of making pipe, doesn't it?

A. That is right.

Q. And the word "butt" refers to where the sides of the pipe are put up in opposition to each other?

A. That is right.

Q. And the "lap" refers to where the one side of the pipe laps over the other side in the course of manufacture, is that correct?

A. Yes, sir.

Q. Did you have a talk with this Felix Varancick?

A. I did. I don't remember the exact date. About the 26th or 27th of June. Right in there.

Q. Where did you have that talk?

A. In my office at the open hearth plant.

Q. That was after the gates had been opened and a number of the men had returned to their employment?

A. That is right, that is right.

Q. Do you remember what time of the day it was?

A. I would say about 10—between 10 and 10:30, in there.

Q. Now, will you just tell the conversation you had with him?

A. Yes.

Q. The substance of it.

A. Felix came to the office. I asked him "What can I do for you?" He said, "How about my job?"

I said, "Where is that big club you had up at the tube mill gate there for a little while?" He said, "The police took it away."

I said, "What did you have that club for?" He said, "When I got that club I am not afraid of anybody."

I said, "Did you need to be afraid of anybody?" He said, "When I get that club I stop anybody."

So I said, "Well, we don't need you, Felix. If we need you we will send for you."

He said, "What am I going to do?" And I says, "I don't know what you are going to do, Felix. I can't help you a bit."

Q. Was that the substance of the conversation?

A. That is right.

Q. And did you ever talk with him at any other time since then?

A. No. I called the policemen in—they were accompanied to and from the gate by policemen—I called the policemen in and when the policemen came in I said, "How big a club was that club you had up there?" He says, "About so long."

Q. Indicating how long?

A. I would say about 30 inches.

Q. Anything further said?

A. I just told the policeman, I said, "Accompany this man back to the gate."

Q. Well now, on this did the policeman accompany them in just especially with this man or was that the practice?

A. That was the practice.

TRIAL EXAMINER LINDSAY: We will have a short recess.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. SMITH: Will you read that last question and answer?

(The last question and answer was read.)

Q. Do you know, Mr. Manley, of your own knowledge, a Mr. Varancick being on the picket line and carrying a club?

A. I do. I seen him.

Q. Will you describe the character of club you saw him carrying?

A. I would say the club is about 30 inches long and about two inches in diameter.

Q. About 30 inches long?

A. Yes, sir, about that.

Q. Where was he located?

A. At Stop 5 or the tube mill gate, as it is called.

Q. What was he doing there at that time?

A. Walking back and forth part of the time and part of the time standing. There was a crowd of fellows there.

TRIAL EXAMINER LINDSAY: Just a minute. I understand this is one of the men named in the complaint?

MR. SMITH: That is right. That is one of the witnesses who testified. He testified in this case in behalf of the Board.

TRIAL EXAMINER LINDSAY: At Youngstown?

MR. SMITH: At Youngstown hearing yes.

TRIAL EXAMINER LINDSAY: But he is not named in the complaint?

MR. SMITH: Well, I am not certain of that.

TRIAL EXAMINER LINDSAY: What was that name?

MR. SMITH: He gave his name at the hearing as Valezissi but the name that he bears on the Company's rolls is Felix Varancick. I think on that, your Honor, there were some changes of names that were made, foreign names in connection with the Social Security registration. It probably makes a difference in the spelling of the name. Shall I proceed?

TRIAL EXAMINER LINDSAY: Yes.

Q. You may state whether or not, Mr. Manley, if he was in the picket line there.

A. Yes.

Q. Do you remember a man by the name of George E. Jones? He formerly worked in your department?

A. Yes, sir, in the machine shop; apprentice boy.

Q. Did you have any conversation with him at any time after the strike was called or declared?

A. Yes, on the night of June 27th, I believe it was. The last Sunday night in June was when the conversation was had.

Q. Now, that was about two days after the mill was opened?

A. That is right.

Q. Now, you may state what that conversation was. Was it personal conversation or over the phone?

A. Over the phone.

Q. State what the conversation was as near as you can remember.

A. George called up and he said—my wife called me to the phone and said: "Somebody wants you on the phone—" and I went up to the phone and he said: "This is George. How about my job?" And I said: "George who?" He said: "George Jones." I said: "Well, George, you have no job up here; your job is down at the mill. I am doing all the mill business at the mill." I says: "You will have to go to the mill." He said: "All right." Or: "O.K." I don't remember just what he said but it was something to that effect.

Q. Did that conclude the conversation?

A. That concluded the conversation.

Q. Did you at any time later have a conversation with him?

A. On July 19th George Jones came to the plant.

Q. Did you have a conversation with him at that time?

A. Yes, sir.

Q. Just state—is your answer yes?

A. Yes.

Q. Now, you remember what time of day it was?

A. It was in the forenoon; probably 9:30 or around 12 o'clock; somewhere in that period.

Q. Where did that conversation take place?

A. At the foot of the steps at Center Street Bridge.

Q. How did you receive notice that he was there?

A. I was going across there and a policeman called me over and he said: "Here is a fellow that wants to talk to you." I went over and talked to George Jones.

Q. State as near as you can the conversation.

A. I said: "Hello." George said: "Hello." He said: "How about my job?" I said: "George, you have been so long in coming back, you will have to go to the employment office and register." I said: "You go up and register and I will talk to you later." That is the last I seen or heard of George Jones. Pardon me. I think I seen him on the street but not to talk to him.

Q. Do you know whether or not he did go and register?

A. To the best of my knowledge, he did not.

MR. SMITH: All right. You may cross-examine.

Cross Examination

Q. (By Mr. Lauter) The first conversation that you had with Mr. George Jones was over the telephone on June 27th, is that correct?

A. The last Sunday night in June, I would rather make that, but I think it was the 27th.

Q. Then you had another conversation on July 19th, is that correct?

A. That is right.

Q. During the conversation on July 19th you said to Mr. Jones: "You have been so long in coming back. Go to the employment office and register." Is that correct?

A. That is right..

Q. That is, as a new man?

A. No; we are not clear on how the registration was at that time or what the classification was. They had to come in through the employment office at that time. We weren't clear on what the standing would be. We knew they had to go and register. The first few days you took the men just as they came in. Then when we had enough men to run the mills, then it was a case of putting them back to work.

Q. You mean you weren't clear on July 19th when you said that he had been so long in coming back to work and that he should go to the employment office and register, that he was to go as a new man or not?

A. I don't think he was going to go as a new man.

Q. What do you mean when you say: "Go up and register?"

A. Just that going up and putting in his name. The men that wanted to go back to work.

Q. Did you make it clear to him that he was not going there as a new man?

A. I didn't say that he was. I would think when he was told to go up there and register—

Q. I am not asking you what you think.

A. No, I didn't state it either way. I just told him to go and register.

Q. Now, do you know whether or not a new man coming into the mill registers at the employment office?

A. I suppose they do.

Q. Well, don't you know?

A. Well, a man has to come through the employment office.

Q. Then you know.

A. To come in, yes.

Q. That is right, you know that new men come in there and register through the employment office. Now, when you transfer a man from one part of the mill to another, do they go register at the employment office?

A. Absolutely.

Q. They register?

A. Yes, sir, that is, they go up there and have the transfer fixed up, whatever you call it.

Q. That is right, the transfer is what I speak of?

A. Have the transfer registered at the employment office.

Q. And you weren't clear in your own mind when you told George Jones on July 19th to go and register, what the policy of the company was at that time, were you?

A. My thought was—

Q. I am not interested in your thought. I am interested in whether or not you knew what the policy was at that time?

A. No, not on that one.

Q. You couldn't, necessarily, instruct him as to what the policy was, could you?

A. Oh, I never asked.

Q. I am asking you whether or not you were in a position at that time to instruct George Jones as to the policy of the company with respect to registration?

A. No.

Q. Now, you said that as far as you know he has never registered, is that correct?

A. That is right, so far as I know.

Q. Did you check to find out whether or not he had registered?

A. I checked about a week later, around the 25th.

Q. How did you come to check on George Jones?

A. We might have had something in the shop.

Q. I am not asking you what you might. Tell me why you checked.

A. Oh, we were putting men in, that is the reason I checked George Jones.

Q. Putting men on where?

A. In the shops.

Q. Were you putting men on his particular job?

A. No, we haven't put anyone on that particular job. An apprentice boy's job can be done by a helper.

Q. Are you saying that no one has taken his job, that it is still there in the mill now?

A. No, I wouldn't say that, either.

Q. You haven't offered him his job back, have you?

A. What is that?

Q. You haven't made any offer to him of his job, have you?

A. No, sir.

Q. You are the superintendent of the mechanical department?

A. That is right.

Q. How many men do you have working under you?

A. About 1600 men.

Q. What was the date that the foundry shut down?

A. March 13th.

Q. 1937?

A. That is right.

Q. What do they do in the foundry? What is the nature of the work there?

A. Mostly stools.

Q. Mostly what?

A. Stools.

Q. Well, explain what you mean when you say "mostly stools."

A. In the open hearth and in the Bessemer plant, the hot metal is taken out and put in the forms of ingots. The engine has to be poured into an ingot mold. The steel is the base of that ingot mold. It is set on top of a car and the ingot mold is set down on top of it and then the metal is poured into it. The stool really forms the top of the car and also the bottom of the mold. The hot metal goes down on the stool.

Q. Is that what is made in the foundry that is closed down?

A. Yes, not entirely, but about 90 per cent of it. There are times when they run short and do some little odd casting that was done over there. The stool was the big item in the foundry.

Q. Now, what do you say was the reason for closing the foundry?

A. The need of the iron at the Bessemer plant.

Q. Now, do I state it correctly when I say that the Bessemer plant uses about 30,000 tons a month?

A. I would say somewhere around 30 to 35, but I am not positive of that.

Q. In that neighborhood, is that right?

A. What?

Q. In that neighborhood, is that right?

A. In that neighborhood, somewhere in there.

Q. And do I state it correctly when I say that the foundry used about 700 tons a month?

A. Yes.

Q. And do I understand that the reason for shutting the foundry was, you needed the 700 tons that were used in the foundry?

A. For the Bessemer.

Q. Or the open hearth?

A. That is right.

Q. Now, do you buy molds? The molds you have been referring to, or stools?

A. That is right.

Q. And were you buying them at the time that the foundry was in operation?

A. We had bought some previous to that, to try them out.

Q. For how long a period have you been buying these molds or stools?

A. That is a very hard question for me to answer, because I didn't order the stools.

Q. Do you know that they were ordered?

A. But I would say—

Q. Yes.

A. About sixty days, I think.

Q. Now, you know—how many men did you say were employed in the foundry?

A. 14, as I remember it.

Q. And some of those men are working in the plant?

A. Yes, sir, I have two of them.

Q. Were those men transferred from one job to another, in the plant?

A. Yes, sir. I got them transferred back to me from the labor department, as I needed men.

Q. You mean that they rehired as new men, also?

A. No, they were not rehired—I don't think that any of them was. At least one of these two that I am speaking of, in particular was not. He took a job on the labor gang right away. When I needed a millwright I got him transferred right over. I also got this other lad transferred over.

Q. How did you effect the transfer? Just describe how you could effect the transfer?

A. If I have a job open, can place a man, a fellow has come to me, asked me for a job, he would like to come over to a job, I would tell that fellow "I have got this job open at this time."

If he wants the job, all right. I write out—I have to transfer or rather call up his foreman and ask him to transfer that man over to me. I fill out the other half of it, give it to this man. He takes it to the employment office and they record it there and give him a new check number and send him back.

Q. Now, do you recall the names of the two men who were transferred to work under you?

A. Bailiff was one and Pecar, I believe, is the other name.

Q. Pecar?

A. Pecar, I think, is the other name. I won't be too positive on that last name, there, but the first one is Bailiff.

Q. Do you recall how soon after June 13th these men were transferred to work under you?

A. Pecar, or the last man, it was only within the last —oh, about three weeks ago. Bailiff, I can't recall just how long, I would say probably ten days, two weeks before the strike.

Q. Did you request the transfer of these men? Did you request the transfer of these men, Bailiff and Pecar?

A. How do you mean, "request"?

Q. Well, how did they happen to come to your department? Did they request that?

A. Oh, they asked for it.

Q. They came to you and asked you?

A. Yes, they asked me if I had a job open, to give them a job. Sure, that is right.

Q. Do you know whether or not they were employed since March 13th, 1937, at the plant?

A. Now, you mean whether they are working now?

Q. No, between March 13th, 1937, and the time that they went to work for you, in the case of Bailiff ten days or two weeks before the strike, and the case of Pecar—

A. Yes, Bailiff positively was.

Q. Let me finish my question. In the case of Pecar, about three weeks ago—Were they working in the plant?

A. Yes, oh, yes.

Q. Both of these men?

A. That is right.

Q. Do you know where they were working?

A. Bailiff, I know, was on the labor gang. I think Pecar was, also, on the labor gang.

Q. Now, do you know whether or not they have lost any employment at all after March 13th, 1937, or whether they went to work next day or next week?

A. Now, that is something I couldn't tell you. Bailiff was working on the labor gang very soon afterwards. I know that, but I don't know whether he lost any time or not.

Q. Now, when Bailiff came to you to ask you whether or not you had a job, while he was on the labor gang, you had a conversation with him about taking him on, is that orrect?

A. Well, if a man comes in and asks for a job, asks ou if you have something open and you have it. Sure ou talk to him.

Q. Do you recall the conversation you had with Bailff?

A. Bailiff—I can tell you along the general lines, yes.

Q. Yes, that is what—

A. A man asks me for a job, I ask him, I say "What can you do, what experience have you had?" He told me that he had worked around—I don't remember just what it was at this time, I can't say exactly what, but I said, "Well, I think you would fit in as a millwright." I says, "The first time I have something open, why I will get in touch with you."

Q. How many conversations did you have with Bailiff about taking him back?

A. Only one.

Q. And how soon after you had that conversation did you take him back?

A. Oh, probably a week to ten days. He was at the coke works, working the same as Fagin was.

Q. Well, you mean in the foundry?

A. What?

Q. You mean in the foundry?

MR. SMITH: No, he said—

A. No, I say at the coke works, on the labor gang. Coke works is where he talked to me.

Q. You knew at that time that Fagin was also working in the coke works on the labor gang?

A: That is right.

Q. At the time you took Bailiff to work with you, is that correct?

A That is right.

Q. And that is also true with respect to Pecar? Did Pecar?

A. Pecar never talked to me until—well, I will say this; Pecar never really talked to me. He talked to Bill Sponsler at the Haselton furnace. He is foreman over there at Haselton furnace. And Bill came to me and told me that Pecar wanted a transfer. "O. K., transfer him."

Q. You o. k'd the transfer?

A. That is right.

Q. Do you recall how soon after you o. k'd the transfer he came there to work with you?

A. Oh, he come over as quick as they can go to the employment office, get their number changed. I don't recall. If I o. k'd it at night, then he would be over the next day on one of the two turns.

Q. Did you have the conversation with Bailiff about his seniority in the foundry?

A. No.

Q. That is, he came and asked you for a job, he was working on the labor gang just the same as Tom White, just the same as Charlie Fagin was, and you made no inquiries about how long he had been in the plant, is that correct?

A. That is correct.

Q. You just took him back to work for you?

A. That is right.

Q. In your department?

A. That is right.

Q. And while these men were working in the labor gang in the coke plant, that was not your department, is that correct?

A. No. That is right.

Q. When you took back Bailiff, you made no inquiries about his standing as far as the number of years he had spent working in the plant?

A. That is right.

Q. Now, in effect that was a promotion, wasn't it? Taking him out of the labor gang and giving him a job you gave him? They get more money, don't they?

A. That is right.

Q. And you made no inquiries about whether or not Fagin was entitled to come up in order of seniority for a promotion, is that right?

A. Fagin never asked me except for a crane job.

Q. I am asking you—

MR. SMITH: Let him answer the question.

A. No.

Q. I am not asking you to tell what Fagin said. I am asking you to answer my question.

A. That is right.

Q. Which has nothing to do with Mr. Fagin?

A. All right.

MR. SMITH: You asked—

MR. LAUTER: Just read the question back.

TRIAL EXAMINER LINDSAY: This is cross examination.

MR. SMITH: I understand it is, but I want him to conduct it right.

TRIAL EXAMINER LINDSAY: Now, there is no argument, I suggest. Proceed with this case.

MR. LAUTER: Just read the question back.

(The question read by the Reporter as follows:

"Q. And you made no inquiries about whether or not Fagin was entitled to come up in order of seniority for a promotion, is that right?")

Q. (By Mr. Lauter) With any of the officials of the company, is that correct?

A. That is right.

Q. Now, two of the 14 men were working in your department, is that correct?

A. That is correct.

Q. Two of them were working in the steel castings?

A. That is right.

Q. Who were those two men?

A. I am not saying that right, either. These two that are in the steel foundry were in the steel foundry at that time. Billy Black, the fellow that was foreman, one of the 12 men, is over there in the steel foundry.

Q. You mean one of the 14 men?

A. The other fellows that was working. The men that were working on the open hearth, only just exactly what they are doing, I don't know; I am not sure.

Q. We are not getting a clear picture. Just start again.

A. All right.

Q. Out of the 14 men, 2 men were working in the department?

A. That is right.

Q. There were 2 men working there?

A. Up on the open hearth.

Q. On the open hearth?

A. Yes, sir.

Q. What are the names of those two?

A. I can't tell you names; I don't know the men by all of the names.

Q. And then there were seven or eight there working in the plant?

A. Yes, sir.

Q. Making a total of eight or nine?

A. That is right.

Q. Did you intend to discharge these men when you closed down the mill?

A. No.

Q. You intended to just close the foundry and lay them off?

A. That was done.

Q. They were laid off?

A. That is right.

Q. Is it customary to give a discharge slip to a man that is laid off?

A. A termination slip.

Q. A termination slip of employment?

A. It is marked "Layoff; foundry discontinued."

Q. And if that slip had discharge on it, then you didn't intend to lay them off?

A. What is that?

Q. If the slip that these men received had discharge on it, then you didn't intend to lay them off?

A. We had what we call a check on that slip.

Q. How do you fill out these slips that you are referring to?

A. You have "Discharge, layoff, and quit." You draw a line through two terms you are not using. In this case, was written "Layoff" there. It was written right across the face. "Foundry discontinued."

Q. It was written "Layoff, foundry discontinued."

A. Yes.

Q. Were there any indications on it there, on the three categories you have mentioned, as to whether or not they were quit, discharged or laid off?

A. Laid off.

Q. You are sure the other two were stricken out?

A. I seen that done. I don't think I slipped on that. I am sure; I am fairly certain of that.

Q. Now, let me get this straight. If you laid off the men in the foundry on this slip, two of those three categories would be stricken and they would be quit or discharged?

A. Either that or it was written across the front of it.

Q. And in the same way there would be only one indication. That they were not quit or discharged but laid off, is that correct?

A. That is right.

Q. When you refer to Foreman Black being in the steel foundry, what part of the plant is that? That is not the plant that was closed down?

A. That is across the river.

Q. The foundry we are considering in this case was closed?

A. Yes, sir.

Q. On this steel work?

A. Yes, sir.

Q. Were any in the foundry that was closed transferred to Mr. Black in the steel foundry?

A. In this way, yes. You want the explanation?

Q. Yes, just state whether or not they were working there.

A. It was really 16 men on the foundry payroll. Two of them had always been working at the open hearth steel foundry. The open hearth steel foundry was not shut down. The fellows that were over at the open hearth steel foundry are still on the open hearth steel payroll, I believe.

Q. Are any of the others at the steel foundry working now?

A. Only two of them. The steel foundry does not come under my supervision; I can't tell you.

Q. Now, seven or eight of the total number of men are working in jobs that were not on that labor gang?

A. When you say labor gang, I don't know about that.

Q. You don't know where they are working in the mill?

A. I know they are scattered around the open hearth but whether they are in the labor gang—certain jobs are on the labor gangs are taken care of by another man; what they are in, I don't know.

Q. But you know they are in the mill?

A. That is right. I have seen them there; out there.

Q. Do you know how many of these 14 men were members of the C. I. O.?

A. No, sir.

Q. Do you know now?

A. No, sir; I never asked a man.

Q. Do you know some of the men are C. I. O. men?

A. Undoubtedly.

Q. What is that?

A. Undoubtedly.

Q. How many at that time undoubtedly of the men were C. I. O. men?

A. The law of averages is all that I know. I never seen one of them with a button on or no one told me.

Q. What do you mean by the law of averages?

A. Well, it was practically in every department. I don't know about in every department but that we had C. I. O. men.

Q. Do you know how many there were in the foundry who were members of the C. I. O.?

A. No, I don't.

Q. Now, you testified that Mr. Fagin got a vacation. Do you know when that vacation started?

A. That thing I am not sure of but my understanding was from hearsay. I heard somebody say he got a vacation just a short time before the strike. I don't believe—I think that what I heard, I heard him saying himself.

Q. You don't know whether or not he had to make certain inquiries from the officers of the Company in order to get that vacation?

A. Any man that is transferred, no matter what, would probably have to do the same thing because I would have—I would have the list with his name. If I had a man transferred to me and he came to me and said: "Bill, I want to go on a vacation on the 1st of the month," I would look up the list and say: "If your name is not on here, you better check up with whom you were before; you better see about it with the superintendent with whom you were before because I don't know if your name is on the list," if he had been transferred to me in a recent time after the list was out.

Q. Now, you testified about a speech which you gave to a department meeting of the men near the planer table.

A. It was on the planer table.

Q. On the planer table?

A. Yes, sir.

Q. Now, will you go ahead and state as near as you can what you said at the planer table? First, tell when it was? What day? What month?

A. Now, I would say very early in April; most likely the first week in April.

Q. About what time of the day was that?

A. This particular time was about a quarter after 11 at night. Walters is a third-class man—a third trick man. The first trick I would say was at 11 o'clock of the night—

Q. You called the men together?

A. Yes, sir.

Q. Just state what was said, as near as you can tell.

A. I told the men that we didn't want the fellows going about in the plant bothering men about joining the C. I. O. or anything else. I told those fellows that all that was prohibited in the mill. That we weren't going to put up any longer with that. What they done outside, we didn't care. If they didn't—they didn't have to belong or to join anything to get a job in the Republic Steel. In the mill we don't want them to go along and have them wasting their time and somebody else's time.

Q. Up to that time, some time in the early part of April, had they been selling tickets in the plant for various affairs?

A. No; we don't allow them. There is always—there is always been a little bit of underhanded, but that is against the rule. I was always—I would say for the last five years there was a rule on it; for four or five years.

Q. Did you say anything about the Employees Representation Plan at the planer table meeting?

A. I may have; I wouldn't say positive; I may have.

Q. I am only interested in a general way, the substance of what you did and said at that time.

A. I believe I told them that I thought the Representation Plan had done a good deal for the fellows there; that things were better than they had been years previous. I believe I said that.

Q. What else did you say?

A. That is about all I remember on it. I didn't talk very long.

Q. How long did the meeting last?

A. The meeting lasted—from the time the meeting was called to the time it was over, I would say not exceeding 10 minutes; probably 8 minutes total.

Q. Where did you get the men from?

A. From all parts of the shop.

Q. You say you got them from all parts of the shop. How large a shop was it where you had the talk?

A. About 100 feet by 300, I believe.

Q. About how many men were there working?

A. It would be probably in the machine shop—the boiler shop, the water mill—in the machine shop about 25 men.

Q. How many in the boiler shop?

A. 8 or 10.

Q. You had then about these 25 men and with the 8 or 10 that would be 30 or 35?

A. Something like that.

Q. Were those all the men you addressed at that time?

A. That is right; now, wait. I may be wrong on that. There may have been men in the shop; in the blacksmith shop; probably 6 or 8 in the blacksmith shop. I imagine about 30 or 35 men.

Q. You spoke to those 30 or 35 men 8 or 10 minutes?

A. Maybe 5 minutes talk. Somewhere in there; I don't know what time.

Q. Let me understand you correctly. You said that you didn't want—that you spoke to these men about the Employees Representation Plan and that it was good enough for them?

A. No, I said that I thought the Employees Representative Plan—the same as I am telling you of my memory—

Q. That is all we want.

A. I thought that the Employees Representation Plan had done a lot for them; that I thought working conditions was a whole lot better than it had been before.

Q. Before the Employees Representation Plan?

A. That is right.

Q. That you didn't want the fellows running around and wasting time?

A. I didn't want them running around on Company time and on Company property. I put it that they were wasting time on the Company's time.

Q. You didn't mean that with respect to the Employees Representation Plan?

A. I meant that regarding anything.

Q. Didn't you know that they were running around organizing for the Employees Representation Plan on Company property and on Company time?

A. No, sir.

Q. You never knew that?

A. No, sir.

Q. Do you know of a single occasion?

A. I—

Q. Do you know of a single occasion?

MR. SMITH: Let him finish his answer.

MR. LAUTER: I asked him if he knows of a single occasion.

TRIAL EXAMINER LINDSAY: Now, listen. This is cross-examination, and Mr. Smith, you let him cross-examine that witness.

MR. SMITH: I am perfectly willing—

TRIAL EXAMINER LINDSAY: Proceed with the examination of this witness immediately.

MR. SMITH: All right.

TRIAL EXAMINER LINDSAY: That is all there is to it.

MR. SMITH: Why, your Honor—

TRIAL EXAMINER LINDSAY: Now, Mr. Smith, that is enough. Proceed.

MR. LAUTER: Will you read the question?

(The last question was read.)

A. Yes, I knew of the organizing of both sides and I went to them individually and stopped them in every case.

MR. LAUTER: Read that question to the witness.

(The last question was again read.)

Q. Do you know of a single occasion when there was organizing done by employees' representatives under the Employees Representation Plan and for it on Company property and on Company time?

A. When you say that do you mean by sight or by hearing?

Q. You may tell about it, what you know, either by sight or by hearing.

A. I never seen it done. I have heard it. The men have complained about C. I. O. organizing. One boy that I talked to about organizing in the mill—

Q. Just a second. I don't want to interrupt you until you tell what you know. I am just directing your attention at this time to what you know either because you have seen it or because you have heard about it, and confine your answer at this time to the Employees Representatives and the Employees Representation Plan. Now—

A. I heard rumors.

Q. To the effect that they were organizing?

A. Yes.

Q. On Company property, on company time?

A. Yes.

Q. Now, how often did you hear that they were?

A. What?

Q. How often did you hear that they were, Employees Representatives, spending company time organizing under the Plan?

A. Oh, that is pretty hard to answer. I would say a few times, but I can't tell you the number.

Q. You know when—

A. The last times, then, I heard them. Put it that way.

Q. Do you know whether—When the Plan started?

A. What?

Q. Do you know when the Employees Representation Plan started?

A. About three years, if I remember right. I would not be too specific on that; about three years.

Q. About June, 1933?

A. Something like that.

Q. Do you know how much company time has been spent holding elections, voting at those elections and primaries and final elections?

A. Oh, yes, yes. There has been a good bit of time.

Q. Do you know about all of the time spent by the Representatives attending meetings of the General Body and committee meetings?

A. Yes.

Q. Do you know that they were all paid for the time that they spent at those meetings?

A. Up to when?

Q. Well, you tell me, up to when they were paid?

A. I can't tell you the exact date, but I know that they haven't been of late.

Q. Do you know they were paid in '33, '34, '35 and '36 and '37—Part of '37 anyway?

A. That is right, that is right.

Q. For time that they spent on company property, on company time, attending meetings of the Employees Representation Plan?

A. I don't know about the attending of the meetings. I think that is right, but I am not positive of that, but I know when they were investigating the cases, yes.

Q. Do you know whether or not any parts of the mill were ever shut down in order to have meetings addressed by Employee Representatives?

A. Yes.

Q. How many times were different departments of the mill shut down?

A. Will you repeat the first part of that? I didn't hear it.

Q. Yes. I say, how many times do you recall that different departments of the mill were shut down in order to enable Employee Representatives to speak to the men?

A. Oh, I couldn't tell you that.

Q. Well, give me your approximation?

A. You give me any period, now, that you want to talk about, or do you want—

Q. You tell me what period that happened in, now?

A. Well, I know that at times during that time there was a wage increase or something where some of the fellows in one department had something up with their Representative and was taken care of, they would call the men together for some department and tell them just exactly the settlement on it, and go back to work, which was less lost time than to have gone around to each individual and tell them.

Q. Do you know about any meetings held directly before the strike?

A. Yes, now, on that you are saying "any meetings"? Not — you are not saying "any Representatives meetings"? You are saying "any meetings"?

Q. That is right, meetings in the plant.

A. That is right.

Q. We will come down to specific meetings, because I believe you know about them?

A. Right.

Q. You know that several departments were shut down in order to enable Employee Representatives to speak to the men about the subject of the Employees Representative Plan generally, prior to the strike?

A. No.

Q. Couple of weeks prior to the strike?

A. No, not as representatives, in that form, I don't, no.

Q. How did they speak to them? You say they did speak?

A. Oh, yes, yes.

Q. These Employee Representatives?

A. Yes.

Q. Spoke at meetings?

A. Yes, that is right.

Q. Which were held a couple of weeks before the strike took place?

A. Open meetings.

Q. Open meetings held on the company property, during company time?

A. That is right.

Q. And you are now saying they didn't speak in the capacity of Employee Representatives, is that what you are saying?

A. I say open meetings. I don't know, I didn't ask exactly what the capacity. I suppose they were as representatives. They were speaking as workmen, is the way I would say it.

Q. But they were employee representatives under the Plan?

A. That is right. That is right. That is right.

Q. There was a difference between them and other workingmen who were not Employee Representatives, isn't that true, in the sense that they were holding office?

A. Yes. They held an office. I don't know that there was any difference. Not in the treatment that we gave those men.

Q. Well, you permitted these Employee Representatives, men who held offices under the Plan, to address open meetings in the plant on the general subject of the Employees Representative Plan, prior to the strike?

A. No, no—Prior? How long prior?

Q. Couple of weeks or month?

A. No not the Representative Plan, I would not say, no.

Q. What, then, was it?

A. We tried to avoid a strike, keeping the men at work. Yes.

Q. Is that what Employee Representatives spoke to the men about?

A. That is the only thing that I ever gave any permission for. The only thing that I know of, from the request for the meeting.

Q. Let me see if I understand you correctly. You gave permission to Employee Representatives to address general meetings of the employees at the plant on company time, to avoid the strike?

A. You say "general meetings." That is in the mechanical department. That is our shops, all of the shops, maintenance shops there.

Q. That is right. Now, to whom did you give permission to hold these meetings?

A. Jack Jones was one of them.

Q. He is a Representative under the Plan?

A. That is right.

Q. Who else?

A. I am just trying to think. I don't know for sure, I don't believe I ever gave permission to anyone else. I am not sure of that, but I don't think I did.

Q. Now, you know there were a considerable number of those meetings in the plant, don't you?

A. In our department?

Q. That is right.

A. I don't think so. Two meetings since I remember.

Q. You remember at least two meetings?

A. Yes.

Q. Now, you have heard about meetings in other parts of the plant, is that correct?

A. Yes, in an offhand way. Yes. I don't—I am not interested in the—

Q. I am not interested in whether you are or are not interested, Mr. Manley. I am just interested in knowing whether or not it is not true, that you have heard that other parts of the plant also held meetings similar to the meetings that you have—

A. I imagine they had it.

Q. Well, do you know that? I am not interested in your imagination or speculation. You heard about it?

A. Well, I will say no, if you are asking me something I didn't see.

Q. I am asking you whether you heard about it.

A. Oh, I heard there were meetings, yes.

Q. Similar to the meetings these men held?

A. That is right.

Q. That is, Employee Representatives in other parts of the mill?

A. I don't know whether they were of Representatives. There was talks around. I know there was a lot of fellows interested in the movement. I know that.

Q. Now, the men that you gave permission to were Employee Representatives?

A. That is right.

Q. To whom else did you give permission to, besides Jack Jones?

A. I don't remember of giving permission to any of them. I can't offhand recall of any other place. The shops is what I have, and they are right there in a bunch.

Q. Did Mr. Jones come to your office and ask for permission?

A. I don't remember, whether it was the office or not.

It seems to me that it was between the office and the bridge, about 100 feet back from the bridge.

Q. Did you approach him or did he approach you?

A. That is right, that is right.

Q. How long did you have a conversation with him at that time?

TRIAL EXAMINER LINDSAY: There is a question was not answered.

(Question read by the Reporter.)

A. Oh, I think—I didn't get that. I am just a little bit deaf. I would rather you talk a little louder.

Q. I will try to speak as loudly as necessary.

A. All right.

Q. Did you approach him or did he approach you?

A. He approached me.

Q. State what the conversation was that you had with him at the time that he asked you to permit Employees Representatives to hold these meetings?

A. It went something like this: That there was a rumor out, which there had been at different times, that they were going to call a strike that night. And he asked about calling the fellows and talking to them that he thought that he could avoid the strike. I told him to go ahead. In fact, I had—I don't remember. I had one of the foremen, told him that it was all right to go up to meeting.

Q. You said what?

A. I had one of the foremen tell him to go ahead up to the meeting in the shops from the different parts of the shop.

MR. DAY: Are you going to take some time? It is near 12 o'clock.

MR. LAUTER: I will be a little while, so I will continue after lunch.

TRIAL EXAMINER LINDSAY: Do you want to adjourn now?

MR. LAUTER: Well, it is all right. Yes, I can finish after lunch.

TRIAL EXAMINER LINDSAY: All right, we will adjourn to 1:15.

(Thereupon, a recess was had until 1:15.)

After Recess

(Whereupon the hearing was resumed, pursuant to recess, at 1:30 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

WILLIAM I. MANLEY

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

Cross-Examination (Continued)

Q. (By Mr. Lauter) Mr. Manley, before the lunch recess you were testifying about certain meetings that were held in the plant, and that you had given permission to Jack Jones, a representative in the Employees Representation Plan, to hold those meetings?

A. That I gave Jack Jones permission—an Employees Representation man—to hold meetings to keep the men at work to avoid a strike; right.

Q. You testified that there were two that you know about?

A. Right.

Q. You testified about a foreman and some instructions that you gave him?

A. Right.

Q. Now, will you please repeat what you said about the foreman?

A. That I didn't tell the foreman that it was all right to hold a meeting in the department; to hold a meeting.

Q. You did instruct the foreman—

A. That is right.

Q. —to permit that meeting to be held?

A. That is right.

Q. Are those the remarks that you made before the lunch recess?

A. That is right.

Q. Do you know how long prior to the calling of the strike on May 26th these meetings were held?

A. Oh, practically up until the strike. I would say one of them probably—on this I am only guessing because I didn't stop them at any time, but one was probably a week, and the other one, maybe 10 days. It may have been three days or five days apart, but that is when the meetings were held.

Q. Do you know whether or not any foremen were present at those meetings?

A. I don't doubt—I don't doubt—Not in talking—I would not say positive that either the boiler shop or the night turn foreman in the shop were not in the same building, but I don't know that. I imagine that they were in the same building. They didn't talk.

Q. What is that?

A. They didn't talk.

Q. But they were present while these talks were being given, as far as you know?

A. I imagine they were, that would be my thought. I think they were.

Q. Now, I don't believe you have identified for the record the place where these two meetings took place, at least the two that you knew about?

A. In the open hearth—Well, it is the only machine shop that Republic has, at Youngstown.

Q. That is in the machine shop?

A. That is right, the open hearth machine shop is what it is called.

Q. And where was that meeting held?

A. In the open hearth machine shop, the whole group of shops is right there together. The machine shop is the big shop.

Q. Were both meetings held in the same place?

A. That is right.

Q Was permission granted for the second meeting, or did the same permission cover both meetings?

A. No, I—as I remember it, I gave permission twice.

Q. To the same man, Jack Jones?

A. To the same man, under practically the same circumstances. I don't just remember the exact way of his request, I know that it was by request—I remember the one time that he met me, as I remember it, right at the front of the office, between the office and the bridge is the way I remember it. Just where the second time was I can't just exactly say the circumstances of the second request.

Q. You don't remember the conversation that you had with Jack Jones or whoever asked you for permission the second time, is that correct?

A. No, I can't say the wording. I know that it was practically the same thing, but I can't say the wording.

Q. Do you know how long those meetings lasted?

A. No, I would say they were very short meetings, but that—

Q. Approximately how long?

A. Oh, I would say not over ten minutes. That is my thought in the matter.

Q. Do you know who else spoke at those meetings besides Employee Representatives?

A. I don't think that there was anyone else spoke.

Q. And they spoke at both of the meetings that you had in the plant?

A. That is right. The one man, I believe, is the only man that spoke. I believe Jack Jones is the only man that spoke.

Q. Were you present at either one of these meetings?

A. No, sir.

Q. Now, you stated before with respect to Mr. Fagin that a vacation is an indication of continuous employment?

A. That is right.

Q. Is that correct?

A. That is right. Depends upon the length—Now, I can't give you the exact wording on that, or the exact length of time. I believe it is three years entitles you to two days; and five years to four days; six years to five days, something like that, and it has to be—you have to be there over a year--I think it is three years to participate in the vacations at all.

Q. Well, that is something that they earn as a result of working in the plant a given number of years, as I understand?

A. That is right, that is right.

Q. And if a man is discharged, is that something that he gets?

A. No, sir. If there is a discharge he doesn't get that.

Q. Let me understand you. Are you saying that if a man who has worked there three years is entitled to a day or two or three days, and he has earned those three days by virtue of the fact that he has worked there three years, that if you should fire him he doesn't get those three days?

A. That is right, that is right.

Q. Is that the policy of the company?

A. He must be in the service of the company at the time he requests a vacation. If he does not request the vacation, then at Christmas time if he is still in the employment of the company he is paid the equivalent of his vacation time.

Q. I see. When you say "still in the employment of the company,'' in speaking about vacations, the fact that he was working in the labor gang, is employment sufficient to bring him within the right?

A. That is right.

Q. To get his vacation privilege, is that correct?

A. The department does not mean anything. That is right.

Q. It doesn't matter whether he has been demoted or promoted, once he is working there he has the right to ask for the vacation that he has earned?

A. That is right, that is right.

Q. And if any of the men who were off for some time or for couple of weeks came back and went to the labor gang, that didn't deprive them of their vacation privilege?

A. No.

Q. You mean sometimes for 30 days or for 60 days?

A. There have been cases of that kind and they have always put them back in the plant. I am not speaking now of the depression that we had when certain mills didn't work, and when the mills didn't work and the men came back they maintained their standing.

Q. If an employee ceases actual working for the Company, say for a period of 30 days, he may nevertheless be entitled to the rights of an employee for that privilege?

A. Unless he wasn't dropped for cause./

Q. Now, you testified about a man by the name of Varancick?

A. That is right.

Q. Felix Varancick?

A. That is right.

Q. You testified you think they are the same man, this Varancick and this Valezissi?

A. In my mind, I am certain they are, in speaking of the same job. I am certain they are the same man.

Q. You saw him at Stop 5 when he had a club in his hands?

A. Yes, sir.

Q. And he was refused reinstatement?

A. That is right.

Q. And that was because he carried a club in his hands?

A. I told him that I wouldn't take back any men that carried a club on the line in his hands.

Q. What is that?

A. Any man that carried a club on the line because his boy even told me that he carried a club on the line.

Q. You say his boy?

A. Is working in the mill for the Company. Stopped me and said that they had clubs on the line and said that his father had a club.

Q. You are referring to this man's boy?

A. That is right.

Q. This man's boy had a club in his hands, too?

A. The man's boy talked to me about the father. The boy works at the Electric Tube.

Q. The boy himself didn't have a club in his hand, did he?

A. Not that I know of.

Q. It is a general policy of the Company not to reinstate those who have clubs in their hands?

A. Out of the line.

Q. Is that correct?

A. Yes, sir.

Q. And you have yourself refused employment to a number of men who have carried clubs on the line?

A. That is right. When you have a number, not a large number, but the number I know of, that is right.

Q. In the case of refusing reinstatement to those men, have you in each case conferred with them about whether or not they did have clubs in their hands?

A. That is right.

Q. In each case did they admit it or deny it?

A. No, some of them admitted it and some of them denied it. Not all, just one that I know of, offhanded, really came and denied it.

Q. Let us concern ourselves with the case where the man carried a club in his hands came to you and denied it, as you say? What are the circumstances then?

A. He was seen by a number of people in an affidavit saying he had carried a club.

Q. You mean employees in the mill?

A. Yes, sir.

Q. Who made affidavits that they saw him on the picket line with a club in his hands?

A. That is right.

Q. Even though he carried a club, you refused him reinstatement?

A. Yes, sir. One I saw had a club—just a little stick—not a club.

Q. These men testified that he had a club?

A. Yes, sir.

Q. And they described the—

A. Not in all cases.

MR. DAY: You say testified or just what do you mean, Mr. Lauter?

MR. LAUTER: I am referring to his testimony. If I am using "testified," I don't mean that word.

Q. My question was: What was the nature of the description of this club given by the men who have given affidavits to you about the individual you have refused to re-employ because he had a club in his hands?

A. The affidavit on that particular man, and that was made out by myself. The affidavit was made and tells that the man admits that he had a club on the line.

Q. Did the men say he was whittling a stick?

A. No.

Q. That is the case of the man you didn't take back?

A. Yes, sir.

Q. That didn't mean that whoever says that he was carrying a club in his hands on the line, you didn't see whether or not he had a club in his hands, is that correct?

A. That is correct as far as I know.

Q. Has anyone given you an affidavit to the effect that he had a club in his hands?

A. Yes.

Q. It is on the basis of those affidavits that despite the denial of the man that he did have a club in his hands you refused to reinstate him?

A. That is right.

Q. And that has been your policy in handling those cases?

A. That is right.

Q. Now, is that a policy which you have devised yourself or have you gotten instructions from anyone else with respect to executing that policy?

A. That is a Company set-up about men who have had clubs on the picket line; those law-breakers on the going-back-to-work.

MR. LAUTER: I move that the comment that they were law-breakers be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That may be stricken.

Q. I am asking you whether or not those were instructions which you received about the employment, or the reinstatement rather, of the men who had clubs in their hands on the picket line.

A. Yes.

Q. Now, who gave you those instructions?

A. I won't be too specific about that; it was the management higher-ups. I am not sure whether it was the District Manager or the Assistant, Company policy.

Q. It was either the Assistant, Company policy, or the District Manager? What are their names?

A. Levantry and Ben Norton.

Q. Now, when did you have a conversation either with Mr. Levantry or Mr. Norton about the policy regarding the reinstatement?

A. Oh, I think it was the day before or the day the mill opened; somewhere in there. I won't be too specific about that.

Q. That is, before June 25th when the mill opened, is that correct?

A. Or the day it opened; it was around there some time.

Q. The time that the mill opened?

A. That is right.

Q. The strike took place on May 26th and the mill opened on the 25th of June?

A. That is right.

Q. A period of about a month, and prior to the opening of the mill you got instructions not to reinstate anybody whom you could identify, or from whom you had received affidavits concerning the carrying of clubs on the picket line, is that correct?

A. That is right.

Q. Now, did you have any instructions as to whether or not the men would be granted a hearing in which they would have an opportunity to state whether or not they did carry clubs?

A. I—

Q. Did you receive instructions of that nature?

A. Well, I would talk to everyone that did. In that particular line, when you say that all the men were told—

Q. Now, just understand my question. I am asking you whether or not you received instructions to give these men a hearing?

A. What do you mean, a hearing?

MR. LAUTER: I will withdraw my question.

Q. What instructions were given you by Mr. Levantry or Mr. Norton at the time you were given instructions about hiring these men that were carrying clubs on the picket line?

A. I was to tell the men exactly what was against them in the affidavits, and we were not to take them back to work or put them on.

Q. Is that what the instructions were?

A. That is right.

Q. That whatever was stated in the affidavit you were not putting them back to work?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. That if you had an affidavit that the men had carried clubs on the picket line, you would not put them back to work?

A. Yes, sir.

Q. There were or there were no instructions about a hearing? I am asking you about the instructions.

A. No, I wouldn't say there were instructions; I won't be too sure of that.

Q. That is, either Mr. Levantry or Mr. Norton, whoever gave you instructions, not to hire or reinstate men who were on the picket line carrying clubs, what were your instructions with respect ~~to~~ giving them a hearing as to whether or not they carried clubs?

A. You are asking me a question there that I am not sure about; I know I have told them to talk to Mr.—

Q. I am not asking about that; I am asking you about what instructions you got.

A. I may have had instructions.

Q. Didn't you testify a moment ago that you didn't have instructions?

A. I know that what I told the men—I am not certain whether I had instructions or I didn't; my opinion is that I didn't. I am telling you as close as I can the truth.

Q. I want you to do that.

A. I don't want to make positive statements if I am not certain.

Q. I am not asking you about that. Now, about how many affidavits have yon against the men carrying clubs on the picket line?

A. In 1600 men that we employ I would say a limit of possibly six. I haven't counted them but I think six.

Q. You have only six?

A. I think six is about right; not very many more. Ten would be a top—I think it is closer to six.

Q. In each one of those cases that you called the men in to talk to them—

A. The only one I talked to was as they came down.

Q. Is that after their jobs?

A. That is right. I didn't call any of the men back to work.

Q. Did you have your foreman or someone else go out and tell them to come back to work?

A. No.

Q. In no case?

A. No.

Q. When these men applied for reinstatement when they had work they were referred to you by the employment office?

A. Not in all cases; only when they came and asked to see me from the police officer, the policemen sent them to me. They asked to see Mr. Miller, and if I wasn't in, the policeman would tell them to wait, and he would come to me and say there was someone there and I would come over and talk to him.

Q. Now, out of the 1600 men working, how many of them are working in the mill?

A. I haven't checked that yet but I would say better than about 1500—close to 1520; somewhere along there.

Q. That is, only about 80 men who were formerly employed are now still out on strike?

A. That is right.

Q. I am not talking about new men that you have taken back.

A. No.

Q. I am talking about the old men or those who were out on strike.

A. That is right.

Q. Now, out of those 80 men how many did you say were carrying clubs?

A. Six.

Q. That is, there would be about 70 or 75 left?

A. That is right.

Q. Now, either out on strike or for some other reason, they haven't been granted re-employment?

A. That is right.

Q. Is that correct?

A. That is right.

Q. What other reasons are there for not granting re-employment, apart from carrying clubs?

A. Some of them never came around for a job. Some of them have other jobs.

Q. Is that the only reason?

A. Some of them have not come down until as late as last week, and their jobs have been filled up.

Q. You mean filled up with new men?

A. That is right. Sometimes in the labor department, sometimes new men.

Q. When you say "new men" you mean men who formerly did not work in the plant, is that correct?

A. That is right.

Q. As distinguished from men transferred from other departments?

A. I call them new men when they come as new men with the company.

Q. That is my question to you. Of the 1600 men working in your department, how many of them would you say were new men?

A. I don't think we are up to the full 1600. I don't think—Wait a minute, now let's be sure. I would say I probably got in the neighborhood of forty—maybe 42 men.

MR. DAY: He didn't say 1600 were working there now. I think you got that mixed up. I think he said there were 1600 that he thought there were about 1520—what was it?

THE WITNESS: Yes.

Q. (By Mr. Lauter) Out of the 1520 of them, I thought they were all old employees who had been either out on strike or while the mill was closed down, who had come back?

A. That is right.

Q. But apparently out of those 1520 there was at least 40 were brand-new men?

A. That is right.

Q. Who never worked in the plant before?

A. That is right.

Q. Been hired since the strike?

A. That is right.

Q. Now, some of these new men are occupying positions that were held by others who had been out on strike?

A. Oh, yes.

Q. And have you refused employment to any of the strikers who have come back for any other reasons besides the fact that they carried clubs?

A. Yes, interfering with the railroad. Sitting on the railroad track to stop cars from coming in and out of the plant. Throwing switches against the cars. Getting coal into our boiler house.

Q. In each case have you identified the individual who has done that?

A. Oh, yes, the biggest percentage of them will admit.

Q. I am asking you—

MR. LAUTER: I move that be stricken from the record.

MR. SMITH: Well—

TRIAL EXAMINER LINDSAY: Yes, that is stricken from the record.

Q. (By Mr. Lauter) I am asking you whether or not, in each case you have identified the men?

MR. SMITH: May we have an exception, your Honor?

TRIAL EXAMINER LINDSAY: Oh, yes, the answer may go out of the record. It is not responsive to the question.

MR. LAUTER: There is an automatic exception, as I understand it, to each overruling of an objection.

Q. (By Mr. Lauter) In each case have you identified the men?

A. How do you call identifying them?

Q. By name? Do you know who they are, who did it?

A. Oh, yes.

Q. You say affidavits of men who are working in the plant?

A. That is right.

Q. In each one of these cases have you given these men a hearing?

A. Yes, sir. That is—

Q. That is, if they come back to the plant asking for their jobs?

A. Depends upon what you call a hearing.

Q. Do you speak to them, tell them what they were charged with?

A. I haven't refused to speak to any man who has worked for me, who comes down. I never do.

Q. And you tell them about the fact that there was an affidavit?

A. Yes, sir.

Q. Stating that such an such an offense was charged against them?

A. That is right.

Q. Is that correct?

A. That is right.

Q. And if you were satisfied in your own mind that the man—the fact that the man denied that particular offense untruthfully, why you would not take him back on?

A. Yes, that is right. I have never had any other instructions than if they convinced me that the affidavit wasn't right—Wait, let's get this question, be sure I get it right. That if they convinced me that they were not out there, we would disregard the affidavit, is that your question you want answered?

Q. Well, you can answer that question if you construe it that way. Naturally, if you were convinced that these men had not committed the offense, you would not have refused to reinstate them, if they come in.

A. Oh, no.

Q. But if it was just a matter of the word of one employee against another—Wasn't it, in each case?

A. No. As far as the affidavit went, yes. As far as seeing the men out there, no. The fellows that made these affidavits—there was a lot of them—who thought there was some question, that the affidavits were never made out.

Q. I am asking you whether or not it is not true that in each case there was an affidavit of an employee that was filed with you?

A. What is that?

Q. I say, their affidavits were made out by the employees, weren't they?

A. Oh, yes. Yes.

Q. And in each case it would be the word of one employee against another?

A. Yes.

MR. DAY: If he denied it.

MR. LAUTER That's right.

Q. (By Mr. Lauter) Now, what was the policy in collecting these affidavits? Were any instructions given out by the company with respect to the filing of these affidavits with you? How did the men know that they were going to file affidavits?

A. They were all told to be on the lookout for all unlawful acts on the picket line and around the plant and all violence.

Q. When were they told that?

A. Shortly, I would say shortly after the first night, after we seen the way things went the first night.

Q. You mean after the strike had taken place?

A. As soon as it started.

Q. How did you notify the men to that effect?

A. What?

Q. How did you notify the men in your department? You had 1600 men?

A. Oh, these are made out by men who were in the plant. Mostly foremen.

Q. You mean these—By foremen?

A. A good deal of them. Yes. That is mostly what we had in the plant.

Q. I see. These affidavits—

A. You don't just shut a plant down, you know, and walk off. They don't shut down that way.

Q. Let me understand you perfectly clear. These are affidavits made out by men, mostly foremen, who were in the plant, after the strike was called?

A. That is right. That is right.

Q. And they were instructions given to these men, that were informed to watch out for various acts by employees on the picket line?

A. That is right.

Q. Now, did they also report to you about employees who did not carry clubs?

A. No.

Q. You mean they were told to watch out for clubs?

A. For clubs and violence.

Q. That is not the only thing they reported about, is that true?

A. That is all.

Q. Just that?

A. That is all.

Q. Did you have a form affidavit?

A. What?

Q. Did you have a form affidavit?

A. Yes—Now, wait a minute. What do you call a form affidavit?

Q. Mimeographed or typewritten form?

A. That is right. That is right. We had the clerks in our office make them out. He is a Notary Public.

Q. Did you issue instructions as to the nature of the forms to be used?

A. No, I didn't issue an order as to the form.

Q. Who gave you the forms that were to be given to these employees who remained in the plant, who were watching out for men carrying clubs? Who gave you those instructions?

A. There was no—

Q. These forms?

A. There was no forms given out. It is made out by—typewritten up by the clerk who was Notary Public in the office. I am speaking of my own men, now.

Q. My question to you before is whether or not they were form affidavits, whether or not they were typewritten affidavits?

A. They are typewritten, yes. That is, he would typewrite them. Typewritten right in the office. They were typewritten right in the office.

Q. Now, at the time these employees were told to watch out for unlawful acts, that is, the employees who remained in the mill, were they also told what would be considered unlawful acts?

A. Club carrying and violence.

Q. Well, state what they were told—Did you issue the instructions to them?

A. To my men, yes.

Q. Did you call them together?

A. No, I would not say that. But I may have talked to two or three of them at a time or one at a time, just as I met them. I couldn't call them together. They had different stations. You had pumps running, you had to keep them there.

Q. You would go to them and speak a word?

A. Either I or the assistant. I didn't speak to all of them.

Q. They were told to watch out for men carrying clubs and acts of violence?

A. That is right.

Q. Is that the way you put it to them?

A. I think it is. That is the sum and substance of it.

Q. And in some cases did they report acts which were not unlawful?

A. No. But there are some reports of where fellows calling them names, that they knew, that there was nothing done about it at all.

Q. You mean that wasn't put in the affidavit?

A. No, sir. No affidavit, or no action taken by Republic.

Q. Did you speak to the men who were filing the affidavits?

A. What?

Q. Did you speak to the men who were filing the affidavits with you? Did you confer with these men while they were making out the affidavit?

A. Oh, yes—No, not while they were making them out. I don't get just exactly what that question—Did I talk to them while they were making it? Just exactly what do you mean by that question, now?

Q. Well, the question is not very difficult, Mr. Manley. These men came into a room and they made up affidavits, didn't they?

A. That is right.

Q. Were you there at the time?

A. No.

Q. At no time?

A. I would not say that I may not have been—mostly I would be in the other room that I— there is two rooms a good deal like this room and this room. My office is there. The clerks is out in this office. I don't remember of a single instance where I was in the same room when the affidavit was made out, with the exception of the one affidavit that I am on.

Q. Did these men speak to you before they made out the affidavits?

A. Offhanded, I remember of one, came in and told me that he had seen a certain fellow with a club.

Q. You said "Go inside, make out an affidavit", is that right?

A. That is right.

Q. Now, the forty new men are there in your department, is that correct?

A. What is that?

Q. The forty men that you testify as being new men, are the forty men in your department?

A. About that number.

MR. LAUTER: That is all.

TRIAL EXAMINER LINDSAY: We will have a short recess.

(Recess taken.)

TRIAL EXAMINER LINDSAY: The hearing called to order.

JOHN H. GRAFT

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) Will you please state your full name?

A. John H. Graft.

Q. Where do you reside?

A. R. D. 4, Youngstown, Ohio; that is in Boardman.

Q. That is Boardman?

A. Boardman, Ohio. That is the mailing address—R. D. 4, Youngstown.

Q. How long have you lived in Youngstown?

A. Since March 16th, 1920.

Q. How are you employed?

A. By the Republic Steel Corporation.

Q. What position do you hold in the Republic Steel Corporation, Mr. Graft?

A. Electrical superintendent.

Q. Is that electrical superintendent?

A. Yes, sir.

Q. Just speak a little louder, please.

A. Electrical superintendent.

Q. Now, how many men do you have in your department, Mr. Graft?

A. Between six and seven hundred.

Q. In connection with your position, what are your duties?

A. Why, I supervise the engineers, construction, maintenance, and operation of the electrical equipment.

Q. Throughout the entire plant?

A. The Youngstown District, yes.

Q. The Youngstown District?

A. That is right.

Q. Do you remember a man by the name of Joseph Gallagher that formerly worked for the Republic Steel Corporation in your department?

A. Yes, sir.

Q. You knew him, did you?

A. Yes, sir.

Q. How many years have you known him?

A. Well, I knew him about, possibly 10 years ago when I was at the Sheet & Tube at the same time he was at the Sheet & Tube. I would say for the last year and a half.

Q. You have known him in this capacity for the Republic then for how long?

A. About a year and a half.

Q. During the time previous to that, from 1920, were you an employee of the Sheet & Tube Company?

A. That is right.

Q. Were your duties of a similar character with them?

A. Very much the same, yes.

Q. Now, Mr. Gallagher has testified in regard to an incident which he claims in his testimony occurred on the 6th of January. I wish you would tell the Court whether or not you remember the incident of the time that he was sent home from the plant.

A. Yes, sir, I do.

Q. Now, have you checked up to see whether or not the date of January 6th as given by Mr. Gallagher is the correct date of that occurrence?

A. Yes, I have checked and it is not January 6th.

Q. Now, will you tell the Court the date on which this matter did occur?

A. He last worked for us about 1 a. m. on January 23rd.

Q. January 23rd?

A. That is right.

Q. Was it at that time that the incident about which he testified occurred?

A. Yes, sir.

Q. How do you determine that, Mr. Graft?

A. From his clock card and the date in the time department record.

Q. You have checked both those, have you?

A. Yes, sir.

Q. Was there any special condition in connection with the mill that gives you any further check on it?

A. Yes, sir, there was a flood in the Mahoning Valley on the 21st, 22nd and 23rd of January.

Q. Now, Mr. Gallagher was employed in what capacity in your department?

A. As a motor inspector in the valve division.

Q. Now, what were his duties there in that department?

A. His duties were to maintain, inspect and service the electrical equipment of his particular area.

Q. I wish to refer you to a house that he spoke of as being the control house. I wish you would state to the Court whether or not his duties included an inspection of that particular house.

A. No, sir, it did not.

Q. How long had you been at the plant previous to the morning of January 23rd?

A. I had been there since 1 a. m. the previous day.

Q. That is 1 a. m. of January 23rd?

A. January 23rd, that is right.

Q. What was the turn or the hours at which Mr. Gallagher worked?

A. 11 to 7.

Q. What is that?

A. 11 p. m. to 7 a. m.

Q. Did you see him and have a conversation with him on the night of January 22nd or the morning of January 23rd?

A. January 22nd I talked to him about—about 2 a. m. on the 22nd and 5 a. m. on the 22nd.

Q. Now, where did you first see him about 2 a. m.?

A. He was in the No. 2 electric welding mill working on the control of a pipe kick for one when I first ran into him.

Q. Was there any conversation you had with him at that time in connection with the water conditions?

A. Yes, sir.

Q. Just state what that was.

A. I told Joe that there was—that we were expecting a flood. I didn't know how bad it was going to be, and that he had many motors in his location that were below what we expected the flood to be. He had many manholes there in his section, and that we were looking for the water to come that high; that was the water prediction that it was going to be that high. I asked him particularly to be especially on his toes. That was the conversation that I had. Another conversation later in the morning.

Q. About how long did that conversation last?

A. Probably three or four or five minutes at the most.

Q. Did he answer you in regard to that?

A. Yes, he said he understood the water was coming there and that everything was all right so far as he was concerned.

Q. Now, what effect would it have on the operations of this mill if the water got up to the motors that you have spoken of?

A. We would shut it down.

Q. And that would shut down about what area and how many?

A. Well, I imagine in the electric weld mill there is—

I am not positive of this figure, I imagine seven to eight hundred men in the electric weld mill proper.

On the morning of the 23rd we shut down our blast furnaces; we shut down our open hearth furnaces; shut down the blooming mill furnaces; and the plate mill, that was shut down on account of flood.

In the morning sometime around between midnight and 8 o'clock in the morning. I remember that 8 o'clock on the morning of the 23rd was the last heat taken out of the open hearth. We were worried about taking the last heat out of the open hearth.

Q. That was on account of the flood conditions that you were worrying about it?

A. That is right.

Q. Now, after talking with Mr. Gallagher around 2 o'clock on the morning of the 23rd, state briefly what you did before you had the second conversation?

A. I went on down, after I talked to him, I went on down through the mill west, and I met one of the mechanics and asked him if the water was giving him any trouble. I don't recall which one of the men—

Q. Now, instead of getting into the detail of what you talked with them, just give a brief outline of what you did?

A. I asked this mechanic if he was having any trouble and he said, "Yes," the water was coming up into the valve pits at No. 3 mill so I left him and on my way back Joe was still working on the same job in the same location and I said to Joe, "Where is this valve pit that they have? They are putting the steam syphon in?" And he said, "It is down between No. 2 and No. 3 mill." So I went down and looked at that to find out—found out the water was about 12 inches from the top of the valve stems in the pit, and on my way back I told Joe, I said, "Now, the water is up within about 12 inches of the top of the valves there, and still coming up, so you better watch your step."

This was probably—that is when I was in the mill, first session. Then I left that mill and went to the blast furnaces, open hearth.

Q. About how long did it ordinarily take you to cover your inspection of the territory covered by your jurisdiction?

A. You mean in the electric weld mill?

Q. No, that you covered on this particular night?

A. Well, a couple of hours

Q. Yes.

A. All depends on whether I run into trouble some place, and I would stay there and do what I could.

Q. Was there some particular section of the mill that was more in danger than others, from this flood?

A. That is right.

Q. Now, you speak about these motors. Just give the Court an idea of the location of them, as to how they would be affected with the water?

A. Well, for example, in the plate mill there is a tilt table that passes the steel back and forth between the rolls, and the motor and gearing that operates this table is probably eight feet below the yard level or floor level of the mill.

Q. Eight feet below?

A. That is right, and that means that that piece of equipment would be subject to damage eight feet before the motors at yard level.

Q. Before the water would reach the floor level?

A. That is right, and what happens, each one of these pits is naturally drained by the sewer, and as the river rises the water backs in from the sewer up into these holes and covers the motors. Hot beds, the same way, the same story is true on the hot beds.

Q. Would you say that the condition existing there on the night of the 22nd or day of the 23rd would amount to an emergency situation?

A. Oh, absolutely.

Q. And in discussing this with Mr. Gallagher did you in any way indicate that to him, so that he understood it?

A. Yes, sir.

Q. Then you say Mr. Gallagher's time of service expired at 7 o'clock on the morning of the 23rd?

A. That would have been his time to quit, yes.

Q. Yes.

A. But he only worked two hours on that turn.

Q. Then when would he be on duty again?

A. 11 o'clock the following night.

Q. Now, you remained in the mill throughout the 23rd, and did you pass down through the part of the mill where Mr. Gallagher should—would that come within the scope of his inspection, on the morning of the 23rd?

A. Morning of the 22nd I was in the mill at 5 a. m.

Q. Oh, yes, well, then the conversation that you are speaking of was at 5 o'clock on the morning of the 22nd, is that correct?

A. Yes, I had—On the night of the 22nd I had three conversations with Gallagher, two of which were about twenty minutes apart.

Q. Yes.

A. And that was between—sometime between 2—1:30 and 3 o'clock in the morning, I would judge. It would be about that. And the other one was, I should say, around 5 a. m., between 5 and 6 a. m. of the same day.

Q. That is, of the 22nd?

A. Yes, sir.

Q. Then his time to go on again would be at 11 o'clock on the night of the 23rd?

A. 22nd.

Q. The night of the 22nd?

A. That is right.

Q. That is right?

A. He would be in—

Q. You remained in there throughout the day of the 22nd?

A. That is right.

Q. Now, when did you next see Mr. Gallagher after seeing him at 5 o'clock on the morning of the 22nd?

A. About 15 minutes of 1:00 a. m. on the 23rd.

Q. Now, on that morning, prior to the time of seeing him, had you passed through the portion of the mill that was under his jurisdiction?

A. Yes, sir.

Q. Once or more than once?

A. Once.

Q. Did you see Mr. Gallagher?

A. No, sir.

Q. Did you make any inquiry as to your inspector in that department?

A. Yes, sir, I asked the superintendent of the electric weld mill if he had seen any of my men in that area. I met him in that particular area or down in the mill probably two or three hundred yards.

Q. What was his answer to you?

A. He said he hadn't.

Q. And then what did you do following that?

A. I went from there to the plate mill, the plate mill and my office.

Q. Where is this located? Where is your office located?

A. Center Street Bridge.

Q. How far from the Center Street Bridge was the territory that was under Mr. Gallagher's jurisdiction?

A. About five or six hundred yards.

Q. Did you receive any communication while you were at your office, relative to your inspector in that vicinity?

A. Yes, sir.

Q. And what was the information that you received?

A. Well, Walker called me and informed me that he thought he could tell me where some of my inspectors or at least one of them were.

Q. And what did you do, as a result?

A. I said, "I will be right over."

Q. And did you go over to this mill, that is the electric weld mill, is it?

A. Yes, sir.

Q. Now, when you got over there, will you just detail to the Court what you saw and did?

A. I met Mr. Walker at the end of the mill, when I came in. He knew which door we usually travelled through, and he was waiting for me. He said, "Come on, I think I can show you where one of your inspectors are," so we walked down through the mill, and we come to this control house.

Q. Where is that located, with reference to the electric weld mill?

A. It is probably 100 yards from the—100 yards from the east entrance of the mill. That is, the control house. And we walked down there together and he said, "I think there is some of your inspectors, or at least one of them in that shanty." So I walked over to the door and I said, "No, there is a lock on the door." And he said, "Go look at it." So there was a lock on the door, it was a padlock on the outside of the door.

Q. Was the padlock closed?

A. Yes, sir, the padlock—

Q. Or locked?

A. Yes, sir.

Q. Just state what your examination of that showed?

A. And when I examined it I found out that the pin through the hinge part of the padlock had been removed.

Q. And what effect did that have, in connection with opening or closing the door?

A. You could open the door with the lock in place, the padlock in place.

TRIAL EXAMINER LINDSAY: Just a minute, read the answer.

(Answer read by the Reporter.)

Q. Do you mean by that, Mr. Graft, that the padlock could remain locked and you could still open and close the door without unlocking the lock?

A. Yes, sir.

Q. Just describe what this hasp was, that you spoke of? Just describe to the court how that—

A. Well, it was an ordinary hasp and staple on it, with the hinge part slotted and the staple goes through the hinge. And the pin through the hinge had been removed, leaving one-half of the hinge in position, and locked through the staple with the locked padlock.

Q. And then where would the other half of this hasp be?

A. On the door.

Q. And it would be fastened to the door?

A. Yes, sir.

Q. Did you endeavor to get into the shanty?

A. I tried the door. I couldn't.

Q. You tried the door and couldn't get in?

A. Yes, sir.

Q. Now, just tell what you did following that?

A. I tried the door and couldn't get in. Mr. Walker says, "You can't get in there, it is locked on the inside." I tried the door again and determined that it was locked or hitched some way on the inside and I said to George, "Do you have any idea who is in there?" And he said, "No, I don't." I said, "Well, we will wait and see who is in there." So we waited around there probably 20 minutes, 30 minutes.

Q Now, I will ask you as to your—previous to this period, Mr. Graft, was there anybody in your office during the time you were there at the electrical welding mill?

A. That is, in my own office?

Q. Yes.

A. Yes, sir.

Q. If anybody in any part of the mill had needed you, how would they attempt to reach you?

A. When they wanted me in the electrical mill they would send somebody over for me.

Q. Would they call your office first?

A. Yes, sir.

Q. Did you leave any instructions at your office where you were going?

A. Yes, sir.

Q. Now, after waiting 20 minutes to a half an hour, around there, just state what you did?

A. Well, we waited around and looked to see if we could find out who was missing, and George suggested that we blow for the electrician.

Q. Well, what do you mean when you say blow?

A. That is, we have a signal there. In other words, five blows on the whistle means that an electrician is wanted for service. The man blowing would stand around the whistle until an electrician arrived.

Q. Is that the signal that was given then?

A. Yes, sir.

Q. About what distance from this control house that you speak of is the signal whistle?

A. About 30 feet.

Q. Where were you when the whistle was blown; this signal whistle?

A. Standing in front of the control house.

Q. Now, state what occurred after the whistle was blown.

A. Joe Gallagher came out of the control house.

Q. State what you observed in regard to him as to coming out.

A. Well, he was very much excited and he hardly had his eyes open; he was very sleepy, had the indications of a man that had been sound asleep—rubbing his eyes.

MR. LAUTER: I move that the remarks of the witness with respect to the man being sound asleep and rubbing his eyes be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That may be stricken.

MR. SMITH: That is, the testimony of being asleep or being sound asleep?

TRIAL EXAMINER LINDSAY: Yes.

Q. Just state what else you observed. Don't state your conclusion. Just state what you observed, Mr. Graft.

A. I observed that he didn't seem to understand what I was talking about.

MR. LAUTER: I move that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That is stricken.

Q. Well, say if you can your observations instead of conclusions. Just what you saw.

A. I saw him rubbing his eyes and looking around.

Q. Did you observe the condition of his eyes? Anything unusual about them?

A. Yes, sir, they were red and glassy.

Q. Now, did you have any conversation with him when he came out?

A. I did.

Q. Just state to the Court what the conversation was.

A. I said: "Joe, you cannot sleep on the job. I can't sleep on the job and neither can you. If you want to sleep, you will have to go home and get some sleep. It is bad enough to be penned up in that control house any time, let alone when we are facing a condition like we are tonight." He said: "What do you mean, that I am discharged?" I said: "No, I didn't say that you are discharged but you are of no use to me sleeping in that shanty." He said: "Well, that means I am discharged?" I said: "No, that doesn't mean that you are discharged. You go home and get some sleep." He said: "Well, I want my money." I said: "I didn't come out here to pay men off; I am not out here to pay men off. I am trying to do my job which you should be doing." I said: "You go home and get some sleep, and when I want you, I will send for you."

Q. Now, during this conversation I will ask you whether or not this part of the conversation took place in which you said: "Well, you have been sleeping in there, you can go ahead home until I send for you?" and that in his answer he said: "You have got to give me a better answer than that before I accept it." Did he make it?

A. No, sir, he didn't.

Q. And following did he say—or rather, did you say to him: "What other answer do you want?" And that he said to you: "I either want my money or I want a definite answer one way or the other?"

A. I didn't.

Q. And did you say to him: "Well, Joe, I know you could not have been sleeping if you answered the whistle so soon, but if I was you I would go ahead on home."

A. No, sir.

Q. Did you or didn't you say that?

A. I did not say that.

Q. And did he say to you: "No, I won't go home until I get a definite answer. That is, either getting my time or telling me when to come back. This thing of sending a man home until you send for him, it don't go with me. It might go with someone else." Did he say that?

A. No, sir.

Q. Did you have any further conversation with Mr. Gallagher subsequent to that time?

A. Yes, sir.

Q. When was that?

A. When he came after his pay.

Q. Do you remember when that was?

A. Not the exact date, no.

Q. What was the conversation you had with him when he came after his pay?

A. He was sitting in my clerk's office when I came in, being out in the mill, I said, "Hello, Johnny." He said: "How about my money?" I said: "All right if you want it." He said: "O. K., let us have it." So I turned around to the clerk and instructed him to make out on order for Joe's money, and he signed it, and that is the last I talked to Joe.

Q. Is that the extent of the conversation?

A. Yes, sir.

Q. Did he ever at any time say anything to you in regard to wanting to go back in the employ of the Company?

A. Never has.

Q. Have you had any conversation with him since the one you have just described when he came after his pay?

A. I have never seen him.

Q. I wish you would describe to the Court as nearly as you can what this control house is, the dimensions of it, and the purpose for which the control house is used.

A. The control house is located near two columns—building columns—on top between two mills—that is about 25 feet long—on top of this control house—

Q. About how wide?

A. About 20 inches wide.

Q. 20 inches wide?

A. 20 to 24 inches.

Q. What head room was there inside of it?

A. About 8 feet.

Q. All right. Go ahead.

A. On top of this control house is the contractor panel and the resistance, the rheostats, controlling the operation of the forming and the welding mill and the No. 2

mill. On one side of the power control house are instruments which tell about the speed, the current, of each individual drive, and where it is. On that control panel is located the controls. The back of the power house is purely a protective matter to protect any individual from coming in contact with the live electrical studs and to protect the instrument from coming in contact with them and causing a mechanical damage from anything bumping or falling against it. The house is completely closed up and locked and supposed to be locked.

Q. Did you go inside the control house after you had this conversation with Mr. Gallagher?

A. Yes, sir, I did.

Q. State what you discovered in there when you went into the control house.

A. I found—

Q. Other than the usual equipment, if anything?

A. I found two boards in there—three boards, as a matter of fact. One of them was resting on a nail keg, and one forming a back rest, and one forming a seat on the back, and this seat was a piece of insulating material that we used for covering the drinking water lines. On each side of this horizontal board there were three space heaters.

Q. Now, state what you mean by space heaters.

A. A space heater is a unit which we use for an electrical heating of cabs of the overhead traveling cranes.

Q. Was there a resistance coil arrangement?

A. It is an electrical heater.

Q. An electrical heater?

A. Yes, sir.

Q. Now, go ahead. What, if anything, else did you find?

A. I found a broken-down office chair in the opposite end of the room.

Q. From the location that you found these things in that you describe, what would you say that they were used for, if you know or can tell?

A. My observation was that they were used for a bed.

Q. Is this control house that you speak of a place where material of this character could or should be stored?

A. No. We have a rule prohibiting the storing of inflammable materials in the control house. We also have a rule that nothing that is not used in the operation of a piece of electrical equipment shall be in the control house.

Q. Had you at any time that you recall prior to this, had occasion to look into the control house before this night or morning?

A. I had been in there with the foreman of the district before, yes.

Q. Do you remember how long before this meeting that you had been in there?

A. Every three weeks.

Q. Was there any such—any of these utensils or boards or kegs or such matter in there at that time?

A. No, sir.

Q. Was this control house a place that was designed for or in which inspectors or others were permitted to loaf or rest?

A. No, sir.

Q. You may state whether or not there was any danger in connection with the use of the space heaters in this control house.

A. Yes, sir, there is a fire hazard.

Q. A fire hazard?

A. Yes, sir.

Q. Just state how you mean that.

A. Well, any inflammable material coming in contact with an exposed space heater will ignite the space heater. It is used in a protected metal case wherein the combustible material cannot come in any direct contact with the space heater. If anything does come in contact with it, it is highly inflammable.

Q. What would have been the nature, Mr. Graft, of the equipment that was in this house that you have described of a fire in there? What would have been the effect?

A. It would have shut the mill down.

Q. About how many men you say would have been affected by the shutting down of the mill that was controlled by this equipment in this control house?

A. On the mill proper and work incidental to the mill probably would have been 200 men.

Q. Had you any knowledge prior thereto of Mr. Gallagher's using this space for a resting place?

A. None whatever.

Q. Was there anything, Mr. Graft, in connection with the duties of Mr. Gallagher that would require him to be in this control house?

A. None whatever.

Q. Did he ever have a key to the control house?

A. I think not.

Q. That is, would it be necessary for him to have a key in connection with the performance of his duties?

A. No, sir.

Q. Was there anything further, Mr. Graft, in connection with the incident of Joseph Gallagher that I have not covered by the questions that I have asked you that you know of?

A. No, I believe not.

Q. Do you know a man by the name of Frank J. Stephens?

A. Yes, sir.

Q. Was he in your employ?

A. Yes, sir.

Q. In your department, and in what capacity?

A. Second lineman.

Q. I notice in the record in this case that he gave his name as Joseph Franklin Stephens. Do you know whether or not the person I have just asked you about, a Frank J. Stephens, is the same as Joseph Franklin Stephens?

A. Yes. I think they are one and the same.

Q. He calls attention in his testimony, Mr. Graft, to a talk that you made about two weeks before Easter, of this year. That is the only identification of the time that is made, or fixing of the time. Do you recall of having a meeting in—somewheres in your department, along about that time?

A. March. Yes. About the middle of March.

Q. Where was that meeting held, Mr. Graft?

A. In the line shop.

Q. And did you arrange for that meeting to be called?

A. Yes, sir.

Q. And did you make a talk at that meeting to your men?

A. I did.

Q. Now, he states that at the meeting, that you talked to them for an hour and thirty minutes. I wish you would state what you consider was the length of time of this meeting?

A. Twenty minutes.

Q. Now, he says that—about how many men would you say were there at the meeting?

A. 70 or 75.

Q. Will you just briefly state the substance of the talk that you made to the men at that time?

A. Well, I called this meeting at 3 o'clock in the afternoon, and I had my shop—my maintenance shop, the armature shop and line shop are under the same roof, and when I had these men gathered together, I told them the reason I had gathered them together was to state the Republic Steel Corporation's policy in regards to labor.

I told them that there had been many pamphlets, booklets circulated in the plant, talking among the men, and articles in the newspaper as to what one would have to do to hold his job with Republic Steel Corporation. I told them that I had called them together to tell them just exactly what the policy of the Republic Steel Corporation was, and that it was not necessary to join any organization regardless of what anybody said, to get their job or to hold their job.

If they did join, that was their business. That under the Representative Plan we had been able to make very good strides. That I thought that our policy was the best policy for the men, and that is the sum and substance of my talk on that day.

Q. Did you say this, or substantially this, in opening your meeting: "Men, I am here on behalf of the ones that are interested in themselves, and to try to convince the ones that are not interested in themselves, to be interested in themselves. This so-called or some damn-something-or-other union,"—Did you make any statement of that kind?

A. I did not.

Q. "I do not believe that any of you men are conscious, that will mess up with this stuff, this so-called stuff that they call the Big Chief John L. Lewis, he has never done anything for the laboring class of people. All he ever done, just run around and get the men's dollars." Did you say anything like that?

A. I did not.

Q. "That he won't do anything for you, that you won't have anything more than you have got. You will only just be out of a job or cause you a lot of trouble you can't get over it, you lose friends." Did you say anything like that to them?

A. No.

Q. Also he says that you said, "Of course, there are things going on that we have to keep to ourselves, that we can't explain out openly and explain to you men." Did you make any such statement?

A. No, sir.

Q. "I don't want any of this influence stuff spread around here for about this S. W. O. C., I don't want it and ain't going to have it." Did you say anything like that?

A. I did not.

Q. And so far as you can remember, is the statement you have made the substance of what you talked about at that meeting?

A. Yes, sir. That is correct.

Q. Did you have any other conversation with Mr. Stephens, or did you have any conversation with Mr. Stephens at any time in your office?

A. Yes, sir.

Q. Will you state how that came about and what it was about?

A. Yes, sir. His foreman informed me that Mr. Stephens wasn't satisfied with his job. He wasn't satisfied with the way he was being treated. That he wasn't willing to work. So I instructed the foreman to send him to my office.

He came to my office and I invited him to sit down and I asked him what—I understood that he was not satisfied with his job and he wasn't satisfied with the way we run the place around there and he wasn't satisfied with the way we did the jobs, and he was just dissatisfied in general. And I says, "I don't know what your trouble is, but maybe we can straighten it out."

I said, "I understand that from the pamphlets that is around the plant that you are one of the organizers of the C. I. O. I just wonder if that is influencing your opinion of your job. And if it is, why we have got to get together on it." And he said that he thought he should be paid the first lineman's rate. Well, he had been there, I think, about a year and a half and had been promoted once.

Q. What was the job, by the way, that he took when he first came there?

A. He was a helper, to begin with.

Q. And then he was promoted to what?

A. Second lineman.

Q. Yes.

A. And I said, "Frank, maybe you can't do the job." I says, "Did you ever talk to your foreman about it?"

He says, "No," he didn't think he ever had. "Well," I said, "don't you think it is a pretty good idea before you go around talking to everybody else, you ought to talk to your foreman, give him a little consideration?"

He said, "Well, he would not give me anything, anyhow." "Well," I says, "I am not so sure about that," I said, "I believe that you owe that to your foreman, he knows more about you than I do."

And so we talked in generalities and he told me the history of his life, and he had been down in the coal mines down in Kentucky some place, I don't know where; that he thought we—what they should was to organize. I says, "Well, that is perfectly all right, but you have to confine that to the outside. You cannot let that interfere with your job, or your feeling towards your job." And he said, "Well,"— he didn't know, that there had been a lot of things done for him by organization."

"Well," I said, "you and I will have no argument on that score." I says, "You have got to do your job." I said, "You can't be dissatisfied and raising Cain with the men that is working with you and having the foremen complain to me about you when—just simply because you don't like the way we do things."

So we talked about generalities some more and I said—well, he still insisted he ought to be getting first rate, that seemed to be his main ambition.

"Well," I says, "I will tell you what you do. You go on back on the job, I will talk to your foreman, and if you can qualify for first class man, I will see that you get first class rates," and I said, "that is up to your foreman."

And in parting, I told him, I says, "Now, I want you to go back on your job and go back on it feeling better at heart than you come off of it here to talk to me, because we are all here to do the job, we have got certain things to do when we come here, and we can't let our outside feelings interfere with what we do inside of the plant, where we make our bread and butter," and I says, "go on back on the job and we will see if we can't get along better," and that was the end of the conversation that we had. At least the sum and substance of what we talked, other than the fact that he told me a lot about where he worked, which is of no consequence; what he had done, what his father had done and so on.

Q. Did you, in connection with this, say anything to him in connection with the membership in the C. I. O.?

A. His membership?

Q. Or his membership in the—official position in it?

A. Yes, I told him that I understood that he was one of the organizers of the C.I.O.

Q. Yes.

A. I said that to him, yes, sir.

Q. Yes; well, did you say anything to him attending to dissuade him from those activities?

A. No, sir.

Q. Did you talk to his foreman in regard to his qualifications?

A. I did.

Q. And what report did you get from the foreman as to that?

A. His foreman told me that Frank was having a hard time making the grade on a second-rate job. That was the words he used.

Q. And was there anything further done about it then?

A. No, sir.

Q. You say you did tell him that you would investigate it and that if he was qualified for the first line, that you would give it to him?

A. That is right.

Q. What, if anything, was said in regard to solicitation of membership in any union on company time and property?

A. I told him he could not solicit—solicit memberships on company property or on company time. I told him that.

Q. Did you have any further conversation with Mr. Stephens subsequent to that? Subsequent to the strike?

A. Yes, I talked to him once on the telephone.

Q. Do you remember when that was?

A. I remember it was August. It was—very late in July or early in August.

Q. What was that conversation, Mr. Graft?

A. He said—He says, "This is Frank Stephens."

Q. He said what?

A. He said, "This is Frank Stephens." He gave me his name. I said, "Yes." He said, "How about my job, Johnny?" I says, "Frank, I have no job for you." I said, "Where have you been?" He said, "Oh, I have been down home." I says, "Well, Frank, we have no job. Construction work is fairly well finished, and we won't want you."

Q. Was he working on construction work, Mr. Graft?

A. Yes, sir.

Q. And what was the situation as to the amount of construction work having decreased during this period?

A. Well, the majority of the construction work had been cleaned up.

Q. In connection with your work of that character, does the men that you have in your department on the construction work fluctuate at different times?

A. Yes, sir.

Q. As to being larger or smaller?

A. Yes, sir.

Q. Did you say to him in this conversation this, or substantially this: "No, you have no job. None of you guys out there have no job." "You needn't hang around here, you might as well go somewhere else and get a job."

A. No, sir.

Q. Did you say that to him?

A. No, sir.

Q. Mr. Graft, do you know of a man that you had in your employ by the name of James Clarence Farner?

A. Yes, sir.

Q. Where was he employed?

A. Line department.

Q. In what capacity?

A. Welder.

Q. How many welders were you using there?

A. One welder and one shield maker.

Q. Now, what is the difference? Does a shield maker do welding also?

A. Yes, sir, there is very little difference in the job other than the fact that the shield makers possibly do the measuring of jobs and lay them out and do the welding, whereas a welder is one that is required to do shop work; that is, laid out work for him.

Q. Does that require more skill in connection with a shield maker?

A. Yes, sir.

Q. Was Mr. Farner also engaged in construction work?

A. Yes, sir.

Q. Do you remember having a conversation with Mr. Farner in your office?

A. I do.

Q. Just state how that came about. Give the substance as near as you can of the conversation you had with him.

A. I told the foreman to send him in, that I wanted to talk to him, and he came in my office and I asked him to sit down. I said: "Red, you are not on the job." He said: "What do you mean?" I said: "I have seen you three different times this week off the job, not working." I said: "Since you have become a member, an organizer of the C. I. O., that you have been letting that activity interfere in your work. We can't permit it." He had worked for me previously at the Youngstown Sheet & Tube Company. He was a very—he is a very hard man to get a day's work out of. His foreman of the shop had, a week previously, complained about this man being in his shop talking to his workmen and keeping them away from work. I told him he would have to stay on the job and not solicit—that he could not solicit members on Company property and on Company time, and furthermore he would have to do a day's work. I further had a talk with him about the fact that he had kept us very busy trying to get him a two-weeks vacation and also because of the fact that he had a garnishee. I told him he could not have a two-weeks pay because there were a few special matters that needed tending. I asked him why he couldn't be a real fellow. I said: "You have worked for us before and we have had the same trouble." I said: "Now, you are doing less work than ever. I want you to go out and get to town." That was the sum and substance of our talk.

Q. Now, he speaks of various conferences that he had with you in your office. You may state if there were other conferences that you recall. What those were about?

A. There were other conferences about garnishees. He wanted us to see what I could do to stop a garnishee.

Q. That is, his wages would be attached or garnisheed by creditors, or notice served on the Company, is that correct?

A. That is right. There was a fellow in town named

Lyons, a real estate man in the City of Struthers. That is below Youngstown about five miles. He was pressing Red very hard for money. I happened to know Arthur Lyons very well. He wanted us to see what I could do for him, and then there was some credit given Red downtown where he had bought some clothing. He was getting it on a dollar down and a dollar when they got you.

Q. The other conferences that you had with him other than the one you have related when you talked to him about his work, were those conferences as to garnishees, attachments, or was there some other matters discussed at any other time at conferences that you had with him?

TRIAL EXAMINER LINDSAY: Now, just a minute. Is this man testifying, or has he testified about any attachment?

MR. SMITH: He said garnishee.

Q. That is not attachment. It may be and it may not be.

MR. SMITH: Well, may I ask him—

TRIAL EXAMINER LINDSAY: It may be two separate and distinct actions.

MR. SMITH: Well—

TRIAL EXAMINER LINDSAY: Just strike out the word "attachment."

MR. SMITH: Yes.

Q. Well, garnishee then, as to his creditors. Did you have any conferences other than the one you have related as to these garnishees?

A. No, sir.

Q. Did you at the conferences you have related or at any other conferences discussed with him as to what good friends that you and he had been over a period of years and ask him why he joined the C. I. O.?

A. I didn't.

Q. Did you say then or in substance this: "Why, he joined the C. I. O., and why he wanted to get himself mixed up with a bunch of cheap Bolsheviks," and did he say: "I don't know if they are, John," and did you say to him: "If I give you definite proof, would you believe it?" And he said: "I would have no reason not to." Did you have such a conversation with him?

A. No, I didn't.

Q. Did you say to him then or substantially this: "That if you could prove to him—" referring to the C. I. O. —that they were covered by foreign powers if he would believe it? And that he said to you: "I would have to believe it if you prove it to me." Did he say: "I would have to." Did you have such a conversation with him?

A. I did not.

Q. Did you have a conversation in which you were stating to him what your duties were as an officer of the Company in connection with the C. I. O. and make this statement or substantially this, that he told you that he had been handed down from the shop, and that if it was at all possible that the superintendent and the heads of each department were to head this thing off and save all our necks?

A. No, I didn't.

Q. Do you remember holding an open meeting in the safety room at around 2:30 on some day shortly before the strike, a couple of weeks before Easter?

A. I held a meeting. The thing that was referred to by Stevens?

Q. Yes.

A. Yes.

Q. Now, at that meeting then, was this said: "Well, we are having a little trouble with the organizer." Referring to the C. I. O. organizer, "Running through the plant, and I don't think it is any good for us" and went ahead trying to sell the idea of the Representation Plan, and said that all that John Lewis was trying to do was to get a closed shop and the check-off system, and explained that it was no good for us. To make any statement like that?

A. I talked about the Representative Plan, yes.

Q. Did you make those other statements?

A. I said nothing about John Lewis.

Q. Do you remember after the strike was over of having a conversation with this man?

A. A telephone conversation, yes.

Q. Do you know about when it was?

A. Late in July. Some time after the 15th, I would say.

Q. Some time after the 15th?

A. That is right.

Q. What was that conversation?

A. He called me up and told me who he was and said: "How about my job?" I said: "Red, we are not going to put any other welder on. The construction work is all done. We are not going to put any more welders on." He said: "Well, you don't need me then?" I said: "Yes, I don't need you then." He said: "O. K." That is the last I heard of him.

Q. What was the fact as to whether or not at the time that you needed more than one welder?

A. I didn't need more than one welder. My construction work was practically finished at that time.

Q. Now, did you have one welder at that time in your employ?

A. Yes, sir.

Q. Is that the one you are referring to as the shield maker?

A. Yes, sir.

Q. You may state in regard to his qualifications as to whether or not he was qualified to do any work that Mr. Farner could do and also other work.

A. He was much better qualified.

Q. Did you have work in connection with your regular routine that would require any work to be done in that connection that Mr. Farner was not qualified to do?

A. There was sufficient work of the type that he could do, yes, to keep one man employed.

Q. Well, was there any work that this welder did do other than that that he was not qualified to do? This shield maker?

A. You mean any other work other than the construction? Is that the question?

Q. No. Other than the work that Mr. Farner was qualified to do.

A. Yes.

Q. What would be the effect of that work?

A. We asked that man out on cranes to make up shields for making the gears—the oil pipe gear cases to protect the men from the gears and keep the oil on the gears, off the floor, and he was qualified to do that kind of work—go out and make a layout.

Q. Make the design?

A. Make the design of the shield for the crane, that is correct.

Q. Do you remember a man by the name of William A. Haren?

A. Yes, sir.

Q. That was in your employ?

A. Yes, sir.

Q. Do you remember of him coming to see you after the strike was over and coming back for his job?

A. No, sir, he never saw me.

Q. Did you have any report on this man as to any activities in connection with picketing?

A. Yes, sir, I have an affidavit to the effect that he was on the picket line and armed with a club.

Q. Armed with a club?

A. Yes, sir.

Q. Mr. Haren testifies that he called you and that you answered and that you said that—"I told him who I was and what I wanted. 'Well,' he said, 'we don't have anything for you, Bill.' I said, 'Yes, Mr. Graft, I reported for work on the 29th,' and I said, 'Ritchie told me he would call me when he needed me.' He said, 'Well, we will notify you when we need you. We are all filled up.' "

Do you remember a conversation of that kind?

A. I have never talked to this man on the telephone or otherwise.

Q. Do you know anything about whether he registered, after the 25th of June?

A. No. He was in the plant when the plant first opened, he came in, but he was instructed why he was not put back to work at that time.

Q. Well, do you know what those instructions were?

A. Yes, sir.

Q. Will you state them?

A. Yes, sir. He was told that he could not be returned to work.

MR. LAUTER: I object to this statement unless the witness is testifying from something of his own knowledge.

MR. SMITH: He is.

MR. LAUTER: Is this conversation—

MR. SMITH: He is.

MR. LAUTER: Just a second. If this is conversation that the witness himself heard, I have no objection to the testimony.

TRIAL EXAMINER LINDSAY: There is just one thing in there.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: Now, go on to the objection that is now before us.

(The answer and objection read by the Reporter.)

MR. SMITH: I am perfectly willing that the answer be stricken out, that is, the portion of the answer as to what was in the conversation, be stricken out.

TRIAL EXAMINER LINDSAY: All right.

Q. (By Mr. Smith) Because you were not personally present at that time?

A. No, sir.

Q. How was Mr. Haren employed? In what capacity?

TRIAL EXAMINER LINDSAY: The objection there should be shown as sustained with consent of counsel.

A. What was the question again?

Q. What position did he occupy?

A. Crane man in the open hearth department.

Q. Were there any extra crane men carried in that department?

A. Yes, sir.

Q. Prior to the strike?

A. Yes, sir. He was one of them.

Q. Will you state what the reason for the extra crane men was at that time, if you know?

A. Well, in a mill of that size we always carried extra men in each department, extra crane men in each department to cover an emergency such as an accident or sickness. So we always have a man that we can call on, when a man wants a few days off or sick or anything.

Q. So that his employment was not regular? It was extra?

MR. LAUTER: I object to that, stating a conclusion.

Q. Is that correct?

MR. SMITH: All right, I will withdraw it.

TRIAL EXAMINER LINDSAY: Yes, let's be careful on those statements.

MR. SMITH: Your Honor, I am trying to be, but it was inadvertently asked.

Q. (By Mr. Smith) Do you remember a man by the name of Harry Rigby that was employed in your department?

A. Yes, sir.

Q. How was he employed, Mr. Graft?

A. Motor inspector.

Q. How many were employed in that department?

A. That is, motor inspectors in the department in which he worked?

Q. Yes.

A. Eleven.

Q. Now, do you remember on or after June 25th of having any talk with Mr. Rigby? Any conversation with him?

A. I had a conversation with him. I can't state the date, it was in July sometime.

Q. Well, then, I will ask you this question: Did you instruct any one of your assistants to call Mr. Rigby at any time?

A. I instructed by foreman in the blooming mills on the morning of the 25th to get his crews lined up.

Q. The 25th of June?

A. Yes, sir.

Q. Yes, now go ahead.

A. I instructed my foremen in the blooming mill the same as I instructed all my foremen to get their crews lined up, and Mr. Kling, who was my foreman in the blooming mill, called up Mr. Rigby.

Q. That is, he reported to you that he had?

A. Yes, sir, he reported back to me, and Mr. Kling reported back to me that Mr. Rigby as well as the nine other inspectors—eight other inspectors had refused to come to work until the following Monday.

Q. Yes.

A. And he brought that message back to me and asked me what I should do about it. I said, "Well, have you called these boys up and talked to them?" He told me he had. I said, "How many men did you talk to?" "Well," he said, he talked to Harry and he talked to Martin Petrensik.

Q. Does "Harry" refer to Rigby?

A. Harry Rigby, that is right.

Q. Martin—what was the next name, now, you used?

A. Petrensik, I think it is. I says, "Well, you call them and tell them to come out on their job, because we are going to roll steel Sunday, on the 11 to 7:00 turn, and if they don't want to come out, we are going to put somebody else on their job," and Mr. Kling called them and talked to Harry and told him that.

Q. By "Harry" you mean Harry Rigby?

A. Harry Rigby, yes, and he informed him that if he didn't come out, not only he but all of the rest of them that were at this meeting—they were having a meeting of their own, we understood—he told us they were—he told Mr. Kling that he was—

Q. Were you present, talking at Mr. Kling's end of the telephone?

A. At the second telephone conversation I was, yes.

Q. Yes.

A. He informed him that we would put somebody else on their jobs, they would have to because they were going to start the mill and Rigby informed Kling that they—that it still stood, that they were not coming to work until Monday. So I instructed Kling to put other men on the job?

A. Yes, sir.

Q. On these jobs?

A. Yes, sir.

Q. When, following that, if at any time, did you have any conference with Mr. Rigby?

A. He came in sometime in July, early part in July, and asked to have his job, if he could get his job back.

Q. And did he come alone?

A. He was alone when I talked to him, yes, sir.

Q. Do you recall what time in July it was that this conference took place?

A. It was early in July, I can't recall the exact date.

Q. Now, did any of the other men, the other eight of them, come back to see you also?

A. Yes, sir.

Q. Did you have a conference with Mr. Rigby, when he came back?

A. Yes, sir.

Q. Just state what that conference was?

A. Well, Mr. Rigby came back and asked to be returned to his position.

Q. Just hold your voice up just a little bit.

A. He asked to be returned to his position.

Q. Yes.

A. As motor inspector, and I said to Harry, "You know, I have had some complaints about your work. They not only come from your present foreman, but your previous foreman," and I said, "You are complaining, kicking and complaining about everything."

I said, "If you go back to work, see if you can't avoid that," I said, "your previous foreman has had trouble with you," and I says, "The new man on the job, foreman for about six months, and he has had trouble with you, so it must be you."

He says, "You are a liar, I don't believe a word of it." He said, "Charlie Ritchie never said that about me."

I said, "He most certainly did, I would have no reason to tell you such a thing if he hadn't."

Q. Then what did you do?

A. I told him that I would send for him when I needed him.

Q. What, if anything, was done with the other eight men that had been employed similar to him?

A. The other eight men came in to see me under similar circumstances by appointment, called me, and asked for their—to be returned to their position, admitting or realizing that they had made a mistake, that they hadn't returned to the jobs when they were requested to, on two occasions, and I put them back to work.

MR. LAUTER I move the statement that "they admitting and realizing they made a mistake" be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

MR. SMITH: He has stated what they said.

MR. LAUTER: I didn't so understand. If he is testifying what each one of those eight said, that they said that they realized what he says they said, then I will consent to it remaining in the record, but I didn't understand it.

Q. (By Mr. Smith) I will ask you whether or not—

MR. LAUTER: Let me have a ruling on my objection, please, Mr. Examiner.

TRIAL EXAMINER LINDSAY: Well, I will sustain that objection. I misunderstood it, if that is what he meant. If he is repeating their conversation, their admissions, but I understand that that was his conclusion.

THE WITNESS: That is not so. That is their statement.

Q. (By Mr. Smith) I will just ask you the questions. What, if anything, did the other eight men that were taken back, say in connection with their employment and in connection with not returning at the time they were called?

A. They said that they were sorry that they hadn't returned, and that it was a mistake and they had nobody to blame but themselves. Each and every one of them admitted that.

Q. Have you reinstated them?

A. Yes, sir.

Q. Yes.

MR. SMITH: You may cross examine.

TRIAL EXAMINER LINDSAY: I think we will take a short recess right now.

(Recess had.)

Cross Examination

Q. (By Mr. Lauter) You are the superintendent in the electrical department, is that correct?

A. Yes, sir.

Q. How many men work under you?

A. Between six and seven hundred.

Q. And that is in Youngstown, Ohio?

A. Yes, sir.

Q. Now, you testified about a Harry Rigby in connection with your testimony. In connection with that testimony you mentioned that you had instructed foremen to get the crews lined up?

A. Yes, sir.

Q. What was the date of that?

A. June 25th.

Q. That was the date the mill opened up?

A. Yes, sir.

Q. Was that on the same day that you instructed the men about getting the crews lined up? Was it the day previous?

A. That I instructed the foremen?

Q. That is right.

A. The same day.

Q. About what time of the day?

A. About 11 o'clock in the morning.

Q. How many foremen did you so instruct?

A. Nine.

Q. What did you tell them—withdraw the question. Did you speak to them individually or all together?

A. I called some of them personally on the telephone and my clerk called some of them on the telephone.

Q. What is your clerk's name?

A. Sir?

Q. What is your clerk's name?

A. Gregory.

Q. Now, about how many did you call?

A. I talked to four that I remember of; five that I remember of.

Q. What did you tell them?

A. Told them to get the crews lined up and start the mill.

Q. How do you mean that? What do you mean by that?

A. In other words, when we had opened the mill the men all came in together. We couldn't, of course, use them at one turn. They would have to be assigned to a turn. On their regular jobs they would have to be assigned to a regular turn.

Q. Did these foremen call any of the men up in connection with the opening of the plant?

A. Yes, sir.

Q. Were they so instructed?

A. No, sir.

Q. You gave them no instructions with respect to getting the men back in the mill?

A. I didn't tell them that.

Q. Did you give them any instructions with respect to getting in touch with them in any way?

A. No, sir.

Q. You say on June 25th when the mill opened up the men all came in?

A. I wouldn't say they all came in.

Q. How many would you say came in to your department?

A. I can't answer that 100% accurate but I would say that 75% of the men.

Q. Do you know whether or not any of your foremen got in touch with any men that came back?

A. By telephone.

Q. In what way?

A. I do know these men that came back—one man came to me and told me he had got in touch with these men because they didn't report in when the men came in the plant.

Q. These foremen had called up every one?

A. The only foreman that I know of.

Q. You don't know whether the other foreman did that also?

A. No, sir.

Q. You had no conversation with them during which you indicated to them or they indicated to you whether they they did or did not?

A. I didn't hear the question.

MR. LAUTER: Will you read that question?

(The last question was read.)

A. No.

Q. Now, you had a conversation with Kling about the men that he did call up, is that correct?

A. He told me about the conversation he had, yes.

Q. You had a conversation during which he told you about the conversation he had had with Harry Rigby, is that correct?

A. That is right.

Q. Now, when did you have this conversation with Mr. Kling?

A. At 1 o'clock on the 25th of June.

Q. That is 1 o'clock in the afternoon?

A. Yes, sir.

Q. P. M.?

A. P. M.

Q. The only one?

A. Yes, sir.

Q. Kling is the foreman in the blooming mill?

A. Yes, sir.

Q. And Kling told you that he had spoken to Harry Rigby, is that correct?

A. That is right.

Q. And Rigby was the inspector?

A. Yes, sir.

Q. And Kling told you about a conversation with Rigby and eight other inspectors?

A. That is correct.

Q. And that these nine men had refused to go back to work until Monday?

A. That is right.

Q. And you instructed Kling to put new men on the jobs for the men who said they were not coming back until Monday?

A. That is right.

Q. Do you know whether or not new men were put on the jobs?

A. What do you mean by new men?

Q. Well, in the plant as your instructions were. To put new men on?

A. They were men employed at the Republic Steel, at the Bessemer plant, and they had worked there before.

Q. Is that what you said when you said to put new men on the jobs?

A. That is right.

Q. Is that right?

A. Yes, sir.

Q. That is what you made clear to Mr. Kling?

A. Yes, sir.

Q. Were new men put on these nine jobs?

A. All new men. I don't mean men new to that mill, I mean men new to that job.

Q. That is right?

A. That is right.

Q. On all nine jobs?

A. On all nine jobs.

Q. You spoke of the fact that new men were put on these jobs. Isn't it true that eight of these nine men had got back their old jobs?

A. That is right.

Q. In other words, the new men who were taken on these jobs and were put on these inspecting jobs were later placed on the jobs that the new men had?

A. Yes, sir.

Q. These new men were taken from some other part of the mill, removed from their jobs, and taken to this mill to take the place of the inspectors?

A. Yes, sir.

Q. Did you give similar instructions to any other foreman in connection with taking on or putting on new men?

A. No, sir.

Q. That is the only incident where new men were put on?

A. At that time, yes, sir.

Q. Subsequent to that time?

A. No, there has been new men put on.

Q. Has there been new men put on? That is, new men in the mill?

A. Yes, sir.

Q. And they have taken the place of the men on strike?

A. Yes, sir.

Q. Now, you testified about a conversation that you had. If I am wrong, correct me. You had a conversation with each one of these eight inspectors.

A. Yes, sir.

Q. And you testified that each one of them spoke to you in substance there, that had not returned to work? That they were sorry that they had not returned to work. You suggested to them, or Mr. Kling suggested to them—

A. Yes, sir.

Q. And they were sorry they did not come in?

A. Yes, sir.

Q. And when they said they were sorry, you took them back?

A. That is right.

Q. Now, in the conversation you had with Mr. Kling during which Mr. Kling told you about his conversation with Mr. Rigby, did Mr. Kling tell you about a conversation with any other of those nine men?

A. Yes, sir, with Martin Petronovich.

Q. Who is he?

A. Martin Petronovich.

Q. What was the substance of the conversation that Kling had with Petronovich?

A. It was substantially the same as he had with Rigby. The reason he talked with Rigby was that Rigby speaks better language than the other boys.

Q. Now, the reason for that was that Rigby was the spokesman for the men, in their communications, through Kling?

A. I don't know whether that is true or not. I had talked to Rigby after—his conversation to me was that he had talked to Martin and Martin refused to come to work, and spoke for the rest of the men, that they refused to come to work until Monday.

Q. Yes.

A. Mr. Kling sent Martin to speak to Rigby and Rigby said that it still stands. "We are not coming to work until Monday." I thought I could explain to Rigby why he should come to work.

Q. And also Rigby should explain to the others?

A. That is right.

Q. You have spoken to all of these inspectors?

A. Yes, sir.

Q. And you knew they are foreigners?

A. Yes, sir.

Q. And they don't speak English?

A. Not all of them; only one I think.

Q. And they don't speak English very well?

A. Yes, sir.

Q. And Rigby does?

A. Yes, sir.

Q. Now, the conversation during which these men were advised that new men would be hired if they didn't come back was conversation that Kling had with Rigby alone, isn't that correct?

A. I could not say that.

Q. Well now, that is the report you got, isn't it?

A. What?

Q. That is the report you got?

A. That is the report I got.

Q. You have been testifying about reports?

A. That is right.

Q. That you got all during this hearing?

A. That is right.

Q. Now, you testified about a William A. Haren?

A. Yes.

Q. Do you know who he is?

A. I wouldn't know the man if he walked into this room.

Q. And he was an extra crane man, is that right?

A. Yes, sir.

Q. Of course the word "extra" as you are using it does not mean it was a surplusage of crane men. It was a regular crane man's work?

A. Yes, sir.

Q. You always have extra crane men?

A. That is right.

Q. And the reason you refused to reinstate Mr. Haren is that he had carried in his hand a club on the picket line?

A. That is right.

Q. You were so advised by one of the employees in the plant?

A. That is right.

Q. That is the only information you had?

A. Yes, sir.

Q. You didn't see him with a club in his hand?

A. No, sir.

Q. How many employees told you they saw him with a club in his hand?

A. The man with the affidavit.

Q. I say, how many employees?

A. One.

Q. One?

A. That is right.

Q. How often did he say that he saw Mr. Haren with a club in his hand?

A. I don't know. I can't quote the affidavit.

Q. What does the affidavit say?

A. It says—I can't repeat it verbatim but as I remember it, he was seen on the Center Street Bridge with a club.

Q. At least once?

A. At least once, yes.

Q. But you don't know how long he carried it, or how long he stayed there, or how much the club weighed, or you didn't see it yourself?

A. No.

Q. And that employee was working in the mill while the strike was on?

A. Yes, sir.

Q. Did you have a clerk in the office who sometimes answers the phone under your name?

A. Under my name?

Q. Yes.

A. No.

Q. What is his name?

A. John Gregory.

Q. What department?

A. The electrical department.

Q. Is he the one who answers the phone?

A. That is right.

Q. And he never carries on a conversation in your name?

A. No, sir.

Q. Just one more question. You testified about a threatened flood, is that correct?

A. Yes, sir.

Q. A flood?

A. Yes, sir.

Q. In connection with the testimony of one Gallagher?

A. Yes, sir.

Q. Now, that is Joseph Gallagher?

A. Yes, sir.

Q. Joseph Francis Gallagher?

A. I can't say what his middle name is. Joe Gallagher to me.

Q. Joe Gallagher?

A. Yes, sir. I don't know what his middle name is.

Q. It might be Joseph King Canute as far as you know?

A. No.

Q. It is probably Joseph Frances Gallagher, the man that testified in this hearing?

A. That is right.

MR. LAUTER: That is all.

MR. SMITH: That is all.

(Witness excused.)

HAROLD H. WARNOCK

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Jones) Will you state your full name, please?

A. Harold H. Warnock.

Q. Where do you live, Mr. Warnock?

A. 250 Norwood Avenue, Youngstown, Ohio.

Q. Where are you employed, Mr. Warnock?

A. The Republic Steel Corporation, Youngstown District.

Q. How long have you been employed by the Republic Steel Corporation?

A. Four years.

Q. What capacity are you in now?

A. General foreman of the open hearth rolling mills.

Q. How long have you held that position?

A. Three years.

Q. Is that for three years the last past, continuously?

A. Yes, sir.

Q. (By Mr. Jones) Is that for the three years last past continuously?

A. Yes, sir.

Q. In your department how many men do you have generally, regularly employed?

A. In all the rolling mills we employ between five and six hundred men.

Q. Would you say that that number of men are under your direct supervision?

A. I am under the general superintendent of rolling, Mr. Caldwell.

Q. And what would you say about the number of men that are regularly under your direct supervision?

A. Well, I have practically the supervision of the entire crew.

Q. The number you mentioned, five or six hundred?

A. Yes, sir.

Q. What is the nature of the work that is done in the department that you supervise?

A. Heating, rolling, finishing of the products of the blooming mill, iron billet mill, the plate mill and merchant mills.

Q. Did you have in your employ one known as Valare Chismus or Walter Chismus?

A. We knew him as Walter Chismus.

Q. Walter Chismus?

A. Yes, sir.

Q. What was the nature of the work that he did?

A. He was a shear laborer; he worked on various different jobs on the line of finishing steel; he worked on the straightening machine, the shear crews, loading crews.

Q. Do you recollect of having any conversation with Mr. Chismus subsequent to the time the men returned to work, after the recent strike?

A. No, sir. I beg your pardon. You mean after the men returned to work?

Q. After June 25th?

A. Yes.

Q. The men returned to work?

A. Yes, I talked to him.

Q. Do you recall any conversation that you had with Mr. Chismus before that time?

A. No, sir.

Q. You do recall a conversation after that time?

A. Yes, sir.

Q. Do you recollect one or more than one conversation?

A. Two conversations was with Mr. Chismus.

Q. Do you have any way, Mr. Warnock, of fixing the time as to about when the first conversation took place?

A. As I recall it, he came out to work on the Sunday following the reopening of the mill.

Q. That would be the Sunday following the 25th of June?

A. Yes, that would be the 27th of June, yes.

Q. Was it on that day that you had a conversation with him?

A. Yes, sir.

Q. And which was that? The first or the second conversation?

A. That is the first conversation I had had with him in the mill.

Q. Where did that conversation take place?

A. In the plate mill office.

Q. I wish you would state at least the substance of that conversation, what Mr. Chismus said to you and what you said to him?

A. Well, he came in and he said, "I saw the 11 to 7:00 turn foreman about 7 o'clock in the morning," he said, "I want to go to work, and went to the 11 to 7:00 turn foreman, Mr. Taafe, and he said, "You will have to see Mr. Warnock when he comes out to work'." I reported for work at 7 o'clock in the morning. Meantime he had also talked to the shear foreman. I arrived at 8 o'clock and Mr. Chismus was waiting to see me.

Q. Now, you understand that what I want is the conversation that you had with Mr. Chismus?

A. Yes, sir.

Q. Tell what he said and what you said?

A. I asked him if he had been arrested in a riot on Market Street. He said he had. He had been on the picket line and that the police had picked him up and that he had been placed in jail. I told him that he would have to go home and I would call him when he was needed. He stated that he didn't have a telephone, so I told him that he could either bring a telephone number down to me so that I could call him, or he could call again in the middle of the week and see me, and I would talk to him again.

Q. Now, has Mr. Chismus made any statement to you previous, to the time that you said these things to me, that you have just related?

A. No, sir.

Q. What did Mr. Chismus then say?

A. He said, "All right," and he left.

Q. Now, this was on a Sunday, was it?

A. Yes, sir, as I recall it, it was on a Sunday.

Q. Sunday after June 25th?

A. Yes, sir.

Q. Where did this conversation take place?

A. At the plate mill office.

Q. That is at your office?

A. No, my office is over under the bridge.

Q. I see; whose office was it that—

A. It is the turn foreman's office.

Q. What is his name?

A. Well, there is three of them, one on each turn.

Q. I see.

A. This was the general turn foreman's office for the plate and bar mills.

Q. It is an office used by three different foremen?

A. Yes, sir.

Q. I will ask you to state whether or not, previous to the time of this conversation, you had received information concerning the arrest of Mr. Chismus as you have stated?

A. Yes, I had.

Q. Do you recall where you got that information?

A. Well, it was in the newspaper under the name of Valare Chismus. I was not sure that it was the same man as Walter Chismus who worked for me, so that when he did return to work I checked with him, and he admitted that he had been in the riot and had been arrested.

Q. That he was that man?

A. Yes, sir. He was the same.

TRIAL EXAMINER LINDSAY: Mr. Day, Mr. Smith, Mr. Lauter, Mr. Jones. Off the record.

(Discussion held.)

TRIAL EXAMINER LINDSAY: We will adjourn to 9 o'clock tomorrow morning.

(Whereupon, at 4:45 p. m. September 23, 1937, an adjournment was taken to 9 o'clock a. m. September 24, 1937.)

Court Room 3, Common Pleas Court, Cuyahoga County,
Cleveland, Ohio, Friday, September 24, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:00 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Veach & Young, Union Trust Building, Cleveland, Ohio; Judge Chas. F. Smith, and David E. Jones, Esq., of the firm of Messrs. Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio; and J.G. Ketterer, Esq., of the ~~firm of~~ Messrs. Lynch, Day, Pontius & Lynch, First National Bank Building, Canton, Ohio, appearing for Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

Mr. Day and Mr. Lauter, will you come up here, please?

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Now the situation as I find this hearing in is that last Saturday it was agreed that the general offer to prove was to be put in Monday. It is now Friday and it is not in yet. It must be in here tomorrow. If you are going to have an offer to prove to make here at Cleveland it has got to be in here not later than Tuesday morning.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: My understanding was that at Canton, Mr. Day, you told me that there might be a few loose ends in this hearing so far as Canton was concerned, and that you would like to put it on at Cleveland; that you may not even call any witnesses here. Now, I find that you have about eight from Canton and seven or eight from Youngstown. When I granted that privilege of putting in some evidence on the discriminatory charges, I did not think you were going to make your complete defense on those charges at Cleveland. At your request I moved this hearing from Cleveland at the end of the Board's case back to Canton for that specific reason. You stated at that time that you wanted your defense to be started at Canton, and we held it at Canton. It is possible there was some misunderstanding. Now, I find that under the circumstances it is necessary for us to hold night sessions. This case started away back the 19th of July, I believe. Some delays were made due to Board adjournments, and adjournments to give the attorneys for the Board to work up their case at Youngstown. There has been a lot of testimony brought in here, that at Youngstown particularly after I ruled—made my ruling, it was necessary for me to constantly remind you of the ruling. Now, we are going to proceed with this hearing, and we are going through with it. It must be finished as soon as possible; so please do not ask any favors in the way of adjournments or short days from now on.

MR. DAY: I want to state; and this is for the record?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: I want to state that I understood that the adjournment in Canton, and I was so advised by the Examiner—I don't wish to be technical in the matter —I stated at that time that owing to the absence of Mr. Veach and the illness of Judge Pontius I was not able to say how much evidence we wanted to offer in Cleveland outside of what was offered in Canton. I also thought, and it was my understanding at the termination at the hearing in Youngstown that we would have a chance to offer evidence in Cleveland. It was my impression that it didn't make any difference where it was offered so long as the evidence was put on.

TRIAL EXAMINER LINDSAY: That wasn't my impression. My impression was that you stated there would be some loose ends that you would like to put on in Cleveland. Those are the very words I understood you to say at Canton. I didn't grant the privilege of putting on your whole defense on discriminatory charges; but that is perhaps a misunderstanding.

MR. DAY: That is a misunderstanding, yes.

TRIAL EXAMINER LINDSAY: Now, proceed.

MR. DAY: I understand that we will have night sessions, and a night session tonight if we cannot finish the Canton and Youngstown witnesses?

TRIAL EXAMINER LINDSAY: We will have a night session anyway from 7 until 9. No doubt we will hold night sessions Monday and Tuesday.

MR. DAY: All right. We will do the best we can under the circumstances.

TRIAL EXAMINER LINDSAY: You may proceed with the witness.

HAROLD H. WARNOCK

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Jones) I believe that yesterday you recalled or related the first conversation you had with Mr. Chismus, is that correct?

A. Yes, sir.

Q. I believe you also stated that you had two conversations altogether?

A. That is right.

Q. When was it that the second conversation took place?

A. Three days after the first conversation, the Wednesday following the Friday that the mill reopened. And he came back to Mr. Caldwell and my office, to see me.

Q. Just a minute before you get into that. The date that you referred to as the date that the mill reopened is what?

A. Friday, June 25th.

Q. All right. And where did your second conversation take place?

A. In Mr. Caldwell and myself's office, Center Street Bridge.

Q. What was said by Mr. Chismus and by you at the time of the second conversation?

A. Mr. Chismus asked me if he could have his job back, and I told him that inasmuch as he had been arrested for participating in a riot on the Market Street Bridge that there was nothing further that I could do to take him back.

I also told him that if he didn't feel satisfied with my decision that he could come back at a later date and see Mr. Caldwell. He wanted to know what date he could see Mr. Caldwell and I told him Mr. Caldwell would be back from the Bessemer plant on Friday. That would be the Friday following the day I talked to him, which was Wednesday.

Q. What day were you talking with him?

A. I talked to him on Wednesday, June 29th, I believe the date was.

Q. You told him that he could talk to Mr. Caldwell the following Friday?

A. Friday.

Q. Was Mr. Caldwell there on Wednesday?

A. No, sir.

Q. Who is Mr. Caldwell?

A. Mr. Caldwell is my superior officer.

Q. What position does he occupy?

A. Superintendent of rolling mills, Youngstown district.

Q. After you had made this statement to Mr. Chismus, what, if anything, did he say?

A. He said nothing. He said he would come back later and see Mr. Caldwell.

Q. Did you see Mr. Chismus after that time?

A. No, I did not.

Q. Did you have a conversation with him after that time?

A. No, sir.

Q. Do you know, as a matter of fact, whether or not he did come back to see Mr. Caldwell?

A. He did. He came back on Friday and Mr. Caldwell was not in the office. He was kept at the gate by the policeman until Mr. Caldwell would arrive. He wanted to see either myself or Mr. Caldwell, and I was busy in the mill for approximately two hours in the morning, and he didn't wait to see either me or Mr. Caldwell.

When I came over to my office approximately at 11 o'clock in the morning, the policeman at the gate told me that he had been there to see me.

Q. Was he there when you came back?

A. No, sir, he was not.

Q. Did you ever see him or talk with him, after that?

A. No, I did not.

Q. Is there any conversation that you had with Mr. Chismus outside of what you have related?

A. No, sir.

Q. Mr. Warnock, did you have in your employ a man by the name of John Opalcih?

A. Yes, sir.

Q. What kind of work did he do?

A. He was transfer pulpit operator.

Q. What is the nature of that work?

A. He runs electrical controls that run table rolls that transfer plates from one table into a straightening machine through a pinch roll, and deposits the plates in a pack on the scales.

Q. Do you recollect of having some conversation with Mr. Opalcih?

A. Yes, sir.

Q. Up at the transfer pulpit?

A. Yes, sir.

Q. Can you tell about when that conversation took place?

A. That was the day before the strike, on the 3 to 11 turn.

Q. That would make it what date?

A. Would be May 24th.

Q. What day did the strike come on?

A. The 25th.

Q. Or was it the 26th?

A. 26th,—May 25th, I guess.

Q. What day was it, then that you had the conversation?

A. On the 25th.

Q. I will ask you to state, Mr. Warnock, in words or substance, if you said this to Mr. Opalcih and whether he made the following replies to you: That you said: "Hello, John," and he said, "Hello." He said to you, "I ain't got no time because one man work, he is too busy."

And you said to him, "Somebody told me you belonged to the C.I.O." And he said, "Yes." And you said, "All right, anything is trouble coming, I kick you down on the bridge, Center Street Bridge." Did a conversation of that character and nature take place at that time?

A. No, sir. That was not the conversation.

Q. How is that?

A. That was not the conversation.

Q. I wish you would please state what the conversation was that took place at that time?

A. On my daily afternoon trip through the mills with my shear foreman, Mr. Meeker. I came past the transfer pulpit and I have had several reports of misdemeanors from Mr. Opalcih, from my shear foreman, Mr. Callahan, my mechanical foreman, Mr. Oliphant.

TRIAL EXAMINER LINDSAY: Just a minute, strike out the word "misdemeanors".

(Record read by Reporter.)

TRIAL EXAMINER LINDSAY: I said the word "misdemeanor" is out. If he means "complaints" all right.

A. I had several complaints about John working, and the two gentlemen that I have mentioned, that he had been abusing equipment, and he had been endangering the lives of the piling crew that worked underneath him. He is up in the air in this pulpit.

TRIAL EXAMINER LINDSAY: Strike out "endangering." Now, you can only tell what actually happened. Those are conclusions. I want the facts.

MR. JONES: May I ask this question?

TRIAL EXAMINER LINDSAY: Strike out that whole answer.

Q. I wish you would please state, Mr. Warnock, what these complaints were that you had received prior to the time of this conversation with Mr. Opalcih.

A. Mr. Callahan complained to me that on the previous turn, which would be on Monday, on the 3 to 11 turn. Mr. Opalcih was not allowing the piling crew time to straighten up the plates after each individual plate that was run through the cold rolling mill; as the plates were deposited, two or three men reached over and picked at it with the bar. There are two of them picking it up. In the nature of their work that necessarily has to stop in front of the picking men. It is a standard safety rule in our shop that as the men step in front Mr. Opalcih is to stop his machinery so that they will not get hurt. The complaint that I received from my foreman was that he was not giving the piling crew time to pick these plates up. He would hit the rollers with his machinery and the men would jump back; they were afraid.

Q. Were those plates that were being piled there hot or cold?

A. Hot plates. The temperature is approximately 1000 to 400 degrees as it is put in.

Q. What were the sizes of those plates?

A. We rolled plates of various sizes. I can't truthfully state the size of the plates in question on this turn. It would be approximately 50 foot long and it would be anywhere from 22 wide to from 40 inches wide. I don't recall actually the sizes of the plates that were rolled?

Q. But those were the limits of the sizes?

A. Those were the limits of the sizes we rolled there on those 50 foot bars.

Q. Are they piled one on the other?

A. They are piled one on the other, yes, sir.

Q. What is done first to put them in a pile?

A. The transfer pulpit operator as they come off the mill table conveys them on a chain and the conveyor goes across their table. They are there stopped and chains are lowered and they are attached and run off in a forward motion, and the cold roll there goes forward to a pinch bar roll. It is sent to the piling crew on a scale basis and they are piled.

Q. What did Mr. Opalcih have to do in this job in the transfer pulpit to pile the plates?

A. He would run it forward on his conveyor.

Q. Where is that with respect to these plates that are being piled?

A. He is approximately 20 feet in a vertical direction and about 20 feet in a horizontal direction. He is up in the air; the pulpit is up in the air.

Q. Then as I understand it, he operates the machinery to cause these plates to be run one on the other?

A. Yes, sir.

Q. Then other men that you talked about, they were leveling off?

A. Yes, sir.

Q. Where were they?

A. They work on the ground immediately below.

Q. That was on the same level as the plates that were being piled?

A. Yes.

Q. What did they have to do with the piling of plates?

A. All they did is straighten the plates up.

Q. Do they do that by machinery?

A. No, sir, by hand; with the aid of a bar.

Q. According to the complaint that you had, these men were jumping back as you said when the plates were sh[illegible] through?

A. Yes, sir, the piling crew, a force of two or three men. The force varied; some times two and sometimes three.

Q. Were those the same men that you said were on the same level with the plates?

A. Yes, sir.

Q. The piling plates?

A. Yes, sir.

Q. They were straightening them?

A. Yes, sir.

Q. Now, those were the complaints that you had received concerning Mr. Opalcih?

A. Those were the complaints I had received from my operating foreman. I also received a complaint from the mechanical foreman, Mr. Oliphant.

Q. Who was this Mr. Oliphant?

A. He was the mechanical foreman.

Q. What were the complaints from him?

A. As different gauges are rolled to the mill and pinched on the cold roller they are lowered according to the different thicknesses. It is part of the pulpit operator's job to raise or lower the screws on this equipment so as to have the gauge exact. He is told of any change of orders and he is told when any change of gauge occurs in the mill. It had been reported by Mr. Oliphant to me that he was running in stock of a thicker gauge than the machine would catch.

Q. Who was running it in?

A. Mr. Opalcih and he was abusing equipment, and on one occasion just prior to this thing that I talked to him about he was running stock in that was too heavy for the equipment to handle.

Q. You had received that complaint from whom?

A. Mr. Oliphant.

Q. Were both of these complaints received by you prior to this conversation?

A. Yes, sir.

Q. So then you went up to where Mr. Opalcih was working?

A. Yes, sir.

Q. About what time of the day was it?

A. Approximately 4 o'clock in the afternoon.

Q. Did you talk with him at this time or ask him to come to some other place?

A. No, sir, I went right up to his pulpit where he operates and I talked to him there.

Q. I wish you would please state what the conversation was that took place between you and Mr. Opalcih at that time.

A. I first asked him, I said, "John, why did you join the C.I.O.? Is that true?" He said: "No." I said: "Well, John, I don't care what Union you belong to but I want you to understand that I am receiving a continual number of complaints about your work in the mill and the way you handle your job. I want you to understand that as long as you are working for me and Republic that you are going to do your job in a workmanlike manner or I will be forced to discharge you." That is all I said to John, and John said nothing back to me, and I went.

Q. He made no comment at all?

A. He made no comment whatsoever.

Q. When did you next have the conversation with Mr. Opalcih, if any?

A. On the Sunday following the Friday opening of the mill which would be June 27th.

Q. Where did you have that conversation with him?

A. At the plate mill office.

Q. I wish you would please state what occurred at the time of that conversation.

A. John came in the office and said he wanted to see me about going back to work. I said: "John, I have evidence that you were on the picket line carrying a club on at least two different occasions, and were seen on Center

Street Bridge by three men; is that true?" He said: "Yes." He had been on the picket line and had carried a club. So I told him that there was nothing I could do for him at that time. He was to go home. If I needed him, I would call him. He hung around the office for a few minutes and I finally told him: "Go ahead on along, John. I have no time to talk to you further." He started to mumble something and I said: "Incidentally, John, why did you call Mr. Levantry a bald-headed son-of-a-bitch?"

Q. Did you hear him make that remark?

A. Yes, sir.

Q. About when was it that he made that remark?

A. I don't recall the date; it was approximately the middle of June.

Q. Where were you when you heard Mr. Opalcih make that remark to Mr. Levantry?

A. We were underneath the bridge.

Q. Where was Mr. Opalcih?

A. On the bridge.

Q. What else did you say to Mr. Opalcih before he left your office at the time of this second occasion that you spoke to him? What, if anything, did he say to you?

A. Well, he got all fussed and flustered and he said: "Oh, you call me a son-of-a-bitch?" I said: "No, John, get out of here. I have nothing more to say to you."

Q. At the time of this conversation in your office with Mr. Opalcih, was anyone else present?

A. Yes, Mr. Arthur Haig, our schedule clerk, was present in the office.

Q. Had anyone else come in with Mr. Opalcih?

A. No, sir. Mr. Callahan, my foreman, came in during the conversation.

Q. In addition to calling Mr. Levantry the name that you have stated, did you at any time hear him call any other person some names?

A. Yes, he called me the same thing.

Q. At that time?

A. Yes, sir.

Q. At that time or any other time during the strike did you make any observation about him or anything that he had done?

A. No, I saw him on the picket line on the Center Street Bridge on two different occasions.

Q. Outside of calling the names, did you notice anything that he had done?

A. No.

MR. JONES: You may cross-examine.

Cross Examination

Q. (By Mr. Lauter) You are the foreman in the open hearth, is that correct?

A. No, sir, I am general foreman of the rolling mill.

Q. General foreman of the rolling mill?

A. Yes, sir.

Q. Is that in the open hearth plant?

A. What?

Q. Is that in the open hearth plant?

A. In the open hearth plant, yes, sir.

Q. You had a conversation with Mr. Chismus on June 25th or June 27th?

A. June 27th.

Q. That was the first conversation you had with him?

A. Yes, sir.

Q. It was at that time you discussed the question of his arrest?

A. Yes, sir.

Q. Did he tell you why he was arrested?

A. Yes.

Q. What did he say?

A. First, I wanted to question the man to be sure that he was the same man that had been arrested. He was not on our payroll as Valare; he was on our payroll as Walter. I wanted to be sure that he was the same man so I asked him: "Are you the man who was arrested?" He said: "Yes." I said: "How did it happen?" He said: "Well, I was on the picket line on the Market Street Bridge the night of the trouble up there and the police came up along there and I got mixed up with their pickets and they took me in jail."

Q. Is that the extent of his conversation with you? The explanation of why he was arrested?

A. I said to him: "Were you engaged in any unlawful practices there?" He said: "No, I was just on the picket line mixed up with the rest of the pickets during the trouble." He said: "The police picked me up."

Q. So that as far as you know—

A. I asked him if he was carrying a club and he told me he wasn't. As far as I know, he wasn't.

Q. The sole reason for your refusal to reinstate him, as I understand it, is the fact that he had been arrested, is that correct?

A. Yes, sir.

Q. Regardless of the fact that he said he was picked up by the police?

A. Yes, sir.

Q. Did he tell you at that time he was struck by a tear gas projectile?

A. What?

Q. Struck by a tear gas projectile?

A. He did not.

Q. Did he tell you whether or not he was on active picket duty at the time he was arrested?

A. He did.

Q. He said that he was?

A. He said that he was on active picket duty.

Q. And you testified about a man by the name of Opalcih?

A. Yes, sir.

Q. And during the conversation you asked him whether or not he joined the C.I.O.?

A. Yes, sir.

Q. Is it your general practice and custom to ask men in your plant whether or not they joined the C. I. O.?

A. No, sir.

Q. What?

A. No, sir.

Q. How many men have you asked whether or not they have joined the C.I.O.?

A. As near as I can recall, Opalcih is the only one.

Q. Was there any particular reason for singling out that man and making that inquiry?

A. No, I only wanted to get across to John—

Q. (By Mr. Lauter) Do you know that he joined the C.I.O. on May 23rd, 1937?

A. No, sir.

Q. Do you know that three days later you had a conversation with him in which you inquired about whether he had joined the C.I.O ?

A. Yes, sir.

MR. DAY: When was that date?

MR. LAUTER: May 26th.

Q. (By Mr. Lauter) Is that the date when you had the conversation?

MR. JONES: The 25th.

A. The 25th.

Q. 25th, two days later, and the reason why you are not rehiring or reinstating Opalcih is that he was on the picket line with a club, is that correct?

A. Yes, sir.

Q. You testified that he used some obscene language with respect to Mr. Levantry?

A. Yes, sir.

Q. What did you say that language was?

A. He said he called Mr. Levantry a bald-headed son-of-a-bitch.

Q. And you also testified that he called you the same thing?

A. He called me a big son-of-a-bitch.

Q. He made the distinction?

A. Yes, sir.

Q. Now, he has been employed in the plant—how long has he been employed in the plant?

A. I could not tell you. He has been there ever since my time and before my time with Republic.

Q. Do you know that he has been working there for 22 years?

A. No, sir.

MR. LAUTER: That is all.

MR. JONES: I think that is all.

(Witness excused.)

GEORGE W. PUTNAM

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) What is your full name, Mr. Putnam?

A. George W. Putnam.

Q. You live where?

A. Youngstown, Ohio.

Q. How are you employed?

A. With Republic Steel Corporation as superintendent of the open hearth department, Youngstown district.

Q. How long have you been working with Republic?

A. Since February, 1933.

Q. Now, where were you employed prior to that time?

A. American Rolling Mill Company, Butler, Pennsylvania.

Q. How many years had you been with them?

A. Ten years; since 1923.

Q. Have you been occupying this same position with Republic during the entire period you have been with them?

A. During the entire period, yes, sir.

Q. How many men do you have in your department, Mr. Putnam?

A. Between six and seven hundred on full operation.

Q. And you were at the time, along in the forepart of this year and up until the strike, operating on how many turns?

A. We operated on three turns continuously in the open hearth. We adjudge our operation by the number of furnaces.

Q. Do you remember a man by the name of Richard Elder that was working for you prior to the strike?

A. Yes, sir.

Q. Do you know how long Mr. Elder had been working there?

A. He had been there ever since I had been there, and previous to that time, but I don't know how long he had worked for Republic.

Q. What was Mr. Elder's position?

A. He was first helper on No. 2 furnace.

Q. No. 2 furnace? Do you remember of having a conversation with him sometime early in March?

A. Yes, sir.

Q. Do you remember the day in March that it was?

A. No, it was along about the middle of March. I don't remember the exact date.

Q. What time in the day was it that you had this conversation, if you recall?

A. In the morning, as I recall. I make my rounds every morning, and when I get down to the floor I usually talk to the men if I have anything to say to them, at that time.

Q. Where did this conversation occur, if you recall?

A. In front of No. 2 furnace, on which Elder was working.

Q. Now, in his testimony, Mr. Putnam, before the Board, he fixes the date of this as March 13th?

A. He is probably correct on that date. It is around there some place.

Q. Now, he says that you came to him and said this: That you had seen his name as being on the executive committee of the C.I.O., on a pamphlet of that lodge that had been thrown around?

A. That is right. It was thrown off of the Center Street Bridge.

Q. Do you remember when, with reference to that conversation with him?

A. Just a day or so before.

Q. And that he said to you he hadn't seen them, and that you said, "Well, your name is on there." He said, "Well, I haven't saw any of them." And that you then said, "Do you belong to the C.I.O.?" and he said, "Yes, I do." And that that is all that was said. "They walked away and didn't say anything more to me."

A. That is correct, with one exception. He stated to me that he had told the C.I.O. not to put his name on as an executive.

Q. Did he say why?

A. No statement of why, I didn't ask him.

Q. Now, was there anything other said than what you have suggested, besides what he testified to in that conversation?

A. None other, in that conversation.

Q. Then he says that "three days later Mr. Putnam came to my furnace about 3 o'clock. I was going out to quit at 3:00." "And he says 'On your way home' he said 'will you stop at my office, Dick? I would like to talk to you.' " And that he said, "All right, George."

A. That is true. I requested him to come to my office for an interview.

Q. Then that he did stop in and that you said to him, "Sit down, Dick." And that he sat down and then that you said, "Dick, I always thought you was a good friend of mine."

A. That statement is inaccurate.

Q. And that he said, "Well, I always have been, George, and I am yet, as far as that is concerned." Did that conversation take place?

A. That conversation in substance didn't take place. The reason I called him into the office was because I knew, after I had seen this pamphlet that he was an officer in the C. I. O. and naturally he would be organizing for the C. I. O. and I wanted to—

TRIAL EXAMINER LINDSAY: Just a minute, strike out the answer, that he would be organizer for the C. I. O.

THE WITNESS: I felt he was.

TRIAL EXAMINER LINDSAY: Just a minute. Tell the conversation.

MR. SMITH: You are striking out the entire conversation?

TRIAL EXAMINER LINDSAY: No, I am striking out the answer.

MR. SMITH: Well, now, your Honor—

TRIAL EXAMINER LINDSAY: I don't know whether this is conversation or not, that he is talking about, here.

MR. SMITH: Well, the answer, I mean.

TRIAL EXAMINER LINDSAY: Yes, until it is established that those are his deductions or whether it is the conversation he is talking about.

MR. SMITH: I just wanted to know what the record was.

Q. (By Mr. Smith) Then he says that following that that you said, "Well, it don't look like it, when you joined the C. I. O." And that he said, "I don't see why that should make any difference. I was never sore at you because you were the company man. I don't know why you should be sore at me because I am a union man." Did that conversation take place?

A. It did not.

Q. Well, that you said to him, "Well, I don't know, Dick, it don't look very good to me." And that he said, "I can't see why." And that you said, "Well, you know, Dick, what are the men dissatisfied about, up there," and that he said, "Well, I will tell you, George, every time the tonnage is put up, they are all dissatisfied. They will—" And then a hesitation—"They won't say anything to you, some of them maybe do, but most of them will holler around on the floor but they won't say anything to you about it," and that you said, "You know, yourself." "No," he said, "You know yourself that we ain't getting the tonnage that we should." And he asked the question, "Why not?" "You know there aren't any scales in this plant, they always estimate it." And he said, "I know, and we always give you good weight." "That I said, I don't think so, and nobody else does," and that you said, "Well, we have been trying to get a scale in there and I think the money has been appropriated for it, but they haven't got it in yet." And that he said, "The men would be a lot better satisfied if we had it."

Now, do you remember that conversation?

A. That subject matter is correct, but the conversation is inaccurate.

Q. Well, now, when I finish this conversation with you, I will ask you to state what your recollection of it is. And he says that you said, "Dick, I just want to tell you that lots of times we have to let good men go that we don't like to lose, on account of union activities and I just wanted to tell you that." And that he answered and said, "O. k., George, with me if you want to let me go right now, that is your privilege, and that you said, "No, I ain't going to fire you, and that that will be all."

Now, did that conversation take place?

A. No. Not that conversation.

Q. Well, now, will you state to the Court as near as you can the substance of the conversation that you did have with him at that time?

A. The primary reason for calling Dick into the office—

MR. LAUTER: I move that "the primary reason" be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, go ahead and tell the conversation.

Q. (By Mr. Smith) The thing, Mr. Putnam, that you want to tell is what happened and not any conclusions of yours. Now, if there was something happened that you wanted to call him in for, state it and then state what your conversation was?

A. I wanted to tell him that if he organized any organization on company time, that he was subject to discharge, because I didn't want him wasting the time of the company and the other men, decreasing production, which I told him. And he said he was not doing it. So the conversation then drifted on to the things that the men wanted and the things the C. I. O. expected to do.

Q. State what was said, if you remember, in regard to scales or tonnage?

A. He stated the thing that the men wanted was weighed ingots, they wanted an ingot scale. I stated to him that the company had considered putting in ingot scales on quite a number of occasions and that at the present time an improvement was contemplated in the blooming mill, and it had been recommended that a scale be put in at the time that improvement went in. He stated that he thought they were getting shortage of weights. I explained to him how the weight of the ingot was arrived at.

Q. Just tell what you said to him as to how the weight of the ingot is arrived at?

A. The weight of the ingot is arrived at by—

Q. Just what you told him.

A. That is right. The weight of the ingot is arrived at by weighing the finished product out of the blooming mill, weighing the scrap out of the blooming mill, adding on a standard oxidation or soaking pit loss. The accounting department does that work.

Q. Now, what do you mean by weighing the scrap, Mr. Putnam?

A. When an ingot is rolled through the rolling mills, all of that ingot is not good product. There is a certain portion of it that is not cropped.

Q. What do you mean by "cropped"?

A. Sheared.

Q. That is, the end?

A. Cut off, the end is cut off.

Q. The end of the ingot that is not good iron for rolling is cut off, is that correct?

A. That is cut off.

Q. All right. Now, then, as I understand you, the finished material is weighed?

A. That is right.

Q. When this crop is cut off, it is weighed?

A. That is right. It is weighed in cars over a track scale.

Q. Then in arriving at the tonnage are those two weights added together?

A. They are, and also this weight of the oxidation loss, pit loss they call it.

Q. What was the addition as to the pit loss, if you know?

A. About 2 per cent. 2 per cent.

Q. How many years altogether have you been engaged in the steel business?

A. 15.

Q. You have worked in different scale mills than the Republic?

A. Just this one and the Republic.

Q. Have you been through other mills for observation?

A. A great many of them. I have worked in four different plants.

Q. Do you know whether or not that percentage is the standard percentage of other mills or not?

A. Two per cent pit loss is generally recognized as a pretty average figure.

Q. Well, what do you say as to whether or not the men were receiving accurate tonnage weights?

A. I think they were receiving fair weight, because we periodically check the weight of the ingots, actually weighing them. Corrections are made in case they are found light or in case they are found heavy. Many times they are found too heavy.

Q. So that you may state to the Court whether or not, from your investigation and the check that is made on those, as to whether, in your opinion, they are receiving the proper tonnage weights?

A. I do. I think over a period of time that their weights are—averaged up correct.

Q. Now, did you in that conversation or did you or did you not explain that situation and tell that to this man?

A. I have in many of them.

Q. When, if you remember, did you have any other conversation with Mr. Elder after the one that has just been detailed?

A. I talked to him about it at no other time but of course in the course of my work it was necessary for me to talk to every man every day. I probably talked to him about a dozen times after that but not about any of this.

Q. That was a talk you had on March 13th; that is about correct, the date?

A. I think that is probably correct.

Q. Was there any cessation or any change in Mr. Elder's position or the manner in which he worked between the time of this conversation and the strike?

A. Absolutely not.

Q. Do you remember of a conversation or any conversation with him after the 25th of June when the mill had again opened?

A. Not until August.

Q. I beg your pardon?

A. Not until August; in August.

Q. Do you remember the day in August?

A. Either the first two weeks in August. My memory tells me it is August 13th because I was holding a meeting on that day and he called during the meeting.

Q. He fixes the date in his testimony as August 2nd.

A. I don't think that is correct. I think August 13th is the correct date.

Q. At any rate, you remember having a phone conference with him?

A. He called me on the telephone.

Q. He says this: That he called you on the phone: "And I said, 'Is that you, George?' " He said: "Yes, who is talking?" I said: "Dick." He said "Is that you?" I said: "Yes." He said: "How are you doing?" I said: "All right." I said: "How about going back to work?" He said: "No, Dick, you know that I have told you—you know what I told you when you joined the C. I. O." I said: "Yes." He said "That still holds good." I will ask you whether or not that conversation took place.

A. That didn't.

Q. Now, what was the conversation that you had with him?

A. He said: "Hello." And I said: "Hello." He said: "This is Dick." I said "What do you want?" He said: "I want a job." I said: "Dick, your job has been filled. I have nothing for you." He said: "All right, George." And that is all.

Q. Had you received any word from him from the 25th of June until this date in August?

A. None whatsoever; I had not seen him.

Q. He did not, to your knowledge, come back or ask for his job?

A. To my knowledge, he didn't come back to me or anybody that I know of.

Q. Is the fact that in the operation of your plant—state whether or not it was necessary to have somebody do the work that he formerly did.

MR. LAUTER: I object to that question as incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Read that question.

(The last question was read.)

MR. SMITH: May I answer that, your Honor? Between the 25th of June and the date on which he called?

TRIAL EXAMINER LINDSAY: Overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. You may answer.

A. It was necessary to have somebody come in and work.

Q. Had you someone else employed in that capacity at the time he spoke to you?

A. At the time he spoke to me on the floor?

Q. On the phone?

A. On the phone?

Q. Yes.

A. Yes, I did.

Q. Now, do you remember a man by the name of Jerry Simcox that worked for you there?

A. Yes, sir.

Q. In what capacity was Mr. Simcox employed?

A. Second helper; No. 6 force.

Q. Now, he says that he had a conversation with you as follows: That a Mr. Cahill came up to where he was working and that you said: "Simcox, I understand you are an executive of the C. I. O." And that he said: "Well, I guess maybe you might be right." That you said: "How long have you been a member of the C. I. O.?" And that he said "I don't know. Maybe four or five months, maybe not that long, I don't know." You said: "Simcox, how many followers have you got?" He said "I wouldn't know, George. Maybe there are three or four thousand." Do you remember of having that conversation with him?

A. I do.

Q. Are the statements that he has made there a correct statement of the conversation?

A. Substantially correct.

Q. You remember the date that that was?

A. The same day I talked to Elder.

Q. Now, he also claims he says that was around March 13th or 14th or somewhere around there. "It was right after we were elected officers in our C. I. O. Lodge." Did you have any other conversation with Mr. Simcox about this matter?

A. No, sir.

Q. Do you remember of a conversation with him as to the 25th of June when the mill had been opened?

A. I had none.

Q. He does not directly make this statement as you are answering it. He says: "I called for Mr. Putnam on the telephone and it was answered, and a man says: 'What do you want?' I want to know if you have a job. He said: 'No.' And he hung up right away on me.'' Did you have any such conversation with him?

A. I didn't. I had not talked to him.

MR. SMITH: You may cross-examine.

Cross Examination

Q. (By Mr. Lauter) Mr. Putnam, you are the superintendent of the open hearth, is that correct?

A. Yes, sir.

Q. About six or seven hundred men work under you?

A. That is right.

Q. And one of them is a Mr. Richard Elder?

A. Yes, sir.

Q. You had a conversation with him on March 13th?

A. Yes, sir, approximately that date.

Q. And at that time you knew he was a member of the Executive Committee of the S. W. O. C. or the local lodge?

A. Yes.

Q. How did you know that?

A. I knew it because of the pamphlet that was thrown off the bridge.

Q. How did you happen to get the pamphlet that was thrown off?

A. I picked it up in the yard myself.

Q. And that had his name on it?

A. Yes, sir.

Q. And you called him into the office?

A. No, not in the office, on the floor.

Q. What did you say to him on the floor?

A. I asked him if it was true that he was a member of the Executive Committee of the C. I. O.

Q. Is it a customary procedure for you to ask men in your department if they are members of the C. I. O.?

A. No, sir.

Q. He was the only person you asked?

A. Simcox and Elder.

Q. Why did you single them out?

A. Because their names were on the pamphlet and they were attempting to organize for the C. I. O. in the plant.

Q. Do you know of any other activities including the Employees Representation Plan in your plant?

A. What was that question?

MR. LAUTER: Read the question.

(The last question was read.)

A. I know of none outside of the regular Employees Representation Plan, that is, up until the time it became unlawful.

Q. I am asking you if you knew of the activities of the Employees Representation Plan.

A. Yes, I knew about the activities previous to this time.

Q. Well, at that time, on March 13th, that was still in existence, wasn't it?

A. They were not organizing.

Q. What do you mean, organizing?

A. In the plant.

Q. They were still in existence at the time of this organizing, this Employees Representation Plan?

A. I mean they were not taking up the time of the Company and the time of the men to get members for organizing.

Q. They never had a membership card, did they, in that organization?

A. I never seen one.

Q. Didn't you know that the Company paid for their time for attending meetings?

A. I knew up until the time it became unlawful.

MR. LAUTER: I ask that that statement of the witness be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. It may be stricken.

Q. I mean on March 13th.

MR. SMITH: May we have an exception to that?

MR. DAY: Yes, we would like an exception.

MR. LAUTER: Well, that will make it two exceptions.

TRIAL EXAMINER LINDSAY: Yes. You may have an exception.

Q. On March 13th you knew they were paying for their time, didn't you?

A. I didn't know specifically.

Q. When did you know or when did you stop knowing that they were paying for their time?

A. When I stopped attending.

Q. What is that?

A. When I stopped attending Committee meetings.

Q. What Committee meetings?

A. In the Representative Plan.

Q. What was your function under the Plan?

A. I was a member of the Committee.

Q. What Committee?

A. The No. 2 Committee.

Q. The Joint Committee?

A. Yes.

Q. How long were you a member of that Committee?

A. Ever since the inception of the Plan in the plant until I was appointed to the No. 4 Committee; the Appeals Committee.

Q. When were you appointed to the Appeals Committee?

A. The last year.

Q. 1936?

A. The last year it operated, yes, sir.

TRIAL EXAMINER LINDSAY: That would be 1937.

Q. In 1936 the elections took place and the appointments took place?

A. It covers part of two years.

Q. What is that?

A. Two years in one.

Q. My understanding—listen to my question. You were appointed in June, 1936, right?

A. I don't remember the exact date.

Q. You don't remember the date?

A. No.

Q. Do you remember the month?

A. I remember that I was appointed, yes.

Q. And that was to cover the period from June, 1936, to June, 1937?

A. Yes, sir.

Q. On March 13th, 1937, you were still a member of that Wage Committee; of the Joint Committee, is that correct?

A. I am not sure.

Q. Just take your time and see if you can recall.

A. I was a member up until the time it quit functioning.

Q. Now, do you remember if you were a member of that Committee in 1937?

A. In the spring of 1937.

Q. Anyway, March, 1937?

A. Spring of 1937 but I don't recall whether it was March or not.

Q. How often did you attend meetings?

A. Every week.

Q. How often were they held?

A. Every two months.

Q. When was the last meeting you attended?

A. The last one was in February.

Q. And you don't know whether any meetings were held in April?

A. No, I don't recall.

Q. You don't know although you are superintendent of the open hearth that the Employees Representation Plan continued through March of 1937, is that what you are saying?

A. I know it continued up until the time it was stricken out by law.

Q. Don't you know that it went through until March?

A. No, sir.

Q. Do you know the date of the Wagner Act and when it was upheld by the Supreme Court?

A. I believe it was April.

Q. Do you know if any action was taken with respect to the Employees Representation Plan and the dissolution of the Plan?

A. I understood it was dissolved.

Q. Formally?

A. I don't understand.

Q. Were any formal steps ever taken?

A. I was not in on the decisions when they were made.

Q. Just answer my question. Were there any formal steps taken?

A. I don't know.

Q. You don't know?

A. No, sir.

Q. So far as you know, this thing is still in?

A. I don't know when it was done.

Q. But you do know that formal steps were taken to dissolve the Employees Representation Plan?

A. Yes, sir.

Q. Formal steps were taken?

A. Yes, sir.

MR. DAY: He didn't say that at all.

TRIAL EXAMINER LINDSAY: Let us not argue.

MR. LAUTER: Will you read back five or six questions?

(The last five questions were read.)

Q. Is that testimony correct?

A. So far as I know, it is.

Q. Were formal steps taken, so far as you know, to dissolve the Employees Representation Plan?

A. I never heard anybody say they were but they must have been.

Q. I am not interested in your speculations; I am interested in what you know. Do you or do you not know?

A. I heard it talked of at the meetings and I thought it was dissolved.

Q. Are you speculating or are you stating from your own knowledge that formal steps were taken?

A. I am going on the basis of my not attending any further meetings.

MR. LAUTER: I ask that that remark of the witness be stricken from the record.

MR. DAY: I think it should remain.

MR. LAUTER: I am asking him if he knows if any formal steps were taken.

TRIAL EXAMINER LINDSAY: Yes. That may be stricken from the record.

MR. SMITH: May we have an exception?

TRIAL EXAMINER LINDSAY: Yes, you have an exception.

A. I didn't formulate the dissolution.

Q. I am not asking you that. I am asking you whether you know that any formal steps were taken to dissolve the Employees Representation Plan.

A. They were.

Q. You know that?

A. I think they were.

Q. Do you know that?

A. I think they were.

Q. Do you know whether they were?

A. I don't, because I don't set the policy of the company.

MR. LAUTER: I move that the remarks of the witness about setting the policy of the company be stricken.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

MR. DAY: May we have an exception?

MR. SMITH: May we have an exception?

Q. (By Mr. Lauter) I will ask you again once more do you know whether or not any formal steps were taken to dissolve the Employees Representation Plan?

A. I don't know positive.

Q. You were at a meeting in February, 1937, member of the Joint Committee of Ways and Means, is that correct?

A. According to the best of my knowledge, yes.

Q. All this testimony is according to the best of your knowledge?

A. Yes, but my memory is not so good that I can remember all those things.

Q. You remember the conversation of March 13th, don't you?

A. Yes, I do.

Q. With Mr. Elder?

A. Yes, I do.

Q. Do you remember the conversation with Jerry Simcox?

A. Yes.

Q. But you don't remember whether or not you attended a meeting in February, 1937, is that correct?

A. I remember that I did, yes.

Q. You did?

A. Yes.

Q. Now your memory is all right, now, about that meeting, isn't it?

A. You asked me—

Q. I am asking you whether your memory is all right about that meeting. Do you remember the meeting?

A. Yes.

Q. Where was it held?

A. Held in the general office.

Q. Who else attended besides you?

A. Mr. McCoy, Mr. Kraft, Mr. Murphy.

Q. Who is Mart Murphy? That is Mart Murphy you are referring to?

A. Yes, sir. That is Mart Murphy, yes.

Q. What is his position in the mill?

A. He is the engineer at the Bessemer, Youngstown.

Q. Who was the other employee representatives who attended that meeting?

A. Oh, I can get the record for you and show you.

Q. I don't want the record, I want you to tell me what you remember? Your memory is all right, about that meeting.

A. Those are the only ones that I remember.

Q. Is that all that you remember?

A. That is all that I remember.

Q. Now, when was the meeting before that, that you attended, before February, 1937?

A. Two months before.

Q. That would be December, 1936?

A. As I remember it, yes, sir.

Q. Do you remember the Employees Representatives who attended that meeting?

A. The same group, approximately.

Q. Do you remember any other Employee Representatives except Mart Murphy? I am not talking about company representatives, I am talking about Employee Representatives under the Plan?

A. I don't recall who was at that meeting, no.

Q. Do you know whether or not the Employee Representatives got paid for attending meetings?

A. I understand they did.

Q. Do you know that all of the expenses of the Employees Representative Plan were paid by the Republic Steel Corporation?

A. I don't know that, no, sir.

Q. Did you receive copies of minutes?

A. I do.

Q. Do you know who paid for those?

A. No, I don't.

Q. You don't know who printed them?

A. No, I don't. I never saw the bill.

Q. Don't know who mimeographed them? That is right?

A. No, I do not.

Q. How did you receive them?

A. Through the mail.

Q. Company mail?

A. Yes, sir.

Q. Did you ever see the copy of the by-laws?

A. Yes.

Q. Do you know who printed those?

A. No, I don't.

Q. But you were in the organization from its inception?

A. I was.

Q. Do you know how the organization was started?

A. Do I know how?

Q. That is right.

A. Yes.

Q. How did you happen to be appointed to one of the committees under the Plan?

A. By the district management.

Q. And you sat on the Joint Committee all during its existence, is that correct?

A. That is right.

Q. You sat with Employee Representatives who were being paid for time they spent for attending meetings, is that right?

A. That is correct.

Q. And when you saw Mr. Elder's name on the executive committee of the C. I. O. also you felt that it was your duty to call him in to tell him not to organize, is that right?

A. In the plant.

Q. In the plant, that is right?

A. Yes, sir.

Q. That is what I am referring to?

A. Yes, sir.

Q. During all the time that these company representatives—Employee Representatives were being paid by the company, is that right?

A. Not during that time, no, sir.

Q. Well, they were paid in March and April, weren't they?

A. I don't know whether it extended up as far or not. I don't know the exact date when it was cut off.

Q. You didn't make inquiry to find out whether they were cut off, did you?

A. No, sir.

Q. Before you spoke to Mr. Elder?

A. No, sir.

Q. But you felt that he would organize, is that right?

A. I did.

Q. And you felt that it was his duty not to waste time of employees or his time organizing the plant?

A. I felt that was, or it was. Certainly.

Q. You didn't consider it a waste time for employees under the Employees Representation Plan to spend their time on the Employees Representation Plan, did you?

A. I did not.

Q. No, that wasn't a waste of time?

MR. DAY: I move the last remark be stricken out.

MR. LAUTER: I will withdraw that remark.

Q. (By Mr. Lauter) Now, on August 13th Mr. Elder spoke to you, is that right?

A. Yes, sir.

Q. What was the conversation you had with him?

A. He said, "Hello, is this George?" I said, "Yes, this is George. Who is this?" He said, "It is Dick." "What do you want Dick?" "Have you got a job for me?" I said, "No, Dick, your job has been filled." He says, "All right." And hung up.

Q. When did you fill his job?

A. I filled his job in the first part of July after we started up, after the strike.

Q. After what strike?

A. The strike of May 26th to June 25th.

Q. You mean after they opened the mill? You don't think the strike is over, do you?

A. I don't know. We are operating.

Q. You don't know whether the strike is over?

A. We are operating.

Q. I know. On March 13th you also had a conversation with Jerry Simcox, is that right?

A. That is right.

Q. And you asked him if he was a C. I. O. member?

A. I did.

Q. How did you come to ask him whether he was a C. I. O. member?

A. Because I had seen his name on this pamphlet that was thrown off the bridge.

Q. And that pamphlet stated that he had been elected at a meeting held on the previous day, is that correct?

A. His name appeared there.

Q. His and Elder's name?

A. His and Elder's.

Q. Those were the two men you spoke to the very same day when you saw the pamphlet, is that correct?

A. I think it was a day or two afterwards, as I stated before.

Q. A day or two after what date?

A. After I had gotten the pamphlet, that I spoke to him.

Q. The day that you spoke to him, do you know whether the foundry also shut down on that day?

A. No, I don't.

Q. Do you know that it shut down at all?

A. I know the foundry shut down, but I don't know the date.

Q. Do you know that it was sometime in March?

A. I don't know whether it was March or not.

Q. Do you know how long Richard Elder has worked at Republic?

A. No, sir.

Q. You don't know whether it is somewhere in the neighborhood of 12 to 16 years?

A. I do not. He worked there all the time I was there.

Q. Did you ever select him to work on a new furnace? Start a new furnace?

A. I did.

Q. Because he was the best first helper on the turn?

A. No, sir—Did you say in the plant or on the turn?

Q. On the turn?

A. I felt as though he was one of the best.

Q. That is why you selected him?

A. That is right.

Q. To start up a new furnace? Have you called any of the men to come back to work?

A. Have I called any to come back to work?

Q. Yes.

A. No.

Q. Did you instruct any of your foremen to call?

A. No.

Q. Did you tell them to line up crews?

A. I have told them to get their crews together for operation.

Q. And in connection with lining up their crews were they to contact the men?

A. They weren't.

Q. How were they going to line them up?

A. The men came in.

Q. That was the only instructions you gave to the men?

A. To the foremen.

Q. That is right.

A. No, I told the foremen after we had started to operate, that if there is anybody called up, to tell them to go to the employment office, that they would be registered there.

Q. As new men?

A. No, as men whom we had picked to fill our crews when we needed.

Q. How is that?

A. As men whom we would take to fill our crews as we needed.

Q. You never gave any instructions to any foremen to have them get in touch with the men, to have them come back to the mill?

A. No, sir.

Q. How many new men do you have in your department?

A. There is 30 approximately.

MR. LAUTER: That's all.

MR. SMITH: That is all, Mr. Putnam.

(Witness excused.)

JONES M. CAHILL

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) What is your full name, Mr. Cahill?

A. Jones M. Cahill.

Q. You reside where?

A. In Youngstown, Ohio.

Q. And you are employed where?

A. By Republic Steel Corporation.

Q. In what capacity?

A. As assistant superintendent of the open hearth department.

Q. Are you in the same department as Mr. Putnam, who has just testified?

A. I am.

Q. Are you his assistant?

A. I am his assistant.

Q. How many years have you been employed in the steel business?

A. Since 1910.

Q. How many years with the Republic?

A. Since July, in July of 1933.

Q. Where were you employed prior to that time?

A. At Ashland, Kentucky, with the American Rolling Mill Company.

Q. How long have you been acting as assistant under Mr. Putnam—during the entire period you have been working for the Republic?

A. I have.

Q. Do you know Mr. Simcox who worked in your department?

A. I do.

Q. I believe you heard Mr. Putnam testify about a conversation he had, I believe back of furnace No. 6, is that correct?

A. I did.

Q. Do you recall that conversation as—that they had—was as Mr. Putnam has stated?

A. It was correct as Mr. Putnam stated.

Q. Did you have any conversation by yourself with Mr. Simcox at any time?

A. I did, several days later.

Q. Do you know about what time that was?

A. It was in the morning around, I should say about 10 o'clock, several days after we had talked to him at the furnace.

Q. Now, Mr. Simcox refers to a conversation without, I believe, fixing the date, in which he talked to you in regard to a promotion. He was a second helper, wasn't he?

A. He was.

Q. In a talk with you about a promotion to first helper?

A. Yes, sir.

Q. And he says that you says, "Well, Simcox, I don't know. We usually pick the oldest men," and he said, "I don't know about you later." "I said, 'What do you mean, Jonesy, just explain to me what you mean?' " And that he said, "I am here for advancement and I don't expect to be a second helper all my life. I would like to be a first helper and maybe some day I will go melting. I would like to step up. I want to know what is the matter, I would like to improve myself," and that you said, "I don't know, the last two weeks your activities don't seem very good in my estimation." And that he said, "What is it? My work around the furnace is not satisfactory? Was the foreman kicking or what?" And that you said, "No, it is just your activities. I don't know." "I said, 'Do you think there is any chance of me ever being a first helper?' And he said, 'I don't know, Simcox, according to my estimation, I don't think there is.' "

Now, did you have such a conversation with Mr. Simcox?

A. I remember that conversation with him, but his statements are incorrect.

Q. State what the conversation was, Mr. Cahill, as you remember?

A. Simcox asked me what his opportunities would be for advancement as a helper and I told him that I, as his superior, was not satisfied with his work, and I pointed out the several points where I thought he was short in his work as second helper. But I did tell him that if the opportunity came later on, we would consider him. But that at the present time neither from the standpoint of his length of service or the length of his experience as a second helper, was he entitled to a first helping job. Now, that is the—something along that—

Q. Did you, in your conversation, say anything to him about his union activities or other activities?

A. No, absolutely not.

Q. Did you have a conversation with Mr. Simcox on any matters that you know of?

A. In the course of his work, we of course talk with those men.

Q. I know.

A. But not on those matters, no further conversation.

Q. Did you have any talk with him after June 25th when the mills had been opened?

A. No further conversation.

Q. He never called you or anything of that sort?

A. He never called me. I never talked to him since the men went out on strike.

Q. Now, do you remember of any conversation with Mr. Elder after the 25th of June when the mills were opened?

A. I have never talked to Dick at the plant since then.

Q. He says that he called up there and asked for Mr. Putnam and that somebody answered and he asked about a job and then wanted to know if they had a job there, and they said no and hung up on him. Did you have such a conversation?

A. I did not.

Q. Was there anyone else aside from Mr. Putnam or yourself in the office there that would have any authority to discuss that question?

A. No one else.

Q. No one else?

A. No.

MR. SMITH: You may cross examine.

Cross Examination

Q. (By Mr. Lauter) You are the assistant superintendent in the open hearth with Mr. Putnam, is that correct?

A. That is correct.

Q. Do you recall a meeting being held two or three weeks before the strike in which Mr. Levantry and Mr. Putnam spoke?

A. Yes.

Q. Did you attend that meeting?

A. I did.

Q. How long did that meeting last?

A. I should say around 20 minutes.

Q. Where was that meeting held?

A. In the chain house at the open hearth.

Q. How many men were there?

A. Repeat that question?

Q. How many men were there?

A. I should think 100 or 125 men.

Q. What time of the day did it take place?

A. Some time during the—early before noon.

Q. It was on Company time?

A. What is that?

Q. It was on Company time?

A. It was on Company time.

Q. During the turn?

A. Yes, sir.

Q. Mr. Levantry spoke and Mr. Putnam spoke?

A. Yes, sir.

Q. State for the record what Mr. Levantry said.

A. Mr. Levantry restated the Company policy.

Q. Just tell us what he said.

A. It wasn't necessary for any men to join any Union to work for the Republic. That was the essence of his talk.

Q. Now, what else did he say?

A. I can't remember all the statements.

Q. How long did he speak?

A. I would say about three or four minutes.

Q. How long did Mr. Putnam speak?

A. Mr. Putnam spoke about that long.

Q. Three or four minutes?

A. Three or four minutes or five minutes.

Q. A total of not more than 10 minutes?

A. I would say so.

Q. Who else spoke at the meeting?

A. No one.

Q. I believe you said that the meeting lasted about 20 minutes. How do you reconcile the fact when Mr. Putnam spoke four or five minutes and Mr. Levantry spoke only four or five minutes or a total of 10 minutes?

A. It took time to get the men together, to assemble them and to call them in to order and finish up the meeting.

Q. What did Mr. Putnam say at that meeting?

A. Essentially the same as Mr. Levantry.

Q. What remarks were made about the C. I. O.?

A. The remarks by Mr. Levantry was that it would not be Republic policy to sign with the C. I. O.

Q. What remarks were made by them about organizing the plant on Company time?

A. That they didn't want it. We, of course, would have to handle each individual case that came up about organizing on Company time.

Q. That is what Mr. Levantry said?

A. No.

Q. Mr. Putnam?

A. Yes, handling each case individually.

Q. And it was a policy not to permit organizing for the C. I. O. on Company property and Company time?

A. That is right.

Q. That would total how many men?

A. Between 100 and 125 men.

Q. Any mention made about a strike?

A. What?

Q. Any mention made about a possible strike?

A. Not that I recall.

Q. Any mention made about the Employees Representation Plan?

A. Yes, there was.

Q. What was said?

A. It was said—the sense of the talk was to show the benefit that had been derived from the Employees Representation plan since its inception.

Q. Let me understand your correctly.

A. Yes.

Q. They talked at that meeting to the men that attended it about the benefits that had been derived from the Employees Representation Plan?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. And then they were told they were not to organize, the C. I. O. men in the mill?

A. Yes, sir, on Company time.

Q. Is that right?

A. Yes, sir.

MR. LAUTER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will have a recess at this time.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

MAURICE A. ADHEMAR

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) What is your name?

A. Maurice A. Adhemar?

Q. Where do you live, Mr. Adhemar?

A. Youngstown, Ohio.

Q. How long have you lived there?

A. For 28 years.

Q. How are you employed?

A. Employed at the Republic Steel Corporation.

Q. In what capacity?

A. As assistant to the employment manager.

Q. Assistant to the employment manager?

A. That is right.

Q. Who was the employment manager?

A. Mr. E. R. Rose.

Q. Where is Mr. Rose, if you know, Mr. Adhemar?

A. He is sick in bed right now.

Q. Do you know how long he has been confined to his house?

A. The last three days, that I know of.

Q. Now, have you received information asking you to check up on the employment card of Charles Neverdusky?

A. Yes.

Q. Now, briefly state the file system you have in your employment office.

A. We have two files. An active for the men that are working and an inactive file.

Q. Now, on the file that you have there, what is the nature of this file? Do you have a card with you of the cards that are used now?

A. Yes, I have. Here it is (handing a card to Mr. Smith).

Q. Is the card that you have just handed to me a copy of the card in your file as of Charles Neverdusky?

A. Right.

Q. Now, you say you have an active file and an inactive file?

A. That is right.

Q. You may state whether or not at the time of the strike on May 26th, 1937, your active file would contain a card similar to the one you have spoken of which I am going to have marked for each of the men employed in the Youngstown District of the Republic Steel Corporation that were working?

A. Yes.

Q. Who has charge of these files in the office, Mr. Adhemar?

A. I do.

Q. Are you in a position to state as to whether or not on June 25th, the date on which the mill opened, if the active file contained the names of all of the employees of the Youngstown district of the Republic Steel Corporation that were working and on the active list on May 26th?

A. Yes.

MR. SMITH: I ask to have this card marked as Respondent's exhibit for identification.

(The card above referred to was marked as Respondent's Exhibit 40 for identification.)

Q. Do you know Mr. Neverdusky? Personally?

A. No.

Q. When you were requested by my office to see what the status of Mr. Neverdusky's employment card was, just state what you did in connection with getting this information, and where you found his card?

A. I finally looked him up by his name and check number and found him in the inactive file.

Q. Have you any record that shows when, if at any time, this had been placed in the inactive file?

A. It is marked on the card what date it was put in the inactive file.

Q. What date was that?

MR. LAUTER: Well, I will object to the witness testifying about something that is on the card. There is no basis—

MR. SMITH: I will now offer the card.

MR. LAUTER: We will object to the offer on the ground that it is a copy, not the original. No basis made for introduction.

Q. (By Mr. Smith) Did you bring the original?

TRIAL EXAMINER LINDSAY: Will you read the objection?

(Objection read by the Reporter.)

TRIAL EXAMINER LINDSAY: Ruling reserved.

MR. SMITH: Your Honor, I would like to suggest that if that is the basis of the objection, that we would like to have the opportunity to bring the original here so that it can be compared with the copy, to show that it is correct.

TRIAL EXAMINER LINDSAY: Well, that is your case. You may do as you see fit on that.

(Consultation held off the record.)

MR. SMITH: Will the Court grant leave, after this witness has testified, for us to present the original for comparison?

MR. LAUTER: Well, I should like to renew objection to that, on account I would like to have an opportunity to cross examine the witness with respect to any exhibit introduced by the Respondent.

TRIAL EXAMINER LINDSAY: Yes, you can't have that privilege. You should have known that a copy is not receivable, at least give him a chance to have it compared with the original. The objection to the admissibility of this exhibit, which also carries no number, at least as far as you have stated—

MR. SMITH: Well, it is numbered 40; Respondent's Exhibit 40.

TRIAL EXAMINER LINDSAY: All right, Respondent's Exhibit No. 40 is—the objection to the admissibility of Respondent's Exhibit No. 40 is sustained.

Q. Mr. Adhemar, are you in a position of your own personal knowledge to state when, from your records, it is shown that the card of Mr. Charles Neverdusky was placed in the inactive list? Now, you can answer that by yes or no?

A. Yes.

Q. Now, what was that date?

A. May I ask the date of the letter or the card?

Q. I am asking you—

MR. SMITH: Just read the question.

(Question read by the Reporter.)

A. Yes.

Q. Now, what is that date, as shown on your records?

A. The 27th of July.

Q. From the examination of your records, are you in a position to testify as to where that card was, prior to July 27th, 1937? You may answer that yes or no.

A. Prior to July 27th?

Q. Yes, as to where that card was.

A. Yes.

Q. Now, where was it?

A. It was in the inactive file with a letter attached to it.

Q. Where?

A. In the inactive file.

Q. I am asking prior—Now, just a minute, I don't know whether you understood my question.

MR. SMITH: Will you read that to him again?

(Question read to the witness by the Reporter as follows:

"Q. From the examination of your records, are you in a position to testify as to where that card was, prior to July 27th, 1937? You may answer that yes or no.")

A. In the live file.

MR. LAUTER: Well, now, wait. There is a partial answer to that.

TRIAL EXAMINER LINDSAY: Yes.

MR. SMITH: Well, I ask that the answer be withdrawn, not responsive.

TRIAL EXAMINER LINDSAY: Mr. Lauter has a right to have it read.

(Thereupon the record was read by the Reporter.)

MR. LAUTER: I claim the answer, if you please.

TRIAL EXAMINER LINDSAY: Just let the answer stand.

MR. SMITH: All right, I have no objection. You may cross examine—Oh, just one other question. I was under the impression that I asked leave to produce the original. I think the Court did not grant that leave, is that correct?

TRIAL EXAMINER LINDSAY: No, I didn't refuse it. I said the card should have been produced here when the witness was on the witness stand, so as to give the privilege of cross examination on that subject to the attorneys representing the Board. That is one thing. Now, if you get that card here and put this witness back on the witness stand, and that is agreeable to counsel representing the Board, that is another thing.

MR. SMITH: I would like to understand how—

TRIAL EXAMINER LINDSAY: Well, you understand now, don't you?

MR. SMITH: Well now, may I ask this question, please? I cannot see how that, if the original record shows that this copy is an exact copy, that there would be anything to cross examine this witness about.

TRIAL EXAMINER LINDSAY: Well, of course, what you see and what someone else sees—you are not telling me that you are wanting to deprive counsel for the Board of the privilege of that cross examination.

MR. SMITH: No, not at all.

TRIAL EXAMINER LINDSAY: And he is the best judge of that.

MR. SMITH: It was my—I think we can get

the original here this afternoon. Now, it was my—

TRIAL EXAMINER LINDSAY: Well, why argue about it?

MR. SMITH: It was my instructions to have the original here, your Honor, with a copy, and it was misunderstood.

TRIAL EXAMINER LINDSAY: All right.

MR. SMITH: Then I will withdraw—with the permission of the Court we will withdraw this witness until we get the original here, and then we can put him back on, today, to make the identification.

MR. LAUTER: Well, I should like to have the privilege of cross examining him with respect to the testimony that he has already given.

TRIAL EXAMINER LINDSAY: Yes, you may have that right, now, if you so desire.

MR. SMITH: Well, I haven't yet—

MR. LAUTER: It may be that counsel will decide not to put the witness back on the stand and I will lose my privilege.

MR. SMITH: You say you—I will put him back; I have not yet finished my examination.

MR. LAUTER: All right.

MR. SMITH: So I would like to—under those circumstances—have the privilege of putting him back on after we get this card, and to finish the examination.

MR. LAUTER: I am not making any objection to that, if it is understood the witness is to return.

MR. SMITH: The witness will be here.

MR. LAUTER: And that I will have an opportunity to cross examine this witness.

MR. SMITH: He will be here.

MR. LAUTER: On the entire testimony, that is the direct.

MR. SMITH: He will be here.

TRIAL EXAMINER LINDSAY: Now, my ruling will be on that, that if he is not here for cross examination, we will just have to strike your testimony.

MR. SMITH: Well, your Honor, I have given you my word that he will be here.

TRIAL EXAMINER LINDSAY: All right. Mr. Day, you came up here and told me that that concludes the testimony on Youngstown, with the exception of recalling this one witness.

MR. DAY: On Youngstown, and we want to fill in, with relation to Youngstown, Warren, and Niles, in our offer to prove, certain figures which we spoke to you about the night before last, we wanted to check up.

TRIAL EXAMINER LINDSAY: But there are no more witnesses from Youngstown except the recalling of this witness.

MR. DAY: That is correct. We may have one witness from Warren and Niles.

EUGENE GEORGE

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Eugene George.

Q. Keep your voice up.

A. Eugene George.

Q. Where do you live?

A. Canton, Ohio.

Q. By whom are you employed?

A. Republic Steel.

Q. How long have you worked for Republic Steel Corporation?

A. Ten years.

Q. And in what capacity are you employed at the present time?

A. Chipper foreman.

Q. How long have you worked as a chipper foreman for the Republic Steel Corporation?

A. Just since the strike was ended.

Q. I can't hear you.

A. Just since the plant opened after the strike.

Q. Prior to the strike on the 26th of May, 1937, what position did you have with the Republic Steel Corporation?

A. Grinder foreman.

MR. LAUTER: May I interrupt? I just want a correction in the witness' testimony; he said "since the strike was over" or something to that effect. I move to strike that remark.

(Record read by the Reporter.)

MR. LAUTER: I demand to correct the testimony of the witness that it is since the mill opened, or something like that.

MR. KETTERER: That is all right.

TRIAL EXAMINER LINDSAY: Then I understand that "since the strike was ended" is by consent stricken from the record.

(Record read by the Reporter.)

Q. And how long were you a grinder foreman prior to the 26th day of May, 1937?

A. Two years.

Q. I will ask you to state, Mr. George, whether or not there was a man by the name of Mike Ugranovich in your grinding department?

A. Yes, sir.

Q. Do you recall how long he worked under you as a foreman?

A. In '34, I believe.

MR. LAUTER: There may be some confusion.

You used the words "under you as a foreman". You mean Mr. George is the foreman?

MR. KETTERER: Yes.

MR. LAUTER: And Ugranovich worked under him.

Q. (By Mr. Ketterer) What position did Mr. Ugranovich have, from 1934 on?

A. He had a job as grinder.

Q. Now, just what kind of a job is that and what did he do as grinder?

A. He removed the defects from steel with a grinding wheel.

Q. Now, do you recall when he was let off?

A. He was let off on February 8th, 1937.

Q. What turn was he working? What turn were you working at that time?

A. On the midnight turn, 12 to 8.

Q. Now, did you see Mike Ugranovich that night some time after midnight?

A. I did.

Q. Where was it that you saw him?

A. At his machine.

Q. At what place in the plant of the Republic Steel Corporation?

A. In the grinding department.

Q. Do you recall about what time that was with respect to 12 o'clock?

A. Shortly after 12; possibly 5 minutes.

Q. Prior to the time that you saw him there, had you talked with anybody about him?

A. I did.

Q. To whom did you talk to, without giving the conversation?

A. With the inspector.

Q. Do you recall his name?

A. John Foster.

Q. Where were you when you talked with this inspector?

A. In the middle of the grinding floor.

Q. Now, after you talked with the inspector, what, if anything, did you do?

A. Well, I went immediately up to where Mike Ugranovich was working.

Q. How close did you stand to him there that night?

A. Side by side.

Q. Now, did you have any conversation with Mike Ugranovich there?

A. I did.

Q. Tell us as nearly as you can what conversation you had with Mike Ugranovich there.

A. Well, I asked Mike; I says: "Mike, what is the matter?" And he stood up.

Q. Now, what else, if anything, was said?

A. Nothing was said at that time.

Q. What did you observe about him when he stood up, if anything?

A. An odor of liquor was very strong on his breath.

Q. Anything else?

A. And his condition of his work showed that he was intoxicated.

> MR. LAUTER: Well now, I move that the remarks of the witness be stricken from the record with respect that his condition showed that he was intoxicated.
>
> TRIAL EXAMINER LINDSAY: Yes. That is stricken.
>
> MR. KETTERER: Yes.

Q. Just describe the grinding that is done and which was supposed to be done by Mike Ugranovich that night.

A. Well, the billet is laid on a block up from the grinding and he works—his work is done horizontally. On observing Mike's work I noticed that he had been running around in circles. By that I mean the surface of the steel had a circular motion.

Q. Now, what if anything did you do after you had asked Mike what the trouble was?

A. Why, I told him to stay at his machine until I went and got the turn foreman.

Q. I will ask you to state for the purpose of refreshing your recollection whether or not you made any statement to him as to whether he was intoxicated.

A. No, I didn't.

MR. LAUTER: What is that?

A. I didn't

MR. LAUTER: Thank you.

Q. Now, did you go to the turn foreman?

A. I did.

Q. Who was the turn foreman?

A. Charles Eichelberger.

Q. Do you recall where you found Mr. Eichelberger?

A. He was over in the chipping department.

Q. What is his position?

A. Turn—

Q. In the plant?

A. Turn foreman.

Q. He is what?

A. Turn foreman.

Q. I will ask you to state whether or not he is your immediate superior.

A. He is.

Q. Now, did you talk with Mr. Eichelberger?

A. I did.

Q. Tell us what you told him.

TRIAL EXAMINER LINDSAY: Just a minute, please.

(Discussion had.)

MR. KETTERER: Will you read that last question?

(The last question was read.)

A. Well, I said: "Ike, I have got a man down there that is in no condition to work."

Q. Now, did you say anything else?

A. No, sir.

Q. All right. Now, what if anything did you and Mr. Eichelberger do following that statement by you?

A. Well, we came down to the grinding department where Mike was working or standing by the machine.

Q. How long was that after you had first seen Mike Ugranovich?

A. Possibly three or four minutes.

Q. Now, did either you or Mr. Eichelberger have any talk with Mike Ugranovich there then?

A. Mr. Eichelberger did at that time.

Q. Now, tell us what was said, as nearly as you can recall, at that conversation.

A. Well, he asked Mike, he said: "What is the matter?" And then he says: "Don't you know that you are not supposed to go to work in that condition?" He said: "You better go home and go up and see Mr. Hopkins in the morning."

Q. Now, was anything said further to Mike Ugranovich at that time?

A. No.

Q. Now, did Mike Ugranovich make any statement to you?

A. None whatsoever.

Q. Now, did you have any further talk with the turn foreman about Mike Ugranovich?

A. I did.

Q. What did you tell him, if anything, concerning Mike Ugranovich?

A. Well, we was discussing the situation there and as Mike had—

MR. LAUTER: I move that the remarks of the witness with respect to talking the situation over be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That is stricken from the record.

MR. KETTERER: Yes.

A. (Continuing) I said: "Ike," I said, "this fellow has a habit of laying off on pay day, and I talked to him before about coming to work with liquor on his breath, and I recommend him for a layoff."

Q. Now, how many times did you talk with Eichelberger during the time about Ugranovich coming to work with liquor on his breath?

A. Once or twice.

Q. By the way, did you observe the way that Ugranovich walked from where you and Eichelberger were standing that night? Answer that question yes or no.

A. Yes.

Q. Did you observe it or didn't you?

A. Yes.

Q. Now, describe the manner of his walking after he left the place where you and Eichelberger were standing that night.

A. He had a wobbly step and walk.

Q. Now, did you ever see Ugranovich after that, if you can recall?

A. No, sir, not at all.

Q. You didn't talk with Mr. Hopkins yourself about it?

A. I didn't.

Q. Now, I will ask you whether or not in your capacity as a grinder foreman you had the power to hire or discharge men.

A. I haven't.

Q. What is your power in that respect, if any?

A. A recommendation.

Q. To whom did you make your recommendations?

A. To my turn foreman.

Q. That is somebody in the capacity of Mr. Eichelberger?

A. Yes, sir.

Q. Are you acquainted with a man by the name of William Dunn?

A. I am.

Q. Does he work in your department at the Republic Steel Corporation?

A. He does.

Q. What is his position there?

A. Loader.

Q. What?

A. Loader.

Q. I will ask you to state whether or not William Dunn is a foreman.

A. He is not.

Q. Are you acquainted with a man by the name of Schnierle at the Canton plant of the Republic?

A. I am.

Q. Does he work in your department?

A. He does.

Q. What is his job there?

A. Billet classifier.

Q. I will ask you to state whether or not, Mr. George, he is a foreman.

A. He is not.

MR. KETTERER: You may cross examine.

Cross Examination

Q. (By Mr. Lauter) Your name is Eugene George, is that correct?

A. Yes, sir.

Q. You were a grinder foreman—

A. Yes, sir.

Q. —prior to the strike?

A. Yes, sir.

Q. Now, you are a chipper foreman, is that correct?

A. Yes, sir.

Q. You testified about a conversation with Mike Ugranovich.

A. I did.

Q. What was the date of that conversation?

A. It was February 8th.

Q. Do you remember what time of day that was?

A. Possibly 5 after 12.

Q. Now, what did you say to Mike Ugranovich at that time?

A. I said: "What is the matter?"

Q. Was this 5 after 12 at night or in the daytime?

A. Night time.

Q. Is that the 11 to 7 turn?

A. 12 to 8.

Q. 12 to 8 turn?

A. Yes, sir.

Q. Mike Ugranovich was at his machine at that time?

A. He was.

Q. He was working?

A. He started to work.

Q. He started to work?

A. Yes.

Q. When did your first notice Mike Ugranovich that night?

A. When the inspector called my attention to it.

Q. Where was the inspector when he called your attention?

A. Standing around in the vicinity of Mike's machine.

Q. Now, that is John Foster?

A. Yes.

Q. Where is his machine located?

A. In the grinding department.

Q. What is that?

A. In the grinding department.

Q. How large is the grinding department?

A. Forty wheels.

Q. I mean, how large in terms of feet?

A. About 200 on each side.

Q. Did you notice Mike Ugranovich before John Foster spoke to you about it?

A. I did not.

Q. You were in that same room?

A. I was.

Q. But you didn't notice his condition?

A. Not at that time.

Q. Now, what is the nature of Mike's work? Does he stand at the machine and operate it?

A. He does.

Q. When you came up to him he was not walking, is that correct? He was standing there working?

A. He was.

Q. You said to him: "Mike, what is the matter?" Is that correct?

A. Yes.

Q. That is all you said to him?

A. That is all I said to him.

Q. And he said nothing to you in reply?

A. No.

Q. Did you wait for an answer?

A. He didn't vouch any. He just stood there.

Q. I am asking you if you waited for an answer? For any answer to come from him?

A. No.

Q. Did you repeat your question?

A. Yes.

Q. How many times did you repeat your question?

A. Once.

Q. Once is that?

A. Once after he stood up.

Q. What did you ask him then?

A. I asked him: "What is the matter?"

Q. He said nothing.

A. He said nothing.

MR. DAY: I take it by that you mean he made no reply?

MR. LAUTER: That is right; he made no reply.

Q. When was the first time you noticed the odor of liquor was strong on his breath?

A. When he stood up.

Q. You didn't notice it when he sat down?

A. He doesn't sit down.

Q. But you said he was sitting down?

A. Well, he stoops over.

Q. You didn't notice it when he was stooping over? When he was stooping over the machine but when he straightened up you noticed that he had a strong odor of liquor on his breath?

A. I noticed it when he straightened—when he turned his face towards me.

Q. What is that?

A. When he turned his face towards me.

Q. He operates this machine. Does that require a stooping position?

A. It does.

Q. How far does a man have to bend over on the machine?

A. From his waist down.

Q. Now, you stand up. Stand up and show me how Mike Ugranovich has to bend over.

A. Possibly like that (indicating).

Q. Does he constantly have to stand in that position?

A. It is not necessary, no.

Q. How long a period of time does he have to stand in that position?

A. There is no set rules as to that.

Q. In order to operate his machine, does he have to stand over half of his time? Bend over that time?

A. Yes.

Q. At least half?

A. Yes.

Q. At least three-quarters, perhaps?

A. There is different positions for him to change his position.

Q. At least half of his time he has to stand in a stooping position at his machine?

A. Yes.

Q. When did Mike Ugranovich—when you came over to him was he tottering?

A. No, he wasn't.

Q. He was stooping over his machine?

A. He was.

Q. How long did you stay where Mike Ugranovich was at that time at 5 after 12?

A. I didn't hear you?

MR. LAUTER: Will you read the question?

(The last question was read.)

A. I just walked up to him immediately and asked him what the trouble was.

Q. And he straightened up?

A. He did.

Q. Now, how far were you from Mike's machine when John Foster told you that he had something the matter?

A. I was in the center of the grinding floor, possibly 50 or 60 feet away.

Q. How long did you have the conversation with John Foster?

A. He came up and says, "There is something wrong with Mike," he says, "you better go and look at him."

Q. Did he tell you what was wrong with Mike?

A. He didn't.

Q. He didn't tell you he was intoxicated?

A. He did not.

Q. What time was it that John Foster spoke to you?

A. Oh, I imagine three minutes after, four minutes after.

Q. Three or four minutes after 12:00?

A. Yes.

Q. Did John Foster say what was the matter?

A. He did not.

Q. He didn't say when he had first seen Mike Ugranovich?

A. He did not.

Q. All he told you was that something was wrong with Mike?

A. That is all.

Q. You went over and told Mike there was something wrong with him?

A. I didn't.

Q. Asked him what was the matter with him?

A. Asked him what was the matter.

Q. How long did that take you, to walk from where you were when you were speaking to John Foster, to walk to where Ugranovich was?

A. Half a minute, I imagine.

Q. Half a minute to walk 50 or 60 feet?

A. Yes, sir.

Q. During that time could you see Mike Ugranovich?

A. I did.

Q. Was he stooping over his machine?

A. He was.

Q. In the same position you have indicated to the Court?

A. He was.

Q. And he was not tottering, is that right?

A. He was not.

Q. When you came away from Mike Ugranovich's machine, where did you go?

A. To get my turn foreman.

Q. And where is your turn foreman located?

A. Well, he doesn't have any set position, or set place. He moves around through all different departments.

Q. How long did it take you to find him?

A. Couple or three minutes.

Q. So that made it about 12:08, is that correct?

A. Yes.

Q. Where did you find him?

A. In the chipping building.

Q. Where?

A. In the chipping building.

Q. Where is that with respect to the place where Mike Ugranovich works?

A. It is in the—located in the same building about approximately 75 foot away.

Q. And when you found Eichelberger did you have a conversation with him?

A. I did.

Q. What did you say to Mr. Eichelberger?

A. I said, "Ike, I have got a man down there that is in no condition to work."

Q. When you said that to Eichelberger, did he say anything to you?

A. He said nothing.

Q. And when you said that to Eichelberger, that he was in no condition to work, referring to Ugranovich as you testified, that he had strong odor of liquor on his breath at that time, is that correct? And that is all you knew about him at that time?

A. I did.

Q. Is that correct?

A. We observed his work.

Q. Wait. When you stood with Mike and asked him the question, as he was stooped over, he stood up, is that right?

A. Yes.

Q. And you asked him what was the matter?

A. I did.

Q. You walked away, is that correct?

A. I did not. Not immediately.

Q. Well, now, how long did you stay there with Mike?

A. Oh, I couldn't say.

Q. Well, now, you just try and recollect how long?

A. I couldn't say that.

Q. Well, was it a minute or five minutes or ten minutes? Can't you say that?

A. No, I couldn't say that.

Q. Can't you say whether it was twenty minutes or half hour.

A. It wasn't—it was a minute or less.

Q. Well, now, you can say it, is that right?

A. I guess that is right.

Q. You guess that is right? You guess it was a minute or less, is that right?

A. Yes, sir.

Q. Do you think it was about 30 seconds?

A. Possibly.

Q. Possibly 30 seconds? Now, during that 30 seconds did you inspect the nature of the work he was doing?

A. I could see that from where I was standing.

Q. And that took you 30 seconds, in order to see the nature of the work, is that right?

A. Yes, sir.

Q. How he was performing?

A. I didn't see that, his performance. I saw the nature of the work.

Q. You say you couldn't see how he was performing?

A. What?

Q. Did you say you could not see how he was performing his work?

A. Not when I was not standing alongside of him, no.

Q. You stood alongside of him altogether how long? About 30 seconds or a minute, is that right?

A. About 30 seconds.

Q. Is that the sum total of your standing alongside of him?

A. It was.

Q. And during that 30 seconds to a minute you asked him the same question twice, "What is the matter with you?"

A. I asked him once.

Q. Well, I think you asked him once as he was stooping over and then he straightened up and you repeated the question, is that correct?

A. I believe I did. 2

Q. That is, you asked him the same question twice?

A. I think so.

Q. And all this happened during the 30 seconds to one minute, is that correct?

A. Yes, sir.

Q. At the same time you could not observe how he was performing his work, is that correct?

A. He wasn't working at that time.

Q. He wasn't working?

A. No, not when I talked with him.

Q. For the 30 seconds to a minute?

A. Yes, sir.

Q. Then you walked away, is that correct?

A. I did.

Q. You saw Eichelberger and I think we reached the point where you were walking back with Eichelberger?

A. Yes, sir.

Q. Now, it took you three minutes to find Eichelberger, that made it about 12:08, is that right?

A. I would not say.

Q. Or can't you say? You can't say?

A. It didn't take quite three minutes.

Q. Didn't take three minutes? How long did it take?

A. Possibly two or three minutes, not over that.

Q. Possibly two or three, but not over. You had to look for Eichelberger, is that correct?

A. Yes, in a way.

Q. How many places did you have to look for him?

A. One.

Q. And you found him just where you went to look for him, is that correct?

A. By chance, yes, sir.

Q. And that was where?

A. In the chipper building.

Q. And did you stop there and speak to him?

A. I did.

Q. And what did you say to him?

A. "Ike, I have a man in no condition to work."

Q. Now, that, you say, was about 55 feet away from where Ugranovich was working, is that correct?

A. Yes, sir.

Q. How long did you say it took you to go from Ugranovich to Eichelberger?

A. Oh, I imagine half a minute.

Q. Half a minute? That is about 75 feet?

A. Yes, sir.

Q. Half a minute? Then you stopped with Eichelberger and how long did you stop with Eichelberger to ask him that question?

A. I didn't stop. He was coming, walking my direction, and I turned and walked with him.

Q. Turned and walked with him?

A. Yes, sir.

Q. As you were talking with him, you told him about that?

A. Yes.

Q. That Mike was in no condition to work? You have got a man that is in no condition to work, is that correct?

A. That is right.

Q. And you both started to walk toward Mike, is that correct?

A. Yes, sir.

Q. How long did that take before you got back to Mike?

A. The balance of a minute.

Q. The balance of a minute? How long did that take you, then? What time would you say? Withdraw that. What time would you say it was when you returned to Mike with Eichelberger?

A. Ten or twelve minutes after.

Q. That is, if you spoke to Mike at 12:05, it would be 12:13 or 12:12 or 12:15, is that correct? Somewhere around in there?

A. I couldn't state the exact time.

Q. Well, you did. You said it took how long, approximately? Eight to ten minutes? Or ten to twelve minutes?

A. Took twelve minutes, possibly.

Q. That would be 12:15 to 12:17, is that correct?

A. It would be in the neighborhood of 12:15.

Q. In the neighborhood of 12:15? Now, you are back to the machine, you and Eichelberger, and in conversation with Ugranovich. What was Ugranovich doing at that time?

A. Standing by his machine.

Q. Standing?

A. Yes, sir.

Q. Absolutely straight?

A. I couldn't say that.

Q. Now, you don't remember whether or not he was leaning over or standing up?

A. I can't say positively, no.

Q. You don't recall?

A. I don't recall.

Q. Was he facing towards you and Mr. Eichelberger?

A. I don't recall.

Q. How far away from him were you when you first saw him at the machine, while you were walking back to him?

A. Repeat the question.

(Question read by the Reporter.)

A. I don't understand your question.

Q. Now, I say you were walking with Eichelberger to Mike Ugranovich, right?

A. Yes.

Q. How far were you away from Mike Ugranovich at the time that you saw him?

A. Ten or twelve feet.

Q. Ten or twelve feet? Was there a lot of machinery at the time?

A. There is a lot of machinery, yes.

Q. And that blocks your view, is that correct?

A. Not in my department.

Q. Is there machinery around Mike's machine?

A. There is a narrow gauge track dividing up the grinding bed and the chipping bed.

Q. And is that what obstructed your view until you got ten or twelve feet from Mike?

A. Yes, sir.

Q. So that you had reached a point where you were about ten or twelve feet from Mike Ugranovich, and there was a clear space and you could see Mike Ugranovich?

A. Yes, sir.

Q. And you don't recall whether he was stooping over or standing up straight or facing or not facing you, is that correct?

A. That is correct.

Q. Now, did you have any conversation during the time that you walked back from the point that you turned around and met Eichelberger and the time that you went to Ugranovich's machine, with Eichelberger?

A. None.

Q. No conversation?

A. None, except what I told you.

Q. That is right, Eichelberger said nothing about that?

A. He did not.

Q. And there were no further words on your part?

A. No, sir.

Q. Until you came to within ten or twelve feet of Ugranovich, when you could see him for the first time?

A. Coming back.

Q. And you could then see his face, is that correct?

A. Yes.

Q. Who started the conversation back at Ugranovich's machine?

A. Mr. Eichelberger.

Q. What did Mr. Eichelberger say?

A. He asked him what was the matter.

Q. Now, do you recall at that time whether or not Ugranovich was stooped over or standing up straight?

A. He was standing up straight.

Q. Now, would you say about 30 seconds before that he was still standing up straight?

A. I couldn't say positively.

Q. Or you don't know—What is that?

A. I couldn't say positively.

Q. At the time when he was standing up straight, Eichelberger asked what was the matter, what did Ugranovich say?

A. Nothing.

Q. He said nothing? What did Mr. Eichelberger say?

A. He says, "Don't you know that it is against the rules to come in, in that shape, to come to work in that condition?"

Q. Now, did Eichelberger know what Ugranovich's condition was?

MR. DAY: I object to that question.

MR. LAUTER: I will withdraw it.

Q. Had you told Eichelberger what Ugranovich's condition was?

A. I told him that he was in no condition to work.

Q. What did you say that Eichelberger said to Ugranovich when he came over to him?

A. He says, "Don't yon know that you should not come to work in that condition?"

Q. You had said nothing at all to Eichelberger about the fact that Ugranovich had a strong odor of liquor on his breath, is that correct?

A. I had not.

Q. So that from anything you had said, Eichelberger didn't know that?

A. Not unless he derived it from my conversation with him.

Q. Will you repeat once more what Eichelberger said to Ugranovich at the machine?

A. He says, "Don't you know you should not come to work in that condition?"

Q. Now what did he say after that, if anything?

A. Who?

Q. Eichelberger.

A. He says, "Come out and see Mr. Hopkins in the morning."

Q. Is that all that Eichelberger said to Ugranovich?

A. As far as I can recollect it is.

Q. Did you say anything to Ugranovich at that time?

A. I did not.

Q. Did Ugranovich say anything to either of you at that time?

A. He did not.

Q. Was there any statement made to him at that time that there was a strong odor of liquor on his breath?

A. I made none.

Q. Do you understand the question? What?

A. I made none.

Q. Did you hear Eichelberger make any?

A. He may have. I didn't hear it.

Q. Well, did you hear?

A. I did not.

Q. How long did you stay there at the machine where Ugranovich was?

A. I couldn't just tell, I couldn't determine the length of it.

Q. Was that a minute or two minutes or five minutes or twenty minutes?

A. Couple or three minutes.

Q. About three minutes?

A. Yes.

Q. About what time would you say it was, now, the time that you were standing there and asking him that question?

A. Between 15 after and 20 after.

Q. Between 12:15 and 12:20? Now, at that point, did you and Mr. Eichelberger turn away, go off from that machine?

A. We did not.

Q. What did you do?

A. We stood back.

Q. Where did you stay?

A. Stood back from the machine.

Q. Did you have a further conversation between you?

A. We did not.

Q. Didn't say a word?

A. Did not.

Q. You said nothing about standing back of the machine, to him?

A. No, I did not.

Q. What happened, from then on?

A. Mike picked his gloves up and started out the door.

Q. How many gloves did he have?

A. Two.

Q. Did he put them on?

A. He did not.

Q. Do you remember what hand he was carrying them in?

A. I do not.

Q. Do you know what color the gloves were?

A. I do not.

Q. And where did he walk toward?

A. He went out the door, towards the wash house.

Q. You testified a moment ago that there was a clear space there of about ten or twelve feet, is that right?

A. Yes, sir.

Q. Do you know whether—just what the distance is from the edge of this rostrum, the edge right here on the right?

A. Do you mean this desk I am sitting by?

Q. That is right.

A. That is about ten feet or a little over.

Q. What is that?

A. Ten feet or a little over, 10 or 15 feet.

Q. 10 or 15? And how wide? Withdraw that—How long was the open space that Ugranovich had to cover in going toward the door? Was that about ten feet?

A. A little over.

Q. What is that?

A. I misunderstood your question.

MR. DAY: Do you mean to the door or toward the door?

Q. (By Mr. Lauter) To the door and toward the door.

A. Why, about ten feet.

Q. About ten feet?

A. Yes.

Q. Were there any machines on either side of this open space?

A. There was not.

Q. What is that?

A. There was not.

Q. How far—How wide is the space between the machines at that point?

A. You mean these buggies that were on this track?

Q. That is right.

A. There was about two feet.

Q. Two feet?

A. They were set away from the door.

Q. About two feet?

A. Yes, sir.

Q. You mean there was an open space about ten feet long?

A. Yes, sir.

Q. And it had a width of about two feet, is that correct?

A. Well—

Q. Well, that is about the width there on the floor, isn't it?

A. The floor in front of this desk?

Q. Is that correct?

A. That is a little more than two feet.

Q. That is a little more than two feet? There is more space there, that is in front of this desk—Withdraw that. Between the desk here in the room, and the rostrum, there is a little more than two feet, is that correct?

A. A little over, not much.

Q. And the distance, you would say, was about the same distance as now stands, is that correct? Or—

A. What?

Q. The distance, the length of the rostrum?

A. Possibly.

Q. And that is where you saw Mr. Ugranovich walking toward the door?

A. Yes, sir.

Q. Is that where you saw him totter?

A. I did.

Q. What is that?

A. I did.

Q. The first time that you saw him totter was at the point where he started to walk away from his machine for the door, during this open space?

A. Yes, sir.

Q. In this open space?

A. Yes, sir.

Q. Iwant you to step down from the stand. You show me how you saw Mr. Ugranovich walk?

A. Well, he staggered off to one side like this (indicating).

Q. You walked the entire 10 feet—

MR. DAY: Pardon me for walking between.

Q. Just take the seat back on the witness stand.

TRIAL EXAMINER LINDSAY: We will adjourn now until after lunch.

MR. LAUTER: I will finish in a few more questions.

(Recess had.)

Q. (By Mr. Lauter) Now, as you saw Mr. Ugranovich walking through this open space, you saw him tottering, is that correct?

A. I did.

Q. And there were places on both sides that he could have leaned against if he were walking through, is that right?

A. There was not.

Q. Is there any support that he could turn to, in case he fell?

A. There is not.

Q. What was on both sides of this open space?

A. The doorway and buggy.

Q. What?

A. A doorway and narrow gauge buggy.

Q. I see. And he walked through this open space and he was tottering?

A. Yes, sir.

Q. And you saw him totter for about ten feet?

A. Yes, sir.

Q. And you didn't see him after that?

A. I did not.

Q. That is the extent of the tottering you saw him do, is that correct?

A. That is it.

Q. I want you to step down from the stand and walk the ten feet and show me just how he walked?

A. That is pretty hard to describe.

Q. Well, you just try to give us some idea of what you saw?

A. I am afraid I couldn't do it.

Q. You couldn't do it?

A. It is almost hard—it is very hard to do. I don't know that—

Q. You try it.

A. The exact motions.

Q. What is that?

TRIAL EXAMINER LINDSAY: Do the best you can.

Q. Just try, show me how you saw him walk.

A. Like this (indicating).

Q. Is that the way he was walking? Did you say he tottered or wobbled on direct examination? I don't remember. Do you recall? You don't make any distinction between wobbling and tottering, do you?

A. I do not.

Q. And you saw him wobble for about ten feet?

A. Yes, sir.

Q. Did he bump against anything, the way you did against the rostrum?

A. Not that I noticed.

Q. You haven't noticed?

A. I didn't notice. There was nothing there to bump against.

Q. I didn't hear you.

A. There was nothing there to bump against.

Q. There was nothing to bump against? So that he didn't walk exactly the way you did here?

A. No.

Q. Because you bumped against the rostrum I noticed, is that correct?

A. That is right.

Q. How many times before that, had you spoken to Ugranovich about liquor on his breath?

A. Several times.

Q. How many would you say?

A. At least twice.

Q. How many more than twice?

A. That is all that I can say.

Q. Did you say on direct examination once or twice?

A. Once or twice.

Q. Once or twice? Not more than twice, is that correct?

A. Not more than twice.

Q. Well, when you said a moment ago at least twice, now you say no more than twice, which do you mean?

A. Not more than twice.

Q. You mean not more than twice?

A. No.

Q. Probably once or twice?

A. Once or twice.

Q. I want you to describe the other occasions when you spoke to him. About how long prior to February 8th did you speak to Ugranovich for the first time about the fact that his breath smelled of liquor?

A. I couldn't say.

Q. Well, now, was it a month or a week or a year?

A. I couldn't say.

Q. You don't remember whether it was a year?

A. I couldn't say.

Q. Or a month or a week?

A. I couldn't say.

Q. Do you remember the second time you spoke to him about liquor on his breath?

A. I do not.

Q. You don't remember whether that was a month or a week or a year before February 8th?

A. I do not.

Q. Do you remember whether you ever had spoken to him about it?

A. I do.

Q. You are sure about it?

A. I am.

Q. Do you remember the circumstances under which you spoke to him?

A. I do not.

Q. You don't remember when it was or what you said or what he had said?

A. It was in the grinding department.

Q. In the same department?

A. Yes, sir.

Q. Do you remember what you said?

A. I told him, I said, "Mike, you will have to watch your drinking, or you will get in trouble."

Q. And you don't remember whether that was a week or month or year or—

A. I do not.

Q. Either the first or the second time?

A. I do not.

Q. Did you ever lay him off for being drunk or did you suggest to any turn foreman that he be laid off?

A. I have not the power to lay the men off.

Q. Did you suggest to anyone that he be laid off on those two previous occasions?

A. I did not.

Q. Did you mention that fact to anyone else except Mike Ugranovich, the two previous occasions when he had liquor on his breath?

MR. KETTERER: When was that time?

MR. LAUTER: Well, the witness can't say whether it was a week or a month or a year before.

MR. KETTERER: The question is not clear.

MR. LAUTER: I will withdraw the question.

Q. On the two occasions prior to February 8th you testified you spoke to Mike Ugranovich about his having liquor on his breath?

A. I did.

Q. I am now asking you whether or not you ever spoke to any other foreman or any other person about those two previous occasions?

A. Do you mean prior to Mike's—

Q. Prior to February 8th.

A. I did not.

Q. You didn't tell anyone about it?

A. I did not.

Q. Isn't the reason for that, that in the mill very often it happens that men come to work with liquor on their breath?

A. It is.

Q. And you don't lay them off?

A. I don't have the power.

Q. And you don't recommend that they be laid off?

A. I can, yes.

Q. But you didn't, in Mike Ugranovich's case?

A. I did, to Mr. Eichelberger after—

Q. I am referring to the two previous cases, you didn't say anything?

A. No, sir.

Q. To Mr. Eichelberger about those? Have you ever come to the mill yourself with liquor on your breath?

A. On certain occasions.

Q. Did you ever come into the mill wobbling?

A. No, sir.

Q. Did the turn foreman ever complain to you about the fact of liquor on your breath?

A. No, sir.

Q. And you were never discharged or laid off for the reason?

A. No, sir.

Q. Now, a good many men come into the mill in the same condition that you have come into it, don't they?

A. I presume so.

Q. Now, have you reported employees at the plant every time for wobbling?

A. When so instructed to do so, yes, sir.

Q. Well, now, wait.

TRIAL EXAMINER LINDSAY: Answer the question, please.

Q. As a matter of fact, aren't there occasions when you do and sometimes you don't?

A. No, sir.

Q. Have you in every case reported a man whom you saw wobbling in the mill?

A. Yes, sir.

Q. Every case?

A. Yes, sir.

Q. Now, how many men have you seen wobbling in the mill?

A. He was the only one I ever had.

Q. You never saw another man wobbling in the mill?

A. No, sir.

Q. Is that correct?

A. Yes, sir.

Q. Now, how many other men have you come across in the mill with that condition of liquor on their breath?

A. I can't say.

Q. Hundreds, is that right?

A. Not that—in that length of time, perhaps.

Q. Now, out of these hundreds whom you have come across the mill with liquor on their breath, are you now stating for the record that not one single one of those was wobbling?

A. Not to my knowledge.

Q. Did you come close enough to tell that they had liquor on their breath?

A. Yes, sir.

Q. But you could not observe whether they were wobbling?

A. I could not.

Q. What are the instructions in the mill with respect to wobbling?

A. What is that question?

MR. LAUTER: I will withdraw that.

Q. Are there any instructions in the mill with respect to wobbling?

A. There are.

Q. Now, you told me what the instructions are.

A. If a man comes in in that condition—

Q. No. You tell me what the instructions are. Are you telling me?

A. Yes.

MR. LAUTER: Then I will withdraw that.

Q. Are those instructions printed?

A. No, sir.

Q. From whom did you get those instructions?

A. From the department head.

Q. From whom did you get those instructions with respect to wobbling?

A. From the turn foreman.

Q. What is his name?

A. I can't tell you at the present time.

Q. From whom did you get your instructions with respect to wobbling?

A. I can't tell you.

Q. What is that?

A. I can't tell you right now.

Q. Did you ever get any instructions with respect to wobbling?

A. I did.

Q. How long ago?

A. When I first took over the job.

Q. When you first what?

A. When I first took over the job.

Q. Which job?

A. The grinding boss.

Q. Didn't you get any instructions when you were a chipper foreman about wobbling?

A. That was after.

Q. What is that?

A. That was after I was a grinding foreman.

Q. You are a chipper foreman now and you were a grinding foreman before?

A. Yes, sir.

Q. How long were you a grinder foreman?

A. Two years or a little longer.

Q. When did you start to be a foreman? When did you become a foreman? ~~That is,~~ a grinder foreman?

A. I just can't tell you the exact date.

Q. Give me the year. I know you are not good on dates. What year was it?

A. '34—either '34 or '35.

Q. You aren't sure of the year?

A. No, sir.

Q. '34 or '35?

A. Yes, sir.

Q. You became a grinder foreman then?

A. Yes, sir.

Q. Was it at that time that you got instructions about wobbling?

A. Yes, sir.

Q. Who gave you instructions?

A. Mr. Hopkins.

Q. Now, you received certain instructions?

A. At that time.

Q. From Mr. Hopkins, the superintendent?

A. Yes, sir.

Q. He gave you instructions about wobbling?

A. Yes, sir.

Q. Do you know whether he gave any other foreman any instructions about wobbling?

A. I don't.

Q. At the time you received your instructions on wobbling, were all the foremen called together?

A. They were not.

Q. You got personal instructions from Mr. Hopkins, the superintendent, on the subject of wobbling?

A. Yes, sir.

Q. Now, you tell me what he told you.

A. I can't tell you the exact words.

Q. Give it to me in substance.

A. Well, he says if a man comes out in an intoxicated condition, he is to go home.

Q. Is that all he said?

A. Yes, sir.

Q. Is that all?

A. The substance.

Q. You tell me in substance everything he said.

A. Yes.

Q. Is that in substance everything he said?

A. Yes.

Q. When a man comes to work in an intoxicated condition he is to be sent home?

A. Yes, sir.

Q. Did he say anything about this charge to you?

A. He didn't.

Q. Did he say anything about wobbling?

A. What?

Q. Did he say anything about wobbling?

A. He didn't.

Q. All he told you was that if a man comes in in an intoxicated condition, he is to be sent home?

A. Yes, sir.

Q. Now, was any other standard set to you by Mr. Hopkins?

A. I don't know of any.

Q. Now, who made the distinction between liquor on a man's breath and wobbling? You, yourself?

A. That is, our own distinction.

Q. That is your own distinction?

A. Yes.

Q. That is your distinction with respect to intoxication?

A. Yes, sir.

Q. You didn't consider liquor on a man's breath intoxication, is that correct?

A. No, not if it isn't too strong.

Q. What is that?

A. Not if it isn't too strong.

Q. You set your own standards when it is weak and when it is strong?

A. Yes.

Q. And when you decide it is a little bit strong you send him home?

A. Yes.

Q. And when you decide that it is a wobbling condition, that falls under the heading of a dissertation on wobbling, doesn't it?

A. Yes, sir.

Q. How long did you speak to Hopkins on wobbling?

A. I can't recall.

Q. Five minutes or 10 minutes or a half an hour?

A. I can't tell you.

Q. You don't know?

A. No.

Q. Now, after you got your instructions from Superintendent Hopkins, did you ever advise the men about his edict?

A. I didn't.

Q. What is that?

A. I didn't.

Q. You didn't tell them that you considered intoxication wobbling or about their having liquor on their breath?

A. I didn't.

Q. You told them nothing about it?

A. I didn't.

MR. LAUTER: That is all.

MR. KETTERER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will adjourn until 1:30.

(Thereupon, a recess was taken until 1:30 o'clock p. m.)

AFTER RECESS

(Whereupon, at 1:30 o'clock p. m., the hearing was resumed and the following proceedings were had):

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. SMITH: Your Honor, I have the original card.

(Discussion off the record.)

MR. SMITH: Shall I go forward, Mr. Lauter?

MR. LAUTER: Just a moment.

MR. SMITH: Yes.

MAURICE A. ADHEMAR

a witness heretofore duly sworn, resumed the stand and testified further as follows:

MR. SMITH: Will you mark this Respondent's Exhibit 41 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit 41 for identification.)

Direct Examination

Q. (By Mr. Smith) I show you a card that has been marked for identification as Respondent's Exhibit 41 and ask you what that card is.

A. That is the employment record of Charles Neverdusky.

Q. Where did you get that?

A. From our office in Youngstown.

Q. From your office in Youngstown?

A. Yes, sir.

Q. Is that the original card covering his employment?

A. That is the original.

Q. Now, I desire—that is the original, you say?

A. Yes, sir.

MR. SMITH: I desire to introduce the original card with the request that we be permitted to substitute a photostatic copy of this card in the record in the place of the original card so that we can have it back.

MR. LAUTER: I have no objection to the granting of the motion as to the substituting of a photostatic copy.

Q. Now—

TRIAL EXAMINER LINDSAY: That is, provided I do receive it in evidence.

MR. SMITH: That is, I was offering it.

MR. LAUTER: I have no objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 41 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit 41" was received in evidence.)

Q. I call your attention, Mr. Adhemar, to the reverse side of Respondent's Exhibit 41 to the second line—the typewritten line there at the end. There is in typewriting: "Wrong Number." What does that mean?

A. The wrong number.

Q. Does that line in any way affect the service record of Charles Neverdusky?

A. No.

Q. Now, looking at this, the first line refers to o. h., masonry, employee No. 7687, position, helper, 3-9-36 to 5-20-37. Now, what does that line mean?

A. It means that the man has been hired in the open hearth masonry department as a mason helper and his service is started on 3-9-36.

Q. What does the 5-20-37 refer to?

A. That is when the man left that department.

TRIAL EXAMINER LINDSAY: May I ask what man you are referring to?

MR. SMITH: Charles Neverdusky. I was asking him in regard to the record.

Q. Now, taking the third line which says: "B. L. Shipp, No. 19206, position, helper, 5-20-37, 7-27-37, and the typewritten word at the end of that line: Cancelled." Now, just explain that to the Court.

A. It means that that man started at the button lamp shipping department under that number, 19206, as a helper on 5-20-37.

Q. And what does 7-27-37 mean?

A. It means that he was cancelled from that department on 7-27-37.

Q. Now, that is his record?

A. Yes.

MR. SMITH: Now, I would like to have marked for identification Respondent's Exhibit No. 42. I have already shown it to Mr. Lauter. I will show it to your Honor.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 42 for identification.)

Q. Now, I show you a letter dated July 22nd, 1937, addressed to E. R. Rose which has been marked for identification as Respondent's Exhibit No. 42 and ask you what that letter is?

A. It is a letter to take these men from the payroll; these particular men from the payroll.

Q. There are other names on it that have no reference to him, is that correct?

A. That is right.

MR. SMITH: Now, your Honor, I desire to offer in evidence this letter, Respondent's Exhibit No. 42 for identification, in connection with the testimony of Mr. Adhemar as to Charles Neverdusky.

MR. LAUTER: I have no objection to the admission of Respondent's Exhibit No. 42 for identification consisting of a two-page letter containing some typewritten matter on it.

MR. SMITH: I would like leave to substitute a copy for the original.

MR. LAUTER: I have no objection to the substitution of a photostatic copy.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 42 is received in evidence for the purpose alone as stated by counsel representing the Respondent. The photostatic copy may be substituted to take the place of the original and shall be numbered 42.

(Thereupon the document heretofore marked "Respondent's Exhibit No. 42" was received in evidence.)

Q. I believe you testified this morning, Mr. Adhemar, as to where you found this card? What file you found it in? Am I correct on that?

A. When?

Q. When you were requested—a request came in from my office asking you to check up on the status of the records in your office of Charles Neverdusky.

A. In the inactive file.

Q. The inactive file?

A. That is correct.

MR. SMITH: You may cross-examine.

Cross Examination

Q. (By Mr. Lauter) You are the assistant to Mr. Rose, employment manager?

A. Yes, sir.

Q. How long have you been assistant?

A. About a year.

Q. Now, you gave testimony concerning an active and inactive file. Will you explain what you mean by an active and inactive file in an employment office?

A. The active files are the men who are working in the plant at the present, and the inactive file are men who are not in our plant, but had been there previously or prior.

Q. Now, you testified about the transfer of certain names from the active to the inactive file, is that correct?

A. That is right?

Q. Can you tell me when the transfer of names or persons who were out on strike from the active to the inactive list took place?

A. No.

Q. Well, tell me approximately when it took place?

A. Oh, I couldn't tell you that.

Q. What month?

A. (Witness shakes head.)

Q. Let's see if I can't help you. I show you Respondent's Exhibit No. 42 and ask you to examine it and tell me whether or not that refreshes your recollection as to the date on which certain names were transferred from the active to the inactive list?

A. That is right.

Q. It does refresh your recollection?

A. It does, the date they were transferred.

Q. What is the date on which certain names, the names of persons who were out on strike, were transferred from the active to the inactive list?

MR. DAY: Do you mean those that were on that list?

Q. That is right, those are certain persons?

A. Not to be exact, but about the 27th of July.

Q. Now, do you know the circumstances surrounding the transfer of those names from the active to the inactive list?

A. No.

Q. You were assisting Mr. Rose, is that correct?

A. That is right.

Q. You know what an active list and what an inactive list is?

A. Yes.

Q. You know that a strike was called on May 26?

A. Yes.

Q. You know that strike is still on? It has not been called off? Do you know that?

A. Yes.

Q. Do you know that certain men who are out on strike were, on one day, on the active list?

A. Yes.

Q. That subsequently those same men were placed on the inactive list?

A. Yes.

Q. Now, were these men placed on that inactive list on the same day, with respect to all of the strikers who hadn't come back, or were they put on inactive lists on different days?

A. Most of them were put—If I can remember, on the same date.

Q. Now, that is about July 27th?

A. That is right.

Q. Let me be sure that I understand you. There were men out on strike that hadn't applied for reinstatement?

A. I don't know whether they were out on strike or not, but they were—I was ordered to take them out of the active file.

Q. You were ordered to take them out of the active file, and that was a considerable number of employees?

A. It was. I don't know how many.

Q. You don't know each one of them, naturally?

A. No, that is right.

Q. You work in the employment office, and you know those were men who were out on strike?

A. I don't.

Q. You don't know in a general way that there was a considerable number of men that you transferred from active to inactive file?

A. No.

Q. And men that were out on strike?

A. No, I don't know that.

Q. What were you told? That they were?

A. I wasn't told.

Q. What explanation was made to you at the time you were transferring them from the active to the inactive file?

A. There was no explanation made.

Q. What is that?

A. There was no explanation. I took them out on an order from the superintendents.

Q. Whose order was that?

A. The superintendent heads.

Q. Superintendent heads?

A. That is right.

Q. Did you have personal communication with them?

A. No, a letter form or termination.

Q. When you say "letter form" you mean a letter similar to Respondent's Exhibit 42?

A. Yes.

Q. On which appears the name of Charles Neverdusky?

A. Yes.

Q. Do you know whether or not he is a striker?

A. I couldn't tell you that.

Q. Had you ever before received instructions to drop such a considerable—or transfer any such a considerable number of men from an active to an inactive list?

A. Yes.

Q. When was that?

A. Oh, I couldn't tell you. I couldn't recall it.

Q. Now, you tell me how many men you received orders to transfer from active to inactive list?

A. I don't remember the number.

Q. Well, give me your general approximation?

A. Oh, I couldn't. That is a matter of form. I took out as many as I had on my lists. I didn't stop to tabulate.

Q. I am asking you how many you had on the list?

A. I don't know. —

Q. Did you have 500 or 600 or 1,000?

A. I didn't count them.

Q. Give me your approximation? 10,000?

A. I can't tell you even approximately.

Q. How many employees are there in the Youngstown plant?

A. Now?

Q. How many were there on May 26th or May 25th?

A. We had 8600 men, a little over, on the payroll.

Q. What is that?

A. We had a little over 8600 on the payroll.

Q. And when did you start making the transfer from the active to the inactive list? Sometime in July, end of July?

A. I do that all the time.

Q. I am asking you whether these considerable number of transfers from active to inactive lists about which you understand I am referring, was made sometime at the end of July?

A. I did drop—or put in the inactive file a considerable number on the 27th.

Q. And you say you can't approximate it, is that correct?

A. No, I can't.

Q. Now, there were only 8600 employees on May 25th, is that correct?

A. There were, yes.

Q. How many are there now? Do you know how many there are now?

A. Approximately over—a little over 8200.

Q. Now, how many men have you placed on the inactive list?

A. I couldn't tell you.

Q. Did you place 400?

A. I don't know how it stands now.

Q. You would say less than 10,000?

A. Less than 10,000.

Q. Would you say less than 5,000?

A. Yes.

Q. Less than 1,000?

A. Yes.

Q. Less than 500?

A. No.

Q. Would you say somewhere between 500 and 1,000?

A. I would not say, I am not sure.

Q. Well, I am only asking you for your approximation. It is less than 1,000? You agree to that?

A. Yes.

Q. But it is not less than 500?

A. Yes.

Q. Therefore it must be somewhere between 500 and 1,000?

A. Somewhere.

Q. When, before, during the time that you were an assistant to Mr. Rose, have you ever placed at approximately the same time 500 to 1,000 men on the inactive list?

MR. SMITH: Now, just a minute, I want to object, please. He has not said that any one time he did that.

TRIAL EXAMINER LINDSAY: Well, he is asking him now. The objection is overruled. Let the record show an exception.

A. May I have the question again, please?

Q. Sure.

(Last question read by the Reporter.)

A. I understand before I was assistant to Mr. Rose?

Q. When, before you were assistant?

A. When? I don't remember it.

Q. You never have, have you?

A. I have put men in the inactive file, but I don't know how many.

Q. Don't you know that you never have put between 500 and 1,000 men at approximately the same time in the inactive list? When you are thinking, if you can't remember, we may subpoena the records to help your recollection

A. That is right.

Q. What is that?

A. Not that many.

Q. Not that many, is that correct?

A. Not that many, that is correct. At one time.

Q. When did you start to put them on the inactiv list? Come as close as you can to the exact date.

A. Again?

(The last question read by the Reporter.)

A. Well, the 27th is the date we tried to.

MR. SMITH: I didn't get that answer.

(The last answer was read.)

A. To work according to our list we were getting from the superintendent.

Q. You mean you tried to finish them up?

A. Yes.

Q. In that one day, that is July 27th?

A. Yes.

Q. When did you start receiving letters from the superintendent heads?

A. Well, I didn't stop receiving, I get letters now. Not with lots of men. Maybe one man or two men at the same time.

Q. Do you understand my question? I asked you when you started to receive the letters?

A. When we started?

Q. Of the character we are discussing?

A. Well, as far as I know, around the 20th and 22nd, I don't remember that date, exact date.

Q. Respondent's Exhibit 42 is dated July 22nd?

A. That is right.

Q. So that about that time, that you started to receive—

A. About that time, yes.

Q. Let me finish my question. That you started to receive letters from superintendents?

A. Yes.

Q. Now, about how many different superintendents sent in letters, do you know?

A. I can't tell you how many.

Q. Well, approximately?

A. About 7.

Q. About 7 superintendents? And did they all send in what you refer to as a form letter? I think you referred to this as a turn foreman?

A. Yes.

Q. This form letter was sent in by seven different superintendents on or about July 22nd, is that correct?

A. Yes.

Q. That is, form letters similar to Respondent's Exhibit 42, and they in turn contained a list of names?

A. Yes.

Q. Filled in on this form which you received marked as Respondent's Exhibit 42? And they contained somewhere between 500 and 1,000 names, is that correct?

A. I don't know whether that many.

Q. Well, isn't that the number you referred to before?

A. I don't know whether the letters contained that many names.

Q. Do you think they contain more or less?

A. Less.

Q. You think that you transferred more or less, from the active to the inactive list, than were in the letters?

A. Because I got termination notices.

Q. No, just answer my question, whether you think you did.

A. Well, not that many as you refer to, on form letters.

Q. I see. Now, let's get this straight. Did you transfer more names from the active to the inactive list than appeared in the letters from the superintendents, or less names? Understand my question?

A. Repeat the question.

Q. (The question was read by the Reporter.)

A. More.

Q. That is, you transferred more names from the active to the inactive list, than appeared on the letters from the superintendents?

A. Yes.

Q. Now, you transferred between 500 and 1000 names from the active to the inactive list, is that correct?

A. Yes.

Q. Have you any idea how many list names appear on the superintendent's letters?

A. I have no—

Q. A hundred or 200?

A. I can't tell you that now.

Q. Well, I am not trying to pin you down to exact numbers. I am trying to get from you a statement of the exact numbers. I am not trying to trap you.

A. I can't remember because I got termination notices from time to time.

Q. Yes.

A. From certain number of men and I don't remember how many.

Q. That is, generally with respect to one or two or three, is that correct, the number of men?

A. Yes.

Q. And if you received 400 or 200 termination notices you would remember?

A. Yes, in a bunch like that, I would.

Q. At the time you were transferring 500 of those men from the active to the inactive list you would not receive such a great number of termination notices?

A. That is correct.

Q. Now, are you stating for the record that you don't know that the transfers that you made to the inactive list were of men that were out on strike?

A. That is right. I don't know.

Q. No one told you they were strikers?

A. No.

Q. What?

A. No.

Q. You made no inquiries about those men?

A. No.

Q. You have never spoken to the superintendents about any of those men?

A. No.

Q. Not a single one?

A. No.

Q. Not even about Charles Neverdusky?

A. I don't know Charles Neverdusky.

Q. I say, you never spoke to the superintendent concerning the transfer from the active to the inactive list of any person?

A. No.

Q. And you don't know they were strikers?

A. No.

Q. Did you personally prepare Respondent's Exhibit No. 41?

A. May I see it?

(Mr. Lauter hands a card to the witness.)

A. This is the original card and I didn't start the card.

Q. What notice have you made on that card?

A. I have made entries from the 20th of May, on that date.

Q. Yes.

A. And on.

Q. From the 20th of May, 1937?

A. That is right.

Q. Now, there are three entries on the reverse side of the card.

A. Yes.

Q. Did you make the first?

A. I didn't--

Q. The top one?

A. No, I didn't.

Q. Did you make the second?

A. Yes, and the last half.

Q. You say you made part of the first?

A. The last half of it.

Q. When you say the last half, you mean the penciled correction on the typewritten part?

A. Yes.

Q. When did you change the 6 to a 7?

A. I don't know.

Q. Can you give me any idea?

A. I don't know. I found the number was wrong on the man and I checked up on it at the time office and I found it was wrong.

Q. Was it a week ago or a year ago?

A. When I found that number and changed it, I think it was on May 20th, 1937.

Q. On that date?

A. Yes.

Q. May 20th?

A. Yes.

Q. Now, the third entry is the entry that you made on the reverse of Respondent's Exhibit No. 41?

A. Yes.

Q. That is a promotion as far as you know from a helper in the open hearth masonry to a helper in the b. l. shop, is that correct?

A. Yes, sir.

Q. Do you know whether or not there are any men in the active file who are now not working in the plant?

A. No, I can't tell you that.

Q. What is that?

A. I don't know that.

Q. You don't know whether they are or not working or you don't know what the circumstances are surrounding it?

A. That is right. I don't know the circumstances.

Q. How long does a man's active card remain on file until he is out on leave?

A. Until I got an order to put it in the inactive file.

Q. Did you put the inactive file—did you put him on the inactive file when he was transferred?

A. No.

Q. Do you put him on the inactive file when he is on vacation?

A. No.

Q. Do you put him on the inactive file when he is away from the job for more than 30 days?

A. No.

Q. Do you put him on the inactive file when his services are terminated?

A. By the superintendent, yes.

MR. LAUTER: That is all.

MR. SMITH: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: That concludes your testimony as far as Youngstown is concerned?

MR. DAY: That is, with the right to put in those figures of the offer to prove, that concludes our testimony on Youngstown.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 36 of which I reserved ruling, and there is an objection to the admissibility, to Respondent's Exhibit No. 36, that objection is sustained to the admissibility of Respondent's Exhibit No. 36. Let the record show an exception.

MR. SMITH: Exception.

CHARLES EICHELBERGER

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Charles Eichelberger.

Q. Where do you live, Mr. Eichelberger?

A. Canton, Ohio.

Q. By whom are you employed at the present time?

A. Republic Steel Corporation.

Q. How long have you worked for the Republic Steel Corporation or its preceding companies?

A. Over 12 years.

Q. In what capacity do you work for them at the present time?

A. Turn foreman.

Q. In what department?

A. 35 billet shed.

Q. How long have you worked as a turn foreman in the Republic Steel Corporation or its predecessors?

A. About a year.

Q. Mr. Eichelberger, I will ask you to state whether or not you were acquainted with an employee in your department whose name is Mike Ugranovich?

A. Yes, sir.

Q. Do you know where he worked?

A. He worked as a grinder in the grinding department.

Q. And is the grinding department under your jurisdiction as a turn foreman?

A. Yes, sir.

Q. Just tell us how this operation of grinding is performed by the men in the grinding department.

A. We have a wheel that runs on a trolley and it has two handles that comes out over the wheel. The man stands in between the two handles and grinds horizontally of the steel, taking the surface of the steel and removing the defect from it.

Q. Now, what if anything, does he have in his hands when he is operating the grinding wheel?

A. He has two handles in his hands.

Q. Now, how long, if you recall, did Mr. Ugranovich work in that department?

A. I can't say.

Q. Was he there when you became turn foreman in that department?

A. Yes, sir.

Q. Now, going to February, 1937, do you recall the occasion that he was laid off?

A. Yes, sir.

Q. When was the first time that anybody said anything to you about Ugranovich in February, 1937?

A. On the 12 to 8 turn.

Q. On what day?

A. On February 8th.

Q. Do you recall who it was that spoke to you concerning Ugranovich?

A. The grinder foreman.

Q. Who was that?

A. Eugene George.

Q. Was he the man that testified here this morning?

A. Yes, sir.

Q. Now, what if anything did Eugene George say to you that night on February 8th, 1937, concerning Ugranovich?

A. He told me he had a man working up in the grinding department that was under—was in no condition to work.

Q. Where was that when he made that statement to you?

A. In the chipping department.

Q. How far is that from the billet shed where the grinding operation was being conducted?

A. Approximately 75 feet.

Q. What if anything did you do there?

A. I went with him to the grinding department.

Q. Did you see Ugranovich there?

A. Yes, sir.

Q. Where was he when you came up?

A. He was standing at his wheel.

Q. Now, did you have any conversation with Ugranovich there that night?

A. Yes, sir.

Q. Tell us as nearly as you can what was said by you and Ugranovich if he said anything on that occasion.

A. I told him he was in no condition to work and he was to go home and report to the superintendent, Mr. Hopkins, tomorrow morning.

Q. Now, what did you observe about his person when you came up there, if anything?

MR. DAY: Might I interrupt for just a minute?

(Discussion off the record.)

MR. KETTERER: Will you read the last question?

(The last question was read.)

A. I observed that he was apparently under the influence of liquor.

Q. Did you make any observation about the work that he was doing? The metal upon which he was working?

A. Yes, sir.

Q. Describe that, if you will, please.

A. The wheel he had been grinding—he had been grinding on a wheel in a circular movement over the steel.

Q. What is the proper method of doing grinding on steel of that kind?

A. Straight horizontal grinding.

Q. Did he say anything to you when you told him he was to go home?

A. No, sir.

Q. What, if anything, did he do after you gave him those instructions?

A. Picked up his gloves and started for the door.

Q. Did you observe how he walked as he went from where you were standing toward the door?

A. Yes, sir.

Q. Describe that. His walk.

A. He walked in an uncertain condition.

Q. Now, after Ugranovich left there, did you have any further talk with Mr. George about him?

A. Yes, sir.

Q. What was said by George or by you?

A. I can't state the exact words.

Q. Well, as nearly as you can recall. You don't have to give the exact words.

A. He told me he had been laying off from one to two days, possibly every pay day. He had come in there with liquor on his breath and he had cautioned him about coming to work in that condition.

Q. Did he say anything about how many times he had warned him or cautioned him?

A. Yes, he told him once or twice.

Q. Now, I will ask you to state if he made a recommendation of any kind to you that night.

A. Yes, he did.

Q. What, if anything, did he say on that score?

A. He suggested he be laid off.

Q. Now, did you talk with anybody else about Ugranovich at a later date?

A. Yes, sir.

Q. With whom did you talk?

A. With the superintendent of the department.

Q. Who is that?

A. Mr. Hopkins.

Q. Will you relate the conversation that you had with Mr. Hopkins? First, tell us when that took place.

A. I can't say just where or word for word.

Q. Well, substantially what you said, as nearly as you can recall?

A. Well, it was possibly about 8:05 in the morning of the 8th. I met him in his office and told him that I had sent a man home, that he was in an intoxicated condition, seemed to be under the influence of liquor, and I told him to report to him in the morning.

Q. (By Mr. Ketterer) Did you say anything else that you can recall?

A. I suggested that it would be better for the department that he be laid off as his foreman had reported this to me—made that suggestion and I in turn also made the suggestion.

Q. Was anything else said that you can recall?

A. No, sir.

Q. Were you present on the following morning at 9 o'clock?

A. No, sir.

Q. Or approximately then, when Ugranovich talked with Hopkins?

A. No, sir.

Q. I will ask you to state, Mr. Eichelberger, whether, as a turn foreman, you had the authority to hire or discharge employees?

A. I do not.

Q. And what is the extent of your authority in respect to the employees in your department?

A. I have to use my jurisdiction when they come in, and they are under the influence of liquor, that is to send them home and report to the superintendent of the department.

MR. KETTERER: You may cross examine.

Cross Examination

Q. (By Mr. Lauter) What is Mr. Eugene George's position?

A. Sir?

Q. What is his position in the mill?

A. Turn foreman.

Q. What is your position?

A. Mine is turn foreman. His is grinder foreman.

Q. He is grinder foreman?

A. Yes, sir.

Q. And is he working under you?

A. Yes, sir.

Q. Who is John Foster?

A. He is an inspector in the inspection department.

Q. What time did Mr. Eugene George speak to you about Ugranovich?

A. Shortly after midnight.

Q. Fix the time as best you can.

A. Approximately between 10 and 15 after 12:00.

Q. About 12:10 or 12:15? And where did Mr. George speak to you about Ugranovich?

A. In the billet shed.

Q. How far is the billet shed from the place where Ugranovich worked?

A. Possibly 75 feet.

Q. How long did you speak to George about Ugranovich at that time?

A. I talked to him while I was walking.

Q. And what did he say to you?

A. He told me he had a man down there under—in an uncondition to work.

Q. In what?

A. In an unsatisfactory condition to work.

Q. Give me his—

A. In no condition to work.

Q. Have you got it straight, now?

A. Yes, sir.

Q. You didn't have it straight on direct?

A. I didn't have it straight.

Q. Do you remember what you started to say?

A. Yes.

Q. What did you start to say?

A. He said that he was in an unsatisfactory condition to work.

Q. What did you start to say on direct examination?

A. On direct examination I stated that he was under no condition to work.

Q. Didn't you start to say something else?

A. No.

Q. Are you sure?

A. Not to my knowledge.

Q. What is that?

A. Not to my knowledge.

MR. LAUTER: Turn back to the direct examination.

(Thereupon the direct testimony from page 5325 was read by the Reporter.)

Q. (By Mr. Lauter) Now, wait. "That was under,"—Did you start to say something else there?

A. No, sir.

Q. "That was under—" Did you get that far?

A. Read that again.

(Record read by the Reporter.)

"A. He told me he had a man working out in the grinding department that was under—")

Q. (By Mr. Lauter) Didn't you say that?

A. I don't recall saying that.

Q. You don't recall saying that? You think that the transcript is incorrect?

A Yes.

Q. Didn't he say something about his being under the influence of liquor?

A. No, sir.

Q. He didn't say that?

A. No, sir.

Q. You are sure he didn't?

A. Yes, sir.

Q. And if it is in the record here now, that is a mistake?

MR. KETTERER: I object. That is not in the record.

A. It is not in the record.

MR. KETTERER: The word "under" is.

MR. LAUTER: I mean the word "under" of course.

Q. (By Mr. Lauter) You were about 75 feet—

TRIAL EXAMINER LINDSAY: Just a minute. The objection now is cleared up and withdrawn?

MR. KETTERER: That is all right.

MR. LAUTER: Well, I intend the record to show that my remarks in the record were "under."

Q. Now, you were in the billet shed, is that right?

A. Yes.

Q. At the time that George came up and spoke to you, as you were walking towards the place where Ugranovich was working, is that correct?

A. Yes, sir.

Q. About how far were you from where Ugranovich was working at the time you met George?

A. About 75 feet.

Q. About 75 feet? And all that Eugene George said at that time was there was a man who was in no condition to work?

A. Yes, sir.

Q. Did you say anything to George?

A. No, sir.

Q. Did he tell you who it was that was in no condition to work?

A. No, sir.

Q. Did you go to Ugranovich with George at that time?

A. Yes, sir.

Q. Were you walking together as you were going to Ugranovich?

A. I don't remember.

Q. You don't remember whether you were walking together or what happened?

A. No, sir.

Q. Well, you did walk to get to Ugranovich, didn't you?

A. Yes, sir.

Q. And you don't remember whether you were in front of George or whether he was in back of you?

A. I don't remember.

Q. Or whether he was at your side, is that correct?

A. Yes, sir.

Q. You don't remember whether or not he told you that it was Ugranovich that was in no condition to work?

A. He didn't tell me.

Q. He didn't tell you who it was?

A. No.

Q. Well, did he leave you to Ugranovich?

A. Yes, sir.

Q. When you got to Ugranovich you saw him working there?

A. Yes, sir.

Q. Now, you heard the testimony of Mr. George, didn't you?

A. Yes, sir.

Q. You heard him testify about this open space directly in front of where Ugranovich works?

A. Yes, sir.

Q. Is that correct? And that is as he has stated, about ten feet, is that correct?

A. Yes, sir.

Q. And on both sides there is something, and there is a passageway of about two feet?

A. Yes.

Q. In fact, you listened to all of the testimony that was given by George, is that correct? You were here and present while George testified this morning?

A. Yes.

Q. And everything he said is correct, is it?

A. Yes, sir.

Q. When did you first notice Ugranovich working on the machine?

A. He wasn't working when I saw him.

Q. What posture was he in?

A. Sir?

Q. What was his position at the machine?

A. He was standing by his wheel.

Q. Standing by the wheel?

A. Yes, sir.

Q. Was he standing up straight or was he stooping over?

A. Yes, sir.

Q. What is that?

A. Standing straight.

Q. Were his hands on the controls?

A. No, sir.

Q. Were his hands at his side?

A. I couldn't say.

Q. You don't remember?

A. I don't remember.

Q. Was he wobbling?

A. Yes, sir.

Q. At the time that you saw him standing at the machine, you are stating to the record that he was wobbling?

A. Yes, sir.

Q. Now, are you sure about that?

A. Yes, sir.

Q. And you went along with Mr. George at the time that you were approaching Mr. Ugranovich working at the machine, is that correct?

A. Yes, sir.

Q. Did you hear him testify this morning?

A. Sir?

Q. Did you hear Mr. George testify this morning?

A. Yes, sir.

Q. Do you recall whether he testified about whether or not Mr. Ugranovich was wobbling?

A. No, sir.

Q. You don't recall that?

A. No, sir.

Q. But ~~he was~~ with you? Mr. George was with you, is that correct?

A. Yes, sir.

Q. And you saw Ugranovich wobbling at the machine?

A. Yes, sir.

Q. How far away were you from Ugranovich when first you saw him?

A. Possibly 15 feet.

Q. How far?

A. Possibly 15 feet.

Q. 15 feet? And he was wobbling over there at the machine as you were coming closer to it?

A. He was standing.

Q. And wobbling?

A. Yes, sir.

Q. You came up to him with George and what did you say to Ugranovich?

A. I told him he was under no condition to work, but that he was to report—or to go home and report to Mr. Hopkins in the morning.

Q. What did Ugranovich do?

A. He picked up his gloves and started off home.

Q. Did you see him wobble, too?

A. Yes, sir.

Q. Just as George had seen him?

A. Yes, sir.

Q. And you saw him for a distance of about 10 feet?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. You didn't see him after that?

A. No.

Q. Now, was this the first time that you had been told about Ugranovich, that is on February 8th?

A. Yes, sir.

Q. Do you know whether or not there was any general policy in the mill with respect to men drinking?

A. Yes, sir.

Q. What is the policy?

A. That no man can work under the influence of liquor.

Q. What is that?

A. No man can work under the influence of liquor.

Q. Does that include having liquor on his breath?

A. I beg your pardon?

Q. Does that include having liquor on his breath?

A. No, sir.

Q. Do you mean that a man can come into the mill with liquor on the breath?

A. Yes, sir.

Q. They don't fire them for that?

A. No.

Q. They don't lay them off for that?

A. I don't.

Q. Is that correct?

A. Yes, sir.

Q. And you have come across, as Mr. George has, hundreds of cases in which men have come into the plant with liquor on their breaths?

A. Yes, sir.

Q. And in many cases you have never even said anything to him, is that correct?

A. What is the question?

(Last question read by the Reporter.)

A. I have told them at safety meetings.

Q. You advised them in a body at safety meetings?

A. Yes, sir.

Q. That it was the company policy not to have men come there with liquor on their breaths?

A. Yes, sir.

Q. But you never fired anyone for doing that or recommended firing anybody for doing it?

A. Repeat that again?

(Question read by the Reporter.)

A. I don't remember.

Q. Well, now, you don't remember whether you have laid off or discharged somebody or recommended their being laid off or discharged for having liquor on their breath, is that what you are saying?

A. Possibly in the last 11 years I have.

Q. How many cases?

A. Well, that is determined by the superintendent.

Q. Well, I am asking you how many cases you recommended that a man be discharged or laid off because he has liquor on his breath?

A. Two or three days.

Q. You say you have recommended their lay-off?

A. Yes, sir.

Q. In how many cases?

A. I don't remember.

Q. Well, would you say 100?

A. No.

Q. Less than 50?

A. I couldn't say.

Q. You can't say whether it was 10 or 50, is that right?

A. No.

Q. And you don't recall?

A. I don't recall.

Q. Is that the general policy of the company?

A. Yes.

Q. That you were following when you laid off these men for two or three days, when they had liquor on their breath?

A. Yes, sir.

Q. Would it be a breach of the company policy, not to lay the men off if they had liquor on their breath?

A. Repeat the question.

(Question read by the Reporter.)

Q. (By Mr. Lauter) I will try to explain it. We are trying to find out what the policy of the company was with respect to the men who have liquor on their breath. Do you lay them off or discharge them for that offense?

A. Not every time.

Q. That is what I am trying to get.

A. Sir?

Q. What are the occasions, when you say there are occasions when you say you depart from the standards that you set, which permit you to have discretion on the one hand to lay them off and on the other hand not to?

A. No, sir.

Q. What is that?

A. No, sir.

MR. LAUTER: You didn't understand my question.

Q. Sometimes you did and sometimes you didn't, is that correct?

A. Yes, sir.

Q. Now, when did you or when didn't you?

A. When they were too much under the influence of liquor.

Q. You mean you measure the odor—

A. Yes, sir.

Q. —and decide?

A. The condition of the man.

Q. I am talking about liquor on the breath. I am not talking about the wobbly cases. We will come to those later. I am talking about liquor on the breath. Now, sometimes when a man has liquor on his breath you lay him off or recommend that he be laid off?

A. No, sir.

Q. Never?

A. Yes, sir.

Q. Is that what you are saying for the record?

A. Yes, sir.

Q. That a man can come into the Republic plant with liquor on his breath, no matter how strong it is, and you won't lay him off or recommend that he be laid off, is that correct?

A. State that question?

MR. LAUTER: Read the question.

(The last question was read.)

A. I do recommend that he be laid off if it is too strong.

Q. There are different stages of liquor on the breath?

A. Yes.

Q. There is Stage A when he has a little liquor on his breath?

A. Yes.

Q. You do recommend a layoff then?

A. No.

Q. And then there is Stage B when he has a lot of liquor on his breath. Then you do recommend that he be laid off?

A. Yes, sir.

Q. And then you recommend that he be laid off, is that right?

A. Yes.

Q. Now, you tell me how you determine if he has a lot or a little bit of liquor on his breath.

A. You mean ~~by~~ layoff, indefinitely?

Q. I don't care if it is a day or two or a week. I am trying to find your standards. When you lay off a man, I assume you are—you are probably a reasonable person. You are in a position of responsibility, aren't you?

A. Yes, sir.

Q. You are a foreman?

A. Yes, sir.

Q. And as a foreman you have the right to recommend layoffs and discharges?

A. Yes, sir.

Q. And more often than not they are fired?

A. What is that?

Q. More often than not?

A. Yes, sir.

Q. And you wouldn't recommend that a man be laid off unless you think he should be laid off, is that correct?

A. Yes, sir.

Q. When you recommend him for layoff you think he should be laid off, you say?

A. Yes, sir.

Q. When you recommended the layoff of Ugranovich you thought he should be laid off?

A. Yes, sir.

Q. Now, I want to confine this testimony for the moment with the liquor on the breath cases. We have one case where there is a little liquor on the breath and you don't recommend that they be laid off, and we have the other where there is a lot of liquor on the breath and you recommend that they be laid off.

A. Disciplined.

Q. Disciplined?

A. Yes, sir.

Q. What do you mean by disciplined?

A. Give them a couple of days' layoff.

Q. You lay them off for a couple of days, is that right?

A. Yes, sir.

Q. Now, how many cases have you recommended of men to be laid off if they have a little liquor on the breath?

A. I don't remember.

Q. One case?

A. I don't know.

Q. At least one, is that correct?

A. Yes.

Q. You say at least one?

A. Yes.

Q. And in at least one case you smelled liquor on the breath of the man whom you didn't recommend for a layoff, is that correct?

A. Yes.

Q. Now, we have two cases. We have got one where you smelled a little liquor on the breath and we have another case where you smell a lot of liquor on the breath.

A. Yes, sir.

Q. Do you remember the case?

A. No, sir.

Q. Do you remember the man?

A. No, sir.

Q. You don't even remember if it happened?

A. No.

Q. I am asking you if you remember the case of a case like Man A who has a little liquor on his breath and the case of a Man B who has a lot of liquor on his breath. Remember those cases A and B?

A. Yes.

Q. Now, just keep them in mind.

A. Yes.

Q. When did Case A happen?— When was the case when you smelled a little liquor on his breath and didn't recommend that he be laid off?

A. I don't remember.

Q. Remember it happening?

A. Possibly.

Q. I am not interested in speculations. Do you recall that incident of not recommending a man for layoff when he had a little liquor on his breath?

A. No.

Q. Now, do you have an independent recollection of a case where you smelled a little liquor on a man's breath and didn't recommend that he be laid off?

A. Yes, that was before the Republic Steel took it over.

Q. Before the Republic Steel took it over?

A. Yes, sir.

Q. But you have no recollection of a case since?

A. No, sir.

Q. Well, the policy has changed since the Republic Steel took it over?

A. Yes, sir.

Q. There has been a change in policy?

A. Yes, sir.

Q. What is the change in policy with respect to a little liquor on the breath?

A. Well, beforehand we never sent a man home for that.

Q. Before what?

A. For a little on the breath.

Q. No matter how strong it was?

A. Yes, sir.

Q. What?

A. Yes, sir.

Q. No matter how strong it was?

A. If he wasn't intoxicated.

Q. I am asking you about liquor on the breath. If a man had liquor on the breath, you never sent the man home before the Republic took it over?

A. If he was intoxicated, we did.

Q. We are trying to get physical facts here. If a man had a lot of liquor on his breath before the Republic took it over, did you lay him off or didn't you?

A. Not unless he was intoxicated.

Q. What do you mean by intoxicated?

A. He couldn't work.

Q. He couldn't work?

A. Yes.

Q. But if he had liquor on his breath and could work, that was all right?

A. Yes, sir.

Q. Was there a change of policy after the Republic took it over?

A. Well, we were told—

Q. But it was the same policy?

A. It was the same policy.

Q. No change in policy?

A. No.

Q. If a man were drinking and had a strong odor on his breath it was all right as long as he could work, is that correct?

A. If he can work safely.

Q. That is correct. The odor on his breath didn't make a bit of difference?

A. Yes.

Q. It didn't make a bit of difference, is that correct?

A. Yes.

Q. Now, you approached Ugranovich and he had an odor of liquor on his breath, is that correct?

A. Yes, sir.

Q. How close did you come to him?

A. Right up to him.

Q. Right up to him?

A. Yes, sir.

Q. Do you remember whether it was a light odor or a strong odor?

A. A strong odor.

Q. A very strong odor?

A. Yes, sir.

Q. He was wobbly as you were talking to him?

A. Weaving.

Q. But he was wobbling as you were talking to him?

A. Yes, sir.

Q. As you came up to him, he was wobbling, and as you were talking to him, he was wobbling?

A. Yes.

Q. What did you say to him?

A. "You are in no condition to work. You will have to go home and report to Mr. Hopkins in the morning."

Q. About what time was that in the morning?

A. Possibly 15 after; possibly 10 after.

Q. In fact, all the time you saw Ugranovich he was wobbling, wasn't he?

A. Yes.

Q. He was wobbling when you came to him and he was wobbling when you talked to him and while you were walking away, is that right?

A. Yes, sir.

Q. And all the time George was with you?

A. Yes, sir.

Q. Was he wobbling very badly?

A. Not so bad.

Q. Not so bad?

A. No.

Q. Just a little bit?

A. Yes.

Q. Is that right?

A. Yes.

Q. Had you ever seen men in the mill wobbling just a little bit before?

A. In what way?

Q. Just wobbling?

A. Well, you might wobble and be walking in the mill and not be—it might be the footing underneath.

Q. But you are sure it wasn't the footing in this case?

A. No, sir.

Q. Now, as he walked away from the machine towards the door you could see him for about 10 feet?

A. Yes, sir.

Q. Was he wobbling just a little bit at that time?

A. Quite a bit.

Q. Wobbling?

A. Yes, sir.

Q. He was wobbling more as he walked and as he stood at the machine?

A. He was walking then.

Q. He was walking then?

A. Yes, sir.

Q. And he wobbled a little more?

A. Yes, sir.

Q. Now, when you spoke to Mr. Hopkins, that was about what time?

A. About 8:05.

Q. What did you say to Mr. Hopkins?

A. I can't say the exact words.

Q. Give it to me in substance.

A. I told him I sent the man home for being intoxicated. He was going to report to him in the morning.

Q. What else did you say to Mr. Hopkins?

A. I told him that the grinder boss suggested he be laid off and I in turn made that suggestion.

Q. Did you at that time say anything about wobbling?

A. Yes, sir.

Q. To Mr. Hopkins?

A. Yes, sir.

Q. You told Mr. Hopkins that he was wobbling, is that correct?

A. Yes, sir.

Q. You are sure of that?

A. Yes, sir.

Q. What else did you tell Mr. Hopkins?

A. That is all.

Q. Did you tell him anything about smelling liquor on his breath?

A. Yes, sir.

Q. That is something else you told him?

A. Yes, sir.

Q. You told him that, too?

A. Yes, sir.

Q. Give me as near as you can the language in which you told him about Mr. Ugranovich. Tell us the whole thing. Tell us everything you told Mr. Hopkins, as nearly as you can remember.

A. That I had a man who was under the influence—that I sent home a man who was under the influence of liquor, and that I smelled it on his breath, and that the grinder foreman suggested he be laid off, and I in turn suggested he be laid off.

Q. Is that everything you said to him?

A. That he was in a wobbly condition when he went out the building.

Q. You told that to Mr. Hopkins?

A. Yes.

Q. Is that all you told to Mr. Hopkins?

A. That is all as I remember.

Q. What is that?

A. That is all I can recall right now.

Q. What did Mr. Hopkins say to you?

A. I don't remember.

Q. You don't remember a single word he said?

A. No, sir.

Q. Remember whether he said anything?

A. What is that?

Q. Remember whether he said anything?

A. I do not.

Q. You remember pretty clearly what you said?

A. Yes, sir.

Q. Liquor on his breath, intoxicated, wobbly. But you can't even remember whether Hopkins said anything, is that correct?

A. Yes, sir.

Q. (By Mr. Lauter) Now, did you receive any instructions as Mr. George did, with respect to laying off men who were under the influence of liquor?

A. Yes, sir.

Q. From whom?

A. I was told not to let a man work if he was under—intoxicated.

Q. I ask you from whom?

A. From the superintendent.

Q. What is his hand [name]?

A. Mr. Hopkins.

Q. Now, that is the same gentleman who gave Mr. George his instructions?

A. Yes, sir.

Q. Now, you tell me when Superintendent Hopkins told you about what to do in case you found a man under the influence of liquor?

A. That is at various times.

Q. What is that?

A. Various times.

Q. Superintendent Hopkins told you, gave you instructions at various times?

A. Yes, sir.

Q. When was the first time you got instructions?

A. I don't recall.

Q. How many years ago?

A. Possibly 11.

Q. 11? What did he say then, do you remember?

A. No, sir.

Q. What was the next time you got instructions?

A. I couldn't say.

Q. What was the last time you got instructions?

A. I couldn't say that either.

Q. Within a year or two or a month?

A. I couldn't say.

Q. You just don't remember?

A. No, sir.

Q. You don't remember when it was? Now, let's see if you remember when it was, that you received instructions about the last time Superintendent Hopkins spoke to you about how to handle men that were under the influence of liquor. What did he say?

A. I don't recall.

Q. You don't remember what he said? Did anyone else give you instructions besides Superintendent Hopkins?

A. No, sir.

Q. But you executed his orders anyway? These instructions that you can't remember when you got them or where you got them or what was said, you carried them out anyway, is that correct?

A. Yes, sir.

Q. You can't remember what the instructions were, though?

A. No, sir.

Q. What?

A. Not to let men work under the intoxicated condition.

Q. Oh, you remember what the instructions were, now?

A. I remember that.

Q. Were those instructions Superintendent Hopkins gave you?

A. Yes, sir.

Q. And you are sure that they were?

A. Yes, sir.

Q. Now, let's have them once more, what were the instructions?

A. Not to let a man work under an intoxicated condition.

Q. And did he explain to you what he meant by an intoxicated condition? I am asking you whether Superintendent Hopkins himself told you what he meant when he used the words and gave the instructions not to let a man work under intoxicated condition?

A. No, sir.

Q. That was left up to your own personal discretion?

A. Yes.

Q. Is that correct?

A. Yes, sir.

Q. If you smell liquor on his breath, and you felt he should be sent home, why you sent him home? Right?

A. Yes, sir.

Q. And it was up to you if you seen him wobbling to send him home or let him stay there, is that correct?

A. Yes, sir.

Q. That was all a matter of your own personal discretion?

A. Yes, sir.

MR. LAUTER: That's all.

MR. KETTERER: That's all.

(Witness excused.)

LAURISTON E. MILLER

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Lauriston E. Miller.

Q. Where do you live?

A. Massillon, Ohio.

Q. By whom are you employed?

A. Republic Steel Corporation.

Q. In what capacity do you work at Republic Steel Corporation?

A. As general foreman.

Q. You are general foreman over what department?

A. The billet and finishing.

Q. What department?

A. Billet and finishing. Billet shed and finishing.

Q. How long have you worked for Republic Steel Corporation?

A. 17 years.

Q. Have you been a foreman in this department during all that period of time?

A. No, sir.

Q. How long have you been a general foreman in that department?

A. About four years.

Q. Now, do you recall, in the spring of 1937, from the first of the year until the end of March, are you familiar with the number of furnaces that were operating in the Massillon plant? You can answer that yes or no.

A. Yes.

Q. How many furnaces were operating in the Massillon plant from January until March, 1937, approximately?

A. About six furnaces, five or six furnaces.

Q. What, if anything, does the number of furnaces and the output from the number of furnaces have to do with the number of chippers and grinders that you have in your department?

A. It does not deal with grinders at all, it deals with chippers. We work in a ratio of about 75 chippers per furnace.

Q. Now, beginning in April, 1937, what, if anything, was done in the Massillon plant in respect to the number of furnaces in operation? Was that increased or decreased?

A. Decreased.

Q. And to what number?

A. Reduced the furnaces down to four.

Q. And was anything done as to what kind of steel was produced in the four furnaces that were operating?

A. Yes, there were two furnaces producing alloy and two producing carbon steel.

Q. Now, what, if anything, had to be done in respect to the two types of steel, bearing upon the number of men you have in your department?

A. Your alloy steels have to be processed by chipping and your carbon steel, there is no processing done.

Q. That is to say, as far as output from the two furnaces that were producing carbon steel you had no chippers?

A. That is right.

Q. Now, how many chippers were working in the Massillon plant up to the end of March, 1937, approximately?

A. We had approximately about 600.

Q. And when production decreased and only two furnaces were placed on the production of carbon steel in April, 1937, what, if anything, was done in respect to the number of chippers which you said up to that time was around 600?

A. We decided to cut the force.

Q. By what number?

A. Approximately 225 chippers.

Q. Now, were you acquainted with a man by the name of Peter Demos?

A. I know him.

Q. And he worked in what department?

A. He was a chipper.

Q. Now, I will ask you, Mr. Miller, whether or not he was included in the list of 225 chippers who were laid off as a result of decreasing production in the Massillon plant?

A. He was.

Q. Do you recall when he was laid off?

A. He was laid off in May, along the forepart. I think it was the 5th. This year.

Q. Are you acquainted with a man who works in the Massillon plant by the name of Happy North?

A. Yes, sir.

Q. What department does he work in, Mr. Miller?

A. The inspection department.

Q. I will ask you to state whether or not he has the standing of foreman in the plant?

A. He does not.

Q. And did he, prior to the strike, on the 26th of May, 1937?

A. I beg your pardon?

Q. Did he have that standing prior to May 26th, 1937?

A. He still retains his same position now.

Q. That is, inspector?

A. Yes, sir.

Q. And are you acquainted with a man by the name of George Pappas?

A. Yes, sir.

Q. Does he work in the Massillon plant?

A. He does.

Q. Do you know what department he works in?

A. Inspection.

Q. I will ask you whether or not he has the capacity of a foreman?

A. No, he does not. He is a pipe inspector.

Q. Are you acquainted with a man whose name is Whitey Taylor?

A. I know Whitey Taylor.

Q. Do you know in what capacity he is employed by Republic Steel Corporation?

A. He is an inspector.

Q. And does he have the standing of foreman in that plant?

A. He does not.

MR. KETTERER: That's all.

Cross Examination

Q. (By Mr. Lauter) How many men work under you, Mr. Miller?

A. Are you referring to the whole department?

Q. May 25th?

A. The whole department? Approximately about 800, that is American and foreigners along, everybody.

Q. You say "American and foreign"?

A. Yes, the whole department, you asked me?

Q. Yes, well, you don't divide them up into American and foreigners, do you?

A. No, I am taking the whole personnel. You asked me the entire, whole department.

Q. I am just wondering why you made some—you classified them as American and foreigners?

A. Well, we are talking about chippers.

Q. Well, are chippers any different than the rest of them in your department?

A. No.

Q. You say there is 75 chippers to each furnace?

A. I would say that the ratio is approximately 75 per furnace.

Q. And from January to March, 1937, there were five or six furnaces running?

A. Yes, sir.

Q. How many were there, five or six?

A. There was six.

Q. Six? Now, are all of the chippers under your department?

A. Yes, sir.

Q. What other kinds of employees work for you?

A. We have loaders, pilers, and transfer men, picklers, scarfers.

Q. In March, 1937, how many chippers were there working for you?

A. Approximately 600.

Q. Approximately 75 to a furnace, right?

A. We figure that, yes.

Q. And you had six furnaces running? Six times 75 are 450, isn't it? Isn't that correct?

A. Yes.

Q. Now, in March did you have 450 or did you have 600?

A. We had 600.

Q. 600? Then there aren't 75, there are many more?

A. Yes, but I say, in setting up of a ratio of what to figure, to figure our force on, we generally figure 75 per furnace. We may have to have more.

Q. Well, as a matter of fact, they had about 100 on each one of them, didn't you?

A. Yes.

Q. Then you were going to decrease the force?

A. Yes, sir.

Q. By about 225?

A. Yes, sir.

Q. And you did?

A. No, we didn't.

Q. You didn't? Well, up to the time of the strike, were all of the furnaces going?

A. No. We decreased it, some of it. We didn't decrease it 225.

Q. How many did you decrease it?

A. 187.

Q. 187?

A. Yes, sir.

Q. When did that take place?

A. It started in the latter part of April and continued on into the first part of May.

Q. What was the reason for decreasing the force?

A. I beg your pardon?

Q. What was the reason for decreasing the number of chippers?

A. Because the furnace production was cut down, the furnaces were taken off.

Q. Now, in decreasing the number of chippers, did you take off all men from one furnace, or did you take a certain number from each one of the furnaces? How was that operated? Explain how that is done.

A. No, you just reduce your force by laying off the younger men in service record.

Q. Is that what you did there?

A. Yes, sir.

Q. Did you personally check—

A. I beg your pardon?

Q. The seniority records.

A. I beg your pardon?

Q. I say, did you personally check the seniority records? On that decrease?

A. No, Mr. Peppard did.

Q. Did you see—

A. The superintendent—I saw them.

Q. Did you see the employment records?

A. I saw the service records.

Q. By that I mean the records that would show the seniority of the various men who were being laid off?

A. Yes, sir.

Q. Now, are you stating for the record, now, that the men that were the youngest in service were laid off first?

A. They started at the youngest men and laid off according to that.

Q. And did they go right down the list that way?

A. With—There may have been some exceptions, I don't know.

Q. That is what I am asking. That is what I am interested in. You tell me whether or not you know whether there were any exceptions?

A. No, I don't know cf any exceptions.

Q. Do you know that they did go down the list, or don't you know at all?

A. I don't know. They went down the list as far as my knowledge of it. The list of men that were laid off were given to us by the superintendent.

Q. That is a list already prepared, of men who were to be laid off, were given to you?

A. Daily, yes.

Q. You didn't see the list of the men, containing the record of their seniority, so that you could state for the record whether or not they were laid off by the youngest men first?

A. No, I can't state that.

Q. You can't state that at all? Mr. Peppard would be able to state that?

A. Mr. Peppard was the superintendent.

Q. He is the superintendent?

A. That is right.

Q. All you got was the list of the men to lay off?

A. He gave us the list to lay off.

Q. Now, one time you went down to two furnaces, is that correct?

A. Two furnaces on alloy.

Q. And on those two furnaces, how many men did you have?

A. Well, when we got down low, that is when the lay-off started, and we kept reducing the force.

Q. When, before the lay-off started—how many did you have on those two furnaces?

MR. DAY: Do you mean chippers?

Q. (By Mr. Lauter) That's right, chippers? I wonder, is that correct?

A. We had 600 to start with.

Q. On the two furnaces?

A. No, no.

Q. I am asking you, at the point where you had reduced it to about two furnaces?

A. Oh, the force was down then probably about 400 chippers some place.

Q. About 400 chippers?

A. Yes.

Q. That is about 200 to a furnace?

A. Yes.

Q. You don't know from your own personal knowledge whether or not the seniority rule was violated in connection with the laying off of chippers, is that correct?

A. I don't know.

MR. LAUTER: That's all.

MR. KETTERER: That's all.

TRIAL EXAMINER LINDSAY: We will take a ten minute recess.

(Recess had.)
(Witness excused.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

HARRY E. HILBERT

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Harry E. Hilbert.

Q. I didn't get that.

A. Harry E. Hilbert.

Q. Where do you live, Mr. Hilbert?

A. Massillon, Ohio.

Q. By whom are you employed?

A. Republic Steel Corporation.

Q. How long have you worked for the Republic Steel Corporation or its predecessors?

A. 19 years.

Q. In what capacity are you employed now?

A. Chipper foreman.

Q. Have you been a chipper foreman for these entire 19 years?

A. No, sir.

Q. How long have you been a chipper foreman?

A. Between three and a half and four years.

Q. Were you a chipper foreman in May, 1937, at the time of the strike?

A. Yes, sir.

Q. And you have been a chipper foreman since that time?

A. Yes, sir.

Q. Now, are you familiar with the number of chippers that there were in the entire department during the first part of 1937?

A. Yes, sir.

Q. How many?

A. Better than 600.

Q. How many furnaces were in operation at that time?

A. Six.

Q. Now, what is the ordinary ratio of chippers to a furnace generally speaking?

A. Well, 75; that is, if the steel runs normal.

MR. KETTERER: Will you read that last answer?

(The last answer was read.)

Q. Now, during the first part of 1937, from January through March, can you tell us why you had more than 75 chippers to a furnace?

A. Yes, sir.

Q. Why was that?

A. Well, they had lots of orders on them and was pushing the open hearth. They were starting to hunt the chippers. They needed more men.

Q. Now, beginning in April, 1937, what if anything was done in respect to furnace operations in the Massillon plant, if you know?

A. Well, orders dropped off and they took off two furnaces and they put two more on. It was a carbon steel, low carbon, which requires very little chipping, if any.

Q. What if anything was done in respect to laying off chippers following that deduction in the furnaces?

A. Well, our chippers were averaging 48 hours a week and then they gave them 40, and then they started the stagger system of working—well, lined up for several weeks—sometimes 3 and 4 and 5 days. I would say they averaged 20 to 28 hours a week, so some of them started hollering about the older men stuff and that. The superintendent, I guess he was the one that decided about that layoff, so they decided to lay off the younger men.

Q. When did you start to lay off the men after the production went down on the furnaces?

~~A.~~ I wouldn't say the exact date but after the 24th or 25th of April.

Q. Now, was that done all at one time or tell us how this process of laying off men was done.

A. No, we got a list every day. I had—each of the other foremen did, how many to lay off that day. This came from the superintendent. Some days maybe four, and some days maybe seven.

Q. I will ask you whether or not while you were still in the process of laying off the men at the time of the strike?

A. Well, yes, we were laying off very few the last week or so before the strike.

Q. Now, are you acquainted with a man by the name of Peter Mouyias?

A. Yes, sir.

Q. Where did he work in the Massillon plant, if you know?

A. In the billet shed as a chipper.

Q. Did he work on your turn?

A. Yes, sir.

Q. How long has he worked there, if you know?

A. He started some time in January, 1935.

Q. January, 1935?

A. Yes, sir.

Q. Do you know whether or not he worked continuously then up until 1937, or whether there was any period of a layoff?

A. No, he worked steady.

Q. Do you recall when he was laid off?

A. Yes, sir.

Q. Where was that, approximately—when?

A. May 4th or 5th. I think it was the 4th.

Q. 1937?

A. Yes, sir.

Q. Now, did you have a conversation with Peter Mouyias just prior to the time he was laid off by the superintendent?

A. Yes, sir.

Q. Tell us what you said to him at that time.

A. Well, about between 20 and 15 minutes to 7—I don't know the exact time—I went down to him and I told him, I says: "Pete," I says, "the boss wants to see you in the office—Mr. Peppard—you go in a little bit early before quitting time."

Q. Now, is that all the conversation you had with him?

A. No. He said: "What is the matter?" And I said: "I don't know."

Q. I want to ask you this question, Mr. Hilbert. Did you say to Mr. Mouyias at that time, that is, on the day you instructed him to go to the superintendent's office, did you say to him this or this in substance: "I know he is going to lay you off but I cannot help you?"

A. No, sir.

Q. Now, what if anything did Peter Mouyias do after you instructed him to go to the superintendent's office?

A. Well, he went in and that is the last I seen of him during the turn. I saw him later.

Q. Now, did you see him again that day after your turn was finished?

A. Yes, sir.

Q. By the way, from what hours did the turn extend?

A. Seven to three.

Q. Seven to three?

A. Seven in the morning until three in the afternoon.

Q. Did you have a conversation with Peter Mouyias after he returned from the superintendent's office?

A. Yes, sir.

Q. Where did you have that conversation?

A. Why, I was leaving our office to go down to the clock house to ring out and this Pete Mouyias approached me.

Q. How long was that after you had instructed him to go to the superintendent's office?

A. Oh, probably—

Q. Approximately?

A. Probably half an hour.

Q. Now, what did Peter Mouyias tell you when you saw him there? When you were on the way to the clock house?

A. Well, he said: "Lefty, I am laid off."

Q. Who is Lefty?

A. That is me; that is my nickname.

Q. Go ahead.

A. He said: "I don't think I ought to be laid off; there is some younger men." I said: "Pete, tell me who those men are and I will find out." And he mentioned two men.

Q. Do you remember their names?

A. I can recall one of them.

Q. Who was that?

A. His card number is 73855—John Sabobick.

Q. Do you know how to spell that?

A. I think I do. I am not sure about one letter. There may be an H in it. S-a-b-o-b-i-c-k.

Q. Now, he said to you that there were two men—he mentioned two men he said were younger in point of service?

A. No. He said men that were working and I said: "Who are they?" And he says who they were.

Q. And those were the two he mentioned?

A. Yes, sir.

Q. Now, did he say anything else at that time that you can recall?

A. No.

Q. What did you tell him?

A. I told him I would check into it the next day and let him know.

Q. Now, what if anything did you do on the following day in respect to checking on these two men that he mentioned?

A. Why, I came to work some time in the morning—I don't know when—and I went to Mr. Peppard's office and told him the story, that Peter gave me. He said: "Well, do you have the names and numbers?" I said: "Yes."

MR. LAUTER: I am sorry. I can't hear you.

MR. KETTERER: Will you talk a little louder, please?

A. (Continuing) So I took out the names and gave them to Mr. Peppard, and he took out his service record and showed me right on the list when these men were hired. One was hired in 1933 and the other was hired in 1934 in the open hearth department—he got a transfer as a chipper later on.

Q. Now, they had earlier service records than Peter Mouyias, did they?

A. Yes, sir.

Q. Now, did you do anything to indicate—to communicate that information to Peter Mouyias?

A. Yes, sir.

Q. What if anything did you do about that?

A. I went out in the shed and I saw one of the chippers that works with him, George Nicker.

Q. To your knowledge, was he a friend of Peter Mouyias?

A. Yes, sir, the same nationality.

Q. What did you tell this George?

A. I said: "George, do you ever see Pete?" He said: "Yes, sometimes I see him in the coffee house." I said "Tell him about the two men that I checked up on and they are older than he is."

Q. Have you seen Peter Mouyias since that time?

A. No, sir.

Q. Do you know a man by the name of Peter Demos?

A. No, sir.

Q. You don't know him?

A. No, sir.

Q. Do you know what wages Peter Mouyias was receiving during the early part of 1937?

A. I don't know. The early part of 1937?

Q. Yes. Up to the time when he was laid off, approximately?

A. Well now, there is a variation in there. I don't know—the 3rd of March or the 16th of March. He got a 10% increase from 78 to 82 cents an hour. Afterward they ran 88 to 95. It was on an average, I am talking about.

Q. What was the basic rate at which chippers were paid after the increase in March?

A. 65 cents per tonnage.

Q. What?

A. 65 cents per tonnage.

Q. What was the tonnage rate?

A. Well, that varied, according to your classifier. They work on it on a classifying basis. It is what the classifier does—he is an estimator. He goes out to estimate the time it is going to take the field to be cleaned off. It is all in different classes. No. 1 class is a clean class—he puts it in different classes for classification of rates. I mark that on my report what class it is in. And then the men ask me and I tell them. If they can chip that steel in less time than what he estimated it, that is that much more money for them.

Q. It is figured on a tonnage?

A. Yes, sir.

Q. Are you acquainted with a man by the name of Paul Hoffman?

A. Yes, sir.

Q. What is his position in the Massillon plant of the Republic Steel?

A. Piler.

Q. Does he have the rating or standard of a foreman in the plant?

A. No, sir.

Q. Do you know a man by the name of Paul Paulis?

A. Yes, sir.

Q. In what department was he employed by the Republic Steel?

A. Billet sheds.

Q. Billet what?

A. Billet sheds.

Q. In the billet sheds?

A. Yes, sir.

Q. Do you know whether or not he was laid off in 1937 or not?

A. I knew he was laid off.

Q. Do you know whether he is working at the plant now?

A. Yes, sir.

Q. Do you recall about when he was re-employed?

A. No, I can't. He doesn't work for me; he works on one of the other turns. It is I would say before the last two weeks.

MR. KETTERER: All right. That is all.

Cross Examination

Q. (By Mr. Lauter) Who was Mr. Peppard?

A. Superintendent of the billet and finishing department of the Massillon plant.

Q. Your superior?

A. Yes, sir, he was; he is not now. He got transferred about a week ago.

Q. What is that?

A. He got transferred about a week ago. He got transferred from Massillon.

Q. You say there were about 600 men?

A. I would say a little better than 600. I wouldn't say exactly. It was better than 600 but not over 610 or 615.

Q. When did they start laying them off?

A. Around March 24th and 25th.

Q. When did you say?

A. It was the latter part of March. April—I beg your pardon.

Q. (By Mr. Lauter) From January to March, 1937, do you know how many furnaces were operating in the Massillon plant?

A. Six.

Q. You said the ratio was about 75 to each furnace?

A. Just like I explained to him. That is what you figure on normal steel.

Q. Was the steel normal then or not, during that period?

A. No.

Q. During the period from January to March?

A. When they got these six furnaces running, business got rushing, they started pushing the open hearths. When the steel started getting dirtier, there was lots of it had to be skinned, to take out defects, so they went out and got more chippers. They put up an extra chipping bed to handle about 30 men. We didn't have room on our normal chipping bed.

Q. When was that?

A. We can only handle—we could only handle 510 chippers on their normal chipping beds.

Q. When did you set up the extra chipping bed?

A. Along in—Well, I won't say the exact date. In the first part of '37, latter part of January or first part of February.

Q. How many men did you lay off during the month between April 24th or April 25th and May 6th, the day of the strike?

A. I think—You mean just how many did I lay off? Or the department?

Q. Yes, how many did you lay off personally? How many were laid off in the department?

A. I think on my turn there was 23 or 24.

Q. Out of how many?

A. It ran close to 190.

Q. From your turn they laid off 23 or 24?

A. That is to the best of my knowledge.

Q. Out of 190? How many did they lay off in the entire department?

A. That is what I said, out of 190.

Q. That was your turn, wasn't it?

A. Yes.

Q. I say, in the entire department, covering that turn?

A. You got me wrong. I mean I laid off 23 out of the 190 that were laid off.

Q. Oh, I see. There were 190 laid off and you personally laid off about 23 or 24?

A. Yes.

Q. Is that correct?

A. Yes.

Q. When you say you personally laid off that, do you mean that you had advice from Mr. Peppard to lay them off, and you laid them off?

A. No.

Q. You mean you selected the men who were to be laid off?

A. No, sir.

Q What do you mean?

A. Well, Mr. Peppard gave me the numbers of the men.

Q. That is what I asked you the first time, whether Mr. Peppard gave you instructions about laying off these men?

A. Yes.

Q. So you don't know whether or not seniority was followed or ignored, is that correct?

A. No.

Q. Of your own personal knowledge?

A. Well, I seen the seniority list, but whether that seniority list was correct, I don't know.

Q. Where did you see the list?

A. Mr. Peppard's office.

Q. When did you see it for the first time?

A. When I was talking about this Pete Demos.

Q. What?

A. When I was talking about this Pete Demos.

Q. When, in terms of dates did that take place?

A. Well, that is in May 5th or 6th.

Q. May 5th or 6th? How many names were there on that list that you saw?

A. 600 and some.

Q. 600, were there no scratches of names being taken off or taken away, men being laid off on the list that you saw?

A. Yes, sir.

Q. What indication was there on the list with respect to seniority?

A. Well, the oldest men were first. And it went on down body after body to the last man hired.

Q. Now, you are saying that 23 or 24 men that you laid off were men on the last pages, the younger men?

A. Yes, sir.

Q. You are sure of that?

A. Yes.

Q. Did you ever check it?

A. I have checked it, yes, sir. By that, I don't mean I checked every name on the whole list, but I checked some where they started laying off men, until we got under that.

Q. You mean you saw the names of the men whom you have laid off, on the list?

A. Yes, sir.

Q. But you didn't check to see whether or not they were younger or older men on that list?

A. I know where they started to lay off from.

Q. I understand, they started from the bottom of the list?

A. Yes.

Q. They started from the bottom because, as you understand, they were the younger men, but that is the extent of the check that you made, at least to see whether or not they were on the bottom of the list?

A. Yes, sir.

Q. You don't know actually whether they were younger or older? You just know they were on the bottom of the list?

A. I would not swear to everyone, no, sir.

MR. LAUTER: That's all.

MR. KETTERER: That's all.

(Witness excused.)

WILLIAM R. HERSHBERGER

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your full name, please?

A. William R. Hershberger.

Q. Where do you live?

A. 425, 18th Street, N. W., Massillon, Ohio.

Q. By whom are you employed?

A. Republic Steel Corporation.

Q. And in what capacity are you employed by the Republic Steel Corporation?

A. General foreman.

Q. How long have you been a general foreman in Republic Steel or its predecessors?

A. About 15 years.

Q. In what department are you a general foreman?

A. Billet shed department.

Q. Were you a foreman in the billet shed department in May, 1937?

A. Yes, sir.

Q. And from the 1st of January, 1937, on to May, 1937, were you a foreman in the billet shed department?

A. Yes, sir.

Q. Were you acquainted during that time or were you working with a man by the name of Sherman Ebbert?

A. Yes, sir.

Q. How long have you known Sherman Ebbert?

A. About four years.

Q. In what capacity was he working for Republic Steel in May, 1937?

A. Cold saw operators.

Q. How long had he worked in the department over which you were general foreman?

A. Four years.

Q. Now, do you recall whether or not Sherman Ebbert ever returned to work in July, 1937, after the plant reopened?

A. Yes, sir.

Q. Do you know when it was that he returned to work?

A. Yes, sir.

Q. Do you know whether or not he returned to his old job of cold saw operator?

A. Yes, sir.

Q. Now, were you in Mr. Peppard's office at any time when this man Ebbert came in there?

A. Yes, sir.

Q. Do you recall when that was?

A. July 13th.

Q. July 13th?

A. Yes, sir.

Q. That was two days after he returned to work?

A. Second day he was there.

Q. Second day? And who was present in that office at the time Mr. Ebbert came in?

A. Mr. Miller.

Q. Was that Lauriston Miller, the man who testified here a little while ago?

A. Yes, sir.

Q. Was there anybody else there?

A. Mr. Peppard and myself.

Q. Now, had you been there before Ebbert came in?

A. In the office?

Q. Yes.

A. Yes, sir.

Q. Now, do you remember any conversation that Mr. Ebbert had with Mr. Peppard on that occasion?

A. Yes, sir.

Q. Now, just tell us the substance of what was said by either Mr. Ebbert or Mr. Peppard or by both of them, when he came in there on that day? You don't need to give the exact words.

A. Mr. Ebbert told Mr. Peppard that the boys didn't want to work with him. Mr. Peppard asked him why. He said because the men wanted him to join some kind of a union.

Q. What is that answer?

A. Mr. Ebbert said they wanted him to join some kind of a union. Mr. Peppard says, "I don't know anything about that," he says, "I will see what I can do." He says, "You go home and I will see these other boys and see if I can straighten it out." So this—

Q. And what did Ebbert say—Did Ebbert say anything more then?

A. Well, he asked Mr. Peppard if it were true, the statement that Mr. Girdler made, that a man didn't have to belong to a union to work for the Republic Steel.

Q. What did Mr. Peppard say to that?

A. Mr. Peppard says, "That is right."

Q. Now, after that conversation what, if anything, did Mr. Ebbert do?

A. He went to the locker room.

Q. Did you stay in the office?

A. Yes, sir.

Q. What did Mr. Peppard do, if anything, about calling the men in this department, in there?

A. He sent a fellow out to have the boys come in. They were outside of the office.

Q. Now, did anybody come in the office then?

A. Yes, sir.

Q. Do you recall who came in?

A. Some of them.

Q. How many?

A. I recall some of their names, some of the men; about 15.

Q. About 15 came in?

A. Yes, sir.

Q. Do you recall any of their names?

A. Yes, sir.

Q. Who came in?

A. Marvin Schwartz, Paul Hoffman, Ralph Eberle. That is all I can recall.

Q. Did Mr. Peppard in your presence, there, have any conversation with this group of men that came in there, including the ones you have named?

A. Yes, sir.

Q. Now, just tell us what Mr. Peppard said?

A. Mr. Peppard asked these men if they would not reconsider and leave this fellow go back to work until he could straighten things out.

Q. Now, I will ask you as to whether he made any inquiry of these men why they didn't want Chairman Ebbert to work with them?

A. Yes, he did.

Q. Did he get any reply to that?

A. They said he was pretty tough with them on the outside, and they were going to be the same way with him on the inside.

Q. On the inside, at what time did they say?

A. They didn't mention the time.

Q. They didn't mention it?

A. No.

Q. Now, what, if anything, did the men do or say after Mr. Peppard asked them to reconsider what they had said?

A. Well, they all agreed that they would reconsider it and go back to work.

Q. And did Mr. Peppard do anything in respect to notifying Ebbert, if you know?

A. Yes, sir.

Q. What did he do?

A. He sent Mr. Miller out after him to see if he was still out in the locker room, and he was in the locker room.

Q. Now, did he return to Mr. Peppard's office that day?

A. Yes, sir.

Q. Were you present, then?

A. Yes, sir.

Q. And did any conversation take place at that time between Mr. Peppard and Mr. Ebbert?

A. Mr. Peppard told him to go back out on his regular job.

Q. He told him to go back on his regular job?

A. Yes, sir.

Q. Now, did you observe after that conversation whether he did go back to his regular job?

A. Yes, sir.

Q. Do you recall how long he worked on that job following that?

A. Yes, sir, July—or August 6th was his last day.

Q. August 6th, 1937?

A. Yes, sir.

Q. That is from the 12th of July, 1937, when this conversation took place, when Mr. Peppard told him to return to work, until August 6th, 1937?

A. Yes, sir.

Q. And during that period of time what is the fact as to whether or not he worked at his regular job?

A. He worked at his regular job.

Q. As cold saw operator?

A. Yes, sir.

Q. Now, when did you receive, if you did receive, any information that Mr. Ebbert was going to lay off?

A. On August 7th, a man by the name of Louis Wetzel reported to me—

Q. Will you talk just a little louder, please? I can't hear everything you say.

A. I will try. On August 7th a man by the name of Louis Wetzel who works as a burner came into my office and reported that Mr. Ebbert would not be out that day, he was going away. I asked him if he knew what the trouble was and he said no. I said, "O. k."

Q. Now, since that time, that is, since the 7th of August when this man was reported off for that day, by this man Wetzel, has Sherman ever returned to the plant, to your knowledge?

A. No, sir.

Q. Has he ever asked you from that time down to the time that you are on the witness stand here to come back to his old job?

A. No, sir.

Q. In this group of men that you say came into your office I believe you mentioned the name of Eberle, is that correct?

A. Yes, sir.

Q. Who is Ralph Eberle?

A. Ralph Eberle—

Q. In what capacity is he employed by the Republic Steel Corporation?

A. Loader.

Q. I will ask you to state whether or not he has the standing of a foreman?

A. No, sir.

MR. KETTERER: That's all.

Cross Examination

Q. (By Mr. Lauter) But he has the standing of an Employees Representative, hasn't he?

A. What is that?

Q. He has the standing of an Employee Representative?

A. Ralph Eberle?

Q. That's right.

A. I don't know.

Q. How about Paul Hoffman?

A. I don't know.

Q. You don't know that?

A. No, sir.

Q. Do you know whether or not he asked any of the men to return to work?

A. Me?

Q. Yes, you.

A. I asked him, yes, if he wanted to come back to work.

Q. When did you ask him?

A. July 11th.

Q. How did you ask him?

A. At his home, I asked him if he wanted—

Q. Did you go out to his home?

A. Sir?

Q. Did you go to his home?

A. Yes, at his home.

Q. You went to his home?

A. Yes, sir.

Q. What other homes did you go to?

A. That is all.

Q. That is the only home?

A. At that time.

Q. Yes, I know, at that time.

A. I went out to three other homes after that.

Q. How close to that time?

A. About a week, I imagine.

Q. That is along about the same time, isn't it?

A. Yes, it is shortly after that.

Q. Now, you are known as Bill Hershberger, is that right?

A. Yes, sir.

Q. Your position is general foreman of the billet shed?

A. Yes, sir.

Q. Sherman Ebbert worked in your department as cold saw operator?

A. Yes, sir.

Q. You went to Sherman Ebbert's home?

A. Yes, sir.

Q. About July 11th?

A. Sir?

Q. Or 12th?

A. July 11th.

Q. July 11th, you say?

A. Yes, sir.

Q. And you had a conversation with him?

A. I asked him if he wanted to come back to work.

Q. You knew there was a strike on?

A. Yes, sir.

Q. You knew that it had not been called off by July 11th or 12th, is that right?

A. As far as I know.

Q. Who suggested that you go to the home of your employees?

A. Mr. Ralph Eberle, the superintendent.

Q. What did he tell you?

A. Sir?

Q. What did he tell you?

A. He told me to go out and ask them—ask him if he wanted to come back to work.

Q. Whom else did he suggest that you go out to see?

A. Chester Moore and Hugh Merriman and Louis Wetzel.

Q. And you visited the homes of these four men?

A. I stopped out in front of the house.

Q. Was it Peppard who told you to speak to these four men?

A. Yes, sir.

Q. Did he specifically name these four men?

A. Yes, sir.

Q. Did he name any others?

A. No, sir.

Q. Do you know what else did he say about these four men that he told you to speak to?

A. That is all, he just asked me to go out, see if they wanted to go back to work.

Q. Do you remember when that happened?

A. I don't remember the dates, it is about, I imagine about a week after I went out after Mr. Ebbert.

Q. So he told you before you went out to Ebbert's didn't he?

A. No, it was after he sent me to see if Mr. Ebbert wanted to come back. That is the only one he mentioned that day.

Q. Well, Peppard spoke to you to go to see whether Ebbert wanted to come back to work, before you actually went to see Ebbert, is that correct?

A. Yes, sir.

Q. You went to see Ebbert on July 11?

A. Yes, sir.

Q. Now, when did Peppard speak to you about going to see Mr. Ebbert? On July 11th or before that?

A. No, sir, July 11th.

Q. The same day that you went?

A. Yes, sir.

Q. Where was that conversation held with Mr. Peppard?

A. In his office.

Q. About what time of day?

A. 12 o'clock noon.

Q. How long did the conversation last?

A. About half a minute.

Q. Is that all he said to you?

A. That is all. He just told me to go out and ask him if he wanted to come back to work.

Q. Before you went out to see Chester Moore, did the same thing happen?

A. Yes, sir.

Q. Peppard called you in his office?

A. Yes, sir.

Q. And told you to go to see if Chester Moore wanted to go back to work?

A. Yes, sir.

Q. You have given me four names. Are those the only four names that Peppard told you to go out and see if they wanted to go back to work?

A. Yes, sir.

Q. Were any instructions given to you by Mr. Peppard about getting the rest of the men to work, that you have?

A. No, sir.

Q. Back to work?

A. No, sir.

Q. Make any inquiries?

A. No, sir.

Q. You don't know why these four men were selected?

A. No, I don't.

Q. Are you sure?

A. I guess he wanted them on the job, that is all I know.

Q. What is that?

A. He wanted to know if they wanted to work.

Q. And you don't know why he selected these four men?

A. No, sir.

Q. How many men are there working in your department?

A. All told between 7 and 800.

Q. Out of these 7 or 800 Mr. Peppard picked out these four?

A. Yes, sir.

Q. You went to see Mr. Ebbert on July 11th, what did you say to Mr. Ebbert?

A. I asked him if he wanted to come back to work.

Q. What did he say?

A. He said "Yes."

Q. Is that the extent of the conversation, or was there more to it?

A. That is all.

Q. When did he come back to work?

A. July 12th.

Q. Now, do you know Ralph Eberle?

A. Yes, sir.

Q. Is he a head loader, right?

A. Loader.

Q. Isn't he a head loader?

A. Not the head loader.

Q. You are sure he is not a head loader?

A. His title is loader, not head loader.

Q. Does he carry on the activities of a loader even if he hasn't got the title of a head loader?

A. We don't have a title like that.

Q. You don't have a title like a head loader?

A. No, sir.

Q. And none of the men in the mill are known as head loaders?

A. No, sir.

Q. What are the duties of Ralph Eberle? Describe them.

A. Keep things going. Get the shipments ready for shipping; check the orders.

Q. Do you know whether or not he was soliciting members for the Independent Association of Republic Employees?

A. No.

Q. You don't know or you do know that he wasn't?

A. I don't know.

Q. You don't know?

A. No, nothing about it.

Q. Do you know if any of the men in the plant at or about that time were soliciting for membership in the Independent Association of Republic Employees?

A. No, sir, I don't.

Q. You don't know that Paul Hoffman was an em ployee's representative under the Employees Representation Plan?

A. He was.

Q. He was?

A. Yes, sir, prior to the time he was taken out.

Q. Up to the time he was taken out?

A. Yes, sir.

Q. When was he taken out?

A. I can't tell you the date.

Q. You don't even know that he was taken out, do you?

A. No, I don't know that he was.

Q. As far as you know—

A. As far as I know.

Q. As far as you know, he is still an employee's representative?

A. Yes, sir.

Q. As far as you know, he still is?

A. Yes, sir.

Q. You don't know that he is not an employee's representative, do you?

A. I don't know if he is now or not but he was.

Q. Now, he is a head piler?

A. A piler.

Q. They don't use head piler or head loader?

A. No, sir.

Q. You don't know whether he was soliciting members for the Independent Association of Republic Employees in the plant?

A. No, sir, I don't.

Q. Mr. Eberle worked there from July 11th to August 6th?

A. Yes, sir.

Q. Worked satisfactorily?

A. Yes, sir.

Q. Did he tell your men that it is not necessary to belong to any Union in order to work in the plant?

A. No, sir.

Q. Never told him that?

A. No, sir.

Q. Did you ever speak against the C. I. O. in the plant?

A. No, sir.

Q. Did you ever speak for the Employees Representation Plan?

A. No, sir.

Q. Never spoke a word?

A. No, sir, never talked to no one.

Q. Is that right?

A. Yes, sir.

Q. Did you ever hear Mr. Peppard make any speeches?

A. No, sir.

Q. Never heard any speeches in the plant?

THE WITNESS: May I have the question?

MR. LAUTER: Read the question.

(The last question was read.)

Q. Never heard any speeches made in the plant directly before the strike?

A. No, sir.

Q. What were the circumstances in which Sherman Edwards stopped working there?

A. I don't know.

Q. You were there when he and some men came in the office?

A. You mean when they came in the office?

Q. Yes, sir.

A. I was there when the men came in and he came in, too.

Q. What did the men come in for?

A. They told Mr. Peppard that they didn't want to work with him; they were going to treat him on the inside just as he treated them on the outside.

Q. You mean it is because he was a member of the C. I. O.?

A. I don't know.

Q. You don't know?

A. Yes, sir, I can't tell.

Q. Was there a statement made there in the office to the effect that he was a member of the C. I. O.?

A. No, sir.

Q. And the C. I. O. was making it difficult for them?

A. I don't know.

Q. How many men came into the room at that time?

A. About 15.

Q. Who spoke?

A. Mr. Schwartz.

Q. Who else?

A. That is all.

Q. Just one spokesman?

A. Yes, sir.

Q. For all 15 men?

A. Yes, sir.

Q. How long were they in the room?

A. Two or three minutes.

Q. Schwartz was the only one that spoke?

A. That is the only one I can remember.

Q. You remember him speaking?

A. Yes, sir.

Q. Who else spoke?

A. That is all. I don't remember anyone else.

Q. Everyone else remained silent, is that correct?

A. What?

Q. Everyone else remained silent, is that correct?

A. Yes, sir.

Q. You are sure of that?

A. Yes, sir.

Q. What did Schwartz say?

A. He asked the boss if it is all right that they—if it was all right with them, and they nodded their heads and said: "O. K." Some did; yes. That is all.

Q. What is that?

A. Some of them said yes, it was O. K. with them.

Q. Then what happened?

A. Turned around and went out to work.

Q. Is that the extent of the conversation that was made at that time?

A. Yes, sir.

Q. When was the first time when they said that he had made it difficult for them on the outside?

A. He did make that statement.

Q. Who?

A. Mr. Schwartz.

Q. He made that statement?

A. Yes, sir.

Q. That is all he said?

A. That is all he said.

Q. What did Mr. Peppard say?

A. He asked them if they would reconsider.

Q. Yes.

A. Until he could straighten the thing out. They said: "Yes".

Q. Do you know whether there were any subsequent meetings with any of these men in the plant?

A. No, sir.

Q. Do you know whether men in the plant had been voting on whether or not members of the C. I. O. should remain in the plant at work?

A. No, sir.

Q. You don't know anything about that?

A. No, sir.

Q. You haven't heard anything about it?

A. No, sir.

Q. Do you know of any other case in which they voted on working with those men in the plant or not?

A. No, sir.

MR. LAUTER: That is all.

MR. KETTERER: That is all.

(Witness excused.)

ARTHUR KEMP

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your full name, please?

A. Arthur Kemp.

Q. Where do you live, Mr. Kemp?

A. Massillon.

Q. By whom are you employed?

A. Republic Steel.

Q. And in what capacity are you employed at the Republic Steel Corporation?

A. Rougher on a hot mill.

Q. How long have you worked for Republic Steel Corporation or its predecessors?

A. About 18 years.

Q. Have you been a rougher during all that period of time?

A. No; I used to be a heater until they put an automatic furnace in. So I had to get myself a new job.

Q. How long have you been a rougher?

A. About five years.

Q. Now, are you acquainted with a man by the name of Russ Eckroad?

A. Yes, he roughed on the next mill to me.

Q. How long did he rough next to you there?

A. Well, at least three or four years.

Q. Now, do you recall the occasion of a meeting in the office of the superintendent, Mr. Alvin Smith, some time in April, 1937?

A. **Yes, sir.**

Q. Were you present there?

A. Yes, sir.

Q. Was Russell Eckroad there, to your knowledge?

A. Yes, sir.

Q. Now, did Mr. Alvin Smith say anything at that meeting? Did he make any talk of any kind? You can answer that yes or no.

A. He gave us a speech on the quality of sheets which they had. He told us we would have to keep on the job and make better sheets as the strip mills were cutting in on us, and it was hard to keep the costs in the strip mill down. We wanted to—that if we wanted to keep on working, we would have to make good work. He said he was working with us just the same as the rest of us, and if we could not keep the cost down, he would be out of a job the same as the rest of us.

Q. Do you recall anything else that he said at that time.

A. Well, he brought up some things about general unrest in the country. He said he is not telling us what we should do but we should use good judgment. He said the policy of the Republic Steel was that a man can belong to any Union but if we do, we take our own chances. If we could not make costs in the plant, they would not operate; that was certain.

Q. Do you recall anything else that he said then?

A. Well, no, except that they talked about the condition of sheets and the strip mills and stuff.

Q. Now, I will ask you to state whether or not Mr. Smith said in that talk at which you were present that Mr. Eckroad was present then, or this in substance: He said he thought everybody was satisfied with the Company Representation Plan, and that if the C. I. O. organization would come in there, there was still a good chance of not working?

A. I didn't hear that.

Q. I will ask you whether or not he said this or this in substance: While you were present, if the C. I. O. got in there, that it would shut down the plant; if it didn't they would only work one or two days a week after that?

A. No, sir.

Q. Now, did anybody else talk at that meeting, if you recall?

A. Well, Dave Lewis, he gave a talk.

Q. By the way, who is Alvin Smith?

A. He is superintendent of the sheet division.

Q. Who is Dave Lewis?

A. He is our turn foreman.

Q. Do you recall anything that Mr. Lewis said at that meeting?

A. Well, Mr. Lewis, he told us we was all working good; we was making good money—buying everything. He said before we did anything that is rash we want to consider all things carefully.

Q. Now, did Mr. Lewis make any statement like this or this in substance at this meeting: If this thing happens, if the C. I. O. comes in here and forces a strike in this plant, and this plant shuts down, a lot of you boys are going to lose your homes and your automobiles, and you don't know where the next bite would come from?

A. I didn't hear the C. I. O. mentioned.

MR. KETTERER: That is all.

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402909
Sup Ct

Vol. VII

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 14

REPUBLIC STEEL CORPORATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD AND
STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 7, 1940.

CERTIORARI GRANTED MAY 20, 1940.

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Cross Examination

Q. (By Mr. Lauter) What was the date of this meeting you are referring to?

A. I can't remember but it was approximately in March. Around the latter part of March or around April some time.

Q. In 1937?

A. In 1937.

Q. Where was this meeting held?

A. In Alvin Smith's office.

Q. How many men attended?

A. How many men present?

Q. Yes.

A. About 25 or 30.

Q. What department?

A. Hot mill.

Q. What time?

A. Well, I was working the 4 to 12; it was just around midnight.

Q. On the shifts?

A. What?

Q. On shift time?

A. No, we was through working. We quit a quarter of the hour. We finished up a quarter to the hour and we started a quarter of the hour.

Q. (By Mr. Lauter) What time did the meeting take place?

A. Well, until they all got in there, I imagine it was five minutes to 12 or so.

Q. How long did you say it lasted?

A. Well, not more than 20 or 25 minutes.

Q. Then you went home?

A. Then I went home.

Q. You say straight home?

A. Yes, sir.

Q. Didn't wobble?

MR. DAY: I object to that.

MR. LAUTER: Withdraw that.

Q. Who is Mr. David Lewis?

A. Turn foreman.

Q. Who is Mr. Alvin Smith?

A. He is superintendent.

Q. And who spoke first?

A. Alvin Smith.

Q. How long did he speak?

A. Well, he spoke probably 10 or 15 minutes, maybe 15 minutes at the most.

Q. How long did David Lewis speak?

A. Five or 10 minutes.

Q. How long did the meeting last?

A. About 20 or 25 minutes.

Q. Who else spoke?

A. That is all. They asked for remarks from Andy Evans, but Andy said Mr. Smith had covered everything that he wanted to tell.

Q. Who is Andy Evans?

A. Well, he is superintendent of the hot mills.

Q. So they had at least two superintendents, and what is David Lewis' position?

A. Turn foreman.

Q. You had two superintendents and a turn foreman there, what other officials were there?

A. That is all.

Q. Were the other men all head loaders?

A. No, they were just spanner men, roughers, rollers, workers.

Q. Is there any such a title as head loader in the plant?

A. Never heard of it.

Q. Head operator?

A. No, I haven't heard of that either. They sometimes say "head rougher" but he is—there is two men do the roughing, one is called the rougher and the second man does the same work only he hasn't got the responsibility, is called the spanner man, there is no position as head operator in the hot mills.

Q. What did Alvin Smith say at that meeting?

A. Well, he brought up about the quality of sheets, the sheets had to be better, because the strip mills were cutting in on our business, we had had these talks plenty of times before about the quality of the sheets and he brought in that very day that the strip mills were cutting in our business right at that time there was—they were taking black plate orders but they were not quite so good as the pickle sheets, but they took them to fill in so they could work full time.

Q. Is that all Alvin Smith talked about?

A. Well, he brought up about how conditions were and he left it up to every man, to his choice what he wanted to do.

Q. What is that?

A. He said every man is entitled to do as he wanted to. He said there is lots of unrest and he said before any man does anything or considers anything, why he says he should think it over.

Q. He said there was lots of unrest?

A. Sure, he said by looking at the newspapers you can see there is lots of unrest in the country.

Q. What else did he say on the subject?

A. Well, he brought out the policy of the Republic Steel that they could join any union they wanted to or they could refuse to join them, didn't have to belong to any union.

Q. He didn't mention the C. I. O.?

A. I didn't hear it mentioned.

Q. And he didn't mention the Employees Representative Plan?

A. Pardon?

Q. Did he mention the Employees Representative Plan?

A. I didn't hear that mentioned.

Q. Now, is that all he said on that subject of unrest, that you have already stated for the record?

A. There might be more. I can't just think of all of it.

Q. No, I realize it is difficult. I am not trying to get the exact words. He just said in substance—what else was said on the subject?

A. Well, they always brought this up, that as far as the sheet mill was concerned, that sooner or later that the strip mill was going to cut into our business and that was their main talk always, that we had to get on our toes to keep working.

Q. Otherwise they would shut down? And give away to the strip mill?

A. Well, that is what is cutting now, is the strip mill.

Q. What is that?

A. The strip mill is cutting in on us now.

Q. They warned you of this possible occurrence, is that right?

A. No doubt.

Q. At a number of meetings? At a number of meetings?

A. Yes, sir.

Q. That it might be necessary to shut down the mill that you were working in because of the strip mill and what it might do?

A. Well, they figured it is an old type mill and just a lot of junk, anyhow, so that is—the plant not up to date is going to be harder to operate when competition gets tough.

Q. Now, what else was said? You have had a few moments to recall. What else was said on the subject of unrest? What else was said on that subject by Alvin Smith?

A. Well, they brought up that we have been working good, we hoped we could continue working good.

Q. What did he mean by that, did he say?

A. He didn't say what he meant by that.

Q. He didn't make any reference to the Employees Representative Plan?

A. Oh, no.

Q. Now, we come to Dave Lewis. He said something about making good money?

A. Yes.

Q. What else did he say?

A. Well, he said that the men were making good money there and they were satisfied. He said they had bought a lot of things and they were still buying things and he says, "As long as you are working and making good money, you can do that," but he says, "the minute you are not working, why you are going to lose a lot of things that you bought." That is all.

Q. This was in April, 1937?

A. 1937.

Q. A month before the strike?

A. A little more than a month, I imagine.

Q. Well, the strike was in May. It was the month before the strike?

A. Yes, sir.

Q. Did he also mention anything about shut-down?

A. He said that if they couldn't make costs they would have to shut the plant down. He said anybody knew that if they couldn't run at cost they would shut the plant down.

Q. He said before doing anything else—or before doing anything rash, the men ought to consider their action, is that right?

A. On everything, yes.

Q. What else did he say along that line?

A. I can't recall.

Q. Well, tell me what else he said? I don't want to bind you down to any particular subject; you tell me what else he said? He spoke for ten or 15 minutes, you testified?

A. Mostly was on the production and sheets, that is how it was brought up. We probably spent ten minutes on that, telling what they wanted, and how the sheet mill got them to take orders that they could make probably cheaper some place else, to save on freight, but they had the reputation of making good sheets down there, that is the only reason that they was working.

Q. Was the strike or possible strike mentioned?

A. Sir?

Q. I say, was a strike or possible strike mentioned?

A. Well, it wasn't mentioned, no.

Q. Well, it was indicated during the talk, is that right? When you say "Well, it wasn't mentioned" I seem to get the idea that there was some intimation there at the meeting. Now, will you explain what—

A. At every meeting, if you want to read between the lines, there is something that you can take just what you want out of a meeting.

Q. What did you take out of it?

A. I took it like he said, that we had to keep on our toes to keep business going, we were satisfied—

Q. I mean in respect to a strike.

A. What?

Q. You said, "Well, that wasn't mentioned." Now, do you mean that it wasn't mentioned, or that there was some intimation of it?

A. That was before the strike, and we never thought of the strike before the strike. We just thought of it after the strike.

Q. You didn't think of the strike until it happened?

A. No, sir.

Q. Had you no intimation before the strike happened, that it was going to happen?

A. No, sir, I didn't, not even the day before.

Q. You got the intimation that they were discussing a possible strike in April, 1937, when this meeting was held?

A. Well, there has been threats on that, for years.

Q. And also there had been talks like this, for years?

A. They have to be, in the sheet mill.

Q. What is that?

A. They have to be, to keep up their quality of sheets.

Q. That is the reason they have to give the talks, is that right?

A. Well, that is their viewpoint.

Q. Well, you are expressing their viewpoint, aren't you?

A. Well, you asked me what they said and I just told you what they said.

Q. Yes, that is all that I want. Now, what else was said about making good money?

A. Well, they brought up that we was making good money, we were satisfied with our jobs and we hoped that we could keep on making money and keep on working.

Q. They said that the men were satisfied with their jobs, is that right?

A. Why, yes.

Q. Did they ask the men, there, whether they were satisfied with their jobs?

A. In the hot mills, that they was satisfied.

Q. In this meeting, did the men who spoke, namely Dave Lewis, ask them whether or not they were satisfied with their jobs?

A. No, sir, he didn't ask them.

Q. What is that?

A. No, sir.

Q. Do you know whether or not a petition was circulated in the mill asking if the men were satisfied with their jobs?

A. Yes, sir.

Q. Do you remember that petition?

A. Yes, sir.

Q. Do you remember the fact that that petition referred to the Employees Representation Plan?

A. Yes, sir.

Q. And also the statement that was incorporated in the petition, that the men were satisfied with the Employees Representation Plan?

A. Yes, sir.

Q. Did you sign the petition?

A. Yes, sir.

Q. Who asked you to sign it?

A. In the mill?

Q. That is right, who asked you to sign it?

A. Employees Representative.

Q. What is the name of the Employee Representative?

A. Doyle Stewart and Rutherford were on that turn —Doyle Stewart.

Q. You signed up in the mill?

A. Yes, sir.

Q. On company property?

A. What is that?

Q. On company property? And on company time, is that correct?

A. Not on company time.

Q. That wasn't on company time?

A. We don't work on company time. We work piecework, we work a spell and off a spell. Whatever we do between spells, that is our time. We don't get paid by the hour.

Q. It was one of these spells when you were off that Rutherford came over to speak to you about that petition, is that correct?

A. Yes, sir. I couldn't sign them while we was working.

Q. Do you know whether he was working at that time?

A. Sir?

Q. Do you know whether or not he was working at the time he came over to speak to you?

A. No, he was not working.

Q. Are you sure of that?

A. Positive.

Q. Did Dave Lewis say anything about the petition, or did Alvin Smith say anything about the petition?

A. No.

Q. Had they on any occasion made remarks about it, to you?

A. No, sir.

Q. Has anyone but Rutherford spoken to you about the petition?

A. No, they just brought it around, wanted to know if you wanted to sign it.

MR. LAUTER: That is all—

Q. (By Mr. Lauter) Do you know how many members of the C. I. O.—or whether or not there was a large percentage of the members of the C. I. O. in the mill at that time?

MR. KETTERER: I object to that.

TRIAL EXAMINER LINDSAY: What is the question?

(Question read.)

MR. DAY: I think under the rules of this case I don't see how that could be answered.

MR. LAUTER: If he knows, he may testify.

TRIAL EXAMINER LINDSAY: Yes, if he knows he may answer. You may have an exception.

Q. (By Mr. Lauter) Do you know?

A. What do you call—What do you mean by that? Paid up membership? Or just somebody signing a card that don't mean nothing unless you pay? Does it mean paid up or not? You have to pay anything to call it—

Q. Do you know whether or not there were a large number of members of the Employees Representation Plan in the mill?

A. Well, they wasn't so hot about that, either.

Q. They weren't so hot about the Employees Representation Plan?

A. No.

Q. Is that what you are saying?

A. No.

Q. Well, now, do you know whether or not there was a large majority of the members of the C. I. O. in the plant?

A. There was very few down there, signed it up, if that is what you call it, signed up, just sign a paper, that is so, but if it was paid up, it wasn't 25 per cent.

Q. How many would you say were—

A. In the hot mill, I am just speaking for the hot mill.

Q. Yes, how many men would you say were signed up and not paid up? What per cent?

A. I am not in position to state, but I am sure there was over 50 per cent at least that signed up without—that they just signed it.

Q. And it was generally known around there and you knew it, that there were a large majority or at least over 50 per cent that had signed up with C. I. O., is that correct?

A. No, they were not signed up, they just signed a card.

Q. That is what I mean, signed a card, signed an application card?

A. Well, I don't know about it. What I say, I would say there is 50 per cent only signed a card but—

Q. Yes, that is what I am asking you.

A. Sure.

MR. LAUTER: That is all.

MR. KETTERER: That is all.

TRIAL EXAMINER LINDSAY: Well, it is after five o'clock. We will adjourn until 7 o'clock tonight.

(Whereupon, at 5:10 p. m. an adjournment was taken until 7 o'clock p. m. September 24, 1937.)

After Recess

(Whereupon, at 7:00 o'clock p. m., the hearing was resumed, and the following proceedings were had):

TRIAL EXAMINER LINDSAY: The hearing will come to order.

LOYD WHITMORE

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Please state your name in full, please.

A. Loyd Wilson Whitmore.

Q. Where do you live, Mr. Whitmore?

A. Navarre, Ohio.

Q. Where are you employed?

A. Republic Steel Corporation.

Q. How long have you worked for the Republic Steel Corporation or its predecessors?

A. A little bit over 16 years.

Q. In what department do you work?

A. In the sheet mill finishing.

Q. What is your title in the plant, if you have any?

A. Shear man.

Q. How long have you been a shear man?

A. Around 15 years.

Q. Then you were a shear man in May, 1937, and prior thereto for a matter of several months?

A. Yes, sir.

Q. Now, were you acquainted with a man whose name is Elmer Jordan?

A. When I see him, I know him.

Q. Do you know what department he works in at the Republic Steel Corporation in the Massillon plant?

A. Inspection department.

Q. How long have you known him when you saw him?

A. Oh, for a year.

Q. Now, do you recall attending any meeting at the Massillon plant of the Republic Steel Corporation at which Mr. Smith spoke? Mr. Alvin Smith?

A. I do.

Q. Do you recall about when that was?

A. Well, I can't state the exact time; it was in March.

Q. Of what year?

A. 1937.

Q. Now, where did that meeting take place?

A. In—where they store the Republic Steel trucks, The Garage.

Q. Now, how many men were present, if you can recall?

A. Well, I would say approximately 125 to 150. It is pretty hard to judge a large crowd of men.

Q. Just the approximate number. Do you recall whether or not Elmer Jordan was present at that meeting?

A. He was.

Q. Now, did anybody else speak there besides Alvin Smith?

A. Jordan spoke.

Q. That is, this Elmer Jordan that you are talking about?

A. Yes, Elmer Jordan.

Q. All right. Now, how long did that meeting last, approximately, if you can recall?

A. 15 or 20 minutes.

Q. Who told you to go to that meeting? Do you remember that?

A. Mr. Smith. Alvin Smith.

Q. What is Mr. Smith's capacity at the Republic Steel Corporation in Massillon?

A. Superintendent of the Sheet Division.

Q. Now, will you go ahead and please tell us what you can recall of the statements that were made by Mr. Smith at this meeting that you have described? You don't have to give the exact words but the substance of what you recall.

A. Why, he called this meeting to tell the Company's policy on dealing with the men, and he started out to talk with the new strip mill that was being put in and the rising costs in our mill down there, and he went on to say that if the mill didn't—could not operate at a profit for the stockholders—a decent profit, that we would lose orders. He didn't say that it would have to close down. He just said that it would gradually go down if we lose orders which we had—in the last several years we lost our automobiles orders—and that is what he explained. Of course in his talk he mentioned about unrest through the country in general. And he spoke on: "You men, before you go into anything of any kind," he says, "think ahead." "This meeting is absolutely not to keep any men from joining any organization whether it is a church or what, or any outside organization." But he says: "There is one thing I want to state." And he said: "For some reason or other, there is men seem to have grievances and they don't take them up before me." He said: "I don't care if you are one man or 50, if you got anything, come and fetch it in." He says: "I will meet with you any time." That is the way it was. He said: "Even if you belonged—any man in here belongs to any organization of any kind, that is his free privilege. You are still working for the Republic. If you got any grievances, fetch it up before us so that we can straighten them out." That was as near as I can recall. That practically covered the entire speech.

Q. Now, I will ask you, Mr. Whitmore, whether or not in the course of his remarks you heard Mr. Smith make this statement or this statement in substance: "Boys, I want to tell you one thing. The coal miners, the mine workers of America, they will assess them five and ten dollars and take everything out of their pay." Did you hear anything like that said there?

A. Absolutely not.

Q. Did you hear him say this, or this in substance: "That is what will happen to you. They are a bunch of grafters and Communists and they are Reds." Did you hear anything like that said there or that in substance?

A. No, sir.

Q. Did you hear him make this statement in the course of that meeting: "The first thing you can do if you want to hold your job is lay off this organization."

A. I didn't. I absolutely didn't. He didn't say that.

MR. KETTERER: I think that is all.

Cross Examination

Q. (By Mr. Hoskins) Mr. Whitmore, you say you live in Navarre, Ohio?

A. Yes, sir.

Q. Which one of the Republic plants do you work in?

A. Massillon.

Q. You work at the Massillon plant?

A. Yes, sir.

Q. You are a shear man?

A. Yes, sir.

Q. How long have you been a shear man?

A. Approximately 15 years.

Q. How long have worked in that plant?

A. A little over 16 years.

Q. What was your job before you became a shear man?

A. Well, I started in as a helper and they were—that was a good many years ago when men were starting to quit all the time and I got on shear work a few months after.

Q. Now, are there various classes of shear men jobs? First class, second class, or third class?

A. No, sir.

Q. Just one class?

A. One class. Always has been.

Q. Now, referring to this meeting at which Alvin Smith spoke. When did you say that meeting was?

A. I can't tell you exactly. Some time in March; I can't tell you the exact time.

Q. That is March of this year?

A. 1937.

Q. You said he spoke something about the steel in the new strip mill?

A. Yes, sir.

Q. And he mentioned something about the general unrest throughout the country?

A. Yes, sir.

Q. Can you tell us a little more in detail what he said about the unrest throughout the country?

A. Not any more than what he fixed it. He said that what he read in the newspapers—the general condition of unrest—the reason: "We are fighting for existence; we want to run with every man to be specific." Then he said that it didn't matter what a man belonged to or what church or what organization; whether it was outside or where it was, but he says: "We can't correct these things if you don't fetch them before us, whether it is one man or a number of men or what it is. We will always deal with them. If they come to us, we will always iron them out."

Q. And this unrest, did he tell you what he meant by the unrest?

A. No, he didn't.

Q. Do you know?

A. No, I don't.

Q. Now, you say he said it didn't make any difference—in substance, what the organization you belonged to or what church?

A. Yes, sir.

Q. Have you--he said: "If you have any grievances, come to me?"

A. Yes, sir.

Q. Did he mention any organization or churches?

A. He never mentioned an organization. The only thing he said was it doesn't make any difference whether it is an outside organization or where it is. It don't matter. You have a right to go on.

Q. Now, he said, if you have any grievances, fetch them to me. We can't cure them—

A. Yes, sir.

Q. Did he outline the procedure for carrying these grievances to him?

A. Not in any way. The only thing he said, it didn't matter whether there is one man or what it is. Fetch them to us. I can't cure them if you keep them behind my back.

Q. Did he refer to the Employees Representation Plan?

A. At no time, no.

Q. Did he refer to the C. I. O.?

A. No, sir, I never heard it mentioned.

Q. Didn't mention the C. I. O. once in his entire speech?

A. No, sir.

Q. And he didn't refer to any outside labor organization?

A. He didn't say anything about an outside labor organization. He said, whether it is any organization outside or where it is.

Q. Now, what time of day did this meeting take place?

A. At three o'clock. We worked till three. We quit at five minutes to until we walked over, so it was after three o'clock. The clock house is directly in line. We have to walk over two or three—it is different departments. The garage is on the other side of the clock house.

Q. You didn't walk through the garage ordinarily to leave the mill?

A. No, the clock house is—the garage is in the corner.

Q. Is that the customary place for having meetings of your department?

A. No, I have never been to any before.

Q. How many men did you say attended?

A. Well, a rough guess would be 125 to 150.

Q. (By Mr. Hoskins) Is that all of the men in your department, on that particular turn?

A. Yes, sir.

Q. Everyone attended?

A. I beg your pardon?

Q. Everyone in your department, on your turn, attended that meeting?

A. Yes, sir.

Q. Did the foremen attend?

A. Yes, sir.

Q. How many foremen were in attendance?

A. The assistant superintendent was there.

Q. What is his name?

A. Charlie Case.

Q. All right.

A. And—That was all.

Q. None of the foremen?

A. None of the turn foremen was there that I noticed, at all.

Q. You are not sure that they were not there, are you?

A. Well, I would have seen them, I am sure, because I was right up in front.

Q. Did Mr. Smith go through his statements only once, or did he repeat them?

A. He may have covered some things—in other words, when he would finish with one thing he may have dropped back in, but that I didn't notice, but understand his first topic was the conditions of the mill and all that. And then he—

Q. You say you understand that? Weren't you there at the entire speech?

A. Yes, sir.

Q. And his first topic was the conditions in the mill?

A. Yes.

Q. Now, what—

A. But I couldn't swear to the man's speech that long back, then he didn't touch anything, not to indicate the conditions of the mill again after he would talk about joining any organization.

Q. You couldn't swear to that?

A. No, sir.

Q. And you couldn't swear—

A. Not that long ago.

Q. —to the fact that he didn't mention the C. I. O.?

A. Yes, sir.

Q. You can swear to that?

A. Yes, sir.

Q. That he didn't mention the E. R. P.?

A. Yes, sir.

Q. And I believe you stated that you left your work about five minutes to 3:00, to go to this meeting, is that right?

A. That is right.

Q. And the quitting time is what?

A. 3 o'clock.

Q. This meeting lasted how long?

A. About 20 minutes, 15 to 20.

Q. And you stated that Alvin Smith told you to attend?

A. Yes, sir.

Q. Where were you when he told you to attend?

A. He walked past the machine and said—

Q. What?

A. What he told me, he said that he would like to have a meeting of the men over in the garage to state the company's policy.

Q. The company's policy on what?

A. Well, that is all I know.

Q. He didn't state what the company's policy would be on?

A. He asked if—he asked me, I had been in there a long time, he asked me if I thought that it would be all right if he talked to the men, talked to the men in that department because, of course, I have been in the one department, understand, I have never been out of that department. I have been in there 16 years.

Q. And what did you say to him?

A. I said, "Why, sure," I said, "I will attend."

Q. Well, now, let me get this straight. He came down to your machine and walked by your machine?

A. He goes past there different times.

Q. And he stopped and said he wanted you to attend the meeting?

A. Yes, sir.

Q. Where he was going to discuss the company's policy; is that right?

A. Yes, sir.

Q. But he didn't tell you the policy on what?

A. No, he didn't say what policy.

Q. The company has a lot of policies, hasn't it?

A. I don't know, I am not the manager.

Q. Very true. Did you know at that time what particular policy he was going to discuss?

A. Well, I had an idea because these meetings every once in a great while over a period of years, you know how it is in any department, men get a little lax and don't put out as much work and the company—

Q. Well, I am not interested in that.

A. So I suspected that it was the same meeting.

Q. But he didn't state to you what the policy was to be on; is that right?

A. No, sir.

Q. Yet he turned around and asked you if you thought it was all right for him to talk to the men? Do I have your words correct, there?

A. Yes, because, of course, I am—there is a helper helps me, that is on the shear crew, so if I go there to a meeting, why they will go too.

Q. But he asked you if you thought that it would be all right for him to talk to the men, is that right?

A. Yes, sir.

Q. And you replied, you thought it would?

A. Absolutely.

Q. And you replied that, not knowing what he was going to talk about?

A. Sure, because I will listen to my superintendent any day. I work for him.

Q. But you did reply that?

A. Yes, sir.

Q. Not know what he was going to talk about, and how many helpers do you have?

A. Just one.

Q. Anybody else working under you?

A. Scrap man—well, they aren't really under me.

Q. Do you direct the work of any men?

A. Well, I measure the steel—I set up the guides on the machine, understand, I work the same as they do. I have to lift the sheets.

Q. The work of how many men did you direct?

A. Two men besides myself. I don't know whether you would call it directing them, though, or not.

Q. Well, that was my question, I believe, a few moments ago, and then did you tell your helper and this other man about the meeting, or did Mr. Smith tell them?

A. No, I told them.

Q. You told them?

A. I told them, I said that Alvin Smith said there was going to be a meeting over in the garage and I says, "When we ring out, why it is right there."

Q. Did you tell the men that he wanted to talk on some policy but you didn't know what policy?

A. Absolutely I didn't know what it was.

Q. Well, I mean, did you tell your men that?

A. Yes.

Q. You told them he was going to speak on a policy of something?

A. Yes.

Q. But you didn't know which policy it was?

A. No, sir.

Q. Do you know if Mr. Smith told any of the other men about the meeting?

A. That I couldn't say.

Q. You didn't see him tell anybody?

A. No, sir.

Q. Or overhear him tell anybody? Do you know how most of the other men were notified?

A. I think about the same as anything else in there, when you tell one man, why it keeps going from word to mouth until everybody knows it.

Q. Now, you stated that they have these meetings from time to time over a period of years, is that right?

A. Yes.

Q. Did you have another meeting after this one?

A. No, sir.

Q. When was the meeting before that, the first meeting before this one in March of '37?

A. Oh, I just couldn't recall, but what I mean by these meetings, I took this meeting on the same order as these, because men get a little lax and—

Q. Well, I understand that. When was the last meeting, though, before this March, 1937, meeting? When was the last meeting in your department?

A. Well, I fetched in about—on the order of our safety meetings every month, you see, about our work.

Q. Was the preceding meeting in February?

A. I couldn't state the exact date we held our safety meetings, now.

Q. You give me your best recollection.

A. Understand we hold safety meetings every month.

Q. I understand that. Now, you give me your best judgment on when the first meeting before this March, 1937, meeting was, at which the men in your turn attended?

MR. KETTERER: You mean that were talked to by Mr. Smith or what do you mean?

MR. HOSKINS: I am interested in finding out when the preceding departmental meeting was, then I will come to who spoke.

A. Well, I can't recall the exact date.

Q. Well, can you recall that there was a meeting before this March, 1937, meeting?

A. Well, there was never that large a bunch of men.

Q. Well, was there a meeting without reference to the size?

A. Absolutely, if there wasn't over to the garage, though.

Q. When is your best judgment, though, when a meeting was called for your department or your turn, before March, 1937?

A. Well, not over a month before that, because, to be truthful about it, why some of us get called in the office on the same order.

Q. I am speaking of general meetings for your department. You say it was not over a month?

A. No.

Q. In other words, it was probably—

A. Oh—

Q. —sometime in February, 1937?

A. The whole department don't always get called in.

Q. You understand what I mean by a departmental meeting?

A. Certainly, I think you have got me mistaken on this point. I told you that I thought that this meeting, when he told the—

TRIAL EXAMINER LINDSAY: Well, now, just a minute. The question is—Read the question, will you please?

(The last question read by the Reporter.)

Q. (By Mr. Hoskins) Do you understand what I mean by a departmental meeting?

A. Why, certainly I know that is the men in the department.

Q. Well, was there a meeting sometime in February?

A. Not of the whole department, no.

Q. Was there a meeting of a part of the department?

A. Just a man get called in if there is—if they aren't putting out enough work or anything, why other than we get a jacking up.

Q. I am not interested in whether you get a jacking up or whether any other individual man got a jacking up, I am asking you if there was a meeting for your department at which either all or some of the men in the department attended, an open meeting?

A. No, sir, there wasn't.

Q. Was there ever one during the sixteen years you have been there? Or is this the first meeting that you ever attended of that character, where all of the men in the department, or a sizeable proportion of them were called to a meeting?

A. No, there wasn't any other that Alvin Smith called.

Q. Was there any other called for your department, regardless of who called it?

A. Not of that type.

Q. What do you mean, not of that type? Were there any of any other type? I will make the question as broad as I can for you. Were there any other meetings of any type?

A. I answered that I might say, now, that—

Q. Well, I think that question is capable of a yes or no answer.

A. I can't answer it any different, then.

Q. Can you answer it yes or no, whether or not there were ever any other meetings?

A. I will have to answer it "no" then.

Q. There were no meetings whatever?

A. No.

Q. In the 16 years you have been there, this is the first meeting you have been called to in your department?

A. I have been called in the office different times.

Q. I am not interested in whether you were called to the office. I am interested in whether you were called to a meeting, or attended any other meeting?

A. No.

Q. You have never attended any other meeting?

A. No.

Q. What are these safety meetings you spoke of?

A. Why, we have a safety meeting, lots of times the foreman fetches up then about our work, see, working conditions.

Q. Would those safety meetings be for all of the men in the department?

A. Why, certainly.

Q. And you have had meetings?

A. That is a safety meeting.

Q. That is a safety meeting?

A. Oh, well, I took it for granted that every shop in the country, I think, has got safety meetings.

Q. Well, whether you take it for granted or not, I believe the question was, were there any meetings? Now, was there any other special meetings that you have had a mental reservation on, not coming within my question?

A. There is meetings every month.

Q. That is, safety meetings?

A. Safety meetings, yes.

Q. Now, are there any other type of meetings?

A. No.

Q. Only safety meetings, that is all?

A. Besides this meeting.

Q. Was there a safety meeting in March?

A. Well, I can't recall, but there must have been, because we have them every month.

Q. You can't recall? Was there one in February?

A. Certainly there was.

Q. When was it held?

A. I can't tell you the date because—

Q. You don't remember who spoke at the meeting in February, do you?

A. Our turn foreman always takes, fetches up safety rules.

Q. What did he say at the February meeting?

A. Well, safety rules, general conditions. Things that we should not do.

Q. Do you remember anything specifically that he said at the February meeting?

A. It was all on general safety conditions.

Q. Do you remember anything specifically that he said?

A. No, I don't. Not—I can't recall.

Q. You don't remember whether there was a meeting in March?

A. There was over in the garage, yes.

Q. I am talking of a safety meeting?

A. I suppose there was.

Q. You suppose there was? Do you know?

A. Because we have a safety meeting every month.

Q. Do you remember the meeting in March, if there was one?

A. No, I don't.

Q. Was there a meeting in April, a safety meeting?

A. The only thing I can say, I can't specify any meeting, we will have to say, then, we had no safety meeting that I know that they had, every month.

Q. Do you remember the meeting in April, if there was one?

A. No, I don't.

Q. Do you remember the meeting in May, if there was one?

A. No, I don't.

Q. Has there been one this month?

A. I was off, that day. It was on a Monday and I was off.

Q. Was there a meeting that day?

A. Yes, sir.

Q. You know that there was?

A. Yes, there was, because I know I missed it.

Q. Was there a meeting in August?

A. There was.

Q. Did you attend that?

A. Yes, sir.

Q. Who spoke?

A. Mr. Amon, turn foreman.

Q. When was that meeting held?

A. I couldn't specify the date.

Q. Do you remember whether this safety meeting in August was the first half of the month or the last half?

A. Well, they most generally run the forepart of the month.

Q. Do you remember when this August meeting was? Not "most generally"? This August meeting?

A. I couldn't specify the exact date.

Q. You say Mr. Amon spoke?

A. Yes, sir.

Q. Do you remember anything specifically that he said at that meeting?

A. He told us about our scrap boxes, not to pile them too high. Which our chairman got called on, once in a while.

Q. Do you remember anything else he said specifically?

A. To wear our safety goggles, which is fetched up practically at every meeting, to wear safety goggles.

Q. Have you ever been a representative under the Employees Representation Plan?

A. Yes, I have.

Q. When were you elected?

A. In June, 1936, I think it was.

Q. In June, 1936? Have there been any elections since that date?

A. No, sir.

Q. In other words, you still are an employee representative?

A. I am not.

Q. Has anyone taken your place?

A. No, sir.

Q. Has the plan been formally dissolved?

A. Yes, sir.

Q. That is formally dissolved?

A. It absolutely has.

Q. What formal action was taken to dissolve it?

A. Why, I am a representative, and if it has not been dissolved, why I suppose I would be in there yet.

Q. I am asking you what formal action was taken to dissolve it. Was there ever a vote put to the men?

A. No.

Q. Did the representatives vote on it?

A. No.

Q. Was there a formal action?

A. What is a formal action?

Q. I am asking you, was there a formal action? You told me it was dissolved. Now, how was it dissolved?

A. I don't know—the reason why it was dissolved; I am not in on that.

Q. You don't know whether it was dissolved or not, do you?

A. I mean, we didn't do any business any more.

Q. You know as a matter of fact it has not been dissolved?

A. I suppose by law it has not when you take it that way. I am a representative; I didn't do nothing; I am a shear man; that is all I do.

Q. You know, though, no steps have been taken to formally dissolve it?

MR. DAY: I object. He says he doesn't know.

THE WITNESS: Absolutely; I said I don't know. I sure didn't do no business any more. I don't understand at all.

Q. Now, referring back to these meetings. Is this one meeting in the garage the only meeting that you attended for your department outside of the regular safety meetings?

A. Yes, of that type, absolutely.

Q. Other than the safety meetings that was the only one?

A. Yes.

Q. There were no more meetings in the garage?

A. No, I never attended any.

Q. And you were off, you say, one day in August?

A. On a Monday.

Q. At which the regular safety meeting was held?

A. Yes, sir.

Q. Have you ever been off Mondays throughout the past—

A. No.

Q. No?

A. No, that is the reason I got off.

Q. You are off occasionally, though, is that not right?

A. Every week I get off.

Q. You were off every week?

A. Yes. I didn't always get the same day.

Q. Regardless of the type of meeting, if it fell on that day, you would not have attended it, is that correct?

A. I wasn't there.

MR. HOSKINS: That is all.

MR. KETTERER: That is all.

(Witness excused.)

MYRON WURTZ

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Myron Wurtz.

Q. Where do you live, Mr. Wurtz?

A. Massillon, Ohio.

Q. By whom are you employed?

A. Republic Steel Corporation.

Q. In what capacity are you employed by the Republic Steel Corporation?

A. Rougher.

Q. How long have you worked for the Republic Steel Corporation or its predecessors?

A. On and off for 20 years.

Q. During the last, prior to the time that you have worked for them continuously, how long would that be?

A. In December, 1923.

Q. Keep your voice up. We can't hear you.

THE WITNESS: Yes.

Q. Now, did you work for the Republic Steel Corporation during the first part of 1937? From January until May 26th, 1937?

A. Yes, sir.

Q. At the Massillon plant of the Republic Steel Corporation?

A. Yes, sir.

Q. Are you acquainted with a man by the name of Bill Morton?

A. Yes, sir.

Q. He worked in your department?

A. He works for me.

Q. He works for you?

A. Yes, sir.

Q. Now, do you recall attending a meeting in February or March of 1937 at which Mr. Alvin Smith spoke?

A. Yes, sir.

Q. Where was that meeting?

A. In the power house garage.

Q. Where?

A. In the garage in the power house.

Q. How many men were there, if you can tell us approximately?

A. Well, I should judge between 130 and 150 men.

Q. Do you know whether or not Mr. Morton was there?

A. He was.

Q. Now, did Mr. Alvin Smith make any speech or statement to the men that day?

A. He did.

Q. Now, will you tell us your recollection as to what was said by Mr. Smith on that occasion?

A. Well, he told us the strip mill was cutting into our business and we were working black sheet orders. He said that the Republic was one of the last strip mills, and he said we would have to take what we could get and do the best we could and keep our quality and production.

MR. DAY: Will you read that answer?

(The last answer was read.)

A. (Continuing) And we also have to compete with the Monroe plants at costs.

Q. Do you recall anything else, Mr. Wurtz?

A. And he told about what the strip mill costs, or rather, someone—he said the Company was just breaking even and someone asked him how the Republic built a strip mill and he said they borrowed some money to build the strip mill.

MR. DAY: I am sorry. I can't hear him. Will you read that answer in full?

(The last answer in toto was read.)

A. (Continuing) And they asked how they could—what they were borrowing—to the effect, what they were borrowing—I didn't hear what Mr. Smith said, and he asked the man if he knew how much it cost per man to keep a man employed, and he told it cost $10,000 per man. That was about the extent of Mr. Smith's talk.

Q. Now, I will ask you to state whether or not at that time you heard Mr. Smith make any statement such as this or this in substance: "That I don't want any of the members there to join the C. I. O. or to join any outside organization."

A. I don't recall hearing Mr. Smith making that statement.

Q. That the Employees Representation Plan had been very successful there, and that: "We had gotten our recent wage increases through the Employees Representation Plan, and that if the C. I. O. had been recognized by the Republic Steel Corporation, they would close down before they would recognize them." Did you hear anything like that said there in substance?

A. No, I didn't.

Q. Did you hear him make this statement or this in substance: "The high cost of operating under the Union contract—" and he said that he would: "Hate like hell to see grass grow in the streets of Massillon." Did you hear anything like that said?

A. I didn't.

MR. KETTERER: I guess that is all.

Cross Examination

Q. (By Mr. Hoskins) Mr. Wurtz, what did you say your job is at Republic Steel Corporation?

A. A rougher.

Q. A rougher?

A. Yes, sir.

Q. You say Joe Morton works for you?

A. On my crew.

Q. Sir?

A. On my crew, yes, sir.

Q. How many men are on the crew?

A. There is five men besides myself. There are six men.

Q. These six men are under you or six men including yourself?

A. Six men including myself.

Q. You have been there off and on for 20 years?

A. Yes, sir.

Q. And the last stretch was when?

A. Since 1923.

Q. 1923?

A. Yes, sir.

Q. How long have you been in charge of this crew?

A. About a year ago in January. Some time around there.

Q. It would be back in 1936?

A. Yes, sir.

Q. Now, this meeting that you testified about at which Mr. Smith spoke. When was that?

A. It was some time in March.

Q. March of what year?

A. 1937.

Q. Do you know about when in March?

A. I can't tell you the exact date.

Q. Well, was it in the first part of March or the latter part of March?

A. The latter part of March.

Q. The latter part of March?

A. Yes, sir.

Q. Toward the end of the month?

A. Pretty well towards the end of the month.

Q. That was held where?

A. In the garage of the power house.

Q. What time of day was this meeting held?

A. About four o'clock.

Q. About when, please?

A. Four o'clock.

Q. You stated that about 150 men were present?

A. Between 130 and 150 men.

Q. Between 130 and 150 men?

A. Yes, sir.

Q. Did anyone else speak besides Mr. Smith?

A. No.

Q. How long did he speak? How long did the meeting last?

A. Oh, I would say about 15 minutes.

Q. Now, what turn were you working on that day, Mr. Wurtz?

A. Day turn.

Q. What is the day turn?

A. Eight to four.

Q. Eight to four?

A. Yes, sir.

Q. What time did you leave your job to go on the meeting?

A. A quarter to four.

Q. How were you notified of the meeting?

A. Someone of my crew told me that there was to be a meeting at the garage.

Q. I am sorry. I didn't hear you. Will you repeat that?

A. Someone in my crew told me there was going to be a meeting at the garage.

Q. You don't know who that was?

A. I don't recall who it was.

Q. That is, somebody in your crew?

A. On my crew, yes, sir.

Q. Was he asking for permission to go?

A. No, he wasn't asking for permission. He quit changing to the—about anywhere from 20 minutes to the hour until 10 minutes to the hour.

Q. You ordinarily change crews at that time?

A. Yes, sir.

Q. One of the men told you there was to be a meeting?

A. Yes, sir.

Q. How many others ordinarily in the department?

A. That is, in the hot mill? That department?

Q. Well, you are in the—what department are you in?

A. The hot mill.

Q. In the hot mill?

A. Yes, sir.

Q. How many men are in that?

A. You mean on the whole turn?

Q. Yes, sir.

A. 1350 men working full crews.

Q. That is on your turn?

A. On my turn, yes, sir.

Q. All the day turns carry the same number of men, about?

A. About the same number of men.

Q. In other words, practically the entire department went to the meeting, is that correct?

A. I don't know about the other men.

Q. On your turn?

A. On my turn, yes, sir.

Q. Do you know how many of the other men were notified?

A. I don't.

Q. The only way you got notice was that one of the men in your crew told you about the meeting?

A. Yes.

Q. What time was it when he told you?

A. I suppose about three o'clock.

Q. And the meeting started about four, you say?

A. About four o'clock, yes, sir.

Q. And it lasted about 15 minutes?

A. About 15 minutes.

Q. Now, you stated, I believe, that Mr. Smith in his speech or in his talk made reference to the existence of the mill and the competition of the strip mill, is that right?

A. Yes, sir.

Q. What else did he have to say? What other topic did he talk upon?

A. Well, he told about how Republic needs a new mill.

Q. What is that?

A. How Republic needs a new mill. Building this new mill. He said that the Republic built this mill, and they would take our orders for automobile sheets.

Q. Now, what else did he have to say?

A. Well, he said as long as they could go on the orders, we would keep on doing the best we could on it. That when the Company could operate, at least at cost, we would keep it up.

Q. Did he say anything about the general unrest throughout the country?

A. I didn't hear him say anything about unrest.

Q. Did he mention the fact, as has been testified to by previous witnesses, did he say anything about bringing any grievances to him if you had any?

A. He didn't at that meeting.

Q. Did he say anything about joining the organization you wanted to, or any church you wanted to?

A. I didn't hear him say anything about that.

Q. Did he talk about grievances at all.

A. Not at that meeting.

Q. In other words, the only thing he spoke of that you remember is the building of the new mill and what relation that would have to the whole mill, is that correct?

A. And the operation at cost, yes, sir.

Q. The operation at cost?

A. At least at cost.

Q. And said nothing about the C. I. O.?

A. No, sir.

Q. And said nothing about the Employees Representation Plan?

A. I didn't hear him say anything about either one.

Q. Now, whereabouts was Mr. Smith located when he was doing this talking? Will you describe that garage to us a little bit?

A. Why, he was standing, I suppose he was on a work bench along the side of the garage.

Q. How long is this garage? Was the meeting inside of the garage?

A. Yes, sir.

Q. That is a covered garage, of course?

A. Yes, sir.

Q. How long is that garage?

A. Oh, I would not have the least idea. I have never been in there but that one time.

Q. Well, your approximation?

A. Well, approximately 100 feet.

Q. And whereabouts were you with reference to Mr. Smith? How far from him were you?

A. Oh, from here over to the wall (indicating).

Q. About how far would you estimate that to be?

A. I suppose 40 feet.

Q. You were about 40 feet from him?

A. Yes, sir.

Q. Were there other men in back of you or were you pretty well to the back of the crowd?

A. I was pretty well to the back.

Q. And you didn't hear him make any of these remarks?

A. I didn't.

Q. Now, I believe you were asked if he said something about grass growing in the streets of Massillon?

A. I didn't hear him say that.

Q. Well, as a matter of fact, is there grass growing in the streets of Massillon?

MR. DAY: Oh, I object to that.

MR. HOSKINS: Very well, I will withdraw that.

TRIAL EXAMINER LINDSAY: Yes.

Q. (By Mr. Hoskins) Have you ever been a representative under the Employees Representation Plan?

A. No, sir.

Q. I didn't get your answer.

A. No, sir.

Q. You have not?

A. No, sir.

MR. HOSKINS: That is all.

MR. KETTERER: That is all, Mr. Wurtz. Thank you.

(Witness excused.)

MR. DAY: I think that concludes the evidence that we have to offer with relation to Canton.

TRIAL EXAMINER LINDSAY: Now, as I understand it you are all through with Canton and Youngstown?

MR. DAY: Canton and Youngstown.

TRIAL EXAMINER LINDSAY: And Massillon?

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: Warren?

MR. DAY: We have got one witness for Warren who is here. Judge Smith is going to put on in relation to Warren.

TRIAL EXAMINER LINDSAY: Are you through with Canton and Massillon?

MR. DAY: Canton and Massillon.

TRIAL EXAMINER LINDSAY: Canton and Massillon, Youngstown?

MR. DAY: Youngstown.

TRIAL EXAMINER LINDSAY: And Niles?

MR. DAY: Well, I think Warren and Niles is one district.

TRIAL EXAMINER LINDSAY: You have just one witness?

MR. DAY: We have one witness.

MR. SMITH: That is right.

MR. DAY: Mr. Lauter, I want this off the record.

(Discussion held off the record.)

GEORGE P. HERST

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) What is your full name, Mr. Herst?

A. George P. Herst.

Q. Where do you live?

A. Warren, Ohio.

Q. How many years have you lived there?

A. 31 years.

Q. That is about as long as you have lived any place, isn't it, Mr. Herst?

A. That is the total time.

Q. How are you employed?

A. I am a hot mill production clerk.

Q. In what plant?

A. In the Warren Works of Republic Steel Corporation.

Q. How long have you had that position?

A. Since the 1st of February of this year.

Q. How long have you worked for Republic Steel or its predecessor at the same plant in Warren, Ohio?

A. At the plant in Warren, Ohio, I have been there six years.

Q. Six years?

A. Six years.

Q. Well, then, all of your employment has been with Republic Steel Corporation, isn't it?

A. For a total of 11 years.

Q. Yes.

A. I was at the Liberty plant for five years.

Q. Oh, the Liberty Steel Company?

A. Yes, sir.

Q. Now, where was that located?

A. That was west of Warren, between Warren and Leavittsburg.

Q. Was that a subsidiary of the old Trumbull Steel?

A. It was.

Q. And was acquired, I believe, by Republic, at the time that Trumbull Steel was taken over?

A. That is right.

Q. Now, you had been working there for five years and then you came to Trumbull Steel, or to the Trumbull plant or Warren plant of the Republic Steel and have been there six years?

A. That is right.

Q. What was your occupation when you first started to work at the Warren Plant?

A. I was weigh master at the sheet and tin and bar shears.

Q. And did that employment continue up until February of this year, when you took your present position?

A. It did.

Q. Do you remember, Mr. Herst, when the Employees Representative Plan was introduced in the Republic plant at Warren?

A. Yes, sir.

Q. When was that?

A. In June, 1933.

Q. Do you know how it was originally installed?

A. The way it was originally installed, the superintendent of each department delegated one man from the various departments to attend a meeting where the Plan was discussed and told about in detail.

Q. Now, were you one of the members of that original committee that was called for that purpose?

A. No.

Q. Then, not attending the meeting, your information comes from subsequent knowledge of what was done there?

A. From bulletins that was later posted throughout the mill as result of this meeting.

Q. How did the information that you received from bulletins or from this committee indicate to you what had taken place at that time?

A. It did.

Q. From your knowledge of that, what was done? At this first meeting of the group that met there?

A. The Plan was talked and discussed in detail before the group and they set up a temporary committee to take charge of their first nominations and elections.

Q. Do you know how many was in that committee that was originally appointed for that purpose?

A. Four.

Q. Four? Do you know whether or not this original committee organized, and had offices with which to function?

A. They did.

Q. Who was the chairman of that committee, if you know?

A. E. J. Mulligan.

Q. Is he an employee of the Republic Steel Corporation?

A. Yes, sir.

Q. In what capacity was he employed?

A. An armature winder.

Q. Was he in any position having a supervisory capacity, or just an employee?

A. Just an employee.

Q. Now, subsequent to this original meeting that you spoke of, what was the next you heard of the Plan?

A. These bulletins that were posted throughout the mill telling of the election that was to be held the following week.

Q. Yes, and do you have the papers or notices there showing that?

A. (Witness produces documents.)

Q. Do you have some other papers there in connection with this?

A. Yes, sir.

MR. SMITH: I wish you would mark this for your next number?

(The document above referred to was marked as Respondent's Exhibit 43 for identification.)

Q. I show you a paper that has been marked as Respondent's Exhibit 43 for identification and I wish you would look at that and see if that is the form of notice that you referred to in connection with nominations and elections?

A. It is.

Q. Is this the form of notice that was used throughout the time that this Plan was functioning?

A. It is.

Q. And how was this notice given to the people in the Plant?

A. It was posted throughout the mill on the various bulletin boards.

Q. Oh, there are various bulletin boards there in the plant there?

A. There is.

Q. And different departments of the plant, is that correct?

A. Yes, sir.

MR. SMITH: I desire to introduce in connection with this testimony as to the Warren E. R. P. Employees Representative Plan, Respondent's Exhibit No. 43.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 43 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit 43 was received in evidence.)

TRIAL EXAMINER LINDSAY: We will take a short recess.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. SMITH: Will the Reporter please mark this as Respondent's Exhibit No. 44 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 44 for identification.)

Q. Now, subsequent to the notice that you have indicated here which has been marked as Respondent's Exhibit No. 43, state whether or not there was a nomination held.

A. There was.

Q. Were you one of the candidates that were up at the nomination?

A. I was.

Q. Now, what was the quota? How did you arrive at the number of representatives that you would have under this Plan?

A. There was to be one representative for approximately every 200 employees and the fraction thereof.

Q. What was the year? That was the first year, the first nomination, that you were to be a candidate?

A. That is right.

Q. That is in 1933, in June?

A. Yes.

Q. Do you know how many other candidates there were? How many candidates there were from your department for this first election in 1933?

A. That I think it was 28.

Q. 28?

A. Yes.

Q. Now, how many was your department entitled to on that quota of one for every 200 men?

A. It was entitled to 21.

Q. 21?

A. Yes.

Q. That is 21 representatives or 21 nominations?

A. 21 nominations.

Q. How many representatives?

A. Seven.

Q. Seven?

A. Yes.

Q. Now, under the Plan was it provided that there should be three nominees for each place to the representative in this election?

A. Yes.

Q. Was it—it would require 21 candidates from your department?

A. It did.

Q. And you say you think there were 28?

A. 28.

Q. Now, how was this nomination conducted? The election for the nomination?

A. By secret ballot.

Q. Now, by that you say secret ballot?

A. Yes.

Q. What equipment, if any, was provided for the holding of this election, Mr. Wurtz?

A. We were provided with ballots, election tallies, ballot boxes, and voting booths.

Q. Just describe the voting booths as to how they were constructed.

A. The voting booth was of a solid construction on three sides and enclosed on the fourth side by a solid canvas.

Q. Was it similar to the booths used in the County and State elections?

A. Yes.

Q. Now, how many of these voting places were there in 1933?

A. In the sheet and tin department there were 33.

Q. Are you familiar with the entire plant as to how many there were in the entire plant?

A. No, I am not.

Q. Now, who conducted this election? Who was in charge of it?

A. The Committee in charge that was appointed at this first meeting.

Q. Do you know how many there were of this Committee that had charge of the election of the nominees?

A. This Committee selected their own judges and tellers of employees around and throughout the plant to act in that capacity.

Q. Do you know whether or not there were any of the judges or tellers selected that had any position in the mill, any supervisory capacity?

A. There was not.

Q. There weren't?

A. No.

MR. SMITH: I wish you would mark this paper as the next exhibit.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 45 for identification.)

Q. I show you a paper that has been marked as Respondent's Exhibit No. 45 and ask you what that is.

A. That is the ballot that was provided for us for our nominations.

Q. Were the ballots that were deposited or cast at that time—did the voter sign his name to that or not?

A. No.

MR. SMITH: I desire to introduce Respondent's Exhibit No. 45 which has been marked for identification.

MR. HOSKINS: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 45 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit No. 45" was received in evidence.)

Q. Do you know whether or not, Mr. Wurtz, as to whether a constitution and by-laws covering this organization was presented to the Committee at the first meeting they had with the Company?

A. It was.

Q. Did you see a copy of that constitution and bylaws?

A. I did.

Q. Do you know what, if any, action was taken by the Committee at that first meeting as to ratifying it or otherwise?

A. It was accepted and there was items that were later amended.

Q. But the amendment was not made until after this first election, was it?

A. That is right.

Q. I wish you would read into the record the heading of this and the first two paragraphs of Exhibit 45. (Handing a paper to the witness).

A. "Nomination Ballot for Employee Representatives. Directions to Voters. This ballot is issued to qualified voters to nominate candidates for employee representatives. The voter, by using this ballot, approves the holding of nominations and elections as stated in the posted notice issued by the Employees' Committee under the plan of Employee Representation at this plant and expresses his desire that those elected shall represent him in collective bargaining and for the other purposes stated in the notice."

TRIAL EXAMINER LINDSAY: Now, Mr. Smith, let us not read each one of these into the record.

MR. SMITH: Yes.

TRIAL EXAMINER LINDSAY: Of course, it will be in as an exhibit.

MR. SMITH: All right. I will not read any further.

Q. And this form of Respondent's Exhibit No. 45, is that the form of ballot that was used at this first election?

A. At the first nomination, yes.

Q. Now, I show you a paper that has been marked as Respondent's Exhibit No. 44 and ask you what that form was.

A. It is a notice that was posted throughout the mill for the nominations held on the nominated candidates.

Q. And that was posted in what manner?

A. Throughout the mill on the various bulletin boards.

Q. On the various bulletin boards, you say?

A. Yes, sir.

Q. I note on this that it gives the name and number of votes. Is that what was shown on this, what each candidate received?

A. It was.

MR. SMITH: I desire to introduce Respondent's Exhibit No. 44 in evidence.

MR. HOSKINS: May I see that, please, Mr. Smith?

MR. SMITH: Yes.

MR. HOSKINS: No objection.

TRIAL EXAMINER LINDSAY: Respondent's

Exhibit No. 44 may be received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit No. 44' was received in evidence.)

Q. I have a paper that is headed "Election Ballot for Employee Representatives." I would like to have the Reporter mark it for identification as Respondent's Exhibit No. 46. Do you wish to see this, Mr. Hoskins?

MR. HOSKINS: Yes.

MR. SMITH: Does your Honor wish to look at this?

TRIAL EXAMINER LINDSAY: No.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 46 for identification.)

Q. I show you a paper that has been marked Respondent's Exhibit No. 46 for identification and that is headed "Election Ballot for Employee Representatives." I will ask you to state what that paper is.

A. This is the ballot we used in our annual elections.

Q. Is this the form of ballot that was used by the first election in June, 1933?

A. It is.

MR. SMITH: I wish to introduce Respondent's Exhibit No. 46 in evidence.

MR. HOSKINS: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 46 may be received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit No. 46" was received in evidence.)

Q. Now, were you one of the candidates that was placed in nomination, that was nominated for employee representative under this plan?

A. I was.

Q. (By Mr. Smith) And that was from what department, Mr. Herst?

A. Sheet and tin hot mills.

Q. Did you have anything to do with the election that was held for the nomination, or that was held for the election of the candidates that had been nominated?

A. Nothing whatsoever.

Q. Now, when you went to the booth, the voting booth, Mr. Herst, first for your nomination, voting on the candidates who had been placed in nomination, I wish you would just state the procedure that was followed and what happened when you went to the booth?

A. As you walked into the booth the teller and judges had a list of all of the employees that were eligible to vote. They checked you off by the name and by check number.

Q. You would state your name and number?

A. That is right.

Q. And they would check on their rolls to see if you were eligible to vote?

A. That is right.

Q. And then what happened next?

A. They gave you a ballot and you went to the booth to make your ballot, to vote.

Q. Was this booth so arranged so that it was private, and that no one from the outside could see you vote, how you voted?

A. It was.

Q. Now, what did you do after you had marked your ballot?

A. You folded your ballot and put it in the ballot box.

Q. Now, you say "ballot box". Just describe what that ballot box was like.

A. Well, it was a square metal box about two foot square with a slit in the top and on which the lid was locked with a padlock.

Q. Now, who was in charge of that ballot box?

A. The judge of the booth.

Q. The judge at the booth? You had booth judges and tellers, is that correct?

A. Yes, sir.

Q. And did you deposit your ballot in those boxes yourself?

A. You did that yourself.

Q. And in folding your ballots were the ballots folded so that it did not disclose how you had voted?

A. They were.

Q. Was this election in the mill held all on the same day?

A. Yes, on the same day throughout the mill.

Q. Well, now, in voting, how did the people, the employees who were in there at work, how did they get to the ballots to vote?

A. The booths were so arranged that they were to be kept open for a period of 24 hours if the operations of the department required it, which gave everyone working ample time to go in and cast their vote.

Q. Were the employees permitted to leave their work and go to ballot?

A. No.

Q. Well, how did they ballot then?

A. They could either ballot as they came into work or as they were leaving on their way home.

Q. I see, but they weren't permitted to leave their work to go to the voting booth?

A. No, sir.

Q. Then was it required of any of those who were away from the mill and not working, that they come in and vote before going to work?

A. They were not required, they could.

Q. But all were eligible in the plant to vote, under this Plan?

A. No, sir, it was an American citizen and 21 years of age and you had been in the employ of the company previous to the day of the nomination.

Q. Previous to the day of the nomination for how long?

A. Well, it just says "previous to the day of nomination."

Q. And what were the qualifications for being eligible to act as an Employees Representative?

A. Had to be an employee of the company, but was not allowed to be under a supervisory capacity.

Q. And was there any length of time of employment required?

A. No.

Q. Was their any requirement as to citizenship?

A. They were required to be citizens.

Q. Do you have with you a copy of the constitution and by-laws that were adopted in 1933?

A. I have.

TRIAL EXAMINER LINDSAY: May I ask, Mr. Smith, are those the same as the constitution and by-laws that have been offered at Canton and Youngstown?

MR. SMITH: Well, I think they are substantially the same. I think there are some differences, and I know there was some difference in the manner of their meetings and so on. They were substantially the same, but there was some slight difference in them.

MR. LAUTER: It may be that the very document that is now being discussed has been offered in evidence already.

MR. SMITH: This is as to the Warren district. There has not been any offered in evidence as to the Warren district. First I will have this marked for identification Respondent's Exhibit 47.

(The document above referred to was marked as Respondent's Exhibit 47 for identification.)

Q. I show you a booklet that has been marked as Respondent's Exhibit 47 and ask you if you will state what that booklet is?

A. This is the plan of Employees Representation.

MR. SMITH: First, I will introduce it. I ask to introduce Exhibit No. 47 in the testimony. Do you desire to look at it, Mr. Hoskins?

MR. HOSKINS: There is no objection.

MR. SMITH: Will your Honor want to look at it?

TRIAL EXAMINER LINDSAY: No.

MR. SMITH: I offer it in evidence.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 47 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit 47 was received in evidence.)

Q. (By Mr. Smith) I direct your attention to Article 3 on page 2 of Exhibit 47 and ask you to look at that and see as to the qualifications of Representatives?

MR. SMITH: I think that the witness is mistaken as to what that provides, and I want to give him the opportunity to correct it.

Q. (By Mr. Smith) Now, after refreshing your recollection by looking at this Article 3 of Respondent's Exhibit 47, do you wish to change your answer as to qualifications of a Representative?

A. I do.

Q. In what way do you want to change it?

A. They are required that they be an employee of the company for one year.

Q. Yes, and in other particulars your testimony remains as it was?

A. Yes.

MR. SMITH: I wish you would mark this paper as next exhibit for the Respondent.

(The document above referred to was marked as Respondent's Exhibit 48 for identification.)

Q. I show you Respondent's Exhibit No. 48 and ask you what that form was used for.

A. This is the notice that was posted throughout the mill on the various bulletin boards telling the results of the election.

MR. SMITH: I desire to introduce Respondent's Exhibit No. 48 in evidence.

MR. HOSKINS: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 48 may be received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit No. 48" was received in evidence.)

MR. SMITH: Will you mark this Respondent's Exhibit No. 49 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 49 for identification.)

Q. I show you a form that has been marked as Respondent's Exhibit No. 49 for identification and ask you what that form was used for.

A. This is the form of the employees to file their grievances with their representatives.

MR. SMITH: I desire to offer in introduction Respondent's Exhibit No. 49 which consists of four pages. The first one white, the second one, yellcw, third, pink, and the last one is blue.

MR. HOSKINS: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 49 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit No. 49" was received in evidence.)

Q. I notice that the Respondent's Exhibit 49 which you say is the form that is used for presenting claims consists of four pages evidently that can be written at the same time through carbon sheets. Now, what was the purpose of having these four pages?

A. The representative got the original, the second copy went to the superintendent of the department, and the last two pages was sent to the management representative.

Q. Which in Warren was who?

A. Mr. McLain.

Q. Mr. McLain?

A. Yes.

Q. How many years during the time this plan was in operation were you a member of the Board of Representatives?

A. The first three years.

Q. How did the Board function after the representatives were elected? Now, what was the next step after that?

A. Well, they held their election of officers and then the various committees were appointed.

Q. Now, do you know who was elected Chairman of the employees' representatives? What is called the general body, I believe?

A. E. J. Mulligan.

Q. Did he serve throughout the period that the Plan functioned in that capacity?

A. He did for the three years that I was there.

Q. Now, you say that there were certain committees appointed. How many committees were there?

A. Four.

Q. How were those committees designated?

A. The No. 1, 2, 3, and 4 Committees.

Q. State briefly, if you will, the jurisdiction of Committee No. 1.

A. Committee No. 1 was the Rules, Ways and Means Committee.

Q. And No. 2 Committee?

A. Was working conditions and wages.

Q. And No. 3?

A. Safety and Plant Sanitation.

Q. And No. 4?

A. The Appeals Committee.

Q. Now, how was the Committee consisting of the employees of the representatives elected by the employees designated? Was there any other designation?

A. Well, they are mostly known by Committee No. 1, 2, 3 and 4.

Q. Now, you had joint meetings and separate meetings. How do you refer to them?

A. We had joint meetings for the meetings for employees representatives and the management representatives and the Plan Committees were just employe representatives.

Q. That is what I am referring to. The standing committee.

A. Yes.

Q. Now, when there was a meeting of the committee that was elected by the employees, where they met alone, that was called the Standing Committee, is that right?

A. Yes.

Q. How often would those committees meet?

A. Every other month.

Q. How often did the joint committees meet?

A. Once in between; every other month.

Q. So that there would be a meeting of the standing committee one month and the joint committee, and then the standing committee, and so on?

A. That is right.

Q. They met on alternate months?

A. That is right.

Q. Now, do you have meetings of what is known as your general body meeting?

A. We do.

Q. Now, of whom did that consist?

A. The standing general body committee, composed of all the employees representatives.

Q. That is with the representatives elected by the employees, did you also have joint meetings with that committee?

A. We did.

Q. How often would the general body committees meet?

A. They met alternate; every other month.

Q. That is, the standing committee?

A. That is the standing committee with the joint body—the general body.

Q. How often would they have joint meetings with the representatives appointed by the employer?

A. They would alternate every other month.

Q. How many members were there of each of these committees?

A. Five.

Q. Now, what was the situation as to your joint meetings and the committee representing your employer? How many people were there?

A. Five people.

Q. Five?

A. Yes.

Q. Now, did you hold any office in any of these committees?

A. I did.

Q. What was the office that you held?

A. I was secretary of Committee No. 4; the standing and joint committee.

Q. Now, did your standing committee organize by the election of officers?

A. They did.

Q. And did the joint committees organize by the election of officers?

A. They did.

Q. They did?

A. Yes.

MR. HOSKINS: What year were you secretary, Mr. Smith?

Q. What years were you secretary of these committees?

A. The first three years.

Q. During the time that you were a representative you were also elected as secretary, is that correct?

A. I was.

Q. Now, did you have different complaints during the time you were acting in this capacity as representative referred to you from your department?

A. I did.

Q. What was the procedure in connection with complaints that were presented to you? How did you handle them?

A. The employees would approach me with their complaints, which I in turn would go with the employe to his foreman, and then the foreman would go to the superintendent with the employee.

Q. Now, if you failed with both the foreman and the superintendent—that is, failed to get an adjustment, what would be the next procedure?

A. Then we would go to the management representative.

Q. That is, to investigate the claim?

A. Yes, sir.

Q. If you failed with the management representative, what would be the next procedure?

A. It would be placed in the hands of the committee that was in charge.

Q. For instance, if it was employment and wages it would be located on the No. 2 Committee?

A. That is right.

Q. Rules, Ways and Means Committee would be No. 3 and so on?

A. That is right.

Q. How would you present it to the Committee?

A. The representative would go along with the employee.

Q. Did you make your presentation orally or did you use any of these forms (indicating)?

A. We used forms.

Q. Now, would that be the form which is Respondent's Exhibit No. 49, consisting of four sheets?

A. That is the one.

Q. When that came up before the Committee, you presented the claim to them. What would you do in connection with that before the Committee?

A. Before the Committee?

Q. Yes.

A. Why, they read the claim and answered any questions to it.

Q. And presented your side of the case?

A. Yes.

Q. Now, would there be anybody there to present the other side of the case?

A. No.

Q. Would Mr. McLain appear at the meeting?

A. He was at the Committee meeting.

Q. And he would present his side of it, would he?

A. He would.

Q. Then it would come up for consideration with your committee?

A. Yes.

Q. Now, if you would fail to get an adjustment of it there, what would be the procedure following that?

A. We would place it in the hands of the Joint Committee.

Q. First it would come to your standing committee, wouldn't it?

A. Yes.

Q. And then placed in the hands of the joint committee?

A. Yes.

Q. What would be your next procedure then?

A. The same as the standing committee.

Q. You were there on behalf of your claim?

A. Yes.

Q. Now, if you failed to get an adjustment before the joint committee, what would be the next procedure?

A. Then it would be turned over to the Appeals Committee.

Q. Then if you failed to get an adjustment before the Appeals Committee, what further procedure would follow?

A. We then had the privilege of taking it to the president of the company.

Q. If you didn't get any relief from the president of the company, where did you take it from there?

A. With two-thirds of the majority of the Appeals Committee, and with the President's consent, it would be operated on.

Q. During the time you were on this—the three years that you were on this committee, do you know of any complaint that was not settled either in the Appeals Committee before reaching there—

A. With the exception of one.

Q. You mean there was one that was taken to the President?

A. No, to the Appeals Committee.

Q. Well, do you mean of your own claims, only one?

A. Yes.

Q. Maybe you don't understand my question. I mean, if you know of any from any representative that was not settled either in the Appeals Committee or before it reached there?

A. No.

Q. Now, about how many claims would you say that you had during this period of time, Mr. Herst?

A. What?

Q. That you had during this period?

A. I suppose during the three-year period I must have handled a hundred claims.

Q. And you say that only one of them got to the Appeals Committee?

A. Yes.

Q. Do you remember what the result of that was?

A. It was settled satisfactory to both sides.

Q. About how many of the claims that you had, about what percentage were settled before it became necessary to go to a committee?

A. I would say easily 90%.

Q. Now, during this time that you were on this Committee serving as a representative, I wish you would state whether or not there was anybody connected with the Company, any of its officers or agents that you felt in any way interfered with you in the performance of your duties as a representative.

A. There were none.

MR. SMITH: I think that I have finished with the direct.

Cross Examination

Q. (By Mr. Hoskins) Mr. Herst, during the three years that you were a member, or rather a representative under the Employees Representation Plan, you were also Secretary of the Committee; is that correct?

A. That is right.

Q. Where were those various meetings held?

A. We had a meeting room that is known as the Trumbull Cliffs.

Q. Is that on Republic Steel property?

A. It is.

Q. And you were paid for all of the time you spent working on the Employees Representation Plan and the time you spent handling grievances and attending meetings; is that correct?

A. I was.

Q. Now, is it not true that during those three years the Company paid all the expenses on the Plan?

A. It was.

Q. That includes printed notices, bulletins, ballots, tallies, by-laws, constitution, minutes, all of the equipment and supplies of the committees, including a few pamphlets; is that correct?

A. It did.

Q. (By Mr. Hoskins) Did either the General Body or any of the standing committees have power to correct a certain situation? That is, now, only of themselves, by themselves?

A. No.

Q. To your knowledge, has the Employees Representation Plan formally dissolved?

A. All I can go by there is hearsay. I was not a Representative the last year of the plan.

Q. Well, to your knowledge, has it been dissolved?

A. Just by hearsay, that is all.

Q. What is your hearsay on it?

A. That it has folded up.

Q. But you don't know of your own knowledge whether it has been formally dissolved, is that not correct?

A. I know of my own knowledge that the representatives are not active.

Q. My question is, formally dissolved?

A. I can't say as I know it was formally dissolved.

MR. HOSKINS: That's all.

Redirect Examination

Q. (By Mr. Smith) Just one further question that has been suggested. I think I covered that. Was there anybody connected with the company in the capacity of officer, manager or agent, that in any way took part in or interfered in connection with the holding of elections?

A. There was not.

Q. They were elected solely by the employees themselves?

A. That is right.

MR. SMITH: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: Now, that concludes all of your testimony on Canton, Niles, Warren, and Youngstown?

MR. DAY: Yes, sir.

MR. LAUTER: And Massillon.

MR. DAY: And Massillon, yes, sir.

TRIAL EXAMINER LINDSAY: We will start tomorrow morning on your Cleveland testimony.

MR. DAY: Cleveland.

TRIAL EXAMINER LINDSAY: Now, we will adjourn until 9 o'clock in the morning.

(Whereupon, at 9:15 o'clock p. m. September 24, 1937, an adjournment was taken to 9 o'clock a. m. September 25th, 1937.)

Courtroom 3, Common Pleas Court, Cuyahoga County,
Cleveland, Ohio.
Saturday, September 25, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:15 o'clock a. m.

Before:
John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Arno G. Erdrich, Esq., of the firm of Messrs. Day, Veach & Young, Union Trust Building, Cleveland, Ohio.

Judge Chas. F. Smith, Harry Manchester, Esq., and David E. Jones, Esq., of the firm of Messrs. Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. DAY: If the Court please, you will recall at Youngstown we offered certain evidence with relation to alleged violence and alleged unlawful conduct upon the part of pickets and strikers and C. I. O. members at Youngstown, Warren, and Niles. The Court made a certain ruling on that subject, and, acting according to the Court's ruling as we understand it, we have prepared an offer to prove which we have here and now present.

I would like to have it understood that in presenting this offer to prove we reassert the objections and exceptions which we noted in the record in Youngstown, and the refusal of the Court to let us put these witnesses on one at a time, interrogating them one at a time, and offer separate offers to prove one at a time, with relation to them.

And we also reassert the reasons why we believe this evidence is admissible, which were stated quite fully in the record, as your Honor knows, at Youngstown, by counsel for the Respondent.

TRIAL EXAMINER LINDSAY: But those reasons are not stated in your offer of proof.

MR. DAY: No, your Honor, there is nothing of that kind stated in the offer to prove, but as I understand, it was prepared by Mr Manchester of counsel who is sitting here now, and as stated, the reasons for offering the evidence are not stated in the offer to prove. It is merely the offer to prove and we would like to have that marked as an exhibit and presented to the Court at this time. We have copy for counsel for the Labor Board. Shall we have it marked?

TRIAL EXAMINER LINDSAY: Yes.

(The document above referred to was marked as Respondent's Exhibit 50 for identification.)

TRIAL EXAMINER LINDSAY: Have you made your offer?

MR. DAY: Yes, we make an offer to prove.

TRIAL EXAMINER LINDSAY: No, I mean—

MR. DAY: We offer this exhibit, which embodies the Respondent's offer to prove as I have just stated, with relation to Youngstown, ~~Warren,~~ and Niles districts.

TRIAL EXAMINER LINDSAY: Yes. Now, Mr. Day, your individual offer of proof is in regard to the 75 or approximately 75 witnesses you said you would have to call at Youngstown. That is right, isn't it?

MR. DAY: Yes, although the number may be more than that. I am not certain about that. I think the names of the witnesses appear in the offer. I would not like to be bound by 75, but I think the number will be apparent from an examination of the offer.

TRIAL EXAMINER LINDSAY: Have you anything you want to say, Mr. Lauter?

MR. LAUTER: Of course, I would just like an opportunity to examine the offer of proof. It is rather a lengthy document, and until we have had an opportunity to examine the offer to prove, I would like to reserve my right to make objections to it.

MR. DAY: That is quite satisfactory to us.

TRIAL EXAMINER LINDSAY: Yes; well, the offer of proof is taken under advisement.

MR. DAY: The record may show, I take it, your Honor, that it has been presented and marked as an exhibit, and you are going to take it under advisement?

TRIAL EXAMINER LINDSAY: That is right. And I will rule on the admissibility of it at a later date.

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: This is off the record.

(Discussion held off the record.)

HARRY E. GRIMM

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?
A. Harry E. Grimm.
Q. Where do you live?
A. Valley City, Ohio.

Q. Valley City?

A. Yes, sir.

Q. Where is Valley City?

A. It is in Medina County about 27 miles from here.

Q. How long have you lived there?

A. Approximately four years.

Q. Are you a married man?

A. I am.

Q. Where do you work?

A. On the docks of Republic Steel Corporation in Cleveland—Corrigan McKinney Division.

Q. How long did you work for Republic or Corrigan-McKinney?

A. I worked there for Corrigan-McKinney from 1915 to 1917 to the war and came back about September 1st, 1933, up until the present time.

Q. And where did you work in the interim when you were not working for Corrigan-McKinney?

A. Oh, several different places. I was in the service; I worked for myself; I worked for MacMiller Real Estate Company and The May Company.

Q. You came back, as I understood you, and re-entered the employment of the Republic in 1933?

A. That is right.

Q. The Corrigan-McKinney?

A. Yes, sir.

Q. At that time it was Corrigan-McKinney?

A. That is right.

Q. And Corrigan-McKinney was taken over by Republic in 1930—

A. I believe 1936.

Q. 1936, yes. Now, what was your first connection with the Employees Representation Plan at Corrigan-McKinney?

A. Well, I was nominated and elected in the spring of 1934; in June, 1934.

Q. You were not in from the start of 1933?

A. No, I was not an employee of the Company then.

Q. You were nominated and elected to what office?

A. As a representative.

Q. For what department?

A. From the dock.

Q. After you were elected a representative from the department you have mentioned, did you begin to serve as a representative?

A. Immediately.

Q. And you served that one term, 1934 to 1935?

A. I served from the time of election in 1934 until the Wagner Act was declared constitutional. I was re-elected.

Q. That was some time in 1937?

A. I was re-elected in 1935 and 1936.

Q. Were you an officer of the Employees Representation Plan at any time?

A. I was secretary.

Q. You were secretary of the E. R. P.?

A. Yes. That is, the last two terms I was in. The first term I was not.

Q. Well, I will ask you whether you have collected together what I have here of various documents and papers relating to the E. R. P.

A. If those were the ones I collected together, that is what they are.

MR. DAY: Will you mark this Respondent's Exhibit No. 51 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 51 for identification.)

Q. Before offering any of these exhibits, I would like to have you state after you became a representative and became connected with the E. R. P., how were the representatives selected? What was the first step?

A. In selecting the representatives?

Q. Yes.

A. There was nominations for the office of representative.

Q. By the way, the E. R. P. that I am asking you about, and of which you were a representative yourself—

A. Yes.

Q. —was in connection with what plant of the Republic?

A. The Corrigan-McKinney plant.

Q. Can you give us some idea as to the number of persons employed there?

A. There were about 3400 this last spring; I don't know just the exact number.

Q. Now, what would be the first thing that would be done in connection with the selecting of representatives after you went in there? I understand you were not in there at the beginning.

A. The Election Committee which consisted of the general committee posted notices or had notices posted in different places about having nominations and the number of nominees.

Q. That would be elected from each department?

A. Yes, sir.

Q. I am showing you a paper that has been marked as Respondent's Exhibit No. 51 for identification and ask you what that is.

A. That is the notice of nomination and election probably posted by the Election Committee.

Q. I notice this says: "Nominations, June 9, 1936."

A. That is right.

Q. Do you know whether or not similar notices were posted the other years that you were connected with the E. R. P. and the Corrigan-McKinney plant?

A. They were about the same as that. The number of representatives to be elected from the different departments may have changed some and the names of the Election Committee at the bottom may have changed some; otherwise, they were substantially the same.

Q. You don't say they were verbatim but substantially the same?

A. Yes, substantially.

MR. DAY: I would like to offer Respondent's Exhibit No. 51 in evidence.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 51 may be received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit No. 51" was received in evidence.)

Q. Where were these notices posted?

A. On the bulletin boards in all of the departments of the plant, all of the clock houses. Any place where there was a bulletin board they were posted.

Q. What is the clock house?

A. A place where the cards are kept for ringing in and out.

Q. That is the place where all the men get to?

A. They must pass through there in order to get to and from work.

Q. Now, after the notice of election was posted, what was the next step in the selection of these representatives?

A. The Election Committee had these several voting divisions, ballots, boxes, placed with tellers and ballots for the men to pick the candidates that way on the date set for the nominations. On that date each employee who desired was given a nominating ballot which he marked and placed in the ballot box.

Q. Where did they get the ballot. How is it handed to them?

A. There were tellers appointed by the Election Committee to hand it to them.

Q. Now, who were those tellers? What was the status in the mill of which tellers were appointed? Who were they?

A. Well, they might be almost anyone except the men who might be in a supervisory capacity. No man could do that. Any man, however, who worked there was eligible to be a teller or hold office.

Q. Now, could any man in a supervisory capacity be eligible for membership?

A. No, sir.

Q. State whether or not men in a supervisory capacity acted as tellers and judges.

A. They did not.

Q. They were all employees?

A. They were all employees.

MR. DAY: I have here, Mr. Lauter and Mr. Trial Examiner, a notice of the first election. I don't think this witness can identify it but I would like to put it in evidence in connection with that. However, I have another witness who can.

MR. LAUTER: Let me see it.

MR. DAY: Yes. (Handing a paper to Mr. Lauter).

MR. LAUTER: No objection.

MR. DAY: I would like to have this marked as Respondent's Exhibit No. 52 for identification.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 52 for identification.)

Q. (By Mr. Day) I understand, Mr. Grimm, that you were not a representative when the Plan was inaugurated back in 1933, but I find this in the papers that I have in connection with your evidence and is that, as far as you know, the notice of the first election?

A. That, so far as I know, was notice of the first election which was given me as the incoming secretary at that time as the poster for the first election.

MR. DAY: I offer that in evidence.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 52 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit 52 was received in evidence.)

Q. (By Mr. Day) How was it determined on representatives or what number of representatives these various departments of the Corrigan-McKinney plant had in this representative plan?

A. That varied with the number of employees in the department and was at one time revised. There were two different times. One time for each 250 employees or major portion thereof, and it was changed later to each 200 employees or major portion thereof.

Q. One representative for 250 men, and afterwards 200 men?

A. Yes, that is right—each voting division. Not by the departments. The voting divisions were not necessarily departments.

Q. Will you explain that? Maybe I got mixed up on that? What do you mean? What is the difference between department and voting division as you understand it?

A. The voting divisions were arrived at by the election committee, whch consisted of the whole general committee. They subdivided the plant in such a manner as to give everybody, so far as they could, the best representation.

MR. DAY: Mark this Exhibit 53.

(The document above referred to was marked as Respondent's Exhibit No. 53 for identification.)

Q. (By Mr. Day) On this paper which has been marked Respondent's Exhibit No. 53 for identification that I now hand to you, what is that?

A. That is the classification of voting divisions for the year 1936 and what was proposed for 1937.

MR. DAY: I would like to offer that in evidence.

MR. LAUTER: May I see it?

MR. DAY: Certainly.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 53 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit 53 was received in evidence.)

Q. (By Mr. Day) Now, you have told about the notices of election, and you have introduced some of the forms in evidence. After the notice was put up at various points in the mill, what is the next step in the selection of representatives?

A. Well, those who were interested in being elected for position as representative, in some cases done a little electioneering among their fellow workmen, and at the time of nominations, if they were nominated one of the three high for each representative to be elected, his name was placed on the election ballot. There were three men to be nominated for each representative to be elected. The three who received the highest number of votes at nomination in that voting division for each representative to be elected, were placed on the ballot for election, and at election time they were elected from those elected in that manner.

Q. Anybody who wanted to run for nomination just ran, is that it?

A. Well, generally speaking, yes.

Q. Just like running for any office?

A. Just like for any office.

Q. Ordinarily?

MR. DAY: Will you mark this our next exhibit, please?

(The document above referred to was marked as Respondent's Exhibit No. 54 for identification.)

Q. (By Mr. Day) What is Respondent's Exhibit for identification No. 54?

A. That was a nomination ballot form used in the open hearth and laboratory department; that was the voting division.

Q. This says June 9th, 1936?

A. That was our last general election.

Q. You may state whether or not the other nomination ballots were, if not identical, similar substantially the same as this?

A. They were identical except for the name of the voting division which is here, and the number of nominees to be elected.

Q. I see.

MR. DAY: Do you want to see it, Mr. Lauter?

MR. LAUTER: I would like to see all exhibits before they go in evidence. No objection.

MR. DAY: I take it if your Honor wants to see any of these, you will let me know. I would like to offer in evidence Respondent's Exhibit 54.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 54 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit 54 was received in evidence.)

Q. (By Mr. Day) You have gone down, now, to the point where there were elections for nominations? Now, I think you have described the voting; I think you did describe the voting booths and that the men had ballots and cast their ballots. And while I am on that subject, who paid for the expenses of the voting booth, and who paid the expenses for printing notices, and who paid the expenses for the nomination ballots and election ballots and all that?

A. The company stood all of the expense in connection with the election.

Q. And so far as you know, the company did that from the time you started there?

A. From the time I started, that was their policy.

Q. Through the election in 1937?

A. There was no election in 1937.

Q. 1936?

A. 1936.

Q. Well, how were the candidates who had been nominated, certified?

A. There were sent to the several voting divisions a certificate of nomination in duplicate or triplicate or whatever it took to post on as many bulletin boards as there happened to be in that voting division, to notify the employees there of who had been nominated to serve as representatives from their department.

MR. DAY: Will you mark this statement for identification our next exhibit?

(The document above referred to was marked for identification as Respondent's Exhibit No. 55.)

Q. (By Mr. Day) What is this paper I hand you marked for identification Respondent's Exhibit 55?

A. That is a certificate of nomination which shows the men who are the three high men nominated in the voting division which is named.

Q. That is, at the June nomination and election of 1936?

A. That is right.

Q. Do you know whether or not, if not identical, substantially similar certificates were used in connection with other nominations?

A. They were identical except for the difference in names and the voting division to which they were attached.

MR. LAUTER: No objection.

MR. DAY: I offer it in evidence.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 55 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit 55 was received in evidence.)

Q. (By Mr. Day) At the point at which we now stand, candidates have been nominated?

A. They have been nominated, three candidates for every candidate to be elected.

Q. What was the next step?

A. The election was the next step.

Q. How was the election handled?

A. Well, the same as the nominations. There were tellers appointed to attend the booths, and the ballots were passed to the employees; they voted; the ballots were counted, and the man receiving the high number was elected representative from that voting division.

Q. Who acted as tellers?

A. Employees of the plant who were selected by the election committee.

Q. Who acted as judges?

A. They were selected from among the Employees' Body by the election committee, too.

Q. Where were the ballots examined and tabulated?

A. In our regular meeting hall in the hospital building, second floor of the hospital building.

Q. And that was on company property?

A. It was.

Q. State whether or not any person working for the company in a supervisory capacity was present at the time that the votes were counted and tabulated?

A. They were not.

Q. Or anybody in connection with the police department?

A. There was one time that the police had representatives in the Plan, and at that time they were allowed to have a man in the room while the ballots were being counted.

Q. They were?

A. Since that time there was a revision of rules and the police were left out. Since that time, I believe, they haven't had anything to do with our elections at all.

Q. Well, then, when the police were there and participated in these nominations and elections and so forth, they were entitled to representation, is that right?

A. They were what?

Q. Entitled to representation?

A. Yes, sir.

Q. And when was that discontinued?

A. In 1935, I believe.

Q. I hand you now a paper we will have marked for identification Respondent's Exhibit 56, and ask you what that is?

(The document above referred to was marked as Respondent's Exhibit No. 56 for identification.)

A. That is an election ballot for the rolling mill department.

Q. And that question says 1936. Well, state whether or not the election ballots for prior years were similar or substantially the same as this.

A. They were substantially the same.

MR. DAY: I would like to offer Respondent's Exhibit 56 in evidence.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 56 may be received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit 56" was received in evidence.)

Q. If the representatives were elected in the manner you have described, state how the fact of their election was certified.

A. The same as in nomination. The certificate of election sent to the Committee and posted on the bulletin boards.

MR. DAY: Will you mark this Respondent's Exhibit No. 57 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 57 for identification.)

Q. I hand you a paper which has been marked for identification as Respondent's Exhibit No. 57 and ask you what that is.

A. That is the certificate of election held in June, 1936, of the dock.

Q. I notice in passing that you have gotten 63 votes on that election.

A. Yes.

Q. State whether or not the certificates of election used in years other than 1936 were the same or substantially the same as this.

A. They were substantially the same as that.

MR. DAY: I would like to offer in evidence Respondent's Exhibit No. 57.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 57 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit No. 57" was received in evidence.)

Q. Were you familiar with the books that were issued in connection with the Employees Plan of Representation—

A. I am.

Q. The contents of which you would ordinarily call, I assume, the constitution or constitution and by-laws or something of that kind?

A. Yes.

Q. Mr. Grimm, I am going to show you a little book which has been marked Board's Exhibit 100 and which has been introduced in evidence, and ask you to examine it and tell me if you know—look it through and tell me if you know what that is.

A. That was the plan of representation of the Corrigan-McKinney Steel Company in 1934 and revised in 1935 and 1936.

Q. That is the 1934 plan?

A. 1934 plan.

Q. State whether or not, to the extent that you know of this little booklet, what it contained and if it expressed the method that was generally used in carrying out the condition of the Plan.

A. That is the ruling under which we operated.

Q. State whether you knew whether the members of the Plan were given these books.

A. All the employees who were eligible to vote.

Q. All the employees who were eligible to vote?

A. Any man who was an employee in the plant at the time of the nominations.

Q. Was the rule at one time changed?

A. The rule was changed once later. He had to be an employee for nine days prior to the time.

Q. Who were eligible to vote or hold office in the plant?

A. All except the men who would be in a supervisory capacity.

Q. Who would be eligible to hold office in the plant?

A. The men except those who were in a supervisory capacity.

Q. Was there any difference in the relation—with relation to eligibility and ineligibility to hold office?

A. That was revised, I believe, in the last book, I think it was. Six months he had to be an employee to be able to hold office.

Q. Anything said about citizenship?

A. 21 years of age and had to be an American citizen.

Q. To hold office?

A. To hold office.

Q. There is another book in this record which has been introduced in evidence as Board's Exhibit 91. I wish you would examine that and leaf through it and tell me what it is.

A. That was the plan of Employees Representation in 1936 before the revision. The book was revised in 1936.

Q. You identify that exhibit as being one of those books?

A. Yes, sir.

(Discussion off the record.)

Q. I think you have described now the manner of nominating representatives and electing them, and you have told us about the book of regulations or the constitution or whatever it is. What committees did the Plan have?

A. We had four standing committees. I think at times there were appointed special committees to serve for special purposes.

Q. Now, what were the four standing committees? What was the first standing committee?

A. We are not like the other plan; we don't have numbers. The first one, I believe, was the Rules, Wage and Means Committee.

Q. They were not numbered 1, 2, 3 and 4?

A. No, we didn't number them. The first one of our committee was the Rules, Wage and Means Committee.

Q. What did that committee do? What was its function?

A. Their duty is to take under advisement any changes of the rules or the procedure or generally speaking, keeping the rules in such shape as they desired. Any recommendation or changes or alterations.

Q. Did that committee have anything to do with the election?

A. With the election?

Q. Yes.

A. They were part of the Election Committee. The whole general committee consisted of all the elected representatives with the elected committee.

Q. They were all on the same footing, is that right?

A. There was the Chairman and the Secretary and the rest of them were on the Election Committee. They had one more voice than the others. The Chairman, the Vice-Chairman and the Secretary.

Q. How were they selected?

A. They were elected by the representatives among their own number.

Q. By the representatives?

A. Yes, sir.

Q. Did the members of the Plan pay any dues?

A. No, sir.

Q. That was through all the time that you were connected with the Plan?

A. That was true all the time they were in. There were no dues in connection with the Plan at all.

Q. And it is also true that the expenses incident to the operation and conduct of the Plan were paid by the Company?

A. That is right.

Q. Of course, that was the Corrigan-McKinney up to the time that Republic took it over and then it was Republic; that is correct, isn't it?

A. That is right.

Q. Name another Committee.

A. The Wages, Schedules, Tonnage, Methods and

Economies.

Q. What did that Committee do?

A. They investigated any controversy that came up on any of the subjects mentioned. That was their job.

Q. Name another Committee. A standing committee.

A. The Mutual Relief Committee.

Q. What did that Committee do?

A. They investigated any report that someone was in need; see what they could do for them, and anything in the way of relief that was talked of by way of joining a party or raising funds for some party that was in need.

Q. Name another standing committee.

A. The Sanitation Committee.

Q. What did it do?

A. They inspected the plant. They had a sanitary inspection once a month. Towards the last it was once a month; before that, it was occasionally.

Q. Can you name another Committee?

A. Athletic and Recreation Committee.

Q. Well, we will not spend much time on that. Was there an Appeals Committee?

A. We had no Appeals Committee.

Q. You had no Appeals Committee in this organization of yours?

A. No.

Q. Can you name any other Committee that you did have that I haven't asked you about?

A. I believe that was all. There were five standing committees.

Q. Five standing committees?

A. Yes.

Q. Who selected the personnel or members of the various committees?

A. They were selected by the Chairman; that is the General Chairman who had been elected either—had been elected by a representative group or among the group; and the Chairman of the Subcommittee, who had also been elected from the group, got together and selected the different committees.

Q. Well, you say that you had no Appeals Committee. How were grievances handled under your plan?

A. How they were handled?

Q. Yes, the plan that you are describing now?

A. If an employee had a grievance he went either to his representative or in person and then they took it up with the men in charge.

Q. Just a minute. I should have asked you this before. Were there any joint committees?

A. There was at one time but they were elected out in 1935, I believe.

Q. What was the difference between a standing committee and a joint committee? What did the two committees consist of?

A. Well, the general body had their standing committees. The only joint committee we have was where the men selected by the management and the representatives made up the various joint conferences and committees.

Q. That is what I am getting at. During what period of time after you became connected with this Plan was there a joint committee or a Company Management Committee?

A. I believe they only served one year. The year 1934, I think.

Q. When that Committee did serve how was it composed?

A. They was equal. There were an equal number of management representatives that met in conference with the representatives, and any question that came up was discussed by them, and a vote taken of the merits of the case.

Q. Well, generally—you have told us about the Employees Committee. Generally, who composed the Management Committee?

A. In some cases they were either superintendents or foremen. I believe in all cases they were as far as I know. I don't remember all of them. I believe they were all foremen or superintendents.

Q. Selected by the management?

A. Selected by the management.

Q. With what committees of the Plan selected by the employees did this Management Committee meet?

A. None of the subject committees; none of the standing committees. Just with the general committee.

Q. With the general committee?

A. That was all the representative group.

Q. All of them together?

A. Yes, sir. That is as I recall it. I may be a little off.

Q. How many were on this general committee?

A. Well, the number varied at different times. It first started with eight and t the time it was dissolved it was 16.

Q. In that Plan?

A. In that Plan.

Q. They would meet with the Management Committee? They would meet with them?

A. Yes.

Q. How many would be on the Management Committee with the Employees Committee?

A. An equal number. If we had 12 representatives, they had 12.

Q. How frequently would the members of the Standing Committees of the plant meet?

A. Once a month.

Q. That was the general committee?

A. Yes, sir.

Q. Where would they meet?

A. In a room furnished by the Company. The hospital room.

Q. How were they paid for the time they spent in attending meetings?

A. They were paid their regular rate of pay for the time spent in any representative work.

Q. That is, if they spent so much time—they got just the same pay as they would have gotten working?

A. Yes, sir.

Q. Paid by the Company?

A. Paid by the Company?

Q. How frequently would the joint committee meet with this Management Committee?

A. They—as I recall it, met once a month.

Q. During all the time or just a part of it?

A. Pardon me?

Q. During all the time or just a part of it?

A. Well, as long as the joint committee, —

Q. Where would those meetings take place?

A. The same place, in the hospital room.

Q. Were the employees who met with the Management Committee paid in the same way by the Company and so forth for their time?

A. You mean the Management Representatives?

Q. No, I mean the others. I mean getting at it this way. Were the members of the Plan, the Employees Representatives, paid the same way when they met with the Management Representatives as they were when they met by themselves?

A. Oh, yes.

Q. I wish now you would tell us how you handled grievances under this plan.

A. Well, if an employee or a group of employees had a grievance they could take it up with the man who was in charge there; any person or through their representative.

Q. Who?

A. The man in charge. The foreman or sub-foreman.

Q. Suppose we take a man working in some department. What was your department?

A. The dock.

Q. Suppose he has a grievance and he wants to have it considered by his employer—the Company. Under the Plan, what was the first thing he would do?

A. He would either go to his foreman himself or take it to his representative and have his representative go to the foreman or both of them go to the foreman.

Q. Now, his representative—you mean the representative under the Plan for his—

A. For his voting division.

Q. For his voting division?

A. That is right.

Q. So as I understand you, he would go to the foreman or go to the representative, and they together would go to the foreman?

A. That is right.

Q. Or would the representative go by himself to the foreman?

A. He could. He worked any one of the three ways.

Q. Now, an ordinary typical case, when this man contacted the foreman in the manner you have described, what would happen?

A. Ordinarily there wasn't much a foreman could do about a grievance, generally speaking. He told them to go up to their department head, and that is usually the procedure. They would go from the foreman to the head or the superintendent.

Q. (By Mr. Day) Who would go up there?

A. Either the man himself or his representative, or both.

Q. And then in a typical case what would happen when they got to the superintendent?

A. Well, the grievance or supposed grievance was talked over with him. If there was anything he could settle, he would settle, and that was the end of it. And this is all verbal, up to this place.

Q. Just talk, up to that.

A. Just talk up until now. If there was something he couldn't or wouldn't settle, then the regular procedure would be to put it in writing and file it with the superintendent. Any grievance, anything that was taken up in that way should be taken up in writing, that was the rule, but generally speaking it wasn't. It was usually verbally, first, because a lot of these things were settled right now, without any squabbling at all, and they made no record of them at all.

Q. Can you give us any idea or estimate as to the proportion of grievances that would be settled in the procedure, before the superintendent?

A. I can, from my own department, but I would have to look the records up to see the rest of them, because I have them. In my own department I had 76 cases during the period of time that I was a representative, and there was only one of them went beyond the department head.

Q. And the department head is the superintendent?

A. The superintendent.

Q. If the employee is not able to work out his grievance at the conference with the superintendent, in the manner you have described, what is the next step available to him under the Plan?

A. He would file that in writing, that is the representative would file it in writing with the superintendent or the department head, and go to the management's representative with it.

Q. Were there any written forms provided under your Plan for this?

A. There was, and I neglected to bring one of them down. It is similar to the ones you had here yesterday, I believe, with the exception that we didn't have as many duplicate copies as they had.

MR. DAY: May I have one of those introduced yesterday?

Q. (By Mr. Day) Mr. Grimm, I have here Respondent's Exhibit 46, I think it is A, B, C, and D, which were presented in evidence last night when we were examining a representative under the Warren Plan; I will ask you to state generally whether the blanks that are provided by your Plan were similar to these? Look them all over before you answer the question, please.

A. No, they are not.

Q. They are not the same?

A. They are not the same.

Q. You do not have with you any?

A. I haven't no.

MR. DAY: May I find out if anybody back there has got them? I can put them in evidence if they have.

(Discussion held not made a part of the record.)

Q. (By Mr. Day) Without stopping now, Mr. Grimm, to get the blank, if there was a blank, will you just tell us generally what kind of blanks they were and we will try to introduce them in evidence to show what they actually were?

A. They were a printed form, I can't tell you just the wording on them, to file complaints with the department head and the management's representative, and secretary.

Q. Do you know whether they were made out in more than one form, more than one paper?

A. No, as I—I am reasonably sure that it was just a single—the same kind of paper but we made them in triplicate.

Q. Made in triplicate?

A. Yes, we made them in triplicate.

Q. You made them in triplicate?

A. Yes.

Q. Where did the different papers, if they were made out in triplicate go? Who got them?

A. One went to the department head, one to the management's representative, and one was supposed to go to the secretary.

Q. And by the way, you mentioned management representative. Now, who was the management representative in the Corrigan Plant?

A. In the Corrigan Plant first it was Dr. Engle, in the Corrigan-McKinney Plant; and when the Republic Steel Corporation came in, it was Mr. Wakefield.

Q. He got one of these complaints and the superintendent got one?

A. That is right.

Q. Who got the other one?

A. The secretary of the general committee.

Q. Of the general committee, under the Employees Plan?

A. That is right.

Q. Is that what you were?

A. I was.

Q. After these papers were received by these various persons, what was the next step?

A. If the management's representative would not settle the controversy, it was given to the general committee.

Q. Well, who met with the management representative after these papers were distributed around?

A. Usually the representative who handled the complaint discussed it with the management's representative and he, in turn, undoubtedly with the management. I don't know where he went.

Q. And did they have a meeting?

A. Yes.

Q. If there was no satisfactory disposition of the complaint at that point, what was the next thing that happened on that?

A. The general committee acted upon the merits of the case that was given to them.

Q. The general committee, now, who was that?

A. That was all of the elected representatives

Q. Any management's representative there?

A. No, sir.

Q. Well, now, you say they acted on the case. How did they act?

A. They investigated the case and if the committee that investigated it thought that it had merits—well, whether they thought so or not, there was a motion passed to vote whether or not the committee felt that the case had merit.

Q. Well, suppose that they voted that the case had merit, then what was the next thing happened?

A. If the case had merit, the district manager was contacted.

Q. By whom?

A. By the general committee.

Q. All of them together?

A. Either all or in part. Sometimes one and sometimes there was the committee went.

Q. How was he contacted? Was he brought into the meeting or how?

A. No, there were different ways. Sometimes he was called on the phone and appointment made and he was met in his office. Other times the management's representative was contacted and he made arrangements for a meeting. Usually it took place in the district manager's office.

Q. And if no satisfactory results were obtained with regard to the grievance, then what was the next step, if there was any?

A. In our last book of rules, the last step was the president of the company was contacted. The general committee contacted the president of the company for his decision.

Q. How did they contact him?

A. Either directly by phone or through the management's representative.

Q. And if no results were obtained there, what was the next step?

A. An arbitrator or arbitrators as the case would need were selected if the president of the company and the majority of the representatives voted in favor of that action.

Q. While you were secretary of the Plan at the Corrigan-McKinney Plant did any grievance get as far as arbitration, that you know of?

A. We never had one go outside of our own plant, past the district manager, as far as I know.

Q. Never had any go past the district manager?

A. No.

Q. Didn't get up to the president and didn't get into arbitration?

A. No, sir.

Q. What happened to those complaints? What, if anything, was the reason why they never got past the district managers?

A. They were settled one way or the other, either the complaint was settled in favor of the complainant or it was settled against him and he didn't go through with it, and it never was carried on.

Q. While you were there as secretary, have you described the manner in which the Plan operated at Corrigan?

A. Generally speaking, yes. There were revisions and changes made in the by-laws from time to time; there were occasions when a special committee was appointed to handle a special case in a special manner, but generally speaking, the procedure I gave you was practiced.

Q. Well, did there come a time when there was a change in the company's providing finances for any part of the operation of this Plan?

A. Not until the Wagner Act was declared constitutional.

Q. Answer the question yes or no. Was there?

A. There was, yes.

Q. About when was that?

A. That was on the 13th of April that it was announced to us.

Q. Of this year?

A. Of this year.

Q. Was the Plan ever formally dissolved, as far as you know?

A. No, there was no formal dissolution, at all.

Q. No formal dissolution of it?

A. No.

Q. Well, what happened about April 12th or 13th, when you say there was a change?

A. Our regular meeting for the month of April was scheduled to be on the 13th of April and we met that day and during the course of that meeting Mr. Wakefield, the management representative, was called into the meeting and while there he told us that the Supreme Court had upheld the Wagner Relations Act, and that so far as he knew the company would no longer be able to give us any financial support, and from that time on during that meeting it was almost entirely taken up by a general discussion of the Wagner Act.

Q. Of the Wagner Act? State whether or not, to your knowledge, the company, Corrigan-McKinney or Republic, interfered with or sought to dominate the elections that were held for representatives?

A. Dominate the elections?

Q. Yes.

A. They had nothing to do with them, whatsoever.

Q. You may state whether or not, to your knowledge, during the operation of the Plan, the company, Corrigan-McKinney or Republic, sought to dominate or interfere with the operation of the Plan?

A. Not to my knowledge, no.

MR. DAY: I think that is all in direct examination. May we have a recess now? I will contact the office.

TRIAL EXAMINER LINDSAY: All right, we will have a short recess.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

Cross Examination

Q. (By Mr. Lauter) What part of the plant do you work in?

A. In what department?

Q. Yes.

A. Dock.

Q. The river dock?

A. The river dock, yes.

Q. What is the nature of your work?

A. I am a repair man and mechanic.

Q. Where is the dock located with respect to the plant?

A. Well, it is part of the plant that is on the west side of the river, directly across from the open hearth.

Q. What do you repair?

A. What do I repair?

Q. Yes.

A. Units. Bridges. Cranes. Bin cars.

Q. Now, are there any boats coming up to the plant where you work?

A. Yes.

Q. What is that?

A. Yes, they come in there regularly.

Q. Are these Republic boats?

A. I haven't any idea who owns them. They come in. They have different names on them. There are some Hutchinson boats and some Cleveland boats and some Nicholson boats. I don't know who owns them.

Q. What do they bring into the plant, do you know?

A. Ore and limestone and scrap.

Q. Where do these boats come from? What is the lake out here?

A. Yes.

Q. What is the name of the river they come up on?

A. The Cuyahoga River.

Q. The Cuyahoga River?

A. Yes, sir.

Q. Has that a connection with any lake?

A. Yes, it runs into the lake.

Q. What lake?

A. Lake Erie.

Q. And the boats come down Lake Erie? From Lake Erie down the Cuyahoga River?

A. They go up the Cuyahoga River.

Q. I see. Now, you have mentioned some of the things that are brought in by boats. Have you mentioned all the things?

A. I have mentioned them all.

Q. What?

A. That was all that was unloaded there, and we loaded steel and pig iron.

Q. Where does the iron come from, do you know?

A. Why, most of it comes from Minnesota. Where it all comes from, I don't know.

Q. What did you say?

A. Minnesota; up around Duluth; somewhere around there.

Q. What are some of the other articles?

A. Limestone.

Q. Where does that come from?

A. Some from Kelly Island and some from Michigan.

Q. Now, the first island. Where is that located?

A. Kelly Island?

Q. Yes. Where is that?

A. It is an island in Lake Erie off of Huron.

Q. Is that a part of this state or another state? Who owns the island?

A. I imagine it is part of this state; I don't know.

Q. Now, what are some of the other products you mentioned?

A. Scrap.

Q. Where does that come from?

A. Oh, various places. They buy it wherever they can.

Q. You mean outside of the state?

A. I don't know.

Q. You say wherever they can. It is brought by boat?

A. Yes. Up the river on boats. I don't know much about it.

Q. I understand that you are giving just general information.

A. So far as I know.

Q. What are some of the other articles?

A. That is all that is brought in.

Q. What is sent out?

A. Pig iron and steel.

Q. Where does that go?

A. Well, some goes one place; some goes to General Motors.

Q. That is in Michigan?

A. I don't know; I don't know what plant it goes to.

Q. That goes out on the lake?

A. That goes out on the lake.

Q. To what other state?

A. That I don't know; I haven't any idea.

MR. DAY: I don't know how much he really knows—

MR. LAUTER: He is testifying about his knowledge; he has general information about the subject.

THE WITNESS: I don't know where it is shipped to; no, I don't know.

Q. What are some of the steel products that go out?

A. Sheet bars, billets mostly.

Q. Those are loaded on boats as they come to the Corrigan-McKinney plant?

A. That is right.

Q. You work in the dock section or dock department?

A. Yes.

Q. The river dock as it is known?

A. That is right.

Q. You repair work in your department?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And physically in the plant that department is located near the river; is that right?

A. Right on the river.

Q. Right on the river?

A. Yes.

Q. Meetings of the Employees Representation Plan were held on the Company property and on Company time, is that correct?

A. They were on Company property and usually on Company time. Well, always on Company time so far as we are concerned.

Q. You always got paid for it?

A. We always got paid for it.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

JOHN WALSH

a witness being called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. John Walsh.

Q. Is that W-a-l-s-h?

A. W-a-l-s-h.

Q. Where do you live, Mr. Walsh?

A. 2225 Courtland Avenue, Cleveland, Ohio.

Q. Where do you work?

A. Republic Steel Corporation, Corrigan-McKinney plant.

Q. In what capacity?

A. As a helper in the open hearth.

Q. The open hearth?

A. Yes, sir.

Q. By the way, we have heard open hearth mentioned here all through this case. What is an open hearth?

A. The open hearth is a place that consists of furnaces where the steel is melted and poured into ingot form and there drawn over to the rolling mill.

Q. You are with the Corrigan-McKinney plant?

A. Yes, sir.

Q. How long have you been with them? How long have you worked there?

A. 15 years.

Q. Were you working there in 1933?

A. Yes, sir.

Q. What, if any, knowledge have you of the beginning of the Employees Representation Plan at the Corrigan-McKinney plant?

A. At that time there was a Committee appointed. I believe at that time by Mr. McCaslin.

Q. Now, who is he?

A. He was the general superintendent—general manager, I believe, or general superintendent of the plant. The open hearth.

Q. Of the Corrigan-McKinney?

A. That is right.

Q. Go ahead.

A. There was a Committee appointed by him consisting of men picked from various departments. They conducted the nominations for the first mutual election.

Q. Well, Mr. McCaslin picked the men out?

A. Yes, sir.

Q. Were you one of those picked out?

A. No, sir.

Q. When did you become connected with the E. R. P.;

the Employees Representation Plan at the Corrigan-McKinney plant?

A. I was nominated in the first regular election.

Q. You were not in on this first committee?

A. No, sir.

Q. Then you didn't attend any meetings of this first committee?

A. No, sir.

Q. You don't know of your own knowledge what they did?

A. No, sir.

Q. Now, what was your first personal connection with the E. R. P.?

A. My first personal connection was the day they told me I was nominated for the election of representatives.

(Discussion held off the record.)

Q. (By Mr. Day) In what department was that?

A. Open hearth department.

Q. Had you made any campaign or anything?

A. No, sir.

Q. You just got nominated?

A. That is right.

Q. And that was the first election?

A. No, sir.

Q. Well, did you vote in that election yourself?

A. Yes, sir.

Q. And I think it already appears that the Plan was inaugurated in 1933?

A. Yes, sir.

Q. Can you give us any idea of when in 1933? About what month?

A. After I was elected, I can give you a general idea from there on, but until that time I didn't know very much about it.

Q. Well, where was the first election held?

A. That is, do you refer to ballot boxes and so on?

Q. Yes, that is what I am trying to get at?

A. There were ballot boxes—

MR. DAY: Your Honor understands that Mr. Grimm was not in at the very start. That is the reason I am calling Mr. Walsh.

TRIAL EXAMINER LINDSAY: Yes.

A. Ballot boxes were placed at each one of the entrance gates of the plant. Boxes were taken out of the hospital building, placed at these gates, and a lock placed on them. There were slots in the top of the boxes to drop your ballot in.

Q. Now, who provided those boxes?

A. The company provided them.

Q. And while we are on that subject, state, if you recall, whether the company provided, or so far as you know, the company provided the ballot boxes and the voting booths and the notices of election and certification of election and all of the papers and so forth that were necessary in connection with holding these elections?

A. So far as I know, they did.

Q. Now, the first election was held in 1933?

A. Yes, sir.

Q. And you have described about the ballot boxes; where did the men get the ballots that they cast?

A. The ballots were passed by a committee of men picked by this committee; the first election committee was picked by the company or Mr. McCaslin at the time they had picked the men from various departments to act as tellers and judges and to assist in passing out ballots as the men passed either to or from work. That is, at starting time or quitting time.

Q. How long did the first election take, if you remember? About how long from the time it started until the time the polls were closed?

A. 24 hours, if I remember.

Q. And were those votings or was that election held on company property?

A. Yes, sir.

Q. Would you be able to identify a notice of the first election, that is Respondent's Exhibit No. 52 that I hand you? If you do you can say so, if not, say so. That is the bulletin board notice?

A. Yes, this is the notice that was posted on the various bulletin boards throughout the plant at the time of the first annual election.

Q. And that is Respondent's Exhibit 52? Now, for the first election, how were the nominations conducted?

A. Nominations for the first election, there was an out-lay of a plan given to the employees in a pamphlet form, explaining the representative plan and how they could choose whom they wished to, and vote to nominate any man they wished in these various voting divisions.

Q. And then how many men were nominated for each office of representative, if you know?

A. In our department there were three nominated, one to be elected.

Q. Were you one of the men who acted as a judge of election or a teller at the first election?

A. No, sir.

Q. You didn't do that?

A. No, sir.

Q. You were just elected?

A. That is all.

Q. Just how were the men elected, after they had been nominated? Elected to the office of Employees Representative under the Plan?

A. The three men receiving the highest number of votes in the nominations, their names was placed on the ballot and the man receiving the highest number of votes was elected representative of that division.

Q. And you got elected?

A. That is right.

Q. After you were elected, what is the next thing you did, in connection with your being a representative? You were a representative, then, and what is the next thing you did in connection with carrying out this Plan?

A. Immediately after the election there was a meeting called by notifying all of the members that had been elected representatives, and that constituted their first regular meeting, and at that meeting there was officers—that is, the chairman, vice-chairman and secretary was elected.

Q. Were you an officer?

A. No, sir.

Q. But you were a representative?

A. Yes, sir.

Q. How long did you continue to be a representative after you were elected that first time?

A. I have been in the Representative Plan every year since then.

Q. Up until sometime in 1937?

A. Yes, sir.

Q. Right straight through?

A. Yes, sir--Well, no, in 1934 I was—there are two representatives in the open hearth department, in 1934, as the size of the department was too much work for one man.

Q. Were you one of them?

A. No, I was an alternate. I was elected—I was third in the nominations and elections, and the man that was elected, there was Mr. Smith and Mr. Schultz, and he, at a later date, I think it was a matter of a few months, resigned from the office.

Q. Which one, Schultz or Smith?

A. Schultz.

Q. Well, did you then take Schultz's place?

A. I automatically became Representative in the department again.

Q. Throughout the years during which you were elected, and the one year when you succeeded a man elected as his alternate, you have been a representative of this Plan right along?

A. Up until the Wagner Act was declared legal.

Q. Constitutional?

A. Constitutional.

Q. Now, did you hear Mr. Grimm testify?

A. Yes, sir.

Q. Were you in the courtroom when he testified?

A. Yes, sir.

MR. DAY: Now, if the Court please, I don't know whether this a regular method of examination, but it might shorten things up, but I thought it might—

TRIAL EXAMINER LINDSAY: It is cross examination of your own witness.

MR. DAY: I thought I might save time, if I asked him.

TRIAL EXAMINER LINDSAY: Well, so far there is no objection.

Q. (By Mr. Day) Generally, Mr. Walsh, did the Plan operate after you became connected with it, insofar as you know, in the manner described by Mr. Grimm?

A. Yes.

Q. Now, please understand, I am simply understanding you insofar as you know, and I am asking it generally?

A. As far as I know, the testimony that Mr. Grimm gave is substantially correct.

Q. And insofar as you participated in the Plan?

A. That is right.

MR. DAY: I think that is all.

MR. LAUTER: I think that is all.

(Witness excused.)

MR. DAY: Oh, yes, may I recall Mr. Grimm just a minute? Is he here? That is all with Mr. Walsh.

HARRY E. GRIMM

a witness was recalled, and, having been previously duly sworn, was examined and testified as follows:

MR. DAY: Will you mark that our next exhibit?

(The document above referred to was marked as Respondent's Exhibit No. 58 for identification.)

Direct Examination

Q. (By Mr. Day) Mr. Grimm, I will hand you a paper that is marked for identification Respondent's Exhibit No. 58, and ask you if you recognize that as being some paper that was used in the conduct of the plan and the operation of the plan?

A. That was the form we used for filing complaints of the employee.

Q. And is that the kind of a paper that you had in mind when you stated sometime earlier this morning that your form was not the same as the ones I showed you?

A. Yes, sir, that is correct. That is right.

MR. DAY: Now, I would like to offer this Respondent's Exhibit 58 in evidence.

(Discussion off the record.)

MR. DAY: We offer in evidence Respondent's Exhibit 58.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 58 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit 58 was received in evidence.)

MR. DAY: That is all, Mr. Grimm. Thank you. (Witness excused.)

MELVIN A. KIEFFER

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. Melvin A. Kieffer.

Q. Melvin A. Kieffer?

A. Yes, sir.

Q. Did you spell your last name for the Reporter?

A. Yes, sir.

Q. Where do you live?

A. Rocky River.

Q. Where do you work?

A. 12-inch mill, Republic Steel Corporation.

Q. What plant is that?

A. Corrigan-McKinney.

Q. Corrigan-McKinney?

A. Yes.

Q. Did you work there at the time the strike was called in May?

A. Yes, sir.

Q. State whether or not you wished to go out on strike.

A. I didn't.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. LAUTER: Exception.

MR. DAY: That is all.

MR. LAUTER: No cross-examination.

(Witness excused.)

RICHARD J. POWELL

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. Richard J. Powell.

MR. DAY: May I recall Mr. Kieffer for just one more question?

TRIAL EXAMINER LINDSAY: Yes.

MELVIN A. KIEFFER

a witness being recalled by and on behalf of the Respondent, having been heretofore duly sworn, was examined and testified further as follows:

Direct Examination (Continued)

Q. (By Mr. Day) State whether or not after the strike was called you wished to continue to work at the plant.

A. I wished to continue—

MR. LAUTER: I object on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken out.

TRIAL EXAMINER LINDSAY: Objection sustained. I don't think it is material.

THE WITNESS: I wished to continue to work.

MR. DAY: That is all. Exception.

MR. LAUTER: No cross-examination.

RICHARD J. POWELL

a witness called by and on behalf of the Respondent, resumed the stand and testified further as follows:

Direct Examination

Q. (By Mr. Day) Where do you live, Mr. Powell?

A. 9316 Ramona Boulevard, Cleveland, Ohio.

Q. What is your occupation?

A. I am a rougher on the 12-inch mill in the Corrigan plant of the Republic Steel.

Q. How long have you worked for the Republic Steel Corporation?

A. A little over 10 years.

Q. Were you working there when the strike was called last May?

A. Yes, sir.

Q. State whether or not you wished to go out on strike?

A. I didn't.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: I think it is immaterial. I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. State whether or not you wished to continue at work after the strike was called.

A. I did.

MR. LAUTER: I object on the ground that it is incompetent, irrelevant and immaterial.

At this time, if it please, Mr. Trial Examiner, I understand that Mr. Luther Day, counsel for the Respondent Company, intends to call a number of employees from the Corrigan-McKinney plant and to put to them exactly the same questions as was asked the witness before this one and this witness. I want to object to it on the ground that it is incompetent, irrelevant and immaterial, outside of the scope of the issues in this case, and that such testimony would tend to be cumulative if those witnesses were put on the stand; and since at Youngstown and at Canton questions were asked of witnesses similar in nature to the questions that are now being put to these witnesses—I want to incorporate at this time my objections and my motions which I addressed to the questions at this time, and to the questions which are now being put to the witnesses who are on the stand and more witnesses whom Mr. Day intends to call.

TRIAL EXAMINER LINDSAY: Does this last objection include all of the reasons you stated at Youngstown and at Canton on this same subject matter?

MR. LAUTER: It includes all the reasons, and I reassert all the motions and objections that I have already stated and am stating today.

TRIAL EXAMINER LINDSAY: May I ask, Mr. Day, how many witnesses you intend to call?

MR. DAY: At this time the Respondent advises the Court that there are, according to our present information which may be corrected and changed later, when checked, employees of the Respondent Company at this plant in Cleveland whom the Respondent now seeks to call as witnesses, and to whom the Respondent desires to propound questions heretofore propounded by the Respondent to the witnesses who have already testified, and such other questions as may be necessary in individual cases to elicit the facts in connection with the conduct of these witnesses in the matters heretofore involved.

TRIAL EXAMINER LINDSAY: I will sustain the objection based on the same reasons as I sustained similar objections on similar proposed testimony at Canton and at Youngstown, and the rulings stated at each of the above specified places are the same rulings that are now made as to the same type of evidence proposed to be submitted at Cleveland.

MR. DAY: May we have an exception?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: As already indicated, the Respondent now seeks to call at this hearing a large number of witnesses and employees of the Respondent Company at this plant in Cleveland and to propound to said witnesses and each of them the questions heretofore propounded by the Respondent to the witnesses who have already testified and such other questions as may be necessary in individual cases to elicit the facts in connection with the conduct of these witnesses in the matters hereinbefore noted. The Respondent represents to the Trial Examiner and offers to prove that each and all of these witnesses did not wish to go out on a strike but did wish to continue at work at the Cleveland plant of the Respondent.

The Respondent believes and represents to the Court that each and all of these witnesses would so testify if permitted by the Trial Examiner.

The Respondent in connection with its offer of the evidence of these witnesses states that such evidence is admissible, relevant, competent and material under the issues presented by the complaint and answer in this case and the evidence introduced by the Labor Board, and that the Respondent has the right and should have the opportunity to offer this evidence as a part of its defense under the express provisions of the National Labor Relations Act.

The Respondent also believes that this evidence is not cumulative in character and subject to objection upon that ground.

MR. LAUTER: I merely wish to reassert and renew the reasons for my objections and motions to the objections and motions which I have made previously today and at Youngstown and Canton with respect to this type of testimony that is now being sought to be offered by the Respondent.

TRIAL EXAMINER LINDSAY: The objection is sustained. Let the record show an exception.

MR. DAY: Exception. I think that is all the witnesses we have available this morning, your Honor.

TRIAL EXAMINER LINDSAY: We will adjourn until 9:30 Monday morning and I want all the witnesses in here so that we can go right through with this.

(Whereupon, at 11:40 o'clock a. m. September 25, 1937, an adjournment was taken to 9:30 o'clock a. m. September 27, 1937.)

Courtroom 3, Common Pleas Court
Cuyahoga County, Cleveland, Ohio
Monday, September 27, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., Thomas F. Veach, Esq., and Arno G. Erdrich, Esq., of the firm of Messrs. Day, Veach & Young, Union Trust Building, Cleveland, Ohio.

Judge Chas. F. Smith, Harry Manchester, Esq., and David E. Jones, Esq., of the firm of Messrs. Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio.

PROCEEDINGS

PAUL EHRET

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. Paul Ehret.

Q. What is your business?

A. I am assistant superintendent of the Western Union Telegraph Company in Cleveland.

Q. And have you charge of their offices here?

A. Not direct charge, Mr. Day. I act as assistant.

Q. Assistant; yes, sir. I will ask you whether or not you have a copy of a telegram dated May 3, 1937, to T. M. Girdler, president of Republic Steel Corporation, sent by Clinton S. Golden, regional director Steel Workers Organizing Committee, Grant Building, Pittsburgh, Pa.?

A. I have.

Q. Will you let me have it, please?

A. Yes, sir.

Q. Now, is that the telegram that was received by your office?

A. It is the telegram that was received by our office in Cleveland.

Q. And to your knowledge?

A. Yes, sir.

Q. State whether or not it was delivered to Republic Steel Corporation?

A. It was delivered to the Republic Steel Corporation at 1:38 p. m. as our No. 84, to them.

Q. On what date?

A. May 3rd.

Q. 1937?

A. 1937.

Q. And sent from where?

A. It was originated in Pittsburgh, Pa. It was sent from our Cleveland office on a direct wire to the office of the Republic Steel Corporation here.

MR. DAY: Will you mark that for identification, please, Respondent's Exhibit 59. Also mark these next two as Respondent's Exhibits 60 and 61.

(The documents above referred to were marked as Respondent's Exhibits Nos. 59, 60, and 61, for identification.)

Q. (By Mr. Day) As I understand you, with relation to that telegram, Respondent's Exhibit 59, you testified that it was sent from Pittsburgh through the Western Union Telegraph, received at your office and delivered by Western Union Telegraph to Republic Steel Corporation, to whom it is addressed, is that right?

A. That is right.

Q. And on the date mentioned in your testimony?

A. Yes, sir.

Q. Now, I hand you Respondent's Exhibit 60 and ask you whether or not you can identify that?

A. I identified it as a telegram of May 3, 1937, addressed to Clinton S. Golden, regional director Steel Workers Organizing Committee, 3600 Grant Building, Pittsburgh, Pennsylvania, signed by J. A. Voss, director of industrial relations, Republic Steel Corporation.

Q. I ask you whether or not, to your own knowledge, that telegram was sent through your office?

A. It was sent through our office on a direct wire to Pittsburgh, Pennsylvania, at 12:08 p. m. on May 5, 1937, as No. 314 on that wire.

Q. I ask you whether or not it was delivered in Pittsburgh to the person to whom it is addressed?

A. Yes, I know it was, because an answer is in the files to that effect.

Q. The date is what, on this?

A. This is dated May 5th.

Q. May 5th? I understand you testify that this telegram was sent by your office from Cleveland and delivered in Pittsburgh?

A. That is right.

Q. That is Respondent's Exhibit No. 60. Now, I hand you a paper marked Respondent's Exhibit 61 and ask you what that is?

A. This is a receipted telegram from Pittsburgh, Pennsylvania, dated May 6th, 1937, addressed to J. A. Voss, director of industrial relations, Republic Steel Corporation in Cleveland, and signed by Clinton S. Golden.

Q. I will ask you whether or not, to your knowledge, that was received by your office in Cleveland from Pittsburgh and delivered to J. A. Voss?

A. It was. It was delivered to them at 10:20 a. m. as our No. 64 on May 6th, 1937.

Q. With relation to Exhibit 60 you testified about an answer being made to that; I call your attention to "Wire Fifth received". Was that referring to No. 60, dated the 5th?

A. Yes, that refers to that message.

Q. Now, I understand you testify that Exhibits 59, 60, and 61, were sent through your office duly received and duly delivered, is that right?

A. That is right.

MR. DAY: I want to offer in evidence Respondent's Exhibits 59, 60, and 61.

MR. LAUTER: Object on the ground it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: May I see it, please?

MR. DAY: If the Court has any doubt, I would like to state why I think it is admissible.

(Respondent's Exhibits 59, 60 and 61 for identification were handed to Trial Examiner Lindsay.)

MR. DAY: Has your Honor got them in order?

TRIAL EXAMINER LINDSAY: Yes. They really are not material but I will overrule the objection and let the record show an exception. Respondent's Exhibits 59, 60 and 61 received in evidence.

(Thereupon the documents heretofore marked "Respondent's Exhibits 59, 60 and 61" were received in evidence.)

MR. DAY: That is all, unless you care to cross-examine. Do you want to cross-examine?

MR. LAUTER: No.

MR. DAY: That is all. Thank you very much.

(Witness excused.)

MR. DAY: Mr. Ehret, you can take those.

MR. SMITH: You have no objection to photostats? He probably wants to compare them.

MR. DAY: These are his own papers, Mr. Examiner.

TRIAL EXAMINER LINDSAY: Yes, I understand. They must be returned to his office. You may substitute photostatic copies.

MR. DAY: If the Court please, the Respondent now produces from the papers which counsel has a letter from Clinton S. Golden to Republic, dated March 30, and a contract marked Exhibits 62 and 63 respectively, as being the papers to which reference is made in these telegrams and offers them in evidence along with these telegrams.

(Thereupon the documents above referred to were marked Respondent's Exhibits 62 and 63 for identification.)

MR. LAUTER: Object on the ground they are incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Well, in the first place, you don't mean contract.

MR. DAY: No, it is not contract. It is a proposed—it is whatever it is designated, simply say that the document marked 63 is offered in evidence.

TRIAL EXAMINER LINDSAY: Objection overruled. While I think they are not material, I will admit them.

(Thereupon the documents heretofore marked "Respondent's Exhibits 62 and 63" were received in evidence.)

MR. LAUTER: Exception, please.

TRIAL EXAMINER LINDSAY: Let the record show an exception. Let the record also show that that is not a contract, that is, Exhibit 63.

MR. DAY: Yes. May we have a second to confer with our associates because we are getting near the close of our case?

TRIAL EXAMINER LINDSAY: Certainly.

MR. DAY: At this time the Respondent asks permission to call to the witness stand a witness to testify as to acts of violence and unlawful conduct upon the part of pickets, strikers, and C. I. O. members in the Cleveland district, similar to those sought to be testified to by Captain Richmond at Youngstown, and described in the offer to prove for Youngstown, Warren, and Niles districts heretofore presented to the Court.

Counsel for Respondent at this time says that he believes that this evidence is relevant, admissible, and competent under the issues, for the reasons stated to the Trial Examiner in connection with similar Youngstown, Warren, and Niles testimony, at the hearing in Youngstown; but also believes that it is within the ruling made by the Trial Examiner at Youngstown with relation to that kind and character of testimony.

TRIAL EXAMINER LINDSAY: In that last statement you mean that the ruling I made at Youngstown excludes you from offering that type of testimony here? The same type of testimony here in Cleveland.

MR. DAY: From having it received, yes. In other words, to explain it, I think that the ruling made at Youngstown by the Court as to certain Youngstown, Niles, and Warren, evidence, if made here and now as to Cleveland, would exclude this testimony.

TRIAL EXAMINER LINDSAY: Well, I can see no reason for the necessity of calling a witness or witnesses. We, at Youngstown, excluded the type of testimony which you have just requested that you be permitted to produce, and at that time I gave you the privilege of filing an offer of proof. The calling of other witnesses on the same material would be in violation of that order and my ruling which was made at Youngstown.

MR. DAY: Well, may the Respondent note an exception to the action of the Trial Examiner in not receiving, as competent, relevant, and admissible, the evidence in question here?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: May we also at this time ask permission of the Trial Examiner to place on the stand, one at a time, the witnesses who will testify upon this subject, to question them one at a time, and to make separate and distinct offers of proof as to each one of them?

TRIAL EXAMINER LINDSAY: How many such witnesses have you, Mr. Day?

MR. DAY: How many would you say, Mr. Manchester? Approximately 200.

TRIAL EXAMINER LINDSAY: That request is denied because it would serve no purpose other than taking up a great deal of time. The general offer of proof covers the same facts, as I understand it; the same proposed facts.

MR. DAY: The same, yes.

TRIAL EXAMINER LINDSAY: And that would be nothing more than causing an unnecessary delay, with no result to be gained.

MR. DAY: And may we have an exception to the refusal of the Trial Examiner to permit us to put our witnesses on one at a time, question them one at a time, and make separate offers to prove as to each one of them?

Now, reserving all our exceptions, we present to the Court Respondent's offer to prove upon this subject, with regard to the Cleveland district, and ask leave to have it marked as an exhibit, as we did the Youngstown offer.

MR. JONES: Have you introduced the Youngstown offer?

MR. DAY: I handed the Youngstown offer to the Trial

Examiner. I do not think it is necessary to repeat, that we have an exception to the refusal of the Court to permit the evidence offered in both Youngstown and Cleveland offers.

MR. LAUTER: I will at this time reserve the right to make motions and objections to the offer of proof in respect to Cleveland.

TRIAL EXAMINER LINDSAY: Yes, you will be given time to—counsel for the Board will be given time to go over the offer of proof on Youngstown and the offer of proof on Cleveland; and I will reserve the ruling.

(The documents above referred to were marked as Respondent's Exhibits No. 64, 65, 66, for identification.)

TRIAL EXAMINER LINDSAY: Are those newspaper articles, Mr. Day?

MR. DAY: Not articles, no. May I state what they are? This is the Governor's proclamation in the newspaper. I want to make a statement in relation to getting certified copies, if it is necessary. At this time, I make the statement to the Trial Examiner that the Cleveland Plain Dealer is a newspaper of general circulation in the City of Cleveland and vicinity, perhaps elsewhere, and I offer in evidence what is marked for identification as a text of the statement and formal proclamation of Governor Davey of Ohio, June 22nd, 1937, with relation to calling out troops and other matters mentioned therein, and also Respondent's Exhibit 66 for identification, a letter to General Marx from Governor Davey on the same subject published in the Plain Dealer, June 25, 1937, and we now state to the Trial Examiner that if there is any objection to these documents upon the ground that they appear in newspapers, we will, at the very earliest possible moment, bring in certified copies on whatever is necessary to authenticate the documents.

MR. LAUTER: Object on the grounds they are incompetent, irrelevant and immaterial, and on the further ground that they are newspaper articles.

MR. DAY: It is not an article.

MR. LAUTER: Newspaper items, change articles to items.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: I will sustain the objection and let the record shown an exception.

MR. DAY: Well, in order to clear up the record, is the objection sustained at all upon the ground they are newspaper items or on the ground they are incompetent?

TRIAL EXAMINER LINDSAY: Not material, incompetent, and second, it is a newspaper article.

MR. DAY: Judge Smith called my attention that 66 should be limited to where it says: "In a letter to General Marx, Governor Davey said," instead of all this (indicating). I will strike all that out.

TRIAL EXAMINER LINDSAY: Well, I do not think it is material.

MR. DAY: Mr. Lauter, in view of the fact that the Trial Examiner has held these are not relevant and material, do yo still insist upon your objection that they are items appearing in a newspaper?

TRIAL EXAMINER LINDSAY: I stated both reasons.

MR. DAY: If that is true, then we would like to substitute for the record certified copies.

TRIAL EXAMINER LINDSAY: The question is not now before the Court. I will have to see those copies, certified copies of the original.

MR. DAY: We will bring those in. I understand now that the Trial Examiner sustains an objection to both 65 and 66 on the ground, first, they are incompetent items of evidence and if authenticated, they are not admissible, not being relevant and material.

TRIAL EXAMINER LINDSAY: Well, I did not say that. I just got through saying, Mr. Day, that I am not going to pass upon a document until I see that document and I said as far as those two copies are concerned, they are ruled out.

MR. DAY: Are they ruled out because they are newspaper items?

TRIAL EXAMINER LINDSAY: Ruled out because they are newspaper articles and because they are incompetent, irrelevant and immaterial. That should be plain enough.

MR. DAY: That is plain enough. I am now saying to the Trial Examiner that just as soon as I can I will bring in copies and present them to the Trial Examiner in lieu of the newspaper articles.

TRIAL EXAMINER LINDSAY: And when you do, I will make a ruling on them.

MR. DAY: This is off the record.

TRIAL EXAMINER LINDSAY: You may have a 15-minute recess.

(Thereupon a recess was had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. DAY: If the Court please, you will remember that at Youngstown we had some approximate figures as to the number of employees, in certain respects.

TRIAL EXAMINER LINDSAY: Well, those certain respects are pertaining to the questions to be propounded to those witnesses on a question of Back-to-Work petitions and so forth?

MR. DAY: Yes, sir, how they came to sign the Back-to-Work petition, how they came to sign application cards for the Union, and whether they wanted to go out on a strike.

TRIAL EXAMINER LINDSAY: Yes. Those were the form questions?

MR. DAY: That is right.

TRIAL EXAMINER LINDSAY: That, there has been a ruling on.

MR. DAY: Now, on page 4999 of the record, where we say "The Respondent represents to the Trial Examiner and offers to prove that these witnesses"—that ought to be, there, 2900 witnesses—"each and all signed the Back-to-Work Petitions"—that is at the Youngstown plant, and approximately 1900 of Respondent's employees signed application cards for membership in the Independent Federation of Republic Employees at Youngstown.

Now, there are numerous other places in the record that Mr. Jones has marked, and if we may have those figures inserted with relation to Youngstown witnesses in this regard, I won't take time to refer to the various pages.

MR. LAUTER: I think we ought to have the pages, so we will be clear on the cross references.

MR. DAY: Pages 4999; the next page is 5009, we say, "At this time the Respondent advises the Court that there are a large number of Respondent's employees in the Warren and Niles district," we would like to state, there, where it says "a large number" we would like to make it this way: "At this time the Respondent advises the Court that approximately 2000 of Respondent's employees—employees of the Respondent Company in the Warren and Niles district," and so forth.

On Page 5011 we say: "As to the Warren and Niles district witnesses, as to the witnesses who have testified and whose evidence has been in part excluded, the Respondent represents to the Trial Court and offers to prove that these witnesses,"—and approximately 1800 witnesses —"each and all signed the application cards for membership in the Independent—Employees Independent Association" and so forth. And that approximately 2000 of these witnesses did not wish to go on strike when the strike was called.

Page 5012: "And the Respondent represents to the Trial Examiner and offers to prove that" and then insert "approximately 2000 of these witnesses"—did not want to go on a strike at the plants in the Warren and Niles district, and approximately 1800 signed application cards for membership in the Employees Independent Association of their own free will" and so forth.

MR. DAY: On Page 5559 of the transcript of September 25th, where it says, pretty well down near the end of the second paragraph: "The Respondent represents to the Trial Examiner and offers to prove that" insert "2500 of these witnesses did not wish to go on a strike but did wish to continue at work at the Cleveland plants of the Respondent." Now, if necessary to make these insertions accurate, we would like to have leave to take up with the stenographer and with counsel for the Labor Board, but those are the figures.

MR. LAUTER: Oh, I think the record is complete on that, as it now stands.

TRIAL EXAMINER LINDSAY: I think it is.

MR. DAY: I think it is. All right.

Mr. Jones advises me that he has prepared separate written offers to prove in connection with the testimony of certain witnesses at the Youngstown hearing pursuant to the statement of the Trial Examiner that written offers be prepared and submitted, so we have had marked for identification Respondent's Exhibits 67 and 68.

TRIAL EXAMINER LINDSAY: Which ones are you talking about? Are those not covered in the original offer of proof?

MR. SMITH: That was Dr. Thomas, your Honor.

TRIAL EXAMINER LINDSAY: You misunderstood that ruling. That ruling was that you may include that in your general offer of proof.

MR. SMITH: Yes.

TRIAL EXAMINER LINDSAY: You asked me the direct question, if you may include that in your general offer of proof, and I told you that you may.

MR. DAY: Then it will not be necessary to present any separate offers in connection with these witnesses. All right. Now I think that is all of the evidence that the Respondent desires to offer except at this time we call the Trial Examiner's attention to the fact that there are requests for subpoenas filed for the witnesses Golden and Lind, concerning which no action has been taken, and we would not like to close our case formally without the right to call those witnesses, if we so desire.

TRIAL EXAMINER LINDSAY: Mr. Lauter.

MR. LAUTER: Well, I submit to the Trial Examiner that when we finish here the case for the Respondent be closed. The fact that applications have been made for subpoenas would be no reason for extending the hearing beyond this date.

TRIAL EXAMINER LINDSAY: Well, I only call your attention to Section 21 of Rules and Regulations of the Board in respect to applications for subpoenas. Now I am talking of the last two, that would be Golden and Lind, "such applications shall be timely and shall specify the names of the witnesses," and so forth. The last subpoena was given to ~~me,~~ I believe, Saturday or Friday and the other one, Thursday of last week. The subpoenas, no doubt, reached Washington on Saturday morning or on Monday. I think those subpoenas are not meeting the requirements of the rules and regulations. Now on the other subpoenas, may I have a copy of those? May I have a copy of your application?

MR. DAY: May I make a statement with relation to the Golden and Lind requests for subpoenas? I think the Golden request was submitted Thursday.

TRIAL EXAMINER LINDSAY: Well, I did not say anything different than that. I said I believed that one Golden request was submitted on Thursday.

MR. DAY: At the time we submitted the Lind application, we also handed to the Trial Examiner the form of a telegram that we wanted to send to the Labor Board with the application for subpoena.

TRIAL EXAMINER LINDSAY: And I said that was not necessary.

MR. DAY: And you said that was not necessary. We think, under the circumstances, we have been diligent in relation to these two subpoenas and if the requests for subpoenas are each and both denied, then we would like to make whatever showing is necessary before the Trial Examiner just as soon as possible, setting forth our objections and the reasons why we object to not having those subpoenas issued.

TRIAL EXAMINER LINDSAY: That will have to be handled in some other way. I will not hold the case open for that specific reason. However, before I pass on all of the subpoenas or any of the subpoenas conclusively, I ask for the copy of your original application on those four filed, which were submitted down at Youngstown.

MR. DAY: Well, we have them.

TRIAL EXAMINER LINDSAY: Let the record show that I have not definitely ruled as yet.

I might also state that the application on Golden and Lind for subpoenas for their appearance is also overruled generally. They do not meet the requirements of the rules and regulations.

MR. DAY: But I understand that the Trial Examiner is not definitely passing on the matter of subpoenas at this time?

TRIAL EXAMINER LINDSAY: That is right, until I see that copy.

MR. DAY: While he is looking at that, may I make a statement as to these other offers to prove, Exhibits 67 and 68? Will your Honor look at them and see what they are? They are prepared by Mr. Jones.

TRIAL EXAMINER LINDSAY: Well, we have already closed that matter, Mr. Day.

MR. DAY: In other words, the holding is, it is not necessary to submit the offers to prove?

TRIAL EXAMINER LINDSAY: You already agreed on that.

MR. DAY: You see, I wasn't in Youngstown when some of these things happened. It was the day I was at Columbus—this Gillen's testimony and Dr. Thomas'.

TRIAL EXAMINER LINDSAY: The definite answer that I gave Mr. Jones in response to Mr. Jones' own question that he would like to include in the general offer of proof was that was agreeable at that time.

MR. DAY: All right. This is off the record.

(Discussion had off the record.)

TRIAL EXAMINER LINDSAY: As I understand it then, the National Guard asked that you subpoena them?

MR. JONES: They made that request: Pursuant to their request, I filed the application for the subpoenas for them with the Trial Examiner.

TRIAL EXAMINER LINDSAY: Yes. And those are the witnesses who, if subpoenaed, and if brought to testify, would testify on questions of violence?

MR. JONES: Yes.

TRIAL EXAMINER LINDSAY: Which came within the ruling of the Trial Examiner on that particular issue, is that right?

MR. JONES: That is correct. And in addition, I would like to say that one of those witnesses was called to the stand to testify in part in Youngstown. He did not desire to be placed on the stand unless he were subpoenaed, but, as he was present and as we did not have any other witness available, upon my promise to him that he would be handed a subpoena on that same day, he went on the stand, and that was Captain Joseph Parilla.

TRIAL EXAMINER LINDSAY: Then therefore, the result is that as far as those particular subpoenas are concerned, it is the desire of counsel representing the Respondent to hold the hearing open?

MR. JONES: My only desire is to keep faith with these men whom I promised to subpoena.

TRIAL EXAMINER LINDSAY: Well, answer my question first, and then we will go into that. Then as far as those witnesses are concerned, who have been subpoenaed but whose subpoenas have not been delivered as yet, it is not your desire to keep the hearing open for that particular purpose because of the fact that their proposed testimony is covered in the general offer of proof?

MR. JONES: That is correct. I would like to add to this, that I am pursuing this matter because I desire, if possible to keep faith with those men I told I would deliver the subpoenas to.

TRIAL EXAMINER LINDSAY: That is your only purpose for wanting the subpoena served?

MR. JONES: Yes.

TRIAL EXAMINER LINDSAY: Now then, the only question we have left and the only purpose for which the hearing would be kept open, is pertaining to subpoenas, for which application has been made, as to Golden and Lind. Is that right, Mr. Day?

MR. JONES: Just a second before you answer that.

MR. DAY: What was the last question?

TRIAL EXAMINER LINDSAY: Let us finish one thing at a time, please.

(Statement of Trial Examiner Lindsay read by the Reporter.)

MR. DAY: That is right, but—

TRIAL EXAMINER LINDSAY: Now, we will get to the next thing.

MR. DAY: That is right.

TRIAL EXAMINER LINDSAY: One at a time.

MR. DAY: As far as the subpoenas are concerned, that is right. Now, my associate counsel has called my attention to an offer to prove by the witness Quinlan to the effect that an indictment was returned against a man named Chismus.

MR. LAUTER: If you please, Mr. Examiner, that is the same document that has been offered several times. It is the same Valare Chismus about which there has been several attempts to get in this record statements of this kind.

TRIAL EXAMINER LINDSAY: Yes, as a matter of fact, Mr. Day, that was all taken care of, as far as he is concerned, down at Youngstown.

MR. DAY: Well, may we present this and have it denied and save our exceptions, so as to get it into the record?

TRIAL EXAMINER LINDSAY: Well, you already have all of that in your general offer to prove.

MR. DAY: I do not think anything with relation to Chismus is in the general offer to prove.

MR. MANCHESTER: No, Mr. Trial Examiner, there is nothing in the offer to prove.

TRIAL EXAMINER LINDSAY: Well, my instructions were that all of them were to be included in the general offer of proof. The next fact is that on that particular day that was entirely ruled out.

MR. DAY: I should think the easiest way would be if we offered it and deny it and we will note an exception.

TRIAL EXAMINER LINDSAY: May I see it?

MR. DAY: That might be the most expeditious way, after all, to save time.

TRIAL EXAMINER LINDSAY: No, it is not necessary to go into that at all. Now, at that time if—The only ruling I made there on that particular matter was that that type of evidence was not admissible and there had been no conviction. It is merely an indictment. Any evidence that you brought in pertaining to this particular individual was not excluded, it is just that particular record and I can see no reason for now going into the question again. As far as Youngstown is concerned, we closed that, here, the other day, and that was absolutely closed and I asked you the question if you had anything further to offer, after you had offered your general offer to prove, and you said that you did not, and we are not going to reopen the Younsgtown case for this specific purpose.

Now, on the question of subpoenas for Lind and Golden, I will state as I just previously stated, that the application for subpoenas in those two cases are not timely and further that they were too general.

Now, the application for the subpoena for Mr. Golden was handed to me on Thursday and immediately I transmitted it by mail to the Board. The Board, no doubt, received that on Friday just past. The application for subpoena for Lind was received on Friday and no doubt the Board received that application on Saturday, which was Saturday just past. Therefore, the Board has not had an opportunity to pass on those two applications for subpoenas.

The Trial Examiner has had no knowledge as to what steps has or will be taken by the Board relating to those two applications for subpoenas, and not in any way wishing to deprive the respondent company of any privileges which it may feel it has, if the Board does issue the above mentioned two subpoenaes for which application has been made by Respondent company, then the Respondent company by its counsel may make application to the Board within two days from the date upon which the subpoenas are received by counsel for the Respondent, to have the Board set a date for the taking of the testimony of those two witnesses, and at Washington, D. C., in the offices of the National Labor Relations Board. Now, I think, Mr. Day, that protects you fully.

MR. DAY: If the Board does not honor the request for subpoenas, or issue the subpoenas as requested, when Respondent is so advised, of course, the Respondent then will take whatever steps it considers necessary to protect its rights.

TRIAL EXAMINER LINDSAY: Well, that is entirely up to you.

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: I have nothing to say about that.

MR. DAY: Of course not.

TRIAL EXAMINER LINDSAY: I am not making any statement.

MR. DAY: I know it, I realize it.

TRIAL EXAMINER LINDSAY: Now, the hearing as I understand it is—

MR. LAUTER: No.

MR. DAY: Just a second. They have something. Mr. Jones makes a suggestion as to the record, where we have inserted the number of witnesses at Youngstown, Warren, and Niles district, and Cleveland, whether it would not be well to re-write those pages?

TRIAL EXAMINER LINDSAY: No, that is all rewritten, anyway. You have it right in this record, and that transcript which is made today is a part of your total transcript of this whole case.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: So that is not necessary.

MR. DAY: All right.

MR. LAUTER: Do I understand the Respondent rests its case?

TRIAL EXAMINER LINDSAY: Respondent rests its case.

MR. DAY: Rests its case, if upon the—

TRIAL EXAMINER LINDSAY: Well, with those provisions which I stated.

MR. DAY: With provision—

TRIAL EXAMINER LINDSAY: As to those two witnesses.

MR. DAY: As to those subpoenas that you stated were—

TRIAL EXAMINER LINDSAY: In other words, the Respondent now rests its case.

MR. DAY: Yes, with the question of those subpoenas.

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: Still undecided.

(The documents above referred to were marked as Board's Exhibits Nos. 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, and 127, for identification.)

MR. LAUTER: Now, I assume that at this time counsel for Respondent company will stipulate that Board's Exhibits Nos. 116 to and including Board's Exhibit No. 125 for identification are exhibits prepared by or under the direction of Mr. Pierce L. Boyer, comptroller for the Republic Steel Corporation.

(Discussion held, not made a part of the record.)

MR. LAUTER: I understand there is no objection to the admission of these documents as being prepared by and under the direction of the comptroller of the company, by Respondent counsel?

MR. DAY: No, your Honor, they were so prepared, and there is no objection on that ground. I want to object to them on the ground that they are incompetent, irrelevant, and immaterial, not germane to any issue in this case, and appropriately a part of the Board's case in chief. But on the preparation of them, and Mr. Boyer having prepared them, there is no objection at all on that ground.

TRIAL EXAMINER LINDSAY: Well, now, in other words, you are not in any way taken by surprise on this, Mr. Day?

MR. DAY: No, no.

TRIAL EXAMINER LINDSAY: And aren't making any issue on that particular ground.

MR. DAY: I haven't been taken by surprise. No, sir, we are not taken by surprise, because we talked about that, weeks ago.

TRIAL EXAMINER LINDSAY: We talked about getting this into the record, over at Canton.

MR. DAY: After the Board rested its case. Yes, sir.

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: We did, shortly after the Board rested its case.

MR. LAUTER: Well, to clear that up, I am going to introduce as Board's Exhibit No. 126 a typewritten statement of request for information from the Respondent company, which I prepared and transmitted to Mr. Day.

MR. DAY: We received that, and if you will fix the date, we will stipulate that it was that day.

MR. LAUTER: That was two weeks ago tomorrow.

MR. DAY: That is right.

TRIAL EXAMINER LINDSAY: Well, Board's Exhibit 116 to and including—

MR. LAUTER: 126.

TRIAL EXAMINER LINDSAY: —126, are received in evidence.

(The documents previously marked for identification as Board's Exhibits 116 to 126, inclusive, are received in evidence.)

MR. DAY: Let me have an exception to the relevancy, competency, and materiality.

TRIAL EXAMINER LINDSAY: That is the only exception?

MR. DAY: Oh, yes, we make no question—we think they are properly a part of the Board's case and there is no objection on the surprise or anything of that kind. That we are not taken by surprise. We had it up two weeks ago or more.

MR. LAUTER: Now, in connection with these documents I would just like to make this statement so that the remaining information that is to be supplied in connection with the request contained in Board's Exhibit 126, be perfectly clear and be a part of the record so that counsel for the Respondent company may have it available to him in instructing the comptroller as to what remaining information is to be obtained:

That in connection with Item No. 1, that information has been furnished.

In connection with Item No. 2 as it appears on Board's Exhibit 126, while there is a total number of the employees of all of the plants in the State of Ohio, it does not meet the requirements of the request because it does not give the total number of employees in each of the six plants set forth in Request No. 2, and I should like to have that information furnished.

With respect to Request No. 3 contained in Board's Exhibit No. 126, certain modifications have been made in our request and as presently supplied to us, they are sufficient, except for the fact that no information has been furnished with respect to Item 3 (A) namely, the names of transportation instrumentalities handling the above shipments and the percentage, by value, and by carloadings transported by each. No information has been given with respect to No. 4, and with respect to No. 5 there is one sample of the information to be furnished to us which has been handed to me and introduced in evidence, that does not meet the requirements of the request in Board's Exhibit No. 126, and the comptroller of the company has agreed to amplify that statement which will contain a list of all of the steel and steel products which were shipped out of the six plants by value and by tonnage for the year 1936 and the other respects as requested by the Board's Exhibit No. 126.

There is also required the furnishing of information under 5 (A) of Board's Exhibit No. 126, and the comptroller has agreed to furnish that information, also.

With respect to Item No. 6 contained on Board's Exhibit No. 126, the respondent has replied by furnishing what has been introduced as Board's Exhibit No. 125.

Now, I should like to state for the record that during conversation I had with the comptroller of the company I was advised that this information—that is, the balance of the information which was requested by Board's Exhibit No. 126 will be available and sent to the Board within the next few days. For the record, may I state that I should like to have that information within five days, and if that information is not furnished within five days that I reserve the right to hold further hearings in Washington with respect to this material.

I am specifically leaving the record open with respect to the material referred to, to be furnished by the company as required by Board's Exhibit 126.

Now, at this time I should like to offer in evidence Board's Exhibit No. 127, a copy of the supplementary charge with respect to Canton.

MR. LAUTER: The reason for including it at this time is that I have tried to find, and haven't been able until this time, the original of that copy. Now, I also ask leave at the time of the introduction of this document, that as soon as the original is found, that it may be substituted for the copy which I now offer.

TRIAL EXAMINER LINDSAY: Yes, you may do that.

MR. LAUTER: And I request that Board's Exhibit No. 127 be made a part of Board's Exhibit No. 1, where it properly belongs.

MR. DAY: May we take a look at this?

MR. LAUTER: Yes.

TRIAL EXAMINER LINDSAY: This is off the record.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: Well, there is no objection?

MR. DAY: No, I do not think so.

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 127 is received in evidence.

> (The document previously marked for identification as Board's Exhibit No. 127 is received in evidence.)

MR. DAY: Now, as I understand it, that is something that was filed with the Labor Board?

MR. LAUTER: That is correct.

MR. DAY: The 14th of July, before the complaint was filed?

MR. LAUTER: That is correct.

MR. DAY: All right.

MR. LAUTER: Now, I should like to state for the record, before we rest our case, that the Fidelity and Casualty Company of New York, although subpoenaed, has failed to appear. I thought that the hearing would continue at least until tomorrow and I mailed—I served a telegram on them advising them to furnish us with material to be put into the record tomorrow. Mr. Day, will you step up?

MR. DAY: Did you have subpoena issued?

MR. LAUTER: Yes, the subpoena was issued a long time ago. I have had it noted in the record numerous times, regarding bonds. How shall we arrange for it?

MR. DAY: Well, I haven't anything to say about it.

TRIAL EXAMINER LINDSAY: This is off the record for the time being.

(Discussion held off the record.)

MR. LAUTER: At this time I should like to reserve the right to put in documentary material furnished pursuant to duces tecum subpoena, if it is furnished at all, by the Fidelity Company of New York, in Washington, as soon as this material is furnished to us.

TRIAL EXAMINER LINDSAY: The privilege of filing the data under the subpoena duces tecum is granted, and you may file it at Washington. The same privilege is given to you as was given to Mr. Day. Now, the same applies to your request for added information on the data which you have offered some testimony this morning—or in evidence as exhibits, and my understanding is that the company has agreed to supply certain information, and that should be furnished within a period of five days, and if not furnished, the counsel for the Board will have the right to have that produced at Washington; and for that particular purpose and the particular purpose granted to the Respondent, the case is held open for those purposes alone. So otherwise, the hearing is closed.

MR. LAUTER: If you please, Mr. Examiner, before we close, I would like to make the usual motion to conform the pleadings to the proof.

TRIAL EXAMINER LINDSAY: And that motion is granted. Now, the hearing is closed with those reservations.

(Whereupon, at 11:45 o'clock a. m. September 27, 1937, the hearing in the above-entitled case was closed with the above-mentioned reservations.)

STIPULATION

WHEREAS the Respondent has, pursuant to the permission of the Trial Examiner (Record page 4257) prepared and submitted to counsel for the National Labor Relations Board the attached list of corrections to be made in the stenographic record of this case, and

WHEREAS counsel for the National Labor Relations Board, having reviewed said proposal and having found that the official record was in fact incorrect in these matters except as to certain items hereinafter mentioned,

NOW THEREFORE it is hereby stipulated by and between counsel for the Respondent and counsel for the National Labor Relations Board that the official transcript of record in the above captioned case contains certain errors specifically set out herein and marked Pages 2 to 12 inclusive, except that 33 items originally included in Pages 2 to 12 have been deleted by drawing a line through such items, it having been found that said thirty-three (33) items were in fact not errors but that to the contrary the record was as to them correct.

It is further stipulated by and between counsel that this stipulation shall be copied by the official reporter into the official record and stand as correction of the errors noted therein.

Dated this 27 day of January, 1938.

REPUBLIC STEEL CORPORATION
By (signed) THOMAS F. PATTON
By (signed) DAY, YOUNG, VEACH & LEFEVER
Attorneys
NATIONAL LABOR RELATIONS BOARD
By (signed) JOSEPH A. HOSKINS
Attorney

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Page		Line
15	Massilon should be "Massillon"	4, 6, 10
16	Massilon should be "Massillon"	1, 4, 5, 21
16	Meyers should be "Myers"	9, 17, 19
17	Massilon should be "Massillon"	19
17	Meyers should be "Myers"	1, 5, 11
19	Meyers should be "Myers"	1
22	Massilon should be "Massillon"	1
23	Meyers should be "Myers"	6, 8, 9, 10, 13, 16, 18, 25
24	Massilon should be "Massillon"	3, 6, 17, 22
24	Meyers should be "Myers"	2, 8, 15
26	Massilon should be "Massillon"	21
26	Martin should be "Morton"	20
27	Martin should be "Morton"	3, 4
27	Meyers should be "Myers"	25
28	Meyers should be "Myers"	9, 23 twice
28	Hesse should be "Hess"	10
29	Massilon should be "Massillon"	10, 24
29	Meyers should be "Myers"	14, 23
30	Meyers should be "Myers"	3, 17 twice

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31	Meyers should be “Myers”	1, 8
31	France should be “Frank”	4, 18
32	Meyers should be “Myers”	4, 15
33	Meyers should be “Myers”	10, 17
33	Franks should be “France”	15
34	Massilon should be “Massillon”	5
36	Meyers should be “Myers”	18, 20
38	Massilon should be “Massillon”	24
38	Meyers should be “Myers”	4 twice, 12, 30
39	Massilon should be “Massillon”	1, 23
39	Meyers should be “Myers”	11, 12
43	Hesse should be “Hess”	9
43	Meyers should be “Myers”	11, 16, 18
44	Massilon should be “Massillon”	10, 15
44	Meyers should be “Myers”	23
45	Massilon should be “Massillon”	3
45	Lincolnhaley should be “Linckenhely”	25
46	Lincolnhaley should be “Linckenhely”	2
49	Massilon should be “Massillon”	11, 14, 19
49	objections should be “conditions”	9
49	Massilon should be “Massillon”	12
51	Massilon should be “Massillon”	2
52	Wessler should be “Wefler”	17, 18, 20
52	“s” should be “f”	19
53	Massilon should be “Massillon”	23
53	Wesler should be “Wefler”	2, 22
56	Massilon should be “Massillon”	11
56	Hesse should be “Hess”	Last line
57	Hesse should be “Hess”	5, 23
58	Hesse should be “Hess”	13
60	Hesse should be “Hess”	19, 20
61	Hesse should be “Hess”	9, 16, 21
61	Massilon should be “Massillon”	12
62	Hesse should be “Hess”	3

Page		Line
63	Hesse should be "Hess"	10, 12, 15
63	Massilon should be "Massillon"	23
64	Massilon should be "Massillon"	13
67	Lincolnhaley should be "Linckenhely"	14
68	Massilon should be "Massillon"	20
70	Naseating should be "nauseating"	18
74	Massilon should be "Massillon"	1, 9, 18, 19, 21
75	Massilon should be "Massillon"	17, 19
76	Massilon should be "Massillon"	12
77	Pepperer should be "Peppard"	17, 18, 19
81	Pepperer should be "Peppard"	9
83	we should be "he"	9
84	Hesse should be "Hess"	8
84	Lincolnhaler should be "Linckenhely"	10
85	Massilon should be "Massillon"	24
91	Meyers should be "Myers"	13
93	Hesse should be "Hess"	13, 21
94	Hesse should be "Hess"	3
94	Massilon should be "Massillon"	6
96	Sippo Park should be "Oak Knoll Park"	9
96	Insert word "while" between "it" and "I",	last line
97	Massilon should be "Massillon"	4, 10
99	source should be "force"	3
99	Induro should be "Enduro"	21, 23
104	Meyers should be "Myers"	16
109	Crier should be "Krier"	19, 23
109	Massilon should be "Massillon"	23
110	appointing should be "appointed"	14
111	Loombach should be "Linbach"	6
132	rule should be "law"	4
134	France should be "Frank"	20
135	France should be "Frank"	15
136	France should be "Frank"	7, 9

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138	France should be "Frank"	24, 25
139	France should be "Frank"	5
142	Hacks should be "Hess"	7
151	Meyers should be "Myers"	7, 17, 19, 22
152	Meyers should be "Myers"	19
152	was should be "as"	22
153	Burger should be "Berger"	7
153	Meyers should be "Myers"	11
154	Meyers should be "Myers"	1
155	Meyers should be "Myers"	16, 25
156	Meyers should be "Myers"	9
156	Franks should be "France"	18
161	Meyers should be "Myers"	7, 8
162	Meyers should be "Myers"	7
163	Meyers should be "Myers"	19, 20
163	Franks should be "frank"	20
165	Massilon should be "Massillon"	1, 5, 9
166	Massilon should be "Massillon"	6
168	Massilon should be "Massillon"	4, 6, 8, 9
184	Hesse should be "Hess"	22, 24
188	Lincolnhaley should be "Linckenhely"	21
190	Draw should be "Drawn"	14
192	Mandibar should be "Manderbaugh"	24, 25
192	Meyers should be "Myers"	18, 19
194	Meyers should be "Myers"	6, 14, 20
195	France should be "Frank"	4, 7
197	Pepper should be "Peppard"	5
205	Hesse should be "Hess"	3
205	Meyers should be "Myers"	3, 9, 17
206	cards should be "cars"	22
206	Meyers should be "Myers"	2, 5, 13, 23
207	appel should be "appeal"	8
207	Meyers should be "Myers"	4, 5, 10, 19, 24
208	Meyers should be "Myers"	1, 9, 19, 22

Page		Line
208	France should be "Frank"	20 twice
209	Meyers should be "Myers"	8, 9, 17
212	Meyers should be "Myers"	1, 5
213	Meyers should be "Myers"	5
214	Meyers should be "Myers"	3, 4 twice, 5 twice
215	Meyers should be "Myers"	25
216	Meyers should be "Myers"	6
217	Meyers should be "Myers"	1, 20, 21

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226	as should be "has"	2
230	Meyers should be "Myers"	4, 9, 14
233	Lincolnhaley should be "Linckenheley"	24
235	Vanderbaugh should be "Manderbaugh"	12
237	flowerly should be "flowery"	11
237	Meyers should be "Myers"	22, 24
240	Hesse should be "Hess"	21
241	Hesse should be "Hess"	1, 12
242	Hesse should be "Hess"	19
243	Hesse should be "Hess"	5, 13, 20, 22
244	Lincolnhaley should be "Linckenhely"	11, 25
245	Lincolnhaley should be "Linckenhely"	5
246	Lincolnhaley should be "Linckenhely"	6
246	Crier should be "Krier"	20
248	Pepperer should be "Peppard"	3, 5
248	Angstadt should be "Angstedt"	4, 10
250	Angstadt should be "Angstedt"	1
251	Haley should be "Linckenhely"	25
253	Meyers should be "Myers"	5, 14
255	Meyers should be "Myers"	3
257	Derr should be "Duerr"	3
257	can should be "came"	12

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274	men should be "man"	2
274	Meyers should be "Myers"	8 twice, 11, 14, 20, 22
275	Meyers should be "Myers"	7, 8
279	Precipitiously should be "precipitately"	14
299	Meyers should be "Myers"	1
301	incidence should be "incident"	24
313	obtained should be added to last line	
316	Lincolnhaley should be "Linckenhely"	3
321	station should be "state"	11
326	leaving should be "living"	14
328	say should be "pay"	13
330	Meyers should be "Myers"	15, 16, 18
331	Meyers should be "Myers"	2, 9
333	Lincolnhaley should be "Linckenhely"	20
341	devel should be "devil"	14
344	Meyers should be "Myers"	13
346	Meyers should be "Myers"	13
347	teeth should be "truth"	12
347	Central should be "Republic"	7
347	Meyers should be "Myers"	9, 10
349	Meyers should be "Myers"	20
356	possible should be "possibly"	12
357	Elven should be "Eleven"	12
372	flair-ups should be "flare-ups"	17
372	flair should be "flare"	20
373	suggested should be "congested"	5
384	Know should be "Gnau"	24
384	Bert Tennyson should be Burt and Kinnison"	25
385	Know should be "Gnau"	1, 2
385	Bert Tennyson should be "Burt and Kinnison"	1, 2
387	Lincolnhaley should be "Linckenhely"	15
408	"drain" should be "rain"	9
420	Menisitto should be "Nimisila"	12

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428	rage should be "range"	2
445	Bowdi should be "Bowdil"	19, 21, 23
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468	marked should be "market"	18
470	I should be "It"	18
543	Duer should be "Duerr"	18, 23, 24, 25
544	Duer should be "Duerr"	1
547	Burger should be "Berger"	22
551	indemnity should be "indemnify"	13
559	Millet should be "Mellett"	14
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665	Coldrin and Lohnies should be "Coldren and Lohneis"	2, 3
665	Lohnies and Coldrin should be "Lohneis and Coldren"	8, 16
665	Coldrin should be "Coldren"	10
667	Allied should be "Alloy"	3
670	Trenton should be "Canton"	4
672	John Davey should be "Jim Davey"	12
681	satisfactorily should be "satisfactory"	23
715	Girder should be "Girdler"	14
722	Girder should be "Girdler"	21
723	Girder should be "Girdler"	17, 21
728	Bortz should be "Portz"	23
729	Bortz should be "Portz"	5
732	Bortz should be "Portz"	7, 14, 16
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762	Becker should be "Beckner"	22

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765	goods should be “dogs”	22
795	Haley should be “Linckenhely”	23
798	Snarley should be “Schnierle”	15, 19
803	Bandie’s should be “Bandi’s”	4, 6, 7, 13
803	Bandie should be “Bandi”	8
804	John should be “Dan”	15
805	low should be “long”	4
805	Bandie’s should be “Bandi’s”	15
805	John should be “Dan”	21
807	Bandie’s should be “Bandi’s”	13
818	Meyersdale should be “Martindale”	20
820	Bandie’s should be “Bandi’s”	21
824	Bandie’s should be “Bandi’s”	17
832	Thomas should be “George”	6
838	labor should be “liquor”	13
843	“No” should be stricken out	16
869	1930 or 1931 should be “1920 or 1921”	14
874	Bab should be “Bob”	2
889	“on” should be “out”	3
908	Snarley should be “Schnierle”	4, 15, 19
909	Snarley should be “Schnierle”	4
909	Seattle should be “C. I. O.”	16
930	Secomb should be “Seccombe”	16

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956	Schnerly should be “Schnierle”	19
958	Schnerly should be “Schnierle”	19
965	Schnerly should be “Schnierle”	13
971	Bandie’s should be “Bandi’s”	21
972	Bandie’s should be “Bandi’s”	2 ,6, 10, 25
973	Bandie’s should be “Bandi’s”	12
975	Bandie’s should be “Bandi’s”	5, 8

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976	Harrison should be "Harris"	8
977	Bandie's should be "Bandi's"	6, 24
981	Schnerly should be "Schnierle"	8
983	Becker should be "Beckner"	21
988	Schnerly should be "Schnierle"	10, 12
990	Bandie's should be "Bandi's"	15
994	chain should be "crane"	24
996	Yodius should be "Yothers"	19, 20
1001	Yodius should be "Yothers"	24
1002	Yodius should be "Yothers"	11, 15
1005	Insert the word "care" between "taking" and "of"	2
1005	Yodius should be "Yothers"	19, 21
1038	Bortz should be "Portz"	4, 9, 16, 21
1039	Bortz should be "Portz"	3
1040	Later should be "Lauter"	13
1041	Cole Meyers should be "Carl Myers"	8
1042	Lincolnhaley should be "Linckenhely"	3
1046	Cole Meyers should be "Carl Myers"	9
1086	Lincolnhaley should be "Linckenhely"	6, 7, 8, 15
1087	Lincolnhaley should be "Linckenhely"	6, 12, 20
1088	Lincolnhaley should be "Linckenhely"	4, 13, 24
1096	Lincolnhaley should be "Linckenhely"	2
1101	nick should be "neck"	7, 9, 10
1105	Cole Meyers should be "Carl Myers"	21
1108	Lincolnhaley should be "Linckenhely"	15
1109	Lincolnhaley should be "Linckenhely"	18, 24

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1141	Stanley should be "Stainless"	22
1146	Lincolnhaley should be "Linckenhely"	15, 17, 20
1175	Lincolnhaley should be "Linckenhely"	18, 19
1177	Lincolnhaley should be "Linckenhely"	8

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1232	Graff should be "Graft"	7, 8, 16, 20
1243	Strike out "cap"	8, 9
1254	Waite should be "White"	18, 19
1257	Grant should be "Graft"	20, 21, 22, 24
1275	Sponceller should be "Sponsler"	13, 14
1276	Sponceller should be "Sponsler"	10, 11
1291	Waters should be "Walters"	1
1317	Strike out "cap"	14, 16
1319	Strike out "cap"	5, 18
1320	Strike out "cap"	12, 16, 22
1321	Strike out "cap"	5, 23
1322	Strike out "cap"	3
1323	Strike out "cap"	16
1326	Strike out "cap"	3
1331	Strike out "cap"	22
1332	Strike out "cap"	21
1334	Strike out "cap"	4, 11
1335	Strike out "cap"	17
1341	Strike out "cap"	15
1343	Strike out "cap"	11
1345	Strike out "cap"	9
1348	lawsy should be "laws"	1
1401	bus should be "box"	21
1404	Grant should be "Graft"	13, 18
1405	Grant should be "Graft"	18, 22
1409	Grant should be "Graft"	8, 19
1411	Grant should be "Graft"	3, 9, 11
1412	Grant should be "Graft"	1, 24
1412	State should be "street"	23
1413	Grant should be "Graft"	3, 17, 21
1414	Grant should be "Graft"	2, 4, 10, 14

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1416	Grant should be "Graft"	6
1419	Grant should be "Graft"	9, 11, 21
1420-A	Grant should be "Graft"	1
1421	Grant should be "Graft"	2, 7
1422	Grant should be "Graft"	2, 10
1424	Grant should be "Graft"	5, 15
1425	Grant should be "Graft"	10
1426	Grant should be "Graft"	9
1428	June should be "July"	17
1454	Rebpucli should be "Republic"	18

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On cover—pages should be indicated
as 1471-1569

1472	Canton should be "Youngstown"	2

Vol. 10 Youngstown, Ohio August 23, 1937

1578	plane should be "plate"	15, 16, 18
1579	warning should be "Warnock"	16, 17
1580	warning should be "Warnock"	12

Vol. 11 Youngstown, Ohio August 24, 1937

no corrections.

Vol. 12 Cleveland, Ohio August 27, 1937

Index	Castin should be "Castman"	
Index	Anneli should be "Armeli"	
Index	Pinichy should be "Pirichy"	
1927	distribut should be "distribute"	9

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1978	Castin should be "Castman"	17, 23
1980	standing should be "sanding"	3, 7
1982	Rudick should be "Brulick"	5. 6, 14
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1982	stand should be "sand"	18
1988	Castin should be "Castman"	10, 14
1989	Castin should be "Castman"	21
2009	Anneli should be "Armeli"	7, 8, 14
2025	Hackler should be "Hagberg"	4, 16, 18
2034	Pinichy should be "Pirichy"	21
2035	Pinichy should be "Pirichy"	3
2037	Pinichy should be "Pirichy"	23
2043	Pinichy should be "Pirichy"	21
2070	Nick Mikes should be "Nicola Michich"	22, 23, 25
2071	Belleau should be "Belline"	11, 12, 19
2072	Belleau should be "Belline"	7
2077	Belleau should be "Belline"	25
2078	Belleau should be "Belline"	7, 12
2096	Seibel should be "Sabol"	23, 24
2100	Note: Pages 2100 to 2112 are numbered 3000 to 2013	
2108	Seibel should be "Sabol"	3

Vol. 13 *Cleveland, Ohio* *August 28, 1937*

2129	1933 should be "1923"	2
2179	plant should be "plan"	21

Vol. 14 *Cleveland, Ohio* *August 30, 1937*

2315	Comminist should be "Communist"	12

Vol. 15 *Canton, Ohio* *September 1, 1937*

2429 Page is numbered "2929"

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2470	Peppert should be "Peppard"	1, 16
2471	Peppert should be "Peppard"	8, 9
2472	Peppert should be "Peppard"	11
2512	Poll should be "Poe"	19
2527	Curle should be "Curley"	13
2552	town should be "down"	5

Vol. 16 *Canton, Ohio* *September 2, 1937*

2617	industries should be "instances"	10
2658	word missing	24

Vol. 17 *Canton, Ohio* *September 3, 1937*

2819	attach should be "attack"	5
2854	This page is between 2855 and 2856	
2856	Shoen should be "Schoen"	21
2871	"a rumor" should be "an order"	9
2877	street should be "three"	17
2883	truth should be "proof"	7

Vol. 18 *Canton, Ohio* *September 7, 1937*

2937	term should be "time"	2
2957	Fellavon should be "Fellabom"	9
2973	had should be "have"	17
2973	Fellavon should be "Fellabom"	25
2989	Gung should be "gun"	19
2997	Fellenvon should be "Fellabom"	1, 2
3008	Fellenvon should be "Fellabom"	18
3016	Fellovan should be "Fellabom"	1
3048	Peppert should be "Peppard"	9, 20
3080	Fellabaum should be "Fellabom"	7, 24

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3082	Fellabaum should be "Fellabom"	20
3085	Fellabaum should be "Fellabom"	22
3087	Fellabaum should be "Fellabom"	24
3094	Fellabaum should be "Fellabom"	17
3097	Penn Plan should be "Tin Can"	22
3122	Fellabaum should be "Fellabom"	12, 15, 16, 22, 24
3131	assistants should be "assistance"	13
3140	Fellabaum should be "Fellabom"	9, 15, 16, 22, 24

Vol. 19 *Canton, Ohio* *September 8, 1937*

3208	cops should be "shots"	10
3312	last should be "that"	9
3350	ecord should be "record"	16
3367	small should be "smell"	19
3379	base should be "bass"	13, 16
3389	base should be "bass"	10

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3411	Peiro should be "Piero"	12
3411	Zeornecle should be "Zernichel"	12
3420	Culbert should be "Culvert"	24
3421-A	copulas should be "cupolas"	16
3428	Gerald should be "Darrell"	2, 11
3522	irst should be "first"	7
3548	bet should be "met"	22
3619	He should be "We"	1
3630	Peppert should be "Peppard"	9, 10, 16
3630	Angstadt should be "Angstedt"	12, 14
3633	Peppert should be "Peppard"	15

Vol. 21 *Canton, Ohio* *September 10, 1937*

On cover—Pages should be indicated 3642-3808

Page		Line
3653	Band's should be "Bandi's"	3
3657	Becker should be "Beckner"	15
3684	Berkner should be "Beckner"	1
3720	ruler should be "roller"	6, 10
3732	Brandi's should be "Bandi's"	2
3741	Page is numbered 1741	
3741	Gelt should be "Geltz"	13
3776	Murphy should be "Mercy"	2

Vol. 22 *Canton, Ohio* *September 13, 1937*

	On cover—Pages should be indicated as 3809-3977	
3810	Lindsayl should be "Lindsay"	2
3812	Davies should be "Davey"	7, 8
3813	Virchfield should be "Burchfield"	5
3832	Note: Pages 3832 to 3856 are numbered 2632 to 3656	
3852	Lappan should be "Lappin"	5
3855	Lappan should be "Lappin"	13, 14
3948	tipped should be "chipped"	23
3948	tip should be "chip"	25
3949	tipped should be "chipped"	4
3959	Chicago should be "suggestion"	6
3966	"can't push" should be "sort of pushed"	22
3974	I expect should be "I've spent"	25

Vol. 23 *Canton, Ohio* *September 14, 1937*

4004	Lenham should be "Lanham"	14
4011	Shriber should be "Schreiber"	11, 14, 21, 26
4016	Emmel should be "Immel"	7, 15
4042	Meyers should be "Myers"	12, 16, 24
4057	Hammocker should be "Hamaker"	14
4058	Hammacher should be "Hamaker"	1, 3

Page		Line
4059	Hammacher should be "Hamaker"	2, 21, 23
4060	Hammacher should be "Hamaker"	6
4068	Meyers should be "Myers"	3, 7, 20
4071	Meyers should be "Myers"	9, 12, 16, 25
4075	Meyers should be "Myers"	3
4080	Meyers should be "Myers"	24
4086	Meyers should be "Myers"	1
4090	Meyers should be "Myers"	10 twice
4090	Gubbens should be "Gubbins"	22
4099	Hammacher should be "Hamaker"	18
4102	removed should be "rumored"	15
4170	Rich should be "Ritz"	12
4209	14th should be "15th"	last line

Vol. 24 *Youngstown, Ohio* *September 15, 1937*

4218	pickets should be "picture"	8
4227	John should be "Johns"	9
4228	John should be "Johns"	16
4229	John should be "Johns"	1, 4, 6
4231	John should be "Johns"	9
4232	John should be "Johns"	15
4257	840 should be "843"	18
4269	Kutchell should be "Cutshall"	20, 22, 23
4270	Kutchell should be "Cutshall"	4, 9
4271	Kutchell should be "Cutshall"	1
4294	Rikelberger should be "Eichelberger"	7
4329	too should be "two"	2
4352	John should be "Johns"	22
4353	John should be "Johns"	3, 22
4396	chose should be "chosen"	15
4408	Wille should be "Lilly"	7

Page		**Line**
Vol. 25	*Canton, Ohio*	*September 16, 1937*
	No corrections.	
Vol. 26	*Youngstown, Ohio*	*September 17, 1937*
	No corrections.	
Vol. 27	*Youngstown, Ohio*	*September 18, 1937*
	Cover—Pages should be indicated as 4551-4574.	
4559	"Lettered" should be "numbered"	9
4559	Period after "subdivision"	9
4559	Quotation marks before "that"	9
4559	Quotation marks after "charges"	19
4559	After word "complainant" strike out the word "in" and add "who is not"	21
4560	After the word "words" add "we"	10
	"has" (second word) should be "have"	17
4560	Add the word "that" before "they"	18
4562	Add the word "those" after "except"	4
4562	lawful should be "liable"	21
	any should be "law"	23
4563	Abie should be "A-B"	12 ,15, 17
4566	This page is found between pages 4567 and 4568	
Vol. 28	*Youngstown, Ohio*	*September 20, 1937*
4644	foolscape should be "foolscap"	2
Vol. 29	*Youngstown, Ohio*	*September 21, 1937*
4757	objection should be "introduction"	5

Page		Line
4757	discriminatory should be "discrimination"	7
4797	Mondara should be "Mondora"	24
4801	Mondara should be "Mondora"	8
4806	Mondura should be "Mondora"	21
4807	Mondura should be "Mondora"	22
4810	Mondura should be "Mondora"	1
4812	Mondura should be "Mondora"	18
4813	Mondura should be "Mondora"	2
4835	Mondara should be "Mondora"	16
4837	Mondura should be "Mondora"	1
4887	discriminatory should be "discrimination"	21
5012	wait should be "want"	7

Vol. 30 Cleveland, Ohio September 23, 1937

5038	Add "the right" after the word "you"	14
5150	"says" should be "say"	12

Vol. 31 Cleveland, Ohio September 24, 1937

5366	Peppert should be "Peppard"	6
5367	Peppert should be "Peppard"	11, 13
5373	Peppert should be "Peppard"	9
5375	Peppert should be "Peppard"	23
5379	Peppert should be "Peppard"	11
5383	Peppert should be "Peppard"	4, 6, 15
5387	Peppert should be "Peppard"	4, 20
5388	Peppert should be "Peppard"	1, 4, 6, 7, 11, 17, 20 & 21
5389	Peppert should be "Peppard"	2, 19, 23, 24
5390	Peppert should be "Peppard"	14, 17, 23
5391	Peppert should be "Peppard"	3, 4, 16
5393	Peppert should be "Peppard"	1, 18, 24

Page		Line
5397	Peppert should be "Peppard"	5, 23
5398	Peppert should be "Peppard"	1, 18
5403	Peppert should be "Peppard"	3, 21
5406	Peppert should be "Peppard"	2
5452	sheep should be "sheet"	20

Vol. 32 *Cleveland, Ohio* *September 25, 1937*

No corrections

Vol. 33 *Cleveland, Ohio* *September 27, 1937*

No corrections.

XXXIV.

PETITION OF REPUBLIC STEEL CORPORATION TO REVIEW AND SET ASIDE ORDER OF NATIONAL LABOR RELATIONS BOARD DATED OCTOBER 18, 1938

(Filed in U. S. C. C. A. Oct. 20, 1938)

To the Honorable, the Judges of the United States Circuit Court of Appeals for the Third Circuit:

The petition of Republic Steel Corporation, by its attorneys, respectfully shows and alleges:

1. The petitioner is, and at all times hereinafter mentioned or referred to was, a corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, engaged in the production, sale and distribution of iron, steel and other metal products in plants owned and operated by it and/or by its subsidiaries, which are located in various states of the United States of America, including among others, plants owned and operated by it in the Cities of Pittsburgh and Beaver Falls, in the State of Pennsylvania.

2. The respondent, National Labor Relations Board, is a public body organized and existing under an act of Congress (49 Stat. 10, 29 U. S. C. A. Section 151 et seq.) herein referred to as "National Labor Relations Act", and the members of said Board, to wit, J. Warren Madden, Edwin S. Smith and Donald Wakefield Smith, have been appointed by the President of the United States pursuant to said act of Congress.

3. Upon charges and supplementary charges filed by Steel Workers Organizing Committee, and alleged labor organization, the National Labor Relations Board issued its complaint dated July 15, 1937, against the petitioner herein, alleging that said petitioner herein had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1), (2) and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat., 449, which allegations were denied by the petitioner in its answer duly filed.

4. A hearing was held before the National Labor Relations Board on said complaint before the time for the filing of petitioner's answer thereto had expired and before said answer was filed, in the City of Washington, District of Columbia, from July 21 to July 24, 1937, and thereafter, and following the filing of the answer of petitioner, the hearing was continued before a Trial Examiner designated by the Board, at the places and on the dates as follows: In Canton, Ohio, from August 9 to August 12, 1937, in Youngstown, Ohio, from August 21 to August 24, 1937, in Cleveland, Ohio from August 27 to August 28, 1937, in Canton, Ohio, from September 1 to September 16 1937, in Youngstown, Ohio, from September 17 to September 21, 1937, and in Cleveland, Ohio, from September 23 to September 27, 1937.

5. Proceeding without report from the Trial Examiner and without permitting argument to be made or briefs to be filed on behalf of the petitioner, said National Labor Relations Board on April 8, 1938, issued its decision and order which is a part of the record of this cause and which is hereby made a part hereof by reference, the same as if fully herein rewritten. On April 18, 1938, the petitioner filed in this Court its petition to review and set aside the

order of the National Labor Relations Board of April 8, 1938, and served on the Board a written request that it prepare the transcript in this proceeding and certify and file it in this Court, the petitioner expressing its willingness to pay any expenses thereby incurred. On the same day, April 18, 1938, the Board advised the petitioner that it would prepare the record as promptly as possible for certification to the Court, thereby undertaking to file the record therein. On April 22, 1938, the petitioner filed a petition for a stay against carrying into effect the order of the Board of April 8, 1938, until this cause was finally determined in this Court. On April 30, 1938, in the course of a hearing before this Court upon the petitioner's motion for a stay, counsel for the Board advised the Court that it was considering vacating its order of April 8, 1938. On May 3, 1938, the Board not having filed the transcript of the evidence and proceedings before the Board, this Court, pursuant to a motion filed by the petitioner, issued a rule directing the Board to show cause on or before May 13, 1938, why it should not be required to certify and file in this Court a transcript of the record in the proceedings before the Board, and at the same time issued an order restraining the Board from taking any action in this cause until the return day of the rule. On May 6, 1938, the Board filed in this Court its motion for the vacation of the said restraining order. On May 13, 1938, the Court made absolute its rule of May 3, 1938, requiring the Board to forthwith file and certify the transcript of the record and enjoining the Board from taking any further steps or proceedings in this cause until the transcript was filed. On the same day the Board presented to the Supreme Court of the United States it petition for writs of mandamus and prohibition, directing this Court to vacate its order of May 13, 1938, and prohibiting it from exercising any jurisdiction upon the petition to review and set aside the Board's order of April 8, 1938. On May 31, 1938, after argument before the Supreme Court of the United States, that Court decided that this Court was without jurisdiction to enter its order of May 13, 1938, as aforesaid, and on June 7, 1938, this Court entered its order vacating its prior order of May 13, 1938. On June 9, 1938, the Board notified the petitioner that the Board would on June 14, 1938, unless sufficient cause to the contrary should then appear, vacate and set aside its order of April 8, 1938, for the purpose of further proceedings before the Board, and thereupon the petitioner filed its motion and objection to action by the Board vacating its said order, upon the ground that it was without jurisdiction so to do, which motion has been denied by the Board. On June 14, 1938, the Board entered an order vacating and setting aside its order of April 8, 1938, and directing that such further proceedings be taken in this cause before the Board as it might be advised were necessary or advisable, and thereupon the petitioner filed with the Board its motion and objection to the taking of such further proceedings by the Board upon the ground that it lacked jurisdiction so to do, which motion has been denied by the Board. On June 27, 1938, this Court, upon motion of the Board, dismissed the petition to review and set aside the Board's order of April 8, 1938. On July 8, 1938, the Board entered an order directing the issuance of proposed findings of fact, proposed conclusions of law and proposed order, and affording an opportunity to the petitioner to file exceptions thereto and briefs in support thereof and setting oral argument in support of said exceptions for August 11, 1938, and on the same day, to wit, July 8, 1938, the Board issued alleged proposed findings of fact, proposed conclusions of law and proposed order, which were substantially identical with the findings of fact, conclusions of law and order issued by the Board on April 8, 1938, as heretofore set forth. On August 4, 1938, the petitioner duly filed its exceptions to the Board's proposed findings of fact, proposed conclusions of law and proposed order, a request to the Board for further information, and its exceptions to rulings of the Board and the Trial Examiner upon motions, objections and offers to prove at the hearing of evidence in this cause, which were submitted to the Board on oral argument and brief on August 11, 1938, together with certain exceptions filed by Steel Workers Organizing Committee, in response to whose charges the complaint in this cause was filed by the Board. On August 4, 1938, the petitioner filed with the Board its motion to reopen this cause and to permit it to introduce additional evidence, which motion was duly submitted to the Board on August 11, 1938. On October 18, 1938, the National Labor Relations Board issued its decision and order which is a part of the record of this cause and which is hereby made a part hereof by reference, the same as if fully herein rewritten. In said decision and order of October 18, 1938, the said Board found that the petitioner had engaged in and was engaging in specified practices allegedly in violation of said National Labor Relations Act. And said Board ordered, among other things, that the petitioner cease and desist from specified alleged practices; that petitioner withdraw all recognition from specified labor organizations, of which many of its employees are members, as representatives of any of petitioner's employees for specified purposes and dis-establish such organizations as such representatives; that petitioner, in a specified manner, offer certain persons immediate reinstatement, and upon their respective applications, offer to reinstate, in a specified manner, certain other persons, to their former or substantially equivalent positions with petitioner, without prejudice to their seniority and other rights and privileges and place all of certain employees for whom employment is not immediately available on a preferential list for subsequent employment in a specified manner; that petitioner pay to each of certain persons sums sufficient to equal that which each would normally have earned as wages during certain periods, less the amounts, if any, which each earned during such periods, deducting, however, from sums otherwise payable to such employees monies received by them during such periods for work on public relief projects which sums so deducted petitioner is ordered to pay to the public relief agencies which furnished employment to such employees during such periods; that petitioner immediately post in certain of its plants specified notices to its employees and that petitioner notify said Board in writing what steps petitioner has taken to comply with said order. On October 18, 1938, the Board denied the motion of petitioner to reopen the case and to introduce additional evidence in petitioner's behalf. Petitioner has not as yet been advised as to any action taken by the Board relating to petitioner's request of the Board for information, and no such information has as yet been furnished petitioner by the Board.

6. Under and by virtue of the National Labor Relations Act this Honorable Court has jurisdiction to hear this petition for the reasons that the petitioner resides in the State of New Jersey, within the Third Judicial Circuit of the United States of America, and the petitioner transacts business in the States of New Jersey and Pennsylvania within the Third Judicial Circuit of the United States of America.

7. The petitioner, believing itself aggrieved by the order dated October 18, 1938, of the National Labor Relations Board, and considering the same unlawfully preju-

dicial to it, hereby petitions for a review of said order of the National Labor Relations Board by this honorable Court, and assigns the following as its reasons for seeking such review and as its statements of errors committed by the National Labor Relations Board herein:

1. The Board had no jurisdiction or authority or power whatsoever under the provisions of the National Labor Relations Act or the National Labor Relations Board Rules and Regulations (including Article 2, Section 38(d) thereof, upon which the Board relies) or otherwise, to make and issue its decision and order of October 18, 1938, which the petitioner herein prays this Court to review and set aside.

2. The Board had no jurisdiction, authority or power whatsoever under the provisions of the National Labor Relations Act or the National Labor Relations Board Rules and Regulations (including Article II, Section 38(d) thereof, upon which the Board relies), or otherwise, to make or issue its order of July 8, 1938, directing the issuance of proposed findings of fact, proposed conclusions of law and proposed order and affording opportunity to file exceptions and brief and setting oral argument.

3. The Board had no jurisdiction, authority or power whatsoever under the provisions of the National Labor Relations Act or the National Labor Relations Board Rules and Regulations (including Article II, Section 38(d) thereof, upon which the Board relies), or otherwise, to make or issue its alleged proposed findings of fact, proposed conclusions of law and proposed order of July 8, 1938.

4. The Board erred in overruling and denying the objection of petitioner to the vacating and setting aside by the Board of its findings and order of April 8, 1938, for the

purpose of further proceedings before the Board, said objection being based upon the ground that the Board had no jurisdiction, authority or power whatsoever to vacate and set aside said findings and order for the purpose of further proceedings before the Board.

5. The Board erred in overruling and denying the petitioner's motion to dismiss the complaint herein and its objection to further proceedings by the Board herein, said motion and objection being filed on or about June 30, 1938, after the Board had on June 14, 1938, set aside its order of April 8, 1938, and being based upon the ground that the Board, after it had set aside its said order of April 8, 1938, was altogether without any jurisdiction, power or authority whatsoever to take any further proceedings herein.

6. The Board had no jurisdiction, authority or power whatsoever under the provisions of the National Labor Relations Act or the National Labor Relations Board Rules and Regulations (including Article II, Section 38(d) thereof, upon which the Board relies), or otherwise, to set aside its order of April 8, 1938, for the purpose of taking further proceedings before the Board herein.

7. The Board, having on April 8, 1938, made and issued its final findings of fact, final conclusions of law and final order, and later, on June 14, 1938, having voluntarily set them aside, was thereafter wholly without jurisdiction, authority or power under the provisions of the National Labor Relations Act or the National Labor Relations Board Rules and Regulations (including Article II, Section 38(d) thereof, upon which the Board relies), or otherwise, to make and issue its further alleged proposed findings of fact, proposed conclusions of law and proposed order of July 8, 1938, and/or its decision and order of October 18, 1938.

8. The Board, in making and issuing its alleged pro-

posed findings of fact, proposed conclusions of law and proposed order of July 8, 1938, and allegedly affording the petitioner the opportunity to have a hearing thereon, in which alleged hearing the petitioner, expressly reserving all of its rights in the premises and its objection to the jurisdiction of the Board, participated, did not in law or in fact actually take further proceedings herein or grant an actual legal hearing to the petitioner upon the matters involved herein, but did merely attempt to regularize its proceedings herein and its action heretofore taken on April 8, 1938, when it made and issued, without affording to petitioner any hearing whatsoever as to the charges made against it in the complaint herein or upon the questions of law or fact herein involved, its final findings of fact, its final conclusions of law and its final order, which were, as appears from the record, substantially the same as its alleged proposed findings of fact, proposed conclusions of law and proposed order of July 8, 1938, and with its findings of fact, conclusions of law, and order of October 18, 1938.

9. The Board's decision and order of October 18, 1938, does and, if carried into effect and operation, would deny to the petitioner due process of law, in violation of the Fifth Amendment to the Constitution of the United States by reason of the proceedings taken by and the acts of the Board herein, to wit:

The taking of evidence as to the charges made against the petitioner in the complaint herein and put in issue by the petitioner's answer herein was had in part before the Board and in part before a Trial Examiner designated by the Board; after the taking of evidence had been concluded, no intermediate report was filed with the Board by the Trial Examiner, nor were any proposed findings of fact, proposed conclusions of law or proposed order made or issued by the Trial Examiner or the Board; on April 8, 1938, more than six months after the taking of evidence had been concluded, the Board, without affording to petitioner any hearing whatsoever, or any opportunity to argue this case orally or upon brief, or to contest before the Board the charges made against it in the complaint herein, made and issued final findings of fact, final conclusions of law and a final order herein against the petitioner; on June 14, 1938, the Board voluntarily set aside its final findings and final order of April 8, 1938, thereby likewise setting aside its final conclusions of law, the Board then stating that its reason for such action was that it might take such further proceedings herein as it deemed necessary or advisable; on July 8, 1938, the Board, without affording to the petitioner any hearing whatsoever and without first notifying the petitioner, as the petitioner had requested, as to what further proceedings it proposed to take, made and issued its alleged proposed findings of fact, proposed conclusions of law and proposed order, which are substantially identical with its original findings of fact, conclusions of law and order, and sought to afford the petitioner an opportunity to file exceptions thereto and to have a hearing thereon on August 11, 1938; on the day last named the petitioner, expressly preserving all of its rights in the premises and all of its objections and exceptions to the jurisdiction of the Board, argued orally and upon brief in support of its exceptions to the Board's alleged proposed findings of fact, conclusions of law and order of July 8, 1938; the alleged hearing of August 11, 1938, such as was afforded the petitioner by the Board, after the Board had already finally determined all questions of fact and of law herein and had made and issued its final order herein against the petitioner (April 8, 1938), was not and could not have been a hearing in accordance with the law of the land and the usual and accepted rules of procedure, and did not and could not grant or secure to the petitioner due process of law as guaranteed to it by the Fifth Amendment to the Constitution of the United States.

10. The Board's order and decision of October 18, 1938, denies to the petitioner due process of law, in violation of the Fifth Amendment to the Constitution of the United States, for the reason that the petitioner was not afforded any hearing as to the charges made against it in the complaint until after the Board had determined and decided all questions of fact and of law herein and had made and issued its final order herein (April 8, 1938); and in this connection the petitioner avers that the alleged hearing before the Board on August 11, 1938, was nothing more than a pretended hearing upon the questions of fact and questions of law already decided by the Board, and was therefore not a hearing in accordance with the law of the land and the usual and accepted rules of procedure.

11. The Board's decision and order of October 18, 1938, and the findings of fact and conclusions of law and order therein contained, deny to the petitioner due process of law, in violation of the Fifth Amendment to the Constitution of the United States, because the Board had made up its mind and reached a final conclusion and determination with relation to all questions of law and fact herein involved without first affording the petitioner a hearing before the Board as to the charges made against it by the complaint or as to the questions of law and fact herein involved.

12. The Board erred in affirming the rulings of the Trial Examiner made at the taking of evidence before him upon motions and objections and offers to prove, the record disclosing that said Trial Examiner did in fact commit in

that regard many errors prejudicial to the petitioner, all as appears in detail in the exceptions of the petitioner to the rulings of the Board and the Trial Examiner, which exceptions are by reference made a part of this petition for review.

13. The Board erred in making and issuing its findings of fact, conclusions of law and order herein, which are based in substantial part upon evidence erroneously admitted and considered by the Board to the prejudice of the petitioner at the taking of evidence before the Board and the Trial Examiner, respectively, and were made and issued without giving consideration to relevant and competent evidence offered by the petitioner in its behalf but excluded, to its prejudice, by the Board and the Trial Examiner, respectively, all as appears in detail in the exceptions of the petitioner of the rulings of the Board and the Trial Examiner, which exceptions are by reference made a part of this petition for review.

14. The Board erred in not dismissing the complaint herein upon the grounds set forth in the petitioner's answer thereto.

15. The Board erred in overruling a motion made by the petitioner, at the conclusion of the evidence offered by the Board, to dismiss the complaint herein, upon the grounds set forth in said motion.

16. The Board erred in not dismissing the complaint herein for the reason that the evidence herein does not disclose any unfair labor practices committed by the petitioner or the existence of any current labor dispute, and, hence, the Board was without jurisdiction in this case.

17. The Board erred in making and issuing its order herein for the reason that said order is contrary to law;

is not supported by the evidence herein; is based upon the Board's findings, which are not supported by the evidence herein, is based upon the Board's conclusions of law, which are unsound and incorrect statements of law and are not supported by or applicable to the evidence nor by the record herein; is beyond the jurisdiction of the Board, and is not based upon or justified by the Board's own findings of fact or its own conclusions of law.

17-a. The Board erred, for the reasons stated in paragraph 17, and for the further reason that it covers future transactions not connected with transactions at issue in the present case, present transactions outside of the issue herein, and is so indefinite as to require interpretation by the petitioner at its peril, in making and issuing its order No. 1-a.

17-b. The Board erred, for the reasons set forth in paragraphs 17 and 17-a, in making and issuing its order No. 1-b.

17-c. The Board erred, for the reasons set forth in paragraph 17 and 17-a, in making and issuing its order No. 1-c.

17-d. The Board erred, for the reasons set forth in paragraph 17, in making and issuing its order No. 12-a. And the Board erred in making and issuing said order for the additional reason that the National Labor Relations Act, if construed as vesting power and jurisdiction in the Board to make and issue said order so as to effectuate the policies of the Act, is unconstitutional and void, as being an attempt by Congress to vest legislative power in the Board, in violation of Article I, Section 1, of the Constitution of the United States.

17-e. The Board erred, for the reasons set forth in paragraphs 17 and 17-d, in making and issuing its order No. 2-b.

17-f. The Board erred, for the reasons set forth in paragraphs 17 and 17-d, in making and issuing its order No. 2-c.

17-g. The Board erred, for the reasons set forth in paragraphs 17 and 17-d, in making and issuing its order No. 2-d.

17-h. The Board erred, for the reasons set forth in paragraphs 17 and 17-d, in making and issuing its order No. 2-e.

17-i. The Board erred, for the reasons set forth in paragraphs 17 and 17-d, in making and issuing its order No. 2-f.

17-j. The Board erred, for the reasons set forth in paragraphs 17 and 17-d, in making and issuing its order No. 2-g.

17-k. The Board erred for the reasons set forth in paragraphs 17 and 17-d, in making and issuing its order No. 2-h.

17-l. The Board erred, for the reasons set forth in paragraphs 17 and 17-d, in making and issuing its order No. 2-i.

18. The Board erred in making and issuing that portion of its decision and order which is styled "The remedy", for the reason that all and singular the statements, findings and conclusions therein contained are contrary to law and not supported by the evidence nor by the record herein, and constitute an abuse of discretion upon the part of the Board.

19. The Board erred in making and issuing its conclusions of law, numbered from 1 to 7 inclusive, for the reason that said conclusions of law are, as a whole, and each separately, unsound and incorrect statements of law; are not supported by or applicable to the evidence herein; are based upon findings of fact which are not supported by the evidence herein nor warranted by the entire record herein; and are beyond the jurisdiction of the Board.

20. The Board erred in making and issuing that portion of its decision and order of October 18, 1938, which is designated therein as "Findings of Fact", upon the ground that it is not in proper and legal form in that it has mingled therein statements of witnesses, expressions of opinion, references to evidence and matters of argument upon the part of the Board. Preserving the error just above assigned, the petitioner avers that the Board erred in making and issuing its findings of fact as a whole, for the reason that said findings of fact are as a whole not supported by the evidence nor by the record herein. The petitioner, preserving the above assignments of error, avers that the Board erred, for the reasons already stated, in making and issuing each and every finding, statement and conclusion of fact in its decision and order set forth under the heading "Findings of Fact". Preserving, again, each and all of its assignments of error as above noted, the petitioner avers that the Board, for the reason that they are each and all not supported by the evidence nor by the record herein, erred in making and issuing findings of fact, as follows, to wit:

All and singular the findings of fact set forth and described in Exception 20, subdivisions (a) to (ss) inclusive, in the "Respondent's Exceptions to Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order", duly filed with the Board (August 4, 1938) and which are by reference made a part of this petition for review, the same as if set forth in full herein.

21. The Board erred in making and issuing its order herein in so far as it relates to or is based upon the strike, for the reason that the Board has no jurisdiction to make any order whatsoever relating to the strike or matters and things based upon or growing out of the strike due to the fact that the evidence herein discloses without dispute that the strike was caused solely because the petitioner refused to sign a proposed contract presented by the Steel Workers Organizing Committee, such refusal upon the petitioner's part not constituting an unfair labor practice under the terms of the National Labor Relations Act (as the Board itself expressly finds) and there being no current labor dispute here involved.

22. The Board erred in making and issuing that portion of its order herein (Sections 2(b), 2(f), and 2(g) by which petitioner is ordered by the Board to reinstate strikers formerly employed by the petitioner, including strikers specifically named or designated in the complaint and strikers not so named or designated, it appearing that the evidence herein discloses without dispute that the strike was wholly unlawful on the part of the said strikers and was called by reason of the refusal of the petitioner to sign a contract presented to it by the Steel Workers Organizing Committee, such refusal not constituting an unfair labor practice under the terms of the National Labor Relations Act (as the Board itself expressly finds) and there being no current labor dispute herein involved.

23. The Board erred in making and issuing its order for the reason that the Board should have dismissed the complaint herein upon the ground that the evidence herein

disclosed that the alleged acts of the petitioner complained of as constituting alleged unfair labor practices in violation of the National Labor Relations Act did not occur in interstate or foreign commerce and did not have a direct bearing thereon nor impede the flow thereof, all as appears in the evidence herein.

24. The Board erred in making and issuing its order for the reason that the Board should have dismissed the complaint herein because the evidence herein discloses that the strikers, individuals, groups and organizations, in whose behalf the Steel Workers Organizing Committee purported to act in filing the charges herein with the Board, and on whose behalf the complaint was filed, were guilty of many and repeated wholly unprovoked and unjustifiable acts and deeds of violence, coercion and intimidation against the petitioner and its employees, of such a character as to deprive those who filed the charges aforesaid of any right so to do, and to require the Board to dismiss the complaint herein predicated upon such charges.

25. The Board erred in making and issuing that portion of its order herein (Sections 2(f) and 2(g)) by which petitioner is ordered by the Board to reinstate, upon application, to their former positions of employment by the petitioner, strikers not named or specifically designated in the complaint as having been unlawfully or improperly discharged or discriminated against by the petitioner, for the reason that no issue as to them is tendered or raised by the complaint herein or by the issues, joined thereon, and the petitioner has never been accorded or offered a hearing nor the opportunity of making its defense as to the right of said strikers to be so reinstated, the order of the Board in this regard constituting a denial of due process of law to the petitioner in violation of the Fifth Amendment to the Constitution of the United States.

26. The Board erred in making and issuing that portion of its order herein (Sections 2(b), 2(f) and 2(g)) by which petitioner is ordered to reinstate, upon application, to their former positions of employment by the petitioner, strikers formerly employed by the petitioner, who, as the evidence herein discloses, have heretofore voluntarily quit their positions of employment by the petitioner, for the reason that said portion of the Board's order is contrary to law and not supported by the evidence herein and constitutes a denial to the petitioner of the right of liberty of contract as guaranteed to petitioner by the Fifth Amendment to the Constitution of the United States.

27. The Board erred in making and issuing that portion of its order herein by which petitioner is ordered to reinstate, upon application, to their former positions of employment by the petitioner, certain strikers formerly employed by the petitioner notwithstanding the fact that said strikers had committed acts of violence and lawless conduct in connection with the strike, and had either been convicted of or pleaded guilty to criminal charges, based upon such acts and conduct, made against them in the courts of Ohio, as follows, to writ: Assault and Battery, a misdemeanor, 12; Rioting, Assembling Together to do an Unlawful Act, a misdemeanor, 67; Carrying Concealed Weapons, a felony, 9; Interfering with and Obstructing Railway Tracks, a felony, 5; Malicious Destruction of Property to the value of $50.00, 6; for the reason that this portion of said order is contrary to law. And the Board erred in making and issuing that portion of its order herein by which petitioner is ordered to reinstate Balare Chismus and John Exall, specifically named in the complaint, notwithstanding the fact that the evidence herein discloses that they pleaded guilty in the Courts of Common Pleas of Mahoning County and Cuyahoga County, respectively, to the offense of assault

and battery, committed in connection with the strike.

28. The Board erred in making and issuing that portion of its order herein by which petitioner is ordered to reinstate, upon application, to their former positions of employment by the petitioner, certain strikers formerly employed by the petitioner notwithstanding the fact that said strikers, nine in number, entered pleas of guilty in the United States District Court for the Northern District of Ohio, Eastern Division, to the offense of impeding the United States mails.

29. The Board erred in making and issuing its order herein in so far as it relates to petitioner's Youngstown, Warren and Niles plants, for the reason that said order does not give weight and consideration to relevant and competent evidence offered by the petitioner at the hearing herein, but excluded by the Trial Examiner and the Board, tending to prove continued, concerted, wholly unprovoked and unlawful acts of conduct upon the part of strikers, pickets and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization, consisting of unlawful picketing, unlawful assemblage, riot, violence and general lawless conduct in and about the petitioner's Youngstown, Warren and Niles plants, said evidence being based upon the proffered testimony of approximately 75 witnesses and being embodied and described in detail in petitioner's offer to prove, marked its Exhibit 50, found in the record herein.

30. The Board erred in making and issuing its order herein in so far as it relates to petitioner's Cleveland plants, for the reason that said proposed order does not give weight and consideration to relevant and competent evidence offered by the petitioner at the hearing herein, but excluded by the Trial Examiner and the Board, tending to

prove continued, concerted, wholly unprovoked and unlawful acts and conduct upon the part of strikers, pickets and persons affiliated with the Steel Workers Organizing Committee and Committee for Industrial Organization, consisting of unlawful picketing, unlawful assemblage, riot, violence and general lawless conduct in and about the petitioner's Cleveland plants, said evidence so offered and so excluded being based upon the proffered testimony of approximately 200 witnesses and being embodied in and described in detail in petitioner's offer to prove, marked its Exhibit 64, found in the record herein.

31. The Board erred in making and issuing its order herein in so far as it relates to the petitioner's Youngstown, Warren, Niles and Cleveland plants, for the reason that the Trial Examiner erred at the hearing herein (his ruling being affirmed by the Board in its order), in refusing to permit petitioner to call to the witness stand, each separately and individually, approximately 75 witnesses from the Youngstown, Warren and Niles districts, and 200 witnesses from the Cleveland district, whose evidence, if received, would have tended to prove unlawful conduct upon the part of pickets, strikers and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization.

32. The Board erred in making and issuing that part of its order by which petitioner is ordered to cease and desist from certain specified acts and conduct with relation to certain alleged labor organizations, for the reason that at the hearing the Trial Examiner erred (his ruling being affirmed by the Board in its order), in excluding competent, admissible and relevant evidence offered by the petitioner as follows, to wit: That approximately 2000 of petitioner's employees at its Massillon, Ohio, plants did

not wish to go out on a strike but did wish to continue at work, and that they signed the back-to-work petition at Massillon and application cards for membership in the Independent Association of Republic Employees, an independent labor organization at Massillon, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the petitioner, its officers or agents; that approximately 2500 of its employees at its Canton, Ohio, plants did not wish to go out on a strike but did wish to continue at work, and that they signed application cards for membership in the Steel Workers of America, at Canton, an independent labor organization, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the petitioner, its officers or agents; that approximately 2900 of petitioner's employees at its Youngstown, Ohio, plants did not wish to go out on a strike, but did wish to continue at work and that they signed a back-to-work petition of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the petitioner, its officers or agents, and that approximately 1900 of petitioner's employees at its Youngstown plants signed application cards for membership in the Independent Federation of Republic Employees, an independent labor organization at Youngstown, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the petitioner, its officers or agents; that approximately 2000 of petitioner's employees at its Warren and Niles plants did not wish to go out on a strike, but did wish to continue at work, and that they signed application cards for membership in the Employees Independent Association, an independent labor organization, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the petitioner, its officers or agents; that approximately 2500 of the petitioner's employees at its Cleveland plants did not wish to go out on a strike, but did wish to continue at work. All of the evidence so offered by the petitioner and excluded, is described in offers to prove found in the record.

33. The Board erred in making and issuing that part of its order (Sections 2(b), 2(f) and 2(g)), by which petitioner is ordered, subject to specified exceptions, to reinstate, upon application, to their former positions of employment by the petitioner, all strikers formerly employed by the petitioner, for the reason that the evidence and offers to prove by the petitioner establish the fact that said strikers are not entitled to reinstatement because they, acting some separately and all in concert, have committed in connection with the strike at various plants of the petitioner, many and repeated wholly unlawful, unprovoked and unjustifiable deeds and acts of violence, coercion and intimidation against the petitioner and its employees. And upon the same ground just above stated, the Board erred in making and issuing that part of its order by which petitioner is ordered to reinstate strikers who are specifically named or specifically designated in the complaint herein.

34. The Board erred in making and issuing its order as a whole and as to each and every separate order therein contained, for the reason that said order and said separate orders are not properly based upon the Board's own findings of fact and its own conclusions of law, even if (as the petitioner avers is not the fact) said findings of fact are supported by the evidence and said conclusions of law are correct statements of law.

35. The Board erred in making and issuing its findings

of fact, its conclusions of law and its order, for the reason that Article II, Section 38-d of the National Labor Relations Board Rules and Regulations, Series 1, as amended, upon which the Board relies in making and issuing said findings of fact, conclusions of law and order, does not, if properly construed, confer upon or vest in the Board any jurisdiction, authority or power whatsoever, to make said findings of fact, said conclusions of law and said order. And, in support of this assignment of error, the petitioner avers that if Article II, Section 38-d of the National Labor Relations Board Rules and Regulations, Series 1, as amended, is construed or interpreted as conferring upon or vesting in the Board any jurisdiction, power or authority whatsoever to make and issue said findings of fact, conclusions of law and order, then, in that event, said Section aforesaid is unconstitutional and void in that it denies to the petitioner due process of law, in violation of the Fifth Amendment to the Constitution of the United States.

36. The Board erred in making and issuing its findings of fact, conclusions of law and order, for the reason that the National Labor Relations Act does not, if properly construed, confer upon or vest in the Board any jurisdiction, authority or power whatsoever to make said findings of fact, said conclusions of law and said order. And, in support of this assignment of error, the petitioner avers that if the National Labor Relations Act is construed or interpreted as conferring upon or vesting in the Board any jurisdiction, power or authority whatsoever to make and issue said findings of fact, conclusions of law and order, then, in that event, said Act aforesaid is unconstitutional and void, in that it denies to the petitioner due process of law, in violation of the Fifth Amendment to the Constitution of the United States.

37. The Board erred in making and issuing it
findings of fact, conclusions of law and order, for th
reason that petitioner was not offered, as to the charge
made against it in the complaint, a hearing in accordanc
with the usual and accepted rules of procedure and th
law of the land, and was denied due process of law, i
violation of the Fifth Amendment to the Constitution o
the United States in that: The Trial Examiner designate
by the Board (whose rulings on motions and objection
to the admission of evidence are affirmed by the Boar
in its order, p. 3) displayed, throughout the hearing
before him, a distinct bias and prejudice in favor of th
strikers, the Steel Workers Organizing Committee an
the Committee for Industrial Organization, in whose be
half the complaint herein was filed, and against the pe
titioner; arbitrarily and capriciously permitted couns
for the Board to introduce hearsay evidence and wholl
inadmissible evidence prejudicial to the petitioner and i
no way related to the issues here involved; unduly an
arbitrarily restricted the introduction of competent an
relevant evidence in behalf of the petitioner and prevente
the petitioner from offering and presenting its defens
to the charges made against it; attempted to lecture an
intimidate the petitioner's witnesses; and in other re
spects and particulars denied to the petitioner a fair an
impartial hearing, all as appears in detail in the peti
tioner's exceptions to the rulings of the Trial Examine
at the hearing before him.

38. The Board erred in making and issuing tha
portion of the Board's order by which petitioner is order
ed to withdraw recognition from the Plan of Employees
Representation and other labor organizations and to com
pletely disestablish said labor organizations as employe
representatives for specific purposes, including the pres

entation of grievances to petitioner (Order 2-a, p. 123), on the ground that this portion of the Board's order is beyond the scope of the jurisdiction and power constitutionally conferred upon the Board by the National Labor Relations Act, it being based upon those provisions of said Act which purport to confer upon the Board jurisdiction and power to require an employer (here, the petitioner) to take such affirmative action as will effectuate the policies of the Act, which portion of said Act is unconstitutional and therefore void, as being an attempt by Congress to delegate, without fixing definite rules or standards to be followed by the Board, legislative power to the Board, contrary to Article I, Section 1, of the Constitution of the United States, which vests all legislative power in the Congress of the United States.

39. The Board erred for reasons stated in the preceding paragraphs in making and issuing that portion of the Board's order by which the petitioner is ordered to post in conspicuous places in its plants and maintain for a period of at least sixty days, notices to its employees stating that it will cease and desist from certain practices, and that recognition is withdrawn from the labor organizations named in the order and that they have been completely disestablished as employee representatives; and for the further reason that it requires the petitioner to admit having engaged in unfair labor practices, which it disclaims.

40. The Board erred in making its findings that petitioner has engaged in unfair labor practices affecting interstate commerce, and in making an order based upon such finding for the reason that the National Labor Relations Act, in so far as it seeks to authorize the Board to make such finding and base an order thereon requiring the petitioner to cease and desist from such practices,

to reinstate former employees with or without back pay, and to take such other affirmative action as will effectuate the policies of the Act, is unconstitutional and therefore void, as being an attempt on the part of Congress to confer judicial power upon the National Labor Relations Board, contrary to Article III, Section 1, of the Constitution of the United States.

41. The Board erred and committed an abuse of discretion in making and issuing that portion of the Board's order (Section 2 (b), 2 (f) and 2 (g)) which, subject to specified exceptions, requires petitioner to place those of its former employees who went out on strike and may hereafter apply for reinstatement pursuant to the Board's order upon a preferential list and to give them employment when available in any of certain of the petitioner's plants, regardless of their previous place of employment, before other employees are hired, for the reason that said portion of the Board's order is contrary to law, not supported by the evidence and wholly beyond the jurisdiction, authority and power of the Board.

42. The Board erred and committed an abuse of discretion in including in its order among the petitioner's plants referred to in the preceding paragraph, plants which it has acquired since the date of the hearing of the evidence herein from its subsidiaries or otherwise, or has opened since that date, for the reason that such action by the Board is contrary to law, is not supported by the evidence and is wholly beyond the jurisdiction, authority and power of the Board, and upon the further ground that no issue or question whatsoever was presented to or determined by the Board or Trial Examiner at the hearing and taking of evidence herein, relating in any manner whatsoever to plants of the petitioner acquired or opened since the date of the hearings of evidence herein, or to

the respective rights, duties and liabilities of the petitioner and its striking employees with relation to such plants so acquired or opened or employment therein.

43. The Board erred in making and issuing that portion of the Board's order (Section 2 (b), 2 (f) and 2 (g)) which requires the petitioner to dismiss from its employment employees hired by the petitioner since the commencement of the strike and now employed by it so as to make places for the reinstatement of strikers, for the reason that said portion of the Board's order is contrary to law, not supported by the evidence and wholly beyond the jurisdiction and authority of the Board, and constituted an abuse of discretion by the Board.

44. The Board erred in making and issuing that portion of its order which requires the petitioner, subject to the specified exceptions, to reinstate upon application former employees of the petitioner who went out on a strike, and to pay such employees, if upon application by them, reinstatement by the petitioner is not granted, altogether regardless of whether such employees have lost their status as employees of the petitioner by the doing of acts furnishing good cause for their discharge, or nonreinstatement, or by having obtained other employment substantially equivalent to their former employment by the petitioner or otherwise for the reason that said portion of the Board's order is contrary to law and not supported by the evidence and wholly beyond the jurisdiction and authority of the Board.

45. The Board erred in making and issuing that portion of the Board's order by which petitioner is ordered, subject to specified exceptions, to reinstate, upon application, its former employees who went out on strike, notwithstanding the fact that, upon the evidence herein

and additional competent and relevant evidence sought to be introduced by the petitioner, the strike has been heretofore, in law and in fact, finally concluded and terminated and the aforesaid former employees of the petitioner have ceased to have any legal or factual status as employees of the petitioner, for the reason that said portion of the Board's order is contrary to law, not supported by the evidence, and beyond the jurisdiction, power and authority of the Board.

46. The Board erred in making and issuing its findings of fact, conclusions of law and order, for the reason that, in making and issuing them, the Board failed to take into consideration additional competent and relevant evidence in behalf of the petitioner, permission to introduce which was prayed for by the petitioner in motions duly filed with the Board for that purpose and by the Board denied.

47. The Board erred in making and issuing its order, and each and every portion thereof, and particularly those portions thereof by which the petitioner is ordered, subject to specified exceptions, to reinstate strikers, upon application, and, in order to make places for them, to dismiss employees hired since the strike commenced, and under certain conditions to place strikers upon a preferential list, and to disestablish and discontinue dealing with certain labor organizations, for the reason that said order and each and every portion thereof, and particularly the portions just hereinbefore specifically described, constitute an arbitrary and gross abuse of discretion upon the part of the Board and do not tend in any manner whatsoever to effectuate the policies of the National Labor Relations Act, but tend to defeat them.

48. The Board erred in finding as a fact that the

fundamental cause of the strike and a substantial factor in its precipitation on May 25 and May 26, 1937, was a long series of unfair labor practices upon the part of the petitioner, and in making and issuing that portion of the Board's findings of fact, conclusions of law and order, relating to "causes of the strike", and to each and every portion of the Board's order based upon said findings and statements aforesaid, upon the ground that there is a total, absolute and fatal variance between the Board's said findings and statements and that portion of the complaint wherein the unfair labor practices of the petitioner alleged to have caused or contributed to cause the strike are set forth and described. (See complaint, paragraphs 3-15, inc.)

49. The Board erred in making and issuing that portion of the decision and order in which, in substance, the Board states as its conclusions that petitioner is estopped by reason of its own alleged violence and lawless conduct, to assert that relief should be denied the members of the Steel Workers Organizing Committee and the strikers because of their having committed acts of violence and lawless conduct, upon the ground that said statement and conclusion are contrary to law, not supported by the evidence herein, and beyond the jurisdiction of the Board.

50. The Board erred in finding that the Steel Workers Organizing Committee and the Amalgamated Association of Iron, Steel and Tin Workers of North America are each and both labor organizations, for the reason that said finding, in each respect, is not supported by the evidence nor by the record herein, and upon the further ground that the Board's own decision and order contains the following statement, to wit:

"II. The Union

> "While the record contains no detailed evidence relating to structure and function of the Steel Workers Organizing Committee and the Amalgamated Association of Iron, Steel and Tin Workers of North America, we have found upon numerous occasions in other cases, and the record as a whole in this case makes clear, that these organizations are labor organizations affiliated with the Committee for Industrial Organization." (pp. 6, 7)

51. The Board erred in making and issuing that portion of the Board's order by which petitioner is ordered, subject to specified exceptions, to reinstate, upon application, former employees who went out on strike, for the reason that said portion of the Board's proposed order is contrary to law, not supported by the evidence and beyond the jurisdiction of the Board, in that the evidence herein wholly fails to establish that the said strikers, or any of them, went out on a strike or ceased work as employees of the petitioner in consequence of or in connection with any current labor dispute or because of any unfair labor practice upon the part of the petitioner.

52. The Board erred in making and issuing its order herein based upon its findings of fact and conclusions of law for the reason that it will, in its operation and effect, deprive the petitioner of the right to meet, counsel and advise with labor organizations of its own employees, and the members thereof, even if such meetings or conferences be requested by them; the right through its officers, management and supervisory agents to discuss freely matters involving employment and having relation to wages, hours and working conditions, and the right to express freely,

orally or in writing, its views and opinions concerning labor organizations and the duty or obligation of any of its own employees to become members thereof; thereby abridging the petitioner's freedom of speech, as is guaranteed to it by the First Amendment to the Constitution of the United States.

53. The Board erred in making and issuing its order herein for the reason that the National Labor Relations Act, as construed and applied by the Board as proposed herein, is unconstitutional and void in that it denies to the Petitioner due process of law and freedom of contract in violation of the Fifth Amendment to the Constitution of the United States, and freedom of speech in violation of the First Amendment to the Constitution of the United States, and in that it seeks to delegate to the Board, an administrative body, the right to exercise legislative power in violation of Article I, Section 1 of the Constitution of the United States, and judicial power in violation of Article III, Section 1 of the Constitution of the United States.

54. The Board erred in making and issuing its findings of fact, conclusions of law and order for the reason that the Board, having set aside its order of April 8, 1938, if the National Labor Relations Act or any provision thereof gives or purports to give to the Board any jurisdiction, power or authority thereafter to take any further proceedings herein, said act or part thereof giving or purporting to give such jurisdiction, power and authority, fails to state what further proceedings or orders the Board may take or make in such contingency, and fails to set up any standards whatsoever by which it can reasonably be determined what further proceedings or orders in such contingency the Board may take or make, and is therefore invalid and in violation of Sec-

tion 1 of Article I of the Constitution of the United States in that it constitutes an unauthorized and improper delegation to the Board of powers vested exclusively in Congress, the legislative branch of the Government.

55. The Board erred in making a finding that the socalled back-to-work movements are labor organizations within the meaning of the National Labor Relations Act, for the reason that said finding is contrary to law and not supported by the evidence.

56. The Board erred in making and issuing its findings of fact, conclusions of law and order for the reason that, in making and issuing them, the Board treated, and relied upon, as evidence, matters and things outside of the taking of evidence and the record herein.

57. The Board erred in making and issuing those portions of its order by which the petitioner is ordered to repay to certain public relief agencies moneys by such agencies heretofore paid to former employees of the petitioner for work performed by them for such agencies during such time as they were not employed by the petitioner for the reason that such portions of said order are contrary to law, not supported by the evidence and beyond the jurisdiction of the Board, and constitute an abuse of discretion on the part of the Board.

58. The Board erred in those portions of its order by which the petitioner is ordered to pay to its former employees a sum of money equal to that which each of them would normally have earned as wages during the period from five (5) days after the date of application for reinstatement to the date of placement upon a preferential list for the reason that such portions of said order are contrary to law, not supported by the evidence

and beyond the jurisdiction of the Board, and constitute an abuse of discretion on the part of the Board.

59. The Board erred in making and issuing its order, its findings of fact and its conclusions of law for the reasons that are set forth in the petitioner's exceptions to the proposed findings of fact, proposed conclusions of law and proposed order, which exceptions (filed with the Board August 4, 1938) as applicable to the Board's decision and order of October 18, 1938, are by reference made a part of this petition for review the same as if set forth in full herein.

60. The Board erred in making and issuing its order, its findings of fact and conclusions of law for the reasons set forth in petitioner's exceptions to the rulings of the Board and the Trial Examiner upon motions, objections and offers to prove at the taking of evidence herein, which said exceptions (filed with the Board August 4, 1938) are, by reference, made a part of this petition for review the same as set forth in full herein.

61. The Board erred in making and issuing its order and each and every part thereof, all and singular its conclusions of law and all and singular its findings of fact for the reason that said order and each and every portion thereof, said conclusions of law and said findings of fact are each and all contrary to law, not supported by the evidence nor by the record herein.

62. The Board erred in not giving to the petitioner, in response to its request therefor, information required by the petitioner so that it may adequately and properly protect the rights guaranteed to it in this case by the constitution of the United States, the National Labor Relations Act and any other laws applicable to this proceeding, such requested information being set forth and

described in detail in the petitioner's "Request to the Board for Further Information" heretofore filed with the Board August 4, 1938, and by reference made a part of this petition for review, the same as if set forth in full herein.

63. The Board erred in that it overruled and denied petitioner's motion (made a part hereof by reference) to reopen the record and admit specified additional evidence offered by petitioner, filed with said Board after the issuance by said Board of its proposed findings of fact, proposed conclusions of law and proposed order, which additional evidence was made particularly relevant and material by the issuance of said proposed conclusions of law and proposed order and proposed findings.

Wherefore, the petitioner prays:

(a) That a copy of this petition be forthwith served according to law upon said the National Labor Relations Board;

(b) That said National Labor Relations Board may be required, in conformity with law, to certify to this honorable court the transcript of the entire record in the proceedings wherein said order was entered;

(c) That said proceedings and the findings, conclusions, decision and order of the National Labor Relations Board herein be reviewed by this honorable court and that the decision and order be set aside, vacated and annulled and that the said National Labor Relations Board be ordered to dismiss its complaint against the petitioner;

(d) That this honorable court exercise its jurisdiction over the parties and the subject matter of this petition and grant to the petitioner all such other and further relief in the premises as the rights and equities of the cause may require.

Republic Steel Corporation,
Petitioner,
By W. W. Hancock,
Secretary.
Day, Young, Veach & LeFever
By Luther Day, by E. W. L.
Thomas F. Patton
Rawle & Henderson,
Attorneys for Petitioner.
By Joseph W. Henderson.

Commonwealth of Pennsylvania,
County of Philadelphia, *ss:*

W. W. Hancock, being first duly sworn, deposes and says that he is Secretary of Republic Steel Corporation, petitioner above named; that he has read the foregoing petition and knows the contents thereof; that the statements therein contained are true as he verily believes.

W. W. Hancock.

Sworn to before me and subscribed in my presence this 20th day of October, 1938.

George M. Brodhead, Jr.,
Notary Public.

My Commission Expires Jan. 19, 1939.
(Seal)

XXXV.

ANSWER OF THE NATIONAL LABOR RELATIONS BOARD TO PETITION TO REVIEW, AND REQUEST FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

(Filed in U. S. C. C. A. Nov. 14, 1938)

To the Honorable, the Judges of the United States Circuit Court of Appeals for the Third Circuit:

Comes now the National Labor Relations Board (hereinafter referred to as the Board) by J. Warren Madden, Chairman, and Edwin S. Smith and Donald Wakefield Smith, Members, and pursuant to the National Labor Relations Act (49 Stat. 449, c. 372, 29 U. S. C. A. Sec. 151, *et seq.*) files this answer and request for enforcement of an order of the National Labor Relations Board:

(1) The Board admits each and every allegation contained in paragraphs "1", "2", and "6" of the petition to review.

(2) With respect to the allegations contained in paragraphs "3" and "4" of the petition to review and with respect to such allegations contained in paragraph "5" of the petition to review as relate to proceedings had in said matter before the Board, the Board for a full and exact statement of the provisions of the charges, supplementary charges, complaint, answer, decision and order of the Board issued on April 8, 1938, order of the Board vacating and setting aside its order of April 8, 1938, proposed findings of fact, proposed conclusions of

law, and proposed order, petitioner's exceptions thereto, and decision of the Board issued October 18, 1938, including its findings of fact, conclusions of law, and order, and other proceedings had in said matter before the Board, prays reference to the certified transcript of the entire record of the proceedings before the Board, now on file in this Court herein.

(3) With respect to the allegations contained in paragraph "5" of the petition to review with reference to a certain petition for review filed by petitioner in this Court on April 18, 1938 and to the proceedings had before this Court in said matter and in the Supreme Court of the United States upon the petition for writs of prohibition and mandamus presented by the Board to said Court on May 13, 1938, the Board, for a full and exact statement of said proceedings had before this Court and before the Supreme Court of the United States in said matters, prays reference to the records on file in this Court in Case No. 6764, March Term, 1938, entitled *Republic Steel Corporation, Petitioner* v. *National Labor Relations Board, Respondent* and to official proceedings had in the Supreme Court of the United States in Case No. 21, Original, October Term, 1937, entitled *In the Matter of Petition of the National Labor Relations Board for a Writ of Prohibition and for a Writ of Mandamus,* of which this Court may take judicial notice. Further answering, the Board avers that each and every such allegation is irrelevant and immaterial to, and in no way affects or raises any issue concerning, the validity or enforceability of the order under review herein, and accordingly the Board neither admits or denies any of said allegations.

(4) With respect to the allegations contained in paragraph "5" of the petition to review with reference

to petitioner's request of the Board for information, the Board alleges that each and every allegation is immaterial, irrelevant, incompetent, and beyond the scope of judicial inquiry in the circumstances of this case.

(5) The Board denies each and every allegation contained in paragraph "7" of the petition to review and in subparagraphs "1" to "63" inclusive of said paragraph.

Wherefore, having duly answered each and every allegation contained in the petition to review, the Board prays this Honorable Court that said petition, in so far as it prays that the Board's order be set aside, vacated and annulled, be denied.

(6) Further answering, the National Labor Relations Board, pursuant to Section 10 (f) of the National Labor Relations Act, respectfully requests this Honorable Court for the enforcement of the order issued by the Board on October 18, 1938, in the proceeding instituted against petitioner, Republic Steel Corporation, which proceeding is designed on the records of the Boards as Case No. C-184, the title thereof being "In the Matter of Republic Steel Corporation and Steel Workers Organizing Committee."

In support of its request for the enforcement of said order the Board alleges:

(a) Petitioner is and at all times herein mentioned was a corporation organized under and existing by virtue of the laws of the State of New Jersey.

(b) By reason of the matter alleged in paragraph (a) hereof, this Court has jurisdiction of the petition herein by virtue of section 10 (f) of the National Labor Relations Act.

(c) A charge and supplementary charges having been filed by Steel Workers Organizing Committee, hereinafter called the S. W. O. C., with the Board, the Board, on July 15, 1937, issued a complaint in said Case No. C-184, alleging that petitioner had engaged and was engaging in certain unfair labor practices affecting commerce within the meaning of the Act. A hearing was noticed for July 21, 1937.

(d) Thereafter, on July 21 through 23, 1937, a hearing was held before the Board in Washington, D. C. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing upon the issues was afforded all parties.

(e) Thereafter, petitioner filed an answer to said complaint, said answer being dated August 2, 1937.

(f) Thereafter, on August 3, 1937, the Board made an order designating John T. Lindsay Trial Examiner in all further hearings in said Case No. C-184.

(g) Thereafter, said hearing was continued before said Trial Examiner as follows: On August 9 through 12, 1937, in Canton, Ohio; on August 20, 21, 23 and 24, 1937, in Youngstown, Ohio; on August 27, 28 and 30, 1937, in Cleveland, Ohio; on September 1 through 3, 7 through 10, and 13 through 16, 1937, in Canton, Ohio; on September 17, 20 and 21, 1937, in Youngstown, Ohio; and on September 23 through 25, and 27, 1937, in Cleveland, Ohio. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing upon the issues was afforded all parties. At the close of the hearing, said Trial Examiner granted Board counsel's motion to conform the pleadings to the proof.

(h) Thereafter, on January 21, 1938, petitioner filed with the Board a motion for leave to introduce additional evidence or, in the alternative, to submit and have incorporated in the record an offer or offers of proof relative to the evidence so excluded. Thereafter, on March 19, 1938, the Board made an order granting in part and denying in part said motion. Thereafter, on March 28, 1938, petitioner, pursuant to said order, filed an offer of proof.

(i) Thereafter, on April 8, 1938, the Board issued certain findings of fact and conclusions of law and entered an order, directed to petitioner, its officers, agents, successors, and assigns.

(j) Thereafter, on April 18, 1938, petitioner filed with this Honorable Court a petition to review and set aside said order of the Board, referred to in paragraph (i) hereof.

(k) Thereafter, on June 14, 1938, the Board made an order vacating and setting aside the findings and order of April 8, 1938, referred to in paragraph (i) hereof, and directing that such further proceedings be taken before it as it might be advised to be necessary or desirable.

(l) Thereafter, on June 27, 1938, this Honorable Court made an order dismissing petitioner's petition to review and set aside, referred to in paragraph (j) hereof.

(m) Thereafter, on July 2, 1938, petitioner filed with the Board a motion to dismiss the complaint and an objection to further proceedings by the Board. Thereafter, on July 8, 1938, the Board made an order denying said motion and overruling said objection.

(n) On July 8, 1938, the Board made an order that proposed findings of fact, proposed conclusions of law and a proposed order be issued and that the parties have the privilege of filing exceptions with the Board and briefs in support thereof and that a hearing be held before the Board for the purpose of oral argument upon any exceptions filed and upon the issues raised by the pleadings and evidence.

(o) Thereafter, on July 8, 1938, the Board issued proposed findings of fact, proposed conclusions of law and a proposed order.

(p) Thereafter, on July 22, 1938, Central Council of Steel Plants, Northern District, Republic Steel Corporation, filed with the Board a petition to intervene. Thereafter, on July 26, 1938, the Board made an order denying said petition.

(q) Thereafter, on August 6, 1938, petitioner filed with the Board exceptions and a brief in support thereof to said proposed findings of fact, said proposed conclusions of law and said proposed order.

(r) On August 6, 1938, petitioner filed with the Board a motion that the record be reopened for further proceedings and that it be permitted to introduce additional evidence or, in the alternative, that it be permitted to have incorporated in the record specified offers of proof.

(s) Thereafter, on August 9, 1938, the S. W. O. C. filed with the Board exceptions to said proposed findings of fact, said proposed conclusions of law and said proposed order.

(t) Thereafter, on August 11, 1938, a hearing was held before the Board in Washington, D. C., for the purpose of oral argument. Petitioner and the S. W. O. C. were represented by counsel, who argued the case before the Board. At said hearing, the S. W. O. C. filed with the Board a brief in support of its exceptions referred to in paragraph (v) hereof.

(u) Thereafter, on October 18, 1938, the Board, being sufficiently advised in the premises and having duly considered the matter and being of the opinion, upon the entire record of and all proceedings had in said matter, including all the testimony, evidence, and argument, that petitioner had engaged and was then engaging in certain unfair labor practices affecting commerce within the meaning of the Act, denied petitioner's motion to reopen the record and for leave to introduce additional evidence, granted petitioner's alternative motion that specified offers of proof be incorporated into the record, and duly stated its findings of fact and conclusions of law and entered the following order, directed to respondent, its officers, agents, successors, and assigns.

ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Republic Steel Corporation, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Dominating or interfering with the formation or administration of any labor organization of its employees or contributing financial or other support thereto;

(b) Discouraging membership in the Amalgamated Association of Iron, Steel and Tin Workers of North America or the Steel Workers Organizing

Committee or any other labor organization of its employees, by discharging and refusing to reinstate employees, or otherwise discriminating in regard to hire or tenure of employment or any term or condition of employment or by threats of such discrimination;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Withdraw all recognition from the Plan of Employee Representation, and its successors—the Employees' Representative Association and the Independent Association of Republic Employees at Massillon; the Plan of Employee Representation, and its successors—the Employees' Representative Association, and the Steel Workers Union of America—and the Plan of Representation of Employees at Canton; the Plan of Employee Representation, and its successors—the Employee Representation Plan, and the Independent Federation of Republic Employees at Youngstown; the Plan of Employee Representation, and its successor—the Employees' Independent Association at Warren; the Plan of Employee Representation, and its successor—the Employees' Representative Association at Cleveland; the Central Council of Employee Representatives; and each of them, as the representatives of any of its employees at its plants in the

Massillon, Canton, Youngstown, Warren, Niles, and Cleveland districts, respectively, for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work; and completely disestablish the foregoing labor organizations as such representatives;

(b) Offer to Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, and George Troyanovich (group A); John Lazar, Michael Krill, Balarė Chismus, William A. Haren, Charles Neverdusky, Anthony Martin de Long, Richard Green, and Hallie P. Hite (group B), in the manner provided in the section entitled "The remedy" above, immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority and other rights and privileges; and make them whole for any losses of pay they have suffered by reason of the respondent's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group A, from the date of their lay-off or discharge until the date when the strike began, and again from the date on which operations in their departments began after the reopening of the plants involved to the date of the offer of reinstatement as provided herein, and in the case of group B, from the date of the refusal to reinstate until the date of the offer of reinstatement as provided herein; less the amounts, if any, which each earned during said period, deducting, however, from the amount otherwise due to each of the said employees, monies received by said employees during said periods for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work relief projects;

(c) Make whole Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman, (Group C); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, and Fred Korecky (Group D) for any losses of pay they have suffered by reason of the respondent's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group C, from the date of their discharge to the date of their offer of reinstatement prior to the strike, and in the case of group D, from the date of their lay-off or discharge until the date of the strike; less the amounts, if any, which each earned during said period, deducting, however, from the amount otherwise due to each of the said employees, monies received by said employees during said periods for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work relief projects;

(d) Make whole the employees of the Canton tin plate mill who were employed on May 4, 1937, for any loss of pay they have suffered by reason of the closing of the Canton tin plate mill on May 5, 1937, by payment to each of them, respectively, of a sum equal to that which each of them would normally have earned as wages during the period from May 5 to May 24, 1937, less the amount, if any, which each has earned during said period;

(e) Make whole the employees of the Massillon Works, who were employed on May 19, 1937, for any loss of pay they have suffered by reason of the closing of the Massillon Works on May 20, 1937, by payment to each of them, respectively, of a sum which each of them would normally have earned as wages during the period from May 20 to May 23, 1937, less the amount, if any, which each has earned during said period;

(f) Upon application, offer to those employees at its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts, (including those referred to as groups C and D in paragraph 2 (c) above), who went on strike on May 25, 1937, and thereafter, (except Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, George A. Bundas, Andrew J. Marsh, Mike Spelich, Herman Herzog, Jesse Rentario (Runtario), Pete Vasleo, and Omar Williams), immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights or privileges, in the manner provided in the section entitled "The remedy" above; and place those employees for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in said manner, offer them employment as it becomes available;

(g) Make whole all the employees referred to in paragraph 2 (f) above for any losses they may suffer by reason of any refusal of reinstatement or placement upon the preferential list required by paragraph 2 (f) above by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during the period from five (5) days after the date of application to the date of offer of reinstatement or placement upon the preferential list, less the amount, if any, which each, respectively, earned during said period, deducting, however, from the amounts otherwise due to each of the said employees, monies received by said employees during said period for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, or municipal or other government or governments which supplied the funds for said work relief projects;

(h) Post immediately in conspicuous places in its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts, and maintain for a period of at least sixty (60) consecutive days, notices to its employees stating that the respondent will cease and desist in the manner aforesaid and that recognition is withdrawn from the labor organizations named in paragraph 2 (a) above as representatives of any of the employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, and that the foregoing labor organizations are completely disestablished as such representatives;

(i) Notify the National Labor Relations Board in writing what steps the respondent has taken to comply with the Order herein.

And it is further ordered that the allegations of the complaint with respect to the discharge and refusal to reinstate Harry Rigby be, and they hereby are, dismissed.

(v) Thereafter, on October 18, 1938, the decision and order herein was duly served upon respondent, and said decision and order is in full force and effect.

Wherefore, the Board prays this Honorable Court that it deny the petition to set aside the Board's order, and that it grant the request made herein for the enforcement of its order of October 18, 1938, set forth in paragraph (v) hereof and, pursuant to section 10(f) of the National Labor Relations Act, has certified and filed with this Court a transcript of the entire record in the proceedings before the Board, including the pleadings, testimony and evidence, findings of fact, conclusions of law, and order of the Board.

The Board prays this Honorable Court that it cause notice of the filing of this answer and request for enforcement and of the filing of the transcript to be served upon petitioner and that this Court take jurisdiction of the proceedings and of the questions determined therein and make and enter upon the pleadings, testimony and evidence and the proceedings set forth in the transcript and upon the order made thereupon a decree denying in whole the petition to set aside and enforcing in whole said order of the Board and requiring petitioner, its officers, agents, successors, and assigns to comply therewith.

J. WARREN MADDEN,
Chairman,
EDWIN S. SMITH,
Member,
DONALD WAKEFIELD SMITH,
Member,
National Labor Relations Board.

Dated at Washington, D. C., this 10th day of November 1938.

CHARLES FAHY,
General Counsel.

District of Columbia, ss:

J. Warren Madden, Edwin S. Smith and Donald Wakefield Smith, being first duly sworn, state that they constitute the National Labor Relations Board; that they have read the foregoing petition subscribed by them and have knowledge of the contents thereof; and they further on oath say that the statements made therein are true to the best of their knowledge and belief.

J. WARREN MADDEN,
Chairman,
EDWIN S. SMITH,
Member,
DONALD WAKEFIELD SMITH,
Member.

Subscribed and sworn to before me this 10th day of November 1938.

John E. Lawyer,
Notary Public, Dist. of Columbia.

My commission expires September 8, 1939.

(Seal)

XXXVI.

ANSWER AND REPLY OF REPUBLIC STEEL CORPORATION, PETITIONER, TO ANSWER OF RESPONDENT AND REQUEST OF RESPONDENT FOR ENFORCEMENT OF ORDER OF THE NATIONAL LABOR RELATIONS BOARD

(Filed in U. S. C. A. Dec. 2, 1938)

To the Honorable, the Judges of the United States Circuit Court of Appeals, for the Third Circuit:

The answer and reply of Republic Steel Corporation, petitioner, to the answer of respondent and the request of respondent for enforcement of the order of the National Labor Relations Board of October 18, 1938, respectfully shows and alleges:

1. Petitioner denies each and every allegation contained in paragraphs 1, 2, 3, 4, and 5 of said answer, except such averments thereof as admit the truth of the averments of the petition for review herein, or pray reference to the certified transcript of the record of the proceedings before the National Labor Relations Board herein and the files in this honorable Court, in case No. 6764, March Term, 1938, entitled "Republic Steel Corporation, Petitioner, vs. National Labor Relations Board, Respondent", and the official proceedings had in the Supreme Court of the United States in case No. 21, original, October Term, 1937, entitled "In the Matter of Petition of National Labor Relations Board for a Writ of Prohibition and a Writ of Mandamus."

2. Petitioner, by way of answer and reply to respondent's request of the enforcement of the order of the National Labor Relations Board of October 18, 1938, admits

the averments of paragraphs a, b, and c of respondent's request for enforcement.

3. Petitioner admits the averments of paragraphs d, e, f, g, h, i, and j of respondent's request for enforcement, except that petitioner avers: that it never was afforded, as to the charges made against it in the complaint herein, a hearing before the National Labor Relations Board in accordance with the law of the land and the usual and accepted rules of procedure and as guaranteed to it by the Fifth Amendment to the Constitution of the United States; that counsel for the Board has not filed any pleading herein conforming or seeking to conform the pleadings herein to the proof herein; that, on April 8, 1938, the Board issued its final decision and order herein, entitled "Decision and Order."

4. Petitioner admits that, on June 14, 1938, the Board made an alleged order purporting to vacate and set aside its decision and order of April 8, 1938, as is alleged in paragraph k of the respondent's request for enforcement, but petitioner avers that the Board was altogether without any jurisdiction, authority or power whatsoever to make said alleged order or to set aside its decision and order of April 8, 1938.

5. Petitioner admits the averments in paragraphs l and m of respondent's request for enforcement.

6. Petitioner admits that, on July 8, 1938, the Board purported to make an alleged order, as described in paragraph n, and, on the same day, purported to issue alleged proposed findings of fact, proposed conclusions of law, and a proposed order, as described in paragraph o of respondent's request for enforcement, but petitioner avers that the Board was altogether without any jurisdiction, authority or power to make said alleged order and/or to issue said proposed findings of fact, proposed conclusions of law and proposed order.

7. Petitioner, on information and belief, admits the averments of paragraph p of respondent's request for enforcement.

8. Petitioner admits that, on August 6, 1938, it filed with the Board its exceptions, and a brief in support thereof, to the Board's alleged proposed findings of fact, proposed conclusions of law, and proposed order, as described in paragraph q of respondent's request for enforcement; that, on the same day, petitioner filed with the Board a motion that the record be reopened for further proceedings etc., as described in paragraph r of respondent's request for enforcement; and petitioner avers that in filing said exceptions and motion before the Board, petitioner expressly preserved and asserted all of its objections and exceptions to the jurisdiction of the Board in the premises.

9. Petitioner, on information and belief, admits the averments of paragraph s of respondent's request for enforcement.

10. Petitioner admits that, on August 11, 1938, counsel for petitioner appeared before the Board and submitted an oral argument in support of its exceptions to the Board's alleged proposed findings of fact, proposed conclusions of law and proposed order of July 8, 1938; but the petitioner avers that such appearance and argument of counsel before the Board did not constitute the affording of a hearing by the Board to petitioner in accordance with the law of the land and the usual and accepted rules of procedure and as guaranteed to it by the Fifth Amendment to the Constitution of the United States; petitioner, upon information and belief, admits that the S. W. O. C. filed with the Board a brief in support of its exceptions to the proposed findings of fact, proposed conclusions of law and proposed order of the Board of July 8, 1938.

11. Petitioner admits that, on October 18, 1938, the

Board denied petitioner's motion to reopen the record and for leave to introduce additional evidence, granted petitioner's alternative motion that specified offers of proof be incorporated into the record, purported to state alleged findings of fact and alleged conclusions of law, and purported to enter an alleged order, substantially as set forth in paragraph u of respondent's request for enforcement; petitioner avers that the Board was altogether without any jurisdiction, authority or power whatsoever to make and enter said alleged findings of fact, conclusions of law and order; petitioner, for want of information, denies that such alleged findings, conclusions and order were made and entered by the Board herein only after due consideration of the matter by the Board and upon the entire record before it, including all of the testimony, evidence and argument therein contained.

12. Petitioner admits that, on or about October 18, 1938, the alleged decision and order of the Board was served upon petitioner, but denies that said decision and order is, ever was, or ever could be in full force and effect or of any validity whatever in law.

13. Petitioner, by way of further answer and reply to the respondents answer and request for enforcement, avers that said order so sought to be enforced by the Board, for each and all of the reasons set forth in the petition for review herein (Par. 7, subdivisions 1-63, inc.) is altogether invalid, void, and of no legal effect whatsoever; and the petitioner adopts in this regard, each and all of the averments of said paragraph 7, subdivisions 1-63, inc., with the same force and effect as if set forth in full herein.

Wherefore, petitioner, having made answer and reply to respondent's answer and request for enforcement, prays this Honorable Court to dismiss and hold for naught the request of the National Labor Relations Board herein for the enforcement of the alleged order of the National Labor Relations Board; to set aside, vacate and annul said alleged order of the National Labor Relations Board, and to dismiss the complaint herein against this petitioner, as is prayed for in its petition for review herein.

Republic Steel Corporation,
Petitioner,
By W. W. Hancock,
Secretary.

Day, Young, Veach & LeFever
By Luther Day
Thomas F. Patton
Mortimer S. Gordon
Rawle & Henderson
By Joseph W. Henderson,
Attorneys for Republic Steel Corporation, Petitioner.

State of Ohio,
Cuyahoga County, *ss:*

W. W. Hancock, being first duly sworn, deposes and says that he is Secretary of Republic Steel Corporation, petitioner herein; that he has read the foregoing answer and reply of petitioner; that the statements therein are true as he verily believes.

W. W. Hancock.

Sworn to before me and subscribed in my presence this 28th day of November, 1938.

Wm. B. Belden,
Notary, Public, Cuyahoga County, Ohio.

My Commission Expires Jan. 3, 1939.

(Seal)

XXXVII.

ORDER ALLOWING EMPLOYEES OF UPSON DIVISION OF REPUBLIC STEEL CORPORATION TO INTERVENE

(Filed in U. S. C. C. A. Dec. 17, 1938)

This cause came on to be heard this 12th day of December, 1938 upon the motion of the one hundred fifty (150) employees of the Upson Division of the Republic Steel Corporation for leave to become intervening parties herein and for interlocutory relief, the petitioner, the Republic Steel Corporation and the respondent, the National Labor Relations Board, being in Court, and upon due consideration thereof the said motion is granted so far as to permit the petitioners to become intervening parties herein, and they are hereby given leave to file their petition herein.

And the said motion is continued for hearing as to the matter of interlocutory relief.

J. Warren Davis,
Judge.

John Biggs, Jr.,
Judge.

Joseph Buffington,
Judge.

Joseph W. Henderson,
Atty. for Petitioner.

Approved:

Horan and Bell
By R. S. Horan,
Attys. for said employees of Upson Division, Republic Steel Corp.
Robert B. Watts,
Atty. for respondent

XXXVIII.

ORDER ALLOWING STEEL WORKERS ORGANIZING COMMITTEE TO INTERVENE

(Filed in U. S. C. C. A. Dec. 13, 1938)

And now, this 13th day of December, 1938, upon consideration of the Petition of the Steel Workers Organizing Committee for Leave to Intervene as a party respondent in the above entitled cause, it is hereby ordered that the said petitioner be and it is hereby allowed to intervene in the above entitled cause, as prayed for.

By the Court,
J. Warren Davis, *J.*

XXXIX.

ORDER ALLOWING CENTRAL COUNCIL OF STEEL PLANTS, NORTHERN DISTRICT, REPUBLIC STEEL CORP. TO INTERVENE

(Filed in U. S. C. C. A. Dec. 23, 1938)

Upon consideration of the petition of the Central Council of Steel Plants, Northern District, Republic Steel Corporation, for leave to intervene as a party petitioner in the above entitled cause,

It is hereby ordered that the said petitioner be, and it hereby is allowed to intervene in the above entitled cause, as prayed for.

J. Warren Davis
John Biggs, Jr.,

Circuit Judges.

Philadelphia,
December 23, 1938.

XL.

EXHIBITS

BOARD'S EXHIBITS

BOARD'S EXHIBIT NO. 1

ORDER EXTENDING TIME TO ANSWER

An application having been made by the Republic Steel Corporation, respondent herein, for an extension of time to file an answer or motion to the complaint heretofore issued herein, and the Board having considered the matter and being advised in the premises,

It is ordered that the time of the Republic Steel Corporation to file an answer or motion to the complaint herein be and it is hereby extended to and including August 4, 1937.

By direction of the Board:

Benedict Wolf,
(Seal) Secretary.

BOARD'S EXHIBIT NO. 1c

COMPLAINT AND NOTICE OF HEARING

(Printed on pages 13-25, inclusive.)

BOARD'S EXHIBIT NO. 1d

SUPPLEMENTARY CHARGE—YOUNGSTOWN

(Printed on pages 7-9, inclusive.)

BOARD'S EXHIBIT NO. 1e

SUPPLEMENTARY CHARGE—WARREN

(Printed on pages 10-12, inclusive.)

BOARD'S EXHIBIT NO. 1f

UNITED STATES OF AMERICA
Before the National Labor Relations Board
At a regular meeting of the National Labor Relations Board held at its office in the City of Washington, D. C., on the 18th day of June, 1937

Present:
J. Warren Madden, Chairman
Donald Wakefield Smith
Edwin S. Smith

In the Matter of
Republic Steel Corporation
and
Steel Workers Organizing Committee

Case No. C-184

ORDER PERMITTING FILING OF CHARGE WITH BOARD

(Docketed June 21, 1937)

A charge having been transmitted to the National Labor

Relations Board, at Washington, D. C., by Steel Workers Organizing Committee, charging that the Republic Steel Corporation has engaged in and is engaging in unfair labor practices affecting commerce within the meaning of the National Labor Relations Act, approved July 5, 1935, and the said Steel Workers Organizing Committee having requested on June 18, 1937 that the National Labor Relations Board permit such charges to be filed with it in Washington, D. C., pursuant to its Rules and Regulations—Series 1, as amended, Article II, Section 37,

And the Board deeming it necessary in order to effectuate the purposes of the said Act, to permit said charge to be filed with it in Washington, D. C., permission to file said charge with the National Labor Relations Board in Washington, D. C., at its offices at 1010 Vermont Avenue in the said City, is hereby granted.

By direction of the Board:

Benedict Wolf,
(Seal) Secretary

BOARD'S EXHIBIT NO. 1g

ORIGINAL CHARGE

(Printed on pages 1-6, inclusive.)

BOARD'S EXHIBIT NO. 1h

ANSWER OF RESPONDENT, REPUBLIC STEEL CORPORATION

(Printed on pages 26-36, inclusive.)

BOARD'S EXHIBIT NO. 2

PETITION

To the Honorable Henry W. Krier, Mayor of Massillon;
To Stanley W. Switter, Chief of Police of Massillon, and
To Joseph T. Nist, Sheriff of Stark County:

The undersigned representatives and citizens of Massillon hereby respectfully demand the immediate establishment of law and order in this city and in the strike area. We do not seek to break the existing labor strike, nor do we seek to force any employer to sign a labor contract. We demand that law and order be restored in Massillon, regardless of the labor controversy. We demand that the life and property of citizens, employees and employers alike, be protected by established constituted authority. We demand that safety in Massillon be preserved to all parties, directly or indirectly concerned.

However worthy or unworthy the objective, we demand that such objective be accomplished within peaceful means. The first weakness in law enforcement leads rapidly to serious violence in which property, life, and the well-being of the city suffer serious consequences.

Without specific indictment as to the responsibility therefor, private property in Massillon is no longer inviolate, destruction of private property has taken place with impunity, acts of vandalism have already occurred, telephone cables have been cut, explosives have been transported about the city, and dynamiting has been resorted to, the right of peaceful assembly and petition has been denied, men armed with clubs have forcefully restrained entrance of workers and others to plants, delivery of mail has been interrupted, affrays have occurred upon the streets, citizens have been searched and other citizens have been dragged from their homes and beaten, and the general safety of this city is in peril. A condition of riot, disorder, and bloodshed is encouraged by any failure to maintain law and order, and this condition is daily threatening to extend a reign of terror over the city which might disorganize and destroy the corporate government itself. The inalienable right to life, liberty, and the pursuit of happiness has been infringed.

Under the provisions of Section 4250 of the General Code of Ohio, the mayor is constituted the chief conservator of the peace of the city. Under Section 4373 of the General Code of Ohio, the mayor is authorized to employ sufficient additional patrolmen during the period of the emergency. The Supreme Court of Ohio, in Youngstown v. Bank, 106 o. s. 563, stated that during such emergency the provisions of the Burns Act, (now G. C. 5626-33) requiring certification of funds, etc., does not apply but the mayor is permitted to borrow the money to pay such patrolmen, and further held the payment of 62½ cents per hour reasonable compensation therefor.

The admissions of the Mayor and Police Chief of their inability to cope with the present situation creates such emergency. As stated by the court in 106 o. s. 563, "like a storm in the night season" this condition "broke swiftly and suddenly upon the city unprepared to meet the situation; a real emergency had arisen which called for all available resources of the city to control it."

A committee representing the interests of law and order in Massillon has received the assurance of the Mayor and the Chief of Police of Massillon of their willingness to maintain law and order in this city. This committee offered to guarantee to such officials the necessary finances and man-power for the establishment of law and order and the preservation of peace.

Recent statements and announcements from the officials charged by law with the duty of preserving peace within the city are indicative of an intention to continue to disregard the present emergency. The fact that the strike area is located partly within the city limits and partly without, does not afford any excuse for the shifting of responsibility between the city and county officials charged with the duty of law enforcement. Section 2833 of the General Code of Ohio makes the sheriff the chief law enforcement officer in the county, including all municipalities. The Supreme Court of Ohio In Re: Sulzmann, Sheriff, 125 o. s. 594 has affirmed this observation:

> "In municipalities the sheriff and the mayor stand on an equality as law enforcement officers so far as State laws are concerned, and neither is permitted to cast on the other the burden of action. Failure or refusal of the mayor to act does not excuse the sheriff."
> —29 O. N. P. N. S. 92.

It is the duty not only of the mayor, but also of the sheriff of the county, to maintain the peace within the municipality, and to prevent riots and unlawful assemblies therein. (Niles-Bement-Bond Co. v. Iron Moulders' Union, 246 Fed. 851).

Section 2830 of the General Code of Ohio expressly authorizes the sheriff to appoint all necessary deputies to meet this emergency.

G. C. 12811 requires the sheriff to disperse unlawful assemblies and to call to his aid for such purpose the citizens, and G. C. 6280 makes the county civilly liable in damages from mob assaults. (11 Ohio Appeals 111).

We demand such cooperation between the city and county officials as is necessary to establish law and order in this strike area as the most effective means of discharging their respective duties.

To the end that the inalienable rights of men, women, and children of Massillon be safe and secure, and that Massillon be established as a safe place in which to live, work or operate, demand is hereby made that complete law and order be restored in this city forthwith, not only by assurances, but by such action as the Constitution and the Statutes enjoin.

We believe that every American citizen, either laborer or capitalist, will subscribe to these principles.

Massillon Welfare Federation, By J. H. Klinge, Treas.
Pearl J. Harrison, Pres. Massillon Woman's Club
Helen Snyder
Fannie R. Portz
Hilda Silk, Secretary
Mildred Gregory
Ruth Brown, Treasurer.

The Board of Trustees of the Y. W. C. A.
Harriet C. Holston
Gertrude Bell
Alyce M. Lahr
Vera L. Sturgin
Lota A. Evans
Gretchen Stults
Mrs. E. G. Bowers
Mrs. George Textor
Mrs. Hattie B. Williams
Vera M. Sipp
Bertha M. Martin, General Secretary
Clara A. Stover

Harriet Davis
Rella Herman, Business Sect'y
Fern Fergus, Cafeteria Director.

Signed, The Massillon Kiwanis Club,
By G. K. Fishpaw, Pres.
James B. Hall, V. Pres.
Manly Clark, Sec.

Approved by the following Board of Directors,
R. J. Evans
H. G. Shutts
C. R. Roby
J. A. Shaidnagle
C. J. Duncan
Howard J. Smith

H. L. McLain
L. F. Milligan
F. B. Milligan
Miss Lena Frederick
Charlotte Willenborg
Lee Willenborg
H. H. Albrecht

The Board of Lady Managers of the Massillon City Hospital,
Corinne B. Pocock, President
Estaiene M. DePeltquestangue, Secretary
Mary E. Snyder (Mrs. F. H.)
Daisy L. Gossett (Mrs. J. S.)
Effie A. Ross
Bessie B. McLain
Anna Clark (Mrs. C. H.)
Catherine M. Sonnhalter
Florence D. Crawford
Mrs. E. R. Albrecht

Mrs. L. V. Beamer
Mrs. C. H. Meek

Geo. N. Wenger
Paul A. Paulson
Jeannette C. Miller
H. W. Bell
R. J. Pumphrey
M. E. Scott
R. H. Clunk
J. D. Holston
L. B. Zintsmaster
J. J. South
J. S. Williams
D. D. Shontz
J. A. Carnes
R. Winter Frankmann, M. D.
C. E. Smith
C. H. Meek
L. V. Beamer
A. W. Tschan
A. W. Inman
G. K. Fishpaw

Notation added by American Legion.

A motion was duly made and seconded that we enter into this petition believing that it sets forth the duties of our law enforcement officers, asking that they carry out their duties, and because this petition does not take issue with the questions involved between employers and employees.

The Executive Committee of Massillon Post
No. 221, The American Legion,
By T. W. Brown, Chairman.

Board of Directors of Massillon Rotary Club,
A. A. Ulrich, Pres.

G. D. Lanham
Clarence P. Spuhler
B. J. Kreigh
C. E. Boyd
G. B. Sheers
W. R. Sparks
Ira Robinson
A. W. Inman
J. O. Reigle
H. P. Croxton
Frank E. Hess
E. P. Thomas
L. V. Beamer
C. Hershey Meek
C. J. Good
J. G. Lester
H. S. Zepp
W. O. Rider
L. P. Kemp
C. S. Palmer
J. E. Klinge
O. W. Show
R. R. Reynolds
C. D. Rian
Seth Hattery
H. S. Myers
J. V. Stewart
R. J. Ballinger
Edw. Meadow
W. B. Malloy
Dr. C. E. James
Julius H. Pinhard
E. S. Craig
R. W. Croyle
J. R. Dowling
S. S. P. Barnes.

W. A. Barton, Pres. Mass. Auto Club

Clarence P. Spuhler, V. Chairman Retail Trade Division, Mass. Chamber of Commerce,
P. E. Quigley, Retail Sec.

A. W. Tschan, Pres. Mass. Gro. & Meat Dealers Asso.

The Massillon Chamber of Commerce
P. J. Bordner, Pres.
D. W. Case, Sec.
J. G. Lester

Salvation Army Board Members
J. G. Lester, Chairman of Board
Major L. M. Pervier
Mrs. Major L. M. Pervier
Arthar G. Hyde
Homer M. Johns
Mrs. E. A. Griffiths
Elizabeth Allman Simonetta
W. A. Barton
W. L. Kerstetter
C. M. Shafer
Jacob Von Gunten
D. W. Case
Ernest E. Bates
W. H. Crawford
Walter T. Sorg
E. W. Pierce
F. A. Ceckler
F. J. Smith
J. M. McConnell
T. W. Brown
E. E. Bailey
Chas. E. Wagoner

D. D. Gensemer
W. E. Snyder
Oscar W. Bammerlin
Thomas Burd
S. Robert Weirich

The Massillon City Hospital
J. G. Lester, President
R. P. L. McLain, Secretary
J. B. Burton, Superintendent

The Young Men's Christian Ass'n of Massillon, O.
Per C. O. Finefrock, Pres.
J. W. Goodnough, General Secretary
Trustees: P. J. Bordner
L. V. Beamer
L. P. Kemp
John R. Tracey
A. L. Shattuck
D. D. Gensemer
James E. Willison
A. A. Hammersmith
C. W. Portmann
H. L. McLain
Alvin D. Wampler

The Y's Mens Club of Massillon
By a unanimous vote of the Board of Directors.

The First Savings & Loan Co.
Per Chas. G. King, Pres.
Per Arthur T. Ellis, Secy.

The Massillon Ministers Ass'n
E. E. Engle, President
J. W. Goodnough, Secretary

C. B. Hess
Bertha M. Martin
J. E. Comer
M. J. Alpers
C. A. Miller
A. D. Laman

Massillon Area Council, Boy Scouts of America, Executive Committee
By T. W. Brown as Pres.
W. E. Snyder, Vice Pres.
Ira Robinson, Secy.
L. B. Smith
H. P. Croxton
L. V. Beamer
H. S. Zepp
C. H. Whitman
C. R. Hoggem
G. D. Underwood
P. A. Paulson
Fred W. Gates
Lionel F. Ashbolt
Paul E. Gilmer

First National Bank in Massillon
By Grant D. Esterling, Exec. Vice-Pres. and Cashier
By P. L. Hunt, Vice President

The City Loan
Homer H. Walsh, Mgr.

Inland Loan Company
R. J. Pumphrey, Secretary

The State Bank Co.
By H. J. Ledegar, Secretary

The Ohio Merchants Trust Co.
By the Executive Committee

The Y's Men's Club of Massillon
By a unanimous vote of the Board of Directors

The First Sav. & Loan Co.
Chas. E. King, Pres.
Arthur T. Ellis, Secy.

The Peoples Bldg. & Loan Co.
C. O. Finefrock
D. D. Gensemer
B. E. Payne
H. A. Yepsen
R. M. Erlanger
C. J. Duncan
J. E. Akin
J. L. Fromholtz
B. A. Landon
E. O'Brien
H. H. Ream
Fred Blatz
W. L. Pietzcker
Walter T. Sorg
Massillon Urban League

BOARD'S EXHIBIT NO. 3

No. 8890, William M. Thomas, 936 Amherst rd. N. E., Massillon, 3093.
No. 8811, Richard Lerch, Canal Fulton, 2181.
No. 9014, Ray Dailey, Navarre.
No. 8801, Walter F. Dretke, 2805 Lincoln Way East, Massillon, 4910.
No. 8903, F. Aeschbacker, R. D. No. 2, Hartville.

No. 8854, Edwin G. Corbett, 1121 Tremont S. W., Massillon, 6010.

No. 8930, Homer Lawrence, 445 Oak, Massillon, 7437.

No. 8852, William Lafferty, 927 Camden Ave. S. W., Canton, 28974.

No. 8977, F. S. Bearkheimer, 163 Claramont N. W., Canton, 28245.

No. 8803, S. A. Butterfield, 1540 Walnut S. W., Massillon, 6614.

No. 8917, N. J. Snyder, 717 6th. S. W., Massillon, 3623.

No. 5960, Forest. D. Seese, 17th. S. W., Massillon.

No. 8878, Robert C. Snyder, 1026 Bennington N. E., Massillon, 6410.

No. 9017, John H. Staugh, R. D. No. 1, Massillon, 9493.

No. 8984, William McAllister, 826 12th. S. W., Massillon, 3388.

No. 8716, George McCloud, Canal Fulton, 2644.

No. 5950, John J. Kelleher, 745 Erie N., Massillon, 5361.

No. 9007N, Nelson Henderson, 743 Sunset Pl. S. E., Massillon, 3728.

No. 8900, Clyde H. Havens, 317 1st. N. E., Massillon.

No. 5975, Jesse Hollinger, R. D. No. 3, Massillon, 9191.

No. 5977, Herbert Floyd, 811 Lincoln E., Massillon, 3072.

No. 2095, H. P. Conklin, Navarre, Navarre 2021.

John Holben, 7524, 215 Commonwealth Ave., Phone 5181 & 7139.

Virgil Hornberger, 7843, RFD No. 1, Massillon.

Ernest Smith, 8191, 819 14th St. S. W.

Gottlieb Dommer, 7231, 969 Lincoln Way W.

Dale Krieger, 7581, 216 15th St. N. W., Phone 7884.

Rus. Shanabrook, 9193, 721 9th St. S. W.

John Montgomery, 7336, 223 Maple Ave. S. E., Phone 7746.

D. L. Kettler, 8320, 731 23rd St. N. W.

Wm. Wyles, 7943, RFD No. 2, Canton, Phone 99349 Canton.

Arthur Kemp, 7834, 723 Erie St. N., Phone 3277.

Roger McGinnis, 8217, 815 Irvington, Phone 4667.
Joe Mertes, 7317, E. Greenville.
Spencer Brockway, 8223, 13 State Ave., N. W.
Herbert Hose, 6702, 808 State Ave. N. E.

(Handwritten Notation):

July 13, 1937.

On Tuesday P. M., July 6th, Supt. Ralph E. Peppard, 1219 11th St., N. E. Mass. and Perry Angstadt, 403 18th St., N. E. Mass., brought in this list of names and s'd that if the Chf Pol. wanted them he c'd have them as long as he wanted them.

L. Hunt.

BOARD'S EXHIBIT NO. 4

Hawk, DeWitt S., 2313½ Main Ave. West.
Hollwager, Woodrow, Phone 5634, 137 24th St., S. E.
Patterson, Doyle S., Phone 5330 Call, 759½ Erie St. South.
Martin, Frank, Phone 3041, 447 17th St., N. W.
McAllister, Wm. H., Phone 3388, 826 12th St., S. W.
Widing, John O., RFD No. 2, Massillon.
Kelleker, John J., Phone 5361, 745 Erie St., North.
Wehrle, H. E., 715 Yale Ave., N. E.
Long, Clifton I., 1004 Main Ave., West.
Snyder, Robert M., Phone 5737, 1026 Bennington Ave., N. E.
Aeschbacher, Fred, Phone 5737, 1026 Bennington Ave., N. E.
Fultz, Frank, Phone 3636, No. 25 Avon Apts., 2nd & Oak, S. E.
Dretke, Walter E., Phone 4910, 2805 Lincolnway, East.
Lawrence, Homer, Phone 7437, 445 Oak Ave. S. E.

Renshaw, Frank, 309 Lincolnway West.
Smith, Ernest, Phone 803, 14th St. S. W.
Holben, J. T. Jr., Phone 7139, 215 Commonwealth Ave. N. E.
Ketler, D. L., 731 32nd St. N. W.
Hose, H. J., Phone 3934, 808 State Ave. N. E.
Hornberger, Virgil, Phone 9297, 816 17th St., S. W.
Dommer, Gottleib E., 969 Lincolnway N. W.
Perdew, Charles, Phone 6757, 526 6th St. S. W.
Roehlig, T. W., Phone 6535, 104 9th St. N. E.
Hemperly, E. V., Phone 6219, 1008 8th St. N. E.
Holt, Walter, Phone 7381, Rear 711 11th St N. E.
Kreiger Dale, Phone 7884, 216 15th N. W.
Henderson, Wm. F., Phone 4714, 62 2nd St. S. E.
Hodge, Tom, Phone 7139, 215 Commonwealth Ave. N. E.
Reed, Morehead, Phone 7003, 102 Woodland Ave.
Switter, Stanley, Phone 6461, 313 1st. St. N. E.
Brady, Daniel, Phone 5082, 830 8th St. N. E.
Smith, Robert E., Phone 3878, 1105 Wellman Ave. S. E
Getz, Harry, Phone 5997, 315 Rose Ave. S. E.
Kromer, Anthony, Phone 8757, 504 Chestnut Ave. N. E.
Fellabom, William, 518 Lincolnway West.
Moore, Wilbur, Phone 6829, 2615 Lincolnway East.
Swertfeger, Charles, Phone 6957, 426 Cherry Rd. N. W.
Fritz, David, Phone 8131, 831 Lantzer Ct. N. E.
Woods, Frank, 920 6th St. S. W.
Mantsch, George, Phone 4450, 1517 Almond Pl. S. E.
Smith, Royal E., 3242 Lincolnway N. W.
Ickes, Ora., Phone 7493, 1009 Rotch Ave. N. E.
Johnson, Russell, 4843, 425 9th St. N. E.
Slinger, Joseph, Rear 1223 Main Ave. West.
Pettit, John T., Phone 7024, 313 1st. St. N. E.
Kelley, Leo, Phone 3229, 219 Rose Ave. S. E.
Brown, Carl, 327th St. S. W.
Kraft, Austin, Phone 5523, 2835 Lincolnway N. W.
Packer, Lee J., Phone 4331, 235 14th St. S. W.

Slinger, James, 948 Tremont Ave. S. W.
Cordes, Lee F., Phone 4818, 854 Campbell Circle N. E.
Marks, Paul, Phone 4763, 810 South Ave. S. E.
Davenport, C. A., Phone 3324, 826 Mathias St., N. E.
Hise, Robert T., Phone 6454, 217 Chestnut St. N. E.
Jacobs, Harold A., Phone 5274, 29 Houston St. S. W.
Stenger, John F., Phone 3159, 131 Tremont S. E. YMCA
Buttermore, Stanley E., Phone 6730, 1621 Byron Ave. S. W.
Schnierle, Maurice, Phone 6871, 707 Euclid Ave. S. W.
Fox, Adrian E., Phone 8244, 428 1st St. S. E.
Schimki, Louis, Phone 3159, 131 Tremont S. E. YMCA
Longworth, LaVerne, 720 Amherst Rd. N. E.
Kurtz, Wm. E., Phone 9402, Navarre, Ohio.
Blanchard, C. R., Phone 4576, 1418 Main Ave. West.
Brogden, James, 1016 Main Ave. West.
Molinski, Ed, 405 Cherry Rd. N. W.
Simon, Carl, 817 Erie St. South.

BOARD'S EXHIBIT NO. 5A

Hon. Henry W. Krier:
Mayor of of Massillon—

Many hundreds of us want to go to work. Several thousand more of us citizens and voters want them to go to work; we are prevented from working due to you, as Mayor, not protecting us from the lawless striking element; you, by not doing your duty, are responsible for thousands of children and mothers going hungry. If you do not do your duty this term we shall see to it that you are not re-elected.

Name: Ardart Yeipler
Address: 611 Bebb Ave., S. W.

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Board's Exhibit No. 8

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BOARD'S EXHIBIT NO. 9

APPLICATION FOR A PUBLIC OFFICIAL'S BOND OF $5,000 OR LESS

(For officials handling no money except petty cash)

To

THE FIDELITY AND CASUALTY COMPANY OF NEW YORK

The Pioneer Bonding Company of the United States

Bonding Department: Hale Anderson, Vice-President, in charge

80 Maiden Lane, New York City

(If Bond Applied for is in excess of $5,000—Complete Form 658)

Name of Applicant: .... Age: ....
Address of Applicant: ....
Exact official title: ....
Amount of bond required: $ ...... Date bond effective: ....
Obligee (to whom bond runs): ....
Were you elected or appointed? ....
When does term begin? ...... When does term end? ....
Are you succeeding yourself in this office? ....
If so, who furnished your bond? ....
Why is a change made? ....
State generally the duties of the office: ....
Have you authority to draw out or to check against deposits? ....
If you have, is any countersignature required? ....
If funds are paid out upon the order of other officials, do their orders or warrants accompany or form a part of your checks or drafts upon the depository? ....

To whom and how often do you report receipts and disbursements? ....

By whom are your accounts examined and at what intervals? ....

Shall you employ deputies? ...... If so, how many? ......

Shall you require them to give bonds with corporate surety? ....

Shall you be engaged in any other business or employment during your term of office? ....

If so, state the business or employment and your probable income therefrom: ....

State conservative valuation of your real estate: ....

State amount of mortgages or other liens: ....

State conservative valuation of personal property and nature thereof: ....

References

Give as references the names and post-office addresses in full of at least four persons well acquainted with you during the past ten or more years and not related to you. Please do not refer to any officer or fellow-employee in the service in which you are engaged.

Name (Please Print)	Profession or Business	Postal Address in full (Street and No. in cities)
Mr.		
Mr.		
Mr.		
Mr.		

The undersigned warrants the answers and information given herein to be true, and in consideration of The Fidelity and Casualty Company of New York agreeing to execute the bond herein applied for do hereby agree as follows: To pay in advance the premium, to wit $....... upon the execution of the bond and annually thereafter. To indemnify

and keep indemnified the Company and hold and save it harmless from and against any and all loss, costs, charges, suits, damages, counsel fees and expenses of whatever kind or nature which the Company shall or may for any cause, at any time sustain or incur, or be put to, for or by reason or in consequence of the Company having entered into or executed said bond, or any renewal or modification thereof.
Dated and signed at (Town and State) ...., this .... day of .... 19...

....
(Signature in full of the Applicant)

In the presence of

....
Witness

BOARD'S EXHIBIT NO. 10

Know All Men by These Presents:

That .... as principal, and .... as sureties are held

and firmly bound unto the (1) City of Canton, in Stark County, Ohio, in the penal sum of .... Dollars to the payment of which well and truly to be made said principal does bind himself, his heirs, executors and administrators, and said sureties do bind themselves, their heirs, executors, administrators, and successors, firmly by these presents as witnessed by the execution and sealing hereof by said principal and sureties this .... day of ...., A. D. 193...

The Condition of this Obligation is such that whereas the said principal was, on the .... day of .... A. D. 19 .., duly (2) .... to the office of (3) .... of the City, of Canton, Ohio, ... for the term of ....

Now if the said principal shall faithfully perform his duties as such officer as re- required by law during the term for which he has been (2) .... as aforesaid, then this obligation shall be void, otherwise to remain in full force and virtue in law.

(1) Insert name of municipality to which bond is to run. .... (Seal)

(2) Insert "appointed" or "elected." .... (Seal)

(3) Insert name of office to which principal is elected. .... (Seal)

(4) Insert "election" or "appointment." .... (Seal)

State of Ohio,
Stark County, ss:

.... being duly sworn says that he will support the Constitution of the United States, and of the State of Ohio, and that he will faithfully, honestly and impartially perform and discharge the duties of the office to which he has been (2) ...., while he shall hold said office.

....

Sworn to by .... before me, and by him subscribed in my presence this ...... day of ...., A. D. 193..

....

I have inspected the within bond and do hereby certify that the same is sufficient in form.

Dated at Canton, Ohio, this ...... day of ......, 193..

....
Solicitor of Municipality

The within bond is approved by me as to the amount and sureties thereof, this .... day of ...., 193..

....

Mayor

(Attached card:)

PRIVATE POLICE COMMISSION

This is to certify that I, Seccombe, Mayor of the City of Canton, Stark County, Ohio, do hereby appoint

....

a Private Police Officer under City Ordinance No. 4619. The aforesaid party while acting as such Private Officer shall be under the direction and control of the Chief of Police of the City of Canton, Ohio. Said commission may be revoked any time by the Mayor.

Witness my hand and corporate seal of the City of Canton, Ohio, this .... day of ...., 193

....

Mayor

1936-37

Appointment approved and bond for above has been filed

....

Director of Public Safety.

BOARD'S EXHIBIT NO. 11

July 6, 1937

Republic Steel Corp.,

Canton, O. (Attention, Mr. W. C. Gubbins) Smith

July 6, Fid. & Cas., Special Police Bonds
56 employees at Canton—$10. ea. $500. 1yr $560.00

27 employees Massillon—$10. ea. $1000. lyr . .	270.00
	$830.00

(See schedule attached)

BOARD'S EXHIBIT NO. 12

BOND

KNOW ALL MEN BY THESE PRESENTS, That we, , and are held and firmly bound unto the State of Ohio, for the use of the City of Massillon, in the sum of One Thousand Dollars ($1,000.00), for which we bind ourselves, our executors, administrators and heirs.

Signed this day of July, 1937, at Massillon, Ohio.

THE CONDITION OF THIS OBLIGATION IS SUCH, That whereas, , was on the day of July, 1937, appointed Special Police Officer in and for the City of Massillon, Ohio, to serve during the present emergency. Now if the said shall faithfully perform the duties of said office during his continuance therein, then this obligation shall be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, we hereunto subscribe our names this day of July, 1937.

Witnessed by: . . . .

. . . .

. . . .

This bond is approved by me as to form and legal sufficiency.

. . . .

City Solicitor.

The above bond and the sureties thereon are approved by me this day of July, A. D. 1937.

....

Mayor.

OATH

State of Ohio,
Stark County, ss:

I, , do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Ohio, and will faithfully, honestly and impartially discharge the duties of the office of Special Police Officer of the City of Massillon in the County of Stark and State of Ohio during my continuance in office.

....

Sworn to before me and subscribed in my presence this day of July, A. D. 1937.

....

BOARD'S EXHIBIT NO. 13A

Canton Employees

No. 1661146—Baughman, Sebastian V.
No. 1661147—Bowen, Paul A.
No. 1661148—Blystone, Jas. E.
No. 1661149—Brill, Carl
No. 1661150—Connolly, Dillen
No. 1661151—Cook, John
No. 1661152—Coulas, Gust
No. 1661153—Crewse, E. G.
No. 1661154—Daughenbaugh, Frank P.
No. 1661155—Dew, Joseph

No. 1661156—Dinkins, Roy R.
No. 1661157—Ellis, Merrill T.
No. 1661158—Everett, John C.
No. 1661159—Freeman Wallace
No. 1661160—Givens, Edward
No. 1661161—Gonsalves, John M.
No. 1661162—Good, Chas.
No. 1661163—Greenwald, Wm. C.
No. 1661164—Haines, Herman
No. 1661165—Horn, Russell
No. 1661166—Johnson, Ben
No. 1661167—Johnson, F. H.
No. 1661168—Kaiser, Herman F.
No. 1661169—Kieffer, E. J.
No. 1661170—Lantry, Burrell B.
No. 1661171—Lewis, A. N.
No. 1661172—Lyons, Thomas F.
No. 1661173—Martin, Frank L.
No. 1661174—Mast, Perle
No. 1661175—Master, David F.
No. 1661176—Matthews, Otis
No. 1661177—Maurer, Ralph A.
No. 1661178—McLaughlin, John M.
No. 1661179—Miller, John W.
No. 1661180—Mills, Bernard
No. 1661181—Moore, Clyde
No. 1661182—Mydock, Paul P.
No. 1661183—Nordick, O. J.
No. 1661184—Norris, George J.
No. 1661185—O'Dell, Jas. E.
No. 1661186—Peters, Frederick U.
No. 1661187—Ragon, Charles
No. 1661188—Richardson, Byron R.
No. 1661189—Rustefo, Calagero
No. 1661190—Seccombe, Ben

No. 1661191—Slaughter, Chester A.
No. 1661192—Starr, Thomas J.
No. 1661193—Stewart, J. G.
No. 1661194—Thewes, A. B.
No. 1661195—Ullom, F. Guy
No. 1661196—Weber, H. S.
No. 1661197—Williams, James
No. 1661198—Williams, Lawrence E.
No. 1661199—Wilson, Fred E.
No. 1661200—Yuhos, Joe
No. 1661001—Zorn, Frederick W.

Massillon Employees

No. 1661002—Aeschbacher, Fred
No. 1661003—Danner, Gottlieb
No. 1661004—Dretke, Walter
No. 1661005—Fults, Frank
No. 1661006—Hemperly, E. V.
No. 1661007—Henderson, Wm. F.
No. 1661008—Hodge, Thomas
No. 1661009—Holden, J. T. Jr.
No. 1661010—Holt, Walter
No. 1661011—Hornberger, Virgil
No. 1661012—Hose, H. J.
No. 1661013—Kelleher, John T.
No. 1661014—Ketler, D. L.
No. 1661015—Kreiger, Dale
No. 1661016—Lawrence, Homer
No. 1661017—Long, Clifton L.
No. 1661018—McAllister, Wm. H.
No. 1661019—McGinnis, Daniel
No. 1661020—Perdew, Chas.
No. 1661021—Renshaw, Frank
No. 1661022—Rechlig, T. W.
No. 1661023—Shine, Herbert R.

No. 1661024—Smith, Earnest
No. 1661025—Snyder, Robert C.
No. 1661026—Sutton, Albert W.
No. 1661027—Wehrle, H. E.
No. 1661028—Widing, John O.

BOARD'S EXHIBIT NO. 13B

Name Republic Steel Corp. Smith
Company Fid. & Cas.
Date July 6, 1937 Expires July 6, 1938
Amount 83 bonds Rate 10. Premium 830.
Policy No. Old Policy No.

Pol. covers Special Police Bonds—(Expire by own terms, 7-6-38) ($500. each City of Canton $1000. each City of Massillon) (Indemnity signed by Republic Steel, W. C. Gubbins)

Mtg.
Land Cont.

BOARD'S EXHIBIT NO. 14A

July 13, 1937

The Fidelity & Casualty Co.,
430 East Ohio Gas Bldg.,
Cleveland, Ohio.

Gentlemen:

In Re: The Republic Steel Corporation—

We are enclosing completed General Indemnity Agreement in accordance with your instructions. Mr. Gubbins advises us that if you insist upon the corporation seal appearing on this form that he will give us a letter to the Cleveland office which will authorize their putting it on for us. He did not have a seal in the Canton office.

Sincerely yours,
THE DUERR-SMITH-LANE COMPANY

TBS:MM
Encl.

BOARD'S EXHIBIT NO. 14B

(Form 567: General Indemnity Agreement.)

The Fidelity and Casualty Company of New York
The Pioneer Bonding Company of the United States
Bonding Department: Hale Anderson, Vice-President, in Charge
80 Maiden Lane, New York City

CONTRACT OF INDEMNITY

This Agreement made this day of , 19
by and between (Full name of Principal)
of
hereinafter called the PRINCIPAL; and (Full name of Indemnitor) of
hereinafter called the INDEMNITOR, and THE FIDELITY AND CASUALTY COMPANY OF NEW YORK, hereinafter called the Company, witnesseth:

Whereas, at the special instance and request of the Principal and the Indemnitor, and on the security of this agreement, the Company is or is to become surety for the Principal on certain proposal, supply, contract, court, license, and other bonds;

Now, therefore, in consideration of the premises and of the sum of one dollar in hand paid by the Company to the Principal and the Indemnitor, the receipt whereof is hereby acknowledged, the Principal and the indemnitor hereby agree and bind themselves, their heirs, executors, administrators, successors and assigns, as follows:

1. That the Principal and the Indemnitor will pay, or cause to be paid, to the Company, upon the execution of each of the said bonds, a premium computed on the basis of the prevailing manual rates at the time of the execution of the said bonds.

2. That the Principal and the Indemnitor will pay, or cause to be paid, premiums as aforesaid annually in advance on each of the said bonds until all liability thereunder shall have terminated, and until the Company shall have received from the Principal or the Indemnitor satisfactory evidence of such termination.

3. That the Principal and the Indemnitor shall and will at all times indemnify and keep indemnified the Company from and against any and all claims, demands, losses, damages, costs, charges, counsel fees, expenses, suits, orders, judgments, and adjudications whatsoever, that the Company shall or may for any cause at any time sustain or incur by reason of or in consequence of the said bonds or any renewal thereof or any new bond issued in continuation thereof or as a substitute therefor; and the Principal and the Indemnitor further covenant and agree to place the Company in possession of funds whenever necessary for the Company's protection against such claims, demands, losses, damages, costs, charges, counsel fees, expenses, suits, orders, judgments, and adjudications whatsoever, and to pay to the Company, before the Company shall be compelled to pay the same, all damages, losses, costs, charges, counsel fees, and expenses for which

the Company shall become liable by reason of or in consequence of the said bonds or any renewal thereof or any new bond issued in continuation thereof or as a substitute therefor.

4. That immediately upon the Principal or the Indemnitor becoming aware of any demand, notice, or proceeding preliminary to determining or fixing any liability with which the Company may be subsequently charged under the said bonds or any renewal thereof or any new bond issued in continuation thereof or as a substitute therefor, the Principal or the Indemnitor shall notify the Company thereof in writing.

5. That the Principal and the Indemnitor upon requesting the Company to prosecute, defend, or take part in any action, suit, proceeding, appeal, or writ of error, will place in the possession of the Company funds or securities sufficient to cover any costs, charges, and expenses that the Company may incur in complying with the said request, together with a sufficient amount of money or securities to cover the amount of any liability, order, adjustment, or adjudication that may result from a compliance with the said request.

6. That the Company at its option shall have and may exercise in the name of the Principal and the Indemnitor or otherwise every right, remedy, and demand that the Principal or the Indemnitor may have for the recovery of any sums paid by the Company under the said bonds or any renewal thereof or any new bond issued in continuation thereof or as a substitute therefor; and the Principal and the Indemnitor do hereby assign all the said rights, remedies, and demands to the Company with full power and authority to take such action in regard thereto in the name of the Principal or the Indem-

nitor or otherwise as the Principal or the Indemnitor might take if such assignment had not been made; and the Principal and the Indemnitor hereby appoint the Company the attorney of the Principal and the Indemnitor for such purposes.

Bond 567, 2M *
(33111544)

7. That the Company has become bound under the said bonds for the special benefit of the Principal and the Indemnitor and the special benefit and protection of the property of the Principal and the Indemnitor, their income and earnings. That the Indemnitor is substantially and beneficially interested in obtaining the said suretyship. That the Company looks to and relies upon and shall at all times have the right to look to and rely upon, recover from, and follow the property which the Principal and the Indemnitor now have and which they hereafter may have and the income and earnings thereof for any sum or sums due or to become due the Company under this agreement.

8. That the rights and remedies that the Company may be subrogated to or otherwise have, acquire, exercise, and enforce shall not in any way be limited or abridged by this agreement nor by the acceptance of any payment for the said suretyship nor by any agreement to accept other security nor by the acceptance of other security nor by the assent to any act of the Principal named in the said bonds nor by the assent to any act of any person acting in behalf of the said Principal or of the Indemnitor; nor shall this agreement impose on the Company any liability that it would not have had were this agreement not executed.

9. That the Company is authorized and empowered

to assent to any change, alteration, or extension in the terms or conditions of the said bonds, or any contracts referred to in the said bonds, or in the general conditions, plans, or specifications accompanying said contracts; and that assent may also be given by the Company to any change in the time for the completion of said contracts, to payments or advances thereunder before the same may be due, and that the Company may assent to or take any assignment or assignments thereof; all without notice to or knowledge of the Principal and the Indemnitor; it being expressly understood and agreed that the liability of the Principal and the Indemnitor shall not be discharged by reason of or on account of anything done by the Company in pursuance hereof, which shall have been requested or assented to by the Principal, and that this Agreement of Indemnity shall apply to any and all changes, alterations, extensions and assignments whatsoever.

10. That the Company is further authorized and empowered to advance or loan to the Principal any money which the Company may see fit to advance to the Principal for the purpose of any contracts referred to or guaranteed by such bonds; and all money expended in the completion of any such contracts by the Company, or loaned or advanced from time to time to the Principal for the purposes of any such contracts, and all costs, counsel fees and expenses incurred by the Company in relation thereto, unless repaid with legal interest by the Principal to the Company when due, shall be conclusively presumed to be a loss by the Company for which the Principal and the Indemnitor shall be responsible.

11. That upon notice to or discovery by the Company of the failure of the Principal to comply with the provisions of any contracts, the performance of which shall be

guaranteed by such bonds, the Company may immediately take possession of such plant and materials as the Principal may have upon, or adjacent to, or intended to be used for the work provided for therein, or to which the Principal may have a legal or equitable title, so that the Company may use the same in the prosecution of such contracts, and right of possession of such plant and materials shall not be considered as waived by any delay on the part of the Company in exercising said right.

12. That should the Principal be declared in default in connection with any contracts covered by such bonds the Company shall have the right to collect and receive all reserved percentages and all money due and to become due the Principal under any such contracts, and to hold and apply the same as collateral to this Agreement; and in case such reserved percentages and all other money collected as herein provided shall not be sufficient to meet all expenses, costs, charges, fees and obligations of every nature incurred in the completion of any such contracts by, under, or at the direction of the Company, then and in that event the Company shall have the right to sell, lease or otherwise dispose of at its discretion, such plant and materials as the Principal may have on or adjacent to the work undertaken by the Principal, and apply the proceeds therefrom arising to the further liquidation of any balance due the Company for any expenditures made as hereinbefore stated.

13. That if the Compnay procures the execution of such bonds by other companies, or executes such bonds with co-sureties, or reinsures any portion of such bonds with reinsuring companies, then all the terms and conditions of this Agreement shall apply and operate for the benefit of such other companies, co-sureties or reinsuring companies, as their interests may appear.

14. That the Principal and Indemnitor hereby waive, so far as their respective obligations under this Agreement of Indemnity are concerned, all right to any claim of property, including homesteads, as exempt from levy, execution, sale or other legal process under the laws of any State.

15. That the Principal and the Indemnitor hereby waive all notice of any default, or any other act or acts giving rise to any claim under such bonds, as well as notice of any and all liability of the Company under such bonds, to the end and effect that the Principal and the Indemnitor shall be and continue liable hereunder, notwithstanding any notice of any kind to which they might have been entitled, and notwithstanding any defense that they might have been entitled to make.

16. That in case any of the parties mentioned in this Agreement of Indemnity fail to execute the same, or in case the execution hereof by any of the parties be defective or invalid for any reason, such failure, defect, or invalidity shall not in any manner affect the validity of this Agreement of Indemnity, or the liability hereunder of any of the parties executing the same, but each and every party so executing shall be and remain fully bound and liable hereunder to the same extent as if such failure, defect, or invalidity had not existed.

IN WITNESS WHEREOF, the Principal and the Indemnitor have hereunto set their hands and affixed their seals the day and year first above written.

....
(Full name of Principal)
By.....................

....
(Full name of Indemnitor)
By.....................

Signed, sealed and delivered in the presence of

....

....

(If the signor be a partnership, the firm name is to be signed on the upper line and the individual name of the member signing on the lower line. If the signor be a corporation, the corporate name is to be signed on the upper line and the officer's name and title on the lower line. The corporate seal must be attached in the case of a corporation.)

FOR PRINCIPAL'S SIGNATURE

Individual Verification

State of ....,
County of ...., ss.:

On this day of , in the year 19 , before me personally comes to me known and known to me to be the person who is described in and who executed the foregoing instrument and acknowledges to me that he executed the same.

....

(Signature and title of official taking acknowledgment)

Partnership Verification

State of ....,
County of ...., ss.:

On this day of , in the year 19 , before me personally comes , a member of the co-partnership of , to me known and known to me to be the person who is described in and who executed the foregoing instrument, and acknowledges to me that he executed the same as and for the act and deed of the said co-partnership.

. . . .

(Signature and title of official taking acknowledgment)

Corporate Verification

State of . . . . ,
County of . . . . , ss.:

On this day of in the year 19 , before me personally comes to me known, who being by me duly sworn, deposes and says that he resides in the City of that he is the of the the corporation described in and which executed the foregoing instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

. . . .

(Signature and title of official taking acknowledgment)

FOR INDEMNITOR'S SIGNATURE

Individual Verification

State of . . . . ,
County of . . . . , ss.:

On this day of , in the year 19 , before me personally comes to me known and known to me to be the person who is described in and who executed the foregoing instrument and acknowledges to me that he executed the same.

. . . .

(Signature and title of official taking acknowledgment)

Partnership Verification

State of ....,
County of ...., ss.:

On this day of , in the year 19 , before me personally comes , a member of the co-partnership of to me known and known to me to be the person who is described in and who executed the foregoing instrument, and acknowledges to me that he executed the same as and for the act and deed of the said co-partnership.

....
(Signature and title of official taking acknowledgment)

Corporate Verification

State of ....,
County of ...., ss.:

On this day of , in the year 19 , before me personally comes
to me known, who, being by me duly sworn, deposes and says that he resides in the City of
that he is the of the
the corporation described in and which executed the foregoing instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

....
(Signature and title of official taking acknowledgment)

BOARD'S EXHIBIT NO. 16

To Whom It May Concern:

I hereby release the Sheriff of Stark County and his successors from any responsibility of my confinement in the Stark County Jail Sept. 23, 1936. Either myself and my heirs from any loss of any property and damage which may have occurred during my confinement.

Harold McCallister	Witness
Ted Koellner	Witness
George E. Nest	

BOARD'S EXHIBIT NO. 17

To Whom It May Concern:

I hereby release the Sheriff of Stark County and his successors from any responsibility of my confinement in the Stark County Jail Sept. 23, 1936. Either myself and my heirs from any loss of any property and damage which may have occurred during my confinement.

George E. Nest	Witness
Ted Koellner	Witness
Murice R. Long	

BOARD'S EXHIBIT NO. 18

Plan of
REPRESENTATION
of
EMPLOYEES

Canton Tin Plate Corporation
July 1933

PREAMBLE

Canton Tin Plate Corporation, at Canton, Ohio, has adopted this Plan of Employees' Representation in order to provide effective means of communication and contact between the men and the management, to insure just and fair dealings, to cultivate better understandings of the problems which affect common welfare, and to develop greater confidence and harmony in all industrial relations.

The word "Company" used hereinafter shall mean the Canton Tin Plate Corporation.

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Article I—Representation.
Article II—Terms of Representatives.
Article III—Qualifications of Representatives and Voters.
Article IV—Nominations and Elections.
Article V—Management's Representative.
Article VI—Committees.
Article VII—Committee Meetings.
Article VIII—Representatives' Conferences.
Article IX—Principles and Policies Governing Relations Between Employees and Management.
Article X—Procedure for Adjustments.
Article XI—Independence of Employees' Representatives.
Article XII—Amendments.
Article XIII—Cost of Administration.
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PLAN OF REPRESENTATION OF EMPLOYEES

CANTON TIN PLATE CORPORATION

I.

REPRESENTATION

1. Representation shall be selected with regard to departmental divisions except where peculiar conditions exist to make slight variations advisable.

3. Adjustments in units of representation may be made by the Joint General Committee.

II.

TERMS OR REPRESENTATIVES

1. Representatives shall be elected for a term of one complete calendar year and shall be eligible for re-election.

2. A representative may be recalled upon the approval by the General Committee of a petition signed by two-thirds of the voters of his department or unit.

3. A representative shall be considered to have vacated office upon the termination of his employment with the department or unit from which he was elected or upon his appointment to such a regular position as would bring him within the meaning of Paragraph 3 Article III, entitled "Qualifications of Representatives and Voters."

4. Vacancies in the office of representative, for which there is no alternate, may be filled, for the unexpired term, at the discretion of the Committee on Rules, by special elections conducted in the same manner as general elections.

III.

QUALIFICATIONS OF REPRESENTATIVES AND VOTERS

1. Any employee who has been on the Company's

pay rolls for at least one year immediately prior to nominations who is twenty-one (21) years of age or over and who is an American citizen shall be considered qualified for nomination and election as a representative.

2. All employees who have been on the Company's pay rolls for a period of at least sixty (60) days immediately prior to nominations shall be entitled to vote.

3. Company officials, salaried employees, foremen, and other persons who have the right to hire or discharge, shall not be eligible as representatives or qualified to vote for representatives.

IV.

NOMINATIONS AND ELECTIONS

1. Nominations and elections shall be held annually.

2. Nominations shall be held on the first Wednesday and elections on the third Tuesday in August of each year. In the event of either of these days being a holiday, the day immediately following shall be substituted.

3. The total number of representatives shall be chosen at each annual election.

4. The nominations and elections shall be conducted by the employees, themselves, in accordance with these rules and regulations.

5. Nominations and elections shall be by secret ballot and so conducted as to avoid undue influence or interference with voters in any manner whatsoever or any fraud in the casting or counting of ballots.

6. On the day of nominations, each duly qualified voter shall be furnished with a ballot, indicating the number of persons for whom he is entitled to vote, on which he shall write the names of the persons in his department or unit

whom he desires to nominate as representatives. If the department or unit has two or more persons of the same or similar name, the voter should further identify his choice by adding the check number of said person.

7. A voter may place in nomination twice the number of representatives to which his department or unit is entitled.

8. If, on any ballot, the same name is placed in nomination more than once, it shall be counted but once.

9. Should the number of persons nominated on any ballot exceed the number permitted, as stated on the ballot, said ballot shall be void.

10. There shall be three persons nominated for every person to be elected.

11. Those who have received the largest number of votes, up to three times the number of representatives to be elected, shall be declared nominated and shall be candidates for election.

12. On the day of elections, each duly qualified voter shall be furnished by the Committee on Rules with a ballot on which the names of the candidates have been printed in the order of the number of votes received at nominations. The voter shall indicate his choice by placing a cross (X) opposite the names of those candidates.

13. Candidates, to the number of representatives to which a department or unit is entitled, may be voted for and this number shall be indicated on the ballot. If this number is exceeded on any ballot, said ballot shall be void.

14. Each voter shall deposit his own ballot in a box provided for that purpose by the Committee on Rules and the ballots shall be counted under the direction and supervision of said committee and a representative of the man-

agement. The candidates receiving the highest number of votes shall be declared elected.

15. Candidates failing of election shall stand as alternates in the order of number of votes received and shall become representatives as need may arise through vacancies or increased forces within their own department or unit.

16. In the event of a tie, seniority in the Company's continuous service shall determine the choice.

17. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules.

18. The committee on Rules may make such provisions as it may consider necessary for assisting any voter who may so request in properly marking his ballot.

V.

MANAGEMENT'S REPRESENTATIVE

1. The Company shall appoint a management's representative to facilitate close relationships between the employees' representatives and the management.

2. The management's representative shall keep the management in touch with the representatives, their officers, and committees. He shall respond promptly to any request from representatives. He shall consult, as frequently as possible, with all representatives in the interest of friendly relations and shall interview them whenever advisable with reference to any industrial relations, or matters of concern to employees.

VI.

COMMITTEES

1. Within the first seven days of August, immediately following their election, the new representatives shall meet

for the purpose of electing from among their own number a Chairman, a Secretary, a General Committee and a Committee on Rules, and may then, or from time to time thereafter, appoint such other committees as they may deem necessary to consider any of the following subjects:

Wages, Employment and Working Conditions.

Safety, Sanitation and Health.

Works Practice, Methods and Economies.

Education, Recreation, Athletics and Entertainment.

Continuous Work and Reconstruction Problems.

The Chairman and/or Secretary of the representatives may be removed from the office at any time upon a two-thirds vote of all of the employees' representatives.

2. The Committee on Rules shall have jurisdiction to consider matters relating to rules, procedure and elections.

3. The General Committee shall have jurisdiction to consider all matters herein specified and those not falling within the scope of any other committee constituted and acting hereunder and shall, when jointly composed, act as a Committee on Appeals.

4. The several other committees shall have jurisdiction to consider the subjects indicated by their respective titles and such other matters and subjects as may, from time to time, be referred to them by the General Committee.

5. Each committee shall be composed of five members, two of whom, in the case of the General Committee, shall be the Chairman and Secretary of the representatives. Each of the other committees shall appoint its own Chairman and Secretary. Except upon approval of the Joint General Committee, no representative shall serve more than one committee.

6. Vacancies on committees shall be filled by the General Committee at any regular meeting.

7. There shall be joint committees which shall consist of the committees of employees' representatives, as herein provided, and representatives who shall be named by the management whose number may equal but shall not exceed the number of the employees' representatives.

8. The joint committees shall select their own officers and arrange their own procedure, subject to appeal, in case of controversy, to a joint committee on rules.

9. Whenever the word "committee' is used throughout this instrument, it shall mean the separate committee of employees' representatives and whenever the words "joint committee" are used, they shall mean the joint committee as provided for in section 7 of this article.

10. By unanimous consent of the Joint General Committee, the membership of any committee or joint committee may be reduced or increased or any two or more committees or joint committees may be combined or any new or special committees or joint committees may be formed.

11. Action of joint committees, except as otherwise provided, shall be by a majority vote and a majority of a joint committee means a majority of the employees' representatives and a majority of the management's representatives comprising the full membership of the joint committee.

VII.

COMMITTEE MEETING

1. Regular meetings of committees shall be held once a month.

2. On alternate months of even number (second, fourth, etc.) the committees shall meet as joint committees.

3. Committees shall meet between the hours of 3:00

and 5:00 in the afternoon unless otherwise arranged for on joint approval of the Chairman of the employees' representatives and the management's representative. These hours subject to change by the committee.

4. Special meetings of committees and of joint committees may be held as occasions require on approval of the Chairman of the employees' representatives and the management's representative.

5. For time necessarily lost in actual attendance at regular meetings or at special meetings or conferences jointly approved, representatives shall receive from the Company, payment commensurate with their average earnings.

6. Representatives shall have the right to appear before and be heard by a committee on any matter of concern to those employees whom they represent.

7. A committee, when concerned with matters which are of special interest to any particular department or class of employees, shall have the right to invite into conference either or both the representatives of the employees and of the management likely to be specially interested in such matters.

8. Any matter may be referred by the management, through the management's representative, to any committee or joint committee for consideration and report and any matter may be presented by a committee or joint committee to the management, through the management's representative, for consideration and report.

9. The joint committee on rules shall arrange a suitable place for meetings of the representatives and of the several committees and joint committees.

VIII.

REPRESENTATIVES' CONFERENCES

1. An annual conference between all of the employees' representatives and the representatives of the management shall be held at a time and place determined by the joint committee on rules which shall be in charge of the procedure at such conference.

2. On the first Monday of October, December, February, April, and June, the employees' representatives shall meet in a body for the purpose of reviewing the work of the previous two months and discussing any matters of general interest.

IX.

PRINCIPLES AND POLICIES GOVERNING RELATIONS BETWEEN EMPLOYEES AND MANAGEMENT

1. This plan shall in no way discriminate against any employee because of race, sex, or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

2. The management of the works and the direction of the working forces, including the right to hire, suspend, discharge, or transfer, and the right to relieve employees from duty because of lack of work or for other legitimate reasons, is vested exclusively in the management and, except as expressly restricted herein, these rights shall not be abridged by anything contained herein.

X.

PROCEDURE FOR ADJUSTMENTS

1. Any matter which, in the opinion of any employee, requires adjustment and which such employee has been unable to adjust with the foreman of the work on which

he is engaged, and any matter deemed proper to be submitted by any committee, may in the case of such employee, be taken up either in person, or through any representative of his division or, in case of a committee, may be taken up by the committee, with the following named persons and in the order named:

First—The superintendent who is in charge of that department or unit.

Second—The management's representative.

Third—The management, which shall endeavor to effect a settlement or which may, with the approval of the employee or representative or committee submitting the proposition, refer the same to any joint committee.

2. Unless a satisfactory disposition of any such matter has been effected within a reasonable time, the employee, through his representative, or the committee or the management, through its representative, may require such matter to be referred to the Joint General Committee on Appeals by a request in writing addressed to said committee specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said committee.

The Joint General Committee on Appeals shall consider any such matter with reasonable promptness at a regular or special meeting and may adopt such means as are necessary to ascertain the facts and effect a settlement.

3. If the Joint General Committee on Appeals fails to effect a satisfactory settlement, the matter shall be referred to the president of the Company. If the president of the Company and a majority of employees' representatives on the Joint General Committee on Appeals fail to effect a satisfactory settlement, they shall refer the matter to arbi-

tration as they may determine at the time, according to the nature of the controversy.

If the president and a majority of the employees' representatives on the Joint General Committee on Appeals are unable to agree upon an arbitrator or arbitrators, the president shall select one arbitrator and the employees' representatives on the Joint General Committee on Appeals shall select one arbitrator and the two arbitrators thus selected shall endeavor to settle the matter in dispute.

If the two arbitrators are unable to settle the controversy, they shall select a third arbitrator. If they cannot agree upon a third arbitrator, said third arbitrator shall be selected by the presiding judge of the District Court of the United States for that district wherein the Company works is located and the decision of any two of the three arbitrators thus chosen shall be final and binding on both parties.

XI.

INDEPENDENCE OF EMPLOYEES' REPRESENTATIVES

1. It is understood and agreed that each representative shall be free to discharge his duties in an independent manner without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

2. To insure to each representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him on account of his acts in his representative capacity to the management's representative, to any of the operating officers, to the Joint General Committee, and to the president of the Company.

3. Having exercised this right, in the consecutive

order indicated, and failing a satisfactory remedy within thirty (30) days, a representative shall have the further right of appeal to the Secretary of Labor of the United States. In such event, the company shall furnish said Secretary of Labor with every facility for the determination of the facts, and the findings and recommendations of said Secretary of Labor of the United States shall be final and binding.

XII.

AMENDMENTS

This plan may be amended at any time by a two-thirds vote of the entire membership of the Joint General Committee and the joint committee on rules, at any joint, regular or special meeting of such committees, approved by a majority vote of the employees' representatives present and a majority of the management's representatives present at any joint annual meeting of such representatives or at any joint special meeting of such representatives called for that purpose.

XIII.

COST OF ADMINISTRATION

The Company shall defray such expenses as are necessarily incidental to the activities herein provided for. Expenses shall be incurred only upon authorization by the Joint General Committee except in cases which are recognized as established by custom or precedent or in cases of emergency which do not permit of such authorization.

XIV.

SCHEDULE OF PLANT REPRESENTATION

Number of Representatives	Department
6	Hot Mill

1	Shearing Dept. Openers
1	Mechanical Dept.
1	Pickling, Annealing and Black Shipping
2	Cold Rolls
1	Tin House
2	Sorting Room 1 Male 1 Female

BOARD'S EXHIBIT NO. 19

May 8, 1937

Meeting called at 12:30 P. M. with Mr. Iden acting as chairman. Members present were Iden, Morrow, Frank, Kirkland, Francombe, Clatterbuck, Roman, Lewis, Guist.

Report of committees.

Mr. Iden reported that dance was a great success and that everybody was well pleased with it. The committee was very highly recommended for their way of handling the dance. We had several officials present at dance with Mr. Sam Davey, Mr. James Davey, Mr. Tonies and Mr. Coldrew and also Mr. Richard Jones who were very well pleased with the dance.

New Business.

The question of the disposition of the rest of the money in bank was discussed. It was moved by Kirkland and seconded by Morrow that the question be placed on the table for a week. Carried.

Good of Order.

Mr. Morrow made a motion that the committee resign. Motion was seconded by Mr. Lewis. After such discussion for and against it the motion was put to a vote. Three members ~~of~~ voted for the motion and six (6) voted against it. The motion was lost.

Mr. Sam Davey introduced Mr. Frank Geltz, chairman of the Gen. Body and Mr. Cox, vice chairman. ~~wh~~ Mr. Geltz after some talk presented a plan that had been worked out by their representative body. The plan called Employees' Representative Assn. a copy of which was given to each member, was discussed ~~by~~ and explained by Mr. Geltz. After the retirement of Mr. Geltz and Mr. Cox, our committee voted to meet ~~Sat. May 15~~, to consider the plan and ~~to act upon same~~. at the call of the president.

There being no further business the committee adjourned.

Edward Frank, Pres.
Ed Kirkland, Secry.

BOARD'S EXHIBIT NO. 20

I hereby subscribe $ .... to help defray legal fees and expenses incurred by reason of Employees' Petition to Common Pleas Court for Restraining Order and Injunction against the C. I. O. with respect to their unlawful interference with our right to go to and from our work.

Date .... Signed ....

BOARD'S EXHIBIT NO. 21

Republic Steel Corporation
Central Alloy District
Canton Works

Plan of Employees' Representation
June, 1933

PRINCIPLES OF REPRESENTATION

The Republic Steel Corporation (hereinafter called the Company) inaugurates this Plan of Employees' Representation for the Central Alloy District, Canton Works, in order to provide effective means of contact between the Management and the Employees, and an orderly and expeditious procedure for the prevention and adjustment of any future differences, to insure justice, maintain tranquility and promote the common welfare.

The Plan of Employees' Representation, as hereinafter provided, shall in no way discriminate against any employee because of race, sex, or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

I.

REPRESENTATION

1. Employees' Representation shall be by Departments on the basis of one Representative for each two hundred (200) employees, or major fraction thereof, based on the average number of employees on the payroll for three months immediately preceding the election.

2. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had to logical groupings and location.

3. Adjustments in units of representation, wherever necessary to secure complete and fair representation, shall be made in accordance with the recommendation of the Joint Committee on Rules, Ways and Means.

II.

TERMS OF OFFICE OF REPRESENTATIVES AND VACANCIES

1. Employees' Representatives shall be elected for a term of one year and shall be eligible for re-election.

2. An Employees' Representative may be recalled upon the approval by the Committee on Rules, Ways and Means, of a petition signed by two-thirds of the voters in his Department and upon such approval he shall cease to be such Representative.

3. An Employees' Representative shall be deemed to have vacated his office as such upon severance of his relations with the Company, or upon being transferred from one Department or voting division to another, or upon his appointment to such a regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancies in the office of an Employees' Representative, for which there is no Alternate, as described in Paragraph 16 of Section IV hereof, may be filled for the unexpired term, in the discretion of the Committee on Rules, Ways and Means, by special election conducted in the same manner as the regular annual election.

III.

QUALIFICATIONS OF REPRESENTATIVES AND VOTERS

1. Any employee who has been on the Company's payrolls for a period of at least one year immediately prior to nominations; who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employees' Representative.

2. All employees who have been on the Company's payrolls for a period of at least sixty (60) days immediately prior to nominations and who are eighteen (18) years of age or over, shall be entitled to vote.

3. Company officials and persons having the right to hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employees' Representatives or qualified to vote for Employees' Representatives.

IV.

NOMINATIONS AND ELECTIONS

1. Nominations and elections of Employees' Representatives shall be held annually in the month of June. Nominations (after the first nominations and elections) shall be held on the second Tuesday and elections on the following Friday of such month. In the event of either of these days being a holiday, then the nominations or elections as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with rules and regulations prescribed by the Committee on Rules, Ways and Means, with only such assistance from the Management as may be requested.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference with voters in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations

4. On the day of nominations, each qualified voter shall be furnished a ballot stating the number of persons

for whom he is entitled to vote. Such voter shall write on ballot the names or check number of the persons in his Department or voting division whom he desires to nominate for election as Employees' Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting division is entitled.

6. If on any ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employees' Representative to be filled.

9. Those employees who received the largest number of votes, in any department or voting division, equal to three times the number of Representatives to be elected shall be declared nominated, and shall be candidates for election.

Elections

10. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means, through tellers designated by such Committee, a ballot on which the names of the candidates for Employees' Representatives shall be printed in the order of number of votes received at nominations. In case two or more persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a

cross (X) opposite the name of the candidate or the name of each of the candidates of his choice.

11. The number of candidates for whom the employees in each Department or voting division shall be entitled to vote for Employees' Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

12. Each voter shall deposit his own ballot in a box provided for the purpose by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employees' Representative or Representatives of such Department or voting division.

13. In the event of a tie, selection shall be made by lot under the direction of the Committee on Rules, Ways and Means.

14. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules, Ways and Means.

15. The Committee on Rules, Ways and Means, may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

16. Candidates failing of election shall stand as Alternates in the order of the number of votes received and in such order shall become Employees' Representatives as need may arise through vacancies or increased forces.

V.

MANAGEMENT'S REPRESENTATIVE

The Company shall appoint a Management's Representative to facilitate close relationships between the Management and the Employees' Representatives.

The Management's Representative shall represent the Management in negotiations with the Representatives, their Officers and Committees. He shall respond promptly to any request from Representatives, and shall interview all of the Representatives, from time to time, collectively or separately, with reference to matters of concern to employees. He may attend any meeting of the Joint Committees, but shall not have any vote thereat.

VI.

COMMITTEES

1. Wherever the word "Committee" is used throughout this instrument, it shall mean a Standing Committee of Employees' Representatives unless a "Joint Committee" is specified.

2. After each annual election the Representatives shall immediately meet for the purpose of electing a Chairman, Vice Chairman and Secretary for the General Body of Employees' Representatives.

The General Body of Employees' Representatives shall also select members of the following Committees, viz:

Committee No. 1—Rules, Ways and Means.

Committee No. 2—Wages, Employment, Schedules and Working Conditions.

Committee No. 3—Safety, Health, Plant Sanitation and Welfare Activities.

Committee No. 4—Appeals Committee.

3. The Appeals Committee shall consider all matters not falling within the scope of any other Committees herein

provided for, and the Chairman and Secretary of the General Body of Employees' Representatives shall be members of the Appeals Committee.

4. Each Committee shall be composed of not more than five members, and shall appoint its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular meeting of the General Body of Employees' Representatives.

6. Joint Committees shall consist of the Committee of the Employees' Representatives with the addition of the Company's Representatives named by the Management, who may equal but shall not exceed in number the Employees' Representatives.

7. The Joint Committees shall select their own officers and arrange their own procedure, subject to appeal, in case of controversy, to the Joint Committee on Rules, Ways and Means.

VII

COMMITTEE MEETINGS

1. Regular meetings of Committees shall be held every other month.

2. On alternate months, the Joint Committee shall meet.

3. In months that the Joint Committees meet, a meeting shall also be held by the General Body of Employees' Representatives for the purpose of reviewing the work of the Committees and Joint Committees, and discussing any matters of general interest.

4. Committees shall meet between the hours of three and five in the afternoon, unless otherwise determined by

joint approval of the Chairman of the General Body of Employees' Representatives and the Management's Representative.

5. Special meetings of Committees and of Joint Committees may be held as occasion may require, on approval of the Chairman of the General Body of Employees' Representatives and the Management's Representative.

6. For time necessarily lost, through actual attendance, at regular or special meetings or conferences jointly approved, Representatives shall receive from the Company, payment commensurate with their average earnings.

7. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

8. A Committee, in considering matters of special interest to any particular Department or class of employees, shall have the right to invite into conference the Representatives of the Employees and of the Company likely to be especially interested in such matters.

9. Any matter may be referred by the Management through the Management's Representative to any Committee for consideration and report, and any matter may be presented by a Committee to the Management through the Management's Representative.

10. The Joint Committee on Rules, Ways and Means, shall arrange a suitable place for meetings of the General Body of Employees' Representatives and of the several Committees and Joint Committees, and the Company shall defray such expenses as are necessarily incident to the discharge of duties herein set forth, when approved by a majority of said Committees.

VIII

ANNUAL CONFERENCE

An Annual Conference between all of the Employees' Representatives and Representatives of the Management shall be held at a time and place determined by the Joint Rules, Ways and Means Committee, who shall regulate the procedure at such conference.

IX

PROCEDURE FOR ADJUSTMENTS

1. Any matter which in the opinion of any employee requires adjustment, and which such employee has been unable to adjust with the Foreman of the work on which he is engaged, may be taken up by such employee, either in person, or through any Representative of his Department or voting division in writing:

FIRST

With the Superintendent concerned.

SECOND

With the Management's Representative.

THIRD

With the Management, who shall endeavor to effect a setttlement, or who may with the approval of all the parties refer the matter to proper Joint Committee.

2. Unless satisfactory disposition of any such matter has been effected within a reasonable time, any employee through his Representative, or the Management through the Management's Representative, may require such matter to be referred to the Joint Appeals Committee by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons

which warrant its consideration by said Committee.

The Joint Appeals Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts and effect a settlement.

3. If the Joint Appeals Committee shall fail to effect a settlement, the President of the Company shall be notified, and the matter may be referred, if the President and a majority of the Employees' Representatives on the Joint Appeals Committee agree to such reference, to an arbitrator or arbitrators, to be determined at the time according to the nature of the controversy.

X

GUARANTEEING THE INDEPENDENCE OF REPRESENTATIVES

1. It is understood and agreed that each Representative shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

2. To insure to each Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him on account of his acts in his representative capacity to the Management's Representative, to any of the Superior Officers, to the Joint Appeals Committee, and to the President of the Company.

3. Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within thirty days, a Representative shall have the further right to appeal to the Secretary of Labor of the United States. The

Company shall furnish the Secretary of Labor with every facility for the determination of the facts, and the findings and recommendations of the said Secretary of Labor shall be final and binding.

XI

AMENDMENTS

1. Any method of procedure hereunder may be amended at any time by two-thirds vote of the entire membership of the Joint Committee on Rules, Ways and Means, or by concurrent majority vote of the General Body of Employees' Representatives and of the Representatives of the Management at an Annual Conference.

BOARD'S EXHIBIT NO. 22

Central Alloy District

Statement .... Date ....
Clock No. .... No. 22024

Wages Earned

Deductions

Coke ....
Advances ....
Restaurant Rep Pay
Relief .50
Civic Fund ....

Total Deductions

Balance Due 1.23
Please Detach before Cashing

BOARD'S EXHIBIT NO. 23

June 5, 1934

To the Employees of
Republic Steel Corporation
Canton, Ohio

The Employee Representatives, elected under the Plan of Employee Representation in June, 1933, have spent considerable time in the handling of all problems of working conditions, wages, hours of labor, safety, and many other questions presented to us by the workers.

During our term of office, we have made a careful study of the Plan, and a copy of it, containing certain changes which we believe improve it, is attached to this letter.

On Tuesday, June 12, 1934, we, the Representatives of this Plan, will hold nominations by secret ballot and an election by secret ballot on Friday, June 15, 1934 for Employee Representatives, in accordance with Section IV of the By-Laws.

Your Rules, Ways and Means Committee has arranged for the nominations and elections and will provide ballot boxes and supply ballots.

Employee Representatives
Eugene R. Roderick
John W. Moatz
A. B. Rannigan
R. J. Lilly
J. G. Stewart
F. T. Fisher
L. A. Syfert
W. J. Bratt
J. M. Dunn

Matt J. Komp
Chas. Starkey
Thos. Saunders Sr.
Gordon E. Miller
T. H. Shankel
Arley A. Gathers
Maurice Plottner
F. W. O'Brien
C. M. Guster
DeWitt H. Campbell
Paul E. Bousky

REPUBLIC STEEL CORPORATION

Central Alloy District
Canton Works
Plan of Employee Representation

Adopted June 1933
Amended June 1934

PRINCIPLES OF REPRESENTATION

The object of this Plain is to provide effective means of contact between the employees and the Management and an orderly and expeditious procedure for the prevention and adjustment of any future differences, to insure justice, maintain tranquility and promote the common welfare.

The Plan of Employee Representation, as hereinafter provided, shall in no way discriminate against any employee because of race, sex, or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

I

REPRESENTATION

1. Employee Representation shall be by Departments on the basis of one Representative for each two hundred (200) employees, or major fraction thereof, based on the average number of employees on the payroll for three months immediately preceding the election.

2. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had to logical groupings and location.

3. Adjustments in units of representation, wherever necessary to secure complete and fair representation, shall be made in accordance with the recommendation of the Joint Committee on Rules, Ways and Means.

II

TERM OF OFFICE OF REPRESENTATIVES AND VACANCIES

1. Employee Representatives shall be elected for a term of one year and shall be eligible for re-election.

2. An Employee Representative may be recalled upon the approval by the Committee on Rules, Ways, and Means, of a petition signed by two-thirds of the voters in his department and upon such approval he shall cease to be such Representative.

3. An Employee Representative shall be deemed to have vacated his office as such upon severance of his relations with the Company, or upon being transferred from one Department or voting division to another, or upon his appointment to such a regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancies in the office of an Employee Representative, for which there is no Alternate, as described in Paragraph 16 of Section IV hereof, may be filled for the unexpired term, in the discretion of the Committee on Rules, Ways and Means, by special election conducted in the same manner as the regular annual election.

III

QUALIFICATIONS OF REPRESENTATIVES AND VOTERS

1. Any employee who has been on the Company's payrolls for a period of at least one year immediately prior to nominations; who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employee Representative.

2. All Employees who are enrolled on the Company's payrolls (except as provided in Paragraph 3 of Section III) on the date fixed for nominations shall be entitled to vote.

3. Company officials and persons having the right to hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employee Representatives or qualified to vote for Employee Representatives.

IV

NOMINATIONS AND ELECTIONS

1. Nominations and elections of Employee Representatives shall be held annually in the month of June. Nominations (after the first nominations and elections) shall be held on the second Tuesday and elections on the following Friday of such month. In the event of either of these days being a holiday, then the nominations or elections as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with rules and regulations prescribed by the Committee on Rules, Ways and Means, with only such assistance from the Management as may be requested.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference with voters by anyone in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations

4. On the day of nominations, each qualified voter shall be furnished a ballot stating the number of persons for whom he is entitled to vote. Such voter shall write on ballot the names or check numbers of the persons in his Department or voting division whom he desires to nominate for election as Employee Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting division is entitled.

6. If on any ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employee Representative to be filled.

9. Those employees who received the largest number of votes, in any department or voting division, equal to three times the number of Representatives to be elected

shall be declared nominated, and shall be candidates for election.

Elections

10. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means, through tellers designated by such Committee, a ballot on which the names of the candidates for Employee Representatives shall be printed in the order of number of votes received at nominations. In case two or more persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a cross (X) opposite the name of the candidate or the name of each of the candidates of his choice.

11. The number of candidates for whom the employees in each Department or voting division shall be entitled to vote for Employee Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

12. Each voter shall deposit his own ballot in a box provided for the purpose by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employee Representative or Representatives of such Department or voting division.

13. In the event of a tie, selection shall be made by lot under the direction of the Committee on Rules, Ways and Means.

14. In the event of a controversy arising concerning

any nomination or election, it shall be referred to and decided by the Committee on Rules, Ways and Means.

15. The Committee on Rules, Ways and Means, may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

16. Candidates failing of election shall stand as Alternates in the order of the number of votes received and in such order shall become Employee Representatives as need may arise through vacancies or increased forces.

V

MANAGEMENT'S REPRESENTATIVE

The Company shall appoint a Management's Representative to facilitate close relationships between the Management and the Employee Representatives.

The Management's Representative shall represent the Management in negotiations with the Representatives, their Officers and Committees. He shall respond promptly to any request from Representatives, and shall interview all of the Representatives, from time to time, collectively or separately, with reference to matters of concern to employees. He may attend any meeting of the Joint Committees, but shall not have any vote thereat.

VI

COMMITTEES

1. Wherever the word "Committee" is used throughout this instrument, it shall mean a Standing Committee of Employee Representatives unless a "Joint Committee" is specified.

2. After each annual election the Representatives shall immediately meet for the purpose of electing a Chair-

man, Vice Chairman and Secretary for the General Body of Employee Representatives.

The General Body of Employee Representatives shall also select members for the following Committees, viz:

Committee No. 1—Rules, Ways and Means.

Committee No. 2—Wages, Employment, Schedules and Working Conditions.

Committee No. 3—Safety, Health, Plant Sanitation and Welfare Activities.

Committee No. 4—Appeals Committee.

3. The Appeals Committee shall consider all matters not falling within the scope of any other Committees herein provided for, and the Chairman and Secretary of the General Body of Employee Representatives shall be members of the Appeals Committee.

4. Each Committee shall be composed of not more than five members, and shall appoint its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular meeting of the General Body of Employee Representatives.

6. Joint Committees shall consist of the Committee of the Employee Representatives with the addition of the Company's Representatives named by the Management, who may equal but shall not exceed in number the Employee Representatives.

7. The Joint Committees shall select their own officers and arrange their own procedure, subject to appeal, in case of controversy, to the Joint Committee on Rules, Ways and Means.

VII

COMMITTEE MEETINGS

1. Regular meetings of Committees shall be held every other month.

2. On alternate months, the Joint Committees shall meet.

3. The General Body of Employee Representatives shall meet monthly for the purpose of reviewing the work of the Committees and Joint Committees, and discussing any matters of general interest.

4. Committee meetings shall start at 1:00 o'clock in the afternoon, unless otherwise determined by joint approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

5. Special meetings of Committees and of Joint Committees may be held as occasion may require, on approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

6. For time necessarily lost, through actual attendance, at regular or special meetings or conferences jointly approved, Representatives shall receive from the Company, payment commensurate with their average earnings.

7. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

8. A Committee, in considering matters of special interest to any particular Department or class of employees, shall have the right to invite into conference the Representatives of the Employees and of the Company likely to be especially interested in such matters.

9. Any matter may be referred by the Management through the Management's Representative to any Committee for consideration and report, and any matter may be presented by a Committee to the Management through the Management's Representative.

10. The Joint Committee on Rules, Ways and Means, shall arrange a suitable place for meetings of the General Body of Employee Representatives and of the several Committees and Joint Committees, and the Company shall defray such expenses as are necessarily incident to the discharge of duties herein set forth, when approved by a majority of said Committees.

VIII

ANNUAL CONFERENCE

An Annual Conference between all of the Employee Representatives and Representatives of the Management shall be held at a time and place determined by the Joint Rules, Ways and Means Committee, who shall regulate the procedure at such conference.

IX

PROCEDURE FOR ADJUSTMENTS

1. Any matter which in the opinion of any employee requires adjustment, and which such employee has been unable to adjust with the Foreman of the work on which he is engaged, may be taken up by such employee, either in person, or through any Representative of his Department or voting division in writing.

FIRST

With the Superintendent concerned.

SECOND

With the Management's Representative.

THIRD

With the Management, who shall endeavor to effect a settlement, or who may with the approval of all the parties refer the matter to proper Joint Committee.

2. Unless satisfactory disposition of any such matter has been effected within a reasonable time, any employee through his Representative, or the Management through the Management's Representative, may require such matter to be referred to the Joint Appeals Committee by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

The Joint Appeals Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts and effect a settlement.

3. If the Joint Appeals Committee shall fail to effect a settlement, the President of the Company shall be notified, and the matter may be referred, if the President and a majority of the Employee Representatives on the Joint Appeals Committee agree to such reference, to an arbitrator or arbitrators, to be determined at the time according to the nature of the controversy.

X

GUARANTEEING THE INDEPENDENCE OF REPRESENTATIVES

1. It is understood and agreed that each Representative shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

2. To insure to each Representative his right to such

independent action, he shall have the right to take the question of an alleged personal discrimination against him on account of his acts in his representative capacity to the Management's Representative, to any of the Superior Officers, to the Joint Appeals Committee, and to the President of the Company.

3. Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within thirty days, a Representative shall have the further right to appeal to the Secretary of Labor of the United States. The Company shall furnish the Secretary of Labor with every facility for the determination of the facts, and the findings and recommendations of the said Secretary of Labor shall be final and binding.

XI

AMENDMENTS

1. Any method of procedure hereunder may be amended at any time by two-thirds votes of the entire membership of the Joint Committee on Rules, Ways, and Means, or by concurrent majority vote of the General Body of Employee Representatives and of the Representatives of the Management at an Annual Conference.

BOARD'S EXHIBIT NO. 24

NOMINATION BALLOT
For
EMPLOYEE REPRESENTATIVES

Directions to Voters

This ballot is issued to qualified voters to nominate candidates for Employee Representatives.

The voter, by using this ballot, approves the holding of Nominations and Elections as stated in the posted notice issued by the Employees' Committee on Rules, Ways and Means under the Plan of Employee Representation at this Plant and expresses his desire that those elected shall represent him in collective bargaining and for the other purposes stated in the notice.

Each qualified voter is entitled to nominate twice the number of Representatives to which his department or voting division is entitled.

Write Names or Check Numbers of Candidates Below:

Name Check No.

Vote for Two Only If you write more your ballot will be VOID

REPUBLIC STEEL CORPORATION and SUBSIDIARIES
Central Alloy Canton
District or Subsidiary Plant
Bar Mills—12″
Department or Voting Division
Date June 12, 1934

BOARD'S EXHIBIT NO. 25

REPUBLIC
A Bulletin of Republic Steel
Corporation and Subsidiaries
(Cover Picture)

Published in
Youngstown, Ohio
April 1934
2 REPUBLIC

REPUBLIC'S ENDURO STAINLESS IS USED EVERYWHERE FOR EVERYTHING . . .

(Picture)

Music certainly would sound inviting when played by such a charming young lady on this guitar made of Enduro Stainless Steel.

These shining, gleaming elevator doors—made of Enduro Stainless—are an attractive feature in the General Electric Building in Buffalo.

(picture)

The "House of Tomorrow". It was built at the Century of Progress in Chicago. The exterior wall sections ~~are~~ of vitreous enameled on Toncan Enameling Iron, edged with Enduro Stainless Steel.

(picture)

(Picture)

Rockefeller Center, New York City, where ten tons of Enduro Stainless were used for the sign on Radio City Theatre and five more for the theatre marquee.

(Picture)

Sixty ships of this type use exhaust collector manifolds and heater tubes made of Enduro Stainless. They are capable of a speed of 128 miles per hour.

APRIL 1934 3

OUR EMPLOYEE REPRESENTATIVES

By J. A. VOSS

Director of Industrial Relations

First of all, I want to congratulate all of our Employee Representatives upon the splendid job that they have done since the Representation Plan was started.

It is not an easy thing for a group of men elected by employees in the mill to start, right from scratch, dealing with management with respect to hours, wages and working conditions, on behalf of the employees whom they represent.

I think Republic's Employee Representatives have done a first class piece of work. They have suggested a great many things which have been of distinct benefit to everybody concerned—things which management alone most likely would not have even thought of.

And as far as benefits to employees themselves are concerned, I think the story is told in the record of cases handled under our Employee Representation Plan from June 16, 1933 to February 28, 1934, inclusive.

This is really an amazing record. During the first eight months the plan was in operation 1222 different matters were discussed and settled. Of this number 72% were settled in favor of employees, 14% were settled in the negative, 3% were withdrawn by the employees, 4% were compromised, and only 7% of the total cases were still pending settlement as of March 1, 1934.

It is especially interesting to note that 922 cases, or 75% of the total, had to do with Employment, Working Conditions, Wages, Safety and Welfare, which are, of course, the most important matters in which employees are interested.

The results obtained show that Employee Representatives know the needs and views of employees, and have not hesitated to step forward and present these needs and views to management—and they have gotten remarkable results.

Collective Bargaining Under NRA

Since the National Industrial Recovery Act became effective in June, 1933, there has been much discussion and there have been many misleading statements concerning the "collective bargaining" clause of the act.

This clause (Section 7-A) reads as follows:

(1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;

(2) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization, of his own choosing; and

(3) That the employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

I urge you to study this quotation from the National Industrial Recovery Act and see how it applies to our own Representation Plan.

Our employees have absolute freedom in the selection of their representatives.

Our plan provides for collective bargaining with all its benefits, regardless of any affiliation with any other organization. Union and non-union men have exactly the same standing, under our plan, and the plan stands for fair nomination and election of representatives by secret ballot.

The plan has a great many practical and workable advantages.

In the first place, under this plan our employees are represented, as a rule, by men whom they know and men who know them. Our Employee Representatives are thoroughly familiar with personnel and working conditions in the various plants. When they deal with management on some certain problem, they know what they are talking about.

And what is still more important,

(Continued on page 10)

(Enclosed in box)

CASES HANDLED UNDER OUR EMPLOYEE REPRESENTATION PLAN FROM JUNE 16, 1933 TO FEBRUARY 28, 1934, INCLUSIVE

Employment and Working Conditions	335
Wages, Piece Work, Bonus, Tonnage Schedules	328
Safety and Welfare	259
Practice, Methods and Economy	43
Health and Works Sanitation	125
Employees' Transportation	25
Housing and Living Conditions	21
Education and Publications	7
Athletics and Recreation	11
Rules, Ways and Means	68
Total	1222
Settled in Favor of Employees	886
Settled in the Negative	167
Withdrawn by Employees	41
Compromised	48

Pending Settlement	80
Total	1222
Total Employee Representatives meetings held	785
Total Attendance	6968

4 REPUBLIC

Employee Representatives—Youngstown, Massillon, Canton, Buffalo and Warren

(Group pictures of representatives of Canton, O., Plant; Massillon, O., Plant; Youngstown, O., District; Buffalo, N. Y., District; Warren, O., District.)

APRIL 1934 5

Upson Nut Divisions, S. Chicago, Moline & Grand Crossing

(Group pictures of representatives from Upson Nut Division, Unionville, Conn., Plant; South Chicago, Ill., Plant; Moline, Ill., Plant; Grand Crossing, Ill., Plant; Upson Nut Division, Cleveland, O., Plant; Upson Nut Division, Muncie, Ind., Plant.)

6 REPUBLIC

Employee Representatives—Northern Ore Mines

(Group pictures of representatives of Townsite Mine, Ironwood, Mich.; Kinney Mine, Kinney, Minn.; Union Mine, Virginia, Minn.; Cambria Mine, Negaunee, Mich.; Alexandria Mine, Hibbing, Minn.; Susquehanna Mine, Hibbing, Minn.)

APRIL 1934 7

Employee Representatives—Steel and Tubes, Inc., and Berger Manufacturing Co.

(Group pictures of representatives of Steel and Tubes, Inc., Elyria, O., Plant; Steel and Tubes, Inc., Brooklyn, N. Y., Plant; Steel and Tubes, Inc., Superior Plant, Elyria, O.; Steel and Tubes, Inc., Cleveland, O., Plant; Steel and Tubes, Inc., Ferndale, Mich., Plant; Berger Manufacturing Co., Canton, O.)

REPUBLIC

Employee Representatives—Union Drawn Steel Co.,
Ideal Foundry and Machine Co.,
and Dilworth-Porter Division

(Group pictures of representatives of Union Drawn Steel Co., Gary, Ind., Plant; Union Drawn Steel Co., Beaver Falls, Pa., Plants; Union Drawn Steel Co., Massillon, O., Plant; Ideal Foundry & Machine Co., Beaver Falls, Pa.; Dilworth Porter Division, Pittsburgh, Pa.; Union Drawn Steel Co., Hartford, Conn., Plant.)

APRIL 1934 9

Employee Representatives—Birmingham District and
Canton Culvert Co.

(Group pictures of representatives of Raimund Mine, Birmingham, Ala.; Thomas Plant, Birmingham, Ala.; Spaulding Mine, Birmingham, Ala.; Sayreton Mine, Birmingham, Ala.; Canton Culvert Co., Danville, Ill., Plant; Canton Culvert Co., Canton, O., Plant.)

10 REPUBLIC

Our Employee Representatives
(Continued from page 3)

they can get an immediate hearing. The most remarkable thing about our Employee Representation Plan record is, I believe, the speed with which questions are taken up *and settled.*

Some Form of Collective
Bargaining Necessary

This company believes thoroughly in the principle of collective bargaining. Industry in this country has become so large, and so complex, that it is physically impossible for all the employees to talk to their employers. Consequently some form of dealing between Representatives of Employees, and Representatives of Management, is absolutely necessary in order to conduct satisfactorily the affairs of a large company.

Harmonious relations can only be established by a thorough understanding of each other's problems. Our Representation Plan, set up with representative groups for *each plant,* answers this requirement.

But we believe that our Representation Plan has a still larger field of usefulness. We look upon the Plan, in short, as a method of coordinating efforts of the men and of management to the mutual advantage of both. Working together, employees and management can make the Plan one of the most important functions in our whole organization, tending toward the good of all of us in a manner which would otherwise be impossible.

No outside agency could possibly bring about the speedy results and the satisfactory understanding which have already been developed in our plants through the Employee Representation Plan.

EMPLOYEE REPRESENTATION FROM THE MANAGEMENT POINT OF VIEW

by R. J. WYSOR, Vice President in Charge of Operations

From the management point of view, I wish to emphasize the fact that management does not consider the Employee Representation Plan as merely an expedient to satisfy requirements of NRA. We believe this plan, functioning smoothly, should be a permanent part of the Republic picture for all time to come. It is in this spirit that the management of Republic approaches its share of the task of making the Plan work.

Employee Representation Plans are not new. The earliest recorded plans in the United States were established in 1904. They have been functioning successfully in some plants of the steel industry for 15 years. Since June, 1933, we have proved, right here in Republic from our own experience, that the Plan will work—and that it has provided all Republic men a chance to be heard through representatives of their own choosing.

It has been interesting to see how both employees and management have reached a better realization of each other's problems through the operation of the Plan in Republic Steel Corporation and Subsidiaries since June, 1933. Both sides have many interests in common and a few in conflict. Through the Plan all controversial subjects are brought into the open for discussion, misunderstandings are avoided, intelligent consideration of all questions is possible, and full co-operation between management and men is assured.

I am proud of the manner in which our Employee Representatives have handled problems under the Employee Representation Plan. If this spirit of co-operation can be maintained and fostered, there is nothing that can keep you and the Corporation from enjoying contentment, industrial peace and steady progress in the future. By so doing, you and the Corporation shall occupy a rightful place in the Industrial Recovery program.

(Picture in left hand lower corner)

Corrugating Republic Sheets

REPUBLIC STEEL CORPORATION AND SUBSIDIARIES
EMPLOYEE REPRESENTATIVES
Year 1933 - - 1934

CENTRAL ALLOY DISTRICT

Canton Plant

Bonsky, P. E.
Bratt, W. J.
Campbell, D.
Custer, C. M.
Dunn, J. M.
Fisher, F. T.
Gathers, A. A.
Komp, M. J.
Lilly, R. J.
Moatz, J.
Miller, G. E.
O'Brien, F. W.
Plottner, M.
Rannigan, A. B.
Roderick, E. R.
Saunders, T., Sr.
Shankle, T. H.
Starkey, C.
Stewart, J. G.
Syfert, L. A.

Massillon Plant

Bean, G.
Brethauer, F.
Clary, W. N.
Coombs, O. P., Sr.
Craver, C. P.
Hammer, O.
Hollinger, J.
Linckenhely, N.
McArdle, J. E.
Miller, R. J.
O'Neil, T. P.
Rutherford, A. J.
Seward, R. D.
Smith, R. S.
Spicer, W.
Wagoner, G.

YOUNGSTOWN DISTRICT

Brown, L.
Hughes, G. J.
Jacobs, E.
Krichbaum, E.
Mondora, R.
Mullaly, R.
Murphy, M.
MacNab, W.
McKay, A. B.
Olson, A.
Park, G.
Patrick, A.
Price, M.
Quimby, L.
Richter, C.
Thomas, W.
Williams, H.
Waldron, F.

BUFFALO DISTRICT

Anderson, J.
Butler, T.
Caher, P.
Fox, G.
Gannon, W.
Hall, T.
Jerome, M. D.
King, E.
McDonnell, M.
Muldowney, J.
Pearson, R.
Robinson, H.
Schnorr, J.
Smith, J.
Reppenhagen, A.
Ziegler, H.

WARREN DISTRICT

Allen, Geo.
Chilson, E.
Daley, A. S.
Draber, C.
Dymond, R. M.
Edwards, Wm.
Evans, Stanley
Fawcett, J.
Flynn, J. J.
Groth, G. E.
Herst, Geo.
Hughes, Chas.
Masterson, R.
Mulligan, E. J.
Parant, C. V.
Rallsberger, Geo.
Ramsey, N. V.
Rees, D.
Roberts, R.
Shagnot, F. R.
Stephany, J.
Thomas, F.
Thomas, G.
Webb, E.
Whetstone, S.
Williams, F.

CHICAGO DISTRICT

South Chicago Plant

Joyce, T.
Husemann, E.
Kretche, J.
Miller, C. E.
Moore, C. H.
Osmus, O.
Peters, F.
Quick, J.
Turizo, S.

Grand Crossing Plant

Anderson, W.
Norton, B.
Schmidt, F.
Sypniewski, F.

Moline Plant

Ford, E.
Hart, A.
Steele, C. L.

UPSON NUT DIVISION

Cleveland Plant

Beier, W.
Fertig, L.
Moore, J.
Pelat, G.
Ziegler, F.

Muncie Plant

Dawson, J.
Hanes, R.
Smith, R. H.

Unionville Plant

Gagnon, F.
McMahon, G.
Trimble, M.

NORTHERN ORE MINES

Townsite Mine

Holst, O.
Johnson, J.
Richards, J.

Kinney Mine

Gundy, T. C.
Ilkka, J.
Klasnia, N.

Union Mine

Hoglund, R.
Lindquist, J. A.
Olsen, R.

Cambria Mine

Perala, H.
Tilot, J.
Yelland, R.

Alexandria Mine

Koschak, J.
LaFreniere, G.
Salmi, V.

Susquehanna Mine

Carmichael, G. D.
Ferris, E.
Muck, C.

STEEL AND TUBES, INC.

Elyria Plant

Hotow, F.
Roth, J.

Winkler, C.

Brooklyn Plant
Devoe, T.
Obermeyer, L.
Schertzer, R.

Superior Plant
Eddington, M.
Gibbs, H.
Goldsmith, E.

Cleveland Plant
Bibee, J.
Herold, G.
Long, F.
Miller, J.
Bentley, H.

Ferndale Plant
Adams, E.
Parks, C.
Rawlings, T.

Berger Mfg. Co.
Bourquin, C.
Brumbaugh, E.
Hanna, E.
Rhines, C.
Rice, L.

UNION DRAWN STEEL CO.

Gary Plant
Gregory, L.
Randham, L.
Surprise, K.

Massillon Plant
Abbott, E.
Pollock, G.
Ritter, C.
Steed, K.
Walter, R.

Beaver Falls Plants
Fritz, C.
Haggert, A.
Steffens, W.
Hartford Plant
Callahan, J. M.
Predota, C.
Scherer, M.

Ideal Foundry and Machine Co.
Burkhart, O.
McFadden, D. L.
Mitchell, R. H.
Dilworth-Porter Division

Carney, I.
Laszczynski, F.
Rounds, W.
Schuster, H.

BIRMINGHAM DISTRICT

Raimund Mine

Crotwell, I.
Davis, J.
Freeman, G.
Saunders, A.
Tarrant, L.

Thomas Plant

Bell, J.
Ferguson, W.
Simpson, C.
Tate, J.
Whitley, P.
Spaulding Mine
Boykin, G.
Burton, J.
Funderburg, R.
Herring, C.
Langford, C.

Sayreton Mine

Blake, C. R.
Blake, J. A.
Eaton, J. R.
Hampton, R.
Ray, A.
Smith, F.

CANTON CULVERT CO.

Canton Plant

Anderson, F.
Belcher, R.
Wise, C.

Danville Plant

Ackman, J.
Boyer, J.
Vogt, P.

12 **REPUBLIC**

(Map entitled "Republic Geography")
Plants, Mines and Sales Offices of Republic and Subsidiaries are scattered throughout the United States

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"REPUBLIC TOWN"—POPULATION 150,000

If all of the people who work for Republic were gathered together in one place, they and their families would total around 150,000.

This would mean a city as big as San Diego, California, or Bridgeport, Connecticut—a fifth bigger than Albany—six times as big as Massillon, Ohio, and nearly as big as Youngstown, the "capital city" of Republic.

"Republic-town," as we might call our fanciful city, would be a center of manufacturing and industry. Great steel plants, with their towering stacks, would dot the sky line. Factories, blocks long, would line the streets. Tall office buildings would be needed to house the executive, sales, production, research, personnel, and other departments. There would be miles of homes and apartment houses.

In "Republic-town" there would be 13 blast furnaces; 68 open hearth furnaces; 2 Bessemer Converters and 7 electric furnaces.

"Republic-town" would have 536 by-product coke ovens, 10 blooming mills, 9 billet and bar mills, 26 merchant mills, 73 sheet mills, and 34 black plate mills.

The town would be the largest producer of alloy steels in the world, and have the nation's greatest capacity for stainless steel. It would be the country's second largest center for bar and strip production, and the third largest center of sheet steel and pipe.

The capacity of its blast furnaces would be 2,793,000 tons a year. The annual capacity of its open-hearths Bessemers, and electric furnaces, would be 5,013,000 tons. Somewhere on the outskirts of this busy steel center would be great iron ore and coal mines.

Taking it all in all, "Republic-town" would be a busy, thriving city to which thousands of manufacturers throughout the world would look for their supply of all types of iron and steel products.

But instead of being consolidated into one town, the operations of Republic Steel Corporation are spread over the entire country.

Republic plants, mines or offices are to be found in nineteen of the forty-eight states. They are located on the Atlantic seaboard, on the Pacific coast, on the Gulf of Mexico, and along the Great Lakes.

This spread of location covers all of the important industrial sections east of the Mississippi and enables Republic to give its customers prompt and efficient service.

But production is only one factor in the organization of a great business concern. The goods the company makes must be sold.

So Republic has sales offices in most of the large cities of the United States. Up and down and across the country, the sales representatives from these offices travel to get the orders that keep the company's plants operating.

This, in a nutshell, is Republic Steel Corporation—the *third largest producer of steel in the United States.*

APRIL 13

100% SAFETY RECORD

In 38 Republic Plants, Mines or Departments

Safety Pays! No additional proof of this fact is needed after a comparison is made of lost time and fatal accidents in the plants and mines of the Republic Steel Corporation and Subsidiaries in 1929 and during the years since that date.

(Enclosed in box)
Honor Roll for 1933
Plants, Mines or Departments without Lost Time Accidents
Warren
Coke, Inspection, Transportation, Roll Shop.
Upson Nut Division
Unionville, Conn., Muncie, Ind.
South Chicago

Inspection, Mason, Electrical, Miscellaneous, Roll Shop.

Upson Nut (Cleveland)

Tapping, Small Threading, Roll Threading, Bolt Finishing, Transportation, Trimming.

Central Alloy
(Massillon)

Blast Furnace, Electrical.

Central Alloy
(Canton)

Transportation and Labor.

Buffalo

Miscellaneous, Mason, Inspection, Roll Shop, Finishing Mills (General), 8-10-14" Rolling Mills.

Union Drawn Steel Co.

Gary, Ind., Beaver Falls No. 1, Hartford, Conn., Ideal Foundry Co., Beaver Falls No. 3.

Steel & Tubes, Inc.

Elyria.

Northern Ore Mines

Townsite, Susquehanna, Union.

Dilworth Porter

Tie Plate, No. 2 and No. 3 Spike Dept., Mechanical.

Taking lost time accidents and the deaths of 1929 as a

(Chart describing Per Cent Decrease in Lost Time Accidents Under 1929 and Per Cent Decrease in Fatal Accidents Under 1929. The years from 1929 to 1933 are given in each of the above instances and the percentage is shown by graphed lines opposite the years. In a column to the extreme right the number of employees saved from injury and the number of lives saved are given opposite the graphed lines.)

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measuring stick, a total of 2,493 Republic employees have been saved from lost time accidents up to the close of 1933 and twenty have been saved from fatal injuries.

This means that 2,513 families have been spared the grief and shock which always accompanies an accident, whether it is fatal or not, to say nothing of the financial difficulties which such events always bring with them.

Perfect safety is only possible when every employee is constantly aware of its necessity. Frequently the carelessness on the part of one man results in an accident to another, so when we practice safety we are helping not only ourselves but every other person in the plant.

Perfect safety, of course, means an absolute absence of lost time accidents or deaths. This may sound difficult—and yet during the past year, thirty-eight plants, mines or departments achieved this enviable record. If it can be done in thirty-eight cases, it should be done in many more during 1934. The list of 100% units is shown in the Honor Roll on this page.

Does safety pay? You will find that the employees of those thirty-eight plants, mines or departments that had no accidents in 1933 will answer that question with a great big Y-E-S. They were spared the pain and suffering of personal injury—not by a matter of chance—but because they were thinking and working safely. Congratulations to those thirty-eight units that operated through the year of 1933 without a lost time accident.

IF IT'S MADE OF STEEL—REPUBLIC MAKES IT

Consider a pile of red iron ore.

It was mined way up north at the head of the lakes.

It came down the inland seas in a 600-foot freighter.

It was unloaded from the ship by a massive machine, uncanny in its operation.

It was re-loaded on cars and eventually found its way into a Republic Steel Corporation plant, to start the journey

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(Picture of a new "Railcarbus" with the caption "Panels of Republic Galvannealed Steel encase the new "Railcarbus" used by the Hillsboro and Eastern Railroad in Wisconsin")

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from ore to iron to steel to processing, emerging finally as a Republic product.

All of the mills, factories, machinery, and organization that are consolidated under the name of Republic are set up to do just that—to transform red iron ore into things that millions of people use.

These products, and there are literally hundreds of them, may be classified into two major groups.

First are the staple commodities, the "sugar and bread and potatoes" of the steel world. These can be purchased from any one of a dozen or more steel makers. In this group are pig iron, steel bars, sheets and strip, plate, wire, and a whole list of things. The company has built a reputation for quality and as a result has a steady demand for this type of material.

In the other product group are the specialties, the things that can be bought from Republic and Republic only. Here the company occupies an enviable position.

It holds first place in the world as a producer of alloy steels and irons. These include such well known names as Enduro Stainless and Heat Resisting Steels, Agathon Alloy Steel, and Toncan Copper Molybdenum Iron. Then there are other special products and processes which have been developed or are controlled by Republic.

They include the Witherow process of die-rolling of duplicate parts, the Republic process of producing pipe and tubing by electric welding, and the Republic methods of making Sil-Con Electrical Steels. All of these processes are protected by Republic-owned patents.

Alloy materials for Republic steels include vanadium, mined in the High Andes in South America; chromium from Rhodesia in South Africa and from New Caledonia, an island in the South Pacific between Australia and the Fiji Islands; tungsten, mined in the interior of China and carried to the coast by coolies; manganese from India, the Caucasus Mountains and Brazil; nickel from Canada, and moylbdenum from Colorado.

Perhaps you don't know that Republic turns out more stainless steel than any other company in the country. What is it all used for? Who buys it?

Republic's Enduro Stainless Steel is used in some of the world's greatest buildings, the Empire State Building, Chrysler Building, Radio City, and the new building of the Insurance Company of North America. They glisten in the rays of the sun because they are trimmed with Republic stainless—steel that will never lose its bright finish and will wear everlastingly.

Enduro is used in the new bar in the Shoreland Hotel in Chicago. The bar is clean and sanitary, and shines like a mirror. Enduro is used to line a kitchenette in a railway diner.

Furniture, store trimmings, advertising signs, trimmings in modern homes, beer and syrup barrels—all these and countless other things are made of Enduro Stainless Steel.

Agathon Alloy Steel goes to manufacturers of automotive and railroad equipment, tools, and other products in many lines, who turn this tough steel into useful articles.

Toncan Iron, in one form or another, is used in architectural work, in the manufacture of large tanks and containers, switch boxes, mine cars, railroad cars, furnaces, roofing, siding and culverts.

Republic makes practically every kind of pipe except the one used for smoking. Among products in this field are steam, gas and water pipe, both black and galvanized; reamed and drifted pipe; dry kiln and signal pipe; water well castings: Toncan Cooper Molybdenum Iron pipe; electric weld pipe; all sorts of pipe and tubing for the oil country, and finally, the oil, gas and gasoline pipe-lines that stretch for thousands of miles.

Even the home is a big consumer of Republic pipe. It's used for awning frames, electrical conduit, building columns, fence posts, furniture, heating and ice-making equipment, swings, plumbing, trellises, and a hundred other things. Republic pipe does its part in making life more pleasant and liveable.

Thirty-eight states specify Republic Galvannealed Steel Sheets for highway markers and signs. These sheets also find a place in kitchen equipment, refrigerators, furniture, washing machines, display cases, building trim, radiator covers, cabinets, street cars, busses and trucks, furnaces and heaters, and finally, the license plates that you buy for the car.

And so far, only a few of Republic products and their uses have even been mentioned! There isn't room, short of a catalog.

For instance, there are open hearth steels and irons; electric furnace steels; Bessemer steels; tool steels; pig iron; coke and by-products; bar-mill products, cold drawn products; culverts; die-rolled products; plates; rail steel products; semi-finished steel; sheet; spikes, strip; tin plate; and wire products.

These materials are mostly used by manufacturers who, in turn, use them in making their finished products. They are the raw material for the automobile builder, railway supply manufacturer, building material producer, heating and ventilating equipment fabricator, and dozens of others.

At the same time Republic, through some of its subsidiaries, also makes finished products. These include such things as nails, nuts and bolts, tacks, rivets, furniture of all sorts, cabinets and office equipment, voting machines, laboratory equipment and beer cases.

From this brief story (and it just scratches the surface as far as Republic is concerned) it is plain to be seen that there are few things in our everyday life in which Republic does not play a part, in one way or another.

It is this great diversity which has helped to make Republic a great company. And a big share of the credit goes to the men in the plants and the mines, who produce and process raw materials into things which supply the needs of millions of people in all parts of the world.

(Picture captioned "Every Toncon Galvanized Sheet is carefully inspected before it goes to the purchaser.")

1,730 REPUBLIC GARDEN PLOTS IN 1933

(Picture showing garden captioned "Republic employees had hundreds of garden plots like this last summer".)

Many a Republic employee was carried back to his boyhood last summer when he started working one of the 1,736 garden plots which were laid out at some of the plants and mines.

It probably reminded him of the days when he helped raise the garden "truck" in the back yard—and when, due to the rapid growth of weeds, he was frequently kept from going fishing or swimming.

The popularity of the Republic gardens was shown by the fact that last year 1,736 plots were planted with rows of waving corn, mealy peas, onions and radishes, carrots and beets and a host of other vegetables. But that is only part of the story. Somewhat over 8,000 people, wives and children of Republic gardeners, enjoyed the fruits of these gardens.

In addition to the fun they had in seeing things grow and in working in the soil, the men who cultivated the 1,736 plots saved on their summer food bills, for the market price of the vegetables raised totaled the tidy sum of $19,562.86, an average of $13.81 per garden.

Under the arrangement with the company, pieces of land were set aside for cultivation. First the soil was carefully tested and put in shape through the addition of fertilizer and limestone screenings. The company furnished the fertilizer and had the land plowed and harrowed and ready for the gardeners. The only expense employees were put to was in the purchase of the seed.

Last year the Warren District led the procession with 285 plots cultivated. The runner-up was Raimund Mine with 250. The top yield was secured at Pettit Mine, where the value of the produce per plot amounted to an even $24.00. The next best was at Union Mine with an average of $22.35.

This year we hope there will be even more gardens than last year. Employees who are interested may arrange for gardens through their Employee Representatives.

(Back Cover)

(Republic Steel Emblem)

TOM GIRDLER SAYS:

You men who have been elected by Republic employees to represent them in collective bargaining have an important responsibility.

I urge every one of you to take this job seriously, giving careful consideration to the viewpoints of both the employees and the management, and remembering that we are all working for the same common purpose—the best interests of everybody connected with Republic Steel Corporation.

The whole spirit of the Employee Representation Plan is one of mutual understanding. I want to assure every Employee Representative that the Company Representatives will co-operate and assist you in adjusting the problems presented by you and the employees you represent.

T. M. Girdler,
Chairman and President,
Republic Steel Corporation

BOARD'S EXHIBIT NO. 26

EMPLOYEE REPRESENTATION
In the Iron and Steel Industry

As set forth by Men and Management before the
Senate Committee on Education and Labor

FOREWORD

On April 5 and 6, 1934, in Washington, employees and employers in the steel industry joined together in a vigorous attack on the proposed Wagner Labor Bill before the United States Senate Committee on Education and Labor.

The provisions of this bill were so repugnant to the American principle of harmonious relationships between employers and employees and so out of tune with the friendly cooperation that has grown up over the years between employees and employers in the steel industry, that steel executives and workmen stood side by side in demanding its defeat.

Their testimony presents a true picture of employee relations as they now exist in the steel industry, together with a description of the practical benefits of employee Representation Plans, as viewed by Employees themselves. The Wagner Bill threatened to destroy these plans.

Because of the importance of this subject to every man, woman and child whose likelihood is dependent upon the steel industry, a resume of the testimony of steel employes and executives before the Senate Committee has been printed for distribution throughout the industry.

American Iron and Steel Institute
350 Fifth Ave.
New York

U. S. Senate Committee on Education
and Labor
Washington, D. C. Thursday, April 5, 1934

Statement of Mr. Arthur H. Young
Vice President, United States Steel Corporation

I speak in opposition to the bill now under consideration by your Committee because of reasons and facts arising out of more than a quarter century of experience in personnel and industrial relations work. Starting quite young in the steel mills, at the age of 15, I was working 12 hours a day, proud of the fact I was paid 15 cents an hour—$1.80 a day—the then wage of an adult common laborer.

For many years I worked with my hands, as a leverman, rigger, and roll hand. Later I moved over and slowly upward on management's side, in charge of safety and employment activities in the South Chicago plant of the Illinois Steel Company and later as Director of the American Museum of Safety; then six years as Manager of Industrial Relations for the International Harvester Company, and for nearly 10 years just prior to February 1st (when I went on my present job) I was in charge of Industrial Relations Counselors, Inc. This is a nonprofit organization, underwritten by Mr. John D. Rockefeller, Jr., engaged in research and consulting service on all matters having to do with human relationships in industry.

One of the great developments of recent years has been the progress toward complete cooperation and the abolition of conflict between the worker and his boss that have characterized industrial relations in the United States of America. Only a few years ago our practices and procedures were eagerly investigated by official governmental missions from England, Australia, France and other countries, who sought "The Secret of High Wages." I had the honor to meet and confer with those missions, and found that government, labor and employer members alike were astounded at the favorable conditions of employment and remuneration of our workers, and likewise at the comraderie existing between men and management in our shops. Hardwood floors, bathrooms, central heat, automobiles and telephones, children at college and paid holidays for workers were startling enough to these visitors, but the "Hello, George—Howdy, Pete" exchange between the workmen in the shop and the officials who were conducting the visitors were to them almost incomprehensible.

This is not the picture of the American workingman that has been painted for you by certain preceding witnesses, proponents of this bill—but it is the situation described by competent, impartial, painstaking seekers of facts after thoroughgoing investigation, and officially stated in the reports of the British group known as the Sir William MacKenzie Mission and the Australian Labor Mission in 1927.

The services of the members of the Committee are so vital to the nation on other matters I cannot presume to take up your time with a complete argument for and description of the Employee Representation or Works Council form of joint relationships in industry. Witnesses that follow me, workers who now are managers, and workers who are spokesmen for their fellow employees, working under that system will convince you of their sincerity of purpose, their freedom of action and speech, and the beneficial results obtained. But I feel I must correct untruthful statements and improper implications made before your Committee regarding the plans in effect in the subsidiary plants of the United States Steel Corporation.

These plans are all very similar in fundamental structure. In that respect they do not differ from the by-laws and the charters issued to the hundreds of local unions by the international union headquarters. But these plans are similar after the representatives revise them —they are in effect only after the representatives of the employees and of the management have mutually agreed on their fairness and their practicality. In that respect their sameness is distinguished from the uniformity of union by-laws. A further point of difference with trade union by-laws is that they are in effect only after a majority of the employees at any plant, voting by secret ballot in an election exclusively conducted by the employees, elect to accept them as the basis for their joint relationships in all matters of mutual interest, far transcending the ordinary scope of so-called "collective bargaining."

There are no membership dues, there is no form of organization to which they subscribe as members. They indicate their participation in the plan by participation in the nominating ballots and election ballots annually, by contact with their representative at town meetings of departments held after the regular representative meetings have been held.

Senator Davis: Do you know the number that belong to these different organizations?

Mr. Young: More than 160,000 of the employees (of the U. S. Steel Corporation) have voted recently at elections for the acceptance of this plan.

Senator Davis: Do they have regular meetings?

Mr. Young: The employee representatives meet regularly once a month by themselves, or specially if they desire, and alternately with representatives of the management.

The Chairman: The workers meet once a year and elect their representatives?

Mr. Young: Yes, sir.

The Chairman: Senator Davis would like to know what percentage of the employees vote at the annual meetings.

Mr. Young: All employees have the right to vote. There are no restrictions on the right of suffrage. The participation in the balloting may range anywhere from 85 per cent to a full 100 per cent of the employees affected in balloting for their representatives.

The Chairman: And the organization consists then of officers or representatives elected by the employees, who carry on, who hold monthly meetings and carry on negotiations relating to collective bargaining with the employers or with the management of each plant?

Mr. Young: Yes, sir.

The Chairman: There has been, at some time, an opportunity given to the employees in each plant to determine the kind of organization they want?

Mr. Young: Entirely so, sir.

Mr. Chairman: And they did that by ballot?

Mr. Young: They did that by ballot.

Now, many statements have been made before your Committee to the effect that these elections are dominated and controlled by the employer, or that the employees have no opportunity of considering alternatives. It may be of interest to you to know that, preceding these elections at many of our plants, the employees were circularized with literature of the type I hand you herewith. In some cases the employees were solicited by opponents of the Employee Representation plan in a house-to-house canvass. At one plant the handbills were showered from an airplane especially chartered for the purpose. It would seem to me that the indications point to more coercion and "sales opposition" from outside agencies than to pressure from the employer. As a matter of fact, our supervisors were specifically ordered not to make any attempt to unfairly influence the attitude of the employees.

Now let me call your attention to some principal features of these plans, mostly common to all:

Article III, Section 1.—No restriction or limitation in the choice of representatives, save only that they may not be company officials.

Section 2.—All employees enrolled on the company's payrolls are entitled to vote.

Article IV. All nominations and elections are by secret ballot under the direction of the Committee on Rules, which is composed exclusively of employees.

Article VII. The employee representatives meet regularly or in special meetings by themselves at least once a month, and alternately in joint council with management.

Section 5.—Time necessarily lost in performance of duties is compensated by the company.

Article IX. A direct, logical and efficient machinery for the adjustment of any matter is provided. Failing conclusive action of the sequential steps in adjustment, arbitration may be had. Neither the right to strike, nor the right to close the plants is abridged.

Article XI. Amendments relating exclusively to employee organization or procedure are exclusively the function of the employee representatives.

Article XII. The plan can be terminated only by the employees.

Is there anywhere in this document anything that smacks of coercion, intimidation, domination? Absolutely no! But you will find evidence of initiation, participation, influence in the formation and compensation for services performed. And, gentlemen, these acts, the ordinary, everyday intercourse between men and management who mutually respect each other, are, under the terms of this bill, made "unfair labor practices," for which I and my fellow managers and our associates in these Works Councils may be punished by fine or imprisonment. I refer to my "associates in these works councils," and, gentlemen, I would say that term is truly descriptive of the status to which American workers and their employers have risen. Just as the original concept of the work relationship back in the Dark Ages was that of owner and slave, and gradually evolved to that of master and servants, so, too, has it in turn evolved to one of associates, jointly interested in a common enterprise for their mutual advantage.

It is a homely, but peculiarly applicable simile, to liken the development of sound and harmonious relationships between men and management to the working out of a sound and harmonious relationship in marriage between a man and his wife. Both depend upon a mutual conviction that their interests in life are largely in common, at least to the extent that they should form an alliance. Both require for fulfillment at least a mutual respect of the contracting parties for each other, and preferably real admiration. Both require that, out of this commonalty of interest and mutual respect, there shall develop a "give and take" attitude in their every day association together, and both require that, out of the alliance, there shall develop for each part, an increasing enrichment of their lives, and social economic security.

It is in the way that a man and a woman, by themselves, acquire these attributes that, in 99 out of a hundred cases, a satisfactory and happy married life emerges. No impersonal third party can lay down arbitrary laws or rules that will govern the result—it is the way in which they live together, day by day, that determines. Occasionally a friend of one or both may offer helpful advice or admonition. Even under the flag of friendship, the overtures may be hazardous—inevitably it is so if the counselor be "suspect" by either party.

Just so is it in the case of industrial relations. Men and management, convinced of their mutuality of interest, maintaining a reciprocated respect for each other, determine by their every-day conduct the wholesomeness of the union. Occasionally a friend, known to them and accepted by them (such as their Code Authority) may offer suggestions or reproof to good advantage—but it is no more possible to set up a National Board to lay down the law and the gospel to all employees and all managers in all industries in this far-flung land of ours, than it is to set up a similar Board to minister to all married couples.

It is trite to say that the human factor is the factor of greatest importance in industry. Capital without labor is helpless, and labor without capital would relegate our civilization to barbarism. Clearly, the two must serve in common, and with mutually purposeful direction. By and large, the facts prove that this is being done and by devices of proven value. To ignore the significant results already achieved—to cast aside our present media of accomplishment and substitute new and untried and unwholesome methods is not the part of statesmen. And, gentlemen, this is a problem for statesmen, for in this admittedly industrial nation of ours, he who contributes to the solution of the problems of industrial relationships, contributes to the economic, political and social well-being of the nation no less than those who seek by statutes of morality or international treaties of amity so to do.

Gentlemen, I am sure we would all agree that the one great and all-sufficing rule for the conduct of human relationships in industry is that precept given us by the Carpenter of Nazareth—"As ye would that men should do unto you—do ye also unto them." Many men try honestly and conscientiously today to apply this rule, but frequently it fails—not because of the rule, but because of mortal man's limitations. The Giver of the Golden Rule was divine—He knew that which men would wish done unto them. Many of us can only make our best guess as to what others would wish done unto them. Perhaps the rule should, for us, be written—"As ye would that men should do unto you, were ye such as they do ye also unto them."

Gentlemen, I say to you in all the sincerity at my command, the Works Council Plan is likewise a supplement to the Golden Rule—it is the device by which management may substitute for its best guess as to the desires of the employees the direct and certain voice of the chosen representatives of the employees, and likewise may the employees have available to them the voice and counsel of the employer.

There are those of us in both the ranks of management and workers who truly believe in and seek to apply the Golden Rule, and for them Employee Representation more surely spells accomplishment.

STATEMENT OF MR. CHARLES R. HOOK, PRESIDENT, AMERICAN ROLLING MILL COMPANY

In the summer of 1904, after I had occupied the position of superintendent of a sheet steel plant for more than six months and had reached very definite conclusions with respect to employee and employer relationship under a national union agreement, I came to the conclusion that there was only one way to prevent grievances and disputes and that was by local plant representation of employees elected by the employees of that plant by secret ballot and dealing with the management immediately and with real knowledge of the facts.

The local lodge of the Amalgamated Association of Iron, Steel and Tin Plate Workers had what was known as a "Mill Committee," but I soon found that this "Mill Committee" was nothing but a grievance committee. It operated only when, as and if there was a grievance.

I believed then, as I do now, most sincerely, that there is only one way to prevent grievances and disputes and that is for management to meet with representatives of their own employees regularly and in the spirit of friendship and good will to discuss and consider problems of mutual interest, in order that they might arrive at fair and sound conclusions before situations develop to the point that they become grievances and lead to disputes.

Gentlemen of the Committee, I deplore the title of the act. We don't want labor disputes. What we want and what I claim has been fast developing in this country as a result of the sound plans of employee representation, is a modern method for the careful consideration and study, by those vitally and directly interested, of the many problems of our complex industrial life; first, so that safe and good working conditions are provided and, secondly, that every possible encouragement be given to individual initiative and quality production through adequate and fair compensation.

From the summer of 1904, when I asked the union to elect the first committee, termed for the want of a better name "an advisory committee," until this day, there has been elected each year, by secret ballot, committees in every department of every plant, with the result that in the 33 years of the existence of the company which it is my privilege to represent, we have never, to my knowledge, had a dispute with our own employees which has resulted in the loss of one day's work in any department in any plant.

When this plan of negotiation was started, now almost 30 years ago, I met with the committee every Saturday night for some weeks, as the result of which we found that many of the problems which we were inclined to believe were of serious import as judged from our side of the fence, became insignificant and easily settled when understood one by the other.

The successful operation of this plan of employee representation was accomplished, not because of, but in spite of the national union with which we had had an agreement in one department of one plant for some 28 years.

Undoubtedly the most conclusive evidence that our men believed they had been fairly dealt with, and had confidence that this same fair dealing would be continued, occurred in the Middletown sheet mill department in September, 1929. The Middletown plant had been completely rebuilt and a continuous sheet mill installed, entirely changing the manufacturing processes in the sheet mill department.

In June of that year an agreement had been prepared and submitted to the sheet mill men. It was finally adopted and signed by the Advisory Committee of that department, as at that time no one, including the Amalgamated officials themselves, was able to write a scale adaptable to the new process.

Officials of the Amalgamated Association were present when the new agreement made direct with our men was signed. Some 60 days after the new plan had been in successful operation, those officials returned to Middletown and endeavored to get the workers in that department to abrogate their agreement, which they refused to do.

On the 18th day of September the national officials of The Amalgamated Association of Iron, Steel and Tin Workers ordered the men to strike and to their everlasting credit be it said, the men were faithful to their trust and refused to go out. These men had been loyal members of this national union for many years, but this attempt of their national officials to bring dishonor to them settled the fate of the Amalgamated Association in our plant.

Of 690 men then employed, only 37 failed to be at their post at their appointed time. Six of these 37 were either sick and could not come out or were kept from coming out for some unavoidable reason, and these six came to work the next day. Ten of the 31 who failed to appear applied for reinstatement within 10 days. Not one minute's time or one ton of production was lost, although every method of abuse and coercion known to the professional union organizer was used to get these men to break their agreement and leave their jobs.

I want to introduce into the record at this time, gentlemen, an exhibit in the form of a letter which came to me voluntarily and which illustrates the kind of compulsion there is in the industry with respect to the employees' representatives. This was sent to me at the Mayflower Hotel. It says:

"Dear Mr. Hook:

"From the Employee Representative, Finishing Mill.

"Due to the fact the Committee was discussing

> the Wagner bill, and thought you would be interested to know how our committee felt that had worked under both plans, union and employee representation, and now we are 100 per cent against the Wagner bill, and hope you are successful in defeating it, as we are very thankful of what you are doing."

Now, I had not any more idea that was coming to me than you. That is signed by the committee in the sheet mills department, representing that group of some 700 men.

I bring this to your attention because Mr. Green and others have stated before this Committee that plans of employee representation, to which they refer as "company unions," are dominated and controlled by company officials.

We recognize the right and are heartily in favor of permitting employees to bargain collectively in any manner they choose and through any representatives they might elect. Their decision with respect to their form of organization and their choice of representatives should be reached without improper influence, coercion or abuse upon the part of management or any outside organization, particularly one which is not held legally responsible for its acts.

The fact that this proposed legislation permits of the closed shop definitely discloses the real purpose of the Act. No employee should be forced to join any organization because the majority of his fellow workers choose to be members of that organization or because his employer elects to agree to such a provision with an organization to which a majority of his employees belong.

In my opinion, a proper relationship between men and management cannot be accomplished by legislation. Without mutual understanding, confidence and respect, you cannot have satisfactory and friendly relationships.

What disturbs me most about this proposed legislation is that there is an apparent assumption that the interests of the employer and employee are not mutual but antagonistic. I am quite confident that the distinguished Senator and his associate proponents of this legislation have been influenced largely and unfortunately because of certain experiences they have had as members of and in connection with the National Labor Board, set up to handle disputes arising as a result of complaints and alleged violations of Section 7 (a) of the National Industrial Recovery Act.

We need no more legislation; we have in the N. I. R. A. all the protection that is required to safeguard the interests of employees, if impartially administered.

The wage policy of the national labor unions with which I have had any experience has been antiquated and non-constructive. They depend upon coercion to force the highest possible wage rates without due regard for individual skill, responsibility, or the ability of industry to pay. Frequently, this condition leads to unfair wage treatment within the closed-shop organization. To set wages on a fair and scientific basis requires not only an understanding of the economics of the business, but long experience in rate setting.

For years, the American workman has enjoyed more conveniences, privileges, and luxuries, as a result of the co-operative spirit which has existed in American industry under the American plan than in any other country in the world. The Government has an obligation to its citizens not to do anything which may jeopardize our standards of living. Under the terms of this Bill, I do not see how any employer can continue to provide such beneficial activities as group life insurance, sick and death benefits, free medical services, free parks and playgrounds, bonuses to workmen, etc., without violating the law and being subject to a severe penalty.

To provide conditions that would not permit me, or any other member of our management, to consult with our employees concerning our common mutual problems in the profitable operation of the business is contrary to American principles. In conclusion, I ask you to show your faith in the industrial system under which America has become the envy of the world by suppressing this dangerous legislation.

May I say to you that there can be no great work done of any kind without much of cooperation and there cannot be real cooperation until there is first confidence built upon a foundation of understanding.

STATEMENT OF MR. ERNEST T. WEIR, CHAIRMAN, NATIONAL STEEL CORPORATION

Mr. Chairman and gentlemen, members of the Committee:

I have been in the steel business all my life. I began working in a mill at the age of sixteen, and I think I know the viewpoint of the steel workers about labor organizations and wages. I was one of the original organizers of the Weirton Steel Company, the principal plant of which is at Weirton, West Virginia.

From the day our business was started in Clarksburg, West Virginia, in 1905—and then extended to Weirton in 1910—right up to within a few years ago my office was at the mills as was also that of my brother and John C. Williams, both of whom were associated with me in the development of this business from its beginning. This gave us a direct contact with our employees and our daily operations, the three of us being personally acquainted with a great many of our men at all times.

I believe the working man is primarily interested in his wages. Eighty per cent of our employees have no interest in labor organizations. They want to be left alone, and provided with work and the opportunity to earn good wages under good working conditions. What we have developed over a period of years in the way of a plant and organization, has been done without the aid of labor unions, without any form of espionage and practically no labor trouble.

There has never been a time that our employees could not confer with us about any matter of interest to them, and we have been free from the wasteful practices and uneconomic domination of union labor leaders. Now it is proposed to pass a law, the effect of which would be to drive a great many employees into national labor unions, whether they desire them or not.

The average employee joins a union only because he is told by union organizers that he will not have a job if the union wins, or that jobs will be allotted according to the numbers on the union membership cards. Many of them sign cards because of coercion and intimidation, and yet this present bill lays no restraint upon coercion or intimidation by labor unions.

They are to be free to carry on any kind of propaganda they see fit but it is to be an offense if an employer even indicates his attitude toward labor union membership. I have had numbers of our employees come to me and ask me if it was going to be necessary in the future to join a labor union to hold their jobs as they had been told this would be the case. This bill would make it an illegal practice for an employer to express an opinion on that subject.

If 51% of the employees of a plant joined the union, that union would represent all of the employees, and the other 49%, although not members of the union, would have no one to represent them in dealing with the company. Their only right to be heard or to participate in the councils of the employees would be to join the union, and that is the purpose of this legislation, in my opinion.

Senator Wagner has been quoted as saying that the purpose of this bill is to make employee representation plans illegal. In my opinion, employee representation plans can accomplish far more for the workers than any national union can accomplish. The problems that affect the worker are not all wage problems. An analysis of 505 matters arising through our employee representatives in the last half of 1933 indicates that 296 of them related to differences in wage, wage differentials, piecework or tonnage rates, and the remainder of them had to do with matters of safety, economy and waste, health and sanitation, housing and living conditions, education, athletics, public relations, etc. Many of these questions are just as vital to the men as wage questions and they will receive much better attention from a local organization of the employees than they could receive from the officers of national unions.

One of the methods proposed in the Bill of making employee representation plans illegal is to forbid the employer from paying for the time of an employee representative spent in his committee work. The evident intention is to give the impression that the amount of money paid by the employer to help support the employee representation plan was so large as to make it a factor of great influence with the representatives in favoring the employer as against the men whom they represent. The figures . . . show that the amount of money actually spent in carrying on this work in our company represented a cost of about $1.00 per man, or 12½ cents per month. This compensation for lost time is payable to whomever is elected and, therefore, could have no effect upon the attitude of the representative toward the company. I cannot, therefore, be a means of favoritism and the only purpose of putting such a clause in this act is to attempt to exterminate the company union in favor of national unions.

If our men had belonged to a national union during this period of eight months, there would have been paid in dues, without counting initiation fees, out of the pockets of the workmen instead of the Company, approximately $150,000.00, none of which would have been subject to public accounting. If, in seeking to protect my men from the domination and control of national unions I am a "public enemy who ought to be pilloried," as Mr. Green referred to me, then I am proud to be so regarded.

I think it is a direct insult to the workers in our plants that it should be presumed by Senator Wagner or anybody else that their allegiance can be purchased not only by this insignificant sum but for any sum of money or other favors. Employee representatives are keenly interested in their work, realizing the responsibility which rests upon them, and there is no danger of them being coerced by any company into failing to protect the interests of the men by whom they were elected.

The worker today is fully aware of his rights and is giving serious thought and consideration to the improvement of his position and his relations with his employer; and even were the employer inclined to try to coerce him it would not be possible. Let me say further that I believe the employer today is not interested in the coercion of his employees. He wants to deal with them on a fair and constructive basis and one that will be of mutual benefit to the employee and to the industry. I have had much experience with national labor unions, and as constituted, officered, and operated today peace in industry with them is impossible.

I have taken the trouble to have the average daily earnings of Mr. Long, who appeared before you and referred to the Weirton case, computed. He averaged in 1933 for every day he worked over $10.00 a day and had an average as high as $14.00 a day during 1928. Another of the union men who came down here to appear before you was paid for every day he worked this year an average of well over $17.00 a day. These men are not down here protesting against any mistreatment of labor by the Weirton Steel Company. They are here because they are paid officers and organizers for the union, which is trying to take about $250,000 a year in dues out of our employees.

Senator Wagner claims a National Labor Board with sweeping authority is necessary to punish employers who refuse to comply with Section 7A. The present act has adequate remedies.

The proposed Wagner bill in my opinion, presents an unheard of spectacle, in the guise of a Court of Justice. There will be two parties before the Court, the employer and the employee, represented by the Labor Union. The Board may make order operating upon the employer, it may assess penalties against him and order the reinstatement of employees, and yet it has no power to restrain the union, assess damages against it, or in any manner, punish the union for its acts. What sort of justice would this be? We will have to abandon our American concept of even-handed justice if such a tribunal is constituted by this act.

The act makes it legal to agree that no one may be employed except members of a union, but makes it illegal to agree that no one may be employed except non-union men. The obvious purpose of such a one-sided provision is to establish by law the closed shop and, after all, that is the issue in this legislation.

When the unions have power to dictate a closed shop, they have reached a point where they say: "You must join our union or starve." This is tyranny—it is un-American. To belong to a union is all right, but to say that the man who does not belong to a union shall not be allowed to labor, is all wrong.

I cannot believe that the people of this country are ready to put their stamp of approval by legislation upon the closed shop in industry, and if it is accomplished by law I predict unending industrial troubles. It will mean the end of the fine spirit of cooperation between employers and employees, which has been growing through employee representation plans.

I believe industrial peace lies in the direction of cooperation between employers and employees, and not antagonism. The purpose of this bill is to drive a wedge between the employer and the employee, to herd them into two different camps as if their interests were always antagonistic. Such a policy is uneconomic and dangerous to our industrial welfare.

Not only as an employer but as one interested in the social welfare of our people, I am keenly interested in the development of such activities as will insure that freedom of action to the individual which will give him a definite opportunity to improve his own position and, naturally, that of those dependent upon him. I believe this bill will destroy such individual freedom and strongly recommend to this Committee that this destructive bill be defeated.

STATEMENT OF MR. JOHN LARKIN, GENERAL CHAIRMAN, EMPLOYEES' REPRESENTATIVES OF THE WEIRTON STEEL COMPANY

Mr. Chairman and gentlemen: I am General Chairman of the Employees' Representatives of the Weirton Steel Company, and I am here because various witnesses appearing before this Committee have claimed that the plans of employee representation in the Weirton Steel Company and other companies were not the free choice of the employees and are company dominated. While I cannot speak for any other company, as I have been employed by the Weirton Steel Company for 5 years, I do know that the employee representation plan at the Weirton Steel Company is not company dominated in any way, and I desire to make a statement about my participation in that case.

The plan of electing employee representatives in our company was not forced upon us by the management. It was put in effect in June of 1933. For 8 years previous to that there had been at Weirton what was known as the Employees' Relief and Beneficial Association, which had 23 directors, elected by the employees each year by secret ballot. Our representation plan was originally submitted by the management to the representatives of the Employees' Relief and Beneficial Association then in office and they and other employees who had been directors of the Employees' Relief and Beneficial Association, as well as foremen and superintendents, discussed it with the various employees. There was a unanimous opinion in favor of its adoption and intense interest in the plan. I personally discussed it with everybody with whom I came in contact in the mill in which I am employed and found not a single objection anywhere to its adoption.

The directors and ex-directors of the Employees' Relief and Beneficial Association, together with other employees, formed themselves into steering committees and chose the first election boards to conduct the first election of Employees' Representatives. In that election in June, 9,866 employees, out of 11,190 eligible to vote, or a percentage of 88.4 per cent, participated and 49 representatives were chosen. After our elections the various representatives meet together in conference and elect a General Chairman, a General Secretary and various committees, the principal ones of which are Committee on Rules, Committee on Appeals, and Committee on Finance.

The by-laws provide that the Rules Committee shall outline the rules and procedure of conducting elections. The next election after our organization was scheduled for December 1933. Committees of five men were selected to act as clerks and tellers at the polls. No man is permitted to serve on an election board who is a candidate. The by-laws provide that the election takes place in the second week of December of each year, nominations on Monday and election on Friday. The election boards have in their possession lists of eligible voters. The voting is by secret ballot and the voter may vote either for an employee or a non-employee, for himself or Mussolini, if he desires.

The Chairman: How is your organization financed?

Mr. Larkin: It is financed by $25 paid by the company per month for every representative that is elected.

The Chairman: And this takes care of all the expenses? How about the expense of printing ballots and the arranging of elections?

Mr. Larkin: Why, each man is assessed. The company pays an assessment of 50 cents per head. The representatives asked the company to pay for each and every man that works in the company 50 cents into the fund to finance the organization.

Senator Davis: Fifty cents a month?

Mr. Larkin: Fifty cents a year, for every employee that is eligible to vote.

The Chairman: Of course, you know an objection is made here by the proponents of this bill to the system of employers paying the expenses of these company organizations.

Mr. Larkin: Well, to explain that, there are a lot of men that work in the various mills on laboring jobs, and such as that, and it would be a crime to take money off of a man making 40 cents or 42½ cents an hour working 40 hours a week to pay to any institution, would it not? Would not it be better to get somebody to finance a thing like that? If they had to pay into that institution it would be just robbing them.

Senator Davis: How many employees are there in the strip mill?

Mr. Larkin: There are 1463 men.

Senator Davis: Now, that applies to everybody?

Mr. Larkin: That does not apply to the bosses or anything, just the men that are allowed to vote. Nobody has a right to vote who has a right to hire or fire. They are not listed here, the salaried employees are not listed, only the eligible men that work, the 1463.

The Chairman: Are you expressing the sentiment here of the other 48 representatives?

Mr. Larkin: I certainly am. They all helped to write this letter, every one of them. The different unions sent suggestions in and I wrote it off those suggestions.

The Chairman: You read it to these representatives, this statement, before you read it here?

Mr. Larkin: Yes, sir.

The Chairman: And they approved it?
Mr. Larkin: Yes, sir.
The Chairman: That is all.

STATEMENT OF MR. TOM M. GIRDLER, CHAIRMAN AND PRESIDENT, REPUBLIC STEEL CORPORATION

We are opposed to the Wagner bill. It is designed to interfere with direct contact between management and employees and to destroy the friendly relations which now exist. After reading the bill, I think its purpose is to unionize all industry and subject our plants to the domination of national labor unions. This would be a great calamity.

I feel that my experience in dealing with labor entitles me to express an opinion on this subject. I have always worked since I was a boy. I worked in a cement plant during vacation while I was going to college. I began work in a steel plant at Pittsburgh in 1902, and was presently made a foreman. Since then I have been continuously in charge of labor. My experience covers work at various plants, including seven years in the mills of the Atlantic Steel Company at Atlanta, Georgia. I spent sixteen years with the Jones & Laughlin Steel Corporation at Pittsburgh, beginning as Assistant Superintendent in one of its plants and concluding as president of the corporation in charge of 25,000 employees.

For a number of years I was superintendent of the Aliquippa plant of the Jones & Laughlin Company, located on the Ohio River. This plant employed anywhere from 5,000 to 10,000 men according to the condition of business.

All of the plants of that company were operated on the open-shop basis. We did not have any labor union to tell us what to do, but I made it my business to know the needs of my men. I previously had personal experience working in steel plants, and I thought then and I think now, that I know something about how the workers in steel plants feel about these matters.

My door was open for employees to come to me at any time if they had anything to say, and they did come, singly and in groups. I became acquainted with them and could call hundreds of them by name. I kept in close touch with the work of the plant and impressed upon my staff and all our superintendents and foremen the necessity and the importance of keeping alive to the needs and wishes of our employees. We never had labor troubles of any consequence, even though they were sometimes occurring in the plants of other companies, especially in 1919. I attribute this result to the direct personal contact between our management and our men.

I think that the managers of steel companies generally have long since found that it is for the best interests of their companies to adopt this course in dealing with labor problems, wholly aside from any other consideration. I am personally acquainted with the officers of the large steel companies and many of the smaller ones, and know they are trying to handle this subject in the same way that I am.

It is the general belief of the officers of steel companies that the only successful way to handle the labor problem is through direct personal contact between management and employees. This is the principle on which I have always acted.

The Wagner bill would destroy this personal relation.

It invites the men to select a labor union to represent them. One of the stock arguments of labor leaders is that the workers ought to have, as Mr. John L. Lewis said, "the opportunity of availing themselves of skilled counsel in the form of economists, representatives of National Labor organizations, attorneys or any other agents, even though they are not employed in the plant."

I know something about the way Labor Unions work, and the business agents whom they put forward to deal with employers are certainly not economists or lawyers. The arguments which they use are not such as are found in books. They undoubtedly represent national labor organizations, but this is a disadvantage to the workers, as these business agents are acting under the direction of men who are much more interested in the development of their national organization than they are in solving the problems of any particular plant.

The Employee Representation Plans that have been adopted since the passage of the National Recovery Act provide generally for the selection of individual representatives as required by the Act. They are not company unions or unions in any sense of the word. These plans provide a method of collective bargaining on wages, hours and working conditions, between management and employees through their own elected representatives, and are so designed to provide a means for collective expression of opinion for negotiation.

There has been a great deal of wild and extravagant talk before this Committee about the exercise of coercion and intimidation by employers to make their employees adopt this plan. I desire to say that so far as our company is concerned such statements are absolutely untrue. We did not bring any pressure to bear upon our employees to compel the adoption of this plan, and since it adoption we have not sought to influence in any way the action of these representatives.

I will not take the time to explain the details of our system. That will be done by the employee representatives themselves. But there are two points on which I desire to comment. I understand it has been repeatedly stated at this hearing that this plan is in conflict with the law because it provides that the representatives selected shall be employees of the company.

In the first place, I have been told by my counsel that the Federal Court in Chicago has held that this clause does not conflict with the National Recovery Act, but is perfectly legal.

In the second place it is not surprising that in the original draft of any plan there might be clauses which experience would demonstrate should be revised. Even the Constitution of the United States has been amended 21 times.

The other point on which I wish to comment is the charge that employers have exercised undue influence in the selection of representatives. This statement is not true as far as our company is concerned. Nominations were made by secret ballot and the vote on the nominees so chosen was conducted by secret ballot. The only part taken by the company in these elections was to furnish ballots, ballot boxes, supplies and places for the men to vote. The conduct of the elections was entirely in the hands of the men. I have already said that since the election of these representatives this company has exercised no influence upon their action. Before I leave this subject I desire to amplify that statement. Anyone who thinks that these representatives, chosen by secret vote to represent their fellow workers would be overawed in dealing with their foreman, superintendent or even the president of the company, certainly does not understand the independence of steel plant workers. These representatives handle matters referred to them by the men in the group they represent. They meet by themselves and then after that meeting join with the company representatives in a meeting in which they discuss the matters presented by their constituents.

In connection with these meetings, 785 meetings were held and the total attendance at these meetings was 6968. The total amount of money paid by the company on account of time spent at these meetings by representatives averaged approximately 43 cents per employee for 8 months. If the employees were required to pay dues to the American Federation of Labor during these 8 months, it would have cost each employee $8.00, or total cost to all employees of $272,000.

These figures clearly indicate that any law which makes it impossible for the company to pay wages to employee representatives for time lost on account of attendance at meetings, immediately imposes a burden of expense on employees if they act through a union.

I understand that it has been repeatedly stated before your Committee that many employees who wanted to join the American Federation of Labor or some of its subsidiary unions, have been discharged by employers. I desire to state that, although I have always known that there have been more or less union men working in plants in my charge. I have never fired an employee, either before or since the adoption of the act, simply because he was a labor union man.

If the Wagner bill is part of a New Deal, it is certainly not part of a Fair Deal.

Senator Wagner may call this a bill "to equalize the bargaining power of employers and employees;" but I call it a bill to tie the hands of employers and turn industry over to the American Federation of Labor.

I shall not, of course, attempt to discuss legal procedure, but the very next section of this Act authorizes the United States Courts to issue injunctions to restrain acts of employers as defined in Section 5, but no provision is made for issuing injunctions against labor unions. I am told that under the Norris-La Guardia Anti-Injunction law the right of employers to secure injunctions against unfair acts by labor unions has been denied. If you are going to deal fairly with this subject I should think the same rights and remedies should be given to both sides.

Finally, it is declared to be an unfair practice for employers to "engage in any discriminatory practice as to wage or hour differentials, advancement, demotion, higher tenure of employment, reinstatement, or any other condition of employment, which encourages membership or nonmembership in any labor organization."

Under this clause practically every change made in the work of a plant employee becomes immediately a disputed question if he is a member of a labor union. No matter how strongly the employer may testify that such changes were made solely according to the merit or demerit of the worker, we must expect a controversy, and under the provisions of this bill creating a National Labor Board, with its principal office in Washington, we are subject to be called there at substantial expense and inconvenience for the determination of a question which any experienced plant superintendent could dispose of fairly, satisfactorily and promptly under the present system.

I am told, for, of course, I have not had time to read the entire transcript of this hearing, that many speakers in favor of the bill have undertaken to convince you that the workers themselves resent the Employee Representation Plan and have flocked to the American Federation of Labor requesting to be taken into that organization. This is absolutely untrue, as far as we are concerned. The facts are that promptly upon the enactment of the National Recovery Act the American Federation of Labor deluged the country with paid professional organizers whose duty it was to set up organizations in places where the American Federation of Labor had not obtained a footing.

I can readily understand the efforts of the leaders of the great national unions to seize this opportunity to try to unionize industry. The annual revenue to be derived from union dues, even when paid at the rate of $1 per month, reaches large totals. For every million men which can be enrolled in these organizations, they will receive, if all are paying dues $10,000,000 to $12,000,000. Mr. William Green has told this committee that the present membership of the American Federation of Labor is in excess of 3 million. This would mean an income of $36,000,000 each year. No political party in this country ever had such an annual revenue with which to build up and maintain its organization.

Just a word more about collecting dues. If the workers are so anxious to join the American Federation of Labor, why should it be necessary foı these unions to obtain a compulsory check-off to enforce collection of dues? And yet that is always one of the vital issues in every labor controversy. I know from experience that the great majority do not want to pay union dues, and will not do so except under coercion. Our plant workers are intelligent. They know that these dues reach large amounts, and they have a pretty good idea as to who is getting the most benefit from them, even though an accounting is seldom, if ever, published by the union.

The steel companies are just beginning to emerge from the most serious business depression the industry has ever known. Their losses have been stupendous. Under the National Recovery Act the better conditions which have resulted from somewhat improved prices and much larger volume of business have been to a large degree offset by the increased cost of operation. The passage of the Wagner bill with the consequent labor troubles that are sure to follow will add an intolerable burden to this industry from which I think we can justly ask you to protect us.

STATEMENT OF MR. J. M. LARKIN, VICE-PRESIDENT, BETHLEHEM STEEL COMPANY

Mr. Chairman and Gentlemen of the Committee: I am appearing before your Committee in opposition to the Wagner bill, because I fear that it would legislate out of existence plans of employee representation which are in effect among the employees of many industries in this country, including employees of the company that I represent, and which I know to be good from the point of view of the employees.

Such employee representation plans have been in operation among the employees of our company for more than fifteen years. They have provided a happy and successful working arrangement which our men and our management have found mutually advantageous and satisfactory during that period, and we are wholly opposed to any legislation which would destroy or adversely affect them.

Our plans were adopted because it was believed that they provide the most effective form of handling labor relationships. They were not adopted, as some critics have charged, as a device to forestall unionism and this was made clear at their inception fifteen years ago.

The purpose of the employee representation plans is to establish a continuous day-to-day channel of communication between management and men. They aim to set up a method whereby all complaints can be quickly heard and adjusted and all suggestions can be considered on their merits, and whereby the men can elect their representatives without influence from the management, so that the dealings will be clean-cut and on a sound basis.

The underlying philosophy of the employee representation plans is that the best interests of labor can be served by having the employee and employer sit down together in a friendly and constructive atmosphere and, with a first-hand practical knowledge of their problems, work out a fair and equitable solution. Therein lies the strength of employee representation as contrasted with other forms of collective bargaining which seek to organize employees and employers into separate camps with drawn battle lines. This was the condition which existed in industry thirty years ago. It is a condition to which we must not revert.

This employee representation idea, of course, is not new. Scores of plans have been in effect for many years, and the criticism of them that has recently developed is due to a large extent to the resistance that the employees themselves have shown to the efforts to organize them which the union leaders have made.

Back in the early post-war years, with their unsettled labor conditions, these plans were already in effect in a number of companies. In that period President Wilson created his Second Industrial Conference, which was called upon to study the cause of industrial unrest and to suggest measures for preventing it. It is significant that such Conference made a report in which it recommended employee representation plans as a practical method of fair and effective collective bargaining.

Now, there are several principles with respect to employee representation which are fundamental to its success from any point of view. The first of these is the independence of the representatives. There has been a great deal of dust raised about company domination, and it is assumed by some people that every such plan is dominated by the employer company. That is very far from the truth. On the contrary it is generally recognized by employers that, if these plans are to be of any value to any one, they must provide a forum for free and open discussion of all problems affecting labor, and no company which has had the long and satisfactory relationship with its employees that our company has had would think of denying them the fullest freedom of action in this regard.

Business men have some common sense. They know that they cannot deceive their employees and at the same time preserve their loyalty and good will. No experienced management would attempt to establish a thoroughly dominated company union, with representatives picked out by them for the purpose of scenery. Nothing would be accomplished by such a set-up, and business men know it. They know that if the plans are to operate effectively they must have the support and confidence of the employees.

In dealing with labor as well as in other relationships sincerity and honesty of purposes are the only principles that pay in the long run. That may sound rather obvious and old-fashioned, but it is a good rule of successful business operation, which is not going to change.

From their inception fifteen years ago, our employee representation plans have operated on a fair and aboveboard basis. They have provided to our employees an opportunity for collective bargaining absolutely free from domination or intimidation and a ready means by which their employment problems have been and are solved.

Our plans expressly provide that no employee representative shall be discriminated against for his activities in representing his constituents. They give the representatives the right to appeal any case to the Department of Labor of the state in which the particular plant is located, or to the United States Department of Labor. I do not see how there can be any guarantee better than that. In fact, I think that there is a danger of our forgetting that in the United States Department of Labor we already have a fair tribunal which should command the respect of the American public.

Another major principle in our employee representation plans is that of mutual participation in discussions of all problems affecting the employees and the management. This is vital to the success of the plans. It is the very feature which distinguishes them as a method of joint and effective cooperation, as compared with the battlefront method, of settling disputes.

Mutual participation is a two-way street, as much a benefit to the men as it is to the employer. It is an advantage to the men to be able to sit down with an equal number of representatives from the management to discuss face to face on a friendly basis the various problems which arise. If management refuses such participation, it should certainly be criticized for so doing.

But management also desires it, because it believes that an employee who is informed of his employer's policies and problems and is treated fairly will be a satisfied, and, therefore, a better worker.

In our plans the employee committees are entirely free to meet by themselves, but, as a matter of general practice, the quick and effective route of working out the current problem is found to be in the meeting of joint committees consisting of representatives of the employees and the management.

That a wide range of matters come up for consideration from day to day and week to week is indicated by the fact that 7,078 major cases have been decided in the past 15 years under the employee representation plans in effect at the plants of our Company. Of these, 1265 cases dealt with wages, and 1497 with working conditions. Then we find such other important matters as relief, pensions, sanitation, operating practices, accident prevention and employee transportation.

That these plans provide for the employees a practical method of bargaining and that the decisions are not dominated by the employer is seen in the record which shows that 4813 of the 7078 cases to which I have referred were decided as the employees recommended, and that an additional 817 cases were compromised. Thus, almost 80% of the cases brought up by the employees were decided in accordance with their recommendations or in a manner satisfactory to them.

The next point on which I wish to comment is the provision in our plans whereby the employee representatives are compensated at their regular rate of pay for the time devoted to performing their duties under the plans. Some critics have stated that, if men are paid their wages while they are actually serving on a committee, their views will be necessarily biased. Such a statement is based on the misconception of the whole idea. We have always regarded our plans as an integral part of our organization.

I cannot see any sound reason for discriminating against the employees by requiring that their meetings be held at their expense. As I see it those who think that the representative should serve at his own or the employees' expense cannot have any particular friendship for labor. Indeed, some formal labor agreements which have governmental sanction definitely stipulate that the employees' representatives shall be permitted to attend to their duties at the employer's expense. Our experience over 15 years has been that elected representatives have performed their duties in a fearless, intelligent manner. Anyone who says that an employee is going to compromise his conscience just because his wages continue while he is attending to committee business has an unjustifiably low opinion of the American worker. I believe that employees generally will subscribe to this view and will resent any legislation that will cause them needless loss of wages.

The Chairman: What does the employer pay to the representatives of labor in your plant?

Mr. Larkin: The regular hourly rate for the time that they spend.

The Chairman: During working hours, while he is serving as representative of the employees, he is paid the wages that he would receive if he had been actually working in the plant of the company?

Mr. Larkin: That is right.

The Chairman: There was some evidence here this morning of paying the representatives $25 a month in one company. That is not the practice in your company?

Mr. Larkin: No. We pay the regular average hourly rate for the time spent.

The Chairman: In other words, you feel that they are working for the company when they are engaged in settling disputes and in considering problems for the welfare of the employees and for the development of collective bargaining between the employer and employee?

Mr. Larkin: We feel that they should not suffer a loss by reason of the contribution which they are making to the employees and the company.

The National Labor Board has emphasized that it has settled labor disputes involving more than a million persons. That is highly commendable. It does not appear whether that number of employees were directly involved in such cases; but, however that may be, it must be remembered that there are over 23,000,000 workers that have not required such mediation.

The very fact of the existence of such a Board as the National Labor Board has tended to promote agitation on the part of professional strike fomenters. A disgruntled minority will always try to capitalize such a situation, and the public welfare is concerned, if such a Board allows itself to be misdirected into encouraging discord.

I think it unfortunate that so much attention has been paid and that so much emphasis has been put upon the relatively small number of cases where there has been dissatisfaction. These I think have obscured the real situation existing in industry. Indeed, it is perhaps surprising that, with all the effort in some quarters towards capitalizing the emergency and creating unrest, more trouble has not developed. It is, of course, natural that where the points of disturbance have been somewhat important, unusual attention has been attracted to them. Nevertheless, when we think in terms of national policy, we must not lose sight of the fact that the normal average condition in industry is one of peaceful cooperation between employee and employer.

We feel that further legislation at this time is entirely unnecessary. Industrial relationships do not demand it; Section 7 (a) of the Recovery Act is a sufficient guarantee to workers and it should stand as it is, all interested relying upon existing powers of enforcement as sufficient.

STATEMENT OF MR. FRANK PURNELL, PRESIDENT, THE YOUNGSTOWN SHEET AND TUBE COMPANY

My name is Frank Purnell and I am president of The Youngstown Sheet and Tube Company, a large employer of labor. Throughout the depression years we employed as many of these men as we possibly could by means of staggering the work or dividing such work as was available among as many men as possible. At the present time we are employing about 16,000 men. We have plants in the Youngstown District and in the Chicago District. We make and sell iron and steel products.

It is very doubtful if I can add anything that has not already been said in reference to the Wagner bill which is now before us. I am very strongly of the opinion, however, that to take such drastic measures as proposed in the bill would so completely upset relations between employer and employee that it would be very harmful to the purposes of the National Recovery Act. It is impossible to change overnight basic principles in any line of endeavor or in any line of business. We believe that Section 7 of the National Recovery Act should be given a fair trial in protecting the rights of labor, and if its obligations are made reciprocal, it would be an outstanding step in defining the rights of labor.

The very fact that representation plans have received such favorable support, regardless of the contention of labor leaders that there was coercion on the part of the employer, leads us to believe that the great mass of peaceful workmen and the backbone of the American working men have accepted this experiment and are giving it full cooperation, and it will only be after a reasonable trial that anyone can say as to whether or not modifications are necessary. We, of course, always have felt that coercion by outsiders on the men to join special labor unions or organizations is just as offensive as if coercion was used by the employer to have the workingmen follow any particular plan of his own.

Therefore, with this general brief statement we express the hope and desire that we may be allowed to go along and try to develop through experience under the plans under which we are now working before any further legislation is inaugurated tending to destroy the satisfactory relationship existing between most employers and their men, and that nothing will be done to disturb present efforts under the Recovery Administration.

Our plan is 15 years old, and I just would like to recite how it started.

During the World War our employees, like the employees of most other steel companies, organized a "Patriotic Committee" for raising money for the Red Cross, Knights of Columbus, Y. M. C. A., and war chest purposes, and for the sale of Liberty Bonds. The Committee was made up of about 600 men from all departments and included foremen, skilled and unskilled employees. During the campaign for the sale of the Fourth Liberty Bonds the "Patriotic Committee" at the Camden plant alone obtained subscriptions to about $3,500,000 from approximately 13,000 employees or an average of $264.20 per subscriber.

The work of this Committee brought about very close relationships between employees and management and developed the idea of some plan of permanent employee representation for the purpose of maintaining these close relationships between employer and employees. The Committee voted unanimously in favor of the adoption of some plan of representation, and the matter was discussed between the management and employees with the suggestion that company officials, salaried employees and those having the power to employ and discharge should not be included in the representation plan. As a result of this discussion, the matter was given thorough consideration and on November 29, 1918, the form of plan or representation was agreed upon and was adopted by the employees of the company and the management. Under its provisions company officials, salaried employees and those vested with power to hire and discharge have no participation in the plan. It permits amendment from time to time but neither the employees nor the management found it necessary to request any important changes from the original plan.

The manner in which the plan has been accepted by the employees is illustrated by the number of employees who participate in the election of representatives. In 1919 44.3% of the eligible working employees voted for representatives; in 1923, 56.2% voted; in 1933, 88.5% of the eligible working employees voted. The elections are conducted entirely by the employees through their own representatives and voting is by secret ballot; no interference, restraint or coercion from any source is tolerated. The management has no part in the elections at any time and it has not had any part in them for the 15 years' life of the plan.

This brief history of the purpose and results of the representation plan in effect among the employees of The Youngstown Sheet and Tube Company is given for the purpose of indicating the development of the representation plan at our plants. We believe the men are well satisfied with it. Our investigations lead us to believe that they do not wish to have it changed.

If the Wagner Bill, the subject of this hearing, should be enacted, it is doubtful if the plan could be continued because the company would have to become entirely dissociated from it and treat it as a stranger. And if the bill should be modified, as we understand has been suggested, it would still be doubtful in our opinion whether the plan could be continued.

The representation plan in all its phases is based upon conserving the mutual interests of both parties, employees and management, and any inflexible substitute which destroys this close relationship, this mutual confidence and trust, this ability of employers and employees to discuss and settle all their problems between themselves, would be ineffective.

The plan provides that the employees select their own representatives in their own manner without any interference or restraint from any source. It is our belief the effect of the Wagner Bill would be to deny to labor the right so to organize wtih any help or encouragement from employers and its practical effect would be to force the closed shop and compel the joining of a labor organization. Reference is made to paragraph 6 of Section 5 of the bill.

We submit that under the representation plan in effect in our plants there never has been any suggestion of coercion on the part of the management in any election at any time during the 15 years' life of the plan. Our plan permits any employee, who believes he has a grievance, to go to his foreman, directly or through his representative, or to the superintendent. If he does not obtain satisfactory adjustment, the employee may take his case to the management's representative and thence to the operating officials of the company, to a joint committee on appeals, and then to the president of the company. If he still believes that full justice has not been rendered him, he may request and obtain arbitration, as set forth in the plan.

I would like to say there that that applies to the individual right of each man on the payroll. No collective group at all. Each man has the right to take his own case up through arbitration.

The plan provides for joint committees with representatives of the management, and the management's representatives can at no time coerce or curb the employees, and the employer's representatives have no authority to prevent any individual or group of individuals from carrying their case clear through the various steps until it comes to arbitration for final decision.

The association and close contact possible under this

Employees' Representation Plan between the men and the officers of the company have been very beneficial to the employees and to the management, and its destruction or any weakening of its importance and dignity of standing in our judgment would be a serious and grave mistake.

A number of our employees have signified their desire to appear before this Committee and testify and they will tell you in their own way whatever their experience has been and their opinions about the representation plan.

We most sincerely and earnestly protest against the Wagner bill and against any legislation which would prevent employees and employers from cooperating to develop and maintain a plan of employees' representation and a method of selecting representatives to handle their problems among themselves and with each other. We believe this legislation is unnecessary and prejudicial to the interests of employers and employees. We believe it is particularly harsh and unfair to employers, because it seeks to treat them as oppressors and makes it difficult, even dangerous, for employers to try to be humane, or friendly, or sincerely interested in the problems of their men, either as groups or as individuals.

U. S. COMMITTEE ON EDUCATION AND LABOR

Washington, D. C. Friday, April 6, 1934

STATEMENT OF MR. ELLWOOD SMITH, EMPLOYEE REPRESENTATIVE BETHLEHEM STEEL CO.

The Chairman: The Committee will come to order.

There are 5 representatives of the employees of the

Bethlehem Steel Company present. Will they come forward as their names are called? Ellwood Smith? Joseph Leary? Oliver Werst? Fred Rooney? Daniel Boyle?

The Chairman: Are you all here freely and voluntarily?

Mr. Smith: Yes, absolutely.

The Chairman: You may proceed with your testimony.

To the Honorable David I. Walsh, Chairman, Senate Committee on Education and Labor: We, the duly elected officers of the general body of employees' representatives under our plan of employees' representation: Ellwood H. Smith, Chairman, Joseph Leary, Vice Chairman, Oliver Werst, Secretary, and members of Rules Committee, Fred Rooney, Daniel Boyle, of the employees of the Bethlehem Steel Company, Bethlehem Plant, Bethlehem, Pennsylvania, authorized by attached resolution, submit this statement:

For your information, Mr. Chairman, I will read the resolution: "Honorable David I. Walsh, Chairman, Senate Committee on Education and Labor

"We, the undersigned Employees' Representatives under the Plan of Employees' Representation, of the Bethlehem Plan of the Bethlehem Steel Company located at Bethlehem, Pa., at a special meeting of the General Body held at Bethlehem, Pa., March 26, 1934, do depose, say and approve:

"Whereas the pending Wagner bill seeks to destroy our present Plan of Employees' Representation, which has been in operation in our Plant from January 28, 1920 to the present date, March 26, 1934, covering a period of 15 years and through which period our fellow workmen have experienced whole-hearted co-operative dealings in the matter of conducting our election of representatives without any interference of said company.

"Subjects acted upon and considered were as follows: Wages, hours and working conditions, safety, transportation, pensions, relief and general welfare of employees.

"We approve of having a committee consisting of our Chairman and two or three representatives to enter a protest against the said Wagner Bill U. S. Senate Bill No. 2926 before the Senate Committee on Labor and Education.

"Whereas the pending Wagner Bill U. S. Senate No. 2926 seeks to destroy the present Plan of Employees' Representation.

"Be it resolved that, we the undersigned representatives of the workingmen of our individual departments to a total of about 6600 men do wish to go on record as opposed to the said Wagner Bill U. S. Senate No. 2926 and are wholly in favor of continuing our present Plan of Employees' Representation.

"Be it resolved further that as our Plan does not provide dues creating any funds, we do hereby request the Bethlehem Steel Company to compensate our representatives for expenses on said trip to Washington, D. C."

Senator, this resolution is signed by our entire body of employees' representatives, as well as the ones who are taking office after April 1st.

We favor our present plan of Employees' Representation having the following definite aims: To furnish facilities to adjust grievances and prevent injustice; to serve as a means for collective bargaining on wages, hours and working conditions; to provide for the exchange of information and opinions between management and employees; to educate employees and executives to understand the viewpoint and problems of each other; to promote efficiency, economy, safety, and to strengthen morale.

Our Plan of Employees' Representation which has operated successfully from January, 1920, to the present date, a period covering almost 15 years, is proof that it has encouraged the early settlement of disputes in the shop or department in which they originate. Differences that cannot be adjusted in this way may be taken up with Standing Committees composed of employees' representatives only, or at joint committee of employees' representatives and representatives of the management, and if complainant is not satisfied with the decision, same can be appealed to the president of the company, and then may be submitted to arbitration, and any discrimination can be carried to the State Department of Labor, which happens to be the Department of Labor of the State of Pennsylvania, or the Secretary of Labor of the United States. Up to this time we have never had cause to appeal to the president of the company or the Labor Department.

Our opponents hold that since Employees' Representatives receive their regular wages while attending meetings, their freedom of action is thereby limited. This is not true, as we have been representatives for these many years and therefore know the absolute freedom with which any representative can discuss any questions and push them to an equitable adjustment, with absolute freedom, and the committees can pass resolutions as they see fit.

Our meetings deal largely with wages, hours, working conditions, safety measures, sanitation, efficiency of operating methods, and similar matters for which work the employer would have to pay others if it were not handled by our representatives. Therefore, we think we are entitled to reimbursement for time lost at work in order to attend meetings or our representative duties.

Our Plan of Employees' Representation provides machinery for handling grievances and complaints. The employee who feels that he is being unfairly treated has only himself to blame if his case is not investigated fully and impartially. In thousands of cases, wrongs have been redressed and incipient injustices have been corrected since the start of our 15 years of active service under the Representative Plan.

The nominations and elections of employes' representatives of the Bethlehem Steel Company employees, Bethlehem, Pennsylvania, are conducted by the employees themselves in accordance with the rules and regulations prescribed by the employees' Committee on Rules.

The Rules Committee arranges the schedule of elections with the assistance of the officers of the General Body of Employees' Representatives, and also appoints the tellers to their respective polls. The tellers are selected from among the representatives. No representative is allowed to act as teller in the unit or department which he represents. There is no interference, coercion, or restraint permitted in the elections and every employee has absolute freedom of choice as to voting, both in nominations and elections. No company supervisor or management representative is allowed to in any way take part in, for or against any candidates. We do not countenance any interference whatsoever.

The Chairman: From your observation, has that regulation been strictly adhered to?

Mr. Smith: Absolutely.

The Chairman: Have you known of any efforts made, irectly or indirectly, by the employers to influence these lections?

Mr. Smith: We have had reports, but upon investigation we found them to be unfounded.

Among the various candidates, all the crafts are represented, as the 50 election units are divided in such manner as to insure a representative from all the different crafts for every 100 employees or major fraction thereof.

Our recent election, held during March, has shown conclusively that our fellow employees approve of the plan, inasmuch as our election returns show a 91.8% vote of total eligible voters.

Our objection to the pending Wagner Bill is that it would prevent and eliminate the company from participation in our plan; also prohibit the company from compensating or reimbursing our representatives for time spent in meetings or for other representative duties. We feel that it would be an injustice to prevent or eliminate the company from participation on such grounds. Inasmuch as our plan of employees' representation provides no dues or assessments to be paid by the employees, and we have no funds to cover for meetings time, election expenses, etc. It is only fair to have the company participate and help out in this way in our plan.

We sincerely prefer to have the company take part in this active, worthwhile endeavor to promote that welcome cooperation essential to a tranquil industrial life. We feel that the company should have a perfect right to convene with us at stated or requested dates in order to debate, discuss and adjust the problems facing us, as the same are most vital and essential to both employee and employer.

The injunction of a third or any outside party to displace as congenial a program as we now enjoy would be a most disastrous blunder, as it would have a tendency to upset the structure we have labored consistently to perfect to its present status and demonstrated worth.

STATEMENT OF MR. WILLIAM G. MCDERMOTT, EMPLOYEE REPRESENTATIVE, BETHLEHEM SHIPBUILDING CORPORATION

The Chairman: There are 6 representatives of the Fore River plant, Bethlehem Shipbuilding Corporation, Quincy, Massachusetts. Will they step forward as their names are called? William G. McDermott? Charles MacKenzie? Ambrose Gorman? William Mullaney? Owen Cheverie? Edmond J. Saundeis? Are you all here?

Mr. McDermott: Yes, sir.

The Chairman: Mr. McDermott, you represent the full group, do you?

Mr. McDermott: Yes, sir.

The Chairman: You may proceed with your statement.

Mr. McDermott: I am William G. McDermott, and as chairman of the Employees' Representation Body, made up of 2,200 employees of the Bethlehem Shipbuilding Corporation, Quincy, Mass., have been authorized by them to appear before this Committee as their representative, to file protests on their behalf against the Wagner Bill, S-2926.

Our Body opposes the Wagner Bill for the following reasons:

1. The provisions of the Bill are in absolute opposition to the plan under which we have operated for the past

11 years, and, in our opinion, it is a violation of Section 7 (a) of the N. I. R. A., which states that employees have the right to organize and shall be free from interference, restraint or coercion of employers of labor or their agents in the designation of such representatives, or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

2. This Bill may force us into closed-shop conditions, which is considered against our best interests as guaranteed by Section 7 (a) of the N. I. R. A.

3. This Bill, by prohibiting management and employees from discussing mutual problems on equitable basis will tend to destroy the friendly relations and cooperative action that exists today under the present Employees' Representation Plan.

4. This Bill will prohibit the reimbursement of employees for time taken from their regular work in the interests of their fellow employees for the betterment of working conditions.

5. This Bill may inject into discussion between employees and management a third party who may or may not know local conditions, and would, therefore, create interference rather than aid in the settlement of matters ordinarily handled without difficulty in the plant itself.

Regarding our protests against this Bill, which tends to undermine our Employees' Representation Plan, which has been in effect at our plant for the past 11 years, we wish to emphasize that this plan in no way conflicts with the rights of employees to belong to labor unions.

During the 11 years of experience in this plan, due to the cooperation on the part of employees and management, no labor trouble has occurred and all disputes have been promptly settled or adjusted satisfactorily.

The Chairman: Have you had many disputes?

Mr. McDermott: I think we have had 2,500 cases which we disposed of satisfactorily since the inception of the plan.

Senator Davis: Mr. McDermott, do any of the workers in the Quincy plant belong to any other labor organization outside of this?

Mr. McDermott: I believe there are some, Senator, yes. I might say one thing, we have two members of the American Federation of Labor sitting on our committee.

The Chairman: Do they share the sentiments you are expressing?

Mr. McDermott: Yes.

Mr. McDermott: Previous to the adoption of this plan, by the employees in 1923, it was not uncommon to see walk-outs very frequently. It has been our great satisfaction to be able to settle all of our difficulties without calling in a third party to effect a settlement. We feel that the settlements that have been accomplished under this plan have been due to the fact that the disputes were taken care of in time and the representatives had actual contact and understood the conditions clearly, which, of course, could not have been true of any outside element who could not have had the same contacts.

Nominations and elections for representatives under our Employees' Representative Plan are held annually in the month of March, and at our last election, held on March 16, 1934, 96% of the 2,200 eligible voters in the yard endorsed this plan by secret ballot. We wish to state emphatically that the management in no way interferes, coerces or dominates these nominations or elections. A day is set aside, and the balloting is absolutely secret, carried on by a committee of rules which is comprised of employees only.

Through our Employees' Representation Plan we have been able to form our Fore River Plant "Community Chest Fund," through which funds are raised to assist in every way employees at the Fore River Plant. Since the formation of this fund in 1927, more than 1300 cases of assistance to needy employees have had relief.

In addition to the Fore River Plant Community Chest Fund, there have been organized Relief and Pension Plans for the further benefit of the employees.

In view of the very satisfactory relations which have existed between us and our employers through the Employees' Representation Plan, we urge that this bill be defeated so that it may not become law and do away with the mutual understanding and mechanism for the adjustment of all our problems.

The Chairman: I omitted to ask if you were here voluntarily?

Mr. McDermott: Yes, sir.

The Chairman: And the men with you?

Mr. McDermott: Yes, sir.

The Chairman: They are witnesses before this Committee voluntarily?

Mr. McDermott: Yes, Senator.

The Chairman: You think your fellow members are unanimous in the view that the system has worked satisfactorily?

Mr. McDermott: Yes, Senator, practically speaking.

The Chairman: You may withdraw.

STATEMENT OF MR. NEIL K. GORDON, EMPLOYEE REPRESENTATIVE, THE YOUNGSTOWN SHEET AND TUBE COMPANY

Chairman: There are eight representatives of the

Youngstown Sheet and Tube Company. I will call the names and ask them to step forward as their names are called: Neil Gordon? Thomas Cleary? Floyd H. Ransom? Horace Howell? William Donlin? John McGowan? Edward Fitz? Roy Welsh?

The Chairman: Who desires to speak for the group?

Mr. Cleary: I believe we each have a little statement, Mr. Chairman.

The Chairman: We will begin with Mr. Gordon.

Mr. Chairman and gentlemen, I have served as a representative for a period of approximately 10 years, and I believe that I am qualified to speak authoritatively on the subject of employees representation.

I want to assure you that I have no quarrel with, and I hold no brief against, any labor organization.

My sole purpose in appearing before this Committee is to voice my protest against any and all legislation which might tend to disrupt the fine spirit of cooperation which has existed between employee and employer since the adoption of the employees representation plan in our plant.

Our plan has been in operation for a period of 15 years, and during this period of time it is my belief that this plan has been of benefit to both employee and employer.

Section 7-A of the National Recovery Act guarantees to employees the right to select and choose their own form of representation for the purpose of collective bargaining.

Our Representative Plan does this and much more. Our plan is not confined solely to collective bargaining, but includes such other subjects as extended credit, garden projects, employees cooperative stores, athletics and housing conditions.

Nominations and elections have always been conducted by the employees themselves without any interference of the management.

Meetings of the representatives are conducted in a manner permitting the frank discussion of any subject which may arise, and to my knowledge no subject ever raised at any committee meeting has ever been ruled out of order.

We do not contend that our plan is perfect, but we have the right to amend the plan as we deem necessary.

STATEMENT OF MR. THOMAS CLEARY, EMPLOYEE REPRESENTATIVE, THE YOUNGSTOWN SHEET AND TUBE COMPANY

Mr. Cleary: In regard to the company store, I might clear up a point on that. Our management would like to get rid of them but we want them.

Senator Davis: Did I understand you to say the management wanted to discontinue the stores?

Mr. Cleary: We have had several discussions there because the merchants would like to have them done away with, so we would patronize their stores in regard to those products. There is always the old-time mill store which was charging exorbitant prices, but our stores are from 16 to 20 percent under the chain store in the vicinity. I think there was just one and a fraction percent profit made last year and I think we lost it all in December.

During the depression we charged more for articles in the luxury class and then we sold staple goods like hams and sugar and potatoes for almost under what it would cost, and that was to help out the fellow who needed those things.

The Chairman: Up to the present time the employers have surrendered their judgment to the employees and have permitted the stores to be carried on?

Mr. Cleary: Yes, sir.

The Chairman: Proceed.

My name is Thos. A. Cleary. I am employed by the Y. S. T. Co.

I was an employee of the Brier Hill Steel Company when it was taken over by the Y. S. T. Company about 1922. The Y. S. T. Company then had the Employees Rep. plan at the Campbell Works, but we in the Brier Hill Division did not have it. We employees at the Brier Hill Plant often talked about getting the Representation plan at Brier Hill and finally, about 1925, we sent a Committee of employees to the management requesting the Representation plan be adopted at Brier Hill. They agreed and the employees in each department appointed delegates to hold a nomination and election. This was the beginning of the Representation plan at Brier Hill.

We believe in the Representation plan because our experience has shown us that at least 90% of our grievances are minor ones although to the individual concern they are major ones and can be quickly straightened out satisfactorily without leaving the departments. On the questions that cannot so easily be straightened out and have to be carried on up, there is in our plan a statement that protects the employee's argument and that is, he must be satisfied, if he is not he has the right to carry it up for adjustment by means of arbitration.

Our experience has shown us that our Company leans over backwards to keep out of mixing in on our nomination and election. When we were first starting in 1925 and tried to get some help from the Company they told us it was strictly up to us.

Our Company in 1930 started a Relief plan in which they expended close to three-quarters of a million dollars in relief work. Our Representatives worked jointly with the management in handling this relief proposition and we could easily get thousands of testimonials from our employees testifying to the fact that they would not have known what to have done if it were not for this help that they were given.

We don't believe our Representation plan is yet perfect, but we have not yet seen a plan that is perfect. Inasmuch as the plan provides for amendments we will be able to make the plan a much better plan and we are all constantly working toward that end and we are absolutely against any law or part of a law that will deny us the right of choosing a Representation plan to do our collective bargaining if we desire it.

STATEMENT OF MR. FLOYD H. RANSOM, EMPLOYEE REPRESENTATIVE, THE YOUNGSTOWN SHEET AND TUBE COMPANY

The representation plan has been in operation in our plant for 9 months.

The purpose of the representation plan, in my personal observation is, that it provides an effective means of communication and contact between employees and management on matters pertaining to industrial relations; that it insures justice, maintains tranquility and promotes the general welfare. This is the foundation upon which our plan is founded.

The fact that labor and capital cannot exist independently of each other is a known quantity, therefore we must accept this as a fact and both work for mutual results.

The possibilities of the representation plan are unlimited in promoting better working conditions and, in turn, this promotes efficiency of operation. The cycle is completed in the form of better returns for both employee and employer. But any plan is a failure when there is not cooperation on the part of both parties.

My personal contact with the management of this Company as an employee representative convinces me that they recognize a man as a man, regardless of his position or the clothes he wears, and that they are willing to give consideration to his viewpoint on matters affecting his welfare. Their decisions are always just, to the best of their ability, with due regard to their responsibilities. I am certain there is sincerity on the part of the management and that perpetual friendliness is accorded at all times. We are all employees after all, and amicable agreements can be attained by cross-the-table conferences which gives insight to the problems of each other.

STATEMENT OF MR. ARNOLD SKINNER, EMPLOYEE REPRESENTATIVE, AMERICAN ROLLING MILL COMPANY

The Chairman: There are here now 9 representatives of the American Rolling Mill Company, and will they come forward as I call their names? Robert F. Colley? Michael Enright? Fay T. Walls? Arnold Skinner? John Watson? Melville Sarchet? Chalmers Essig? John Hogan? Paul Berry?

The Chairman: You may all be seated except the first witness.

Mr. Skinner: I appreciate this opportunity to appear before you to tell you what my fellow workmen think about Senate Bill 2926.

The men in our department have worked for the American Rolling Mill Company from five to 33 years, and during most of this time we have belonged to a union, the Amalgamated Association of Iron, Steel and Tin Workers, so we know what a labor union is.

We are opposed to this bill because of the following reasons: Section 7 A of the National Industrial Recovery Act says we do not have to join any labor organization unless we want to, but the Wagner Bill would make us join. We should not have to join any organization unless we want to.

We do not believe our taxes should be used to support another expensive board in Washington.

Under the bill the Labor Board could appoint friends without an examination of any kind. The Board could pay these people anything they want to pay them.

If the Wagner bill becomes a law it would set up a wall between men and management. Spite fences promote fights.

For many years we have dealt with our management on many problems and always got a fair deal. The Wagner bill seems to say that the workmen and the management do not know how to deal together.

The bill would do away with our plan of Employee Representation which we are entirely satisfied with.

We would hate to work in a place where we couldn't meet on equal terms with the management to talk over our problems.

The management of our company were workers in our ranks a few years ago. They know our problems. The men and management all work for our company and are paid from the same pocketbook. When we speak of the company it means the men in the plant just as much as the management. Team work is what counts.

The Wagner bill would force us to deal with outsiders who would not know anything about our conditions. These outsiders would tell us what we could or could not do. We can settle our affairs better by our plan of employee representation. Outsiders would not be as interested in our problems as we are for they do not get their bread and butter by working as we do.

We are coming out of the depression and we can't see why we should stop progress by unwise laws. What we want is steady work and not strikes.

We believe a man should hold his job on his merit and not because he belongs to a labor organization.

The Wagner bill would take away our right to select our own men to represent the workers. In our opinion the workers should continue to elect their own representatives by secret nomination and secret ballot.

If the bill becomes a law we would lose many benefits such as our group insurance, mutual aid, sick and death benefits, free hospital service, free gardens, and other services. These benefits would come under Section 7, paragraph 1, as "influence."

While we were members of the union, for many years, in fact since 1904, we elected an advisory board much the same as our present Employee Representatives Committee. We solved many problems with the management without taking them to the national lodge.

STATEMENT OF MR. PAUL D. BERRY, AMERICAN ROLLING MILL COMPANY

Mr. Chairman and Gentlemen:

My name is Paul D. Berry. I have been an employee of the American Rolling Mill Company for sixteen years. I am privileged to speak to you as Chairman and authorized spokesman for the Employee Representatives comprising both hourly and salaried employees of the General offices of the Company at Middletown, Ohio. While I am now a salaried employee I have also had some experience as a member of a Trade Union as I was a pattern maker by trade, carried a union card and was also Secretary of our Local.

Our group, feeling the Wagner bill was of vital interest to all of us, discussed it thoroughly at a recent committee meeting and felt they should go on record as opposing its passage owing to the effect it would have on us both as individuals and a group.

The first and second paragraphs of Section 2 of this proposed bill makes a statement that we most emphatically take exception to. Because isolated cases here and there which unfortunately are the only ones that have come to the attention of the Labor Board have not been fair to the employees do not place all of us in the same category. We haven't been coerced by the management. They haven't even attempted to influence us. I can truthfully say that in every matter we have taken up with the Company we have received their cooperation and they have never refused to entertain any reasonable request or suggestion. I don't want to leave you under the impression that everything we ask for is granted. We try to be reasonable but when we feel we are right we go to the mat with the management and I assure you we don't come out on the short end often.

This Board in its investigations probably has come in contact with some conditions which should be corrected. If any one is not living up to the National Recovery Act handle them individually. Don't impose a condition on the majority of us which would eliminate the basis for friendly contact we have had for years. Collective bargaining and friendly contact such as ours can't be legislated into existence. You must have mutual understanding, confidence and respect. You can't have either unless we can discuss our mutual problems in a friendly manner. Certainly you will not realize this if you inject a third party into the picture who doesn't have our individual interests at heart as we employees do.

Collective bargaining isn't new to us. We didn't need N. R. A. to obtain it. We have had it for years in our Advisory Committees upon which I have served several times. The present plan varies but little. It has only been dressed up somewhat to suit the occasion and the employees have had their hand in the dressing. May we suggest gentlemen, if you feel legislation is necessary that before you take this step you make a survey of the Employee Representative Plans which have been functioning successfully and then develop your legislation from the result of this side of the question.

The Wagner bill implies we are interfered with, influenced, restrained and coerced. Perhaps I can answer that by briefly telling you how our plan works. First, all elections are by secret ballot both for nomination and election. Second, they are conducted by employees only and the first knowledge the management has of who is nominated and elected is when we tell them. Third, no one in a supervisory capacity is permitted to serve as representative or even allowed to vote. Fourth, no member or representative of the management is permitted to attend our meetings except by invitation. Fifth, no employee representative can be discriminated against for any action he has taken as representative. We have never had a case of such discrimination but if there was we could take the matter up through each superior officer to our President, if necessary, and then if not satisfied to an arbitrator selected by mutual agreement.

STATEMENT OF MR. ROBERT F. COLLEY, EMPLOYEE REPRESENTATIVE, AMERICAN ROLLING MILL COMPANY

Two other officers of the Executive Committee and I have been sent here by the Employee Representatives of our works to present to you their views on the Wagner bill. The resolutions unanimously passed by our representatives last Wednesday, March 28th, contain the following points:

1. We feel that this bill would force us to join a national union and thus compel us to pay dues.

2. We feel that this bill would destroy the friendly relationship that exists between our management and ourselves.

3. We would lose many valuable benefits which we have long enjoyed such as company contributions to group life insurance, employees benefit association, etc.

4. This bill seems to anticipate that trouble may arise between the working organization and the management which cannot be satisfactorily adjusted. Our experience does not bear this out.

5. We fear any legislation which will tend to destroy the harmony we now enjoy with our company.

6. We also insist upon the right to choose for ourselves the form of employee representation we are to have and strenuously object to any possibility of the closed shop.

7. We will not be satisfied with any amendment of the Wagner bill. Regardless of whatever changes might

be made it would still be regarded as a Union Labor victory and advertised as such by union organizers.

Our meetings are conducted secretly and the only time we have a visit from any member of the management or from any one in a supervisory position is when we invite them in for consultation or advice.

STATEMENT OF GUY E. MITCHELL, EMPLOYEE REPRESENTATIVE, WHEELING STEEL CORPORATION

The Chairman: There are three representatives of the Wheeling Steel Corporation here. Will you three Gentlemen come forward as I call your names? Frank Chase? Guy E. Mitchell? Lee Robinson? You three Gentlemen represent the Wheeling Steel Company?

Mr. Mitchell: I have heard that these plans have been referred to as "company dominated" by a number of the witnesses who have appeared here. From personal experience I can state that the plan in force at the Wheeling Steel Corporation is not dominated by the company at all. No foreman or officer of the company is permitted to have anything to do with the election. We run it ourselves and there has never been any complaint on the part of anyone of any unfairness or coercion in our elections, as far as I know.

This plan is very beneficial both to employees and employers as any differences can be settled by being in close contact with conditions as they exist.

In our distressed years of 1931 and 1932, our board of representatives, with the balance of the employees who had work at that time, contributed a share of their earnings to help the employees who were not getting any work at all. In so doing, we helped as high as 250 families per month, supplying food, clothing, fuel and rent. In all, the amount contributed and needed for this purpose was close to $28,000.00 for eight months.

In bringing this before you, I am doing it to show that the representation plan is better for employees to deal with their employer free from outsiders that do not know the conditions as they are.

STATEMENT OF MR. ROBERT LEE ROBINSON, EMPLOYEE REPRESENTATIVE, WHEELING STEEL CORPORATION

My name is Robert Lee Robinson. I am an employee of the Wheeling Steel Corporation and work at the Benwood plant. I live in Benwood and have been in the employ of the Wheeling Steel Corporation for twenty-three or twenty-four years.

For thirteen years I have observed the workings of the Employee Representative Plan and I have been elected as a representative from the bell weld furnaces year after year during all this time. I have served as chairman and secretary of the employees' representatives and I appear here to protest against the Wagner bill because I think it is designed to make it impossible for the employees' representation plans to continue.

During my thirteen years as an employee representative, I have taken part in negotiations with the management concerning wages, working conditions, pensions and other matter brought to me by various men in my department and there is no single case in which there has not been a satisfactory settlement worked out. I do not see how anyone not connected with the company could really understand the many problems that arise. I know for certain that the officers of the Amalgamated Association who run its affairs would never take the interest in our men that the employees' representatives take. The Amalgamated Association was in the Benwood plant many years ago and was completely repudiated by the employees after the strike in 1919. I talk to our employees daily and I know that the vast majority of them were so thoroughly disgusted with National Unions in 1919 that they are very bitter against them now. We believe in the plan that we have and we want it to continue and we are opposed to this bill because it is designed to help the National Unions.

I understand that this bill would make it wrong for the management to even tell us what their views were on any labor question. This seems to me to be all wrong. After 13 years of building up friendly relations between us and the management, we would then start to go the other way and build up unfriendly relations. There are about 1700 men in our plant and there is no dissatisfaction that I know of. The representatives have their regular meetings every month. They are always well attended and we think we have accomplished a lot for our men. No one can say that our organization is dominated or controlled by the Company. Another point that our men object to is the cost of belonging to the Union. In 1919 when the Union had a strike at our mill, there were supposed to be strike benefits paid. Nobody got anything. The only thing was that if you could manage to get to Wheeling some way and were married, you could get a basket of provisions. After all the years of paying money into the Union, we got no benefits out of it and the men were thoroughly disgusted with it. $1.50 a month may not seem like very much money to you but to a man working in the mill it seems like a lot, and when the Union is in a plant, the men practically have to pay this money, whether they want to or not. If you take into account the hundreds of thousands of men who pay in $1.50 to $1.75 a month, besides the initiation fees, which are charged, there are tremendous sums of money that go to somebody and this is a cause of dissatisfaction on the part of the workers. We don't have anything like that in our Employee Organization.

STATEMENT OF MR. JOSEPH E. McARDLE, EMPLOYEE REPRESENTATIVE, REPUBLIC STEEL CORPORATION

The Chairman: James Moore? Mart Murphy? Eugene R. Roderick? Joseph E. McArdle? E. J. Milligan? Will you gentlemen step forward, please? You are the representatives of the Republic Steel Corporation? Mr. McArdle proceed.

My name is Joseph E. McArdle. I am thirty-five years of age and live in Massillon, Ohio. My present occupation is schedule clerk on the finishing mills. I have been with the corporation about fourteen years. My position in the employees' representation plan is chairman of the general body.

I have had knowledge of the Employees representation plan in Massillon from its beginning, acting on the election Committee and can positively say there was no undue influence exercised by the corporation at the election.

I feel that the great majority of the men are satisfied with the Employees' Representation Plan.

The plan works in giving closer contact from the employees to the foremen, superintendent and management. The employee also has at his disposal the services of the representative in his department.

In nine months the Employees' Representation Plan has handled 71 cases—48 or 68 per cent of which were settled in favor of the employees—7, or 10 per cent were refused. Six cases, or 8 per cent, were withdrawn by the employees and as of February 28, 1934, there were 10 cases pending.

To my knowledge, and I believe I have a fairly good knowledge of the plant, there has never been any influence on the employees to refrain from joining the American Federation of Labor or to accept the Employees Representation Plan.

STATEMENT OF MR. E. J. MULLIGAN, REPUBLIC STEEL CORPORATION

I am appearing before this Committee voluntarily and as an individual to give my conception of the Representation Plan.

Subjects brought up under the plan are taken up directly by the employee or with his departmental representative and departmental superintendent. If the grievance is not settled to the satisfaction of the employee, then the subject is carried through the regular committees of the Representation Plan as are necessary. If no satisfactory action is obtained through the various committees, the subject is presented to the President of the Corporation for arbitration.

Under the Employees' Representation Plan it has been my experience that the men are never hesitant about bringing before the management such matters as concern their general welfare and the plan has developed a much closer relationship between the management and the employees than has ever existed at this plant before. It has also given the employees a much better understanding of the management's side as regards plant operation.

From my personal contact with the employees of Republic Steel Corporation I have in most instances found the men who are working under it to be well satisfied with the operations and accomplishments of the plan. There have been 105 items handled through the various committees of the plan, 61 per cent of which were settled to the satisfaction of the employees. In addition to this number, there have been approximately 500 to 600 items handled by direct contact with the departmental superintendents and I believe there has been approximately 70 per cent of such items settled in the employees' favor.

STATEMENT OF MR. EUGENE R. RODERICK, EMPLOYEE REPRESENTATIVE, REPUBLIC STEEL CORPORATION

My name is Eugene R. Roderick, of Canton, Ohio. I am thirty-six years old and have worked in various departments of the same plant for the past nineteen years.

I am employed as a roller on an eight inch mill in the Canton Works of the Republic Steel Corporation and am also Chairman of the General Body of Employees Representatives of the Canton plants, where we have a plan of representation which we think has proved very successful, as the records of 91 cases handled between July 15, 1933, and February 28, 1934 will show:

Number settled in favor of employees	60-66%
Number refused	20-22%
Number withdrawn by employee	5- 6%
Number pending settlement	6- 6%

These figures do not include cases recorded as items which were granted immediately by the foremen without the necessity of writing them up and handling in the usual way, which provides that they be presented to the foreman, superintendent, general superintendent, and the management, at which time, failing to come to a satisfactory agreeemnt the cases are referred to Joint Committee of Employees Representatives and Management's Representatives of equal numbers—their decisions being final. In case of a deadlock in the Committees, provisions are made to refer the cases to the President of the Corporation, if necessary, who will, together with the Employees Representatives, agree on arbitrators.

As the employees are represented by men from their own departments, our plan provides for day by day adjustments of claims or complaints by representatives who are familiar with conditions concerned and can get more speedy action.

I was a member of the original temporary committee on elections which was made up entirely of employees, who conducted the nomination and election of representatives.

These elections were carried on absolutely free of any influence or coercion on the part of the company and only what help we requested was given by them.

Considerable interest was shown at the election and between 85% and 90% of the men working on Election Day voted for representatives.

The continued success and fairness of this plan has made for a much closer relationship between the management and the employees than ever existed before, and it is my opinion that by far the largest majority of the men in the Canton Plants prefer this plan to any other form of organization, although we have been free to join any union we preferred without interference or influence by the company.

We are glad to say that this plan of representation has been accepted, not for the duration of the N. I. R. A., but for always, we hope.

Also, I would like to have you know we feel that the passage of the Wagner bill could certainly do nothing for us but declare an everlasting war between the company and we workers.

STATEMENT OF MR. JAMES MOORE, EMPLOYEE REPRESENTATIVE, REPUBLIC STEEL CORPORATION

I have been a bricklayer for the same company for eleven years and when we adopted a representation plan my name was one of the three receiving most votes in the primary election. On the following day in the regular election, the department, which I represent, elected me by a large majority. I have read in the papers of many complaints that men of other shops were influenced how to vote by their employer, however, this I wish to deny so far as our shop is concerned.

Our employees appreciate the benefits which this organization has already brought to them and believe it would be stepping backward to make a change at this time.

We have access at all times to the management's office, and from that source have been able to get management and employee closer together. Management has not influenced or compelled our employees to refrain from joining any organization, leaving that to the individual's own choice.

Personally, if I may so speak, I have obtained more good for myself and the people whom I represent in the short time the shop representation has been in effect, than from any labor union and understand, I was a member of the Bricklayers Union for many years. I am opposed to any legislation which will injure this representation plan.

STATEMENT OF MR. MARTIN MURPHY, EMPLOYEE REPRESENTATIVE, REPUBLIC STEEL CORPORATION

My name is Martin Murphy. I have been continuously in the employ of the Republic Steel Corporation in the capacity of blooming mill engineer for more than twenty-seven years. These mills were originally known as the Brown & Bonnel Plant, and all were operated under the Amalgamated Iron and Steel Workers Agreement . . . So, I can speak with full knowledge of what I am saying when I say that the employees' representation plan of the Republic brings more good to more people than did that of the Amalgamated. This employees' representation plan is new, has been in operation only eight months or so, but in that limited time, I have seen much good accomplished under it, and I honestly believe that it should be given a fair chance. I know that the men in the steel game do not need the assistance of outside experts, so-called. I might say that in the strike of 1919, the expert sent in to organize the Youngstown district was, if I remember right, a cigar maker.

Men in the mills are concerned not so much with who represents them as they are with what is in their pay envelope at the end of a pay period. They are capable and competent of doing their own collective bargaining and I feel that this can be accomplished more efficiently by one of their own number, who is familiar with the working conditions, than anything we can hope for from a cigar maker.

To the charge that undue influence was exercised by the company in the election of employees' representatives, I can answer with this statement. I was named temporal chairman and as such I had the authority to name the eighteen men who had charge of the election in the Youngstown district, and I can truthfully say to this committee that I knew but three of these men personally, of the eighteen I named, and one of these three was an old Amalgamated man and still carries the Amalgamated card he paid $3.25 for in 1919. As to the percentage of the men who are opposed to the plan, I can not speak with any degree of certainty, for I have made no check in this matter, but I do know that a great majority of the men in the Youngstown district have made use of the plan.

The plan has been highly successful in bringing about a closer relationship between men and management, and I will say for the management that no discrimination has been made by them against men who have affiliated with outside organizations.

I would like to read to the Committee, if it will not take too much time,—I will make it as short as possible—the number of cases since this plan has been in effect: 285 cases have been presented by myself to the management covering a wide variety of subjects. 241 have been settled in favor of the men; 29 were decided against the men; one case was withdrawn; 6 compromised; and 8 cases were pending on March 1, 1934.

STATEMENT OF MR. WILLIAM CONN, EMPLOYEE REPRESENTATIVE, WEIRTON STEEL COMPANY

The Chairman: Will the representatives of the Weirton Steel Company come forward as I call their names? J. Madden? C. W. Conn? Carl Means? George Ferguson? R. Congleton? C. Stillwell?

Starting in the mills in 1921, I have since worked in a half dozen steel mills over the country. I'm a first helper in the open hearth department, operating or as we say "running a furnace' which makes an average of 10,000 tons of steel ingots a month.

Last June, after the passage of the National Recovery Act, we banded together, organizing mill committees and held an election to elect representatives from each department. Since that time we have handled hundreds of cases dealing with most everything that affects men's lives in the mill or out of the mill. Such a broad field of accomplishments is absolutely impossible under the national union plan. They confine themselves entirely to wages, working conditions, and hours of employment. One gathers the impression that the worry of the organizers and officials of the Amalgamated is entirely one of the closed shop. Every strike or struggle you read about in the papers, they harp on the closed shop and forget the individual needs of the men.

We believe that the Wagner bill as proposed is opposed to the spirit and intent of section 7a of the National Recovery Act, enacted by Congress last June. We are very grateful to our President, Mr. Roosevelt, and to our Congress for having passed this law which gives us the right to organize for the purpose of collective bargaining. We do not believe it was the President's intention nor the intention of the Congress to force us to join any organization against our will. If this Wagner bill is passed it nullifies this freedom of action granted us under section 7a of the National Recovery Act. It would force us to affiliate ourselves with the American Federation of Labor, in whose tactics we do not believe. The purpose of a union should be to better wages, hours, and working conditions under which men labor. These things have all been accomplished by our local representative plan and I am going to recite to you a few of our accomplishments.

Starting last June up to January 1st our work was conducted along lines something like this: We would either go to the foreman or superintendent with grievances in person or write a letter regarding the complaint. These cases handled during the last six months of 1933 are recorded in the minutes of the various divisional committees. In looking over these minutes it is found that there were 152 committee meetings held and a total of 505 cases were handled. Of these 505 cases, 296 dealt with wages, 58.6 per cent; 27 dealt with safety, 5.3 per cent; 182 dealt with working conditions, which included sanitation, medical service, housing, recreation, and public relations, 36 per cent. Of these 505 cases, 298 were settled in favor of the employees, 59 per cent; 32 were compromised, 6.3 per cent, 32 were withdrawn by employees, 6.3 per cent; 96 were pending as of December 31, 1933, nineteen per cent. Most of these pending cases related to the West Virginia attachment law.

After six months of operating under our plan of employees' representation, we developed a system of records and follow-up on each case as it is brought up by representative. This system was put into operation the first of this year and the records show that from January 1st to March 20th, 258 cases have been handled. Of these, 127, or less than half, dealt with wages, piece work or tonnage rates; 36 dealt with employment and working conditions; 23 with safety; 18 with economy and waste prevention; 25 with health and sanitation; 7 with relief and workmen's compensation; 2 with housing and living conditions; 7 with education and publication; 6 with athletics and recreation; 7 with public relations.

In our plan, if the departmental committee fails to arrive at a settlement of any question, it can be referred to the general committee on appeals, which sits as a final court and whose decision is sent direct to the president of the company.

When Mr. D. M. Weir died, a fund of $25,000 was left by him for an erection of a suitable memorial to his mother in the city of Weirton. This fund has lain in trust and probably would have continued to do so had the representatives not got behind the thing and working with the Kiwanis Club convinced the trustees of this fund that the money should be spent now and as a result a park and swimming pool are now under construction.

The company is furnishing the equipment and a new field is now being graded and will be in shape for use by the baseball team this spring. Had no one pushed this action, it is quite possible that the new mill would have been erected this summer and the football team next fall would have been without a field to use.

We believe that even if the American Federation of Labor should send fairminded investigators to Weirton, they would have to say that we are doing a job and doing it well.

On behalf of the representatives' committee of Weirton, I extend an invitation to you men to come any time and see for yourselves, sit in on our committee meetings, and judge for yourselves.

Many of our fellow workmen have worked under the same type of plan in various plants such as Bethlehem Steel Company, Colorado Fuel and Iron, and Youngstown Sheet and Tube Company. In all of these organizations the plan has been in existence for many years and doing a good job.

We have come before you to protest against the enactment of a vicious piece of legislation.

We would like to call your attention at this time to the fact that under the national labor union plan the individual is completely lost sight of, whereas under our representative plan both the mass of employees and the individual can have cases passed upon and argued before the management either as an individual or collectively.

We believe that this is a very important point.

Giving us the right to choose our own method of bargaining is as fundamental as the right to choose our own method of worship and we believe it is your duty to guarantee us that freedom just as much as it your duty to uphold the Constitution regarding freedom of worship or freedom of political creed.

The only difference in our organization, as we see it, is the fact that we strive for our ends by peaceful settlement and cooperation, whereas the American Federation of Labor strives to accomplish their ends by the everlasting threat of strikes. We believe that a strike is the same in the industrial world as warfare between nations is in the political and economic world, and is as unnecessary.

One of our leading newspapers is at the present time conducting a campaign against war by showing pictorial illustration of scenes from the late war in their daily papers. Such a campaign could be waged in all the newspapers of the land by collecting together the pictures dealing with the strikes that have taken place in the industrial world in the past thirty or forty years.

We believe this warfare creates nothing but discord and hatred in the community where the strikes occur, completely demoralizing the people in the business life of the community. If the Government through such a program as the N. R. A. effects the raising of wages, shortening of hours, and better working conditions, then there is absolutely no necessity for a national labor union to collect dues from the working people of America when these same people are paying for this service by paying taxes to the Government.

Cooperation and peace is the need of the industrial world today just as peace and cooperation is needed by the nations of the earth.

We are reading today that even war between nations is brought about by racketeers who squeeze their profits out of the blood of their innocent victims.

We are convinced that this is the plan our men want and the one that will do the most good for the greatest number. If the money was taken out of the organizing game, Weirton would soon return to its former status of a busy industrial community where peace and harmony reign.

If such legislation is enacted as is proposed under the Wagner bill, it will mean endless warfare between employees and their employers, to which there will be no end. You can't legislate industrial relations reform any more than you can legislate temperance by the enactment of a National Prohibition Act—you simply create another form of racketeering.

Many writers have taken this position: "The workers don't know what they want."

We in Weirton know exactly what we want. We want to be free to carry on under our present plan which provides for arbitration by a board of three to be chosen by the representatives picking a man, the company choosing a man, and those two agreeing on the third party.

Such arbitration only becomes necessary when the management declines to accept the decision of our general committee on appeals. We have confidence in our ability to deal with our company and we want to be free to do so without the interference of the outside agitators.

We believe that a National Labor Court with compliance boards in the various steel districts on which the representative plan workmen of America are given representation would be a very good thing, but we believe that to set up such a court as the present Labor Board, dominated by the American Federation of Labor and politicians, doesn't inspire confidence on the part of those who knew what treatment was accorded our men when they appeared before this Board last December.

No National Labor Court can keep peace and harmony in the ranks of labor if such a court is to have arbitrary powers as provided in the Wagner bill. Such a court must be non-partisan; otherwise it would sit as "judge and jury," which is about the position of the present National Labor Board and, as I see it, this is the bottom of its present troubles.

I thank you.

STATEMENT OF MR. JACOB F. MADDEN, EMPLOYEE REPRESENTATIVE, WEIRTON STEEL COMPANY

Mr. Chairman and Gentlemen: I have been an employee of the Weirton Steel Company for the past twenty-eight years and have found that the Weirton Steel Company has been fair with all their employees. As a former member of the Amalgamated Association of Iron, Steel and Tin Plate Workers Union, and now active as a representative of my fellow workers under a Plan of Employees'

Representation, I think I am in a position to judge between the two methods of taking care of grievances between employees and management. In my position as an elected representative, I am working every day side by side with the men who elected me to settle their complaints.

Every day men come to me about one thing or another and I can't sidestep my responsibilities to my fellow workers. Gentlemen, if I don't do my job satisfactorily the men can recall me and elect another representative in my place—this can be done any time and the company has no vote in the matter.

As the result of this system, I and every other representative must "deliver or get out." I wish to bring to your attention a few facts that only the laboring man knows in regard to organized labor. I am told that there are about 3,000,000 or 4,000,000 workmen at present enrolled under organized labor—what is the matter that the other 30,000,000 workmen object to joining the American Federation of Labor? There must be something wrong when 30,000,000 men are opposed to organized labor. Probably you gentlemen never had the opportunity to hear from the laboring man the exact truth about this question.

Organized labor to my opinion is one of the best things for the laboring man that ever existed, provided that there can be some way to take the racketeering out of it. But the way it stands today it is worthless. I can give you the whole history of the Amalgamated Association from 1901 up to the present date.

The Amalgamated Association has always been built up around Hot mill men and has done nothing for the many other tinplate and steel workers. The Amalgamated has always taken a stand on wages for Tin Mill men, but at Weirton our rates have always been higher than the prevailing Amalgamated rates and since April 1st, are approximately 16% higher than the Amalgamated rates. Mr. J. C. Williams, President of the Weirton Steel Company, has said many times that he would donate $25,000 to any named charity in Weirton, if it could be shown that the Weirton Steel Company was not paying a higher rate than the prevailing Amalgamated rate. This statement by Mr. Williams has stood unchallenged. The Amalgamated has never been interested in the general welfare of the workers and can never be in the position to get the many things before the management which are just as important to the working man as his wages. If working conditions are not right and men get sick or injured unnecessarily, wages won't do them much good. My job as a representative requires me to get into all of these conditions which will make the working men's life a little "sweeter." With shorter hours of work, proper recreation becomes more and more important and our committee of representatives must get into all these things.

The Amalgamated Association, gentlemen, is a racket.

The American Federation of Labor is another racket. In fact, they are all racketeers, playing on the poor laboring man as a sucker for their living. They go further—they play the Congress and the Senate that they may further feather their nest for their own earthly lust.

As I stated, there are about two million men enrolled under organized labor. At one dollar per head per month, or $2,000,000 per month, it would amount to $24,000,000 a year.

Gentlemen, your Government does not take in $24,000,000 a year profit. What does organized labor do with this money? Can they show where they ever contributed $1.00 for relief purposes during this last depression? No, they have never given one cent to any charitable institution for relief work that I ever heard of.

Organized labor claims that they uphold wages. Gentlemen, that is an untruth as I will give you figures and facts that will prove to you that their statement is untrue. On July 1, 1924, Mr. M. J. Thighe, President of the A. A. O. I. S. T. W. signed a wage agreement with the Western Sheet and Tin Plate Manufacturing Association basing the tin workers scale on the selling price of 26-27-28 gauge to a basic price of $1.80 per 100 pounds. Tin plate today is selling around $5.00 a box of 100 pounds. Through this agreement instead of me receiving a wage rate based on the selling price of tin plate, my wages are based on the selling price of sheet iron, and there is no comparison between the two sheets or the two jobs.

Gentlemen, this is enough to prove to any man that he is better off away from any plan of organized labor. When Mr. Thighe made that agreement, did he go to the thousands of tin workers that were paying dues and explain the whole thing to them? No, Mr. Thighe did not care what the tin worker got for his labor as long as he and his colleagues got their share of the wages.

When Mr. William Long, President of the local lodge in Weirton, West Virginia, approached me about taking out a card, I put this same question up to Mr. Long and asked him to bring this to the attenton of Mr. Thighe. This is the answer I received from Mr. Long: "Jake, I asked Mr. Thighe about that scale. Mr. Thighe told me that the Amalgamated Association was on their last leg and had he not accepted that scale the Amalgamated Association would have been put out of business."

Then to think that the federal government would pass

law to force any employee of any steel industry to pay
ues to an organization of that kind.

Coercion is coming from labor organizers who draw
heir soft pay from the pockets of the working men. I
or one don't believe the President wants to see any laws
assed which will take hard-earned dollars out of the
ockets of the working man unless there is a sure return
or each one of these dollars. The working man doesn't
vant to be forced into any union, not of his own choosing,
nd that's what I have against the Wagner bill.

There are thousands of men in this country opposed
o the representation plan or company union as they call
. But why are they opposed to that plan? Well, allow me
o answer that question for you. They are opposed to it
ecause there is no money involved in the plan worth men-
ioning. There are no easy jobs for the soft collar man. We
o not need any offices, taxi bills, train fares, no clerks or
tenographers, and there is no dues attached or assess-
ients. There is no chance of any graft. The representatives
n the Weirton Steel Company plants are all hard working
ien. We recognize our fellow workmen and we see that
hey get the right to bargain. Gentlemen, I have repeatedly
iade the statement that I am no Company man, never was
nd never will be. My only ambition in life is to have peace
nd good will among men. I am bitterly opposed to any
ind of racketeering, threats or violence.

The employees of the Weirton Steel Company stand
ack of you, gentlemen, and also back of the greatest man
n earth, our President, Franklin D. Roosevelt, and the
NRA.

I thank you.

STATEMENT OF MR. JOHN GRIMM, EMPLOYEE REPRESENTATIVE, INTERLAKE IRON CORPORATION

The Chairman: Interlake Iron Corporation of Toledo, Ohio, represented by John Grimm. Together with John Grimm appear Harry Doyle, Irving Moore, Harry Holstead and Herman Luken. You are all representatives of the employees in the Interlake Iron Corporation of Toledo, Ohio.

Mr. Grimm: We are.

The Chairman: Will you proceed, Mr. Grimm.

When the National Recovery Act was being talked over, and when it first appeared in the papers, the management called a mass meeting of all employees. The purpose of this meeting was to discuss the rights of the employees under the law, if it became a law. We were told of the three forms of representation—

1. Outside, such as those belonging to the American Federation of Labor.

2. Inside, such as the form we have.

3. Individual.

The management did not recommend that we do anything in particular, and would not appoint any committee.

On June 5th a committee of twenty-four employees elected by the employees of the different departments of the plant was formed to determine which plan of representation was wanted. The verbal expression of the employees indicated their preference for some kind of inside representation. These groups were made up of employees without supervisory powers.

The same group of twenty-four men met with the management to further discuss the matter of organization. The Committee requested the manager to secure for them various types of employee representation plans. The management agreed to do this.

However, because the management desired an expression from all employees as to their preference, the Committee decided to have a vote of the entire plant, on a yes or no basis as to whether or not an inside organization was wanted.

The Committee selected seven men to conduct this election, and using ballots, absolutely unmarked as to identification of the voters, the result was in this election held June 6, 1933, 225 for inside organization, 2 returned unmarked, 227 issued and accounted for.

After various employees representation plans had been studied, the Interlake Management presented a plan to all plants, which seemed to be broader and more satisfactory.

On June 15, 1933, the same type of election was held, under the strict supervision of the employees' committee, with unmarked ballots deposited in sealed boxes. The result of this election was: 217 for the Interlake Plan, 4 against the Interlake Plan, 9 unmarked; 230 issued and accounted for.

The Chairman: Now, I understand that you first had a ballot on the question of whether you would have an inside organization or not, and the employees voted to have an inside organization, and the committee of the employees then negotiated with the employers and decided to select a representation plan?

Mr. Grimm: Yes, sir.

The Chairman: That plan that best suited them, that they would follow?

Mr. Grimm: Yes, sir.

The Chairman: And that question whether they would accept that plan or not was submitted to the employees and they voted to accept it by the vote you just stated?

Mr. Grimm: Yes, by the sealed ballot.

The Chairman: Was there an opportunity given to the men to see the plan in the meantime?

Mr. Grimm: Yes, sir, the plan was given to them.

Everybody had a chance to read and understand it.

The original committee then met and elected a temporary Chairman and a temporary Committee on Rules to group the employees and carry out the first election as provided for under the plan adopted.

On June 20, 1933, the nomination or primary election was held, and on June 23, 1933, the election of representatives was held. Both under the strict supervision of the employees. It had been decided by the organization committee that seven men would properly represent the entire plant, and this number was elected.

In all four elections held the ballots were unmarked for identification of any kind, and the supervision or management agents did not talk to or advise the employees, and was held under the strict supervision of the employees.

As a result of the election of representatives, the seven properly elected employees met and elected a general chairman, secretary, and a committee on rules.

Several changes have been instituted by the employees. An association under the plan adopted was formed, and the management asked to sign an agreement to operate under it. Application blanks, cards, etc., were secured, and membership in the Association of new employees was solicited.

From the time of the institution of this plan of employee representation until March 31, 1934, 163 cases have been handled by the Association, requiring an adjustment of one kind or another. 148 of those cases have been declared in favor of the employees; 4 declared against them, three withdrawn and eight now pending.

The cost to the company averages $140 per month, and this will probably drop as the outstanding causes for adjustment are cleaned up.

The foregoing is a true statement of the manner in which our plan was formed and the results. There has been absolutely no attempt on the part of the management to coerce or in any way interfere with our Association. I firmly believe that this is the best and most workable form of employees representation. I represent 450 employees, and this is their unanimous belief, and we feel that everything possible should be done to protect this type of organization.

I am therefore here to voice a protest against legislation like the "Labor Disputes Act." which would certainly destroy our type of organization.

We have never had labor trouble at Toledo, even in the Steel Strike of 1919. And we are obeying the law under the NRA. If the Wagner bill becomes law it will cause a fight between the A. F. of L. and the men who want our type of organization, for the satisfied men who are well represented under the sort of plan we use, will never stand for the tyranny that the A. F. of L. will try to force on them. I cannot see how this bill can help National Recovery, and if it is not helpful it must be harmful. And it will certainly be harmful to the Iron and Steel Industry on which we are depending for work and for our living.

STATEMENT OF MR. CHARLES ERICKSON, EMPLOYEE REPRESENTATIVE, CARNEGIE STEEL COMPANY

The Chairman: I understand Mr. Erickson will speak for the group representing the United States Steel Corporation. Together with Mr. Erickson, there appear here today Mr. David L. Williams, Chairman Employees Representatives, Laughlin Works, American Sheet & Tin Plate Company, Raymond O'Donnell, Secretary Employees Representatives, Laughlin Works, American Sheet and Tin Plate Company. F. L. Toy, Homestead Works, Carnegie Steel Company; John P. Shields, Homestead Works, Carnegie Steel Company, R. L. Leffler, Duquesne Works, Carnegie Steel Company; Robert Scott, Vandergrift Works, American Sheet & Tin Plate Company; William B. Hadden, Chairman, Employees Representatives, Vandergrift Works, American Sheet and Tin Plate Company. J. B. Patrick, Oliver Iron Mining Company, G. E. Kirmode, Oliver Iron Mining Company, W. S. McNabb, Illinois Steel Company, William Hepson, Illinois Steel Company, H. Mallinson, Illinois Steel Company, Tom Foggett, Illinois Steel Company, J. L. Vance, Tennessee Coal, Iron & R. R. Co., J. C. Harper, Tennessee Coal, Iron & R. R. Co., Patrick Boyle, Chairman Employees Representatives, Lorain Steel Company, William Strohler, Secretary, Employees Representatives, Lorain Steel Company.

Mr. Chairman and Mr. Davis: My name is Charles Erickson, employed as first helper in the Open Hearth Department of the Duquesne Works of the Carnegie Steel Company, Duquesne, Pennsylvania. I have been in the employ of the Carnegie Steel Company for 31 years. In June, 1933, I was elected an employee representative and shortly thereafter was elected chairman of the representatives.

Employee representatives were elected by secret ballot without interference, restraint, or being influenced by the company. All eligible workmen were entitled to vote.

The plan of employee representation has been very successful at Duquesne and has been responsible for better and closer cooperation between the employees and the company. Working conditions have improved, a number of wage adjustments arranged, and safety, sanitation and welfare problems satisfactorily agreed upon.

These improvements in working conditions and satisfactory settlements of many problems are brought about through direct contact with the management, and with the least possible trouble to all concerned. To the majority of the employees and their employer, the fast working, constructive, well balanced machinery of employee representation is much more attractive than outside representation. It brings the management and employees into direct contact, with the result that each has a better understanding of the other's problems.

It is ready at an instant's notice to clear up minor troubles. When sincerely planned it provides employees with true collective bargaining. Employee Representation at Duquesne has been free from racketeering and the petty politics, a condition too often found in outside representation.

We at Duquesne feel that we can carry on satisfactorily, and to our advantage, with the present plan of employee representation. We pay no dues, and this in itself, is quite an important item under present low rates of operations. We are not bound by union "red tape" and rules. We are not compelled to stop work in the event some nearby plant develops internal troubles over which we have no control or direct interest.

Our men are promoted on merit. We believe that the outside union protects the industrial slacker and has a tendency to prevent the industrious and ambitious workman from procuring his just reward.

Our disagreements and misunderstandings have been settled quickly and fairly, by men who are actually on the job and familiar with local operating conditions. We have no walking delegates to interfere in problems about which they know little, if anything at all.

I do not believe that the friendly spirit of cooperation now existing between the company and its employees can be duplicated, or even approached, by any plan of complete unionism, as proposed by the Wagner bill. I cannot see wherein the employee will be benefitted by being dictated to by a lot of union officials whose sole object seems to be collect dues and stir up trouble.

I firmly believe that harmony and well being demand that the employer and employee be permitted to frankly discuss and arbitrate the form of works organization that they should set up. Each group should have, and exercise, the right to properly influence the other by reasonable argument, but not by threat or coercion. Fairness and true Americanism demand that both the employer and the men should have equal right to influence employees. This right is denied the employer but granted to the union under the Wagner bill.

Concluding, I am opposed to the Wagner bill because it subjects me to dictation as to what organization I must belong to. It necessarily means increased outlay of money on my part, and on the part of all other employees, to support and maintain an organization which is given us whether we like it or not. We have no freedom of choice as to the men chosen to represent us before the management. The men normally at the heads of local labor organizations are not, and cannot be, as familiar with our working conditions as are the representatives now chosen by us. It necessarily follows that in negotiations with the management, under the Wagner bill, delays, misunderstandings and ultimately strikes will result. We will get quicker action and more favorable results when our own representatives deal directly with the management, and both sides get together on a common ground with which they are familiar through daily contact and unity of interest.

Finally it is my opinion that the type of men now directing the two outside labor unions active in Duquesne are absolutely unfitted by education, experience or capability to properly present employee problems before either the management or any other body.

STATEMENT OF MR. JOHN B. SHIELDS, EMPLOYEE, HOMESTEAD PLANT, CARNEGIE STEEL CO.

Mr. Chairman and Gentlemen of the Committee:

It is a great honor to appear here today and it is my sincerest wish that something I say here will be of aid to you in the solution of the problems you are considering.

I am John P. Shields, at the present time, and for the last eleven years, employed at the Homestead Plant of the Carnegie Steel Company. As I am a timetaker, my position has kept me in close touch with the sentiment of the men in practically all departments over a period of years. I believe and I hope I am right when I say I know just what the employees in that particular plant think and desire.

Any discontent that exists at the present time at Homestead Steel Works may be attributed to the lack of operation rather than to any other condition. A steel worker is not a transient employee at Homestead. He is ordinarily a local man, buying his home, raising and educating his family in the vicinity of the steel works, fully intending to remain in that district and work in that particular plant until he is retired on a pension justly deserved by his years of faithful service.

Any place men work there are grievances of a minor nature and issues of great importance. Grievances are easily straightened out, but the issues require thought and study on the part of all concerned, and for this reason our President, knowing that employers practically dominated settlements on issues involving employer and employee, insisted that the employees be represented by representatives of their own choosing for the purpose of collective bargaining.

In Homestead Steel Works we have collective bargaining under the employees' representative plan. Men were nominated and elected by secret ballot, without interference from any source, in fact close association with the management meant the defeat of many good candidates. This choice of representatives was honest and highly regular.

Our grievances have been remedied through the use of this plan and we have developed men capable of presenting and defending our views on issues and policies. We have in some issues won our points, in others we lost, and in some cases compromised, but in all instances and at all times we have bargained collectively, peacefully and with no reprisal.

This is the manner in which we have functioned. We will develop men of ability to continue this work. Naturally we prefer men familiar with the situation, whose very familiarity will insure us representation and save us from misrepresentation.

At no time do we desire to develop power into control with the resultant evils. We insist on the right to settle our own problems and issues, at all times believing in and practicing collective bargaining. We believe in free choice as to form and, having made that choice, request the opportunity to prove the wisdom of that choice. We are opposed to interference that would lead from "collective bargaining" to "collective demanding" and persecution. We prefere industrial peace rather than industrial war. I will appreciate any question that will clarify any statement made by me.

STATEMENT OF MR. BEN B. GILLESPIE, EMPLOYEE, TENNESSEE COAL, IRON & RAILROAD COMPANY

My name is Ben B. Gillespie, I am an employee of the Tennessee Coal, Iron and Railroad Company, located at Birmingham, Alabama. My occupation is that of roller on the blooming mill of the above mentioned works. I have been in the service of the T. C. I. & R. R. Company approximately 26 years.

My first occupation was that of a common laborer, on which job I remained about one month, when I was transferred to that of drill press operator in the finishing end of the rail mill, where I remained about three years. I was then transferred to the blooming mill as a wrencher, in which position I remained for about two years, when I was made blooming mill shear operator, in which posi-

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tion I remained for approximately seven years, when I was promoted to the position of blooming mill manipulator in which position I remained for ten years, when I was promoted to that of roller which position I still hold.

So much for my service record.

As to my status as an employee representative, I have this to say. In June, 1933, the T. C. I. & R. R. Company submitted to their employees a plan of employee representation and in an election conducted by the employees on June 23rd, 1933, I was elected a representative of the employees in the Mills Department of the Ensley Works. This election was managed and controlled by the rank and file employees themselves, no one in a supervisory capacity having had anything whatsoever to do with it. In other words, the election was absolutely free from any influence, coercion, or intimidation on the part of the management. Following this election the sevaral committees provided for under the plan were formed and began immediately to function, and I can truthfully say that excellent progress has and is being made.

On April 2nd, 1934, I was selecied by my fellow representatives to go to Washington, and appear before the Senate Committee on Education and labor to protest the passage of this bill on the following grounds.

First: The bill contemplates the outlawing of a plan of representation that has proven both profitable and satisfactory to my fellow employees.

Second: It is eminently unfair in that it penalizes the employer for so-called unfair labor practices, but provides no penalty for unfair labor practices on the part of labor or labor organizations.

Throughout the depression, our company has distributed relief to the employees in the form of food, clothing, medical, hospital and dental service, water, light, fuel and house rent. The outlay for the above-mentioned relief, we have been reliably informed amounts to nearly ten million dollars.

Third: In addition to the above, our company provided the land free of charge.

Gentlemen, what I want to show there is that our district had been hit harder than any other district in the United States, but our company has been right on the job.

Senator Davis: Do you have the cooperative store in Ensley now?

Mr. Gillespie: Yes, sir.

Senator Davis: How does that operate?

Mr. Gillespie: Well, during this depression they operated wonderfully. They fed us, that is what they did. Thousands of us lived out of it.

Senator Davis: Was it given to you in the form of relief or just extended credit?

Mr. Gillespie: Extended credit. And also they knew full well that there was a lot they never would collect. There was hundreds and thousands of dollars that they will never be able to collect.

Senator Davis: Is one who trades at the commissary given preference in his work over those who patronize the cooperative store?

Mr. Gillespie: I do not think so, not to my knowledge.

Third: In addition to the above, our company provided the land free of charge for truck gardening to all employees who desired it. In many cases free seed was furnished and in all cases the company either plowed the ground or furnished stock and equipment for that purpose, also without charge.

The above voluntary acts on the part of the company have played their part in bringing about this friendly relationship of which we speak, and for which we are both grateful and proud, and we would very much regret to have anything occur that would disturb or in any way change them.

I thank you.

STATEMENT OF HON. NATHAN L. MILLER, GENERAL COUNSEL, UNITED STATES STEEL CORPORATION

It occurs to me, as I sit here, that it is somewhat of an anticlimax, after what you have heard, for me to conclude this discussion, because, as compared to the men to whom you have listened, I think probably I would rank with the authors of this bill, who have apparently generalized from an extremely limited experience, and an extremely limited knowledge of the industrial conditions that prevail in this country.

My first proposition, gentlemen, is that this measure, or anything comparable to it, is neither expedient nor in the public interest at the present time. The NRA has been in practical operation scarcely more than six months. Some codes have been in effect a little longer, many for a shorter period. The next Congress will have to determine what legislation, either of a permanent or a temporary character to enact, as a result, not only of the experience we have had up to date, but of the accumulated experience which we shall then have had from this period until the Congress shall be called upon to determine what to do.

Now, whether you have got any doubt at all about your powers, nobody can doubt that this measure proposes a very, very, great extension of Federal power into the field of industrial relations, which involves problems of the very greatest difficulty, complexity and delicacy. You cannot make such an extension of power without its repercussions.

I think no one can doubt that this measure has within it, the seeds of the serious industrial conflicts. It offers encouragement and incitement to industrial conflict. But wholly apart from that, from the mere unsettling, disturbing and disquieting effect that so vast an extension of Federal power would have, I say to you gentlemen, that it is my deliberate opinion that already its mere proposal has had a decided check upon the upturn of business, and that the enactment of this measure would undoubtedly set a very decided brake upon the forces that are now unquestionably making for recovery.

Now, it is asserted, as I understand it, that representatives, or that employees are at a disadvantage in dealing with management, because management can discharge them. Now, that is undoubtedly true in the case of the individual employee, speaking for himself, except in those smaller enterprises where there is a close personal relation between the employee and the heads of the company, but in a large organization, of the numbers that the last speaker referred to, the individual worker, dealing for himself, is at a disadvantage, because he can be fired and there is always somebody ready to take his job. And that is a sound reason for collective bargaining. That is why I admit the soundness of the principle of collective bargaining. But that reason, gentlemen, entirely disappears the moment the worker, or the employee, is speaking for numbers, as the representative of his fellows.

I venture to say, although I believe statements to the contrary have been made, that no management, no responsible management in this day would dare to intimidate, to exercise coercion or intimidation over representatives so acting, or would dare to discharge them because they pressed the claims of their fellows. You have seen here today types of these men. Do you think they can be intimidated?

Now, it is also plain, as I understand it, that employers refuse to recognize this principle of collective bargaining. That is contrary to the statement made by the President. That is contrary to the great hope that he held out. That is contrary, gentlemen, to general experience within the knowledge of everybody. The employers as a whole have recognized that principle and there have been a few recalcitrants about whom I have no knowledge, or if they have been exceptions, it certainly is possible to deal with those exceptions without undertaking to regiment industry as a whole.

Now, what is really meant, I apprehend, by those who assert that there is refusal to recognize collective bargaining, is that a number of employers do refuse to make contracts without outside labor organizations governing their relations with their employees. I say that is what is meant, because this bill seeks to compel that very thing by defining "representative" as including labor organizations and by empowering this Board that is to be created with the extraordinary power of determining in such manner as it may deem appropriate who are entitled to speak as the representatives of the men.

Now, gentlemen, there has been, Senator Davis knows it well, enormous progress in the last 25 years in the improvement of industrial relations and in the evolution of this problem, but I tell you that the men who were dealing with it daily would probably differ as to what is the best plan or system. The best one has not yet been evolved.

It may come about, in the course of time, that the so-called national and international labor organizations may earn and secure the right to speak for all labor, but, gentlemen, before that time arrives, certain things will have to happen. In the first place, by the same appropriate means responsibility will have to be assured. And yet the Congress, only last year, in the injunction law that was passed, expressly provided that neither the officials of labor organizations, nor the organizations themselves should be responsible for the acts of officials, officers, or agents, unless it could be plainly proved that they had participated in or had ratified certain acts.

And another thing will have to be demonstrated before these organizations now representing, according to the outside claim not more than ten per cent of the workers, can be entrusted with this power. They will have to demonstrate the capacity, they will have to demonstrate the right disposition to be trusted with such a power, and I will not take your time to discuss the matters of record which demonstrate that at this hour they are far from demonstrating either responsibility, capacity or the right disposition to be clothed with any such power. That is what really what is meant when it is said that employers refused to submit their relations with their employees to outside organizations. This bill would compel it.

Now I read that it has been argued here that it is not necessary to make this provision apply to the workers, because the courts of equity, even since the injunction law that was passed last winter, have full power to prevent such unlawful acts. Well, it doubtless is true that where you had a case such as was described by the witness, where numbers were participating, where acts of violence were threatened, you would undoubtedly have the evidence upon which to apply to the Court for an injunction. But the kind of intimidation and coercion that I am speaking about is the insidious kind that one witness described, where they go to the homes, where a man passing along the street at night has something hit him on the head and he does not know from what quarter the blow comes. It is the kind of intimidation that everyone knows is practiced and that there is no possible relief against by applying to any court for injunction. What this bill does is to class legitimate acts of employers, as I am going to say in a moment, as unlawful and unfair practices, without one word in restraining the other kind of acts.

The fact is, gentlemen, that the American working man is a very reasonable being. All he wants is a square deal. When you satisfy him that he is getting a square deal he will be content. If he thinks he is not he will not be content and he will undertake to secure redress. The concern of the management today is to leave no thought in the minds of employees that they are not securing a square deal, and more.

Now, I might just for a moment specifically direct your attention to the provisions of this bill which I think are the heart of it. I have referred to the provision that includes labor organizations among representatives. I now refer to subdivisions 3 and 4 of section 5. There isn't such a thing as a dominating company union. One could not exist for any length of time. Do you think you could kid these men that are here today? Do you think that you could make these workers content if their representatives were tools of the management? Don't you think they would find it out? Any company that undertakes to dominate is bound to meet with defeat, and worse than that.

Now I am going to pass, without further comment, I am going to pass upon section 205, because I am sure its remarkable provisions have already been pointed out to you, and the possibilities of abuse that could go with it.

What I have to say about it is that it does not even approximate due process, and if you are going to create such a board with such extraordinary powers, the procedure ought to be sufficiently and carefully defined at least to approximate due process. I do not believe that Senator Wagner, with his judicial experience, ever drafted section 205, at least I will not believe it unless he personally assures me that he did. This judicial review that is provided in this bill is nothing more than a means of enforcing the decrees of this Board. As a review it is a farce, and if you were going to create a new board with such extraordinary power and go into this new field I suggest that at least there should be the broadest judicial review, both upon the facts and the law, with the power to determine not only the sufficiency of the evidence, but the quality of the evidence.

I have but one more obligation to make, gentlemen, and that is that there is no politically constituted body that now or ever will be, until human nature changes, suited to exercise the extraordinary powers conferred by section 207, and it is so patent that at this hour I am not going to take time to elaborate that proposition.

Now I appreciate the courtesy that you have extended to me, Mr. Chairman. I want to submit to you for your serious consideration the question whether, at this juncture, any legislation so drafted and so extreme as this, while we are engaged in this great experiment, what effect is in the public interest.

BOARD'S EXHIBIT NO. 27

MEMBERS IDENTIFICATION

This is to Certify that

Joseph M. Cox

has accepted Membership in the EMPLOYEES' REPRE-

SENTATIVE ASSOCIATION for Employees of Canton Plants, Republic Steel Corporation

Badge No. 24-534 Date 4-24-37

Ray J. Lilly
Secretary

Attest:
Frank S. Geltz
Chairman

BOARD'S EXHIBIT NO. 28

REPUBLIC STEEL CORPORATION

Proposed Revision of the Plan of Employes Representation

Adopted—1933
Amended—1934-1935
March 8—1937

Revision based on Buffalo District (Blue Book) with inserts culled from other various Districts.

Letter of Transmittal

Buffalo District

To: Vice President in Charge of Operations and Director of Industrial Relations, Cleveland Ohio

Gentlemen:

By direction of the Central Council of Employee Representatives at a Cleveland Conference, the Temporary Secretary submits his report on the Proposed Revision of the Plan relating to Collective Bargaining.

E. L. O'Connell

This Plan of Employee Representation has been adopted for the purpose of providing an orderly, effective, and expeditious medium of Collective Bargaining with the management on all matters pertaining to wages, hours, grievances and working conditions; to extra date a fair adjustment of any difficulties; maintain tranquility; and to promote a spirit of fair dealing in the mutual interest of Employees and Management.

PLAN OF EMPLOYEE REPRESENTATION

I.

Representation

1. Employ Representation shall be by Departments on the basis of one Representative for each two hundred (200) employees, or major fraction thereof.

2. Adjustments in units of representation, wherever necessary to secure complete and fair representation, shall be made in accordance with the recommendation of the Committee on Rules, Ways, and Means.

3. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had of logical groupings and location.

II.

Term of Office of Representatives and Vacancies

1. Employee Representatives shall be elected for a term of one year and shall be eligible for reelection.

2. An Employee Representative may be recalled upon the approval by the Committee on Rules, Ways and Means of a petition signed by two-thirds of the voters in his department and upon such approval he shall cease to be such Representative.

3. An Employee Representative shall be deemed to have vacated his office as such upon severance of his relations with the Company, or upon being transferred from one department or voting division to another, or upon his appointment to such a regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancy in the office of an Employee Representative, for which there is no alternate, as described in Paragraph 15 of Section IV hereof, may be filled for the unexpired term, at the discretion of the Committee on Rules, Ways, and Means, by special election conducted in the same manner as the regular annual election.

III.

Qualifications of Representatives and Voters

1. Any employee, who has been on the Company's payrolls for a period of at least one year immediately prior to nominations, who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employee Representative.

2. All employees, who are enrolled on the Company's payrolls (except as provided in Paragraph 3 of Section III) on the date fixed for nomination shall be entitled to vote.

3. Company officials and persons having the right to hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employee Representatives.

4. This Plan shall in no way discriminate against any employee because of race, sex or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

IV.

Nominations and Elections

1. Nominations and elections of Employee Representatives shall be held annually in the Month of June. Nominations shall be held on the second Tuesday and elections on the following Friday of such month. In the event of either of these days being a holiday, then the nomination or election, as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with rules and regulations prescribed by the Committee on Rules, Ways and Means.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference with voters in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations by the Committee on Rules, Ways and Means, Thru Tellers Designated by Such Committee

4. On the day of nominations, each qualified voter shall be furnished a ballot stating the number of persons for whom he is entitled to vote. Such voter shall write on ballot the names or check numbers of the persons in his Department or voting division whom he desires to nominate for election as Employee Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting Division is entitled.

6. If, on any one ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employee Representative to be elected.

Those employees who received the largest number of votes, in any department or voting division, equal to three times the number of Representatives to be elected, shall be declared nominated, and shall be candidates for election.

Elections

9. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means, through tellers designated by such Committee, a ballot on which the names of the candidates for Employee Representatives shall be printed in the order of number of votes received at nominations. In case two or more persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a cross (X) opposite the name of the candidate or the name of each of the candidates of his choice.

10. The number of candidates for whom the employees in each Department or voting division shall be entitled to vote for Employee Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

11. Each voter shall deposit his own ballot in a box provided by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The can-

didate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employee Representative or Representatives of such Department or voting division.

12. In the event of a tie, selection shall be made by lot under the direction of the Committee on Rules, Ways and Means.

13. In the event of a controversy arising concerning any nomination or elections, it shall be referred to and decided by the Committee on Rules, Ways and Means.

14. The Committee on Rules, Ways and Means may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

15. Candidates failing of election shall stand as alternates in the order of the number of votes received and in such order shall become Employee Representatives as need may arise through vacancies or increased forces.

V.

Management's Representative

(Two paragraphs follow, both crossed out with this notation thereon: "Out".)

V.

Committees

1. Wherever the word "Committee" is used throughout this instrument, it shall mean a Committee of Employee Representatives.

2. After each annual election, the duly elected representatives shall meet within five (5) days for the purpose of electing a Chairman, Vice Chairman and Secretary and Treasurer for the General Body and delegates to Central

Council, which officers and delegates shall be elected from among the duly elected Employee Representatives.

The General Body of Employee Representatives shall select members as deemed advisable and necessary for the following Committees.

Committee No. 1—Rules, Ways and Means.

Committee No. 2—Wages, Employment, Schedules, and Working Conditions.

Committee No. 3—Safety, Health, Plant Sanitation, and Welfare Activities.

Committee No. 4—Appeals and Advisory Committee.

3. The Appeals and Advisory Committee shall consider all matters not falling within the scope of any other Committees herein provided for, and the Chairman and Secretary of the General Body of Employee Representatives shall be members of the Appeals and Advisory Committee.

4. Each Committee shall be composed of members of, and selected by, the General Body. Each Committee shall elect its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular or special meeting of the General Body of Employee Representatives.

VI.

Committee Meetings

1. Regular meetings of Committees may be held every month.

2. The General Body of Employee Representatives may meet monthly for the purpose of reviewing the work of the Committees, and discussing any matters of general interest.

3. A majority of the General Body of Employee Representatives or any committee shall constitute a quorum at any meeting thereof.

4. Special meetings of Committees may be held as occasion may require on approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

5. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

6. A Committee, in considering matters of a special interest to any particular Department or class of employees, shall have the right to invite into conference the Representatives of the employees and of the company; also, employees likely to be especially interested in such matters.

7. Any matters may be referred by the Management through Management's Representative to any Committee for consideration and report, and any matter may be presented by a Committee for the Management's Representative.

8. Committee on Rules, Ways and Means shall arrange a suitable place for meetings of the general Body of Employee Representatives and of the Several Committees.

VII.

Central Council

The Central Council, representing steel plants shall be composed of delegates of duly elected Employee Representatives to be elected by the General Body, viz:

District or Plant	*Delegates*
Cleveland	2
Canton	2
Massillon	2
Buffalo	2
South Chicago	2
Warren	2
Youngstown	2
Dilworth-Porter (Pittsburgh)	
Grand Crossing	1
Moline	1

Officers of the Central Council shall consist of Chairman, Vice-Chairman and Secretary and Treasurer to be elected by the Delegates to the Central Council, such officers to hold office until their successors are elected.

The Central Council may meet semi-annually preferably during the months of January and July. Special meetings of the Central Council may be called when deemed necessary.

VIII.

Annual District Conference

An Annual District Conference between all of the Employee Representatives and the Management shall be held at a time and place determined by the proper committee, which shall regulate the procedure at such Conference.

IX.

Procedure for Adjustments

1. Any matter, which in the opinion of any employee, or group of employees, requires adjustment, and which such employee or group of employees has been unable to adjust, either directly with the foreman or through his or

their representative, may be taken up by such employee or group of employees, either in person or through any representative of his or their department in writing.

FIRST

With the Superintendent concerned.

SECOND

With the Management's Representative.

THIRD

With the Management, in an endeavor to effect a settlement, or who may with the approval of all the parties refer the matter to proper committee.

2. Unless satisfactory disposition of any such matter has been effected within fourteen (14) days, any employee through his Representative, or the Management through the Management's Representative, may require such matter to be referred to the proper Committee by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

The proper Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts for a settlement. Failing satisfactory disposition by proper Committee such matters shall be referred to General Industrial Relations Department.

Failing satisfactory disposition by the General Industrial Relations Department the President of the Company shall be notified. Failing satisfactory adjustment by the President, the matter shall be referred by the President and a majority of the Employee Representatives on the Appeals and Advisory Committee to a Board of Arbitration to be composed of three members; one member to be selected by the Appeals and Advisory Committee; one member by the Management; and these two members to select a third member satisfactory to both parties. The decision of any two of the three arbitrators thus chosen shall be final and binding on both parties.

Any adjustments in rates determined by above procedure shall be made effective as of the date the written request was filed with the Department Head. Requests for changes in rates shall be considered closed upon a decision of the proper Committee and the Management unless an appeal is filed in writing by the employee or his representative with the Management's Representative within a period of three (3) days after the decision was rendered.

X.

Guaranteeing the Independence of Representatives

1. It is understood and agreed that each Representative or Employee assisting him shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

2. To insure to each Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him on account of his acts in his representative capacity to the Management's Representative, to any of the Superior Officers, to the General Industrial Relations Department, and to the President of the Company.

3. Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within thirty days, a Representative shall have the further right to appeal to the State Department of Labor or the Secre-

tary of Labor of the United States. The Company shall furnish the said State Department of Labor or the Secretary of Labor with every facility for the determination of the facts, and the findings and recommendations of the said State Department of Labor or the said Secretary of Labor shall be binding and final.

XI.

Amendments

Any method of procedure hereunder, may be amended by a two-thirds vote of the Employee Representatives at any meeting of the entire General Body of Representatives, provided that each Representative has been notified in writing, at least, ten (10) days prior to such meeting, giving the substance of the amendments to be voted upon.

The Chairman of the Central Council shall be notified of all amendments adopted.

BOARD'S EXHIBIT NO. 29

PLAN OF EMPLOYEE REPRESENTATION CANTON PLANT

As Amended, April 22, 1937

This Plan of Employee Representation has been adopted for the purpose of providing an orderly, effective, and expeditious medium of Collective Bargaining with the Management on all matters pertaining to wages, hours, grievances and working conditions; to expedite a fair adjustment of any difficulties, and to promote a spirit of fair dealing in the mutual interest of Employees and Management.

PLAN OF EMPLOYEE REPRESENTATION

I.

Representation

1. Employee Representation shall be by Departments on the basis of one Representative for each two hundred (200) employees, or major fraction thereof.

2. Adjustments in units of representation, wherever necessary to secure complete and fair representation, shall be made in accordance with the recommendation of the Committee on Rules, Ways and Means.

3. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had of logical groupings and location.

II.

Term of Office of Representatives and Vacancies

1. Employee Representatives shall be elected for a term of one year and shall be eligible for reelection.

2. An Employee Representative may be recalled upon the approval by the Committee on Rules, Ways and Means of a petition signed by two-thirds of the voters in his department and upon such approval he shall cease to be such Representative.

3. An Employee Representative shall be deemed to have vacated his office as such upon severance of his relations with the Company, or upon being transferred from one department or voting division to another, or upon his appointment to such a regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancy in the office of an Employee Representative, for which there is no alternate, as described in Paragraph 15 of Section IV hereof, may be filled for the unexpired term, at the discretion of the Committee on Rules, Ways and Means, by special election conducted in the same manner as the regular annual election.

III.

Qualifications of Representatives and Voters

1. Any employee, who has been on the Company's payrolls for a period of at least one year immediately prior to nominations, who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employee Representative.

2. All employees, who are enrolled on the Company's payrolls (except as provided in Paragraph 3 of Section III) on the date fixed for nomination shall be entitled to vote.

3. Company officials and persons having the right to hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employee Representatives.

4. This Plan shall in no way discriminate against any employee because of race, sex, or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

IV.

Nominations and Elections

1. Nominations and elections of Employee Representatives shall be held annually in the Month of June. Nominations shall be held on the second Tuesday and elections

on the following Friday of such month. In the event of either of these days being a holiday, then the nomination or election, as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with the rules and regulations prescribed by the Committee on Rules, Ways and Means.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference with voters in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations

4. On the day of nominations, each qualified voter shall be furnished by the Committee on Rules, Ways and Means through Tellers designated by such Committee, a ballot stating the number of persons for whom he is entitled to vote. Such voter shall write on ballot the names or check numbers of the persons in his Department or voting division whom he desires to nominate for election as Employee Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting division is entitled.

6. If, on any one ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employee Representative to be elected.

Those employees who received the largest number of votes, in any department or voting division, equal to three times the number of Representatives to be elected, shall be declared nominated, and shall be candidates for election.

Elections

9. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means, through Tellers designated by such Committee, a ballot on which the names of the candidates for Employee Representatives shall be printed in the order of number of votes received at nominations. In case two or more persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a cross (X) opposite the name of the candidate or the name of each of the candidates of his choice.

10. The number of candidates for whom the employees in each Department or voting division shall be entitled to vote for Employee Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

11. Each voter shall deposit his own ballot in a box provided by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employee Representative or Representatives of such Department or voting division.

12. In the event of a tie, selection shall be made by lot under direction of the Committee on Rules, Ways and Means.

13. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules, Ways and Means.

14. The Committee on Rules, Ways and Means may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

15. Candidates failing of election shall stand as alternates in the order of the number of votes received and in such order shall become Employee Representatives as need may arise through vacancies or increased forces.

V.

Committee

1. Wherever the word "Committee' is used throughout this instrument, it shall mean a Committee of Employee Representatives.

2. After each annual election, the duly elected representatives shall meet within five (5) days for the purpose of electing a Chairman, Vice Chairman, Secretary and Treasurer for the General Body and delegates to Central Council, which officers and delegates shall be elected from among the duly elected Employee Representatives.

The General Body of Employee Representatives shall select members as deemed advisable and necessary for the following Committees:

Committee No. 1 — Rules, Ways and Means.

Committee No. 2 — Wages, Employment, Schedules and Working Conditions.

Committee No. 3 — Safety, Health, Plant Sanitation, and Welfare Activities.

Committee No. 4—Appeals and Advisory Committee.

3. The Appeals and Advisory Committee shall consider all matters not falling within the scope of any other Committees herein provided for, and the Chairman and Secretary of the General Body of Employee Representatives shall be members of the Appeals and Advisory Committee.

4. Each Committee shall be composed of members of, and selected by, the General Body. Each Committee shall elect its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular or special meeting of the General Body of Employee Representatives.

VI.

Committee Meetings

1. Regular meetings of Committees may be held every month.

2. The General Body of Employee Representatives may meet monthly for the purpose of reviewing the work of the Committees, and discussing any matters of general interest.

3. A majority of the General Body of Employee Representatives or of any Committee shall constitute a quorum at any meeting thereof.

4. Special meetings of Committees may be held as occasion may require on approval of the Chairman of the General Body of Employee Representatives.

5. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

6. A Committee, in considering matters of special interest to any particular Department or class of employees, shall have the right to invite into the conference the Representatives of the employees and of the company; also, employees likely to be especially interested in such matters.

7. Any matters may be referred by the Management to any Committee for consideration and report, and any matter may be presented by a Committee to the Management.

8. Committee on Rules, Ways and Means shall arrange a suitable place for meetings of the General Body of Employee Representatives and of the several Committees.

VII.

Central Council

The Central Council, representing steel plants, shall be composed of delegates of duly elected Employee Representatives to be elected by the General Body, viz:

District or Plant	*Delegates*
Cleveland	2
Canton	2
Massillon	2
Buffalo	2
South Chicago	2
Warren	2
Youngstown	2
Dilworth-Porter (Pittsburgh)	2

Grand Crossing	1
Moline	1

Officers of the Central Council shall consist of Chairman, Vice-Chairman, Secretary and Treasurer, to be elected by the delegates to the Central Council, such officers to hold office until their successors are elected.

The Central Council may meet semi-annually, preferably during the months of January and July, Special meetings of the Central Council may be called when deemed necessary.

VIII.

Annual District Conference

An Annual District Conference between all of the Employee Representatives and the Management should be held at a time and place determined by the proper committee.

IX.

Procedure for Adjustments

1. Any matter, which in the opinion of any employee, or group of employees, requires adjustment, and which such employee or group of employees has been unable to adjust, either directly with the foreman or through his or their representative, may be taken up by such employee or group of employees, either in person or through any representative of his or their department in writing.

FIRST

With the Superintendent concerned.

SECOND

With the Management's Representative.

THIRD

With the Management, in an endeavor to effect a settlement, or who may with the approval of all the parties refer the matter to proper committee.

2. Unless satisfactory disposition of any such matter has been effected within fourteen (14) days, any employee through his Representative, or the Management through the Management's Representative, may require such matter to be referred to the proper Committee by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

The proper Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts for a settlement. Failing satisfactory disposition by proper Committee on such matters shall be referred to General Industrial Relations Department.

Failing satisfactory disposition by the General Industrial Relations Department the President of the Company shall be notified. Failing satisfactory adjustment by the President, the matter shall be referred by the President and a majority of the Employee Representatives on the Appeals and Advisory Committee to a Board of Arbitration to be composed of three members; one member to be selected by the Appeals and Advisory Committee; one member by the Management; and these two members to select a third member satisfactory to both parties. The decision of any two of the three arbitrators thus chosen shall be final and binding on both parties.

Any adjustments in rates determined by above procedure shall be made effective as of the date the written request was filed with the Department Head. Requests for changes in rates shall be considered closed upon a decision of the proper Committee and the Management unless an appeal is filed in writing by the employee or his representative with the Management's Representative within a period of three (3) days after the decision was rendered.

X.

Amendments

Any method of procedure hereunder, may be amended by a two-thirds vote of the Employee Representatives at any meeting of the General Body of Representatives, provided that each Representative has been notified in writing, at least ten (10) days prior to such meeting, giving the substance of the amendments to be voted upon.

The Chairman of the Central Council shall be notified of all amendments adopted.

BOARD'S EXHIBIT NO. 30

GENERAL BODY OF EMPLOYEE REPRESENTATIVES OF CANTON

Minutes of a special meeting of the General Body of Employee Representatives held Friday, March 5, 1937.

Chairman Geltz called the meeting to order at 4:15 P. M.

The roll was called, and all employee representatives were present. In addition, Mr. Carl W. Myers, Assistant District Manager, and Mr. G. H. Lohneis, Management's Representative, were present for a part of the meeting.

The Chairman announced that this meeting had been called at the request of the Management; therefor, Mr. Myers was given the floor immediately.

Mr. Myers spoke briefly regarding the action of another steel corporation in signing an agreement with the Committee for Industrial Organization. In order to clarify the position of the Management of Republic Steel, Mr. Myers said the following statement had been released to newspapers for publication:

> "Republic Steel Corporation today issued the following statement, defining the company's position with respect to collective bargaining:
>
> The policy of this Company has been, and is now, that it will meet with any person or persons, or organization, and will bargain with them for whomsoever they represent. If any union or organization claiming to represent any of our employees asks for a conference with our company, we will meet and bargain with them for whomsoever they represent. This is in conformity with our General Policy as stated above.
>
> Likewise, we will continue to meet and bargain with the Employee Representatives for the employees whom they represent. We repeat the statement which we made to you last July. Republic stands for the open shop principle. No employee has to join any organization to get or hold a job."

Mr. Myers pointed out that this policy would, in no wise, alter the relations our organization has with the Corporation, and that we may expect the same degree of cooperation from the Management that we have received in the past.

Mr. Myers then announced that a conference of Employee Representatives with the Cleveland Management would be held on Monday, March 8th, to work out details of the wage increase recently announced. To attend this conference, each General Body of the Corporation is to select two Employee Representatives.

At this point, Mr. Myers and Mr. Lohneis retired from the meeting in order to allow the General Body to select their representatives to this conference, and to ascertain the sentiment of the Body on the matters to be discussed at the conference.

Considerable discussion then ensued regarding the points to be brought up at this conference, and it was finally decided after thorough deliberation that the two men selected from this Body should be instructed as follows:

(1) To insist on an increase of 10¢ per hour for all employee not included in the minimum wage ruling, as requested in the minutes of our General Body meeting of February 17, 1937. In this connection, our delegates are to give special attention to men working 48 hours per week, in order that their weekly earnings will not be lessened by the new maximum 40 hour week.

(2) To insist that all jobs up to the position of Superintendent, be included in the new maximum 40 hour week ruling.

(3) To insist on a vacation plan as requested in the minutes of our General Body meeting of January 20, 1937; namely, that all employees be provided one day's vacation with pay for each year of service up to five years, and two weeks vacation with pay for employees with five years service or more.

(4) To bring to the attention of the Management that on several occasions in the past, announcements regarding wage increases and other matters regarding employer-employee relationship have been given to newspapers before Employee Representatives have been informed.

Each of these points, voted on separately, carried by unanimous rising vote.

Stokoe moved that the selection of two delegates from this Body be made by secret ballot; seconded by Deafenbaugh, voted on and carried. The Chairman appointed Lappin and Tebay as Tellers. The result of the voting gave Geltz the highest number of votes, and Cox the second highest number. Geltz and Cox are therefore, empowered to represent this Body at the Cleveland Conference.

A motion to adjourn was made by Stokoe, seconded by Baum, voted on and carried.

R. J. Lilly,
Secretary.

Adjournment
8:10 P. M.

BOARD'S EXHIBIT NO. 31

MINUTES OF A SPECIAL MEETING OF THE GENERAL BODY OF EMPLOYEE REPRESENTATIVES HELD WEDNESDAY, APRIL 28, 1937

The Chairman called the meeting to order at 8:30 A. M.

The roll was called, and all representatives were present.

This meeting was called at the request of the Chairman of the General Body to further discuss the amended by-laws of the Plan, as well as to discuss ways and means for the continued operation of the organization.

The proposed amendments to the by-laws were again reviewed, and it is the feeling of the General Body that no further changes should be made at this time.

Several methods of financing the organization were discussed. Lappin moves that dues in the Employees Representative Association shall be waived until such time as an accurate estimate of expenses can be had, and that some other method of raising finances, possibly thru a raffle, should be used temporarily. Seconded by Deafenbaugh, voted on and carried.

Schnierle moves that the Committee on Rules, Ways, and Means be called together to devise some method for financing the Association; seconded by Stokoe, voted on and carried.

The Chairman pointed out that the amended by-laws provides for the selection of a Treasurer, and that he would now ask for nominations for Treasurer. Dunn placed the name of Ray Lilly in nomination, supported by Deafenbaugh. Lilly placed the name of Curt DeWalt in nomination, supported by Burns. Tebay moves that nominations be closed, seconded by Fisher, voted on and carried.

The Chairman appointed Schnierle and Cox tellers. On a secret ballot, the result of the voting showed:

Dewalt	16
Lilly	11

The Chairman declared DeWalt elected Treasurer.

Scroggs moves that Employee Representatives be paid a monthly salary from the Treasury of the Association; seconded by Allen, voted on and defeated.

Lappin moves that the Chairman be empowered to appoint all unassigned representatives to committees; seconded by Dice, voted on and carried. The Chairman made the following appointments:

No. 1 — Dunn, DeWalt.
No. 2 — Burns, Baum.
No. 3 — Scroggs, Arnold.
No. 4 — Martin, Looman.

Force report made out covering employee representatives time.

Motion to adjourn was made by Stokoe, seconded by Cox, voted on and carried.

Adjournment 12:30 P. M.

R. J. Lilly,
Secretary.

Mr. Peppard, President, and Mr. C. Ray Wonderly, Secretary, of the Employees Relief Association, were invited to the regular General Body meeting of April 21, 1937 to discuss the finances of the Relief Association.

A copy of the Annual Report of the Relief Association for the year 1936, as well as a summarized report for the months of January, February and March 1937 was given each Representative.

Mr. Wonderly said that since May 1, 1935, when additional benefits were added to the schedule then in effect, a general decline in the Fund has been occurring. The amount of sickness and number of deaths among members during the winter just passed has been unusually high. Mr. Wonderly stated that in January, February and March, 1937, disbursements of the Association were $43,297. 46, while the receipts for the same period were $28,556.82, making a loss of $14,740.64 for the three months.

Mr. Wonderly said that the Board of Directors were now faced with the necessity of either increasing the dues or decreasing the benefits. The Directors feel that an increase of 30¢ per month will restore the Association to a firm financial basis. In the event that the additional dues will create a Reserve Fund greater than the Directors feel is necessary, then such excess monies shall be used to pay the dues of members until such excess is exhausted.

After considerable discussion, the General Body of Employee Representatives on motion by Schnierle, seconded by Schweitzer, voted to recommend adoption of the plant to increase the dues and allowing the benefits to remain as at present.

R. J. Lilly.

(Secretary's Note: This action was not included in the published minutes of this meeting, because of the possibility of misinterpretation by employees. Within the next two weeks, the Relief Association will distribute a letter to each member, giving in much more detail the proposed plan than could be covered in our minutes. R. J. L.)

BOARD'S EXHIBIT NO. 32

REPUBLIC STEEL CORPORATION
Central Alloy District
Massillon Works

Plan of Employees' Representation

June, 1933

REPUBLIC STEEL CORPORATION
Central Alloy District
Massillon Works

Plan of Employees' Representation

Principles of Representation

The Republic Steel Corporation (hereinafter called the Company) inaugurates this Plan of Employees' Representation for the Central Alloy District, Massillon Works, in order to provide effective means of contact between the Management and the Employees, and an orderly and expeditious procedure for the prevention and adjustment of any future differences, to insure justice, maintain tranquility and promote the common welfare.

The Plan of Employees' Representation, as hereinafter provided, shall in no way discriminate against any employee because of race, sex, or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

I.

Representation

1. Employees' Representation shall be by Departments on the basis of one Representative for each two hundred (200) employees, or major fraction thereof, based on the average number of employees on the payroll for three months immediately preceding the election.

2. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had to logical groupings and location.

3. Adjustments in units of representation, wherever necessary to secure complete and fair representation, shall be made in accordance with the recommendation of the Joint Committee on Rules, Ways and Means.

II.

Term of Office of Representatives and Vacancies

1. Employees' Representatives shall be elected for a term of one year and shall be eligible for re-election.

2. An Employees' Representative may be recalled upon the approval by the Committee on Rules, Ways and Means, of a petition signed by two-thirds of the voters in his Department and upon such approval he shall cease to be such Representative.

3. An Employees' Representative shall be deemed to have vacated his office as such upon severance of his relations with the Company, or upon being transferred from one Department or voting division to another, or upon his appointment to such a regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancies in the office of an Employees' Representative, for which there is no Alternate, as described in Paragraph 16 of Section IV hereof, may be filled for the unexpired term, in the discretion of the Committee on Rules, Ways and Means, by special election conducted in the same manner as the regular annual election.

III.

Qualifications of Representatives and Voters

1. Any employee who has been on the Company's payrolls for a period of at least one year immediately prior to nominations; who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employees' Representative.

2. All employees who have been on the Company's

payrolls for a period of at least sixty (60) days immediately prior to nominations and who are eighteen (18) years of age or over, shall be entitled to vote.

3. Company officials and persons having the right to hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employees' Representatives or qualified to vote for Employees' Representatives.

IV.

Nominations and Elections

1. Nominations and elections of Employees' Representatives shall be held annually in the month of June. Nominations (after the first nominations and elections) shall be held on the second Tuesday and elections on the following Friday of such month. In the event of either of these days being a holiday, then the nominations or elections as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with the rules and regulations prescribed by the Committee on Rules, Ways and Means, with only such assistance from the Management as may be requested.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference with voters in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations

4. On the day of nominations, each qualified voter shall be furnished a ballot stating the number of persons for whom he is entitled to vote. Such voter shall write on

ballot the names or check numbers of the persons in his Department or voting division whom he desires to nominate for election as Employees' Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting division is entitled.

6. If on any ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employees' Representatives to be filled.

9. Those employees who received the largest number of votes, in any department or voting division, equal to three times, the number of Representatives to be elected shall be declared nominated, and shall be candidates for election.

Elections

10. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means, through tellers designated by such Committee, a ballot on which the names of the candidates for Employees' Representatives shall be printed in the order of number of votes received at nominations. In case two or more persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a

cross (X) opposite the name of the candidate or the name of each of the candidates of his choice.

11. The number of candidates for whom the employees in each Department or voting division shall be entitled to vote for Employees' Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

12. Each voter shall deposit his own ballot in a box provided for the purpose by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employees' Representative or Representatives of such Department or voting division.

13. In the event of a tie, selection shall be made by lot under the direction of the Committee on Rules, Ways and Means.

14. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules, Ways and Means.

15. The Committee on Rules, Ways and Means, may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

16. Candidates failing of election shall stand as Alternates in the order of the number of votes received and in such order shall become Employees' Representatives as need may arise through vacancies or increased forces.

V.

Management's Representative

The Company shall appoint a Management's Repre-

sentative to facilitate close relationships between the Management and the Employees' Representatives.

The Management's Representative shall represent the Management in negotiations with the Representatives, their Officers and Committees. He shall respond promptly to any request from Representatives, and shall interview all of the Representatives, from time to time, collectively or separately, with reference to matters of concern to employees. He may attend any meeting of the Joint Committees, but shall not have any vote thereat.

VI.

Committees

1. Wherever the word "Committee" is used throughout this instrument, it shall mean a Standing Committee of Employees' Representatives unless a "Joint Committee" is specified.

2. After each annual election the Representatives shall immediately meet for the purpose of electing a Chairman, Vice Chairman and Secretary for the General Body of Employees' Representatives.

The General Body of Employees' Representatives shall also select members for the following committees, viz:

Committee No. 1 — Rules, Ways and Means.

Committee No. 2 — Wages, Employment, Schedules and Working Conditions.

Committee No. 3 — Safety, Health, Plant Sanitation and Welfare Activities.

Committee No. 4 — Appeals Committee.

3. The Appeals Committee shall consider all matters

not falling within the scope of any other Committees herein provided for, and the Chairman and Secretary of the General Body of Employees' Representatives shall be members of the Appeals Committee.

4. Each Committee shall be composed of not more than five members, and shall appoint its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular meeting of the General Body of Employees' Representatives.

6. Joint Committees shall consist of the Committee of the Employees' Representatives with the addition of the Company's Representatives named by the Management, who may equal but shall not exceed in number the Employees' Representatives.

7. The Joint Committees shall select their own officers and arrange their own procedure, subject to appeal, in case of controversy, to the Joint Committee on Rules, Ways and Means.

VII.

Committee Meetings

1. Regular meetings of Committees shall be held every other month.

2. On alternate months, the Joint Committees shall meet.

3. In months that the Joint Committees meet, a meeting shall also be held by the General Body of Employees' Representatives for the purpose of reviewing the work of the Committees and Joint Committees, and discussing any matters of general interest.

4. Committees shall meet between the hours of three

and five in the afternoon, unless otherwise determined by joint approval of the Chairman of the General Body of Employees' Representatives and the Management's Representative.

5. Special meetings of Committees and of Joint Committees may be held as occasion may require, on approval of the Chairman of the General Body of Employees' Representatives and the Management's Representative.

6. For time necessarily lost, through actual attendance, at regular or special meetings or conferences jointly approved, Representatives shall receive from the Company, payment commensurate with their average earnings.

7. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

8. A Committee, in considering matters of special interest to any particular Department or class of employees, shall have the right to invite into conference the Representatives of the Employees and of the Company likely to be especially interested in such matters.

9. Any matter may be referred by the Management through the Management's Representative to any Committee for consideration and report, and any matter may be presented by a Committee to the Management through the Management's Representative.

10. The Joint Committee on Rules, Ways and Means, shall arrange a suitable place for meetings of the General Body of Employees' Representatives and of the several Committees and Joint Committees, and the Company shall defray such expenses as are necessarily incident to the

discharge of duties herein set forth, when approved by a majority of said Committees.

VIII.

Annual Conference

An Annual Conference between all of the Employees' Representatives and Representatives of the Management shall be held at a time and place determined by the Joint Rules, Ways and Means Committee, who shall regulate the procedure at such conference.

IX.

Procedure for Adjustments

1. Any matter which in the opinion of any employee requires adjustment, and which such employee has been unable to adjust with the Foreman of the work on which he is engaged, may be taken up by such employee, either in person, or through any Representative of his Department or voting division in writing:

FIRST

With the Superintendent concerned.

SECOND

With the Management's Representative.

THIRD

With the Management, who shall endeavor to effect a settlement, or who may with the approval of all the parties refer the matter to proper Joint Committee.

2. Unless satisfactory disposition of any such matter has been effected within a reasonable time, any employee through his Representative, or the Management through the Management's Representative, may require such matter to be referred to the Joint Appeals Committee by

a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

The Joint Appeals Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts and effect a settlement.

3. If the Joint Appeals Committee shall fail to effect a settlement, the President of the Company shall be notified, and the matter may be referred, if the President and a majority of the Employees' Representatives on the Joint Appeals Committee agree to such reference, to an arbitrator or arbitrators, to be determined at the time according to the nature of the controversy.

X.

Guaranteeing the Independence of Representatives

1. It is understood and agreed that each Representative shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

2. To insure to each Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him on account of his acts in his representative capacity to the Management's Representative, to any of the Superior Officers, to the Joint Appeals Committee, and to the President of the Company.

3. Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within

thirty days, a Representative shall have the further right to appeal to the Secretary of Labor of the United States. The Company shall furnish the Secretary of Labor with every facility for the determination of the facts, and the findings and recommendations of the said Secretary of Labor shall be final and binding.

XI.

Amendments

1. Any method of procedure hereunder may be amended at any time by two-thirds vote of the entire membership of the Joint Committee on Rules, Ways and Means, or by concurrent majority vote of the General Body of Employees' Representatives and of the Representatives of the Management at an Annual Conference.

BOARD'S EXHIBIT NO. 33

Republic Steel Corporation
Central Alloy District
Massillon Works

Plan of Employee Representation

Adopted June, 1933
Amended May, 1934

June 5, 1934

To the Employees of
Republic Steel Corporation,
Massillon, Ohio.

The Employee Representatives elected under the Plan of Employee Representation in June, 1933, have spent considerable time in the handling of all problems of working conditions, wages, hours of labor, safety, and many other questions presented to us by the workers.

During our term of office, we have made a careful study of the Plan, and a copy of it, containing certain changes which we believe improve it, is attached to this letter.

On Tuesday, June 12, 1934, we, the Representatives of this Plant, will hold nominations by secret ballot and an election by secret ballot on Friday June 15, 1934 for Employee Representatives, in accordance with Section IV of the By-Laws.

Your Rules, Ways and Means Committee has arranged for the nominations and elections and will provide ballot boxes and supply ballots.

Employee Representatives,

Jos. E. McArdle,
Jess Hollinger,
Walter Spicer,
R. S. Miller,
O. P. Coombs, Sr.,
C. P. Craver,
T. P. O'Neill,
O. W. Hannan,
Fred Brethauer,
W. Clary,
A. S. Rictherfad,
George Wagoner,
R. Stanley Smith,
Geo. W. Beam,
R. D. Seward,
Nick Linckenhely.

Republic Steel Corporation
Central Alloy District
Massillon Works

Plan of Employee Representation

Principles of Representation

The Republic Steel Corporation (hereinafter called the Company) inaugurates this Plan of Employee Representation for the Central Alloy District, Massillon Works, in order to provide effective means of contact between the Management and the Employees, and an orderly and expeditious procedure for the prevention and adjustment of any future differences, to insure justice, maintain tranquility and promote the common welfare.

The Plan of Employee Representation, as hereinafter provided, shall in no way discriminate against any employee because of race, sex, or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

I.

Representation

1. Employee Representation shall be by Departments on the basis of one Representative for each two hundred (200) employees, or major fraction thereof, based on the average number of employees on the payroll for three months immediately preceding the election.

2. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had to logical groupings and location.

3. Adjustments in units of representation, wherever necessary to secure complete and fair representation, shall be made in accordance with the recommendation of the Joint Committee on Rules, Ways and Means.

II.

Term of Office of Representatives and Vacancies

1. Employee Representatives shall be elected for a term of one year and shall be eligible for re-election.

2. An Employee Representative may be recalled upon the approval by the Committee on Rules, Ways and Means, of a petition signed by two-thirds of the voters in his department and upon such approval he shall cease to be such Representative.

3. An Employee Representative shall be deemed to have vacated his office as such upon severance of his relations with the Company, or upon being transferred from one Department or voting division to another, or upon his appointment to such regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancies in the office of an Employee Representative, for which there is no Alternate, as described in Paragraph 16 of Section IV hereof, may be filled for the unexpired term, in the discretion of the Committee on Rules, Ways and Means, by special election conducted in the same manner as the regular annual election.

III.

Qualifications of Representatives and Voters

1. Any employee who has been on the Company's payrolls for a period of at least one year immediately prior to nominations; who is twenty-one (21) years of age

or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employee Representative.

2. All employees who are enrolled on the Company's payrolls (except as provided in Paragraph 3 of Section III) on the date fixed for nomination shall be entitled to vote.

3. Company officials and persons having the right to hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employee Representatives or qualified to vote for Employee Representatives.

IV.

Nominations and Elections

1. Nominations and elections of Employee Representatives shall be held annually in the month of June. Nominations (after the first nominations and elections) shall be held on the second Tuesday and elections on the following Friday of such month. In the event of either of these days being a holiday, then the nominations or elections as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with rules and regulations prescribed by the Committee on Rules, Ways and Means, with only such assistance from the Management as may be requested.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference by anyone with voters in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations

4. On the day of nominations, each qualified voter shall be furnished a ballot stating the number of persons for whom he is entitled to vote. Such voter shall write on ballot the names or check numbers of the persons in his Department or voting division whom he desires to nominate for election as Employee Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting division is entitled.

6. If on any ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employee Representative to be filled.

9. Those employees who received the largest number of votes, in any Department or voting division, equal to three times the number of Representatives to be elected shall be declared nominated, and shall be candidates for election.

Elections

10. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means, through tellers designated by such Committee, a ballot on which the names of the candidates for Employee Representatives shall be printed in the order of number of votes received at nominations. In case two or more

persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a cross (X) opposite the name of the candidate or the name of each of the candidates of his choice.

11. The number of candidates for whom the employees in each Department or voting division shall be entitled to vote for Employee Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

12. Each voter shall deposit his own ballot in a box provided for the purpose by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employee Representative or Representatives of such Department or voting division.

13. In the event of a tie, selection shall be made by lot under the direction of the Committee on Rules, Ways and Means.

14. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules, Ways and Means.

15. The Committee on Rules, Ways and Means, may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

16. Candidates failing of election shall stand as Alternates in the order of the number of votes received and

in such order shall become Employee Representatives as need may arise through vacancies or increased forces.

V.

Management's Representative

The Company shall appoint a Management's Representative to facilitate close relationships between the Management and the Employee Representatives.

The Management's Representative shall represent the Management in negotiations with the Representatives, their Officers and Committees. He shall respond promptly to any request from Representatives, and shall interview all of the Representatives, from time to time, collectively or separately, with reference to matters of concern to employees. He may attend any meeting of the Joint Committees, but shall not have any vote thereat.

VI.

Committees

1. Wherever the word "Committee" is used throughout this instrument, it shall mean a Standing Committee of Employee Representatives unless a "Joint Committee" is specified.

2. After each annual election the Representatives shall immediately meet for the purpose of electing a Chairman, Vice Chairman and Secretary for the General Body of Employee Representatives.

The General Body of Employee Representatives shall also select members for the following Committees, viz:

Committee No. 1 — Rules, Ways and Means.

Committee No. 2 — Wages, Employment, Schedules and Working Conditions.

Committee No. 3 — Safety, Health, Plant Sanitation and Welfare Activities.

Committee No. 4 — Appeals Committee.

3. The Appeals Committee shall consider all matters not falling within the scope of any other Committees herein provided for, and the Chairman and Secretary of the General Body of Employee Representatives shall be members of the Appeals Committee.

4. Each Committee shall be composed of not more than five members, and shall appoint its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular meeting of the General Body of Employee Representatives.

6. Joint Committees shall consist of the Committee of the Employee Representatives with the addition of the Company's Representatives named by the Management, who may equal but shall not exceed in number the Employee Representatives.

7. The Joint Committees shall select their own officers and arrange their own procedure, subject to appeal, in case of controversy, to the Joint Committee on Rules, Ways and Means.

VII.

Committee Meetings

1. Regular meetings of Committees shall be held every other month.

2. On alternate months, the Joint Committees shall meet.

3. The General Body of Employee Representatives

may meet monthly for the purpose of reviewing the work of the Committees and Joint Committees. and discussing any matters of general interest.

4. All Committees (except General Body meetings) shall meet between the hours of three and five in the afternoon, the General Body shall meet at one o'clock, unless otherwise determined by joint approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

5. Special meetings of Committees and of Joint Committees may be held as occasion may require, on approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

6. For time necessarily lost, through actual attendance, at regular or special meetings or conferences jointly approved, Representatives shall receive from the Company, payment commensurate with their average earnings.

7. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

8. A Committee, in considering matters of special interest to any particular Department or class of employees, shall have the right to invite into conference the Representatives of the Employees and of the Company likely to be especially interested in such matters.

9. Any matter may be referred by the Management through the Management's Representative to any Committee for consideration and report, and any matter may be presented by a Committee to the Management through the Management's Representative.

10. The Joint Committee on Rules, Ways and Means,

shall arrange a suitable place for meetings of the General Body of Employee Representatives and of the several Committees and Joint Committees, and the Company shall defray such expenses as are necessarily incident to the discharge of duties herein set forth, when approved by a majority of said Committees.

VIII.

Annual Conference

An Annual Conference between all of the Employee Representatives and Representatives of the Management shall be held at a time and place determined by the Joint Rules, Ways and Means Committee, who shall regulate the procedure at such conference.

IX.

Procedure for Adjustments

1. Any matter which in the opinion of any employee, or group of employees, requires adjustment, and which such employee, or group of employees, has been unable to adjust, either directly or through his or their Representative with the foreman of the work on which he or they are engaged, may be taken up by such employee, or group of employees, either in person or through any Representative of his or their Department in writing:

FIRST

With the Superintendent concerned.

SECOND

With the Management's Representative.

THIRD

With the Management, who shall endeavor to effect a settlement, or who may with the approval of all the parties, refer the matter to proper Joint Committee.

Decision on any case or item to be presented to the Representative in writing by Management.

2. Unless satisfactory disposition of any such matter has been effected within one month, any employee through his Representative, or the Management through the Management's Representative, may require such matter to be referred to the Joint Appeals Committee by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

The Joint Appeals Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts and effect a settlement.

3. If the Joint Appeals Committee shall fail to effect a settlement, the President of the Company shall be notified, and the matter may be referred, if the President and a majority of the Employee Representatives on the Joint Appeals Committee agree to such reference, to an arbitrator or arbitrators, to be determined at the time according to the nature of the controversy.

X.

Guaranteeing the Independence of Representatives

1. It is understood and agreed that each Representative shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

2. To insure to each Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him on account of his acts in his representative capacity to the

Management's Representative, to any of the Superior Officers, to the Joint Appeals Committee, and to the President of the Company.

3. Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within thirty days, a Representative shall have the further right to appeal to the Secretary of Labor of the United States.. The Company shall furnish the Secretary of Labor with every facility for the determination of the facts, and the findings and recommendations of the said Secretary of Labor shall be final and binding.

XI.

Amendments

1. Any method of procedure hereunder may be amended at any time by two-thirds vote of the entire membership of the Joint Committee on Rules, Ways and Means, or by concurrent majority vote of the General Body of Employee Representatives and of the Representatives of the Management at an Annual Conference.

BOARD'S EXHIBIT NO. 34

EMPLOYEE REPRESENTATION

Schedule of Regular Meetings of the Standing and Joint Committees of Employee Representation Plan—Central Alloy District—Republic Steel Corporation Massillon Works

	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May
No. Committee	S	J	S	J	S	J	S	J	S	J	S
	Tue	Tue	Wed	Wed	Tue	Tue	Tue	Tue	Tue	Mon	Tue
1. Rules, Ways, Means	2	6	4	2	5	3	7	4	3	6	5
	Mon	Mon	Tue	Tue	Mon	Mon	Mon	Mon	Mon	Wed	Mon

2. Wages, Employment	8	12	10	8	11	9	13	10	9	8	11
	Wed	Wed	Mon	Mon	Wed	Wed	Wed	Wed	Wed	Tue	Wed
3. Safety, Welfare, etc.	10	14	16	14	13	11	15	12	11	14	13
	Tue	Tue	Wed	Wed	Tue	Tue	Tue	Tue	Tue	Mon	Tue
4. Appeals	16	20	18	16	19	17	21	18	17	20	19
	Mon	Mon	Tue	Tue	Mon	Mon	Mon	Mon	Mon	Wed	Mon
General Body	22	26	24	22	25	23	27	24	23	22	25

S—Indicates Standing Committees of Employee Representation.

J.—Indicates Joint Committees.

All Committees meet at 3:00 P. M.—General Body meets at 9:00 A. M.

Membership of Committees for Year 1935-1936

Committee No. 1, Rules, Ways, Means: Employee Representatives—Chair. W. L. Graham, Secy. R. Machan, M. Trotter V. C., Harry Kime, Harry Jones; Company Representatives—C. C. Chase Chair, P. M. Angstadt Secy., R. J. McMahon, G. A. Tindall, J. Walsh.

Committee No. 2, Wages, Employment, Schedules & Working Conditions: Employee Representatives—Chair. N. Linckenhely, Secy. L. B. Clark V. C., A. Greenfelder, Raymond Barnes Secy. A. F. Kelly; Company Representatives—C. P. Betz Chair., L. Larson, B. R. Richardson, A. E. Smith, T. F. McNally.

Committee No. 3, Safety, Health, Plant Sanitation & Welfare Activities: Employee Representatives—Chair. C. W. Beckler, Secy. Paul Hoffman Secy., O. W. Hammer, F. L. Bryan, F. Seese; Company Representatives—R. E. Peppard Chair., M. C. Corrigan V. C., Andy Evans, B. F. Houghton, A. J. Blantz.

Committee No. 4, Appeals: Employee Representatives—Chair. Lee Cox, Secy. Frank Lerner, R. D. Seward, N. C. Brown Chair., J. O. Palmer; Company Representatives—C. V. Julian V. C., J. M. Komp Secy., J. M. Hill, J. D. Donovan, W. C. McConnell.

Notations on left side of [preceding] names denote Standing Committee Officers.

Notations on right side of [succeeding] names denote Joint Committee Officers.

General Body Officers for Year 1935-1936

R. D. Seward, General Chairman.
L. B. Clark, Vice Chairman.
N. C. Brown, General Secretary.

BOARD'S EXHIBIT NO. 35

NOTICE

A special meeting of the newly elected General Body of Employee Representatives, Massillon Works, will be held in the Employee Representation Room, Industrial Relations Building, opposite the Main Office, at 10:00 A. M., Wednesday, June 17, 1936 for the purpose of organization.

If you are working, please arrange to see your Foreman in order that arrangements might be made for you to attend this meeting.

Very truly yours,
G. H. Lohneis
Management Representative.

6-15-36

BOARD'S EXHIBIT NO. 36

NOTICE

Joint Committee No. 3, Safety, Health, Plant Sanitation & Welfare Activities

Employee Representatives: Leo W. Cox, George Pappas, A. Luckring, L. Whitmore, H. C. Gonder.

Company Representatives: R. E. Peppard, M. C. Corrigan, Andy Evans, B. F. Houghton, A. J. Blantz.

The organization meeting of Joint Committee No. 3 will be held Monday, June 22, 1936 at 10:00 A. M. in the Industrial Relations Building, Massillon.

Kindly arrange to be present.

Very truly yours,
G. H. Lohneis
Management Representative.

BOARD'S EXHIBIT NO. 37

July 13th-1935

Standing Committee No. 4
Appeals Committee

NOTICE

Mr. Leo Cox, Chairman
Mr. Frank Lerner, Secretary
Mr. R. D. Seward
Mr. N. C. Brown
Mr. J. O. Palmer

This is to advise that the first scheduled meeting of Standing Committee No. 4 will be held Tuesday, July 16, 1935 at 3:00 P M at the Industrial Relations Building, Massillon.

Will you kindly arrange to be present.

Very truly yours,
G. H. Lohneis
Management's Representative.

BOARD'S EXHIBIT NO. 39

GENERAL BODY OF EMPLOYEE REPRESENTATIVES

Minutes of a special meeting of the General Body of Employee Representatives called by Management Saturday November 7, 1936 to announce a general wage increase.

Mr. E. A. Portz, District Manager of the Central Alloy District, Republic Steel Corporation, announced today to the General Body of Employee Representatives that effective November 16th, 1936, wage rates will be increased 5½ cents per hour in the lower wage brackets. Other wage rates will be adjusted upward, with no adjustment less than 5½ cents per hour. Wage increases will affect hourly, tonnage and piece-work rates. Salary in the lower brackets will receive comparable increases.

Motion by Hoffman, seconded by Mazon, that wage increase be accepted. Voted on and carried.

Checking Employee Representatives' Time

Force report made out covering Employee Representatives' time.

Adjournment

Motion by North, seconded by Cox, that meeting adjourn. Voted on and carried.

Adjournment 10:30 A. M.

N. C. Brown
Secretary.

11-7-36

BOARD'S EXHIBIT NO. 40

GENERAL BODY OF EMPLOYEE REPRESENTATIVES, MASSILLON

The regular monthly meeting of the Employees Representatives was held in the Industrial Relations Building Tuesday, September 22, 1936. The meeting was called to order at 9:00 a. m. with N. Linckenhely presiding.

(1) *Roll Call*

N. Linckenhely, Chair.
A. S. Rutherford, V. C.
N. C. Brown, Sec'y.
Henry Gonder
Albert Pond
W. Mazon
Albert North
Geo. Pappas
Paul Hoffman
E. A. Gillis
Leo W. Cox
L. W. Myers
D. A. Burkhart
C. W. Beckler
L. Whitmore
F. J. Lerner
Albert Luckring
H. Jones
R. D. Seward
J. O. Palmer
S. Shilling—Absent

Messrs. Portz and Lohneis present part of the time.

(2) ***Reading of Minutes of Previous Meetings***

Minutes of No. 1, No. 2, No. 3, No. 4, General Body and special meetings of No. 2 Committees were read.

(3) *Approval of Minutes of Previous Meeting.*

Motion by Palmer, seconded by Seward, that minutes of No. 1 Standing Committee be approved as read. Voted on and carried.

Motion by Hoffman, seconded by Gillis, that minutes of No. 2 Standing Committee be approved as read. Voted on and carried.

Motion by Burkhart, seconded by Whitmore, that minutes of No. 3 Standing Committee be approved as read. Voted on and carried.

Motion by Hoffman, seconded by Rutherford, that minutes of General Body be approved as read. Voted on and carried.

(4) *Communications.*

None.

(5) *Unfinished Business.*

In reply to request for ninety days leave of absence, Mr. Portz stated that each individual request would have to be considered upon its own merits, and that there would be no blanket decision in the affirmative. However, he stated that leave of absence might be granted providing proper arrangements can be made which will be satisfactory to both Management and employee. If leave of absence is granted, continuity of service with the Corporation will not be broken.

In reply to request for general wage increase for employees of Massillon District, Mr. Portz discussed this item in detail and stated it was impossible for Management to grant this request. He also stated that when all conditions warrant, this item will be given consideration.

Motion by Hoffman, seconded by North, that Case M-5-11B be referred to No. 2 Standing Committee for further consideration. Voted on and carried.

(6) *New Business*

Considerable discussion developed in regard to a recent committee meeting as to manner in which several workmen were held for four hours before they were given an opportunity to appear before the committee. Motion made by Burkhart, seconded by Hoffman, that men should be heard immediately when called. Voted on and carried.

Seward presented some proposed change to Relief Association By-Laws. A motion by Burkhart, seconded by Rutherford, that Relief Secretary, Mr. Wonderly, be called before the General Body at next meeting and explain intent of proposed changes. Voted on and carried.

Mr. Portz read questions and answers pertaining to Old Age Pension and Unemployment Insurance as provided for under the Federal Social Security Act. Information will be furnished to Representatives by Mr. Lohneis for further enlightenment.

Complaints were made against conditions prevailing in Billet Shed Grinding Department due to dust. Mr. Portz stated that arrangements were made to take care of grinding dust when equipment was installed. However, this condition will be investigated and corrections made.

Luckring requested telephone in Millwright Shanty, and crane in Blast Furnace Storeroom to facilitate moving of heavy articles. Mr. Portz suggested that he contact Messrs. Komp and Betz.

(7) *General Discussion*

A general discussion of various subjects of interest followed.

(8) *Checking Employee Representatives' Time*

Force report made out covering Employee Representatives' time.

(9) *Adjournment*

Motion by Cox, seconded by Beckler, that meeting adjourn. Voted on and carried—meeting adjourning at 5:00 P. M.

N. C. Brown
Secretary

9-22-36

BOARD'S EXHIBIT NO. 41

(In left-hand margin:) Pay ending Jul 15 1936 Name Leo. W. Cox Man No. 4021

Date	Off Duty Hrs.	On Duty Hrs.
1		
2	3	
3		
4		
5		
6		
7	3	
8	3	
9		
10		
11		
12		
13		
14		
15		8
16		

Date	Off Duty Hrs.	On Duty Hrs.
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
29		
30		
31		
Tot. Rep. Hrs.	9	8
Rate	1.047	1.047
Rep. Pay	9.42	8.38
Reg. Pay		
Total Pay		

Central Alloy District

Statement .... Date ....

Clock No. A No. 97373

Wages Earned

Deductions

Coke		
Xmas	5.00	
Advance		78.17
Restaurant		
Relief		
Civic Fund	35	
Group Ins.	2.25	
Total Deductions		
Balance Due	85.77	

Please Detach Before Cashing
(On reverse side:)
Man No. .... Date ....

BOARD'S EXHIBIT NO. 42

(In left-hand margin:) Pay Ending Dec 31 1936
Name Leo W. Cox Man No. 4021

Date	Off Duty Hrs.	On Duty Hrs.
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22	3	8
23		
24		
25		

Date	Off Duty Hrs.	On Duty Hrs.
26	3	
27		
28		
29		
30		
31		
Tot. Rep. Hrs.	6	8
Rate	1.131	1.131
Rep. Pay	6.79	9.05
Reg. Pay		6.79
Total Rep. Pay		15.84

Central Alloy District
Statement of Wages and Pay Roll Deductions
B 38275

Gross Earnings	
(Blank)	
Deductions	
Coke	
Shoes	
Social Club	2.00
Advances	
Civic Fund	.35
Restaurant	3.00
Relief Dues	1.00
Group Ins. Dues	66.53
Total Deductions	
Net Amount	

Detach Statement before Cashing
(On reverse side:)

Man No. .... Date ....

Central Alloy District
Statement of Wages and Payroll Deductions
B 36771

Gross Earnings

Deductions	
Coke	
Shoes	
Advances	
Civic Fund	
Restaurant	
Relief Dues	
Group Ins. Dues	
Total Deductions	
Net Amount	15.84

(Notation:)

Off Duty 6.79
On Duty 9.05

Detach Statement before Cashing

(On reverse side:)

Man No. .... Date ....

BOARD'S EXHIBIT NO. 43

Representative's Copy

ER 727 3M Sets 8-34 File Record ....

REPUBLIC STEEL CORPORATION AND SUBSIDIARIES

Employee Representation Plan
Record of Case Presented to Employee Representative

....

District or Subsidiary Plant Date

Presented by ....

Name of Employee Check Number Occupation

Presented by ....

Name of Group No. Men Involved Department

Statement of Case: ....

....

Employee Representative

Disposition of Case:

Date No Action Affirmative Negative Compromised Withdrawn

....

Foreman

....

Superintendent

....

Management's Representative

....

Committee

....

Committee

....

Committee

....

Committee

Final Disposition: ....

....

Date ....

Management's Representative

BOARD'S EXHIBIT NO. 47

PLAN OF EMPLOYEE REPRESENTATION MASSILLON PLANT

As Amended April 22, 1937

This Plan of Employee Representation has been adopted for the purpose of providing an orderly, effective, and expeditious medium of Collective Bargaining with the Management on all matters pertaining to wages, hours, grievances and working conditions; to expedite a fair adjustment of any difficulties, and to promote a spirit of fair dealing in the mutual interest of Employees and Management.

PLAN OF EMPLOYEE REPRESENTATION

I.

Representation

1. Employee Representation shall be by Departments on the basis of one Representative for each two hundred (200) employees, or major fraction thereof.

2. Adjustments in units of representation, wherever necessary to secure complete and fair representation, shall be made in accordance with the recommendation of the Committee on Rules, Ways and Means.

3. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had of logical groupings and location.

II.

Term of Office of Representatives and Vacancies

1. Employee Representatives shall be elected for a

term of one year and shall be eligible for reelection.

2. An Employee Representative may be recalled upon the approval by the Committee on Rules, Ways and Means of a petition signed by two-thirds of the voters in his department and upon such approval he shall cease to be such Representative.

3. An Employee Representative shall be deemed to have vacated his office as such upon severance of his relations with the Company, or upon being transferred from one department or voting division to another, or upon his appointment to such a regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancy in the office of an Employee Representative, for which there is no alternate, as described in Paragraph 15 of Section IV hereof, may be filled for the unexpired term, at the discretion of the Committee on Rules, Ways and Means, by special election conducted in the same manner as the regular annual election.

III.

Qualifications of Representatives and Voters

1. Any employee, who has been on the Company's payrolls for a period of at least one year immediately prior to nominations, who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employee Representative.

2. All employees, who are enrolled on the Company's payrolls (except as provided in Paragraph 3 of Section III) on the date fixed for nomination shall be entitled to vote.

3. Company officials and persons having the right to

hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employee Representatives.

4. This Plan shall in no way discriminate against any employee because of race, sex, or creed or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

IV.

Nominations and Elections

1. Nominations and elections of Employee Representatives shall be held annually in the Month of June. Nominations shall be held on the second Tuesday and elections on the following Friday of such month. In the event of either of these days being a holiday, then the nomination or election, as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with rules and regulations prescribed by the Committee on Rules, Ways and Means.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference with voters in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations

4. On the day of nominations, each qualified voter shall be furnished by the Committee on Rules, Ways and Means through Tellers designated by such Committee, a ballot stating the number of persons for whom he is entitled to vote. Such voter shall write on ballot the names or check numbers of the persons in his Department or voting division whom he desires to nominate for election as Employee Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting division is entitled.

6. If, on any one ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employe Representative to be elected.

Those employees who received the largest number of votes, in any department or voting division, equal to three times the number of Representatives to be elected, shall be declared nominated, and shall be candidates for election.

Elections

9. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means, through tellers designated by such Committee, a ballot on which the names of the candidates for Employee Representatives shall be printed in the order of number of votes received at nominations. In case two or more persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a cross (X) opposite the name of the candidate or the name of each of the candidates of his choice.

10. The number of candidates for whom the employees in each Department or voting division shall be entitled to

vote for Employee Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

11. Each voter shall deposit his own ballot in a box provided by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employee Representative or Representatives of such Department or voting division.

12. In the event of a tie, selection shall be made by lot under the direction of the Committee on Rules, Ways and Means.

13. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules, Ways and Means.

14. The Committee on Rules, Ways and Means may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

15. Candidates failing of election shall stand as alternates in the order of the number of votes received and in such order shall become Employee Representatives as need may arise through vacancies or increased forces.

V.

Committees

1. Wherever the word "Committee" is used throughout this instrument, it shall mean a Committee of Employee Representatives.

2. After each annual election, the duly elected representatives shall meet within five (5) days for the purpose

of electing a Chairman, Vice Chairman, Secretary and Treasurer for the General Body and delegates to Central Council, which officers and delegates shall be elected from among the duly elected Employee Representatives.

The General Body of Employee Representatives shall select members as deemed advisable and necessary for the following Committees:

Committee No. 1—Rules, Ways and Means,

Committee No. 2—Wages, Employment, Schedules and Working Conditions.

Committee No. 3—Safety, Health, Plant Sanitation, and Welfare Activities.

Committee No. 4—Appeals and Advisory Committee.

3. The Appeals and Advisory Committee shall consider all matters not falling within the scope of any other Committees herein provided for, and the Chairman and Secretary of the General Body of Employee Representatives shall be members of the Appeals and Advisory Committee.

4. Each Committee shall be composed of members of, and selected by, the General Body. Each Committee shall elect its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular or special meeting of the General Body of Employee Representatives.

VI.

Committee Meetings

1. Regular meetings of Committees may be held every month.

2. The General Body of Employee Representatives may meet monthly for the purpose of reviewing the work

of the Committees, and discussing any matters of general interest.

3. A majority of the General Body of Employee Representatives or of any Committee shall constitute a quorum at any meeting thereof.

4. Special meetings of Committees may be held as occasion may require on approval of the Chairman of the General Body of Employee Representatives.

5. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

6. A Committee, in considering matters of special interest to any particular Department or class of employees, shall have the right to invite into the conference the Representatives of the employees and of the company; also, employees likely to be especially interested in such matters.

7. Any matters may be referred by the Management to any Committee for consideration and report, and any matter may be presented by a Committee to the Management.

8. Committee on Rules, Ways and Means shall arrange a suitable place for meetings of the General Body of Employee Representatives and of the several Committees.

VII.

Central Council

The Central Council, representing steel plants, shall be composed of delegates of duly elected Employee Representatives to be elected by the General Body, viz:

District or Plant	Delegates
Cleveland	2
Canton	2
Massillon	2
Buffalo	2
South Chicago	2
Warren	2
Youngstown	2
Dilworth-Porter (Pittsburgh)	2
Grand Crossing	1
Moline	1

Officers of the Central Council shall consist of Chairman, Vice-Chairman, Secretary and Treasurer, to be elected by the delegates to the Central Council, such officers to hold office until their successors are elected.

The Central Council may meet semi-annually, preferably during the months of January and July. Special meetings of the Central Council may be called when deemed necessary.

VIII.

Annual District Conference

An Annual District Conference between all of the Employee Representatives and the Management should be held at a time and place determined by the proper committee.

IX.

Procedure for Adjustments

1. Any matter, which in the opinion of any employee, or group of employees, requires adjustment, and which such employee or group of employees has been unable to adjust, either directly with the foreman or through his or

their representative, may be taken up by such employee or group of employees, either in person or through any representative of his or their department in writing.

First—With the Superintendent concerned.

Second—With the Management's Representative.

Third--With the Management, in an endeavor to effect a settlement, or who may with the approval of all the parties refer the matter to proper committee.

2. Unless satisfactory disposition of any such matter has been effected within fourteen (14) days, any employee through his Representative, or the Management through the Management's Representative, may require such matter to be referred to the proper Committee by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

The proper Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts for a settlement. Failing satisfactory disposition by proper Committee on such matters shall be referred to General Industrial Relations Department.

Failing satisfactory disposition by the General Industrial Relations Department the President of the Company shall be notified. Failing satisfactory adjustment by the President, the matter shall be referred by the President and a majority of the Employee Representatives on the Appeals and Advisory Committee to a Board of Arbitration to be composed of three members; one member to be selected by the Appeals and Advisory Committee; one member by the Management; and these two members to select a third member satisfactory to both parties. The decision of any two of the three arbitrators thus chosen shall be final and binding on both parties.

Any adjustments in rates determined by above procedure shall be made effective as of the date the written request was filed with the Department Head. Requests for changes in rates shall be considered closed upon a decision of the proper Committee and the Management unless an appeal is filed in writing by the employee or his representative with the Management's Representative within a period of three (3) days after the decision was rendered.

X.

Amendments

Any method of procedure hereunder, may be amended by a two-thirds vote of the Employee Representatives at any meeting of the General Body of Representatives, provided that each Representative has been notified in writing, at least ten (10) days prior to such meeting, giving the substance of the amendments to be voted upon.

The Chairman of the Central Council shall be notified of all amendments adopted.

BOARD'S EXHIBIT NO. 48

EMPLOYEES' REPRESENTATIVE ASSOCIATION
For Employees of Massillon Plants
Republic Steel Corporation

Date ....

I hereby accept Membership in the Employees' Representative Association, and of my own free will hereby authorize the Employees' Representative Association, its Agents or Representatives, to act for me as a collective bargaining agency in all matters pertaining to rates of pay, wages, hours of employment or other conditions of employment.

Name

Occupation Badge No. Department

Representative

Members Identification

This is to Certify That

has accepted Membership in the Employees' Representative Association for Employees of Massillon Plants, Republic Steel Corporation.

Badge No. .... Date ....

N. C. BROWN
Secretary

Attest:
N. Linckenhely
Chairman

Dues

Period	Date Paid	Representative

BOARD'S EXHIBIT NO. 49

Taffy:

Report to work Sunday morning (tomorrow) at 7:00 A. if you want your job.

See Sam Christ, also.

Price. Per C. S.

BOARD'S EXHIBIT NO. 50

Sam:

Report to work at the Pits 7-18-37 Sunday morn at 7:00 o'clock if you want your job.

Price
Per C. S.

BOARD'S EXHIBIT NO. 51

Independent Association of Republic Employees
Massillon Steel Plants
Republic Steel Corporation
Date ....

I hereby accept Membership in the Independent Association of Republic Employees, and of my own free will hereby authorize its Agents or Committeemen, to act for me as a collective bargaining agency in all matters pertaining to rates of pay, wages, hours of employment or other conditions of employment.

....
Name

....	....	....
Occupation	Badge No.	Department

....
Committeeman

MEMBERS IDENTIFICATION

This is to Certify that

. . . .

has accepted Membership in the Independent Association of Republic Employees of Massillon Plants, Republic Steel Corporation.

Badge No. Date . . . .

N. C. BROWN
Secretary

Attest:
N. Linckenhely
Chairman

BOARD'S EXHIBIT NO. 52

MEMBERS IDENTIFICATION

This is to Certify that

Pete Mouyios

has accepted Membership in the Employees' Representative Association for Employees of Massillon Plants, Republic Steel Corporation.

Badge No. 2879 Date 5-3-37

N. C. BROWN
Secretary

Attest:
N. Linckenhely
Chairman

Board's Exhibit No. 53

Pete Mourgios

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BOARD'S EXHIBIT NO. 54

Martin L. Davey
Governor

John Jaster, Jr.
Director
Frank West
Registrar

State of Ohio
Department of Highways
Bureau of Motor Vehicles
Columbus

May 6, 1937

G. Lookabaugh,
388 Maplewood Avenue,
Struthers, Ohio.

Dear Sir:

The records on file at this bureau show that license number H 763 V for 1937 was issued to Carl W. Parker, 58 W. Marion, Youngstown, Ohio on a 1936 Ford Tudor, motor number 54-70372, serial number ....

Very truly yours,
Bureau of Motor Vehicles
Frank West
Frank West, Registrar
C. Ervin Nofer, Chief Records
Division

BMH

BOARD'S EXHIBIT NO. 55

EMPLOYEE REPRESENTATION PLAN

Republic Steel Corporation

Youngstown District

Youngstown, Ohio, 5-21-37

Recommended by ....

I hereby accept membership in the Employee Representation Plan of the Republic Steel Corporation, and of my own free will designate the duly elected representatives of the Republic Steel Corporation Employee Representation Plan to act for me as collective bargaining agency in all matters pertaining to rates of pay, wages, hours of employment, and working conditions.

Check No. 5315
Dept. OH.

TOM VUKOVICH
(Signature)

MEMBERSHIP CARD
M Tom Vukovich
Employee Representation Plan
Republic Steel Corporation
Youngstown District

Check No. 5315 Date 5-21-37
Dept. Transportation

....
Chairman

BOARD'S EXHIBIT NO. 56

REPUBLIC STEEL CORPORATION
Youngstown District
Plan of Employee Representation
Adopted June 1933
Amended June 1934

Republic Steel Corporation
Youngstown District
Plan of Employee Representation

I

Representation

1. Employee Representation shall be by Departments on the basis of one Representative for each two hundred (200) employees, or major fraction thereof, based on the average number of employees on the payroll for three months immediately preceding the election.

2. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had to logical groupings and location.

3. Adjustments in units of representation, wherever necessary to secure complete and fair representation, shall be made in accordance with the recommendation of the Joint Committee on Rules, Ways and Means.

II

Term of Office of Representatives and Vacancies

1. Employee Representatives shall be elected for a term of one year and shall be eligible for re-election.

2. An Employee Representative shall be deemed to have vacated his office as such upon his voluntary severance of his relations with the Company or upon his discharge for cause, or upon his appointment to such a regular position as would make him one of the persons described in paragraph 3 of Section III hereof.

3. Vacancies in the office of an Employee Representative, for which there is no Alternate, as described in Paragraph 16 of Section IV hereof, may be filled for the unexpired term, in the discretion of the Committee on Rules, Ways and Means, by special election conducted in the same manner as the regular annual election.

III

Qualifications of Representatives and Voters

1. Any employee who has been on the Company's payrolls for a period of at least one year immediately prior to nominations; who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employee Representative.

2. All employees who are enrolled on the Company's payrolls (except as provided in paragraph 3 of section III) on the date fixed for nominations, shall be entitled to vote.

3. Company officials and persons having the right to hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employee Representatives or qualified to vote for Employee Representatives.

4. This plan shall in no way discriminate against an employee because of race, sex or creed; or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union, or other organization.

IV

Nominations and Elections

1. Nominations and elections of Employee Representatives shall be held annually in the month of June. Nominations (after the first nominations and elections) shall be held on the second Tuesday and elections on the following Friday of such month. In the event of either of these days being a holiday, then the nominations or elections as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with rules and regulations pre-

scribed by the Committee on Rules, Ways and Means, with only such assistance from the Management as may be requested.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference with voters by anyone in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations

4. On the day of nominations, each qualified voter shall be furnished a ballot stating the number of persons for whom he is entitled to vote. Such voter shall write on ballot the names or check numbers of the persons in his Department or voting division whom he desires to nominate for election as Employee Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting division is entitled.

6. If on any ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employee Representatives to be filled.

9. Those employees who received the largest number of votes, in any department or voting division, equal to three times the number of Representatives to be elected shall be declared nominated, and shall be candidates for election.

Elections

10. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means, through tellers designated by such Committee, a ballot on which the names of the candidates for Employee Representatives shall be printed in the order of number of votes received at nominations. In case two or more persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a cross (X) opposite the name of the candidate or the name of each of the candidates of his choice.

11. The number of candidates for whom the employees in each Department or voting division shall be entitled to vote for Employee Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

12. Each voter shall deposit his own ballot in a box provided for the purpose by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employee Representative or Representatives of such Department or voting division.

13. In the event of a tie, selection shall be made by lot under the direction of the Committee on Rules, Ways and Means.

14. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules, Ways and Means.

15. The Committee on Rules, Ways and Means, may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

16. Candidates failing of election shall stand as Alternates in the order of the number of votes received and in such order shall become Employee Representatives as need may arise through vacancies or increased forces.

V

Management's Representative

The Company shall appoint a Management's Representative to facilitate close relationship between the Management and the Employee Representatives.

The Management's Representative shall represent the Management in negotiations with the Representatives, their Officers and Committees. He shall respond promptly to any request from Representatives, and shall interview all of the Representatives, from time to time, collectively or separately, with reference to matters of concern to employees. He may attend any meeting of the Joint Committees, but shall not have any vote thereat.

VI

Committees

1. Wherever the word "Committee" is used throughout this instrument, it shall mean a Standing Committee of Employee Representatives unless a "Joint Committee" is specified.

2. After each annual election the Representatives shall immediately meet for the purpose of electing a Chairman, Vice Chairman and Secretary for the General Body of Employee Representatives.

The General Body of Employee Representatives shall also select members for the following Committees, viz:

Committee No. 1—Rules, Ways and Means.

Committee No. 2.—Wages, Employment, Schedules and Working Conditions.

Committee No. 3—Safety, Health, Plant Sanitation and Welfare Activities.

Committee No. 4—Appeals Committee.

3. The Appeals Committee shall consider all matters not falling within the scope of any other Committees herein provided for, and the Chairman and Secretary of the General Body of Employee Representatives shall be members of the Appeals Committee.

4. Each Committee shall be composed of not more than five members, and shall appoint its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular meeting of the General Body of Employee Representatives.

6. Joint Committees shall consist of the Committee of the Employee Representatives with the addition of the Company's Representatives named by the Management, who may equal but shall not exceed in number the Employee Representatives.

7. The Joint Committees shall select their own officers and arrange their own procedure, subject to appeal, in case of controversy, to the Joint Committee on Rules, Ways and Means.

VII

Committee Meetings

1. Regular meetings of Committees shall be held every other month.

2. On alternate months, the Joint Committees shall meet.

3. The General Body of Employee Representatives may meet monthly for the purpose of reviewing the work of the Committees and Joint Committees, and discussing any matters of general interest.

4. Committees shall meet between the hours of three and five in the afternoon, unless otherwise determined by joint approval of the Chairman of the General Body of Employee Representatives and the Management's Representatives.

5. Special meetings of Committees and of Joint Committees may be held as occasion may require, on approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

6. For time necessarily lost, through actual attendance, at regular or special meetings or conferences jointly approved, Representatives shall receive from the Company, payment commensurate with their average earnings.

7. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

8. A Committee, in considering matters of special interest to any particular Department or class of employees, shall have the right to invite into conference the Representatives of the Employees and of the Company likely to be especially interested in such matters.

9. Any matter may be referred by the Management through the Management's Representative to any Committee for consideration and report, and any matter may be presented by a Committee to the Management through the

Management's Representative.

10. The Joint Committee on Rules, Ways and Means, shall arrange a suitable place for meetings of the General Body of Employee Representatives and of the several Committees and Joint Committees, and the Company shall defray such expenses as are necessarily incident to the discharge of duties herein set forth, when approved by a majority of said Committees.

VIII

Annual Conference

An Annual Conference between all of the Employee Representatives and Representatives of the Management shall be held at a time and place determined by the Joint Rules, Ways and Means Committee, who shall regulate the procedure at such conference.

IX

Procedure for Adjustments

1. Any matter which in the opinion of any employee, or group of employees, requires adjustment, may be taken up with the foreman of the work on which he or they are engaged or with the Representative of his or their department, in writing.

FIRST—With the Superintendent concerned.

SECOND—With the Management's Representative.

THIRD—With the Management, who shall endeavor to effect a settlement, or who may with the approval of all the parties refer the matter to proper Joint Committee.

2. Unless satisfactory disposition of any such matter has been effected within a period of fourteen (14) days, any employee through his Representative, or the Manage-

ment through the Management's Representative may require such matter to be referred to a proper Committee, by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

All changes in hourly or tonnage rates, fixed or determined by a decision of a Joint Committee, shall be made effective as of the date the written request was filed with the department head. Requests for changes in hourly or tonnage rates shall be considered closed upon a decision of a Joint Committee unless notice of an appeal is filed in writing with the Management's Representative within a period of three (3) days after the decision was rendered.

The Joint Appeals Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts and effect a settlement.

3. If the Joint Committee shall fail to effect a settlement, the President of the Company shall be notified, and the matter may be referred, if the President and a majority of the Employee Representatives on the Joint Appeals Committee agree to such reference, to an arbitrator or arbitrators, to be determined at the time according to the nature of the controversy.

X

Guaranteeing the Independence of Representatives

1. It is understood and agreed that each Representative shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

2. To insure to each Representative his right to such independent action, he shall have the right to take the

question of an alleged personal discrimination against him on account of his acts in his representative capacity to the Management's Representative, to any of the Superior Officers, to the Joint Appeals Committee, and to the President of the Company.

3. Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within thirty days, a Representative shall have the further right to appeal to the Secretary of Labor of the United States. The Company shall furnish the Secretary of Labor with every facility for the determination of the facts, and the findings and recommendations of the said Secretary of Labor shall be final and binding.

IX.

Amendments

1. Any method of procedure hereunder may be amended at any time by two-thirds vote of the entire membership of the Joint Committee on Rules, Ways and Means, or by concurrent majority vote of the General Body of Employee Representatives and of the Representatives of the Management at an Annual Conference.

2. This Plan shall remain in effect until such time as there is a mutual agreement between the General Body of Employee Representatives and the Management, to place the question of dissolution before the employees at any annual election; a two-thirds vote of the employees, for dissolution, being necessary to terminate the Plan.

BOARD'S EXHIBIT NO. 57

Schedule of Regular Meetings of the Standing and Joint

Committees of Employees Representatives Plan, Youngstown District—Republic Steel Corporation

	1936						1937					
	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June
No. Committee	S	J	S	J	S	J	S	J	S	J	S	J
	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed
1. Rules, Ways, Etc.	8	5	2	7	4	9	6	3	3	7	5	2
	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed
2. Wages, etc.	15	12	9	14	11	16	13	10	10	14	12	9
	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed
3. Safety, Welfare, etc.	22	19	16	21	18	23	20	17	17	21	19	16
	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed	Wed
4. Appeals	29	26	23	28	25	30	27	24	24	28	26	23
	Fri	Mon	Wed	Fri	Mon	Thur	Fri	Fri	Wed	Fri	Fri	Wed
General Body	31	31	30	30	30	31	29	26	31	30	28	30

S—Indicates Standing Committee of Employee Representatives.

J—Indicates Joint Committees.

Standing Committees meet at 3:00 P. M. General Body meets at 1:00 P. M. Joint Committees meet at 2:00 P. M.

Membership of Committees for 1936—1937

No. 1, Rules, Ways and Means; Employee Members—James Kelly, Warren Clever, S. Keenan, Ammeal Wally, Fred Moschella; Company Members—W. H. Warner, A. P. Thompson, C. C. Edwards, L. B. Grindlay, W. I. Manley.

No. 2, Wages, Employment, Schedules, Working Conditions; Lawrence Laney, Ralph Mondora, John Guest, George Van Allen, Thomas Lamb; Company Members—A. D. Bachtel, Chas. Fette, G. G. Walker, L. H. Caldwell, T. H. Wilson.

No. 3, Safety, Health, Sanitation; Employees Members—James Welsh, Lee Moyer, Peter Urick, A. Coughlin, Jack Meadows; Company Members—G. W. Hackett, F. I. Gaston, I. C. Johnson, R. Stevens, P. S. Speer.

No. 4, Appeals; Employee Members—Mart Murphy, Carl Walsh, Joe Smith, G. J. Hughes, H. C. Cohn; Company Members—Roy Case, W. S. Scott, J. H. Graft, G. W. Putman, B. W. Norton.

General Body Officers for year 1936—1937: Mart Murphy, General Chairman; Carl Walsh, Vice Chairman Gen.; J. L. Smith, General Secretary.

Notations at left of names denotes standing Committee Officers.

Notations at right of names denotes Joint Committee Officers.

BOARD'S EXHIBIT NO. 58

NOMINATED CANDIDATES FOR EMPLOYEE REPRESENTATIVES

At the June 9, 1936, nominations, the Employees whose names appear below were Nominated as Candidates to be voted on for Employees Representatives at the elections to be held June 12, 1936.

Masonary

Department or Voting Division

NOMINATED CANDIDATES

	Name	Number of Votes
John Guest	No. 7433	115
Joseph Leshensky	No. 7632	24
Daniel Kertos	No. 7575	3

At Election Vote for 1 Only

Mart Murphy, General Chairman
Carl Walsh, Vice Chairman
James W. Maughn, Secretary
G. J. Hughes
C. M. Amon
Warren Clever

Republic Steel Corporation and Subsidiaries
Employees' Committee on Elections

District or Subsidiary	Plant	t	Date
Youngstown	O.H.		6-10-36

BOARD'S EXHIBIT NO. 59

REPUBLIC STEEL CORPORATION
YOUNGSTOWN DISTRICT

August 17, 1934

MINUTES OF FIRST REGULAR MEETING OF JOINT COMMITTEE NUMBER 2

Meeting called to order at Assembly rooms at 3:00 P. M., Wednesday, August 15, 1934.

Those Present were

J. A. Keeling	Employees	Representative
Edward Sells	"	"
Roy Ague	"	"
Ray Mullaly	"	"
John Guest	"	"
L. H. Caldwell	Company	Representative
W. S. Scott	"	"
S. A. Deesz	"	"
G. W. Putnam	"	"
G. G. Walker	"	"

Chairman Pro. tem., Putnam called the meeting to order and informed the members that their first procedure would be the election of a Chairman and a Secretary to serve for the ensuing year, beginning June 15, 1934.

The Committee was not able to agree upon a choice of officers and adjourned, Sine Die.

R. N. McCoy,
Management's Representative.

cc—H. B. Carpenter
All Employees Representatives
All Company Representatives
R. N. McCoy

BOARD'S EXHIBIT NO 60

Chairman & Members,
Joint Committee No. 2

Present to you for hearing and decision the following case.

Case No. 1—Representative John Guest. Filed Mar. 20, 1936.
Class of Jobs—Clark Tractor Drivers, Masonry Dept.
Number of Jobs—Six (6).

Request by Representative:

"These men request that their present rate of $.55 per hour be raised to $.62 per hour, the same as paid truck drivers of the Masonry Department of the Yo. Sheet & Tube Co. The Yo. Sheet & Tube furnishes a helper with each truck and our men take care of both of these jobs and feel they are entitled to this adjustment."

Comparative Valley Rates:

Republic Steel—$.55 per hour, no tonnage. Earnings $.55

Yo. Sheet & Tube—.60 per hour, no tonnage. Earnings .60
Carnegie Steel—No such jobs.

Wish to point out to this Committee that there is no prevailing rate on these jobs in the Valley and we are therefore not bound by any commitments in the case.

It cannot be argued that we should increase our rates because a competitor happens to be paying a higher price for similar service. Wages paid are an incident to the production of steel and high costs are a deterrent to our business. We ask that the Committee deny the request and dismiss the case.

R. N. McCoy

Decision:

	Vote	
Motion the present rate be returned	5 Yes	5 No
Motion rate be raised to 60c per hr.	5 Yes	5 No

BOARD'S EXHIBIT NO. 61

Representative's Copy

ER 727 3M Sets 8-34 File Record..........

REPUBLIC STEEL CORPORATION AND SUBSIDIARIES

Employee Representation Plan

Record of Case Presented to Employee Representative

....
District or Subsidiary Plant Date

Presented by ....
Name of Employee Check Number Occupation

Presented by ....
Name of Group No. Men Involved Department

Statement of Case: ....

....

....

....

....

....

....

....

Employee Representative

Disposition of Case:

Date No Action Affirmative Negative Compromised Withdrawn

....

Foreman

....

Superintendent

....

Management's Representative

....

Committee

....

Committee

....

Committee

....

Committee

Final Disposition: ....

....

....

....

....

....

....

Date ....

Management's Representative

[NOTE: The remaining 3 sheets of this form are identical to the sheet printed above and are as follows: Superintendent's forwarding copy (white), Superintendent's file copy (yellow), and Management's Representative's copy (pink).]

BOARD'S EXHIBIT NO. 62

REPUBLIC STEEL CORPORATION
YOUNGSTOWN DISTRICT

MINUTES OF REGULAR MEETING OF GENERAL BODY—FEB. 25, 1937

Meeting called to order at 1:00 P. M. by Chairman Murphy, with all members present.

Minutes of previous meeting approved as read.

Committee Reports

Committee No. 1 No Report.

Committee No. 2 Minutes of this committee not accepted as read. Secretary of No. 2 Committee reported they were not the minutes presented by him. Has been instructed to submit a re-written copy of the minutes and to state the actual verdict of the cases, such as a tie vote in all cases heard by No. 2 Joint Committee.

Committee No. 3 Requested that the time extension for employees who have been off through sickness be extended from one (1) week to fifteen (15) days. This being denied in committee, a unanimous vote of the General Body requested that the time be extended from one (1) week to thirty (30) days.

Committee No. 4 Reported four (4) cases heard. Three (3) of the cases resulted in a 5 to 5 vote, and a 6 to 4 vote on the other case. General Body goes on record as supporting Mr. Laney in presenting these cases to the President of the Company.

Unfinished Business

Item 200. Management reported that as soon as a vacation plan is set up it would be announced to the General Body.

Item 208. Committee reported that of the cases presented to Mr. Elliott, three (3) cases were settled satisfactorily and one case rejected.

Item 210. In regards to moving pay days that fall on Saturday, to Friday, the Management reported they would endeavor to do this.

Item 213. In regard to paying of salaried employees twice monthly, the Management reports that if other mills in this district do so, this company will follow suit.

Item 217. Request for an entrance tunnel or foot bridge from Poland Avenue opposite the roadway between the Butt & Lap Tube Mill and Electric Weld for men walking to the Tube Mills, as it is unsafe for men walking along the roadway to the Electric Weld Mills. When the automobile traffic is heavy at starting and quitting time the road is not wide enough to handle automobile and pedestrian traffic.

Item 221. Reported that time card system at Bessemer Plants will be changed in the near future.

New Business

Item 222. Chairman Murphy reported that several cases presented by him to the Management for adjustment (case numbers 66-68-69-71) were asked to be presented to a committee for a hearing. This was not done. It was reported that these cases were to receive consideration and probable settlement from Department Superintendent. No effort has been made by the Superintendents concerned to settle these cases. General Body objects to this method and asks that a special meeting of Committee be called to hear these cases.

Item 223. General Body goes on record as adopting the resolution presented by John Guest. The resolution is as follows:

At a recent meeting of this Body Mr. Elliott, District Manager, pointed out the advantages to be gained through the Representative Plan, and that it was up to each of us to keep this Plan in operation, which could be easily accomplished if each Representative went among his constituents and pointed out the merits of the plan over the C. I. O. or any other outside organization. The members of this Body seemed to be in full accordance with the idea of Mr. Elliott's at the time, but since the general wage increase of November 16, 1936, we find that we dropped farther below the prevailing wage rate paid by other mills in the District for similar work performed, than we were prior to that date. Several departments have tried to have an adjustment on their wages. The reports of No. 2 and 4 Committees show that no decision could be reached on any of the cases, which in plain English meant their requests were denied. No statement from the Management as to why they could not meet the comparable rate of this district. This Body feels it would be an insult to their intelligence to ask them to go among the men in favor of a plan that has failed to get for them what the employees of the other mills already enjoy. Therefore, this Body asks that the Chairman appoint a committee to call on Mr. Elliott and ask for a general wage adjustment comparable to those paid by Carnegie-Illinois, Ohio Works, for similar work. In case of no comparable jobs at the Carnegie-Illinois—as at the Coke Works and Tube Mills—a rate adjustment comparable to those paid by Youngstown Sheet & Tube Company for similar work performed. This Body also asks that in case no satisfactory agreement is reached within two weeks, said committee is to continue the case and carry same to the Cleveland office for further consideration. The Committee appointed is as follows: Messrs. Chapman, Hughes, Cohen, Guest and Murphy.

Item 224. Request the Company to furnish gasoline to employees using their own cars during working hours. It is reported that employees do work in different plants, from Bessemer to Coke Works and Open Hearth, and use their own car for transportation.

Item 225. Request that the Open Hearth Restaurant be enlarged to accomodate crowds.

Item 226. Request that the Foreman in all departments post Bonus Earnings. It is reported that some employees never see their bonus earnings.

Item 227. Request parking facilities at Market Street as it is inconveniencing the employees, as some of the men are called out to work at any and all hours of the day or night. Suggest that the South Avenue Entrance be taken into consideration as this would eliminate quite a lot of parking at Market Street.

Item 228. Request that an automobile pass be furnished to all representatives to enter plant at all times on representative duty.

Item 229. The General Body objects to methods used by some Department Superintendents and Foremen, in calling in the employees who have asked the representative to act for them. General Body requests that all Superintendents and Foremen acting in official capacity be restrained from calling in an employee who raises a question, unless with the consent and in the presence of the representative who is representing him.

Item 230. General Body goes on record in asking for a straight 40 hours per week, with no exemptions.

Item 231. Request action and would like to know the status of the proposed Boiler Shop Wash and Locker Room.

Meeting adjourned at 5:30 P. M.

Mart Murphy, General Chairman
J. L. Smith, General Secretary

CC: All Employee Representatives
All Management Representatives
Mr. C. H. Elliott
Mr. R. N. McCoy

BOARD'S EXHIBIT NO. 63

REPUBLIC STEEL CORPORATION
YOUNGSTOWN DISTRICT

MINUTES OF SPECIAL MEETING OF GENERAL BODY—FEB. 26. 1937

Meeting called to order at 2:00 P. M. by Chairman Mart Murphy with all members present except Messrs. Moschella, Valley, Owens, Leyshon and Vojack.

Mr. Elliott, District Manager, attended the meeting. He announced that the purpose of the meeting was to discuss the wage situation.

Members of the General Body expressed the dissatisfaction of the men over the last wage increase, as some of our jobs similar to those in other plants were out of line previous to the November increase in wages and since the wage increase of November have been farther out of line than ever.

The General Body asked Mr. Elliott to go along and adjust rates to equal those given to our competitor's employees in the valley district.

Meeting adjourned at 5:00 P. M.

Mart Murphy, General Chairman
J. L. Smith, General Secretary

CC: All Employee Representatives
All Management Representatives
Mr. C. H. Elliott
Mr. J. A. Voss

BOARD'S EXHIBIT NO. 64

REPUBLIC STEEL CORPORATION
YOUNGSTOWN DISTRICT

MINUTES OF SPECIAL MEETING OF GENERAL BODY—MAR. 5, 1937

Chairman Murphy opened the meeting at 2:00 P. M. with all members present except Messrs. Moschella, Valley and Vojack.

Management made an announcement that all Saturday paydays would be advanced to Friday. Also announced that they were not in favor of paying salaried workers twice monthly.

Mr. Elliott attended the meeting and announced that the Corporation would endeavor to establish a standard rate for comparable jobs with other plants in the Valley.

Mr. Elliott also read the following statement in regard to the Company's policy toward collective bargaining:—

> "Republic Steel Corporation today issued the following statement, defining the company's position with respect to collective bargaining:
>
> The policy of this company has been, and is now, that it will meet with any person or persons, or organization, and will bargain with them for whomsoever they represent. If any union or organization claiming to represent any of our employees asks for a conference with our company, we will meet and bargain with them for whomsoever they represent. This is in conformity with our general policy as stated above. Likewise, we will continue to meet and bargain with the Employee Representatives for the employees whom they represent. We repeat the statement which we made to you last July. Republic stands for the open shop principle. No employee has to join any organization to get or hold a job."

Mr. Elliott extended an invitation to the General Body to send two (2) delegates to Cleveland to confer with the Management in regard to wage raises. Mr. Elliott announced that the basic rate for labor would be 62½c per hour, an increase of 10c per hour. All other rates to be adjusted to the Valley level.

Mr. Elliott also spoke on safety, asking the men to cooperate in every way possible.

Mr. Elliott also said there would be two (2) representatives from the Massillon, Canton, Warren, Buffalo, Chicago and Pittsburgh districts at the meeting to confer with the Management on the proposed increase in wages. The General Body accepted the invitation of Mr. Elliott, to send two (2) men to Cleveland. By a popular vote of the General Body, Chairman Mart Murphy and John Guest were elected.

The General Body instructed Mr. Murphy and Mr. Guest to present to the Management, a flat 15% increase in wages for all salary and hourly workers (excepting labor, which has already been granted a raise); also for a straight 40 hour per week and to eliminate Saturday and Sunday night work, and to discuss the Vacation Plan, asking for a weeks vacation with pay for all employees with one year of service and an additional day for each year of service to a maximum of two weeks with pay.

Meeting adjourned at 4:40 P. M.

Mart Murphy, General Chairman
J. L. Smith, General Secretary

CC: All Employee Representatives
All Management Representatives
Mr. C. H. Elliott
Mr. R. N. McCoy

BOARD'S EXHIBIT NO. 65

REPUBLIC STEEL CORPORATION YOUNGSTOWN DISTRICT

MINUTES OF SPECIAL MEETING OF GENERAL BODY—MARCH 15, 1937

Meeting called to order at 1:00 P. M. by Chairman Murphy, with all members present except Messrs, Campbell and Vojack.

Minutes of the General Council meeting held in Cleveland, March 8th and 9th, 1937 accepted as read.

The resignation of Ed Sturn was read and accepted. George Cabin, the Alternate elect, replaces him.

A discussion by the General Body was held in regard to the thoughts of the employees relative to the Representation Plan, and how to improve it. The General Body suggests and recommends the following:

1. A change in the Plan whereby it would not be dominated by the Management.

2. A small fee of 25c of monthly dues and the right to use the check off system to make the Plan self supporting.

3. The elimination of Nos. 2 and 4 Joint Committees, as has been proven nothing but tie votes are ever counted in those meetings.

4. The right to hold meetings with the men they represent.

5. The adjusting of wage rates to a level of our competitor in the valley.

6. When agreements are made, that they be made in writing and not orally.

7. The right to recall Representatives.

8. That when a case is presented to Management, to speed it up and not carry it over a lengthy period of time.

9. Requested that an eight (8) hour working day be put in effect at the Tube Works, as Threading Floor and Furnace Floors work 7 or 7½ hours per day.

10. The right of the Employee Representatives to hold a meeting and to have the employees whom they represent

cast a secret ballot as to their choice of the Plan—whether or not they wish to continue, or to have the check off system of a monthly fee.

Mart Murphy, General Chairman
J. L. Smith, General Secretary

CC: All Employee Representatives
All Management Representatives
Mr. C. H. Elliott
Mr. R. N. McCoy

BOARD'S EXHIBIT NO. 66

REPUBLIC STEEL CORPORATION
YOUNGSTOWN DISTRICT

MINUTES OF REGULAR MEETING OF GENERAL BODY—MARCH 25, 1937

Present

John Anderson, Ed. Bogan, H. K. Butler, Geo. Cabin, Geo. Campbell, Dave Chapman, Harry Cohn, Harry Guiles, G. J. Hughes, Jack Jones, A. J. Keeling, J. A. Keenan, Thos. Lamb, Lawrence Laney, Albert Leyshon, Ralph Mondora, Mart Murphy, Dan Petite, J. L. Smith, Joseph Troll, Peter Urick, Ameal Valley, James Welsh.

Absent

Warren Clever, John Guest, James Kelly, Ferd Moschella, Robert Owens, Matt Price, Geo. VanAllen, Andy Vojack.

Meeting called to order at 1:00 o'clock P. M. by Chairman Murphy.

Minutes of previous General Body and Special Meetings approved as read.

Committee Reports

Committee No. 1—No report.
Committee No. 2—No report.
Committee No. 3—No report.
Committee No. 4—No report.

Unfinished Business

As previously requested for the Management to change the set-up of time extension for employees who have been off for one week or more through sickness and have to pass a physical examination, be extended to thirty (30) days. The Management reports they will not do so.

Item 217—The Management reported that all due consideration will be given to an entrance tunnel or overhead foot bridge from Poland Avenue between E. W. and Old Tube Mills. The Management reports that the Engineering Department will survey the project. The Claim Department will investigate land rights.

Item 221—The Management reported that the new time cards and clocks will be installed at the Bessemer as soon as they are received. Material has been ordered.

Item 222—Concerning cases 66-68-69-71 presented by Mart Murphy that were not presented to Committee by the Management at a regular or special meeting of No. 2 Committee. No effort has been made by the Management to settle these cases.

Item 224—The Management reported they will not furnish gasoline to Employees using their own car between plants.

Item 225—In regard to the request for enlarging the O. H. restaurant, reported that if a proper location and one that is large enough for a building 75′ x 30′, Factory Stores, Inc. will grant request and build a new building.

Item 228—Management reported that representatives will not be stopped from coming into the plant on representative duty and will not need a pass.

Chairman Murphy and John Guest attended the meeting in Cleveland March 18th, and the Management announced the policy concerning the following items, from Minutes of Special Meeting of General Body, March 15th.

Item 1 & 2—Management will not grant permission to use check-off system for dues.

Item 3—Possibility of eliminating Committees No. 2 and 4.

Item 4—Permission will be given to representatives to hold meeting with men whom they represent.

Item 5—Adjusting wage rates to Valley level. Management reports they are doing so.

Item 6—In regards to contracts and agreements that they be put in writing. Management reports that it will not under any circumstances sign or enter into any written agreement with any group whatsoever.

Item 7—Management will grant the right to recall representatives.

Item 8—Management will endeavor to speed up cases as much as possible.

Item 9—Request for 8 hour day in Tube Mills. Report of Supt. Fette effective March 29: Threading Floor will go on 8 hours, Furnace Floor and Socket Shop 7½ hours, and Galvanize will go on 8 hours.

General Business.

Chairman Murphy announced that the Management will grant time and one-half for all over time and over

40 hours per week, effective week of March 15, although raise to become effective March 16th.

New Business.

Item 232—General Body request that when Management makes a promise they endeavor to fulfill them, it was previously reported that they would endeavor to pay salary men twice monthly. The Management reported if other plants in the Valley pay salary men twice monthly they would do so. It is reported to the General Body that other plants are doing so. Why not the Republic?

Item 233—No action on South Avenue bridge as yet. This was formerly promised to the General Body. Request definite action.

Item 234—Request that foot paths in Bessemer and B. B. yards be fixed up. Reported that they are hazardous for the men using them.

Item 235—Request that parking lot at Stop 5 be fixed up as it is full of chuck holes and mud puddles. Request they be filled in with ashes or slag.

Item 236—Request for hard surface roadway at Tube Mill between Threading Floor and Electric Shop as it is in an unsafe condition (full of chuck holes) for the men driving the small electric trucks.

Item 237—Request for a hard surface road between Old Tube and Electric Weld Tube Mills leading up to Tarpot Hill.

Plans are being made for the Annual Conference of the Management and Representatives to be held at the Tod House April 5th, at 12:00 o'clock Noon.

Mart Murphy, General Chairman
J. L. Smith, General Secretary

cc—All Employee Representatives
All Management Representatives
Mr. C. H. Elliott
Mr. R. N. McCoy

BOARD'S EXHIBIT NO. 67

REPUBLIC STEEL CORPORATION
YOUNGSTOWN DISTRICT

MINUTES OF SPECIAL MEETING OF GENERAL BODY—APRIL 19, 1937

Meeting called to order at 9:00 A. M. by Chairman Murphy, with all members present except Peter Urick.

Mr. McCoy announced that under the Wagner Labor Bill he would not be permitted to carry our time (as he has in the past) for attending meetings and explained that men off duty would not be compensated, but added that men attending meetings during their regular working hours would be carried on their regular jobs. Mr. McCoy also announced that the General Body would not receive any financial assistance in any manner from the Corporation. Mr. McCoy thanked the General Body for their assistance and cooperation given him in the settlement of many cases. The General Body, through Chairman Murphy, expressed their feelings toward him and thanked him.

Chairman Murphy announced that the purpose of the meeting was to find out if the General Body of Representatives were going to continue to function, and told them if it was it would have to be self supporting. After a discussion by the General Body, a motion was made that a fee of $.25 (twenty-five cents) per month be assessed to all members. The motion was carried. The General Body held election for the office of Treasurer and by a majority vote A. J. Keeling was elected Treasurer.

A meeting hall will be furnished at the old Market Street Time Office, a room suitable for about 300 seating capacity. Each department will have an opportunity to hold meeting with their Representative to obtain membership in the Employees Representative Plan.

In the Revision of the By-Laws and Rules of the Representative Plan, the committees shall consist of seven men, an additional two. The Chairman was authorized to appoint the additional members. The following were appointed.

No. 1 Committee—Ed Bogan, J. Anderson; No 2 Committee—Dave Chapman, Jack Jones; No. 3 Committee—A. J. Keeling, Geo. Cabin, Bob Owens (to replace A. Coughlin, resigned); No. 4 Committee—H. K. Butler, Geo. Campbell.

By a motion of the General Body, request that the time for General Body Meetings be advanced to 10:00 A. M., instead of 1:00 P. M.

It is reported that wage rates in Tube Mills were not adjusted to valley level.

Meeting adjourned at 3:00 P. M.

Mart Murphy, General Chairman
Joseph L. Smith, General Secretary

cc—All Employee Rep.
All Management Rep.
Mr. C. H. Elliott
Mr. R. N. McCoy

BOARD'S EXHIBIT NO. 68

REPUBLIC STEEL CORPORATION
Cleveland, Ohio

MEETING OF THE EMPLOYEE REPRESENTATIVES OF CENTRAL COUNCIL—NORTHERN STEEL PLANTS

Present

H. E. Grimm, Cleveland; Mr. Douglass, Cleveland; Cecil Moore, Chicago; B. H. Morten, Moline; John Griest, Youngstown; Mart Murphy, Youngstown; Mr. Linckenhely, Massillon; Mr. McBrown, Massillon; Mr. Geltz, Canton; Jos. Stroz, Pittsburgh; Mr. Mellor, Pittsburgh; Mr. McDonald, Moline; Mr. Paulin, G. X. Chicago; E. J. Mulligan, Warren; F. W. Richards, Warren, T. P. Reville, Buffalo, E. L. O'Connell, Buffalo; Mr. Cox, Canton. Visitors: Mr. White, Mr. Richards, Mr. Voss, Mr. Sandmaier.

After a conference with the Executives, the Employee Representatives proceeded with the nomination and election of temporary officers.

Mr. Grimm of Cleveland and Mr. Linckenhely of Massillon were nominated. The vote resulted in a tie and Mr. Linckenhely conceded to Mr. Grimm as Temporary Chairman.

Edward O'Connell was designated as Temporary Secretary.

New Business

The Chairman then called the meeting to order to form a procedure in connection with our conference with the Corporation Executives.

The question of the pending increase in wages was then considered. The opinion of all Representatives at this meeting was in order. After a lengthy discussion, in which it was apparent that every angle had been covered, the following concensus developed. Resolved: "The Corporation grant to all hourly, tonnage, piece rate, and salaried employees a 10 cent an hour increase, with time and a half for all over 40 hours. The present 48 hour schedule to be retained and time and a half for all overtime in any one 8 hour day be paid."

The question of equal percentage increase to all brackets of the Industry was discussed and approval to submit along with the above resolution. After considerable debate on the Vacation Plan, the following resolution was offered to be presented to the Management:

> "1 year employee—7 days vacation with pay. 2 year employees and over—14 days vacation with pay. The daily rate of pay for vacations to be computed on the basis of average daily rate of pay of job on which the employee is regularly employed."

Joint Session

The Representatives then informed the Management that the aforementioned proposals were ready for Joint Discussion.

Mr. White, Vice President in Charge of Operations, with nine District Managers and nine Management's Representatives, was present when the Secretary presented these proposals. Mr. White said that he would take them under advisement in a Management's Session and return with a decision on acceptance or compromise. In a few hours, Mr. White and the District Executives returned to advise on the outcome of their discussions on the increase and vacation plan.

The proposition on the increase was:

> 10 cents an hour increase to be granted all hourly, tonnage, skilled, semi-skilled, piece, and salaried workers throughout the Corporation.
>
> Time and a half for all time over 8 hours in any one day and for all time over 40 hours in one week.
>
> No change will be made in working practice at this time.

Mr. White said that the only things that would force 40 hours in our Corporation would be legislation or slackening of business. He, also, said that, should we be forced by legislation to 40 hours, the Management would confer with the Central Council of Employees Representatives at such time.

The proposition on vacations was:

> For all wage roll employees in the manufacturing plants for the year, 1937. All eligible employees, who are on the payroll as of May 1, 1937 and who shall have established prior to such time a record of three years or more of continuous service, shall be entitled to vacation pay during the current year, or at their option additional pay in lieu of vacation.

Vacation Credits

3 years' service to May 1, 1937	3 days
4 years' service to May 1, 1937	4 days
5 years' service and over to May 1, 1937	6 days

Daily pay will be computed on the average hourly earnings for the Month of April 1937 times 8.

The Representatives went into secret session to consider these propositions and after a few hours of deliberation called the Joint Session for further discussion. The Representatives and Management proceeded to clear up many phases of the wage increase proposition and the possibility of securing some added concessions.

Mr. White advised the Representatives that in connection with the Management's schedule of new wage increase proposition all messengers and smaller paid employees would be liberally dealt with on a basis above the proposed minimum.

At this point, it was readily moved and seconded that this Central Council of Employee Representatives accept on behalf of all their constituents the pay increase finally decided on through the secret and joint conferences held on the basis of collective bargaining.

The Vacation Plan proposition, as hereinbefore mentioned by Mr. White, was rejected.

The Representatives told Mr. White that a new and more liberal plan should be given some consideration by the Management. This plan would carry more vacation time in the higher service brackets but was not to effect any change in the lower brackets. This suggestion was predicated on the stand by the Management that any change in their proposition would probably reduce the time allowed the lower brackets. Mr. White advised the Representatives that the Management would again consider a vacation plan and would submit it before adjournment. Just before 6 P. M. on Tuesday, a Joint Session was called to take up the Vacation Plan.

Mr. White submitted the following:

Vacation Plan for Wage Roll Employees in Manufacturing Plants for the Year 1937

All eligible employees, who are on the payroll as of May 1, 1937 and who shall have established prior to such time a record of three years or more of continuous service, shall be entitled to vacation pay during the current year, or at their option, additional pay in lieu of vacation.

Vacation Credits

3 year's service and less than 5 years' service to May 1, 1937—3 days; 5 years' service and less than 10 years' service to May 1, 1937—6 days; 10 years' service and less than 15 years' service to May 1, 1937—8 days; 15 years' service and over to May 1, 1937—10 days.

Daily pay will be computed on the average hourly earnings for the Month of April 1937 times 8.

Due to lack of time only, one major proposition still remains in the category of unfinished business. The Blue Book or Plan, as now in force, will be given consideration at some later date.

Meeting adjourned at 7 P. M., March 9, 1937.

H. E. Grimm, Temporary Chairman
E. L. O'Connell, Temporary Secretary

BOARD'S EXHIBIT NO. 69

REPUBLIC STEEL CORPORATION
CLEVELAND, OHIO

SPECIAL MEETING MARCH 18, 1937

Present

Joint Committee of the Representatives of the Northern Steel Plants and the Subsidiaries. Visitors: Mr. White, Mr. Richards, Mr. Voss, Mr. Sandmaier.

Meeting called to order at 1:30 P. M.

Mr. White addressed the conference and discussed Corporation labor relations with the Representatives.

Mr. Voss, Director of Industrial Relations, explained all about Collective Bargaining with Representatives of any group within the employ of our Corporation.

The Representatives of the Joint Session conferred secretly on all questions concerning our Plan of Representation and outside unionism.

The opinion of the Representatives was that the same tactics used by outside organizations should be used by all the advocates of our Representation Plan. It was suggested that the Representatives use a pamphlet system to explain the advantages of our revised Plan and secure more publicity in connection therewith.

The Representatives showed conclusively that all the employees of our Corporation would benefit more by the retention of our Plan than by aligning with an outside organization. Outside organization creates conditions detrimental to the best interests of both the employees and the Corporation. Recent developments in the activities of outside groups have produced a skepticism, characteristic of men who have always enjoyed the best of relations with their employer. Sit-down strikes and the like have only brought added hardships to all concerned. This, the Representatives believe, should be stopped and a more intelligent method, such as our Representation Plan, be invoked in all disputes.

The Joint Session showed the efforts of our different units in combating the encroachment of outside groups. The Buffalo and Cleveland Units have a Security League. The League has members avowed to support and help sustain all the activities in connection with the Republic Steel Representation Plan.

At this point, a motion was made and seconded that all the Representatives of both the Steel and Subsidiaries back the Management in opposition to all outside labor organizations. This motion was carried unanimously.

Another motion was made and seconded that each General Body within the Corporation develop methods best suited to their locality in fighting any coercion or intimidation in connection with labor organization. It was, also, suggested that each unit (Steel or Subsidiary) offer to each other the procedure or systems used in their localities to effect any efforts of outside groups.

Before adjournment, an exchange of thanks between Management and Representatives developed. A very fine spirit of co-operation was manifested by both to carry on under our present setup.

Meeting adjourned at 6:15 P. M.

H. E. Grimm, Temporary Chairman
E. L. O'Connell, Temporary Secretary

BOARD'S EXHIBIT NO. 70

REPUBLIC STEEL CORPORATION

PROPOSED REVISION OF THE PLAN OF EMPLOYEE REPRESENTATION

Adopted—1933
Amended—1934—1935

Revision based on Buffalo District (Blue Book) with inserts culled from other various Districts

LETTER OF TRANSMITTAL

Buffalo District

To the Vice President in charge of Operations
and
the Director of Industrial Relations
Cleveland, Ohio

Gentlemen:

By direction of the Central Council of Employee Representatives, at Cleveland Conference, the Temporary Secretary submits his report on the Proposed Revision of Plan relating to Collective Bargaining.

E. L. O'Connell

This plan of employee representation has been adopted by the employees of the Republic Steel Corp. for the purpose of providing an orderly, effective and expeditious medium of collective bargaining with management on all matters pertaining to wages, hours, and working conditions, to make possible a sane adjustment of any difficulties, to insure justice, maintain tranquility, and promote a spirit of fair dealing in the mutual interest of employees and management.

PLAN OF EMPLOYEE REPRESENTATION

I

Representation

1. Employee Representation shall be by Departments on the basis of one Representative for each two hundred

(200) employees, or major fraction thereof, based on the average number of employees on the payroll preceding the nomination, with a minimum of three (3) Representatives to one (1) District.

2. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had to logical groupings and location.

3. Adjustments in units of representation, wherever necessary to secure complete and fair representation shall be made in accordance with the recommendation of the Committee on Rules, Ways and Means.

II

Term of Office of Representatives and Vacancies

1. Employee Representatives shall be elected for a term of one year and shall be eligible for reelection.

2. An Employee Representative may be recalled upon the approval by the Committee on Rules, Ways and Means, of a petition signed by two-thirds of the voters in his department and upon such approval he shall cease to be such Representative.

3. An Employee Representative shall be deemed to have vacated his office as such upon severance of his relations with the Company, or upon being transferred from one Department or voting division to another, or upon his appointment to such a regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancies in the office of an Employee Representative, for which there is no alternate, as described in Paragraph 16 of Section IV hereof, may be filled for the unexpired term, in the discretion of the Committee on

Rules, Ways and Means, by special election conducted in the same way as the regular annual election.

III

Qualifications of Representatives and Voters

1. Any employee, who has been on the Company's payrolls for a period of at least one year immediately prior to nominations, who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employee Representative.

2. All employees, who are enrolled on the Company's payrolls (except as provided in Paragraph 3 of Section III) on the date fixed for nomination shall be entitled to vote.

3. Company officials and persons having the right to hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employee Representatives.

4. This plan shall in no way discriminate against any employee because of race, sex or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

IV

Nominations and Elections

1. Nominations and elections of Employee Representatives shall be held annually in the Month of June. Nominations (after the first nominations and elections) shall be held on the second Tuesday and elections on the following Friday of such month. In the event of either of these days being a holiday, then the nomination or election, as the case may be, that otherwise would be held on

such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with rules and regulations prescribed by the Committee on Rules, Ways, and Means, with only such assistance from the Management as may be requested.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference with voters in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations

4. On the day of nominations, each qualified voter shall be furnished a ballot stating the number of persons for whom he is entitled to vote. Such voter shall write on ballot the names or check numbers of the persons in his Department or voting division whom he desires to nominate for election as Employee Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting division is entitled.

6. If, on any one ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employee Representative to be elected.

9. Those employees who received the largest number

of votes, in any department or voting division, equal to three times the number of Representatives to be elected, shall be declared nominated, and shall be candidates for election.

Elections

10. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means, through tellers designated by such Committee, a ballot on which the names of the candidates for Employee Representatives shall be printed in the order of number of votes received at nominations. In case two or more persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a cross (x) opposite the name of the candidate or the name of each of the candidates of his choice.

11. The number of candidates for whom the employees in each Department or voting division shall be entitled to vote for Employee Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot will be void.

12. Each voter shall deposit his own ballot in a box provided by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employee Representative or Representatives of such Department or voting division.

13. In the event of a tie, selection shall be made by lot under the direction of the Committee on Rules, Ways and Means.

14. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules, Ways and Means.

15. The Committee on Rules, Ways and Means may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

16. Candidates failing of election shall stand as alternates in the order of the number of votes received and in such order shall become Employee Representatives as need may arise through vacancies or increased forces.

V.

Management's Representatives

The Company shall appoint a Management's Representative to facilitate close relationships between the Management and the Employee Representatives.

The Management's Representative shall represent the Management in negotiations with the Representatives, their Officers and Committees. He shall respond promptly to any request from Representatives, and shall interview all of the Representatives, from time to time, collectively or separately, with reference to matters of concern to employees. He may attend any meeting of the Committees, but shall not have any vote thereat.

VI.

Committees

1. Whenever the word "Committee" is used throughout this instrument, it shall mean a Committee of Employee Representatives.

2. After each annual election, the duly elected Representatives shall meet for the purpose of electing a Chair-

man, Vice Chairman, Secretary and two Delegates for general Committee for the General Body of Employee Representatives, which officers must be elected from among the elected representatives.

The General Body of Employee Representatives shall, also, select members for the following Committees, viz:

Committee No. 1—Rules, Ways and Means.

Committee No. 2—Wages, Employment, Schedules, and Working Conditions.

Committee No. 3—Safety, Health, Plant Sanitation, and Welfare Activities.

Committee No. 4—Appeals Committee.

Committee No. 5—Employees Central Advisory Council.

3. The Appeals Committee shall consider all matters not falling within the scope of any other Committees herein provided for, and the Chairman and Secretary of the General Body of Employee Representatives shall be members of the Appeals Committee and advisory.

4. Each Committee shall be composed of members selected by the general body and shall appoint its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular meeting of the General Body of Employee Representatives.

VII.

Committee Meetings

1. Regular meetings of Committees shall be held every month.

2. The General Body of Employee Representatives may meet monthly for the purpose of reviewing the work of the Committees, and discussing any matters of general interest.

3. Committees shall meet between the hours of three and five in the afternoon, unless otherwise determined by joint approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

4. Special meetings of Committees may be held as occasion may require on approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

5. For time necessarily spent, through actual attendance at regular or special meetings or conferences jointly approved, Representatives shall receive from the Company, payment not less than an amount commensurate with their average hourly earnings.

6. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

7. A Committee, in considering matters of special interest to any particular Department or class of employees, shall have the right to invite into the conference the Representatives of the employees and of the company likely to be especially interested in such matters.

8. Any matters may be referred by the Management through Management's Representative to any Committee for consideration and report, and any matter may be presented by a Committee to the Management through the Management's Representative.

9. Committee on Rules, Ways and Means shall ar-
nge a suitable place for meetings of the General Body
Employee Representatives and of the several Commit-
es and the Company shall defray such expenses as are
cessarily incident to the discharge of duties herein set
rth, when approved by a majority of said Committees.

VIII.

Annual Conference

An Annual Conference between all of the Employee
epresentatives and the Management shall be held at a
me and place determined by a proper Committee, which
all regulate the procedure at such Conference.

IX.

Procedure for Adjustments

1. Any matter, which in the opinion of any employee,
group of employees, requires adjustment, and which
ch employee or group of employees has been unable to
ljust, either directly with the foreman or through his or
eir representative, may be taken up by such employee or
oup of employees, either in person or through any rep-
sentative of his or their department in writing.

First

With the Superintendent concerned.

Second

With the Management's Representative.

Third

With the Management, who shall endeavor to effect a
ttlement, or who may with the approval of all the parties
fer the matter to proper committee.

2. Unless satisfactory disposition of any such mat-
r has been effected within fourteen (14) days, any em-

ployee through his Representative, or the Management through the Management's Representative, may require such matter to be referred to the proper Committee by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

The proper Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts for a settlement. Failing satisfactory disposition by proper Committee such matters shall be referred to Central Council.

Any adjustments in hourly or tonnage rates determined by above procedure shall be made effective as of the date the written request was filed with the department head requests for changes in hourly or tonage rate shall be considered closed on a decision of the proper Com. unless an appeal is filed in writing with the Man Rep. within a period of 3 days after the decision is rendered.

X.

Guaranteeing the Independence of Representatives

1. It is understood and agreed that each Representative or Employee assisting him shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

To insure to each Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him on account of his acts in his representative capacity to the Management's Representative, to any of the Superior

Officers, to the industrial relations, and to the President of the Company.

3. Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within thirty days, a Representative shall have the further right to appeal to the State Department of Labor or the Secretary of Labor of the United States. The Company shall furnish the said State Department of Labor or the Secretary of Labor with every facility for the determination of the facts, and the findings and recommendations of the said State Department of Labor or the said Secretary of Labor shall be final and binding.

Amendments

Any method of procedure hereunder, with the exceptions of Paragraph 5 of Section VII, may be amended at any time by a two-thirds vote of the Employee Representatives, the Chairman of Central Council shall be notified of all amendments be adopted.

BOARD'S EXHIBIT NO. 71

REPUBLIC
(Cover Picture)

A Bulletin of Republic Steel Corporation and Subsidiaries
Published in Cleveland, Ohio . . . . April 1936

TO THE EMPLOYEE REPRESENTATIVES

(Picture of C. M. White on left hand side of page)

Greetings and congratulations to you who have so ably handled the trust and responsibility placed in your hands by our employees.

The fact that so many of you are serving your second and third terms as Representatives is in itself a remarkable tribute both to you and to the success of the Plan under which so many matters have been satisfactorily adjusted.

I want to assure you that the management of this company is giving your problems and the problems of all our employees an equal degree of care and consideration. We have common objectives: first, safe and continuous work for our employees; and second, the prompt and fair handling of your problems and the problems of all our employees with care and consideration.

C. M. White
Vice President in Charge
of Operations

(Enclosed in box at bottom of page)

CASES HANDLED UNDER THE EMPLOYEE REPRESENTATION PLAN

From January 1, 1935 to December 31, 1935, Inclusive

Subject	Total Cases Handled
Employment and Working Conditions	335
Wages, Piece Work, Bonus, Tonnage Schedules	300
Safety and Welfare	434
Practice, Methods and Economy	146
Health and Works Sanitation	180
Employee Transportation	51
Housing and Living Conditions	25
Education and Publications	14
Athletics and Recreation	90
Rules, Ways and Means	68
Total	1643

Disposition of Cases Handled

Settled in Favor of Employees	1275
Settled in the Negative	229
Withdrawn by Employees	57
Compromised	53
Pending Settlement	29
Total	1643

WHY THE EMPLOYEE REPRESENTATION PLAN REALLY WORKS

The Employee Representation Plan has been in operation in Republic for almost three years.

The accomplishments during that time prove conclusively that the plan is a practical and effective method of collective bargaining.

If the plan had not been workable—if it had not given employees real representation—it would have fallen by the wayside long ago.

Cases Handled During 1935

Employee Representatives of Republic, during the year 1935, presented 1,643 cases for discussion and settlement through the Employee Representation Plan.

Of this number 1,215 cases, or 74% of the total, dealt with employment and working conditions, wages, piece work, bonus and tonnage schedules, safety and welfare and practice, methods and economy. We wish to emphasize this point. There was no dodging of the issues. Matters which had to do with wages, hours and working conditions, the really vital questions both to employees and to the company, were brought out into the open, discussed and settled.

The rest of the cases had to do with such questions as sanitation, transportation, living conditions, education, recreation, and the like.

The results speak for themselves.

Of the 1,643 cases handled under the plan during the year, 1,275 or 78% were settled in favor of the employees; 229 cases or 14% were settled in the negative; 57 or 3% were withdrawn by employees; 53 or approximately 3% were compromised; and 29 or 2% remained pending settlement at the close of the year.

Looking back over the entire record since the plan was first begun, it is significant that ever since the inauguration of the plan over 74% of all the cases raised have been settled in favor of the employees.

It is equally significant that ever since the plan was begun, employee representatives have made many suggestions which were of benefit, not only to the men, but to the company as well. A large number of these suggestions have resulted in better workmanship and more efficient operation.

It is not just by accident that the Employee Representation Plan works so well. Certain points stand out as the main reasons which make the plan successful. They are as follows:

1. The Plan Brings Facts Out into the Open

Employee Representatives are constantly asking the management questions; management must answer these questions. There can be no beating around the bush. Facts must be brought out and laid on the table.

The result is that the company learns more than it every knew before about the problems of its employees;

and the employees learn far more than they ever knew before about the problems of the company.

This makes for mutual understanding; and mutual understanding leads to harmony, co-operation and progress.

2. The Plan Allows for Localized Action

The Employee Representatives for each Republic plant know personnel and conditions in that plant.

They do not talk to management in terms of theories and generalities. They know exactly what is going on in their plant, and they know what they think ought to be done about it.

3. The Plan is a Co-operative Method.

The Employee Representation Plan is founded upon the premise that employees and employers are engaged in a common enterprise—and that it is to the mutual advantage of both employees and employers to work out the details of that enterprise in such a way that the whole affair will run smoothly, for the benefit of both.

The plan recognizes the fundamental fact that we are all in the steel business together.

4. The Personnel of Our Employee Representatives

Employee Representatives have given the viewpoint and the desires of employees in a perfectly straight-forward way. This is what they were elected for, and expected to do, so that management might know what is in the minds of the men.

The duties of Employee Representatives require a great deal of courage, tact and a willingness to study and analyze facts. The job is not an easy one.

The record of accomplishment under the Plan shows conclusively that the Employee Representatives have proven their ability to fulfill the responsibilities placed upon them by the employees.

[3]

REPUBLIC PRODUCTS CAN "TAKE IT"

By R. J. Wysor

Executive Vice President and General Manager

(Picture of Wysor in upper left hand corner)

(There are two pictures in the left hand corner of this page, one showing a tractor captioned "Agathon Alloy Steel is used for frames and parts of this tractor and cultivator which must stand up against the severest kind of farm use." The other picture a salt well pump and is captioned "Because Toncan Iron pipe successfully resists corrosion, Toncan is used for salt well pumps.")

New inventions, new processes, new products and new developments in industry present to the makers of steel a never-ending challenge.

Today steels must be custom made—designed to fit the particular needs of the buyer. Manufacturers demand special steels, specially adapted to special purposes.

Republic has pioneered in "tailor-made" steels.

Builders of trucks have sought lighter and stronger steels. Republic has developed them. Republic Double-Strength Steel makes one pound of steel do the work of two. By the use of this steel a truck can be 30 to 40 per cent lighter and still capable of carrying the same load as before.

Railroads, too, want these lighter steels. Over three tons of Republic "double-strength" were used in America's latest type streamline locomotive.

With the development of modern manufacturing processes, manufacturers in a host of lines need steels which will stand up under excessive stresses, vibrations, corrosions and high temperatures. Republic has developed special alloy steels which will fill the bill.

Automobile manufacturers need a wide range of special steels. Republic has anticipated their needs. It makes steel for motors which are capable of withstanding the temperature change from 20 degrees below zero to 1600 above within one minute. It makes sheets especially designed to hold up under the deep drawing operations required in passenger car body manufacture.

Republic Enduro Stainless Steel is an amazing product. Because it is stainless it is used for photoengraving tanks, textile dye tanks, acid containers and similar purposes where resistance to corrosion is the important element. Because it is clean, it is used in canneries, bakeries and the manufacture of food products. Because it is ornamental, and will not rust, it is used for store fronts, soda fountains and trim for motor cars. Because it will withstand high temperature, it is used for a number of special processes—for instance, in the cracking plants of petroleum refiners, where the heat is terrific.

Manufacturers in hundreds of industrial lines have sought for alloys which successfully resist corrosion. Republic Toncan Iron does it. Toncan may turn up almost anywhere. At Midway Island, a tiny pinpoint on the Pacific ocean, "service stations" of Toncan siding, roofing and gutters have been installed on the air route to China. The **Seeandbee**, Lake Erie passenger ship, contains a mile of Toncan pipe. Because of its rust-resistance, tons of Toncan are buried far beneath the earth in septic tanks that guard health, in pipe lines for water, steam, oil or salt wells. Because it fights corrosion, Toncan goes high into

the air for such tough jobs as carrying off hydrochloric fumes from chemical plants. In African rubber works, in gold mines, where it battles carbonic and sulphuric acids, in cyanide tanks, in alum lines of paper mills, in exhausts of Diesel engines, in baffles for condensors in sugar factories, Toncan takes punishment that would reduce or-
[4]
dinary metal to a heap of rust far more quickly.

(There are three pictures on this page. One on the right hand side shows oil wells and is captioned "Republic electric weld casing and tubing stands up under severest service in oil fields." The picture in the lower left hand corner shows a number of steam pipes and is captioned "Republic steel pipe was used for water and steam lines in a large hotel in Akron. The job took more than seven carloads." The pictures beside the one above shows an arch installation in a park and is captioned "This sectional plate arch installation in a park in Pennsylvania is made of Toncan Iron.")

Manufacturers today want steels which are capable of being fabricated into almost any conceivable form and shape. Republic has them. You will find these steels in refrigerators, filing cases, furnaces, furniture and a thousand and one different places.

Republic special steels must be able to "take it". For instance—Republic makes steel for rotary drill bits for the oil field. Wells today may go down 9000 feet. As the bit goes down farther and farther, the weight of the drill stem above it increases. At 9000 feet the weight is enormous, and the tension stress is tremendous. Just try to conceive the bursting of mud under high pressure and the vibrational stresses due to power transmission and the pulsation of mud pumps. And the steel bit must stand up in spite of this terrific beating!

Republic pipe, too, must be able to stand the strain of a "string" 9000 feet long, with the weight of the whole "string" hanging upon the uppermost coupling.

The products Republic sells the railroads must "stand the gaff". A test was recently made on Republic Agathon nickel iron staybolts in a heavy Mikado locomotive. The locomotive had seen eight years and 300,000 miles of service—and yet the staybolts, when they were removed and tested, showed that they had lost practically none of their original strength and toughness.

Republic makes steels for airplanes—stainless for manifolds and heating coils, alloys for landing gears, steel tubing for wings. The wings must not falter, no matter what the speed or the weather—the landing gear for a large plane must be able to withstand a landing impact of 32½ tons.

(Continued on Page 14)

[5]

REPUBLIC EMPLOYEES MAKE

(On this page in the lower left hand corner is a picture of the National Safety Council Trophy and is captioned "National Safety Council Trophy." In the lower right hand corner is a chart showing Per Cent Decrease In Lost Time Accidents Under 1929 and Per Cent Decrease In Fatal Accidents Under 1929. The years from 1929 to 1935 are given in each instance with a graphed line drawn opposite each year with the percentage marked and in the extreme right hand side there is a column listed "Number of Employees Saved from Injury" and below that one listed "Number of Lives Saved". The chart states that "4710 Employes Have Been Saved from Injury in 6 Years" and "40 Employees have been saved from fatal injury in 6 years.")

Republic employees worked approximately 27,000,000 more man hours during 1935 than during 1934 and lost 8,500 less days on account of accidents.

The Accident Frequency was reduced by 26% and the Accident Severity by 38% as compared to the 1934 record.

Credit for this remarkable showing is due chiefly to careful thinking and team work on the part of the employees, who worked in close harmony with the supervisory forces in following safety rules and instructions, vigorously enforcing safety regulations and eliminating unsafe practices and careless acts.

The Central Alloy District led all steel plant operations with a severity rating of 1.11. This represents a reduction of 53% as compared with the District's 1934 record.

Canton Culvert Division took first place among all operations not included in the steel plant group by completing the year with a clear record.

Republic has taken a place in the front rank of the great industrial organizations which have taken part in safety and accident prevention activities.

The significance of steadily improving safety records cannot be over-emphasized. Every reduction in the accident frequency rating means that injury has been avoided—that much pain and suffering, all needless, have been prevented.

The records show that if accidents had continued from 1929 to the present time at the same rate at which they happened in 1929, there would have been 4,710 more lost time accidents than was actually the case. This means that 4,710 lost-time accidents have been prevented from 1930 to 1935, inclusive.

On the same basis, a comparison with records of previous years show that 40 men have been saved from death.

These facts are the real measuring stick of the value of safety work.

National Recognition

Five plants of Republic received national recognition at the National Safety Congress held in Louisville, Ky., during October, 1935.

These plants were awarded trophies for the best safety records in groups in which they were entered during the contest which started July 1, 1934, and ended June 30, 1935.

The trophies were awarded to the following plants:

Corrigan-McKinney, Cleveland
Steel and Tubes, Inc., Brooklyn
Ideal Foundry & Machinery Co., Beaver Falls
Grand Crossing Plant, Chicago
Upson Nut, Unionville

The men in these plants are to be congratulated for making these safety records.

[6]

FINE SAFETY RECORD

(There is a picture in the bottom middle of this page of two men and below that the picture of a medal. This is captioned "Roy Jobe (left) saved the life of Frank Bieber (right) by the Prone Pressure Method of Artificial Respiration. Jobe was awarded the President's Medal of the National Safety Council.")

It's Not "Luck"—It's Work and Training

The prevention of accidents in Republic is not left to mere chance, but it is based on a definite organization functioning regularly.

A regular schedule of Safety meetings is held in each

District every month. These meetings are of three types. There is the District Safety meeting which is attended by the District Manager and all department superintendents. Each superintendent in turn holds a meeting each month with his foremen or supervisors. These foremen hold meetings with their men and consequently every man in the Republic organization attends a safety meeting at least once a month. During 1935 there was a total of 27,729 safety meetings held at which the attendance totaled 407,714.

In actual practice Safety is made a part of the job, because, in Republic safety is considered an operating problem. In many districts foremen will hold short meetings with their men before the start of the turn and it is general practice to set up special meetings where an unusual job is to be undertaken. In this way special plans are made, instructions are issued and the job is handled more efficiently and free from accidents.

Foreman Saves Worker's Life

Roy Jobe, Blast Furnace Labor Foreman in the Buffalo District, saved the life of Frank Bieber, one of his men, on June 5, 1935, by his knowledge of the Prone Pressure Method of artificial respiration learned in the safety meetings held in the Buffalo District.

Bieber was overcome by gas while working in a 72-inch gas main and the quick action of the foreman and other members of the crew in the application of resuscitation measures prevented death.

Jobe was awarded the President's Medal of the National Safety Council for his prompt and efficient action in saving the life of a fellow worker.

During 1935 there were 1,662 demonstrations of the Prone Pressure Method held throughout the Corporation, at which 33,439 men were present for instruction and practice. This work is part of Republic's regular Safety program.

Good Housekeeping

Last year 994 good housekeeping inspections were made to emphasize the necessity of keeping plants clean, orderly and safe.

More Safety Shoes

In 1935 there were 5,927 more pairs of safety shoes purchased by Republic employees than the year before. All employees are encouraged to wear safety shoes and thus reduce the possibility of toe injuries.

(Enclosed in box on right hand side of page)
(Republic Steel Emblem)
1935

SAFETY HONOR ROLL

Plants Mines or Departments
Without Lost Time Accidents

Warren

Blooming Mill, Research-Inspection, Shipping, Coke Plant, Electrical, Transportation, Roll Shops, Miscellaneous.

Central Alloy

(Canton)

Rough Bar and Heat Treat, Electric Furnace, Mason, Electrical, Blast Furnace.

(Massillon)

Coke Plant, Electrical, Miscellaneous.

Buffalo

8″ Mill, Blooming Mill, 10″ Mill, Roll Shop, Miscellaneous.

Cleveland

Electrical, Coke Plant, Main Power Station, Miscellaneous.

Northern Ore Mines

Susquehanna, Tilden.

Youngstown

Bloom and Billet, O. H., Electrical, Mason.

Chicago
(South Chicago)

Mason, Heat Treat and Spike, Electrical.

Chicago

Grand Crossing.

Dilworth Porter

No. 2 and No. 3 Spike Dept., Maintenance Mechanical, All Other Labor.

Union Drawn Steel Co.

Beaver Falls No. 1, Beaver Falls No. 3, Ideal Foundry & Machinery Co.

Upson Nut
(Cleveland)

Third Floor Packing, Transportation, Miscellaneous.

Upson Nut

Muncie, Unionville.

Birmingham

Coke Works.

Canton Culvert

Canton.

(Universal Safety Emblem)

[7]

EMPLOYEE REP (Caption continued on next page)

(This page contains group pictures of Employee Representatives. The first group is composed of four men from St. Paul—Stevenson Mine. Next to that is a group of three men from Kinney Mine. Next to that is a group of three men from Ironton Mine. The middle group picture is of fifteen men from Cleveland, O., District, Cleveland Plant. The group beside that is of three men from Commodore Mine. On the bottom row is a group picture of seven men from the N. & G. Taylor Co. and beside that is a group of three men from Julia Mine.)

RESENTATIVES

(This page contains group pictures of Employee Representatives. The first picture on the top row shows a group of three men from Townsite Mine. Beside that is a group of three men from Susquehanna Mine. Beside that is a group of three men from Alexandria Mine. On the middle row the first group is of three men from Cambria Mine. Beside that is a group of eight men from the Birmingham Ala., District, Thomas Plant. On the bottom row is a group picture of four men from Tobin Mine. Next to that is a group picture of five men from the Birmingham, Ala., District, Spaulding Mine.)

EMPLOYEE REP (Caption continued on next page)
(This page contains group pictures of Employee Representatives. On the top row is a group picture of twenty-eight men from the Central Alloy District, Canton, Ohio, Plant. On the middle row is a group picture of twenty men from the Central Alloy District, Massillon, Ohio, Plant. Beside that picture and running into the next page is a group of fifteen men from the Buffalo, N. Y., District. On the bottom row is a group of three men from the Chicago District, Moline, Ill., Plant. Just above that is a group of four men from the Chicago District, Grand Crossing, Ill., Plant. On the bottom right hand corner is a group of twelve men from

the Chicago District, South Chicago, Ill., Plant.)

RESENTATIVES

(This page contains group pictures of Employee Representatives. The top row group picture is of twenty-nine men from the Youngstown, Ohio, District. The middle row picture of a group of thirty-two men from the Warren, Ohio, District. Just above the bottom row is a group of three men from the Upson Nut Division, Muncie, Ind., Plant. On the bottom row is a group of seven men from the Upson Nut Division, Cleveland, O., Plant. Next to that is a group of three men from the Upson Nut Division, Unionville, Conn., Plant.)

EMPLOYEE REP (Caption continued on next page) (This page contains group pictures of Employee Representatives. On the top row is a group picture of five men from the Union Drawn Steel Co., Massillon, O., Plant. Next to that is a group of three men from the Union Drawn Steel Co., Gary, Ind., Plant. On the middle row is a group of three men from the Union Drawn Steel Co., Beaver Falls, Pa., Plant. Beside that is a group of three men from the Union Drawn Steel Co., Hartford, Conn., Plant. Next to that is a group of three men from the Ideal Foundry and Machinery Co., Beaver Falls, Pa. On the bottom row is a group of five men from the Berger Manufacturing Co., Canton, O. Next to that is a group of four men from the Dilworth-Porter Division, Pittsburgh, Pa.)

RESENTATIVES

(This page contains group pictures of Employee Representatives. On the top row is a group picture of three men from the Steel and Tubes, Inc., Brooklyn, N. Y., Plant. Beside that is a group of six men from the Steel and Tubes, Inc., Cleveland, O., Plant. On the middle row is a group picture of three men from the Steel and Tubes, Inc., Superior Plant, Elyria, O. Beside that is a group of three men from the Steel and Tubes, Inc., Elyria, O., Plant. Beside that is a group of four men from the Steel and Tubes, Inc., Detroit, Mich., Plant. On the bottom row is a group picture of three men from the Canton Culvert Division, Canton, O. Next to that is a group of eight men from the Truscon Steel Co., Cleveland, O.)

REPUBLIC PRODUCTS CAN "TAKE IT" (Continued from page 5)

(The picture at the top of this page shows a Blast Furnace and ore piles and is captioned "Blast Furnace and Ore Piles".)

Up to this point only a few of Republic products and their thousands of uses have been even touched upon. To mention them all would require a book of very considerable size. This is especially true because today new uses are constantly being found for steel and Republic is making the steels for these uses.

Manufacturers of the consumer articles, the things you and I buy, secure their raw materials from Republic in one form or another.

These raw materials in the form of iron and steel are used by the manufacturers of railroad cars and equipment; the builders of automobiles; the producers of building materials of many sorts and varieties; the fabricators of air conditioning, heating and ventilating equipment and literally scores of others.

The raw materials which they buy from Republic and transform into finished products are, among others:

Open hearth steels and irons; Bessemer steels; electric furnace steels; bar mill products; cold drawn products; culverts; die-rolled products; rail steel products; plates;

semi-finished steels; sheets; spikes; strip; tin plate and wire products of all sorts.

In many cases these same raw materials go to the subsidiaries of Republic who in their turn fabricate them for the consumers' market.

From the plants of these subsidiaries come articles of every description that find their eventual buyers in all parts of the world.

Metal furniture and office equipment cabinets and shelving; equipment for laboratories; rivets; nuts and bolts; wire; nails and tacks are only a few of the products that are Republic made from the pig iron to the last fabricating operation.

Republic steel products, because of their wide diversity, enter into our every day lives in scores of ways.

They are used in our homes, in the factories and offices in which we work. In the automobiles, trains, airplanes and ships, in which we ride. The garden tools, the fishing rods, that we use in our idle hours, the cans that protect and preserve our food, may well be made of Republic steels.

With startling frequency new uses are found for steel in one form or another and each new use means more potential business for Republic.

This is especially true because of the wide diversity of Republic products. It is this very diversity which has made Republic a great producer of iron and steel and which will make it an even bigger one as the years roll by.

This diversification plus the equality which Republic men build into Republic products accounts for the fact that Republic Steel Corporation is a growing, progressive company.

There can be no flaws in Republic products—no guess work, no sloppy workmanship. Republic steels must—and do—"have the stuff."

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ATHLETIC ACTIVITIES

(The picture at the top of this page shows the softball championship team of the Warren District and is captioned "Champions of the Warren District Soft-ball League Masonry-Labor Department". The picture on the right hand side of this page is a trophy for the bowling champions and is captioned "Wysor Bowling League Trophy.")

The employees of the Warren district have worked out a system of athletic activities which grew very naturally out of a request made by a number of employees to the Employee Representatives, urging them to see what could be done along this line. The Employee Representatives appointed an athletic committee to study the question, and, as a rseult, early in 1934 formed a soft-ball league of the various departments of the mill.

A season's soft-ball schedule was played that summer and proved very popular. Its success indicated to the Employee Representatives that they would be justified in going farther; so a bowling league was formed and a schedule set up and played out. An inter-departmental basketball league was also formed, and a schedule played.

The program grew in popularity and in activity in 1935. Last summer twenty soft-ball teams, with a total of some 350 players, played 187 games to 50,000 spectators. In addition, during the last year, there were nineteen bowling teams, thirteen basketball teams and about one hundred and seventy-five golfers.

Trophies were awarded to the winning teams in soft-ball, basket-ball and bowling, and the golf season wound up with a tournament in which supervisors, as well as employees, participated.

The entire athletic program is financed and supervised by the employees themselves. Promotion and general guidance is in the hands of the athletic committee of the Employee Representatives. Finances are derived largely by charging ten cents admission for all soft-ball and basketball games. The athletic committee has worked out satisfactorily details having to do with playing equipment, suits, and so forth. The planning and the management of the program as a whole was entirely an employee proposition.

The athletic activities in the Warren District show that employees, with the right kind of planning and organization, can develop a very comprehensive and satisfactory program of employee athletics.

Wysor League Stirs Interest of Republic Bowlers

Interest in the Wysor Trophy Bowling League was manifested through the 1935-36 season by the number of teams competing in the telegraph league. The first round was won by Corrigan-McKinney bowlers. The trophy is to be awarded the winner at the close of the season.

[15]

WHAT EMPLOYEES WANT

By T. M. Girdler

Chairman of the Board and President

(Picture of T. M. Girdler at top left hand side of page.)

(Enclosed in box)

On February 5 of this year, T. M. Girdler, Chairman and President of Republic, made a talk before members of the American Management Association in

Chicago on the subject of "Industrial Relations". His audience was composed of business men, who were particularly interested in problems of wages, hours and working conditions.

We are here reprinting a portion of Mr. Girdler's talk, as we believe it to be of particular interest to every Republic employee.

A great deal of talk goes around about what the vorker wants. We hear this from labor leaders, politicians, ocial workers and writers. Much against our better judgnent, we of management who were actually under the same oof with our workers, listened and even accepted at times he immature and badly formed opinions of these outsiders.

A more sensible method ha always been at hand and vhenever we used it, we couldn't go wrong. That method s to go directly to our own men and to discuss frankly, honestly, and above board our mutual problems. When enterprises were small, that was the natural procedure. As industrial organizations grew larger we lost that direct contact. That must be regained, and it has been regained, by those companies and industries where the employees have adopted employee representation plans.

A great many people make the mistake of assuming that most industrial workers are misinformed, if not ignorant, and that they are not able to take care of themselves or to protect their own interests. I can only speak from first hand knowledge of workers in the steel industry; but I assume they are typical of industrial employees everyvhere.

These men are neither misinformed nor ignorant. They keep abreast of the times through newspapers and other publications. They are conversant with conditions in the steel industry and in the country. They are fully competent to choose men from among their own number who can represent them honestly and forcefully.

To those who would know what the workers want, I would say, ask the worker himself. You and I, as employers, know from what thousands of workers have told us that what the worker wants is as much as he can get out of a job. And you know that we do not oppose his getting as much as there is for him to get without impairing efficiency in a competitive market. No man can get more than a business can afford to pay him without imperiling his job altogether.

Our workers know the steel business. They know that we are doing the best we can for them in the present circumstances. The workers are co-operating with management to put the industry back on its feet.

In the steel industry we very definitely see the possibility of steady work over a long period providing we can plan with some assurance for the future. Many new markets have been developed in the steel industry and vast potential markets are clearly visible upon the horizon if business and capital are permitted to proceed under conditions which do not hamper enterprise.

Courage is not lacking in the United States. Initiative and opportunity are not lacking. We have been through a terrible crisis which has taught us much. To me, its most deeply engraved lesson is that only out of productivity, only out of increased productivity can industry—the employer and the worker—prosper. But this prosperity, to be real, to be effective, must be based upon understanding and cooperation.

Nearly Half a Million People Own the Steel Industry

The ownership of the steel industry of the United States is spread among a total of approximately 470,500 stockholders, according to a survey among steel companies representing more than 93 per cent of the country's steel ingot producing capacity.

Of this number, approximately 300,000 stockholders own from one to twenty shares of stock apiece. Over 111,000 stockholders own between twenty and one hundred shares each, and only approximately 58,000 or about 12 per cent, own more than one hundred shares each.

The steel industry actually has more stockholders than it has employees. Total employment in the industry is now approximately 450,000.

Including both stockholders and employees, the industry is now contributing directly to the support of at least 9,200,000 people.

[16]

BRIEF HISTORY OF REPUBLIC

From 1930 to 1936

(There are two pictures on this page. One is in the lower right hand corner and pictures the new McDonald Observatory and is captioned "The new McDonald Observatory of the University of Texas is entirely covered with Republic Toncan Iron. The Observatory houses the second largest reflector telescope in the world." The other picture is to the left of the aforementioned picture and shows a man looking through a miscroscope and is captioned "Examining thin slag sections under the miscroscope at Republic's laboratories.")

Republic Steel Corporation was formed in April, 1930, by the consolidation of a number of steel producing companies.

Among the major companies which went to make up Republic Steel Corporation were: Republic Iron & Steel Co., Central Alloy Steel Corporation, Donner Steel Co., Bourne-Fuller Co., Interstate Iron & Steel Co., Union Drawn Steel Co., Steel & Tubes, Inc., Berger Manufacturing Co., and Trumbull Cliffs Furnace Co.

In addition, various other subsidiary companies were acquired in whole or in part.

During 1930, Republic Steel Corporation became established as the third largest steel company in the United States.

Then along came the depression.

Markets dwindled, prices went to pieces, production dropped. The Corporation, like many other companies during the depression period, fought a tremendous battle to maintain its very existence.

But all this time it was looking ahead. It was looking forward to the days when the depression would be a thing of the past, the country's purchasing power would revive, and the demand for steel would again be increased.

Republic determined to be ready for that time, when it should come.

During the depression period, therefore, the company placed special emphasis upon research. In its laboratories Republic developed a wide range of new alloy steels which are adaptable to a wide variety of purposes never even dreamed of in pre-depression days.

And then business gradually began to improve. Republic's advances in research and metallurgy, made during the depression, began to bear results.

Republic—with an outstanding reputation as a designer of new and special steels adaptable to new and special purposes—stepped aggressively into 1935 steel markets and achieved the best year in its history.

Republic's progress during 1935 was also furthered by the acquisition of the plants and properties of Corrigan McKinney Steel Company and control of the Truscon Steel Company.

The addition of these two companies to Republic made possible a grouping of plants and markets designed not only to strengthen Republic's competitive position in the steel industry, but also to add materially to its capacity to serve consumers of steel.

Corrigan McKinney had a production capacity for pig iron and semi-finished steel largely in excess of finished steel. Republic normally had an excess of finished steel facilities over those of semi-finished steel. Uniting the facilities of both companies, therefore, has effected a better balance of production facilities.

With the addition of Corrigan McKinney, Republic and its subsidiaries now have water frontage and docks along the Great Lakes at Cleveland, Buffalo, Chicago and Monroe, and a steadier, more orderly flow of production from iron ore through pig iron and semi-finished steel to finished steel. This makes possible savings in both production and distribution.

Truscon has also added largely to Republic's outlets for steel. Truscon is one of the country's largest fabricators of steel products entering into the building industry, and is especially active in the entire pressed steel field.

Republic's operations now range practically from New England to the Mississippi, and from Canada to Alabama. With the acquisition of Corrigan McKinney, Republic and its subsidiaries have some 70 plants in 35 cities and towns—and in addition, Truscon, now controlled by Republic, has plants in Ohio, Michigan, California, Canada and Japan.

The events of the last year have materially strengthened Republic's position as the third largest steel company in the United States. Republic is the largest producer of alloy steel in the world, and has the nation's greatest capacity for stainless steel production.

Republic, in all of its plants, mines and offices, now has a total of approximately 45,000 employees. If all of these employees and their families lived in one place, they would make a city about the size of Dayton, Ohio, or Richmond, Va.

[17]

STEEL'S THE FASHION NOWADAYS

(There are two pictures on this page. They appear in the lower left hand corner and are different views of a steel-frame house built in Washington. One view shows the frame work and the other view the completed structure. These are captioned "Berloy steel-frame house built in Washington by The Berger Mfg. Co., Republic subsidiary. The entire steel frame was erected by five men in 13 hours and the house itself completed in a month. The house was sold before completion.")

Six hundred pounds of steel is not much, inside a mill. But 600 pounds of steel in a home seems like a lot to lift around. And according to a recent survey the average home has that much steel in it.

But it is scattered through the home in many ways. Here is the steel in one of the homes that was checked, in pounds:

1 kitchen stove	250

4 spring mattresses	80
1 steel bed	40
Washing machine	150
3 pairs of scissors	1
1 bridge table	15
Davenport springs	15
Picture wire, ash trays, steel wool, book ends	2
Mouse trap	1 oz.
Garbage pail	5½
2 umbrellas	1
1 mechanical refrigerator	190
1 steel lamp	10
Springs for 4 beds	109
Kitchen pans and utensils	10
1 electric iron	6
Springs, 4 upholstered chairs	20
Nail files, manicure sets, hairpins, needles, pins	6 oz.
Bird cage and stand	25
Waste basket	2

The total is 932 pounds. Had a piano and radio been included it would have been well over half a ton. Yet this home had no unusual uses of steel. It was not a "modern" home, by any means.

In the strictly modern home, greater use of steel would have brought the total to tons. It would probably have a vacuum cleaner, steel fixtures in bathroom and kitchen perhaps a stainless kitchen sink and drain board or perhaps laundry tubs. Steel is being used more and more in lighting fixtures. If the home were air conditioned, that would account for much more steel.

In addition to the built-in features, countless articles are being made of Enduro stainless because it is so attractive and is cleaned so easily.

In the kitchen of this modern home we might find that frying pans, kettles, stew pans, casseroles, spoons, knives and forks, almost everything used in the preparation of meals had "gone stainless". Of course anything in electrical cooking would be of steel, from electric range to egg cooker, toaster, even the egg beater.

In the dining room we would probably find salad bowls, sandwich trays, coasters, tops for salt shakers, perhaps cigarette boxes and ash trays of stainless. And certainly a glistening coffee percolator.

It is no wonder that Enduro is popular. Enduro is made to last a life time. It doesn't dent or crack or chip like earthenware. And women like it because the shining surface of Enduro "matches everything" and because it is so easy to keep spic and span all the time.

Although men in Republic mills may not be aware of it, nevertheless the steel coming from their hands is doing more to make the homes of America a pleasant place to live than if they were artists or "home decorators".
[18]

(This page has two pictures at the top of the page, side by side, showing in one a table set with stainless steel, captioned "A table set with Enduro stainless." The other picture shows a portion of a kitchen with a kitchen cabinet and sink equipped with stainless steel and captioned "The stainless steel in the sink and drainboard and on the cabinets is in Republic Enduro.")

"Steel-on-wheels has long since taken the place of the horse. Now steel has progressed from the garage into the house, and bids fair to displace older and less useful materials, all the way from the basement to the attic. The next step is going to be that the house itself will be built largely of steel.

The Berger Manufacturing Co., Republic's subsidiary, has perfected the Berloy Steel Frame House, which utilizes steel for the frame work and for many other purposes, but permits wide variation in type of finish and design. This offers a very practical method of building with steel, because it is flexible enough to allow for the individual tastes of the home builder. Several of these houses have already been built and sold, and more are contemplated.

The growing use of steel in the home represents one of the industry's largest potential future markets. The more steel used in the ordinary household, the greater assurance there will be of larger tonnage and steadier employment in the industry.

A $450,000,000 Tax Bill

During the seven years 1929 to 1935 inclusive, Federal, state and local taxes paid by the steel industry totaled over $450,000,000.

In a recent address, T. M. Girdler, Chairman of the Board and President of Republic, said, commenting on taxation:

"If industry is to provide men steady jobs it must be able to meet pay roll out of production. But also it must not face the burden of excessive taxation which will imperil its market.

"The ratio between income and taxation may be clearer if we divide a business dollar into its component parts.

"First and foremost are wages and salaries; second, purchase of raw materials and supplies; third, maintenance of plant and equipment; fourth, taxes, interest and other fixed overhead charges; fifth, dividends, if any.

"Now, you cannot add any excessive amount to any one of these divisions of the business dollar without taking it away somewhere else unless the total is increased. If we are forced to pay more for taxes, we have to pay less for something else. Extremely high taxes will first attack dividends but may also eventually result in decreased wages."

The steel industry now employs 450,000 people. The industry's seven year tax bill of over $450,000,000 means that during that time the industry has paid in taxes an amount equal to over $1,000 per man now employed.

Group Insurance

In May, 1935, Republic announced a general group insurance plan which gives our employees an opportunity of obtaining without medical examination and at low cost, insurance benefits which are sound and permanent. The value and popularity of this insurance is shown in the fact that more than 95% of the employees eligible participated in the plan at the time it was announced.

From May 1 to December 31, 1935, benefit payments have been made to more than 1,700 employees and their families, many of whom would have had no other income at the time. During the short time since its adoption it has been found that the plan provides funds for our employees at time of greatest need.

Employees Plant 1,621 Garden Plots

Republic employees planted 1,621 garden plots during 1935. It is estimated that 7,343 people, including wives and children, benefitted from the harvest.

[19]

(The back cover is composed of various pictures of different processes of steel making and the one in the left hand upper corner is captioned "Tapping an open hearth furnace." The upper right hand corner picture reads "Polishing a sheet of Enduro stainless." The picture below that reads "Cold rolling Enduro stainless strip." The picture in the left hand bottom corner is captioned "Finishing ends of electric weld pipe." The right hand bottom picture reads "Cooling alloy steel bars.")

BOARD'S EXHIBIT NO. 72

REPUBLIC
(Cover Picture)
A BULLETIN OF
REPUBLIC STEEL
CORPORATION
AND SUBSIDIARIES
Published in
Youngstown, O.
APRIL 1935

2 REPUBLIC

(Large picture of R. J. Wysor in the left upper portion of page.)

To the Employee Representatives:

I think you're doing a great job. You're giving us the viewpoint and desires of our employees, in a way that is straight-forward and to the point. That is what the employees elected you for—and that is what we want you to do.

You may rest assured that the management and the company representatives will continue to give your problems fair consideration and see that you get a "fair break."

Let's have frank and open discussions of any subject you may want to bring up. In that way, we can sit down across the table, get at the facts, and work things out together.

R. J. Wysor

THE YEAR'S ACCOMPLISHMENTS UNDER THE REPRESENTATION PLAN

by J. A. Voss, Director of Industrial Relations

Since the last Republic "Bulletin" was published, a year ago, the record of accomplishments, under the Employee Representation Plan, has been a really remarkable one.

For one thing, we have all learned to know each other better, and we have gotten closer together.

The company has gained a better understanding of the men's problems, and the men have learned a great deal more about the company's problems than they knew before. The company knows more about what the men want—the men know more about the company's business.

The employee representatives are certainly to be congratulated upon the excellent manner in which they presented the desires of the men, and the fine spirit of co-operation in which the questions have been worked out with the management.

What the Figures Tell

The story of actual accomplishments under the Representation Plan is best told by the record of the cases brought up under the Plan.

From March 1, 1934 to February 28, 1935, inclusive, 1538 different matters were discussed and settled under the Plan.

Of this number, 1038 cases, or 67% of the total, dealt with employment and working conditions, wages, piece work, bonus and tonnage schedules, and safety and welfare—which constitute, of course, the most important questions.

The rest of the cases had to do with such questions as sanitation, transportation, living conditions, education, recreation, and so forth.

It is very significant that during the last twelve months an increasingly large number of questions of this nature have been brought up. This means that the Employee Representation Plan is becoming even more effective. It means that more of the employees, and the employee representatives especially, are becoming increasingly interested in ways and means whereby work can be made more efficient and life may be made pleasanter, safer, and more comfortable.

There is not room in this bulletin to tell in detail of the many various things which have been done as a result of requests by employee representatives in the corporation's different plants and mines. They are of all sorts and descriptions. You yourself are familiar with what has been accomplished through the Plan in the division in which you work.

It has been particularly interesting to note that a great many of the suggestions which have been made by employee representatives have been of distinct benefit to the company as well as to the men. The men often see things which management overlooks. A large number of this year's suggestions have resulted in better workmanship and more efficient operation.

Results

Of the 1538 cases handled under the Plan from March 1, 1934 to February 28, 1935, 1086, or 70%, were settled in favor of employees, 213 cases or 14% were settled in the negative, 78 or 5% withdrawn by employees, 59 or 4% compromised, and 102 or 7% remained pending settlement.

An old proverb says that "the proof of the pudding is in the eating". The figures showing the nature of the questions raised, and showing how these questions were decided, certainly demonstrate what a practical and efficient plan of collective bargaining the Employee Representation Plan is. It works.

(Continued on page 15)

(Enclosed in a box in lower left hand corner)

CASES HANDLED UNDER THE EMPLOYEE REPRESENTATION PLAN FROM MARCH 1, 1934 TO FEBRUARY 28, 1935, INCLUSIVE

Subject	Total Cases Handled
Employment and Working Conditions	413
Wages, Piece Work, Bonus, Tonnage Schedules	318
Safety and Welfare	307
Practice, Methods and Economy	103
Health and Works Sanitation	150
Employee Transportation	56
Housing and Living Conditions	24
Education and Publications	12
Athletics and Recreation	69
Rules, Ways and Means	86
Total	1538

Settled in Favor of Employees	1086
Settled in the Negative	213
Withdrawn by Employees	78
Compromised	59
Pending Settlement	102
Total	1538

(This page is comprised of group pictures of Employee Representatives. In the upper left hand corner is a group of twenty-nine men of the Central Alloy District, Canton, O., Plant. In the upper right hand corner is a group of twenty-two men of the Central Alloy District, Massillon, O., Plant.)

(Centered in upper middle portion of page)

EMPLOYEE
REPRESENTATIVES
Youngstown, Massillon,
Canton, Buffalo
and Warren

(Middle row, group picture of eighteen men from the Buffalo, N. Y., District. Next to this is a group picture of thirty men from the Warren, O., District. The bottom row group picture is of thirty men from the Youngstown, O., District.)

(This page contains group pictures of Employee Representatives. In the upper left hand corner is a group picture of seven men from the Upson Nut Division, Cleveland, O., Plant. In the upper right hand corner is a group of three men from the Upson Nut Division, Muncie, Ind., Plant.)

(Centered in upper middle portion of page)

EMPLOYEE REPRESENTATIVES

Upson Nut Divisions,
South Chicago, Moline
and Grand Crossing

Middle row, group picture of three men from the Upson Nut Division, Unionville, Conn., Plant. Next to this is a group of twelve men from the Chicago District, South Chicago, Ill., Plant. The bottom row, lower left hand corner group picture is of four men from the Chicago District, Grand Crossing, Ill., Plant. The bottom right hand corner picture is of a group of three men from the Chicago District, Moline, Ill., Plant.)

THINK SAFETY - - - WORK SAFELY

by R. H. Ferguson, Manager of Safety

(There is a chart in the upper right hand corner of this page showing the Per Cent Decrease in Lost Time Accidents under 1929 and the Per Cent Decrease in Fatal Accidents under 1929. The years from 1929 to 1934 are shown and graphed lines opposite the years show percentage decreased. In a column to the extreme right captioned "Number Employees Saved from Injury" under Lost Time Accidents, and "Number of Lives Saved" under Fatal Accidents. In the lower left hand corner of this page is the picture of a shoe split open from the weight of 108 pounds on the toe.)

The year 1934 was not a good year for safety in Republic. While no effort was spared to further the accident prevention activities, yet there was a 23% increase in Lost Time Accidents, while Man Hours increased only 16%.

All of the "picture" is not so black, however, as the above figures might indicate. For instance, the Youngstown District operated 57 days without an accident and won the "Certificate of Merit" awarded by the State of Ohio. The Buffalo District operated 224 days without an injury and won the Associated Industries of New York award for the accomplishment. The Warren District worked the second consecutive year without a fatal injury.

The Townsite Ore Mine has operated more than four years without a Lost Time Accident while the Unionville Plant of Upson Nut had worked 1,760 accident free days and the Gary Plant of Union Drawn 1,254 days up to the first of the year.

These are real safety records, men! It only proves to every one of us that it can be done.

Based on 1929 figures, even last year's record showed improvement. During this five year period, 3,275 employees had been saved from Lost Time Accidents and 24 employees saved from fatal injury.

The failure to observe safety rules and instructions and the indulgence in unsafe practices, rather than physical conditions, were largely responsible for the accident increase in 1934.

The reporting of Unsafe Practices has done much to eliminate unsafe working habits. Let's keep after this part of the work. The strict observance of safety rules and instructions and the regular attendance in group safety meetings will help produce results.

Safety is not a "one-man job". It is everybody's job. Do your part. Make 1935 a safe year.

Think Safety—Work Safely.

(Article in lower left hand corner)

108 Pounds on the Toe—but No Injury

Two hours after a hooker in the bar finishing department of the Buffalo District of Republic had purchased a pair of safety shoes, he was holding the cables on a lift of four crank shafts which had been placed on a bench. The crane operator, mistaking another hooker's gesture, took it as a signal to hoist. The cable sling tipped the lift and one crankshaft, weighing about 108 pounds, slid off the bench and dropped end first onto the hooker's foot 24 inches below. The picture tells the story.

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Republic Steel Corporation and Subsidiaries

EMPLOYEE REPRESENTATIVES
1934 - - 1935

CENTRAL ALLOY DISTRICT
Canton Plant

Bartlett, H. M.; Bender, Purvis; Bishop, L. L.; Campbell, D.; Camper, Willis; Cline, C. W.; Denzer, D. M.; DeRoche, L.; Dunn, J. M.; Gathers, A. A.; Geltz, Robert; Gottscheck, Wm.; Harro, Harvey; Heidy, E. L.; Hodge, Charles; Fisher, F. T.; Jones, David; Lantry, Burrell B.; Lappin, C. E.; Lilly, R. J.; Miller, G. E.; Morris, V. W.; Reese, W. D.; Saunders, T, Sr.; Shankel, T. H.; Starkey, C.; Stewart, Jas.; Syfert, L. A.; Whitehouse, Richard.

Massillon Plant

App, William; Barnes, Raymond; Beckler, Clayton W.; Brown, N. C.; Burkhart, Donald A.; Burson, J. W.; Clark, L. B.; Conkle, Raymond; Graham, W. L.; Hammer, O. W.; Hoffman, Paul; Hollinger, J.; Linckenhely, N.; Machan, Russell; Reese, John; Rossiter, Efford; Rutherford, A. S.; Shoemaker, Ralph; Steiner, Harold R.; Seward, R. D.; Teeters, Abraham; Wagoner, Geo.

YOUNGSTOWN DISTRICT

Ague, Roy; Amon, Charles; Bakes, John; Beam, Charles; Beatty, W. Leon; Connors, Earl; Cuccarese, Phillip; Dyer, George; Gething, Evan; Guest, John; Joyce, Stephen; Keeling, A. J.; Klenotich, George; Krichbaum, E. W.; Larson, Walter; Mondora, Ralph; Moschelia, Ferdinand; Mullaly, Ray; Murphy, Mart; Murphy, Patrick; Olson, Albert; Pearson, Charles A.; Price, Matthew; Sells, Edward; Smith, J. L.; Thomas, Willard; Thornton, William; Waldron, Frank; Walsh, Carl; Williams, Henry; Vearial, Burt.

BUFFALO DISTRICT

Barrett, Charles; Caher, Patrick J.; Courtney, John F.; Daly, Sylvester J.; Gannon, Walter J.; Hall, Thomas; Leatherbarrow, Albert; Leatherbarrow, Richard; Marquardt, Earnest F.; McDonnell, Miles W.; Nicol, William E.; O'Connell, Edward L.; O'Connor, John L.; Quinn, Felix; Reville, Thomas T.; Schnorr, Joseph; Vesona, Raphael; Weaver, John J.

WARREN DISTRICT

Allen, George L.; Bevan, James; Carnahan, Luster; Chilson, Ed.; Cook, Lonzo B.; Dahringer, A. F.; Devlin, C. S.; Drabers, C. W.; Dugan, Glenn; Edwards, Wm. M.; Evans, Stanley; Fawcett, J. A.; Gardner, Harry; Groth, G. E.; Herst, George B.; Hiryok, J. C., Jr.; Hughes, Charles; Hughes, William J.; Mitcheltree, Paul; Mulligan, E. J.; Parent, C. V.; Rallsberger, G. F.; Rees, David; Richards, F. W.; Roberts, R. A.; Shagnot, F. R.; Stephany, J.; Thomas, Frank; Thomas, George; Timms, A. P.; Warner, R. B.; Webb, Ernest; Whetstone, S. E.; Wilson, F. S.

CHICAGO DISTRICT

South Chicago Plant

Curran, C.; Enrietto, A.; Kretche, J.; Meyers, L.; Miller, C. E.; Moore, C. H.; Peters, F.; Peters, R.; Santelli, E.; Turizo, S.; Williams, C. R.; Williams, E.

Grand Crossing Plant

Anderson, W.; Norton, B.; Sypniewski, F.; Tishey, S.;

Moline Plant

Ford, E.; Hart, A.; Steele, C. L.

UPSON NUT DIVISION

Cleveland Plant

Beier, William; Bluhn, George; Dreier, Peter J.; Moore, James; Pelat, George; Ziegler, Fritz; Zirwes, Elmer.

Muncie Plant

Dawson, John; Hanes, Robert; Smith, Robert H.

Unionville Plant

Gagnon, Joseph; McMahon, George; Ryvak, Michael.

NORTHERN ORE MINES

Townsite Mine

Hocking, John; Johnson, John; Rowe, William.

Kinney Mine

Cundy, T. C.; Ilkka, John; Rappuchi, Gene.

Cambria Mine

Foisie, Jos., Jr.; Tilot, John; Yelland, Richard.

Alexandria Mine

LaFreniere, George; Pakiz, Carl; Salmi, Victor.

Susquehanna Mine

Carmichael, G. D.; Ferris, Elwood; Muck, Charles.

STEEL AND TUBES, INC.

Elyria Plant

Hotow, Fred; O'Dell, Milne E.; Winkler, C.

Brooklyn Plant

Devoe, T.; Obermeyer, L.; Ramsey, P.

Superior Plant

Bushwell, Ernie; Schoenfield, Chas.; Eddington, Merle.

Cleveland Plant

Davin, Tom; Herold, Carl; Lawrence, John; Miklavcic, Joseph; Phillips, Frank; Willis, Albert.

Ferndale Plant

Hurst, J.; McArthur, O. R.; Richardson, G.; Robinson, A.

UNION DRAWN STEEL CO.

Gary Plant

Griffin, Carl; McNary, Dean L.; Surprise, Kenneth.

Massillon Plant

Langenfeld, George J.; Pollock, George A.; Ritter, Charles J.; Tennis, Paul W.; Walter, Raymond O.;

Beaver Falls Plant

Fritz, Charles; Gumpf, John; Haggert, Andrew.

Hartford Plant

Callahan, James A.; Larson, Walter; Predota, Charles.

Ideal Foundry and Machine Co.

Eddy, John G.; Mitchell, R. H.; Stoner, T. C.

BIRMINGHAM DISTRICT

Thomas Plant

Gadsden, Frost; Gillespie, Hamp; McKinney, Peter; Mims, Albert V.; Nichols, Walter; Ponder, A. T.; Simpson, C. J.; Tate, J. D.

Spaulding Mine

Boykin, George; Calvin, Ned; Herring, C. E.; Langford, C. W.; Vincent, John.

BERGER MANUFACTURING CO.

Bailey, W. J.; Hahn, Shane; Hanna, E. E.; Meyer, C. C.; Williams, A. C.

DILWORTH PORTER DIVISION

Carney, I.; Orgi, Anthony; Strotz, Joseph; Shuster, Howard.

CANTON CULVERT CO.

Rubel, Benny; Smith, John; Wagner, John.

8 REPUBLIC

(Enclosed in Circle in upper left hand corner)

EMPLOYEE REPRESENTATIVES

Northern
Ore Mines

(This page contains group pictures of Employee Representatives. In the upper right hand corner is a group of three men from the Townsite Mine, Ironwood, Mich. In the middle row left is a group of three men from the Alexandria Mine, Hibbing, Minn. Next to this is a group picture of three men from the Kinney Mine, Kinney, Minn. In the lower left hand corner is a group of three men from the Susquehanna Mine, Hibbing, Minn. In the lower right hand corner is a group of three men from the Cambria Mine, Negaunee, Mich.)

APRIL 1935 9

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EMPLOYEE REPRESENTATIVES

Steel and
Tubes, Inc.

(This page contains group pictures of Employee Representatives. In the upper left hand corner is a group of seven men from the Steel and Tubes, Inc., Brooklyn, N. Y., Plant. In the middle row left is a group of three men from the Steel and Tubes, Inc., Superior Plant, Elyria, O. Next to this is a group of six men from the Steel and Tubes, Inc., Elyria, O., Plant. In the bottom left hand corner is a group picture of eight men from the Steel and Tubes, Inc., Ferndale, Mich., Plant. In the lower right hand corner is a group of eleven men from the Steel and Tubes, Inc., Cleveland, O., Plant.)

10 REPUBLIC

STEEL LOOKS TO THE FUTURE

By T. M. Girdler, Chairman and President

(Reprinted from the New York Times of January 20, 1935)
(The picture on this page is in the lower right hand corner and shows a portion of the Massillon Laboratories and is captioned "Massillon Laboratories Pioneer for Steel")

Steel, that American giant which has been basic in the development of our industrial life, is about to enter new fields of application and usefulness to an extent never before anticipated. The rate of invention in the steel business has been speeded up during the depression; new steels and new uses for steel have been developed to such a degree that steel has not only caught up with the times but is actually ahead of them.

For ships at sea and in the air, for the new fast trains and for the automobiles that crowd our highways, improved steels are available. To factories and fields and offices where men work steel brings a new efficiency. And, finally, but not least important, steel is invading the American home as never before. It is being built into the homes; it is the material of which an increasing number of houehold utensils are being made.

Research men have perfected methods whereby steel can be produced to fit specifically the various uses indicated by the shifting markets. There has been a transformation in the whole research philosophy and in the marketing objectives of the industry. Steel salesmen and merchandisers study not only what types of steel are best adapted to current uses—they ponder on how steel can be adapted to purposes never before thought of. Their ideas are transmitted, in turn, to the research laboratories.

The great advantage of the steel industry today is its ability to produce "tailor-made" steels. There is no such thing today as simply "steel", but there are hundreds of specialized steels, each manufactured to do a particular job.

Some mathematically minded man has figured that the number of different combinations which can be made from iron, carbon, chromium, vanadium, manganese, molybdenum, silicon and nickel—to mention only a few of the most common alloying elements—amounts to 775 followed by no less than 1,974 ciphers. This indicates some of the infinite resources available to the manufacturers in the development of special-purpose steels.

Our research men have discovered that much of the variation in the characteristics of steel, which greatly affects the results in machining, heat treating and other processing, is directly traceable to factors in steel-making not connected with the chemical analysis itself. They have also found methods of controlling these factors, which are known as the "harden-ability factor" and the "grain size number". The result is a uniformity in characteristics and properties of steels, especially those which must be hardened or toughened by heat treatment, which has never before been accomplished.

When we consider the staggering losses each year from rust and corrosion, it is easy to understand the widespread interest of all industry in the development of what is popularly known as "stainless steel". It should be emphasized that "stainless steel" is a term which popular useage has applied to what is really a series or family of both stainless and heat-resisting alloy steels.

Widely as stainless steels are employed today, I feel sure that the development of new uses, both in industry and in the home, has scarcely begun.

In the future the steel industry not only expects increased industrial replacement demand but a long list of new uses brought about by developments in the fields of air conditioning, aviation, railroad transportation, ship construction, housing and many others which may arise in either the immediate or the more distant future.

There is one group of alloys, for instance, with increased strength and at the same time decreased weight. In the long run, these alloys must inevitably lead to a complete replacement of a vast share of the country's present transportation equipment.

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(The picture on this page is in the upper right hand corner and shows a slitting machine. This is captioned "Slitting Machine—Rotary Knives Shear Skelp for Electric Weld Pipe.")

There is a similar situation in the entire machinery field.

The home may likely prove the greatest of the new markets for steel. There is at this time an enormous deferred demand for new residences. When and if the financial situation permits resumption of new home building, this field may develop real tonnage for the steel industry.

Today, steel plumbing, furnaces, kitchenware, tableware, refrigerators, laundry equipment are no longer novelties—but the market has been hardly more than scratched. The home modernization program inspired by the Federal Government is daily bringing steel-built equipment, often for the first time, into thousands of homes and business structures.

The field of household appliances is not, in my opinion, so great as the potential market for the steel house. Both from the cost and production standpoints, the steel house is practical, and it has passed the experimental stage.

Equipment developed for rolling wide sheets for automobile bodies can, with modifications in rolling practice, be employed for rolling sheets of stainless steel, alloy steel sheets, iron alloy sheets, or sheets of enameling stock. All of these can be used for interior or exterior walls of buildings.

That steel framing for houses and small buildings will soon become widely accepted is almost a certainty, for steel can bring to these smaller buildings the same advantages of rigidity, fire safety, lightning protection and immunity to attack by termites and vermin that it does now to skyscrapers.

The fact is that within comparatively few years steel may actually change the face of the entire landscape. New styles in architecture are being devised to make full use of the many advantages of steel. Perhaps steel buildings will have as many fashions and designs as there have been in wood, brick and stone structures.

Steel today is anticipating new wants. It stands waiting for the return of business confidence which may translate potential markets into current demand.

(Enclosed in box at bottom of page)

SOME OF THE PRODUCTS OF REPUBLIC AND SUBSIDIARIES

Pig iron, coke and coke by-products.

Open hearth, Bessemer and electric furnace steel; alloy and carbon blooms, billets, slabs, sheet and tin bars, skelp and rods, merchant steel bars, small shapes, special sections.

Strip: Hot and cold rolled.

Sheets: Blue annealed, black, pickled, full finished, auto body, metal furniture, electrical, galvanized, long ternes, enameling iron.

Tin plate: Coke tin plate, standard and lacquered finishes, tin mill black.

Cold drawn steel: Carbon and alloy rounds, squares, flats, hexagons and special shapes, turned and polished rounds, ground products, cold heading wire.

Fabricated products: Steel filing cases, desks, tables, storage cabinets, lockers, shelving, ceiling, joists, steel lath, voting machines.

Iron and steel culverts.

Pipe and tubes: Electrical resistance weld, butt and lap weld, oil country goods, boiler tubes, rail steel tubing, conduit.

Specialties and miscellaneous: Enduro stainless steels, Toncan copper molybdenum iron and Agathon alloy steels in many forms and finishes; bolts and nuts, wire and wire products, tacks and nails, railroad spikes and tie plates.

12 REPUBLIC

(Enclosed in a circle in the upper left hand corner of page)

EMPLOYEE
REPRESENTATIVES

Union Drawn
Steel Co.

(This page contains group pictures of Employee Representatives. In the upper right hand corner is a group of three men from the Union Drawn Steel Co., Gary, Ind., Plant. In the middle row left is a group of three men from the Union Drawn Steel Co., Hartford, Conn., Plant. In the group picture next to this is a group of five men from the Union Drawn Steel Co., Massillon, O., Plant. In the lower left hand corner is a group of three men from the Union Drawn Steel Co., Beaver Falls, Pa., Plants. In the lower right hand corner is a group of three men from the Ideal Foundry & Machine Co., Beaver Falls, Pa.)

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EMPLOYEE
REPRESENTATIVES

Birmingham District,
Berger Mfg. Co.,.
Dilworth-Porter Division
and Canton Culvert Co.

(This page contains group pictures of Employee Representatives. In the upper left hand corner is a group picture of four men from the Dilworth Porter Division, Pittsburgh, Pa. In the middle row left is a group of eight men from the Thomas Plant, Birmingham, Ala. In the picture next to this is a group of five men from the Spaulding Mine, Birmingham, Ala. In the lower left hand corner is a group of five men from the Berger Manufacturing Co., Canton, O. In the lower right hand corner is a group of three men from the Canton Culvert Co., Canton, O.)

AROUND THE CLOCK WITH REPUBLIC PRODUCTS

(The picture on this page is in the middle left hand side of the page and pictures a group of women making Enduro Steel and is captioned "Enduro Turns Factories Into Show Places.")

The products of the Republic Steel Corporation blaze a clean cut trail through every hour of modern life, whether it be in the city, on the farm, at sea or in travel between one place and another. They serve the builder, the mechanic, the engineer, the farmer and the housewife with a faithfulness that provides inspiration for all who have helped to make Republic the world's outstanding producer of alloy steels and irons in addition to a large producer of carbon steels.

From sun-up to sun-up, Republic's wares are with Mr. Average Man. Spend a day with him and see how many times they cross his path.

He wakes up in the morning to the tune of an alarm clock, encased in Enduro stainless steel. Heat is already coming up into radiators cast from Republic's pig iron, thanks to the automatic stoker with shafts and forgings of Republic alloys.

He hops out of a bed whose springs have been formed with Republic spring wire, and whose decorations may be Enduro stainless steel. Into a bath, he is refreshed by water drawn through plumbing of Toncan Iron pipe. The early morning plane zooms over head with forged engine of Republic alloys and structural parts drawn to exact dimensions by the Union Drawn Steel Co.

Breakfast, with coffee piping hot in a shining Enduro stainless coffee pot, comes in off a range built of Republic's pig iron, Toncan enameling stock, Upson bolts and nuts and galvanized sheets. The coffee is stirred by a spoon of Enduro when it reaches the cup. Then he is off to work.

Whether he goes by automobile or street car, Republic helps him along the way. Riding an auto, he will find the body metal pressed from steel rolled in Republic sheet mills, springs of Republic's Agathon alloys and parts and gadgets of Enduro stainless. The car may even carry license plates that had their origin in ore shipped down from the Lake Superior mines on Republic's fleet.

If he rides the street car, his ride is over rails held in their places by tie plates, spikes, bolts and nuts from various of the company's plants.

If our Average Man works in a factory, he is surrounded by machine tools, conveyors, power units and materials incorporating a large assortment of special irons and steels produced by Republic, to resist corrosion, withstand abrasion and retain their strength at extreme temperatures.

If his is an office position, he relies on steel filing cabinets from the Berger Manufacturing plant to keep his papers in order, sits at a desk of steel from the same plant and uses miracle working business machines whose more intricate parts are fabricated from Enduro stainless steel. There may be pneumatic tubes for intercommunication between departments, built of Republic Electric Weld pipe, and the office, if it is in a modern many-storied structure, is sure to have tons of Republic products somewhere within its walls, as framework, door bucks, lathe, plumbing and conduit.

Likewise, if he works on the railroads or aboard vessels on the Lakes, he rides steel clad carriers whose plate may have come from Republic. If he works on the soil, tools by which he gets the maximum harvest are of Republic steel. If he is in the construction trades, his materials are largely steel.

At the end of the day, as he turns homeward, the colorful enameled filling station, built of Republic's special enameling iron and Enduro stainless steel from top to bottom, catches the eye of the man who drives a car. It is a reminder of a gasoline tank nearly empty, so Mr. Average Man drives in to put five gallons in his car.

Behind his motor fuel lies a whole network of Republic's iron and steel, from the distant oil well where the crude was taken from the ground, through miles of pipe line and into a storage tank of heavy plate. Before the oil reached the point of usefulness as anti-knock gasoline and

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(This page contains a picture in the upper right hand corner showing the process of lining barrels with Enduro and is captioned "Enduro Lines Barrels for Fruit Products")

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motor oil, it passed through great lengths of corrosion resisting Republic steel tubing from Steel & Tubes, Inc., in refining and cracking processes.

Streets on the way home look different. Fronts have been altered with the application of Enduro at the restaurant and a hardware store where nails, tacks, wire, nuts and bolts, and scores of other Republic products are on sale. A new steel frame house is taking shape, with materials from the Berger plant.

At home, dinner reflects the use of Republic's iron and steel at many points in preparation of the family fare at Mr. Average Man's. Kitchen utensils of Enduro stainless send food to the table with a maximum of flavor and truly hot. Soup comes out of a can formed from Republic's tin plate. Milk comes pure and cold, having been pasteurized inside tanks lined with Enduro stainless steel and then cooled in a refrigerator of Toncan iron construction.

When the meal is over, it takes just a few minutes to clean up, so simple is the job of doing Enduro pots and pans after cooking.

In a cushioned chair resilient with Republic spring wire, Mr. Average Man spends an evening between books and radio. The lamp, drawing current from distant dynamos via Steeltubes conduit right into and through the house, throws its clear light across a table, reflected on the mirror-like surfaces of Enduro stainless ash tray and book ends.

Voices are drifting in through the steel-clad loud speaker from radio towers fashioned from Republic structural sections. Even the Sil-con electrical strip in the transformers is Republic's. The press radio bureau reports on Admiral Byrd from Antarctica, and something about the CCC. Byrd's first polar ship was equipped with Toncan Iron boiler tubes and CCC boys have been eating food prepared on Toncan Iron ranges for a year.

Music pours in from Radio City, where the air-conditioning system utilizes miles of Toncan Iron pipe and welding fittings. It is a cigaret broadcast for smokes that roll from Toncan Iron tobacco storage bins into Enduro stainless steel machines.

Soon it is time for Mr. Average Man and his family to call it a day. They turn the steel bolt on the door and then wend their way back again to rest on springs drawn from Republic steel.

Steel—with Republic in the pioneering front rank—has remade the world.

It has revolutionized the manner of doing and making things within a quarter century.

There is no limit to what it may do further, in the next twenty-five years, to add to the comforts and conveniences of human life.

THE YEAR'S ACCOMPLISHMENTS UNDER THE REPRESENTATION PLAN

(Continued from Page 3)

Furthermore, it works throughout the steel industry. It is quite interesting that figures showing the results of a year's operation of the Employee Representation Plan in the steel industry as a whole are very similar to those covering the operation of the Plan in Republic.

The American Iron and Steel Institute made a survey of the operation of Employee Representation Plan in thirty-five leading steel companies employing (at the time of the survey) about 320,000 workers. The questions raised naturally covered much the same ground as those raised in Republic. The cases discussed totaled 12,709. Of these, 71.1% were settled in favor of employees, 16.3% in the negative, 6.8% compromised, and 5.8% withdrawn, leaving 663 cases pending.

In short, the Plan functions throughout industry in much the same way as it does in Republic.

Why the Plan Works

The employee Representation Plan works because it is a simple, direct and immediate method of handling things.

Any employee can raise any question he wants to. Any employee representative can bring forward anything he pleases.

Employee representatives and company representatives are men who know each other, who know the employees personally, and who have a first-hand working knowledge of the questions under discussion. Problems are taken up and thrashed out over-the-table, man-to-man.

Under the Employee Representation Plan, we may look forward to a still further development of mutual understanding that works to the common good.

(Back Cover)

SOME OF THE THINGS THAT INTEREST THE PHOTOGRAPHER WHEN HE VISITS REPUBLIC

(This page is composed entirely of pictures of the various processes in steel making at Republic. In the upper left hand corner under the title is a picture captioned "Charging an Open Hearth." In the upper right hand corner is a picture captioned "Stripping Ingots." The pictures in the middle of page reads "A Bessemer in Action." In the lower left hand corner the picture is captioned "Loading Scrap with Twin Magnets." In the lower right hand corner the picture is captioned "Coke Ovens.")

BOARD'S EXHIBIT NO. 73

PROGRAM OF THE ANNUAL CONFERENCE
under the
PLAN OF EMPLOYEE REPRESENTATION
REPUBLIC STEEL CORPORATION
Youngstown District
REPUBLIC STEEL
Emblem

Youngstown Club	April 7, 1936
Dinner	6:00 P. M.

Presiding

C. H. Elliott	District Manager

Speakers

Martin Murphy	General Chairman

Chairmen of Committees

Walter Larson	Rules, Ways and Means
John Guest	Wages and Working Conditions
James Maughan	Safety and Welfare
Martin Murphy	Appeals

Conference

Program Committee

Joint Committee on Rules, Ways and Means

Walter Larson, C. C. Edwards, Warren Clever, A. P. Thompson, S. Keenan, F. W. Cramer, Charles Amon, Roy Case, Steve Rakocy, R. Stevens.

R. N. McCoy	Management Representative

General Body of Employee Representatives
1935 - 1936

Martin Murphy	General Chairman
Carl Walsh	Vice General Chairman
James Maughan	General Secretary

Walter Larson, Matthew Price, Stephen Joyce, Charles Amon, Harry Cohen, Phil Cuccarese, John Anderson, A. J. Keeling, J. B. Potter, Ferd. Moschellia, Thomas Lamb, Stephen Rakocy, John Guest, John Fekety, A. Malamisura, Jack Meadows, P. L. Murphy, Warren Clever, Joseph Smith, George Cabin, James Welsh, Ralph Mondora, Jay Harman, Edward Reeder, S. Keenan, Roy Ague, L. Laney, Joseph Troll.

BOARD'S EXHIBIT NO. 74

CENTRAL COUNCIL

Members of Central Council shall be composed of delegates of duly elected Employee Representatives to be elected by the General Body, viz:

District or Plant	*Delegates*
Cleveland	2
Canton	2
Massillon	2
Buffalo	2
South Chicago	2
Warren	2
Youngstown	2
Dilworth-Porter (Pittsburgh)	2
Grand Crossing	1
Moline	1

Officers of the Central Council shall consist of Chairman, Vice-Chairman and Secretary, to be elected by the delegates to the Central Council, such officers to hold office until their successors are elected.

The Central Council shall meet semi-annually, preferably during the months of January and July, and special meetings of Central Council may be called on joint approval of the Chairman.

BOARD'S EXHIBIT NO. 75

REPUBLIC STEEL CORPORATION

Youngstown District

Messrs: John Anderson, Ed Bogan, H. K. Butler, Geo. Campbell, Dave Chapman, George Cabin, Warren Clever, Harry Cohn, A. H. Coughlin, John Guest, Harry Guiles, G. J. Hughes, Jack Jones, A. J. Keeling, J. A. Keenan, James Kelly, Thomas Lamb, Lawrence Laney, Albert Leyshon, Ralph Mondora, Ferd. Moschella, Mart Murphy, Robert Owens, Matt Price, J. L. Smith, Joseph Troll, Peter Urick, Ameal Valley, Geo. VanAllen, Andy Vojack, James Welsh.

Gentlemen:—

The Fourth Annual Conference of Employee Representatives will be held at 12 o'clock noon, April 5th, 1937 at the Tod House.

Luncheon will be served promptly at noon and any loss of time preparatory to attendance will be taken care of.

Please arrange to be present at the appointed time and place.

R. N. McCOY

3-29-37

BOARD EXHIBIT NO. 76

JOIN THE C. I. O. AND HELP BUILD A SOVIET AMERICA

FOURTH EDITION

The
Constitutional Educational League

is just what its name implies—an educational organization with a patriotic objective.

Red critics, within and without the CIO, will charge that the League is a "strike-breaking agency"—a "manufacturers' outfit"—an "anti-union racket." All of which, of course, is just so much buncombe.

Since 1919, the League has been engaged in combatting the Red elements through the medium of the printed and spoken word. In this endeaver it has enjoyed the cooperation of loyal American labor. High officials of the A. F. of L. have written for its publications and have spoken from its rostrums.

Even officials of John L. Lewis' United Mine Workers of America have been featured speakers under its auspices and have assisted in its campaigns.

(Send stamps for free pamphlets and literature)

(Union label)

JOIN THE C. I. O. AND HELP BUILD A SOVIET AMERICA

A Factual Narrative
by
Joseph P. Kamp

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CONSTITUTIONAL EDUCATIONAL LEAGUE
INCORPORATED
New Haven, Connecticut

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CAPTION

JOHN L. LEWIS, Chairman, CIO
***"well known traitor to labor"**

COMMUNIST HONOR ROLL 1937
(Soviet Emblem)
STALIN
"presented new Soviet Constitution"
EARL BROWDER
"fights for Farmer-Labor Party"
LARGO CABALLERO
"head of People's Front in Spain"
JOHN L. LEWIS
"heads the CIO"
TOM MOONEY
"his case in critical stage"
HOMER MARTIN
"in drive to organize auto industry"

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*(Footnote: This is the opinion of an active organizer among the auto workers. The quotation was taken from an article on union strategy which appeared in the April, 1935, issue of the *A. F. of L. Rank and File Federationist,* an unofficial publication sponsored by the same elements which are now hailing Lewis as their leader. In the picture above, Lewis is seen speaking over station WEVD, named for America's outstanding revolutionary, Eugene V. Debs. (International News Photo.))

KRHYPNIN

"head of Soviet aviation"

The above "roll of honor," appeared, with pictures, on the front page of the *Western Worker* on January 7th, 1937. This newspaper is the "Western Organ of the Communist Party, U. S. A. Section of the Communist International."

Introduction

It is hard to imagine free American workers cooperating in a scheme to Sovietize America.

It is difficult to comprehend that they would help in any manner, shape or form to bring about the overthrow of the American system which has given them so much—the highest wages, the shortest working hours and the highest standard of living in the world.

It is inconceivable that they would, willingly, allow themselves to be used as dupes and pawns in the pernicious game of Communism.

It is almost beyond belief that they would do anything so un-American.

The CIO has come forward as their latest "saviour." It promises to do big things for them. It promises everything under the sun that labor could ever hope for—and then some. It boasts of "victories"—but, so far, the main fruits of its efforts have largely been lawlessness, sabotage, *riots, bloodshed, and huge wage losses. Workers, of course, were the principal victims!

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*(Footnote: "Next time the strikers will be armed with guns," said CIO organizer Victor Reuther, during a recent disturbance in Flint.)

The American worker, who is paying the bill in blood and dollars, is entitled to know just what is behind it all. He wants to know—and should be told—Who are these "labor leaders?" What have they done in the past? Where do they get their ideas? Just what are they trying to do?

These questions and others equally as important are answered herein.

To charge that the CIO is helping to pave the way for a Soviet America may seem fantastic, but it is true, nevertheless. Many other charges, every bit as serious, are made and PROVEN in the following pages. The evidence is presented and it speaks for itself. **That it is authentic—that it can be depended upon as being truthful—is supported by the REWARD offered on the back cover of this booklet, to ANYONE who can prove that a single misstatement of fact has been included in the charges made against the CIO and its leadership.**

The only phase of the situation that cannot be explained is WHY John L. Lewis repudiated his previous anti-Communist stand, and now works hand-in-glove with the disciples of revolution to help create a movement which he, himself, predicted, some twelve years ago, would pave the way for the destruction of our government by the Communist forces.

If, as a result of reading this narrative of strange facts, American workers are convinced that control of the CIO is in the hands of REDS whose principal interest is the overthrow of the American system and the establishment of a Soviet America, it is certain that they will repudiate the CIO and condemn it to oblivion—its deserved destiny.

JOSEPH P. KAMP

Published
MARCH, 1937

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(All rights reserved)

I. "Hand-in-Glove"

"We didn't have the heart to end the strike. We were so happy to have strikes, we didn't want to end them."

That is what Jack Stachel, leading Red agitator, reported to an Extraordinary Conference of the Communist Party in New York, when he explained the successful development of a new Communist tactic—the sit-down or stay-in strike.

"The workers struck and remained inside the factory and forced a compromise with their demands," he told the Central Communist Committee, in describing the details of a Communist-led Grand Rapids strike terminated two weeks before.

That was in July of 1933, almost four years ago.

So you see the "sit-down" wasn't imported from France, after all. It's a carefully developed technique of Communist strategy and at the moment they're using it for all it's worth.

Now, Jack Stachel, still on the Central Committee of the Communist Party, is a CIO director in Pennsylvania, and the whole country, from coast-to-coast, is plagued with sit-down strikes. The *auto strike, most devastating of them all, shut down the auto plants for seven weeks while

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*(Footnote: The auto strike "is only the first en-

John L. Lewis, self-imposed would-be dictator of all auto-workers, prolonged the costly controversy and appeared quite happy about it. He, too, did not seem to "have the heart to end the strike."

Public opinion alone forced a settlement, with both sides claiming to have won a victory of sorts. But--

Regardless of any apparent advantage gained by either of the opposing forces, it will be obvious to honest, clear-thinking observers that, on both sides, ***everybody lost**—that is everybody but John L. Lewis.

---

gagement in a war between labor and finance," says John L. Lewis.)

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*(Footnote: "The auto strikers have gained a significant victory," says an editorial in the Communist *Daily Worker*, "it is a triumph for the policy of militant industrial unionism."

"I can express regret that the automobile workers failed to secure recognition for their own group," said William Green, President of the A. F. of L. "The whole army of labor is injured to some extent when a division of labor sustains a defeat."

"Hell, I've heard that before," declared CIO strike leader Bud Simons when told of the terms of the settlement. "That won't do for the men to hear. That ain't what we're striking for."

"The agreement," said Alfred P. Sloan, Jr., President of General Motors, "as to the terms under which General Motors will negotiate with the U. A. W. A. is in complete accord with the principles on which General Motors has stood since the beginning of this unfortunate controversy which, like all industrial disputes which interfere

Personally, Lewis had nothing to lose. In a sense, he was the perfect example of the Marxian proletarian who has "nothing to lose but his chains", only in John's case they were not chains of wage-slavery but tire chains on his Cadillac limousine.

John Lewis couldn't lose. Whatever the cost to labor—to industry—to the country—John Lewis was determined to make a name for himself.

In fact, he is destined to receive an appropriate reward for his efforts. The Communists who were praying (to Lenin, if not to God) for a CIO victory, took care of that little detail long ago.

It may be that John L. Lewis is not a Communist, and the auto strike may not have been planned in Moscow. Yet, many months before there was even a suspicion of unrest in the prosperous, high-wage paying motor car industry, a very significant step was taken in the Red capital. In order to conform to Communist plans to overthrow our Government, and establish a Soviet America in its place, the map of the United States was redrawn, and the names of its principal cities were changed.

The City of Detroit was renamed LEWISTOWN.

This is no figment of the imagination, and neither is it a deep, dark, well-hidden secret. The map was made for the world to see, and even now it is proudly displayed in the Moscow "Museum of Revolution."

This does not necessarily prove anything. Still, when it is recalled that the Building Trades Department of the American Federation of Labor, at the Tampa convention, charged that the CIO was "*communistically inclined and*

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with production, has resulted in a staggering loss to everyone concerned.")

controlled," and also when it is noted that President John P. Frey, of the Metal Trades Department, told a convention of machinists at Milwaukee that "On orders from Moscow, the Communists are advocating the Committee for Industrial Organization set-up as a step towards the United Front which has caused discord in France and Spain"—it IS something to think about.

Some may insist, perhaps, that these statements should not be taken at their face value. After all, Lewis' former A. F. of L. colleagues are antagonistic to him and his CIO. They are deeply concerned in maintaining the supremacy of their traditionally American unions in the face of his "industrial union" threat. It is true they are interested parties. They might, possibly, be biased in their observations.

It is curious then that a somewhat similar charge should be made by a high official of a CIO affiliate—the very union that the CIO was organized to help—the Amalgamated Association of Iron, Steel, and Tin Workers. It was at the Pittsburgh convention that Louis J. Leonard, International Secretary, declared:

"We know that Communists are making the most serious threat we yet have faced to gain power in our union. They are turning every stone possible and are working *hand in glove* with those strange bedfellows, Lewis and John Brophy, in the (CIO) industrial committee."

Disregarding the motives and the personalities involved, these charges are either true or false. The interesting thing is that, so far, they have not even been denied.

On the other hand, it is known that Lewis has grouped around him, in the CIO organization, many agitators who were, or still are, leaders in the Socialist, Communist, IWW, and Anarchist movements. In fact, his own union, the United Mine Workers, just a few years ago, branded his two most trusted CIO lieutenants, John Brophy and Powers Hapgood, as agents of the Communists, and intimated that one of them, at least, was in the direct pay of Moscow. They were busy, at the time, organizing a Communist group within the miners' union called the "Save the Union Committee."

"For months past," said the United Mine Workers *Journal*, on May 1st, 1928, "the 'Save the Union Committee' under the leadership of John Brophy, Patrick Toohey, and Powers Hapgood and a few others has been doing its dirtiest to capture the United Mine Workers and to transform this splendid union into a Communist organization. In carrying out this campaign, the 'Save the Union Committee' has had the full and complete support and assistance of the entire Communist element in America and foreign countries, including Russia."

In another editorial blast the Miners' *Journal* declared that the "Save the Union Committee" became "extremely busy in its efforts to wreck the United Mine Workers shortly after John Brophy returned from Russia . . . the very minute he came back . . . it seemed to have plenty of money . . . It should not be difficult to guess where a part of the money came from to finance the campaign of destruction."

Lewis, himself, in the early twenties; was extremely critical of the type of organization which he now espouses. At that time he warned that "industrial unions" would enable Communist forces to make every local strike a general strike, terminating in national strikes—enveloping all industry. In stirring language, he declared that through such general strikes the nation could be turned into a bedlam of riots and civil warfare to set the stake for the overthrow of the Government by the Communist forces. In his typical belligerent and two-fisted manner he attacked

Brophy and Hapgood and William Z. Foster, who was then leading the Communist campaign for industrial unionism.

He even caused an investigation to be made and submitted to a United States Senate Committee a report on the "attempt by Communist to seize the American labor movement." In this document it was charged that Communists were trying to wreck his miners' union by "conversion of all craft unions into single units of workers within an industry known as 'industrial unions' with coordination under a super-soviet union owing allegiance to, and accepting the mandates of the Communist Internationale and its subsidiary, the Red Trade Union Internationale, at Moscow."

At the present time, similar industrial unions, under Lewis' leadership, foment local strikes, which become general strikes, in effect, and assume national proportions. His industrial unions have caused riots—they have brought communities to the very brink of civil warfare. He has seized a goodly portion of the American labor movement, and high in his directing councils, at his right hand and at his left, sit the self-same radicals, which he, himself, branded as agents of the Red Internationale.

The accusations that Lewis made against John Brophy, Powers Hapgood, and William Z. Foster, years ago, were true in every detail. His characterization of "industrial unionism" was correct in 1924, and still holds good today. When, therefore, these individuals, together with other Communists and radicals of every stripe and hue, now cooperate with him in furthering the identical "industrial union" program which he warned against twelve years ago, it must be concluded that John Lewis has gone over to the enemy camp.

The fact is that John L. Lewis has become the leader of the radical forces. Today, he is the little "white-haired" boy of the Communist movement—and it is behind him, officially, one hundred per cent.

William Z. Foster, whom Lewis denounced so bitterly, and who, in turn, was brutally severe in his criticism of Lewis until shortly before the CIO was organized, is now the leader of the Communist movement in America. He is to this day a representative of the Communist Internationale, identified as America's arch enemy in the aforementioned report to the Senate committee. He speaks with full authority for the Communist movement, both here and abroad.

"The CIO," says Foster, in a fulsome tribute, "led so aggressively by John L. Lewis, is doing an historically important thing . . . The CIO has become the actual leader of the trade union movement . . . The Communist Party heartily supports the CIO organizing campaigns in steel, automobile, rubber, glass, textile, etc., and mobilizes all its forces to assist in this work."

John L. Lewis repays the compliment by putting good Communist organizers on the CIO payroll; by utilizing known Communists in his organizing and strike campaigns; by openly cooperating with Communist and Communist-controlled organizations; by hiring representatives of the Communist defense movement as "counsel" for his unions; by using the Communist official organ as a mouthpiece for exclusive statements; and by writing for Communist and pro-Communist magazines.

Furthermore, his CIO has been most helpful in carrying out the "industrial union" and "boring-from-within" program laid down by the Central Committee of the Communist Party in January, 1935.

And finally, instructions from the Congress of the

Communist Internationale, issued just two months before the CIO was born, have been followed with dispatch by Lewis and his revolutionary aides.

What Lewis' motives are, no one knows but himself. It could be that he merely intends using the Communist to advance his own fortunes—politically or otherwise. Then again, he may have had a real change of heart since the days when he battled with the Red forces and was taught to respect their power. Now, he may actually believe that he can reach his objective. whatever it is, the Communist way.

But, if he expects to out-smart his new-found Communist friends—he's got another guess coming. He is no match for the collective ability, shrewdness, and unscrupulous scheming of the Communist high-command. They are playing ball only because they expect to take over the leadership of the entire labor movement. Whether they hope to acquire control through Lewis or to wrest control of labor from him, is beside the point. In the end, by fair means or foul, directly or indirectly, they expect to be in command.*

As for the present, with John L. Lewis working "hand in glove" with them, and helping to advance their

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*(Footnote: On April 6th, 1937, a month after this booklet was first published, the Communist weekly, the *New Masses,* declared:

"As the CIO awakens and co-ordinates the working class, Lewis must either keep pace (and he has done so brilliantly up to now), or give way to the more far-sighted men who will not be deterred even should Lewis suddenly cry 'halt'.")

program, the Communists are slowly but surely extending their control over hapless American workers.

Three Photographs: John Brophy, Executive Director, CIO; Powers Hapgood, Field Representative, CIO; Adolph Germer, General Organizer, CIO.

*"Fakirs, repudiated leaders, traitors to the unions, opportunists and purveyors of every falsehood, slander and deception. . . "

"Carry on the Fight
for a Soviet America"
(Two Photographs) WAL—VIC—

This message comes from two prominent CIO organizers among the auto workers, Walter and Victor Reuther.

This was the word they sent to Comrades Melvin and Gladys Bishop in Detroit, when, in 1934, they were in Soviet Russia preparing for the agitational endeavors in which they have proved themselves so proficient in recent weeks.

In the Soviet auto plant at Abmozavoz, Topkini, they were trained for the appointed tasks by expert prop-

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*(Footnote: This characterization of the CIO's three ace agitators is not the expressed opinion of an "economic royalist," nor is it the studied denunication of an embittered A. F. of L. Leader. These are the words of John L. Lewis. These are the names he publicly called them at the Indianapolis convention in 1930. This is what he thought of the men who are now his most trusted aides—the men who would like very much to make themselves the leaders of ALL American workers. (International News Photos.))

agandists for the Communist revolution. But even then their education in subversive tactics was not complete. On returning to the U. S. they enrolled at Communistic Brookwood Labor College where they learned the fine points of strategy used by the Red forces in America.

Today, Victor Reuther is always to be found where violence flares, whether it be Detroit, or Flint, or Anderson. Walter Reuther does his share, too, as President of the U. A. W. Local 174.

Their joint letter from the "Worker's Fatherland" read in part: "what we have learned from other sources of the rising discontent of the American workers, makes us long for the moment to be back with you in the front lines of the struggle."

Regarding Russia they said: "we are more than just sympathetic toward OUR country (the Soviet Union), we are ready to fight for it and its ideals . . . Carry on the fight for a Soviet America." "VIC and WAL"

II "Communistically inclined . . ."

There is a reason for everything.

There was good reason why Detroit and Michigan should be selected as the battle-ground for the first major engagement in the current drive for "Industrial Unionism." Likewise, it was no accident that the Communist Commissars of Moscow decided to honor Detroit, of all cities, by renaming it for their newest and most important protege in America—*John L. Lewis.

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*(Footnote: Lewis is now so friendly with the Communists that they send him felicitations on his birthday. "*Sunday Worker* staff sends you birthday greetings,"

It is clear to the initiated that it was intended to do honor to the Detroit comrades of 1919, who were directly responsible for the formation of the Communist Party in the United States.

It was under their leadership that the Michigan delegation broke away from the Socialist Party at the Chicago convention, that year, and together with the Slavic Federation organized the Communist Party.

That this means should be employed to commemorate their contribution to the cause of world revolution is quite fitting, for in the program which they drew up in 1919, the plan to penetrate the A. F. of L. and to organize American workers on the basis of "industrial unionism" was first set forth.

"As against the trade unionism of the American Federation of Labor," the program declared, "the Communist Party propagandizes industrial unionism and industrial union organizations, emphasizing their revolutionary implications. Industrial unionism is not simply a means for the every-day struggle against capitalism; its ultimate purpose is revolutionary, implying the necessity of ending the capitalist parliamentary state. Industrial unionism is a factor in the final mass action for the conquest of power, as it will constitute the basis for the industrial administration of the Communist Commonwealth."

Unlike John L. Lewis and his present day henchmen, the early American Communists were frank and outspoken in stating that industrial unionism was NOT just another

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read a telegram which he received at the Hotel Statler in Detroit, "and congratulates you and auto workers' leaders on significant victory of progressive unionism over powerful General Motors Corporation.")

form of trade unionism. It has "revolutionary implications," they admitted; **"its ultimate purpose is revolutionary,"** they said; it is a "factor in the final mass action for the conquest of power," they declared; and it implies, they asserted, the ending of the "capitalist parliamentary state"—in other words, it implies the destruction of our Government.

This was the beginning of the Communist campaign to "bore-from-within" the A. F. of L.; to reorganize American labor on an industrial union basis; to overthrow the Government by revolution; and to set-up a Communist Commonwealth—or as they currently phrase it—a Soviet America.

During the following three years, Communist efforts to secure a foothold in the A. F. of L. met with considerable success. In fact it was so successful that, in self-defense, the unions were forced to take extraordinary measures to purge themselves of the destructive Communist influence. Literally thousands of Red progagandists were expelled from the unions in 1923 and 24.

Then followed a few lean years during which the red elements were practically at a standstill insofar as results were concerned. They carried on plenty of agitation outside the unions, but with the exception of the Passaic strike in 1926 and a few less important needle trades disputes, they got nowhere. America was too prosperous.

The need for some new strategy was obvious.

It was the activities of John Brophy, Pat Toohey and Powers Hapgood, among the mine workers, that finally paved the way for a new development—the organization of Communist industrial unions. As the outgrowth of their "Save the Union Committee," on "orders" from

Moscow, the National Miners Union, a Red industrial union, was established in the fall of 1928.

Subsequently some fifty-odd Red unions in different industries, with a membership enrollment of hundreds of thousands, were organized by William Z. Foster under the banner of the Trade Union Unity League and affiliated with the Red Internationale of Labor Unions at Moscow.

After the stock market crash the Red unions flowered and were responsible for 90 per cent of the major strikes during the depression years. Foster and his TUUL also organized the unemployed, the bonus army, and many local, state and national hunger marches, with most excellent results from the agitational point of view. When, however, this movement had served its purpose, the Moscow master-minds again turned their attention to the possibilities for renewed activity within the A. F. of L.

Now then, when the Communist determined to re-enter the old labor unions, to take over the leadership of the American labor movement and reorganize it along industrial lines, through the medium of the CIO, is it any wonder that the same individuals, who were so successful in these previous endeavors on behalf of the Red cause, should be selected to play the leading roles in the present campaign?

Today, John Brophy is the Executive Director of the CIO, while Powers Hapgood is the ranking functionary in its field organization. To Pat Toohey, now District Organizer for the Communist Party in Pennsylvania, must be given credit for the success of the CIO's first real strike effort—the RCA-Victor strike at Camden. William Z. Foster, presently the outstanding American Communist, is the "brains" behind the CIO organization drive in the steel industry. In 1919 he directed the previous steel strike.

Now, he plans the strategy of the new campaign, and his instructions are being carried out to the letter.

It is a simple matter to discover the pertinent "orders" of the Communist Internationale and the Central Committee of the Communist Party, U. S., and to trace the successive steps—not only in their scheme to penetrate the A. F. of L., but also in the organization of the CIO and the direction of its activities.

Likewise, the directions issued through official Red organs and through Party leaders, which have a bearing on the CIO campaign, are definite and to the point, and their effect is easily noted.

Speaking for the American Communist Party on January 1st, 1935, Alex Bittleman, member of its Central Committee, declared:

> "On this, the eleventh anniversary of Lenin's death, we renew our pledge of allegience to the struggle for a Soviet America."

At the same time, Max Young, another spokesman for the Party, reviewed the achievements of the previous year and looking to the future asked the question: "How is the Party fulfilling its main task? Concretely, how is the Party preparing the proletariat for the overthrow of capitalism—for the seizure of the factories. . . ."

The answer was not long in coming.

On January 15th, the Central Committee met at Red headquarters on 13th Street in New York, and in a resolution declared there were "new and great possibilities of revolutionary mass work" within the A. F. L. unions. Accordingly, it decreed that "existing revolutionary trade unions (Red industrial unions) and their locals join the A. F. of L. or its unions" and also that "in those cases where collective joining is not possible, members of the Red unions should join the unions of the A. F. of L. individually."

After fusion, the resolution directed, the A. F. of L. unions were to be treated "as mass workers' organizations in which we are carrying on a struggle for winning the masses to the revolutionary struggle."

"The Party must take the initiative," the Central Committee decided, after considering the make-up of the A. F. of L. unions, *"in the struggle for their industrial structure."*

Then bluntly and frankly it declared: "The Communists and other advanced workers must develop a wide strike movement."

So, in early 1935, began the infusion of unruly Red blood into the A. F. of L.

So began the recent agitational urge for Industrial Unionism.

So was the groundwork laid for the "wide strike movement" which today threatens the earnings of workers and the promising wave of returning prosperity, as well.

During the ensuing months the campaign of interpenetration was carried on apace, and then in August, 1935, the Congress of the Communist Internationale met in Moscow. Late in the month, when the matter of trade unionism was considered, acting on the report of Secretary Georgi Dimitroff, the Congress advised their American comrades:

> "Emphasizing the special importance of forming a united front in the sphere of the economic struggle of the workers . . . the Congress makes it a duty of

> the Communists to adopt all practical measures for the realization of the unity of the trade unions by industries and on a national scale."

This was the order to get busy. Reorganize the "trade unions by industries"—create industrial unions! Now, it had to be done pronto—the little Lenins of Moscow had decreed it as a "duty."

In a little more than a month's time some 400,000 copies of these "orders from Moscow" were distributed by the faithful in America. Then came the A. F. of L. convention at Atlantic City, and John L. Lewis emerged in his new character as the echo of the Comintern. With the blessing of the American Communist he became the leader of the forces for "industrial unionism" and proceeded to do his utmost to advance this program, laid down by the Communist Congress, a brief period of weeks before.

He further endeared himself to the Red forces when he led the attack on Matthew Woll, long the leading spokesman for the anti-Communist and pro-American elements in the A. F. of L. For years, the National Civic Federation was most active in fighting the Communist, and Matt Woll was its acting President and mouthpiece. Through the insistence of Lewis the convention declared that no officer of the A. F. of L. could be an officer or member of the Civic Federation. Woll was forced to resign. The Communist applauded gleefully and Lewis won his spurs as their champion.

However, Lewis' resolution to commit the A. F. of L. to industrial unionism was defeated by a vote of almost two to one, but before the convention was over a conference held in his hotel room decided the future plan of action, and within a month—in November, 1935, the formation of the Committee for Industrial Organization was announced.

Immediately, the behind-the-scenes mechanism in the Communist movement went into action. The Central Agit-Prop (agitation propaganda) Commission prepared voluminous material to bolster the drive and on every front the Communist forces rallied support to Lewis and the industrial union cause.

A model speech, as an example, was sent out to every Party leader in the country, just a few weeks after the CIO was established. A few passages are illuminating:

> "We here in America must follow in the footsteps of Lenin. . . . We must make it clear to tens of millions of workers and farmers that the revolution in the U. S. A. is inevitable, and that only the overthrow of capitalism will secure for them a decent life of abundance. . . . Capitalism can be overthrown by the armed uprising of the people headed by the working class under the leadership of its Bolshevik Party. . . . Lenin teaches us the great, the paramount importance of the Communist Party. Lenin teaches us further that it is not sufficient to have a strong Communist Party. It is necessary to have strong labor unions capable of offering resistance to the employers and of taking the offensive . . . this can be realized only when the unions are built on the industrial basis."

Then, shortly after the beginning of 1936, when the break between Lewis and Green occurred, the Communist Central Committee decided to come into the open. It issued a public statement:

> **"The Communist Party stands firmly on the side of those progressive forces which are fighting for industrial unionism."**

A short time later, a 48-page booklet by William Z. Foster, entitled *Industrial Unionism*, made its appearance. It was the first of a series of booklets on CIO strategy. It was mild in comparison with later efforts—he was just getting warmed up. The booklet dealt mainly with the history of industrial union activity—stressed the need of it, particularly from the revolutionary viewpoint, and politely set forth "the next steps."

Foster offered one suggestion in this vein:

> "In France a mighty People's Front was built up with the trade unions in the forefront . . . the trade unions of France have been merging themselves into strong industrial unions. The result is that the French fascists (anti-Communists) have been taking one whipping after another. . . . That's the kind of treatment we must dish out. . . ."

By the middle of June, when the *National Convention of the Communist Party met in New York the industrial union drive

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*(Footnote: The make-up of the ninth Communist Convention was illuminating. As to the delegates, the *Daily Worker* of June 30th, 1936, has this to say:

> "Two hundred and thirty-three (out of a total of 320), or 70 per cent of the regular delegates belong to various American Federation of Labor Unions. Eighty-five of these delegates are holding executive offices in unions, such as president, secretary, business agent, etc. . . . A total of 215 have been arrested for labor activities."

In explaining this situation, John P. Frey, head of the metal trades department of the A. F. of L., told the Tampa convention in September: "Unfortunately within had been so successful that the comrades were jubilant over the situation. They analyzed their part in the campaign and in a convention resolution resolved that: "Our struggle . . . has made important progress."

Much of the convention's time was devoted to the consideration of further plans to advance what had become the Party's all-important "cause." Enthusiastically, it outlined new demands and new tasks for the CIO, and reported to its membership—and to the Moscow master, too—

> **"The movement for industrial unionism . . . is making big headway."**

FORMER SOVIET OFFICIAL JOINS THE CIO STAFF

Pittsburgh, Pa.—Among the CIO Organizers recently appointed for duty among the steel workers in this District, is Israel Berestein, alias Boris Israel, alias Blain Owen. Mr. Berestein is well known in Communist Circles from coast to coast, having at one time been the Pacific Coast Representative of the Amtorg Trading Corporation. The Amtorg Trading Corporation is an official agency of the Soviet Government, set up in the United States ostensibly to facilitate trade between the two countries. How-

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the last year, the door has been opened by the CIO Committee for Communist workers to join the unions. It is immaterial whether this open door was the result of deliberate purpose, indifference or inability to stem the tide, but what the trade union movement is now forced to realize is that a trade union door has been opened."

ever, a former official of the corporation admitted before a Congressional Committee, that the organization had engaged in propaganda activities, and, in one connection alone, spent in excess of [end of reprint].

TEN YEARS OF LEWIS' LEADERSHIP

By

John Brophy, Powers Hapgood, Adolph Germer, et al.

"When John L. Lewis took the office of international president in 1919 our union boasted over half a million members . . . Today the organization is completely wiped out in Kentucky, West Virginia, Alabama and Tennessee. Of the 170,000 bituminous miners employed in the great coal state of Pennsylvania less than 1,300 are now members of our union. In Ohio a membership of 40,000 has shrunk to a pitiful remnant of less than 1,000. The former membership of 7,000 in Missouri has shriveled to 300. Arkansas, Oklahoma and Texas are completely lost . . .

"The history of the United Mine Workers of America under the regime of John L. Lewis has been an unbroken series of defeats and calamities throwing hundreds of thousands of our members and their families into the depths of poverty and destitution."

Footnote

(To the opposite page)

Unfortunately, John Lewis cannot blame this story record on the depression, for the indictment was written just before it began. These words were taken from a "call" issued by Brophy, Hapgood, Germer and others for a "secession convention" held at Springfield, Illinois, in March, 1930, for the purpose of reorganizing the miners' union and getting rid of Lewis.

It is true, the miners' union is strong today. On its last legs in 1933, it was the NRA code for the coal mining industry that gave it a new lease of life and revived it, in spite of John L. Lewis and his bungling leadership

TWO TYPICAL CIO LEADERS

An alien law-breaking Red, JOHN ANDERSON, was the Communist Candidate for Governor of Michigan in 1934. Today he rates among the foremost of the CIO agitators. Officially, he is organizer for U. A. W. Local 155.

Two years ago, he was in Russia, learning the newest wrinkles in the art of fomenting the class war. Now he is a trusted aide to CIO Organizational Director Frankensteen. In the Communist Organization, he has held many important offices. He was secretary of the International Workers' Order, a member of the District Committee of the Communist Party, and last year, was made a member of the District Bureau, the highest ranking tribunal in the Communist set-up.

NAT GANLEY, alias Nat Kaplan, has for years been a National figure in the Communist Organization. He once held the important position as District Organizer in Boston, and was such an effective agitator, that he was made National Organizer of the National Textile Workers' Union, a Communist affiliate. Then, Wm. Z. Foster appointed him General Organizer for the Trade Union Unity League, and sent him to Detroit to build the Red "Industrial Union" movement. Among the Organizations he formed were the Chicken Pickers' Union, the Fur Workers' Industrial Union, and the Sausage Workers' Union. Even now, he is an instructor at the Red People's School, in Detroit.

He has been active in practically all of the CIO Strikes around Detroit, and officially, is Recording Secretary of Anderson's U. A. W. Local 155.

Communist Party of the U. S. A.
(Section of the Communist International)
Membership Book No. 26768
for
Name, Nat Ganley.
Date Admitted to Communist Party, Charter.
Entered Revolutionary Movement, ...
District, 7. City, Detroit.
Section, ... Shop or Street Nucleus, ...
Signature of Member (in ink), ...
This Book was issued on Jan. 1, 1935.
William W. Winstone,
Signature of District Organizer and Party Seal.

(Seal)
Initiation Stamp
No Party Membership Book Valid Unless It Has Party Seal Stamped On
Issued by the Central Committee, C. P. U. S. A.

III. ". . . and controlled"

From top to bottom the CIO literally crawls with Communists. They are among the leaders; they are well represented in the organizing staff; they swarm on important committees; they are to be found in droves among the rank and file—and all of them are busily engaged in carrying out the dictates of their immediate superiors, not in the CIO, but in the Communist organization.

What is more, those CIO leaders who are above suspicion of un-American sympathies, are well aware of the situation, and yet, despite this knowledge, they work in close harmony with the enemies of our Government.

As an example, there is Philip Murray, who is directing the CIO organizing drive in the steel industry. He is reputed to have over two thousand organizers in the field and when the charge was made that too many of them were Reds, he offered no denial, but, instead, airily countered with the question: "Does our Constitution bar a man from citizenship because he believes in Communism?"

What a changed Philip Murray! Just a few years ago he was one of the leaders in the United Mine Workers responsible for the fact that a provision in its constitution bars Communists from membership. Phil Murray didn't like Reds. In turn, he was bitterly hated by the Communists. So much so that in 1931 they attacked a United Mine Workers meeting, just outside of Pittsburgh, at which he was the principal speaker.

THE TITLE OF A COMMUNIST PAMPHLET BECOMES THE SLOGAN OF A C. I. O. PARADE

GET WISE—ORGANIZE

WHAT EVERY YOUNG STEEL WORKER SHOULD KNOW

WITH AN INTRODUCTION BY WILLIAM Z. FOSTER

1. Go to the nearest Steel Workers Organizing Committee headquarters, sign up and ask to be a volunteer organizer.

2. Sign up the men in your department and mill.

3. Get your youth club or organization of which you are a member to go on record supporting the drive. Sign up those of your brother members who work in the steel industry.

4. Be active in the Local you belong. Help organize attractive programs of sports and education to win other young steel workers to join.

5. Read, study and spread all Union literature.

CAPTION

Since the Communist revolution in Russia, factory wall newspapers have been the rage in the Soviet Union. During the auto strike this innovation was introduced to America when a wall newspaper, under the editorship of Onie Feldt, was provided for the sit-in strikers at the Cadillac plant shown in this picture.

"They came armed with clubs and brass knuckles," he said, in describing the affair. "They tore down an American flag and hit an old man who tried to defend it. . . . These few renegades are following a policy of riot and bloodshed, they will soon disappear."

Instead of disappearing, this same element is now honored with important posts in the CIO campaign, while bloodshed and riot become the order of the day under the CIO banner.

Phil Murray was particularly incensed over the treatment accorded the American flag, when it was trampled in the dust of that dry July afternoon. Now, however, he makes no protest—it appears to be perfectly all right for the CIO to desecrate it. Witness another contrasting spectacle—a CIO-directed parade in Flint, with the American flag carried aloft, while from the throats of the marchers, to stir the breeze, come the subversive strains of Communist theme songs.

The attack on Murray was staged by the Red *National Miners Union,* and he charged, at the time, that it had been planned at the Pittsburgh headquarters, where Pat Toohey was in command.

What a difference a few years make!

Last fall, when the CIO injected itself into the RCA-

Victor strike at Camden, it was this selfsame Pat Toohey, now in charge of Communist activity in Philadelphia, who saved the day for the CIO.

Powers Hapgood, Toohey's former co-worker in Communist-sponsored agitation in the coal fields, arrived on the scene as the "personal representative" of John L. Lewis, and nominally took charge of a losing strike situation. But, it was Toohey's right-hand man, Saul C. Waldbaum, Philadelphia representative of the Communist *International Labor Defense*, who was appointed "counsel" to the strike committee and took over actual control of the strike. He signed every public statement on behalf of the union, and no move of any kind was made without his authority. When the strike was settled he was one of three who signed the agreement.

After the CIO moved in, the strike was conducted in typical Communist fashion. There were dramatic and bloody clashes with the police; colorful mass picketing; sensational parades and skillfully staged speeches by imported radical celebrities. There were frequent arrests and defiant court room scenes by synthetic martyrs; sob stories about the brutality of the police and the venality of the courts. And, as usual, the Communist-aiding American Civil Liberties Union was brought in to accuse the harassed authorities of the suppression of constitutional rights.

Among the well-known radical notables who took part in the CIO-Communist field-day was Frank L. Palmer, one-time IWW agitator, former head of the Communist news wire service, the *Federated Press*, and now the editor of a Communist tabloid. After being arrested for inciting pickets to rush the police lines, he was rewarded by having his paper designated as the official organ of the union.

A contributing circumstance in connection with the selection of his paper might have been the fact that Palmer was a companion of John Brophy on that trip to Soviet Russia.

Ann Damon, member of the Communist Central Committee and head of the women's division of the Party, together with Abraham J. Isserman, New Jersey "counsel" for the Communist *International Labor Defense*, were two other luminaries officially invited to participate in the Red "Roman holiday."

All in all, it was a pretty good "lesson in revolution" and Messrs. Waldbaum and Hapgood were highly pleased with themselves. However, it was the Communist mass support sent over the river from Philadelphia by Pat Toohey, and his expert coaching from the side lines that really put the show over.

This collaboration between the Communists and the CIO was not altogether sub rosa—at least, not insofar as the Communists were concerned. "We are all united," they boasted in *BROADCAST*, the strikers' Communist newspaper.

Editorially, it also explained why the Communists were so consistently right in calling the plays during the decisive days of the RCA-Victor strike. Unblushingly they took full credit for everything. "We were right," they said, "because we are Communists . . . because we have studied and led strikes and struggles thruout the world . . . **because we are the guides and leaders in the labor movement of the United States.**"

At the moment, the CIO looms pretty large on the American labor scene, and if the Communists are the "guides and leaders" of this important unit of American labor, they have a good reason for *boasting.

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*(Footnote: Despite the millions in lost wages, the

In order to clear up the question, it might be well to review, at this time, a few of the suggested "organizing methods" mapped out for the CIO by William Z. Foster on October 1st of last year, to ascertain whether or not these "instructions" from America's Communist No. 1 have been obeyed by Lewis and his aides.

One of Foster's first recommendations was that "supporting committees should be formed among fraternal organizations."

Before a month had passed, a "Fraternal Orders Conference" was called in Pittsburgh, with Philip Murray as the principal speaker and three full-fledged Communists on the program. With the blessings of John L. Lewis, who sent his greetings, a Fraternal Orders Committee was formally organized to spread the gospel of the CIO. And here's the pay-off—the National Chairman and active functionary is Bill K. Gebert, a former leader in Foster's Red industrial union set-up and until recently District Organizer for the Communist Party in the important Chicago district.

This Fraternal Orders Committee was particularly active during the automobile strike, which is altogether understandable when it is disclosed that the Detroit representative of the Committee is John Schmies, former assistant to Foster and one-time organizer of the Auto Work-

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CIO hailed the Akron rubber strike settlement as another "victory." The *Sunday Worker*, Communist organ, too, pointed out that it was "a signal victory—partly due to cooperation furnished by the CIO forces and largely to the realistic tactics of the Communist Party."

In January, 1937, the CIO leaders in the rubber industry sponsored a fund-raising drive in Akron for the "Red Front" in Spain.

ers Union, a Communist organization, active until a few years ago.

"Extend support in building the Workers Alliance" was another suggestion which Foster made to the CIO. It was followed with the advice that "representatives of the organizing crew should visit . . . meetings of the unemployed."

Early in the depression Foster himself undertook to organize the unemployed in what were called "Unemployment Councils." The Socialists and Trotskyite-Communists also had similar organizations. Last spring these three national bodies were combined to form the Workers Alliance. The Communists, of course, dominate the movement.

This Red tinge, however, did not faze the CIO leaders. Lewis blessed the Alliance with a public endorsement and CIO organizers are visiting Alliance meetings religiously. A few weeks ago when a state-wide meeting was held at Harrisburg, it was deemed important enough to have Clinton Golden, a CIO regional Director, make the trip to thank the Alliance for its support to the steel drive and pledge the support of the CIO to the *Alliance.

Foster also advised that "Prominent Negro speakers, including those of the National Negro Congress (organized by Communist), should be brought into the steel dis-

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*(Footnote: According to the *Daily Worker* of February 20th, 1937, a statement issued by the Communist-controlled Worker's Alliance said, in part, "We will give all possible support to the CIO and to other labor groups in their fight to force the recognition of the legality of the sit-down strike, and we shall continue the use of this weapon."

tricts." And sure enough, on February 6th the CIO called together a group of "Negro leaders," in Pittsburgh. At the conference, with Phil Murray, again, playing the principal role, were included James W. Ford, ranking Negro Communist and runningmate with Foster as a candidate for the Vice-Presidency on the Communist Party ticket; John P. Davis, of the National Negro Congress, and Thyra Edwards, recently returned from Soviet Russia where she conducted a three-month seminar.

"The women relatives of the steel workers are a vital factor in the steel industry," declared Foster, when he directed that "They should be organized into Ladies' Auxiliaries."

Although this was an unheard-of innovation in the field of trade-unionism, until suggested by the Communists, the CIO was not long in carrying out the idea. In fact, hundreds of auxiliaries are flourishing today in the steel district as a result of the good work of Margaret Cowl, leading Communist organizer and writer, who is now on the CIO payroll and in charge of this activity.

Her services were also of extreme value in Flint, where the Women's Auxiliary, with their red arm-bands and red berets, played a leading role during the auto strike. To help with the work in Flint, Comrade Cowl used Mary Hillyer, leader in the League for Industrial Democracy, commonly referred to as the "brains" of the Socialist Party, and Mary Heaton Vorse, well-known Communist author.

"The connections of the American Youth Congress (organized and controlled by the Communists) should be utilized," said Foster, and immediately in Chicago 50 members of an affiliate of the Congress, the American Student Union (Communist-Socialist), were pressed into service distributing CIO handbills from door to door. The idea of the door-to-door distribution was also a "must" suggestion of Foster's. In both Cleveland and Detroit, American Student Union members did "kitchen police" duty for the sit-in-strikers and marched on the picket-line as well.

The submission of similar incidents could go on endlessly, for, especially in the steel centers, Foster's plan of action is being followed by CIO organizers in almost every particular. It is of interest, however, to note how closely his instructions were observed during the recently concluded auto strike.

Just as the *"sit-downs" began, a new batch of Foster's recommendations, dealing with expected strike problems, came rolling from the presses, and were immediately distributed through Communist and CIO channels. How well they applied to the situation can readily be seen as they are compared with subsequent developments.

"Prominent liberals and others should be brought in-

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*(Footnote: An editorial in the *Daily Worker,* February 26th, 1937, declares: "The Communist Party . . . can feel justly proud of the decisive role played by its own members in the success of the outstanding sit-downs, particularly the battle of Flint."

The same issue quotes the remarks of W. Weinstone, the Michigan District organizer for the Communist Party, to a special conference of organizers in New York. He was reporting on the part the Communists played in Flint and Detroit. "Communist Party members were in the forefront of the strike, Weinstone said. Where the battle was thickest, you could always find Communist Party members, he added."

to the strike areas,'' observed Foster. ''A national citizens' committee, comprising such liberal strike sympathizers—including educators, writers, artists, etc.—should be set up,'' he directed. A few days after these pointers appeared, the American Civil Liberties Union, from New York, established itself in Flint and Detroit, brought in ''liberal'' speakers, and began to organize ''liberal educators, economists and writers'' into a ''National Citizens' Committee'' to support the strikers.

''Not only should all the strikers be mobilized for picketing, but their women and children as well,'' wrote the Communist leader. At Flint there was plenty of picketing by both the strikers and their women-folk, but that might be expected in any strike these days. It was the sight of toddling tots bedecked with signs and slogans that gave the strike a very definite Red complexion, for in the past this means of arousing public sympathy has been used in most Communist-led strikes with marked success.

''The national strike committee requires a legal department . . .,'' said Foster, and he added, ''here the *International Labor Defense* can also play an important part.'' No sooner said than done!—And Maurice Sugar, Detroit representative of the Communist *International Labor Defense,* was appointed ''counsel'' for the strike committee.

''When *troops are brought into the strike area the strikers must know how to fraternize with the soldiers and thus win as many as possible of them to the side of the strike,'' Foster counselled.

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*(Footnote: The Communist *Daily Worker,* on February 19th, 1937, reported: ''Back in one of the most militant periods of American labor history— during the great railway strikes of 1877—the employers received the scare

WHERE ONE OF THE AUTO PICKETS CAME FROM

Owing to the necessity of helping the auto workers of Detroit in every way possible in the battle they are conducting against the General Motors Corporation, the State Committee of New York dispatched Comrade Ziebel to Detroit to assist our Party there. Only after having been a few days in Detroit, Comrade Ziebel, who immediately got on the picket line and was active in the strike, contracted the illness from which he died.

The Communist Party calls upon its membership to regard Comrade Ziebel as an example of Communist loyalty and devotion, one whom the younger members of our Party could well emulate.

The State Committee expresses its deep sympathy to the wife and family of Comrade Ziebel and urges all Party members and sympathizers to attend the funeral in order to pay the last respects to Comrade Ziebel.

New York State Committee
C. Krumbein, Secretary
I. Amter, Organizer

This clipping is reproduced from the Communist "Daily Worker" of February 9th, 1937.

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of their lives when company after company of the militia rebelled. . . .

"An echo of that history was seen in the Flint auto strike.

"As Guard commanders evacuated three battalions of National Guardsmen from the strike zone last week, some of the militiamen spontaneously burst into a song—a song that sends a spasm of fear through employers everywhere —the union battle song, 'Solidarity Forever.' "

It is no secret that every means was employed to influence the National Guardsmen. Some idea as to how successful the strikers were can be imagined by considering an incident reported in the magazine *Champion.* While telling of events at strike headquarters, Arthur Clifford writes: "A call came in from a National Guardsman . . . he was calling for 200 union buttons. He had half the company organized."

Under these circumstances the strikers could well afford to feel perfectly safe in flaunting the law. Anyway, court orders meant nothing in their lives. Hadn't Comrade Foster explained just what was to be done in such an eventuality?

"When injunctions are issued," the Red leader explained, "the strikers should follow the . . . policy of ignoring such strike orders." These instructions, as everyone knows, were obeyed with a cynical display of disrespect for judicial authority.

To sum it all up, the CIO high-command is either taking Foster's advice or else its line of reasoning parallels the collective thinking of the best brains in the revolutionary movement. Whatever the truth of the matter may be, it is immaterial insofar as the Communists are concerned. **The job is being done their way.**

They are not leaving anything to chance, however. Should something go wrong—should CIO leaders fail to carry out the program that, in their judgment, must be followed—then Red leaders are prepared to exert pressure from below.

This method was used with success in undermining the A. F. of L. in the Auto Workers Union. The conservative A. F. of L. leadership would not accept Red dictation, so the Communists brought about affiliation with the CIO.

A Communist organizer, J. Wilson, of Detroit, tells in his report to Communist headquarters in New York how the campaign was started. "For several weeks," he wrote, "our comrades agitated among the individual members on the importance of the CIO. Then, when they thought the time was ripe, they called for a CIO representative."

As a result of this disruptive policy, it was less than three months from the time the union was chartered by the A. F. of L. until it joined the CIO. Now, some of the "comrades" themselves are in positions of leadership and the Communist Party organization confidently goes about making decisions for the union.

If this statement appears to be far-fetched, glance at the report of Communist Organizer Mac Weiss, who tells about the Fisher Body strike in Cleveland.

*"The action started," he said, "in the quarter panel department with a sit-down and soon spread spontaneously throughout the plant. There were two Young Communists in this department, one of whom is a high-ranking officer in the United Automobile Workers.

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*Footnote: George Morris, one of the staff writers of the Communist *Daily Worker*, describing in that paper's Sunday issue of November 29th, 1936, the technique used in pulling the "sit-down" in the Briggs auto body plant in Detroit, posed the taunting query: "How Did It All Start—Wouldn't the Briggs Corporation Like to Know!" Boastfully he wrote "They might be those 'Red agitators.' "

Anyway, he said, two or three workers (schooled in Communist tactics) *"simply lit the fuse"* by stopping work themselves and calling on other workers at strategic points on the assembly line to "sit down."

"It was not clear whether the strike should develop along the pattern of a sit-down or the usual picket-line strike. Only 300 strikers were sitting in. The rest had walked out. *The main task of the Party was to work out the following policy:*

> "1. To make it impossible for the company to settle the strike until the Flint strikers came out. . . ."
>
> "2. To bring order into the strike, there being no . . . leading strike committee and **no plant demands.**"
>
> "3. The character of the strike had to be determined, whether it was to be a complete sit-down strike . . . or a complete outside strike, or perhaps a combination of the two."

"*These were the questions which the Party had to concern itself about. The policy which the Party worked out in these matters had to be made the policy of the union.*"

When the Communist movement carefully builds up its system of control within the union the task of making Party decisions "the policy of the union" is not a difficult one.

The Communists, today, have "units" in every local and lodge of the CIO unions, and also Party "fractions" which direct the activities of the "units" so as to control the lodge or local. These "units" working secretly under the absolute control and direction of Section Organizers are, even now, extending their influence as they proceed to do the real under-cover organizing work for the CIO.

A Red "unit" leader in the Pittsburgh district, in December, reported certain activities of his group to the Communist district headquarters in this fashion:

> "The unit proposes that the **seven comrades who are members of the Executive Board of the union,** including the **three Party members who are Employee Representatives,** be organized as a fraction, and that their main task be guiding of the work of the local lodge, and in the Employee Representatives. One of them is to be attached to the unit bureau. This means that a functioning fraction has come into existence.
>
> "Up to the present, the mill unit functioned in a loose manner, separated from and quite ignorant of what the **Party members who are full time organizers** were doing, or what the Party members who are Employee Representatives were doing, and quite vague about the work of the women's unit. The unit bureau has drawn up a plan to coordinate this work and organize it more effectively.
>
> "We have also taken up with individual comrades in other departments the question of calling a meeting of 10 or 20 workers in their homes, with a union organizer present to form them into a recruiting committee for the union, while the comrades are to pay special attention to a few of them as prospective Party members."

This does not represent what is going on in an isolated case. The same thing is being done on every front where the CIO is engaged in organizing activities. The Communists have a real organization and a wide influence. As William Z. Foster told the CIO:

> "The Communist Party is well established and has a large following in steel as well as other industries. Its members are militant workers and fighters and they will use the last ounce of their energy, re-

sources and courage to make the present organization drive a complete success."

That was a promise. The Communists are keeping that promise. They are giving the CIO leaders their fullest cooperation.

And John L. Lewis not only accepts it—he follows their direction as well.

"Sound trucks should be freely employed in the mill gate and street meetings"—ordered Communist leader FOSTER . . .

(Photograph of Sound Truck)

. . . And the CIO responds with hundreds of mobile units.

"Extensive use should be made of bands" . . . says Comrade FOSTER.

(Photograph of CIO BAND)

And here's the CIO Band imported from Cleveland to Flint.

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4. "There's millions in it"

Money is "the root of all evil", but it is also the root and branch of the CIO.

Without the Garland millions, contributed to the cause of revolution in America in 1922, the chances are that the vanguard of the Red propaganda army would not have advanced sufficiently to permit the planning and development of the CIO, with its incredible program and outrageous tactics.

Today, former recipients of Red-controlled Garland funds have found soft berths for themselves in the CIO, while others are contributing to the success of the "industrial union" campaign by drawing on their past experiences in organizations whose support was derived, in some measure, from this same source.

Money gave the CIO its start. It was when funds in the CIO treasury began to mount to the two million mark that the organization hit its stride. It mattered little that the money came from levies on workers who had no say-so as to whether they wanted to contribute or not. The fact that part of the swag was taken directly out of the joint pockets of the unemployed and Mr. John Q. Taxpayer by assessments on union members engaged in **"CCC, WPA, or other governmental project employment"** did not embarrass John L. Lewis and his cohorts in the least.

At all costs the drive had to be pushed to a successful conclusion, and the prize of victory, by the way, was not to be sneezed at—not even by John L. Lewis with his unlimited expense account, his twelve-cylinder limousine, his liveried flunkies and his two historic show places in Virginia.

Ahead there was a golden goal.

Truthfully—there's millions in it!

As a matter of fact, minimum dues from the present CIO unions alone, when they are fully developed, will amount to over $16,000,000—and who ever heard of a union with minimum dues or without special assessments.

The American Fund for Public Service, or Garland Fund, as it is popularly known, since its inception has contributed or loaned a total of over two million dollars to Socialist, Communist, and I. W. W. causes, in addition to financing certain revolutionary activities and enterprises on its own account. One of its current undertakings is the publication of the official Communist weekly, *The New Masses.*

On the Garland Fund's original board of directors were two individuals who are playing most important parts in the present CIO campaign. They are William Z. Foster and Sidney Hillman. Next to Lewis, Hillman is perhaps the most influential of the CIO executives. Clinton S. Golden, the CIO's Regional Director in the steel organizing drive, was also, at a later date, made a member of the Garland directorate.

Of Foster, considerable has already been said, so now a survey of Hillman and his organization—one of the original CIO unions—is altogether in order.

Hillman's Amalgamated Clothing Workers "is in reality an industrial arm of the Socialist Party of America, working for the objects of that Party," according to the Lusk Committee of the New York State Legislature which conducted an extensive investigation into its activities.

The Communist leanings of Mr. Hillman and his union were shown in a concrete way in 1922 when they organized the Russian-American Industrial Corporation to raise a million dollars among the workers of America to bring about "the rehabilitation of Russia." Samuel Gompers, then head of the A. F. of L., called it a "Soviet scheme."

Years ago Hillman was also active on the *I. W. W. Defense Committee,* and after became an honorary president of the ultra-Red *National Religion and Labor Foundation.*

As for Clinton Golden, his past experience as a revolutionary evangel deserves a brief mention. For several years he was business manager and field director of Brookwood Labor College, a Left-wing school for labor students and prospective organizers and strike leaders. It was so "Left," however, that in 1928 it was branded as "Communistic" by the American Federation of Labor. Its faculty and staff members, as well as students, assist in strike activity as part of their "practical" education.

*Brookwood College received several grants from the Garland Fund and some of its instructors functioned also at the Communist Workers School, which, likewise, was a beneficiary of the Garland Fund's largess. John Brophy was a director at Brookwood, and Frank Palmer, CIO journalist, was a lecturer during Golden's incumbency. The directing head of Brookwood, at the time, was A. J. Muste, the present leader of the Trotskyite-Communists.

Golden, today, is a member of the "Board of Coun-

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*(Footnote: Merlin D. Bishop, a graduate and former member of the Brookwood staff, is now employed as an "Educational Director" for the CIO "on a cooperative arrangement with Brookwood." Tucker P. Smith, Brookwood's present Director, writes for the auto workers' CIO organ and, last summer, assisted the CIO in founding a training school at Saugatuck, Michigan, where leaders and agitators were prepared for the labor wars.

As a CIO newspaper explains "with such able men as Joel Seidman of Brookwood to guide us, our every-day experiences, in the shop and out, were hammered into ammunition for the battle."

Last fall the auto workers' union was inviting its members to compete for six scholarships to Brookwood, while a few months previous their convention "indorsed the work that Brookwood is carrying on.")

selors" of Garland-Fund-supported Commonwealth College, a Communistic, co-educational institution at Mena, Ark., which trains labor agitators and organizers. A legislative inquiry, in 1935, discovered that in addition to teaching Communism and atheism, free-love practices prevailed at the school.

The Director of Commonwealth, under questioning by the legislative committee, admitted that the Soviet Government was "superior to the American government," but refused to tell whether he respected the American flag, or not, all of which was perfectly all right with Mr. Golden. He continued to give his cooperation and support.

Now, Francis J. Gorman, President of the CIO's United Textile Workers and leader in CIO councils, becomes a member of the Advisory Board of this *Communist training school.

One of the largest sums allocated by the Garland Fund for revolutionary work was a $125,000 loan made to the International Ladies Garment Workers Union, now an affiliate of the CIO. This organization, the Lusk Committee declared after investigation, "is closely affiliated with the Socialist Party of America, and stands for the principles and tactics advocated by the Party," and further it "seeks

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*(Footnote: In the November issue of the CIO's *United Automobile Worker* announcements appeared for both Brookwood and Commonwealth.

"Brookwood," the featured notice said, "is definitely stressing in its studies the problems of organizing the mass production industries. . . . Most of its students this year are from Industrial Unions."

Commonwealth is referred to as "one of America's outstanding resident Labor colleges.")

to bring about the overthrow of the present system of society," the committee said. Its educational activities were carried on in conjunction with the notorious Rand School, the official Socialist propaganda institution, another Garland Fund beneficiary.

David Dubinsky, the President of this union, is now a Director of the CIO. For some twenty-odd years he was a leader in the Socialist Party. In 1936, while active in the CIO, he undertook to raise $100,000 from American radical unionists for the support of the Communists' Red Front in Spain.

*The Socialist Party also received Garland funds for its activities, and it is interesting to note that two of the CIO's outstanding leaders, Leo Kryzcki and Powers Hapgood, are now members of its National Executive Committee. Powers Hapgood, in addition to organizing on behalf

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*(Footnote: Questioned at a luncheon of the National Press Club in Washington, Earl Browder, General Secretary of the Communist Party, explained, last August, the difference between Socialists and Communists in the following words:

"The program of the Socialist Party and the program of the Communist Party have a common origin in the document written by Karl Marx and Friedrich Engels in 1847-1848, known as the Communist Manifesto. . . . There is no difference, so far as the program is concerned, in final aim. . . . In France the Socialist Party and Communist Party are negotiating for organic unity and amalgamation into one party. We will reach that stage in the United States, I think, in the not distant future. The differences between the Socialist and Communist parties are gradually being eliminated, and one unified Socialist or Communist movement is emerging. . . .")

of the Communists, was a "counsel" for the Communist *International Labor Defense*, and a one-time Executive Secretary of the Communist *American League Against War and Fascism*. He was also on the national committee of the Communist-aiding *American Civil Liberties Union*.

A general organizer for the CIO, Adolph Germer, was National Secretary of the Socialist Party when it adopted its anti-war resolution, which was intended to obstruct America's war-time activity. He was arrested in 1919 and sentenced to 20 years for violation of the Espionage Act, along with Victor Berger and others. In the following years he was an effective Socialist agitator. At the present time his organizing work on behalf of the CIO is second only to that of Powers Hapgood and John Brophy.

The Communist Party too, received financial assistance from the fund, but mainly for its publishing activities. It is not surprising, under the circumstances, that a former Red editor, J. B. S. Hardman, once an active Communist, should be placed in charge as supervising editor of *pamphlets and publications at CIO headquarters.

The Communist *International Labor Defense* also has frequently received generous support from the Garland Fund. The activities of its "counsels," significantly, have been most helpful in recent months to the CIO. The latest to be put on Lewis' payroll, Maurice Sugar, is a member of the Executive Board in Michigan. He is a frequent and featured speaker at Communist meetings and he has contributed to the support of many Communist causes. When the Detroit police, a few years ago, raided Communist headquarters in that city, they found Sugar's picture in the place of honor, flanked by huge lithographs of Lenin and Stalin.

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*(Footnote: It is significant that the one place in New York where CIO pamphlets are publicly on sale is at Communist Party headquarters.)

Even the anarchists received support from the Garland Fund while Golden and Hillman were Directors. A goodly sum went to the Ferrer group, and now, one of the leaders—one of the intimates of Emma Goodman—Rose Pesotta is a most active CIO organizer in the rubber and automotive industries.

Why this contribution was approved can well be imagined. A Ferrer publication, at the time, tells of their plans. . . . "We are Anarchists," it said, "because we see in the State an enemy of liberty and human progress; and we are Communists, because we conceive Communism as the most rational and just economic theory yet proposed. . . . As anarchists we seek the abolition of the State."

It is not surprising, though, that Anarchist Pessotta should be advocating the CIO program. The Ferrer Anarchist method of securing the ends sought, was similar to that of the CIO. This was the Ferrer group's stated course of action:

"Industrial unionism, with the shop as the unit of control, *backed by a revolutionary proletariat*, is the method of attack we advocate. We are not particular if these shop committees are called Shop Stewards, Soviets or Syndicates: **the all-important thing is that industry be controlled at the point of production.**"

In the belief, perhaps, that the American people were not quite ready for "Soviets" or "Syndicates" the CIO now has its "Shop Stewards."

Lewis' industrial unionism is, as we have seen, *backed by a revolutionary proletariat"*—the Communist Party.

And at this writing the CIO is trying its utmost to control industry "at the point of production."

Communists, Socialists, I. W. W.'s and Anarchists—what an organization—what a motley crowd of mouthy Marxian messiahs!

Do American workers want such leadership? Will American industrial leaders continue to deal with this Red aggregation?

If the owners of industry—impressed by the current show of apparent strength—feel that they "must" capitulate. . . .

If the workers believe they have something to gain by placing their confidence in leaders of this type. . . .

Then let them harken to the words of the man who would be their master—John L. Lewis.

Aside from Lewis, the two individuals who are the most powerful leaders in the CIO are John Brophy and Powers Hapgood. Lewis is depending on them to do the job of organization—he is depending on them to build a powerful industrial union movement.

In speaking of the activities of these two worthies in 1928, John L. Lewis had this to say:

"It is not difficult to imagine the kind of a union they would build up. . . . It would be one without a spark of honor or honesty. . . . Its word would be worthless. Any contract it might make . . . would amount to absolutely nothing, because the leaders would not respect it."

A FEW MORE COMMUNIST LEADERS
who are paid
ORGANIZERS for the CIO

RAYMOND SAROCCO CLARENCE IRWIN

ELEANOR RYE

GEORGE POWERS

TOM SHANE

JESS GONZALES

LOUIS MAJORS

PETER CHAPA

ALFREDO ABILLO

CHARLES HENRY

JOSEPH COOK

MIKE OSTROSKI

DAVE DORAN

DOYLE GLORMER

RUTH CHAPA

LEONIDES MCDONALD

GEORGE A. PATTERSON

CAPTION

WHAT THE CIO STRIKERS WERE READING

"MOSCOW NEWS"

"WORKERS AGE"

"PEOPLE'S PRESS"
Auto Sitdown Strikers Demand GM Showdown

"DAILY WORKER"
Chevrolet No. 4 Sit-Down Bolsters Strike

"SUNDAY WORKER"
Workers Battle G. M.'s Double Cross

MOSCOW PRAISES REDS FOR AID IN AUTO STRIKE

Moscow, March 21 (UP).—K. Redmill, writing in "The Communist International Magazine No. 2," today praised the "work of Communists in the General Motors strike" at Detroit and Flint, Mich.

"During the entire strike," he said, "Communists were active in a leading role. They conducted many-sided work in helping strikers, collected money and carried out demonstrations of solidarity.

"The Communist party, through its central organ, 'The New York Daily Worker,' gave advice on how to conduct the struggle and in many instances this advice was adopted."

This news item is reproduced from the *New York Herald Tribune* of March 22, 1937.

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5. "A People's Front . . . like Spain!"

Barnum knew what he was talking about. A lot of suckers have been born since his day.

No one appreciates the truth of this more than the Red elements. They have been taking the American people for an intellectual sleigh ride for a long time—and they're still getting away with it.

For this reason it is quite probable they will not even attempt to explain away the charges that have been set down so far. The usual strategy, these days, is to admit the facts, and then counter with a snappy comeback, like—"So what?"

The loyal citizen, taken unawares by this brazen attitude and at a loss for an equally clever rejoinder, grins sheepishly and lets it go at that. If, by chance, he knows the answers, the Red defender calls attention to the fact that political beliefs have no place in the union movement and then points significantly to Democrats and Republicans in important union posts, who are always placed in conspicuous spots as window dressing.

If, however, the usual methods fail to squelch an aroused opinion, the Reds have two alternative stratagems. In the first place they will ridicule the source of the charges and with a patronizing smile attempt to wave them lightly aside, or, in final desperation, they will issue a bald denial.

Should any of the charges herein be denied, evaded, or "explained," it might be well to review the activities of the CIO up to now—the trickery, the cunning, (the illegal methods), the easy manhandling of the truth. Could it be that this same technique is being applied in an attempt to camouflage, or hide the truth?

Just remember, the Reds have their "orders." Their actions and reactions are preordained. They are merely following out, implicitly, the instructions of the little tin-God of modern Communism, Nikolai Lenin, who advised his American disciples, as to their "duty," in these words:

"We must be ready for any and every sacrifice, and even if necessary to practice trickery, to employ cunning, and to resort to illegal methods—to sometimes even overlook or conceal the truth—all for the sake of penetrating into the Trade Unions, to stay there and by every and all means carry on the work of Communism."

In one connection, particularly, every device suggested or implied in Lenin's instructions will be used to the fullest degree. Every possible means will be employed to explain away any implication that the CIO is seeking the overthrow of the United States Government. For the far-seeing Communists know that all of their painstaking plans will have gone for naught if those American workers who have become fascinated by the **promises** of the CIO chieftains, get an inkling of the truth and find out what it's all about. The Communists, therefore, will go to any length to prevent the disclosure of the ultimate service which they expect the CIO to render in the final drive to destroy the Government and create a Soviet America.

The Communist organization proposes to achieve its final objective through the medium, first of all, of a militant mass industrial movement, and secondly, through a Farmer-Labor political alliance.

Thanks to the CIO, both are now well under way. And when they become powerful enough—then "comes the revolution."

Even now, the Revolution is on its way. At least that's what John Lewis told a convention of Socialist and Communist youngsters at Chicago in December, 1936.

"Since the World War," he said, "a social and economic revolution has been developing in the United States . . . it has been one which labor has not hesitated to support and which it still proposes to support. . . . The point in its development has now been reached where we must again provide, as we did in *1776, for a Declaration of Independence for the whole world."

Slowly, John L. Lewis seems to be getting the Communist viewpoint. No sooner does he start talking about revolution than he calls for world revolution. Lewis was adopted by the American Communist Party to help them make America over. Now he proceeds to take over the job of the Comintern in Moscow, to make over the world.

And in this connection it should not be overlooked that John L. Lewis, back in 1931 when he was supposed to be anti-Communist, fully declared himself when he said: **"As a purely political philosophy I have no quarrel with Communism."**

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*(Footnote: Don't let that reference to 1776 fool you. It did not necessarily come from patriotic motives. It is more probable that Mr. Lewis was influenced by the current tenor of Communist declarations. "The Communist Party," declared Earl Browder, the Red candidate for the Presidency last fall, "is . . . continuing the traditions of 1776 . . . it is the only organization entitled by its program and work to designate itself as 'sons and daughters of the American Revolution.' ")

In building the CIO the Communists are "killing two birds with one stone." The CIO, itself, when and if it develops to its expected proportions, will be a "mass industrial movement" made to precise Red specifications, and it will constitute the most powerful weapon for evil that has ever been conceived.

The CIO has already had its political baptism. Through John Lewis it played a major role during the elections last fall in both Labor's Non-Partisan League and the American Labor Party. Thus the ground-work for a Farmer-Labor political movement has already been laid. Soon will come Communist orders to begin to build.

Although John Lewis isn't sure whether the job of putting the steel "barons" in their places is going to take "seven weeks or seven months," already Communist leader Foster has outlined what "the next steps" are to be when that task has been accomplished.

"A victory in steel," he declares, "with its resultant mass enthusiasm and increased fighting spirit, must especially be utilized to strengthen the workers politically. . . . The workers and other toilers must have their own political party and political program . . . they should systematically set up local and state Farmer-Labor parties. . . . This whole developing political movement should go in the direction of the formation, as soon as possible, of a great National Farmer-Labor Party, the beginning of a broad People's Front in the United States. . . . **Clearly, the CIO has a heavy responsibility to further this progressive political work.**"

A similar pronouncement from within the CIO was not long in coming.* Francis J. Gorman, the CIO textile leader, in a message to a conference called by the Communist *American League Against War and Fascism,* declared:

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*(Footnote: Gorman, in addition to being a CIO leader, is featured at Communist meetings and headlined

"Our struggle against entrenched power must go forward on two fronts: the economic front and the political front. . . . We are working for a people's coalition against political reaction. This is what the Spanish people realized in the electoral victory of the Spanish People's Front."

In order to make it all perfectly clear, Comrade Foster further declares:

> "History thrusts upon the CIO the responsibility of bringing such a party into actual being . . . a great united front Farmer-Labor Party as the beginning of an American People's Front."

A People's Front . . .

Like Spain!

A People's Front . . .

The prelude to a Soviet America.

IN THE FACE OF THIS CIO CHALLENGE

Loyal citizens will want to DO SOMETHING ABOUT IT. Accordingly, the Constitutional Educational League invites cooperation in its endeavor to

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in the Red press. He also writes for Communist publications. On Christmas day, 1936, his Greetings to the Communist Faithful appeared directly under the masthead on the first page of the *Daily Worker,* "organ of the Communist Party, U. S. A. Section of the Communist Internationale." Under his direction today clothing is being manufactured in New York for the Red forces in Spain.

give this pamphlet a wide distribution. The time is at hand when it is necessary to render more than lip service to the cause of patriotism. WILL YOU PARTICIPATE?

FOR $1

The League will send *one* copy of "Join the CIO *and help build a* SOVIET AMERICA" to any *nine* persons you select—or *twelve* copies to *one* address.

FOR $2

The League will send *one* copy of "Join the CIO *and help build a* SOVIET AMERICA" to any *twenty* persons you select—or *twenty-five* copies to *one* address.

FOR $5

The League will send packages of *ten* copies of "Join the CIO *and help build a* SOVIET AMERICA" to each of *six* persons you select—*seventy* copies to *one* address—or *eighty* copies to names on its own selected lists.

FOR $10

The League will send packages of *ten* copies of the pamphlet to each of *fourteen* persons you select—*one hundred and fifty* copies to *one* address—or *one hundred and seventy-five* copies to names on its own lists.

Send your check and help do a worthwhile job.

....

CONSTITUTIONAL EDUCATIONAL LEAGUE
New Haven : : Connecticut

I WANT TO HELP! I send herewith $..... for ......copies of your pamphlet "JOIN THE C.I.O. *and help build a* SOVIET AMERICA." My list of names is attached.

Name ....

Address ....

"The movement is aimed not only at the labor unions but at the entire industrial, social and political structure of the country, and with the single aim of eventually establishing a Soviet dictatorship in the United States. . . .

"This is one occasion when labor and the employer might very well join hands and fight together. . . ."

This amazingly accurate interpretation of the CIO'S trend and the added good advice were culled from the report which John L. Lewis submitted to the United States Senate on January 3d, 1924, when another Communist-inspired "industrial union" program was threatening the future well-being of labor, industry and the nation.

$1,000 REWARD

Will be Paid to Anyone Who Can Prove That a Single Charge Made in this Booklet is Untrue. A Similar Reward is Offered if it Can be Shown That Any of the Published Quotations are Not Strictly Accurate.

* * *

Published and Distributed by
CONSTITUTIONAL EDUCATIONAL LEAGUE
Incorporated
New Haven, Connecticut

BOARD'S EXHIBIT NO. 77

INDEPENDENT FEDERATION OF REPUBLIC EMPLOYEES

Youngstown District

Youngstown, Ohio, ...

Recommended by ....
....

Hereby accepts membership in the Independent Federation of Republic Employees. An Organization formed for the mutual benefit of all employees of Republic Steel Company.

Check No. ....
Dept. ....

....
(Signature)

MEMBERSHIP CARD
of the
INDEPENDENT FEDERATION OF REPUBLIC EMPLOYEES

M ....
Check No. .... Date ....
Dept. ....

....
Chairman

BOARD'S EXHIBIT NO. 79

MEMBERS IDENTIFICATION

This is to Certify that

.... Check No. ....

Is a Member of the Employees' Independent Association for the Employees of Republic Steel Corporation, Warren District.

Membership No. . . . . Date . . . .

EMPLOYEES' INDEPENDENT ASSOCIATION

For the Employees of REPUBLIC STEEL CORPN.,
Warren District

Membership No. . . . .

I hereby accept Membership in the Employees' Independent Association and of my own free will hereby authorize the Employees' Independent Association, its Agents or Representatives, to act for me as a collective bargaining agency in all matters pertaining to rates of pay, wages, hours of employment, or other conditions of employment.

Occupation . . . . Department . . . .
Name . . . . Check No. . . . .
Date . . . . Address . . . .

BOARD'S EXHIBIT NO. 80

(Envelope):

Postage Will be Paid By Addressee

No Postage Stamp Necessary If Mailed in the United States

Business Reply Envelope

First Class Permit No. 99, Sec. 510 P. L. & R., Warren, O.

EMPLOYEES INDEPENDENT ASSOCIATION
P. O. Box 1350,
WARREN, OHIO

BOARD'S EXHIBIT NO. 84

REPUBLIC STEEL CORPORATION
Warren District

Plan of Employee Representation

Adopted June 1933
Amended May 1934

REPUBLIC STEEL CORPORATION
WARREN DISTRICT

Plan of Employee Representation

The Plan of Employee Representation, as hereinafter provided, shall in no way discriminate against any employee because of race, sex, or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

I

Representation

1. Employee Representation shall be by Departments on the basis of one Representative for each two hundred (200) employees, or major fraction thereof, based on the average number of employees on the payroll for three months immediately preceding the election.

2. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had to logical groupings and location.

3. Adjustments in units of representation, wherever necessary to secure complete and fair representation,

shall be made in accordance with the recommendation of the Joint Committee on Rules, Ways and Means.

II

Term of Office of Representatives and Vacancies

1. Employee Representatives shall be elected for a term of one year and shall be eligible for re-election.

2. An Employee Representative may be recalled upon the approval by the Committee on Rules, Ways and Means, of a petition signed by two-thirds of the voters in his department and upon such approval he shall cease to be such Representative.

3. An Employee Representative shall be deemed to have vacated his office as such upon severance of his relations with the Company, or upon being transferred from one Department or voting division to another, or upon his appointment to such a regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancies in the office of an Employee Representative, for which there is no Alternate, as described in Paragraph 16 of Section IV hereof, may be filled for the unexpired term, in the discretion of the Committee on Rules, Ways and Means, by special election conducted in the same manner as the regular annual election.

III

Qualifications of Representatives and Voters

1. Any employee who has been on the Company's payrolls for a period of at least one year immediately prior to nominations; who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employee Representative.

2. All employees who are enrolled on the Company's payrolls (except as provided in Paragraph 3 of Section III) on the date fixed for nominations shall be entitled to vote.

3. Company officials and persons having the right to hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employee Representatives or qualified to vote for Employee Representatives.

IV

Nominations and Elections

1. Nominations and elections of Employee Representatives shall be held annually in the month of June. Nominations (after the first nominations and elections) shall be held on the second Tuesday and elections on the following Friday of such month. In the event of either of these days being a holiday, then the nominations or elections as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with rules and regulations prescribed by the Committee on Rules, Ways and Means, with only such assistance from the Management as may be requested.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference with voters in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations

4. On the day of nominations, each qualified voter shall be furnished a ballot stating the number of persons for whom he is entitled to vote. Such voter shall write on ballot the names or check numbers of the persons in his

Department or voting division whom he desires to nominate for election as Employee Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting division is entitled.

6. If on any ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employee Representative to be filled.

9. Those employees who received the largest number of votes, in any department or voting division, equal to three times the number of Representatives to be elected shall be declared nominated, and shall be candidates for election.

Elections

10. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means, through tellers designated by such Committee, a ballot on which the names of the candidates for Employee Representatives shall be printed in the order of number of votes received at nominations. In case two or more persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a cross (X) opposite the name of the candidate or the name of each of the candidates of his choice.

11. The number of candidates for whom the employees in each Department or voting division shall be entitled to vote for Employee Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

12. Each voter shall deposit his own ballot in a box provided for the purpose by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employee Representative or Representatives of such Department or voting division.

13. In the event of a tie, selection shall be made by lot under the direction of the Committee on Rules, Ways and Means.

14. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules, Ways and Means.

15. The Committee on Rules, Ways and Means, may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

16. Candidates failing of election shall stand as Alternates in the order of the number of votes received and in such order shall become Employee Representatives as need may arise through vacancies or increased forces.

V

Management's Representative

The Company shall appoint a Management's Repre-

sentative to facilitate close relationships between the Management and the Employee Representatives.

The Management's Representative shall represent the Management in negotiations with the Representatives, their Officers and Committees. He shall respond promptly to any request from Representatives, and shall interview all of the Representatives, from time to time, collectively or separately, with reference to matters of concern to employees. He may attend any meeting of the Joint Committees, but shall not have any vote thereat.

VI

Committees

1. Wherever the word "Committee" is used throughout this instrument, it shall mean a Standing Committee of Employee Representatives unless a "Joint Committee" is specified.

2. After each annual election the Representatives shall immediately meet for the purpose of electing a Chairman, Vice Chairman and Secretary for the General Body of Employee Representatives.

The General Body of Employee Representatives shall also select members for the following Committees, viz:

Committee No. 1—Rules, Ways and Means.

Committee No. 2—Wages, Employment, Schedules and Working Conditions.

Committee No. 3—Safety, Health, Plant Sanitation and Welfare Activities.

Committee No. 4—Appeals Committee.

3. The Appeals Committee shall consider all matters not falling within the scope of any other Committees here-

in provided for, and the Chairman and Secretary of the General Body of Employee Representatives shall be members of the Appeals Committee.

4. Each Committee shall be composed of not more than five members, and shall appoint its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular meeting of the General Body of Employee Representatives.

6. Joint Committees shall consist of the Committee of the Employee Representatives with the addition of the Company's Representatives named by the Management, who may equal but shall not exceed in number the Employee Representatives.

7. The Joint Committees shall select their own officers and arrange their own procedure, subject to appeal, in case of controversy, to the Joint Committee on Rules, Ways and Means.

VII

Committee Meetings

1. Regular meetings of Committees shall be held every other month.

2. On alternate months, the Joint Committees shall meet.

3. In months that the Joint Committees meet, a meeting shall also be held by the General Body of Employee Representatives for the purpose of reviewing the work of the Committees and Joint Committees, and discussing any matters of general interest.

4. Committees shall meet between the hours of three and five in the afternoon, unless otherwise determined by

joint approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

5. Special meetings of Committees and of Joint Committees may be held as occasion may require, on approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

6. For time necessarily lost, through actual attendance, at regular or special meetings or conferences jointly approved, Representatives shall receive from the Company, payment commensurate with their average earnings.

7. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

8. A Committee, in considering matters of special interest to any particular Department or class of employees, shall have the right to invite into conference the Representatives of the Employees and of the Company likely to be especially interested in such matters.

9. Any matter may be referred by the Management through the Management's Representative to any Committee for consideration and report, and any matter may be presented by a Committee to the Management through the Management's Representative.

10. The Joint Committee on Rules, Ways and Means, shall arrange a suitable place for meetings of the General Body of Employee Representatives and of the several Committees and Joint Committees, and the Company shall defray such expenses as are necessarily incident to the discharge of duties herein set forth, when approved by a majority of said Committees.

VIII

Annual Conference

An Annual Conference between all of the Employee Representatives and Representatives of the Management shall be held at a time and place determined by the Joint Rules, Ways and Means Committee, who shall regulate the procedure at such conference.

IX

Procedure for Adjustments

1. Any matter which in the opinion of any employee or group of employees, requires adjustment, and which such employee or group of employees has been unable to adjust, either directly with the foreman or through his or their representative, may be taken up by such employee or group of employees, either in person or through any representative of his or their department in writing.

FIRST

With the Superintendent concerned.

SECOND

With the Management's Representative.

THIRD

With the Management, who shall endeavor to effect a settlement, or who may with the approval of all the parties refer the matter to proper Joint Committee.

2. Unless satisfactory disposition of any such matter has been effected within fourteen (14) days, unless otherwise agreed upon between the Department Head and Representative with whom he is in contact, any employee through his Representative, or the Management through the Management's Representative, may require such mat-

ter to be referred to the Joint Appeals Committee by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

The Joint Appeals Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts and effect a settlement.

All changes in hourly or tonnage rates fixed or determined by any authority in the procedure of the Plan, up to and including the Joint Appeals Committee, which decision is satisfactory to the employee or employees concerned, shall be made effective as of the date the written request was filed with the department head.

Request for changes in hourly or tonnage rates shall be considered closed upon such a decision as hereinbefore stated, unless notice of an appeal is filed in writing by the employee or employees with the Chairman of the General Body and/or the Management's Representative within fourteen (14) days after the decision as hereinbefore stated was made, in which event the request will be continued through such procedure of the Plan as is necessary to effect final disposition.

3. If the Joint Appeals Committee shall fail to effect a settlement, the President of the Company shall be notified, and the matter may be referred, if the President and a majority of the Employee Representatives on the Joint Appeals Committee agree to such reference, to an arbitrator or arbitrators, to be determined at the time according to the nature of the controversy.

X

Guaranteeing the Independence of Representatives

1. It is understood and agreed that each Representa-

tive or employee assisting him shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

2. To insure to each Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him on account of his acts in his representative capacity to the Management's Representative, to any of the Superior Officers, to the Joint Appeals Committee, and to the President of the Company.

3. Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within thirty days, a Representative shall have the further right to appeal to the Secretary of Labor of the United States. The Company shall furnish the Secretary of Labor with every facility for the determination of the facts, and the findings and recommendations of the said Secretary of Labor shall be final and binding.

XI

Amendments

1. Any method of procedure hereunder may be amended at any time by two-thirds vote of the entire membership of the Joint Committee on Rules, Ways and Means, or by concurrent majority vote of the General Body of Employee Representatives and of the Representatives of the Management at an Annual Conference.

BOARD'S EXHIBIT NO. 85

Employees' Representation Plan—Warren District
Minutes of Second Regular Meeting of Standing Committee

No. 2, Held at Trumbull Cliffs Meeting Room, Tuesday, September 10, 1935

The meeting was called to order at 3:30 P. M. by Ernest Webb, Chairman, with the following members present: E. Webb, D. G. Williams, Glenn Dugan, R. B. Warner, and H. Fisher, alternate for F. C. Fleming, absent; also H. R. Strothers, alternate. Also present: G. H. McClain, C. M. Schoenlaub and E. J. Mulligan.

The minutes of the meeting held July 9, 1935 were read and approved as read.

Communications: None.

Unfinished Business:

Item GB-1-35: "Differential Rates for Maintenance Men of Same Craft." There was considerable discussion on this subject and various opinions were stated. Mr. Mulligan asked Mr. McClain what was the basis for rate setting. Mr. McClain stated that this was a subject that Industry had been studying and working on for many years and that it was a subject that would never be agreed upon by all. And, to the best of his knowledge, rates were set after considering many things. It is usually considered that the "labor rate" is the basis or starting point in the setting of rates. All rates are compared with themselves and are arrived at on a relative basis. After more discussion on this subject, it was moved by H. Fisher and seconded by D. G. Williams that it be brought to the attention of the Industrial Engineering Department that it is the consensus of opinion of this Committee that more intensive study be given to the proper evaluation of jobs in the Service and Utility Departments and that proper regard be given to the individual's ability. Motion carried.

Item GB-2-35: "Vocational Training for Employees."

Mr. Mulligan reported on this subject and stated that Mr. Grastorf of the State Department of Vocational Education had recently been in conference with himself and Mr. McClain in Mr. McClain's office and it developed that it looks very favorable that funds will be available from the State for developing some suitable vocational training work in this Plant. The matter has been favorably considered by the Management.

New Business:

Item S2-1-35: "Request that the jobs of Messrs Fenton, Yost and Lenheart, boilermakers, be classified and rates of pay raised to that of first-class boilermakers." D. G. Williams, Representative of the Mechanical Department, presented this request and stated that same had received negative action from Mr. C. W. Phillips, superintendent of the department, and Mr. G. H. McClain, Management's Representative, and that it was accordingly being presented to the Committee for their consideration. After considerable discussion it was moved by D. G. Williams and seconded by Glenn Dugan that this request be referred back to G. H. McClain with instructions to request the Industrial Engineering Department to make a study of these rates with consideration to be given to the establishment of an intermediate rate between what is now "first" and "second class" boilermakers rates. Motion carried.

There being no further business, the meeting adjourned at 5:15 P. M.

R. B. Warner,
Secretary.

Dictated by GHMcC/fad

BOARD'S EXHIBIT NO. 86

Superintendent's Forwarding Copy

ER 726 3 M Sets 7-34 File Record OC-29-35

Board's Exhibit No. 86

REPUBLIC STEEL CORPORATION AND SUBSIDIARIES

Employee Representation Plan

Record of Case Presented to Employee Representative

Warren	Warren	7-11-35
District of Subsidiary	Plant	Date

Presented by	Hot Mill Engineers	4	Mechanical S&T
	Name of Group	No. Men Involved	Department

Statement of Case: It is requested that an adjustment of hourly rate to 76c be made to compensate men whose ability warrants this request.

Ernest Webb
Employee Representative.

Disposition of Case:	Date	No Action	Affirmative	Negative	Compromised	Withdrawn
Carl Neumeister Foreman						
C. W. Phillips Superintendent				No		
G. H. McClain Management's Representative				No		
Committee						
Committee						
Committee						
Committee						

Final Disposition: Request denied.

Date ....

....

Employee Representative

BOARD'S EXHIBIT NO. 87

EMPLOYEE REPRESENTATION PLAN

Account 301-751

Warren District

Employee Representative .... Check No. .....

Date worked .... Turn (State beginning and end of regular turn) ....

Total hours worked regardless of time distribution ....

Total hours worked in connection with the Plan - (Account 301-751) ....

Total hours exempt (In excess of your regular turn, or in excess of the 40 hours per week) ....

(Signed) ....

Department Superintendent

Note: This form is to be filled in and mailed to Managements Representative for only such time as is in excess of the Representative's regular turn, or in excess of the 40 hours allowed an employee per week.

If Representative is not on regular turn, but reports in the Plant for work in connection with the Plan, state on second line "off regular turn" in which event all time so spent that day will be exempt.

BOARD'S EXHIBIT NO. 88

Minutes of Regular Meeting

General Committee—Employee Representation

Hospital Building—September 8th, 1936

The meeting was called to order by Chairman May with all members present.

Minutes of the previous meeting were read by the Secretary, and it was suggested that in the publishing of the next minutes, an explanation be made of the committee's action in opposing the plan of overtime pay for employees who work in excess of six consecutive turns. It was explained this action was taken because some departments had been notified that employees would not be permitted to work the seventh turn, and rather than have the men lose this time, it was recommended that overtime pay for the seventh day be dispensed with. However, overtime will be paid for any time worked in excess of eight hours in any one day. A motion was then made by Mr. Walsh and seconded by Mr. Schermer that the minutes be approved with the above addition. Motion carried.

Communications:

The Secretary read a letter received from Cleveland Overall Company relative to the furnishing of Overalls or Uniforms to the men in the plant on a weekly rental basis. A separate letter explaining this plan in detail will be posted and employees are requested to voice their opinion to their Representative.

At this point the regular order of business was suspended, and under the heading of New Business, Mr. Matchuric brought up the case of George Troyanovich who had been discharged. Mr. Matchuric reported the results of his personal investigation, which was discussed, and it was moved by Mr. Sisk and seconded by Mr. Matchuric, that Mr. L. A. Wakefield, Management's Representative be called into the meeting. Motion carried. Mr. Wakefield stated the reason, so far as he knew, for the discharge of Mr. Troyanovich, and after it was discussed by the committee, a motion was made by Mr. Grimm, seconded by Mr. Vicha, that Messrs. Zimmerman, Robbins and Haggerty be asked to attend the meeting this afternoon. Motion carried.

After lunch Messrs. Zimmerman, Robbins and Haggerty came to the meeting and from their statements it was found that the reports about Mr. Troyanovich had originated mainly from one source. After Messrs. Zimmerman, Robbins and Haggerty left the meeting there was a lengthy discussion, and it was decided by the committee that the four Representatives of the Rolling Mill Division would further investigate this case and report back to the General Committee at 2:00 P. M. the following day, September 9th.

When the committee reconvened on Wednesday at 2:00 P. M. the report of the findings of these Representatives was given verbally, and after some discussion it was moved by Mr. Matchuric and seconded by Mr. Exall, that the following resolution be brought to the attention of Mr. Carpenter: "That the General Committee investigated the case of George Troyanovich and found insufficient evidence to substantiate the charges which had been made against him, and that this body recommends that George Troyanovich be reinstated." Motion carried unanimously.

Unfinished Business:

Overcharging by Factory Stores for commodities was again discussed and Mr. Wakefield stated he had investigated this to some extent. It was moved by Mr. Matchuric and seconded by Mr. Bradley, that the committee write the Management giving facts in the case of asking for an investigation.

Mr. Walsh asked relative to the approach to the Open Hearth Service Station and Mr. Wakefield reported that it is in the hands of the Engineering Department and that work on this is expected to begin soon.

The meeting recessed for lunch, reconvening at 1:30 P. M. with all members present.

New Business:

Mr. Wakefield reported that the American Legion is offering tickets for several of the events during their Convention, at a substantial saving, and the committee decided it would be worth while to post notices to this effect and have the tickets available in the Hospital Building for any who desire to obtain them.

Mr. Wakefield also reported that he had been contacted by the Community Fund with reference to selecting a committee from this plant to visit some of the Institutions that are supported by the Fund in order to see just how some of this money is spent. It was moved by Mr. Walsh and seconded by Mr. Korecky, that this matter be taken care of by the Mutual Relief Committee. Motion carried.

Reports of Committees:

Minutes of the regular meetings of the sub-committees were read by the Secretary.

At the meeting of the Rules, Ways & Means Committee held on September 2nd, a recommendation was made that the following amendment to our Book of Rules be submitted to the General Committee for adoption: "Employees having complaints must bring them up for settlement within ninety days from the time the grievance arises." After discussion it was moved by Mr. Bradley and seconded by Mr. Schermer, that this recommendation be accepted. Motion carried.

The report of the Athletics & Recreation Committee stated that this committee is sponsoring and making arrangements for a Clam Bake for employees, which will be held on Saturday, September 26th, at Basta's Grove, 6323 Turney Road, Garfield Heights. Tickets are available from any of the Representatives or at the Plant Hospital.

General Discussion:

The need for some sort of Safety Signal or protection at Broadway and Dille Road was discussed and this matter will again be turned over to Mr. Wakefield.

There being no further business, the meeting adjourned.

John N. May
Chairman—General Committee
Harry E. Grimm
Secretary—General Committee.

BOARD'S EXHIBIT NO. 90

CERTIFICATE OF ELECTION FOR EMPLOYEE REPRESENTATIVES

ROLLING MILLS

Department or Voting Division

This is to certify that at the June 16, 1936, Elections held by the Employees of the above department or voting division, the following nominees were elected Employee Representatives:

J. Bradley	No. 7680	312 Votes
A. Matchuric	No. 7605	279 Votes
M. Roth, Jr.	No. 4141	222 Votes
H. Sisk	No. 8485	219 Votes

The following nominees stand as alternates in the order listed on the number of votes received:

J. Exall	No. 3385	198 Votes

C. Mackell	No. 8480	197 Votes
C. Douglas	No. 4540	192 Votes
G. Troyanovich	No. 8374	180 Votes
A. Fitzgerald	No. 3975	148 Votes
R. Powell	No. 3872	74 Votes
V. Monz	No. 8481	35 Votes
L. Korell	No. 8165	15 Votes

J. E. Smith
R. J. Powell
H. T. Schermer
E. G. Lohman
C. P. Douglas
G. Troyanovich
Mike Koscso
J. V. Walsh
H. E. Grimm
J. N. May
G. A. Burns
Andy Cygan
C. B. Mackell
John Sabol
H. M. Lancaster
R. C. Murdoch
Employees' Committee on Elections

Republic Steel Corporation and Subsidiaries

Cleveland	Corrigan McKinney	June 17, 1936
District or Subsidiary	Plant	Date

BOARD'S EXHIBIT NO. 91

REPUBLIC STEEL CORPORATION
Cleveland District

PLAN OF EMPLOYEE REPRESENTATION

Adopted June, 1933
Amended March, 1934
Amended April, 1936

REPUBLIC STEEL CORPORATION
Cleveland District

Plan of Employee Representation

I.

Representation

1. Employee representation shall be by voting division which shall be based upon departments or units of the plant. There shall be one Employee Representative for each 250 [marginal note, in pencil: "200"] employees of the plant or major fraction thereof in each voting division, based on the average number of employees in such division, with a minimum of three Employee Representatives in the District. Adjustment shall be made to meet special recommendations in accordance with the Committee on Rules and Management's Representative.

2. Wherever it shall be necessary for the purpose of applying the unit of representation to group small departments, regard shall be had to logical groupings and location.

II.

Term of Office of Representatives and Vacancies

1. Employee Representatives shall be elected for a term of one year, and shall be eligible for re-election.

2. An Employee Representative may be recalled by two-thirds of the voters in the voting division of such rep-

resentative. Election for recall may be called by the Committee on Rules not sooner than 15 days and not later than 30 days following the approval by petition signed by two-thirds of the voters in the unit of representation of the representative. The petition shall state the reason for recall and Employee Representative shall have the privilege of appearing before Committee on Rules to defend himself if he so desires.

3. An Employee Representative shall be deemed to have vacated his office as such upon his voluntary severance of his relations with the Company or upon his discharge for cause, or upon his appointment to such a regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancies in the office of an Employee Representative for which there is no Alternate as described in Paragraph 15 of Section IV hereof may be filled for the unexpired term, in the discretion of the Rules Committee, by special elections conducted in the same manner as the regular annual elections.

III.

Qualifications of Representatives and Voters

1. Any employee who is on the Company's payrolls and has been on same during the previous six (6) months; who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employee Representative.

2. All employees who are enrolled on the Company's payrolls (except as provided in Paragraph 3 of Section III) on the date fixed for nominations, shall be entitled to vote.

3. Company officials, foremen, assistant foremen, policemen, piece-work clerks, industrial engineers, and per-

sons having the right to hire or discharge, shall not be eligible to act as representative or vote for representatives.

4. This plan shall in no way discriminate against an employee because of race, sex or creed; or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

IV.

Nominations and Elections

1. Nominations and elections of Employee Representatives shall be held annually in the month of June. Nominations shall be held on the second Tuesday and elections on the third Tuesday of such month. In the event of either of these days being a holiday, then the nominations or elections as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by the Employees in accordance with rules and regulations of the Election Committee. The Election Committee may request such assistance from Employees of each department to act as tellers as is necessary.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid undue influence or interference in any manner whatsoever, so as to prevent any fraud in the casting or counting of ballots.

4. On the day of nominations, each employee of the Company then qualified to vote as hereinabove in Section III provided shall be furnished by the Election Committee through tellers designated by such committee with a ballot stating the number of persons for whom he is entitled to vote at nominations on such day; and such voter shall write on such ballot the names or check numbers of the persons

in his voting division whom he desires to nominate for election as Employee Representative.

5. In voting at nominations each duly qualified voter may vote for a number of persons equal to twice the number of the persons whom his voting division is entitled to elect as Employee Representatives.

6. If on any ballot cast at nominations the name or check number of the same person shall appear more than once, such ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers shall appear on any ballot at nominations shall exceed the permitted number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employee Representative to be filled.

9. The employees in any voting division equal to three times the number of Employee Representatives to be elected by the employees in such division who shall have received the largest number of votes shall be declared nominated and shall be the candidates for election by such employees on the day of elections.

10. On the day of election, each duly qualified voter shall be furnished by the Election Committee through tellers designated by such Committee with a ballot on which the names of the candidates for Employee Representatives nominated as hereinabove provided shall be printed in the order of the number of votes received at the preceding nominations, or in case two or more persons shall have received at nominations the same number of votes, then in the alphabetical order of their respective surnames. Each voter shall indicate his preference by placing a cross (X)

opposite the names of the candidate, or the name of each of the candidates of his choice.

11. The number of candidates for whom the employees in each voting division shall be entitled to vote for Employee Representatives of such division shall be stated on the ballot. If any voter shall vote for more than such number the ballot shall be void.

12. Each voter shall deposit his own ballot in a box provided for the purpose by the Election Committee and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates of each voting division of the number to be elected by such voting division who shall receive the highest number of votes shall be declared elected as the Employee Representative or Employee Representatives of such division.

13. In the event of a tie, selection shall be made by lot under the direction of the Election Committee. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Election Committee.

14. The Election Committee may make such provision as it may consider necessary for assisting any voter who may request it in properly marking his ballot.

15. Candidates failing of election shall stand as Alternates in the order of the number of votes received, and in such order shall become Employee Representatives as need may arise through vacancies.

V.

Employee Committees

1. After each annual election the Employee Representatives, hereinafter called the General Committee, shall

immediately meet for the purpose of electing a temporary Chairman and Secretary. At the next regular meeting, the General Committee shall elect a permanent Chairman, Vice Chairman, Secretary and a Committee on Rules, and members of such other committees as are found necessary by the Committee on Rules for the consideration of the following subjects:

(a) Rules, Ways and Means.

(b) Wages, Tonnage Schedules, Methods and Economies.

(c) Mutual Relief.

(d) Athletics and Recreation.

(e) Health and Sanitation.

(f) Election Committee (General Committee).

2. Each Sub-committee, so elected under Paragraph 1 of Section V shall be composed of not less than five (5) nor more than seven (7) members, shall appoint its own chairman and secretary, and arrange its own procedure.

3. Vacancies on committees shall be filled by a vote of the General Committee.

4. Regular meeting of the General Committee and all Sub-Committees shall be held at least once a month, except the Election Committee, which shall meet when necessary.

5. The Company shall provide a suitable place for meetings of all committees.

6. When representatives attend regular or special meetings of any committee, as arranged for by the Chairman of the various Committees and Management's Representative, they shall receive from the Company payment commensurate with their respective average earnings for the time necessarily occupied through actual attendance.

VI.

Management's Representative

1. The Company shall appoint a representative (who shall be known as the Management's Representative) who shall keep the Management in touch with the Employee Representatives, and shall represent the Management in negotiations with such representatives. He shall respond promptly to any request from such Representatives, and shall interview all of them, from time to time, collectively or separately, with reference to matters of concern to employees.

2. The Employees vest in the Management the direction of the working forces, including employment, promotion, transferring, disciplining or relieving for proper cause.

VII.

Procedure for Adjustment

1. Any matter which in the opinion of any employee of the Company requires adjustment and which such employee has been unable to adjust with the person in charge of the work on which he is engaged, may be taken up by such employee in writing, either in person or through any Employee Representative of his voting division with the following and in the following order:

First—With the Department Head.

Second—With the Management's Representative.

Third—With the General Committee, who shall decide by a majority vote, upon the merit of the case. If in their opinion the case has merit, a committee of the employee representatives shall be delegated to meet with a committee appointed by the Management, both committees being of equal number, total not to exceed ten (10), to ascertain the facts and effect a settlement. The decision by majority vote of this committee shall be binding upon all parties. If this Committee fails to reach a decision, the question shall be referred to the Management.

2. Unless a satisfactory disposition of any such matter shall have been effected by the Management within a period of fourteen (14) days after it has been submitted to the Management, it shall be referred to the General Committee. If the General Committee decides by majority vote, the President of the Company shall be notified, and the matter may be referred, if the President of the Company and a majority of the Employee Representatives on the General Committee agree to such reference, to an arbitrator or arbitrators, to be determined at the time according to the nature of the controversy.

3. Any adjustments in hourly or tonnage rates determined by above procedure shall be made effective as of the date the written request was filed.

VIII.

Guaranteeing the Independence of the Representatives

1. It is understood and agreed that each Representative shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity. When a representative is called from his regular work at a request of any employee on anything pertaining to this Plan, he should first report his contemplated absence to his immediate supervisor.

2. To insure to each such Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him, on account of his acts in his representative capacity,

to any of the superior officers, to the General Committee, and to the Management of the Company.

3. Having exercised this right in the consecutive order hereinabove indicated and having failed to obtain a satisfactory remedy within twenty (20) days, such Representative shall have the further right to appeal to the Secretary of Labor of the United States. The Company shall furnish said Secretary with every facility for the determination of the facts, and the findings and recommendations of said Secretary shall be final and binding.

4. If final decision is made in favor of the representative, such representative shall be paid in full for all time lost from his regular job.

IX.

AMENDMENTS

Any method of procedure hereunder, with the exceptions of Paragraph 6 of Section V, and Paragraph 2 of Section VI, may be amended at any time by a two-thirds vote of the Employee Representatives and of the Representatives of the management.

X.

RIGHT OF TERMINATION

This plan shall be, and remain in full force and effect unless and until terminated by a vote of the majority of the Employees at any annual election.

James E. Smith Chairman—General Committee	—Open Hearth
Charles P. Douglas Vice Chairman—General Committee	—Rolling Mills
Harry E. Grimm Secretary—General Committee	—River Dock

Mike Koscso —Blast Furnace
Elmer G. Lohman —Coke Plant
John Sabol —Electrical
Andrew Cygan —Power House
George A. Burns —Mechanical
Harry M. Lancaster —Mechanical
Harry T. Schermer —Office
John V. Walsh —Open Hearth
Harry Dietrick —Police, Service & Lab.
Clifford Mackell —Rolling Mills
Richard J. Powell —Rolling Mills
George Troyanovich —Rolling Mills
John N. May —Scrap Yard
Roy C. Murdoch —Yard Labor

BOARD'S EXHIBIT NO. 92

Republic Steel Corporation
General Offices, Republic Building,
Cleveland District
(Republic Steel Insignia)
Reg. U. S. Pat. Off.

January 19th, 1937.

Mr. J. Exall,
1516 East 47th Street,
Cleveland, Ohio.

Dear Sir:

We are enclosing our Pay Roll check number A 6852 which covers services rendered to date as an Employee Representative.

Yours very truly,
Republic Steel Corporation,
C. A. Broberg,
Works Accountant.

CAB
YK
MMM
Enclosure

(Envelope)

Republic Steel Corporation
Republic Building
Cleveland, Ohio.

Cancelled 2¢ Stamp
Cleveland, Ohio,
Jan. 19, 1937
11 P. M.

Mr. J. Exall,
1516 East 47th Street,
Cleveland, Ohio.

BOARD'S EXHIBIT NO. 93

MINUTES OF REGULAR MEETING

General Committee — Employee Representation
Hospital Building — October 13th, 1936.

The meeting was called to order with all members present, and the minutes of the previous meeting were read and approved.

Unfinished Business

The recent ruling that employees are not permitted to work more than six days each week was discussed at some length and it was moved by Mr. Smith and seconded by Mr. Walsh, that Mr. Wakefield, Management's Representative be called into the meeting to answer whether this ruling applies to six consecutive turns or whether it is meant six turns in any one week. Mr. Wakefield's answer was to the effect that this ruling applies to six days in a calendar week and not to six consecutive turns.

The letter to the Management relative to the Factory Stores was discussed and Mr. Wakefield reported there was no answer as yet.

The committee discussed the Overall Rental Plan after which it was decided to turn the matter over to the Health & Sanitation Committee who will contact the Overall Company in order to clear up some questions.

Relative to the approach to the Open Hearth Service Station, Mr. Wakefield stated that the Mechanical Department would begin work on this in the near future.

Mr. Bradley asked relative to the request for a pistol range for employees, and Mr. Wakefield stated he would take this up with Capt. Jones.

Mr. Matchuric brought up the question of whether it would be possible to divide short turns between the Billet and Sheet Bar Crews. Mr. Bradley stated this had been taken up some time ago and it had been explained to him that these were two entirely different crews, working at different jobs, and that it would be impossible to split this time between these crews.

New Business:

Mr. Exall stated that someone had broken into lockers at the Dille Gate Washroom. Mr. Wakefield said there had been previous reports of similar happenings in other locker rooms and that the matter was now up to the Police

Department who are investigating this. After some discussion it was moved by Mr. Sisk and seconded by Mr. Bradley, that this committee recommend that the Management offer a reward of $50.00 to anyone furnishing information leading to the arrest and conviction of those doing this stealing. Motion carried.

Cleanliness of Washrooms and Locker Rooms was discussed, and Mr. Wakefield asked for co-operation from all representatives in educating employees to use the containers provided for refuse, in order to keep these places in a clean and sanitary condition.

Mr. Sisk asked Mr. Wakefield to inquire whether it would be possible to erect a number of garages near the Dille Gate to be used by employees at a monthly rental.

Mr. Wakefield read a letter from the Truscon Steel Company stating that at their Sales Office located at 1844 Euclid Ave. they have a number of Vacuum Cleaners which were used as demonstrators and are now offered to employees at a considerable reduction. They are fully guaranteed, and one year's free service is given. These Cleaners were formerly priced at $79.50 but are now being sold to employees for only $49.50.

Attention was called by Mr. Wakefield to Safety in the plant, and that the Management would appreciate the help and co-operation of the representatives in furthering the safety movement and in educating employees to be safety-minded at all times.

At this point the committee recessed for lunch, reconvening again at 1:30 P. M. with all members present.

There was a discussion by the committee relative to a general wage increase, and it was moved by Mr. Exall and seconded by Mr. Bradley, that the Management be contacted with a request for a 15% general wage increase. Motion carried.

The order issued by the Management preventing employees from changing turns with fellow workers was discussed, and a motion was made by Mr. Sisk, seconded by Mr. Bradley, that a letter be sent to Mr. H. B. Carpenter, District Manager, asking for a re-consideration of this ruling, which carried.

Reports of Committees:

The minutes of the various sub-committee meetings were read by the Secretary and accepted as read.

The report of the Wages, Tonnage Schedules, Methods & Economies Committee stated that the Mill men who are on tonnage now receive the same tonnage rate regardless of the amount of tonnage rolled. This had been requested by the men.

The Mutual Relief Committee made a report of their tour of several Institutions supported by the Community Fund, where they observed some of the good work being done to aid the less fortunate people of this city.

In making a report of the Clam Bake held September 26th, the Athletics & Recreation Committee extended its thanks to the Management for its donation, as well as the Factory Stores who furnished several prizes, and all others who helped make this affair a success.

General Discussion:

Mr. Grimm stated that some member or members of the committee seem to be working under cover and are trying to break up the effectiveness of this organization by underhanded methods, and that someone was giving copies of all minutes of this committee to non-employees. To stop this action in the future, it was moved by Mr. Grimm and seconded by Mr. Koscso, that in place of minutes being sent to all members for posting, the posting of minutes be taken care of through the office of Mr. Wakefield. This would assure a copy of the minutes at all regular posting places, and if any member of the committee desired an extra copy they should take it up with Mr. Wakefield. Motion carried.

Mr. Bradley spoke relative to a traffic light or some protection at Dille Road and Broadway. Mr. Wakefield stated this had been taken up many times with the City Traffic Department and that at times an officer is stationed at this point. He also said he would again call this to the attention of the proper authorities.

Mr. Wakefield called attention to the posters which were put up regarding Citizenship Classes, and stated that this department would assist employees in every way possible to obtain Citizenship papers.

There being no further business, the meeting adjourned.

John N. May,
Chairman, General Committee.
Harry E. Grimm,
Secretary, General Committee.

BOARD'S EXHIBIT NO. 94

MINUTES OF REGULAR MEETING

General Committee — Employee Representation
Hospital Building — November 10, 1936.

The meeting was called to order with all members present.

Minutes of the last regular meeting of October 13th were read as well as minutes of special meetings held at the Main Office on November 4th and 7th, and were approved as read.

Unfinished Business:

It was reported that work on the approach to the Open Hearth Service Station would begin as soon as the material which has been ordered for this is received.

On the question of a Pistol Range for employees, this had been referred to Captain Jones and so far no reply has been received.

Relative to the traffic hazard at Broadway and Dille Road, this is being taken up through Mr. Voss with City officials.

Answering a request that the Management offer a reward of $50.00 to anyone furnishing information leading to the arrest and conviction of persons stealing in the plant, it was stated that this was not approved.

The suggestion made by Mr. Sisk that the Management erect garages for employees was not approved.

The matter pertaining to prices charged by Factory Stores was discussed, and a letter from Mr. Voss to Mr. Carpenter on this subject was read to the committee. Mr. Voss stated in his letter that he had taken this up with Mr. Doron of Factory Stores, who informed him that the prices charged are standard and current prices for these commodities. It was then decided that the General Committee had no power to do anything about getting prices changed and to drop the matter of complaints against Factory Stores prices.

Mr. Walsh asked relative to the request for a Service

Station in the Old Open Hearth Office and was informed that work would begin on this improvement in the near future.

New Business:

The recent general wage increase as announced by the Management was discussed by the committee, and it was brought out that some employees were not entirely satisfied with the amount of the increase.

Mr. Vicha stated that he felt that Mr. Eward, Machine Shop Foreman, was not entirely co-operative towards the Representation Plan, and felt that Mr. Eward was standing on a small technicality in referring to the wording of a certain paragraph in our Book of Rules, and that he would like to have the committee clear up the procedure that must be taken when a complaint is brought up. This was discussed and it was finally decided to call Mr. Eward to the meeting and discuss the matter with him. Mr. Eward was contacted and agreed to attend the meeting right after lunch.

At this point the meeting recessed for lunch, reconvening again at 1:30 P. M. with all members present except Messrs. Schermer and Walsh. Mr. Eward came into the meeting and in the discussion which followed, it was brought out that the intent of the Representation Plan was to obtain co-operation from all concerned, and that while the wording of some particular paragraph might be misleading, the committee felt that supervisors should not stand on mere technicalities. Mr. Eward agreed to discuss any matter that came up in the future with the representative of his department.

Several matters pertaining to plant policy were discussed and it was moved by Mr. Mundee and seconded by

Mr. Bradley, that these questions be written up and that the General Committee reconvene for a meeting on Tuesday, November 17th, at 3:00 P. M., to discuss them and present same to the Management. Motion carried.

Reports of Committees:

Minutes of the regular meetings of the various subcommittees were read, and the report of the Health and Sanitation Committee state they had a meeting with representatives of the Cleveland Overall Company regarding the Uniform Rental Plan for employees. It was later stated that there would be another meeting on Monday, November 23rd, with a representative of the Overall Company to clear up a few points in question, after which employees will be notified as to where and when they can make application for these uniforms.

The minutes of the Mutual Relief Committee contained a report on the Credit Union Plan, and Mr. Wakefield was asked to try to obtain a quantity of literature pertaining to this plan for distribution to all interested employees. Mr. Wakefield stated he would try to get this literature and that it would be well for each Representative to contact the men in his department to determine if there is enough interest to organize a Credit Union in this plant.

Complaints:

Several complaints were brought up for discussion, but inasmuch as these had not come to the General Committee through the regular procedure, there was no committee action on them.

General Discussion:

The question of consolidating all Employee Representative Groups of the Republic Steel Corporation was brought up by Mr. Bradley and discussed by the committee.

At this point the meeting recessed until Tuesday, November 17th, at 3:00 P. M., and on that date Roll Call showed all members present except Mr. Walsh.

There was some further discussion relative to the wage increase which averages 10%, and it was moved by Mr. Matchuric and seconded by Mr. Bradley, that it be reported that the request for a 15% wage increase could not be granted at this time.

Questions previously referred to as being Company policy were reported and discussed, and the entire list was turned over to Mr. Wakefield for consideration by the Management.

As Chairman of the Health & Sanitation Committee, Mr. Mundee said he had investigated a former complaint that steam used for heating water for washing purposes was injurious to hair and skin and had found this was decidedly untrue. He stated that while it was not to be used for domestic purposes, the chemicals used to purify the river water were in no way injurious to a persons health when used for toilet purposes.

Mr. Sisk asked relative to the Company policy in selling denatured alcohol to employees at cost, and Mr. Wakefield stated he had not taken this specific matter up with the Management this Fall, but that a year ago had decided not to go into this.

There being no further business, the meeting adjourned.

John N. May,
Chairman, General Committee.
Harry E. Grimm,
Secretary, General Committee.

BOARD'S EXHIBIT NO. 95

MINUTES OF REGULAR MEETING

General Committee — Employee Representation
Hospital Building — January 5, 1937.

The meeting was called to order by Chairman May and Roll Call showed all members present.

Minutes of the last regular meeting were read and approved as read.

Unfinished Business:

The matters under this heading had been settled with the individual Representatives before the date of this meeting.

New Business:

Mr. Mundee suggested that there be a watchman on duty in the Parking Lot at Independence Road to see that cars are properly parked, which would allow room for quite a number of additional cars.

Mr. Bradley brought up the matter of lockers being broken into in a number of Locker Rooms. During this discussion it was discovered that in several departments lockers had been opened, and personal property, not including money, had been taken, and it seemed there was a systematic search for personal belongings of some employees. This is being taken up through Mr. Wakefield with Captain Jones of the Police Department for further investigation.

Mr. Exall stated that in the past there has been some propaganda going around as to his status, and in order to get the matter settled once and for all, he declared himself as being a member of the C. I. O.

The question of whether Pay Day might be every other Friday in place of twice monthly was brought up by Mr. Walsh, and later in the meeting Mr. Wakefield stated he had taken this matter up and that it would be impossible for the Time Office to make up their records in order to pay every other Friday.

The meeting recessed for lunch, reconvening again at 1:30 P. M., with all members present.

Mr. Caretti asked relative to the Lost and Found Boards which were formerly at the Gates, and Mr. Wakefield said he would take it up to see if they could be reinstalled.

As a Safety suggestion, Mr. Walsh recommended that the Sunoco Oil Company be contacted relative to the bright light on a pole in their yard near the top of Independence Road which blinds drivers at that point. Mr. Wakefield stated he would have this investigated.

At this point, Mr. Korecky, a former representative who had been laid off on account of discontinuance of the Speed Car service was invited into the meeting. He stated he was much in need of work and felt that because of his previous service he should be given a chance at least in the Labor Department. Mr. Wakefield stated that he hoped to be able to obtain employment for these men very soon.

Mr. Walsh reported that progress is very slow on the Service Station which is being installed in the Old Open Hearth Office.

Mr. Caretti again asked regarding chances for a new Labor Department Service Station and Mr. Wakefield stated that the Engineering Department had been ordered to draw up plans, but that there was nothing definite at this time.

The condition of the road inside the plant was discussed and Mr. Wakefield said he would see what could be done towards making a permanent improvement.

During the early part of the meeting Mr. Caretti brought up the question as to the company policy of working seven (7) days in one week, and in the presence of Mr. Wakefield this question was again brought up by Mr. Sisk. Mr. Wakefield stated that the company policy was to work not more than six (6) days in any one calendar week.

Reports of Committees:

Minutes of the various sub-committees were read and approved.

The minutes of the Mutual Relief Committee contained a report on the Credit Union Plan. This was discussed by the committee and a motion was made by Mr. Schermer and seconded by Mr. Smith, that Mr. Clarke, the representative of the Credit Union Association be invited to meet with those employees who are interested in obtaining further information, this meeting to be held within approximately two weeks. Mr. Clarke was contacted after the meeting and it was found that he would not be available at the time mentioned, so the matter will be referred back to the Mutual Relief Committee.

The Health & Sanitation Committee reported some misunderstandings relative to the service on the Overall Rental Plan, and a meeting of this committee with representatives of the Overall Company has been arranged to straighten out the various complaints.

General Discussion:

Mr. Grimm stated his views on the question of Unionism and said that because he had attended a meeting in Pittsburgh, some members of the committee and some employees seemed to be under the impression that he was an active member of the C. I. O. This was an entirely wrong understanding, and Mr. Grimm stated that he had no connection whatsoever with the C. I. O. and does not approve this organization or its activities, after which a motion was made and seconded that the meeting adjourn. Motion carried.

John N. May,
Chairman, General Committee.
Harry E. Grimm,
Secretary, General Committee.

BOARD'S EXHIBIT NO. 96

September 10, 1936.

Messrs: Harry Mundee, David Caretti, John Exall, James Fox, Fred Korecky, Mike Koscso, Harry Lancaster.

Gentlemen:

The Health and Sanitation Committee will meet on Monday, September 14th, at 1:00 P. M. in the Hospital Building and will make a tour of inspection around the plant.

Yours very truly,
Harry Mundee,
Chairman.

AF

BOARD'S EXHIBIT NO. 97

Republic Steel Corporation
and Sudsidiaries

General Offices Republic Building, Cleveland, Ohio.
(Republic Steel Insignia)

TO OUR EMPLOYEES:

The following statement is being made so that you will know the attitude of Republic Steel Corporation toward the effort of the Committee for Industrial Organization (C. I. O.) to force the Company to sign their Union contract. In its effort to secure such contract, C. I. O. has threatened to call a strike.

You have a vital interest in this situation. It involves your right to work in peace and to support your family in comfort. We are not convinced that the C. I. O. contract is for the best interests of the employees or the Company.

On March 31st, 1937, Republic Steel Corporation received at the Cleveland office a mimeographed letter from the Steel Workers Organizing Committee, affiliated with the Committee for Industrial Organization, Pittsburgh, Pa., with an enclosed copy of a Union agreement, which the Union demanded that the Company sign.

According to their practice, C. I. O. followed this letter with a telegram on May 3rd from Clinton S. Golden, Regional Director, S. W. O. C., Pittsburgh, Pa., threatening a strike in Republic Mills unless an immediate conference was arranged to negotiate a written contract.

On May 5th, the Company replied with a telegram stating that, in view of the Wagner Act, it saw no necessity for a signed contract. The telegram also stated that the Company would continue its policy of bargaining with representatives of its employees and suggested a meeting with C. I. O. representatives in the Company's office, Cleveland, Ohio, on May 11th.

On May 6th, the Company received a second telegram from the C. I. O., stating that a meeting with Company officials would be "futile and a waste of time and energy," nevertheless, on May 11th a meeting was held in Cleveland.

The C. I. O. made no complaints relative to wages or hours of Republic employees. In spite of this, the Union demanded that the Company sign their Contract.

This is the only matter at issue, and the Company at the May 11th meeting informed the C. I. O. representatives that it still believes it inadvisable to sign such contract, from the standpoint of its employees and of the Company itself.

Among the reasons for this decision are:

1. Thousands of our employees, through their representatives, have protested against the signing of any agreement by the Company with C. I. O. The employees of Republic now have a successful plan for collective bargaining, in which plan a large majority of the employees participate.

2. A study of the proposed contract shows that the wages, hours, safety provisions, vacation plan, seniority rules and methods of handling grievances specified in the proposed contract are no more favorable than those now enjoyed by you.

3. Both parties to a contract should be responsible. Republic is held by law responsible for acts of its officials.

C. I. O. does not assume the same kind and measure of responsibility.

4. The policy of Republic Steel Corporation is that NO EMPLOYEE HAS TO JOIN A UNION TO GET OR HOLD A JOB. Although the proposed Union agreement, by its language, does not disclose the ultimate objective of a closed shop, C. I. O. organizers have stated that the signing of the Carnegie-Illinois agreement "will result in the complete unionization of the entire industry." Republic does not believe in the closed shop principle.

5. The signing of a C. I. O. Union contract would be unfair to the workers who do not favor the Union as their collective bargaining agency and to those who prefer to deal for themselves individually with the Company. Coercion would be used by the Union in an attempt to force these workers into the Union against their wishes causing them to surrender, for all practical purposes, their rights to deal with the company except through the C. I. O. on such vital questions as wages, hours and working conditions.

6. Such a step would disturb the present harmonious relations with our men and break down the mutual confidence which has existed in collective bargaining matters between the workers and Management.

7. The signing of C. I. O. contracts in other industries has not resulted in industrial peace. Notwithstanding signed agreements, sit-down strikes and other interruptions of work have occurred in the automotive and other industries.

The policy of this Company has been, and is now, that it is willing to meet with anyone to bargain with him for whomsoever he represents.

Republic believes that every employee is entitled to determine for himself, free from discrimination, interference, restraint, coercion and intimidation by anyone, whom he wishes to represent him in the matter of collective bargaining. In view of the foregoing facts, and because of the Wagner Act and recent decision of the United States Supreme Court, Republic Steel Corporation sees no necessity for signing the C I. O. contract.

The Company is willing to continue to bargain collectively with its employees as in the past. MEMBERSHIP OR NON-MEMBERSHIP IN ANY ORGANIZATION IS NOT A REQUIREMENT OF EMPLOYMENT.

Republic Steel Corporation.

May 11, 1937.

BOARD'S EXHIBIT NO. 98

Republic Steel Corporation
and Sudsidiaries

General Offices Republic Building, Cleveland, Ohio.
(Republic Steel Insignia)

TO OUR EMPLOYEES:

With the strike called by the C. I. O. against Republic Steep Corp. now in its third week, I want to give you a first-hand account of the situation existing throughout the Corporation.

Plants at Buffalo, Chicago, Canton, Warren and Niles are operating in spite of the armed pickets surrounding the properties. The sixth open hearth furnace and the wire mill have been started at Chicago.

At all of these plants, increasing numbers of men are returning to work daily notwithstanding the hostile picket lines. Employees at these places are being housed and fed in the plants. At Warren and Niles food is being flown to the men in planes.

Plants at Youngstown and Cleveland are not operating. At Gadsden and Birmingham no strike is in effect and plants are running full.

On Thursday, June 10th, the plant at Monroe, Michigan was started and is operating at normal capacity. The opening followed an election held by the Mayor, in which 856 men voted to return to work and 20 voted to continue to strike.

Movements similar to that which resulted in opening the Monroe plant are spreading rapidly in other affected communities. Employees kept from their jobs by mobs of armed pickets many of whom have never worked for Republic, and citizens, outraged by this defiance of law and decency by the C. I. O., are joining together to insist that law enforcement agencies compel the union to cease unlawful picketing.

In Canton an election among employees, conducted by the Canton Chamber of Commerce, resulted in 3633 votes to return to work; 216 votes to continue the strike; and 39 ballots marked "not voting." In this election 2516 counterfeit ballots were returned but were not considered by the election committee, consisting of three ministers. Following this vote, a citizen's Law and Order League is being formed to aid in law enforcement.

In Youngstown, pickets are being disarmed by the Sheriff and citizens are becoming aroused at the unlawful procedure adopted by the C. I. O. union in maintaining its picket line.

Republic and its employees ask only that civil authority and respect for law be re-established so that the plants can operate and men can go to and from their jobs unmolested. There is every evidence that the men at work and the men who want to go back to work if permitted, constitute a large majority of Republic employees. The C. I. O. admits this when it uses force to keep men from their jobs.

On Friday, June 11th, a conference was held at Columbus, Ohio, with Governor Davey at the executive mansion. Representatives of Republic attended, and stated that there was no change in the company's position on the matter of signing the contract with the C. I. O.

Although the position of the company in the present controversy has been frequently set forth, I find that there are some who apparently do not understand why Republic will not sign the contract with the C. I. O. I want to be very sure that all of our employees do understand our reasons. No questions of wages, hours or collective bargaining are involved in the present strike.

No doubt some of your friends say to you, "If Republic is willing to bargain collectively, why won't they sign a contract?" It all sounds very simple. But it isn't simple at all.

If you will dig below the surface, you will see that the issues involved in this controversy are far deeper than simply whether officials of Republic will or will not put their names on a piece of paper.

The real issues have to do with the nature and character of the parties involved, and the use to which this contract, if signed, would be put.

The reason the C. I. O. wants a signed contract is because such a contract would be the first step toward the closed shop and the check-off.

This isn't merely a guess. This is based upon widely publicized statements by John Lewis, Homer Martin and other C. I. O. leaders. These statements stand on the record. They have never been denied.

Under the closed shop, every worker has to belong to a union, whether he wants to or not. The closed shop is actually a "deal" between the employer and the union whereby the employer helps to force every employee into the union.

Under the check-off, the company takes union dues out of the pay envelopes of all its employees, and hands them over to the union. That is a violation of the rights of the individual workman. Every man's pay is his own.

Let's consider the nature of the parties to the present controversy.

On the one hand you have Republic Steel Corporation. That word "corporation" is important. This corporation is held responsible by law for its actions and those of its employees while engaged in company business.

In short, Republic is a responsible party to any contract.

Now let us look at the C. I. O.

Does the C. I. O. contract preserve industrial peace? It does not. They have broken numerous contracts. Since various automobile and other manufacturers have signed C. I. O. contracts there have been scores of strikes and hundreds of thousands of men thrown out of work at those plants.

Does the C. I. O. contract give job security to employees? It does not. Jobs depend upon business conditions, which are now being imperiled by C. I. O. strikes and lawlessness, at a cost of billions of dollars in lost wages. To date Republic employees alone have lost forever nearly $3,000,000 in wages.

Does the C. I. O. conform to the laws of our country? It does not.

In the present strike it has defied all law and decency in its picketing methods. It is attempting to prevent free American citizens from earning a living at jobs they want to pursue. Its members have been tearing up railroad tracks, blocking United States mail trucks, beating up hundreds of men, defying local authorities by massing troops of armed pickets, stoning workmen's homes, and shooting at airplanes.

Would you, yourself, sign a contract with a man who clubs his neighbor over the head, kicks the postman out of your yard, throws bricks through your parlor window, and has already broken a contract with the man across the street?

By contrast with this reign of violence Republic has unfailingly obeyed the laws, and has made every effort to avoid violence of any kind.

So, when you get all through, the present controversy sums up somewhat like this:

Must Republic and its men submit to the communistic dictates and terrorism of the C. I. O?

If America is to remain a free country the answer is NO.

Tom M. Girdler, Chairman.

BOARD'S EXHIBIT NO. 99

WHAT THE EDITORS ARE SAYING ABOUT THE REPUBLIC STRIKE

No. 2 Reprinted by Republic Steel Corporation No. 2

(Reprinted from Cleveland Press, June 12, 1937)

FAIR ENOUGH

No Contract with any Union is Worth Much Unless There Is Found Mutual Responsibility

by Westbrook Pegler

NEW YORK, June 12—Senator Guffey blames the steel trouble on the refusal of three companies to sign contracts with the C. I. O., and, granting only for the sake of argument that it is so, the contract with the C. I. O. isn't worth a damn and won't be until the law provides some penalty in case of repudiation by the C. I. O.

In fact, no contract with any union is worth any more than a treaty with Mussolini, nor will be until there is mutual responsibility, as there must be in any contract that is a contract.

Under present conditions the employer is bound to observe the agreement down to the last comma and concede all borderline cases to avoid penalties, including, possibly, a term in jail. But a union has no more responsibility than a cyclone, and a leader who may be a thief or a dictator on the rise, with ambitions to emulate Stalin, Trotsky or the Duce, may treat a contract as a scrap of paper if it suits his convenience to do so.

Suppose the C. I. O. does break a contract dictated by its own representatives and backed on one side by the law, the Government and the employer's property, and on the other side by nothing. Who is going to do what to whom? Nobody is going to do anything to anybody.

Need Broad Inquiry

So why should any employer sign a contract with the C. I. O. if he doesn't have to? Senator Guffey proposes a rather wide investigation of the steel strikes, but while they are at it the statesmen could do much worse than inquire into the affairs of labor in general, with an eye to coercion, extortion and the unofficial but inescapable income tax which is levied on the earnings of nominally free American workmen by labor unions to which many of them have no desire to belong.

This income tax falls heavily on a class of people in brackets so humble that the Federal Government deems them too poor to contribute, and this is not to quarrel with their exemption. But if Mr. Guffey were to pursue the matter he undoubtedly would find many employees earning as little as $18 or $20 a week and exempt from the income tax, whose right to earn a small living has ceased to be a right and becomes a concession sold by private organizations having no responsibility for their actions.

There is no ground for criticizing the voluntary payment of dues to labor unions by people who want to belong, but when membership becomes a necessity preliminary to employment, then the dues are not voluntary payments, but extortion or at least a tax.

Senator Guffey might find in the course of a general investigation of union affairs that the rank-and-file workman has very little voice in the business of his union, but is whipped around by professional leaders who are experts in their line and the masters of parliamentary tricks which nullify the rights of the individual.

Cites Labor "Courts"

The public courts have been in some dispute, the more so since Mr. Roosevelt began his campaign against the prestige of the Supreme Court, but that seems to be no excuse for the establishment of private courts in labor unions with the right to inflict severe financial penalties on reluctant members even up to permanent banishment from the occupation for which they have been trained.

If Senator Guffey were to extend his investigation of the steel strike he might find that the union members now need the Government's protection against union dictation as badly as they ever needed laws to protect them from unscrupulous employers.

He might find ruthless dictatorship robbing the children of the workers, and courts inflicting punishments, all without responsibility, under the protection of the United States Government, and in the guise of altruistic labor leadership.

It is worth looking into.

(Reprinted from Detroit Free Press, June 12, 1937)

MONROE TAKES A STAND

With the aid of a Mayor who understands his public duties, the independent steel workers employed in the Monroe plant of the Newton Steel Co. returned to work Thursday in defiance of the labor autocrats of the C. I. O.

Before doing so, they sent a telegram to John L. Lewis, which said:

"This plant has been closed because you or one of your generals pushed a button, and ordered it closed. Neither the men working in the plant nor the company had anything to say about it.

"We have been out of work for two weeks and we don't like it. We have heard that you are a friend of the workingman, but all you have done for us is cost us two weeks' work already, and still you are trying to keep us from going back to work. * * *

"Do you believe in the right of free American citizens to work if they choose to work? If you do, prove it by taking your imported pickets out of Monroe."

This is clear and to the point, and it fully illuminates the situation for the public.

The one real issue in Monroe which led to the clash Thursday evening is whether peaceable American men are to have the right to work for an employer of their choosing, free from interference by muscle men, free from terroristic intimidation, and free from involuntary servitude to a power-mad labor organization they neither desire to join nor help finance.

The question at issue is a question of fundamental human liberty.

Happily in their time of need the wage earners in Monroe received an aid and support that unorganized wage earners in other places in Michigan generally have been denied or at least have failed to get.

In actively protecting the employees of the Newton Steel plant in their right to earn a living and take care of their families, and in making it clear that they intend to keep on doing so, Mayor Knaggs and the Monroe police have performed a healthful public and patriotic service, and they deserve high commendation and support.

So do the American Legionnaires and voluntary police who have aided them, and stand with them.

These men have used forceful methods but no more forceful than necessity demanded. And they were in no sense interfering with any legitimate labor movement. Quite possibly some of them have union affiliations.

They simply are undertaking to uphold American law, order and individual liberties against elements which are trying to substitute personal rule of their own based on force and intimidation.

In other places throughout the State, these elements have had their way and are still having it.

But Monroe has called an emphatic halt, and the people of the State will hope that what has been done will mean a "new deal" for free labor in Michigan, and the beginning of an ebb of the mob spirit in favor of new respect for private rights.

However, much is bound to depend upon the attitude and conduct of the State Administration, and we are sorry to say that up to this time, it seems to have quite failed to understand the gravity of the situation Michigan faces, or the peremptory nature of its duty in the premises.

The people of Michigan need protection from high-handed invasion and from lawlessness and they have a right to expect [piece torn from copy] provide it.

(Reprinted from Pittsburgh Post-Gazette, June 10, 1937)

BOAKE CARTER SAYS

I Wonder. Pointed Questions. What's the Answ.

I wonder:

Why striking steel workers, when they buried their dead after the clash with police near the Republic Steel

Corporation plants outside Chicago, had to bring their children to stand and look at the caskets;

Why they encouraged their CHILDREN to distribute black-bordered pamphlets bearing the inscription: "Blood on Steel".

Why encourage small children, who are too young to understand, to grow up in an atmosphere of hate? What have they got to do with the row between the CIO and the Republic Steel?

Childhood is the only happy time one has in life. What is the point in dragging them to participate in something which will leave its mark and color their lives for all time?

The pity and disgrace of it all is that these hapless youngsters were the innocent victims of their parents' selfishness, who used them primarily to stir sympathy. Sympathetic feelings, on the contrary, are not engendered among thoughtful people. Instead they wonder why striking fathers cannot fight their own battles, without resorting to refuge behind the innocence of little children to gain their ends.

What the Editors Are Saying about the Republic Strike

No. 2

(Reprinted from Chicago Daily Tribune, June 10, 1937)

MORALE OF C. I. O. CRUMBLES FAST IN YOUNGSTOWN

MEN GRASP FACT FIGHT IS NOT FOR BETTERMENT

(Chicago Tribune Press Service)

Youngstown, O., June 9.—(Special.)—It now appears that if officials of the Republic Steel company and the Youngstown Sheet and Tube company hold out for perhaps another ten days, the Steel Workers Organizing Committee and John L. Lewis' Committee for Industrial Organization are due for their first major defeat in this Mahoning river valley.

In spite of the tenseness in the six steel mill towns in the area, there is a steady loss in enthusiasm for the strike among the 32,000 workers who have been out of jobs for 13 days. Union leaders are doing their best to whip up sentiment but are finding the task more and more difficult.

These indications are inescapable for observers here. And even the first efforts of Ohio's Gov. Davey at Columbus to bring union and company leaders together seems to have little weight among the strikers at this time.

Explanation of Developments

There are several reasons for this. Gov Davey, although a Democrat, is known to be highly unpopular with the national administration and with President Roosevelt. In efforts to bring about peace Davey will lack the support which was so freely accorded Gov. Murphy of Michigan in the General Motors strike.

Men in the rank and file of the strikers, the strike leaders and the officials of the companies affected, all know these facts. A few of the strike leaders will admit in private that they do not expect to obtain any results from their attendance at the conferences called by Davey for Saturday in his capital office.

They say that the governor is to be given his innings so that after the negotiations he conducts are unsuccessful it will be possible to appeal directly to the President in the hope that he may break all precedents and intervene personally. They explain that they want to be able to approach him with the plea that they have exhausted their remedy in all lower courts.

Responsible Workers Cooling

To the average striker, who already is beginning to feel the economic pinch of no income, all this strategy means merely that it will be weeks longer before he will be again at work. Sober heads of families already are shaking their heads. The backbone of the strike now consists of the younger hot-heads.

After seeing the strike army in operation, both in staff and in field, the conclusion is inevitably reached that this strike was called before the proper groundwork was laid. Preparations were not carefully made, organization of the men had barely begun, and no responsible leaders from among the steel workers themselves had pushed to the fore.

The result is first that the strike leaders are men from Lewis' own miners' union and not steel workers. John Owens, chief of staff for the military organization of the strikers here, is one example. He is a former miner who is neither well known nor implicitly followed by the steel workers.

Steel Men Are Left Out

Although Owens has a number of steel men on his general staff, the important posts—the posts where leadership is required—are filled by trusted C. I. O. organizers. These men are professional agitators who are not too familiar with the problems of those they lead and who are wholly unfamiliar with the pride of the steel worker in his craft.

All this is reflected in the dwindling picket lines, the poor attendance at mass meetings, the general listlessness of the great mass of strikers here. All the incidents which have occurred to date have been the result of careful planning by leaders of the strikers' shock squads.

The spontaneity of outbursts by men with real grievances has been conspicuously lacking.

The C. I. O. leaders [piece torn from copy] first realized that this strike is revolutionary and political, rather than economic. The average worker just now is beginning to find this out. Just now they are beginning to talk among themselves about the futility of striking merely to get their employers to sign a piece of paper.

Drafted for Picket Lines

And so the C. I. O. leaders now have been forced to institute a system of registration for pickets. In effect this is a conscription system which will insure the attendance of pickets at points where they are wanted. Many of the strikers also are being recruited by company back-to-work groups.

While a group of strikers today was circulating one petition seeking the removal of Sheriff Ralph Elser for his inflammatory conduct during the strike, another group of the back-to-workers was preparing a petition to the sheriff asking for his protection if they succeed in arranging with bosses to re-open the mills.

(Reprinted from Warren Chronicle Tribune, June 8, 1937)

LETTERS TO THE EDITOR

Hits Intimidation

Editor Tribune:

Just a few lines from an honest American citizen and an employe of Republic Steel Corp. for 15 years.

I would like through the medium of your column to ask executives of CIO how they expect to gather in converts, when they tolerate intimidations on the families of the loyal employes who chose to remain at their jobs. We who remained in the mill are not complaining about the stopping of mail trucks, the effort to shut off our food supply by shooting at the planes transporting our food. But when they stoop to the filthy practice of sending men with disguised faces to the doors of our families, I just cannot conceive anybody having the nerve to solicit members to an organization that tolerates such practices and knowing that you would have to associate with men who violated all the laws of American principles and decency. Why don't we fight this issue like men. Men of the type our good American mothers wanted us to be. We have been called sewer rats and God knows what not. But I gladly prefer to remain one of the rats and at least be decent and a gentleman.

--Satisfied Worker.

Tells of Conditions in Mill

Editor Tribune:

I have been employed in the Warren Works of Republic for almost 15 years and a homeowner and taxpayer on real estate for over 10 years. As such I wish to say the following regarding conditions here in the mill. We have plenty of good food and places to sleep in spite of the efforts that have been made to prevent it.

Except for the hot mills the plant is working with slightly reduced schedule. I believe I am expressing the attitude of most men here when I say I would not go over and take one of the hot mill men's jobs while they are out if I was offered title to half Republic Steel for so doing.

We never have had nor do we now have any quarrel with any group of employes in the mill but we certainly are angry to see a gang among whose faces we see very few known to us, cut telephone wires, stop mail trucks, tie up railroads, shoot at planes and prohibit neutral citizens and taxpayers from walking the streets and traveling the highways which they pay taxes to maintain Democracy never has been based on mob rule and if it permits an organization of any kind which practices mob rule to grow too large then democracy will no longer exist.

—Paul Mitcheltree.

(Reprinted from The Sun, June 8, 1937)

NECESSARY CORRECTION

The inscription across the facade of the New York Post Office is now limited to the words of Herodotus:

> Neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds.

Postmaster-General Farley should add the following:

> Unless John L. Lewis says otherwise.

(Reprinted from The Washington Post, June 7, 1937)

WHERE RESPONSIBILITY LIES

The refusal of postal officials to accept food packages for delivery to beleaguered workers in plants of the Republic Steel Corporation shows how completely the law-enforcement machinery of the affected communities has been paralyzed by the terroristic tactics of the C. I. O. strikers.

The Postoffice Department should not be blamed for refusing to subject its employes to the ordeal of running past hostile picket lines. It is neither a law-enforcement agency nor a strikebreaker. It cannot be expected, therefore, to function effectively under conditions that expose mail carriers to violent attacks by enraged strikers. At such times the wise policy is to hold aloof and not risk the shedding of blood.

The methods adopted by C. I. O. leaders in certain areas to force these workers to surrender are more disruptive of the peace of a community, and certainly more dangerous to life and limb, than the deservedly condemned sit-down strike.

Expansion of the "sit-down" technique was abruptly checked when labor realized that public opinion was becoming profoundly hostile to such demonstrations and that the law-enforcement agencies of government were in a mood to deal more severely with illegal occupancy of property.

(Reprinted from New York Times, June 7, 1937)

BESIEGED STEEL PLANTS

For more than a week workmen in the plants of the Republic Steel Corporation have been besieged by strikers who have thrown cordons around the company's properties in the Youngstown district. So far the news indicates the men in the plants are not "strikebreakers" in the accepted sense of that word and in the sense in which it is defined in the Government's new Wage-and-Hour Bill. Under the terms of that measure a "strikebreaker" is a person "employed to do work wholly or in part theretofore done by a regular employe", where such person is known by the employer to have no intention of accepting regular employment or is paid for the work done by him a higher wage than the wage paid to regular employes.

There is nothing to indicate that the men now besieged in the plants of the Republic Steel Corporation come under this definition. On the contrary, they seem clearly to be regular employes of the company who wish to continue in regular employment. They face great handicaps in doing so. They cannot pass safely through the lines which surround the plants. Nor can supplies of food and clothing be sent into the plants to them by any ordinary means. It is a particularly important factor, in the present situation, that local postal officials have taken the position that "irregular" packages, meaning food, etc., cannot be accepted for delivery through the strikers' cordons. This local ruling has been upheld at Washington on the ground that it is well-established postoffice policy "to maintain only normal deliveries in troubled areas". The effect of this policy, as applied in the present instance, is plainly to aid one faction in the Republic dispute at the expense of the other faction.

It is apparently a vain hope to look to the Wagner Labor Relations Act for an early solution of the present controversy. The Wagner act requires collective bargaining on the part of the employer, but does not require the signing of a contract. The company insists that it was bargaining collectively before the strike was called. The C. I. O. leaders who are in charge of the strike dispute this, and demand the signing of a contract. There the issue rests at present, with the C. I. O. attempting to make its demand effective by denying those regular employes of the company who do not wish to strike the right to continue working.

What the Editors Are Saying about the Republic Strike
No. 2

(Reprinted from The Canton Repository, June 10, 1937)

CITIZENS FORM GROUP TO BACK LAW AND ORDER

More Than 500 at Meeting Voice United Demand for Enforcement of Law and Public Safeguards

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More than 500 representative citizens from business and professional walks of life gathered at the call of community leaders at the Courtland hotel Wednesday night and banded themselves into a Citizens Law and Order league to preserve peace and insist upon the enforcement of law by constituted authority.

T. K. Harris, Rev. P. W. Welshimer, Col. Harry Frease, and Adolph Unger each discussed the breakdown of law enforcement in connection with the Republic Steel strike and suggested measures for correction.

Rev. Welshimer Said.

"We have seen the spectacle of men parading the streets in recent years wanting work. Now there is plenty of work to be done and multitudes want that work. I venture to say that 90 per cent of the men forced into idleness by this strike want to work. If they were free and unshackled they would be in the factories tonight. The tragedy is that it is a small minority keeping this large majority away from factories and denying them the God-given right to work.

Calls CIO "Dictator"

"As I came into this hotel tonight I was accosted by a young man at the door. He made this significant statement to me: 'We propose to have this settled as we want it and if it isn't we'll bring Akron rubber workers down here and there will be bloodshed'. That is what this city confronts tonight. What is it the strikers want? They do not want more wages, changed working conditions. What they want is recognition. They insist that CIO be recognized as labor's dictator.

"We talk about Hitler and Mussolini and what we would do if we had a Hitler or Mussolini in this country, yet we have some animals in this country tonight who are as bad as these foreign dictators. What we confront tonight is the forerunner of communism. Here we have a minority opposed to government by the majority, working like termites to undermine the foundations of our government. This community has never seen this situation before. We have sabotage, blockaded streets, men standing in public thoroughfares with clubs and bricks. Homes are being wrecked and doors broken in and all of this in a civilized community where law and order should obtain.

Col. Harry Frease, then called upon for a viewpoint, said:

"The entire manhood of this community is at the disposal of the sheriff and the mayor. They need but to ask for it.

"In this present situation our state government is not run from Columbus and our national government is not run from Washington. Isn't John L. Lewis running our government, both state and national? Isn't he running our postoffice and our railroads?"

Adolph Unger, attorney, spoke as follows:

"I was one of those who went overseas to help maintain the rights and liberties of American citizens. I venture to say that 99 per cent of the ex-service men in the country are opposed to conditions that exist today. Over in Hershey, Pa., they beheld the spectacle of the CIO flag hoisted above the Stars and Stripes. It was the ex-service men of that community who righted that wrong.

"We have no quarrel with labor. We recognize and respect the right of the working man to bargain with his employer for increased wages and better working conditions. We concede them the right to picket so long as they follow the practices prescribed by law but we do violently object to disorders, to unlawful acts, sabotage, to the appropriation of property to gain their ends.

Calls for Action

"We are going to get some action if we make strike leaders responsible for acts committed by their followers. I have read in the public prints numerous promises of public officials to do their duty. Yet we have seen law and disorder flouted and nothing done to correct this situation.

"I believe I could honestly pledge the services of every man in this gathering to a program of law and order which will correct the problem we confront now. Any man in public office who does his duty deserves the support of his community but any official who lays down on the job will receive the public's answer at the next election. We are through with continued pussyfooting by public officials. If they have been waiting for our support and cooperation they now have it. We want action and we demand action."

T. K. Harris spoke as follows:

"This city has been under mob rule for two weeks. There have been reported at least 23 separate instances of sabotage against men working in Republic plants. Their automobiles have been damaged, windows in their homes have been broken. One woman, after the windows of her home were broken, said that seven men demanded that she induce her husband to leave the plant or they would get him and tar and feather him.

"These cases are designed by a lawless organization to put fear into the hearts of helpless wives and children of those men who are doing what the Constitution guarantees them the right to do. This is only one phase of the intimidation that is practiced against the workmen and their families.

"Perhaps our law enforcement officials should not be criticized too much as they are no worse in this respect than mayors and sheriffs of other cities where there have been strikes recently, but it is not apparent to me how they reconcile their oath of office with their conduct at this time.

Says Men Want to Work

"After the vote at the auditorium was frustrated, the Chamber of Commerce as our leading civic organization was induced to take a vote by mail. This was carefully carried out and every precaution taken to see that it was fair and unbiased. Yet when the time came to count the votes it was found that unscrupulous persons had introduced 2,516 counterfeit ballots and they did not even do a good job of counterfeiting. Comment on the totals of this vote was superfluous—results were roughly 3,600 back to work and 200 for strike.

"The men in the plant are more than willing to come out and take the law in their own hands in an endeavor to make it possible for them to go to and from their jobs in peace. There are 2,000 to 3,000 workmen on the outside who want to resume their jobs and who are willing, if necessary, to fight their way into the plant for that purpose.

"They certainly are entitled, as American citizens, to the full protection of the law, and must be permitted to go their way peacefully. It is becoming more difficult to keep them from taking the law into their own hands."

(Reprinted from N. Y. Sun, June 7, 1937)

THE REAL TRADITION

The grave charge is made that Post Office Department employes at Niles, Ohio, have permitted strike managers to examine mail addressed to the Republic Steel plant, presumably with the right to bar its progress if they so desired. While this allegation has met with half-hearted denial in Washington, Postmaster-General Farley's deputies are saying that the policy of the department permits no delivery of "irregular mail" to a struck plant. One of them murmurs that it has been the "traditional policy" of the department for thirty years to give no aid to either side in a strike.

The only genuine "traditional policy" relating to the conduct of the Post Office Department in such circumstances is the one made unforgettable by President Cleveland in the Pullman strike of 1894:

"If it takes the entire Army and Navy of the United States to deliver a postal card in Chicago, that card will be delivered."

Mr. Farley ought to read about Grover Cleveland. There was no yellow in him.

(Reprinted from Detroit Free Press, June 8, 1937.)

C. I. O. AND THE MAILS

Hitherto it has always been the rule in America that the mails are inviolable, and that the Government will not tolerate interference with their operation by any person, official or unofficial, on any pretext or for any reason.

The right of the people to get service without interference or favoritism has been considered axiomatic.

But many strange things that would have been considered outrageous and intolerable in other times are happening quite commonly in these days.

So it is not particularly surprising to learn that the Republic Steel Corp., of Youngstown, O., has complained to the Postmaster General in Washington because, as it asserts, postmasters in Ohio towns have refused to accept parcel post packages for delivery in this strike beleaguered plant and have even allowed C. I. O. representatives to "censor" packages addressed to persons inside its walls.

The postmasters are reported to be justifying their conduct by saying they acted on the strength of advice from an assistant United States District Attorney in Cleveland.

This may seem almost incredible, but it is of record that a New York Times representative who undertook to make inquiries about the matter in Washington over the week-end, was able to get little except angry words from Jesse M. Donaldson, first assistant deputy, beyond a fatuous statement that "the department's policy for 30 years has been to avoid aid to either side in capital-labor disputes."

Which certainly doesn't sound much like an attempt to deny the substantial accuracy of the very serious charges which have been made against his department.

Indeed, there seems to be something extremely sour somewhere, and ominous. And though the Country endures a surplusage of Congressional investigations, here seems to be a place where a searching one at an early date will be very much in order.

The matter is important to everyone, to all of us. For if parcel post packages can be held up or censored because a labor union organization doesn't want them delivered without its permission, how long will anybody's mail of any sort be safe from molestation?

(Reprinted from Buffalo Courier Express, June 9, 1937)

GOVERNMENT BY UNIONISM

Announcement by spokesmen for Mr. Lewis' CIO that it is their purpose to organize federal civil service employes brings to the front a question of vast importance to the public. It is simply this:

Is government to be directly dominated by unionism?

Of course, it may be said that government is now dominated in no small degree by unionism acting through political influence. That unquestionably is true. For the purpose of making that domination most effective, Labor maintains at Washington its great central offices from which pressure can be constantly placed upon legislators and administrators. This, however, is something aside from a union of civil employes pledged to co-operate and perhaps coercive action which conceivably may disrupt public service and even threaten public welfare.

We have just had a little example in our own city of what may come from union organization of civil employes. It was not pleasant. Fortunately, it was not carried to extremes. It was disagreeably suggestive of possibilities threatening not only the comfort but the health of the public. There are unions now of local employes, other unions of state employes, union organizations among even the teachers. It, then, is only a short advance to unions of federal employes.

The implications of such a situation are most grave. They invite serious thought of what might be involved in a strike by public employes against the public which pays them for services rendered, to promote and to preserve public welfare. A correlative thought must necessarily have to do with protection for the public by, perhaps, the passage of laws making illegal the refusal of public servants to discharge their duties under penalty of immediate dismissal.

(Reprinted from Youngstown Vindicator, June 8, 1937)

PRIMARY RESPONSIBILITY

The stopping of mail trucks in the Youngstown district, the Post Office Department's refusal to accept packages addressed to the mills, and the censoring of mail matter by strikers at Niles have caused justified uneasiness throughout the country. The situation makes obsolete the motto which the postal service has borrowed from Herodotus and displayed proudly in post office buildings: "Neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds."

The mails should be kept moving. If men want to maintain the plants, or even to work in them, that is their right. If the company wants to mail food to them, that is their right. And if the CIO wants to mail appeals to them to strike, that is the union's right. The postal service should be kept open to the use of all citizens, as long as that use is within the law.

At the same time the mail controversy could not have arisen if there had not been a breakdown of ordinary law enforcement first. Sending supplies into a mill is not a function which usually requires federal action. It is carried on normally by the ordinary methods of commercial delivery. The only reason the companies have resorted to the mails is that normal traffic has been forcibly stopped, in violation of ordinary law.

The theory of the American system of government is that the federal authority shall be called upon to render only such services as it can best perform because of their interstate nature, or which the state and local governments are unable to perform because they lack sufficient strength. The federal arm is directed by the Constitution to give protection "from domestic violence"—but properly this is not done until all resources of local government have been exhausted.

Have local resources been exhausted in this case, or is the community calling upon Washington to do something for it which it has not tried to do for itself? If Youngstown's present police force is too small to cope with those who break the law, even if augmented by sheriff's deputies, certainly the state should make at least an attempt to uphold law and order.

In short, the mails should be kept moving, but the primary responsibility of the city, county, and state should be given at least as much attention.

(Reprinted from Cleveland News, June 8, 1937)

THE SHAME OF THE MAILS

The disgrace of the United States mails is complete.

The federal service with the most enviable record of all, with its proud boast that the "mail always goes through," is reduced to the point where it goes through only if the contents of packages are acceptable to Phillip Murray of the C. I. O. No one is in doubt what would happen to a lawyer, a doctor, a merchant, a sailor, a street car conductor, a ribbon clerk, a truck driver, or any other American who presumed to interfere with the mighty United States mail. And no one can longer be in doubt that the C. I. O. constitutes a privileged class.

The steel strike committee at Canton hired airplanes to drop leaflets into the Republic Steel plant here. One of the leaflets said:

"Four departments of the United States government are fighting on our side." That was no boast, but a plain statement of fact.

How else can one explain the asinine statement of Jesse M. Donaldson, deputy first assistant postmaster general, regarding a perfectly proper resolution by Senator Bridges of New Hampshire which sought an investigation. He said:

"I take it that Senator Bridges is trying to indicate that we ought to arm our trucks and drivers and force delivery. The post-office is not a strike breaking agency."

Mr. Donaldson takes it as nothing of the kind. No one has suggested that the mail employes constitute themselves strikebreakers or combat troops. There are local law-enforcing agencies to whom the postoffice can appeal for whatever protection is necessary to insure deliveries. Why has it not done so? There are state law enforcement agencies to which appeal can be made. There is the power of the federal government itself. We had a president once, Grover Cleveland, who was not afraid to send troops into Chicago to insure the running of the United States mails. He sent them and the mails went through.

But Mr. Cleveland, of course, had no John L. Lewis. He had never been publicly told, as Franklin D. Roosevelt was told last January by Mr. Lewis, that labor had supported him and expected to be paid off. That payment is being made through the prostitution of a famous government service. Ask yourself one question:

"If those were sit down strikers in the plants, would mail to them go through?"

You know it would.

(Reprinted from Washington News, June 11, 1937.)

WHO PAYS?

Speaking of morals, responsibility, etc., here is a little C. I. O. family squabble worth pondering.

Several thousand General Motors employes in the Saginaw Valley of Michigan, at work under a C. I. O. contract, lost their jobs for a day—and wages aggregating some $450,000—all because another group of C. I. O. workers, in the local power plant, threw the switches and thereby cut off the juice that runs the machines in the auto factories. It came about because of a misunderstanding—the C. I. O. leaders hadn't told their members in the power plant that their dispute with the power company had been settled and an agreement signed.

The question is: Who should pay for the lost wages?

If this sort of thing keeps up, John L. Lewis will have to set up a court of claims inside his own organization.

And then what about the general public, which also suffered?

(Reprinted from Chicago Daily Tribune, June 6, 1937)

BEHIND THE SOUTH CHICAGO RIOTS

No extemporized mob unassisted by a trained fighting force would have made the attack of Sunday, May 30, on the police defending the plant and employes of the Republic Steel corporation in South Chicago. Men merely inflamed by the harangues of agitators would not have had the determination to fight a pitched battle. The review of the facts and a study of the pictures will prove the presence in that conflict of a force of trained military revolutionaries. These facts have not been commented upon and there is need to examine them.

In the mob there were three elements. There were the toughs who had come over the line from Indiana seeking a fight of any kind and a chance to attack the workers remaining in the plant. There were a few striking employes of the company who had been excited by the agitators. Then there was a trained military unit of a revolutionary body. They are rushed to scenes of lawlessness whenever the C. I. O. promotes disorders. Only a mass of men strengthened, directed and sustained by selected, trained and disciplined revolutionary fighters would have rushed across a hundred yards of intervening space to attack the police line.

The morale of professional soldiers must be high to permit them to make an attack under such conditions. Du Pic, the great French military authority, has described how French troops in columns attacking British formations have unraveled at the rear even before the British delivered a fire and how the front would collapse under the fire. No ordinary body of men spontaneously assembling to hear inflammatory speeches would have been aroused to such determination unless they had been directed and supported by well trained fighters.

The police force standing in the way was a formidable one. There were at least 150 disciplined men, armed with pistols and nightsticks, nevertheless, the mass crowd made its attack. It moved across the open space separating it from the defenders of the plant, refused to listen to the warning and advice of the commanding police officer, and the melee was on.

The fighting was sharp and stubborn, the police held their ground and the casualties were heavy. Seven of the attackers were killed or mortally wounded and ten times that number, including policemen, were badly injured. Now considering the numbers involved, that would be a high casualty rate in a skirmish between disciplined troops.

The determination of the fighting nucleus of the attackers is proved by what they did. It is also proved by the losses suffered. The pictures show the police taking cover from missiles before they charged to defend themselves.

It has been known that there had been incitement to this disorder and that the striking employes had been harangued and stirred into action. But they were led and supported by members of an organization which has been disciplined and trained to the necessities of hard fighting, just as regular troops are trained. The unfortunate affair at South Chicago offers evidence of a militant body which sends its fighting cadets into every trouble area to form the disciplined corps of any attack which can be organized by fiery speeches.

Soldiers in their training are instructed that when captured they may tell their names and the organization to which they belong, but nothing else. A number of the riot prisoners have told their names and addresses and have refused to give any other information. Some others have identified themselves as striking employes of the company's plant. Others, in spite of the silence of many, have been found to be active members of the communist party.

An investigation will discover the existence of a regular revolutionary military force, members of which are operating wherever the C. I. O. strikes are called and strikers are incited to lawlessness and acts of violence. There are reports that the airplanes trying to drop food packages at the Youngstown Steel plant are exposed to gun fire. The confirmation of this at this time may not be positive, but the reports persist, and the object of firing, of course, would be to keep the plane from flying low enough to insure that the packages would drop within the beleaguered plant. Only trained shots can hit a flying airplane.

Any one who has read Mr. Ator's articles in The Tribune describing revolutionary tactics will recognize the revolutionary technique in the formation of the mobile fighting forces. These military nuclei, what the revolutionaries call cadres, have been formed and their work is being revealed in some of the extraordinary circumstances in which the present disorders are being staged.

(Reprinted from Washington Herald, June 10, 1937.)

CONGRESS ALARMED BY C. I. O. ULTIMATUM IN STEEL FIGHT

Written by Arthur Henning for Chicago Tribune—

With the Roosevelt administration standing pat on the aid and comfort it is affording John L. Lewis' C. I. O. drive on the independent steel companies, concern for the outcome is spreading in Congress.

Democratic as well as Republican legislators do not conceal their apprehension of the potentialities of the class warfare that has been engendered. With the Government condoning the arming of pickets and the intimidation of non-strikers some Senators and Congressmen express their fear that large areas of the country may at any time be thrown into a state of virtual civil war. Others suggest that the trend of events in the industrial regions affected is precisely that which produced Fascism in Italy and Germany.

Employers possess no right of appeal under the Wagner act, the board has ruled. The Interstate Commerce Commission has pleaded lack of jurisdiction to protect the railroads from tearing up of their tracks at the steel plants by strike pickets.

Postoffice Stands Pat

The Postoffice Department continued to stand pat on its refusal to deliver parcel post to the beleaguered mills. No official notice was taken of the Republic corporation's demand that the postal service perform its function. It was stated that Postmaster General Farley would answer the demand in the near future.

Senator H. Styles Bridges (R.), of New Hampshire, will go before the Senate Committee on Postoffices Friday with a mass of evidence to support his resolution calling for an investigation of the refusal to deliver mail to the steel plants.

Part of the evidence furnished him details the manner in which the C. I. O. leadership dictated the course taken by postal officials in Ohio. The evidence raises the question of a violation of the conspiracy laws on the part of postal officials and strike leaders.

Senator Bailey Aroused

One of the Democratic Senators aroused by the collusion between the Administration and the C. I. O. is Josiah W. Bailey, of North Carolina. He announced he would support the Bridges resolution. The Senator said:

"This interference with the mails is a very serious thing. The carrying of the mail is a function of the Government. When private individuals interfere with the mail and undertake to say what shall go through and what shall not, it is the clear duty of the Government to stop them. This procedure is analogous to a private individual undertaking to operate the Government. If we stand for that in little matters, then they are likely to undertake it in larger matters. We have got to act. If the Government does not perform its own function, you will very quickly find others to do it."

BOARD'S EXHIBIT NO. 100

Plan of Employees' Representation
River Plant
The Corrigan, McKinney Steel Company
Cleveland, Ohio
Amended March 19, 1934

Plan of Employees' Representation

Principles of Representation

In order to give to the employees of The Corrigan, McKinney Steel Company a voice in the consideration of all questions relating to rates of pay, rules, working conditions, health, safety, hours of labor and other similar matters of mutual interest, and in order to provide an orderly and expeditious procedure for the prevention and adjustment of any future differences, a method of representation of employees is hereby established.

Hereinafter, The Corrigan, McKinney Steel Company shall be called the Company, the management of The Corrigan, McKinney Steel Company as the Management, and the employees of the Company as Employees.

This plan of representation hereinafter provided (hereinafter called the Plan) shall in no way discriminate against any employee because of race, sex or creed, or abridge or conflict with his or her rights to belong or not to belong to any lawful society, fraternity, union or other organization.

I.

Representation

1. Employee representation shall be by voting division which shall be based upon departments or units of the plant. There shall be one Employee Representative for each 250 employees of the plant or major fraction thereof in each voting division, with a minimum of three Employee Representatives under the Plan, based on the average number of employees in such division. Adjustments shall be made to meet special recommendations in accordance with the Committee on Rules.

2. Wherever it shall be necessary for the purpose of applying the unit of representation to group small departments, regard shall be had to logical groupings and location.

II.

Term of Office of Representatives and Vacancies

1. Employee Representatives shall be elected for a term of one year, and shall be eligible for re-election.

2. An Employee Representative may be recalled by two-thirds of the voters in the voting division of such representative. Election for recall may be called by the Committee on Rules not sooner than 15 days and not later than

30 days following the approval by petition signed by two-thirds of the voters in the unit of representation of the representative. The petition shall state the reason for recall and Employee Representative shall have the privilege of appearing before Committee on Rules to defend himself if he so desires.

3. An Employee Representative shall be deemed to have vacated his office as such upon his appointment to such a regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancies in the office of an Employee Representative for which there is no Alternate as described in Paragraph 15 of Section IV hereof may be filled for the unexpired term, in the discretion of the Rules Committee, by special elections conducted in the same manner as the regular annual elections.

III.

Qualifications of Representatives and Voters

1. There shall be no restrictions or limitations in the choice of representatives, except as provided in Paragraph 3 of Section III.

2. All employees who are enrolled on the Company pay rolls shall be entitled to vote, except as provided in Paragraph 3 of Section III.

3. The officials of the Company and persons having the right of hiring or discharging employees, or recommending the hiring or discharging of employees, or regularly holding purely supervisory positions shall not be eligible for election as Employee Representatives or qualified to vote for Employee Representatives.

IV.

Nominations and Elections

1. Nominations and elections of Employees Representatives shall be held annually in the month of July. Nominations shall be held on the second Monday and elections on the third Monday of such month. In the event that either of such days in any year shall be a holiday then the nominations or election, as the case may be, that otherwise would be held on such day shall be held on the next succeeding full business day.

2. The nominations and elections shall be conducted by the Employees themselves in accordance with rules and regulations of the Election Committee. The Election Committee may request such assistance from Employees of each department to act as tellers as is necessary.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid undue influence or interference with voters in any manner whatsoever, so as to prevent any fraud in the casting or counting of ballots.

4. On each day of nominations, each employee of the Company then qualified to vote as hereinabove in Section III provided shall be furnished by the Election Committee through tellers designated by such Committee with a ballot stating the number of persons for whom he is entitled to vote at nominations on such day; and such voter shall write on such ballot the names or check numbers of the persons in his voting division whom he desires to nominate for election as Employee Representative.

5. In voting at nominations each duly qualified voter may vote for a number of persons equal to twice the number of the persons whom his voting division is entitled to elect as Employee Representatives.

6. If on any ballot cast at nominations the name or check number of the same person shall appear more than once, such ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers shall appear on any ballot at nominations shall exceed the permitted number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employee Representative to be filled.

9. The employees in any voting division up to three times the number of Employee Representatives to be elected by the employees in such division who shall have received the largest number of votes shall be declared nominated and shall be the candidates for elections by such employees on the next day of elections.

10. On the day of elections, each duly qualified voter shall be furnished by the Election Committee through tellers designated by such Committee with a ballot on which the names of the candidates for Employee Representatives nominated as hereinabove provided shall be printed in the order of the number of votes received at the next preceding nominations, or in case two or more persons shall have received at nominations the same number of votes, then in the alphabetical order of their respective surnames. Each voter shall indicate his preference by placing a cross (X) opposite the names of the candidate, or the name of each of the candidates, of his choice.

11. The number of candidates for whom the employees in each voting division shall be entitled to vote for Employee Representatives of such division shall be stated on the ballot. If any voter shall vote for more than such number, the ballot shall be void.

12. Each voter shall deposit his own ballot in a box provided for the purpose by the Election Committee and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates of each voting division of the number to be elected by such voting division who shall receive the highest number of votes shall be declared elected as the Employee Representative or Employee Representatives of such division.

13. In the event of a tie or controversy arising concerning any nomination or election, it shall be referred to and decided by the Election Committee.

14. The Election Committee may make such provision as it may consider necessary for assisting any voter who may request it in properly marking his ballot.

15. Candidates failing of election shall stand as Alternates in the order of the number of votes received, and in such order shall become Employee Representatives as need may arise through vacancies with the approval of the Committee on Rules.

16. Before entering upon his duties, each representative shall take and subscribe to the following oath of office, which shall be administered by any officer empowered to administer oaths under the laws of the State of Ohio:

> I solemnly swear (or affirm) that I will faithfully support the constitution and the laws of the United States and of the State of Ohio, and the Plan of Representation of The Corrigan, McKinney Steel Company employees; and that I will, to the best of my ability, faithfully and conscientiously discharge the duties incumbent on me as a representative under such plan.

V.

Employee Committees

1. After each annual election the Employee Representatives, hereinafter called the General Committee, shall immediately meet for the purpose of electing a chairman, secretary, and a Committee on Rules, and for selecting members of such other committees as are found necessary by the Committee on Rules for the consideration of the following subjects:

(a) Rules, Ways and Means.

(b) Wages, Tonnage Schedules, Methods and Economies.

(c) Mutual Relief, Athletics and Recreation.

(d) Health and Sanitation.

(e) Election Committee.

2. Each Committee, so selected under Paragraph 1 of Section V shall be composed of not less than three (3) nor more than five (5) members, shall appoint its own chairman and secretary, and arrange its own procedure.

3. Vacancies on committees shall be filled by the chairman of the General Committee at a regular meeting of the Committee.

4. Regular meeting of the General Committee shall be held at least once a month.

VI.

Management's Special Representative

1. The Company shall appoint a special representative (who shall be known as the Management's Special Representative) who shall keep the Management in touch with the Employee Representatives, and shall represent

the Management in negotiations with such Representatives. He shall respond promptly to any request from such Representatives, and shall interview all of them, from time to time, collectively or separately, with reference to matters of concern to the employees.

2. The Employees vest in the Management the direction of the working forces, including employment, promotion, transferring, disciplining or relieving for proper cause.

VII.

Joint Committee

1. The Joint Committee shall consist of the Employee Representatives with the addition of representatives named by the Management (known as Management's Regular Representatives) who may equal but not exceed the number of Employee Representatives.

2. The Joint Committee shall select its own officers and arrange its own procedure.

3. Such Committees, as the chairman of the Joint Committee shall appoint, shall be responsible to said Joint Committee.

VIII.

Meetings of the Joint Committee

1. Regular meetings of the Joint Committee shall be held not less often than once each month.

2. The Joint Committee shall meet as arranged for by the Chairman of the Joint Committee and the Management's special Representative.

3. Special meetings of the Joint Committee may be held as occasion may require, on approval of the Chair-

man of the General Committee and the Management's Special Representative.

4. The Company shall provide a suitable place for Meetings of all Committees.

5. When Representatives attend regular or special meetings of any Committee, as arranged for by the Chairman of the General Committee and Management's Special Representative, they shall receive from the Company payment commensurate with their respective average earnings for the time necessarily occupied through actual attendance.

IX.

Procedure for Adjustment

1. Any matter which in the opinion of any employee of the Company requires adjustment, and which such employee has been unable to adjust with the person in charge of the work on which he is engaged, may be taken up by such employee in writing, either in person or through any Employee Representative of his voting division with the following and in the following order:

First—With the Department Head.

Second—With the Management's Special Representative.

Third—With the General Committee, who shall decide, by a majority vote, upon the merit of the case. If in their opinion the case has merit, it shall be referred to the Vice President in charge of operation, otherwise it shall be nullified.

Fourth—With the Vice President in charge of operations, who shall endeavor to effect a settlement, or, with the approval of such employee or Employee

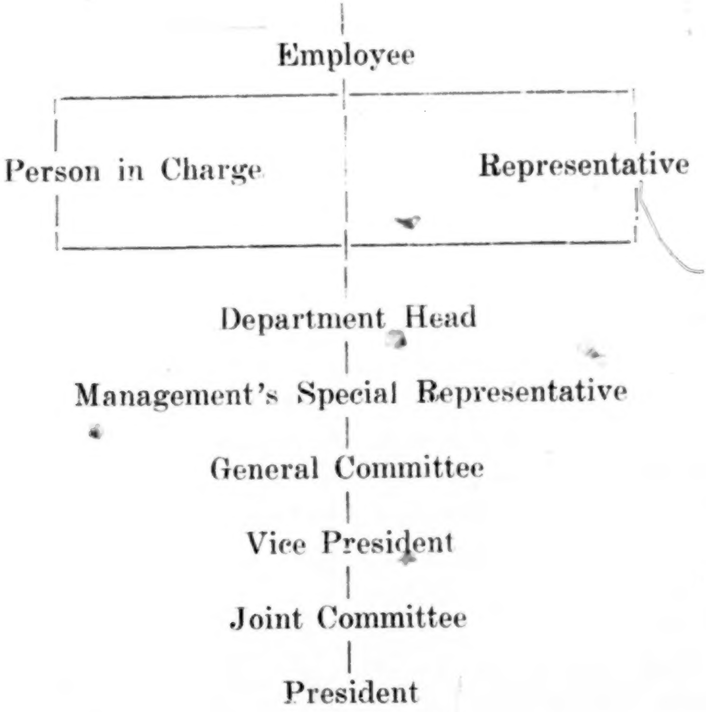
Representative, as the case may be, refer the matter to the Joint Committee.

2. Unless a satisfactory disposition of any such matter shall have been effected within a reasonable time after it shall have been taken up as above provided and it shall not have been referred to the Joint Committee as provided in Paragraph Four above, any employee through the Employee Representative or any Employee Representative of his voting division, according as there shall be one or more, or the Management through the Management's Special Representative may require that such matter be referred to said Committee by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee. Any such matter having been so referred to said Committee, said Committee shall consider it with reasonable promptness, at a regular or special meeting, and may adopt such means as shall appear to it to be necessary in order to ascertain the facts and to effect a settlement.

3. If the Joint Committee shall fail to effect a settlement of any matter referred to it, it shall call a second meeting (which may be a regular meeting) and which shall be held not less than one week after the initial disagreement. There shall be present at said second meeting a majority of the Employee Representatives, and not less than three (3) of the Management's Regular Representatives.

Said Joint Committee shall by a majority of all the votes cast, at said second meeting, endeavor to make a decision as to what settlement or adjustment should be made. If the Joint Committee, at said second meeting, shall fail to effect a decision, then the matter shall be referred to the President of the Company for settlement or adjustment.

Diagram of Procedure for Adjustment


Employee
Person in Charge
Representative
Department Head
Management's Special Representative
General Committee
Vice President
Joint Committee
President

X.

Guaranteeing the Independence of the Representatives

It is understood and agreed that each Representative shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be effected in the least degree by any action taken by him in good faith in his representative capacity. When a representative is called from his regular work at a request of any employee on anything pertaining to this

Plan, he should first report his contemplated absence to his immediate supervisor.

To insure to each such Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him, on account of his acts in his representative capacity, to any of the superior officers, to the Joint Committee and to the President of the Company.

Having exercised this right in the consecutive order hereinabove indicated and having failed to obtain a satisfactory remedy within thirty days, such Representative shall have the further right to appeal to the State Department of Labor or the Secretary of Labor of the United States. The Company shall furnish said State Department or Said Secretary with every facility for the determination of the facts, and the findings and recommendations of said State Department or of said Secretary shall be final and binding.

XI.

Amendments

Any method of procedure hereunder, with the exceptions of Paragraph 2 of Section VI, and Paragraph 5 Section VIII, may be amended at any time by a majority vote of the Employees.

XII.

Right of Termination

This plan shall be, and remain in full force and effect unless and until terminated by a vote of the majority of the Employees at any annual election.

Revision of plan adopted and approved by Employee Representatives, March 19, 1934.

Robert C. Harrison Chairman—General Committee	Coke Plant
Ray Yohner Secretary—General Committee	Office
Rayford R. Essex	Blast Furnaces, Dock, Power House
John V. Walsh	Open Hearth & Laboratory
Robert E. George	Rolling Mills
Harry Lancaster	Mechanical
Ed. McConnell	Rolling Mills
Geo. Korecky	Electrical
John N. May	Scrap Yard
Roy Murdock	Yard Labor

BOARD'S EXHIBIT NO. 101

Cleveland District

Statement of Wages and Pay Roll Deductions

A 13876

Gross Earnings	Deductions	
16.50	Old Age Benefits	.17
	Group Insurance	
	Coke	
	Advance	-
	Comm. Fund	
	Shoes, Etc. & Restaurant	
	Total Deductions	.17

	Net Amount	16.33

Detach Statement Before Cashing

(On Reverse Side)

Man No. .... Date ....

Cleveland District

Statement of Wages and Pay Roll Deductions

A 6948

Gross Earnings 15.03

	Deductions	
15.03	Old Age Benefits	.15
	Group Insurance	
	Coke	
	Advance	
	Comm. Fund	
	Shoes, Etc. & Restaurant	
	Total Deductions	
	Net Amount	

Detach Statement Before Cashing

(On Reverse Side)

Man No. .... Date ....

Cleveland District

Statement of Wages and Pay Roll Deductions

A 24469

Gross Earnings	Deductions	
11.88	Old Age Benefits	.12
	Group Insurance	
	Coke Advance	
	Comm. Fund	
	Shoes, Etc. & Restaurant	
	Total Deductions	
	Net Amount	11.76

Detach Statement Before Cashing

(On Reverse Side)

Man No. .... Date ....

Cleveland District

Statement of Wages and Pay Roll Deductions

A 28196

Gross Earnings	Deductions	
4.56	Old Age Benefits	.05
	Group Insurance	

Coke	
Advance	
Comm. Fund	
Shoes, Etc. &	
Restaurant	
Total Deductions	
Net Amount	4.51

Detach Statement Before Cashing

(On Reverse Side)

Man
No. .... Date ....

BOARD'S EXHIBIT NO. 102

MEMBERS IDENTIFICATION

This is to Certify that

....

has accepted Membership in the EMPLOYEES REPRESENTATIVE ASSOCIATION of the Republic Steel Corporation-Corrigan McKinney Division.
Badge No. .... Date ....

(Perforation)

EMPLOYEES' REPRESENTATIVE ASSOCIATION

of Republic Steel Corporation

Date .... Badge No. ....

I hereby accept Membership in the Employees' Representative Association of Republic Steel Corporation, and of my own free will hereby authorize the Employees' Representative Association, its Agents or Representatives, to act for me as a collective bargaining agency in all matters pertaining to rates of pay, wages, hours of employment or other conditions of employment. This Association is not a part of, nor is it affiliated with any Labor Union or other Employees' Association.

Corrigan McKinney Division	.... Department
.... Occupation	.... Name
.... Representative	.... Address

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BOARD'S EXHIBIT NO. 103

SEE C. I. O. DRIVE AS COMMUNIST IN ITS OBJECTS

Report by John L. Lewis Is Cited as Proof

BY CHESLY MANLY

[Chicago Tribune Press Service.]

Washington, D. C., March 27.—[Special.]—The industrial union drive of John L. Lewis' Committee for Industrial Organization, which has brought the current epidemic of sitdown strikes, is essentially a communist movement and has been advocated as the first step in a program to overthrow the government of the United States and set up a soviet dictatorship ever since the communist party of America was officially organized at Woodstock, N. Y., in May, 1921.

William Z. Foster, national chairman of the communist party of America, and John L. Lewis himself are authorities for this statement.

Lewis Report Recalled

In 1924 the United Mine Workers, through its president, Mr. Lewis, submitted to the United States senate an exhaustive report on communist activities in the United States, with particular reference to their efforts to organize all craft unions of the American Federation of Labor into single units of workers known as "industrial unions." William Z. Foster was denounced as the man who, "on direct orders from Moscow," was directing this movement through the Trade Union Educational league.

Mr. Lewis' report, which was published as senate document No. 14, 68th congress, first session, on request of the late Senator Henry Cabot Lodge of Massachusetts, said:

"The overthrow and destruction of this government, with the establishment of an absolute and arbitrary dictatorship and the elimination of all forms of popular voice in governmental affairs, is being attempted on a more gigantic scale than at any time in the history of this nation."

Agents of Communists

The Trade Union Educational league, Lewis reported, was "cultivated and promoted by the organizers and agents of the Communist and Worker's parties," and was "the direct instrumentality of Lenin and Zinoviev of the Communist International and Losovsky of the subsidiary Red Trade Labor Union International."

WILLIAM Z. FOSTER
(Cut)

Denounced by John L. Lewis in 1924 as an enemy of the government and who now says "The communist party heartily supports the C. I. O. organizing campaign."

"Through this organization," he said, "the revolutionary leaders in America are making a nation-wide attempt to obtain control of the American Federation of Labor, reorganize the craft unions on the basis of 'one big union' in an industry, and weld them together into a central revolutionary agency in America.

"It is a situation that challenges not only organized labor but every employer as well. This is one occasion when labor and the employer might very well join hands and fight together."

Now Lewis Heads Drive

Now Mr. Lewis is leading the drive for industrial unionism and he has become the white hope of the communists. Says Mr. Foster, in a pamphlet, "Industrial Unionism," prepared for distribution in Michigan and Pennsylvania during the automobile and steel organization drives:

"The C. I. O., led so aggressively by John L. Lewis, is doing an historically important thing. . . . The C. I. O. has become the actual leader of the trade union movement. . . . The communist party heartily supports the C. I. O. organizing campaigns."

In this same booklet Mr. Foster recalls the drive for industrial unionism led by the Trade Union Educational league in 1923 and 1924 so vehemently condemned by Mr. Lewis.

In another pamphlet, "Organizing Methods in the Steel Industry," also widely distributed by C. I. O. organizers, Foster recalls his experiences in promoting the steel strike of 1919.

Foster Behind Steel Drive

Foster is the "brains" behind the steel organization drive of the C. I. O. and his propaganda literature is being distributed by C. I. O. organizers in the other industries.

However, Mr. Lewis' lieutenants in the C. I. O., the men out in front who are conducting the drive, are veteran agitators who have been denounced as communists by his own United Mine Workers.

"For months past," said the United Mine Workers Journal, for May 1, 1928, " 'The Save the Union Committee' under the leadership of John Brophy, Patrick Toohey, and Powers Hapgood and a few others has been doing its dirtiest to capture the United Mine Workers and to transform this splendid union into a communist organization."

In another editorial Mr. Lewis' Miners' Journal inferentially accused Brophy of being a paid agent of the Soviet government, saying the "Save the Union Committee" became "extremely busy in its efforts to wreck the United Mine Workers shortly after John Brophy returned from Russia . . . the very minute he came back."

Once Denounced by Lewis

In 1930, Brophy, Hapgood, and Adolph Germer, who was convicted of violating the espionage act and sentenced to 20 years' imprisonment in 1918 [a verdict that was set aside on appeal], issued a call for a secession convention of the miners at Springfield, Ill., to form the National Miners' union, affiliated with the Communist Trade Union Unity league. Speaking at the Indianapolis convention in 1930 Lewis denounced Brophy, Hapgood, and Germer as "fakirs, repudiated leaders, traitors to the unions.

Today John Brophy is the executive director of the C. I. O. Adolph Germer is the general organizer, and Powers Hapgood is field representative. The fourth member of this quartet, Patrick Toohey, is district organizer of the communist party in Pennsylvania and is credited with the success of the C. I. O.'s first real strike effort—the RCA-Victor strike at Camden, N. J.

List of Other Organizers

These are the principals of the C. I. O., all strange bedfellows for the former communist baiting John L. Lewis, but the C. I. O. organization is literally crawling with communists and left wing agitators. A partial list of the small and large fry follows:

Walter, Victor and Roy Reuther, C. I. O. organizers and long-time agitators for left wing causes. Victor and Walter are graduates of the Communist Brookwood Labor college at Katonah, N. Y., a training school for black and white agitators.

JOHN L. LEWIS

(Cut)

Who now welcomes the support of Foster and his lieutenants in organizing the C. I. O. movement.

Sidney Hillman, president of the Amalgamated Clothing Workers and a C. I. O. director. Hillman is a veteran pro-Soviet worker, having organized the Russian-American Industrial corporation to raise a million dollars to bring about "the rehabilitation of Russia" in 1922. He is a former director of the American Fund for Public Service, or Garland fund, as it is known, which has contributed or loaned more than two million dollars to socialist, communist and I. W. W. causes.

Attempted to Aid Spain

David Dubinsky, president of the Ladies' Garment Workers' union and a director of the C. I. O. For many years he has been a left wing leader of the Socialist party and in 1936 he undertook to raise $100,000 for the communist "popular front" regime in Spain.

Francis J. Gorman, president of the C. I. O.'s United Textile Workers, and a leader in C. I. O. councils. Mr.

Left Wing Organizers and Agitators Who Are Aiding John L. Lewis' Campaign to Line Up Labor Under the C. I. O.

(Cut)

George A. Patterson, David Dubinsky, Victor Reuther, Clarence Irwin, Clinton S. Golden, Paul Glaser, Lee Pressman, James W. Ford, Mary Hillyer, Leo Kryzci, Homer Martin, Francis J. Gorman, Sidney Hillman, Michael Ostrowski.

Gorman is a member of the advisory board of the Garland fund supported Commonwealth college, a communistic training school for workers at Mena, Ark.

Homer S. Martin, president of the United Automobile Workers and Lewis' right hand man in Michigan. A former Baptist minister, Mr. Martin has been a left wing orator for years.

Maurice Sugar, a radical lawyer, who was the communist candidate for the office of recorder's judge in Detroit, in 1936. He is on the C. I. O. pay roll.

Lee Pressman, another radical lawyer, C. I. O.'s general counsel. He was a victim of the left wing "purge" in the agricultural adjustment administration two years ago.

Educational Director

Merlin D. Bishop, a graduate and former member of the Brookwood Labor college staff, who is on the pay roll as "educational director" for the C. I. O.

Tucker P. Smith, president director of Brookwood, who writes for the auto workers' C. I. O. organ and assisted the C. I. O. in founding a training school last summer at Saugatuck, Mich., where agitators were trained for the sitdown strike.

John Schmies, former assistant for William Z. Foster and one time organizer of the Auto Workers' union, a communist organization, which was active until a few years ago. He is the Detroit representative of the Fraternal Orders committee, organized by the C. I. O. to line up fraternal organizations.

Former Garland Fund Aid

Clinton S. Golden, former director of the Garland fund and former business manager of Brookwood. C. I. O. regional director in the steel organization campaign in Pennsylvania.

Leo Krzycki, member of the advisory board of the C. I. O., vice president of the Amalgamated Clothing Workers and a member of the national executive committee of the Socialist party.

John W. Anderson, C. I. O. organizer, who was the communist candidate for governor of Michigan in 1934.

Mary Heston Vorse, well known communist author, who has been directing the organization of C. I. O. women's auxiliaries.

Margaret Cowl, another communist writer and agitator, who is on the pay roll and was active in promoting women's activities at Flint, Mich.

Mary Hillyer, leader in the left wing League for Industrial Democracy, who has been assisting Comrade Cowl.

Vice President Candidate

James W. Ford, colored, communist candidate for Vice President in 1936. He attended a conference of Negro leaders, called by Philip Murray, director of the C. I. O.'s steel organization drive, at Pittsburgh, Feb. 6.

William Weinstone, general secretary for the communist party in Michigan, who has been directing communist activities in the Flint and Detroit strikes.

Rose Pesotta, C. I. O. organizer in the rubber and automotive industries, who is a veteran anarchist leader and one time associate of Emma Goldman.

JOHN BROPHY
(Cut)
[Associated Press Wirephoto.]

Who was accused by the United Mine Workers' Journal in 1928 of "trying to transform this splendid union into a communist organization" and who now is the executive director of the C. I. O.

Genora Johnson, leader of the Women's Brigade at Flint and a member of the Socialist party,

William K. Gebert, associate of William Z. Foster and member of the central committee of the communist party, who is now a C. I. O. organizer, and is in frequent conference with Philip Murray.

Formerly with Amtorg

Jack Stachel, member of the central committee of the communist party and director of C. I. O. pay roll organizers in Pennsylvania. He is the author of a foreword to one of Foster's propaganda pamphlets distributed by C. I. O. organizers.

Blain Owen, alias Boris Israel [his real name is Israel Berestein] who formerly represented Amtorg, the soviet trading agency, on the Pacific coast. At present he works with Gebert in the Pittsburgh district.

George Powers, alias Morris Powers former district organizer of the communist party in South Carolina, who is now a district director of the Steel Workers' Organization committee of the C. I. O. in Pittsburgh, at a large salary.

Jess Gonzales, Mexican, member of the communist party and full time salaried man on the S. W. O. C. in Pittsburgh.

Eleanor Rye, colored, an organizer for the National Negro congress, a communist outfit, and on the private pay roll of Van A. Bittner, Chicago regional director of the C. I. O.

Clarence Irwin, district organizer for the communist party, who is on the S. W. O. C. pay roll in Pittsburgh.

Louis Majors, member of the communist party and on the S. W. O. C. pay roll in Pittsburgh.

Shane Steel Organizer

Tom Shane, member of the communist party and a full time C. I. O. organizer on the steel workers' pay roll in Pittsburgh.

Doyle Glormer, reporter for the communist People's Press, who is on the pay roll of the S. W. O. C.

Paul Glaser, attorney for the section committee of the communist party, who is a full salaried member of the S. W. O. C. staff and spends much time with Van Bittner in Chicago.

Peter Chapa, for years a communist organizer who is now a full time S. W. O. C. organizer at Gary, reporting directly to Van Bittner.

Ruth Chapa, wife of Peter Chapa, paid by the S. W.

O. C. to do missionary work in the homes of Spanish steel workers.

Alfredo Abillo, member of the communist party at South Chicago and a paid S. W. O. C. organizer among Mexicans in that section.

Hansen, first name unknown, who is a member of the communist party at Chicago Heights and a full time S. W. O. C. organizer.

Charles Henry, member of the communist party and a part time S. W. O. C. organizer in South Chicago.

Leonides McDonald, Negro communist leader who is on the pay roll of the S. W. O. C. at Indiana Harbor.

Mike Ostroski, member of the communist party who is on the S. W. O. C. pay roll in Gary.

George A. Patterson, member of the communist party on the S. W. O. C. pay roll in South Chicago.

Joe Cook, member of the communist party and a part time S. W. O. C. organizer in South Chicago.

Dave Doran, Pittsburgh district organizer for the Young Communist league, who is on the S. W. O. C. pay roll and confers frequently with Philip Murray. He is also a close associate of William Z. Foster.

BOARD'S EXHIBIT NO. 104

REPUBLIC STEEL CORPORATION
and Subsidiaries

General Offices Republic Building, Cleveland, Ohio
(Insignia)

TO OUR EMPLOYEES:

We are making the following statement so that you will know the attitude of Republic toward the recently announced campaign for unionization of the steel workers.

The leader of this drive is John L. Lewis, head of the Coal Miners' Union. He is not connected with the steel industry. He has enlisted the help of other organizations not connected with the steel industry. Associated with him in this drive are professional organizers from the Coal Miners, the Ladies Garment Workers, the Amalgamated Clothing Workers and other outsiders. The Amalgamated Association of Iron, Steel and Tin Workers has been pressed into this movement. The Amalgamated has only about 1½% of the steel workers in its membership.

Representatives of radical and communistic groups are helping in this movement. William Z. Foster, Chairman of the Communist Party, has announced his support. Foster was the leader in the unsuccessful attempt to unionize the steel industry in 1919.

WHAT DO THEY WANT?

John L. Lewis and his organization want more workers to **pay them more dues**. Lewis has announced they will spend $500,000 on this unionization drive. Where did they get this money? They got most of it from the coal miners. They say they are spending it to try and organize the steel workers. If they could organize the steel workers they hope to collect $5,000,000 a year from them. Republic employees alone would pay over half a million dollars a year. Furthermore, they could place dues and assessments at any figure they liked and steel workers would have to pay them.

The real aim of the present organization drive is to establish a "Closed Shop." They want to force you into the union and make you pay for the right to work. Under a "Closed Shop" every man has to pay dues to the union whether he wants to or not. If he gets behind in his dues they can throw him out of the union. By this threat they can keep the dues rolling in.

One of the announced purposes of this drive is to throw out your Employee Representatives whom you have elected for collective bargaining with the management. The union wants to destroy all Employee Representation Plans in the steel industry.

Your Employee Representation Plan is not run by outsiders. It works. Under your Plan you select your own Employee Representatives—men you know and with whom you work. Under a union you would be represented by outsiders who may know little or nothing about your problems, your management, or the steel industry. Furthermore, you would have no choice in their selection. You would have to accept any bargain they made for you. You would have to pay money to be dictated to by somebody you did not even know.

WHAT ARE THEIR METHODS?

The methods customarily used by professional union agitators and organizers are force, coercion and intimidation of workers and their families. They threaten to call a strike to force men to join their union. They try to force mills to stop operations, and keep men from their work for months at a time. They do this to scare men into their union whom they know do not want to join the union.

WHAT IS REPUBLIC'S STAND?

Republic stands for the "Open Shop" principle.

No employee has to join any organization to get or hold a job.

Advancement depends upon individual merit and effort.

Republic will not permit any activities within its plants which will:

1. Interfere with the orderly conduct of its operations.
2. Stir up strife or discontent.
3. Threaten the peace and comfort of its workers and their families.

Every Republic employee owes a duty of loyalty to the company so that its best interests may be served. Conduct detrimental to the interest of the company and which may disrupt the satisfactory relations between employees and management will not be tolerated.

T. M. Girdler,
Chairman and President,
R. J. Wysor,
Executive Vice President and
General Manager,
C. M. White,
Vice President in Charge of
Operations,
H. B. Carpenter,
District Manager.

July 2, 1936.

REPUBLIC STEEL CORPORATION
Republic Building
CLEVELAND, OHIO

(Postoffice Cancellation)

G. E. Rodway,
4410 Broadway,
Cleveland, O.

BOARD'S EXHIBIT NO. 108

UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

I, Edward L. Payne, Chief, Docket, Mail and Files Section, of the Securities and Exchange Commission, Washington, D. C., which Commission was created by the Securities Exchange Act of 1934 (15 U. S. C. A., Sec. 78a et seq), and acting official custodian of the books and records of said Commission, and all books and records created or established by the Federal Trade Commission, pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, do hereby certify that attached is a full, true and complete copy of:

> Facing sheet, pages 1 to 6, inclusive, and pages 61 and 62 of registration statement filed with this Commission October 21, 1936 by Republic Steel Corporation, pursuant to the provisions of the Securities Act of 1933 as amended, under File No. 2-2563.

In witness whereof I have hereunto subscribed my name and caused the seal of the Securities and Exchange Commission to be affixed this 13th day of August, A. D., 1937, at Washington, D. C.

Edward L. Payne,
Chief, Docket, Mail and Files
Section.

(Seal)

Approved 1-12-35 Registration No. ....
Date of Filing ....
Effective Date ....

(The above to be left blank by the registrant)

(Stamp)

FORM A-2
For Corporations

SECURITIES AND EXCHANGE COMMISSION
Washington, D. C.

REGISTRATION STATEMENT
Under Securities Act of 1933

REPUBLIC STEEL CORPORATION
(Name of Registrant)

Securities Registered

Title of Issue, or Issues	Amount
General Mortgage % Bonds, Series C, due November 1, 1956	$25,000,000

Amount of Filing Fee: $2,500

Approximate Date of Proposed Public Offering: November 10, 1936

Name and address of person authorized to receive notices and communications from the Securities and Exchange Commission:

W. W. Hancock, Secretary
Republic Steel Corporation
Republic Building, Cleveland, Ohio.

The information required to be given under the items hereinbelow set forth is more specifically defined in the "Instruction Book for Form A-2 for Corporations."

The Instruction Book also sets forth requirements as to Financial Statements, Exhibits, Signatures, Consents of Experts and the Prospectus, which are to accompany the registration statement or to be incorporated therein by reference.

CALCULATION OF REGISTRATION FEE

Col. A. Title of issue, or issues registered	Col. B. Amount registered	Col. C. Proposed max. offering price per unit	Col. D. Proposed max. aggregate offering price	Col. E. Amount of filing fee
Republic Steel Corporation General Mortgage % Bonds, Series C, due November 1, 1956.	$25,000,000	100%*	$25,000,000*	$2,500

*Plus accrued interest from November 1, 1936 to date of delivery.

The financial statements appended hereto and the financial information contained in the answers to Items 9A and 10A of this registration statement have been certified by, and the information contained in the answer to Item 45 of this registration statement has been reviewed by, Messrs. Ernst & Ernst, Certified Public Accountants, and all statements set forth therein are made on the authority of said firm, as experts.

ORGANIZATION

1. Exact name of registrant:
   Republic Steel Corporation.
2. Address of principal executive offices:
   Republic Building, Cleveland, Ohio.
3. The state or other sovereign power under which incorporated, and the data of incorporation:

   The registrant was incorporated under the laws of the State of New Jersey on May 3, 1899, with the name

Republic Iron and Steel Company. On April 8, 1930, the name of the registrant was changed to Republic Steel Corporation.

4. List the following and indicate the respective percentages of voting power as required by the Instructions:
(a) All subsidiaries of the registrant.

Name	State of Incorporation	Per Cent. of Voting Power as of Sept. 30, 1936 (A)
Steel and Tubes, Inc.	Ohio	100%
Union Drawn Steel Company	Pennsylvania	100%
Union Drawn Steel Co., Ltd.	Ontario, Can.	100%
The Berger Manufacturing Co.	Ohio	100%
The Trumbull-Cliffs Furnace Co.	Ohio	100%
Republic Steel Corp. of Delaware	Delaware	100%
Donner Mining Company	Minnesota	100%
Republic Collieries Company	Pennsylvania	100%
*Republic Supply Company	Texas	85%
†The St. Paul Iron Mining Co.	Minnesota	100%
The River Terminal Railway Co.	Ohio	100%
The N. & G. Taylor Company	Maryland	100%
The Newton Steel Company	Ohio	80.9% (B)
Truscon Holding Company	Delaware	100%
Truscon Steel Company	Michigan	96.2%
*The Niles Steel Products Co.	Ohio	100% (C)
Penokee Ore Company	Delaware	100%

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*Accounts not consolidated.

†Inactive.

(A) Including directors' qualifying shares, if any.

(B) Percentage is shown as affected by voting power held by preferred stock by reason of arrearages in dividends. Elimination of such dividend defaults would result in percentage of 81.2%.

(C) As of October 5, 1936.

There have been omitted from the foregoing list of subsidiaries the names of 15 corporations all the stock of which is owned directly by the registrant and of 7 corporations all or a majority of the stock of which is owned by subsidiaries of the registrant. The total investment in such 22 corporations of the registrant and its subsidiaries was carried on their books at $724,282.37 at September 30, 1936, and the total sales and operating revenues of such 22 corporations for the year ending December 31, 1935, as shown by the books of such corporations, were $800,018.22. The registrant considers that none of such 22 corporations is of material significance in relation to the total enterprise represented by the registrant and subsidiaries in respect of either (1) the investment therein, or (2) the sales or operating revenues of such subsidiary, or (3) the essential nature of the function performed by such corporations in the total enterprise represented by the registrant and its subsidiaries.

Items 1-4

The registrant also owns a substantial percentage, but in no case more than 50%, of the voting stock of each of 6 other corporations engaged in the mining of iron ore, and various percentages, but in no case more than 50%, of the voting stock of certain other corporations are owned by the registrant or subsidiaries of the registrant. The registrant does not possess, directly or indirectly, the power to direct or cause the direction of the management and policies of any such other corporation, whether through the ownership of voting securities, by contract, or otherwise; and the registrant therefore disclaims any admission of the actual existence of effective control by it, directly or indirectly, of any such other corporation, and, when the term "subsidiaries" is used in this registration statement, it shall not be demed to include any such other corporation.

(b) All parents of the registrant.
None.

HISTORY AND BUSINESS

5. Outline briefly the general character of the business done and intended to be done by the registrant and its subsidiaries.

The registrant is primarily an operating company, but certain divisions of its business are conducted through subsidiaries. It is engaged in the manufacture and sale of a diversified line of iron and steel products and ranks as the third largest steel company in the United States, having an annual ingot capacity of approximately 6,053,000 tons. The products of the registrant include pig iron, semi-finished steel, alloy steels, special steels, billets, bars, pipe, hot and cold rolled sheets and strip, tin and terne plate, bolts and nuts, fabricated material and other products. It is a leading manufacturer of alloy steels, including stainless steel and high tensile steels, and is an important producer of steel for the automobile industry and of electrically welded pipe.

The registrant presently obtains from its own mines more than half of its requirements of iron ore, obtaining the balance from the mines of companies in which it has an interest and by purchase from others. It presently obtains more than half of its requirements of coal from its own mines and from those of companies in which it has an interest, obtaining the balance by purchase from others.

The registrant intends to continue to engage in business of the general character described above, directly, or indirectly through existing or new subsidiaries.

6. Outline briefly the general development of the business for the preceding five years.

The business of the registrant and its subsidiaries, during the past five years, has been in general as set forth in the answer to Item 5, except to the extent that additional facilities were acquired as set forth below. Such additional facilities have enabled the registrant to effect economies in, and increase the efficiency of, its operations and to add to the products manufactured and sold.

On April 8, 1930, The Berger Manufacturing Company (New Jersey) was merged with the registrant, and the registrant acquired the assets of The Bourne-Fuller Company, Donner Steel Company, Inc., and Central Alloy Steel Corporation.

In September, 1935, pursuant to its plan of acquisition and recapitalization announced on August 27, 1934, the registrant acquired the properties and assets of The Corrigan, McKinney Steel Company, as the result of which the registrant added to its facilities an efficient and modern steel plant, advantageously located with lake transportation facilities at Cleveland, Ohio, obtained valuable iron ore properties, and acquired control of The Newton Steel Company, which has a plant with lake transportation facilities at Monroe, Michigan, and of The N. & G. Taylor Company, which has a small tin plate plant at Cumberland, Maryland.

In October, 1935, pursuant to said plan of acquisition and recapitalization, the registrant acquired control of Truscon Steel Company, which has steel fabricating plants at Youngstown and Cleveland, Ohio, and numerous well located warehouses.

During 1936 the registrant acquired from Canton Tin Plate Corporation tin plate manufacturing facilities adjoining the Canton, Ohio, plant of the registrant, acquired control of The Niles Steel Products Company, which has a steel stamping and fabricating plant at Niles, Ohio, constructed various improvements to its existing plants, and leased additional iron ore and coal properties. The registrant also began the construction of a cold rolled tin plate plant at Niles, Ohio, adjoining its Niles Sheet Mills.

The foregoing brief outline of the general development of the business of the registrant and its subsidiaries does not attempt to estimate the effects on such business, and on the steel industry generally, of changes during the preceding five years in economic conditions, legislation, the technique of manufacturing steel products, industrial practices affecting the use of steel, taxation and other conditions.

Items 4-6

PROPERTY

7. State briefly the general character and location of the principal plants and other important units of the registrant and its subsidiaries. If any principal plant or important unit is not held in fee, so state and describe how held.

Iron and Steel Producing, Manufacturing and Finishing Plants*

The iron and steel producing, manufacturing and finishing plants of the registrant and its subsidiaries include facilities estimated to have a combined annual capacity of approximately 3,450,000 gross tons of pig iron, facilities estimated to have a combined annual capacity of approximately 6,053,000 gross tons of open hearth, bessemer and electric furnace steel ingots, facilities for the conversion of steel ingots into semi-finished products, and facilities estimated to have a combined practical annual finishing capacity** of approximately 4,746,000 net tons.

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* Except plants and other units stated to be owned by subsidiaries of the registrant, all plants and other units described in the answer to this Item 7 are owned by the registrant. Unless otherwise stated, and disregarding the effect upon titles of mortgages and deeds of trust, the plants and other units described in the answer to this Item 7 are owned in fee by the registrant or a subsidiary. No examination, however, of titles to the properties of subsidiaries

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herein described has been made for the purposes of this registration statement or the prospectus to be issued thereunder; but such properties classified as being owned in fee by subsidiaries have in the main been held for many years without any unfavorably adjudicated claim. Leases held by the registrant on relatively small and insignificant parcels, and similar leases, and licenses, easements, etc., made by the registrant to others, have been disregarded.

All estimates stated in the answer to this Item 7 have been made by engineers or other employees of the registrant or its subsidiaries (or, in some cases, by engineers or other employees of other interested parties) believed by the officials of the registrant to be competent in respect thereof. Such estimates include in some instances capacities of facilities not now being operated on which expenditures would be required prior to operation for repairs, rebuilding, etc. Amounts of approximate acreage comprised by the plants described herein include, in certain cases, acreage adjacent to, but not actually occupied by, operating units of such plants.

** Practical annual finishing capacity represents the average yield of finished products obtainable with the registrant's facilities from the above stated annual ingot capacity of the registrant.

The principal iron and steel producing, manufacturing and finishing plants of the registrant and its subsidiaries are as follows:

Youngstown Plants, located in the Cities of Youngstown and Campbell, Ohio. These plants include the Haselton Furnaces, the Open Hearth Steel Plant—Tube Works, the Brown-Bonnell Bessemer Works and the By-Product Coke Plant and comprise approximately 227 acres of land, upon which are located four blast furnaces with an estimated annual capacity of approximately 980,000 gross tons of pig iron, 204 coke ovens and a by-products plant, pig casting machinery, a sintering plant, fifteen open hearth furnaces with an estimated annual capacity of approximately 1,043,000 gross tons of steel ingots, two bessemer converters with an estimated annual capacity of approximately 480,000 gross tons of steel ingots, two ore bridges, a hot metal bridge across the Mahoning River, and facilities for the production of blooms, billets, slabs, sheet bar, plate, skelp, lap, butt and electric weld pipe, spikes and bar mill products, which facilities include two blooming mills, two continuous sheet bar and billet mills, a plate mill, three bar mills, three butt weld pipe mills, three lap weld pipe mills, three electric weld pipe mills, a skelp mill and a hoop mill.

Warren Plants, located in and near the City of Warren, Ohio. These plants include the Warren Plant and the Trumbull-Cliffs Plants and comprise approximately 640 acres of land, upon which are located a blast furnace with an estimated annual capacity of approximately 360,000 gross tons of pig iron, a hot metal bridge across the Mahoning River, forty-nine coke ovens and a by-products plant, eight open hearth furnaces with an estimated annual capacity of approximately 656,000 gross tons of steel ingots, and facilities for the production of blooms, billets, slabs and sheet bar, hot and cold rolled strip, sheets and tin plate, which facilities include a blooming mill, a continuous billet and sheet bar mill, three hot strip mills, a cold strip mill department, three sheet mills and twenty-nine tin mills. The Trumbull-Cliffs Plant, which covers approximately 100 of said 640 acres, and which includes the blast furnace, the coke ovens and the by-products plant, is owned by The Trumbull-Cliffs Furnace Company, a wholly-owned subsidiary of the registrant.

Corrigan, McKinney Plant, located, with lake transportation facilities on the Cuyahoga River, in the City of Cleveland, Ohio. This plant comprises approximately 294 acres of land, upon which are located four blast furnaces with an estimated annual capacity of approximately 900,000 gross tons of pig iron, 204 coke ovens and a by-products plant, a sintering plant, pig casting machinery, two ore bridges, fourteen open hearth furnaces with an estimated annual capacity of approximately 1,040,000 gross tons of steel ingots, and facilities for the production of blooms, billets, slabs and sheet bar, and bar mill products, which facilities include two blooming mills, two combination billet and sheet bar mills and two finishing mills. There are also upon this property a railroad system with a hot metal bridge across the Cuyahoga River (which railroad system is operated by The River Terminal Railway Company, a wholly-owned subsidiary of the registrant, which owns approximately 40 of said 294 acres, including the greater part of the trackage of said railroad system), two river docks, a scrap reducing plant and a slag crushing plant.

Canton Plants, located in and near the City of Canton, Ohio. These plants comprise approximately 613 acres of land, upon which are located a blast furnace with an estimated annual capacity of approximately 210,000 gross tons

Item 7

of pig iron, sixty-two coke ovens and a by-products plant, pig casting machinery, a sintering plant, an ore bridge, fourteen open hearth furnaces with an estimated annual capacity of approximately 923,000 gross tons of steel ingots, six electric furnaces with an estimated annual capacity of approximately 130,000 gross tons of steel ingots, and facilities for the production of blooms, billets, slabs and sheet bar, alloy steels, bar mill products, sheets, tin plate, fabricated sheet metal products and metal culverts, which facilities include two blooming mills, a billet and sheet bar mill, thirty-five sheet mills, four merchant mills, nine tin mills (acquired during 1936 from Canton Tin Plate Corporation), a metal fabrication plant and a metal culvert plant. The metal fabrication plant is leased by the registrant to The Berger Manufacturing Company, a wholly-owned subsidiary of the registrant.

Massillon Plants, located in and near the City of Massillon, Ohio. These plants comprise approximately 422 acres of land, upon which are located a blast furnace with an annual estimated capacity of approximately 230,000 gross tons of pig iron, forty-nine coke ovens and a by-products plant, an ore bridge, nine open hearth furnaces with an estimated annual capacity of approximately 523,000 gross tons of steel ingots, and facilities for the production of blooms, billets, slabs and sheet bar, alloy and stainless steels, bar mill products, sheets, strip and alloy products, which facilities include a blooming mill, two bar mills, a hot strip mill, a cold strip mill department, fourteen sheet mills and a special products department.

Buffalo Plant, located, with lake transportation facilities on the Buffalo River, in the City of Buffalo, New York. This plan comprises approximately 125 acres of land, upon which are located two blast furnaces with an estimated annual capacity of approximately 450,000 gross tons of pig iron, pig casting machinery, three ore bridges, nine open hearth furnaces with an estimated annual capacity of approximately 554,000 gross tons of steel ingots, an electric furnace with an estimated annual capacity of approximately 12,000 gross tons of steel ingots, and facilities for the production of blooms, billets and slabs, alloy steels, bar mill products and die-rolled products, which facilities include a blooming mill, a billet and bar mill, three merchant mills and a die-rolled steel plant. (Coke for the above blast furnaces is obtained from the plant of Donner-Hanna Coke Corporation, 50% of the stock of which is owned by the registrant, such plant being adjacent to the Buffalo Plant of the registrant.)

Chicago Plants (two plants, respectively known as the South Chicago Works, located with lake transportation facilities on the Calumet River, and the Grand Crossing Works), located in the City of Chicago, Illinois. These plants comprise an aggregate of approximately 52 acres of land, upon which are located eight open hearth furnaces with an estimated annual capacity of approximately 408,000 gross tons of steel ingots, and facilities for the production of blooms, billets and slabs, bar mill products, and rods, wire, fencing, nails and railroad spikes, which facilities include a blooming mill, a billet and bar mill, a merchant mill, a combination merchant and rod mill, a wire mill and nail and spike machinery.

Upson Works, located, with lake transportation facilities on the Cuyahoga River, in the City of Cleveland, Ohio. This plant comprises approximately 25 acres of land, upon which are located an ore dock and ore bridge, a merchant mill and facilities for the production of bolts, nuts and spikes; also the non-operating facilities mentioned below.

Thomas Plant, located near the City of Birmingham, Alabama. This plant produces pig iron and coke and byproducts thereof and consists of fifty-seven coke ovens, a by-products plant and two blast furnaces with an estimated annual capacity of approximately 320,000 gross tons of pig iron.

Niles Sheet Mills, located in and near the City of Niles, Ohio. This plant comprises approximately 50 acres of land, upon which are located eight sheet mills, producing hot rolled, hot rolled annealed, electrical and other varieties of sheets. There is being constructed on this site a strip tin plant comprising a four-stand tandem cold mill and seven 2-high cold mills, and cleaning, annealing, pickling and turning facilities for the production of cold rolled tin plate.

Dilworth Porter Plant, located in the City of Pittsburgh, Pennsylvania. This plant comprises approximately 7 acres of land and is equipped with facilities for the production of bar mill products, tie plates and spikes, which facilities include a bar mill and tie plate and spike machinery.

Monroe Plant, located, with lake transportation facilities on Lake Erie, in the City of Monroe, Michigan (owned by The Newton Steel Company, a subsidiary of the registrant, in which a minority stock interest is outstanding*). This plant comprises approximately 140 acres of land, upon which are located facilities for the production of various kinds of sheets, which facilities include fourteen roughing and ten finishing sheet mills, normalizing and box annealing furnaces, and pickling and cold rolling units.

Steel and Tubes, Inc. Plants (owned by Steel and Tubes, Inc., a wholly-owned subsidiary of the registrant): Cleveland Plant, located in Cleveland, Ohio, comprising approximately 10 acres of land, and equipped with nine electric weld mills and facilities for the shaping and finishing of tubing and boiler tubes; Brooklyn Plant, located in the City of New York, equipped with facilities for the pro-

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* See Item 4 (a) of this registration statement and notes thereto.

Item 7.

duction, shaping and finishing of electric weld tubing and conduit; two plants located in Elyria, Ohio, equipped for the production of reinforcing bars, tubing and metal stampings; and a plant in Ferndale, Michigan, equipped for the production of electric weld tubing.

Union Drawn Steel Company Plants (owned by Union Drawn Steel Company, a wholly-owned subsidiary of the registrant): Massillon Plant and Gary Plant, located, respectively, in Massillon, Ohio, and Gary, Indiana, each equipped with facilities for the production of carbon and alloy steel cold drawn bar products, largely for use by the automotive industry; a plant at Hartford, Connecticut, equipped for the production of similar products; and a plant at Beaver Falls, Pennsylvania, operated for the production of crankshafts and cold drawn bar products.

Truscon Steel Company Plants (owned by Truscon Steel Company, a subsidiary of the registrant, in which a minority stock interest is outstanding*): Youngstown Plant, located in Youngstown, Ohio, comprising approximately 43 acres, and equipped with facilities for the production of highway reinforcing, metal lath, steel window products, metal stampings, standard steel buildings and various other fabricated steel products; Cleveland Plant, located in Cleveland, Ohio, comprising approximately 13 acres, and equipped with presses, stamping machinery and other facilities for the production of automobile stampings, refrigerator cabinets and other pressed steel products; and a plant at Los Angeles, California, for the production of fabricated metal products.

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* See Item 4 (a) of this registration statement and notes thereto.

Niles Steel Products Plant, located in the City of Niles, Ohio (owned by The Niles Steel Products Company, a wholly-owned subsidiary of the registrant). This plant comprises approximately 20 acres of land and is equipped with presses, stamping machinery and other machinery for the production of automobile stampings, pails, steel barrels and other pressed steel products.

In addition, the registrant and its subsidiaries have plants and facilities: for the production of re-rolled bar and other steel products at Moline, Illinois; for the production of bolts and nuts, at Unionville, Connecticut: for the fabrication of culverts at Minneapolis, Minnesota; for the production of turnbuckles at Muncie, Indiana; for the production of cold drawn steel products at Hamilton, Ontario, Canada (held under lease by Union Drawn Steel Company, Ltd., a wholly-owned subsidiary of the registrant); and for the production of tin and terne plate at Cumberland, Maryland (owned by the N. & G. Taylor Company, a wholly-owned subsidiary of the registrant). The registrant and its subsidiaries also own warehouses, some of which are held under lease, in a number of cities.

All of the foregoing plants are in operation or have been operated within a recent period, although certain portions of particular plants are from time to time not in operation. In addition the registrant and its subsidiaries own the following properties which have not been operated for several years: facilities located at Cleveland, Ohio, constituting a part of the Upson Works above referred to, and including five open hearth furnaces with an annual estimated capacity of approximately 284,000 gross tons of steel ingots, and a blooming mill (the blast furnace having been dismantled during 1936); facilities located in Cleveland, Ohio, and known as Union Mills, comprising approximately 28 acres and equipped with a combination bar and light structural mill for the production of merchant bars; facilities for the production of die-rolled products at Neville Island, Pennsylvania (a portion of the equipment of the plant having been removed); facilities for the production of sheets at Newton Falls, Ohio (owned by The Newton Steel Company, a subsidiary of the registrant, in which a minority interest is outstanding*); and facilities located at Beaver Falls, Pennsylvania (owned by Union Drawn Steel Company, a wholly-owned subsidiary of the registrant), equipped for the production of cold drawn bar products.

Iron Ore and Coal Properties

Extensive iron ore properties equipped for operation in Marquette County, Iron County and Gogebic County, Michigan, and St. Louis County and Itasca County, Minnesota, for the most part held under mining leases; also extensive iron ore properties in Marquette County, Dickinson County, Iron County and Gogebic County, Michigan and in St. Louis County, Minnesota, being held as iron ore reserves, either owned in fee or held under mining leases. One mine in St. Louis County, Minnesota, is held under lease by Donner Mining Company, a wholly-owned subsidiary of the registrant, and one mine in Gogebic County, Michigan, is held under lease by Penokee Ore Company, a wholly-owned subsidiary of the registrant.

Extensive iron ore properties equipped for operation located in Jefferson County, Alabama, owned in fee or held under mining lease; also iron ore properties located in Jefferson County, Bibb County, Shelby County and Tuscaloosa County, Alabama, held as iron ore reserves and owned in fee.

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* See Item 4 (a) of this registration statement and notes thereto.

Coal properties equipped for operation located in Jefferson County, Alabama, owned in fee or held under mining leases by the registrant, and in Allegheny County and Fayette County, Pennsylvania, owned in fee by Republic Collieries Company (a wholly-owned subsidiary of the registrant) or held under mining leases by the registrant.

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Also coal properties located in Jefferson County, Alabama, Pike County, Kentucky, Washington County and Indiana County, Pennsylvania, and Kanawha County, West Virginia, held as coal reserves. The Washington County, Pennsylvania, coal property is owned by Republic Collieries Company, a wholly-owned subsidiary of the registrant, and substantially all the Indiana County, Pennsylvania, coal property is owned by Josephine Furnace & Coke Company, a wholly-owned subsidiary of the registrant.

8. Outline briefly the general effect of all material franchises and concessions held by the registrant or its subsidiaries.

Neither the registrant nor any of its subsidiaries has any franchise (other than corporate franchises) or concession which in the opinion of the registrant, is of material importance to the total enterprise represented by the registrant and its subsidiaries, except the following, copies of the documents evidencing which have heretofore been filed with the Securities and Exchange Commission and are incorporated by reference as Exhibits I-1, I-2 and I-3, respectively, to this registration statement.

1. The right of the registrant to maintain and operate a bridge, and approaches thereto, across the Mahoning River at Youngstown, Ohio (used to convey molten pig iron from the blast furnace to the open hearth furnaces at the Youngstown Plants of the registrant), the right to

construct, maintain and operate which in accordance with the provisions of the act entitled "An Act to regulate the construction of bridges over navigable waters", approved March 23, 1906, was granted to the registrant by an Act of Congress entitled "An Act granting the consent of Congress to the Republic Iron and Steel Company to construct a bridge across the Mahoning River, in the State of Ohio", approved February 15, 1916.

2. The right of the registrant, as successor to and assignee of The Trumbull Steel Company, to maintain and operate a bridge, and approaches thereto, across the Mahoning River at Warren, Ohio (used to convey molten pig iron from the blast furnaces of The Trumbull-Cliffs Furnace Company to the open hearth furnaces at the Warren Works of the registrant), the right to construct, maintain and operate which in accordance with the provisions of the Act of Congress entitled "An Act to regulate the construction of bridges over navigable waters", approved March 23, 1906, was granted to The Trumbull Steel Company by an Act of Congress entitled "An Act granting the consent of Congress to the Trumbull Steel Company, its successors and assigns, to construct, maintain and operate a bridge and approaches thereto across the Mahoning River in the State of Ohio", approved October 6, 1917.

3. The right of The River Terminal Railway Company to maintain and operate a bridge across the Cuyahoga River at Cleveland, Ohio (used to convey molten pig iron from the blast furnaces to the open hearth furnaces at the Corrigan, McKinney Plant of the registrant), the right to construct, maintain and operate which in accordance with the provisions of the Act of Congress entitled "An Act making appropriations for the construction, repair and preservation of certain public works on rivers and harbors and for other purposes", approved March 3, 1899, was granted to The River Terminal Railway Company by the

Chief of Engineers of the War Department of the United States of America and by the Secretary of War of the United States of America on June 26, 1913, following the authorization thereof on April 17, 1913, by the Division of Engineering of the Department of Public Service of the City of Cleveland.

Items 7-8.

2-1204 of the registrant, by an amendment to such Registration Statement filed with the Securities and Exchange Commission on August 22, 1935, and are hereby incorporated by reference in this registration statement as Exhibit I-5 thereto.

Exhibit I-6: Copies of the Agreement dated September 10, 1935 between Kuhn, Loeb & Co., and Field, Glore & Co., and the registrant were filed as Exhibit E-2 to Registration Statement (Form E-1) No. 2-1204 of the registrant, by an amendment to said Registration Statement filed with the Securities and Exchange Commission on September 10, 1935, and are hereby incorporated by reference in this registration statement as Exhibit I-6 thereto.

Exhibit I-7: Copies of the Agreement dated January 27, 1936 between Kuhn, Loeb & Co. and Field, Glore & Co., acting on behalf of themselves and the other parties named therein as Underwriters, and the registrant, were filed as Exhibit F to Registration Statement (Form A-2) No. 2-1858 of the registrant, by an amendment to said Registration Statement filed with the Securities and Exchange Commission on January 27, 1936, and are hereby incorporated by reference in this registration statement as Exhibit I-7.

Exhibit I-8: Copies of the letter agreement dated September 25, 1935 between the registrant and Donald B. Gillies were filed as Exhibit I-12 to Registration Statement (Form A-2) No. 2-1858 of the registrant, filed with the Securities and Exchange Commission on January 6, 1936, and are hereby incorporated by reference in this registration statement as Exhibit I-8.

Exhibit I-9: Copies of the Agreement dated December 31, 1929 between The Cleveland-Cliffs Iron Company and The Trumbull-Cliffs Iron Company, and the letter dated January 20, 1930; of the Agreement dated December 17, 1929 between the Cleveland-Cliffs Iron Company and Donner Steel Company, Inc.; and of the Agreement dated June 1, 1927 between Central Alloy Steel Corporation and The Cleveland-Cliffs Iron Company were filed as Exhibit I-13 to Registration Statement (Form A-2) No. 2-1858 of the registrant, filed with the Securities and Exchange Commission on January 6, 1936, and are hereby incorporated by reference in this registration statement as Exhibit I-9 thereto.

Exhibit I-10: Copies of the letter agreement dated January 14, 1936 between Varnishes & Paints, Inc. and Truscon Steel Company were filed as Exhibit I-15 to Registration Statement (Form A-2) No. 2-1858 of the registrant, by an amendment to said Registration Statement filed with the Securities and Exchange Commission on January 23, 1936, and are hereby incorporated by reference in this registration statement as Exhibit I-10.

Exhibit J: Not required.

(4) The prospectus, consisting of 54 pages.

Undertaking under Rule 730

Pursuant to Section 15(d) of the Securities Exchange Act of 1934, the undersigned registrant hereby undertakes to file with the Securities and Exchange Commission such supplementary and periodic information, documents, and reports as may be prescribed by any rule or regulation of the Commission heretofore or hereafter duly adopted pursuant to authority conferred in said Section 15(d); provided, however, that this undertaking shall become operative only upon the conditions specified in said Section 15(d), and provided, further, that the duty to file pursuant to this undertaking shall be automatically suspended upon the conditions and for the periods specified in clauses (1), (2), and (3) of said Section 15(d).

Signatures

(a) Of the Issuer.

In pursuance of the requirements of the Securities Act of 1933, the registrant, Republic Steel Corporation, a corporation organized and existing under the laws of the State of New Jersey, has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, all in the City of Cleveland, and State of Ohio, on the 20th day of October, 1936.

Republic Steel Corporation,
By T. M. Girdler,
Chairman.

[Corporate Seal]

Attest:
W. W. Hancock,
Secretary.

Exhibits, Signatures.

(b) Of the Principal Executive Officer or Officers, the Principal Financial Officer and the Comptroller or Principal Accounting Officer:

In pursuance of the Securities Act of 1933, the undersigned have signed the within registration statement on the respective dates set beside their names.

(i) Principal executive officer or officers:

	T. M. Girdler, Chairman	October 20, 1936.

(ii) Principal financial officer:

	Myron A. Wick,	
by	W. W. Hancock Vice President	October 20, 1936.

(iii) Comptroller or principal accounting officer:

	P. F. Boyer, Comptroller	October 20, 1936.

(c) Of the Directors:

In pursuance of the Securities Act of 1933, the undersigned have signed the within registration statement on the respective dates set beside their names.

	Henry K. Bourne	October 20, 1936.
	John S. Brookes, Jr.	October 20, 1936.
	James Bruce,	
by	W. W. Hancock	October 20, 1936.
	D. W. Cooper,	
by	W. W. Hancock	October 20, 1936.
	Victor Emanuel,	
by	W. W. Hancock	October 20, 1936.
	Donald B. Gillies	October 20, 1936.
	T. M. Girdler	October 20, 1936.
	W. W. Hancock	October 20, 1936.
	Julius Kahn	October 20, 1936.
	J. F. Schoellkopf, Jr.	October 20, 1936.
	C. E. Sullivan	October 20, 1936.
	Charles S. Wachner	October 20, 1936.
	Myron A. Wick,	
by	W. W. Hancock	October 20, 1936.
	R. J. Wysor	October 20, 1936.

Original powers of attorney authorizing Myron A. Wick and W. W. Hancock, and each of them, to sign on behalf of all the officers and directors of the registrant who signed this registration statement, as above, have been filed with the Securities and Exchange Commission.

Signatures

BOARD'S EXHIBIT NO. 110

REPUBLIC STEEL CORP.

Annual Report and Statistical Section

(Revised May 27, 1937)

Current summary, analysis, and latest news developments published in Bulletin Section (White) R 6.

POSITION AND PROSPECT

Competitive position of this corporation, third largest domestic producer of steel, was further strengthened by acquisition in April, 1937 of all of the assets and business of Gulf States Steel Co., next to largest steel enterprise operating in southern territory. Location of the completely integrated Gulf States Steel plant in Birmingham, Alabama, district, supplemented Republic's primary steel making facilities in that area and gave the corporation a direct entrance into the highly important industrial and agricultural southern market. In line with its general program of expansion, corporation had previously acquired Corrigan, McKinney Steel Co. and its subsidiaries, an important producer of primary and finished steel in the Great Lakes region, and control of Truscon Steel Co., a large fabricator of steel products.

Enlarged enterprise, which is fully integrated from extraction of iron ore, coal and limestone to manufacture of a wide list of finished steel products, has an effective annual capacity of 3,600,000 tons of pig iron, 6,483,000 tons of steel ingots, and facilities for production of 4,947,000 tons of finished hot rolled products. Plants are located in close proximity to principal consuming markets, with primary steel making facilities centering in Cleveland, Youngstown, Warren, Canton, and Massillon, Ohio, and Gadsden, Ala.; with smaller ingot capacities in Buffalo and Chicago. Finishing mills, although more widely scattered, are largely located adjacent to major primary facilities. Corporation has made considerable progress in coordinating activities of its numerous units to achieve more efficient operations.

Acquisitions Expand Facilities

Acquisition of assets of Gulf States Steel Co. having net fixed properties valued at over $22,000,000, provided corporation with a well integrated unit located at Gadsden, Ala., having annual production facilities for about 400,500 tons of ingots, 297,600 tons of finished hot rolled steel products, and finishing facilities for turning out large amounts of wire and wire products, nails and staples, sheets, and miscellaneous products used chiefly in the southern market. Gulf States Steel Co. also owned a substantial portion of the iron ore and coal reserves in the Birmingham, Ala., district.

Corrigan, McKinney Steel Co. acquired in latter part of 1935, had net fixed properties valued at $49,000,000, and brought to the corporation five plants having an annual ingot capacity of 1,000,000 tons, located chiefly in Pennsylvania and Ohio, including large unit at Cleveland having direct access to the Great Lakes; virtually doubled Republic Steel's original holdings of high grade northern ore; and increased coal reserves by about 25%.

Control of Truscon Steel Co. brought into the Republic

Steel organization the largest fabricator of steel in the Mid-West, manufacturing a large variety of products for the construction industry, and provided parent company with an assured outlet for around 300,000 tons of finished steel annually. This acquisition also added a unit suitably equipped to supply readily a large share of potential demands for light steels used in building construction. Main plants of Truscon Steel are located in close proximity to mills of Republic Steel Corp.

Plant Capacities Enlarged

In order to utilize fully the enlarged ingot capacity acquired from Corrigan, McKinney Steel Co., and to provide for the growing requirements from industry for lighter types of steel, company in 1936 expanded and modernized its existing facilities for production of light steel products. Additions made to alloy steel facilities increased productive capacity of Silicon steel strip by about 50% and output of Enduro stainless steel strip was doubled. Additions at Youngstown, materially increased productive capacity of electric weld tube mills, while the Niles and Warren Works were also enlarged to secure larger output of tin plate. Construction at Cleveland of a new 720,000 tons annual capacity 98-inch continuous wide strip mill was also started in 1936, which is expected to be placed in operation in the latter part of 1937. This new unit, with Great Lakes water shipping services available, will enable corporation to compete for a larger proportion of the important sheet steel business emanating from the automotive industry at Detroit.

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Largest Alloy Steel Producer

Corporation is the largest domestic factor in production of alloy and special steels, a sizable part of its aggregate capacity being allocated to mnaufacture of these products, distributed chiefly to the automotive trade. Moreover, considerable additional capacity can be converted to this use. Alloy steels, manufactured under American rights to Krupp patents, are sold under trade names, "Agathon", "Enduro", and "Agathon Nitralloy."

Diversification of Products

Of the corporation's finishing capacity, about three-fourths is devoted to bars, sheets, strip and light plate. The bulk of remaining capacity is in pipe and tubular goods, of which company is the third largest maker. Corporation is also well represented in wire and wire goods classifications, bolts and nuts, and ranks about sixth in production of tin plate. Output of finished steel is largely in lighter types, corporation having no rail or heavy structural capacities. It converts a substantial percentage of its steel output into highly finished products and manufactured articles.

Outlets Diversified

Though the automobile industry is largest single customer taking about 25% of total output, efforts in recent years to meet a broad range of requirements have resulted in a large volume of business with miscellaneous metal fabricators. The latter in the recent past accounted for almost half of output. Other important demand sources in order of importance are the railroad, food and packing (tin plate for containers), agriculture, oil, gas and water industries.

Iron Ore and Coal Reserves

Reserves of raw materials were substantially increased by acquisition of properties of Corrigan, McKinney Steel Co. and Gulf States Steel Co., latter unit owning large iron ore and coal deposits in Alabama. Total iron ore reserves are estimated at over 258,000,000 tons, located in Michigan and Minnesota ranges, and in Alabama. In addition, large reserves are held by associated interests. Lake Superior iron ore properties provide company with an advantageous source owing to favorable mining costs and low lake transportation charges. Mines are capable of producing some 3,360,000 tons of iron ore annually.

Coal properties and reserves located in Pennsylvania, Kentucky, West Virginia and Alabama, are estimated to contain over 500,000,000 tons of recoverable coal, while mines have an annual production capacity of 3,246,000 tons.

Share Capitalization Increased

Giving effect to issuance of 690,828 common shares for assets of Gulf States Steel Co., common stock was outstanding Dec. 31, 1936, to amount of 4,818,092 shares, including stock held in treasury. Capital readjustment plan effected in 1935, provided for a new issue of 6% prior preference stock, $100 par, offered to holders of existing convertible preferred stock in ratio of one-half share of prior preference series "A" and two common shares for each outstanding share of convertible preferred and accumulated dividends. In addition 27,929 shares of prior preference and 698,223 common shares were issued to Corrigan, McKinney Steel Co. in part payment for assets acquired, and 16,620 prior preference and 372,941 common shares were issued to stockholders of Truscon Steel Co. After above capital readjustment of senior stocks, there was outstanding on Dec. 31, 1936, 282,303 shares of 6% prior preference, series "A", and 119,597 shares of 6% original convertible preferred stock which was unexchanged under capital readjustment plan. The exchange offer of preferred stocks terminated Dec. 7, 1936.

More Bonds Also Issued

Capital readjustment plan also provided for a new issue of 20-year purchase money first mortgage convertible 5½s of 1954, and a new general mortgage authorized in amount of $127,202,300, issued in part for payment of assets acquired and to provide funds for retirement of all underlying liens (aggregating over $40,000,000) except a small non-callable subsidiary issue. Giving effect to assumption of indebtedness of Gulf States Steel Co., funded debt at Dec. 31, 1936, totaled $117,898,900, consisting of $92,934,000 general mortgage 4½s issued in series, of which $25,000,000 was sold in November, 1936, to provide funds for capital improvements; $15,361,000 purchase money first mortgage convertible 5½s; and $7,000,000 assumed first (closed) mortgage of Gulf States Steel Co.

Dividends

Dividends on 6% prior preference stock series "A", started Jan. 1, 1936 on regular $1.50 quarterly basis, and arrears of $4.50 a share (representing accruals for 1935) were paid off Oct. 23, 1936. On old convertible preferred unexchanged under capital readjustment plan, dividends were resumed after a lapse from 1930 with payment of $12 a share Dec. 19, 1936, followed by disbursement of $1.50 on April 1, 1937, and declaration of like amount payable July 1, 1937, on account of arrears. Giving effect to latter payment, unpaid accumulations amounted to $25.50 a share. No common dividends paid since 1930.

Larger Earnings in 1936

In response to heavier demand from the automotive industry and increased buying by other large users of lighter types of steel, company's shipments of finished and semi-finished steel products rose to 3,400,000 tons in 1936, and ingot production reached 70.9% of capacity. In 1935, which included Corrigan, McKinney Steel Co. from Oct. 1, only shipments totaled 2,196,000 tons, and ingot production averaged 54.9% of capacity.

Including operating results of Truscon Steel Co. and N. & G. Taylor Co. (which were not included in previous years), net sales for 1936 expanded to peak of $218,317,000,

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and net income, after $4,816,000 for depreciation and depletion and $950,000 surtax on undistributed profits, as $9,587,000, equal to $1.74 a common share, after preferred dividend requirements. Including Corrigan, McKinney Steel Co. from Oct. 1, only net sales for 1935 totaled $136,165,000, on which a net income of $4,456,000 was realized, the first full year's profit since organization of the Company in 1930. Earnings available for common in 1935 were equal to 49 cents a share.

In line with improved farming and business conditions in the Southern States, net sales of Gulf States Steel Co. rose 45% in 1936, to $12,778,000. After all charges, net income for year was $660,000, compared with net of $141,000 in 1935.

Financial Position

Because of consolidation of accounts with Truscon Steel Co. in 1936, financial statement of Republic Steel Corp. at year-end, was not directly comparable with that of a year previous. Current assets of $93,524,000, included $13,350,000 cash, $22,158,000 receivables and $58,015,000 inventories, while current liabilities were shown at $20,717,000. Net working capital was $72,806,000, or some $10,500,000 larger than amount shown at 1935 year-end. In addition, there was segregated as a fixed asset, cash of $23,087,000 obtained from new financing and earmarked for capital improvements.

Gulf States Steel Co. at close of 1936 had current assets of $6,432,000, about half of which consisted of inventories. Cash amounted to $1,354,000, and exceeded total current liabilities by $344,000.

Property Account; Book Value

Reflecting acquisitions and consolidations effected during 1936, total assets of Republic Steel at year-end had expanded to $343,950,000, from $297,476,000 a year before. Gross property account stood at $360,016,000, and after $154,856,000 depreciation and depletion reserve, net valuation was $205,160,000. Investments in unconsolidated subsidiaries were shown at $1,987,000 and securities of associated companies and other investments (listed securities) were booked at $9,316,000. Advances to unconsolidated subsidiaries, associated and other companies amounted to $2,930,000. Book value of common stock was $38 a share, compared with $36.35 on Dec. 31, 1935.

The Outlook

Increased volume and firmer price structure enabled the corporation to achieve a net profit of $5,567,000 in first three months of 1937, the best result for any quarterly period since its organization. With a heavy backlog of unfilled orders on hand at beginning of second quarter, and with no appreciable decrease in volume of incoming business in prospect, continued high rate of steel production for remainder of the year was indicated, especially as acquisition of Gulf States Steel Co. placed company in a position to secure an increased proportion of southern trade. Generally higher steel prices effected in second quarter of 1937 were expected to offset in large part wage increases granted by the industry and higher raw material costs; while economies resulting from further expansion and modernization of facilities added to company's prospects of benefiting from increased production.

May, 1937. Standard Statistics Co., Inc.

HISTORY

Republic Steel Corp was organized under the laws of New Jersey and succeeded by change of name April 8, 1930, Republic Iron & Steel Co. Latter company was incorporated May 3, 1899, with perpetual charter under the laws of New Jersey as a consolidation of about 27 companies whose properties were taken over in fee by purchase, except mines, which were acquired by leasehold.

Corporation merged substantially the entire assets of Republic Iron & Steel Co., Central Alloy Steel Corp., Donner Steel Co., Inc., The Bourne-Fuller Co. and The Berger Manufacturing Co. pursuant to an agreement dated Jan. 15, 1930. The foregoing, except The Berger Manufacturing Co., were united under single ownership and control on April 8, 1930, thus losing their corporate entities.

Recent Acquisitions

In September, 1935, corporation acquired properties and assets of Corrigan, McKinney Steel Co. and its subsidiaries, including control of Newton Steel Co., large manufacturer of sheet steel. For net fixed properties valued at $49,000,000, Republic Steel issued $15,361,000 of 5½% 20-Year Purchase Money First Mortgage Bonds, due Nov. 1, 1954, 27,929 shares of 6% convertible prior preference stock $100 par and 698,223 shares of no par common stock. These securities were equivalent to $11 principal amount of bonds, $2 par value of prior preference stock and one-half share of common stock for each common share of Corrigan, McKinney Steel Co.

In October, 1935, corporation acquired control of Truscon Steel Co., a large fabricator of finished steel, under an offer involving an exchange of stock on the basis of one-half share of convertible prior preference and two shares of common stock for each share of Truscon Steel preferred, and four-tenths of a share of common for each common share of Truscon Steel. Under the terms, a maximum of 16,794 convertible prior preference and 375,878 shares of common stock were to be issued upon complete exchange of shares. Offer to preferred stockholders of Truscon Steel was terminated Dec. 4, 1936. As of Jan. 8, 1937, Republic Steel owned 32,712 shares of Truscon Steel preferred and

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739,508 shares of common, or 98.5% and 96.5% of outstanding stock, respectively.

Early in 1936 corporation acquired all the stock and bonds of Niles Steel Products Co. of Niles, Ohio. It previously had owned a substantial interest in this concern.

July 1, 1936, Canton Tin Plate Co. was purchased for cash.

All of the properties, assets and business of Gulf States

Steel Co., second largest integrated steel producer in the South, were acquired by corporation as of April 7, 1937, under an offer involving exchange of 2⅓ common shares of Republic Steel Corporation for each outstanding share of Gulf States Steel Co., and assumption of all indebtedness including $7,000,000 first (closed) mortgage sinking fund 4½s, due 1961, of Gulf States Steel. Republic Steel Corp. had previously held about 30% of the outstanding stock of Gulf States Steel Co. Under terms of the purchase, a total of 690,828 common shares of Republic Steel were issued for properties having a net valuation of $22,291,000, and including large raw material sources such as iron, coal and limestone deposits. Plant of Gulf States Steel Co. had a rated annual production of capacity of 400,500 tons of steel ingots, and finishing facilities for production of wire and wire products, sheets, and plates. Acquisition greatly strengthened Republic's position in the South, rounding out its existing pig iron producing facilities in that area, and enabled it to take a strong position in the important Southern steel market.

Subsidiaries and Affiliates

Principal subsidiary and associated companies as of Dec. 31, 1936, were as follows:

Consolidated in Financial Statements

Name—	% of Stock Owned
Steel and Tubes, Inc.	100
Truscon Steel Co.	†
Union Drawn Steel Co.	100
The Berger Mfg. Co.	100
The Trumbull-Cliffs Furnace Co.	100
Republic Steel Corp. of Del.	100
Donner Mining Co.	100

Name—	% of Stock Owned
Republic Collieries Co.	100
Ideal Foundry & Machine Co.	100
Union Drawn Steel Co., Ltd.	100
The Columbia Land Co.	100
Searight Supply Co.	100
The Newton Steel Co.	*
The Upper Mahoning Land Co.	100
The River Terminal Railway Co.	100
The River Dock Co.	100
Furnace Water Co.	100
The N. & G. Taylor Co.	100
Penokee Ore Co.	100

*As of Nov. 10, 1936, company owned 77.9% of preferred and 81.2% of common stock of Newton Steel Co.

†As of Jan. 8, 1937, company owned 98.5% of preferred and 96.5% of common stock of Truscon Steel Co.

Carried as Investments in Financial Statements

Name—	% of Stock Owned
Donner-Hanna Coke Corp.	50
Fretz-Moon Tube Co., Inc.	50
Lake Erie Limestone Co.	28
Mahoning Ore & Steel Co.	6
The Mesaba-Cliffs Mining Co.	9
The Niles Steel Products Co.	100
Potter Ore Co.	50
Republic Supply Co.	35
Susquehanna Ore Co.	50

Other Affiliated Companies

Name—	% of Stock Owned
Cambria Steamship Co.	6
Cleveland Lime & Transport Co.	25
General Water Co.	20
Rugby Iron Co.	40
Union Limestone Co.	16⅔
Vermillion Mining Co.	25
Hoyt Mining Co.	*
Plymouth Mining Co.	*

*Amount of interest held is not reported.

BUSINESS

Acquisition of Gulf States Steel Co. further strengthened this corporation's position as the third largest producer of steel in the United States. Company is fully integrated from the mining of ore and other raw materials to the manufacture of a widely diversified line of finished products, except heavy structurals and rails. Company converts a greater percentage of its steel output into highly finished products and manufactured articles than any other of the large steel companies.

Combined enterprise has an effective annual capacity of 3,600,000 tons of pig iron, 6,483,000 tons of ingots, and about 4,947,000 tons of finished hot rolled steel products. Preponderance of facilities is in merchant and concrete reinforcing bars which account for about 43% of total rolled steel; followed by sheets 28%; strip, 11%; skelp, 5%; and wire rods and black plate, about 2% each. About one-seventh of capacity is devoted to manufacture of high grade alloy, carbon, and special steels including high tensile and stainless steels.

Company is third largest domestic producer of tubes and pipe, being equipped for 846,500 tons per annum; main output is under the Johnston process of electric welding, although lap and butt weld methods are also employed. Republic is sixth in domestic ranking as a maker of tin plate, capacity being over 3,150,000 base boxes yearly. Products include also nuts, bolts and rivets, wire products, automobile axles and 320,000 tons of cold drawn steels.

Outlets—In recent years almost half of output has been consumed by a large number of miscellaneous users, including jobbers and distributors. Of individual outlets, the automobile trade remains dominant taking about 25% of

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output, with other outlets, in order of importance, the railroad, food and packing, agriculture and oil, gas and water industries. Acquisition of Truscon Steel Co. gave company control of a diversified steel fabricating enterprise using several hundred thousand tons of steel annually, and having 27 warehouses, facilitating also distribution of other products of the combined enterprise.

Products of the Gulf States Steel Division, consisting in large part of wire products, with merchant and concrete bars, sheets and plates, next in importance, are distributed for the most part to jobbers, dealers and warehousemen, and to the building, tank, drum and container trades, railroad companies, bridge and road building industry, and bolt, nut and rivet industry. The agricultural trade is the principal consuming source of wire products. Approximately three-fourths of Gulf States output is sold in Alabama, Florida, Georgia, Louisiana, North Carolina, Tennessee and Texas. Favorable location of this division enables it to do a substantial export business with the West Indies, Central and South America.

Sales offices are maintained in the principal cities of the United States, in Hamilton, Ont., and London, England.

Patents and Licenses—Corporation and its subsidiaries own numerous patents and patent rights, among them being the United States and Canadian patents covering the Johnston process for electric welding of steel tubing, especially thin guage tubing, owned by Steel and Tubes, Inc.

Stainless steels are produced, in part, under Krupp Licenses. The company is also a licensee of, and has constructed facilities for using the continuous strip sheet rolling method patented by the American Rolling Mill Co., to whom it pays royalties on a tonnage basis.

Business of Subsidiaries

The Berger Manufacturing Co. manufactures desks, tables, cabinets, files, shelving, special office furniture, lockers, trays, bins, racks, special units, counters, voting machines and booths, signs, frames, tool boxes, radiator covers, laboratory equipment, bottle cases and racks, beer cases, air conditioning cabinets, parts boxes and formed roofing products.

The Newton Steel Co. manufactures hot rolled, hot rolled annealed, heavy cold rolled, cold rolled and vitreous enameling sheets.

Steel & Tubes, Inc., manufactures boiler tubes, condenser tubes, mechanical tubing, bedstead tubing, rail carbon structural tubing, stainless steel tubing, stampings, and electrical conduit.

Union Drawn Steel Co. manufactures cold drawn and turned and polished steel, turned and ground shafting, free cutting screw steel, rounds, squares, flats, hexagons and special shapes, pump and piston rod, axles, needle bar stock, crankshafts, bessemer, open hearth, alloy and electric steels in a wide range of analysis.

Truscon Steel Co. manufactures steel window products, steel doors, steel flooring systems, bridge flooring steel joists, structural steel, reinforcing steel, metal lath and accessories, highway reinforcing steel products, steel faced insulation products, steel poles, pressed and drawn steel products, complete steel buildings, steeldeck roofs, radio towers, and mechanical and non-mechanical window mufflers ("Silentaire").

Niles Steel Products Co. manufactures stampings and pressed steel parts, barrels, drums and pails.

PROPERTIES

Acquisition of Gulf States Steel Co. brought to the corporation second largest steel producer of the South, including large iron ore, coal and limestone reserves in that area. Previously, through merger with Corrigan, McKinney Steel Co. five plants were acquired, located chiefly in Pennsylvania and Ohio, with large units at Cleveland and near Detroit, easily accessible to the important automobile industry. Recent acquisitions also practically doubled corporation's holdings of high grade northern iron ore and increased coal reserves by about 25%. Majority of plants of the enlarged enterprise are located in six major steel consuming centers, the Valley (around Youngstown, Ohio), Cleveland, Chicago, Buffalo, Pittsburgh, and Alabama districts. Largest producing unit is at Youngstown, Ohio, with finished hot rolled steel capacity of 979,000 gross tons per annum, while other important units are strategically located at Cleveland, Ohio, and Gadsden, Ala.

Additions and Improvements to Property—Company has been carrying out an extensive program of plant improvement. Since 1930, expenditures for additions and improvements totaled about $65,000,000. Important units of new construction in 1936 included new 98-inch continuous wide strip mill at Cleveland, expected to be placed in operation in latter part of 1937. New mill will have an annual capacity of 720,000 tons of wide strip, and will enable company to participate actively in the growing demand for wide sheets. Additions at the Youngstown plant materially increased productive capacity of the electric weld tube mills, while improvements at Warren plant resulted in larger production of tin plate, and increased Silicon steel strip production capacity by about 50%. Corporation's capacity for production of Enduro stainless steel strip was doubled during 1936, at the Central Alloy District, and additional strip tin mill at Niles plant increased production of tin mill products by about 10,000 tons a month.

Manufacturing Plants

Youngstown Works at Youngstown and Campbell, Ohio, covers approximately 227 acres of land, upon which are located 204 by-product coke ovens and a by-products plant, 4 blast furnaces having an annual capacity of 980,000

gross tons of pig iron, 15 open hearth furnaces of 1,043,000 gross tons of steel ingots annually and 2 Bessemer converters of 480,000 gross tons of steel ingots. Finishing facilities include blooming mills, billet mills, bar mills, skelp mill, plate mill, butt weld and lap weld pipe furnaces, electric weld pipe mills, and spike plant for the production of blooms, billets, slabs, sheet bar, and other semi-finished or finished products.

Warren Works at Warren, Ohio, covers approximately

640 acres of land, and has a blast furnace of 360,000 gross tons of pig iron and 8 open hearth furnaces of 656,000 gross tons of steel ingots annually; coke ovens and a by-products plant. Finishing equipment consists of blooming mill, billet mill, hot strip mills, cold strip department, sheet mills and tin mills for production of blooms, billets, slabs, sheet bar, hot and cold rolled strip, sheets, tin plate, conduit and other products.

Niles Works at Niles, Ohio, covers 50 acres of land upon which are located 8 sheet mills producing hot rolled, hot rolled annealed electrical and other varieties of sheets, and a strip tin plant having a monthly production capacity of 10,000 tons of tin mill products.

Canton Works at Canton, Ohio, consists of 613 acres of land upon which are a blast furnace of 210,000 gross tons of pig iron annually, 14 open hearth furnaces with an estimated annual capacity of 923,000 gross tons of steel ingots and 6 electric furnaces of 130,000 gross tons of steel ingots, 62 coke ovens and a by-products coke plant. Finishing facilities include blooming mills, bar mills, sheet mills jobbing mills and tin mill for the production of blooms, billets, slabs and sheet bar, alloy steels, bar mill products, sheets, tin plate, fabricated sheet metal products and metal culverts.

Massillon Works at Massillon, Ohio, covers approximately 422 acres of land upon which are located a blast furnace with an estimated annual capacity of 230,000 gross tons of pig iron, 9 open hearth furnaces having an estimated annual capacity of 523,000 gross tons of steel ingots, 49 coke ovens and a by-products plant. Finishing equipment includes blooming mill, billet mill, bar mills, strip mills, sheet mills, and finishing department for "Enduro" sheets and strip.

Cleveland Works (Corrigan, McKinney Plant) at

Cleveland, Ohio, covers approximately 294 acres of land, with lake transportation facilities, upon which are located 204 by-product coke ovens and a by-products plant, 4 blast furnaces with an estimated annual capacity of 900,000 gross tons of pig iron and 14 open hearth furnaces with an estimated annual capacity of 1,040,000 gross tons of steel ingots. Finishing equipment includes blooming mills, bar mills, billet mill and sheet bar mill for production of blooms, billets, slabs, sheet bar and bar mill products.

Gadsden Works (Gulf States Steel Co. Plant) at Gadsden, Ala., is located on 600 acres of land of which the plant proper covers approximately 250 acres. Equipment consists of a blast furnace having an annual capacity of 150,000 gross tons of pig iron; 6 open-hearth furnaces rebuilt for use of natural gas and to a required capacity of 430,000 gross tons of steel ingots annually; Koppers By-Product coke plant containing 37 ovens having an estimated annual capacity of 165,000 net tons of coke; 40-inch blooming mill; 32-inch universal plate mill; rod mill; merchant bar mills; sheet mills; wire mills, including nail, barbed wire, woven wire fencing and processing departments. Finishing facilities are capable of utilizing the entire production of steel ingots. Plant has an effective annual capacity of 297,600 gross tons of finished hot rolled steel products, made up of 48,000 tons sheared and universal plates; 50,000 tons black sheets; 83,800 tons merchant and concrete reinforcing bars; and 115,800 tons wire rods. Capacity of other finished products is estimated at 434,000 gross tons, of which wire accounts for 286,000 tons; nails and staples, 75,000 tons; and galvanized sheets, 54,000 tons. Property also includes a central power plant operated principally on furnace gas or pulverized coal, having a rated generating capacity of 15,000 k. v. a.

N. & G. Taylor Works at Cumberland, Md., consists of tin plate mills for production of tin and terne plate.

The Newton Steel Co. at Monroe, Mich., owns approximately 140 acres with lake transportation facilities on Lake Erie. Equipment consists of sheet mills for production of various kinds of sheets.

Buffalo Works at Buffalo, N. Y., covers approximately 125 acres with lake transportation facilities of Lake Erie. Equipment includes 2 blast furnaces having an annual capacity of 450,000 gross tons of pig iron, 9 open hearth furnaces of 554,000 gross tons of steel ingots and an electric furnace with an annual capacity of 12,000 gross tons of steel ingots. Finishing equipment includes blooming mill, bar mills, billet mill, and die roll finishing department for production of blooms, billets and slabs, alloy steels, bar mill products and die rolled products. A 50% interest in by-product coke ovens located adjacent to this plant is owned.

South Chicago Works and Grand Crossing Works at Chicago, Ill., cover approximately 52 acres with lake transportation facilities on the Calumet River. Equipment includes 8 open hearth furnaces with an estimated annual capacity of 408,000 tons of steel ingots, blooming mill, billet mill, bar mill, rod and bar mill, spike plant and wire mill, and nail and fence wire plant for production of semi-finished steel, rods, wire fencing, nails and railroad spikes.

Sylvan Works at Moline, Ill., consists of bar mill for production of re-rolled bar and other steel products.

Birmingham Works at Birmingham, Ala., consists of 57 coke ovens and by-products plant, and 2 blast furnaces

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having an annual estimated capacity of 320,000 gross tons of pig iron.

Upson Nut Division comprises the Upson Works at

Cleveland, Ohio, Indiana Bolt Works at Muncie, Ind., and Unionville Works at Unionville, Conn. The Upson Works comprises 25 acres at Cleveland, Ohio, with lake transportation facilities on the Cuyahoga river. Equipment consists of open hearth furnaces, blooming mill, bar mills, bolt, nut and rivet factory for production of bolts, nuts and spikes. A warehouse is also located on this property. Indiana Bolt Works at Muncie, Ind., consists of a turnbuckle plant, Unionville Works at Unionville, Conn., produces bolts and nuts.

Dilworth-Porter Division at Pittsburgh, Pa., covers approximately 7 acres. Equipment includes bar mill, tie plate mill, spike plant and tie plate finishing department for production of bar mill products, tie plates and spikes.

Canton Culvert Division at Canton, Ohio, consists of a metal culvert fabricating plant.

Union Drawn Steel Co. operates cold drawn steel plants at Massillon, Ohio, Gary, Ind., Hartford. Conn., and Hamilton, Ont., Canada, and a cold drawn steel and foundry plant at Beaver Falls, Pa.

Steel & Tubes, Inc., operates electric weld tube plants at Cleveland, Ohio, and Ferndale, Mich., electric tube and conduit plants at Brooklyn, N. Y., and a plant at Elyria, Ohio, containing hot skelp and reinforcing bar mill, cold strip mills, electric weld tube mill and metal stamping division.

The Berger Manufacturing Co. operates a steel fabricating plant at Canton, Ohio.

Truscon Steel Co. operates steel fabricating plants at Youngstown and Cleveland, Ohio, Los Angeles, Cal., Walkerville, Ont., and Kawasaki, Japan. Reinforcing bar fabricating plants are operated at Birmingham, Ala., Boston, Mass., Buffalo and Long Island City, N. Y., Chicago, Ill., Cincinnati, Cleveland, and Youngstown, Ohio, Dallas, Texas, Detroit, Mich., Harrison, N. J., Indianapolis, Ind., Jacksonville, Fla., North Kansas City, Mo., Los Angeles, Cal., Milwaukee, Wisc., Norfolk, Va., Philadelphia, Pa., Portland, Ore., San Francisco, Calif., and St. Paul, Minn.

Summary of Plants

Summary of plants of the corporation and subsidiaries, as of Dec. 31, 1936, and before giving effect to acquisition of properties of Gulf States Steel Co., is as follows:

By-products coke ovens	740
Blast Furnaces	15
Open hearth furnaces	82
Bessemer converters	2
Electric furnaces	7
Blooming mills	11
Billet and bar mills	8
Merchant mills	24
Skelp mill	1
Rod mill	1
Plate mill	1
Hot strip mills	4
Cold strip mills	3
Sheet mills	96
Black plate mills	30
Tin plate departments	4
Lap weld pipe furnaces	3
Butt weld pipe furnaces	4
Electric weld pipe mills	3
Tube plants—electric weld	4
Wire and nail plants	2
Axle plants—die rolled	2
Bolt and nut factories	3
Cold drawn steel plants	6

Spike factories	3
Metal stamping plants	2
Tie plate plant	1
Culvert plant	1
Steel fabricating plants	6
Pressed steel plant	1
Reinforcing bar fabricating plants	21
Foundry	1
Warehouses	30

Capacity

Annual potential output of all the plants for production of various materials in gross tons, is approximately as follows, after giving effect to acquisition of Gulf States Steel Co., but does not include capacities of new facilities built in 1936. Approximately 15% of ingot and finished steel capacity is devoted to production of alloy and special steels, while considerable additional capacity can also be converted to this use.

Primary Materials—	Gross Tons
Pig iron	3,600,000
Steel ingots	6,483,000
Finished Hot Rolled Steel Products—	
Plates—sheared	112,000
Plates—universal	256,000
Bars—including concrete reinforcing	1,543,000
Bars—other than concrete reinforcing	511,200
Bars—concrete reinforcing	69,600
Skelp	240,000
Black sheets—hot rolled and hot rolled annealed	427,000
Sheets—hot rolled annealed	436,000
Sheets—cold rolled	516,000

Strip	534,500
Black plate	104,500
Wire rods	115,800
Blanks or pierced billets for seamless tubes	48,000
Blanks or pierced billets for forging	12,000
Black plate for tinning	22,000
Total Finished Hot Rolled Steel	4,947,600

Other Finished Steel Products (Large part of which are produced from above finished hot rolled steel)—

	Gross Tons
Pipe—butt weld	152,000
Pipe—lap weld	161,000
Pipe—electric weld	429,000
Pipe—galvanized	35,000
Strip—cold rolled	175,700
Tin & terne plate	142,700
Sheets—galvanized	183,000
Sheets—long terne	17,000
Sheets—cold rolled	214,000
Sheets—Enduro stainless	1,600

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Spikes	32,500
Railroad and mine spikes	24,000
Track bolts & nuts	22,000
Bolts, nuts & rivets	63,000
Turnbuckles	13,000
Tacks	2,100
Tie plates	7,500
Wire rods	104,000
Wire—plain	172,000
Wire—galvanized	70,000

Wire—barbed	51,000
Wire—fencing	31,000
Nails and staples	91,400
Bale ties	9,000
Fence posts	8,500
Forged products—commercial	6,000
Steel castings	1,000
Iron castings	1,000
Cold drawn products	320,300
Electric weld tubes	69,500
Total Other Finished Steel Products	2,609,800

Fuel and By-Products—

Coke (tons)	3,968,000
Light oil (gallons)	14,074,000

Iron Ore Properties

Extensive iron ore properties equipped for operation are located in Marquette, Iron, and Gogebic Counties, Mich., and St. Louis and Itasca Counties, Minn., and in Jefferson County and Shannon, Ala. The Minnesota and Michigan properties, designated as the Northern Ore Properties are for the most part held under mining leases, while the Alabama property, designated as Southern Ore Properties, are owned in fee or held under mining leases. In addition, iron ore properties in Minnesota, Michigan and Alabama are held as reserves. Total of all iron ore is estimated at 258,670,000 tons, while large reserves are held by associated interests. Mines are capable of turning out some 3,360,000 tons of iron ore annually. Principal active mines owned in whole or in part by Republic Steel Corp., are as follows:

Northern Iron Ore Properties—Among the principal active mines owned in whole or in part, or leased by Republic Steel Corp., are the following: Ironton Mine, Bessemer, Mich.; Lloyd Mine, Ishpeming, Mich.; Cambria Mine, Negaunee, Mich.; Tobin Mine, Crystal Falls, Mich.; Alexandria Mine, Chisholm, Minn.; Commodore and Julia Mines, Virginia, Minn.; St. Paul-Day Mine, Keewatin, Minn.; Stevenson Mine, Stevenson, Minn.; Susquehanna, Mine, Hibbing, Minn.

Southern Ore Properties include the Raimund Group and Spaulding Mine at Birmingham, Ala.

Iron ore properties acquired in connection with purchase of assets of Gulf States Steel Co. are located at Shannon (near Birmingham), Ala., and comprise about 1,870 acres of red hematite ore. Mines have an annual production capacity of approximately 360,000 gross tons of ore. Properties were estimated to contain on Sept. 25, 1936, approximately 88,670,000 gross tons of recoverable ore as follows: 10,070,000 tons recoverable from approximately 190 acres accessible to mine plant and development; 53,000,000 tons recoverable from approximately 900 acres, not developed but accessible to present plant upon additional development; and 25,600,000 tons recoverable from approximately 780 acres, not accessible to present plant and requiring opening from the surface for its recovery. The average analysis of this ore was reported as follows: Metallic iron, 38.39%; silica, 11.86%; alumina, 3.02%; lime, 14.59%; phosphorus, 0.29%.

Affiliated Mining Companies—Subsidiaries or affiliates engaged in mining ore include (1) the Donner Mining Co., operating the Alexandria mine under a 25-year lease expiring in 1941, with minimum of 200,000 tons annually; (2) the Mahoning Ore & Steel Co., the Mesaba-Cliffs Mining Co., Rugby Iron Co., Union Ore Co., and Vermillion Mining Co. operating mines on the Mesaba and Vermillion ranges; (3) Townsite mine in the Lake Superior district; (4) Susquehanna Ore Co., operating the Susquehanna mine on the

Mesaba Range, with capacity of 1,000,000 tons annually, and reserves sufficient to last through 1940, at least, and (5) Potter Ore Co. holding iron ore lands in Alabama.

Coal Property

Coal reserves are held in two principal regions, the Northern in Fayette and Allegheny Counties, Pa., equipped for operation and in Pike County, Ky., Washington and Indiana Counties, Pa., and Kanawha County, W. Va., held as reserves. Southern coal property all located in Alabama, include property in Jefferson County, and Virginia (near Birmingham) and Sayre, equipped for operation and held as reserves, and undeveloped coal lands in Tuscaloosa, Fayette and Walker Counties, Ala. Aggregate reserves were estimated at about 500,780,000 tons of recoverable coal. Production capacity of mines total 3,246,800 tons per annum.

Northern Coal Properties—Mines of the Northern Coal Properties are known as the Russelton, Republic, Davidson, Trotter, Indianola and Brownsville Junction Mine, all located in towns of like names in Pennsylvania.

Southern Coal Property known as the Sayreton Mine is located at Birmingham, Ala., near company's blast furnaces. Coal properties acquired in connection with purchase of assets of Gulf States Steel Co. consist of extensive reserves in Alabama, and include approximately 2,450 acres at Virginia (near Birmingham), Ala. (of which 960 acres are within the present mine workings), estimated to contain on Sept. 25, 1936, about 7,900,000 net tons of recoverable low ash, low volatile coal suitable for blending with other coals in coke manufacture; and approximately 5,050 acres at Sayre, Ala., of which 1,250 acres are within the present mine workings, and estimated to contain as of Sept. 25, 1936, 11,240,006 net tons of recoverable coal within the present mine workings, 5,100,000 net tons accessible to present plant and development; and 12,540,000 net tons re-

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quiring additional openings and plant for recovery. Mines on Virginia, Ala., property are equipped for a daily production of 600 net tons and Sayre mines are equipped to produce 1,500 net tons daily. Undeveloped coal reserves located in Tuscaloosa, Fayette and Walker Counties, Ala., and held as reserve, were estimated to contain on Sept. 25, 1936, recoverable tonnage of about 264,000,000 net tons.

Affiliated Coal Mining Companies—Coal or coke operations are carried on by the following: (1) Donner-Hanna Coke Corp. (in which the company has a half interest, with remainder owned by National Steel Corp.) operating a byproduct plant adjacent to Republic's Buffalo plant, and consisting of about 150 Kopper coke ovens; entire gas output and half of coke is taken by Republic, and (2) Republic Collieries Co., operating coal mines in Pennsylvania.

Limestone Properties

Limestone properties are concentrated at Birmingham, Ala., at the Thomas quarries and at Cobb City (near Gadsden, Ala.). Latter unit comprises about 400 acres of land. The Union Limestone Co. and the Lake Erie Limestone Co. in which interests are held, operate quarries near Carbon, Pa., while the Cleveland Lime & Transport Co. owns limestone deposit on Kelley Island, Ohio.

Other Properties

Transportation—The Cambria Steamship Co. (partly owned) is engaged in carrying ore on the Great Lakes.

Real Estate—The Columbia Land Co., a housing company, owns dwellings and buildings adjoining the Massillon plant of the corporation.

Water Supply—The General Water Co. supplies the water for coal mines in Fayette County, Pa.

FUNDED DEBT

As of Dec. 31, 1936, after giving effect to acquisition of Gulf States Steel Co. and assumption of $7,000,000 first (closed) mortgage sinking fund 4½s, of latter company:

Purchase Money First Mortgage Conv. 5½s, due Nov. 1, 1954	$15,361,000

Dated Nov. 1, 1934. Interest Payable May and November 1, at Central United National Bank, Cleveland, or Chase National Bank, New York. Coupon, $1,000, $500 and $100 registerable as to principal. Registered, $1,000, $5,000 and $10,000, or any multiple of $10,000. Coupon and registered bonds interchangeable. Authorized—$25,000,000. Sinking Fund—Payable in cash or bonds taken at principal amount, on Nov. 1, 1937, and each Nov. 1, thereafter, in an annual amount equal to 2½% of maximum amount of bonds at any time issued. Any cash in sinking fund shall be applied to purchase of bonds at not exceeding the then current redemption price and, if not so applied, shall be applied to the redemption of bonds by lot. All bonds so delivered, purchased or redeemed shall be cancelled. Redeemable on any interest date as a whole or in part (by lot), upon six weeks' published notice, at 107½ and interest on or before Nov. 1, 1935, such premium being thereafter decreased 1% each year during the next five years and continuing thereafter at 2½% until Nov. 1, 1949, and being thereafter decreased ½ of 1% each year until maturity. Convertible at any time prior to maturity at option of holder into common stock at rate of one share of common for each $38.04 principal amount of bonds. Issue was originally convertible into common stock at rate of $40 per share but due to issuance of common shares for acquisition of Gulf States Steel Co. in April, 1937, conversion rate was adjusted to present basis. If any of bonds shall be called for redemption, the right of holders to convert shall terminate at close of business of fifteenth day prior to date of redemption. Mortgage carries provisions against dilution of conversion privilege. Security—A direct obligation of company and secured by a first and purchase money lien on all the fixed assets acquired by corporation from Corrigan, McKinney Steel Co. and on stocks and certain other securities of subsidiary companies owned by Corrigan, McKinney Steel Co. at date of acquisition of its assets. Mortgage will also attach to all improvements and additions constructed on or forming an integral physical part of the properties subject thereto, and to all properties to reimburse corporation for acquisition or construction of which bonds shall be issued or moneys paid out under the Purchase and Improvement Mortgage. Additional bonds issued under the Purchase and Improvement Mortgage will be subject to the lien of the mortgage dated March 17, 1910, securing the 10-30 year 5% Sinking Fund Mortgage Gold Bonds of the corporation, if and to the extent that the same shall attach thereto. Issued in part payment for assets of Corrigan, McKinney Steel Co. acquired by the corporation. Trustees—Central United National Bank, Cleveland, and H. R. Harris.

General Mtge. Conv. 4½s, Series "A" due Sept. 1, 1950	$24,000,000
General Mortgage 4½s, Series "B," due Feb. 1, 1961	*$43,934,000
Gen. Mtge. 4½s, Series "C," due Nov. 1, 1956	$25,000,000

*Excludes $1,066,000 held in treasury.

Mortgage Dated Sept. 1, 1935. Dated—(Series A) Sept. 1, 1935; (Series B) Feb. 1, 1936; (Series C) Nov. 1,

1936. Interest Payable (Series A) March and Sept. 1; (Series B) Feb. and Aug. 1; (Series C) May and Nov. 1, at Chemical Bank & Trust Co., New York City.

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Coupon—(Series A) $1,000; (Series B & C) $1,000 and $500, registerable as to principal. Registered—(Series A, B & C) $1,000, $5,000 and $10,000, or multiples of $10,000. Coupon and registered bonds are interchangeable. Authorized (all series) $137,202,300.

Sinking Fund (Series "A")—Annual payments beginning Sept. 1, 1936, to and including Sept. 1, 1939, of 1½% of maximum amount of bonds issued; and each Sept. 1, thereafter, an amount equal to 2½% of maximum principal amount issued. Sinking fund is payable either in cash or in bonds at their principal amount. Cash in the sinking fund shall be applied by the trustee to the purchase of bonds at not exceeding the then current redemption price, or redemption of bonds by lot. Sinking fund is cumulative, i. e., interest accruing on bonds held in sinking fund will be added to the sinking fund. Sinking Fund (Series "B")—Cumulative annual payments, beginning Feb. 1, 1937, to and including Feb. 1, 1941, of 2½% of maximum principal amount of Series B bonds issued; and each Feb. 1, thereafter to and including Feb. 1, 1946, an amount equal to 2¼% of maximum principal amount issued; and each Feb. 1, thereafter, an amount equal to 2% of maximum principal amount issued. Sinking fund is payable either in cash or in bonds at their principal amount. Cash in sinking fund shall be applied to purchase or redemption of Series B bonds, on 6 weeks' notice, at 102½ on or before Jan. 31, 1941; thereafter at 102 through Feb. 1, 1946; thereafter at 101½ through Feb. 1, 1951; thereafter at 101 through Feb. 1, 1956; thereafter at 100¾ through Feb. 1, 1958; thereafter at 100½ through Feb. 1, 1959; thereafter at

100¼ through Feb. 1, 1960; thereafter at 100; together, in each case, plus accrued interest. Sinking fund is calculated to retire not less than $43,187,075 of the $45,000,000 principal amount of Series "B" bonds by maturity. Sinking Fund (Series C)—Beginning Nov. 1, 1937, and on Nov. 1, in each year thereafter, in an annual amount equal to 2% of maximum principal amount of Series C bonds issued. Sinking fund is cumulative, i. e., interest accruing on bonds in sinking fund will be added to the sinking fund. Payments for the sinking fund may be made either in cash or in bonds at their principal amount. Cash in sinking fund shall be applied to purchase or redemption of Series C bonds on 6 weeks' notice at 102½ on or before Oct. 31, 1941; thereafter at 102 through Nov. 1, 1944; thereafter at 101½ through Nov. 1, 1948; thereafter at 101 through Nov. 1, 1952; thereafter at 100¾ through Nov. 1, 1953; thereafter at 100½ through Nov. 1, 1954; thereafter at 100¼ through Nov. 1, 1955; thereafter at 100; together in each case, plus accrued interest. Sinking fund is calculated to retire not less than $14,175,000 of the $25,000,000 principal amount of Series C bonds by maturity.

Redeemable (Series A)—Other than for sinking fund: at any time as a whole only; on 6 weeks' notice, at the following prices: 105 on or before Sept. 1, 1940; thereafter at 102½ on or before Sept. 1, 1945; the premium thereafter decreasing ½ of 1% each year or portion thereof which shall have elapsed between Sept. 1, 1945, and the redemption date, plus interest in each case. Redeemable (Series "B")—Other than for sinking fund, at any time after Jan. 31, 1941, as a whole, and, on any interest payment date after Jan. 31, 1941, in part in principal amounts of $5,000,000 or any multiples thereof, in either case upon six weeks' notice, at 104 on or before Feb. 1, 1946; thereafter at 103 through Feb. 1, 1951; thereafter at 102 through Feb. 1, 1956; thereafter at 101½ through Feb. 1, 1958;

thereafter at 101 through Feb. 1, 1959; thereafter at 100½ through Feb. 1, 1960; thereafter at par, together, in each case, plus accrued interest. Redeemable (Series C) other than for sinking fund, at any time after Oct. 31, 1941, as a whole, and, on any interest payment date after Oct. 31, 1941, in part in principal amounts of $5,000,000 or any multiple thereof, in either case upon six weeks' notice, at 104 on or before Nov. 1, 1944; thereafter at 103 through Nov. 1, 1948; thereafter at 102 through Nov. 1, 1952; thereafter at 101½ through Nov. 1, 1953; thereafter at 101 through Nov. 1, 1954; thereafter at 100½ through Nov. 1, 1955; thereafter at par; together, in each case, plus accrued interest.

Convertible (Series A) at any time prior to maturity into company's no par common shares at the following rates for each $1,000 amount of bonds; 45 shares if converted on or before Sept. 1, 1937; 40 shares thereafter and on or before Sept. 1, 1929; 35 shares thereafter and on or before Sept 1, 1942; 30 shares thereafter on or before Sept. 1, 1945 and 25 shares thereafter. If bonds are called for redemption, conversion privilege expires on the 15th day prior to date of redemption. The mortgage contains provision against dilution of the conversion privilege.

Secured—(Series A, B & C) by a first mortgage lien on substantially all of the fixed assets of the corporation, except certain properties subject to the Central Steel Co. first mortgage sinking fund 8s, due in 1941 (a first lien on the Massillon, plants and certain undeveloped coal properties) and properties embraced in the Corrigan, McKinney plant (subject to the purchase money first mortgage convertible 5½s). Further secured by a first pledge lien upon securities of certain subsidiaries. Trustees—Chemical Bank & Trust Co., New York and Howard B. Smith.

The Central Steel Co., 1st Mtge. Gold 8s, due Nov. 1, 1941	$2,603,900

Dated Nov. 1, 1921. Interest—May and Nov. 1 at City Bank-Farmers Trust Co., New York, or Cleveland Trust Co., Cleveland. Trustee. Authorized—$5,000,000. Coupon —$1,000, $500 and $100, registerable as to principal. Sinking Fund—5% of the issue annually ($250,000 bonds), payable in equal semi-annual instalments on Jan. 1st and July

1st of each year, commencing July 1, 1923, and ending July 1, 1931. 10% annually of the balance of the issue remaining outstanding on Oct. 1, 1931, payable in equal semi-annual instalments on Jan. 1st and July 1st of each year, commencing Jan. 1, 1932, and ending July 1, 1941; said payments are to be applied to the purchase of the bonds at not exceeding 107½ and interest. Assumed by Republic Steel Corp. Lien—Secured by a first mortgage on all real estate, plants and equipment, and stocks of subsidiary companies, formerly owned by Central Steel Co.

Gulf States Steel Co. 1st (Closed) Mtge. S. F.
4½s, due Oct. 15, 1961 .... $7,000,000

Dated—Oct. 15, 1936. Interest Payable April and Oct. 15 at City Bank Farmers Trust Co., New York, Trustee. Authorized—$7,000,000. Coupon—$1,000 and $5,000. registerable as to principal. Sinking Fund—Beginning April 15, 1937, and each April 15 and Oct. 15 thereafter, 1¼% of the greatest principal amount of bonds issued, or $175,000 annually. Sinking fund is payable in cash or in bonds at their repurchase price to company but not exceeding sinking fund redemption price of bonds surrendered. Cash in sinking fund is to be applied to redemption of bonds, on 30 days notice, at 102 to and including Oct. 15, 1941; thereafter at 101½ through Oct. 15, 1946; thereafter at 101 through Oct. 15, 1951 thereafter at 100½ through Oct. 15, 1956; and thereafter at 100 to maturity, plus interest in each case.

Redeemable Other Than for Sinking Fund in whole at any time, or in part by lot from time to time, upon 30 days' notice, at 104 to and including Oct. 15, 1941; thereafter at 103 through Oct. 15, 1946; thereafter at 102 through Oct. 15, 1951; thereafter at 101 through Oct. 15, 1956; and thereafter at par to maturity, plus interest in each case. Assumed by Republic Steel Corp. Secured by a direct first mortgage on substantially all property formerly owned by Gulf States Steel Co., chiefly including all lands and interest in lands and plants, improvements and equipment comprising the Gadsden, Ala., works, and coal and ore properties, located in Alabama.

Total Funded Debt	$117,898,900
Real Estate Mtge. Upper Mahoning Land Co.	75,248
Total Funded Debt & Real Estate Mtge.	$117,974,148

Underlying Liens Retired

Sale in January, 1936, of $45,000,000 general mortgage 4½s, series "B," provided company with sufficient funds to retire 9 underlying liens, aggregating $36,073,000 at Dec. 31, 1935, elimination of $2,000,000 note payable to Pioneer Steamship Co. and redemption of preferred stock of Trumbull-Cliffs Furnace Co., guaranteed by Republic Steel Corp.

Underlying liens retired in 1936 and date of redemption, were as follows:

$6,260,000 Republic Iron & Steel Co. S. F. Mortgage 5s, 1940, retired on April 1, 1936, at 105.

$8,555,000 Trumbull Steel Co. 15-Year First Mortgage S. F. 6s, 1940, redeemed May 1, 1936, at 101.

$3,179,000 Series "A" and $1,204,000 Series "B" Interstate Iron & Steel Co. First Mortgage S. F. 5½s, 1946, redeemed May 1, 1936, at 101½.

$2,934,000 Series "AA" and $1,037,000 Series "A" Donner Steel Co. First Refunding Mortgage S. F. 7s, 1942, redeemed July 1, 1936, at 102½.

$798,000 Dilworth Porter & Co., Inc., First Mortgage 10-Year 6s, 1939, redeemed August 1, 1936, at 103.

$564,000 Witherow Steel Corp. First Mortgage S. F. 6s, 1952, redeemed May 1, 1936, at 105.

$5,250,000 Union Drawn Steel Co. 20-Year Debenture 6s, 1950, redeemed July 1, 1936, at 105.

$1,297,500 Trumbull-Cliffs Furnace Co. First Mortgage S. F. 6s, Series "A," 1943, redeemed March 15, 1936, at 105.

$2,694,000 Steel & Tubes, Inc., 15-Year S. F. Debenture 6s, 1943, redeemed March 1, 1936, at 102½.

Note—Underlying liens previously outstanding were retired in 1935 and Jan. 1, 1936.

CAPITALIZATION

(As of Dec. 31, 1936, after giving effect to issuance of 690,828 common shares for acquisition of assets of Gulf States Steel Co. in April, 1937, and assumption of indebtedness of latter company).

	Author.	Outstdg.
Tot. fund. debt (as above)		$117,974,148
Prior pref. 6% cum. conv. ser. A. ($100 par) (shs.)	342,353	282,303.5
Prior Prefer. unclass. ($100 par) (shs.)	407,647	
Conv. Pfd. 6% ($100 par) (shs.)	119,597	119,597
Com. (no par) (shs.)	†10,000,000	*4,818,092.2

*Includes 1,216 shares held in treasury at Dec. 31, 1936, and additional shares subsequently received as a result of corporation's investment in Gulf States Steel Co.

†Includes at Dec. 31, 1936, common shares reserved as follows: 10,555.2 shares for Truscon Steel Co. common stock undeposited (excluding treasury holdings); 564,607 shares reserved for conversion of 282,303.5 shares of prior preference stock, series "A"; 1,080,000 shares reserved for conversion of $24,000,000 general mortgage convertible 4½s series "A" on basis of 45 shares for each $1,000 principal amount; 384,025 shares reserved for conversion of $15,361,000 purchase money first mortgage convertible

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5½s on basis of 25 shares for each $1,000 principal amount; 95,677.6 shares reserved for conversion of 119,597 shares of 6% convertible preferred stock.

All Stock is fully paid and non-assessable, and no personal liability attaches to stockholders.

Changes in Authorized Capital Stock

Sept. 23, 1935, stockholders authorized plan for readjustment of capital and for settlement of unpaid convertible preferred dividends, in a new issue of prior preference stock and additional common stock. Under the plan the former authorized but unissued 900,000 shares of serial preferred stock was changed into 750,000 shares of $100 par prior preference stock and 150,000 shares of no par common stock and the authorized common further increased by 4,850,000 shares to 10,000,000 shares. Each share of outstanding convertible preferred stock was exchanged for one-half share of new prior preference stock, series "A," and two shares of common stock. The outstanding common stock remained undisturbed.

Exchange Offer Terminated Dec. 7, 1936—Holders of

476,011 convertible preferred shares out of total of 595,608 originally outstanding had accepted the exchange offer.

Stock Provisions

Prior Preference Stock has first preference as to assets and as to cumulative dividends of 6% per annum (cumulative from Jan. 1, 1935), payable quarterly Jan. 1, etc. Redeemable in whole or in part on 30 days' notice at any time at 110 and accrued dividends. In Liquidation—Entitled to 110 and accrued dividends in voluntary and 100 and accrued dividends in involuntary dissolution. Convertible at any time into common stock on basis of two common shares for each prior preference share. Conversion rate is subject to adjustment pursuant to provisions designed to protect the conversion privileges against dilution of the common stock by issuance of additional shares.

Convertible Preferred Stock, subject to priority of prior preference stock, has preference over the common as to assets and as to cumulative dividends of $6 per annum, payable quarterly Jan. 1, etc. Redeemable in whole or in part on 30 days' notice at any time at 110 and accrued dividends. In Liquidation—Entitled to 110 and accrued dividends in voluntary and 100 and accrued dividends in involuntary dissolution. Convertible at any time into common on basis of one common share for each 1¼ of preferred shares to and including May 1, 1937; thereafter at rate of one common share for each 1½ share of convertible preferred on or before May 1, 1942; and thereafter at rate of one common for 1¾ share of convertible preferred. Conversion rates are subject to adjustment pursuant to provisions designed to protect the conversion privilege of convertible preferred against dilution of common by issuance of additional shares. Purchase Fund—After all dividends in arrears on and full dividend for current period on prior preference and convertible preferred stock shall have been provided for, and requirements of prior preference stock complied with, a cumulative purchase fund equal to one-half of 1% of maximum aggregate par value of convertible preferred stock outstanding at any time, is to be applied April and Oct 1 for purchase of convertible preferred in open market and not exceeding 100. Preferred stock purchased through operation of purchase fund is to be cancelled and not to be reissued.

Voting Power—Prior preference, convertible preferred and common stocks have full voting power, each holder of such stocks being entitled to one vote per share held.

Restrictions—Without consent of two-thirds vote of each class of prior preference and convertible preferred stock, then issued and outstanding, company cannot issue or create any additional stock ranking ahead of or on a parity with the respective issues. Rights of the prior preference shall not be changed by any amendment to certificates of incorporation nor shall capital be reduced below the sum of $80,755,875 without consent of two-thirds of the prior preference stock. No amendment to the certificate of incorporation changing the rights of the convertible preferred is to be effected without consent of two-thirds of the outstanding amount.

Tax Exemptions—Out of any assets legally available for the purpose, corporation agrees to reimburse holders of prior preference series "A" and convertible preferred for the following taxes when lawfully paid by or on behalf of such holders, and upon verified application within 60 days after payment, as follows; Prior Preference, Series "A"—Ohio personal property taxes not exceeding 5% of dividends (but not exceeding annual dividend rate) paid in preceding calendar year or if no dividends were paid, not exceeding two mills on each dollar of taxable value of shares. Prior Preference, Series "A," and Convertible Preferred: Pennsylvania, Connecticut or California personal property taxes not exceeding four mills per annum; Kentucky personal property taxes not exceeding five mills per annum; Maryland securities taxes not exceeding 4½ mills per annum; Massachusetts income taxes measured by income not exceeding 6% per annum of dividends.

Number of Stockholders

Mar. 1, 1937	*43,000
Feb. 3, 1936	41,265
Mar. 29, 1935	31,906

*Estimated.

Annual Price Range—Stocks

(New York Stock Exchange)
Republic Steel Corp.

	†Prior Pref.		Conv. Pfd.		—Common—	
	High	Low	High	Low	High	Low
1936	104¼	78¼	128	77	29⅞	16⅞
1935	95½	78½	97	28⅝	20¾	9

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	—Preferred—		—Common—	
	High	Low	High	Low
1934	67½	33½	25¾	10½
1933	54½	9	23	4
1932	28⅞	5	13⅞	1⅞
193	54	8½	25¾	4⅛
1930	*95¾	*28	*79½	*10½

*Preferred listed April 22, 1930, and common April 9, 1930.

†Prior preference stock was issued in September, 1935, under capital readjustment plan, in exchange for convertible preferred stock on basis of one-half share of new prior

preference and two common shares for each convertible preferred share held.

Prior preference was listed Sept. 27, 1935.

Gulf States Steel Co.

	—*First Pfd.—		—Common—	
	High	Low	High	Low
1936	129½	105	63	28⅜
1935	108	48	33½	12
1934	83	47	42	15¼
1933	64	16¼	38	6¾
1932	40	12	21⅛	2½
1931	80	15	37½	4
1930	109	83¼	80	15
1929	109	99¾	79	42
1928	110	103⅜	73⅞	51
1927	108⅞	99⅞	64	40
1926	109½	100	93¾	51⅜
1925	107½	101¼	95¾	67½
1924	102	98	89¼	62
1923	105¾	98¼	104⅝	66
1922	101	95	94⅞	44⅞
1921	90	87¼	50⅞	25
1920	92¼	90¼	84⅞	25
1919	95½	92½	89⅛	49½
1918	102	93¼	111½	58¾

*First preferred stock was redeemed Jan. 2, 1937, at $110 a share and accrued dividends.

DIVIDEND DATA

1937 Payments—Prior preference, $1.50 April 1 and July 1 (declared); convertible preferred, $1.50 on account of arrears, April 1 and July 1 (declared).

Accumulated Dividends on old $6 preferred unexchanged under recapitalization plan, unpaid accumulations amounted to $25.50 a share after giving effect to payment on July 1, 1937.

Dividend Restrictions—Under indenture securing the Republic Steel Corp. general mortgage 4½s, the corporation covenants not to declare any dividends on its stocks, except stock dividends, or make any distribution of cash or property among its stockholders, unless, after giving effect to any such dividends or distribution, (a) the consolidated current assets of the Corporation and its subsidiary companies shall be at least three times the consolidated current liabilities of the Corporation and its subsidiary companies, and (b) the consolidated net current assets of the corporation and its subsidiary companies shall be at least 50% of the principal amount of the total consolidated funded debt of the corporation and its subsidiary companies at the time outstanding.

Dividends Paid in Calendar Years

Republic Steel Corp.

	*Prior Pref. $	†Conv. Pfd. $	—Common—	
			Reg. $	Extra $
1936	‡12.00	(a)12.00	....	....
1935	....	....	....	....
1931-34	....	....	....	....
1930	....	3.00	1.24	....

*Prior preference stock was issued in September, 1935, under plan for clearing up dividend arrears on convertible preferred stock.

†Designated as preferred stock in 1934 and prior years.

‡Includes $4.50 on account of accumulations (clearing

up all arrears) and regular quarterly of $1.50 ordinarily payable Jan. 2, 1937, but paid Dec. 19, 1936.

(a) Paid on account of arrears.

Gulf States Steel Co.

Accumulated dividends of $19.27 a share on first preferred stock were paid upon redemption of first preferred on Jan. 2, 1937, at $110 a share and accrued dividends. Common dividends were omitted since July, 1930.

	Common (no par) Regular $	Extra $	Stock $
1931-35	....	....	....
1930	3.00	....	....
1929	2.00	....	....
	($100 Par)		
1929	2.00	....	....
1928	....	....	....
1927	3.75	....	....
1926	5.00	....	....
1925	5.00	...	11½
1924	4.75	....	....
1923	3.00	....	....
1920-22	....	....	....
1919	3.50	....	....
1918	10.00	....	25
1917	8.00	*2.50	....

*Includes $1 Red Cross dividend.

First Preferred Dividends were initiated with payment of $15.16⅔ on Feb. 15, 1916, on account of accumulations from Nov. 1, 1913, to Jan. 1, 1916, and were paid regularly thereafter at rate of $7 per annum through April 1, 1931. No further payment was made until declaration of $3.50 on

April 1, 1936, and entire issue was retired Jan. 2, 1937, at $110 and accrued dividends.

Second Preferred Dividends were initiated with payments of $1.50 on Aug. 1, 1916, and $3.00 on Nov. 1, 1916, and were paid regularly thereafter at rate of $6 per annum through 1920. Subsequent declarations were $1.50 in 1929, $4.50 in 1923 and $6 in 1924, entire issue having been converted into common stock prior to Dec. 31, 1924.

Dividends paid during current calendar year reported in Dividend Sections.

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FINANCIAL STATEMENTS

Certification of Accounts—Annual financial statements of Republic Steel Corp. were certified by Ernst & Ernst, Certified Public Accountants, Cleveland, Ohio, while reports of Gulf States Steel Co., were certified by Barrow, Wade, Guthrie & Co., Accountants and Auditors, New York.

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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 14

REPUBLIC STEEL CORPORATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD AND
STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 7, 1940.

CERTIORARI GRANTED MAY 20, 1940.

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BOARD'S EXHIBITS CONTINUED

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111—Standard Statistics Bulletin of June 7, 1937 as to Republic Steel Corp.	2884	5893
113—Copy of Telegram from John L. Smith to Secretary Perkins	3182	5904
115—Plan of Employee Representation, Youngstown, By-laws March, 1937	4612	5906
127—Supplementary Charge, Canton	5151	5916

RESPONDENT'S EXHIBITS

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4—Photograph of guns and clubs	2334	5923
5—Photograph of guns and clubs	2334	5924
7—Copy of proclamation of Sheriff Nist of June 25, 1937	3602	5925
8—Photograph of weapons (This exhibit has been lost or destroyed. See Stipulation printed in lieu thereof)	Not Offered	5928
Photograph of original print of above exhibit		5928½
11—Nomination ballot in plan for employee representation, Massillon plant	3957	5929
12—Election ballot for employee representation, Massillon plant	3959	5930
13—Notice of election under employee representation plan, Massillon plant	3962	5931
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17—Report of election committee on back-to-work movement, Canton, Ohio, 6-7-37	4096	6005
18—Card distributed to Republic Steel Workers by C. I. O. (dropped by airplane)	4147	6006
20—Election ballot employee representatives, Canton plant	4301	6007
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DEPRECIATION AND DEPLETION POLICY

Republic Steel Corp. and its consolidated subsidiaries maintain a consistent policy of making annual provision for depreciation of their properties, regardless of operations or earnings, at composite rates calculated to amortize the ledger values of such properties on the average over their expected lives. Provisions since 1930 for the various plants have been substantially the same as provisions claimed for Federal income tax purposes. For the years 1930, 1931 and 1932, the depreciation taken amounted to 2.8%, 2.7% and 2.7% respectively, and in subsequent years, 2.8%, of depreciable assets per annum.

Exhaustion and/or depletion of ore and coal properties and related equipment is provided for at tonnage rates applied to ore and coal production. The rates applied to ore and coal properties originally acquired have been in use for many years and not exact statement is available as to the basis upon which these rates were originally established. The rates as to the other ore and coal properties are estimated to write off the investment over the remaining life of the properties.

Gulf States Steel Co.'s policy was to charge depreciation at the composite rate of 3.3% of the total property, plant and equipment, exclusive of land and development. The corresponding composite rate taken for Federal income tax purposes was 4%. Policy with respect to provision for depletion has been to set up a provision of five cents and twenty cents a ton, respectively on coal and ore mined during each year.

6¾-YEAR ANALYSIS OF CONSOLIDATED INCOME ACCOUNT

(Years Ended Dec. 31.)

(Republic Steel Corp. and Subsidiaries, including in 1936, Truscon Steel Co. and The N. & G. Taylor Co. for entire year.)

(Based on "Comparative Consolidated Income Account"—See Table Following.)

	Net Sales $	Oper. Income $	Total Income $	Deprec. & Depl. $	Other Deduct. Than Fxd. Chgs. $	*Avail. for Fxd. Chgs. $	Fixed Charges $	Times Ernd.
1936	b218,317,399	28,518,248	29,774,914	10,130,485	4,100,993	15,546,636	5,009,137	3.10
e1935	(b)136,164,554	17,205,434	18,081,698	8,230,200	1,748,045	8,145,244	3,677,927	2.21
1934	96,824,857	8,290,660	9,013,637	7,839,465	1,250,930	d169,531	3,382,670	d0.05
1933	79,807,199	7,357,880	8,688,814	7,610,502	1,676,134	d1,133,293	3,451,432	d0.33
1932	47,604,636	d629,586	1,170,193	7,510,832	1,260,881	d8,847,826	3,659,675	d2.42
1931	(a)	3,020,545	4,574,746	7,636,406	2,011,034	d5,350,558	3,909,069	d1.37
†1930	(a)	3,366,135	4,792,515	5,899,989	852,452	d1,959,926	2,961,265	d0.66

	Net Income $	—Prior Preference Stock— Dividends Paid $	Paid Per Share $	Earned Per Share $	——Preferred Stock—— Dividends Paid $	Paid Per Share $	Earned Per Share $
1936	(c)§9,641,137	2,874,113	10.50	§33.96	1,435,164	12.00	§66.00
1935	(c)4,455,735	513,530	1.50	16.59	....	....	19.71
1934	d3,459,428	....	....	....	....	....	d5.81
1933	d4,049,254	....	....	....	....	....	d6.80
1932	d11,261,195	....	....	....	....	....	d18.91
1931	‡d8,981,763	....	....	....	....	....	‡d15.08
†1930	d4,921,191	....	....	....	1,749,092	3.00	d8.26

	*Fxd. Chgs. and Pfd. Dividend Require. Times Earned	——Common Stock——			
		Dividends Paid $	Paid Per Shr. $	Earned Per Shr. $	Surplus After Divs. $
1936	2.10	....	....	§1.74	5,277,645
1935	1.32	....	....	0.49	3,942,205
1934	d0.02	....	....	d3.43	d3,459,428
1933	d0.16	....	....	d3.83	d4,049,254
1932	d1.22	....	....	d7.58	d11,261,195
1931	d0.73	....	....	‡d6.43	d9,034,153
†1930	d0.35	2,443,796	1.24	d3.85	d9,114,079

*Not including discount on bonds purchased for retirement and discount on stock purchased for retirement, and before deducting surtax on undistributed profits in 1936.

†For nine months ended Dec. 31, 1930.

‡Before allowing for adjustment of net current assets of foreign subsidiary to current rate of exchange. Deducting this item, share losses would have been $15.17 on preferred and $6.45 on common.

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§After provision for Federal surtax on undistributed profits of $950,000. Before this tax net income amounted to $10,536,922, equal to $37.32 on prior preference, $73.94 on preferred and $1.97 per common share.

(a)Not reported.

(b)Includes operating revenue of a non-manufacturing subsidiary.

(c)After minority interest.

d Deficit.

(e)Includes operations of the Corrigan, McKinney Steel Co. and its subsidiaries, from Sept. 25, 1935; but does not include operations of Truscon Steel Co. acquired during 1935.

Note—Corporation's share of undistributed net earnings of unconsolidated subsidiaries not taken in statement above amounted to $520,551 for year 1936.

12-YEAR ANALYSIS OF INCOME ACCOUNT, YEARS ENDED DEC. 31

Gulf States Steel Co.

Note—Due to the form of statement required by the Securities and Exchange Commission, adjusted figures for 1933 have been reported for comparative purposes.

	Net Sales	Operating Income After Depreciation	Available for Fixed Charges	Fixed Charges	Times Earned	Net Income
	$	$	$	$		$
1936	12,778,373	1,031,926	968,740	308,628	3.14	660,112
1935	8,801,795	410,007	427,097	285,828	1.49	141,269
1934	6,709,037	208,042	243,976	302,015	0.81	d58,039
1933	7,570,438	474,354	534,128	341,087	1.57	193,041

	Gross Income $	Gross Profits $	Deductions Other Than Fxd. Chgs. $	Avail. for Fxd. Chgs. $	Fixed Charges $	Times Earned	Net Income $
1932	4,919,354	461,922	780,000	d318,078	319,291	d1.00	d367,369
(b) 1931	7,811,169	73,582	780,000	d706,418	317,692	d2.22	d1,024,110
1930	8,296,053	110,098	600,000	d489,902	325,443	d1.51	d815,335
1929	11,164,950	2,322,502	783,724	1,538,779	228,477	6.73	1,310,302
1928	9,494,022	1,727,565	572,642	1,154,923	230,177	5.02	924,746
1927	9,733,395	1,460,359	578,752	881,607	125,204	7.04	756,403
1926	9,597,132	1,244,762	444,969	799,793	......	...	799,793
1925	10,417,965	1,571,441	534,663	1,036,778	......	...	1,036,778

	—First Preferred Stock—			——Common Stock——			Surplus After Cash Dividends
	Dividends Declared	Earned Per. Shr.	Declared Per Shr.	Cash Dividends Declared	Earned Per Shr.	Declared Per Shr. (Cash)	
	$	$	$	$	$	$	$
1936	735,363	33.01	36.77		1.76		d75,251
1935	70,000	7.06	3.50		0.01		71,269
1934		d2.90			d1.00		d58,039
1933		9.65			0.27		193,041
1932		d31.87			d3.94		d637,369
(b) 1931	35,000	d51.21	1.75		d5.89		d1,059,110
1930	140,000	d40.77	7.00	395,000	d4.84	2.00	d1,350,335
1929	140,000	65.52	7.00	705,196	5.93	†4.00	(a)478,180
1928	140,000	46.24	7.00	125,000	6.28	1.00	659,746
1927	140,000	37.82	7.00	312,500	4.93	2.50	303,903
1926	140,000	39.99	7.00	625,000	5.28	5.00	34,793
1925	140,000	51.84	7.00	‡625,000	7.17	‡5.00	271,778

†Includes $2 paid on new no par stock, which was exchanged for old $100 par stock Feb. 25, 1929, on share for share basis.

‡Not including stock dividend of $1,289,230 (11½%).

(a) After crediting $13,074 dividends on fractional shares returned to treasury.

(b) Restated by company to comply with New York Stock Exchange forms. The profit on debentures retired by sinking fund, now shown as a surplus addition, was included in gross income in report for 1931

d Deficit

COMPARATIVE CONSOLIDATED INCOME ACCOUNT

(Republic Steel Corp. and Subsidiaries, including in 1936, Truscon Steel Co. and The N. & G. Taylor Co. for entire year.)

	Years Ended Dec. 31						9 mos. End.
	1936	(b) 1935	1934	1933	1932	1931	Dec. 31, '30
	$	$	$	$	$	$	$
Net sales	†218,317,399	†136,164,554	96,824,857	79,807,199	47,604,636	§	§
Cost of sales	158,532,483	99,315,887	72,382,202	60,347,155	39,279,214	§	§
Plt. rep. and maint.	18,087,751	11,605,765	9,139,901	6,225,918	3,015,440	6,594,588	§
Gross prof. fr. oper. aft. cost of sales	41,697,165	25,242,902	15,302,754	13,234,126	5,309,982	11,078,381	10,706,856
Selling gen. and gen. adm. exps.	13,178,917	8,037,468	7,012,094	5,876,246	5,939,568	8,057,836	7,340,721
Operating income	28,518,248	17,205,434	8,290,660	7,357,880	d629,586	3,020,545	3,366,135

	——Years Ended Dec. 31——						9 mos. End.
	1936	(b)1935	1934	1933	1932	1931	Dec. 31, '30
	$	$	$	$	$	$	$
Invest. and oth. inc.	1,259,866	918,056	630,204	795,463	553,473	1,276,337	1,426,380
Disc. on bonds purch. for retire	....	d52,648	59,602	473,246	1,084,717	277,864	....
Disc. on stock purch. for retire	d3,200	10,856	33,171	62,225	161,589	....	....
Total income	29,774,914	18,081,698	9,013,637	8,688,814	1,170,193	4,574,746	4,792,515
Deprec. and depl.	10,130,485	8,230,200	7,839,465	7,610,502	7,510,832	7,636,406	5,899,989
Int. on indebted.	4,815,583	3,421,778	3,120,001	3,181,039	3,368,324	3,609,069	2,736,265
Spec. prov. for doubt. accts.	501,505	339,263	532,302)		(	450,000	....
Provis. for poss. loss on certain invests.	....	....	........)	1,066,978	628,097(	(300,000	....

Board's Exhibit No. 110

	Years Ended Dec. 31						9 mos. End.
	1936	(b) 1935	1934	1933	1932	1931	Dec. 31, '30
	$	$	$	$	$	$	$
Other deductions	1,066,988	704,619)					
Amort. of bd. disc. and expenses	139,339	)) 24,056)	718,628	609,156	632,784	1,261,034	852,452
Prov. for Fed. inc. tax	2,050,000	) 704,163)					
Prov. for gen. conting.	482,500	....	....	....	....	....	....
Prov. for Fed. surtax on undist. profits	950,000	....	....	....	....	....	....
Minority interest	(cr.) 2,623	(cr.) 30,210	....	....	....	....	....
Total deductions	20,133,777	13,393,869	12,210,396	12,467,675	12,140,037	13,256,509	9,488,706
Net loss before subs. gtd. divs.	9,541,137	4,687,829	3,196,759	3,778,861	10,969,844	8,681,763	4,696,191

	Years Ended Dec. 31						9 mos. End.
	1936	(b) 1935	1934	1933	1932	1931	Dec. 31, '30
	$	$	$	$	$	$	$
Pfd. divs. gtd. stock Trumbull-Cliffs Furnace Co.	54,215	232,094	262,669	270,393	291,351	300,000	225,000
Net income (before adjust. of net cur. assets of foreign subs. to cur. rate of exch.)	*9,586,922	4,455,735	d3,459,428	d4,049,254	d11,261,195	d8,981,763	d4,921,191
Adjust. of net current assets of for. subs. to cur. rate of exch.	....	....	....	....	....	52,390	....
Balance	9,586,922	4,455,735	d3,459,428	d4,049,254	d11,261,195	d9,034,153	d4,921,191

	Years Ended Dec. 31						9 mos. End.
	1936	(b) 1935	1934	1933	1932	1931	Dec. 31, '30
	$	$	$	$	$	$	$
Prior pref. divs.	2,874,113	513,530					
Pfd. dividends	1,435,164						1,749,092
Com. dividends							2,443,796
Surp. after divs.	5,277,645	3,942,205	d3,459,428	d4,049,254	d11,261,195	d9,034,153	d9,114,079
Prev. P. & L. surp.	d1,698,662	d5,456,185	d2,013,921	1,872,948	11,873,774	22,214,177	‡31,674,295
Total surplus	3,578,983	d1,513,980	d5,473,349	d2,176,306	612,579	13,180,024	22,560,216
Adj. of res. for pos. add. Fed. tax (cr.)				52,876	1,302,869		
Res. prov. to reduce notes rec. to indic. mkt. of col. secur., less adj. due to div. rec. on stocks, etc.	(Cr.) 200,000	(cr.) 72,078	(cr.) 17,164	(cr.) 109,509	42,500	1,306,250	

	Years Ended Dec. 31						9 mos. End.
	1936	(b) 1935	1934	1933	1932	1931	Dec. 31, '30
	$	$	$	$	$	$	$
Prem. on ref. and general mtge. 5½% bonds called for retirement	....	256,760	....	....	....	....	....
Predecessor constituent company's dividends: Pfd. divs.	....	....	....	....	....	....	16,761
Common divs.	....	....	....	....	....	....	482,978
Prem. on bds., incl. certain assumed obligations of corp., and on bonds, debs. and guar. pfd. stock of certain consoli.							

	1936	(b) 1935	1934	1933	1932	1931	9 mos. End. Dec. 31, '30
	———	———	Years Ended Dec. 31	———	———	———	
	$	$	$	$	$	$	$
subs. called for redemption	1,085,770						
Sundry adj. pred. cos.							(cr.) 116,418
Minor subs. surplus consolidated	(Cr.) 16,557						(cr.) 37,282
P. & L. surplus	2,709,770	d1,698,662	d5,456,185	d2,013,921	1,872,948	11,873,774	22,214,177
Indicated Earnings Per Share							
On prior pref. stock outstdg.	*33.96	16.59					
On pfd. stk. outstdg.	*66.00	19.71	d$5.81	d$6.80	d$18.91	(a) d$15.03	d$8.26
On com. stock outstg.	*1.74	0.49	d3.43	d3.83	d7.58	(a) d6.43	d3.85

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*After provision for Federal surtax on undistributed profits of $950,000. Before this tax net income amounted to $10,536,922, equal to $37.32 on prior preference, $73.94 on preferred and $1.97 per common share.

†Includes operating revenue of a non-manufacturing subsidiary.

‡Initial surplus of constituent companies as of March 31, 1930.

§Not reported.

(a) Before allowing for adjustment of net current assets of foreign subsidiary to current rate of exchange. Deducting this item, share losses would have been $15.17 on preferred and $6.45 on common.

(b) Includes operations of The Corrigan, McKinney Steel Co. and its subsidiaries from Sept. 25, 1935, but does not include operations of Truscon Steel Co. acquired during 1935.

d Deficit.

Note—Corporation's share of undistributed net earnings of unconsolidated subsidiaries not taken up in statement above, amounted to $520,551 for year 1936.

COMPARATIVE CONSOLIDATED QUARTERLY EARNINGS

(Republic Steel Corp. and Subsidiaries)

Quarters Ended:	Inc. Before Deprec. & Fxd. Chgs.	Depreciation and Depletion	(c)Fixed Charges	Net Income	–*Earned Per Share– Prior Pfd.	Pfd.	Com.
March 31:	$	$	$	$	$	$	$
1936	(b)4,163,448	2,397,148	1,405,268	361,032	1.34	d0.29	d0.06
1935	(b)4,623,913	1,976,415	813,263	1,834,235	....	3.08	0.46
1934	2,769,119	1,966,655	861,146	d58,682	....	d0.10	d0.48
1933	220,829	1,866,195	876,203	d2,521,569	....	d4.23	d1.75
1932	350,978	1,878,462	948,808	d2,476,292	....	d4.16	d1.72
1931	1,277,302	1,976,571	993,324	d1,692,593	....	d2.84	d1.31
June 30:							
1936	(b)6,436,800	2,507,944	1,267,794	2,661,062	9.91	15.65	0.50
1935	(b)3,680,388	1,966,668	791,390	922,329	....	1.55	0.01
1934	(b)3,699,118	1,978,880	856,113	864,125	....	1.45	d0.01
1933	2,379,369	1,924,238	862,582	d407,450	....	d0.68	d0.66
1932	34,474	1,858,206	921,094	d2,744,826	....	d4.61	d1.86

Quarters Ended:	Inc. Before Deprec. & Fxd. Chgs.	Depreciation and Depletion	(c)Fixed Charges	Net Income	–*Earned Per Share– Prior Pfd.	Pfd.	Com.
	$	$	$	$	$	$	$
1931	1,803,983	1,916,942	979,346	d1,092,305	....	d1.83	d1.00
1930	(b)3,065,449	1,893,984	960,993	210,472	....	0.35	d0.35
September 30:							
1936	(b)6,951,842	2,599,580	1,040,707	3,311,555	11.79	23.97	0.66
1935	(b)3,262,093	1,952,077	802,285	507,731	....	0.85	d0.19
1934	(b)d234,092	1,926,701	837,807	d2,998,600	....	d5.03	d1.91
1933	2,922,529	1,930,730	843,560	148,239	....	0.25	d0.38
1932	d666,410	1,845,172	907,772	d3,419,354	....	d5.74	d2.21
1931	130,799	1,886,709	972,167	d2,728,077	....	d4.58	d1.83
1930	988,492	1,875,492	928,509	d1,815,509	....	d3.03	d1.37
†December 31:							
1936-35	———	———	See Note	———	———	———	———
1934	1,528,562	1,967,229	827,604	d1,266,271	....	d2.13	d1.05
1933	1,489,953	1,889,338	869,087	d1,268,472	....	d2.13	d1.09

Quarters Ended:	Inc. Before Deprec. & Fxd. Chgs. $	Depreciation and Depletion $	(c) Fixed Charges $	Net Income $	–*Earned Per Share– Prior Pfd. $	Pfd. $	Com. $
1932	28,681	1,928,992	720,412	d2,620,723	....	d4.40	d1.79
1931	d648,372	1,856,184	964,232	‡d3,468,788	....	d5.82	d2.23
1930	d113,878	2,130,513	1,071,763	d3,316,154	....	d5.56	d2.13

*Based on shares as follows:

Quarters Ended March 31:	Shares Prior Preferred	 $6 Preferred	 Common
1936	268,621	144,276	4,046,767
1935		595,608	2,047,803
1934		595,608	1,992,064
1933		595,608	1,956,981
1932		595,609	1,953,920
1931		595,609	1,974,540

Quarters Ended June 30:	Shares Prior Preferred	 $6 Preferred	 Common
1936	268,621	144,276	4,046,767
1935		595,608	2,047,803
1934		595,608	2,037,803
1933		595,608	1,956,981
1932		595,609	1,953,920
1931		595,609	1,974,683
1930		600,000	1,975,723

Quarters Ended Sept. 30:	Shares Prior Preferred	 $6 Preferred	 Common
1936	280,995	120,592	4,112,758
1935		595,608	2,047,803
1934		595,608	2,037,803
1933		595,608	1,956,981
1932		595,609	1,953,920
1931		595,609	1,974,683
1930		600,000	1,975,209

Quarters Ended Dec. 31:	Shares Prior Preferred	 $6 Preferred	 Common
1936-35	See Note		
1934		595,608	2,047,803
1933		595,608	1,992,064
1932		595,609	1,953,920
1931		595,608	1,953,920
1930		595,609	1,974,540

†Arrived at by deducting 9 months from annual income amount. In 1930, by deducting 6 months from 9 months statement.

‡Before $52,390 adjustment of net current assets of foreign subsidiary to current rate of exchange.

(b)After provision for Federal income tax, and in 1936, Federal surtax and adjustment for minority interest.

(c)Including guaranteed preferred dividends of Trumbull-Cliffs Furnace Co.

d Deficit.

Note—Not comparable because of year end changes.

COMPARATIVE QUARTERLY EARNINGS

Gulf States Steel Co.

Quarters Ended	Net Oper. Income	Taxes Dep., Etc.	Net Income	Indicated Earns. Per Share 1st. Pfd.	Com.	No. of Shares Pfd.	Com
March 31:							
1936	387,927	290,998	96,929	4.85	0.31	20,000	197,500
1935	309,769	279,620	30,149	1.51	d0.02	20,000	197,500
1934	265,320	276,133	d9,813	d0.49	d0.23	20,000	197,500
1933	180,048	273,529	d93,481	d4.67	d0.65	20,000	197,500
1932	132,390	276,586	d144,196	d7.21	d0.91	20,000	197,500
1931	62,977	280,017	d217,042	d10.85	d1.28	20,000	197,500
1930	316,025	221,123	94,902	4.75	0.30	20,000	197,500
June 30:							
1936	403,153	292,608	110,545	5.53	0.38	20,000	197,500
1935	201,193	267,855	d66,662	d3.33	d0.51	20,000	197,500
1934	515,899	314,283	201,616	10.08	0.84	20,000	197,500
1933	252,979	271,625	d18,646	d0.93	d0.27	20,000	197,500
1932	58,694	274,150	d215,456	d10.77	d1.27	20,000	197,500
1931	d26,624	277,020	d303,640	d15.18	d1.71	20,000	197,500
1930	128,354	226,793	d98,439	d4.92	d0.68	20,000	197,500

	Net Oper. Income	Taxes Dep., Etc.	Net Income	Indicated Earns. Per Share 1st. Pfd.	Indicated Earns. Per Share Com.	No. of Shares Pfd.	No. of Shares Com
Sept. 30:							
1936	516,477	315,163	201,314	10.07	0.84	20,000	197,500
1935	337,915	279,482	58,433	2.92	0.12	20,000	197,500
1934	30,982	236,356	d205,374	d10.27	d1.22	20,000	197,500
1933	455,212	288,542	166,670	8.33	0.67	20,000	197,500
1932	162,674	275,100	d112,426	d5.62	d0.75	20,000	197,500
1931	16,197	278,733	d262,536	d13.13	d1.51	20,000	197,500
1930	42,726	240,477	d197,751	d9.89	d1.18	20,000	197,500
†Dec. 31:							
1936	569,880	318,556	251,324	12.57	0.73	20,000	296,069
1935	381,231	261,882	119,349	5.97	0.43	20,000	197,500
1934	229,098	273,566	d44,468	d2.22	d0.40	20,000	197,500
1933	415,375	276,877	138,498	6.92	0.52	20,000	197,500
1932	108,164	273,455	d165,291	d8.27	d1.01	20,000	197,500
1931	68,912	261,920	d193,008	d9.65	d1.15	20,000	197,500
1930	d377,008	237,038	d614,046	d30.70	d3.29	20,000	197,500

†Obtained by deducting 9 months totals from annual income account.

d Deficit.

COMPARATIVE CONSOLIDATED BALANCE SHEET—WORKING CAPITAL

(As of December 31.)

(Republic Steel Corp. and Subsidiaries)

	1936	1935	1934	1933	1932	1931	1930
Assets—	$	$	$	$	$	$	$
Prop., plt. and eqp.	360,016,123	346,429,503	305,117,237	307,025,927	309,694,695	314,423,321	313,907,838
Less:							
Res. for deprec.			(97,667,235	92,032,736	87,095,919	83,719,468	77,186,158
Res. for exhaust. of minerals and mining equipment	154,855,834	145,054,655	(7,593,303	7,200,588	7,399,542	6,880,252	6,701,492
Prop., plant, etc. (net)	205,160,289	201,374,838	199,856,699	207,792,603	215,199,234	223,823,601	230,020,188
†Mktble. secs. of subs. (cost)	a9,316,268	(a)6,293,603	7,945,143	7,064,863	6,780,079	6,518,996	6,518,996

	1936	1935	1934	1933	1932	1931	1930
	$	$	$	$	$	$	$
Sink. fund deposits	1,268,138	612,622	478,456	......	......	......	......
Spec. depos. (cash dep. with corp. trustee, subject to withdrawal by corp. for cap. expenditures as specified in general mortgage)	23,087,200	......	......	......	......	......	......
Invest. and advs. affil. cos.	1,986,917	9,177,777	7,323,632	7,616,299	7,998,650	7,812,904	7,753,534
Oth. invests., rec., etc. (less res.)	4,730,308	4,552,417	2,547,233	2,867,657	3,069,710	3,412,660	3,875,966
Notes receiv. of subs.	......	......	......	‡210,759	‡101,250	‡143,750	1,500,000

Assets—	1936	1935	1934	1933	1932	1931	1930
	$	$	$	$	$	$	$
Deferred charges	1,221,548	1,142,839	1,078,550	1,285,630	1,450,054	1,612,114	1,575,022
Unamort. bond disc. and exp.	3,655,366	1,058,461	....	....	....	....	....
Current Assets—							
Cash	13,350,301	15,972,282	5,305,057	4,509,009	7,239,521	7,499,745	6,917,684
Ctfs. of deposit	....	800,000	1,200,000	1,200,000	1,200,000	1,200,000	1,710,000
Notes and accts rec. (less res.)	22,158,016	12,600,546	7,771,808	9,772,973	5,534,052	8,454,005	9,633,120
Inven. (lower cost or market —less res. for inter-co. prof.)	58,015,322	43,890,494	28,980,853	25,955,359	21,595,782	30,143,450	38,996,973
Total current assets	93,523,639	73,263,322	43,257,718	41,437,341	35,569,355	47,297,200	57,257,777
Total assets—	343,949,673	297,475,879	262,487,431	268,275,152	570,168,332	290,621,225	308,501,483

Assets—	1936	1935	1934	1933	1932	1931	1930
	$	$	$	$	$	$	$
Liabilities—							
Prior pfd. stock	28,230,350	26,862,150	....	....	....	....	....
Pfd. stock	11,959,700	14,427,600	59,560,800	59,560,800	59,560,800	59,560,800	59,560,900
Com. stock	93,995,228	92,324,312	92,058,968	91,289,344	91,289,344	91,289,344	91,289,344
Minority int.	718,153	544,507	....	....	....	....	....
6% pfd. stk. Trumbull-Cliffs Furnace Co. (gtd.)	....	3,776,400	4,163,500	4,439,100	4,615,300	5,000,000	5,000,000
Funded debt	108,295,000	68,901,501	35,307,500	38,685,800	40,053,900	42,734,200	44,978,300
Subsid. funded debt	2,679,148	9,316,748	9,635,700	10,133,050	10,671,350	11,096,450	11,586,100
Res. coordination plant facilities	616,041	645,809	5,473,980	6,752,208	7,259,058	8,152,966	8,491,567
Res. relining and rebldg. furnaces, ovens and oth. oper res.	10,067,828	7,766,633	4,446,500	3,925,272	3,900,732	4,112,526	3,733,218

Board's Exhibit No. 110

Assets—	1936	1935	1934	1933	1932	1931	1930
	$	$	$	$	$	$	$
Res. conting., etc.	....	....	359,502	392,291	599,137	1,748,101	1,798,100
Res. for insur.	2,371,108	1,965,048	1,508,647	1,399,011	1,388,242	1,562,945	1,691,087
Reserve for mfg. plant dismantled	....	....	....	....	....	1,080,000	1,080,000
Capital surplus	61,590,193	61,681,123	41,407,708	41,340,238	40,825,791	40,803,989	41,211,695
P. & L. surplus	2,709,770	d1,698,662	d5,456,186	d2,013,921	1,872,948	11,873,774	22,214,177
Current liabilities—							
Notes payable	....	....	4,500,000	5,200,000	3,000,000	3,000,000	3,500,000
Notes pay. of sub. (secured)	....	....	1,100,000	1,320,000	1,762,000	3,200,000	3,820,000
Accts. pay., etc.	13,279,981	6,948,564	4,216,563	4,135,628	1,494,329	3,003,830	5,780,919
Current matur. —funded debt	....	....	2,510,500	....	....	....	....
Dividends payable	....	513,530	....	....	....	....	....
Accrued taxes and int.	7,437,173	3,500,616	1,423,749	1,716,331	1,875,401	2,402,300	2,776,076

Assets—	1936 $	1935 $	1934 $	1933 $	1932 $	1931 $	1930 $
Total curr. liabils.	20,717,154	10,962,710	13,750,812	12,371,959	8,131,730	11,606,130	15,876,995
Total liabils.	343,949,673	297,475,879	262,487,431	268,275,152	270,168,332	290,621,225	308,501,483
*Net working capital	72,806,485	62,300,612	29,506,906	29,065,382	27,437,625	35,691,070	41,380,782

*Based on statement of current assets and current liabilities as above.

†Market value at Dec. 31, 1936, was $6,150,360 as stated value of $3,260,754; 1935 was $1,733,895 at cost of $1,762,920; 1934 was $5,573,595; 1933, $,3,777,228; 1932, $1,156,790; 1931, $1,712,756 and 1930, $4,833,244.

‡Less reserve to reduce to market value of collateral.

(a) Securities of associated companies and sundry investments.

d Deficit.

Notes on Dec. 31, 1936, Balance Sheet— Following securities and notes owned by the companies were pledged or deposited with others: (1) Securities of unconsolidated subsidiaries, $1,700,000; (2) investments in associated companies and other investments, $2,597,066; (3) Securities of consolidated subsidiaries (eliminated in consolidated balance sheet) with a carrying value of $30,904,108; notes of consolidated subsidiaries (eliminated in consolidated balance sheet) with a carrying value of $30,904,108; (4) notes of consolidated subsidiaries (eliminated in consolidated balance sheet) with a carrying value of $8,123,725.

Contingent Liabilities—Dec. 31, 1936 (exclusive of contingent liabilities in respect of obligation of subsidiaries which are shown herein as direct obligations):

(1) Agreement to furnish 50% of funds in payment of principal at 102½% and interest on gold bonds of Rogers Brown Iron Co., assumed by Susquehanna Ore Co., Contingent liability on principal, $324,925; (2) miscellaneous, $112,690.

Accumulated Unpaid Preferred Dividends, in arrears amounted to $3,049,724 or $25.50 per share, at Dec. 31, 1936.

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EQUITIES FOR STOCK AS OF DECEMBER 31

	1936	1935	1934	1933	1932	1931	1930
No. of no par com. shs. outstdg.	4,127,264	4,046,767	2,047,803	1,992,064	1,956,981	1,953,920	1,974,540
***Indicated total book val. applic. to common stock**	$156,850,815	$147,099,053	$111,959,585	$117,112,681	$122,311,466	$136,256,752	$153,817,139
Book val. per shr. of com. stock	$38.00	$36.35	$54.67	$58.79	$62.50	$69.74	$77.90

*Including reserve for insurance but excluding unamortized bond discount and expense in 1936 and 1935; difference between cost and market value of marketable securities and after allowing for accumulated unpaid preferred dividends. Accumulated preferred dividends amounted to $3,049,724 ($25.50 per share) on Dec. 31, 1936; $4,544,694 ($31.50 per share) and on prior preference, $1,540,588 ($4.50 per share) on Dec. 31, 1935; $15,188,004 ($25.50 per share) at Dec. 31, 1934; $11,614,356 ($19.50 per share) in 1933; $8,040,708 ($13.50 a share) in 1932; $4,467,060 ($7.50 a share) in 1931, and $893,415 ($1.50 a share) in 1930.

COMPARATIVE BALANCE SHEET—WORKING CAPITAL, DEC 31

Gulf States Steel Co.

	1936	1935	1934	1933	1932	1931	1930
Assets—							
Works and props. at beginning of year ......)) Additions) during year)	29,967,278	29,717,629	29,600,326	29,413,226	29,403,531	29,028,793	23,453,913
				16,830	9,695	374,739	6,373,402
Tot. works & props.	29,967,278	29,717,629	29,600,326	29,430,056	29,413,226	29,403,532	29,827,315
Est. cost of property dismantled, charged against res. for dep. ...	....	....	....	....	....	....	798,522
Res. for deprec. and ex-							

	1936	1935	1934	1933	1932	1931	1930
Assets—	$	$	$	$	$	$	$
tinguishments	7,675,818	6,895,389	6,120,562	5,360,658	4,592,301	3,804,500	3,049,415
Wks. & props. (net)	22,291,460	22,822,240	23,479,764	24,069,398	24,820,925	25,599,023	25,979,378
Cash deposited with City Bank Farmers Trust Co., as trus.	1,500,000	....	....	....	....	....	....
Cash deposited with City Bank Farmers Trust Co., as trustee for redemption of 1st pfd. stk. on Jan. 2, 1937 (contra) .	(a)2,585,381	....	....	....	....	....	....

	1936	1935	1934	1933	1932	1931	1930
Assets—	$	$	$	$	$	$	$
Invest. in Gulf States Steel Co. com. stock (363 shares at approximate market)	9,692	9,692	9,692				
Stock purchased and held for employees' subscriptions—							
Preferred				48	3,254	658	4,835
Common				9,495	4,000	3,625	32,963
Invests. in cap. stock of Gulf States Steel Sales Co.				10,000	10,000	10,000	10,000

	1936	1935	1934	1933	1932	1931	1930
Assets—	$	$	$	$	$	$	$
Tenn., Ala. & Georgia R. R. Syndicate Subscription —cost	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Sinking fund	73,218	86,073	490	20,000	17,096	43,456	93,500
Unamortized deb. disc. and expense	370,876	145,621	172,247)				
			)	253,870	290,869	303,204	349,674
Prepaid expenses	15,032	17,948	) 44,461)				
Current Assets—							
Cash	1,353,557	664,626	324,876	378,046	377,276	432,675	544,151
Accounts receivable ..)	....			(	660,620	769,407	1,002,105
)	‡1,751,571	‡1,016,594	‡597,777	‡1,111,433(			
Notes receivable ...)				((	94,120	108,186	110,334
Deposited							

	1936	1935	1934	1933	1932	1931	1930
Assets—	$	$	$	$	$	$	$
with Mutual insur. cos.	50,075	....	....	....	....	....	....
†Inventories:							
Salable ....)			(	868,890	886,839	1,021,559	1,424,253
Convertible .)	b3,276,452	b2,928,733	b3,035,219(	1,076,533	966,212	951,524	2,192,156
Usable .....)			(	752,876	636,003	622,902	558,556
Total current assets	6,431,655	4,609,953	3,957,872	4,187,778	3,621,070	3,906,253	5,831,555
Total assets .	33,327,314	27,741,527	27,714,526	28,600,589	28,817,214	29,916,219	32,351,905
Liabilities—..							
First preferred stock	a2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Common stock	19,807,070	16,850,000	16,850,000	16,850,000	16,850,000	16,850,000	16,850,000
Prem. pay. on pfd. stock ..	a200,000	....	....	....	....	....	....
Accr. divs.—							

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	1936	1935	1934	1933	1932	1931	1930
Assets—	$	$	$	$	$	$	$
pfd. stock ..	a385,381	....	....	....	....	....	....
Funded debt	7,000,000	4,625,000	4,812,500	5,000,000	5,187,500	5,375,000	5,562,500
Capital surplus	1,294,587	1,294,587	1,294,587	1,294,587	1,294,587	1,294,587	1,294,587
P. & L. surplus	1,241,024	1,834,817	1,757,889	1,785,447	1,520,836	2,039,151	3,247,499
Reserves—							
Replacements, repairs and sundries ...	198,195	260,462	355,648	419,990	436,761	435,489	280,153
Res. for contings. ..	190,478	149,005	129,224	120,070	136,593	405,237	249,864
Current Liabilities—							
Notes payable	....	....	....	416,836	600,000	1,242,000	1,600,000
Accounts payable	617,777	376,053	318,852	524,440	388,061	183,908	1,134,117
Res. for Fed. taxes	151,692	23,423	....	....	240,000	....	....

	1936	1935	1934	1933	1932	1931	1930
Assets—	$	$	$	$	$	$	$
Dividends payable . . .	....	70,000	....	....	....	....	....
Accrued wages, interest and taxes	241,110	258,180	195,826	189,219	162,876	90,847	133,185
Total curr. liabils.	1,010,579	727,656	514,678	1,130,495	1,390,937	1,516,755	2,867,302
Total liabilities	33,327,314	27,741,527	27,714,526	28,600,589	28,817,214	29,916,219	32,351,905
*Net working capital	5,421,076	3,882,297	3,443,194	3,057,283	2,230,133	2,389,498	2,964,253

*Based upon statement of current assets and current liabilities as above.

†Lower of cost of market

‡After reserve of $117,514 for doubtful accounts in 1933, $118,074 in 1934, $50,042 in 1935 and $85,110 in 1936.

(a) First preferred stock to be redeemed Jan. 2, 1937, at 110% of par value thereof together with unpaid and accrued dividends thereon for which cash has been deposited with trustee (contra).

(b) Classified as follows:

	1936	1935	1934
Raw materials	$1,571,355	$1,337,678	$1,307,882
Work in process	636,774	369,202	547,296
Finished products	743,038	914,564	886,143
Supplies	325,285	307,289	293,898
Total	$3,276,452	$2,928,733	$3,035,219

EQUITIES FOR STOCK, AS OF DECEMBER 31

Gulf States Steel Co.

	1936	1935	1934	1933	1932	1931	1930
No. of shares of com. stock outstanding	296,069	197,500	197,500	197,500	197,500	197,500	197,500
Par val. of com. stk.	None	None	None	None	None	None	None
Indicated total book value applicable to the common stock (see "Note")	$ 22,162,283	$ 19,387,788	$ 19,334,453	$ 19,665,104	$ 19,557,016	$ 20,483,975	$ 21,641,950
Book value per share of common stock	74.86	98.17	97.90	99.57	99.02	103.72	109.58

Note—Includes reserve for contingencies, but excludes $595,000 ($29.75 per share) in 1935, $525,000 ($26.25 per share) in 1934, $385,000 ($19.25 per share) in 1933, $245,000 ($12.25 per share) in 1932, and $105,000 ($5.25 per share) in 1931, accumulated unpaid preferred dividends. Also excludes unamortized debt discount and expenses in 1934 and subsequent years.

STATISTICS

Inventories, as of Dec. 31

(Republic Steel Corp.)

	1936 $	1935 $	1934 $	1933 $	1932 $	1931 $	1930 $
Ore	11,609,554	9,213,489	7,394,270	8,222,150	5,213,062	7,999,434	9,570,239
Scrap	5,475,742	3,062,666	1,698,005	1,118,786	1,064,495	1,314,229	2,972,252
Fuel	1,511,783	997,647	637,356	524,568	637,470	750,351	944,443
Ferr. metals & alloys	1,317,763	1,061,616	484,913	524,281	442,857	512,924	649,214
Rolls, moulds and stools	1,103,343	1,038,428	600,536	682,110	707,583	925,043	981,843
Strs. & mfgd. suppls.	1,887,391	1,358,367	985,745	1,084,561	1,177,295	1,741,190	2,323,062
Pig iron	2,475,634	3,407,558	1,439,926	1,131,193	1,829,065	2,331,402	3,010,480
Semi-fin- prods.	7,754,982	7,118,817	4,034,740	3,253,625	2,286,073	3,767,423	5,291,484
Finished prods.	23,923,479	15,910,915	11,186,410	8,891,012	7,890,979	10,205,164	12,316,838
Miscel raw maters.	955,651	720,991	518,952	523,073	346,903	596,289	937,118
Total	58,015,322	43,890,494	28,980,853	25,955,359	21,595,782	30,143,449	38,996,973

Board's Exhibit No. 110

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Summary of Production, Years Ended Dec. 31

(Republic Steel Corp.)

	1936	1935	1934	1933	1932	1931	*1930
Iron ore (gr. tons)	3,405,594	1,747,215	1,286,037	1,138,956	149,589	1,073,572	2,121,362
Coal (net tons)	3,142,728	2,426,914	2,283,450	1,349,999	980,016	1,936,692	2,169,064
Coke (net tons)	3,501,831	2,171,128	1,750,905	1,383,623	939,306	1,677,726	2,266,632
Pig iron (gr. tons)	3,035,186	1,864,458	1,231,515	1,072,277	519,380	1,108,138	1,549,197
Bessemer, open hearth and electric ingots (gross tons)	4,291,832	2,894,582	2,004,689	1,831,583	903,899	1,727,687	2,339,062
Finished and semi-finished prod. (net tons)	†	†	†	†	†	1,555,661	2,211,604

*Constituent companies initial three months and corporation final nine months.

†Not reported.

Total Shipments of Steel Products

(Republic Steel Corp.)

	1936	1935	1934	1933	1932	1931	*1930
Finished prod. (net tons)	2,714,809	1,880,077	1,426,155	1,334,438	835,187	1,531,684	2,020,544
Semi-finished products (net tons)	686,030	316,325	125,345	103,737	46,659	78,910	107,885
Pig iron (gr. tons)	805,638	394,327	222,037	301,241	141,216	277,827	398,836

*Constituent companies, initial three months and corporation final nine months.

Gulf States Steel Co.

Year—	Tons	Year—	Tons	Year—	Tons
1936	260,785	1931	128,494	1927	192,572
1935	159,159	1930	142,625	1926	184,682
1934	116,466	1929	205,247	1925	191,675
1933	152,632	1928	184,127	1924	149,470
1932	98,131				

Note—The above table includes small percentage of semi-finished steel.

MANAGEMENT

Officers

T. M. Girdler, Chairman.
R. J. Wysor, President.
Myron A. Wick, Vice-Pres. in Charge of Finance.
N. J. Clarke, Vice-Pres. in Charge of Sales.
Julius Kahn, Vice-Pres. in Charge of Product Development.
C. M. White, Vice-Pres. in Charge of Operations.
Donald B. Gillies, Vice-Pres.
W. W. Hancock, Secy. & Treas.
P. F. Boyer, Compt.

Executive Committee

John S. Brookes, Jr.; Tom M. Girdler; Victor Emanuel; C. E. Sullivan; Myron A. Wick; R. J. Wysor.

Directors

John S. Brooks, Jr. (*Lawyer, Washington, D. C.; Dir., Pittsburgh Steel Foundry, Harbison-Walker Refractories Co.), Washington, D. C.

Alexander C. Brown (*Vice-Pres., Cleveland-Cliffs Iron Co.), Cleveland, Ohio.

James Bruce (*Dir., Chicago, Rock Island & Pacific Ry., Commercial Credit Co.), New York, N. Y.

Drury W. Cooper (*Partner Cooper, Kerr & Dunham; Dir., International Business Machines Corp.), New York, N. Y.

Wm. H. Coverdale (*Former Pres. of Gulf States Steel Co.; Partner, Coverdale & Colpitts, New York; Chairman of the Board, Seaboard Air Line Ry. Co.), New York.

Victor Emanuel (*Partner Emanuel & Co.), New York.

Donald B. Gillies (Vice-Pres.), Cleveland, Ohio.

Tom M. Girdler (*Chairman), Cleveland, Ohio.

Julius Kahn (Vice-Pres.), Youngstown, Ohio.

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William G. Mather (*Chrmn. of the Board, Cleveland-Cliffs Iron Co.; Dir., Otis Steel Co.), Cleveland, Ohio.

J. F. Schoellkopf, Jr. (*Pres., Niagara Share Corp.; Dir., General Railway Signal Co., Great Lakes Portland Cement Co.), Buffalo, N. Y.

Corliss E. Sullivan (*Chairman of the Board Central United National Bank, Cleveland; Dir., Pioneer Steamship Co., Cleveland Graphite Bronze Co.), Cleveland, Ohio.

Charles S. Washner.

Myron A. Wick (Vice-Pres., i/c Finance), Cleveland, Ohio.

R. J. Wysor (*President), Cleveland, Ohio.

*Also a director in other companies.

Executive and General Offices—Republic Building, Cleveland, Ohio. Corporate Office—15 Exchange Place, Jersey City, N. J. Transfer Offices—Prior Preference: Guaranty Trust Co. of New York, New York; The Cleveland Trust Co., Cleveland. Convertible Preferred: Guaranty Trust Co. of New York, New York; The Cleveland Trust Co., Cleveland. Common: The Chase National Bank of the City of New York, New York; The Cleveland Trust Co., Cleveland. Registrars of Stock—Prior Preference: Bank of the Manhattan Co., New York; Central National Bank, Cleveland. Convertible Preferred: Bank of the Manhattan Co., New York; Central National Bank, Cleveland. Common: Manufacturers Trust Co., New York; Central National

Bank, Cleveland. Annual Meeting—Second Wednesday in April at Jersey City, N. J. Listed (All Classes) on New York Stock Exchange. Traded—Common, Pittsburgh, Philadelphia and Boston Stock Exchanges.

BOARD'S EXHIBIT NO. 111

REPUBLIC STEEL CORP.

R6

New York Stock Exchange symbol: RBC

Revised May 27, 1937

Bulletin Section

Detailed description has been published in Annual Report and Statistical Section R 5, revised May 27, 1937.

CURRENT SUMMARY

To expand and round out facilities in Southern territory, this company, third largest producer of steel in the United States, in April, 1937, acquired the Gulf States Steel Co. with a fully integrated plant at Gadsden, Ala., through exchange of two and one-third shares of Republic common stock for each Gulf States Steel share, and assumption of indebtedness of latter company. Republic Steel had previously held a substantial minority interest in Gulf States Steel. Acquisition added about 400,000 tons to Republic's steel ingot capacity, and places it in position to compete more effectively in the important industrial and agricultural markets of the South.

Stimulated by larger demands for steel products from widely varied sources, operations of company expanded materially in first three months of 1937, despite some curtailment of shipments to the automotive industry. Larger usage of steel products, especially those of lighter classifications, was in line with upward trend of business generally. After all charges, net income for the period rose to new quarterly peak of $5,567,000, equal after dividend requirements on preferred stocks, to $1.04 a common share. This compared with profit of $361,000 earned in similar quarter of 1936, which failed to cover preferred dividend requirements.

Including for the first time Truscon Steel Co. and N. & G. Taylor Co., consolidated net sales of Republic Steel Corp. for full year 1936 reached a total of $218,317,000. Profit margins were aided by economies accruing from plant modernization and expansion program, and a firmer price structure prevailing in the second half of the year. After $4,816,000 for retirement reserves and $950,000 surtax on undistributed profits, net income was $9,587,000, equal after requirements on senior stocks, to $1.74 a common share. In 1935, which included Corrigan, McKinney Steel Co. for final three months only, net sales amounted to $136,165,000, and net profit was $4,456,000, with earnings for common equal to 49 cents a share.

Sales of wire products, sheets, bars and plates manufactured by Gulf States Steel Co. increased substantially in 1936 in line with improved farming and business conditions in the Southern states. Net sales rose 45% for the year to $12,778,000, and after all charges, net income was $660,000, compared with $141,000 earned in 1935.

On stock of Republic Steel Corp., regular quarterly dividend of $1.50 a share on prior preference stock was paid July 1, 1937, all arrears having been paid off with distribution of $4.50 a share on Oct. 23, 1936. On old 6% convertible preferred stock still outstanding, dividends were resumed after a lapse from 1930, with payment of $12 a share Dec. 19, 1936, followed by payment of $1.50 on April 1, 1937, and declaration of like amount payable July 1, 1937. Giving effect to latter payment, accumulations amounted to $25.50 a share.

Reflecting acquisitions and consolidations effected during 1936, total assets of Republic Steel at year-end increased to $343,950,000, from $297,476,000 a year before. Current assets of $93,524,000 included $13,350,000 cash, $22,158,000 receivables and $58,015,000 inventories, while current liabilities were shown at $20,717,000. Net working capital was $72,806,000. In addition, there was segregated as a fixed asset, cash of $23,087,000 obtained from new financing, and earmarked for capital improvements.

Gulf States Steel Co. at Dec. 31, 1936, had current assets of $6,432,000, of which inventories at $3,276,000 made up about one-half. Cash of $1,354,000, alone exceeded total current liabilities by $344,000.

(An analysis of the steel industry and comparative analysis of stocks of the leading companies in that field has been published in Standard Trade and Securities.)

CAPITAL OUTSTANDING

(As of Dec. 31, 1936, but giving effect to issuance of $690,828 common shares in acquisition of Gulf States Steel Co.)

Fund. Debt (See Note below)	$117,974,148
6% cum. conv. pr. pref. stk., ser. "A" ($100 par)	282,303.5 shs.
6% cum. conv. pfd. ($100 par)	119,597 shs.
Common (no par)	*4,818,092

*Includes shares held in treasury.

Extent of Cleveland-Cliffs Iron Stockholdings—Cleveland-Cliffs Iron Co., as of Sept. 30, 1936, owned 415,667 shares of Republic Steel common stock. All of these shares are hypothecated to secure certain bank loans.

Individual Reports Section

STANDARD CORPORATION RECORDS

Vol. 15—No. 3286 June 7, 1937 Sec. 7

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345 Hudson St., New York, N. Y.
Printed in United States of America

This information, while not guaranteed, is believed to be correct

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Prior preference stock, series "A" is redeemable at $110 and accrued dividends; is convertible at option of holder at any time into two shares of common stock; has one vote per share, equally with common, and any unexchanged 6% cumulative convertible preferred.

Preferred stock is redeemable at $110 and accrued dividends, and is convertible into one share of common at rate of 1¼ shares through May 1, 1937; 1½ shares through May 1, 1942, thereafter at 1¾ shares. It has one vote per share.

Transfer Agents for 6% convertible prior preference stock, and the 6% convertible preferred stock: Guaranty Trust Co. of New York, and the Cleveland Trust Co., Cleveland. For the common stock: The Chase National Bank of the City of New York; and the Cleveland Trust Co., Cleveland.

Note on Funded Debt—Above total represents amount outstanding after giving effect to assumption of $7,000,000 first (closed) 4½s of Gulf States Steel Co. As part of extensive financing program effected in 1935 and 1936, practically all underlying liens were retired, and new issues of purchase money first mortgage convertible 5½s, and general mortgage 4½s (issuable in series) were created. Issues outstanding Dec. 31, 1936, consisted of $15,361,000 Republic Steel Corp. purchase money first mortgage convertible 5½s, due Nov. 1, 1954; $24,000,000 Republic Steel Corp. general mortgage convertible 4½s, series "A," due Sept. 1, 1950; $43,934,000 Republic Steel Corp. general mortgage 4½s, series "B"; $25,000,000 Republic Steel Corp. general mortgage 4½s, series "C"; $2,603,900 assumed Central Steel Co. first mortgage 8s, due Nov. 1, 1941; and $7,000,000 assumed Gulf States Steel Co. first (closed) mortgage 4½s, due Oct. 15, 1961.

Funded Debt Reduced Through Conversion of Bonds into Common Stock—From Jan. 1, 1937, to March 31, 1937, funded debt of company was reduced more than $15,000,000 by conversion of purchase money first mortgage convertible 5½s and general mortgage 4½s, convertible series "A," into common stock.

PRICE RANGE—MARKET ACTIVITY

Both classes of preferred and common stocks are listed on the New York Stock Exchange, as are also the principal bond issues. High and low prices in recent years, together with volume of trading, for each class of stock and the more active issues of bonds, listed on the same exchange, follow:

Preferred (Old)

Year	High	Date		Low	Date		No. Shares
*1937	124	April	23	109	Jan.	19	22,700
1936	128	Dec.	17	77	May	4	117,550

Year	High	Date	Low	Date	No. Shares
1935	97	Nov. 14	28⅝	Mar. 18	426,400
1934	67½	Feb. 23	33½	Oct. 29	327,500
1933	54½	July 13	9	Feb. 28	381,005
1932	28⅞	Sept. 6	5	June 28	148,520

Prior Preferred

Year	High	Date	Low	Date	No. Shares
*1937	110¼	Mar. 10	99	Jan. 2	19,500
1936	104¼	Oct. 1	78¼	May 4	71,600
§1935	95½	Nov. 22	78½	Oct. 2	46,700

§From Sept. 27 (date of listing) to Dec. 31.

Common

Year	High	Date	Low	Date	No. Shares
*1937	47¼	Mar. 11	27½	Jan. 4	3,471,300
1936	29⅞	Dec. 15	16⅞	April 30	3,610,100
1935	20¾	Nov. 20	9	Mar. 15	1,832,600
1934	25¾	Feb. 23	10½	July 26	1,824,900
1933	23	July 13	4	Feb. 27	2,543,200
1932	13⅞	Sept. 8	1⅞	June 2	935,966

Gen. Mtge. Conv. Ser. A 4½s, 1950

Year	High	Date	Low	Date	Sales
*1937	212	Mar. 11	127	Jan. 5	$11,257,000
1936	135	Dec. 15	106	July 8	1,634,000
1935	115⅝	Nov. 22	102⅝	Oct. 3	7,053,000

Gen. Mtge. Ser. B 4½s, 1961

Year	High	Date	Low	Date	Sales
*1937	100	Jan. 8	95	April 2	$2,115,000
1936	100¼	Feb. 25	95½	July 8	521,000

*To April 30, inclusive.

ANNUAL EARNINGS AND DIVIDENDS

Republic Steel Corp.

Per Share Earnings on preferred and common stock in recent years and dividends declared are shown below:

	Earned		
	Prior Pref.	Conv. Pfd.	Com.
	$	$	$
*1936	33.96	66.00	1.74
‡1935	16.59	19.71	0.49
1934	....	d5.81	d3.43
1933	....	d6.80	d3.83
1932	....	d18.91	d7.58

	Dividends Declared		
	Prior Pref.	Conv. Pfd.	Com.
	$	$	$
1936	10.50	12.00	....
1935	1.50	....	....
1932-34	....	....	....

*Includes Truscon Steel Co. and N. & G. Taylor Co.

‡Includes Corrigan, McKinney Steel Co. from Oct. 1, 1935.

d Deficit.

Gulf States Steel Co.

Per share results and dividends declared in recent calendar years were as follows:

	1st Preferred		—Common—	
	Earn.	Declared	Earn.	Declared
	$	$	$	$
1936	33.01	*36.77	1.76	Nil
1935	7.06	3.50	0.01	Nil
1934	d2.90	Nil	d1.00	Nil
1933	9.65	Nil	0.27	Nil
1932	d31.87	Nil	d3.94	Nil

*Includes $29.77 paid on account of arrears.

d Deficit.

Note—Long-term analysis of income account and record of dividends paid in calendar years has been published in Annual Report and Statistical (Buff) Section R 5.

INTERIM EARNINGS

Consolidated Income Account (includ. subs., and after deprec., etc.):

Quarters Ended:	Inc. Bef. Depr. Fxd. Chgs., Etc.	Deprec. & Depl.	Fed. Taxes
Mar. 31, '37	$11,585,982	$2,513,868	†2,250,000
Mar. 31, '36	4,238,998	2,397,148	75,550

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Quarters Ended:	Avail. for Fxd. Chgs.	Fixed Charges	Times Earned
Mar. 31, '37	$6,822,114	$1,255,051	5.44
Mar. 31, '36	1,766,300	1,405,268	1.26

Quarters Ended:	Net Income	c Earn. per Com. Shr.
Mar. 31, '37	$5,567,063	$1.04
Mar. 31, '36	361,032	d0.06

c Based on 4,752,700 common shares in 1937, and 4,046,767 common shares in 1936, after allowing for prior preference and preferred dividend requirements.

†Includes $925,000 provision for Federal surtax.

d Deficit.

LATEST DIVIDENDS

Regular quarterly of $1.50 a share on prior preference stock was declared payable July 1, 1937, to holders of record June 12. Arrears on the issue, which amounted to $4.50 a share (representing 1935 accruals) were paid off Oct. 23, 1936.

On old $6 convertible preferred unexchanged under capital readjustment plan, dividend of $1.50 was declared payable July 1, 1937, to holders of record June 12, following distribution of similar amount on April 1, 1937, and $12 a share on Dec. 19, 1936. Giving effect to July 1, 1937, disbursement, arrears amounted to $25.50 a share.

FINANCIAL POSITION

Net Current Assets of company at March 31, 1937 (prior to acquisition of Gulf States Steel Co.) were reported in excess of $75,000,000, not including funds held by mortgage trustee from proceeds of bonds sold in November, 1936, which funds specifically were held for property improvements. Expenditures for such improvements in the first quarter of current year amounted to more than $8,250,000.

Since Jan. 1, 1937, it was stated, funded debt of corporation had been reduced more than $15,000,000 through conversion of convertible bonds into common stock.

INDUSTRIAL BACKGROUND

Completely integrated for steel manufacture from ore extraction to fabrication of finished products, Republic Steel ranks as the third largest enterprise in the industry. Acquisition in April, 1937, of Gulf States Steel Co., second largest factor in the steel industry of the South, considerably strengthened Republic's competitive position in that area, and gave it a direct entrance into the highly important Southern agricultural and industrial market. The enlarged enterprise has an effective annual capacity of 3,600,000 tons of pig iron, 6,483,000 tons of steel ingots, and facilities for production of 4,947,000 tons of finished hot rolled products.

Corporation is the largest domestic producer of high grade carbon alloy and special steels, a large part of its aggregate capacity being alloted the manufacture of these products. Of its finishing facilities, about three-fourths is devoted to production of bars, sheets, strip and light plate. Company is third largest domestic producer of pipe, being equipped for some 850,000 tons per annum, and ranks sixth as a maker of tin plate with an annual capacity of over 3,150,000 base boxes. Products also include wire and wire goods classifications, automobile axles, nuts, bolts and rivets, and cold drawn steels. Output of finished steel is largely in lighter types, corporation having no rail or heavy structural capacities. A large percentage of steel output is also converted into highly finished products and manufactured articles.

In recent years, almost half of output has been consumed by a large number of miscellaneous users, including jobbers and distributors. Of individual outlets, the automobile trade remains dominant, with other important outlets consisting of railroad, building, food and packing, agriculture, oil, gas and water industries.

Majority of plants are located in six steel producing centers, the Valley (around Youngstown, Ohio), Cleveland, Chicago, Gadsden, Ala., Buffalo and Pittsburgh districts, with bulk of facilities concentrated in first four areas. Expansion policy effected in 1936, included additions to alloy steel, electric tube and tin plate facilities, which substantially increased productive capacity for these products. Construction at Cleveland of a new 720,000 tons annual capacity 98-inch continuous wide strip mill started in 1936, also was expected to be placed in operation in latter part of 1937. This new unit, with Great Lakes shipping services available, will enable corporation to compete more effectively for a larger part of important sheet steel business emanating from the automotive industry at Detroit.

GENERAL INFORMATION

Advances Wages and Established 40-Hour Week—Company announced in Cleveland establishment of the 40-hour week and pay increase of 10 cents an hour, raising the rate to 62½ cents an hour, or $5 a day for common labor, effective March 16, 1937.

Announce Vacation Plan—Wage Increase for Employees Not Benefited by Recent Higher Scale—March 10, 1937, this company announced a vacation plan for its 35,000 employes in Northern plants and a 10-cent-an-hour wage increase for employes not benefited by the raise recently announced for common labor. Employees would have the option under vacation plan of additional pay in lieu of a vacation. Those with three years' service and less than five were entitled to three days' vacation, those with five years and less than ten, six days'; those with ten years and less than 15, eight days, and those with 15 years or over, 10 days.

Marks Up Prices of Alloys Steels—March 11, 1937, Cleveland despatch said that this company had increased

prices on its alloy steels which would be effective only on orders that could be filled during the quarter ending June 30, 1937. Any orders received which could not be filled before that time would not be subject to the new prices.

Hot rolled alloy steel bar base price, was increased 25 cents per hundredweight to $3; blooms and billets, or semi-finished, was increased $5 a gross ton to $60, and cold finished alloy base was raised 35 cents per hundredweight to $3.60.

Monroe Property Ordered Sold—May 7, 1937, Circuit Judge Golden, Monroe, Mich., ordered Court Commissioner Navarre to hold a foreclosure sale of Monroe property of Newton Steel Co.

Republic Steel Co., holder of the mortgage, was seeking to reduce the properties to possession.

Any later information published in Daily News Section will be topically indexed in Capital Letters.

BOARD'S EXHIBIT NO. 113

WESTERN UNION

Youngstown, O. June 23, 1937

Mrs. Frances Perkins,
Secy. Dept. of Labor,
Washington, D. C.

As law abiding citizens of Youngstown and Mahoning County we appeal to you to put an end to the labor trouble that has been in effect in our valley for the last four weeks, which is uncalled for and is causing a terrible loss in wages to our workmen that cannot be replaced, and is demoralizing business in general.

We had better working conditions in our plants with higher wages than was ever known in our history and were happy and contented knowing we had steady work and living conditions as Americans should have. This picture has been changed to one of blood-shed, riot and fear for the safety of our families by professional agitators who have never worked in a steel mill coming to this valley spreading discontent and breaking every law on our statute books.

These same agitators if deprived of the remuneration they receive for signing members in a so called labor organization would soon leave for parts unknown to try some other racket.

We urge you to use the resources of your high office to end this strike so we may resume our places as American citizens and workers.

In regards to a written contract with the CIO we feel it is not worth the paper it is written on when it involves an irresponsible party. From developments since contracts have been signed with the CIO we feel you are more familiar than we are with conditions.

We have signed petitions from the majority of our employees who are desirous of returning to work at once and feel that the Republic Steel Corp. has dealt with us in a manner that showed they were working to our best interests.

John L. Smith, Chairman
Independent Federation of
Republic Employees.

BOARD'S EXHIBIT NO. 115

REPUBLIC STEEL CORPORATION

Youngstown District

Plan of Employee Representation

Adopted June 1933
Amended June 1934
Amended March 1937

REPUBLIC STEEL CORPORATION
Youngstown District

Plan of Employee Representation

"This Plan of Representation and By-Laws pertaining thereto, has been adopted by the employees and the Company for the purpose of collective bargaining."

I.

Representation

1. Employee Representation shall be by Departments on the basis of one Representative for each two hundred (200) employees, or major fraction thereof, based on the average number of employees on the payroll for three months immediately preceding the election.

2. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had to logical groupings and location.

3. Adjustments in units of representation, wherever

necessary to secure complete and fair representation, shall be made in accordance with the recommendation of the Joint Committee on Rules, Ways and Means.

II.

Term of Office of Representatives and Vacancies

1. Employee Representatives shall be elected for a term of one year and shall be eligible for re-election.

2. An Employee Representative shall be deemed to have vacated his office as such upon his voluntary severance of his relations with the Company or upon his discharge for cause, or upon his appointment to such a regular position as would make him one of the persons described in paragraph 3 of Section III hereof.

3. Vacancies in the office of an Employee Representative, for which there is no Alternate, as described in Paragraph 16 of Section IV hereof, may be filled for the unexpired term, in the discretion of the Committee on Rules, Ways and Means, by special election conducted in the same manner as the regular annual election.

III.

Qualifications of Representatives and Voters

1. Any employee who has been on the Company's payrolls for a period of at least one year immediately prior to nominations; who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employee Representative.

2. All employees who are enrolled on the Company's payrolls (except as provided in paragraph 3 of section III) on the date fixed for nominations, shall be entitled to vote.

3. Company officials and persons having the right to hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employee Representatives or qualified to vote for Employee Representatives.

4. This plan shall in no way discriminate against an employee because of race, sex or creed; or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

IV.

Nominations and Elections

1. Nominations and elections of Employee Representatives shall be held annually in the month of June. Nominations (after the first nominations and elections) shall be held on the second Tuesday and elections on the following Friday of such month. In the event of either of these days being a holiday, then the nominations or elections as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with rules and regulations prescribed by the Committee on Rules, Ways and Means, with only such assistance from the Management as may be requested.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference with voters by anyone in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations

4. On the day of nominations, each qualified voter shall be furnished a ballot stating the number of persons for whom he is entitled to vote. Such voter shall write on ballot the names or check numbers of the persons in his

Department or voting division whom he desires to nominate for election as Employee Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting division is entitled.

6. If on any ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employee Representatives to be filled.

9. Those employees who received the largest number of votes, in any department or voting division, equal to three times the number of Representatives to be elected shall be declared nominated, and shall be candidates for election.

Elections

10. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means through tellers designated by such Committee, a ballot on which the names of the candidates for Employee Representatives shall be printed in the order of number of votes received at nominations. In case two or more persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a cross (X) opposite the name of the candidate or the name of each of the candidates of his choice.

11. The number of candidates for whom the employees in each Department or voting division shall be entitled to vote for Employee Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

12. Each voter shall deposit his own ballot in a box provided for the purpose by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employee Representative or Representatives of such Department or voting division.

13. In the event of a tie, selection shall be made by lot under the direction of the Committee on Rules, Ways and Means.

14. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules, Ways and Means.

15. The Committee on Rules, Ways and Means may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

16. Candidates failing of election shall stand as Alternates in the order of the number of votes received and in such order shall become Employee Representatives as need may arise through vacancies or increased forces.

V.

Management's Representative

The Company shall appoint a Management's Representative to facilitate close relationship between the Management and the Employee Representatives.

The Management's Representatives shall represent the Management in negotiations with the Representatives, their Officers and Committees. He shall respond promptly to any request from Representatives, and shall interview all of the Representatives, from time to time, collectively or separately, with reference to matters of concern to employees. He may attend any meeting of the Joint Committees, but shall not have any vote thereat.

VI.

Committees

1. Wherever the word "Committee" is used throughout this instrument, it shall mean a Standing Committee of Employee Representatives unless a "Joint Committee" is specified.

2. After each annual election the Representatives shall immediately meet for the purpose of electing a Chairman, Vice Chairman and Secretary for the General Body of Employee Representatives.

The General Body of Employee Representatives shall also select members for the following Committees, viz:

Committee No. 1—Rules, Ways and Means.

Committee No. 2—Wages, Employment, Schedules and Working Conditions.

Committee No. 3—Safety, Health, Plant Sanitation and Welfare Activities.

Committee No. 4—Appeals Committee.

3. The Appeals Committee shall consider all matters not falling within the scope of any other Committees herein provided for, and the Chairman and Secretary of the General Body of Employee Representatives shall be members of the Appeals Committee.

4. Each Committee shall be composed of not more than five members, and shall appoint its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular meeting of the General Body of Employee Representatives.

6. Joint Committees shall consist of the Committee of the Employee Representatives with the addition of the Company's Representatives named by the Management, who may equal but shall not exceed in number the Employee Representatives.

7. The Joint Committees shall select their own officers and arrange their own procedure, subject to appeal, in case of controversy, to the Joint Committee on Rules, Ways and Means.

VII.

Committee Meetings

1. Regular meetings of Committees shall be held every other month.

2. On alternate months, the Joint Committees shall meet.

3. The General Body of Employee Representatives may meet monthly for the purpose of reviewing the work of the Committees and Joint Committees, and discussing any matters of general interest.

4. Committees shall meet between the hours of three and five in the afternoon, unless otherwise determined by joint approval of the Chairman of the General Body of Employee Representatives and the Management's Representatives.

5. Special meetings of Committees and of Joint Com-

mittees may be held as occasion may require, on approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

6. For time necessarily lost through actual attendance, at regular or special meetings or conferences jointly approved, Representatives shall receive from the Company, payment commensurate with their average earnings.

7. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

8. A Committee, in considering matters of special interest to any particular Department or class of employees, shall have the right to invite into conference the Representatives of the Employees and of the Company likely to be especially interested in such matters.

9. Any matter may be referred by the Management through the Management's Representative to any Committee for consideration and report, and any matter may be presented by a Committee to the Management through the Management's Representative.

10. The Joint Committee on Rules, Ways and Means shall arrange a suitable place for meetings of the General Body of Employee Representatives and of the several Committees and Joint Committees, and the Company shall defray such expenses as are necessarily incident to the discharge of duties herein set forth, when approved by a majority of said Committees.

VIII.

Annual Conference

An annual conference between all of the Employee Representatives and Representatives of the Management shall be held at a time and place determined by the Joint Rules, Ways and Means Committee, who shall regulate the procedure at such conference.

IX.

Procedure for Adjustments

1. Any matter which in the opinion of any employee, or group of employees, requires adjustment, may be taken up with tne foreman of the work on which he or they are engaged or with the Representative of his or their department, in writing.

First—With the Superintendent concerned.

Second—With the Management's Representative.

Third--With the Management, who shall endeavor to effect a settlement, or who may with the approval of all parties refer the matter to proper Joint Committee.

2. Unless satisfactory disposition of any such matter has been effected within a period of fourteen (14) days, any employee through his Representative or the Management through the Management's Representative may require such matter to be referred to a proper Committee, by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

All changes in hourly or tonnage rates, fixed or determined by a decision of a Joint Committee, shall be made effective as of the date the written request was filed with the department head. Requests for changes in hourly or tonnage rates shall be considered closed upon a decision of a Joint Committee unless notice of an appeal is filed in writing with the Management's Representative within a period of three (3) days after the decision was rendered.

The Joint Appeals Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts and effect a settlement.

3. If the Joint Appeals Committee shall fail to effect a settlement, the President of the Company shall be notified, and the matter may be referred, if the President and a majority of the Employee Representatives on the Joint Appeals Committee agree to such reference, to an arbitrator or arbitrators, to be determined at the time according to the nature of the controversy.

X.

Guaranteeing the Independence of Representatives

1. It is understood and agreed that each Representative shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

2. To insure to each Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him on account of his acts in his representative capacity to the Management's Representative, to any of the Superior Officers, to the Joint Appeals Committee, and to the President of the Company.

3. Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within thirty days, a Representative shall have the further right to appeal to the Secretary of Labor of the United States. The Company shall furnish the Secretary of Labor with every facility for the determination of the facts, and the findings and recommendations of the said Secretary of Labor shall be final and binding.

XI.

Amendments

1. Any method of procedure hereunder may be amended at any time by two-thirds vote of the entire membership of the Joint Committee on Rules, Ways and Means, or by three-fourths majority vote of the General Body of Employee Representatives at an Annual Conference.

2. This Plan shall remain in effect until such time as there is a mutual agreement between the General Body of Employee Representatives and the Management, to place the question of dissolution before the employees at any annual election; a two-thirds vote of the employees, for dissolution, being necessary to terminate the Plan.

ER 733 10M books 3-37

BOARD'S EXHIBIT NO. 127

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

In the Matter of Republic Steel Corporation and
Steel Workers Organizing Committee

Case No. C-184

SUPPLEMENTARY CHARGE

A charge having been previously filed with the National Labor Relations Board at Washington, D. C., on June 21, 1937, by the undersigned in the above captioned matter, the undersigned, pursuant to Section 10 (b) of the National Labor Relations Act, hereby supplements said charge and alleges that the has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subdivisions (1), (2), and (3) of said Act in that:

(1) Said corporation has dominated and interfered with the formation and administration of the Plan of Employee Representation, (Central Alloy District, Canton Works), The Employees' Representative Association, and the Plan of Representation of Employees (Canton Tin Plate Corporation), labor organizations of its employees at its Canton, Ohio, plant, and has contributed financial and other support to such labor organizations.

(2) Such corporation has dominated and interfered with the formation and administration of the Plan of Employee Representation (Central Alloy District, Massillon Works), and the Employees' Representative Association, two labor organizations of its employees at its Massillon, Ohio, plant, and has contributed financial and other support to such labor organizations.

(3) Said corporation by its officers and agents at all times since the organization of the Steel Workers Organizing Committee, has threatened its employees with discharge if they joined or assisted the Steel Workers Organizing Committee, and has interfered with, restrained and coerced its employees in the exercise of the right to self organization.

(4) Said corporation has discharged on or about the following dates the individuals hereinafter named employed at its Canton, Ohio, plant: May 12, 1937 Joseph L. Corey and Peter Fontes; May 5, 1937 Will S. Wright; April 29, 1937, Charles Bikoski; April 27,

1937, Sabri Shaban; February 16, 1937, Tom Douglas; February 11, 1937, Mike Ugranovich; October 19, 1936, Michael Wucinich; and August 8, 1936, Victor Arias, and other employees and has refused to reinstate said employees at the Canton plant, at Canton, Ohio, for joining the Steel Workers Organizing Committee, and for refusing to join the plan of Employee Representation (Canton Alloy District, Canton Works) and the Plan of Representation of Employees (Canton Tin Plate Corporation) and Employees' Representative Association.

(5) Said corporation has discharged on or about the following dates the individuals hereinafter named, employed at its Massillon, Ohio, plant: May 4, 1937, Elli Metroff; May 3, 1937, Peter Moryios; April 30, 1937, Feim Gezo; and April 27, 1937, Paul Pulos, and other employees at its Massillon plant, at Massillon, Ohio, for joining and assisting the Steel Workers Organizing Committee and refusing to join the Plan of Employee-Representation (Central Alloy District, Massillon Works) and the Employees' Representative Association.

(6) Said corporation, by its officers and agents, prior to May 12, 1937, did threaten employees in its Massillon plant at Massillon, Ohio, with discharge, lay-off and the complete shut-down of said plant, and on or about May 12, 1937 did suddenly and without notice cease operations at said Massillon plant and did lock out almost all of its employees in said plant, for joining and assisting the Steel Workers Organizing Committee.

(7) By the aforesaid acts said corporation has discriminated in regard to the hire and tenure of employment of its employees within the meaning of Sec-

tion 8, subdivision (3) of said Act, dominated and interfered with the formation and administration of labor organizations of its employees and contributed financial and other support to such labor organizations within the meaning of Section 8, subdivision (2) of the said Act, and interfered with, restrained and coerced its employees in the exercise of their right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining and other mutual aid and protection within the meaning of Section 8, subdivision (1) of the said Act.

The undersigned further alleges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Lee Pressman

Steel Workers Organizing Committee
3600 Grant Building
Pittsburgh, Pennsylvania

Subscribed and sworn to before me this 14th day of July, 1937.

Adela M. Bateman
Notary Public, D. C.

RESPONDENT'S EXHIBITS

RESPONDENT'S EXHIBIT NO. 2

State of Ohio,
Stark County, ss:

IN THE COURT OF COMMON PLEAS
Case No.

S. H. Smith, et al.,
Plaintiffs,
vs.
Amalgamated Association of Iron, Steel & Tin Workers of North America, et al.,
Defendants.

JOURNAL ENTRY

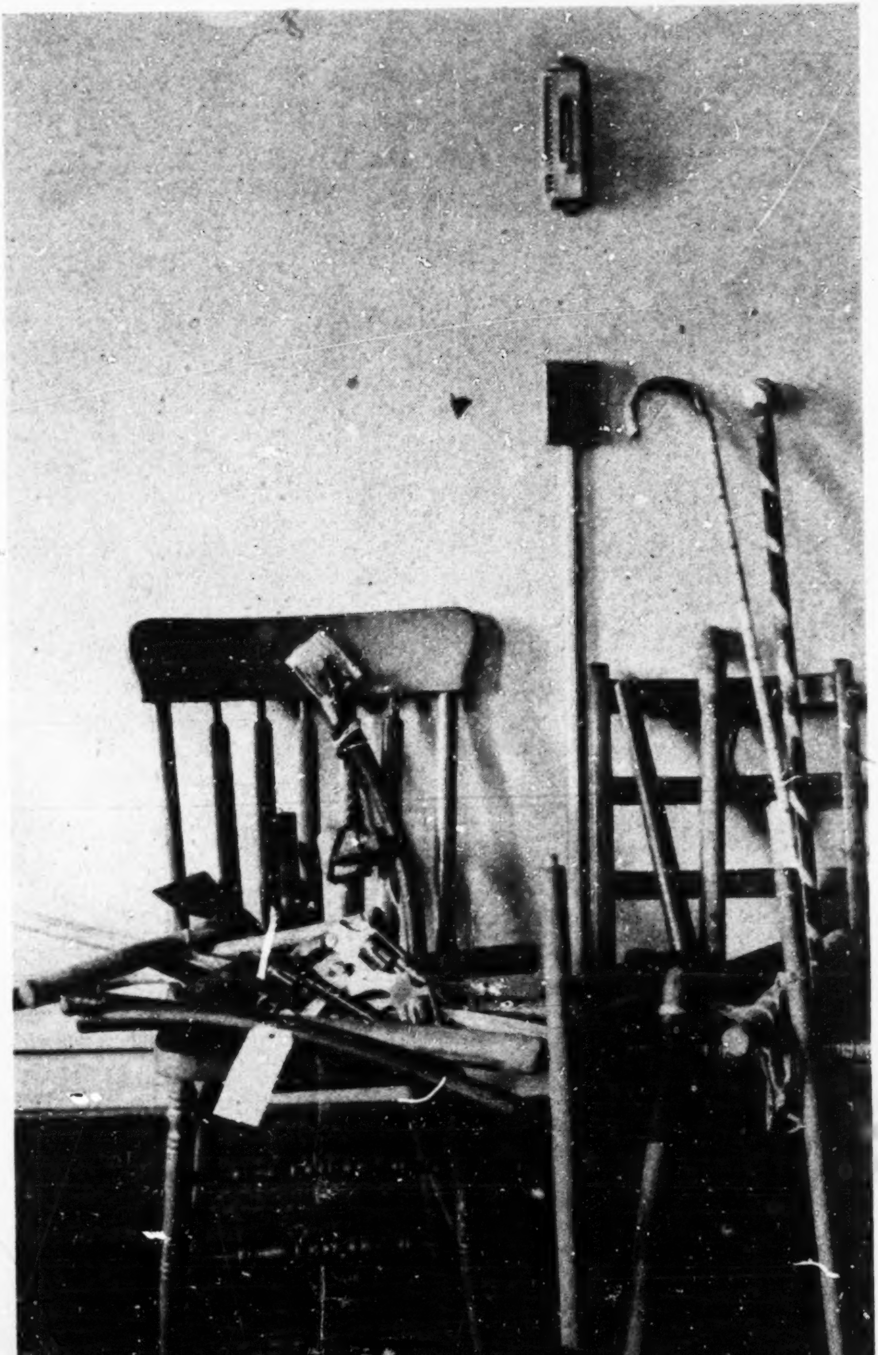
This day this cause came on to be heard upon the petition of the plaintiffs, answer of the defendants, and the evidence, and was submitted to the court. On consideration whereof the court find on the issues joined for the plaintiffs that the plaintiffs are entitled to work in the plant of the employer, the Republic Steel Corporation, without interference from the defendants, their agents, members or employes or persons associated with them, or their aiders and abettors.

It is therefore considered and decreed that the defendants, and each of them, be and they are hereby perpetually enjoined:

(1) From arming, or permitting any of their pickets being armed with clubs, pipes, baseball bats, blackjacks, knives, guns or other weapons;

(2) From obstructing any streets, or highways

Respondent's Exhibit No. 4



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within the county of Stark, or within the city of Canton, Ohio, or interfering with persons in the lawful use of said streets and highways;

(3) From inducing by intimidation, threats, abuse or violence, any person who is now, or may hereafter become an employee of the Republic Steel Corporation, to leave plaintiffs' employ; and from preventing, by intimidation, threats, abuse or violence, any person from entering into employment with the Republic Steel Corporation, in the County of Stark;

(4) Said defendants are further restrained from in any manner interfering with the rights of the plaintiffs and those similarly situated from entering the plant of the employer for the purpose of working, or in any manner interfering or preventing those now in the plant to leave said plant; and said defendants are restrained from interfering with the free access of the plaintiffs and those similarly situated to the employer's premises, and with their free return to their homes, boarding places or other places to which they may desire to go.

(5) From damaging any of the property of the plaintiffs, or those whom they represent.

Coming now to the question of fixing and determining the number of pickets that may be on duty at any time during the continuation of this strike; the Court fixes the number as follows:

At any of the gates and entrances of the plants of the Republic Steel Corporation in or near the City of Canton, Ohio, and such other places which afford ingress and egress to the employees, there shall be not more than six (6) pickets, except at the main gate on 8th Street, N. E., in the City of Canton, Ohio, near the office, where there may be ten (10) pickets.

As to the number of pickets at other points outside those above enumerated no special rule can be laid down in detail, but at no place or point may the number be so great as to prevent access to the plants, or in itself to constitute a threat of physical force. This order with respect to the number of defendants' agents or pickets can be amended when necessity is made to appear.

It is further considered that plaintiffs recover from the said defendants, their costs herein expended, taxed at ....Dollars.

George N. G........
Judge.

RESPONDENT'S EXHIBIT NO. 7

PROCLAMATION

To All Persons Within Stark County:

Under and by virtue of an authority of the Proclamation issued to me as Sheriff of Stark County, Ohio, by the Honorable Martin L. Davey, Governor of the State of Ohio, by his duly constituted authority, and by virtue of the provisions of law in such cases made and provided, and by virtue of the provisions of law defining the duties of a Sheriff as to the maintenance of law and order and the peace and security of life and property within my jurisdiction, I, Joseph T. Nist, as Sheriff of Stark County, Ohio, hereby issue the following Proclamation designed and intended to regulate and define the conduct of all persons found within the limits of said County and issued for the purpose of maintaining peace and quiet, protecting and safeguarding life and property and checking and controlling rioting and lawlessness.

The Adjutant General of the State of Ohio, has been ordered to place in Stark County, a sufficient number of troops of The Ohio National Guard as may be necessary to prevent riots and rioting, injury to persons and property and to maintain in a general way, order and authority within the areas in Stark County affected directly or indirectly by the strike; and further that the said Adjutant General shall proceed forthwith, and therefore, I, Joseph T. Nist, as Sheriff of Stark County, Ohio, in order to effectuate such order so issued, hereby declare that the following rules of conduct and instructions shall govern in Stark County during the continuance of the emergency occasioned by said above referred to strike.

I COMMAND:

FIRST: All persons within the County of Stark to refrain from congregating in the streets in groups and to refrain from entering the vicinity of strike areas, except on lawful missions.

SECOND: All persons except duly and legally appointed law enforcement officials found within the confines of Stark County shall be disarmed of all dangerous weapons and equipment of all kinds and description.

THIRD: Any person guilty of the violations of the law shall be arrested and turned over to the proper authority for prosecution.

FOURTH: There shall be permitted no invasion of Stark County by non-residents thereof whose intent it is to violate the provisions of the decree of the Court of Common Pleas of Stark County in Case No. 76546 in said court.

FIFTH: The citizens of this county and all persons therein are hereby ordered not to visit the strike areas as sight-seers or as visitors in order that the officials in charge may not be hampered or embarrassed in their efforts to bring about effective compliance with the orders herein issued or with their general duties.

SIXTH: Persons finding it necessary to use the streets and public ways in the vicinity of the strike areas shall be permitted to do so without interference, and I hereby direct that such right shall be secured by the officials in charge of law enforcement within said strike areas.

SEVENTH: I hereby direct that there shall not be placed nor maintained on, over or across any public thorofare within the confines of this county, any barrier or impediment to the right of any citizens of, or persons within this county to use such public thorofares in the usual course of his business or convenience.

EIGHTH: I hereby direct that no loitering shall be permitted within Stark County at any place which in the judgment of the enforcement officials will induce lawlessness or trouble in the strike situation in this county.

NINTH: I hereby declare and direct that the orders issued by the Common Pleas Court of Stark County, Ohio, on the 25th day of June, 1937, in case No. 76546 in said Court filed, shall be strictly and impartially enforced, administered and carried out.

I hereby expressly reserve the right to at any time during the emergency occasioned by the strike above referred to, to amend, add to or detract from the orders herein issued.

I hereby order and declare the provisions of this Proclamation to be effective immediately and to continue until I have otherwise directed.

This Proclamation is issued for the purpose of maintaining peace and lawful conduct of all citizens within Stark County, Ohio, and for the purpose of safeguarding life and property and to that end all law enforcement agencies within this county are hereby declared coordinated and pledged.

And I, Joseph T. Nist, Sheriff of Stark County, in the name of the State of Ohio, hereby command all persons found in Stark County to abide peacefully and in strict accordance with the terms and regulations hereinbefore set forth.

Dated this 25th day of June, 1937 at 6:00 o'clock P. M.

Joseph T. Nist,
Sheriff.

Allied Printing Trades Council
Union Label 6
Canton, O.

RESPONDENT'S EXHIBIT NO. 8

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

In the Matter of Republic Steel Corporation and Steel Workers Organizing Committee

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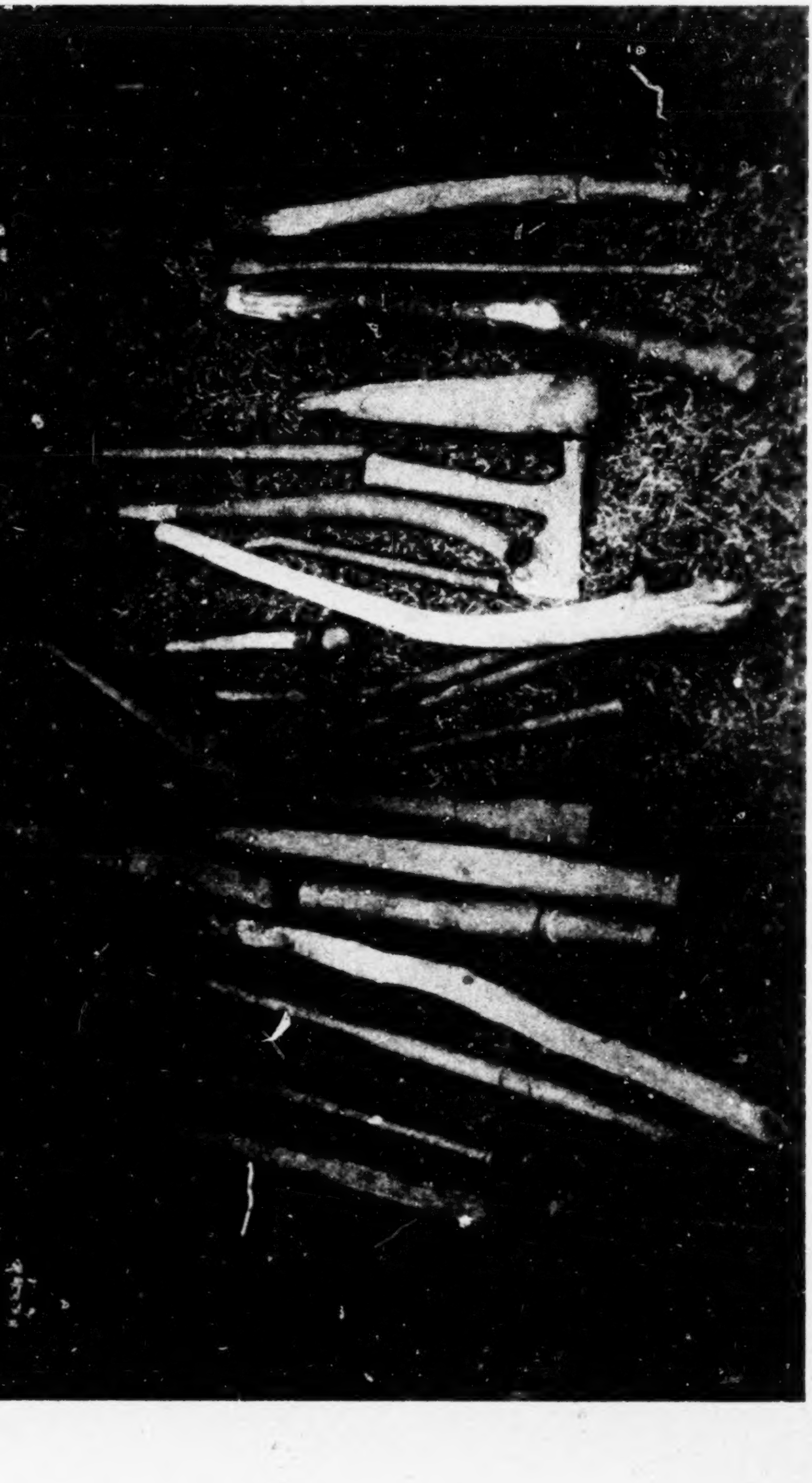
Case No. C-184

STIPULATION IN RE RESPONDENT'S EXHIBIT NO. 8

Respondent says that respondent's Exhibit No. 8, identified during the direct examination of the witness, Richard R. France, (R. p. 3441), was a photograph taken at the Stark County, Ohio, jail, showing weapons taken from the pickets in Stark County, Ohio. The original negative film which was the property of France, has been lost or destroyed. A copy of the original print, however, was secured from Mr. France and re-photographed. It is hereby stipulated and agreed by counsel for the respondent that the print accompanying this stipulation is a photograph of the original print of respondent's Exhibit No. 8, and the same may be used and considered by the National Labor Relations Board in place of the original Exhibit No. 8.

Thomas F. Patton,
Day, Young, Veach & LeFever,
Harrington, Huxlean & Smith,
Lynch, Day, Pontius & Lynch,
Counsel for the Respondent.

Respondent's Exhibit No. 8



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RESPONDENT'S EXHIBIT NO. 11

NOMINATION BALLOT FOR EMPLOYEE REPRESENTATIVES

Directions to Voters

This ballot is issued to qualified voters to nominate candidates for Employee Representatives.

The voter, by using this ballot, approves the holding of Nominations and Elections as stated in the posted notice issued by the Employees' Committee under the Plan of Employee Representation at this Plant and expresses his desire that those elected shall represent him in collective bargaining and for the other purposes stated in the notice.

Each qualified voter is entitled to nominate twice the number of Representatives to which his department or voting division is entitled.

Write Names or Check Numbers of Candidates Below:

Name Check No.

VOTE FOR EIGHT ONLY

If you write more your
ballot will be VOID

Central Alloy District Massillon Plant

Billet Sheds

(Department or Voting Division)

Date—June 9, 1936.

RESPONDENT'S EXHIBIT NO. 12

ELECTION BALLOT FOR EMPLOYEE REPRESENTATIVES

Notice to Voters

By using this ballot the voter approves the holding of Nominations and Elections as stated in the posted notice of this Election issued by the Employees' Committee under the Plan of Employee Representation at this Plant and expresses the desire to be represented for collective bargaining and the other purposes stated in the notice, by Representatives elected under the Plan.

Directions to Voters

Place cross (X) in front of the name of the candidate or the name of each of the candidates whom you wish to elect as Representatives of your Department or Voting Division.

PLACE (X) BELOW Names of Nominated Candidate or Candidates

2273—George Pappas
2231—H. North
2491—P. Hoffman
2255—R. Barnes
4083—W. Mazon
2421—H. Steiner
2582—A. Regne
2506—C. Moore
2224—J. Broglio
2215—J. Honeck
2271—S. Kutz
2410—R. Caldwell
2222—O. Sword

VOTE FOR 4 ONLY

If you vote for more
your ballot will be VOID

CENTRAL ALLOY DISTRICT
MASSILLON PLANT

BILLET SHEDS

Department or Voting Division

Date—June 12, 1936

RESPONDENT'S EXHIBIT NO. 13

NOTICE

REGULAR ANNUAL ELECTION PLAN OF EMPLOYEE REPRESENTATION FOR EMPLOYEE REPRESENTATIVES

For the Purpose of Collective Bargaining and Other Purposes Provided for Under the Plan

THE EMPLOYEES' COMMITTEE WILL CONDUCT NOMINATIONS AND ELECTIONS AS STATED BELOW. NOMINATIONS AND ELECTIONS SHALL BE HELD BY SECRET BALLOT

NOMINATIONS

Nominations for Employee Representatives will be held

Tuesday, June 9, 1936

Each qualified voter will be furnished at the polls with a ballot on which he may write the names of those individuals whom he desires to place in nomination.

The number to be nominated in each department will be stated on the ballot.

Those receiving the highest number of votes shall be declared nominated.

ELECTIONS

Elections for Employee Representatives will be held

Friday, June 12, 1936

Each qualified voter will be furnished a ballot on which the names of the nominees will be printed. The number to be voted for will be stated on the ballot.

Nominees receiving the highest number of votes shall be declared elected as Employee Representatives. Nominees failing of election shall stand as alternates in the order of their vote.

All employees of the Company (except those in supervisory positions) who are enrolled on the Company's payrolls on the date fixed for nomination shall be entitled to vote.

Lists of those qualified to vote will be in possession of the Judges at the polls.

No Employee Representative or Nominee shall be eligible to serve on the Election Board within their own voting division.

The above regulations are in accordance with the Plan and those who desire so to choose their Representatives for such purposes should vote at the Nominations and Elections.

Nomination Polls Open—Notices will be posted Mon. June 8, 1936 in departments.

Election Polls Open—Notices will be posted Thurs. June 11, 1936 in departments.

EMPLOYEES' COMMITTEE ON ELECTIONS

H. R. Steiner
Forrest Seese
M. J. Trotter
Harry Jones
Harry Kinne

RESPONDENT'S EXHIBIT NO. 14

Superintendent's Forwarding Copy

ER 727 3M SETS 8-34 File Record . . . .

REPUBLIC STEEL CORPORATION AND SUBSIDIARIES

Employee Representation Plan

Record of Case Presented to Employee Representative

. . . .
District or Subsidiary Plant Date

Presented by . . . .
Name of Employee Check Number Occupation

Presented by . . . .
Name of Group No. Men Involved Department

Statement of Case: . . . .

. . . .

. . . .

. . . .

. . . .
Employee Representative

Disposition of Case:

	Date	No Action	Affirmative	Negative	Compromised	Withdrawn
Foreman						
Superintendent						
Management's Representative						
Committee						
Committee						
Committee						
Committee						

Final Disposition: ....

....

....

....

....

Date ....

Management's Representative

RESPONDENT'S EXHIBIT NO. 15

This is to certify that we, the undersigned, without any pressure or intimidation from either the company, the C. I. O. or any other union or organization, have willingly put our signatures hereon for the purpose and intent, that we wish to return to work under exactly the same conditions and rates as we were forced to leave Republic Steel Corporation.

William Smith	No. 6835	inspector
Joe Wiskofske	8382	Shears
C. McCullum	7196	Sheet Div.
Carl Kaltz	7192	Sheet Div.
Elmer Daniel	8158	Hot Mill
John Fratika	7082	Finishing & Shipping
Wm. Radulea	6133	Janitor
Domineche Caraccilo	6689	Cold rolls
Donald Morrison	8356	Hot Mill
Chas. E. Yost	8358	Hot Mill
Jay Douglas	7083	Inspection
Matt Bartko	6875	Shipping
Delmar Butzer	7489	Normalizer
Earl C. Welcher	6429	Sheet mill
A. H. Carlton	7713	Sheet Div.
H. F. Reichel	7896	Hot Mill
Marion H. Hammond	6808	Sheet finish
R. W. Beals	6178	Sheet Mill
A. Marks	8102	Sheet Mill

HOT MILL July 2

Chester N. Gallatin	7686
Herbert Fothergill	6119
Albert H. Ertle	7886
George Hindley	7914
Edward Peters	8253
Wm. Lentz	8221
Willis Homerichhouse	8119
W. J. Martia	8112
A. P. Hambach	7921
M. D. Donohoe	7552
E. Kochler	8343
E. S. Bright	7861

W. M. Cairns	8281
Fred Levengood	7839
Geo. Drefernbaugh	8192
Fred Richard	8297
Harry B. Lynch	7680
Raymond Arney	8162

HOT MILL July 2

Jacob Baus	7502
Fred E. Hasler Jr.	6841
Joe Blecker	6120

SHEET MILL

Clifford Sidle	8077
Clyde Gesaman	8151
Norman Ricker	8302
Percy Walton	4333
Victor Fenton	7717
Wm. Steinberg	7771
Heamos Ridrordra	6588

HOT MILL July 2

H. W. Stoop	7777
M. Clark	7716
H. LeMasters	7947
Z. Greer	7501
W. Dingler	6117
G. Eugene	7776
A. Updegraff	8312
Lorrie Robinson	6400
Lawrence Summar	9196
Marshall Boyd (X)	6524
Virgil Null	8375
Austin Bernhart	7560
Albert Map	6512
Wm. A. Thomas	8207

Samuel Maddox	8115
Ed Maddox	8359
Thomas Taylor	7420
—Joe Wishofske	
Dorson Surhart	8014
Robert E. Haney	8005

HOT MILLS

H. McAllister	8044
Frank P. Leonard	8027
Frank Shilling	9112
Frank Montini	8373
D. O. Ruegsegger	7750
Frank Wazlavek	8056
Otto Mitzel	8287
Herman O. Breknone	8184
Harry C. Wallace	7727
Wm. R. Ivins	7506
John Gravis	7638
C. E. Byerly	7887
Roger L. McGinnis	8217
(X) Ed. Grant	8268
Chas. Lucas	9116
Russell Smith	8231
Kenneth McGinnis	7916
Robert C. Ketter	8392
Ben Seward	8174
Robert D. Seward	8376

HOT MILL

Andrew Evans	7114
Robert C. Gruber	7690
Carl E. McFarland	8169
G. Tombow	8036
Clyde Christy	7707
John Temple	9114

John Kemp	6140
Robert Benson	7603
Robert Rosenberg	8369
S. E. Rosenberg	7919
Harry Breamer	7829
Geo. Wilhelm	7900
A. Updegraff	8312
H. Morland	9136
Stanley Evans	7857
Walter Wendling	6565
Charles Koch	7709
Per Lee Studer	7684
H. F. Gintz	7956
Harold Kurtzman	8117
F. L. Bryan	8126
Mike Evesnovich	4317
A. A. McGinnis	7720
Olex Diok	4362
Ormonde Williams	7854

HOT MILL

George Geckler	8348
C. L. Pifer	7897
Clyde Wenger	9121
C. G. Harig	8332
N. Hill	8021
W. Burkhart	7753
Jno. H. Voss	7939
Warren Dritke	8026
A. L. Gray	8023
Harry E. Rankin	7889
Harry B. Lunnon	7722
Paul Hruin	9127
John F. Bowers	4339
Lorin Hammer	7704

A. J. Werstler	8300
Joe J. Kocher	4371
James Hartley	9163
Frank Wantz	9124
J. E. Stansberger	9132
Harry Correll	7694
Nick Cernra	8128
Ellsworth Small	8143
Sam Gahn	7693
Sam Jhona	7865

HOT MILL

Geo. Sibalich	7623
Ray C. Seck	7953
Wm. Schmidler	7517
Lowell Hornberger	7995
Gahl Bucksburg	8389
R. S. Lash	7821
W. Boikel	7910
R. Hill	7822
I. Charnsly	4347
A. A. Fowler	8295
F. A. Maurer	8165
H. Pahlan	7665
R. J. Shaw	4357
A. Usklander	8063
Wm. Baker	8114
Earl Boughman	6019
Harold Thornberry	
R. Kraft	8108

HOT MILL

Glenn Stoner	8493
G. W. Eckroate	8365

SHEET MILL—HOT MILL—SHEARING—OPENING BREAKDOWN PICKLING

Harry Slayman	8251
J. F. Levengood	8315
Dale Ruegsegger	7868
David Hartline	7655
Nicholas Santarelli	7948
Thomas Burkett	9145
David A. Lewis	7115
Chas. H. Clark	7907
W. S. Harrold	7787
Wm. T. Wyles	7943
Wm. Harry Snyder	9103
George C. Heasley	7730
Willie Rogers	6405
Ernest Smith	8191
James Lewis	7575
W. N. Hallinger	7117
Sam S. Sarge	7876
Clarence D. Shanower	7564
Fred Halloway	4330
John M. Mitchell	7562
Robert Harper	8227
Bub Hourtl	8029
Thomas J. Francis	8256
James H. Watkins	8346
William L. Goudy	8354

SHEET MILL—HOT MILL—SHEARING—OPENING BREAKDOWN PICKLING

Earl Kuling	6802
Virgil Homberger	7843
Wm. Kryder	8104

Arthur H. Kemp	7834
Harvey Carl	8091
Fred Goodman	8066
E. R. Bailey	7898
Steve Buze	7888
H. R. Bright	7116
W. P. Doyle	8492
O. C. Stitz	8307
J. B. Thomas	8204
C. Ebbest	7891
S. Brockway	8223
D. Ketler	8320
F. C. Biddle	7711
Ralph Horst	7975
L. E. Hayes	7803
C. L. Kraus	7759
L. Books	7932
J. T. Holben, Jr.	7524
Chits Whie	7572

SHEET MILL—HOT MILL—SHEARING—OPENING BREAKDOWN PICKLING

Herman Voss, Jr., 839 16th N. E.	8137
R. D. Seward	7706
Walter Smith	7971
Otto Rauschenbach	7913
D. R. Ruegsegger	7925
Archie C. Bair	7994
W. L. Smith	8276
Edward C. Young	8001
James Kennedy	7979
Kenneth L. Bright	8280
Ray H. Grandstaff	7801

Oliver Santarelli	8313
H. L. Ridgley, Sr.	8179
C. E. Stueley	7988
Thos. W. Kimmis	7963
A. Maurer	7884
Joe Rell	7774
G. S. Sepler, Sr.	8250
Geo. Sepler	8301
Gilbert Septer, Jr.	7848
J. M. Rankins	7985
Russell Studer	8396
Wm. B. Meese	8078
Russell O. Funk	8006

HOT MILL

Frank Dowd	8393
C. H. Stitt	8041
Doyle Manson	7928

HOT MILL—OPENING & SHEARING—PICKLING

Leo Yob	8214
F. Henkhafer	8246
R. Hartmann	8057
N. Lynn	6475
Earnest Brice	6545
C. Bryce	7968
Walter Krug	8397
T. Smith	8072
Thomas Smith	7778
Harry Graybill	4323
Alex Wood	7537

E. F. Keller	7503
I. B. Ammon	7616
Paul E. Isler	7696
John Uruin	7516
Alfred Hoffman	7721
Thomas Hill	7978
Thomas Hodge	7984
Floyd Austin	7656
Andy Durensky	8186
W. J. Silvis	7734

HOT MILL—SHEARING—OPENING—PICKLING

Byron Wurtz	7961
Robert Lloyd	6478
W. M. Bugh	8201
Richard Watkins	6371
Alf Dremat	7528
W. Beitzel	7618
Clyde Kruger	7613
Oliver Shilling	7526
J. W. Hardesty	7927
Jesse Bunst	6531
Emmett Trat	7626
L. H. Baldwin	7810
Ed. Bryant	6382
Lonnie Gambe	6409
Albert Keller	6407
Wm. Neal	7892
V. H. Neal	8046
Omer Neal	8171
Joe Bursey	8278
D. C. Cunningham	6592

HOT MILLS

Frank Eberhardt	8211

G. Miller
Asa Brown

HOT MILL

Andrew Webb		
Brice Love		
O. Sibila		
H. Stett		
R. Kraus		
C. F. Hardman		
Dale Kreiger		
L. C. Sweitzer		
A. L. Stanford		
A. Riber		
Ernest Brown		
Joe Manhart		
L. B. Schall		
J. Roll		
C. Schindler		
L. Barnes	4331	
Chas. H. Moyer		
Charles Bixler		Ca
Floyd W. Burkett		
Chas. Smith		
Darwin Smith		
M. H. Hodgson	4112	
Joe Wazlavek		

HOT MILL

Andy Botskner
Edward Eberhardt
William M. Truby
Earl H. Truby
Chas. Rutter
D. A. Anderson
Robert Brehme
C. H. Clark

7911
8257

8043
7724
7885
7908
8150
7705
7581
7820
7999
8048
6394
7653
7710
7579
7587
Electrical
7701
atcher H. M.
7788
7922
8390
Craneman
7883

9147
7877
7902
7972
8203
7895
8344
8372

A. Nussbaum	8360
John Thiel	8004
Nick Thiel	8062
Ralph Dycus	8350
Frank Ertle	7878
Peter Heintz	7940
R. Schuyhart	7852
Wm. Keller	8391
Robert R. Studer	7683
George J. Lutz	8047
Archie D. Ferguson	7872

MISC.

Raymond Cunningham	8178	Hot Mill
John Phillips	8820	Andurs
Edw. Brunyansky	8855	Enduro
Charles Brunyansky	675	Labor Mason
Walter Wilhilm	8358	Hot Mill
Frank W. Slodavic	658	Union Drawn
Arthur Foltz	174	Open Hearth
Gerald Nickels	934	Bloomer
John Sladavic	658	Union Drawn
Ed Lustig	6261	Office
Lester S. Nemeth	210	Union Drawn
G. W. Nemeth	264	Union Drawn

SHEET MILL—COLD ROLLS

T. C. Davis	6695
Wm. Finger	6655
Karl Sturz	6620
H. Mungo	6658
Geo. Colaner	5911

COLD ROLL—SHEET MILL

William Pledgure	7589
Earl McLaughlin	6652
Melvin Ryder	6659

SHEET MILL--COLD ROLLS

Carl Dague	6629
John Zusten	6641
Homer E. Coburn	7602

COLD ROLLS--SHEET MILL

A. A. Bechtel	—
R. E. Paxton	6622
H. J. Hose	6702
Lee Garner	6694
Paul J. Harper	6646

SHEET MILL—COLD ROLLS

Ernest Edil	6719
John Winston	6604
Raymond L. Strecker	6730
John H. Rohs	6631
Worthy Morton	6612
R. A. Crofut	6607
Joe Druk	6626
George J. Finger	6621
Martin Konerth	6776
Harry Sylvis	6625
Jas. G. Cook	6680
H. R. Davis	7108
Robert Davis	6690
Wilfred Ruemonele	6726
C. Stub	5953
Jack McLaughlin	6606
James A. Morse	4964
Fred J. Wilhelm	6799
Walt Wilhelm	6665
Vince Harper	6619

SHEET MILL—COLD ROLLS

Harry Stilgenbauer	6657

W. R. Snodgrass	6637
V. W. Grimes	6664
Nick Upperring	7270

BAR YARD July 2

BAR YARD Total—34

(X) Louis Haggins	7273
John Dixon	7239
Thomas Tobe	7271
Walter Hill	7259

SHEET MILL—BAR YARD

George Jefferson	7280
Thos. J. Dillon	4301
George Copton	7222
Thomas Prissell	7216
Lorenz Mitchell	7275
George Pierce	6397
Arvie Autrey	7279
Wm. Bogovich	7277
Lemly Gamble	7225
August Schultz	7209
Sidney Anderson	7577 Opening and Shearing
Wap Bailey	7298

SHEET MILL—BAR YARD

James W. Butler	7261
Jim Hogans	7249
Romie Arlington	7278
Edward Foles	7290
Lessie Dorairghon	7286
Ralph B. Walsh	7293
John Hopple	7253
Benny Smith	7223
John H. Jackson	7264

Preston Davis	7295
Wole Alexson	7268
John E. Lonas	7212
George Dommer	7205
Cap Mzon	4328
Less Foles	7260
Wm. Farrin	7202

BAR YARD

Gottlieb E. Dommer	7231
Shellie Wood	7211

BOX ANNEAL — PICKLER — NORMALIZER — INSPECTION July 2

Lennie Larseul	6436
Gilbert Scott	7463
Martin Burger	7432
Maurice Boswell	7480
John Pellerin	6552
Charles Gadd	7494
Robert DeVaughn	6576
Genie Mclorn	6398
Herbert Flower (X)	6528
Dale H. Wilford	7443
Ralph R. Gardner	7491
Eugene Johnson	6523

BOX ANNEAL — PICKLING — NORMALIZER — INSPECTION July 2

T. Johnson (X)	6416
R. Appleby	6980
Earl Bonenberger	6888
John Ferionsc	6777
Fred Swank	7458
Wm. Heintz (X)	7049
Walter Smith	6847

Otto Klein	7424
George Rearick	7485
Harry Wiskofske	7348
E. Atkinson	7404
W. Richardson	6446

BOX ANNEAL — PICKLING -- NORMALIZER — INSPECTION

Herbert J. Kuntz	6510
Thomas Solinger	7309
Howard Rush	7409
Ray E. Henry	7104
Clarence Mullett	6931
Michael Heintz	7079

SHEET MILL—ANNEALING & PICKLING

James Hardy	6491
Samuel Williams	7434
John Montgomery	7336
H. E. Hively	4313
Will Scott	6411
Jesse Pearsall	6473
O. W. Hammer	6603
Howard Scott	6373
Wilbert Colman	6440
Arthur Underwood	6526
J. T. Robinson	6414
C. Lewis	7460
Peter Zeh	7466
Henry Leibermann	

SHEET MILL—ANNEALING & INSPECTION & PICKLING

Chester Dorsey	6499
George Besch	6549
John Smith	6423

S. G. Moffett	7484
Bedie Thompson	6559
Wm. L. Jones	6493
Commodore White	6366
Harry Wyre	7014
Paul Keller	6533
William Lewis (X)	6426
Willie Miller	6372
Norman Chanlin	6433
Roger Mudel	6551
Frank Kanenbauer	6973
Richard Johnson	6456
Henry Lieberman Jr.	
Fred Brown	6354
Will Benson	6388
Ralph Henderson	4318
Willie Adelin	6376

SHEET MILL—ANNEALING—INSPECTION & PICKLING

James Bordeis	6514
Johnnie Stacks	6522
Jim Jones	6582
S. Poseneitt	6462
Frank Cline	7478
Grayson W. Greenhoe	7418
James Williams	6578
John Plotz	7316
X Nolie Thrasher	6587
Joe Mertes	7317
Frank Rohrer	6455

SHEET MILL—ANNEALING—INSPECTION—PICKLING

BAR YARD

Jackson Moody	6384

Freddie Bray	6531
Daniel Jerrnail	6947
Edw N. Timmi	6862
H. M. Fox	7120
C. L. Luke	7329
Frank Letcavits	7074
William Hindley Jr.	
Arthur J. Greenwald	6974
Charlie Lewis	6539
Edw. Armitage	6960
Ralph Scott	6535
Samuel McQueen	6546
John Williams	6560
Harvey Fisher	6532
N. Chamlin	6563
C. Finley	7425
E. D. Woods	7243
Edd Grier	6541
Merlin Thomas	6932
Emmett G. Ertle	6834

SHEET MILL—ANNEALING—INSPECTION & PICKLING

Lou Whiscentt	6568
Eligh Stryhmer	6586
Troy Joiner	6507
Carl Wozlavek	7026
George Zablo	6933
Vincent Halter	6937
Clyde Eberhardt	7402
George Johnson	6448
Roy C. Darlington	6392

SHEET FINISHING July 2

Geo. Rochlig	6993
Merrill Burch	6838

Carl Prunty	6602
Russel Johnson	6814
Ed Wenzel	6910
Rudy Loch	6682
A. Moore	7019
V. Wilhelm	6860

SHEET FINISHING July 2

Carl Herman	6836
Bertsel Hardesty	6970
Edward Grim	7020
Howard Fidler	6983
John Chovan	6873
Howard Mullett	6914
Frank Costell	4314
Delmar Indorf	8183

SHEET FINISHING

Geo. H. Myers	6925
Neal Limbach	6908
Willard Dewalt	6883
Mike Evans	6863
John Bednar	6887
Roy Coss	6850

SHEET MILL FINISHING

John Chelse	6845
Charles W. Barr	6810
Glenn Price	6859
Onoly Profont	6990
Albert Appleby	6959
Godfrey F. Bruegger	7427
Walter Steele	7054
Charles John Bamauster	6844
Dale Nydegger	6809
Floyd Shanklin	8245

A. H. Karros	7069
Sam Krubik	6889
Mike Profont	7025
O. V. Seifert	6954
Henry Sandy	6945
Joe Grim	7075
Mike Profont	6975
Mike Yusko	6919
Laird Christian	6868
Geo. Lehman	

SHEET MILL—FINISHING

Ellsworth Studer	7002
L. P. Donant	6969
George Vogel	7005
Loyd Whitmore	6942
Carl Ace Jr.	7016
Glenn Covell	6852
Joe Wyles	6893
Ralph F. Close	7007
Fred Close	7086
Cal Roup	6938
E. M. Kulyoske	6989
James Getz	6829
Arthur Ress	6865
James McGinnis	7875
R. G. Zivick	7099
Charles W. Wilson	6994
Charles Wetzel	7098
Keith Miller	6946

SHEET MILL—FINISHING

J. H. Amon	6945
Mike Socho	6832
Charles F. Filler	6806
Harold S. Urban	7031

Samuel Urban	6903
George Wagoner	6992
Earl Wagoner	6924
Harry Arnold	6971
Wm. E. Reed	7060
Roy Bingle	7071
Joe Hershberger	8357
Chas. Ferguson	7006
W. G. Walter	7061
Dan Conklin	6902
Christ A. Fisher	6811
Harold Hoffee	6918
James E. Scott	6905
George Kimpein Jr.	6813
Robert Wentzel	6930
Bruce Clove	6956
John Gravins	7044
Chas. C. Chase	7107
James Harper	6853

SHEET MILL—FINISHING

Clarence S. Miller	6936
Joseph M. Glassen	6982

TRANSPORTATION

J. Baus Jr.	9198
L. A. Watson	5490
Mike Dobros (X)	
Ralph Kuhn	6025
Paul Blosfield	5774
Andrew Pushon	9191
H. Baltzer	5344
J. R. Richmond	5309
Leo Engel	6017
W. T. Williams	5366
Lee Ramense	5319

TRANSPORTATION

Mr. James Brogden	#5480
Mr. Glen Skipbaugh	5329
Mr. Marion Plunk	5714
Thomas J. Vaughn	6073
Mr. D. E. Hawk	5414
John Hoffman	5753

TRANSPORTATION

John C. Margan	5442
George W. Sheffler	5317
John Whitmer	5708
John Chovan Jr.	6035
P. E. Phillips	6044

TRANSPORTATION

Christ Valhmer	5487
Floyd Weldon	5476
E. P. Stiefel	5432
D. A. Burkhart	5479
E. F. List	5473
Jim Vidmich	6018
John Sheaver	5466
Perry Wusgarber	5214
James Martin	6162
Michael Minks	5402
Henry S. Sommers	5304
Leo Gickler	5465
W. L. Grier	5316
Jozef Krimpel	6013
Ross R. Forrest	5301
Sam Yuksy	5855

TRANSPORTATION

Walter Eisenbrei	5369

Stanley Class
Neim Suleman
R. Shanabook
Arthur Manweiler
Glenn Rink
W. H. Wingert
Felix Moore
Jos. France
George Johnston
N. Palmaro
John Kenny
Geo. B. Law
H. G. Mason
W. Hodgson

TRANSPORTATION

Russell F. Shipbaugh
Harry Snyder
Geo. MacKenzie
Chas. Lease
Claude Julian
Harvey Mohler
Edward P. Reese
Raymond Wilkerson
Harry Salman
Warren Ertle
Morris Huffman
Stephan Talkash
Alpha Jennings
John B. Umbon
Horace T. Wertz
Charles Holt
Frank Lindsey
Geo. Houghton
Jesse Everett
H. C. Van Norte

5817
6053
9193
5447
5451
5750
5311
5349
5390
5394
5480
5351
2058
5307

5407
5449
5377
5305
5448
9190
5368
5428
5314
5460
5439
5386
5320
6007
5365
9199
5359
5308
5409
5484

TRANSPORTATION

Walter C. King	No. 5759
Kenneth H. Guthrie	#6094
John Norris	5303
Warren Phillips	5429
L. T. Cecil	5378
Cy Weran	Sol
H. Shanabrook	6063
Ed Harrig	5435
Louis E. Town	5343
Giuseppe Meduri	6058
Wm. Cleaver	5427
John Swier	5310
E. R. Getz	5450
J. W. Bullach	5498

BLOWING MILLS & PIK.

Harvey Noftsinger	4832
Earl V. Himpelz	908
Chas. L. Luttrell	3956
H. L. Dunn	4153
Milton W. Ritter	927
Howard C. Paul	920
Walter Dingler	904
C. W. Rofer	#933

BLOOMING MILL & PITS

Frank Ross	902
Harold K. Hartong	931
Jim Hardy	4005
George Bradley	4211
Wm. Reynolds	840
Carl E. Kirby	4198
G. Burson	974
M. J. Schwartz	929

Mr. J. I. Wells	946
L. M. Immel	913
Jos. P. Charlton	914
John W. Sungart	943
Ira M. Spangler	873
Melvin Trotter	928
Oliver P. Coombs	801
Harold Kline	941
Brud Marks	4801
F. R. Boli	937
Dale Davis	949
Marvin Koch	909
Sylvan Gerber	953

BLOOMING MILLS & PITS

Ralph J. Lewis	846
Philip Chelse	1663
Glenn McConnaughey	4230
William Ribley	1475
Floyd Hemperly	836
R. H. Shoemaker	4857
Fred H. Keen	886
Millian Norris	4811
Clyde Matline	881

BLOOMING MILLS & PITS

Ojeo Comsa	811
Emmet Riordan	3935
Joe H. Smith	#942
J. A. Freed	3907
John L. Derflinger	944
Louis Thomas	824
Jack Gonder	938
H. C. Gonder	841
Geo. L. Whiteker	905
Walter K. Gesaman	888

Emil Schindler	915
Walter Holt	910
A. T. Gillespy	4064

BLOOMING MILL & PITS

Amos L. Bartd	876
Herman V. Hay	896
Ed Allman	#885

OPEN HEARTH July 2

Glen Bash	#53
C. P. Craven	#11
Joe Alex	161
Peter Mayfield	33
Robt. F. Shanklin	435
A. Swier	25
P. L. Bock	131
Orth E. Smith	543
Nick Medved	401
Ernest P. Poth	404
Donald W. Spangler	4883
Paul Karrenbauer	387
William Weick	71
Carl C. Runser	535
Clifford Wilhelm	365
Walter Zumbrum	4239

OPEN HEARTH

Hubert B. Clark	#15

OPEN HEARTH

Wm. Franklin	388
Fred Gere	186
Andy Kazor	287
Robert Doronticl	248
Leo A. Schneider	4129

Mike Heber	27
Alf Cameron	4142
Vincent Zucharo	3997
F. W. Wilford	5281
C. Large	58
Frank Honicka	94
Charles McCullough Jr.	4237
Paul Snyder	4235
Walter F. Myers	524
Frank Heyard	42
C. F. Price	
Donald Simon	509
Cornelius Berg	154

OPEN HEARTH

John Nemeth		288
Louis Antonolle		372
Bert Adams		558
Herb Yutzy		108
Hestor St. Croix		72
Raymond Frost	5713	Pool Gang
Wm. Swartz		4019
Marvin Wertz		5293
William Gumpp		197
Ned Neumeistra		4292
Etem Regep		706
Fred Hasler		4880
Duane Frantz		4869
W. R. Hoyman		4862
O. R. Boughman		4837
D. Mathews		4802
J. Simler		4881
James O. Krough Jr.		217
Robert Ray		363
Wm. Dean		4876
C. Govenco		228

OPEN HEARTH

Dock A. Newcomb	4884
Harry Geaber	173
Geo. Geibel	555
Chas. Perdew	99
John Beech	
Howard Hershey	254
John Joyce	4072
Rees Price	104
Fred W. Gumpp	189
W. G. Bash	4867
Ed A. Gillis	3955
R. Thackwell	215
David O'Brien	450
David Weigand	4004
Arthur Fox	556
Jay H. Price	362
Leonard Kozelik	156
Glenn J. Eberly	566
Charles H. Swarm	576
Harry Baldwin	4001

OPEN HEARTH

Jim George	671
C. V. Clark	196
Ralph Tracy	5832
Jacob Hoover	5818
Mike Wagner	5875
Charles Marsh	178
Henry Polhamus	5289
Wesley Warnock	4223
Edwin Wagner	4086
Thos. Anderson	4101
John P. Halblaul	240
R. D. Brugh	51

H. F. Craver	117
Wm. McNally	43
W. B. Epps	4128
N. Dimse	206
M. B. Hopes	4234

OPEN HEARTH

John Gabor	205
Clyde Tomas	537
Charles D. Clark	4879

STEEL DIVISION July 3

George Towlardorapy	3111	Billet Shed
Frank Colanrdo	1294	12 Mill
Paul Riordan	4833	18 Mill
Burdette Spangler	1251	12" Mill
Harry Eisenbrer	3950	18 Mill
Dennis F. Saurers	1735	Bar Finishing
Carl R. Gallagher	1723	Bar Finishing
Robert Repp	880	Bloomer
Wm. Slinger	6882	Stock room
David Diamond	3527	Chipper
Arthur Foltz	174	Open Hearth
Ed Davis	3844	Billet Shed
Arthur F. Geraghty	3940	18" Mill

OPEN HEARTH

Owen Keough	250
Paul C. McCracken	3920
James St. Clair	4044
Martin Gisel	3953
G. D. Hoffman	3998
H. Sneddon	559
L. Stranger	23
P. W. Streby	252
Mike Filka	200
Ronald W. Bailey	562

William Reese	327
C. H. Evans	35
Roy Kreiger	145

OPEN HEARTH

Ernest Welsh	3934
George Gipp	209
Clarence Wiskofske	179
F. C. Drumguloh	46
Pat Joyce	13
William Parnacott	4138
Clarence Ertle	409
Arnold Rohr	436
Jesse D. White	3954
W. M. Rogers	21
Kenneth Snyder	561
Leroy Hetrick	262
C. H. Grayhill	78
David Schwartz	496
Irvin Sword	310
B. A. Roderick	930
John W. Fairless	514
Donald Dewalt	588
Fenwick Keller	370

BILLET SHEDS

N. C. Fiscus	#2411
E. Burlingame	3672
V. Glucfiny	2481
Gabriel Chadjo	2795

BILLET SHEDS

L. B. Johnson	2444
Al Regne	2582
Harry M. Horlye	2489
Harry O. Moone	2588
Ralph Eberly	2439

Raymond Rickey	3641
Nick Fosteris	2699
Jose Bermudcz	2285
John A. Rouber	Sal
L. W. Garner	3607
Ralph Hartz	3732
Andrew Vogt	3730
E. B. Eberly	2490
Alfred A. Maurer	3675
Jacob M. Hain	3644
Sheridan Johnson	3663
Remadan Dewit	2905
J. C. Simpson	2476
A. W. Wolfe	3655

BILLET SHEDS

Tony R. Stroh	3670
Arvine Stern	3680
Charles E. Barr	3688
Charles Latham	2450
J. Bonenberger	3604
Marvin Swartz	3646
Cristobal Romero	2893
Sidney Kowell	3738
Guss Blosfield	3743
John Zoeboe	2917
Theodore Gonz	2764
Charles Marlow	3695
Victor Alexander	2872
Gilbert Croft	3611
Mike Moxudick	3123
Tim Muska	2890

BILLET SHEDS

Wm. F. Henderson	2495
Edmond Snodgrass	2414
Goest Katsaras	2303

M. J. Henderson	2498
Charles Grandstaff	3795
Harold J. McAllister	2523
Harold Weaver	3859
George T. Miller	2053
John R. Cheney	3674
R. B. Grounds	3710
Joe Kobello (X)	2462
Steve Vidmich	3813
Lysem Sait	3522
Ellis L. Moore	3776
Alfred Henze Jr	2469
R. Hanley Smith	2461
Mike Dorontich	3804
Roy Gutshall	3694
I. M. Bilderback	3658
Frank Sheppler	3690
Robert Mix	3770
Adrian Smith	3760
Robert Moser	3600

BILLET SHEDS

John Brugh	3735
Warren Reynolds	3792
George A. Young	3822
William Morton	2054
Russell B. Harrold	3828
Raymond M. Conhle	2420
Konstantinos Smith	3613
Myers Kalleker	2485
E. May	2419
A. C. Henze Sr.	2515
W. R. Sandison	2504
Paul Hershey	3706
Mike Loew	2501
James Weinrich	3657

Frank Zril	2496
Charley Dye	2431
Paul Hoffman	2491
Zla Kocpolas	2978
Sam Alek	2932
Knamalby	2777
Maurice O. Snyder	3773

BILLET SHEDS

Joseph Berbari	3726
John Bennett	3829
William R. Hershberger	2522
Roy Tucker	2510
Mike Matny	3412
Pete Maric	3165
Hanuyak Moter	3234
Spiros Pappas	3116
Launa Games	3649
William Cleaver Jr.	2593
C. A. Quinn	3620
Alek John	2904
L. E. Miller	2518
C. Brownewell	2408
S. Stanford	3617
Thomas Gradijon	3713
Charles Henning	3653
Kugt Voyilo	2940

BILLET SHEDS

Francisco Moreno	2848
Richard M. Crofut	3673
George Theodosion	3462
Atlee L. Besancon	3749
Guss Marinakes	2827
Nuridni Gami	3762
George Mathis	2409

Matt Winski	3820
Rafael Ortz	3115
Verned Grant	3714

BILLET SHEDS

Emerson Martin	3778
Mike Takacs	2720
Arnold E. Backus	3666
Martin Schleis	3561
John Bargas	3710
Alvin Snyder	3637
David McCullough	3687
Harold Kerby	3796
Joe Alex	2636
Harold Eli Wertz	3677
Lauren Koser	3734
Alpha McDonald	3661
Robert Rosiles	3616
Clarence Bery	3785
Ralph Kuryen	3751
Joe Sofria	2237
Cono Barbera	2615
Joseph Volpe	3239
Eward Haas	3624
Mike Guzman	3114
Wilson H. Freisch	3684
Frank Galonska	3761
Joe Vinagre	2831
Ed M. Molinski	3728
R. F. Drake	2513
Roy Caldwell	2410
F. C. Johns	3625
Floyd Zorger	3660
Nordecchio Enrico	3305
Reyes Gueviero	3570
Neal Friend	3665

N. L. Schneider	361
J. M. Adams	378

BILLET SHEDS

Harold L. Rose	205
Teeci Ali	271
Robert Slinger	252
H. E. Hilbert	250
Carl Theken	366
Ralph G. Wagner, Jr.	376
Julius Broglio, Inspector	222
Joe Greca	306
Harold K. Baker	380
Ralph H. Holzbach	370
Maynard Doolittle	258
John Boomis	273
Manolis Janikis	268

BAR FINISHING—JULY 2

Cletus F. Martin	176
Lester D. Miller	171
Charles W. Alrich	172
John Lynch	173
Harry Schoenfeld	174

BAR FINISHING

Jesse Dayhuff	170
Delson I. Forrer	407
Domenick Fingrove	407
W. Smith	171
John M. Barkan	175
John W. Poth	417
H. Krumlauf	175

STEEL DIV.—JULY 3

DeWain Seese, Elect. Shop	470

Ralph E. Frank, Craneman	4204
Cash H. Iams, Billet Shed	3782
M. C. Oser, 18 Mill	1494
Peter Karrenbaier, Pipe Shop	4502
H. A. Grubb, 18″ Mill	1532
Howard Shelt, 18″ Mill	1471
Blake Shanklin, O. H.	253
Jerry W. Lanning, Inspection Dept.	2319
John Geraman, Craneman, Blooming Mill	4264
George Mavronoyos, Chipper	2901
George Paris, Chipper	3586
Arthur Neiss, Rigger Shop	5087
Archie Schwartz, Rigger	5065
Warren Eckroad, Rigger	4891
Dallas Jones, Rigger	4882
Clyde Kurtz, 18 inch Shipping	1180
Charles T. Collin, Open Hearth	163
Pete Lossis, Billet Sheds	3691
Charles M. Sheldon, Bloomer Mill	939
John Peters, Inspector	2238

BAR FINISHING

Nick Faierr	1741
R. C. Ludeny	1768
George Mohler	1794
Art Whitmore	1782
Melvin Shilling	1719
Henry Weire	1797
Edgar Simon	1769
Newton Kinney	1784
Frank Sylvis	1718
Russell Happoldt	1714
Olon Sandwith	1771
L. J. Loudiana	1751

BAR FINISHING

Donald Owens	1851

F. H. Rider	1715
Nicholas Snyder	1779
John E. Lind	1721
Joe C. Earhardt	1745
Edmund Blantz	1770
Clayton W. Beckler	1740

BAR FINISHING

Peorl Melvig	1755
R. B. Perry	1726
L. Konth	1774
J. C. Hodgson	1780

BAR FINISHING

Eugene Page	2345
Wm. Schoenfeld	1736
Harold Hogue	4206
Clarence McCauslin	1733

INSPECTION—BILLET SHEDS—JULY 2

G. L. Williams	2493
Jesse Lichliter	2263
Sylvester Laughlin	2269
Reed Moorhead	2274
H. R. Steiner	2421
Mchemest Lied	3645
Frank Lewis	2845
George Malles	3627
Maurice Hoffman	3678
Mike Sildes	2635
Steve Kovolich	3883
R. S. Steiner	3848
Kenneth Ries	3631
Clarence Hoffman	3634
Arthur Jones	2293

July 2, 1937

STEEL INSPECTION

Bill Moulos	2228
P. W. Vogt	2211
Pearl Campbell	2216
Nick Dano	2259

STEEL INSPECTION

Billet Shed Inspection—H. G. & Mill Inspectors

John C. Walsh	2298
Kenneth Theis	2246
A. E. Knowlton	2258
Thornton W. Hukill	2252
Raymond H. Davis	2297
R. J. Miller	2249
James Heasley	2257
Glenn Jones	2360
J. Kearn	2277
P. Welltich	2310
H. S. Cecil	2223
J. C. Steiner	2220
Chas. Kriger	2242
Muharem Halim	2272
P. J. Walter	2236
Ralph D. Shook	2234
Otto H. Maier	2226
Chas. Shoepelt	2209
Ray Barnes	2255
Paul R. Rider	2206
Louis Specogna	2268
Richard P. Fellmeth, Salary	2059

STEEL INSPECTION

Billet Shed Inspection—H. G. & Mill Inspectors

Robt. Hettlich	2306
Rolland Heskeet	2325

George Poppas	2273
L. Paulsen	2291
Lloyd C. Garvey	2212
Harry Smith	2324
James E. Taylor	2204
J. Featheringham	2351
H. Garrison	

STEEL INSPECTION

Billet Shed Inspection—H. & G. & Mill Inspectors

W. H. Longworth	2303
Manuel Lopez	2300
Roy Longworth	2322
John Hohneck	2215
Wm. Barnes	2213
Beshir Satedin	2217
Albert North	2231
John Dingler	2266
Richard Robinson	2247
Ali Regep	2275
Halil Nuri	2260
Erasmo Peres	2288
Jim Looman	2328
Glenn Paramore	2314
James L. Jordan	2210
Olan Sword	2222

12 MILL—JULY 2

John (X) Ksh	1205
H. L. White	1218
A. W. Pattinson	1307
Elmer Freytag	1296
Marquis L. Gant	1293
Walter Peters, 12 in. Mill, Phone 9547	1262
A. Featheringham, 1023 4th N. W., Canton, O.	1454
John Klett	1209

12″ MILL—JULY 2

John W. Dingler	1373
Wm. Haas	1260
Thomas Glutting	1235
Hoover Fenell	1268
Henry P. Sheridan	1278
Archie Cameron	3745
Roy Miller	4861
Howard Kemp	1295
Clyde W. Corell	1234

12″ MILL

Lewis Keith	1228
Eugene Shonk	1282
Tom Michael	1197
E. L. Canther	1211
H. W. Heasley	1169
Wm. Heasley	1227
Robert H. Ripple	1566
William Merryman	1215
Frank Holla	1232
Cal Malone	1252
Homer Brintzenhofe	1202
C. E. Darnell	1206
C. H. Reed	1225

12″ MILL

Perry Knerr	1104
Amos Wiese	1105
Edward Hippert	1567
R. M. Herrick	4167
F. W. Schafer	1217
H. G. Domer	1283
Fred Brethamer	1453
William H. Weinrich	1165
James P. Barrett	1349
Henry C. Wallenhurst	1238

12″ MILL

LaVerne Staver	No. 12
Frank S. Huwig	No. 12
Stanley R. Rice	No. 12

12″ MILL

Robert J. Arntz	12
Russell R. McCauley	16
Leo Russ	12
Lustig	12
E. R. Albright, Jr.	9
Garrett T. Henry	15
Ralph Longworth	11

18″ MILL—JULY 2

William J. Roth	15
Joe Schaffner	41
Paul B. Manson	
M. F. Obright	11
William C. Johnss	11
Rudy S. Horst	15
Reed Moorhead	22
Virgil Bucklew	11
Geo. B. Ish	15
Earl A. Prime	11
Robert T. Snyder	15

18″ MILL

Donald Griffiths	15
A. F. Kelley	14
Henry B. Cook	15

18″ MILL—JULY 2

Ben R. Steele	11
Raymond E. Smith	11
Raymond C. Rudy	15
Lawrence Kovats	7
Albert S. Pond	15

Ed Porter	4069
T. J. Reese	1579
Ralph Young	4181
Arthur Sense	1582
Warren D. Duck	1184
Millard Gerber	1147
F. H. Davis	1485
Robert Wilhelm	1138
Francis M. Cain	1158

18″ MILL

Wm. Lang	4156
Thos. T. Price	1312
L. J. Tracy	1500
J. W. Williams	1516
Geo. Hoelzer	4176
R. Peach	4063
M. H. Martin	3928
Walter C. Kemp	1538
L. V. Shilling	1554

18″ MILL

Albert Bonk	1570
Otto Bonk	1460
Sam S. Swigart	1193
Dwight Miller	3904
William Myers, Jr.	4263
Arthur F. Weich	1573
Eugene F. Weich	1563
Edward W. Lewis	4121
Cliff Fries	1361
Carl Beiten Rer	1511
R. B. Herman	3936

18″ MILL

Arvine Swisher	1166
Frederick Myers	1142

James Eberhardt
Geo. Schmidt
Kenneth Foster
Elmer Laughlin
Harry L. Staley
C. Brun Kamp
Martin Fisher
Herbert P. Morgan
Robert Huddleston
Orvel Kerby
Martin Kloos
Nelson Elmore, Jr.
P. J. Barrett
W. R. Armstrong

18″ MILL

Charles A. Ebbert
Earl C. Henderson
A. C. Fudge
C. K. Hoffman
D. R. Jones
F. C. Liddell
John Bartko
Charles Moorhead
John A. Welsh
H. E. Wehrle
Oscar Johnson
W. C. Lanning
Alex Greit
Ira Cass
Jas. McConnell
Harry Fisher
George Renie
A. L. Bremkamp
Don Young
Leo B. Harter

W[illegible]rdan	1531
W. R. Mandsville	1083
Walter Miller	1185

18″

David Shonk	1521
W. M. Barron	3939
Benjamin Thomas	1540
Leo Herman	1117
Frank Rinshaw	1559
Andrew Miller	1498
Arvine H. Myers	1552
Joe J. Kolik	1123
J. W. Johnston	1508
Earl A. Miller	1452
J. A. Bernhart	1149
John Gamery	1164
Charles Horwig	1130
Emmet May	1656

JULY 2

BLOOMING MILL & SOAKING PITS

Thomas B. Baker	4187
Wm. Gardiner, Jr.	4848
M. Gurkey	895
Dawson Getz	923
Robert Ries	889
Harry E. Hess	919

JULY 2—37

BLOOMING MILL & SOAKING PITS

James L. Dillon	940
Howard Saurer	4893
Joseph Zucharo	4141
Fred Miller	970
Frank Barnett	1568
Byron Burd	916

1101
1542
1572
1153
3999
1574
1682
1093
1480
1115
2003
1156
1529
1474

1170
1513
1580
2002
1076
1377
1107
1100
1374
1533
1081
4154
1085
1187
4046
4828
1140
1520
3513
1372

COKE & BLAST FURNACE—JULY 2

Ralph Donaldson, Coke Plant	9782

BLAST & COKE PLANT—JULY 2

David Wertz	9733
Pat Butzer	9873

BLAST FURNACE & COKE

Harold N. Brugh	9874
Alex Ballenten	9302
Frank Phillips	9624
Fred Gulie	9434
Daniel Lucansky	9471

JULY 2

BLAST FURNACE & COKE

Wayne Albaught	9728
Ben Brumbaugh	9655
Maurice W. Meeting	9635
George Lipps	9637
Alvah C. Zimmer	9608
W. J. Switter	9810
B. B. Mathews	9846
Herman Stevens	9744
John Kosunic	9399
Glenn Browning	9601
Paul Barkly	9761
H. F. Maxwell	9520
Doyle Shanklin	9767
Wm. T. Jones	9866
Lloyd Morrow	9876
Otto Danick	9623
Limo Leskovac	9750
Frank Laps	9899

BLAST FCE. & COKE

Bennie Harper	9880
Wilbert Shilling	9426
Efford Rossiter	9613
Wylie Easterling	9602
Frank Flinn	9721
Vernon Saunders	4119
Nick Kovick	6002
Cecil Kearns	9603

BLAST FCE. & COKE OVENS

Leonard Flath	9107
John Pachuto	9331
Don Shattuck	9801
James Kerrigan	9785
Fred C. Schoen	9558
Charles Spicer, Sr.	9868
Chas. E. Smith	9662
Wm. Layton	9877
John Chalupka	9450
Maurice Plotner	9506
Theod. Jones	9717
Edward B. Ott	—
Stanko Maliziet	9341
Paul J. Rasch	9445
Rayfield Jackson	9991
George D. Beiter	9435
Robert R. Klinge, Chem. Lab.	9908
Leslie Poole	9743
James Green	9706
John Arrington	9777

BLAST FURNACE & COKE

Floyd J. Leighley	9427
Edwin Oser	9887

Leon Addy	9618
J. S. Gossett	2192
Charles L. Pence	9621
Charles W. Hatheway	9329
Nick Culjat	9788
J. D. Penman	9622
Harold E. Slocke	9851
Ford McCleskey	9726
Willard Berg	9885
Earl Stauffer	9628
Frank Ruchti	9729
E. L. Sylvester	9607
Joe Hoggon	9878

BLAST FURNACE & COKE

Peter Brown	9611
Danase Banks	9771
Neri Buggs	9799
Jimmie Bell	9718
C. L. Jameson	9649
Ralph Todd	9842
John Siegfried	
Henry Coffield	9711
Sam Bird	9766
S. J. McVeigh	9340
R. C. Cornish	9324
Geo. I. Ziegler	9881
Clyde W. Myers	9869
Vernon Kent	9867
Percy G. Anderson	9730
Samford Summers	9625

BLAST FCE. & COKE OVENS

Eugene D. C. McCants	9796
Vinco Cindrick	9440
Eddie Green	9753

C. M. Chessrown, Jr.	9541
Eugene Williams	9747
George T. Miller	9742
Vincent R. Stitz	9642
Chester Strine	9436
Maxwell Gardner	9882
Tom Howard	9707
Earl Eversole	9391
Albert Mock	9703
Willie Hogan	9737
Anderson Turner	9756
Willis Hall	9784
Delvin O. McClure	9626
Harry A. Brady	9638
Harry Hofman	9630
Wesley Adams	9725
Lewis Arnold	9712

MAINTENANCE—JULY 2

Sheldon Doll	4676
W. E. Hecler	3905
M. Moder	6042
John Brooks	4304
Chas. Melching	4196
Frank Phillips	5811
Howard Nichols	5210
Clayton Eckroad	4517
Mark Osborne, Jr.	5212
Charles Bennethum	5206
Willard Beal	5071
Harry E. Dill	5023
John Gardiner	5086
Theodore Gant	580
Frank L. Danahey	4137
Frank Dye	5280
LaVerne Rohr	657

Vincent Kiefer, Rigger	5040

MAINTENANCE—JULY 2

William Nevel, 2427 Lincoln Way E.	5363
Chester Knerr	5026
R. S. Hardgrove, Dalton, O.	4183
Bill Fisher	4806
Donald Gavin	4165
John Armour	563
Jay Weiford	4711
Lauchlan Bell, Mason	2088
Joseph Briceland	5013
Edward C. Regan	4110
Carl Hiltbrand, Canal Fulton	4653
Bop Cary	4703
Edward Beal, Navarre, O.	4159
Robert Dildine, Justice	5080
Dewey Goff	4277
Ray Boughman, Massillon	5083
Thomas Weaver, Massillon	4583
Clark Greenfilder, R. D. 3, Massillon	5057

MAINTENANCE

C. Zupp	5035
N. Cain	4220
Wm. Hunsta	5346
H. W. Diehl	5203
Chas. Tangenfeld	5018
Vicente Bermendez	669
Fred A. Meisienger	4680
Thomas Rictner	5238
N. W. Wells	608
T. P. Powers	4605
Earl Myers	3902
W. D. Risher	3901
Oscar Ertle	5010

Harvey Hodgson, Jr.	4157
John Williams	4186
Malcolm Bell	5091
Roy Diehl	4287
L. R. Brown	5004
G. H. Whelan	4700
Arthur Lamb	4669
W. C. Darnell	4161
Ray Beem	5660
Harry Schwagler	4677

MAINTENANCE

George B. Miller	4863
Wheeler Mazan	4083
Mark Osborne, Jr.	5212
Carl Hardesty	4144
Paul Shaw	4288
Frank Noble	723
Wm. Rhine	4206
Hobart Thornberry	5094
Clyde Thornberry	4125

MAINTENANCE

Joe Ellis	6031
E. E. Barkey	4665
Homer Wentzel	5626
William Simon	5653
A. S. Royce	4305
C. Gruetter	5207
T. Smith	4280
B. R. Hilson	4509
Frank Nussbaumer	5032
Tho. G. West	5288
B. F. Chance	9659
Joe Garrdiana	9131
M. H. Royer	4594

M. Osborn	5212
C. Benniethis	5206
C. Renar	4586
R. L. Blantz	2026
R. E. Gentzler	4245
Raymond Hollinger	4675
Josep Vargo	3946

MAINTENANCE

Rassellas Paxton	4590
Joe Ingler	5237
James Steiner	4232
Herbert L. Steiner	4048
Ray Buckland	4015
Ray Scott	9162
M. Carter	4582
Sal Selni	722
Ralph Walters	6301
John Class	5228
Herbert J. Reinley	3929
William A. Blair	4535
Clyde Richardson	5097
James M. Saunders	4685
Lester Collin	4684
H. W. Anderson	4501
A. Harris	7121
C. Perritt	9156
Harry Parnacott, Jr.	4079
Clarence Reidenbach	5740
J. S. Easterly	5085
James J. Ferguson	5005
Myron Adams	6327

MAINTENANCE

Ralph Beal	4213
William Morgan	4724

F. M. Swikart	4692
Ernest Wodtky	5229
Ardath Yeckler	5721
Clyde Kipfer	5030
Herman Slusser	4656
Robert J. Linn	4258
Fred Spidell	3912
Ted Saurer	5070
Wm. R. Sweet	2266
Vern Bettner	4276
Wm. Williams	5352
Wm. E. Gapp	4056
Fred Petrovich, Picket	5059
Miller Keith	4226
J. O. Palmer	602
H. Palmer	613
Dan Uhl	3913
John P. Brady	5068

MAINTENANCE

A. R. Define	5292
Walter S. Karreneauer	621
Chali Harrison	663
C. Hattery	6008
Frank P. Oberlin	4192
Leroy Hase	4523
Dervain Seese	4705
Carl Mang	4823
Wm. J. Price	4721
Mike Kolich	5008
David Harris	5243
Albert Temple	5090
R. M. Snowlye	3910
Chester Adams	4150
Robert Steiner	4691
Ed Steiner	4662

John Sistock	5019
A. A. Knibbaim	4170
Chas. Eisenbrei	4803
Samuel Dunlap	5373
Herman Schloo	4663

MAINTENANCE

Frank Nemeth	5082
John Law	4587
Harold Peters	4268
Vern H. Halpin	3971
H. H. Harter	4654
A. Ricker	4699
Charles Daily	6064
Elmer Wetzel	6079
James Jones	9102
Lester L. Hare	3923
Howard J. Spees	9556
W. A. Richards	9891
J. S. Meininger	4682

MAINTENANCE

Chas Spicer, Jr.	4657
Harold Killen	4667
John Pitts	4016
John Snyder	4151
Frank Leighty	4228
Elmer S. Snyder	4697
W. T. Harris, Mason Dept.	651
A. J. Brown	4075
John Gaddis	5226
Robert Graybiel	4275
Thomas York	4222
W. A. Welling	9609
Victor Calin	4078
Walter Groff	5749

August Brenkamp	4805
Chas. Kruschenske	5231
Ralph Getz, Mason Dept.	709
Carter Stephan	5050
Fred Crone	5058
Russel Machan	4116
Howard Crone	5031
Telha Adem	698
John Petak	4373

MAINTENANCE

Nick Linckenhely	4694
Wilbert Weirich	604
Frank Trenjan	4722
Wm. L. Nevel	4224
N. O. Lautzenhiser	4290
Ray F. Heberling	5246
K. Walter	4118
Clyde Thornberry	4125
Steve Alekevich	4102
L. A. Paroz	3919
Raleigh Conkle	4967
Al Mrolka	5099
Wm. F. Geis	4659
Edward Kuntz	5669
Frank A. Adair	4182
D. A. Moss	5392
D. J. Mitchell	5067
Donald Doney	4134
George Krajocch	5044
Aaron Davis	5278
Montim Camillo	5252
Jos. Leininger	5209
Ray Bonvalot	5631

MAINTENANCE

Emil Sheppler	5279

Charles L Nill	4666
Frank Kreutzer	4585
S. E. Myers	4576
Frank A. Kracker	4595
W. E. McArdle	2623
J. C. Redd	4034
J. G. Smith	5208
W. S. Diehl	5204
Raymond Wentzel	5673
Wm. Maier	4678
Wm. O. McCollum	4674
E. W. Lewis	4121
John J. Feit	6307
Merle McGovern	645
Donald Leyman	4343
Kenneth Carroll	4299
Harold Wentzelt	4702
Frank Allen	9641
James L. Crisswell	2085
Nick Ros	3962
Llewellyn Miller	4504

OFFICE—JULY 2

Quentin Ott
Florence Kelleher
O. S. Spiker
C. J. Eschleman
J. R. Hartsoite

OFFICE—JULY 2

Marion Yost	9216
Cosie Schauer, 443 Wales Rd. N. E., City	216
John Pahlan	9224
Wallace T. Ross	2074
G. A. Krynock	2024
Geo. E. Croft	2025

Ralph Beiner	9209
N. A. Malone	161
H. Eckerson	
Lawrence D. Gerber	2028
Helen E. McQuillan	6290

OFFICE

Lawrence Thwaite	9201
Jack Gramethauer	6264
Sylvis Zuercher	93
Wm. Griffiths	6306
L. J. Gang	154
D. L. Stoner	911
W. V. Arnold	114
R. Ballinger	6948
A. F. Maurer	418
H. L. Walters	100
F. H. Rohr	2052

OFFICE

James Define	6364
H. O. Huberty	2040
L. H. Hazelbaker	6270
Betty Dedrick	17
Walter Evrit, Restaurant	I. J. Williams
A. W. Hannah	58
Chas. D. Scheff	9221
Ray Warstler	141
Lillian Tate	2021
Mildred Kowell	8
L. F. Milligan	156
Jos. E. McArdle	2069
Philip C. Krisher	70
Howard Everett	96
Catherine T. Warth	417
Vera Besancon	111
Maria Swaney	

OFFICE

Dorothy Howard
Eleanor L. Whitman
Harry M. Donecker
Norman L. Gotshall
Harold J. Smith
K. W. Shanower
P. H. Herr
F. I. Guilfoyle
C. G. Mee
G. C. Duerr
B. F. Reichenbach
Wm. D. Ott
Walter S. Hoot
R. K. Bailey
Lillian Lenz
Jennie Miller
Myrtle Blaser
Marguerite Wuertz
P. L. Hammer
Chas. P. Handlin
W. M. Wolfe
W. A. Hammerly
G. H. Stoner
Lorine Deer
Alvin Adams
Mae Mullally
Grace Bader
Reva Arnold
J. E. Shane
C. J. Harper
Thomas W. Fenton
P. M. Schultz
Miriam Kline
F. E. Siskop

F. J. Bailey
H. J. Uth
Grace Foster
Helen Kormos
Ruth M. Ellis
Virginia C. Fricker
Margaret H. Jones
Dorothy Creighton
R. J. McMahon
H. A. Grove
R. G. Strake
Howard E. Chanye
Harold E. Shanabrook
W. J. Buechling
Haskell R. Koons
A. J. Profant
Dan Profant
J. M. Krintwergh
Clay C. Fishi
Sheldon Fisher
Edward R. Bordner
Wm. D. Scribner
LaVon Law

OFFICE

John R. Hagan
B. R. Hagelbarger
Reason D. Pitcock
Lucille Thomas
Thos. B. Davies
Mildred Roseman
Cecilia Seifert
Mildred Gainey
Mary Regan
Roy R. Gatchel
Marie A. Meimer

John Meiner
Catherine C. Berg
B. V. Ramsay
W. C. Larker
Melvin F. Thomas
Jas. E. Johnston
Jas. W. Kennedy
Ralph E. Young
George V. Harvey
Victor M. Wetzel
Paul V. Eisenbier
J. E. Lewis, Jr.
J. A. Lewis
F. P. Goff
W. D. Howells
W. D. Penman
M. L. DeWitt
V. E. Fleming
Josephine Fishel
Helen E. Johnson
Lola Brownsberger
Starling P. Bahmer
Harry D. Santmyer
John P. Hamusley
Charles L. Riffen
N. C. Brown

OFFICE

Clarence Gonter	36
Earl Walter	65
F. R. Coughlin	6275
Harold E. Shanabrook	
Robert W. Coulter	9218

OFFICE

Frank L. Oberlin	2088

C. D. Slater	45
Agatha Shafer	Union Drawn
Loris L. Arnold, Salary	2047
Donald Simler	
Margaret Ress	6210
J. A. Weich	40
C. J. Raffath	20
R. F. Smith	155
Donald Henderson	——
Thelma Snyder	6205
C. W. Evans	——

MAIN. & MILL

OFFICE

R. W. Stoner	46
Arvine J. Simon, N. D.	34
G. C. Rush	90
Miss Dorothy Price	510
Earl Corbett	103
Frank McHugh	6299
E. D. Ott	122
A. M. Huber	6298
W. Oberlin	55
Wm. Steele	6283
Katherine E. Hoffee	528
Saml. J. Hoffee	425
T. M. Newton	6265
B. L. LeRoy	2075
H. W. Lockhart, U. D.	——
V. W. Shafer	7102
Ferd Mayer	6325
Esther Wagoner	93
Wilbur R. Reinvehl	120
Carl J. Blantz	2073
Angelyn Crecco	415

Helen Scott	127

OFFICE

W. D. Hymes	140
Joseph J. Heib	2042
Ralph W. Daniels	42
Clarence H. Boule	2065
Edna Wagoner	125
G. W. Lindorf	150
L. McHenry, Storeroom	9251
Carl Latz	7047
J. B. McGonnaughy	2070
Jean M. Heysel	2045
O. L. Noftsinger	—
C. L. Krayer	8947
H. Bair	—
Earl Bordner	9203
Ivan Gallatin	9267
Fred Becker	2078
E. F. Camp	2076
E. E. Franklin	9210
M. E. Chaddock	9225
C. Mark Baetz	9206
Harry Paulus	9211
L. J. Pottoef	9205

OFFICE

George L. Frews	
Raymond F. Ryan	4695
Robert Spangler	2050
C. D. Hoffman, phone Canton 4442 (Scavelli Gardens)	7058
Wilhelmina Mertes	2072
Myrna E. Gonter	2071
C. C. Kopp	7199
Vida Miller	531
Marvin Larson	6899

OFFICE

Theresa Cochenour, Telephone Ofc.	527
Ivan R. Stoner, Clerk	
Frank Swarm, Main Office	
Jacob Phalfer, Main Office	
Melvin Thomas, Main Office	
Jack Moffitt, Main Office	
Donald E. Dewalt, Main Office	
Ed Glutling, Main Office	
Floyd J. Weirich, Main Office	
Catherine Graybill, Main Office	
Alice L. Shepard, Main Office	
Carl W. Neumeyer, Enduro Office	9038
O. L. Siebold, Main Office	
Thomas Schmoder, Mill Office	2049
William Zupp, Mill Office	2051
L. E. Smith, Job Order	2030
Paul D. Pflug, Enduro Office	
J. M. Volzer, Metallurgical, 2-6373 (Canton)	
Perry Christie, Main Office	
Donald F. Linerode, Main Office, Pay Roll	118

OFFICE

W. J. Gorman	7076
H. Heffelfinger	474
William Raupt	6268
Harry A. Thompson	7119
R. W. Wood	2048
John Conrad	922
P. A. Vogt	80
M. S. Graben	39
R. J. Hillyer	136
H. J. Hollinger	7103
Robert A. Hughes	9226
John B. Walsh	119

J. A. Noaker	
Sadie C. Bright	132
Kathryn Hose	
William A. Steiner	
Lester A. Weise	9254
J. T. Cook	2027
W. B. Barclay	2195
H. McClelland	54
	29

OFFICE

Helen Wachtel	
Dolores Huwig	457
Lucy S. Burkett	15
Laverne E. Wetzel	6208
Grayce Miller	450
C. E. Stusser	——
Gordon F. Campbell	
V. J. Snodgrass	116-18
Chas. Hale, E. F. C.	116-23
	9207

OFFICE

Carl R. Antony	
John B. Ziegler	2046
John J. McArdle	932
Donald M. Denzer	2068
C. W. Gehrum	912
Dorothy B. Remley	
Robert N. Mang	414
	2057

ENDURO—JULY 2

Robert A. Williams	
Thomas Graybill	8681
James Norton	8892
J. Andrew Foster	5943
Ralph Evans	8953
Pete Petcoff	5995
	8605

Albert J. Rhodes	5997
Edward Hartley	9068
Thomas Sturges	8823
Charles Legg	8816
Bramson Cunningham	5658
Ralph Wehlen	8607

ENDURO July 2, 1937

Walter Doll	8886

ENDURO

Michael W. Crone	8956
Chas. H. Stuffelbeam	8943
Clyde R. Ammond	8560
John Brady	8971
Per Lee Schmerle	9004
E. J. Friedrichsen	4951
James Nosis	9036
Harry Bleulee	8843
A. L. Simon	8831
Andrew Ivan	8689
Donald Ivan	9016
Wm. H. Myers	9088
P. L. Kaufman	8934
H. Detterlime	8853
Stanton Woods	8945

ENDURO

Robert S. Davis	9069
Ross Miller	4970
George Chapman	3841
Earl A. Mahaffey	8815
Herman Wentzel	8936
Paul Steiner	8969
Raymond Graef	9075
Edward Keller	9094

L. L. Summers	8526
J. W. Fringeli	9091
F. J. Kraft	8859
Alvin E. Garver	8916
Harry Kormos	8856
Wm. Paulus	5961
Robert Engel	8864
U. J. Grametbauer	9035
Clyde Havens	8900
Laurence Schludedar	
Per Lee Shilling	8748
John P. Young	8690
Wm. Merle Thomas	8890
Verner Stanbarger	9034
Frances Furby	
C. P. Houghton	4984

ENDURO

L. W. Myers	4074
Philip J. Krebs	9056
Cletus Ertle	4981
R. W. Farrar	5934
Erwin Reed	8905
Joe Ross	9095
B. J. Harper	9031
Wm. Saylor	8697
John Osthimer	8832
Geo. F. Moser	5986
Nelson Henderson	9007
R. Davis	5982
H. J. Close	9085
F. S. Bearkheimer	8977
Henry Weigand	
Homer Lawrence	8930
Walter E. Dretke	8801
Harold J. Sheppler	8836

Forrest Seese	5960
Rog Frederick	4975
R. M. Bahney	8528

ENDURO

Harold Burch	9083
Ralph Otto Hintz	9077
Earl Styer	8935
Wm. C. Geeber	8972
W. H. McAllister	8984
E. Bishop	8509
Walter Mix	8882
Otto Kulegorske	8973
Homer Johns	8965
Richard C. Clark	8895
Wm. Tyrrell	8920
Peter Lanhart	9006
Lee E. Steider	8858
Wm. H. Dominick	8683
Jess Hollinger	5975
C. E. Mason	9080
N. R. Weise	8982
Maurice Hintz	9099
Louis Muzi	8960

ENDURO

Walter Happoldt	5923
Creed Sporks	8979
Samuel Shilling	8904
Russell Class	9081
John Huragus	5901
Alfred L. Dunn	8931
Allen Fath	8894
Paul J. Watkins	4025
Oren D. Welsh	8946
Leonard E. Mittner	4976

John Wilhelm	8849
Adolph Baker	8875
Floyd C. Oster	8966
George Adams	8986
Joseph Krempel Jr.	9098
Earl Sword	9060
Robert Lynn	5930
John Reidle	5948
Bill Sarmon	109
Otto Switter	8990

ENDURO

Jos. M. Gossett	8927
A. Kessel	8536
L. Reeves	4971
Harry Heim	8911
Robert Jones	8871
Walter Myers	8954
G. C. Corrigan	8554
D. M. Deringer	8640
C. E. Burns	5989
O. G. Krayer	8715

ENDURO

Horlan Messner	4954
Howard Featheringham	5967
Carl Dingler	8827
W. J. Van Ryzin	8869
Frank Foltz	8829
Ira McCanley	5973
H. C. Frederick	8672
Clarence Remark	4985
Howard Brinker	8791
Willard Brinker	8932
Delbert Akey	9071
John Kelleher	5950

John Wertz	8800
Myron Harris	9062
Dale Keefer	5940
W. J. Williams	8847
Harvey Tuning	8914
Arnold Wilhelm	9008
H. Q. Lawrence	8901

ENDURO

Leland J. Feller	8868
Maurice H. Sickman	9096
Carl Philabaum	9000
Joe Mrofka	9048
C. R. Smith	5915
Ed. G. Corbett	8854
L. E. Fierstos	5918
R. F. Martin	5970
Everett Morton	8978
G. B. Herncane	8834
Clarence L. Ertle	8996
Edw. Kozelek	5917
F. E. Wolfe	5963
Wm. H. Schott	8877
Paul Cope	9041
S. C. Tissot	9082
Wm. Copeland	9052
J. L. Renshaw	8874
C. E. Howard	5949
R. Dutton	5921
E. A. Grossklaus	4250
Ham Aeschlaph	8906
Waldo Baker	8888

ENDURO

John Herwig	5951	Cold Strip
Wilson Herwig	9079	Cold Strip

HOT STRIP

Sam. S. Larsan	8711
Wilson Bullach	4094
Harry F. Kohe	8735
Peter Gow	8523
R. C. Heiner	8644
John Ransom	8879
Theo. W. Lieber	4088
Jas. R. Walters	4225
Edward J. Halter	8784
John Biggs	9033

ENDURO—HOT STRIP July 2

Carl Hauser	9012
K. F. Konter	8926
H. J. Bucher	5974
H. C. Laing	5926
J. Miller	5904
James Ikins	4293
Arvine Ricosky	8789
Mr. Martin E. Walot Jr.	8714
L. W. Patrick	8620
Paul Sonnhalter	8710
Thomas H. Garrison	8909
Harry Braucher	4958
Roger Ketler	8805
Hale Null	9044
Bud Minger	8835
Elmer Smith	8919
Lawrence Baker	8987
Ray Stevens	8825
Ronald Wittman	8531

HOT STRIP

Edward C. Kinney	8504
Robert L. Button	8553

J. G. King	8501
John Gipp	8745
Lawrence J. Kennedy	8678
Curtis Ferguson	4209
V. L. Dutton	4216
Earl Dailey	5983
G. Bell	8761
Merle Williams	8524
R. H. Buchanan	8529
John F. Tyrrell	8563
Glenn Berg	8546

HOT STRIP

Harry Alexander	4195
Russel Philabaum	8674
Ray Dailey	9014
Dave Owens	8532
Carl Riordan	3952
Paul Hoffner Jr.	8708
Richard Lerch	8811
George Hukill	3650
Edward Brahm	4953
Eugene Gray	8821
Thomas Lennox	8542
Joe Brunk	4966
F. H. Daily	4960
Harold G. Moser	8557
Howard Williams	9019
Rowland Harrold	4260
Albert Greenfelder	8880
M. C. Corrigan	
Sheldon Lohr	8725
John Vanitz	4952

HOT STRIP

Glenn Reynolds	8727

RESPONDENT'S EXHIBIT NO. 16

THE CANTON CHAMBER OF COMMERCE

Canton, Ohio

To All Plant Employees of The Republic Steel Corporation And Its Subsidiaries in Canton:

It is not the business of the Canton Chamber of Commerce to take part in any industrial controversy but it cannot shrink from its duty to preserve the good name of the city of Canton and to use its influence on the side of law and order in this community and the protection of life and property.

The welfare of the employees of the Republic Steel Corporation and its subsidiaries, residing in Canton and vicinity, is of the greatest importance to all the citizens of Canton.

The Canton Chamber of Commerce therefore deems it desirable to learn by a secret vote directly from the employees of the Republic Steel Corporation whether they desire to go back to work or remain out on strike.

We are therefore, by this letter, asking a vote on this subject from each employee.

The secret ballot is at the bottom of this letter. Do not sign your name. Place an X after the line which expresses your wish. Put this letter in the enclosed envelope and drop it in a mail box at once. Your ballot must be in the hands of the Committee within 48 hours after you receive it. The vote will be counted by a Committee of Canton ministers and the result published in the newspapers.

Very truly yours,
THE CANTON CHAMBER OF COMMERCE.

May 31st, 1937.

MARK WITH [X]

☐ YES—I vote to go back to work.

☐ NO—I vote to stay out.

If you cannot vote either way, state why.

THE CITY OF DIVERSIFIED INDUSTRIES

RESPONDENT'S EXHIBIT NO. 17

Canton, Ohio, June 7, 1937.

We, the Committee, requested by the Canton Chamber of Commerce to count and tabulate the ballots in the secret vote of the employees of the Republic Steel Corporation conducted by the Canton Chamber of Commerce, having accepted this task as a civic duty, do hereby certify that the following is a true and correct report of the vote:

Total number of ballots mailed to employees (as established by affidavit)	6,465
Total number of ballots returned	3,888
Total number of ballots marked "Yes—I vote to go back to work"	3,633
Total number of ballots marked "No—I vote to stay out"	216
Total number of ballots marked "I cannot vote"	39

In addition to the official ballots, we found 2,516 returned ballots which in size, quality of the paper, in the character of the perforation ruling, did not conform to the official ballots, and therefore in fairness could not be considered.

O. O. Gnees.
P. Raffenberger.
Charles B. Latz.

RESPONDENT'S EXHIBIT NO. 18

REPUBLIC STEEL WORKERS

Now Working

You are riding a losing horse. The C. I. O. has gone into this fight with a record of having never lost a strike. Republic Steel will not break that record.

This strike is being supported financially by all steel workers in the United States. 300,000 workers will donate one day's pay each month to see us win.

Other C. I. O. unions in this vicinity are supporting us physically. These include Timken, Hercules, Hoover and others. Akron rubber workers will close down their plants to come here if needed.

Republic coal miners are being closed down. Longshoremen are refusing to load and unload Republic freight.

Twelve of seventeen Republic plants are closed down completely. 44,000 out of 52,000 workers are striking.

Our pickets are well-fed and happy. Relief is being arranged for their families. Four departments of the United States government are fighting on our side.

REPUBLIC STEEL CORP. CANNOT WIN!

Your wives and families are worried about you and need you.

YOUR COMING OUT MAY BE THE DECIDING FACTOR IN GETTING US ALL BACK TO WORK!

You are still welcome out here with us. Extra precautions will be taken throughout the next 12 hours to guarantee your safety in leaving the plant. After that time your safety will be your own responsibility.

(Union Label)

RESPONDENT'S EXHIBIT NO. 20

ELECTION BALLOT FOR EMPLOYEE REPRESENTATIVES

Notice to Voters

By using this ballot the voter approves the holding of Nominations and Elections as stated in the posted notice of this Election issued by the Employees' Committee under the Plan of Employee Representation at this Plant and expresses the desire to be represented for collective bargaining and the other purposes stated in the notice, by Representatives elected under the Plan.

Directions to Voters

Place cross (X) in front of the name of the candidate or the name of each of the candidates whom you wish to elect as Representatives of your Department or Voting Division.

PLACE (X) BELOW

NAMES OF NOMINATED CANDIDATE OR CANDIDATES

....

....

....

....

....

....

....

....

VOTE FOR ONLY

If you vote for more
your ballot will be VOID

Department or Voting Division

Date ....

RESPONDENT'S EXHIBIT NO. 21

NOTICE

REGULAR ANNUAL ELECTION PLAN OF EMPLOYEE REPRESENTATION

For

EMPLOYEE REPRESENTATIVES

For the Purpose of Collective Bargaining and Other Purposes Provided for Under the Plan

The Employees' Committee will Conduct Nominations and Elections as Stated Below. Nominations and Elections Shall be Held by Secret Ballot.

NOMINATIONS

Nominations for Employee Representatives will be held

Tuesday, June 9, 1936

Each qualified voter will be furnished at the polls with a ballot on which he may write the names of those individuals whom he desires to place in nomination.

The number to be nominated in each department will be stated on the ballot.

Those receiving the highest number of votes shall be declared nominated.

ELECTIONS

Elections for Employee Representatives will be held

Friday, June 12, 1936

Each qualified voter will be furnished a ballot on which the names of the nominees will be printed. The number to be voted for will be stated on the ballot.

Nominees receiving the highest number of votes shall be declared elected as Employee Representatives. Nominees failing of election shall stand as alternates in the order of their vote.

All employees of the Company (except those in supervisory positions) who are enrolled on the Company's payrolls on the date fixed for nomination shall be entitled to vote.

Lists of those qualified to vote will be in possession of the Judges at the polls.

No Employee Representative or Nominee shall be eligible to serve on the Election Board within their own voting division.

The above regulations are in accordance with the Plan and those who desire so to choose their Representatives for such purposes should vote at the Nominations and Elections.

Nomination Polls Open

Notices will be posted Mon. June 8, 1936 in departments.

Election Polls Open

Notices will be posted Thur. June 11, 1936 in departments.

EMPLOYEES' COMMITTEE ON ELECTIONS

Arley A. Gathers
James M. Dunn
Grover C. Saugler
Joseph M. Cox
Carl W. Cline

RESPONDENT'S EXHIBIT NO. 22

APPLICATION FOR MEMBERSHIP
in
STEEL WORKERS UNION OF AMERICA

I hereby apply for membership in The Steel Workers Union of America and agree to be bound by the Temporary Declaration of Organization, and by the constitution and By Laws when adopted and pay the regular initiation fee of One Dollar, and authorize the Organization to bargain for me Collectively, relative to wages, hours, working conditions and other mutual aid or protection.

....
Name

Date .... 1937 ....
Address

....
Witness Check Number Department

RESPONDENT'S EXHIBIT NO. 23

THE INDEPENDENT FEDERATION OF REPUBLIC EMPLOYEES

CONSTITUTION AND BY-LAWS

Office: 606 Dollar Bank Bldg.
Youngstown, Ohio
City Printing (Label) Youngstown

PREAMBLE

The Employees of the Republic Steel Corporation (Youngstown District) do hereby unite for the following purposes:

To create an independent, self-supporting, non-profit organization out of which an agency shall be provided with power to act and represent the membership collectively in all matters effecting the relationship of employer and employee;

To provide a forum in which the employees' agency may meet on equal terms with the employer to negotiate all matters involving labor grievances and disputes, hours of employment, condition of work, wages, and rates of pay;

To foster and encourage movements and programs of labor and practices fundamental to the friendly adjustment of industrial disputes to the end that economic losses to both industry and labor caused by strikes, lockouts and all cessation of work will be mitigated and eventually eliminated entirely;

To provide a medium for its members to give public expression to all matters effecting their economic and social welfare in the corporation;

To establish reasonable rules and regulations in furthering and promoting equitable industrial conduct in the workers' relationship with his employer; to the end that avoidable losses in production and plant property shall be eliminated, and thereby fostering and maintaining a goodwill policy that shall challenge the respect and recognition of the corporation;

To encourage the practice and procedure of collective bargaining by protecting the worker in the exercise of full freedom of association, self-organization and the designation of representatives of their own choosing, in negotiating terms and conditions of employment with the Corporation.

Article I.

Name

Section 1. The name of the organization shall be THE INDEPENDENT FEDERATION OF REPUBLIC EMPLOYEES (Youngstown District).

Article II.

Membership

Section 1. Active Membership. Any employee on the payroll of the Corporation is eligible to membership excepting only those having authority to hire and fire in the Corporation. Any such employee having made application for membership and agreeing to subscribe and abide by the Preamble and the Constitution and By Laws of the Federation and paying the dues, shall be an active member of the Federation.

a. There shall be no discrimination to membership, or to eligibility for holding office, due to race, color or creed.

Section 2. Honorary Membership. The Board of Trustees is authorized and empowered to grant an honorary membership to any employee who, in the judgment of the Board of Trustees, has accomplished some outstanding or meritorious act in behalf of the cause of labor or conducted himself in an unusual manner in fostering and promoting the aims and purposes of the Federation.

a. Honorary members shall have all the rights of an active member, except he or she shall not hold office, vote or be required to pay dues.

Section 3. Disqualification of Members. Any member who either in action or in words, conducts himself in such a manner as to violate the spirit and purposes of the Federation, may be removed from membership.

a. All complaints of disqualification for membership shall be submitted to the membership Committee, who shall have power to act. In the event the Membership Committee act in favor of disqualification, any aggrieved member may take an appeal of the action of the Membership Committee to the Board of Trustees.

Action of disqualification against a member shall be given the member in writing by the Membership Committee. The appeal must be made within ten days after rendition of the opinion of the Membership Committee. The Board of Trustees shall make disposition of the appeal within twenty days after receipt of notice of appeal. Any member may take a final appeal from the Board of Trustees to the membership. A majority action of the membership shall be final.

b. Any member whose dues are in arrears thirty days shall be notified by the Recording Secretary, in writing.

Any member who fails to pay dues within thirty days after receipt of notice by the Recording Secretary shall be suspended from the rolls. The Board of Trustees, when in their judgment it is necessary, may grant extension to any member or members for payment of dues.

Article III.

Dues

Section 1. Dues. The monthly dues shall not exceed fifty cents per month.

a. When, in the judgment of the Board of Trustees, the treasury has sufficient funds to carry on the purpose of the organization, the Board of Trustees *shall reduce* the dues to such a fee as is only necessary to carry on the purposes and objects of the Federation.

Article IV.

Offices

Section 1. Names of Offices. The offices of the Federation shall consist of a President, three Vice Presidents, a Treasurer, Financial Secretary, Recording Secretary, eleven Trustees, a Sergeant-at-arms, thirty-four Spokesmen and thirty-four Alternates.

Section 2. Elected Officers. The President, three Vice Presidents, the Treasurer, the Financial Secretary, Sergeant-at-Arms, Spokesmen and Alternates, shall be elected by the employees at the annual election of the Federation.

Section 3. Appointed Officers. The eleven trustees shall be appointed by the joint action of the elected officers and the thirty-four Spokesmen within fifteen days after the annual election. Each elected officer and each Spokesman shall have an equal voice in the appointment of the eleven trustees.

Section 4. Board of Trustees. The elected officers and the Trustees shall be known as "The Board of Trustees."

Section 5. The Recording Secretary. The Recording Secretary shall be appointed from the membership by the Board of Trustees at their first regular meeting which shall take place not later than five days after the election, which meeting shall be called by the President. Upon the failure of the President to call a meeting, any three elected officials may call the meeting.

Section 6. Qualification for Holding Office. Only such employees who are American citizens and have been members of the Federation for at least one year prior to taking office in said Federation (the first year excepted) are eligible to hold office in the Federation, either elective or appointive.

a. It shall be compulsory for all officers to attend meetings of the Federation. Failure to attend meetings, without cause, is grounds for removal from office.

Section 7. Vacancies in Office. In the event of vacancy by death, resignation or otherwise, in the office of President, the First Vice President shall succeed to the office of President, the Second Vice President to that of First Vice President, and the Third Vice President to that of Second Vice President.

A vacancy in the office of Treasurer, Recording Secretary, Financial Secretary, Trustee, or Sergeant-at-arms shall be filled by the Board of Trustees and such appointee shall hold office until next annual election of the Federation or until their successors are duly elected and qualified.

Section 8. Duties of Officers.

a. President. The duties of the President shall be those of the presiding officer of the Federation, he shall open and close all meetings when the Federation is in assembly, he may attend meetings of standing committees or other committees appointed by the Board of Trustees and may counsel with all committees but without a vote in the committee.

He shall perform such other duties as may be delegated to him by the Board of Trustees, or such duties as are generally exercised by a presiding officer of an organization; provided the same are not in conflict with the Constitution and By Laws of the Federation.

b. The Three Vice Presidents. The three Vice Presidents shall be directly responsible for the proper functioning of the standing committees and such other committees as may be appointed by the Board of Trustees. Upon completion of the organization by the Board of Trustees, the Board shall allot and designate a pro-rata share of the standing committees to each vice president, who shall be responsible for report on the activities of such committees allotted to him. The vice President's report shall be in addition to the report of the chairman of the committee. The Vice President shall have no vote in the committees allotted to him.

c. Treasurer. The Treasurer shall receive from the Financial Secretary all funds paid to the Federation and shall deposit the same in the official depository of the Federation, and shall disburse the same on order of the Board of Trustees. He shall countersign all checks. His accounts and books at all times be open to inspection of the members of the Board of Trustees and any authorized auditors. He shall keep an accurate account of the monies received and disbursed by him, and shall generally perform the duties as may be required of him as Treasurer by the Board of Trustees. He shall make a monthly report to the Board of Trustees and make report of the financial condition of the Federation at the annual meetings. On the expiration of his term of office the Treasurer shall turn over to his successor or to the Board of Trustees, all money and property of the Federation in his hands. The Treasurer shall be under bond in the amount of not less than $10,000.00, and the premium for said bond shall be paid from the Treasury of Federation.

c. Financial Secretary. The Financial Secretary shall present all bills to the Board of Trustees for approval and shall sign all checks for their payment. He shall keep a record of the membership fees and dues and shall collect all funds due the Federation and shall promptly turn the same over to the Treasurer, taking the Treasurer's receipt therefor. He shall submit a report at the annual meeting of the Federation and at such other times as the Board of Trustees may require.

e. Sergeant-At-Arms. The sergeant-at-arms shall perform such duties as usually pertain to said office, and such other duties as may be delegated to him by the Board of Trustees.

f. Recording Secretary. The office of Recording Secretary shall be a full-time job. He shall be in charge of the offices of the Federation and do any and all things required of him by the Board of Trustees in carrying out the duties and purposes of the Federation.

Section 9. Nomination of Officers. Nominations for office of President, Vice President, Treasurer, Financial Secretary, Sergeant-at-Arms, Spokesman and Alternate, shall be effected in the following manner:

To qualify for nomination, a candidate for the following offices shall require the number of member signatures to a nomination petition to place his name on the election ballot:

President	500 members signatures
Vice President	400 members signatures
Treasurer	400 members signatures
Financial Secretary	400 members signatures
Sergeant-at-Arms	400 members signatures
Spokesman	100 members signatures or 50% of membership in department.
Alternate	100 members signatures or 50% of membership in department.

b. Nomination blanks shall be prepared and furnished free by the Board of Trustees to any member.

c. The nominating petitions shall be filed with the Recording Secretary on or before 8:00 P. M. of the third Tuesday of April of each year.

d. Within ten days after the closing date for nomination of officers, the Recording Secretary shall cause a public notice to be made of the date of the election for the elective offices of the Federation.

Section 10. Election of Officers. All names of members duly nominated in accordance with the Regulations for nomination, shall be placed upon an election ballot. Printed ballots and ballot boxes shall be furnished by the Board of Trustees.

a. The nominee member receiving the highest vote to the respective office to which he was nominated, shall be elected to office for a period of one year or until his successor is duly elected and qualified.

b. All officers of the Federation shall be eligible to succeed themselves.

Section 11. Oath of Office. Each officer of the Federation shall be required to take the following oath of office:

"I, (Name of Officer), do solemnly swear as (Name of office) of the Independent Federation of Republic Employees, that I shall administer the office to the best of my ability, will maintain, support and defend the Constitution of the United States of America and the Constitution and By Laws of the Independent Federation of Republic Employees, so help me God."

Section 12. Disqualification for Holding Office.

a. Any elected or appointed official of the Federation shall be disqualified from holding office upon his failure to qualify for membership, as set forth in Article II, Section 1.

b. Disqualification shall automatically cause a vacancy in the office.

Article V

The Board of Trustees

Section 1. Who Constitutes—General Powers. The Board of Trustees shall be the governing body of the Federation and shall meet at least once each month. It shall be fully responsible for carrying out the aims and purposes of the Federation as specifically set forth in the Preamble to the Constitution. It shall provide ways and means in contracting the proper officials of the Corporation, with reference to all matters of general policy, for bargaining collectively for and on behalf of the members, wage agreements, working hours, and working conditions, vacations and seniority rights. A majority of the Board of Trustees shall constitute a quorum.

Section 2. Board of Trustees has Temporary Authority to Increase or Decrease Departments between Elections. The Board of Trustees shall have authority between elections to adjust the plan of Plant representation by Districts and subdivision of Districts by increasing or reducing the districts and subdivisions when in its judgment more equitable representation shall be obtained. The Board's action in this respect shall be ratified at the next meeting of the Federation before it shall be adopted as permanent.

Section 3. The Board without Power to Affiliate with Other Organizations. Election Necessary for Affiliation. The Board of Trustees are without authority to affiliate the Federation with any other organization without having submitted the matter to the members of the Federation and a secret ballot shall be had on the questions of such affiliation. It shall require not less than two-thirds (⅔) vote of the membership of the Federation in order to affiliate with some other organization.

Section 4. Compulsory Audit of Finances Semi-Annually by Certified Public Accountant. The Board of Trustees shall semi-annually cause an audit of the Records of the Finances of the Federation to be made by a certified public accountant.

a. Upon making written application to the Board of Trustees, any member of the Federation shall be entitled to an examination of the records of the Federation.

Article VI.

Plan of Representation

Section 1. Representation on Board of Trustees Corporation Plant Divided Into Districts—One Trustee Appointed From Each District. Any plan of a division of the Corporation's Plant for appointment of Trustees shall be guided by the following in consideration of the number of Trustees to be appointed to the Board of Trustees:

a. The procedure of handling complaints as provided by the Constitution and By-Laws;

b. The number of employees in the District;

c. The area over which the District is distributed;

d. That each District of the Corporation shall be represented on the Board of Trustees.

The plant of the Corporation is divided into the following Districts and one trustee shall be appointed to the Board of Trustees from each District:

District No. 1. Bessemer Plant (includes the following: Converting Mills—Soaking Pits—Blooming Mills—19 in. Mill—40 in. Mill—10 in. Mill—10 in. Skelp—Spike Factory).

District No. 2. Butt and Lap Tube (includes the entire B & L Tube Department).

District No. 3. Electric Weld Tube.

District No. 4. Bar Mills, Plate Mills and Blooming Mills.

District No. 5. Open Hearth and Masonry.

District No. 6. Blast Furnace and Coke Works.

District No. 7. Electric Department.

District No. 8. Mechanical Department.

District No. 9. Order and Shipping.

District No. 10. Transportation and Labor.

District No. 11. Accounting and Engineering.

Section 2. Representation for Departmental Grievances. Each District Subdivided—Each Subdivision Represented by Spokesman. There shall be elected at the annual election the number of Spokesmen and the number of Alternates from the following districts of the Corporation:

District No. 1

(Bessemer Plant)

	Spokesmen
Converting Mills	1
Soaking Pits, Blooming Mills, 19 in. Mill, 40 in. Mill	1
10 in. Mill, 10 in. skelp, spike factory	1
Inspection, Shipping, Chipping & Roll Turners	1

District No. 2

(Butt & Lap Tube)

Shipping Floor	1
Furnace Floor	1
Finishing Floor	1
Galvanizing and Socket Shop	1

District No. 3

(Electric Weld Tube)

Production Floor	1
Shipping Floor	1
Finishing Floor	1

District No. 4

(Bar Mills, Plate Mills and Blooming Mills)

	Spokesmen
Bar Mills, Shipping, Chipping and Inspection	1
Plate Mill and Roll Shop	1
Blooming Mill and Soaking Pits	1

District No. 5

(Open Hearth and Masonry)

Open Hearth	1
Masonry	1
Chemical and Physical Laboratories	1

District No. 6
(Blast Furnace and Coke Works)

Blast Furnace	1
Coke Works	1

District No. 7
(Electric Department)

Bessemer	1
Lansingville District	1

District No. 8
(Mechanical Department)

Bessemer	1
Coke Plant and Blast Furnace	1
Shops	
Carpenters and Painters	1
Machinists	1
Boiler Makers and Forge Shops	1
Narrow Gauge—Engineers and Brakemen	1

District No. 9
(Order and Shipping)

Tube Mills—Order, Shipping and Accounting	1

District No. 10
(Transportation and Labor)

Trainmen (includes Transportation offices)	1
Labor	1
Enginemen (engineers, firemen and hostlers)	1

District No. 11
(Accouting and Engineering)

Market Street Accounting	1
Bessemer, Order and Shipping	1
Engineering	1
	34

Section 3. Duties of Spokesman—and Alternates.

a. It shall be the duty of the Spokesman to counsel and assist employees in his District in any and all complaints and grievances. He shall cause the complaints to be put in writing and on written forms as provided by the Board of Trustees (exhibit B). The spokesman shall be responsible for prosecuting the complaints or grievances as hereinafter set forth.

b. The Alternate shall vote in all meetings in the absence of the Spokesman and carry out the duties of the Spokesman. He shall have no vote when the Spokesman is present in the meeting, but otherwise shall have full power in absence of the Spokesman.

Section 4. Vacancies in Office of Spokesman or Alternate. In the event of a vacancy of a Spokesman for a Department, the Alternate shall succeed to the position of Spokesman. In case of vacancy of Alternate, the Board of Trustees, not later than one week after such vacancy shall occur, shall cause the same to be filled in the following manner:

The Board of Trustees shall select ten members from such Department who shall be empowered to fill the vacancy until the next annual election.

Section 5, Removal of Spokesman or Alternate. Any Spokesman or Alternate can be removed by 66% of the members in his Department petitioning the Board of Trustees in writing. (See also Art. IV, Sect. 12.)

Article VII.

Elections

Section 1. Time of Election. The election shall be held in the month of May of each year and shall be conducted by secret ballot. Election booths shall be established in a vicinity near the entrances to the Corporation Plant. One ballot shall be furnished to each member of the Federation upon his entering the election booth. At the close of the election, ballots shall be sealed and then tabulated by an election committee appointed by the Board of Trustees.

Section 2. Election Under Supervision of Board of Trustees. The annual election shall be under the supervision of the Board of Trustees and conducted in a manner as to avoid undue influence or interference in the voter's right to cast a secret ballot.

Section 3. Complaints on Election—Recount, How Obtained. After the ballots have been tabulated, the Board of Trustees shall cause the ballots to be sealed in the ballot boxes and held for a period of ten days. During such ten-day period any aggrieved candidate may appeal his complaint, in writing, to the Board of Trustees. The Board of Trustees, upon good cause being shown, shall order a recount in the presence of the aggrieved candidate or his agents. In the event of the refusal of the Board of Trustees for a recount, a recount shall be obtained upon the signatures of 50% of the number of signatures necessary for the nomination of the particular office involved in the complaint, being filed with the Board of Trustees. In the event of a receipt of written notice by the Board of Trustees, within ten days after election, by the aggrieved candidate to take an appeal, the ballots shall be held by the Board of Trustees for a period of thirty days.

Section 4. Elected Officers.—Nominee Receiving Largest Number of Votes Elected. In the election of the offices of President, Vice President, Treasurer, Financial Secretary, Sergeant-at-Arms, the nominee receiving the highest number of votes shall be declared to be elected to the respective office to which nominated.

Section 5. Spokesman and Alternate—Candidate Receiving Largest Number Elected Spokesman—Second Largest Elected Alternate. In the election of Spokesman and Alternate, the Candidate receiving the highest number of votes shall be elected the Spokesman of the Department and the second highest shall be elected the Alternate.

Section 6. Rules and Regulations in Public Elections Shall Govern Unless Otherwise Provided. Except as otherwise herein provided, the rules and regulations in public elections shall prevail and shall be the course of conduct to pursue in the supervision of elections by the Board of Trustees.

Article VIII.

Committees

Section 1. Standing Committees. The following Standing Committees shall be appointed: (1) Ways and Means; (2) Safety First; (3) Membership and Attendance; (4) Publicity; (5) Sick and Memorial; (6) Finance; (7) Entertainment; (8) Recreation and Athletics; (9) Elections; (10) Constitution and By-Laws; (11) Complaints and Grievances.

Section 2. A District Trustee Appointed Chairman of a Standing Committee. Each Trustee appointed from the Plant Districts shall be assigned to the chairmanship of one Standing Committee. (Excepting Ways and Means Committee—See Art. VIII, Section 6,-1.) The Trustee shall be responsible for the proper functioning of the committee.

Section 3. How and By Whom Chairman of Standing Committee Appointed. The President, the Three Vice Presidents, the Treasurer, the Financial Secretary, and the Sergeant-at-Arms, shall appoint each appointed trustee to be the chairman of one Standing Committee.

Section 4. Board of Trustees Determine Number of Members of Committees. The Board of Trustees shall determine the number in each standing committee and special committees.

Section 5. Board of Trustees Authorized to Appoint Temporary Committees. The Board of Trustees shall be empowered to appoint such other committees as it may deem necessary to properly carry out the function and purposes of the Federation.

Section 6. Duties of the Standing Committees.

(1) Ways and Means.--The Ways and Means Committee shall be in charge of allocating complaints and grievances to the proper Standing Committee. It shall be the steering committee and consist of the three vice presidents; the treasurer; financial secretary; sergeant-at-arms; three appointed trustees selected by the president of the Federation, who shall also be the chairman of the committee. It shall have authority and power to assign any and all special work to anyone of the Standing Committees for consideration.

(2) Safety.--Recommendations for improving dangerous working conditions; complaints of violation of Safety-first rules and regulations, and all matters of a safety-first nature shall be in charge of the committee.

(3) Membership and Attendance.—The Membership Committee shall be in charge of building and maintaining the membership of the Federation and encouraging regular attendance of all members at meetings. It shall hear, receive and recommend to the Board of Trustees all charges and complaints of disqualification of members.

(4) Publicity.—The Committee on Publicity shall take charge of all matters emanating from the Federation and which shall require public notice.

(5) Sick and Memorial Committee.—All matters effecting sick and disabled members; visiting and delegating members to visit sick; aiding and assisting the families of deceased members in last rite services shall be assigned to the Sick and Memorial Committee.

(6) Finance Committee.—To provide ways and means of supporting and maintaining a sound financial condition of the Federation. Any and all promotion schemes and methods of raising money in any Plant Department or in the Federation must first be sanctioned by the Finance Committee and approved by the Board of Trustees.

(7) Entertainment.—The Committee on Entertainment shall provide ways and means for the members of the Federation to increase the laughs and reduce the frowns of the members.

(8) Recreation and Athletics.—The organization of athletics, competition, athletic contests, facilities for recreation, shall be encouraged and promoted among the members of the Federation. It shall be the duty of the Recreation and Athletic Committee to foster and promote programs to carry out this spirit.

(9) Elections.—The Election Committee shall be in charge of the "mechanics" of the annual election and the elections requiring a secret vote by the members of the Federation. It shall be in charge of complaints on elections. Recounts as provided in Art. VII, Sec. 3.

(10) Constitution and By-Laws.—All recommendations and changes in the Constitution and By-Laws of the Federation shall be in charge of the Constitution and By-Laws Committee. It shall also be charged with the duty of keeping the Federation informed on proposed legislation directly effecting problems of labor in the state and Federal legislative bodies. It shall from time to time make

reports to the Board of Trustees on its recommendations and suggestions.

(11) Complaints and Grievances.—The complaints and grievances received on written form from the Spokesman, with the exception of safety-first matters, shall be in charge of Complaints and Grievances Committee.

Article IX

Procedure in Handling Complaints

Section 1. Departmental Complaints and Grievances. The Board of Trustees shall prepare written forms for all members in filing complaints in their respective departments. The complaints shall be first taken to the Spokesman elected from each Department. It shall be the duty of the Spokesman to aid and assist the aggrieved employee in presenting the complaint to the Superintendent of the Department. The complaint shall be made out in quadruplicate, and one copy shall be sent to the Recording Secretary, one shall be retained by the Spokesman, one given to the Superintendent and one mailed to the Corporation Representative.

The Spokesman shall note on his copy the disposition of the complaint and mail the same to the Recording Secretary. In the event no final disposition has been made of the complaint by the Superintendent within fourteen days, the Spokesman shall immediately notify the Recording Secretary, who in turn shall forthwith submit the matter to the Board of Trustees.

The following procedure shall guide the Board of Trustees in the disposition of the subject matter:

It shall be assigned by the Committee on Ways and Means to the Committee having been organized to handle the particular subject; whose treatment, findings and recommendation must first be obtained before action shall be taken by the Board of Trustees.

All matters referred to the Committee shall be acted on promptly and a report of its action made to the Board of Trustees at the next regular meeting of the Board following the meeting in which it was assigned to a Committee.

Action of Committees shall be by majority vote, with the right of the minority to submit and have its report filed with the Recording Secretary.

Upon receipt of the Committee Report, the Board of Trustees shall either approve or disapprove the recommendation of the Committee.

The approval by the Board of Trustees of the Committee report shall be acted upon in the following manner. The Board of Trustees shall forthwith arrange for a conference with the executive officials of the Corporation and, without undue delay, present the finding and recommendation of the Federation.

The Board of Trustees by a majority vote, can relieve any committee from consideration of any matter assigned to the Committee, and call the subject for the attention and disposition of the Board as a whole or reassign it to another committee for prompt action and report.

Section 2. Disagreement on Major Policies. —In the event of disagreement between the Corporation and the Federation on matters effecting working conditions in general of the members, and major policies effecting industrial conditions, the Board of Trustees shall be guided by the following procedure:

1. There shall be no strike, lockout or cessation of

the work until every effort has been exhausted by the Board of Trustees to effect honorable settlement.

2. In the event of the failure of the Board of Trustees to effect a settlement which, in their judgment, is fair and equitable, then the Board of Trustees shall immediately call a meeting of the entire membership of the Federation. Notice shall be given to the membership of the time and place of such meeting, at which, the issues in dispute shall be presented to the Federation in assembly. The Board, after presenting the issues, shall invite the Corporation to present its cause, after which, the Corporation shall be excused from the assembly. A discussion on the issues shall be open to the assembly and opportunity given the members for expression on the differences between the Corporation and the Federation. The Board of Trustees thereafter shall cause a secret vote to be taken by those present in the assembly on whether to take a strike-vote. In the event that the assembly acts in the affirmative on the strike-vote, the Board of Trustees shall forthwith notify the management of the action of the assembly and they shall be given 24 hours for reconsideration of its action. In the event of the Corporation's failure to reconsider, the Board of Trustees shall forthwith prepare for an election on the question of whether to strike or not to strike. It shall require 51% of the membership of the Federation to call a strike.

The strike election shall be conducted in the same manner as election for officers.

In the event of a strike, the Board of Trustees shall appoint a committee to successfully prosecute the strike.

Article X.

Amendments

Section 1.—Proposing and Initiating Amendments.

a. Amendments to the Constitution and By-Laws may be proposed and initiated by a two-thirds vote of the spokesmen at any meeting called for such purpose and written notice having been first given to each Spokesman of the time, place and purpose of the meeting.

b. Amendments to the Constitution and By-Laws may be proposed and initiated by a two-thirds vote of the Board of Trustees at any meeting called for such purpose and written notice having been first given to each trustee of the time, place and purpose of the meeting.

Section 2. Adoption of Amendments. Any proposed amendment to the Constitution and By-Laws receiving favorable action by a two-thirds vote of the Spokesmen, as provided for in Article X, Section 1-a, or a two-thirds vote of the Board of Trustees, as provided for in Article X, Section 1-b, shall be submitted to the assembly at its next regular meeting for consideration and adoption. A two-thirds affirmative ballot of the members of the Federation shall be required for adoption of the proposed amendment.

EXHIBIT A.

Independent Federation of Republic Employees

Name .... Check No. ....
Address .... Phone ....
Department .... Position ....
Age .... Years of Service ....

I hereby make application to membership of the Independent Federation of Republic Employees, and authorize said body to represent me in collective bargaining with my employer in all matters that cannot be settled by myself.

I also agree to abide by the Constitution and By-Laws of the Independent Federation of Republic Employees, and to pay the regular dues, which shall not exceed 50 cents per month.

Signed . . . .

EXHIBIT B.

Spokesman's Copy

File Record . . . .

The Independent Federation of Republic Employees
Youngstown, Ohio

RECORD OF COMPLAINTS AND GRIEVANCES

. . . .

Department Superintendent Date

Presented by . . . .

Name of Employee Check Number Occupation

Presented by . . . .

Name of Spokesman No. Men Involved Department

. . . .

Statement of Case:

. . . .

. . . .

. . . .

. . . .

Spokesman

Disposition of Case:	Date	No Action	Affirmative	Negative	Compromised	With-Drawn
. . . .	. . .	. . . . . .	. . . .	. . . . . .	. . . .	. . . .
Superintendent						
. . . .	. . .	. . . . . .	. . . .	. . . . . .	. . . .	. . . .
. . . .	. . .	. . . . . .	. . . .	. . . . . .	. . . .	. . . .
Management's Representative						
. . . .	. . .	. . . . . .	. . . .	. . . . . .	. . . .	. . . .
Committee						

....
Committee

....
Committee

....
Committee
Final Disposition:
Date............ ....

Spokesman.

Note: Quadruplicate copies shall be made, the Spokesman retains one, one is sent to the Superintendent of the Department in which the complaint or grievance arises, one is sent to the Recording Secretary of the Federation, and the other is sent to the General Superintendent of the Youngstown District.

OUTLINE

PREAMBLE

Article I.—Name

The Independent Federation of Republic Employees

Article II.—Membership (P. 2)

Section 1. Active Membership.

Section 2. Honorary Membership.

Section 3. Disqualification of Members.

Article III.—Dues (P. 3)

(Not more than 50 cents per month)

Article IV.—Offices (P. 4, 5, 6, 7)

Section 1. Names of offices: President, 3 vice presidents, treasurer, financial secretary, recording secretary, 11 trustees, and sergeant-at-arms.

Section 2. Elected Officers: President, 3 vice presidents, treasurer, financial secretary, sergeant-at-arms.

Section 3. Appointed officers: 11 trustees—(appointed by elected officers and spokesmen jointly).

Section 4. Board of Trustees.

Section 5. Recording Secretary: Appointed by Board of Trustees; devotes full time to the office.

Section 6. Qualifications for Holding Office.

Section 7. Vacancies in Office.

Section 8. Duties of Officers: President, 3 vice presidents, treasurer, financial secretary, sergeant-at-arms, recording secretary.

Section 9. Nomination of officers: President—500 members signatures. Vice President—400 members signatures. Treasurer—400 members signatures. Financial Secretary—400 members signatures. Sergeant-at-arms—400 members signatures. Spokesman—100 members signatures or 50% Department Membership. Alternate—100 members signatures or 50% Department Membership.

Section 10. Election of Officers.

Section 11. Oath of Office.

Section12. Disqualification for Holding Office.

Article V.—Board of Trustees (P. 8)

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Section 6. Duties of Standing Committees: Ways and Means; Safety First; Membership; Publicity; Sick and Memorial; Finance; Entertainment; Recreation and Athletics; Elections; Constitution and By-Laws; Complaints and Grievances.

Article IX.—Procedure in Handling Complaints (P. 16, 17, 18)

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Section 2. Disagreement on Major Policies.

Article X.—Amendments (P. 19)

Section 1. Proposing and Initiating Amendments.

Section 2. Adoption of Amendments.

* * *

For convenience and brevity, the use of the following words in the Constitution and By-Laws of the INDEPENDENT FEDERATION OF REPUBLIC EMPLOYEES shall be construed to mean the full term as set opposite the word.

Employee—An employee of the Youngstown District of the Republic Steel Corporation.

Corporation—The Youngstown District of The Republic Steel Corporation.

Federation—The Independent Federation of Republic Employees (Youngstown District).

Member—a duly enrolled member of The Independent Federation of Republic Employees.

Department—A portion or integral part of the Corporation entitled to elect one "Spokesman".

District—A part of the Corporation from which a Trustee is appointed to the Board of Trustees.—(There are eleven Districts in the Plant of the Corporation).

RESPONDENT'S EXHIBIT NO. 24

INDEPENDENT FEDERATION OF REPUBLIC EMPLOYEES

Union Label 10

Name .... Check No. ....
Address .... Phone ....
Department .... Position ....
Age .... Years of Service ....

I hereby become a member of the Independent Federation of Republic Employees, and authorize the above body to represent me in collective bargaining with my employer in all matters that cannot be settled by myself.

I also agree to pay the regular dues, not to exceed 50c per month.

Signed ....

RESPONDENT'S EXHIBIT NO. 28

NOMINATION BALLOT FOR EMPLOYEE REPRESENTATIVES

Directions to Voters

This ballot is issued to qualified voters to nominate candidates for Employee Representatives.

The voter, by using this ballot, approves the holding of Nominations and Elections as stated in the posted notice issued by the Employees' Committee under the Plan of Employee Representation at this Plant and expresses his desire that those elected shall represent him in collective bargaining and for the other purposes stated in the notice.

Each qualified voter is entitled to nominate twice the number of Representatives to which his department or voting division is entitled.

Write Names or Check Numbers of Candidates Below:

Name *Check No.*

[14 blank spaces provided for names, check numbers]

Vote for 6 Only If you write more your ballot will be VOID

. . . .

BLAST FURNACE DEPARTMENT
Department or Voting Division

Date June 9, 1936

RESPONDENT'S EXHIBIT NO. 29

ELECTION BALLOT FOR EMPLOYEE REPRESENTATIVES

Notice to Voters

By using this ballot the voter approves the holding of

Nominations and Elections as stated in the posted notice of this Election issued by the Employees' Committee under the Plan of Employee Representation at this Plant and expresses the desire to be represented for collective bargaining and the other purposes stated in the notice, by Representatives elected under the Plan.

Directions to Voters

Place cross (X) in front of the name of the candidate or the name of each of the candidates whom you wish to elect as Representatives of your Department or Voting Division.

Place (X) Below	Names of Nominated Candidate or Candidates	
	WARREN CLEAVER	11613
	JOHN C RUSSELL	11737
	ROBERT OWENS	11561
	THOMAS CORBIE	11797
	JAY HARMON	11943
	JACOB GEGOS	11631

Vote for 2 Only

If you vote for more your ballot will be VOID

....

BLAST FURNACES
Department or Voting Division

Date June 12, 1936

RESPONDENT'S EXHIBIT NO. 32

NOTICE

Regular Annual Election
Plan of Employee Representation
for
Employee Representatives

For the Purpose of Collective Bargaining and Other Purposes Provided for Under the Plan

The Employees' Committee Will Conduct Nominations and Elections as Stated Below. Nominations and Elections Shall Be Held by Secret Ballot

NOMINATIONS

Nominations for Employee Representatives will be held

Tuesday, June 9, 1936

Each qualified voter will be furnished at the polls with a ballot on which he may write the names of those individuals whom he desires to place in nomination.

The number to be nominated in each department will be stated on the ballot.

Those receiving the highest number of votes shall be declared nominated.

ELECTIONS

Elections for Employee Representatives will be held
Friday, June 12, 1936

Each qualified voter will be furnished a ballot on which the names of the nominees will be printed. The number to be voted for will be stated on the ballot.

Nominees receiving the highest number of votes shall be declared elected as Employee Representatives. Nominees failing of election shall stand as alternates in the order of their vote.

All employees of the Company (except those in supervisory positions) who are enrolled on the Company's payrolls on the date fixed for nomination shall be entitled to vote.

Lists of those qualified to vote will be in possession of the Judges at the polls.

No Employee Representative or Nominee shall be eligible to serve on the Election Board within their own voting division.

The above regulations are in accordance with the Plan and those who desire so to choose their Representatives for such purposes should vote at the Nominations and Elections.

Nomination Polls Open 7:00 A. M., June 9, 1936

Election Polls Open 7:00 A. M., June 12, 1936

Employees' Committee on Elections
Mart Murphy, General Chairman
Carl Walsh, Vice General Chairman
James Maughan, General Secretary
Walter Larson, Standing Committee No. 1
Warren Clever, Standing Committee No. 1
S. Keenan, Standing Committee No. 1
Chas. Amon, Standing Committee No. 1
Steve Rakocy, Standing Committee No. 1

RESPONDENT'S EXHIBIT NO. 33

CERTIFICATE OF ELECTION FOR EMPLOYEE REPRESENTATIVES

....

Department or Voting Division

This is to certify that at the ...., Elections held by the Employees of the above department or voting division, the following nominees were elected Employee Representatives:

The following nominees stand as alternates in the order listed on the number of votes received:

[Blank lines provided for signatures]

Employees' Committee on Elections
Republic Steel Corporation and Subsidiaries

District or Subsidiary Plant Date

RESPONDENT'S EXHIBIT NO. 37

WARREN TRIBUNE CHRONICLE

Tribune, 61st Year, No. 259
Chronicle 123rd Year, No. 293

Warren, Ohio, Friday Evening, June 11, 1937

WORK RESUMED AT MONROE PLANT

Picket Line Smashed by Gas Attack

Workers Enter Mill Behind Barrage Laid Down by Police Escort

March on City Halted

Homer Martin, Head of UAW, Prevails on Sympathizers to Return Home

---

Monroe, Mich. (AP)—The Republic Steel corporation resumed operations at its Newton plant here today in the wake of a tear gas attack late Thursday afternoon which broke picket lines and let non-striking workers into the mill.

The 8 o'clock shift went to work this morning without untoward incident. No pickets appeared to molest the men.

Special policemen, mostly American Legion members, patrolled the city today.

Casualties in the picket line fight last night were estimated at not more than 20. Seven men and one woman received hospital treatment.

Protest March Halted

An abortive march of union sympathizers upon Monroe in protest against the routing of pickets last night ended today thru the intercession of Homer Martin, international president of the United Automobile Workers of America.

✓Approximately 750 automobile workers, vanguard of thousands who had declared a "holiday" in Pontiac, Mich., for a "peaceful mass demonstration" in Monroe turned back from a rallying point ten miles north of the city of the urging of 15 emissaries whom Martin dispatched in their wake.

They left 34 of their number, including two women, in the Monroe County jail as the result of clashes with police, sheriff's deputies and special officers who posted guards at the highways leading into the city when they learned that the march was in prospect.

A youth, Clayton Bard, of Lapeer, was charged with carrying concealed weapons. Officers seized two knives from the car in which he rode.

The others were held for investigation.

In the series of clashes which led to the arrests, a patrc man fired a shot of warning in the air and another struck a union leader in the face.

There were no other reported incidents of violence as the automobiles carrying unionists were halted at the city limits.

Special police, hastily re-enforced by recruits armed with rifles, shotguns, small arms, clubs and gas grenades, began demobilizing with word that the marchers had returned to their homes. The highway blockades were reduced to skeleton forces.

Pleads with Men

At Pontiac, Martin pleaded with leaders to abandon the march, voted by the Pontiac local of the UAWA, which claims 19,000 members.

"One of the finest things you can do for the cause of unionism is to call off this strike," Martin told a mass meeting hastily convened after his midnight dash from Detroit to prevent the march.

After five hours of frantic telephoning Monroe's Mayor Daniel A. Knaggs received a call from Governor Frank Murphy. The mayor had planned to renew an earlier appeal for national guardsmen; instead he informed the executive that the situation was in hand.

He said the governor promised state assistance should there be a future emergency.

The governor told Police Chief Jesse Fisher he had heard union members were "mobilizing" in several cities, but Martin declared there would be no "March on Monroe".

Pontiac Plants Work

The U. A. W. A. president said that all Pontiac automobile workers, except the Fisher employes, were working today.

From Pontiac came reports that the Fisher plant was closed until Monday, but all other plants were operating.

The pilgrimage was planned by members of the Pontiac U. A. W. A. local in sympathy with striking members of another Committee for Industrial Organization union who were routed from their picket line near the Newton Steel company's rolling mill here last night.

Return to Mill

From eight to 20 persons were injured in the skirmish between some 200 officers and special police who laid down a tear gas barrage. The dispersal of the picket line permitted non-striking employes of the mill to return to it for the first time since it was closed by a labor dispute May 28.

Several hours of tense quietude separated that fight and the arrival of the vanguard of unionists from Pontiac. They were halted by the augmented force of officers, carrying rifles and shotguns, at a blockade on the main road leading into Monroe from the north.

As each automobile arrived its occupants were questioned, searched for weapons and told to turn back if they proved to be CIO members. Other tourists were permitted to pass the blockade.

Seven men and one woman on the picket line were given hospital treatment for slight injuries after last night's melee, in which special officers used tear gas guns and bombs and night sticks and the unionists hurled bricks and stones.

Reports of the total casualties reached as high as 20.

Clash Soon Ended

The clash ended within 15 minutes, the pickets retreating. Four hundred non-union workers marched down the road that had been blocked by the pickets and entered the plant.

The area of the mill, the downtown section of Monroe and the chief highways entering the city were guarded by the special officers, wearing white arm bands and many of them garbed in the colorful convention uniforms of the American Legion.

After last night's disorder near the plant the Monroe post of the American Legion, of which Fred Keehn is commander, wired a protest to Gov. Murphy about the lack of state protection.

"Do the women and children of our city need to be terrorized by out-of-town foreigners without some action from the head of law enforcement of our state?" the message said. "We are ready to take the law into our own hands unless we have some action from your department. We stand for law and order."

Keehn said the Legion post was "not taking sides in the labor dispute".

Before retiring last night, Gov. Murphy instructed Adjutant General John S. Bersey and State Police Commissioner Oscar G. Olander to be prepared for quick mobilization of the national guard and the state police if members of the CIO attempted to invade Monroe.

Many Conferences

Gov. Murphy spent most of yesterday in conference or communication with Newton Steel officials, Monroe city authorities and representatives of rival labor groups among the steel mill employees—The Steel Workers' Organizing Committee of the CIO and the Steel Workers' Association of Monroe, an independent organization.

Battle lines were drawn two hours before the start of last night's clash.

In the interval, pickets and special police faced each other across a space 150 yards while leaders engaged in futile peace negotiations.

Strikers greeted with a chorus of boos, however, a suggestion of compliance with the governor's appeal that they permit non-striking employes to pass unmolested.

"Over our dead bodies", several shouted.

Chief Fisher waited no longer, but waved his men on.

A barrage of tear gas from guns with which a small army of 200 police, deputies and special officers were armed followed his order.

Almost simultaneously with the frontal attack, a group of 75 special police emerged from their hiding place and opened fire with tear gas guns in a surprise attack on the rear.

Between Two Fires

Squeezed between the two fires, the choking pickets held their line scarcely two minutes before seeking the only avenue of escape left open.

They fled, hurling back rocks and imprecations at the police who pursued them.

The strikers were not without strategy of their own, however. As the special police approached the abandoned picket line a group of 40 union sympathizers who had mingled with the crowd of spectators tossed gas bombs back at them.

The union's flank attack delayed the advancing police only until they could reply in kind. Not only the combatants, but scores of spectators were routed by the fumes.

The police halted briefly again to remove ropes, benches, an overturned scow and automobiles the pickets, who numbered 250 when the trouble started, had used as a barricade. Immediately a line of automobiles bearing 400 non-union workmen rolled down a private highway to the steel plant, a mile away.

RESPONDENT'S EXHIBIT NO. 38A

COMPLAINT AND WARRANT

The State of Ohio
Mahoning County
City of Youngstown

The Municipal Court of the City of Youngstown, Ohio:

Before me, M. J. Carney, Clerk of the Municipal Court of the City of Youngstown, Mahoning County, Ohio, personally appeared Karl H. Cook, who being first duly sworn according to law, deposeth and saith that one Larry & Cora Simcox—Alias "Jerry Simcox" late of the City of Youngstown, Mahoning County, Ohio, did on or about the 16th day of June, A. D. 1935, in the City of Youngstown, Mahoning County, and State of Ohio, being then and there did knowingly and unlawfully obtain from The Federal Emergency Relief Administration in Ohio, a grocery order of the amount and value of $7.61 by false pretense in this to wit, that they were destitute and in dire need, when in truth and fact they were not destitute and in dire need. Contrary to and in violation of one of the Revised Ordinances of said City then in force. And further this deponent saith not.

Karl H. Cook

Sworn to and subscribed before me, this 10th day of July, 1935.

Martin J. Carney,
Clerk of the Municipal Court

....

(Seal) Deputy Clerk

The State of Ohio
Mahoning County
City of Youngstown

To the Bailiff of Municipal Court, Youngstown—Greetings:

WHEREAS, Complaint has been made before me, M. J. Carney, Clerk of the Municipal Court of the City of Youngstown, Mahoning County, Ohio, aforesaid, upon the oath of Karl H. Cook that one Larry & Cora Simcox—Alias "Jerry Simcox" late of Mahoning County, on or about the 16th day of June, A. D. 1935, in the City of Youngstown, Mahoning County, and State of Ohio, being then and there did knowingly and unlawfully obtain from The Federal Emergency Relief Administration in Ohio, a grocery order of the amount and value of $7.61 by false pretense in this to wit, that they were destitute and in dire need, when in truth and fact they were not destitute and in dire need.

These are, therefore, to command you to take the said .... if ... he ... be found in your County, or if ...... shall have filed that you pursue after ...... into any County in the State, and .... take and safely keep, so that you have .... bod .... forthwith before our Municipal Court, and be dealt further with according to law.

Witness my hand this 10 day of July, 1935.

Martin J. Carney
Clerk of the Municipal Court

. . . .

(Seal) Deputy Clerk

RESPONDENT'S EXHIBIT NO. 38B

(Notation): 3578 & 3579
Docket N, Page 163, No. . . . . .

MUNICIPAL COURT OF THE
CITY OF YOUNGSTOWN
Mahoning County, Ohio
The City of Youngstown

Against

Jerry Simcox alias Larry Simcox—35
and Cora Simcox—30
155 Lincoln Ave.

Pursuant to the command of this Writ, I have arrested the within named Jerry Simcox & Cora Simcox and have . . . . now in Court this 9 day of July, A. D. 1935.

Thompson
Bailiff

(Stamped): Filed Jul 10 1935, Martin J. Carney, Clerk.

. . . . , 19 . . .

On this 10 day of July, 1935 the within named Jerry Simcox, Cora Simcox Defendant appeared, and after being arraigned entered a plea of not guilty, to the charge contained herein.

(Notation): Bond $50 each set 7-15-35—1:30 P. M. 7-15-35 Enters Plea of Guilty.

50 & C & 60 Days

Dismissed as to Cora Simcox.

(Stamped): In default of payment of fine and costs herein, the Court orders that said defendant be confined in the County Jail until the fine and costs be paid, or secured to be paid, or the Defendant be otherwise legally Discharged.

(Signature illegible)
Judge.

(Notation): Committed 7-15-35.

I hereby waive the right to trial by jury, and submit the within case to the Judge for final hearing.

. . . .

Witnesses
[Blank lines provided for witnesses' names]

RESPONDENT'S EXHIBIT NO. 39A

THE MUNICIPAL COURT OF YOUNGSTOWN

State of Ohio, City of Youngstown
vs.
Jerry Simcox

RECOGNIZANCE FOR APPEARANCE

OFFENSE

(Stamped): Bond Cancelled. (Remainder of stamp illegible).

The State of Ohio,
County of Mahoning,
City of Youngstown, *ss:*

The within named Albert J. Meredith upon his oath says that he is a resident of the Mahoning County and is the bonafide owner of real and personal property in said County liable to execution, exceeding in actual value the sum of One Hundred Dollars, beyond the amount of all his debts and liabilities, and over and above the amount allowed to heads of families as being exempt from execution by the laws of the state of Ohio.

Albert J. Meredith

Sworn to by the said .... before me and by him subscribed in my presence, this 10 day of July, A. D. 1935.

C. M. Holliday
Deputy Clerk.

RESPONDENT'S EXHIBIT NO. 39B

RECOGNIZANCE

The State of Ohio,
County of Mahoning,
City of Youngstown, *ss:*

Be It Remembered, That on the 10 day of July, A. D. 1935 Jerry Simcox and ~~Meredith Rork~~ Albert J. Meredith personally appeared before MARTIN J. CARNEY, Clerk of the Municipal Court of the City of Youngstown, and jointly and severally acknowledged themselves to owe the City of Youngstown the Sum of One Hundred Dollars, to be levied on their Goods and Chattels, Lands and Tenements, if default be made in the condition following, to wit:

The Condition of this Recognizance is such, That if the above bounden ....
shall personally be and appear before the Municipal Court of Youngstown, in the Municipal Court Room, in said City on the 15 day of July, 1935, at 1:30 o'clock ......M......
then and there to answer the charge of Charity by False Pretenses and shall further appear before said Court, from time to time, on such days as may be required, until the case shall be finally disposed of, and abide the judgment of the Court and not depart without leave, then this recognizance shall be void; otherwise it shall be and remain in full force and virtue in law.

X Jerry Simcox
Albert J. Meredith

Taken and acknowledged before me on the day and year first above written.

Martin J. Carney
Clerk of the Municipal Court of Youngstown

By C. M. Holliday
(Seal) Deputy Clerk of the Municipal Court of Youngstown

RESPONDENT'S EXHIBIT NO. 41

GE 760 20M 8-36

Republic Steel Corporation and Subsidiaries—

EMPLOYMENT RECORD

Youngstown, Ohio ....
District or Subsidiary Plant
Employment No.

Neverdusky Date 3-9 1936 7687

Surname Address Address 8308
Charles 411 Wayne Ave. 19206
Christian Middle
Phone No. ....
Relatives in this Company's Employ ....

Names .... Department ...... Relation ....

Former Employers: Grand Rapid Furn. Co., Youngstown, Ohio. Position ...... Rate ...... Length of Service, From .... to .... 1934. Reason for Leaving ....

Ever work for Republic? .... When? .... Where? ....
Occupation .... Trade or Training ....

Nativity: Place born, U. S. A.; Date of Birth, 9-2-12; Age, 24; Nationality, Amer.; Citizen .... Naturalized ....
Date arrived in U. S. A. ....

Description: Height .... Weight .... Contour of face .... Complexion .... Color of hair .... Color of eyes ....

Physical Condition: Defects or visible marks ....
In case of emergency notify, name ....
Relationship .... Address ....

Education: English Language, Read ✓ Write ✓; Native Language .... Common School—Grade ....
High School—Years .... College—Name ....
Degree ....

Social State: Married Single ✓ Widowed Divorced
Separated Is your wife depending on you for support?
Yes No If not, why not? ....
Children—names and ages ....
Other Dependents ....

(Over)

(Continued from other side)

I hereby agree that dues for the Relief Association shall be deducted from my wages.

I further agree to the deduction of .... from my wages for the Community Fund.

I hereby authorize the Corporation to deduct from my wages any accounts which I may hereafter contract with the Corporation.

I certify that the answers given to the foregoing questions on this card are true and correct to the best of my knowledge and belief, and in accepting employment agree to abide by the rules of the Corporation.

....

Signature

292-09-0775

[Print of right thumb if unable to write]

Service Record

Department	Employe Number	Position	Time from	Time to	Code	Reason for Leaving
O. H. Masonary	7687	Helper	3-9-36	5-20-37		
B. L. Shipp.	8308	Loader	5-20-37	5-20-37	Wrong No.	
B. L. Shipp.	19206	Loader	5-20-37	7-27-37	Cancelled	

Injuries

Date ..... Time Lost ..... Nature ....

Physical Inspection Rating

A B ✓ C D

....

Interviewer

Remarks ....

RESPONDENT'S EXHIBIT NO. 43

NOTICE

Regular Annual Election
Plan of Employee Representation
for
Employee Representatives
For the Purpose of Collective Bargaining and Other Purposes Provided for Under the Plan

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The Employee' Committee will conduct Nominations and Elections as Stated Below. Nominations and Elections Shall Be Held by Secret Ballot

---

NOMINATIONS

Nominations for Employee Representatives will be held

Each qualified voter will be furnished at the polls with a ballot on which he may write the names of those individuals whom he desires to place in nomination.

The number to be nominated in each department will be stated on the ballot.

Those receiving the highest number of votes shall be declared nominated.

ELECTIONS

Elections for Employee Representatives will be held

Each qualified voter will be furnished a ballot on which the names of the nominees will be printed. The number to be voted for will be stated on the ballot.

Nominees receiving the highest number of votes shall be declared elected as Employee Representatives. Nominees failing of election shall stand as alternates in the order of their vote.

All employees of the Company (except those in supervisory positions) who are enrolled on the Company's payrolls on the date fixed for nomination shall be entitled to vote.

Lists of those qualified to vote will be in possession of the Judges at the polls.

No Employee Representative or Nominee shall be eligible to serve on the Election Board within their own voting division.

The above regulations are in accordance with the Plan and those who desire so to choose their Representatives for such purposes should vote at the Nominations and Elections.

Nomination Polls Open ...... Election Polls Open ......

Employees' Committee on Elections
(Space provided for signatures)

RESPONDENT'S EXHIBIT NO. 44

NOMINATED CANDIDATES FOR EMPLOYEE REPRESENTATIVES

At the ...., nominations, the Employees whose names appear below were Nominated as Candidates to be voted on for Employee Representatives at the elections to be held ....

....

Department or Voting Division

NOMINATED CANDIDATES

Name Number of Votes

(Space provided for names, number of votes)

At Election Vote for .... Only
(Space provided for signatures)
Employees' Committee on Elections
Republic Steel Corporation and Subsidiaries

....

District or Subsidiary Plant Date

RESPONDENT'S EXHIBIT NO. 45

NOMINATION BALLOT FOR EMPLOYEE REPRESENTATIVES

Directions to Voters

This ballot is issued to qualified voters to nominate candidates for Employee Representatives.

The voter, by using this ballot, approves the holding of Nominations and Elections as stated in the posted notice issued by the Employees' Committee under the Plan of Employee Representation at this Plant and expresses his desire that those elected shall represent him in collective bargaining and for the other purposes stated in the notice.

Each qualified voter is entitled to nominate twice the number of Representatives to which his department or voting division is entitled.

Write Names or Check Numbers of Candidates Below:

Name *Check No.*

(Space provided for names, check numbers)

Vote for .... Only If you write more your ballot will be VOID

....

....
Department or Voting Division

Date ....

RESPONDENT'S EXHIBIT NO. 46

ELECTION BALLOT FOR EMPLOYEE REPRESENTATIVES

Notice to Voters

By using this ballot the voter approves the holding of Nominations and Elections as stated in the posted notice of this Election issued by the Employees' Committee under the Plan of Employee Representation at this Plant and expresses the desire to be represented for collective bargaining and the other purposes stated in the notice, by Representatives elected under the Plan.

Directions to Voters

Place cross (X) in front of the name of the candidate or the name of each of the candidates whom you wish to elect as Representatives of your Department or Voting Division.

PLACE (X) BELOW

NAMES OF NOMINATED CANDIDATE OR CANDIDATES

....

....

....

....

....

....

VOTE FOR ONLY

If you vote for more your ballot will be VOID

Department or Voting Division

Date ....

RESPONDENT'S EXHIBIT NO. 47

REPUBLIC STEEL CORPORATION
WARREN DISTRICT

Plan of Employee Representation
Adopted June 1933
Amended May 1934

REPUBLIC STEEL CORPORATION
Warren District

Plan of Employee Representation

The Plan of Employee Representation, as hereinafter provided, shall in no way discriminate against any employee because of race, sex, or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

I

REPRESENTATION

1. Employee Representation shall be by Departments on the basis of one Representative for each two hundred (200) employees, or major fraction thereof, based on the average number of employees on the payroll for three months immediately preceding the election.

2. Wherever it is necessary for the purpose of applying the unit of representation to group small Departments, regard shall be had to logical groupings and location.

3. Adjustments in units of representation, wherever necessary to secure complete and fair representation, shall be made in accordance with the recommendation of the Joint Committee on Rules, Ways and Means.

II

TERM OF OFFICE OF REPRESENTATIVES AND VACANCIES

1. Employee Representatives shall be elected for a term of one year and shall be eligible for re-election.

2. An Employee Representative may be recalled upon the approval by the Committee on Rules, Ways and Means, of a petition signed by two-thirds of the voters in his department and upon such approval he shall cease to be such Representative.

3. An Employee Representative shall be deemed to have vacated his office as such upon severance of his relations with the Company, or upon being transferred from one Department or voting division to another, or upon his appointment to such a regular position as would make him one of the persons described in Paragraph 3 of Section III hereof.

4. Vacancies in the office of an Employee Representative, for which there is no Alternate, as described in Paragraph 16 of Section IV hereof, may be filled for the unexpired term, in the discretion of the Committee on Rules, Ways and Means, by special election conducted in the same manner as the regular annual election.

III.

QUALIFICATIONS OF REPRESENTATIVES AND VOTERS

1. Any employee who has been on the Company's payrolls for a period of at least one year immediately prior to nominations; who is twenty-one (21) years of age or over, and who is an American citizen, shall be considered qualified for nomination and election as an Employee Representative.

2. All employees who are enrolled on the Company's payrolls (except as provided in Paragraph 3 of Section III) on the date fixed for nominations shall be entitled to vote.

3. Company officials and persons having the right to hire or discharge, or holding regularly a purely supervisory position, shall not be eligible as Employee Representatives or qualified to vote for Employee Representatives.

IV.

NOMINATIONS AND ELECTIONS

1. Nominations and elections of Employee Representatives shall be held annually in the month of June. Nominations (after the first nominations and elections) shall be held on the second Tuesday and elections on the following Friday of such month. In the event of either of these days being a holiday, then the nominations or elections as the case may be, that otherwise would be held on such day, shall be held on the next succeeding full business day.

2. Nominations and elections shall be conducted by employees in accordance with rules and regulations prescribed by the Committee on Rules, Ways and Means, with only such assistance from the Management as may be requested.

3. Nominations and elections shall be by secret ballot and so conducted as to avoid influence or interference with voters in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

Nominations

4. On the day of nominations, each qualified voter shall be furnished a ballot stating the number of persons for whom he is entitled to vote. Such voter shall write on

ballot the names or check numbers of the persons in his Department or voting division whom he desires to nominate for election as Employee Representatives.

5. A voter may place in nomination twice the number of Representatives to which his Department or voting division is entitled.

6. If on any ballot, the name or check number of the same person shall appear more than once, the ballot shall be counted as a vote for such person only once.

7. In case the number of persons whose names or check numbers appearing on any ballot shall exceed the designated number as stated on the ballot, the ballot shall be void.

8. There may be three persons nominated for every office of Employee Representative to be filled.

9. Those employees who received the largest number of votes, in any department or voting division, equal to three times the number of Representatives to be elected shall be declared nominated, and shall be candidates for election.

Elections

10. On the day of election, each qualified voter shall be furnished by the Committee on Rules, Ways and Means, through tellers designated by such Committee, a ballot on which the names of the candidates for Employee Representatives shall be printed in the order of number of votes received at nominations. In case two or more persons shall have received at nominations the same number of votes, then the names shall be placed in the alphabetical order of their respective sur-names.

The voter shall indicate his preference by placing a

cross (X) opposite the name of the candidate or the name of each of the candidates of his choice.

11. The number of candidates for whom the employees in each Department or voting division shall be entitled to vote for Employee Representatives of such Department or voting division shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

12. Each voter shall deposit his own ballot in a box provided for the purpose by the Committee on Rules, Ways and Means, and the ballots shall be counted under the direction and supervision of the members of said Committee. The candidate or candidates receiving the highest number of votes (in accordance with the number to be elected) shall be declared elected as the Employee Representative or Representatives of such Department or voting division.

13. In the event of a tie, selection shall be made by lot under the direction of the Committee on Rules, Ways and Means.

14. In the event of a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules, Ways and Means.

15. The Committee on Rules, Ways and Means, may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking the ballot.

16. Candidates failing of election shall stand as Alternates in the order of the number of votes received and in such order shall become Employee Representatives as need may arise through vacancies or increased forces.

V.

Management's Representative

The Company shall appoint a Management's Repre-

sentative to facilitate close relationships between the Management and the Employee Representatives.

The Management's Representative shall represent the Management in negotiations with the Representatives, their Officers and Committees. He shall respond promptly to any request from Representatives, and shall interview all of the Representatives, from time to time, collectively or separately, with reference to matters of concern to employees. He may attend any meeting of the Joint Committees, but shall not have any vote thereat.

VI.

Committees

1. Wherever the word "Committee" is used throughout this instrument, it shall mean a Standing Committee of Employee Representatives unless a "Joint Committee' is specified.

2. After each annual election the Representatives shall immediately meet for the purpose of electing a Chairman, Vice Chairman and Secretary for the General Body of Employee Representatives.

The General Body of Employee Representatives shall also select members for the following Committees, viz:

Committee No. 1 — Rules, Ways and Means.

Committee No. 2 — Wages, Employment, Schedules and Working Conditions.

Committee No. 3 — Safety, Health, Plant Sanitation and Welfare Activities.

Committee No. 4 — Appeals Committee.

3. The Appeals Committee shall consider all matters not falling within the scope of any other Committees herein

provided for, and the Chairman and Secretary of the General Body of Employee Representatives shall be members of the Appeals Committee.

4. Each Committee shall be composed of not more than five members, and shall appoint its own Chairman and Secretary.

5. Vacancies on Committees shall be filled at a regular meeting of the General Body of Employee Representatives.

6. Joint Committees shall consist of the Committee of the Employee Representatives with the addition of the Company's Representatives named by the Management, who may equal but shall not exceed in number the Employee Representatives.

7. The Joint Committees shall select their own officers and arrange their own procedure, subject to appeal, in case of controversy, to the Joint Committee on Rules, Ways and Means.

VII.

Committee Meetings

1. Regular meetings of Committees shall be held every other month.

2. On alternate months, the Joint Committees shall meet.

3. In months that the Joint Committees meet, a meeting shall also be held by the General Body of Employee Representatives for the purpose of reviewing the work of the Committees and Joint Committees, and discussing any matters of general interest.

4. Committees shall meet between the hours of three and five in the afternoon, unless otherwise determined by joint approval of the Chairman of the General Body of

Employee Representatives and the Management's Representative.

5. Special meetings of Committees and of Joint Committees may be held as occasion may require, on approval of the Chairman of the General Body of Employee Representatives and the Management's Representative.

6. For time necessarily lost, through actual attendance, at regular or special meetings or conferences jointly approved, Representatives shall receive from the Company, payment commensurate with their average earnings.

7. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or voting division they represent.

8. A Committee, in considering matters of special interest to any particular Department or class of employees, shall have the right to invite into conference the Representatives of the Employees and of the Company likely to be especially interested in such matters.

9. Any matter may be referred by the Management through the Management's Representative to any Committee for consideration and report, and any matter may be presented by a Committee to the Management through the Management's Representative.

10. The Joint Committee on Rules, Ways and Means, shall arrange a suitable place for meetings of the General Body of Employee Representatives and of the several Committees and Joint Committees, and the Company shall defray such expenses as are necessarily incident to the discharge of duties herein set forth, when approved by a majority of said Committees.

VIII.

ANNUAL CONFERENCE

An Annual Conference between all of the Employee Representatives and Representatives of the Management shall be held at a time and place determined by the Joint Rules, Ways and Means Committee, who shall regulate the procedure at such conference.

IX.

PROCEDURE FOR ADJUSTMENTS

1. Any matter which in the opinion of any employee or group of employees, requires adjustment, and which such employee or group of employees has been unable to adjust, either directly with the foreman or through his or their representative, may be taken up by such employee or group of employees, either in person or through any representative of his or their department in writing.

First—With the Superintendent concerned.

Second—With the Management's Representative.

Third—With the Management, who shall endeavor to effect a settlement, or who may with the approval of all the parties refer the matter to proper Joint Committee.

2. Unless satisfactory disposition of any such matter has been effected within fourteen (14) days, unless otherwise agreed upon between the Department Head and Representative with whom he is in contact, any employee through his Representative, or the Management through the Management's Representative, may require such matter to be referred to the Joint Appeals Committee by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

The Joint Appeals Committee shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts and effect a settlement.

All changes in hourly or tonnage rates fixed or determined by any authority in the procedure of the Plan, up to and including the Joint Appeals Committee, which decision is satisfactory to the employee or employees concerned, shall be made effective as of the date the written request was filed with the department head.

Request for changes in hourly or tonnage rates shall be considered closed upon such a decision as hereinbefore stated, unless notice of an appeal is filed in writing by the employee or employees with the Chairman of the General Body and/or the Management's Representative within fourteen (14) days after the decision as hereinbefore stated was made, in which event the request will be continued through such procedure of the Plan as is necessary to effect final disposition.

3. If the Joint Appeals Committee shall fail to effect a settlement, the President of the Company shall be notified, and the matter may be referred, if the President and a majority of the Employee Representatives on the Joint Appeals Committee agree to such reference, to an arbitrator or arbitrators, to be determined at the time according to the nature of the controversy.

X.

GUARANTEEING THE INDEPENDENCE OF REPRESENTATIVES

1. It is understood and agreed that each Representative or employee assisting him shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected

in the least degree by any action taken by him in good faith in his representative capacity.

2. To insure to each Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him on account of his acts in his representative capacity to the Management's Representative, to any of the Superior Officers, to the Joint Appeals Committee, and to the President of the Company.

3. Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within thirty days, a Representative shall have the further right to appeal to the Secretary of Labor of the United States. The Company shall furnish the Secretary of Labor with every facility for the determination of the facts, and the findings and recommendations of the said Secretary of Labor shall be final and binding.

XI

AMENDMENTS

1. Any method of procedure hereunder may be amended at any time by two-thirds vote of the entire membership of the Joint Committee on Rules, Ways and Means, or by concurrent majority vote of the General Body of Employee Representatives and of the Representatives of the Management at an Annual Conference.

RESPONDENT'S EXHIBIT NO. 48

CERTIFICATE OF ELECTION FOR EMPLOYEE REPRESENTATIVES

. . . .

Department or Voting Division

This is to certify that at the ...., Elections held by the Employees of the above department or voting division, the following nominees were elected Employee Representatives:

(Space provided for names)

The following nominees stand as alternates in the order listed on the number of votes received:

(Space provided for signatures)

Employees' Committee on Elections

Republic Steel Corporation and Subsidiaries

....

District or Subsidiary Plant Date

RESPONDENT'S EXHIBIT NO. 50

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

In the Matter of Republic Steel Corporation and Steel Workers Organizing Committee

Case No. C-184

Re Youngstown, Warren-Niles Districts

RESPONDENT'S OFFER TO PROVE

Respondent offers to prove that immediately after the calling of the strike on May 26, 1937 pickets and members of the S. W. O. C. and C. I. O. gathered in great numbers about the boundaries of and entrances to respondent's plants in Youngstown, Ohio, Niles, Ohio, and Warren, Ohio; that a great majority of said pickets and members as aforesaid were armed with clubs, ball bats, pieces of pipe, bricks, stones, revolvers, rifles and many other types of homemade weapons of a dangerous character such as clubs with nails and razor blades imbedded in them; that said pickets and members as aforesaid, in addition thereto, erected barricades of cables, timbers, automobiles, etc. in and about the duly dedicated public highways in the municipalities of Warren, Niles, Youngstown, Struthers and Campbell, Ohio, and in the counties of Trumbull and Mahoning in the State of Ohio; that said pickets and members as aforesaid arrogated to themselves the regulation of traffic and the use of state highways by members of the public; that groups of members of S. W. O. C. and C. I. O. toured the highways in said counties in motor vehicles marked "C. I. O. Flying Squadron" and by threats and violence endeavored to secure members for said organization, to prevent workers from returning to their work and to cause workers at work to cease and desist from their labors and, in various instances and by said means, accomplished their purposes; that wives, children and relatives of men in the mills of respondent were threatened and abused and their homes damaged; that members of S. W. O. C. and C. I. O. stopped and searched automobiles of citizens without right; that railroad tracks were destroyed by explosives and other means; that railroad tracks were barricaded; that speeches were made by leaders of the C. I. O. inciting the members of the organization to riot; and that assaults, resulting in bodily harm, were committed by the said members of the C. I. O. and S. W. O. C. on the persons of citizens. Respondent believes that the following named witnesses, if permitted, would so testify:

Hugh McCabe
George McCabe
W. J. James
Joseph McKosky

John A. Evans
Harry Purcell
O. G. Broadbelt
Col. Wade C. Christy—O. N. G.
Capt. Harry N. Potts—O. N. G.
Capt. Joseph Parilla—O. N. G.
Alfred Paul Timms and
Carmen diChristophero.

Respondent further offers to prove that Joe Bronk, an employee at its Warren Plant previous to the calling of the strike, and a member of the C. I. O. was on the picket line at the entrance to the Trumbull-Cliffs furnace for about one week and later used his car for carrying food to other pickets; that the director of the strike was one Gus Hall; that on the evening of Memorial Day there was trouble which amounted to a small riot on one of the picket lines; that one of the men active in the strike known as "Scottie" called Bronk to one side and said he wanted him to make a trip into Pennsylvania and bring back some "stuff"; that that evening the said Scottie came to the picket line and with Bronk and others started for Pennsylvania after first stopping at C. I. O. headquarters and talking with Gus Hall and obtaining from him $10 for expense money; that a man named John came along to pilot them to a place in Pennsylvania; that they drove to a point just outside the limits of Oil City and went to an old shack back in the woods where they saw an old man from whom Scottie made a request for dynamite; that said old man stated that he knew where there was some dynamite but that the place was locked up and none could be obtained unless the lock was broken; that they decided not to break into the place at that time and arranged to make a later trip returning to Warren about six o'clock in the morning; that on the next day Gus Hall scolded Bronk for not having appeared promptly at the C. I. O. headquarters with a report of the trip; that four

ibers of the C. I. O., including the said John above men-
ed, made a trip about one week later to Pennsylvania
Charles Byers in a big Buick automobile; that said
ck started on this trip from C. I. O. headquarters; that
his trip nitro-glycerin and dynamite were transported
Pennsylvania to Warren, stored in the home of a mem-
of the C. I. O., bottled and taken to C. I. O. headquar-
for placing of caps and fuses; that this dynamite and
o-glycerin were used at various points around the plant
espondent and along the railroad tracks in the vicinity
eof; that John Borawiec, Charles Byers, Sidney Wat-
and others handled said explosives which were used by
ibers of the C. I. O. for destruction of railroad tracks
purposes of intimidation. Respondent believes that the
ness Joe Bronk, if permitted, would so testify.

Respondent further offers to prove and believes that the
rds of the Court of Common Pleas for Trumbull County,
would show that in connection with the possession
use of explosives in this strike, Charles Byers, Sidney
kins and A. C. Scott, members or former members of
C. I. O. and now under sentence in the Ohio State Peni-
iary, and John Borawiec, George A. Bundas and An-
v J. Marsh, members or former members of the C. I. O.
on probation for a 5-year period, each severally pled
ty to the possession and use of the explosives hereto-
mentioned.

Respondent further offers to prove that after the strike
called as aforesaid and on account of the unlawful
eting, the destruction of railroad tracks, and the block-
maintained by members of the C. I. O. and S. W. O. C.
he public highways, as aforesaid, it became necessary
et food into respondent's plants at Niles, Ohio, and War-
Ohio to feed its employees then at work; that airplanes
e chartered for that purpose and began carrying food
fs into said plants on or about June 1, 1937; that there

was sufficient space within the Warren Plant for the landing of planes but at Niles no landing space was available; that whenever a plane would attempt to drop food at the Niles Plant or to land with food at the Warren Plant, shots would be fired at said planes from ambush and from the public highways in Trumbull County, Ohio; that on June 3, 1937 one Sam Caputo, a member of the C. I. O. shot at a plane piloted by T. H. O'Malley; that on the same day Mike Spelich, a member of the C. I. O. also shot at said plane so piloted by said O'Malley who was at the time attempting to bring food into respondent's plant; that the said Caputo and the said Spelich were arrested and charged with shooting to kill the said T. M. O'Malley while the said O'Malley was in an airplane and were bound over to the Grand Jury of Trumbull County, Ohio, where their cases await disposition; that on June 2, 1937, a direct hit was made on a plane landing at the Warren Plant and that nine shots were fired at other planes; that said shots were fired from Pine Street in the city of Warren, Ohio, and from the swamp area near respondent's Open Hearth Building, which points were constantly manned by C. I. O. pickets; that on June 3, 1937 a plane landing at the Warren Plant was fired on; that on June 2, 1937 twenty shots were fired at a plane flying over the Niles Plant and three hits were made on said plane; that bullet holes were found in the said planes; that shots fired in all instances came from C. I. O. picket lines or points manned by C. I. O. pickets; that on or about June 4, 1937 the airplane attempting to bring food to the Niles Plant of respondent was fired on from the field just north of said plant; that following said shots two men armed with rifles ran from the bushes in said field; that the location of said two men was the picket line of C. I. O.; that other pickets on the same location and at the same points were armed with clubs and pipes; that shooting continued at the Niles Plant on almost every occasion that the plane would come to the plant and came from underbrush in a thicket near the Erie Railroad tracks; that said shots were fired from rifles and immediately after the disappearance of a plane men would be seen sneaking out from said underbrush; that said men came from a location manned by C. I. O. pickets; that men were also seen under a camouflage of sheet metal in an area adjacent to the Niles Plant along a picket line; that men were seen coming from this camouflage with rifles and that empty rifle shells were later found at this location; that one member of the C. I. O. was seen in this picket line with a revolver and that a revolver shot was fired at a plane from the picket line at a point opposite the Niles Plant and that rocks and stones were thrown at said plane from the C. I. O. picket lines adjacent to said plant when said planes would fly low. Respondent believes that the following named witnesses, if permitted, would so testify:

W. C. Wilson
Tom Baker
Edward Harrison
Capt. Joseph Parilla—O. N. G.
Glenn Marshall
Howard Pendleberry and
John Patton.

Respondent further offers to prove that subsequent to May 26, 1937, strikers and members of the C. I. O. interfered with, hindered, and in some instances stopped and prevented the delivery of United States mail to its plants where a strike had been called by the C. I. O.; that on June 4, 1937 one Edward S. Harrison went to the United States Post Office at Warren, Ohio, and attempted to mail a package containing magazines to a Mr. Dye, an employee of respondent who had remained in its Warren Plant; that despite the fact that said parcel was wrapped and ready for delivery the man in charge of the stamp window at the Warren Post Office refused to sell stamps to be affixed thereto because they were prevented from delivering packages to the Warren Plant of respondent by the C. I. O.; that the said Harrison, after leaving said Post Office, tried to gain admission to the plant of respondent and was refused admission by a group of C. I. O. representatives located about a half a block from the main entrance; that said representatives who stopped Harrison were armed with wooden clubs, baseball bats and lengths of iron pipe wrapped with tape; that said C. I. O. members told him to get away from there and stay away regardless of his message for Mr. Dye, and that one of the men on said picket line with whom he talked said that he was a member of the C. I. O. and a miner whose residence was Uniontown, Pennsylvania. Respondent believes that the witness Edward S. Harrison, if permitted, would so testify.

Respondent further offers to prove that when the mailman carrying U. S. mail approached its Niles Plant in his truck he would stop in front of the C. I. O. headquarters opposite its Niles Plant and the packages of mail would be taken out of the truck and into C. I. O. headquarters where they would remain for four or five minutes, after which said mailman would put the same back in his truck and drive over to the respondent's office; that said pickets climbed upon the U. S. mail truck on several occasions and that on one occasion three or four members of the C. I. O. jumped on the express truck and stopped it within twenty feet of the main entrance of respondent's plant at Niles, talked with the driver and finally turned the truck back and away from respondent's plant. Respondent believes that the witnesses N. S. Neitz and Howard Pendleberry, if permitted, would so testify.

Respondent further offers to prove that on June 4, 1937 the postal authorities at Warren refused to accept from Louis L. Guarnieri parcel post packages addressed to Frank E. Flynn at the Warren Plant of respondent; that said same parcel post packages were again tendered to the postal authorities at Warren, Ohio on June 7, 1937, and again refused; that on June 7, 1937 the said Mr. Guarnieri tendered four packages containing non-perishable food to the Postmaster at Niles, Ohio Post Office for delivery to Sam Brown, Superintendent of respondent's Niles Plant, and that said packages were refused; that Mr. Marceau, Postmaster at Niles, Ohio, stated that there was a working agreement with Mr. Payne and Mr. Galloway, executives of the C. I. O. with reference to parcel post packages addressed to the plants of respondent. Respondent believes that the witness, Louis Guarnieri, if permitted, would so testify.

Respondent further offers to prove that on June 3, 1937 Mrs. Rhoda M. Best received a telephone call from her husband, an employee of respondent then at work in its plant, asking her to send him two bottles of false teeth adherent powder to the plant of respondent so that he might be able to hold his false teeth in place while eating solid food; that she procured this package and sent it with her son to the South Side Branch of the Youngstown Post Office where the Post Office Officials refused to accept the same, saying that they could not send it through and it would be a waste of postage; that her son-in-law went down to the Main Office of the Youngstown, Ohio Post Office the next morning with the same package and was there told that he could leave the package if he so desired, but they did not think it would get through; that said package was left at said Post Office and a few days thereafter her husband again called urging her to try to get some of the powder through to him; that she then procured another bottle of said adherent powder and personally took it to the South Side Branch of the Youngstown Post Office and was advised that said package in all probability would not get through to her husband in the plant; that she then tried to send said package first class or special delivery and the same was again refused by the postal authorities at Youngstown; that thereafter she tried through a friend to send the package of powder to her husband and later learned that said package had been taken from this friend by members of the C. I. O. picketing respondent's plant. Respondent believes that the witness Rhoda M. Best, if permitted, will so testify.

Respondent further offers to prove that John F. Wyndham, an employee of the Post Office Department, whose duty was the delivery of mail in and about the city of Warren, Ohio, did deliver a truckload of mail addressed to respondent's Warren Plant on May 27, 1937, but on May 28, 1937 was prevented from making a delivery of United States mail by C. I. O. pickets congregating at the entrance of respondent's plant; that at the time said Wyndham was prevented from making such delivery, he recognized C. I. O. members William Williams and Chester Rochett among the group and, despite the fact that he called to their attention the fact that they were interfering with the United States mail, they still would not permit him to enter and that he returned with said mail and reported the facts to his superior officers at the Post Office in Warren, Ohio. Respondent believes that the witness John F. Wyndham, if permitted, would so testify.

Respondent further offers to prove that during the last part of May and the first part of June, 1937, members of the C. I. O. interfered with, hindered and prevented, the delivery of railroad cars to the plants of respondent in Youngstown, Niles and Warren, Ohio; that on June 4, 1937 the Lake Erie and Eastern Railroad Company attempted to place twenty-six cars of iron ore in the plant of respondent at Youngstown, Ohio; that members of the

C. I. O. came from Poland Avenue in Youngstown, Ohio, armed with clubs and started to climb upon the locomotive and at that time advised the conductor in charge of said train that he would not be allowed to move the cars into the plant of respondent; that on account of the action of said members of the C. I. O. said Railroad Company was unable to make delivery of the said cars and moved the same back into the yard and left the property of respondent; that said pickets wired the switch leading from the Lake Erie & Eastern Railroad tracks into respondent's plant and threatened to remove the rail from said track if said Railroad Company attempted to deliver any cars; that during said period said Railroad Company made numerous attempts to deliver cars to the plant of respondent and were, by members of the C. I. O., prevented from so doing; that on one occasion when the Railroad was attempting to deliver five cars of coal the C. I. O. pickets would hold the coupling lever and prevent the coupling from operating; that railroad ties were placed across the tracks in the tunnel leading from the Bessemer Plant to the Open Hearth Works under the Pennsylvania Railroad tracks which blocked said tracks and would have derailed a train attempting to move thereon; that stones and rocks were hurled by C. I. O. pickets at trains and engines moving within the property of respondent; that members of the C. I. O. congregated and picketed on the properties of the Pennsylvania Railroad Company, The Erie Railroad Company and The Baltimore & Ohio Railroad Company in and about the cities of Youngstown, Niles and Warren, Ohio, and interfered with the operations of said Companies to such an extent that the officials of said Companies complained of said situation and asked The Honorable Martin L. Davey, Governor of the State of Ohio, to intervene and protect the movement of trains in and about the various plants of respondent; and that on or about June 5, 1937, C. I. O. pickets, using acetylene torches, cut the rails leading into the Rod & Wire Works of The Youngstown Sheet & Tube Company at Struthers, Ohio, after a car of food, protected by Struthers police and deputies from the Sheriff's office, had broken through the picket lines and had been delivered inside the plant. Respondent believes that the witnesses J. F. McMahon, William Flanigan, Emedro de Frangia and others, if permitted, would so testify.

Respondent further offers to prove that Mike Sesko, a member of the Amalgamated Association, a resident of Warren, Ohio, and an employee of Republic Steel Corporation, who remained away from work from the time the strike was called until July 21st, came to Pine Street, across from C. I. O. headquarters, on July 6, 1937; that at about 8:00 or 9:00 o'clock in the evening of said day John Grajciar called him across the street to C. I. O. headquarters and asked if he were working; that Sesko said "No"; that thereafter Grajciar said "You took 17 men in the mill today" and upon Sesko's denial said they should go and see Terrydale, Vice President of the C. I. O. lodge; that when Sesko started across the street to see Terrydale, a number of men surrounded him and took him inside headquarters, where one of them knocked him down when he did not sign a C. I. O. card; that Sesko later was able to break loose, leaving the building by the rear door; that numerous men, members of the C. I. O., followed him out said door to near where a policeman was stationed across the street; that thereafter, Sam Caputo, a member of C. I. O., came across the street and offered to take Sesko home in his car; that as soon as Sesko got in the car he was knocked unconscious and thrown out onto the street; that the force of the blow on the left side of his head fractured his skull; that he was taken by a policeman to the City jail, where his head was washed and where he was treated by the City physician; that he was thereafter seen by Dr. Thomas, who sent him to the Warren

City Hospital. Respondent believes that the witness, Mike Sesko, if permitted, would so testify.

Respondent further offers to prove that W. B. Rankin, an employee in the Warren Plant of respondent, was prevented from working during the strike; that he was anxious to be at work and in connection therewith talked with several of his fellow employees; that Dick Bowman and Harold Boyd and four or five other members of the C. I. O. came to his house on several occasions; that about forty members of the C. I. O. paraded in front of his house, and that upon another occasion Boyd came to talk with him; that during the course of the conversation, the name of Sid Howe was mentioned, at which time Boyd said: "That dirty .... We have a little room all fixed up for him and in a few days he'll be in there. That is why I wanted you to see the light, Bill" that the action of said members of the C. I. O. in and about his home caused such fright to his wife that she suffered from a nervous breakdown; that on several occasions he visited the vicinity of the mill, at which time every C. I. O. member seen by him had a club or a piece of pipe or some weapon; that he was a member of the Amalgamated Association and that word came to attend a meeting in the A. A. Hall where they were to have a vote to see whether or not they would go back to work; that at this meeting, Harry Wines, an executive of the C. I. O. and former President of the Trumbull Lodge, got up and said "There is a certain bunch of men think they're going in that mill Tuesday morning and they're not going in. You get down on the picket line and you know your job. You see that you stop them from going in the mill. There is nothing against the law that you can't get away with. Use your own judgment"; that at said meeting, also, Mr. Grajciar spoke saying "I am going to read you out some names of some .... dirty scabs in that mill down there"; that he thereafter read certain names and continued: "Now, you fellows know where they live and you know what your job is. Now, see that you do it"; that Leonard, a C. I. O. representative from Pittsburgh, was also present and spoke, but that no vote was taken with reference to returning to work. Respondent believes that the witness, W. B. Rankin, if permitted, would so testify.

Respondent further offers to prove that Sylvester Brogdon, an employee of the respondent at its Warren plant, who was out of work during the strike, attempted to return to his work; that he had been told how to get into the plant near the hospital; that he made the attempt, grabbing the wire fence, on the first Sunday in June of 1937 at about 8:30 o'clock in the morning; that said fence pulled loose and he fell back and was seen by numerous C. I. O. pickets who converged upon him from the main gate and from the B. & O. gate; that he ran across to the Community House, seeking shelter but was unable to enter the front door and later ran around to the rear, where he was caught by a group of C. I. O. pickets with clubs and C. I. O. badges; that said pickets surrounded him and later Officer Strok of the Warren Police Department came and searched him saying "Boy, don't you know better than to get in that place over there. Don't you know any better than to try to get in the plant when there is a strike? Go with them"; that after the police officer told him to go with the C. I. O. men a couple of hundred of them followed him down Pine Street to a man who had a sign "Deputy" on the car; that he there entered a car; that six of the C. I. O. men piled into the car and two more rode the running board; that the car proceeded down Pine Street and High Street and out Mahoning Avenue in the City of Warren; that it also went out the State Road and they took him back into the woods where they made him take off his clothes and while he was talking to two of them he heard a roaring; that the roaring was caused by a blow on the head which made a deep gash in the right side of his head; that he was thereafter unconscious for a time and when he recovered consciousness he was alone in the woods without clothes; that he looked about for his clothes and later saw a farmer from whom he borrowed a coat and a pair of overalls and made his way back into town; that he was treated by Dr. Samuel A. Brown, 1825 West Market Street, Warren Ohio, for said injury. Respondent believes that the witness, Sylvester Brogdon, if permitted, would so testify.

Respondent further offers to prove that Leo Zipperer, an employee of respondent, at its Warren, Ohio plant, in the engineering department, and who was prevented from working during the strike, made an effort to enter the office where he was employed; that his weight is 112 pounds; that he went to the front of the office and was standing on the street when a C. I. O. picket by the name of Dave Williams, who weighs 250 pounds, not an employee of Republic, gave him a shove and nearly knocked him down; that at said time he was accompanied by Mr. Bernet, another employee, who said to C. I. O. Picket Williams "Don't pick on a little fellow like that; he is not very strong", and immediately Picket Williams struck Mr. Bernet in the jaw, cutting his lip, and that he was forced to return to his home without being able to enter the plant and work. Respondent believes that the witness, Leo Zipperer, if permitted, would so testify.

Respondent further offers to prove that Tom Baker, an employee of respondent at its Niles Plant, was in the mill during the strike and at the time planes were delivering food to the Niles Plant; that he saw the barricade in front of the main entrance being put up by William Sproul —or Sprong—and Nick Lapala, members of the C. I. O.; that he went out and interrogated them as to whether or not managers or superintendents would be permitted to pass the barricade consisting of the cable, reinforced by cars parked bumper to bumper; that Nick Lapala said "Absolutely not"; that they could come out if they wanted to, but could not go back; that one morning about 3:00 o'clock, he saw Wiley F. McCleary, a motor inspector, attempt to enter by the main gate; that members of the CIO grabbed him and took him over to the CIO tent, where he was surrounded by numerous pickets; that he heard him scream and later saw them take him away; that about the second or third day planes were dropping food in the plant and every time a plane neared the plant he could hear shots; that he crawled up a coal tower in an endeavor to locate them and found that they were coming from a thicket near the Erie Railroad and from the underbrush at that point; that as soon as the shooting stopped and the planes had gone, he could see men sneaking out of the underbrush and going back towards dwellings in the distance beyond the picket line; that after the injunction of the court became effective, he brought men who desired to work, and who had no cars, to the plant in his car, during which trips members of the CIO tried to run his car off the road and wreck it and that on one occasion, one of three men standing in the picket line in a group, threw a stone which hit his car; and that along the picket line he saw many CIO pickets armed with clubs, some of them with nails driven in the side of the weapon, and also piles of rocks and stones along the picket line, placed there by said pickets. Respondent believes that the witness, W. B. Rankin, if permitted, would so testify.

Respondent further offers to prove that John Patton, an employee of respondent, at its Niles, Ohio plant, after the injunction of the Court was effective and the cable taken down, was engaged in hauling some of the girls back and forth from the plant, during which time cars would ram his car from behind, and the same being done on one occasion by Galloway, a member of the CIO Lodge, who asked him what he meant by doing such work; that this happened about the 6th of July, 1937; that he was followed on numerous occasions by C. I. O. pickets in cars and on other occasions his car was hit by stones thrown by them and, after having another employee follow to protect him, his car was again struck by one of three men at a C. I. O. picket post; that he attempted to apprehend these men but, by the time he could get his car stopped and got back, they had scattered; that while he was in the plant and before the cable was taken down, his daughter drove up in front of the barricade and told the C. I. O. pickets on duty that it was quite important that she see her father; that said permission was denied her and she was told, when he did get out, they intended to kill him; that on another occasion the car of C. I. O. men drove alongside his and told him that if he did not make that his last trip they would see to it that it was his last trip and when he came back, one of the fellows at the corner called him names and said "We'll stop you if we have to kill you"; that he saw members of the C. I. O. in the picket line armed with stones, clubs and small baseball bats with a strap on the end of them around their wrists, and that he heard shooting at the airplanes bringing food to the plant, the reports of which shooting sounded like the firing of a rifle. Respondent believes that the witness, John Patton, if permitted, would so testify.

Respondent further offers to prove that Wiley F. McCleary, a motor inspector employed at the Niles Plant of the respondent, and who remained in the plant at the beginning of the strike, left the plant one night to attend to some personal business and thereafter, at 3:00 o'clock the next morning, attempted to re-enter the plant by the main gate, at which time he was struck over the head with a club and grabbed by about a dozen of the C. I. O. pickets and dragged over into their tent opposite the main gate, at which time they went through his belongings and thereafter loaded him into a car and took him out into the country 6 or 7 miles, where some of them struck him on the point of the chin while others held his hands and others hit him on the back of the neck; that this occurred on or about June 14, 1937, after which they drove away and left him, after telling him that if he ever came near Niles again they would finish him; that he has since seen the man who struck him on the chin driving an automobile with Ohio 1937 license G-679-Q; that he received injuries from which he suffered for a couple of weeks. Respondent believes that the witness, Wiley F. McCleary, if permitted, would so testify.

Respondent further offers to prove that Elmer Irwin, an employee of Respondent at its Niles Plant, was in said plant for a time during the strike, and then left said plant; that thereafter, and about the 23rd day of June, he was in Warren issuing passes for permits that the Sheriff had issued to allow men to go in and out of the plant; that on said evening, about six o'clock, he came into the plant with one of said passes on his car; that thereafter, and on Friday morning, June 25, a little bit before four o'clock, he was in the bathroom of his home and, after returning to his bed, he heard men talking in the street; that suddenly a boulder struck his door and he looked out of the window and saw the back end of a black Ford car driving away; that a car of the same description left the picket line at the plant five or ten minutes previous to that time and returned to the picket line some fifteen minutes later; that on another occasion he drove for a man who wanted to return to work, and, while on the street, Galloway, a member of the C. I. O., and driving another big car, followed him until he drove into the Police Station; that on another occasion Cope, a C. I. O. organizer, followed him in the same manner and stayed with him until he drove into the Police Station. Respondent believes that the witness, Elmer Irwin, if permitted, would so testify.

Respondent further offers to prove that Lendal Hoppes, an employee of respondent at its Niles Plant, stayed in the mill at the beginning of the strike; that his wife was ill and a doctor's order was sent to the plant for him to leave the mill; that as he left the main gate at Niles, the C. I. O. pickets argued with him for a considerable period of time, calling him many names; that he finally left them and was walking to his home, to see his sick wife, and soon noticed a car following him; that he walked on Federal Street and up Vienna Street to turn on to Robbins Avenue in Niles, Ohio; that just as he made that turn, the car cut across the drive in front of him and ordered him back out of town; that said car was filled with five members of the C. I. O.; that they, thereafter, made him walk out of town by way of Vienna Avenue, during all of which time he was followed by the 1929 Chevrolet Coupe; that they made him walk four miles to Howlands Corners, during which time they kept telling him to hurry up and cursed him; that he, thereafter, continued to Kinsman and met some one who brought him back into town; that the cars in both instances were filled with C. I. O. pickets whom he had seen, on many occasions, although he is of the opinion that they are not employees of respondent. Respondent believes that the witness, Lendal Hoppes, if permitted, would so testify.

Respondent further offers to prove that Thomas Bradley, an employee of Respondent at its Niles Plant, remained in the mill during the strike; that during said time, and on one Friday evening he, with three others, went up through the field which is a part of the Republic property; that as they came very near to the house in said field, some one said "Stop," and three members of the picket line were noticed; that the group stopped and then started ahead and a man said "Stop or I shoot," and the group stopped again; that one of the group said "He has no gun anyhow, let's go ahead," and, when they started the third time, five shots from a pistol were discharged at the group; that the members of the group tried to catch the shooter but lost him in the brush; that said shots came from pickets on Company property. Respondent believes that the witnesses, Thomas Bradley and Harry W. Romack, if permitted, would so testify.

Respondent further offers to prove that Kenneth Williams, an employee of Respondent at its Warren Plant, ran the picket line on the Sunday night after the strike was called, and was able to return to his work; that he remained at his work, in the mill, for ten or twelve days, and then left the mill, and, when he sought to return to his work, he was refused admission by the members of the C. I. O. on the picket line; that he, thereafter, went home and again returned to the mill where some one told him that he had come across the field; that he told them he was not going back across the field because it was wet and attempted to walk down the River; that two deputies took him through the picket line to Park and Fulton Streets, in the City of Warren, from which point he returned to his home; that he tried again and was forced away, and thereafter, with one J. D. Spearman, went out Main Street in a cab; that they walked down toward the River and asked a man along the bank where Mary Taylor stayed; that they started down back and the pickets began to surround them; that Spearman got away, but that the C. I. O. pickets caught Kenneth Williams, put him in a car and took him to C. I. O. headquarters; that at C. I. O. headquarters they transferred him to another car and took him out Elm Road, saying they were going to take him to jail;

that this car was the property of Mary Martin; that said members of the C. I. O., and another car load of them, making ten in all, took him out Elm Road, where the driver told him to get out of the car; that as he attempted to alight, said driver struck at him saying "Come on out. You got it coming to you"; that he alighted from the car where he was struck several times, and kicked, by members of the party; that after he was beaten by said C. I. O. pickets, he was left out on Elm Road; that he was treated by Dr. Thomas for his injuries; that said attack on him was made on or about June 12; that said pickets in said cars were armed with clubs; that he was knocked down into a ditch filled with water; that a couple of days later he was successful in returning to his work. Respondent believes that the witness, Kenneth Williams, if permitted, would so testify.

Respondent further offers to prove that William Boger, an employee of respondent at its Warren Plant, remained in the mill when the strike was called; that on Wednesday, June 2, 1937, about 11:00 o'clock P. M., he, with William Hunter and D. P. Hunter, other employees, attempted to leave the plant by way of a freight train bound for Pittsburgh; that in climbing over a gondola car they were seen by members of the C. I. O. picket line, who turned a good-sized spotlight on the car and held it there; that the train, instead of gaining speed, slowed down and about a dozen members of the picket line attempted to get in the car to drag Boger and his companions out; that during this attempt he was struck with a club on the eye, on the chin, on the right elbow and on the right hand; that he and his companions managed to stay in the car until it got to a place where they could alight; that thereafter, and on the following Saturday, he returned to his work in the plant by going to Ashtabula, Ohio, and riding a freight train to the mill. Respondent believes that the witnesses, William Boger, if permitted, would so testify.

Respondent further offers to prove that Charles Snyder, an employee of respondent at its Warren Plant, was out of the mill at the time the strike was called and on Sunday evening, June 6, 1937, at about 7:30, with another employee, Walter Porter, attempted to enter the plant in an automobile; that as they came down South Pine Street he put the car in second gear and speeded it up to break through the barricade, consisting of saw horses, erected by the police department at Pine and Walnut; that it was raining at the time and the streets were wet; that after passing the barricade he came on down towards the main gate, when C. I. O. pickets stepped from between cars and in an attempt to void striking them, his car started skidding; that the car turned sideways and ran against the fence near the entrance to the mill, at which point rocks were thrown at them by pickets, also armed with clubs; that one shot was fired; that the windows of his car were damaged by rocks and that a club was thrown at him; that his car was taken away by the police from the plant to a public garage and later moved to a private garage. Respondent believes that the witnesses, Charles Snyder, Frank Kenstein, C. E. Boley, W. F. Bartholomew, Kenneth W. Harris, Frank Mayers and Walter L. Porter, if permitted, would so testify.

Respondent further offers to prove that Alvin Morton, an employee of respondent at its Warren Plant, on the day the strike was called, went home for a change of clothes and attempted to return to his work but was prevented from doing so when the C. I. O. pickets closed the gate; that he tried to get in on the 28th day of May at about 8:30 o'clock A. M. near the playgrounds on South Pine Street; that at said point a C. I. O. picket asked him if he worked there and later said "Have you got a card?"; that Morton said "I have no card."; that the C. I. O. representative said "Why don't you get one?" and Morton said "I'll get one when I have to. I've got a job down there and the Company charges me nothing for it and Lewis will charge me $1.50 or $2.00 a month and I ain't going to pay him."; that one member of the C. I. O. picket line had a piece of pipe about six feet long with a sharp end on it and he said that if Morton did not get a card he would put it through him; that after further conversation the picket with the piece of pipe swung at him and Morton ran up on the property 8 or 10 feet at which point 8 or 10 of the C. I. O. pickets grabbed him and pulled him down; that said pickets thereafter took him across the street and started to pound and kick him; that Morton fought from the main gate down to the filling station with 8 or 10 of the said pickets beating him because he would not sign a C. I. O. card; that he fought with them for a period of about 30 minutes and then was able to break away and by way of an alley to approach his home at 224 Fulton Street; that as he jumped over the back fence at his home one of the men hit him on his hip; that during his flight those who chased him used clubs and threw stones at him; that as a result of the beating by said members of the C. I. O. his right ear was torn loose, his right knee was severely injured and some teeth injured so that one needed to be removed; that said pickets followed him and started to search his garage; that a short time thereafter he saw another employee of respondent who had just gone out of the plant walking on Pine Street towards town when a C. I. O. picket struck him over the head with a club. Respondent believes that the witnesses, Alvin Morton, J. J. Beck and J. M. Thornton, if permitted, would so testify.

Respondent further offers to prove that Harry Hall, an employee of respondent at its Warren Plant remained in the mill at the time the strike was called, working Thursday night; that on Friday morning on account of personal business he decided to go to his home in his car; that as he and others left the plant every car in front of his was stopped by C. I. O. pickets; that he was asked to sign up and told them that he did not care to sign; that the man in charge of the pickets said "Well, we held your job for you in there. You're not going to get away with that"; that thereafter he put his car in gear and as he passed the C. I. O. pickets they broke the glass out of his car with clubs and attempted to strike him; that members of the C. I. O. tried to stop him at the DeForest Entrance, between the DeForest Entrance and the railroad tracks, at the railroad tracks and on Pine Street near Walnut Street with a barricade of wooden horses and men behind and in front of it with clubs; that he drove through this barricade and did not attempt to pass through it again until the troops came to Warren. Respondent believes that the witness, Harry Hall, if permitted, would so testify.

Respondent further offers to prove that Joe Perica, an employee of respondent at its Warren Plant remained in the plant when the strike was called; that on or about Wednesday, June 2, 1937, after he had finished his work and at about 7:00 o'clock in the morning having received a letter from his buddy to the effect that his mother was ill, he left the mill by way of the Carpenter Entrance and was stopped by C. I. O. pickets in the street outside; that he was questioned at that point by a group which quickly grew to approximately thirty; that after a conversation he told them he wanted to join the C. I. O. in order that he might get out to see his mother; that they asked him to walk up but he told them he was too tired and so they put him in the car and took him up to C. I. O. headquarters where one of the men said he was going in to see the big boss; that thereafter said member of the C. I. O. came back and stated that it was necessary to take Perica to bigger headquarters; that with four C. I. O. men in the car it was driven out South Street towards Leavittsburg followed by four other cars; that as they reached Leavittsburg a turn to the right was made and on a side road, they made him strip off all his clothes; that therafter they started beating him with their fists and a club; that a car came down the road and upon seeing it the men who had been beating him ran; that he thereafter found his clothes and came back to town by way of a freight train at 5:00 o'clock in the afternoon, getting into the plant where he remained until the troops came. Respondent believes that the witness, Joe Perica, if permitted, would so testify.

Respondent further offers to prove that George Cox, an employee of respondent, at its Warren, Ohio, plant, remained in the mill when the strike was called; that about a week later he went to his home and thereafter attempted to return to the mill one morning about 5 o'clock; that as he was coming down the Baltimore & Ohio track, seven members of the C. I. O. stopped him and formed a half circle about him and asked him where he was going; that he told them he was going to his home and that he lived down on Trumbull Avenue; that one of the C. I. O. pickets said he would walk down with him to see where he was going; that as they got down to the point past the Community House, where people cross over, he made an attempt to run for it and when he got into the parking lot, more members of the C. I. O. surrounded him and stopped him; that in the meantime the city police officers came and searched him and took him to C. I. O. headquarters, where he was approached by a C. I. O. picket with a raised club; that he was taken inside the headquarters and questioned, where he told them he had not thought of signing up with them; that he was left at headquarters about a half hour when Harry Wines came in and again questioned him; that he told Wines he did not care to sign up and Wines said he would have to take a photograph and fingerprints; that Wines asked him if he were going back to work and he said he would like to get back to work, if he could; that Wines said "You better go on home and stay away from the plant"; that the police officers then took him to the jail and locked him up for about fifteen minutes and released him, without placing any charge against him; that said police officers said they locked him up to prevent him from being mobbed by the pickets and that they would hold him there until it was safe; that he rode from C. I. O. headquarters to the police station in the police cruiser; that he was put in the police car in front of the mill gate and hauled to C. I. O. headquarters, where the police took him into the headquarters; that the date of these happenings was on or about June 21, 1937; that the members of the C. I. O. picket line who stopped him were armed with clubs, some of them being baseball bats. Respondent believes that the witness, George Cox, if permitted, would so testify.

Respondent further offers to prove that Luzerne Casterline, an employee of respondent, at its Warren, Ohio plant, left the mill at the end of his turn, just previous to the calling of the strike; that his brother, Earl, was also an employee and wanted to get back to his work; that they met a couple of men on the street, talking to a friend of Earl Casterline, whom they supposed were all right; that said men wanted to get in the mill and asked Luzerne Casterline to take them to the mill in his automobile; that as soon as the C. I. O. pickets saw the car they stopped it and asked where it was going; that they informed the pickets they were going to Niles, which they did; that thereafter the other two men wanted to go to Stop 37½ and try to get in there, but that he refused to drive to that point and instead brought the men to Pine Street and parked the car; that he left the car and walked across the street to a little beer garden, when one of the men came over and told him that his brother wanted him in the car at Main and Spring Streets; that he drove the car to that point, stopped, shut off the lights and turned off his motor; that as soon as he had done these things, he was surrounded by approximately twenty C. I. O. members, who beat him with clubs, baseball bats and other weapons, injuring him to such an extent that it was necessary to call Doctor LaCameron to his home; that the events related occurred about 10:30 or 11 o'clock P. M. on or about the 9th day of June, 1937. Respondent believes that the witness, Luzerne Casterline, if permitted, would so testify.

Respondent offers to prove that James Hall, an employee of respondent, at its Warren, Ohio Plant, remained in the mill for a week or two after the strike was called and then went to his home; that he later made an effort to get back in the mill to his work by way of Stop 37½, Pine Street, and the front gate, at about 2:30 A. M., June 6, 1937; that in said successful attempt to reach his work the C. I. O. members in the picket line at that time, in an effort to prevent him from entering the mill, threw flashlights, pieces of pipe, ball bats and sticks, damaging his car in the amount of $47.00, but without injuring him. Respondent believes that the witness, James Hall, if permitted, would so testify.

Respondent further offers to prove that Henry Jones, an employee of respondent, at its Warren, Ohio plant, remained in the mill during the strike; that about two weeks after the troops opened the mill gates, and at about

3 o'clock in the afternoon, he was on his way to the mill in his automobile; that members of the C. I. O. were lined up on both sides on Walnut Street and as he passed, one of them threw something at his car which broke the rear door window on the right-hand side. Respondent believes that the witness, Henry Jones, if permitted, would so testify.

Respondent further offers to prove that James Ricci, an employee of respondent, at its Warren, Ohio plant, was out of the mill when the strike was called; that the next morning he attempted to get into the mill to work, but was prevented from so doing by C. I. O. pickets in front of the gate, who were armed with clubs and other weapons; that he attempted on another occasion to return to work, but was again prevented; that he returned to work after the troops came and the gate was opened; that thereafter he was riding to work with another employee in an automobile coupe; that as they proceeded on Pine Street he heard a noise and felt a bump on his ribs which he found later was caused by a large rock thrown against the side of the car, just six inches below the glass; that thereafter he was at home when three or four members of the C. I. O. called at his home and told him to stay out of the mill, which he did for three days; that then he went and joined the C. I. O. and gave them $1.00; that he has not paid anything further in the way of dues and does not expect to pay anything further. Respondent believes that the witness, James Ricci, if permitted, would so testify.

Respondent further offers to prove by Mrs. George Taylor that one Lackvadio came to her while her husband was in the mill operating the open hearth restaurant; that said Lackvadio told her that if she did not get him to come out the mill that he would blow his brains out as soon as he saw him; that said Lackvadio continued to threaten her until she had him arrested. Respondent believes that the witness, Mrs. George Taylor, if permitted, would so testify.

Respondent further offers to prove that Dan Dillon, an employee of respondent at its Warren Plant, remained away from the plant during the strike; that after he returned to work, and on July 5, 1937, shortly after 10:00 o'clock in the evening, he was on his way home in his automobile; that he went by way of Highland Avenue to Third Street and saw members of the C. I. O. standing along the road, two by two, with bricks in their hands; that they called upon him to stop, which he did, because he knew the men, and one of them ran out and hit him on the left shoulder immediately; that another opened the door of his automobile and threw his bucket into the field; that another hit him on the left cheek; that he said "All right, George" and told them he was going to work; that he stopped to see his foreman and told him, if it kept up like that, he wouldn't go to work any more; that the man who struck him was George Huwanna, a member of the C. I. O.; that he later hauled some men, whom he had previously hauled, to work and George came to his house saying that if he continued they would upset his car; that men came to his house and finally prevailed upon him to sign up with the C. I. O., but that he has paid no money and that he joined the C. I. O. because he had to avoid getting hit again. Respondent believes that the witness, Dan Dillon, if permitted, would so testify.

Respondent further offers to prove that Frank Cherpack, an employee of respondent at its Warren Plant, remained in the mill during the strike; that after the gates were opened, and on or about the 13th day of July, 1937, at about 6:30 o'clock in the morning, as he drove to his work, he had to pass ten C. I. O. pickets right along by the fence near Highland Avenue and Dover Street, at which time they showered him with rocks, breaking the windshield of his car and damaging the front door and panel of the left-hand side. Respondent believes that the witness, Frank Cherpack, if permitted, would so testify.

Respondent further offers to prove that Thomas J. Davies, an employee of respondent at its Niles plant, on or about July 12, 1937, was hauling some of the girls to work; that his car was stopped by C. I. O. pickets; that thereafter some of the men from the plant followed him for protection; that he told them he did not think it would be necessary for them to follow; that soon thereafter he noticed a big Hudson car following him; that he drove into the police station and asked for assistance, at which time the car drove away; that later the police cruiser car followed him at about a distance of two blocks; that when he reached the home of one of the girls 5 or 6 members of the C. I. O. were at the house trying to persuade the family not to allow the girl to go to work; that when he stopped at this house Steve Tripodi and the others ganged around his car and Steve attempted to get the car door open; that during the tussle over the opening of the door the police cruiser came up and the Chief of Police grabbed Steve Tripodi and took him down to the station; that Leroy Bridgens, a C. I. O. member was the driver of the big Hudson car that followed him and that the said Bridgens has attempted several times since that time to cause him to have a traffic collision. Respondent believes that the witness, Thomas J. Davies, if permitted, would so testify.

Respondent further offers to prove that Joe Titch, an employee of respondent at its Warren plant, went out of the mill when the strike was called; that about two weeks later he returned to his job in the hot mill; that on or about the 6th day of August, 1937, his neighbor, George Schnullo, a member of the C. I. O. who was still out on strike, came to his home after he had returned to his work with his son and his daughter; that the son struck him in the eye; that the daughter took a piece of 2 x 4 lumber from the garage and hit him in the back, and that the old man got a bottle of milk and hit him on the head because he was working in the mill and they were on strike, and that he signed with the C. I. O. but never paid any dues. Respondent believes that the witness, Joe Titch, if permitted, would so testify.

Respondent further offers to prove that Tom Allison, an employee of respondent at its Niles Plant, was out of the mill at the time the strike was called and although he made three different attempts to get back to work, was prevented from doing so by C. I. O. pickets with clubs and other weapons in their hands; that his neighbors, members of the C. I. O., frightened and worried his wife so much that it was necessary to take her to Dr. Bloom; that on or about June 28th, after he left the plant and came home on the bus, his son met him at the bus and he was escorted to his home by a police car; that his home was picketed and that the word "SCAB" was painted on the sidewalk in front of his house in large letters. Respondent believes that the witness, Tom Allison, if permitted, would so testify.

Respondent further offers to prove that Oswald Lewis, an employee of respondent at its Warren Plant, was in the mill at his work during the strike; that on or about July 8, 1937, at 3:00 or 3:30 o'clock in the morning, he drove to the premises of a place called "The Wagon Wheel"; that as he got to the curb he saw a gang standing in front and asked if Jack Lanihan was there; that some of the gang then shouted: "There is one of them let's get him."; that immediately thereafter he was pulled out of his car by four men and a battle followed, in which he was bruised and his forehead lacerated from the hairline to his eyebrow, necessitating twelve stitches; that this injury was sustained when he was knocked through the window of the Angel Printing Shop. Respondent believes that the witness, Oswald Lewis, if permitted, would so testify.

Respondent further offers to prove that Pio Palmero, an employee of respondent at its Niles Plant, was out of the mill during the strike; that he attempted to go back to work but was unable to do so; that on or about July 5, he was called to work at a time when he and his wife were away from the house and his daughter at home; that a C. I. O. picket was in his house who inquired his whereabouts and who then said, "Tell your father not to go to work tomorrow; I lay for him"; that on account of said threat he did not go back that day and about the week later found Frank Caruso who took him in his car; that at about 1½ blocks from the main gate at the Niles plant C. I. O. pickets threw stones damaging the car. Respondent believes that the witness, Pio Palmero, if permitted would so testify.

Respondent further offers to prove that Eugene Lazzari, an employee of respondent at its Warren Plant, remained in the mill at the beginning of the strike; that his little girl was ill with a mastoid ear; that after four or five days he talked to his wife on the phone and was informed that the baby's ear had been lanced; that he told his wife he would come out that night and return again; that at about 11:00 o'clock that night after he had finished his work he informed his foreman he was going home to see how the little girl was and would come back; that he found a hole to get out and left with a colored fellow from his department; that after he had sneaked out he crawled up along the road and mixed right in with the pickets; that he started for home unnoticed; that when he turned to go down the street a foreman on the picket line hollered and the pickets started running after him; that he stopped and conversed in Italian with one of the pickets inviting Johnny to leave the picket line and go in the front gate; that Johnny said "If you make an attempt to go back in I will break my club over your head"; that he continued to his home and saw his wife and at about 3:00 o'clock in the morning started back to the mill; that a car was parked and as he started walking up the street the men got out of the car and he ran back into the house where he stayed for two weeks; that the C. I. O. members kept watch over him and sent word that if they got him on the street they would fix him up; that being unable to get to work he went to Cleveland and to Pittsburgh; that when he came home he was asked to join the C. I. O.; that his wife was afraid and said "You had better sign it to be on the safe side—you don't have to do what they want to do but just sign it. You're going to do it just for the sake of us. In case you're not here you know they won't harm the kids"; that he thereafter signed a C. I. O. card to have peace at home; that he made an attempt to get to work and the call came to his home from another employee asking him to meet him at a certain place and attempt with him to catch a freight to get into the mill; that this employee did not keep his appointment but that he was met by others in the night who started throwing stones at him; that he returned to his home and did not go into the mill until he could ride in; that thereafter on a Sunday morning when he was in bed a member of the C. I. O. called at his home, forced his way in and came into the room where he was sleeping, calling him vile names; that he ordered him out and when he refused to go threw him out the door, knocked him off the porch and then proceeded to knock the "daylights out of him"; that his wife called the police and that he dragged the intruder out on the sidewalk for the police; that the intruder left the place before the police came and started to run when they came on the scene; that the police fired in the air to get him to stop which drew the attention of railroad police who caught him and brought him back for identification; that he went down the next day and swore out a warrant for the fellow whose name he believes is Mike Melitch; that during his time in the mill the officers and agents of respondent told him that if he wanted to stay he could and if he didn't want to stay it was up to him—he was his own boss; that he was well fed during the time he was in the mill; that during the time he was at home at about 11:30 o'clock one night he smelled smoke and found oily rags burning on the wood pile in the rear of his house. Respondent believes that the witness, Eugene Lazzari, if permitted, would so testify.

Respondent further offers to prove that Neff Carothers, an employee of respondent at its Niles Plant, remained out of the mill during the strike; that his home was picketed by two C. I. O. men for about a week after he returned to work on or about June 29, 1937; that when he made an attempt to get into the mill at the time the cable was up, C. I. O. members William Morgan said "You go in there and I'll cut your————————throat. You watch it."; that he made another attempt, but was prevented from entering the plant by other C. I. O. pickets; that for the balance of the time until the cable was let down he remained away from the plant. Respondent believes that the witness, Neff Carothers, if permitted, would so testify.

Respondent further offers to prove that J. R. McLean, an employee of respondent, at its Warren plant, went home the night before the strike was called; that he came down for work next morning and was prevented from entering the mill by C. I. O. pickets; that he came to work the second morning after the strike and was again prevented by members of the C. I. O. from entering the mill; that he again made the attempt on the third morning and was again prevented from returning to work; that he remained away from the plant thereafter until on or about the 5th day of July when he was riding in a bus to the plant to see whether or not he could get his job back but as the bus came from Walnut onto Pine and had proceeded down Pine about half a block a couple of hundred C. I. O. pickets were congregated there; that as the bus proceeded down the street some one of the group threw a brick which broke through the window and struck him on the shoulder; that his shoulder was bruised by the brick and his lip was cut by glass; that he reached the employment office and was taken to the hospital where his wound was dressed. Respondent believes that the witness, J. R. McLean, if permitted, would so testify.

Respondent further offers to prove that Maxwell Heath, an employee of respondent, at its Warren plant, remained in the mill when the strike was called; that he went home the next day through the picket line and returned back again early in the morning; that he made the attempt again on the 29th day of May and succeeded in getting out; that early in the morning of the next day he lost his way in the swampy field and did not reach the plant until daylight; that he attempted this devious route because the mill gates were surrounded by C. I. O. members carrying ball bats and various kinds of clubs; that on the morning in question he went down Niles Avenue almost to the top of Bolandale Hill and down the railroad track where he lost his way in the darkness; that he crossed Pine Street below the Open Hearth and sat under some brush until he thought he saw his way clear; that he made a dash for it and just got to the brush on the Republic side when he heard them yell and members of the C. I. O. started after him; that he got across the old road and across the barbed wire fence and fell down a time or so in the water; that he was almost exhausted when perhaps 20 of them surrounded him in the swampy field, all of whom were carrying clubs and ball bats; that he was taken back out on the road by the crowd, members of which grabbed him by the collar and tore his shirt; that he was surrounded by from 75 to 100 C. I. O. pickets at the road and placed in a car and 5 of them got in the car with him and took him up to C. I. O. headquarters on Pine Street; that the picket who did the talking said "We'll take you up to the Judge'"; that they took him to headquarters and stopped right in front of a big City police officer; that the man in charge got out and said to the others who remained in the car "Lock these doors inside. This mob up here will get him. You had better lock the doors"; that said leader went to C. I. O. headquarters and brought out a man and told him "Here is the fellow; we caught him. He was going into work and we got him. What will we do with him?" That the man, called the Judge, said "I'll give you fellows at lot of margin. I'm busy at a meeting in here."; that the man, called the judge, went back into the C. I. O. headquarters; that thereafter they inquired as to his name and address which he told them truthfully; that they started in the car in the direction of his home and on the way the leader said "We've got a rope under the seat. We've got everything we need."; that during the trip they talked about handcuffs they had and one of them said "I know where there is a tree with a limb about that big." that they also said "We'll tar and feather you"; that they also asked if he had any word he wanted sent to his wife; that they stopped the car in front of his house and the leader took a large rag and placed it over the license plate and then started up the road; that said leader said "The State cop might come along and I don't want him to see that rag over the car. We had better drive in here"; that thereafter they drove to an old fence row and among the brush there parked the car behind the brush so that his wife could not see the car from the house; that thereafter the leader and two others went to the house, leaving two men in the car to guard him; that the leader with a club in his hand called his wife out and asked her a lot of questions; that they thereafter led him out of the car and one attempted to strike him but the leader said "Don't strike him; don't strike him now"; that they told him to go home and said "Don't look back. If you look back we'll get you;"; that he tried for 24 days to find some way to get back into the mill but was unable to do so; that at last he went up to a little village called Spokane, hopped a freight and rode down to the plant and jumped off just two days before the injunction was enforced; that the ringleader of the gang which abducted him was A. D. Dadison; that one, Harry Wolford, told his son and another "I hauled the man away who was shooting at the airplane; got him away from the scene in my car." Respondent believes that the witness, Maxwell Heath, if permitted would so testify.

Respondent further offers to prove that John Markovich, an employee of respondent, at its Warren plant, remained in the plant during the strike for twenty days and was at home three days; that during the time he was in the plant his car was parked on Pine Street in front of the Reserve; that on or about the third night the pickets pushed the car down and smashed all the glass, cut the top, smashed the radiator, smashed the spark plugs, cut the tires and generally damaged the car; that during the time he was in the plant he was told that, so far as Republic Steel Corporation was concerned, he could go or come as he chose; that he remained because he could not have gotten back in on account of the picket lines, if he had gone out; that he did manage to get in and out once for a period of three days, by way of a freight car on the railroad; that during the time he was in the plant his superiors told him not to throw anything, to be careful, and not to start anything with the C. I. O. pickets on the outside. Respondent believes that the witness, John Markovich, if permitted, would so testify.

Respondent further offers to prove that Charles Suchay, an employee of respondent , at its Warren plant, remained in the mill during the strike; that after the gates were opened, when he left the Open Hearth, C. I. O. members came to him and asked where he was going, and a member by the name of Walko struck him when he said "none of your business"; that other members of the C. I. O. threw stones. Respondent believes that the witness; Charles Suchay, if permitted, would so testify.

Respondent further offers to prove that Guy McLeod, an employee of respondent at its Warren Plant, remained in the plant during the strike; that so far as the officers and employees of Republic Steel Corporation were concerned he was free to come and go if he were able to do it; that early in July one night as he was coming down Main Street in his car and after he had passed the City Limits he ran into a gang; that a flashlight slowed him down and he found when he slowed down a group of C. I. O. pickets at the corner of 8th and Main just outside the City Limits; that as soon as he recognized who had attempted to stop him he speeded up the car and the members of the C. I. O. group broke the front windshield and the back glass of his car with stones; that at said time he was accompanied by John Lavella and on his way to work; that of the group he recognized Mike Maco who was arrested and charged with the destruction of property; that the damage to his car amounted to $67.00. Respondent believes that the witness, Guy McLeod, if permitted, would so testify.

Respondent further offers to prove that Ralph F. Kehn, an employee of its Warren Plant, remained away from the mill during the strike because his wife was in business; that he returned to work about June 30, 1937; that on or about July 3, 1937 his friend Charles Kramer whose father is C. I. O. Treasurer at Niles asked him to answer any phone calls because he had given Kehn's number; that Charles Kramer was called to work on Saturday and that he came back with Kramer in Kramer's car at about 11:00 o'clock in the evening of the third day in July; that Charles Kramer's father and brother met them at the front gate and told Charles Kramer that he need not consider him as his father any longer; that arrangements were made for Charles to stay at Kehn's house until he found another place; that Charles went to get his clothes while Kehn was arranging a bedroom for him, when a knock was heard at the door and he answered the door; at that time Kramer's father and brother Eddie appeared at the door and started an argument, when unexpectedly, Kramer hit Kehn and drove him back into the room and followed him in, that a fight ensued with Kramer and his father on one side and Kehn on the other until the odor of ammonia and formaldehyde from the broken beauty shop equipment stopped the fight; that his wife called the police but that they did not arrive after the Kramers had left; that he signed an affidavit against Eddie Kramer who plead guilty and paid a fine of $25.00 and costs; that it cost him $87.50 wholesale to replace the equipment of his wife that had been destroyed; that he signed up with the C. I. O. so he could get a card and sticker for his car to get near the mill to talk to men he knew. Respondent believes that the witness, Ralph F. Kehn, if permitted, would so testify.

Respondent further offers to prove that W. B. Laughlin, an employee of respondent at its Warren Plant, remained in the mill during the strike; that after the gates were opened he drove his car back and forth to work; that on or about the 5th day of July, and during the night season, as he was driving his car down Main Street he saw a motion at the side of the road and an object broke the windshield of his car and damaged the hood to the extent of $24 and some cents. Respondent believes that the witness, W. B. Laughlin, if permitted, would so testify.

Respondent further offers to prove that Bertha Brophey, an employee of respondent, at its Niles plant, remained in the plant during the strike; that when they were allowed to go home she and Eva Cowher, another employee, was followed to their homes by Charles Marsh, a C. I. O. representative, and another, with a sign on which was written "Republic Steel strike breaker"; that said men paraded in front of her house from 5 o'clock in the evening until 7 o'clock in the evening; that after they had paraded for a time she got out the garden hose and was told by Marsh that it was a penitentiary offense; that the C. I. O. car that was with the pickets left and soon a policeman of the City of Niles came to her home and asked her not to play the hose on the pickets any more; that she remained in the mill without coercion of any kind from respondent and that ample facilities were furnished the women in the plant during the strike and that they were well chaperoned. Respondent believes that the witness, Bertha Brophey, if permitted, would so testify.

Respondent further offers to prove that Clifford

Cooke, an employee of respondent, at its Youngstown plant, was not working at the time the strike was called but was scheduled to return to work Thursday afternoon at 3:00 o'clock; that on May 26, 1937, at 11:15 P. M. he drove around the plant and as he was driving down Poland Avenue in the City of Youngstown and went to make a turn onto the Center Street Bridge, he was stopped by a City police officer and told to keep straight on down Poland Avenue; that he drove as far as Stop 7 and there pulled into the middle of the street intending to turn into the driveway of The Akron Soap Company in order to turn around and go back to Youngstown; that as soon as his car came to a stop the C. I. O. pickets on duty there recognized him and shouted "There is Cooke's car"; that two of the said pickets, whose names are Rock Birinsky and Joe Strickek, immediately jumped on his running board, one on the lefthand side, who pushed his head through the window, and one on the righthand side who caught ahold of his steering wheel and gave the car a jerk; that both of said C. I. O. pickets hit him on opposite sides of the head at the same time; that they got him out on the sidewalk and that Rock Birinsky said "Come on, let's murder the——————" and called the others to come on, saying "Let's get the————————out of the car and murder him. He is the————————that interfered with me organizing in the Coke Plant"; that some one of the pickets took hold of a handfull of road gravel and took the paint off one side of his car and another with an iron bar brought it down on the back of the car; that eventually they left off pummeling him and someone turned his car around and Joe Strickek said "You'd better get in your car and go home because if you ever come back here we will murder you"; that at the time the men who surrounded him wore C. I. O. buttons and had either clubs or pieces of pipe and baseball bats; that Rock Birinsky, in addition, had on his hat a sign

"Committeeman"; that he got back in the mill on June 3, 1937 through an open field and thus avoided the pickets; that he was instrumental in signing up men on the back-to-work movement; that in connection therewith no one officially connected with the plant in any way counseled, advised or assisted him, but that he was asked by Mr. John L. Smith, President of the movement, to assist him in that work. Respondent believes that the witness, Clifford Cooke, if permitted would so testify.

Respondent further offers to prove that Sam Oliphant, Jr. an employee of the Youngstown Plant, remained in the mill until Thursday morning, May 27, to shut the valves and water off as a part of maintenance operation; that during said time he left his automobile in the parking lot; that when he came out in the morning he found that all the tires were pulled off of it, spark plugs knocked out, the carburator broken, the gas tank off; the radiator cap broken off, the upholstering torn up, the floor boards torn up and the hood bent, rendering it completely worthless and useless; that he just left his car there; that he signed a petition in the mill to stay at work and not go out on strike without any one connected officially with the respondent in any way saying anything to him about it; that previous to this strike he attended some meetings in connection with which certain foremen spoke telling them that it was not necessary to join any union in order to hold their job and that they were free to join or not to join as that would in no wise affect their employment; that no one connected with respondent in any official capacity ever tried to influence him in connection with joining or not joining any union; that he called at the office of the "Back to Work" movement at the Dollar Bank Building and there signed a petition to return to work; that he signed the same voluntarily for the simple reason that he wanted to go back to work. Respondent believes that the witness, Sam Oliphant, Jr. if permitted, would so testify.

Respondent further offers to prove that Pete Petretich, an employe of respondent, at its Youngstown plant, on Thursday, May 27, 1937, went to the gate at Stop 5 Poland Avenue, Youngstown, Ohio, to go to his work in the electric weld tube mills; that when he arrived at said gate there were a number of C. I. O. pickets there; that Thomas J. Zimba, whom he well knew, came up to him and grabbed him by the shirt and said "I don't want to hit you, but you can't go in to work"; that thereafter another C. I. O. member, well known to him, Joseph Campanzi, came up and hit him on the head with a club; that thereafter another C. I. O. member, Walter Milnik, also well known to him, came up to him and hit him on the head and that the last two mentioned men told him to go back home; that he then ran up the Erie Railroad tracks to the automobile junk yard and there two other members of the C. I. O. Domenic Marciano and Angelo Ambrosia, both well known to him, hit him on the head with their fists and pushed him back down to Stop 5 and into the crowd and told the other pickets to watch him as he was trying to get in to go to work, and that thereafter he rode a bus to his home. Respondent believes that the witness, Pete Petretich, if permitted, would so testify.

Respondent further offers to prove that William Fritz, Jr., an employee of respondent at its Youngstown Plant, was out of the mill during the strike; that he heard of plans for reopening, took his lunch pail and drove to the hill back of Poland Avenue and started walking towards Stop 5, intending to remain some distance away to see if the men were going in the mill; that he met a man he knew coming away from the crowd, who told him he had better get rid of the lunch pail he was carrying as a man had just been mobbed for having a lunch pail; that the same friend told him that the plant was not going to be reopened so he turned back to get his car and go home; that as he did so, a car with C. I. O. emblems on it, and containing four men, drove by, pointing at the pail; that this car went up the street and turned around and in the meanwhile he threw his lunch pail into some bushes; that this C. I. O. car soon returned and the men got out of the car, one of whom wanted to hit him but was restrained by the others; that said C. I. O. members asked him where he thought he was going and where his pail was and he told them he threw it away; that the C. I. O. member then said it was a "———good thing" he hadn't denied having it; that they thereafter asked him if he was a C. I. O. man and he told them that he was not and didn't exactly want to be; that they then suggested that he get in the car and go down and join up; that in fear of bodily injury he accompanied them to the office on Poland Avenue and while there some other pickets brought in two more men that had said they would not sign, but had been hit several times; that his name, check number and address were taken but that he had no money with which to pay dues; that he thereafter left and did not return until the plant was reopened; that he signed the back-to-work movement at his home, the petition having been presented to him by some of the boys with whom he worked; and that previous to that time he had signed a petition in the laboratory to the effect that they wanted to keep on working; that no one connected with the Company in any official capacity ever said anything to him or tried to influence him in connection with either the anti-strike petition or the back-to-work movement. Respondent believes that the witness, William Fritz, Jr., if permitted, would so testify.

Respondent further offers to prove that Mrs. Charles

Potoky, is wife of Charles Potoky, an employee of respondent at Warren, who stayed out of the mill for one month after the strike was called, returning to work June 26, 1937; that after he returned to work he remained in the mill for about ten days at her insistence because Frenchy Garnet and Perrine came and threatened her man's life; that said Garnet and Perrine came to her house inquiring why her husband went to work and told her he would have no job after the C. I. O. won; that Perrine said among other things "I wouldn't guarantee for your man's life"; that these men and others came to see her three times; that by reason of said visits her children became frightened and said "Mom, we had better sleep in the grape vine than sleep in the house"; that thereafter they had a neighbor, one of the Popovich boys sleep in the house with them. Respondent believes that the witness, Mrs. Charles Potoky, if permitted, would so testify.

Respondent further offers to prove that James Zervas, an employee of respondent at its Warren Plant, remained in the plant during the strike; that while he was in said plant his wife called him with reference to damage done to his home; that on or about June 3, two windows were broken in his home at about 2:00 o'clock in the morning by rocks thrown at his house; that on another occasion someone broke the same window again with a hatchet and also chopped the screen door and broke the door glass in each side; that the neighbors refused his wife the use of the phone so she could call him in the mill; that he thereafter arranged for a telephone to be installed in his home; that the telephone was installed on one day and the next day the wires leading to it were cut with pliers; that he had his automobile parked in a garage down town; that members of the CIO told him they were going to put a bomb in it so that he immediately after the window was

broken called his wife and asked her to take it to th
garage; that his wife and children were greatly frightene
by the occurrence above mentioned so that he now has t
sleep with a shotgun on his pillow. Respondent believe
that the witnesses, Mr. and Mrs. James Zervas, if pe
mitted, would so testify.

Respondent further offers to prove that Mrs. Watso
Tynes, is wife of an employee of respondent at its Wa
ren Plant who remained in the mill during the strike; tha
on or about June 6, 1937 at about 3:00 o'clock in the mor
ing while she was in bed a good sized stone, 7 or 8 inche
in diameter, was thrown through the front window dow
stairs breaking the upper and lower sashes and glass; tha
thereafter one day she was driving in an automobile an
while going through the CIO picket lines her car was struc
by them. Respondent believes that the witness, Mrs. Wa
son Tynes, if permitted, would so testify.

Respondent further offers to prove that Tony Secur
an employe of respondent, at its Warren Plant, remaine
in the plant during the strike; that he caused his wife an
children to be moved out of the house after he had receive
threats that they were going to murder his children; tha
about 3:00 o'clock in the morning the two down stair
windows were broken in his house; that during the time h
was in the mill he left the plant to get a glass of beer an
upon one occasion when he was in the back room they aske
him out where 6 or 7 C. I. O. pickets were waiting for him
that at that time he told them that if they laid hands o
him he would shoot. Respondent believes that the witnes
Tony Securo, if permitted, would so testify.

Respondent further offers to prove that Victor M
Kinkis, an employee of respondent at its Warren Plan
remained in the mill during the strike; that he is buildin
a new house for a residence; that about three days after th

mills were opened his wife awakened him about 1:00 o'clock in the morning having been startled by the sound of glass falling; that he lives in the rear of the new house in a small building and that when he went out to investigate he found all the windows broken out; that it cost him $47.00 to replace them. Respondent believes that the witness, Victor M. Kinkis, if permitted would so testify.

Respondent further offers to prove that Nick Tures, a bundler of respondent at its Warren Plant, together with his wife and children, were intimidated and threatened by members of the C. I. O. and particularly by one, Steve John; that members of the C. I. O. with stones, broke windows in his home, used vile language toward his wife and children, threw a bottle of pop through the window of his home; that said Steve John instructed his children to beat up the small children of Tures; that while he was in the mill at Warren there was a C. I. O. member threw tacks in his house; that as a result of the violence and intimidation his wife and children were forced to leave their home and live temporarily with Tures' brother in Youngstown. Respondent believes that the witness, Nick Tures, if permitted, would so testify.

Respondent further offers to prove that Ruth Allison is the wife of Tom Allison, an employee of respondent at its Niles Plant; that her husband was out of the mill during the strike and was unable to get into the plant until the National Guard arrived; that pickets surrounded their home upon a report that Mr. Allison had gone to work and paraded around the home from 9:30 o'clock in the morning until 1:30 o'clock in the afternoon; that a Mrs. Cobner, just before the time when Mr. Allison went back to work said that it was a good thing that he did not go to work or there would have been a murder in the neighborhood; that for a period of two weeks after Mr. Allison went back to work she was continually frightened by her neighbors who were of the C.I.O. so that she had to sit up every night; that after Mr. Allison went back to work the word "Scab" was written on their sidewalk with enamel; that Mrs. Sandy Ross, shortly after the strike was called, said that if Mr. Allison did not sign up with the C. I. O. that they would be forced to move out of the neighborhood. Respondent believes that the witness, Ruth Allison, if permitted, would so testify.

Respondent further offers to prove that Etta Beagle, wife of J. M. Beagle, an employe of respondent at Warren, Ohio, during the time her husband was in the mill, operated their gasoline filling station; that on June 4, 1937, while she was alone attending the filling station, a car containing five men drove up; that she, thinking they were customers, went out and they demanded to know where her husband was; that they said to her that if he did not come out of the mill at once they would blow up their filling station and also their home; that thereafter she was so frightened that she was unable to be alone at any time. Respondent believes that the witness, Etta Beagle, if permitted, would so testify.

Respondent further offers to prove that Mrs. Patrick Casey, whose daughter Anna stayed in the Warren plant during the strike, was approached by William Elliott, a C. I. O. picket, who came to her house and told her that she better have her daughter examined and also that she should get her to leave the plant. Respondent believes that the witness, Mrs. Patrick Casey, if permitted, would so testify.

Respondent further offers to prove that Grace Rankin, wife of W. B. Rankin, an employee of Respondent at Warren, Ohio, was approached by one Harold Boyd and one Dadisman and six others during the week preceding July 4th last; that said men demanded to know where her husband was; that later some 50 C. I. O. pickets congregated across the street from her home; that on several occasions thereafter Boyd and others came to her home and said to her, "We have a nice little room fixed up for him (one Howe who had gone back to work) and before many days your husband will be in there and we want him to see the light". Respondent believes that the witness, Grace Rankin, if permitted, would so testify.

Respondent further offers to prove that Mrs. Elizabeth Covell, a resident of Youngstown, Ohio, whose husband was employed by respondent at Youngstown, was awakened on the morning of June 19, 1937, at about 2 o'clock A. M., by a rock being thrown through a window at the rear of her house, near her bedroom; that at said time her husband was in the mill in Youngstown; that the rear door of her home was broken; that the front awning was cut and torn; that flowers and flower boxes were destroyed; that she later notified the city police; that she saw, immediately after the occurrences related above, one Ray Simms drive an automobile from the driveway next to her house and proceed at a fast rate of speed on Falls Avenue; that she did not see the acts of violence above mentioned actually committed, but that she knows of no one, except said Ray Simms, Art Fletcher and Dan Linhart, members of the C. I. O., who would cause the trouble. Respondent believes that the witness, Mrs. Elizabeth Covell, if permitted, would so testify.

Respondent further offers to prove that Carrie Flanigan is the wife of an employee of respondent at Youngstown, Ohio; that on May 30, 1937, in the afternoon, an automobile containing five men and bearing a card on the side of the automobile marked "C. I. O. Flying Squad", stopped in front of her house and that one of the men came to her door and demanded that she 'phone her husband and

tell him to leave the mill; that they would give her th
hours to get him out of the mill and that if he refused
would be shot; that later in the same evening the same
tomobile again came to the house while she was at
house of a neighbor for protection. Respondent belie
that the witness, Carrie Flanigan, if permitted, would
testify.

Respondent further offers to prove that Eli Parkovi
a member of the C. I. O., carried a club and took his regu
turn on the picket line about respondent's Warren Pl
during the strike being generally stationed on the hill n
the intersection of the road from Stop 37½ and South P
Street; that the said Parkovich shook his fist and yelled
respondent's employees at work in its plant and upon
occasion when said employees were stretching a string
make a white line to divide the plant airport said in wo
or substance—"You have that rope in your hand now
we will have it around your neck before night". Respo
ent believes, that the following named witnesses, if pern
ted, would so testify:

Samuel C. Watkins
Charles Edward Brown
Archer F. Kagy
Matthew Cariglia
Glenn Hillyer
George Dout
Habbard E. Brown
Frank Roviscinec
James V. Polifrone
Edward O'Malley

Respondent further offers to prove that Nedelco Las
vitch, also known as Nick Lascovitch, an employee of
spondent at its Warren Plant, remained in the plant wh
the strike was called, leaving his wife Mary and three c

dren at home; that John Matock, a member of the C. I. O. the next day said to Mary, "I know Nick is in there and if you don't get him out I will set your house on fire and I'm going to break Nick's head too"; that the same John Matock later told her that she had better watch out or she would also get what she was looking for; that she was advised by a friend that the number of her house had been mentioned at the C. I. O. meeting so that it might be burned; that, greatly frightened by said threats, she left with her children for refuge in the home of a friend and, in response to numerous threats, she did, on May 28th, 1937, send her husband a telegram telling him that the children were ill and asking him to come out of the mill; that on May 29th at about 3:00 o'clock in the afternoon, Nick Lascovitch came out of the mill in response to said telegram and was met at the gate of respondent's plant by Mary Lascovitch and the children; that as this group passed the picket line, Rudy Petrovich, a C. I. O. picket, joined them and walked beside Nick down Pine Street; that said John Matock was at that time standing at the corner of Walnut Street and Pine Street with a baseball bat in his hand; that he followed Rudy and Nick across the street and stepped up beside them; that said Matock swore at Nick and tried to strike him and did strike him on the left leg inflicting a serious injury thereon; that Rudy Petrovich pushed John Matock back three or four times as he attempted to strike Nick on the head; that Matock finally did hit him on the left side of the body and then left and went back to the picket line; that Rudy Petrovich took Nick to the C. I. O. headquarters and said, "You sign. You have a family of kids and you don't want any trouble"; that Nick then signed a C. I. O. card and said, "What kind of an organization is this that fights and hurts other men?"; that the man in charge at C. I. O. headquarters said "Shush" and then sent him in a car to Dr. Willowby; that the man who took him to said doctor's office said to the doctor, "Charge this to the C. I. O.''; that the next day Nick was taken to the hospital for x-ray pictures and that thereafter the lodge doctor took care of Nick until he was able to return to work on July 26, 1937. Respondent believes that the witnesses Nedelco Lascovitch and Mary Lascovitch, if permitted, would so testify.

Respondent further offers to prove that Elmer Shaffer, an employee of respondent at its Niles Plant, was picketed at his home by C. I. O. members George Bridgens, DeTalio, David Davis, Louis Vople, Shato Turk, David Orwig and LaPolla, who directed pickets; that loud speakers were used in front of his house with Mr. Payne, a C. I. O. officer, doing the talking; that Elmer Shaffer was interested in the back-to-work movement; that in connection therewith no officer or agent of respondent was in any way involved and respondent in no way dominated the same; that Nora Shaffer, wife of Elmer Shaffer, was engaged in the trucking business and also conducted a rooming house for various members of respondent in that vicinity; that the C. I. O. so threatened her drivers that they dared not operate her trucks; that she was in this manner caused to lose her business and most of her equipment; that the Shaffer home was listed as a ''scab'' rooming house and that the tenants vacated the same; that on numerous occasions members of the C. I. O. came to this house and invited Elmer Shaffer out on the street to fight; that he finally did fight, and that on account of the altercations between members of the C. I. O. and the said Elmer Shaffer, he, the said Elmer Shaffer, has been arrested upon two separate occasions. Respondent believes that witnesses Elmer Shaffer and Nora Shaffer, if permitted, would so testify.

Respondent further offers to prove that Louis Bock and James Davis, employees of respondent at its Niles Plant, remained in the mill when the strike was called;

that at said time the wife of Louis Bock was on the west coast where her father was confined to a hospital; that on the 4th day of June, 1937, said Louis Bock left the mill for the purpose of telegraphing some money to his wife and that the said James Davis accompanied him; that after they left the mill and were within about 200 yards of the DeForest Road they noticed two pickets armed with large clubs coming down the railroad tracks toward them; that they were immediately surrounded by twelve or more pickets and taken up on the hill to a large group of C. I. O. pickets, all the members of which were armed with clubs and one had an axe; that they were questioned as to their identity and then taken for a ride by Di Williams in a Packard automobile to the home of a C. I. O. member by the name of Swindler for identification; that Swindler was not at home but that Bock was identified by Swindler's daughter; that they were later taken on along the road to where Swindler was operating a tractor; that as they were talking Williams asked Swindler what to do with them and Swindler said, "Take them back to the camp and give them the works if they don't sign up"; that they were taken up the hill and put in the car, at which time two or three big foreigners slugged them with their fists; that they were then put in another car and taken to C. I. O. headquarters in the tent across from the main entrance to the Niles plant; that the man at the table there said "You don't have to join the C. I. O., But————"; that the foreigners who were C. I. O. members and armed with clubs said that if they did not join to turn them over to them and they would take them back to the hill; that they signed up because they knew that if they did not sign, the C. I. O. men would take them out and "use the wood" on them; that Bock was told to report for picket duty the next night, which he did, and thus got back into the plant. Respondent believes that the witnesses James Davis, Louis Bock, Neff Carrothers and Mrs. Neff Carrothers, if permitted, would so testify.

Respondent further offers to prove the following facts relative to the conduct of pickets and members of the S. W. O. C. and C. I. O. specifically at Rosenbaum's store, Youngstown, Ohio, June 8, 1937; that after the declaration of the strike, Ralph Elser, Sheriff of Mahoning County, Ohio, from time to time hired various citizens of said county to act as deputies for the purpose of preserving law and order; that on the above date some twelve citizens so duly appointed as deputies, but being totally unarmed, went to a certain clothing store known as Rosenbaum's, on Federal Street, the main thoroughfare of the City of Youngstown, to be outfitted with uniforms for duty; that immediately upon learning of this, large numbers of the S. W. O. C. and C. I. O., amounting to 700 to 1,000, gathered in said Federal Street, invaded the Rosenbaum store; that said members of the C. I. O. were under the leadership of one DeWitt and one Fortunato, in particular; that the greater part of said number of strikers were armed with clubs; that a loud speaker was mounted on a truck manned by C. I. O. members which gave out orders for procedure; that members of the C. I. O. committed assaults and committed bodily injury on one Gene Mayberry, one Havard Sahli, one Walter Crosley, one Anderson, one Schoenfelt, one Koberly and one Rolke; that said members of the C. I. O., after invading the Rosenbaum store, continued their assaults and threats, together with utterances of vile oaths; that as the result of the occurrences aforesaid, several of the C. I. O. were arrested; later, City Police of Youngstown and a rescue party of deputies from Sheriff Elser's office brought assistance; that as a result of said acts on the part of members of the C. I. O. a period of lawlessness and disorder came about. Respondent believes that the following named witnesses, all of whom were at the time duly appointed and qualified deputies sheriff of the county of Mahoning and State of Ohio, would, if permitted, so testify:

Havard Sahli,
Gene Mayberry,
Wilbur D. Parr,
M. C. Menning,
Stephen Terlesky,
Joseph J. Orosz and
Walter Crosley.

Respondent further offers to prove that at about 11:00 o'clock on the night of June 9, 1937, a food truck went into respondent's plant by way of a gate underneath the Market Street Bridge in the City of Youngstown, Ohio; that at that time the crowd of C. I. O. pickets grew from 25 or 30 to over 600; that said pickets used profane and vile language threatening police officers in every way; that some of said pickets were carrying clubs and other weapons; that they had stones, coal and bottles piled up at various points under the bridge for use as missiles; that Robert Burke, C. I. O. organizer, made several speeches of an inflammatory nature against the police and Republic employees together; that shortly after 12:00 o'clock midnight said Robert Burke mounted the steps leading up to Market Street Bridge saying in words or substance "They have taken away our clubs yet they come out with tommy guns in their cars"; said Burke also said "The cops here are only showing their clubs now—they have got gas and guns in their pockets—the next time we fight we will have guns to and they won't take them away from us like they did our clubs"; that at this time one of the members of the crowd shouted "The first guy that uses gas gets shot and we've got the guns to do it"; that one of the members of the C. I. O. also said "Be sure to get the numbers of those cars (referring to police cruisers)- we will wreck them tomorrow"; that at about said time police reinforcements were called until there were about 16 police officers present; that a man came from the bridge steps toward the bottom where the said Burke was speaking; that at that time Burke turned and saw him and said "Get out of here you son-of-a-bitch"; that said Burke then turned to pickets who were massed in front of ~~him and~~ said "Get that son-of-a-bitch"; that at said time 4 or 5 men to whom Burke had been speaking ran up the steps after said man who also ran towards the top; that when this group had reached the top of the steps a shot was fired which hit said man whose name is Ross, who was pursued by the C. I. O. pickets; that the man was sent to the hospital in a passing automobile and that two of the officers assigned to investigate the shooting were clubbed as they were coming down the steps where Robert Burke had made his speech; that in connection with this event the members of the C. I. O. attempted to blockade the streets with timbers and automobiles; that the City police officers were reinforced at this time by deputies from the office of the Sheriff and that the law enforcement officers were then charged by the mob and several shots fired by members of this mob at said law enforcement officers who were then forced to use gas for the protection of their lives and property. Respondent believes that the following named witnesses, if permitted, would so testify:

Havard Sahli—Deputy Sheriff
Charles Richmond—Captain-Youngstown Police
Stephen Terlesky—Deputy Sheriff
Victor G. Mauer—Deputy Sheriff
Victor B. Jewhurst—Deputy Sheriff
Michael Charles Menning—Deputy Sheriff
Walter Crosley—Deputy Sheriff
James R. Shutts—Police Officer

Roy Welsh—Police Officer
Michael Leo Flynn—Police Officer

Respondent further offers to prove that on June 19, 1937, at approximately 7:00 o'clock in the evening, pickets massed on the sidewalk near Stop 5 on Poland Avenue and completely obstructed the sidewalk for a distance of 300 feet; that in addition thereto, 12 women sat on folding chairs, blocking the sidewalk and the driveway at the entrance to respondent's plant at Stop 5; that Captain Charles Richmond of the police force of the City of Youngstown and in charge of the police detail, on noting this condition stopped at C. I. O. picket headquarters at 1656 Poland Avenue and inquired for Mr. Fagan, the picket captain in charge; that being unable to locate Mr. Fagan, Captain Richmond talked to John de Bozie, C. I. O. picket captain at Stop 5, and requested that the pickets there be kept moving and that the chairs be removed; that at said time, said pickets were armed with clubs of various descriptions and carried bricks, stones and pieces of iron; that in his round of duty, Captain Richmond went over Center Street Bridge and then to Stop 14 and Stop 7; that at the time he returned somewhat later to Stop 5 the women on chairs still blocked the entrance of the respondent's plant and the pickets were massed in greater numbers than previously; that no satisfactory answers were received to the requests of the police officers to keep the pickets moving; that after the second request to keep the pickets moving, pickets stationed across the road near the office of Marshall Fuel Company started throwing stones which struck various police officers; that the pickets were warned by the police officers who backed down about 40 feet from the sidewalk toward the Lake Erie and Eastern Railroad embankment; that in the meantime, certain police officers from headquarters had been assigned to this neighborhood and about 9:00 P. M. one Raymond Merwin, an officer, arrived on the scene and stationed himself near Bolevitch's Cafe, at which time he was surrounded by a group of approximately 150 members of the C. I. O., shouting and booing; that this group closed in more until finally someone in the group said, "Take him," at which time the group generally struck him with fists and clubs and knocked him down and kicked him; that Captain Richmond again spoke to the crowd and told them that police officers must be protected; that George Burke, C. I. O. organizer, called a group of C. I. O. members back of Bulevitch's Cafe to a garage used as picket headquarters; that this group then came out in mass formation in the direction of the police and a bombardment of bricks, half-bricks, large stones and pieces of iron came toward the police; that in view of the assaulting of Officer Merwin and others, the police force used gas guns to stop the barrage and to rescue their officers; that in response to calls for assistance other police officers and the deputies from the sheriff's office arrived at the scene; that at about this time, a bus of the Youngstown Municipal Railway Company, containing passengers and driven by one Covert John McClain, was proceeding down Poland Avenue; that at about said time also members of the C. I. O. shot out the street lights on Poland Avenue in this vicinity, throwing the place in darkness and opened six or seven fire hydrants along Poland Avenue, shutting off the water supply from a considerable portion of the city; that the bus above mentioned was stopped by masses of pickets, the passengers discharged and an attempt made by the driver to return the bus, at which time he was surrounded by a number of pickets who refused to allow him to move the bus and threatened to "beat hell" out of him; that this bus was later used by members of the C. I. O. as a barricade across Poland Avenue and a place from which to shoot rifles and guns at members of the law enforcement groups; that at a point nearer Youngstown on Poland Avenue timbers were used as a further barricade; that the law enforcement officers used gas on the crowds of pickets at that time; that at about this time at Short Street in Campbell, Ohio, the C. I. O. sound truck went through the crowd at that point saying, "They are gassing our women over at Stop 5. All you fellows that have machines beat it over there"; that a short time later the call went out at Campbell for two carloads of men, but no one to go without guns; that shortly thereafter, shots from rifles of all descriptions, shot guns and pistols were directod at the law enforcement officers from Poland Avenue, Alexander Street and Brittain Street; that dynamite was thrown ten or twelve times from a point near Bolevitch's Cafe; that a revolver was discharged 25 times from a bathroom window in Bolevitch's boarding house at the law enforcement officers stationed in that vicinity, several of whom were struck by the fire; that the dynamite explosions resulted from the throwing of dynamite 50 or 75 feet from the sidewalk toward the police officers and their cars; that one of the police cruiser cars was upset and completely destroyed by fire; that acting in conjunction the law enforcement officers were able to drive the mob back to a point where personal injury could not be inflicted but that until 3:00 o'clock in the morning spasmodic firing at the law enforcement officers continued; that during said time said group consisted of approximately 5000 people, many of whom were wearing C. I. O. buttons, hat bands and arm bands; that certain of the police officers and deputies were allowed to leave in the morning of the next day under C. I. O. escort, which escort consisted of one Robert Burke riding on their fender to take them through the crowd safely; that during the night a C. I. O sound truck and loud speakers from various points urged the strikers on and made profane and derogatory remarks about the law enforcement officers; that among the automobiles parked in the vicinity of this disturbance were many from Aliquippa, Pennsylvania. Respondent believes that the following named witnesses, if permitted, would so testify:

William Brown—City Water Works Employee
J. D. Davis
Arthur Morris
Covert John McClain
Raymond Merwin—Police Officer
Matt K. Chew
Victor G. Mauer—Deputy Sheriff
James R. Shutts
Charles Richmond—Captain Youngstown Police
Havard Sahli—Deputy Sheriff
Guy G. Clupper—Deputy Sheriff
Wilbur D. Parr—Deputy Sheriff
Stephen Terlesky—Deputy Sheriff
Harry N. Potts—O. N. G. Captain
Walter Crosley—Deputy Sheriff
Michael Clark Menning—Deputy Sheriff
Victor G. Jewhurst—Deputy Sheriff
John P. Barret—Deputy Sheriff
Harry C. Smith and
Roy Welsh—Police Officers

Respondent further offers to prove that word was announced that the mills would open on June 22, 1937; that the previous evening C. I. O. members from Akron, Cleveland and other points started to converge upon Youngstown; that calls came to the law enforcement officers from South Avenue, from Poland, from Canfield and from Austintown; that squads of deputies and city police were located at these points and calls for reinforcement were sent at about 3:00 o'clock in the morning on June 22nd; that highways leading to Youngstown were blockaded and 500 or more C. I. O. members in cars, armed with clubs and guns, were stopped and diverted back towards Akron; that at said aforementioned points said members of the C. I. O. made threats against the sheriff and others; that when stopped these men said "To hell with the God damned sheriff. We are going in."; that an organizer of the C. I. O. who seemed to be in charge finally said, "Let's call up and find out if the mills aren't going to open."; that this person then called someone at the Ohio Hotel and later came back and told the men that the mills were not going to open; that the cars that were stopped had C. I. O. stickers on them and that the men had C. I. O. identification cards and buttons on them although at the time some of the men were stopped they threw away C. I. O. buttons and that the highway in the vicinity of Austintown was covered with them where they had been pulled off and thrown down; that numerous arrests were made and a variety of weapons taken from these men, as will appear from two photographs representing a portion of said weapons, hereto attached and offered in evidence, marked Respondent's Exhibits A and B, in connection with this, its Offer to Prove; that all of these men except those arrested were sent back to the place from which they came; that some of said men who had been carrying weapons were lodged in the jail at Canfield and that the C. I. O. men who were diverted through that town yelled, "We are going to take them men out of that jail"; that as said cars left to return from the place where they were stopped many of the C. I. O. members in them said, in words or substance, to the law enforcement officers, "You sons-of-bitches, when those mills open we will be back. We have just as much as you have to fight with." Respondent believes that the following named witnesses, if permitted, would so testify:

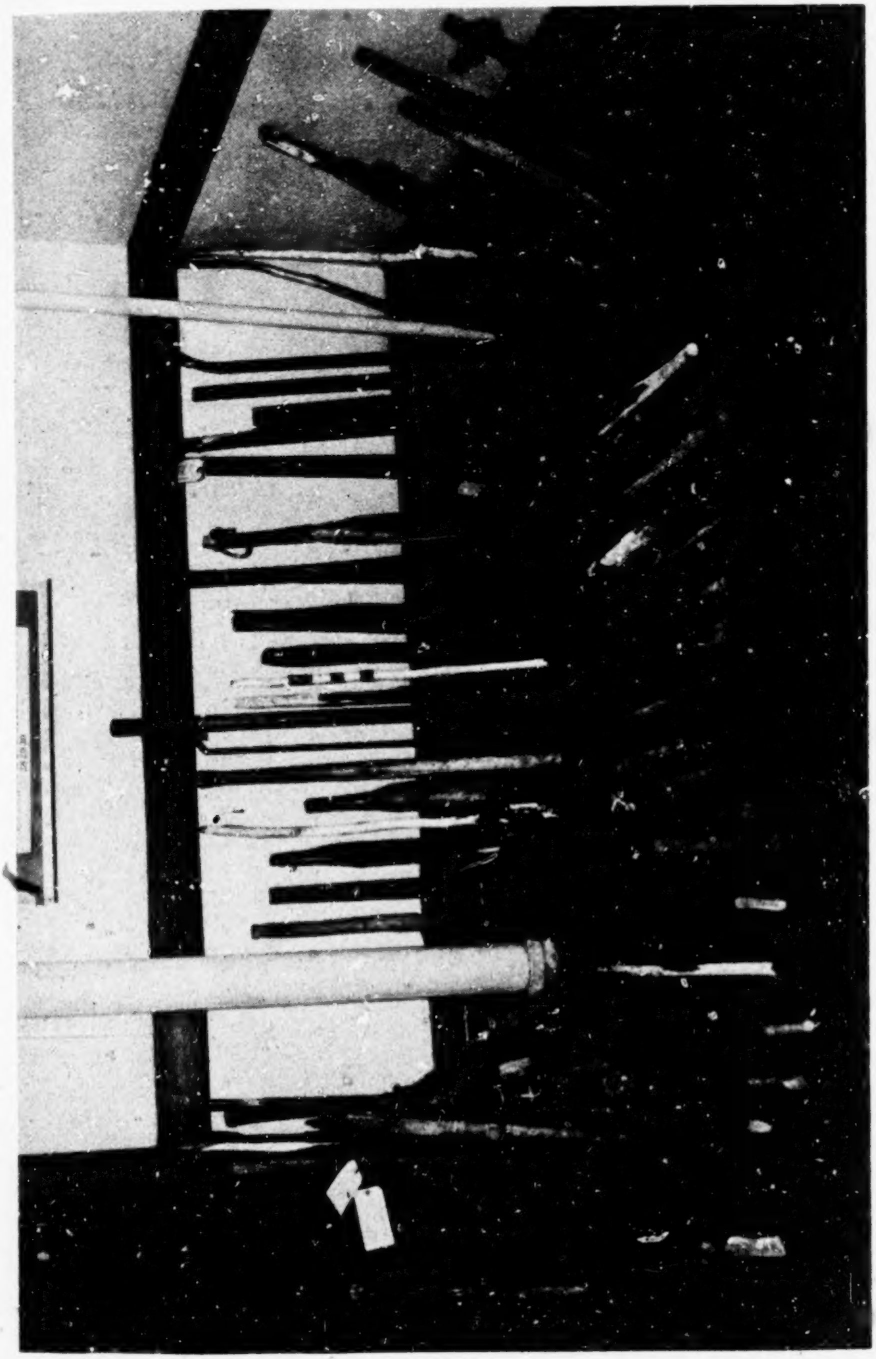
Wilber D. Parr—Deputy Sheriff

Louis Seaborn—Deputy Sheriff
Victor G. Mauer—Deputy Sheriff
Victor B. Jewhurst—Deputy Sheriff
Guy D. Clupper—Deputy Sheriff
Joseph J. Orosz—Deputy Sheriff
Robert A. Manchester II—Mayor of Canfield, Ohio
William Rolke—Deputy Sheriff
George O. McGranahan—Photographer
Kenneth Risher—Property man of Y
Police Department.

Respectfully submitted,

THOMAS F. PATTON
HARRINGTON, HUXLE
DAY, YOUNG & VEA
Attorneys for Re
Republic Steel C

Respondent's Exhibit No. 50-A



Respondent's Exhibit A, in connection with its Offer to Prove.

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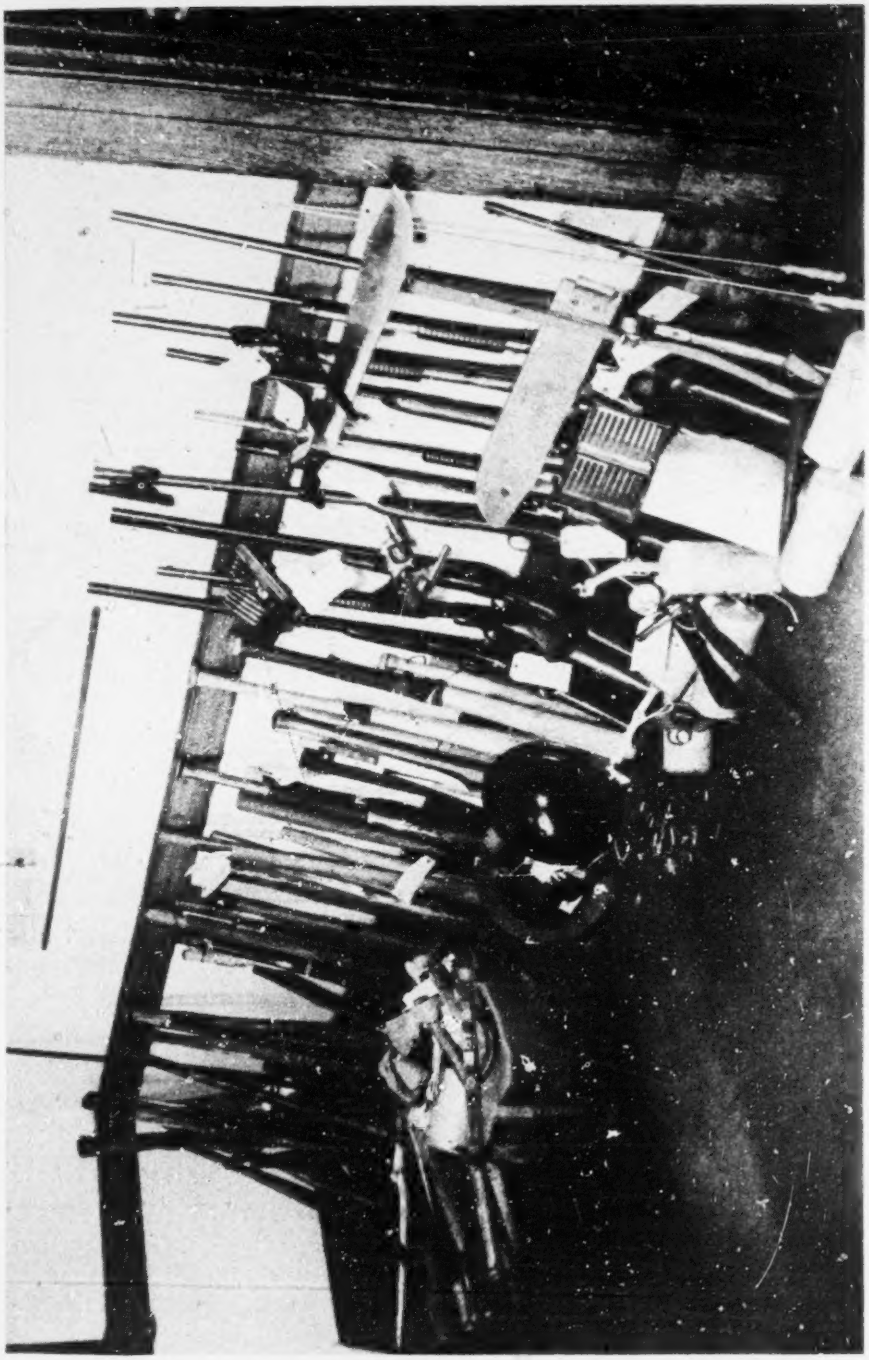
Respondent's Exhibit No. 50-B



Respondent's Exhibit B, in connection with its Offer to Prove.

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RESPONDENT'S EXHIBIT NO. 51

NOMINATIONS AND ELECTIONS

Employee Representatives
Republic Steel Corporation
Cleveland District

Nominations - - June 9th, 1936

Elections - - - June 16th, 1936

Voting Divisions	Number of Representatives to be elected
Office-Storehouse-Hospital	1
Rolling Mills	4
Open Hearth and Laboratory	2
Mechanical and Mason Departments	2
Scrap Yard	1
Coke, By-Products, Benzol	1
Blast Furnaces	1
River Dock	1
Main Power Station and Combustion Engineering	1
Yard Labor	1
Electrical	1
	16

All employees of our plant are qualified to vote except Company officials, foremen, assistant foremen, policemen, piece-work clerks, industrial engineers and persons having the right to hire or discharge.

Candidates for representatives must belong to the voting divisions which they seek to represent.

Lists of those qualified to vote and to be elected representatives will be posted in their respective voting division.

Tellers will be selected from employees of the various departments to assist in watching boxes and counting ballots.

Present Employee Representatives, although they will supervise elections, will not act as tellers or count ballots.

Nominations

Nominations for Representatives for the above divisions will be held June 9th, 1936.

Each qualified voter will be furnished a ballot, on showing his badge; on which he shall write the names or check numbers of those he desires to nominate. The number to be nominated will be stated on the ballot.

Those receiving the highest number of votes will be nominated.

Ballot boxes for nominations will be open from 6:00 A. M., June 9th, to 8:00 A. M., June 10th, 1936, in order that the men on all turns will have an opportunity to vote.

Elections

Elections of Representatives for the above divisions will be held June 16th, 1936.

Each qualified voter, on showing his badge, will be furnished with a ballot on which the names of the nominees will be printed. The number to be voted for will be stated on the ballot.

Nominees receiving the highest number of votes shall be declared elected as Representatives. Nominees failing of election shall stand as Alternates, in the order of votes received.

Ballot boxes for election will be open from 6 A. M., June 16th, 1936, to 8:00 A. M., June 17, 1936, in order that all turns will have an opportunity to vote.

All Claims as to the Eligibility of Voters Must Be Made Before Election Day, June 16th, and the Decision of the Election Committee in Each Case Must Be Considered Final.

Absentee Ballots May Be Cast on the Last Working Day Before Nominations and Elections.

Locations of Polls

On the days of Nominations and Elections Voting Booths will be established at all of the regular entrances to our plant.

All qualified voters are urged to vote at Nominations and Elections and to contribute in every way to their success.

Employee Representatives—Election Committee

J. E. Smith, Chairman, Open Hearth; C. Douglas, Vice Chairman, Rolling Mill; C. B. Mackell, Rolling Mill; R. J. Powell, Rolling Mill; Geo. Troyanovich, Rolling Mill; J. N. May, Scrap Yard; John Sabol, Electrical; H. T. Schermer, Office; H. E. Grimm, Secretary, River Dock; G. A. Burns, Mechanical; H. M. Lancaster, Mechanical; E. G. Lohman, Coke Plant; J. V. Walsh, Open Hearth; Mike Koscso, Blast Furnaces; Andy Cygan, Main Power Station; R. C. Murdoch, Yard Labor.

RESPONDENT'S EXHIBIT NO. 52

FIRST ELECTIONS

Employees' Representatives

River Plant

The Corrigan, McKinney Steel Company

Voting Divisions	Number of Representatives to be elected
Blast Furnace, River Dock, Main Power House	1
Coke, By-Products and Benzol	1
Open Hearth and Laboratory	1
Rolling Mills	2
Mechanical and Electrical Shops	1
Scrap Yard and Yard Labor	1
Office, Weighers, Store Room, Service, Shippers, and Police and Sanitation	1
	8

Employees of the Company, employed 90 days or longer, are qualified to vote,—except those in supervisory positions.

Candidates for representatives must have been employed by the Company one year or longer, be American Citizens and 21 years of age or over.

Lists of those qualified to vote and to be elected Representatives will be posted about the plant.

Nominations

Nominations for Representatives for the above divisions will be held July 6-7, 1933. On July 5 each qualified voter will be furnished a ballot on which he shall write the names of those whom he desires to nominate. The number to be nominated will be stated on the ballot.

Those receiving the highest number of votes shall be declared nominated.

Elections

Election of the Representatives for the above divisions will be held July 11-12, 1933. On July 10 each qualified voter will be furnished a ballot on which the names of the nominees will be printed. The number to be voted for will be stated on the ballot.

Nominees receiving the highest number of votes shall be declared elected as Representatives. Nominees failing of election shall stand as Alternates.

Location and Time of Polls

At each plant entrance a ballot box will be located, and which will be in charge of a teller. Employees may deposit their ballots upon entering or leaving the plant.

Polls will open at 6:00 A. M July 6 and close at 6:00 A. M. July 7, 1933.

Polls will open at 6:00 A. M. July 11th and close at 6:00 A. M. July 12, 1933.

At the expiration of above periods ballots will be counted by the Employees' Temporary Committee on Elections, who will then post names of successful candidates.

All qualified voters are urged to vote at the nominations and elections.

Employees' Temporary Committee on Elections

Thomas Hughes, Chairman

Thomas Russell, Secretary

Ray Essex, J. E. Boing, C. W. Pratt, Glen Cermak, R. Harris, Bert Grubb, Samuel McCracken, William F. Tabbert, Ray Yahner.
July 3, 1933.

RESPONDENT'S EXHIBIT NO. 53

Classification of Voting Divisions.
Year 1937.

Department	Representatives
Blast Furnaces	1
River Dock	1
Power House	1
Mechanical	2
Mason	1
Electrical	1
General Labor	2
Open Hearth	2
Coke Plant	1
Scrap Yard	1
Office	2
Lab—Comb. Eng.—Store—Hospital—Roll Shop	1
(Exhibit torn, 4 lines obliterated with these figures opposite thereto:)	
	2
	2
	1
	1
Total	22

Year 1936.

Department	Representatives
Blast Furnaces	1
River Dock	1
Power & Comb. Eng.	1
Mechanical & Mason	2
Electrical	1
General Labor	1
Open Hearth & Lab'y.	2
Coke Plant	1
Scrap Yard	1
Office—Store—Hospital	1
Rolling Mill	4
Total	16

RESPONDENT'S EXHIBIT NO. 54

NOMINATION BALLOT

For Employees' Representatives
Open Hearth and Laboratory Departments
June 9th, 1936
Republic Steel Corporation
Cleveland District

Directions to Voters:

This ballot is issued to voters to nominate six candidates to be voted upon at the Election June 16th, 1936, for electing two representatives.

The six qualified candidates receiving the highest number of votes will be entered on the election ballots as nominated candidates to be voted upon at the coming elections.

Each voter is entitled to write four names on this ballot.

Do Not Sign Your Name

Signed: Employees' Representative Election Committee

J. E. Smith, Chairman, Open Hearth
C. Douglas, Vice Chairman, Roll'g Mill
C. B. Mackell, Rolling Mill
R. J. Powell, Rolling Mill
Geo. Troyanovich, Rolling Mill
J. N. May, Scrap Yard
John Sabol, Electrical
H. T. Schermer, Office
H. E. Grimm, Secretary, River Dock
G. A. Burns, Mechanical
H. M. Lancaster, Mechanical
E. G. Lohman, Coke Plant
J. V. Walsh, Open Hearth
Mike Koscso, Blast Furnaces
Andy Cygan, Main Power Station
R. C. Murdoch, Yard Labor

NOTE—Write Four or Less Names or Check Numbers
If You write more your ballot will be VOID

Write Names or Check Numbers of Candidates Below.

(1) ....
(2) ....
(3) ....
(4) ....

Please Deposit This Ballot in the
Ballot Box Before Leaving
the Voting Booth

Hours for Voting from 6 a. m. Tuesday, June 9th, to 8 a. m. Wednesday, June 10th, 1936

RESPONDENT'S EXHIBIT NO. 56

ELECTION BALLOT

For Employees' Representatives
Rolling Mill Department
June 16th, 1936
Republic Steel Corporation
Cleveland District

Directions to Voters:

Place cross (X) opposite the names of Four Nominated Candidates whom you wish to serve as Representatives of this division.

If more than Four (4) are voted for, the ballot will be Void.

Do Not Sign Your Name

Signed: Employees' Representative Election Committee

J. E. Smith, Chairman, Open Hearth
C. Douglas, Vice Chairman, Rolling Mill
C. B. Mackell, Rolling Mill
R. J. Powell, Rolling Mill
Geo. Troyanovich, Rolling Mill
J. N. May, Scrap Yard
John Sabol, Electrical
H. T. Schermer, Office
H. E. Grimm, Secretary, River Dock
G. A. Burns, Mechanical
H. M. Lancaster, Mechanical
E. G. Lohman, Coke Plant

J. V. Walsh, Open Hearth
Mike Koscso, Blast Furnaces
Andy Cygan, Main Power Station
R. C. Murdoch, Yard Labor

Do not vote for more than Four (4) Nominated Candidates

			Place Below X
(1)	4540	C. Douglas	
(2)	8485	H. Sisk	
(3)	8374	G. Troyanovich	
(4)	7605	A. Matchuric	
(5)	7680	J. Bradley	
(6)	4141	M. Roth, Jr.	
(7)	8480	C. Mackell	
(8)	3385	J. Exall	
(9)	3975	A. Fitzgerald	
(10)	3872	R Powell	
(11)	8165	L. Korell	
(12)	8481	V. Monz	

Please Deposit This Ballot in the Ballot Box Before Leaving the Voting Booth

Hours for Voting from 6 a. m. Tuesday, June 16th, to 8 a. m. Wednesday, June 17th, 1936

RESPONDENT'S EXHIBIT NO. 57

CERTIFICATE OF ELECTION

For Employee Representatives
River Dock

Department or Voting Division

This is to certify that at the June 16, 1936. Elections held by the Employees of the above department or voting division, the following nominees were elected Employee Representatives:

H. E. Grimm	No. 1678	63 Votes

The following nominees stand as alternates in the order listed on the number received:

Walter Korn	No. 1674	4 Votes

J. E. Smith
R. J. Powell
H. T. Schermer
E. G. Lohman
C. P. Douglas
G. Troyanovich
Mike Koscso
J. V. Walsh
H. E. Grimm
J. N. May
G. A. Burns
Andy Cygan
C. B. Mackell
John Sabol
H. M. Lancaster
R. C. Murdoch

Employees' Committee on Elections

Republic Steel Corporation and Subsidiaries

Cleveland	Corrigan McKinney	June 17, 1936
(District or Subsidiary)	(Plant)	(Date)

RESPONDENT'S EXHIBIT NO. 58

EMPLOYEE'S REPRESENTATION PLAN

Date ....

Mr. L. A. Wakefield,
Management's Representative.

Dear Sir:

The following complaint has been brought to my attention for adjustment:

Department: ....

. . . .

. . . .

. . . .

. . . .

. . . .

. . . .

This is for your information, to enable you to follow the above complaint; I will keep you advised as to the progress of same.

. . . .

Employee's Representative

RESPONDENT'S EXHIBIT NO. 59

WESTERN UNION

The filing time as shown in the date line on full-rate telegrams and day letters, and the time of receipt at destination as shown on all messages, is STANDARD TIME.
Received at 2040 East 9th St., Cleveland, Ohio

Tel. Cherry 1780 Line 51

GB29 103 2 EXTRA DL=HT PITTSBURGH PENN 3 1248P

(Stamped)

T M GIRDLER=

REPUBLIC STEEL CORP MEDICAL ARTS BLDG CLEVE=

ON MARCH 30 1937 WE SENT YOU STANDARD COLLECTIVE BARGAINING CONTRACT WITH REQUEST FOR CONFERENCE TO DISCUSS SAME STOP NO ACKNOWLEDGEMENT OR OTHER REPLY

RECEIVED TO DATE STOP WIDE SPREAD UNREST AMONG EMPLOYEES YOUR COMPANY VARIOUS MILLS PREVAILS OVER UNCERTAINTY YOUR POSITION REGARDING SIGNED COLLECTIVE BARGAINING CONTRACT STOP THIS UNREST ACCENTUATED RESULT LAYOFF SEVERAL HUNDRED UNION MEMBERS YOUR CANTON AND MASSILLON WORKS STOP UNLESS WE CAN HAVE DEFINITE ASSURANCE FROM YOU WITH DATE FOR CONFERENCE TO NEGOTIATE WRITTEN CONTRACT WITHOUT FURTHER DELAY WE SHALL BE OBLIGED DISAVOW ALL RESPONSIBILITY UNION MEMBERS IN YOUR MILLS REMAINING AT WORK=

CLINTON S GOLDEN REGIONAL DIRECTOR STEEL WORKERS ORGANIZING COMMITTEE.

RESPONDENT'S EXHIBIT NO. 60

AB9 93=4 EXTRAS=

CLINTON S GOLDEN REGIONAL DIRECTOR

STEEL WORKERS ORGANIZING COMMITTEE
3600 GRANT BUILDING PITTSBURGH PA=

(Stamped)

YOUR REQUEST FOR A MEETING TO DISCUSS SIGNED CONTRACT HAS BEEN REFERRED TO ME FOR REPLY IN VIEW OF WAGNER ACT SEE NO NECESSITY FOR SIGNED CONTRACT THE POLICY OF THIS COMPANY HAS BEEN AND IS NOW THAT IT IS WILLING TO MEET WITH ANYONE TO BARGAIN WITH HIM FOR WHOMSOEVER HE REPRESENTS IN CONFORMITY WITH THIS GENERAL

POLICY THE PROPER REPRESENTATIVES OF THIS COMPANY WILL MEET WITH YOU AT ANY TIME MUTUALLY CONVENIENT FOR COLLECTIVE BARGAINING PURPOSES ADVISE IF TUESDAY MAY ELEVENTH MY OFFICE CLEVELAND SATISFACTORY FOR MEETING

J A VOSS DIRECTOR OF INDUSTRIAL RELATIONS REPUBLIC STEEL CORP . . .

(Stamped)

RESPONDENT'S EXHIBIT NO. 61

WESTERN UNION

Received at 2040 East 9th St., Cleveland, Ohio
Tel. Cherry 1780 Line 51

GA215 158 DL=HT PITTSBURGH PENN 6 955A

(Stamped)

J A VOSS=

DIRECTOR INDUSTRIAL RELATIONS=REPUBLIC STEEL CORP CLEVE=

YOUR WIRE FIFTH RECEIVED STOP ARE WE TO UNDERSTAND YOU PROPOSE IN LIEU OF SIGNED COLLECTIVE BARGAINING CONTRACT THAT CONTRACTING PARTIES COMMIT PROVISIONS VERBALLY AGREED UPON TO MEMORY AND RELY THEREON FOR FUTURE REFERENCE WHENEVER CONFERENCES ARE NECESSARY TO DISCUSS GRIEVANCES THAT MAY ARISE THEREUNDER STOP DO YOU FURTHER PROPOSE THAT MANAGEMENT OFFICIALS IN THE THIRTY FIVE MILLS

OPERATED BY YOUR COMPANY AND UNION GRIEVANCE COMMITTEEMEN NUMBERING TWO HUNDRED AS WELL AS THE SIXTY THOUSAND EMPLOYEES ALSO INDULGE IN THIS MEMORIZING PROCESS STOP IS THIS YOUR CONCEPTION OF ORDERLY CONSTRUCTIVE METHODS OF COLLECTIVE BARGAINING AS CONTEMPLATED BY NATIONAL LABOR RELATIONS ACT STOP IF SO WE CONSIDER CONFERENCE YOU PROPOSE FOR MAY ELEVENTH FUTILE WASTE OF TIME AND ENERGY STOP DO YOU PROPOSE TO ACCEPT TERMS SIMILAR TO THOSE IN AGREEMENT SIGNED BY CARNEGIE ILLINOIS STEEL CORPORATION AND APPROXIMATELY ONE HUNDRED OTHER COMPANIES WITH REPRESENTATIVES OF STEEL WORKERS ORGANIZING COMMITTEE WITHOUT UNDERTAKING TO AFFIX YOUR COMPANYS SIGNATURE THERETO STOP=

CLINTON S. GOLDEN.

(Stamped)

RESPONDENT'S EXHIBIT NO. 62

STEEL WORKERS ORGANIZING COMMITTEE

(Emblem)

3600 Grant Building
Pittsburgh, Pa.

March 30, 1937

Republic Steel Corporation
Medical Arts Building
Cleveland, Ohio

Attention: T. M. Girdler, President

Gentlemen:

Enclosed herewith will be found a proposed collective bargaining contract to which I request you give careful consideration. The principal features are identical with those in the contracts signed on March 17, 1937, with the Carnegie-Illinois Steel Corporation and other U. S. Steel Corporation subsidiaries.

Inasmuch as a considerable number of your employees have already been enrolled as Union members, we believe it to be mutually advantageous to have this agreement consummated as soon as possible.

In the event the base rate of wages now being paid by your company is less than $4.20 per day of eight (8) hours, the agreement provides for a straight wage increase of 10c per hour.

Upon advice from you as to your position in this matter, we will be glad to have our representative, in company with a committee of your employees who are members of the Union and authorized to act as collective bargaining representatives, call upon you for the purpose of discussing the enclosed contract.

We will appreciate hearing from you at your earliest convenience with respect to a convenient date for such a conference.

Yours very truly,
Clinton S. Golden.
Clinton S. Golden
Regional Director
Northeastern Region

RESPONDENT'S EXHIBIT NO. 63

This Agreement, dated .... 1937, between Republic Steel Corporation (hereinafter referred to as the "Corporation") and the Steel Workers Organizing Committee on behalf of the members of the Amalgamated Association of Iron, Steel and Tin Workers of North America, or its successor, (hereinafter referred to as the "Union") employed by the Corporation.

SECTION 1: It is the intent and purpose of the parties hereto that this Agreement will promote and improve industrial and economic relationships between those employees who are members of the Union and the Corporation, and to set forth herein the basic Agreement covering rates of pay, hours of work and conditions of employment to be observed between the parties hereto.

It is understood and agreed that this Agreement pertains only to members of the union employed in the Corporation's steel manufacturing and by-product coke plants.

The term "employee", as used in this Agreement shall not include Foremen, Assistant Foremen or Supervisors in charge of any classes of labor, or Watchmen, or any Salaried employees.

SECTION 2—RECOGNITION: The Corporation recognizes the Union as the collective bargaining agency for those employees of the Corporation who are members of the Union. The Corporation recognizes and will not interfere with the right of its employees to become members of the Union. There shall be no discrimination, interference, restraint or coercion by the Corporation or any of its agents against any members because of membership in the Union. The Union agrees not to intimidate or coerce employees into membership and also not to solicit membership on Corporation time or plant property.

SECTION 3—WAGES: Effective 1937, there shall be an increase in wages of ten (10c) cents an hour on all rates which are at present Four Dollars and twenty cents ($4.20) a day, or a minimum for this classification of Five ($5.00) Dollars a day of eight (8) hours. Such classifications now receiving less than Four Dollars and twenty cents ($4.20) a day or less than fifty-two and one-half cents (52½c) per hour, shall be increased ten (10c) cents per hour. There shall be an increase of ten (10c) cents per hour in all other hourly rates, and an equivalent increase in all tonnage and piece-work rates which will net under normal expected earnings an increase of not less than eighty (80c) cents per day of eight (8) hours.

SECTION 4—HOURS OF WORK: Effective 1937, there shall be established an eight (8) hour day and a forty (40) hour week. Time and one-half shall be paid for all overtime in excess of eight (8) hours in any one day or for all overtime in excess of forty (40) hours in any one week.

A day may be a calendar day or any 24-hour period, and a week may be a calendar week or any five (5) regular 8-hour turns on consecutive days, followed by a 48-hour rest period, at the option of the Corporation.

An employee, who is a member of the Union, shall not be paid both daily and weekly overtime for the same hours so worked.

SECTION 5—VACATIONS: Each employee, who is a member of the Union, and who, prior to July 1, 1937, was continuously in the service of the Corporation ...... years or more shall receive .... week's vacation with pay, such vacation to be taken in a single period. Those who are granted vacations will be paid on their average rate of earnings per hour for the two pay periods immediately preceding their vacation. The total hours of vacation pay will be the average hours they worked per week during that period, but not less than 40 hours nor more than 48 hours. *footnote #1.

Vacations will, so far as possible, be granted at times most desired by employees, but the final right to allotment of vacation period is exclusively reserved to the Corporation in order to insure the orderly operation of the plants.

SECTION 6—SENIORITY: It is understood and agreed, however, that in all cases of promotion or increase, or decrease of forces, the following factors shall be considered, and where factors (b), (c), (d), and (e) are relatively equal, length of continuous service shall govern.

(a) Length of continuous service.

(b) Knowledge, training, ability, skill and efficiency.

(c) Physical fitness.

(d) Family status; number of dependents, etc.

(e) Place of residence.

SECTION 7—ADJUSTMENT OF GRIEVANCES: Should difference arise between the Corporation and the Union or its members employed by the Corporation as to the meaning and application of the provisions of this Agreement, or should any local trouble of any kind arise in any plant, there shall be no suspension of work on account of such differences but an earnest effort shall be made to settle such differences immediately in the following manner:

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*Footnote #1: Vacation schedule to be based upon last year's schedule but shall not be less than one week for those employed five (5) years or more.

First, between the aggrieved employee, who is a member of the Union, and the Foreman of the Department involved;

Second, between a member or members of the Grievance Committee, designated by the Union, and the Foreman and Superintendent of the Department;

Third, between a member or members of the Grievance Committee, designated by the Union, and the General Superintendent or Manager of the plant;

Fourth, between the Representatives of the National organization of the Union and the Representatives of the Executives of the Corporation; and

Fifth, in the event the dispute shall not have been satisfactorily settled, the matter shall then be appealed to an impartial umpire to be appointed by mutual agreement of the parties hereto. The decision of the umpire shall be final. The expense and Salary incident to the services of the umpire shall be paid jointly by the Corporation and the Union.

Specified periods shall be agreed upon between the Grievance Committee and the General Superintendent or Manager of each plant for the presentation of grievances hereunder. Provided, however, that matters pertaining to discharges or other matters that cannot reasonably be delayed until the time of the next regular meeting may be presented at any time in accordance with the foregoing provisions.

The Grievance Committee for each plant shall consist of not less than three employees of that plant, and not more than ten (10) such employees, designated by the Union, who will be afforded such time off, without pay, as may be required.

First, to attend regularly scheduled committee meetings, and

Second, to attend meetings pertaining to discharges or other matters which cannot reasonably be delayed until the time of the next regular meeting.

Third, any member of the Grievance Committee shall have the right to visit departments other than his own at all reasonable times for the purpose of transacting the legitimate business of the Grievance Committee, after notice to and permission from his department superintendent or his designated representative.

The actual number of members of the Grievance Committee at each plant shall be mutually agreed upon between the General Superintendent or Manager of the Plart and the Union, and in no case shall there be more than one member in any department.

SECTION 8—MANAGEMENT: The management of the works and the direction of the working forces, including the right to hire, suspend or discharge for proper cause, or transfer, and the right to relieve employees from duty because of lack of work, or for other legitimate reasons, is vested exclusively in the Corporation: Provided that this will not be used for purposes of discrimination against any member of the Union.

SECTION 9—DISCHARGE CASES: In the event a member of the Union shall be discharged from his employment from and after the date hereof, and he believes he has been unjustly dealt with, such discharge shall constitute a case arising under the method of adjusting grievances herein provided. In the event it should be decided under the rules of this Agreement that an injustice has been dealt the employee with regard to the discharge, the

Corporation shall reinstate such employee and pay full compensation at the employee's regular rate for the time lost. All such cases of discharge shall be taken up and disposed of within five (5) days from the date of discharge.

SECTION 10—SAFETY AND HEALTH: The Corporation shall continue to make reasonable provisions for the safety and health of its employees at the plant during the hours of their employment. Protective devices, wearing apparel and other equipment necessary to properly protect employees from injury shall be provided by the Corporation in accordance with the practice now prevailing in each separate plant. Proper heating and ventilating systems shall be installed where needed.

SECTION 11—INDIVIDUAL WAGE RATES: Where alleged inequalities in wage rates prevail the matter may be taken up for local plant adjustment, and settlement made on a mutually satisfactory basis.

SECTION 12—FUTURE CONFERENCES: Joint conferences between Representatives of the Corporation and of the Union shall commence in ...., on February 7, 1938, for the purpose of negotiating an Agreement with regard to wages, hours and working conditions, to take effect upon the expiration of this Agreement.

SECTION 13—HOLIDAYS: The following days shall be considered holidays, during which days there shall be no regular production work, except in cases of continuous operations, on:

July 4th
Labor Day, and
Christmas.

SECTION 14—TERMINATION DATE: This Agreement shall remain in full force and effect until February 28, 1938, inclusive.

REPUBLIC STEEL CORPORATION
Company.
By ....
President.
STEEL WORKERS ORGANIZING COMMITTEE
By ....
Chairman.

....
Secretary-Treasurer.

....
Regional Director.

RESPONDENT'S EXHIBIT NO. 64

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

In the Matter of
Republic Steel Corporation
and
Steel Workers Organizing Committee

Case No. C-184

RESPONDENT'S OFFER TO PROVE RE CLEVELAND DISTRICT

Respondent offers to prove that upon at least sixty separate occasions during the latter part of July 1937, employees of respondent in its Cleveland District when either going to, or coming from, their work in the vicinity of C. I. O. headquarters, and on or near public and duly dedicated highways of the City of Cleveland, known as Independence Road, Jefferson Avenue, Broadway and Dille Road, were interfered with, mostly in the night season, by members of the S. W. O. C. and C. I. O., who hurled and struck the automobiles of said employees with stones, slag, bricks, pieces of iron, etc., damaging said automobiles in varying amounts from $1.25 to $75.45; that during said time crowds of C. I. O. pickets lined said highways and slowed down said automobiles by various means, such as swarming about, or driving a C. I. O. car out in front of the car of an employee, or barricading said highway; that on six occasions during said period cars of employees of respondent in its Cleveland District were maliciously destroyed by fire, by placing sand in the crank case, by placing of sugar in the fuel tank, by the slashing of tires, by hammering with clubs and by the jerking out of lighting or ignition wiring; that on four separate occasions cars of employees were "run off the road" or collided with intentionally by cars of C. I. O. members; and that during the months of July and August 1937 twenty-nine homes of employees of respondent were damaged by stones and other missiles being hurled through windows and doors and by tar being used to dob said premises. Respondent believes that the following named witnesses, if permitted, would so testify.

Edward Allsopp
John Ambrose
Earl Atkin
Joseph Benedik
Elmer A. Boma
Frank Heitman
Robert E. Bowman
Charles E. Brown
Paul Moore
William Bugos

William Calloway
George Chocola
Fred Weiler
Andy Minnich
William Paul Craft
H. Clum
H. Rosser
G. Poduska
John T. Donnelly
Anthony Skowionski
John Milkovich, Sr.
John Milkovich, Jr.
Robert Donnelly
Efin Draluk
Lemuel B. Dunn
Sam Feduniszyn
Thomas Finding
Warren Finding
Albert Kuntz
Dominic Flanto
Joe Paradise
Frank Frder
Edward F. Geggus
Frank Harwood
Arthur E. Herbert
Andrew Hibyan
Vernon Hickman
Frank Mazenac
R. K. Jameson
Charles Jedlicka
Henry Philips
Ralph Prida
James Jelinek
Rollin Kirby
Edward K. Klipec

William Miles
George Gerstman
Eugene Aldstadt
Walter Korn
R. Robinson
T. Petrovsky
T. Lippian
C. Ryckowski
Leo Kroll
P. J. LeHam
William Coolbaugh
Emil Louvison
Andrew Balogach
Harry Mundee
Dan Kuban
George Mazich
Peter Macey
Kenneth McGee
V. Merriman
Robert Akron
James Molnar
Marion Narus
Lawrence Newmeyer
Edward Hiller
Herbert Burnmeister
Charles Sperber
Earl Miller
John Palahunic
Julius Czayko
Chester Perkins
William G. Peters
John Curry
Napoleon Justus
Peter Polansky
Joe Regalo

John Schraeder
Robert B. Scott
Edward W. Shorf
Mike Solgo
James Reardon
Dan Starkoff
T. F. Steiner
James J. Svoboda
Earl R. Tindal
Tom Pisceka
William Waters
James L. Ward
Charles Christoff
Frank E. Walters
Jim Williams
Frank Ziegler
Terry J. Allen
A. E. VonAlt
Everett H. Root
Andrew S[illegible]bodos
Walter Stephens
Harry D. Ferrell
Clement Horsefail
Jacob Bohm
R. L. Yoho
John Fowler
William Jenkins
Fred Limoli
L. H. Pickryl
Roland Pickryl
Harvey Schneider
Mike Kostya
M. Morana
William Harrison
Ben Adams

Anthony Karp
Willis Karp
John Kostalnick
Phillip Shano
Elmer Stark
Frank Toman
Joe Toman
Thomas Scott
E. J. St. Clair
William Stein

Respondent further offers to prove that John W. Adams, an employe of respondent in the Cleveland district, was driving to work on July 26, 1937, at about 10:00 P. M.; that with him was another employe of respondent by the name of Michael Voytovich; that as he neared the Grasselli Chemical property on Independence Road, a large crowd of C. I. O. members were congregating; that as he passed said crowd, members thereof threw stones and rocks which broke his car windows and his windshield, and dented the body of his car; and that the flying glass from the windows cut his face and entered both of his eyes, necessitating hospitalization. Respondent believes that the witnesses, John W. Adams, and Michael Voytovich, if permitted, would so testify.

Respondent further offers to prove that on July 26, 1937, at about 10:00 P.M., Charles Allen, one of respondent's employes in the Cleveland district, was driving his Chevrolet coach to work; that as he was driving down Dille Road in a Westerly direction, groups of strike sympathizers and C.I.O. members yelled "Give it to him"; that suddenly stones, bricks, etc. were thrown at his machine, breaking the rear windows and the windshield and damaging the sides of his car; and that one of his passengers, Eugene Jolles, was injured by being struck by stones in the face and on the right shoulder. Respondent believes that the witnesses, Charles Allen and Eugene Joiles, if permitted, would so testify.

Respondent further offers to prove that on July 26, 1937, at about 10:30 P. M., George Baker, one of its employes in the Cleveland district, was driving to work in his Ford automobile; that on Independence Road, near the Grasselli Chemical Company, he noticed a number of men congregated by the road; that as he passed said group, they started to throw stones and rocks, which broke and shattered the windshield and all the other windows except the left rear one, and also dented the body of his machine; and that one of said stones struck the side of his face, breaking his spectacles. Respondent believes that the witness, George Baker, if permitted, would so testify.

Respondent further offers to prove that at about 10:30 o'clock P. M. on July 26, 1937, Guy Burdell and K. P. Tussey, employes of respondent in its Cleveland district, were riding to work in an automobile down Independence Road; that on said road about one hundred men on each side started to throw bricks which broke windows and dented the car; that employe Guy Burdell received a severe bruise on the back of the neck from a half brick thrown through the window, which necessitated hospitalization; and that the said Tussey received a severely bruised shoulder from said missiles. Respondent believes that the witnesses, Guy Burdell and K. P. Tussey, if permitted, would so testify.

Respondent further offers to prove that on or about July 10, 1937, at 2:25 A. M. there were two large stones hurled through the window of the home of James Davis at 7617 Quicy Avenue, Cleveland, Ohio; that the said Davis has been an employe of respondent in its Cleveland district for about eleven years; that one of said stones struck the eight year old daughter of the said Davis on the head, causing a large gash on the forehead over the eye; that it was necessary to take said daughter to the hospital and place her under the care of a physician, and that said daughter still has a scar over her left eye. Respondent believes that the witness, James Davis, if permitted, would so testify.

Respondent further offers to prove that at about 8:45 P. M. one day in the latter part of July, 1937, one of its employes, named Stanley Dobish, left its plant for home in his automobile, in which there was stationed as a passenger another employe by the name of Joe Soska; that as Dobish stopped in front of Soska's residence on W. 11th Street, a group of men unknown to him threw stones at said automobile, which stones broke the windows, dented the car body, and struck Joe Soska on the head. Respondent believes that the witnesses, Stanley Dobish and Joe Soska, if permitted, would so testify.

Respondent further offers to prove that, as William J. Dulai was driving to work at respondent's Cleveland plant at about 10:00 P. M. on July 26, 1937, about twenty men on Independence Road started to throw bricks and stones at his car; that said bricks and stones broke the windshield and the glass on the right hand side of said car; and that from said broken windows, glass entered both his eyes, necessitating hospital treatment. Respondent believes that the witness, William J. Dulai, if permitted, would so testify.

Respondent further offers to prove that in the night season at about 9:50 on July 26, 1937, Samuel Dumas, one of its employes in the Cleveland district, was proceeding to his work in his automobile; that with him as passengers were Eddie Smith, James Davis, James Knolles, Mr. Ross and Mr. Johnson, all employes of respondent; that as said car reached the intersection of Dille Road and Independence Road, a group of about three hundred men lined on both sides of the road showered said automobile with stones and pieces of steel; that one of said stones struck and went through the car's windshield, striking Samuel Dumas on the mouth, knocking out two teeth and bruising his lip; that, in addition to considerable other damage to the car, Mr. Ross was struck by a stone on his right arm; that Mr. Johnson was struck by a stone on the top of his head; that James Davis was struck by a stone on his forehead, and that Eddie Smith was struck on the left arm by a stone, necessitating medical treatment. Respondent believes that the witnesses, Samuel Dumas, Edward Smith, James Davis and James Knolles, in addition to the above mentioned Messrs. Ross and Johnson, if permitted, would so testify.

Respondent further offers to prove that as Steve Horvath and John Erben, employes of respondent in its Cleveland district, were going to work in an automobile during the latter part of July, 1937, and were driving down Independence Road at about 10:15 P. M., a crowd from one hundred to one hundred and fifty pickets, lined up on both sides of said road, showered the car with stones and bricks; that the windshield and windows were broken and dents made in the body of the car; and that Steve Horvath's hand was badly smashed by a brick thrown through the window, which made it necessary for the said Horvath to remain in St. Alexis Hospital for a period of five days. Respondent believes that the witnesses, John Erben and Steve Horvath, if permitted, would so testify.

Respondent further offers to prove that three employes of its Cleveland district were in an automobile on their way to their work on July 26, 1937, at about 10:30 P. M.; that as said automobile proceeded northerly on Independence Road, a group of pickets was noted; that one of said pickets stood in the road, motioning the driver to stop; that upon his failure to stop, stones were thrown by members of said group shattering the windshield, breaking the windows and putting a number of dents in the body of the car; that said car was driven by Joe Evanovich, and that one of the passengers, known as Dick, was cut on the forehead by flying glass. Respondent believes that the witness, Joe Evanovich and Mike Steffar, if permitted, would so testify.

Respondent further offers to prove that at about 5:00 o'clock P. M. on Sunday, June 27, 1937, Mike Gnatovich, an employee of respondent at its Cleveland Plant, was driving north on East 54th Street when a car came along side and squeezed him to the curb and made him stop; that four men were in said car; that two of them got out and came to his car asking him to get out; that when he hesitated he was grabbed by the arm and pulled out; that another of said men took him by the other arm and struck him with a black jack; that two other automobiles came upon the scene, one stopping in front of, and one behind, his automobile; that someone alighted from the front car and said to the man with the black jack, "That man is all right. He don't bother nobody."; that at said time the men returned to their cars and all three cars drove away; that in said group was a former employee of respondent at its Coke Plant; that at about 1:45 A. M. on August 14, 1937 a stone was thrown through the window of the room of the said Mike Gnatovich; that the said Mike Gnatovich has been approached on many occasions by members of the C. I. O., requesting that he sign up with them, and that said Mike Gnatovich is not a member of said organization. Respondent believes that the witness, Mike Gnatovich, if permitted, would so testify.

Respondent further offers to prove that Irving E. Graves and Consul Allen, employees of respondent at its Cleveland Plant, were driving to work on July 26, 1937 at about 10:30 P. M.; that when their automobile was near Broadway, at said time two or three men started to stone the car; that said stones broke the wind shield and left rear window and dented the body of the car, damaging the same in the amount of $83.83; that said Irving E. Graves received a bruised shoulder when hit with a brick and had fine glass in both eyes from the broken wind shield, and that the said Consul Allen also had glass in his eyes. Respondent believes that the witnesses, Irving E. Graves and Consul Allen, if permitted, would so testify.

Respondent further offers to prove that Chester Holley, Harry Broderick, John Buda, James Fowler and another employee of respondent by the name of Mike, were driving to work for respondent at its Cleveland Plant on July 26, 1937 at about 10:00 o'clock in the evening; that as said car proceeded southerly on Independence Road various crowds of pickets hurled stones at said machines; that one of such stones struck and broke the windshield and then struck the forehead of the said Chester Holley who was then and there driving said automobile; that the flying glass from the windshield cut his cheek; that the impact of said stone knocked him unconscious so that he momentarily lost control of said automobile; that during said period the automobile struck a railroad car to the right of said highway; that the impact of said collision roused the said Chester Holley; that the said James Fowler, another employee and a passenger in said automobile, was also struck by a stone; that the injuries inflicted upon said Chester Holley and said James Fowler incapacitated them and that the said employees were so injured as to require hospitalization and treatment. Respondent believes that the witnesses, Harry Broderick, John Buda, James Fowler and Chester Holley, if permitted, would so testify.

Respondent further offers to prove that as Lawrence

Hopp, an employee of respondent in the Cleveland Plant, was driving his automobile to his work on July 26, 1937 at 10:00 P. M. and traveling on Independence Road from 100 to 150 pickets were lined up on each side of said highway; that about ten of them started to throw bricks and stones, which missiles broke the windshield and windows of said automobile, knocked two holes in the roof of said car and made about ten dents in the body thereof; that one of said missiles was a brick which went through the windshield and struck the said Lawrence Hopp in the face, breaking his eye glasses and filling his eyes with glass; that the said Lawrence Hopp had about ten cuts in his face and that his shoulder was bruised by a brick. Respondent believes that the witness, Lawrence Hopp, if permitted, would so testify.

Respondent further offers to prove that at about 10:00 P. M. on the evening of July 26, 1937, when W. A. James, one of its employees at its Cleveland Plant, was driving down Broadway, he was ordered to stop by a group of pickets at the corner of Independence Road; that immediately following said order his automobile was showered with bricks and stones; that said bricks and stones broke the windshield and the right rear window, dented the right door and damaged the radiator shell, and that a piece of glass, so broken by said bricks and stones, stuck in his head, making it impossible for the said W. A. James and W. J. Stophel, at that time a passenger in said car, to go to their work that evening. Respondent believes that the witnesses W. A. James and W. J. Stophel, if permitted, would so testify.

Respondent further offers to prove that as Howard L. Jenkins, one of its employees at its Cleveland Plant, was driving to his work at about 10:45 P. M. on July 26, 1937, by way of Independence Road, C. I. O. pickets congregated there, hurled stones and bricks in great numbers at his said automobile; that at said time there was riding with him, as a passenger, one Mr. Small, also an employee of the respondent; that on account of the stones and bricks so thrown the top of his automobile was torn, the body dented in eighteen places and the windshield broken, requiring repairs in the amount of $48.54, and that one of said bricks hurled through the top of said automobile struck him forcibly on the head. Respondent believes that the witnesses Howard L. Jenkins and the said Mr. Small, if permitted, would so testify.

Respondent further offers to prove that as John Kidd, one of its employees at its Cleveland plant, was driving to his work on July 26, 1937, at 10:30 P. M. and on Independence Road, four or five hundred pickets lined up on both sides of said road, hurled bricks and stones at said car; that at said time the said John Kidd was hauling, as passengers therein, two other employees of respondent, Badges Nos. 7218 and 7228; that said bricks and stones broke the rear window of said car, dented both doors and damaged both rear fenders, and that one of the said passengers was struck on the right arm with a piece of brick. Respondent believes that the witnesses, John Kidd and said passengers, if permitted, would so testify.

Respondent further offers to prove that as John Kless, Jr., one of its employees at its Cleveland plant, was driving to his work on July 26, 1937, at about 10:00 P. M. with a fellow employee, Thomas Dennis, as a passenger, his car was caused to slow down on Independence Road on account of a partial blockade of said highway by another automobile; that as said car slowed down, a piece of slag was thrown by a crowd of pickets congregated there, and stones were thrown at said car; that said piece of slag smashed the right front door and struck the said

Thomas Dennis on the shoulder, and that said other stones made small dents in the car. Respondent believes that the witnesses, John Kiess, Jr. and Thomas Dennis, if permitted, would so testify.

Respondent further offers to prove that as Harlen J. Mault, R. Skalla and G. C. Mault, employees of respondent in its Cleveland district, were proceeding to work in an automobile driven by the said Harlen J. Mault on July 26, 1937, at about 10:00 P. M., said car was met by a crowd of pickets near the intersection of Independence Road with Dille Road; that the members of said crowd began throwing slag and pig iron at said automobile; that said missiles broke the glass in the right rear window and made several dents in the body of said car; that one of said missiles cut the left side of the said Harlen J. Mault's nose, and that the said G. C. Mault sustained two broken ribs, necessitating hospital treatment for both. Respondent believes that the witnesses Harlen J. Mault, R. Skalla and G. C Mault, if permitted, would so testify.

Respondent further offers to prove that as H. Mulford and Fred Kirshnek, employees of respondent at its Cleveland Plant, were proceeding to their work in an automoile driven by the said H. Mulford at about 10:15 P. M. on the night of July 29, 1937, and were at a point on Independence Road, a crowd of about two hundred pickets were stationed on the right side of said road; that as said automobile was proceeding at that point, the said pickets began to throw bricks and stones; that said bricks and stones broke the right front window and caved in the right door of said automobile, and broke the shoulder of the said Fred Kirshnek; and that on account of said injuries, it was necessary for the said Fred Kirshnek to receive hospital and medical treatment. Respondent believes that the witnesses H. Mulford and Fred Kirshnek, if permitted, would so testify.

Respondent further offers to prove that Michael Petrulak and John Green, employes of respondent at its Cleveland Plant, drove in an automobile to Dille Road Clock House on July 22, 1937 at about 8:30 A. M. to obtain their wages; that after receiving their wages the said Petrulak drove his machine up Dille Road to Broadway; that at the top of said road said car was met by some fifteen or twenty men who endeavored to hold back said car; that said men called Petrulak and Green scabs, rats, etc. and then threw stones at said car which shattered the windshield and caused John Green's neck to be cut by flying glass; that said automobile proceeded forward and met two policemen of the City of Cleveland to whom the incident was reported and with him they returned to the scene of the attack; that the said Petrulak and Green identified two of the men who had attacked them, one of whom was Sam Gukich an employee of respondent; and that the said Sam Gukich was found guilty of assault and battery and sentenced to the workhouse. Respondent believes, that the witnesses, Michael Petrulak and John Green, if permitted, would so testify.

Respondent further offers to prove that as James Reardon, one of its employees at its Cleveland plant was driving home from his work, a machine containing about seven men tried to force him to the curb on Clark Avenue Bridge at the B. & O. span; that in said automobile was an employee of respondent wearing Badge No. 1392; that the action of said machine caused the said Reardon to lose control of his machine and strike an open fence at the corner of W. 14th Street and Clark Avenue, damaging his automobile to the extent of $105; that on June 26, 1937, the said Reardon called at the home of Joe Gelinka at W. 7th

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Street and after said visit found his tires deflated; that after inflating them he stopped for the traffic light at the intersection at W. 14th Street and Fairfield Avenue at which time Peter Cushion, a blast furnace employee of respondent, jumped on the running board of the Reardon car and struck Reardon in the face with his fist; that said Cushion then stepped off the running board and drew a knife; that two other men stepped to the side of the car and started arguing; that during said argument, Reardon started his automobile at which time one of the others struck him on the nose with his fist; and that the said Reardon then escaped in his automobile and was enabled to render himself first aid. Respondent believes that the witness, James Reardon, if permitted, would so testify.

Respondent further offers to prove that as Raymond Smith, and Charles Urich, employees at its Cleveland plant, were proceeding to their work on July 26, 1937, at 10:15 P. M. in an automobile on Independence Road, a crowd of 150 to 200 pickets had congregated on said highway; that as said automobile reduced its speed to avoid striking the crowd, a colored man started to club the fender and bricks and stones were thrown; that the windshield and right door window were broken and a piece of slag 3"x4"x1½" was thrown through the right rear window passing through the car and breaking the left rear window; that the said Raymond Smith received lacerations on his right index finger; that the following morning at 8 o'clock while passing CIO headquarters on Broadway, stones were again thrown at said car. Respondent believes that the witnesses, Raymond Smith and Charles Urich, if permitted, would so testify.

Respondent further offers to prove that as Robert Stringer, H. Snyder, F. Schultz, A. Yassany and L. Snyder, employees of respondent at its Cleveland Plant were proceeding in an automobile on Independence Road, July 26, 1937, at about 10 P. M., and on the way to their work, they were met near the intersection of Independence Road and Dille Road by a crowd of pickets who began to throw stones and slag at said automobile; that said stones and slag so thrown smashed the right front fender, dented the radiator, the body and the top and broke the right wing glass; that on account of said stones so thrown L. Snyder received a blow on the right shoulder and F. Shultz had powdered glass in both eyes; and that said injuries necessitated hospital treatment for both of said employees. Respondent believes that the witnesses, Robert Stringer, H. Snyder, F. Schultz, A. Yassany and L. Snyder, if permitted, would so testify.

Respondent further offers to prove that as Daniel Swalwell and Richard Weiderman, employees of respondent at its Cleveland Plant were returning to their homes from their work on July 27, 1937, at about 1:30 A. M. and were proceeding on Jefferson Street, a crowd of pickets gathered in said highway and endeavored to stop said automobile; that when the automobile continued forward the members of this crowd threw rocks and stones into and against the said automobile, damaging the same to the extent of $75.81; that one of said rocks struck the said Swalwell on the right index finger and that on account of the injury so received it was necessary for him to seek treatment at St. Alexis Hospital and remain away from his work for one day. Respondent believes that the witnesses, Daniel Swalwell and Richard Weiderman, if permitted, would so testify.

Respondent further offers to prove that on the evening of June 26, 1937, one Ernest Hooper, an employee of respondent at its Cleveland Plant received an anonymous telephone call saying that the men who were to go to work should meet at the Terminal; that about 6:15 A. M., June 27, 1937, David J. Thomas, Thomas Reese and the said Ernest Hooper traveled in an automobile to said point for the purpose of going to work; that when they arrived at that point there were present two other automobiles; that when they stopped said automobile, a man alighted from one of the other cars and after questioning them said "so you are a bunch of scabs" and started to beat said automobile with a crank that he carried in his hand; that in beating said automobile the said man broke the front and rear windows on the right hand side and that the said Thomas Reese on account thereof received three cuts on the face from flying glass. Respondent believes that the witnesses, David J. Thomas, Thomas Reese and Ernest Hooper, if permitted, would so testify.

Respondent further offers to prove that as Charles W. Thompson and one Radford, employees of respondent at its Cleveland Plant were proceeding to their work in an automobile on July 26, 1937 at about 10:15 P. M. they noted a crowd on Independence Road and a number of cars parked there; that as said automobile passed said crowd and said cars it was showered with stones and bricks; that said stones and bricks broke the right rear window, tore the front fender and the top of said automobile, damaging it to the extent of $36.67; and that the said Charles W. Thompson, was struck in the face above the left eye by a brick and also struck on the left elbow which injuries necessitated medical treatment. Respondent believes that the witnesses, Charles W. Thompson and Radford, if permitted, would so testify.

Respondent further offers to prove that as John Wagasky, Ed. Dirnek and John Zatorski, employees of respondent at its Cleveland Plant were proceeding to their work in an automobile on July 26, 1937, at 10:30 P. M., said automobile was stopped on Independence Road by numerous pickets; that at that time the windshield and one head light were smashed by a club; that after starting said car said pickets threw bricks and stones at the same; that said attack resulted in the breaking of five windows and the denting of the body of said automobile; that the said Zatorski was hit by a club and that the said Dirtek was hit on the head by a brick. Respondent believes that the witnesses, John Wagasky, Ed. Dirtek and John Zatorski, if permitted, would so testify.

Respondent further offers to prove that as John E. Warner and Charles Rogers, employees of respondent at its Cleveland Plant, were driving to their work in an automobile on July 26, 1937, and were proceeding along Independence Road near Dille Road in the City of Cleveland, they met a crowd of 100 to 150 pickets congregated along said highway; that as they passed said pickets, bricks and stones were thrown into and against their said automobile, damaging it by tearing four holes in the top, denting the front and rear fenders on the left side, denting the body on both sides, breaking the windshield and all the windows except one, and breaking the head lights and tail lights; that said pickets damaged said automobile to the extent of $40.75 and that one of said missiles struck the said Charles Rogers on the right shoulder, which necessitated treatment at the plant hospital. Respondent believes that the witnesses, John E. Warner and Charles Rogers, if permitted, would so testify.

Respondent further offers to prove that as George Petite and Tony Mencen, employees of respondent at its Cleveland Plant, were proceeding to their work in an automobile on July 26, 1937 at about 10 P. M., they were ordered to stop at the corner of Broadway and Independence Road by a crowd of pickets; that simultaneously with said command said car was showered with bricks and lumps of coal; that said bricks and lumps of coal broke the windshield and the right window and damaged and dented the left side of the body and the left running board of said car; that the said George Petite suffered painful cuts and bruises to his face caused by said bricks and said lumps of coal to be thrown through said windows and windshield of said car, which injuries necessitated first aid treatment at St. Alexis' Hospital and further treatment at Mt. Sinai Hospital and continued treatment by Dr. Reeger; and that by reason of said attack said employees were unable to go to their work. Respondent believes that the witnesses, George Petite and Tony Mencen, if permitted, would so testify.

Respondent further offers to prove that during the steel strike at respondent's Cleveland Plant certain men called at the home of Francisco Cira, an employee of respondent, and left word that they wanted to see affiant at the meeting hall on Broadway; that thereafter, on July 6, 1937, when said Cira was leaving his work for his home in his automobile, an unknown man at the corner of East 32nd Street and Cedar Avenue called him names and warned him not to go to work; that on July 26, 1937, at about 10:00 P. M., when he was driving his automobile to work on Independence Road and approached Dille Road, he noticed a crowd of pickets; that suddenly stones and rocks were thrown that struck his automobile, breaking the windshield and denting the body, and that a piece of glass so struck by one of said missiles cut the right corner of his mouth, necessitating treatment in the plant hospital. Respondent believes that the witness, Francisco Cira, if permitted, would so testify.

Respondent further offers to prove that as Lee Branch, one of its employees in the Cleveland District, was proceeding to his work on July 26, 1937, at about 10:30 P. M., and had arrived at a point on Independence Road near The Grasselli Chemical Company's Plant, a crowd of pickets started to throw bricks and pig iron at his automobile; that said missiles tore holes in the hood and top, smashed the fenders, dented the radiator, and broke the right and left windows, the windshield, the spot light and mirror; and that on account of said damage, several pieces of glass entered the eye of the said Lee Branch, which injury necessitated hospital treatment. Respondent believes that the witness, Lee Branch, if permitted, would so testify.

Respondent further offers to prove that as Steve Horvat, one of its employees in the Cleveland District, was driving to his work on July 26, 1937, at about 10:15 P. M., and had reached a point on Independence Road, a crowd of pickets started to throw bricks and stones at his said automobile; that said bricks and stones broke the windshield and the two rear windows of said automobile and dented the hood, body and door thereof; and that glass from the windshield so broken cut his hand, necessitating hospitalization for five days at St. Alexis' Hospital. Respondent believes that the witness Steve Horvat, if permitted, would so testify.

Respondent further offers to prove that as Victor J. DeSantis, one of its employees in the Cleveland District, was proceeding along Independence Road in his automobile on July 26, 1937, at about 10:15 P. M., on his way to his work, he suddenly noticed about twelve pickets; that immediately a brick struck and broke his windshield and struck his right thigh, causing him to lose control of his automobile, which swerved to the right and struck a telegraph pole; that said twelve men disappeared after damaging his car, further smashing the radiator, the right front fender and the front part of the car; and that after a time he was able to start his machine and proceed to his work. Respondent believes that the witness, Victor J. DeSantis, if permitted, would so testify.

Respondent further offers to prove that Joseph Kestranek, an employee of respondent at its Cleveland Plant, resides at 4705 Barkwill Avenue in the City of Cleveland, Ohio, with his wife, Mae Kestranek, and their son Joseph Kestranek, Jr., age twelve years; that on or about May 30, 1937, at about 3.20 A. M., a half-size pavement brick was thrown through their bedroom window; that the window blind prevented the brick from striking them as they slept in their bed; that one Kukolec, an employee of respondent under Badge No. 2139, a C. I. O. member, is the father of two sons; that as the said Joseph Kestranek, Jr., was on his way to school he was beaten by the two sons of the said Kukolec; that thereafter he telephoned his mother and told her that the two beat him and promised later to finish up on him; that the said Mae Kestranek went to the school, and later her son was again attacked by the two sons of Kukolec, who, in said attack, also struck the said Mae Kestranek, who rescued her son and was forced to call a taxicab to get home; that at about 1:30 A. M. about the middle part of July, 1937, another brick was thrown through their bedroom window; that on account of expected attacks, they barricaded said window with boxes of pillows in order not to be struck by any flying material; that on another occasion when the said Joseph Kestranek drove his automobile, a C. I. O. member, by the name of Tintor, and a former employee of respondent, with others, surrounded his car and told the said Kestranek that he would "get him"; that the said Tentor also used foul and threatening language; that after said bedroom windows were broken, the home was picketed, and that sons of the said Tintor used profane language and rode up and down the streets carrying signs on which were printed "Joseph

Kestranek is a scab"; that Richard Kerr, a neighbor of Kestranek, was told by C. I. O. members to keep away from said Kestranek and, if he did not, his windows would be broken also; that said Kerr refused to heed the warning, and about fifteen minutes after the said C. I. O. members spoke to him, his windows were also broken by materials being thrown; that another neighbor, who is a C. I. O. organizer, threatened to "get" Joseph Kestranek; that on September 10, 1937, when the said Kestranek and one Frank Schebek were on their way home after a ball game, they stopped at a beer cafe on Trumbull Avenue, at which time one Steve Pruska came over to the said Kestranek, calling him a scab and a son-of-a-bitching scab; that Pruska told Kestranek he had taken his job, and then grabbed him by the throat and began to choke him; that said Schebek, hearing the commotion, went to the rescue of the said Kestranek and was struck in the mouth with a pair of knuckles by another of a crowd of six men who were in the cafe; that the said Kestranek and Schebek left the cafe in a taxi and consulted the family physician, Dr. J. Slivka, who advised Kestranek that the muscles of his throat were paralyzed, and that he would be unable to work; that since the steel strike the said Kestranek family has been unable to rest or sleep in peace; and that the said Mae Kestranek has suffered from nervousness and has been treated by the family physician, the said Dr. J. Slivka. Respondent believes that the witnesses, Joseph Kestranek, Mae Kestranek, Joseph Kestranek, Jr., Richard Kerr, Frank Schebek and Dr. J. Slivka, if permitted, would so testify.

Respondent further offers to prove that John Pindroch, one of its employees in the Cleveland District, signed up with the C. I. O. a short time prior to the strike because he was forced to do so; that he started to serve on the picket line and later failed to report, at which time a bunch of men came to his house and ordered him to picket duty; that he returned to work the first week the plant was reopened, and on several occasions gangs of men wearing C. I. O. buttons came to his garage when he would go to get his car to go to work; that on July 16, 1937, at about 1:00 o'clock in the morning, a steel ball, about two inches in diameter and weighing about a pound, was thrown through the window of his home with such force that it went through a plasterboard wall; that about one-half hour before the throwing of the steel ball, a piece of paving brick was hurled through the window; and that said piece of paving brick, after passing through the window, hit his wife and cut a large gash in her knee. Respondent believes that the witnesses, Mr. and Mrs. Pindroch, if permitted, would so testify.

Respondent further offers to prove that as H. J. Berusch, Joe Racut, J. Muron and George Rocawich, employees of respondent at its Truscon Steel Plant and members of the Security League, an organization of employees of said Plant, were returning in an automobile on July 27, 1937, at about 9:30 P. M. from a meeting at the West 25th Street headquarters of said Security League, said car was stoned by several persons; that said stones broke the windshield, the glass in two doors, the rear window glass and dented the sides, rear and top of the said automobile; that the said H. J. Berusch received a laceration and bruises on his left wrist on account of being struck with a brick; and that all of the other occupants of the said car were showered with broken glass. Respondent believes that the witnesses H. J. Berusch, Joe Racut, J. Muron and George Rocawich, if permitted, would so testify.

Respondent further offers to prove that Joseph Benedik, an employee of respondent in the Cleveland district, and whose automobile was stoned and damaged on July 26, 1937, as hereinbefore stated, was also approached by four members of the C. I. O. at his home and told: "Quit or else we will 'get' you". Respondent believes that the witness, Joseph Benedik, if permitted, would so testify.

Respondent further offers to prove that on July 26, 1937, at about 8:00 P. M., Thomas Finding, one of its employes in the Cleveland District, and his wife were driving along at the end of the Clark Avenue bridge; that when their automobile was caused to stop on account of a traffic light, a man was seen standing with bricks in his hand; that as the automobile proceeded forward, said man threw the bricks at said car, striking and breaking the front window on the right-hand side; that said man then jumped on the running board of a car near by and followed the said Finding automobile for about a mile; that when the said Finding returned to work at the time respondent's plant was reopened, four men, former employees of respondent and wearing C. I. O. buttons, came to his home on the evening of July 8, 1937, and, in the presence of his wife, said: "Are you going to be a God-damned scab the rest of your life?", "Are you going to work tomorrow? If you do go to work, we will use stronger methods on you than we are using now."; that after said conversation, they further said: "Come down to headquarters and we will give you a basket of groceries and five gallons of gas every other day"; that the said Finding did not go to work on the Thursday and Friday following, because, after said episode, he was afraid to stay at his home and went out to the country for a few days to avoid the said C. I. O. men. Respondent believes that the witnesses, Thomas Finding and Mrs. Thomas Finding, if permitted, would so testify.

Respondent further offers to prove that Frank Frder, an employee of respondent in its Cleveland District, and a resident of 1420 Starkweather Avenue, signed up and paid one month's dues with the CIO; that about July 14, 1937, several members of the CIO called at his home and threatened to kill the son of said Frank Frder, Elias Necklegly, if the said Frder continued to work; and that upon another occasion all ignition wires and light bulbs were pulled out of his automobile. Respondent believes that the witness, Frank Frder, if permitted, would so testify.

Respondent further offers to prove that one of its employees in its Cleveland District, Felix Grabowski, resides at 3216 W. 14th Street in the City of Cleveland, Ohio; that the said Grabowski was a member of the CIO and served for about two weeks as a picket during the strike; that he later dropped his membership in said CIO and returned to work when respondent's plant was reopened; that threats were made that the CIO would catch him and cut him up with a knife; that on July 11, 1937, at about 1:30 A. M., a stone, weighing about six pounds, was thrown through the front window of his home breaking said window; that the said stone landed on a bed in which the mother-in-law of the said Grabowski, a lady about 70 years of age, was sleeping; that the health of the said mother-in-law became bad immediately after this incident and that the said mother-in-law died on the 14th day of August, 1937. Respondent believes that the witness, Felix Grabowski, if permitted, would so testify.

Respondent further offers to prove that on July 26, 1937, at about 10:15 P. M. when one Steve Hrubey, an employee of respondent in its Cleveland District, was driving down Independence Road on his way to work he approached a crowd of pickets; that as he approached said crowd two men jumped on his car; that one of them punched him on the ear and the other demanded to know whether or not he belonged to the CIO; that others in the car started to beat the car smashing the side window and the rear window and denting the body; and that he then turned around and went to his home being unable to work that night. Respondent believes that the witness, Steve Hrubey, if permitted, would so testify.

Respondent further offers to prove that the home of Peter Macey, an employee of respondent in its Cleveland District, was damaged on August 12, 1937 at about 2:45 A. M.; that at that time four windows were broken and glass scattered all over the room; that George Farago, an employee of respondent, stopped at the home of the said Macey shortly after July 6, 1937 and told the said Macey that if he kept on coming to work he was going to kill him and that on many occasions crowds of four, five or six men would stop at his home and threaten him if he continued to work. Respondent believes, that the witness, Peter Macey, if permitted, would so testify.

Respondent further offers to prove that one of its employees in its Cleveland District, John Pencak, joined up with the CIO and served for a time on the picket line; that he later refused to serve and returned to work when the plant reopened; that about two weeks after he returned to work Mr. Coca Cola came to his home about 6 P. M. and argued with him about work; and that two nights after that six stones were thrown through four windows in his home and glass scattered all over the floor. Respondent believes, that the witness, John Pencak, if permitted, would so testify.

Respondent further offers to prove that Andrew Petrus, one of its employees in the Cleveland District, joined the CIO in order to avoid being hurt; that previous to joining he was continually threatened by CIO members that if he did not join he would have his throat cut; that he served for about two weeks as a picket during the strike; that he returned to work on July 19, 1937; that about 2 A. M. one night shortly thereafter he was awakened by the noise of windows breaking in his house; that said windows were broken by stones found in his rooms; that his son, Andrew Petrus, Jr., awoke, dressed and left his home in an automobile to seek assistance from the police; that on his way to the police station the said son noticed three men walking away from the home of the said Andrew Petrus; that the son, Andrew Petrus, Jr., returned home and took Mrs. Andrew Petrus with him for the purpose of identifying said men; that when Mrs. Petrus and Andrew, Jr., reached the three men, Mrs. Petrus recognized two of the men as Andy Waniak and Frank Schyglinsky, employees of respondent; that upon complaint, a police cruiser picked up the said Frank Schyglinsky and he was placed under arrest and taken to police headquarters where he admitted that he and another man had thrown stones through the windows of Andrew Petrus' house; and that the two said men for said acts were later prosecuted. Respondent believes that the witnesses, Andrew Petrus, Mrs. Andrew Petrus and Andrew Petrus, Jr., if permitted, would so testify.

Respondent further offers to prove that Albert Uber, one of its employees in the Cleveland District, returned to his work after the plant was reopened; that on July 8, 1937, at about 7:30 P. M. when he reached his home he was met by four men wearing green buttons who told him they were from CIO; that said men warned him not to come back to work or he would be sorry; that the same night someone broke into his garage and broke the glasses out of the doors and windshield of his car and damaged the four tires; that said damage was noted the morning following the warning by the CIO members; and that when the said Uber had his car towed to a garage for repairs CIO members attempted to upset the damaged car. Respondent believes that the witness, Albert Uber, if permitted, would so testify.

Respondent further offers to prove that A. E. Von Alt, one of its employees in the Cleveland District, remained at work during the strike and until June 10, 1937, when the plant was shut down; and that at about four P. M. on that date the said Von Alt, together with one Walter J. Kingswell, left the plant through the west gate; that at said gate as the said Von Alt and Kingswell were in their automobile, members of the CIO picket line commanded them to stop; and that at said time the spokesman for said group, one Alex Balint, said to them: "Its O. K. fellows, you are out but don't try to come back."; that thereafter on July 26, 1937, at about 6:15 A. M. on West 3rd Street, a crowd of pickets started throwing stones and bricks at the said Von Alt as he was driving his automobile and that by reason thereof the windshield was cracked, the right rear window broken and dents in the body of the said car. Respondent believes that the witnesses, A. E. Von Alt and Walter J. Kingswell, if permitted, would so testify.

Respondent further offers to prove that one of its employees in the Cleveland District, Ben Antonelli, signed up with the CIO just a few days before the strike; that he signed at the insistence of a CIO member because of violence and destruction of his home; that he did not serve on the picket line for the first three weeks and received two notes which in substance said that if he did not serve on the picket line the members of the CIO would come and get him; that he thereafter reported for duty on the picket line; that on one occasion when he was attending a meeting at 8 o'clock he was called out of the meeting and a CIO member threatened to throw him in the river because of his alleged interest in the back-to-work movement; that several times two or three men called at his home advising his wife not to let him go to work; that he returned to work on July 8 or 9 following the opening of the plant; and that on July 31, 1937, at about 1:45 A. M. a large brick was thrown through the front window of his home breaking same. Respondent believes that the witnesses, Ben Antonelli and Mrs. Ben Antonelli, if permitted, would so testify.

Respondent further offers to prove that Frank Foss, an employee of respondent in its Cleveland District, joined the C. I. O. prior to May 26, 1937; that said Foss served on the picket line for a period of two weeks after the strike and thereafter quit both picket line and organization; that thereafter he was informed that the "window smashers" had a list of intended victims and that his name was on the list; that he returned to work on July 6, 1937 and that on July 31, 1937, at about 1:15 A. M. a large stone was thrown through the front window of his home, breaking the same. Respondent believes that the witness Frank Foss, if permitted, would so testify.

Respondent further offers to prove that Steve Hlusak, one of its employees in the Cleveland District, was approached by six men on May 28, 1937, who came into his house and into his bed room where he was sleeping and demanded that he sign the C. I. O. card; that at this time he did sign such card and later served some time on the picket line, but did not pay any dues; that when the plant reopened on July 6, 1937, he returned to work; that two front windows were broken at his former residence on West 20th Street; that he was warned not to go to work or his ears would be blown off, and that finally, due to the continual threats and actions of C. I. O. pickets, it was necessary that he remove from neighborhood of his former residence. Respondent believes that the witness, Steve Hlusak, if permitted, would so testify.

Respondent further offers to prove that John Kicielinski, one of its employees in the Cleveland District, was a member of the C. I. O. for two months; that he served for a couple of days on the picket line and then quit the C. I. O. and joined the Back-to-Work Movement; that he returned to his work on July 6, 1937 when the plant reopened; that on July 31, 1937, at about 12:30 A. M., two unknown men threw a stone through the window of his home and that on said stone was a note addressed to his mother saying, "We are warning your son not to go to work." Respondent believes that the witness, John Kicielinski, if permitted, would so testify.

Respondent further offers to prove that Caroline Klojay, one of its employees in the Cleveland District, returned to her work on July 6, 1937 when the plant reopened; that on said date, while returning to work, she and others with her were stopped by a group of pickets and advised that if they went to work they would get theirs later; that on July 9, 1937, at about 10:30 P. M., a brick was thrown through the window of her home and that about August 12, 1937, at 1:40 A. M., another window was broken in the downstairs, but apparently intended for her. Respondent believes that the witness, Caroline Klojay, if permitted, would so testify.

Respondent further offers to prove that on or about July 22, 1937 Tom Stevenson, a member of the C. I. O. and a former employee of respondent, together with fifteen others, picketed the home of E. W. Klostermyer at 2056 West 48th Street, in the City of Cleveland, Ohio; that the city police were called and ordered said men to stop picketing his house; that the police picked up one Casey and one Murphy and took them down to the police station where they were held for 24 hours because rocks were found in their car and a list of intended victims was found in Murphy's pocket; that on the next day, July 23, 1937, at about 2:00 o'clock in the morning, four rocks were thrown at the front window of the home of the said Klostermyer and that said rocks in addition to breaking the windows damaged some of the furniture in said home. Respondent believes that the witness, E. W. Klostermyer, if permitted, would so testify.

Respondent further offers to prove that as Paul Laheta, Sr., one of its employees in the Cleveland District, left his work on the night of May 26, 1937, he was met by a group of 18 or 20 C. I. O. men outside the Lorain Avenue Bridge entrance to the Upson Plant; that one of said men threatened to throw him over the bridge if he did not sign a membership card in the C. I. O. then and there; that in response to this solicitation he did sign a card, although he never paid any dues; that he returned to work on the third day after the plant reopened; that on about July 14, 1937, at about 3:00 A. M., two half sized paving bricks were thrown through the front room window and through the front door of his home, making a hole in the plaster in the opposite wall; that a can of red paint was also thrown through the window at this time, which splashed the wall, the sofa, two chairs and the rug; that on several occasions groups of about 30 men came and picketed his home, carrying a sign indicating that he was a scab; that one Sunday morning shortly thereafter a man came to his home and asked his wife where he was, and that said man told his wife that he, the said Laheta, had better stay at home if he knew what was good for him. Respondent believes that the witnesses Paul Laheta, Sr. and Mrs. Paul Laheta, Sr., if permitted, would so testify.

Respondent further offers to prove that Bain Matthews is employed by respondent in its Cleveland District and has been an employee for approximately thirty-five years; that on or about July 9, 1937, three men, all of them former employees of the Bolt & Nut Plant, one of them being William Brophy, called at his home and warned him that he should not continue to work and that he was on a "hot spot;" that thereafter and on or about July 23, 1937, at about 2:10 A. M., a brick was thrown through the front window of his home by some unknown person or persons, and that said brick broke the glass in said window and the window screen. Respondent believes that the witness, Bain Matthews, if permitted, would so testify.

Respondent further offers to prove that Ann Novorsky, an employee of respondent in its Cleveland Plant, returned to her work when the plant reopened on Tuesday, July 6, 1937; that on July 13, 1937, between the hours of 2:30 A. M. and 4 A. M., one John Karbueceezk continued to throw stones at her house and then started to throw stones at the home of her mother; that during the time the said Karbueceezk was throwing said stones, he continuously yelled scab, etc.; that she caused his arrest by the police; that the said Ann Novorsky did not sign a membership card with the C. I. O. and that Mrs. Karbueceezk many times threatened that if she could get hold of a gun she would shoot all the people who were scabs. Respondent believes that the witness, Ann Novorsky, if permitted, would so testify.

Respondent further offers to prove that Vincent Rasch, an employee of respondent in its Cleveland District, signed a C. I. O. card but did not pay any dues after the strike was called; that the said Vincent Rasch returned to his work on or about July 8, 1937, after the plant was reopened; that after he had come to work three men stopped at his house and asked the landlady if he owned the house; that upon receipt of a negative answer they said, "Tell Vince if he goes to work it will be too bad for him and his family;" that about a week later slag was thrown at his windows, which missed the windows and hit the front of his house; and that about three weeks later a paving brick was thrown through the window in the front of the house with such force that it struck the woodwork across the room. Respondent believes that the witness, Vincent Rasch, if permitted, would so testify.

Respondent further offers to prove that Walter Woznak, an employee of respondent in its Cleveland District, was, upon several occasions, contacted by Joe Lubowicz, who requested that he sign a C. I. O. card; that the said Woznak did not sign up with the C. I. O.; that he returned to his work a few days after the plant was reopened; that after he returned to his work three carloads of C. I. O. pickets came down to his house and advised him that they would take care of him and his cousin if they continued to work; and that on or about the morning of August·5, 1937, his automobile was damaged, the ignition wires thereof were cut, three tires were slashed, cinders were placed in the crank case and sugar put in the gasoline tank. Respondent believes that the witness, Walter Woznak, if permitted, would so testify.

Respondent further offers to prove that during the period from May 25, 1937 to July 6, 1937, the operations of the River Terminal Railroad, an interstate carrier, were hampered, hindered and delayed, and upon occasion entirely obstructed, by members of the C. I. O. picketing in the vicinity of its Cleveland Plants; that said pickets stopped locomotives of said railroad at blockaded crossings; that on may occasions said pickets climbed into the locomotive cabs and got into the cars making up the various trains and inspected the commodities making up the lading of said cars; that many times said locomotives would be halted by crowds charging upon the track in front of the locomotives, which caused those in charge of them to stop to avoid injuring said pickets; that upon one occasion, as an engine of said Company was moving a drag of twenty-one coal cars from track No. 138 to the west side, said train was suddenly stopped when said pickets cut said string of cars at the Independence Road crossing; that after said cars were again coupled said pickets closed some of the angle cocks on the cars making up said train; that during said period the men in charge of the C. I. O. pickets at the various railroad crossings wore white ribbons in their coat lapels, and the men of whom they were in charge wore the button of the C. I. O. union; that said pickets inspected every train for food stuffs or clothing and in said inspections, after stopping said trains, would open the motor room doors on the Deisel engine; that on one occasion on or about June 29, 1937, at about 3 P. M., the gasoline motor car was being operated from the electrical shop to the main lead at the Independence Road crossing; that when the car was stopped at that point for the throwing of a switch, a crowd of C. I. O. pickets surrounded said car and the leader, wearing a white ribbon in his coat lapel, asked, "Where are you going?"; that Alex Szabo, in charge of the gasoline motor car, replied that he was going to the storehouse for gasoline; that said C. I. O. picket captain said, "No, you are not. You are going to take it back from where you got it;" that the said Szabo started to move said gasoline motor car, at which time the three pickets who were with said field captain attempted to stop the said Szabo, one of them striking his hand that held the controls, another striking him in the back, and the third attempting to throw him from the car; that the three C. I. O. pickets involved in said attack were John Skaroupka, Gerald Nolan and William Emick; that shortly after said attack one of the C. I. O. pickets indicated that Ray Clossin, a picket captain, had left orders with said pickets not to let the said Szabo through; that at any time when box cars made up any part of the load for the trains on said railroad, said pickets, being unable to ascertain the contents thereof, would not allow the engine hauling said trains to proceed and would force them to return said box cars to their original place; that on or about June 6, 1937, at about 10:30 A. M., a number of coal cars were being pushed from the east side to the west side of the plant; that as part of the train passed the Independence Road crossing, one CIO picket by the name of Gerald Nolan jumped by the eighth car from the rear and lifted the cutting lever, uncoupling said train; that the last eight cars drifted westward while the engine and the rest of the train suddenly stopped; and that the said Nolan stepped back from the train and shouted that he would tear up the tracks if they ran any more coal cars to the west side. Respondent believes that the witnesses, S. Greenough, William Holzinger, Andrew J. Murphy, Paul J. Plau, Alex Szabo, Clyde Oppelt, D. C. Wirt, Earl Ford, William Harnett, Harry J. Beebe, James Kenney, John G. Spencer and John J. Gannon, if permitted, would so testify.

Respondent further offers to prove that during the month of June, 1937, and while the steel strike was in progress at its Bolt & Nut Division, the entrance to said plant at 1970 Carter Road in the City of Cleveland was continuously barricaded by members of the CIO and that in addition to the pickets maintained at said entrance a barricade consisting of large timbers, large tin cans, railroad ties and a bench was maintained at said point which completely blockaded the vehicular entrance at said gateway and which had to be removed in order to permit the passage of the United States mail truck or other vehicle which said CIO pickets, who had arrogated to themselves the control of traffic at that point, would allow to enter or leave respondent's plant and when, upon occasion, said timbers making up said barricade would be removed, said CIO pickets would immediately replace them so as to maintain said barricade. Respondent believes that the following named witnesses, if permitted, would so testify.

James Moore
A. W. Baldwin
Perry H. Sherman
Louis Veres
Bernhardt J. Hauser
Art Anderson
Chester C. Burket
W. Leskowski
Frank R. Hollingsworth
Harry I. Smith
W. Wolf

5

Respondent further offers to prove that on Saturday, August 7, 1937, at about 7:30 P. M., as Joe Batcha, an employee of respondent in its Cleveland District, was walking along East 52nd Street in the City of Cleveland, Ohio, Mrs. Grlica, whose husband was formerly an employee of respondent, approached the said Batcha, saying: "You son-of-a-bitch, you lousy scab."; that the said Batcha proceeded down the street and, upon returning, had to again pass by the home of the said Mrs. Grlica, and as he was upon the side walk in front of said home the said Mrs. Grlica struck him on the back of the head and on the left shoulder with a clothes prop, and that the severe bruises caused by said attack prevented him from going to his work the next day. Respondent believes that the witness, Joe Batcha, if permitted would so testify.

Respondent further offers to prove that on or about May 23, 1937, one of its employees in its Cleveland District by the name of Anthony Buzzelli, received an injury fracturing the third and fourth fingers of his right hand; that on account of said injury it was necessary for him to make daily visits to the plant hospital; that on May 26, 1937, while he was coming to the plant for his daily treatment, he was stopped and advised that before he could have medical treatment he would have to join the C. I. O. and pay $2.00 dues; that on or about July 5, 1937, at about 6:30 P. M., three men came to his home at 3464 East 116th Street and told him that he had better leave town or find himself another job; that the said three men made said threats more emphatic by pointing guns at him; that on another occasion while driving on 49th Street eight men jumped on his car and beat him with their fists about the head, face and chest and that said eight men advised him "if you know what is good for you, you will get down on the picket line." Respondent believes that Anthony Buzzelli, if permitted, would so testify.

Respondent further offers to prove that as T. G. Russell, one of its employees, was driving on Broadway near Dille Road, near the CIO headquarters, on July 26, 1937, at about 6:45 A. M., a crowd of pickets jumped on his car and, taking hold of his right rear fender, bulged it out in an attempt to turn the car over; that as he proceeded through said crowd one Joe Viadkovich, with others, threw stones at said car, one of which struck the left door handle; and that the said Joe Viadkovich, on another occasion, threw a piece of steel at the car of Robey Coffey. Respondent believes, that the witnesses, T. G. Russell, William Stausell and Robey Coffey, if permitted, would so testify.

Respondent further offers to prove that as Micke Warcholik, one of its employees in the Cleveland District, was on his way to work on July 18, 1937, at about 6:30 P. M., and was walking on West 5th Street, a short distance from his residence, ten men unknown to him stopped him and told him that he could not go to work; that when he attempted to proceed three men from said group attacked him; that one of said men with a club struck him over the head; that another of the group hit him and tore his shirt; that the third threw him down; that thereafter said men kicked him on the feet and on the left hip; that he was able to make a get-away and ran to his work entering the plant through the west side gate; and that thereafter he received hospitalization at respondent's emergency hospital where he was treated for injuries to his head, hip and feet. Respondent believes that the witness, Micke Warcholik, if permitted would so testify.

Respondent further offers to prove that as Sam Banachowicz, an employee of respondent in its Cleveland District, was en route to his work about 6:30 P. M. on August 3, 1937, accompanied by his wife and another employee by the name of George Sanicki, and was walking in Lincoln Park, six men, one of whom was Joe Stefanik, approached said group and pointed to said Banachowicz and Sanicki saying, "There is a scab. They are going to work."; that thereafter one man in said group struck Banachowicz with a pair of knuckles; that Banachowicz started to run and that his wife began to yell and scream; that as said Banachowicz ran through said park he was met by another crowd of men who threatened him; that he then drew a pistol and continued running until he reached West 14th Street and Auburn Avenue where he was met by a policeman in an automobile; that he gave his gun to said policeman and was taken by him to the 9th Precinct Station and afterwards released; and that the said Sanicki was attacked and severely beaten. Respondent believes that the witnesses, Sam Banachowicz and George Sanicki, if permitted, would so testify.

Respondent further offers to prove that as one George Klaich, an employee in the Cleveland District, was walking from his home on W. 20th Street toward his work on August 7, 1937, at about 5:30 A. M. and was with another employee working under Badge #7773, whose first name was John, and was passing a lumber yard near the intersection of W. 19th Street and Abbey Avenue, four men, unknown to him, rushed out of the high weeds and attacked him; that the said four men had wooden clubs with which they struck him on the head and back knocking him down; that as he fell he bruised his left knee; that said four men disappeared after he was knocked down; that he was then observed by another employee and taken to the plant in an automobile where he was taken to Emergency Hospital and treated for lacerations and abrasions of the left knee, contusions and abrasions of the back, scapular region and left buttock, contusions of the scalp and a sprain of the back; that said injuries were very painful and that he received medical and hospital attention therefor for a period of one month, during which time he was unable to continue his work. Respondent believes that the witness, George Klaich, if permitted, would so testify.

Respondent further offers to prove that Martin Krizovich, one of its employees in the Cleveland District, was approached at his home, on May 27, 1937, by members of the CIO and requested to join that organization; that he was told that if he joined and worked on the picket line he would receive $8.00 per day; that two days later three or four men, unknown to him, called at his residence; that the said men wore white ribbons pinned on their coats upon which ribbons were the letters CIO and the word "Committee"; that the said men requested him to join the CIO; that on several occasions when he was not at home CIO members called at his residence and spoke to his wife; that he returned to work on July 6, 1937, when the plant was reopened; that on July 20, 1937 at about three-five o'clock in the morning when walking home, on Martin Avenue, he was met by a CIO member, one George Cordioc, a former employee of respondent; that the said Cordioc asked why he was working when the strike was still on
5 and upon receiving his reply to the effect that the strike
7 was over, the plant open and work there for him, the said Cordioc suddenly attacked him, beat him several times

about his face and head with his fists; that city policeman, hearing the excitement ran from his position on Broadway; that the said Cordioc, seeing said policeman, ran away; that the said Martin Krizovich, was conveyed by said policeman to St. Alexis Hospital for treatment and was treated for injuries including the suturing of the skin under the left eye; that during the time he was working men from the CIO picketed his residence; that they told him if they caught him they would kill him; that the telephone wires from his residence were cut; and that his home was picketed by children from the neighborhood carrying signs containing the words: "Martin Krizovich is a Girdler's rat"; and that his wife was threatened by CIO members who told her they would blow up the house. Respondent believes that the witnesses, Mr. and Mrs. Martin Krizovich, if permitted, would so testify.

Respondent further offers to prove that Wilbur Childs, one of its employees in the Cleveland District, returned to his work on July 6, 1937 with the reopening of the Cleveland plant; that the said Wilbur Childs never signed up with the CIO; that on July 22, 1937, at 4:30 P. M. when he was leaving the plant he heard some loud talking at the entrance; that as he stepped out of the door someone hollered: "Let's get him"; that several men rushed him and hit him in the ribs with short punches; one of said fellows being a former employee of respondent; and that the police came and escorted him across the street. Respondent believes that the witness, Wilbur Childs, if permitted, would so testify.

Respondent further offers to prove that one of its employees in the Cleveland District, by the name of George Colquette, signed up with the CIO and served about three weeks on the picket line; that the CIO promised to pay him for such duty but did not do so and he quit; that said George Colquette returned to work on July 6, 1937 with the opening of the plant; that on August 6, 1937 at about 4 P. M. he went to Sotak's saloon to get his pay check cashed; that when he came out it was raining and he started to run for the car; that at said time, one of a group of forty pickets, hollered: "Lets get him"; that he did not know any of them by name but recognized some of them as former employees of the Bolt & Nut plant; that said group started throwing clubs, beer bottles, iron pipes, stones and other objects at him; that one of said missiles struck him on the left side of the head opening a gash that required four stitches to close; that his right eye was blackened; that one of the pickets, by the name of Kelly, was about to strike him on the head with an iron pipe when the said Colquette cut him with his pocket knife; that his car was later stopped by pickets who overtook him and a policeman in one of their cars took him to jail for about three hours; and that he was later released without the preferring of any charges against him. Respondent believes that the witnesses, George Colquette, Jessie Little and Pink Frank, if permitted, would so testify.

Respondent further offers to prove that as Gabriel Liscak, an employee in the Cleveland District, was on his way to work on August 2, 1937, three men attacked him, one grabbing him by the throat and pulling his shirt open, one hitting him on the back of the head and the other kicking him; that he started home in the opposite direction when a large fellow about twenty-five years of age struck him on the jaw and felled him to the ground; that he lay there for five minutes and then arose and started for home through the back lots; and that he just got inside his door when the said men arrived. Respondent believes that the witness, Gabriel Liscak, if permitted, would so testify.

Respondent further offers to prove that one of its employees in the Cleveland District, Joseph Oder, was signed up by the CIO during the months of January, 1937 because he was told that if he did not join up he would be out of a job; that as the said Joseph Oder was walking to his job on August 2, 1937, he was stopped at the corner of Lorain Avenue and W. 24th Street by four men who inquired if he was going to work; that when he replied in the affirmative one of said men struck him on the ear; that he then proceeded down the street to Bridge Avenue and West 24th Street and was again stopped by four men, one of them known to him as Steve Cupak, who hit him on the other side of the face; that he then boarded a street car and came on to his work; that he later swore out a warrant for Cupak's arrest and testified in police court against said Cupak; and that when arraigned the said Cupak pleaded guilty and was given a suspended sentence by the judge. Respondent believes that the witness, Joseph Oder, if permitted, would so testify.

Respondent further offers to prove that William M. Reynolds, one of its employees at the Cleveland plant, on August 6, 1937, went to Sotak's saloon about 4 P. M. to cash his pay check; that as he came out of said saloon and went toward his car a group of CIO pickets rushed him throwing stones, beer bottles, crates, clubs, iron pipes, milk bottles and other objects at him; that one of them struck him on the right eye; that he got a baseball bat from his car and drove the pickets away from the car long enough to drive the car away; that his car was chased by pickets in cars, one of which contained a policeman who pointed a gun at him and told him to stop; and that the persons in his car were taken to Central Police Station and released in about three hours. Respondent believes that the witness, William M. Reynolds, if permitted, would so testify.

Respondent further offers to prove that Mike Soler, one of its employees in the Cleveland District, returned to work on July 6, 1937 when the plant reopened; that on the Saturday following July 6, four or five carloads of men came to his house, two of whom he recognized as being Joe Green and Al Kruggel; that the said men told his landlord that if he did not make the said Solar move out by Saturday night they would smash every window in the place; that on another occasion when he attempted to take his family out for a ride several cars blocked his driveway so that he could not get out; that on September 1, his landlord advised him that due to the fact that the CIO pickets were causing so much trouble he was forced to ask him to move; that he was forced to find a new home; that about ten or ten-thirty P. M. on September 15, 1937, as he was walking to his home after parking his car in the garage, a man whom he recognized as having lived near his former residence said "It's a Republic scab. I hate scabs"; that said fellow hit him in the eye with his fist; that he attempted to escape but was struck three or four more times; and that his resolve to do battle was thwarted by the appearance of several other strikers who came to help the man who had attacked him. Respondent believes that the witness, Mike Solar, if permitted, would so testify.

Respondent further offers to prove that on August 21, 1937 Mike Sroka, who has been employed in its Cleveland District for about twenty-five years, was assaulted by one Andrew Sluarcyrk, who hit him on the jaw; that the said Andrew Sluarcyrk had a knife in his hand and chased the said Sroka all the way home; that the next morning at 5 A. M. the said Andrew Sluarcyrk appeared at his home with a knife when he was starting to his work but that he got into the automobile with his foreman and came on to work; and that he later swore out a warrant against the said Andrew Sluarcyrk. Respondent believes that the witness, Mike Sroka, if permitted, would so testify.

Respondent further offers to prove that Earl Van Boxel and Mrs. Earl Van Boxel, employees of respondent at its Cleveland plant, both signed CIO cards when advised that they would have no jobs unless they did so; that the said Earl Van Boxel has returned to work since the strike; that Mrs. Earl Van Boxel intended to return to work at the time the plant reopened but has been unable to do so on account of treatment received from CIO members; that during the month of June, Mr. R. Harte, accompanied by other men, called at her home and insisted that she come down to serve on the picket lines; that she is a trained nurse and could serve well in the first aid department; that on many occasions on her return to her home she found colored and white men sitting in her kitchen waiting for her to return; that on or about July 20, 1937 at about 8:30 P. M. she drove her car into the garage at her home; that as she started to get out of said car two colored men, both of whom she recognized as employees of respondent, attacked her; that one of them grabbed her by the shoulder and tore off her dress and slip; that the other kicked her in the abdomen and aggravated a pre-existing abdominal condition which necessitated immediate medical attention; that she was taken to the Huron Road Hospital for surgical attention; that said colored men who attacked her said that if she and her husband went back to work they would be seriously injured; that as a result of said attack she has been unable up to the present time to return to her work; and that she would like to do so. Respondent believes that the witnesses, Earl Van Boxel and Mrs. Earl Van Boxel, if permitted, would so testify.

Respondent further offers to prove that as Joseph Hudak, one of its employees in the Cleveland District, was returning to his home from his work about 9 P. M. on July 14 or July 21, 1937, a former employee of respondent by the name of John Suvak stopped at said Hudak's home and told him that his sons who were working for respondent should watch themselves; that about July 31, 1937, one George Farogo, a former employee of respondent, called at Hudak's home with another man; that the said Farogo asked Hudak why he did not stay at home and said "Look what you fellows done to us Monday night" and Hudak replied "Look what you fellows did to us"; that after the above mentioned visits one morning at about 2:30 A. M. some person threw two bricks through Hudak's bedroom window; that said bricks broke and shattered two panes of glass and passed over Hudak in his bed; that one of said bricks struck another bed which was occupied by Hudak's two sons; that the brick struck his son, Edward, on the chest and struck the other son, Elmer; that said Edward's chest was injured and that the said Elmer's face was cut by said brick in the region of his nose and below his left eye; that the shattered flying glass cut affiant's right leg; and that upon another occasion when he was at home a CIO member by the name of John Yurich with another man called Yelsik, called at his next door neighbors house and said "Why don't Joe Hudak and his sons stay home; they are helliva scabs". Respondent believes that the witnesses, Joseph Hudak, Edward Hudak and Elmer Hudak, if permitted, would so testify.

Respondent further offers to prove that McKinley Stevens, an active C. I. O. member, at some time prior to May 26, 1937, said to one Andy Azre, Jr., an employee of respondent, that if the C. I. O. union won the strike he, the said McKinley Stevens, would run the larry car down on Walter Dunford, another employee of respondent because he, the said Dunford, would not join the C. I. O. union. Respondent believes that the witness, Andy Azre, Jr., if permitted, would so testify.

Respondent further offers to prove that Metro Barna, one of its employees in the Cleveland District, was a member of the C. I. O. and did picket duty during the strike; that at the time respondent's plant resumed operations the said Barna quit said organization and returned to his work; that immediately thereafter six or seven men wearing C. I. O. buttons called at his home and told him to stay away from said plant, and if he did not stay away they would cut off his nose and his ears and make it very bad for him, and that the said Barna, in fear of such threatened injuries, remained away from his work for a couple of weeks. Respondent believes that the witness, Metro Barna, if permitted would so testify.

Respondent further offers to prove that Herbert G. Bernow, one of its employees in its Cleveland District, remained at his work after the calling of the strike until June 9, 1937, when the plant was shut down; that as he was leaving the plant in an automobile on that date, a crowd of approximately 150 C. I. O. pickets stopped his car, and that at said time Alex Balint, the spokesman for said crowd, said to the said Bernow and those with him, "You fellows are going out of the plant now, but you will never get back until you see me". Respondent believes that the witness, Herbert G. Bernow, if permitted, would so testify.

Respondent further offers to prove that as William Black, one of its employees in the Cleveland District, was enroute to his home after work, at about 6:50 one evening about the middle of July, 1937, his daughter, Betty, aged eight years, and standing some distance from his residence warned him that there were six men in the alley in the rear of his residence waiting for him to get home; that at that time the said William Black, instead of driving into said alley, proceeded to the Ninth Precinct Police Station, requesting aid; that two policemen from said station drove to his residence; that as he then drove by the alley he observed Ernest Kozelka, George Wagner and Charles Valjato, employees of respondent; that his wife informed him that there were three other men waiting for him; that these men were in an automobile and were recognized to be John Sidorak, Joe Koper and John Farence; that as soon as the said Black returned with said policemen said three men left the scene; that later in the same evening, at about 7:45 o'clock, while he was eating his dinner, the said Ernest Kozelka, George Wagner and Charles Valjato entered his home without rapping on the door; that in the presence of Mrs. Black and the children, the said George Wagner ordered Black's sister-in-law to get up from the table and let him sit down to eat because the said Black was stealing his bread and butter; that immediately thereafter the said Ernest Kozelka went over to the said Black, grabbed him by one ear and ordered him out in the alley so that he could kick him; that the said Ernest Kozelka and George Wagner called him various vile and profane names and stated that his wife was just as bad for allowing him to go to work; that through the window he noticed the approach of the policemen and got up from the table; that at that time the said Kozelka pushed him towards the sink and towards the door; that in his defense he swung his arm and punched the said Kozelka in the chest, at which moment the police officers placed the said Ernest Kozelka, George Wagner and Charles Valjato under arrest and removed them to the police station; that for three nights during the period of the strike he did picket duty on orders of C. I. O. members, and that when the plant reopened for operation he returned to his work. Respondent believes that the witnesses, William Black, Mrs. William Black, Betty Black and the sister-in-law who was present at the time, if permitted, would so testify.

Respondent further offers to prove that as many of the men had remained at work after the calling of the trike left the plant when it was shut down on June 9, 1937, a crowd of about 150 or 200 C. I. O. pickets stopped each and every car that came out and examined said cars, in addition to taking down the license number of each car, and that they also wrote down the names of the men who were recognized members of said group. Respondent believes that the witness, W. Walter Boddy, if permitted, would so testify.

Respondent further offers to prove that as Frank M. Caffrey, one of its employees in the Cleveland District, was leaving its plant on June 10, 1937, at about 3 P. M., after the plant operations had ceased, as a passenger in an automobile driven by another employee by the name of Anthony Van Alt, they were held up at the west side gate for the reason that the C. I. O. delegate, John Brezina desired to address them; that at said gate there was a crowd of C. I. O. pickets; that when said delegate arrived he informed the said Caffery and the said Van Alt that they were going out but not coming back, and to remember that; that on or about June 13, 1937, at about 11 P. M., the said Caffrey answered his telephone, at which time a male voice asked for Bert Caffrey and Frank Caffrey, Jr.; that when the said Caffrey replied that they were not at home, the voice said, "Why aren't they on the picket line?", and that when the said Caffrey said that he did not know, the said voice stated, "They better get on the picket line or we will go and drag them down." Respondent believes that the witnesses, Frank M. Caffrey and William D. Dale, if permitted, would so testify.

Respondent further offers to prove that as various employees at its Cleveland District who had continued to work after the strike was called and until June 10, 1937, when operations ceased, came out of the plant, their cars were stopped by a large group of C. I. O. pickets whose

captain and spokesman was one Alex Belint who said
are going out of the plant but you'll never get b
again"; that members of said group of pickets wrot
the license numbers of said cars and carefully scru
the occupants thereof to determine whether or nc
knew any of them; and that to some of these de
employees the said Alex Belint said: "You're not
back and none of this house to house stuff." Resp
believes that the following witnesses, if permitted,
so testify:

Ralph Garlick
George Gierman
William Grimm
Dale L. Gross
John W. Hannah
Richard J. Heber
William P. Hutchinson
Robert S. King
Antoni Kokonik
James Lee
Stanley Litchenstine
William Knecht
John Mach
Paul Malinowski
Thornton D. Neff
Joseph Niskey
John Fowler
George Svetkovich
Wayne M. Weston
H. A. Wilkinson
John Marshalik
Harold L. Shields
Ernest Barnes
Joseph Hoskins

Fred Sheeler
Maciej Staniszewski.

Respondent further offers to prove that one Mike Klntorich, one of its employees at the Cleveland Plant, joined the C. I. O. and paid dues for three months; that the said Klntorich was anxious to return to work, quit the C. I. O. and did return to work; that four members of the C. I. O., to wit Joe Vidokinch, Frank Bogorich, Paul Kucnick and Joe Zuppa, together with Mrs. Joe Vidokinch, sent small children over to picket his home, calling all members of his family scabs and sons-of-bitches; that Mrs. Vidokinch told the 13-year old daughter of the said Mike Klntorich that she would break her neck if her father kept on working; and that the said four above mentioned men tried to hire boys in the neighborhood to break the windows of the said Klntorich home. Respondent believes that the witness, Mike Klntorich, if permitted, would so testify.

Respondent further offers to prove that one of its employees at the Cleveland Plant, Anthony Lubowatz, went out on strike on May 25, 1937; that the said Lubowatz returned to his work on August 13, 1937; that he was prevented from returning sooner on account of the great number of C. I. O. pickets who surrounded his home; that on August 11, 1937 Paul Franks, a C. I. O. member, came to his home and asked his wife his whereabouts; that upon being informed that he was not at home the said Franks said, "He had better come out on the picket line or when we catch him we will give him a licking."; that the said Paul Franks again came to his home and made threats which caused his wife to be frightened. Respondent believes that the witness, Anthony Lubowatz, if permitted, would so testify.

Respondent further offers to prove that John Novak, an employee in its Cleveland District, signed a membership card in the C. I. O. and paid one month's dues therein under coercion of several men; that he served in the picket line for a few days because several C. I. O. members came to his home saying, "We'll be waiting for you.": that he returned to work on July 7, 1937 when the plant was reopened; that on or about 1:30 P. M. of said day, he received a call in the mill from his 14-year old daughter who said that there were six men at his home who stated that they knew he had gone back to work and that they were going to beat him up; and that as a result of said visit to his home, his wife suffered a nervous breakdown, requiring medical attention from the family doctor who advised him to remain away from his work for a few days because of the serious condition of his wife. Respondent believes that the witnesses, John Novak and Mrs. John Novak and their daughter above mentioned, if permitted, would so testify.

Respondent further offers to prove that John Ondraski, one of its employes in its Cleveland Plant, returned to work at the plant the day the plant was reopened on July 6, 1937; that thereafter, he was approached by several men who told him that if he went to work again they would kill him; and that on July 15th one Martinovich who lives at 1342 E. 140 Street and who had previously cautioned him about getting to work, asked him "If somebody blows up your house who is going to pay for the damage?" Respondent believes that the witness, John Ondraski, if permitted, would so testify.

Respondent further offers to prove that John Petro, one of its employees at the Cleveland District, joined the C. I. O. on May 8, 1937, because he was afraid not to join, and that as he returned to work in respondent's plant on July 12, 1937, two men from a large crowd of pickets at the

Clark Avenue Bridge said to him, "If you go back to work we will cut your ears off and also cut your head off." Respondent believes that if the witness, John Petro, is permitted, he would so testify.

Respondent further offers to prove that William Scott, one of its employees at the Cleveland Plant, who was not a member of the C. I. O., remained in the plant during the strike; that one day during the first part of June 1937 his wife 'phoned informing him that four men wearing C. I. O. buttons were at his home; that said men told his wife that she had better get him out of the plant; that thereafter his said wife was threatened every week; and that on or about July 11, 1937, at about 6:15 P. M., three men wearing C. I. O. buttons were loitering about his house, at which time his wife 'phoned him to take another way home. Respondent believes that the witnesses, William Scott and Mrs. William Scott, if permitted, would so testify.

Respondent further offers to prove that Winfield S. Sprow, one of its employees in its Cleveland Plant, remained in the plant until June 10, 1937; that on the night of May 30, 1937 at about 11 P. M., six or eight men came to his home; that his daughter answered the door and was informed by these men that if Mrs. Sprow wished to get her husband out of the mill they would guarantee his safety for him if he came out now, but if he did not come out now his life would not be worth one cent; and that when he left the plant on June 10th, due to a shut down, one Alex Balint, a C. I. O. leader, accompanied by some members, addressed the group saying "We're allowing you men to go out now, but we warn you, don't try to get back in and don't go around visiting each other." Respondent believes that the witness, Winfield S. Sprow, and his daughter above mentioned, if permitted, would so testify.

Respondent further offers to prove that as G. N. Wormwood, one of its employees at the Cleveland District, was leaving the plant, on July 9, 1937, a large crowd of men, a few of whom he knew, were waiting in line; that some of them said "Wait and see what will happen to you."; that he, at the time, was riding with Mr. Sheler, Engineer of the Power Division, to whom some members of said crowd said, "We know you, Sheler, and we'll get you next."; and that although he does not know the names of said individuals, he recognizes a few as having been previously employed by respondent. Respondent believes that the witnesses, G. N. Wormwood and Mr. Sheler, if permitted, would so testify.

Respondent further offers to prove that one Andrew Hajduk, one of its employees at the Cleveland District, returned to work after the plant reopened; that C. I. O. men in six or seven automobiles had called at his home; that said men called him "scab" and "a rat"; that when he was on his way to work and got off the Clark Avenue Bridge car men from the C. I. O. union doing picket duty at that point called him a scab and a rat; that one evening two men called at his home and asked him if he was working and that upon his affirmative reply the said men told him not to go to work and said that if he did continue to work the C. I. O. union would cut off his ears and nose and would place said parts in his pockets and send him to the hospital. Respondent believes that the witness, Andrew Hajduk, if permitted, would so testify.

Respondent further offers to prove that Gregor Piskura, one of its employees, joined the C. I. O. and went out on strike May 26, 1937; that he returned to his work on July 10, 1937; that while he was seeing about going back to work on July 9, 1937 Scottie Clossin, a C. I. O. leader, asked him to serve on the picket line; that when he told him he was going back to work said Clossin threatened to break both his hands if he returned to work; and that on July 11, 1937, one Mike Sakmar came to his home and told him that the C. I. O. was going to win the strike and that he would be out of a job then. Respondent believes that the witness Gregor Piskura, if permitted, would so testify.

Respondent further offers to prove that Andrew Sydor, one of its employees, joined the C. I. O. and paid dues for three months; that he returned to work at the opening of the plant and that on July 9, 1937, his wife called him and warned him that there were several cars of men driving up and down the street in front of his home; that he returned from work by way of a back street; and that for about five days said men kept watch on his house so frightening him that he remained away from his work for about one month. Respondent believes that the witness, Andrew Sydor, if permitted, would so testify.

Respondent further offers to prove that one evening during the strike eight men wearing C. I. O. buttons called at the home of John Kubofcik, one of its employees; that one man wearing three C. I. O. buttons rapped at his door; and that when the said Kubofcik opened the door, looked at him and said to the others that they were looking at the right man, after which they departed immediately; that also during said strike one Frank, an employee of respondent as a millwright in the mechanical department, with another, called at said Kubofcik's home wearing C. I. O. buttons; that they entered without knocking and that the said Frank commenced yelling and shouting that they would blow up his home and kill him; that at said time his wife, Meri, was confined to her bed having recently undergone a serious operation; that after the departure of the said men the said Mrs. Kubofcik was very upset; that some time later the said Frank again came into his house without knocking at a time when he was not at home; that Mrs. Kubofcik was in bed; that said Frank entered her bed room yelling and shouting that he would blow up the house with them and the children in it; that the said Frank then left the residence stating that he would get the said Kubofcik; that upon his return he found his wife scared and very nervous; that he called his family physician, Dr. Brayson, who treated his wife for nervousness. and that his wife is still in a nervous state. Respondent believes that the witnesses, John Kubofcik and Meri Kubofcik, if permitted, would so testify.

Respondent further offers to prove that Sam Ballachino, one of its employees in the Cleveland Division, signed up a C. I. O. membership card, but is not now a member; that he returned to work on the day the plant reopened and about one week thereafter two men stopped his wife on the street and told her if he continued to go to work she would never see her children any more; and that after said threat he did not return to work for two days and later returned with police protection. Respondent believes that the witnesses, Sam Ballachino and Mrs. Ballachino, if permitted, would so testify.

Respondent further offers to prove that after Sam Berghian, one of its employees at the Cleveland Plant, had returned to work after the strike, three former employees of respondent stopped him about 5:00 P. M. on July 30, 1937 at the west end of the Lorain Central Bridge and proceeded to shove him around and slap his face; that he signed a C. I. O. membership card after being continually nagged and pursued during working hours by Joe Gonzy, Vice President of the C. I. O. lodge at Upson, and Tom Stevenson; and that on several occasions men called at his home leaving word that if he did not appear on the picket line he would lose his job. Respondent believes that the witness, Sam Berghian, if permitted, would so testify.

Respondent further offers to prove that Mary Bobak, one of its employees in the Cleveland District, did not sign a C. I. O. membership card; that she came back to work when the plant reopened on July 6, 1937; that on July 26, 1937, while coming home from the grocery store she was stopped by two men, one of whom was Joe Burk, who inquired if she was working, and upon receiving the affirmative reply, advised her that if she valued her life she had better not continue to work for if she did continue, she would get the same thing a man up the street got, which was a beating, a window smashing and the destruction of his automobile; that they also placed a sign on the side walk in front of her home saying, "Scab lives here"; and that after these threats she remained away from her work for about one week. Respondent believes that the witness, Mary Bobak, if permitted, would so testify.

Respondent further offers to prove that James Bramley, one of its employees in its Cleveland District, at about 7:50 P. M. on July 12, 1937, received an anonymous 'phone call advising him either to quit his job or that his house would be blown up. Respondent believes that the witness, James Bramley, if permitted, would so testify.

Respondent further offers to prove that on July 16th and 17th, 1937, groups of men averaging 12 to 16 in number called at the home of Sophie Brill, one of its employees in the Cleveland District, carrying signs saying, "Scab lives here"; that men from the Corrigan, McKinney Plant and the Bolt & Nut Plant threatened that if she did not quit going to work they would throw her into the Cuyahoga River; that the mother-in-law of the president of the C. I. O. lodge at the Bolt & Nut Plant threatened to pull out her hair if she continued to work; that one John Olesik brought her the message from the C. I. O. with reference to being thrown into the river; and that a C. I. O. member at the Otis Steel Company whose brother was an employee of respondent continually called her "scab", "company rat", etc. and attempted to prevail upon her landlord to have her thrown out of her house. Respondent believes that the witness, Sophie Brill, if permitted, would so testify.

Respondent further offers to prove that Charles Jasinski many times during working hours attempted to prevail upon John Buczynski to join the C. I. O.; and that upon several occasions numerous men came to the Buczynski house for that purpose; that said John Buczynski, an employee of respondent, at its Cleveland Plant, returned to his work in the plant on July 6th and on July 8th, 1937, seven men wearing C. I. O. buttons called at his home and in his presence told his wife that if he continued to go to work they would cut him to pieces; that about two weeks later a group of several men called upon his landlord and told him either to put him out or increase his rent $5.00 per month and turn the money over to the C. I. O.; that on another occasion when leaving for work a woman beckoned to several men to follow him and they did attempt to follow him but he jumped over a picket fence and returned back home; and that on account of said actions and for fear of getting into trouble he was forced to remain away from work the full time. Respondent believes that the witnesses, John Buczynski and Mrs. John Buczynski, if permitted, would so testify.

Respondent further offers to prove that Peter Carpuk, one of its employees in the Cleveland District, was continually importuned by fellow members of the night shift and called "yellow rat" until he joined the C. I. O.;

that he served three days on the picket line; that he returned to his work upon the reopening of the plant; that on July 16, 1937 at 9:00 P. M. 15 men in three cars formed a picket line in front of his home carrying signs reading "A scab lives upstairs"; and that upon one occasion a former employee of respondent met him on the street and told him he would beat him up if he continued working. Respondent believes that the witness, Peter Carpuk, if permitted, would so testify.

Respondent further offers to prove that Peter Ciomcia, one of its employees in the Cleveland District, returned to his work on July 9th, after having served on the picket line for four weeks; that on July 15, 1937, Bill Brophy, Mike Yanak and Al Kruggel, members of the C. I. O., went to his home during his absence and told his wife that if he continued working they would not be responsible for what happened. Respondent believes that the witness, Peter Ciomcia, if permitted, would so testify.

Respondent further offers to prove that Joe Favero, one of its employees, who returned to work on July 6th, 1937, and who was not a member of the C. I. O., was visited on June 14, 1937, at his home at about 8:30 o'clock in the evening, by four men, two of whom were known to him as Mike Pollack and Frank Jenc; that the said Mike Pollack threatened to have him taken for a one-way ride if he didn't sign up with the C. I. O.; that the said man again called at his home on June 19, 1937, insisting that he sign up right there; that about a week later the said Mike Pollack tried to break up a meeting on West 25th Street, at which time said Joe Favero had a fist fight with the said Mike Pollack; and that on June 22, 1937 they again called at his home, at which time he turned the dog loose on him. Respondent believes that the witness, Joe Favero, if permitted, would so testify.

Respondent further offers to prove that one of its employees at the Cleveland Plant. Jack Homola, was approached many times about signing with C. I. O.; that he did not sign; that on the morning of July 19th at about 6:15 A. M. when he went to get into his car to go to work he found two of his tires flat; that at said time there were three men at his car, one of whom was Al Kuggel; that said men stated he was not going any place; that said Kuggel said "You get into the house before you get into trouble."; and that said man picketed his house until about 9:00 A. M., at which time he went to work on the street car. Respondent believes that the witness, Jack Homola, if permitted, would so testify.

Respondent further offers to prove that on or about June 9, 1936 six men driving a 1935 Plymouth car, license number BK-419, called at about 12 o'clock noon at the residence of Albert R. Irinyi; that when he answered the call they pulled him out on the porch and insisted that he join the C. I. O. and come down on the picket line; and that at about this time Mrs. Irinyi appeared upon the scene and began to holler in such a loud voice that they became afraid of attracting the neighborhood, and left. Respondent believes that the witnesses, Albert R. Irinyi and Mrs. Irinyi, if permitted, would so testify.

Respondent further offers to prove that Louis Kish, one of its employees in the Cleveland District, was employed temporarily during the strike by Triplex Screw Company; that on Friday, June 18th, 1937, at about 4:30 P. M., Murphy, from the C. I. O. headquarters, insisted that Kish was a scab and that Mr. Weber, President of Triple Screw Company should fire him, but the said Weber called Mr. Damnisch and told him Murphy had no right to make such demand; and that on June 21, 1937, the said Weber came to said Kish saying that the committee was in the office and was picketing the place and that he would have to go; that he told Mr. Weber he was ready to go because he did not want any trouble; that when getting his hat and coat he recognized Bill Brophy, who pointed his thumb in the direction of the door, saying, "Come on, get going." Upon being asked what he meant by "Get going" said Brophy said "You worked too long at Republic and the boys are getting desperate."; that the general foreman of Triplex told Weber not to let Kish go out that way or the pickets would get him; and that the said Weber called for police protection and Kish was taken out of the plant in his car. Respondent believes that the witness, Louis Kish, together with the Mr. Weber, if permitted, would so testify.

Respondent further offers to prove that on May 26, 1937, at about 10:35 o'clock, Mike Urban, James Kuhns, Charles Jasinski and Joe Bonk were going around the departments telling the men to stop the machinery and were pulling switches on the machines. Respondent believes that the witness, Otto Klawuhn, if permitted, would so testify.

Respondent further offers to prove that on or about July 23, 1937, eight men, including J. T. Murphy, Al Naske, and Walter Bugacawicz, picketed the home of Bruno Lachendro, bearing a sign reading, "Scab lives here"; that upon another occasion at about 3:30 in the morning the police car apprehended a car bearing bricks and on the person of said Murphy found a list of persons whose windows they were to break. Respondent believes that the witness, Bruno Lachendro, if permitted, would so testify.

Respondent further offers to prove that on or about July 12th Frank Lutch returned to his work in respondent's Cleveland Plant; that the said Lutch worked for a period of three days; that on or about July 15th Joe Chu-

derewicz and Valentine Capak came to his home; that
accompanied them to an automobile parked in front of
house where they advised him that if he continued to w
they were writing the word "scab" on the side walk
front of the house; and that when the National Guard w
gone it would be too bad for those fellows who contin
to work; and that as a result of said threats the said Fra
Lutch has not returned to work and has been unable
obtain other employment. Respondent believes that the w
ness, Frank Lutch, if permitted, would so testify.

Respondent further offers to prove that Edward
gowski, one of its employees at the Cleveland Plant,
turned to his work when the plant reopened and that o
C. I. O. member called John who works on the second fl
told him that if he continued to work he would be hurt.
spondent believes that the witness, Edward Rogowski,
permitted, would so testify.

Respondent further offers to prove that Mike Rosc
one of its employees at its Cleveland plant, returned
his work on July 6, 1937; that on July 7, 1937, at ab
4:10 P. M., before he had returned from his work, th
men in a car, one of them being Nick Senyk, called at
home and told his wife that it would not be healthy
either one of them if he continued to go to work; and t
the said three men returned later in the evening and
cused him of taking the bread and butter from their fa
ilies. Respondent believes that the witness, Mike Rosc
if permitted, would so testify.

Respondent further offers to prove that many tim
during working hours men from other departments wo
ask Stella Sivik to sign a C. I. O. membership card; t
the said men told her that if she didn't sign she would l
her job; that upon one occasion, after she had returned
work, on July 16, 1937, twenty men picketed her ho

carrying a sign reading "Scab lives here"; that Joe Green and Adelbert Kruggel were among said pickets; that about two weeks after she returned to work, on her way to work a man stopped her and advised her that if she knew what was good for her she would not go to work; and that after these two occasions she was afraid to go to her work or to go out nights. Respondent believes that the witness, Stella Sivik, if permitted, would so testify.

Respondent further offers to prove that John Malanik and Steve Doctor, former employees of respondent, upon numerous occasions attempted to frighten Joe Vinca, an employee of respondent in its Cleveland District, into joining the C. I. O., stating, among other things, that those fellows who did not join up would be beaten up, and it only cost $14.00 to do that and it would teach them a lesson; that on another occasion three cars of pickets called at the home of the said Vinca and told him not to go to work; and that on another occasion 12 or 15 of them were picketing his home when he arrived there, but immediately departed after he went into the house, got a shot gun and loaded it. Respondent believes that the witness, Joe Vinca, if permitted, would so testify.

Respondent further offers to prove that Nelson A. Wolf, one of its employees in the Cleveland District, and a former member of the C. I. O. returned to work on July 6, 1937; that after he had returned to work, Mike Yanak and two other men called at his home and told his mother to keep the said Nelson A. Wolf, his father and his brother at home or it would be too bad; that on July 17, 1937, at about 9:30 A. M., 16 or 18 C. I. O. members drove to the house and asked for him; that a former employee known to him said, "I am Stevenson from the C. I. O. of Upson;" that the said Wolf came to the door and asked them what they wanted; that among the group were Tom Stevenson and Walter Bugaczawicz; that the said Walter Bugaczawicz said, "Let's do our duty," and went out towards car to get a sign to place on the lawn; that the said reached for his shot gun, which was handy, and point at them; that the said Walter Bugaczawicz insisted on ing ahead with his picketing until some one from the b called to him; that a police car came at that time searched said cars, and that upon command of the p officers the said pickets left the place in cars bearing 1937 licenses Nos. BL-818, DF-907 and BQ-981. Respon believes that the witness, Nelson A. Wolf, if permi would so testify.

Respondent further offers to prove that on or a January 29, 1937, a large number of men, 150 to 20 number, approached the plant of the Truscon Steel C pany and began to distribute literature relative to the ployees of said Company affiliating themselves with th I. O. union; that the said men arrived at the plant in a mobiles and parked along East 61st Street; that on the men in said group pulled, from under his coat, a p of gas pipe approximately 18 inches long and rolled i in a newspaper and placed it under his arm while wal through the crowd. Respondent believes the following nesses, if permitted, would so testify:

William A. Biddlingmeier,
Sidney R. Smith,
Paul Veasey,
Fred Dell, Jr.,
Edward M. Morgan,
Charles Gerheim, and
M. J. Krempa.

Respondent further offers to prove that John H. tal, one of its employees in the Cleveland District, retu to his work on July 9, 1937, having signed a C. I. O. previously, after frequent solicitations by one Valen

Cupak, and having served some time on the picket line; that on July 12, 1937, about 7 P. M., the said Cupak told him he was scabbing by returning to work, and that he would be sorry, and that when the National Guard left he'd like to see him try to get to work; and that on July 18, 1937, about 40 men marched up and down the alley close to his residence, among them one Joe Holvacs. Respondent believes that the witness, John H. Vastal, if permitted, would so testify.

Respondent further offers to prove that on or about July 26, 1937, at about 5:45 A. M., while Stella Lalewicz, an employee of Republic in its Cleveland District, was on her way to work, she was stopped by three men who forced her into an automobile and drove down to the Corrigan, McKinney plant and called her attention to the number of men they would get to work on her if she further attempted to go to her work; that one of the men exhibited a knife to her and threatened to cut her to pieces if she went back to work; that they then took her to the Truscon Plant, about two blocks from her home, and left her to walk home; that two men from the Truscon plant threatened to take her eighteen year old sister for a one way ride if she attempted to return to work; that one Dick Harte forced her to sign a C. I. O. membership card and later admitted that fact and promised to tear up the card, which he has not done, and that on account of all of the above related instances she was unable to work for about two weeks due to her extreme nervous condition. Respondent believes that the witness, Stella Lalewicz, if permitted, would so testify.

Respondent further offers to prove that on or about July 31, 1937 at 2 o'clock in the morning some person or persons unknown threw paving bricks through the front window of the home of Teddy Hadam, breaking a lamp and tearing the curtains; that attached to one of said bricks was a note, one side of which read, "Scab—warning, do not go to work if you value your life,'' and on side of said note, the following, ''You son-of-a broke your windows today but if you go we will b head;'' and that on another occasion two men the home of the said Hadam and warned his m since he and his father had gone to work that if tinued to work the house would be blown up. R believes that the witness, Teddy Hadam, togethe mother, if permitted, would so testify.

Respectfully submitted,
THOMAS F. PATTON,
HARRINGTON, HUXLEY & SMI
DAY, YOUNG & VEACH,
Attorneys for Respondent,
Republic Steel Corpora

XLI.

CERTIFICATE OF THE NATIONAL LA RELATIONS BOARD

The National Labor Relations Board, by its duly authorized by Section 1, Article VI of the Regulations of the National Labor Relations Boa 1, as amended, hereby certifies that the document hereto constitute a full and accurate transcript of record in a proceeding had before said Board ent the Matter of Republic Steel Corporation and Stee Organizing Committee,'' the same being Case No. fore said Board, such transcript including the testimony and evidence upon which the order of in said proceedings was entered, and including findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

1. Stenographic transcript of testimony before the National Labor Relations Board, and John T. Lindsay, Trial Examiner for the National Labor Relations Board, on July 21, 22, 23, August 9, 10, 11, 12, 20, 21, 23, 24, 27, 28, 30, September 1, 2, 3, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 20, 21, 23, 24, and 25, 1937, including all exhibits introduced in evidence.

2. Copy of Respondent's petition for leave to introduce additional testimony filed January 21, 1938.

3. Copy of order, dated March 19, 1938, granting in part and denying in part petition for leave to introduce additional testimony.

4. Copy of Respondent's offer to prove, filed March 28, 1938, in re motion for leave to introduce additional evidence.

5. Copy of decision, findings of fact, conclusions of law and order of the National Labor Relations Board issued April 8, 1938, together with affidavit of service and United States Post Office return receipts thereof.

6. Copy of telegram dated May 3, 1938, addressed to Joseph W. Henderson, Packard Building, Philadelphia, Pennsylvania, notifying respondent of intention to vacate Board order on May 4, 1938.

7. Copy of notice, dated June 9, 1938, of intention to vacate Board decision and order, together with affidavit of service and United States Post Office return receipts thereof.

8. Copy of Respondent's objection to proposed action by Board vacating and setting aside its findings and order.

9. Copy of order setting aside Board's findings and order, issued June 14, 1938, together with affidavit of service and United States Post Office return receipts thereof.

10. Copy of Respondent's motion to dismiss the complaint and objection to further proceedings by Board, together with letter of June 30, 1938, enclosing same.

11. Copy of order, dated July 8, 1938, denying Respondent's motion to dismiss the complaint and objecting to further proceedings by Board.

12. Copy of the order, dated July 8, 1938, directing issuance of proposed finding of fact, conclusions of law, and order, affording opportunity to file exceptions and briefs and setting oral argument.

13. Copy of proposed findings of fact, conclusions of law and order of the National Labor Relations Board, issued July 8, 1938, together with affidavit of service and United States Post Office return receipts thereof.

14. Copy of Respondent's exceptions to proposed findings of fact, conclusions of law and order; request to the Board for further information; and Respondent's exceptions to the rulings of the Board and Trial Examiner upon motions, objections and offers to prove at the hearing on evidence herein.

15. Copy of letter from Steel Workers Organizing Committee, dated August 4, 1937, requesting extension of time to file exceptions to proposed findings of fact, conclusions of law and order.

16. Copy of letter, dated August 9, 1938, granting request of Steel Workers Organizing Committee for extension of time to file exceptions.

17. Copy of exceptions, filed August 9, 1938, by Steel Workers Organizing Committee.

18. Copy of supplementary order allotting time for oral argument, issued July 14, 1938, together with affidavit of service and United States Post Office return receipts thereof.

19. Copy of petition for leave to intervene filed by Central Council of Steel Plants, Northern District of Republic Steel Corporation.

20. Copy of order denying petition for leave to intervene, dated July 26, 1938.

21. Copy of telegram, dated August 6, 1938, from Frank T. Bow, Attorney for Central Council of Steel Plants, Northern District of Republic Steel Corporation, re action on petition to intervene.

22. Copy of telegram, dated August 6, 1938, in answer to telegram re intervention.

23. Copy of letter from Steel Workers Organizing Committee, dated August 4, 1938, requesting extension of time for filing brief.

24. Copy of letter, dated August 6, 1938, granting extension of time to all parties for filing briefs.

25. Copy of stenographic transcript of oral argument before the National Labor Relations Board on August 11, 1938.

26. Copy of Respondent's motion to reopen record for further proceedings, and for leave to introduce additional evidence, and alternative motion that specified offers to prove be incorporated into and made a part of the record.

27. Copy of decision, findings of fact, conclusions of law, and order of the National Labor Relations Board, issued October 18, 1938, together with affidavits of service thereof and United States Post Office return receipts.

In Testimony Whereof, the Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board, in the City of Washington, District of Columbia, this 2nd day of November, 1938.

NATHAN WITT,
Nathan Witt, Secretary
National Labor Relations Board.

(Seal)

XLII.

SUPPLEMENTAL CERTIFICATE OF THE NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board by its Secretary, duly authorized by Section 1 of Article VI, Rules and Regulations of the National Labor Relations Board, Series 1, as amended, hereby certifies that the documents annexed hereto are respondent's exhibits Nos. 65 and 66, which were offered in evidence but their admission was denied by the Trial Examiner, and are a part of the record in the above entitled matter previously certified to this Court under date of November 2, 1938.

In testimony whereof the Secretary of the National Labor Relations, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the City of Washington, District of Columbia, this 17th day of January, 1939.

NATHAN WITT
Nathan Witt, Secretary.
National Labor Relations Board.

(Seal)

CERTIFICATE OF GOVERNOR OF OHIO

(Printed)
(Seal of the State
of Ohio)
Martin L. Davey
Governor

State of Ohio
Office of the Governor
Columbus

September 27, 1937

I, hereby, certify that the attached papers are the true and exact copies of the originals issued at the time of the strike situation and crisis in Ohio.

I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 27th day of September in the year of our Lord, one thousand nine hundred and thirty seven.

MARTIN L. DAVEY

(Seal of the State of Ohio)

RESPONDENT'S EXHIBIT NO. 65

PROCLAMATION

WHEREAS, the laws of the State of Ohio are being violated in the counties of Mahoning and Trumbull, State of Ohio, and violence has been resorted to by various persons in connection with the steel strike in said counties; and

WHEREAS, minor riots have occurred and a most ser-

ious riot is threatened in connection with the advertised reopening of two plants now closed; and

WHEREAS, the peace, comfort and safety of the citizens of said counties are in grave jeopardy because of promised action and threatened counter-action, and the peace and dignity of the State of Ohio are menaced; and

WHEREAS, official information indicates that the local peace officers will be wholly unable to cope with the situation that would otherwise arise on Tuesday morning and for some days thereafter;

NOW, THEREFORE, I, Martin L. Davey, Governor of Ohio, by virtue of the power vested in me, under Article 9, Section 4, of the State Constitution, hereby "Call forth the militia, to execute the laws of the State, to suppress insurrection, and repel invasion," in the Counties of Mahoning and Trumbull, State of Ohio.

Signed: ....

Martin L. Davey
Governor of Ohio.

Dated: June 21, 1937

RESPONDENT'S EXHIBIT NO. 66

Columbus, Ohio, June 24, 1937

General Emil F. Marx,
The Adjutant General of the State of Ohio,
Columbus, Ohio.

Dear General Marx:

Will you kindly transmit to Major General Gilson D. Light, the following order and statement of our position.

In view of the failure of the peace negotiations in connection with the steel strike under the auspices of the Federal Mediation Board, we are confronted immediately with the problem of maintaing law and order.

We can not waver. Our clear duty is to give every assistance to the local authorities to prevent lawlessness of every description, as it relates to the strike situation, without which wholesale slaughter is almost inevitable. The rights of all citizens must be protected. The people as a whole sustain the government and make its continuity possible. Government must not abdicate its sovereign powers and responsibilities to any who challenge its existence.

The right to work is sacred. The right to strike is equally valid. Those who want to return to their employment shall enjoy that privilege without being molested. Those who wish to remain on strike certainly are entitled to do so, and to continue any and all lawful practices.

Law and order are so elemental in their relation to the rights of man and the preservation of organized society that they rise above every other consideration among a free people. The safe-guarding of our liberties, individually and collectively, is a priceless heritage for our children, and the millions of future Americans yet unborn.

As the Chief Executive of Ohio, I look to you to see that this order is carried out with fidelity, calmness, impartiality and firmness. Thus there is placed in your charge the most solemn responsibility that has been given to any public official in these troublous times. We will support you with all the power and resources of the State government.

Sincerely yours,
(Signed) Martin L. Davey,
Governor of Ohio.

XLIII.

LIST OF EXHIBITS WHICH NATIONAL LABOR RELATIONS BOARD DESIRES TO HAVE INCLUDED IN PRINTED RECORD

BOARD'S EXHIBITS

1c	Complaint and notice of hearing.
1d	Supplementary charge—Youngstown.
1e	Supplementary charge—Warren.
1g	Original charge.
1h	Answer of respondent.
2	Petition to Mayor Henry W. Krier, Chief Stanley Switter, and Sheriff Joseph T. Nist re establishment of law and order, Massillon.
3	List of 81 men certified by Republic Steel Corp. for special police in Massillon.
4	List of 93 men composing Switter's police force after July 7.
5A	Printed letter to Mayor Krier re law.
8	Photograph: Henderson and another in shooting position.
9	Blank form: "Application for Public officials Bond $5,000 or less, Fidelity & Casualty Co. of New York".
10	Blank form: Bond to the City of Canton.
11	Copy: Invoice to Republic Steel Corporation for special police bonds—from Smith-Duerr-Lane Co.
12	Blank form: Bond to State of Ohio for Special Police Officers in Massillon.
13A	List of Canton and Massillon employees bonded by Republic Steel Corp.
B	Office file card of Duerr-Smith-Lane Co. re the cost of bonds for special police.

14A Copy of letter from Duerr-Smith-Lane Co. to Fidelity and Casualty Co. transmitting indemnity agreements of Republic Steel Corp.

B Blank form: contract of Indemnity Fidelity & Casualty.

16 Release to Stark County signed by Nist.

17 Release to Stark County signed by Lang.

18 Plan of Employee Representation—Canton Tin Plate.

19 Minutes of Employee Representation Plan of Canton Tin Plate May 8, 1937.

20 Subscription card to defray C. I. O. injunction suit.

21 By-laws, Employee Representation Plan, Division Canton, 1933.

22 Check-stub, Representative's pay, Canton Alloy.

23 Plan of Employee Representation, as amended, Alloy Division.

24 Sample ballot—Employee Representation Plan—Election 1935 (Canton Alloy)

25 "Republic—A Bulletin of Republic Steel Corp" April, 1934.

26 "Employee Representation"—Publication of Iron, Steel & Tin Institute.

27 Membership card, Employee Representation Association, Canton, J. M. Cox.

28 Proposed revision of by-laws of Plan of Employee Representation.

29 Plan of Employee Representation Association (Canton April 22, 1937).

30 Minutes of General Body of Employee Representation Plan, Canton, March 5, 1937.

31 Minutes of General Body of Employee Representation Plan, Canton.

32 Plan of Employees' Representation, Central Alloy District, Massillon Works, June 1933—Republic Steel Corporation.

33 Plan of Employee Representation, Republic Steel Corp., Central Alloy District, Massillon Works, amended May, 1934.

34 Schedule of regular meetings of the standing and joint committees of the Employees Representation Plan—Central Alloy.

35 Notice of special meeting of the General Body of Employee Representatives, Massillon for June 17, 1936, signed by G. H. Lohneis, June 15, 1936.

36 Notice of organization meeting of joint committee No. 3 for June 22, 1936, signed by G. H. Lohneis.

37 Notice of meeting of standing committee No. 4, Massillon for July 16, 1935, signed by G. H. Lohneis.

39 Minutes of special meeting of General Body of Employee Representatives November 7, 1936, Massillon, Central Alloy District.

40 Minutes of meeting of General Body, Employee representatives, September 22, 1936, Massillon.

41 Pay-check stub, Leo W. Cox, Central Alloy, pay of July 15, 1936.

42 Pay-check stub, Leo W. Cox, Central Alloy, pay of December 31, 1936.

43 Blank form: "Record of case presented to Employee Representatives", Representative's copy.

47 Plan of Employee Representation, Massillon plant, amended May 22, 1937.

48 Membership card, Employees' Representation Assn., Massillon.

49 Memo to Tefir Tabor to report to work, signed "Price, per C. S."

50 Memo to Sam Christ to report to work, signed "Price, per C. S."

51 Membership card, Independent Association of Republic Employees, Massillon.

2 Members identification card Employees Representative Association, Massillon, for Pete Mouyious.

3 Signature of Pete Mouyios on blank paper.

4 Letter, State of Ohio, Bureau of Motor Vehicles, Parker Car.

5 Employees Representation Plan, Youngstown District.

6 By-laws of Employee Representation Plan, Youngstown District.

7 Schedule of meetings at Youngstown.

8 Results of Employee Representation Plan (Youngstown) Election 1936.

9 Minutes of First Regular Meeting, Joint No. 2, E. R. P. Youngstown August 17, 1934.

0 Cases presented to Joint No. 2, E. R. P. Youngstown, March 20, 1936.

1 Forms: Record of case presented to representatives E. R. P. Youngstown.

2 Minutes of regular meeting General Body, E. R. P. Youngstown, February 25, 1937.

3 Minutes of special meeting General Body, E. R. P. Youngstown, February 26, 1937.

4 Minutes of special meeting General Body, E. R. P. Youngstown, March 5, 1937.

5 Minutes of special meeting General Body, E. R. P. Youngstown, March 15, 1937.

6 Minutes of regular meeting General Body E. R. P. Youngstown, March 25, 1937.

7 Minutes of special meeting General Body E. R. P. Youngstown, April 19, 1937.

8 Minutes of Central Council E. R. P. Cleveland, March 8, 1937.

9 Minutes of special meeting of Northern District representatives March 18, 1937.

70 Proposed Revision of Plan of Employee Representation (Cleveland meeting)

71 "Republic"—a bulletin of Republic Steel Corporation, April, 1936.

72 "Republic"—a bulletin of Republic Steel Corporation, April, 1935.

73 Program of annual conference E. R. P. Youngstown, April 7, 1936.

74 Statement of number of delegates to Central Council.

75 Notice of fourth annual conference E. R. P. April 5, 1937 Youngstown.

76 Pamphlet entitled "Join the CIO—and Help Build a Soviet America"

77 Membership card, Independent Federation Republic Employees.

79 Membership card, Employees Independent Association, Warren.

84 By-laws, Plan of Employee Representation Warren, amended 1934.

85 Employee Representation Plan, Warren, Minutes of Standing Committee No. 2 for September 10, 1935.

86 Employee Representation Plan, Warren, Printed record of case presented.

87 Employee Representation Plan, Warren, Record of Representative's time (blank form).

88 Minutes of General Committee, Plan of Employee Representation, Cleveland, September 8, 1936.

90 Certificate of Election for Employee Representatives, Cleveland.

91 By-laws, Plan of Employee Representation, Cleveland, amended April 1936.

92 Letter dated January 19, 1937 to J. Exall from Republic Steel Corp.

93 Minutes of General Committee, Employee Representatives, Cleveland October 13, 1936.

94 Minutes of General Committee, Employee Representatives, Cleveland November 10, 1936.

95 Minutes of General Committee, Employee Representatives, January 5, 1937.

96 Announcement of September 10, 1936 of meeting of Health & Sanitation, Cleveland.

97 Printed letter of May 11, 1937 from Republic to "Our Employees"

98 Printed letter of June 15, 1937 from Republic to "Our Employees"

99 "What the Editors are Saying about the Republic Strike"

100 Plan of Employee Representation, Corrigan McKinney, March 19, 1934.

101 Stubs (4) of pay checks for Representation work in Cleveland.

102 Membership card, Employees Representative Association—Corrigan McKinney Division.

103 Reprint. Chicago Sunday Triune, March 28, 1937.

104 Printed letter of July 2, 1936 from Republic "To our Employees"

108 Certified Photostats from S. E. C.

110 Standard Statistics annual report of Republic Steel Corp.

111 Standard Statistics Bulletin of June 7, 1937 as to Republic Steel Corp.

113 Copy of telegram from John L. Smith to Secretary Perkins.

115 Plan of Employee Representation, Youngstown, Bylaws March 1937.

127 Supplementary charge, Canton.

RESPONDENT'S EXHIBITS

1	Map of Massillon strike area.
7	Copy of proclamation of Sheriff Nist of June 25, 1937.
15	Canton Back to Work Petition.
23	Constitution of By-laws of Independent Federation of Republic Employees, Youngstown.
24	Membership card of Independent Federation of Republic Employees, Youngstown.
33	Certificate of election for Employee Representatives, Youngstown.
47	Republic "Plan of Employee Representation"—By-laws as amended May 1934.
50	Offer to Prove violence (Youngstown—Warren—Niles).
57	Certificate of Election (Corrigan McKinney 1936).
59	Telegram dated May 3, 1937 from Clinton S. Golden to Tom Girdler.
60	Telegram dated May 5, 1937 from J. A. Voss to Clinton S. Golden.
61	Telegram dated May 6, 1937 from Clinton S. Golden to J. A. Voss.
62	Letter dated March 30, 1937 from Clinton S. Golden to Republic Steel Corp., Attn. T. M. Girdler.
63	Proposed contract between Republic Steel Corp. and S. W. O. C.
64	"Offer to Prove"—Cleveland District.

XLIV.

LIST OF EXHIBITS WHICH THE PETITIONER DESIRES TO HAVE INCLUDED IN PRINTED RECORD IN ADDITION TO THOSE REQUESTED TO BE PRINTED BY THE NATIONAL LABOR RELATIONS BOARD

BOARD'S EXHIBITS

No.

1-F Received R. p. 4—Order permitting filing of charge with Board.

105 Received R. p. 2383—Membership card, Republic employees association, Corrigan, McKinney Plant.

116 Received R. p. 5591—Report of Corporation in re total number of employees.

RESPONDENT'S EXHIBITS

2 Received R. p. 118—Journal entry (Stark County injunction order).

4 Received R. p. 1635—Photograph of guns and clubs.

5 Received R. p. 1635—Photograph of guns and clubs.

8 Identified R. p. 3441—Photograph of weapons.

11 Received R. p. 3907—Nomination ballot in plan for employee representation, Massillon plant.

12 Received R. p. 3909—Election ballot for employee representatives, Massillon plant.

13 Received R. p. 3914—Notice of election under employee representation plan, Massillon Plant.

14 Received R. p. 3919—Blank form for recording case presented to employee representatives (1 copy).

No.

16 Received R. p. 4045—Letter of Canton Chamber of Commerce in re vote on back-to-work movement dated May 31, 1937.

17 Received R. p. 4050—Report of election committee on back-to-work movement dated June 7, 1937—Canton, Ohio.

18 Identified R. p. 4166—Pink card distributed to Republic Steel workers by C. I. O. (dropped by airplane).

20 Received R. p. 4380—Election ballot employee representatives, Canton Plant.

21 Received R. p. 4380—Notice of election of employee representatives, Canton Plant.

22 Received R. p. 4402—Application card for membership in Steel Workers Union of America.

28 Received R. p. 4781—Nomination ballot for employee representatives, Youngstown plant.

29 Received R. p. 4787—Election ballot for employee representatives, Youngstown Plant.

32 Received R. p. 4790—Notice of election for employee representatives, Youngstown Plant.

36 Identified R. p. 4927—Permit issued to Dr. Thomas to enable him to pass through picket lines.

37 Received R. p. 4939—Copy of article in Warren Tribune Chronicle of June 11, 1937.

38-A and 38-B Received R. p. 4968—Photostat copies of records of Municipal Court of City of Youngstown.

39-A and 39-B Received R. p. 4968—Photostat copies of records of Municipal Court of City of Youngstown.

40 Identified R. p. 5247—Employment card of Charles Neverdusky, Youngstown.

41 Received R. p. 5303—Employment record of Charles Neverdusky.

No.

43 Received R. p. 5468—Notice of election of employee representatives, Warren Plant.

44 Received R. p. 5475—Notice of nominated candidates for employee representatives, Warren Plant.

45 Received R. p. 5473—Nomination ballot for employee representatives, Warren Plant.

46 Received R. p. 5476—Election ballot for employee representatives, Warren Plant.

48 Received R. p. 5483—Notice of results of election for employee representatives, Warren Plant.

51 Received R. p. 5506—Notice in re nomination and election of employee representatives, Corrigan, McKinney Plant.

52 Received R. p. 5508—Notice of first elections, Corrigan, McKinney Division.

53 Received R. p. 5509—Classification of voting districts, Corrigan, McKinney plant.

54 Received R. p. 5511—Nomination ballot for employee representatives, Cleveland District.

56 Received R. p. 5516—Election ballot for employee representatives, Cleveland District.

58 Received R. p. 5553—Blank form for presenting complaint to management representatives, Cleveland District.

65 Received R. p. 5571—Certified Copy of Governor's Proclamation.

66 Received R. p. 5571—Certified Copy of letter to General Marx from Governor Davey.

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IN THE

United States Circuit Court of Appeals,

FOR THE THIRD CIRCUIT.

No. 6907. March Term, 1939.

REPUBLIC STEEL CORPORATION,
Petitioner,
AND
CENTRAL COUNCIL OF STEEL PLANTS, NORTHERN DISTRICT, REPUBLIC STEEL CORPORATION; AND 150 OR MORE EMPLOYEES OF UPSON DIVISION OF THE REPUBLIC STEEL CORPORATION,
Intervenors-Petitioners,
v.
NATIONAL LABOR RELATIONS BOARD,
Respondent,
AND
STEEL WORKERS ORGANIZING COMMITTEE,
Intervenor-Respondent.

PROCEEDINGS IN THE UNITED STATES CIRCUIT COURT OF APPEALS, THIRD CIRCUIT.

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PETITION BY REPUBLIC STEEL CORPORATION, PETITIONER, FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE.

(Filed December 8, 1938.)

In the United States Circuit Court of Appeals,
For the Third Circuit.

No. 6907. October Term, 1938.

Republic Steel Corporation,
Petitioner,
v.
National Labor Relations Board,
Respondent.

Now comes Republic Steel Corporation, petitioner herein, and respectfully prays this Honorable Court to grant it leave to adduce before this Court additional evidence material to the issues herein, which was not admitted or considered by the National Labor Relations Board in the proceedings before it.

The said additional evidence, the grounds upon which the petitioner believes it is material, and the facts with relation to the adducing of or the attempts of the petitioner to adduce such evidence before the National Labor Relations Board are hereinafter set forth.

1. Evidence that approximately 2000 of petitioner's employees at its Massillon, Ohio, plants did not wish to go out on a strike but did wish to continue at work, and that they signed the back-to-work petition at Massillon and application cards for membership in the Independent Association of Republic Employees, an independent labor organization at Massillon, of their own free will and without being influenced in that regard in any manner whatsoever by anything

that was said or done by the petitioner, its officers or agents; that approximately 2500 of its employees at its Canton, Ohio, plants did not wish to go out on a strike but did wish to continue at work, and that they signed application cards for membership in the Steel Workers of America, at Canton, an independent labor organization, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the petitioner, its officers or agents; that approximately 2900 of petitioner's employees at its Youngstown, Ohio, plants did not wish to go out on a strike, but did wish to continue at work and that they signed a back-to-work petition of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the petitioner, its officers or agents, and that approximately 1900 of petitioner's employees at its Youngstown plants signed application cards for membership in the Independent Federation of Republic Employees, an independent labor organization at Youngstown, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the petitioner, its officers or agents; that approximately 2000 of the petitioner's employees at its Warren and Niles plants did not wish to go out on a strike, but did wish to continue at work, and that they signed application cards for membership in the Employees Independent Association, an independent labor organization, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the petitioner, its officers or agents; that approximately 2500 of the petitioner's employees at its Cleveland plants did not wish to go out on a strike, but did wish to continue at work.

The petitioner believes this evidence is material for the following reasons: The Board has found as a proposition of law that the back-to-work committees at Massillon, Canton and Youngstown, respectively, and certain independent unions at various of the petitioner's plants are labor organizations within the meaning of Section 2 (5) of the National Labor Relations Act, and that "by its domination and interference with the *formation* and the administration" of these alleged labor organizations, the petitioner has engaged and is engaged in unfair labor practices as defined by Section 8, Subdivision 2, of the act. The Board has further found "that the respondent (the petitioner) has unlawfully *sponsored* and supported various labor organizations" and that "these organizations cannot in view of the circumstances operate as a true representative of the employees, and we shall order the respondent (the petitioner) to withdraw recognition from them and to disestablish them as such representative"; this evidence is competent and admissible because (a) the fact that thousands of the petitioner's employees at its various plants signed the back-to-work petitions of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the petitioner, its officers or agents, tends to show that these back-to-work movements were not dominated or formed by the petitioner; (b) the fact that thousands of the petitioner's employees joined the independent unions at various of the petitioner's plants of their own free will without being influenced in that regard by the petitioner, its officers or agents, is, we believe, the best evidence obtainable that such independent unions were not sponsored, dominated or formed by the petitioner, but were created by the voluntary and uninfluenced action of the employees themselves in the absence of any interference or coercion by the petitioner; (c) the Board admitted evidence offered by the Board tending to show that some of the petitioner's supervisory agents sought to induce or coerce some of the petitioner's employees to join these independent union organizations, and this being true, the petitioner should be permitted to meet this evidence by showing that thousands of its employees became affiliated with such organizations of their own volition; (d) the fact that thousands of the petitioner's employees did not wish to go out on a strike but did wish to continue at work is evidence bearing upon the issue tendered by the Board that the petitioner's employees went out on strike as a result of certain alleged unfair labor practices upon its part.

This evidence was adduced and offered by the petitioner at the hearing before the Trial Examiner and was excluded by the Trial Examiner, whose rulings were affirmed by the Board in its decision and order. The exclusion of this evidence is made the subject of assignment of error 32 in the petition for review herein.

2. Evidence tending to prove continued, concerted, wholly unprovoked and unlawful acts and conduct upon the part of strikers, pickets and persons affiliated with the Steel Workers Organizing Committee and the Committee for Industrial Organization, consisting of unlawful picketing, unlawful assemblage, riot, violence and general lawless conduct in and about the petitioner's Youngstown, Warren and Niles plants, said evidence being based upon the proffered testimony of approximately seventy-five witnesses and being embodied and described in detail in petitioner's offer to prove, marked its Exhibit 50, found in the transcript herein; and evidence tending to prove continued, concerted, wholly unprovoked and unlawful acts and conduct upon the part of strikers, pickets and persons affiliated with the Steel Workers Organizing Committee and Committee for Industrial Organization, consisting of unlawful picketing, unlawful assemblage, riot, violence and general lawless conduct in and about the petitioner's Cleveland plants, said evidence so offered and so excluded being based upon the proffered testimony of approximately 200 witnesses and being embodied in and described in detail in petitioner's offer to prove, marked its Exhibit 64, found in the transcript herein.

The petitioner believes that this evidence is material for the following reasons: (a) The record discloses that the complaint herein was filed by the Board in response to charges made against the petitioner by the Steel Workers Organizing Committee; if the individuals, groups and organizations, in whose behalf charges were filed, were themselves guilty of many and repeated, wholly unprovoked and unjustified acts and deeds of violence, coercion and intimidation against the petitioner and its employees in the conduct of the strike, the Steel Workers Organizing Committee had no standing or right to file the charges against the petitioner and the Board should have dismissed the complaint herein predicated thereon; (b) in the complaint herein, certain of the petitioner's former employees at its various plants are specifically named as having been unlawfully discharged or refused reinstatement by the petitioner; this evidence tends to show that these former employees, acting in concert and conspiracy with others of the petitioner's striking employees, have been guilty of wholly unprovoked and unjustified deeds of violence and lawless conduct against the petitioner and its loyal employees in the conduct of the strike, a situation in which they are, in law, chargeable with and responsible for the unlawful conduct and acts of all of the petitioner's striking employees so acting in concert and conspiracy; this evidence, therefore, tends to show that the persons specifically named were, in law, themselves guilty of unprovoked and unjustifiable violence and lawless conduct and, more than that, that the strike itself, by reason of such conduct upon the part of the strikers, was, or became in its conduct and operation, an unlawful strike; and this evidence, therefore, is material because it tends to establish facts which at law operate to bar any right that the persons specifically named in the complaint might otherwise have had as employees of the petitioner to reinstatement or otherwise; (c) this evidence in behalf of the petitioner as to the unlawful and unjustified conduct of the persons specifically named in the complaint, is material as bearing upon the proposition as to whether or not the Board, to the extent that it exercises equitable jurisdiction and powers, should, in the light of all of the facts in the case, have granted relief to such persons; (d) in its order here under review, as well as in its original order and proposed order, respectively, the Board has ordered the petitioner to offer reinstatement, upon application, to their former positions as employees of the petitioner, a large group of its former employees not specifically named in the complaint herein, thus injecting, as the petitioner contends, for the first time into this case the issue and question as to the right of this substantial group of strikers to reinstatement; this evidence is clearly material as bearing upon their right to reinstatement and as supporting the contention of the petitioner that they have lost any right in this regard they might otherwise have had by reason of their lawless and unjustifiable conduct.

This evidence was adduced and offered at the hearing before the Trial Examiner and was excluded by him, his ruling in that regard being affirmed by the Board in its decision and order. The petitioner made suitable offers to prove, fully covering the subject, which are found in the transcript. In its original petition, filed in this Court, to review the Board's original order of April 8, 1938, the petitioner assigned the failure of the Board to admit and consider this evidence as error. When the proposed findings of fact, proposed conclusions of law and proposed order of July 8, 1938, were issued by the Board, the petitioner filed another motion before the Board asking leave to adduce this evidence, which was overruled by the Board. The failure of the Board to receive and consider this evidence is made the subject of the petitioner's 29th, 30th and 31st assignments of error in its petition for review.

3. Evidence consisting of statements and proclamations by the Steel Workers Organizing Committee through the medium of its duly authorized officers, spokesmen and agencies, tending to show that the sole and proximate cause of the strike was the petitioner's refusal to sign a Commit-

tee for Industrial Organization form of agreement with the said committee. This evidence is as follows:

That as quoted in the report, printed for use of the Committee on Post Offices and Post Roads by the United States Government Printing Office, of Hearings Before the Committee on Post Offices and Post Roads, United States Senate, Seventy-fifth Congress, First Session, on S. Res. 140, held from June 11 to June 24, 1937, one Philip Murray testified under oath in said hearings in part, as follows:

> "I am chairman of the Steel Workers' Organizing Committee and vice president of the United Mine Workers of America." (P. 41 of said report.)

and in part, further as follows:

> "On May 26, 1937, a strike was called by the official representatives of all of the lodges of steel workers of the Amalgamated Association of Iron, Steel & Tin Workers of North America in the plants of the Republic, Inland, Youngstown, and Bethlehem companies. This strike went into effect at 11 P. M. on May 26, 1937." (P. 43 of said report.)

That on or about May 4, 1937, B. J. Damisch, Steel Workers Organizing Committee leader in the Cleveland area, made the following statement:

> "We do not like to strike but we don't want them to think that we're afraid. We will not run away from the battle. What was good enough for United States Steel Corporation units certainly ought to be good enough for Mr. Girdler."

That on or about May 5, 1937, Mr. Greggs, President of Campbell Lodge, of the C. I. O., made the following statement:

> "It was clear that the men would be satisfied with nothing less than a signed agreement."

That on or about May 6, 1937, Philip Murray, chairman of the Steel Workers Organizing Committee, made a statement in which he said in part that he warned the independents that the union would call a strike if necessary, to win agreements on wages, hours and working conditions, and further said that the independents had formed an "unholy alliance" against contracts with the Committee and as a result would face a crisis in their coal mines "within forty-eight hours."

That on or about May 10, 1937, Philip Murray, chairman of the Steel Workers Organizing Committee, stated that the union would force such pacts even if it were compelled to "go to a court of last resort, a strike."

That on or about May 13, 1937, Philip Murray, chairman of the Steel Workers Organizing Committee, made the following statement:

> "So great has been the pressure put on us by our union members to secure written collective bargaining contracts we don't feel justified in continuing longer fruitless efforts to persuade these companies to sign contracts where there is every reason to believe they have no intention whatever of doing so."

That on or about May 13, 1937, a pamphlet was issued by Warren Lodge No. 1375, which stated in part as follows:

> "We are opposed to strikes but are determined to secure our legal rights which are guaranteed to every free American citizen. . .. . The Union is ready to sign. The responsibility for peace and harmony in this community now rests solely with the Republic Steel Corporation."

That on or about May 14, 1937, Philip Murray, chairman of the Steel Workers Organizing Committee, made the following statement:

> "If the managements of Republic and Sheet & Tube persist in refusing to sign contracts a strike is

> inevitable. I cannot say whether that will be today, tomorrow or Sunday but it is inevitable."

That on or about May 14, 1937, Mr. Mayo, president of the Republic Lodge of C. I. O. in Youngstown, Ohio, made the following statement:

> "Something definite will come from Saturday's conference which may result in steps to compel Republic and Sheet & Tube to sign a contract with C. I. O."

That on or about May 14, 1937, B. J. Damisch, Steel Workers Organizing Committee leader of the Cleveland area, made the following statement:

> "Saturday is the deadline for agreement for Republic to sign a contract with the SWOC."

That on or about May 17, 1937, Niles Republic Lodge of C. I. O. released as information for publication, that it had voted to back any plans to induce employers to sign a contract and to call a strike "if found necessary."

That on or about May 26, 1937 Joe Morton, president of New Deal Lodge No. 1124, of Massillon, Ohio, made the following statement:

> "This was strictly a move of our own lodge to strike. The men want recognition of their union, a signed contract. No negotiations with local officials are planned. That's between Girdler and Murray and we'll stay out until Girdler signs."

That on or about May 26, 1937, Philip Murray, chairman of the Steel Workers Organizing Committee, wired Mr. Girdler as follows:

> "The strike was precipitated by you and your associates through refusal to sign a labor agreement."

That on or about May 27, 1937, Mr. Mayo, president of the Republic Lodge of C. I. O. in Youngstown, made the following statement:

> "We mean to simply close the properties until a contract is agreed to."

That on or about June 3, 1937, Mr. Mayo, president of the Republic Lodge of C. I. O. in Youngstown, made the following statement:

> "It is refusal of Sheet & Tube and Republic to give their workmen what they are entitled to under the law which has brought about the strike. Of course the steel workers here want to work but they want to work under protection of a signed contract. Frank Purnell and Tom Girdler can end the strike tomorrow by doing what the presidents of 157 other steel companies have done. There is no other issue. . . . Neither the Independent Federation of Republic Employees nor the Independent Society of Sheet & Tube are going to keep the steel workers from getting a contract."

That on or about June 4, 1937, the following statement was made by Philip Murray, chairman of the Steel Workers Organizing Committee speaking at an open-air mass meeting at the C. I. O. headquarters in Warren, Ohio:

> "I'm prepared to say to Governor Davey that I'm not going to settle this strike until Tom Girdler places his signature on a written contract."

That on or about June 4, 1937, Philip Murray, chairman of the Steel Workers Organizing Committee, made the following statement:

> "We won't settle until Tom Girdler signs (a) Union contract."

That on or about June 4, 1937, Philip Murray, chairman of the Steel Workers Organizing Committee, made the following statement:

> "I'm not going to settle this strike until Tom M. Girdler signs an agreement."

That on or about June 4, 1937, Philip Murray, chairman of the Steel Workers Organizing Committee, in an address at Warren, Ohio, stated, in part, as follows:

> "We're not going to settle for anything less than a written agreement and I'm here to tell you that we're going to make Tom Girdler sign that agreement or we're going to whip him."

That on or about June 4, 1937, Philip Murray, chairman of the Steel Workers Organizing Committee, speaking at Warren, Ohio, stated in part as follows:

> "I'm going to tell him (Davey) that I won't settle until Tom Girdler signs an agreement. That's positive. And Tom will sign because we're going to whip him."

That on or about June 10, 1937, in a full page advertisement in the *Youngstown Vindicator,* signed "Steel Workers Organizing Committee" the following statement was made under the heading "Why Don't They Sign and End the Steel Strike?":

> "They are idle because their workmen went on strike for a signed contract. Workmen of Youngstown Sheet & Tube and Republic want a signed contract like the workmen in 160 other steel companies have. By all the laws of morals and justice they are entitled to a signed contract."

That on or about June 19, 1937, John Owens, C. I. O. director, made the following statement:

> "By Monday the searchlight of publicity will be focused on the real issues and companies refusing to sign will be condemned, not only by the President, but by every fair-minded citizen."

That on or about June 19, 1937, John Owens, C. I. O. director, speaking at Warren, stated in part as follows:

> "The C. I. O. will never cease agitating and organizing until every non-union mill in the country has signed the contract.
>
> ". . .
>
> "It won't end until Frank Purnell and Tom Girdler come to terms and agree to allow the workers to have their constitutional rights of a signed agreement. We have asked the workers in these steel plants to withhold their labors until Frank Purnell and Tom Girdler give them their constitutional rights of a signed agreement. We are going to continue the fight until we reach that objective."

That on or about June 22, 1937, John L. Lewis, chairman of the Committee for Industrial Organization, made a statement in part as follows:

> "The C. I. O. is only asking that these four companies do what 258 other corporate entities in the steel industry already have done." (Sign a contract.)

That on or about June 22, 1937, John L. Lewis, chairman of the Committee for Industrial Organization, after meeting with the Federal Mediation Commission, made the following statement:

> ". . . The Steel Workers Organizing Committee is only asking these four steel companies to do what 258 corporate entities in the steel industry have already done. The S. W. O. C. has contractual relationship with 258 companies producing and fabricating steel, which employ 440,000 men.
>
> "There will be no compromise by the steel workers on this question."

That on or about June 25, 1937, the Federal Mediation Commission issued a statement for publication which, in part, is as follows:

> "The sole question therefore is whether an agreement should be reached."

That on or about June 27, 1937, O. L. Thomas of the Trumbull Lodge of the C. I. O., made a statement in part as follows:

> "The fight has just started and as far as we are concerned it will continue until we get a signed agreement."

That on July 13, 1937, a telegram dated July 13, 1937, No. 1132-a, signed by Homer Downard, president, All Nations Lodge No. 1200, Steel Workers Organizing Committee, 1200P., and addressed to Tom Girdler, president—Republic Steel Corporation, was received by the addressee, which quoted in part, is as follows:

> ". . . We are on strike and will remain on strike until we get a signed contract with you. . . ."

That in the July 23, 1937, issued of *Steel Labor* (published twice a month by the Steel Workers' Organizing Committee) appears an editorial, under the heading:

"A TERRIFIC BEATING,"

which, quoted in part, is as follows:

> ". . . Republic Steel is the hardest hit, and is still suffering staggering losses daily because of the greatly curtailed production. Youngstown Sheet & Tube was also given terrific punishment, but the agreement just reached between that Company and the Union enables them to get back to better production.
>
> "The estimate of the losses suffered by these companies for refusing to sign a contract with the S. W. O. C.—the sole issue in the strike—does not take into account the business permanently lost. It is known that a heavy volume of business from both Republic and Sheet & Tubes has gone to other companies which are assured of continued operations, because of their contracts. . . ."

This evidence is material for the following reasons: the Board in its order requires the petitioner to reinstate, upon application, a large group of strikers, upon the theory that they are entitled to reinstatement because the strike was caused fundamentally by certain unfair labor practices upon the part of the petitioner; if, as contended by the petitioner, the strike was caused solely and directly by reason of the refusal of the petitioner to sign a contract presented to it by the Steel Workers Organizing Committee, an act which the Board found did not of itself constitute an unfair labor practice, then it logically and necessarily follows that this large group of strikers not named in the complaint are not entitled to reinstatement because they have ceased to be employees of petitioner. The petitioner does not believe it will be disputed by the Board that the cause of the strike is a material issue and question in this proceeding.

This evidence was available at the time of the hearing before the Trial Examiner and the Board and it was not adduced or offered by the petitioner for the following reasons: in the complaint herein, it is alleged that the strike was caused by certain alleged unfair labor practices by the petitioner as sought to be described in the complaint "and by reason of the respondent's (petitioner's) refusal to enter into a written agreement with the Steel Workers Organizing Committee, attempts to negotiate which had been made by the Steel Workers Organizing Committee"; the alleged unfair labor practices to which the complaint refers consist of the alleged wrongful discharge of and refusal to reinstate, because of their union activities, etc., certain persons specifically named in the complaint, former employees of the petitioner at its various plants, and the closing down of certain of the petitioner's plants at Canton and Massillon; it is and, during the taking of evidence, was the firm and stated position and contention of the petitioner that the record herein contains absolutely no evidence tending to establish that the strike was caused directly or indirectly or in any degree by any of said alleged unfair labor practices, and that all of the evidence relating to this subject discloses that the strike was caused solely and proximately by the refusal of the petitioner to sign a form of written agreement presented by the Steel Workers Organizing Committee, an act which the Board itself has found was not, of itself, an unfair labor practice; that the burden of proof as to the cause of the strike has always been upon the Board and that there is here disclosed an utter and absolute failure upon the Board's part to sustain this burden; however, the Board, in its original decision and order of April 8, 1938, found that although the immediate cause of the strike was in part the petitioner's failure to sign the proposed contract presented to it, the fundamental cause of the strike and a substantial factor in its precipitation was a long series of unfair labor practices upon the part of the petitioner; this finding upon the part of the Board was made the subject of an assignment of error in the original petition for review filed in this court; after the Board had set aside its original order of April 8, 1938, the Board in its proposed findings of fact, etc., of July 8, 1938, again found that the fundamental cause of the strike and a substantial factor in its precipitation was a long series of unfair labor practices upon the part of the petitioner; the additional evidence which the petitioner now seeks to adduce, consisting in part as it does of statements and proclamations through the medium of duly authorized officers, spokesmen and agencies of the Steel Workers Organizing Committee, conclusively removes any doubt that might otherwise exist as to the actual, sole and proximate cause of the strike, and establishes that the only cause thereof was, as has been stated, the failure of the petitioner to sign the proposed written agreement; when the Board set aside its original order of April 8, 1938, and issued proposed findings of fact, conclusions of law and order, it should have granted to the petitioner the right to offer additional evidence tending to correct any obvious mistake upon the Board's part as to any vital issue in the case, including that relating to the cause of the strike, and inasmuch as the evidence here offered by the petitioner conclusively brings before the Court what appears to be undisputed facts as to that issue, the petitioner believes the Court should admit and consider it.

This evidence was embodied in a motion filed by the petitioner with the Board on August 4, 1938, to reopen the record so as to enable the petitioner to introduce additional evidence, which motion was denied by the Board. The Board, however, at the time it denied the petitioner's motion to introduce additional evidence, made an order making its offer to prove upon the subject here under discussion a part of the record.

The refusal of the Board to receive and consider this evidence is one of the subjects of assignment of error 63 in the petition for review herein.

4. Evidence that prior to and/or soon after the reopening of such of the petitioner's plants as became involved in the strike, those of petitioner's employees who had gone out on a strike and had not returned to their work with petitioner were informed at petitioner's instance of the fact that said plants would be or had been reopened and that all persons on petitioner's payroll at the time of said strike, excepting those who had been guilty of acts of violence or of provoking, condoning or instigating acts of violence or of indulging in other unlawful acts during said strike, would be reinstated to their former jobs with petitioner upon their making applications therefor or as soon as production had increased sufficiently to justify adding more persons to the payrolls, wholly without any discrimination on account of union membership or lawful union activities. This evidence is as follows:

That as the plants of the petitioner, Republic Steel Corporation, were preparing to reopen, intensive efforts were made by petitioner to acquaint all persons who had been on its payrolls at the time of the strike with the fact that the plants were to be reopened, and that subject to the exceptions hereinafter stated, their jobs were waiting for them. That this information was given to the employees in several forms. That it was printed conspicuously in advertisements in newspapers circulating in most of the cities in which the plants affected by the strike are located. It was released as statements, or stories, or both, to the newspapers, not only in the communities in which the plants are located, but through wire services and other media of dissemination of information, and notices covering reemployment of men were sent to newspaper commentators at broadcasting stations serving the communities involved for use in their news broadcasts.

That in the advertisements and statements formally issued by petitioner it was stated that all men on the payrolls at the time of the strike would be returned to their jobs, upon proper application, except such men as were guilty of acts of violence or of provoking, condoning or instigating acts of violence or other unlawful acts during said strike, and that there would be no discrimination on account of union membership or union activities.

That on June 21, 1937, an advertisement was placed in the *Youngstown Vindicator,* at the instance of petitioner. That this advertisement was entitled "Notice to Employees of Republic Steel Corporation" and is as follows:

> "According to the direct request of thousands of our employees who desire to work, we take this means of notifying them that the Poland Avenue Gate at Stop 5 will be opened at 7:00 A. M., Tuesday, June 22d, so that employees may return to work.
>
> "All employees should report to their foreman for assignment to their positions.
>
> "City and County authorities have assured us ample protection if needed.
>
> "Operations will be on a twelve-hour basis temporarily, with time and a half over eight hours.

> "There will be no discrimination on account of Union membership. We cannot, however, rehire anyone who has been guilty of violence, or guilty of provoking, condoning or instigating acts of violence against the corporation, its employees, their homes or their families.
>
> Republic Steel Corporation."

That the substance of the above-quoted advertisement was sent as an official statement by petitioner, to all Cleveland newspapers, to all wire services, to the Dow-Jones Service, to the Universal News Service, to *Iron Age,* to *Daily Metal Trade,* to *American Metal Market,* and to the *New York Herald Tribune.*

That on June 26, 1937, an official statement was wired to the managing editors of the *Pittsburgh Post Gazette, New York Herald Tribune, New York Times, Detroit Free Press, New York Sun, Pittsburgh Sun Telegraph, The Youngstown Vindicator, The Canton Repository, The Cincinnati Enquirer, The Cleveland Plain Dealer,* the Associated Press, the United Press, International News Service and to a number of radio commentators. This statement quoted directly Mr. T. M. Girdler, chairman of the board of Republic Steel Corporation, and said in part:

> "I was further misquoted in some of the press dispatches as saying that when our plants reopened Republic would refuse to rehire any former employees who had joined the C. I. O. I made no such statement and it is not true. Republic has posted notices in the plants stating its policy on the question of rehiring employees which stated that we cannot rehire anyone who has been guilty of violence or lawbreaking. I have never stated that Republic would refuse to rehire former employees just because they had joined the C. I. O. Our employees are free to join or not join any union, as they please."

That in addition to official statements made by the petitioner inviting men to return to work, newspapers published and circulated in the City of Cleveland, Ohio, carried stories announcing the reopening of the plants and the petitioner's offer to return to work, without discrimination because of union membership or union activities, employees who had been on the strike.

That on July 8, 1937, petitioner caused to be inserted an advertisement in the *Canton Repository,* published in the City of Canton, Ohio, which was in part as follows:

> "As our plants increase production, more and more employees will be called back to work. Men who were on the payroll prior to the strike will be taken back as the cases demand, except in cases where such employees have been guilty of provoking, condoning or instigating acts of violence or indulging in other unlawful acts."

That on July 10, 1937, petitioner caused to be inserted in the *Evening Independent* published in Massillon, Ohio, an advertisement which was in part as follows:

> "As our plants increase production, more and more employees will be called back to work. Men who were on the payroll prior to the strike will be taken back as the cases demand, except in cases where such employees have been guilty of provoking, condoning or instigating acts of violence or indulging in other unlawful acts."

That on July 10, 1937, petitioner caused to be inserted an advertisement in the *Niles Daily Times,* published in the City of Niles, Ohio, which was in part as follows:

> "Our position is that we will take back without medical examination all employees except those who have been guilty of violence or guilty of provoking, condoning or instigating acts of violence, or of indulging in other unlawful acts."

This evidence is material for the following reasons: the Board having ordered the petitioner to reinstate a very large group of strikers not specifically named in the complaint as having been unlawfully or improperly discharged or refused reinstatement, the petitioner should be permitted to prove that it did not in fact refuse employment or reinstatement to this group of its former employees because of union affiliations or activities, but on the contrary did offer to re-employ them as jobs were available for them, provided only that they had not been guilty, during the conduct or operation of the strike, of acts of violence or lawlessness.

This evidence was not adduced or offered at the taking of evidence before the Trial Examiner or the Board, and it was then available. The reasons why it was not adduced are as follows: as we have heretofore stated, it is, and, at all times during the taking of evidence in this case, was the position and contention of the petitioner that there is no issue in this case involving any question as to the reinstatement of the respondent's former employees not specifically named in the complaint as having been unlawfully and improperly discharged, refused reinstatement or otherwise discriminated against; this being true, the petitioner did not offer or adduce evidence before the Board relating to a subject which has to do with the rights of this large group of its former employees; after the Board issued its original order of April, 1938, in which it ordered the petitioner to reinstate this group of its former employees, the petitioner assigned the Board's action in that regard as error in its original petition for review filed in this Court, upon the ground that no issue had been tendered nor was involved in this proceeding as to these men; however, when the Board issued its proposed findings, etc. of July 8, 1938, and embodied therein as a part of its proposed order a command to the petitioner to reinstate this large group of its former employees, the petitioner, so as to adequately protect its rights in the premises, and to meet a question which was, as the petitioner contends, injected into the case for the first time by the Board's original order and proposed order, asked leave of the Board to introduce this evidence; if there is, in law, and upon the pleadings herein, any issue presented to this Court in the review proceeding now before it, involving the reinstatement of this group of strikers not specifically named in the complaint, then in the interest of justice and to adequately protect and present the petitioner's rights in the premises, this evidence is material and should be admitted and considered by the Court.

This evidence was made one of the subjects of a motion by the petitioner that the record be reopened for further proceedings, and that petitioner be permitted to introduce additional evidence, filed after the Board's proposed findings, etc. were issued, and was denied by the Board, the petitioner's offer to prove in this regard, however, being made by order of the Board a part of the record herein.

The refusal of the Board to receive and consider this evidence is one of the subjects of petitioner's assignment of error No. 63 in its petition for review.

5. Evidence that portions of the proposed order are impossible of performance due to the radical changes in methods of manufacture employed by petitioner since the advent of the strike; that said changes have been brought about by the construction of a continuous tin plate mill in Niles, Ohio, and a new strip mill in Cleveland, Ohio, and by the utilization of more modern equipment for the conditioning of steel to improve the surface; that the former method of chipping out the surface defects with a chipping hammer and chisel has, since the start of the strike, been largely supplanted with the method of burning out the defects with a scarfing torch; that these new methods have reduced the number of men necessary in several of petitioner's plants and have caused the elimination of a very large number of employees in each one of the plants; that it will be impossible to replace many of these former employees in their normal or substantially equivalent jobs be-

cause the jobs which they formerly had no longer exists, and there are no jobs in petitioner's plants substantially equivalent to such jobs; that as a result of the new mills, the Canton tin plate mill has been dismantled because it was not able to produce a kind of product required by the trade and at the same time compete with modern methods of rolling; that the new mills also have required the elimination, except during periods of peak demand, of a group of tin mills called the 4-Part mills at Warren, Ohio, because the product made there is not comparable to that made in modern mills and because the operating cost is so much higher than that of modern mills that it is not economical to operate them; that the new strip mill in Cleveland, Ohio, which was finished in December, 1937, long after the strike, and which will further reduce the operations of the sheet mills at Massillon, Niles and Canton, Ohio, requires on many jobs the employment of an entirely different kind of skilled labor than that which operated the old sheet mills used by petitioner at the time the strike was started, and that it was necessary to obtain men from other plants who were familiar with this sort of specialized work; that these men who were hired at the new Cleveland strip mill were hired without relation to any labor trouble and were hired long after the labor trouble ceased; that it would be impossible to operate said new mills and to carry on the newly instituted methods of manufacture if persons ordered reinstated under the terms of the proposed order of the National Labor Relations Board are placed in the positions of such of its present employees as do the work in said new mills and handle the newly instituted methods of manufacture; that there are cases in certain units where certain employees with the longest service records have not returned to work since the strike; that to restore such employees to their former or substantially equivalent positions would mean the dismissal of all the men with the shorter service record, or dividing available work, and that such procedure would be productive of inefficiency and dissatisfaction among employees, that the method prescribed for reinstating men is absolutely impracticable in that if applicants are placed who have a shorter service record than those who apply later with a longer service record, they will have to be again shifted to the place required by their records, and that there being no time within which applications for reinstatement must be made under the terms of the proposed order, continuing confusion and disruption of operations of petitioner's plants will occur; that considering the widely scattered locations of petitioner's plants in Ohio and at Monroe, Michigan, and at Beaver Falls and Pittsburgh, Pennsylvania, that portion of the proposed order which provides that on certain conditions, strikers shall be placed upon a preferential list to be given employment at any of said plants of petitioner before other persons are hired, has placed an insurmountable difficulty upon petitioner's operations in that vacant positions, wherever they may occur in such plants, will be required to be kept vacant until it is determined whether or not there are available for such positions any persons ordered reinstated.

This evidence is material because it tends to disclose facts and circumstances as they now exist with relation to the Board's order, and the general situation with which the petitioner is and will be confronted if and when such order is actually enforced.

The taking of evidence in this case was concluded in September, 1937, and, obviously, no evidence could have been offered thereat in anticipation of facts which might or might not thereafter exist or come into being, or of an order by the Board dealing with the facts as they might be found to exist more than a year later, as does that part of the Board's order here under consideration; inasmuch as the Board requires the petitioner to reinstate, under the terms of its order, certain of its employees and to do so as of a date more than a year after the taking of evidence in this case had been concluded, the petitioner should be permitted to present additional evidence dealing with the ever changing factual situation as it now exists; also, to the extent that this is a proceeding of an equitable nature, the petitioner should be permitted to call to the Court's attention the difficulties and obstacles which confront it with relation to the enforcement of the Board's order.

This evidence in substantially the form hereinabove set forth was made one of the subjects of a motion by the petitioner that the record be reopened for further proceedings, and that petitioner be permitted to introduce additional evidence, filed after the Board's proposed findings, etc., were issued, and was denied by the Board, the petitioner's offer to prove in this regard, however, being made by order of the Board a part of the record herein.

The refusal of the Board to receive and consider this evidence is one of the subjects of petitioner's assignment of error No. 63 in its petition for review.

6. Evidence that normal operations in petitioner's several plants mentioned in the complaint and involved in the strike, in the sense of employing a normal working force in the light of and measured by the business then on hand, and considered in connection with its inventories on hand and the production carried on generally at the time at other steel plants comparable to those of petitioner, were resumed (not necessarily in every department or mill of said plants, however) on or before July 30, 1937, except at its plants in the cities of Warren and Niles, Ohio, where such operations were resumed on or about August 30, 1937.

This evidence is material because it has a direct bearing upon the legal status of the strikers, i. e., whether or not they were employees of the petitioner after its plants resumed normal operations, in the light of the failure of such strikers to seek re-employment by the petitioner as of that time.

This evidence was available at the time the petitioner was making its defense before the Trial Examiner but was not then adduced for the reasons, generally, heretofore set forth with relation to the evidence described in subdivision 4 hereof.

This evidence, substantially as set forth above, was made one of the subjects of a motion to introduce additional evidence made by the petitioner after the taking of evidence had been concluded and before the Board's original order of April 8, 1938, was issued, and was also one of the subjects of a motion by the petitioner that the record be reopened for further proceedings, and that petitioner be permitted to introduce additional evidence made by the petitioner after the Board issued its alleged proposed findings, etc., of July 8, 1938. These motions were denied by the Board, but the petitioner's offer to prove in this regard was by the Board made a part of the record herein.

Refusal of the Board to receive and consider this evidence is made one of the subjects of assignment of error No. 63 in the petition for review herein.

WHEREFORE, Republic Steel Corporation, petitioner, respectfully prays this Honorable Court to grant it leave to adduce in this proceeding before this Court the additional evidence hereinbefore set forth and described, and to order that such additional evidence be taken before the National Labor Relations Board, its member, agent or agency, as this Court may direct, and be made a part of the transcript and record herein.

REPUBLIC STEEL CORPORATION,
Petitioner,
By W. W. HANCOCK,
Secretary.

DAY, YOUNG, VEACH & LEFEVER,
By LUTHER DAY,
THOMAS F. PATTON,
MORTIMOR S. GORDON,
RAWLE AND HENDERSON,
By JOSEPH HENDERSON,
Counsel for Petitioner.

State of Ohio,
Cuyahoga County, } *ss.:*

W. W. Hancock, being first duly sworn, deposes and says that he is secretary of Republic Steel Corporation, petitioner above named; that he has read the foregoing petition and knows the contents thereof; that the statements therein contained are true, as he verily believes.

W. W. Hancock.

Sworn to before me and subscribed in my presence this sixth day of December, 1938.

Arthur P. Wingle,
(Seal) *Notary Public.*

MEMORANDUM.

We have filed this motion for leave to adduce additional evidence pursuant to the following provisions of Section 10 (e) of the National Labor Relations Act:

> "If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken before the Board, its member, agent, or agency, and to be made a part of the transcript."

The reasons why we believe this evidence is material, and the facts with relation to our efforts in behalf of the petitioner to have the Board consider it, are set forth in detail in the motion itself and, therefore, need not be repeated here.

The evidence relating to the formation of independent unions, etc. (Subdivision 1 of the motion), and to the alleged violence and lawless conduct of the strikers (subdivision 2) was offered before the Trial Examiner at the hearing before him and by him excluded; evidence as to the cause of the strike (subdivision 3), the willingness of the petitioner to re-employ strikers (subdivision 4), the situation which will confront the petitioner if the Board's order is enforced (subdivision 5), and the facts relating to the resumption of normal operations by the petitioner's plants involved in the strike (subdivision 6) was, in its various separate items, made the subject of a motion by the petitioner filed after the Board's alleged proposed findings, etc., of July 8, 1938, were issued and before the Board's order of October 18, 1938, here under review was made, this motion being denied by the Board.

The Board, by the provisions of Section 38 (c) of its Rules and Regulations, has the power to reopen the record and receive further evidence.

Each of the items of evidence sought to be here introduced by the petitioner was made the subject of a separate offer to prove by the petitioner, and these offers to prove are a part of the record herein, those relating to subdivisions 1 and 2, respectively, having been made a part of the record at the hearing before the Trial Examiner, and those relating to subdivisions 3, 4, 5 and 6 respectively, by action of the Board in its decision and order here under review. The Board, in its decision and order, has, as we interpret it, indicated, at least, as to some of the items of evidence under consideration, that the conclusions reached by it would not be otherwise than as set forth therein, even if the evidence sought to be adduced by the petitioner had been received and considered by the Board.

In this situation, counsel for the petitioner believe that, under the provisions of the National Labor Relations Act above set forth, it should not be incumbent upon the petitioner to file this motion, and that the evidence under consideration, having been made a part of the record herein by action of the Board itself, it is now before this Court, in the form of the various offers to prove submitted by the petitioner, for such action as the Court may deem advisable with relation thereto.

However, we have filed this motion out of what may appear to be excessive caution upon our part, and because of the decision of the Court of Appeals for the Second Circuit (March 14, 1938), in *Consolidated Edison Co. of New York, Inc. v. National Labor Relations Board*, 95 Fed. 2d, 390, wherein, upon a state of facts apparently somewhat similar to that here presented, the Court used language which might be interpreted, if applied here, as imposing a duty upon the petitioner to take such action. See, the 16th syllabus in that case which reads:

> "In proceeding to require re-employment of employee allegedly discharged for union activities when plant was shut down, where National Labor Relations Board unexpectedly completed its proof, and employ-

ers obtained continuance to certain date to obtain testimony of witnesses absent from the city, refusal to permit any witnesses to testify on such date, although testimony was available to show that other employees of less seniority, who were retained notwithstanding shut down, were better educated and better trained than complaining employees, was unreasonable and arbitrary, *but could not be complained of by employers in absence of application to reviewing court for taking of additional evidence.* National Labor Relations Acts, Secs. 8 (3), 10 (e), 29 U. S. C. A., Secs. 158 (3), 160 (e).'' (Italics ours.)

In the situation thus presented, therefore, the petitioner, by its counsel, has filed this motion and respectfully prays the Court to determine what should be done in the premises.

Respectfully submitted,

REPUBLIC STEEL CORPORATION,
Petitioner.

Day, Young, Veach & LeFever,
By Luther Day,
Thomas F. Patton,
Mortimor S. Gordon,
Rawle and Henderson,
By Joseph Henderson,
Counsel for Petitioner.

Received and filed December 8, 1938.

Wm. P. Rowland,
Clerk.

PETITION OF THE CENTRAL COUNCIL OF STEEL PLANTS, NORTHERN DISTRICT OF REPUBLIC STEEL CORPORATION, FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE.

(Filed December 12, 1938.)

To the Honorable, the Judges of the United States Circuit Court of Appeals, for the Third Circuit:

Now comes the Central Council of Steel Plants, Northern District, Republic Steel Corporation, having heretofore by leave of Court been made a party to these proceedings, prays this Honorable Court to grant leave to adduce additional evidence.

Petitioner alleges that said additional evidence is material and that there was reasonable grounds for failure to adduce such evidence in the hearing before the Board, for the reason that the petitioner was not a party to said proceedings, and that said Board denied a petition of petitioners for the right to intervene and adduce said evidence.

The said additional evidence which said petitioner desires to have made a part of the transcript herein would be in support of the following claims of your petitioner:

1. That the petitioner is an association of independent unions or association of employed workers, and its membership consists of labor unions whose members are in turn at the present time confined to employees of the Republic Steel Corporation.

2. The manner in which the petitioner and its constituent members were formed, and the numerical membership of said constituent members.

3. That the constituent members of the Council are an organization in which employees participate and which exists for the purpose in whole or in part of dealing with the Republic Steel Corporation concerning grievances, labor disputes, wages, rates of pay,

hours of employment and conditions of work, and that said individual members of said constituent associations would form or join said organizations to bargain collectively through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

4. At no time has the Republic Steel Corporation, with the knowledge or consent of the petitioner or its constituent members, dominated or interfered with the formation or administration of said Council or any of its constituent members or has the Republic Steel Corporation contributed financial or other support to said Council or any of its constituent members.

5. That certain of the members of the petitioner or its constituent associations, entered into contracts of employment with the Republic Steel Corporation after July 15, 1937, which said positions were not the former or substantially equivalent positions which had been filled by strikers prior to the employment of said members, which said members are now being discharged and their positions being filled by former employees who went on strike and did not return to their employment when operation of the said plants was resumed.

6. Such other and further evidence as may be pertinent to substantiate the claims of the petitioner's petition for intervention heretofore filed.

AUTHORITY IN SUPPORT OF PETITION.

In support of the foregoing petition for leave to adduce additional testimony, we respectfully direct the Court's attention to that part of Section 10 (e) of the National Labor Relations Act, which provides as follows:

"If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken before the Board, its members, agent, or agency, and to be made a part of the transcript."

CENTRAL COUNCIL OF STEEL PLANTS, NORTHERN DISTRICT OF REPUBLIC STEEL CORPORATION,

By Frank T. Bow,
By John P. Walsh.

United States of America,
State of Ohio,
City of Canton,
Stark County,
ss.:

P. W. Horner, being first duly sworn, deposes and says that he is chairman of the Central Council of Steel Plants, Northern District, Republic Steel Corporation; that he has read the foregoing petition and has knowledge of the facts stated therein; that the statements made in the foregoing petition are true to the best of his knowledge and belief.

P. W. Horner.

Sworn to before me and subscribed in my presence at Canton, Ohio, this tenth day of December, 1938.

Julia M. Repace,
Notary Public.

(Endorsements—Received and filed December 12, 1938 William P. Rowland, Clerk)

REFERENCE TO ARGUMENT.

In the United States Circuit Court of Appeals,
For the Third Circuit.

No. 6907. March Term, 1939.

Republic Steel Corporation, et al.,
Petitioners,
v.
National Labor Relations Board, et al.,
Respondents.

And afterwards, to wit, the twelfth day of December, 1938, come the parties aforesaid by their counsel aforesaid, and this case being called for hearing on petitions to adduce additional evidence and petitions to intervene, before the Honorable J. Warren Davis, the Honorable John Biggs, Jr., and the Honorable Joseph Buffington, Circuit Judges, and the Court not being fully advised in the premises, takes further time for the consideration thereof.

(Orders on petitions to intervene appear in Volume VII of the printed record. Orders on the petitions to adduce additional evidence appear at the end of the proceedings in the Circuit Court of Appeals.)

STIPULATION AS TO RECORD IN NO. 6764.

(Filed December 14, 1938.)

It Is Hereby Stipulated and Agreed between the Republic Steel Corporation and the National Labor Relations Board, through their respective counsel, that this Court may take judicial notice of all proceedings heretofore had of whatsoever kind in Case No. 6764, March Term, 1938, in this Court, entitled Republic Steel Corporation, Petitioner, v. National Labor Relations Board, Respondent, and also all of the proceedings in Case No. 21, Original, October Term, 1937, in the Supreme Court of the United States, entitled, In the Matter of the Petition of the National Labor Relations Board for a Writ of Prohibition and for a Writ of Mandamus Against the Honorable Joseph Buffington, the Honorable J. Warren Davis and the Honorable J. Whitaker Thompson, Circuit Judges of the Third Judicial Circuit, and the other Judges and Officers of the United States Circuit Court of Appeals for the Third Circuit, and that all of said proceedings in both of the aforementioned cases may be considered a part of the record in this case without the necessity of incorporating the same in the printed record and that either party may have embodied in the printed record after the final decision in this Court any or all of the proceedings in the above two cases; provided, however, that this stipulation is without prejudice to the right of any party to object that any of said proceedings in said Cases Nos. 6764 and 21, original, are irrelevant or immaterial to, or not determinative of or conclusive upon, any issue raised in this cause.

REPUBLIC STEEL CORPORATION
By Joseph W. Henderson,
Counsel.

NATIONAL LABOR RELATIONS BOARD
By Charles Fahy,
Counsel.

December 10, 1938.

(Endorsements—Stipulation to Include Record in No. 6764 Received & Filed Dec. 14, 1938 Wm. P. Rowland, Clerk)

STIPULATION AS TO EXHIBITS NOT IN PRINTED RECORD.

(Filed May 1, 1939.)

It is hereby stipulated and agreed between Joseph W. Henderson, attorney for the Republic Steel Corporation, and Charles Fahy, counsel for the National Labor Relations Board, that all exhibits which are not actually printed in the printed record of the above-entitled case shall be available to either side as physical exhibits, and used before any Court in connection with the case.

JOSEPH W. HENDERSON,
CHARLES FAHY.

April 28, 1939.

(Endorsements—Stipulation as to exhibits not in printed Record. Received & Filed May 1, 1939 Wm. P. Rowland, Clerk)

REFERENCE TO ARGUMENT.

In the United States Circuit Court of Appeals,
For the Third Circuit.

No. 6907. March Term, 1939.

Republic Steel Corporation, et al.,
Petitioners,
v.
National Labor Relations Board, et al.,
Respondents.

And afterwards, to wit, the seventh day of August, 1939, come the parties aforesaid by their counsel aforesaid, and this case being called for argument sur pleadings and briefs, before the Honorable John Biggs, Jr., Honorable Albert B. Maris and Honorable William Clark, Circuit Judges, and the Court not being fully advised in the premises, takes further time for the consideration thereof,

And afterwards, to wit, on the eighth day of November, 1939, come the parties aforesaid by their counsel aforesaid, and the Court, now being fully advised in the premises, renders the following decision:

IN THE

UNITED STATES CIRCUIT COURT OF APPEALS, FOR THE THIRD CIRCUIT.

No. 6907. March Term, 1939.

REPUBLIC STEEL CORPORATION,
Petitioner,
and
CENTRAL COUNCIL OF STEEL PLANTS, NORTHERN DISTRICT, REPUBLIC STEEL CORPORATION; AND 150 OR MORE EMPLOYEES OF UPSON DIVISION OF THE REPUBLIC STEEL CORPORATION,
Intervenors-Petitioners,
v.
NATIONAL LABOR RELATIONS BOARD,
Respondent,
and
STEEL WORKERS ORGANIZING COMMITTEE,
Intervenor-Respondent.

ON PETITION FOR REVIEW AND ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.

OPINION.

(Filed November 8, 1939.)

Before BIGGS, MARIS and CLARK, *Circuit Judges.*

MARIS, *Circuit Judge.*

Upon a complaint based upon charges filed by the Steel Workers Organizing Committee (hereinafter called

S. W. O. C.), a labor union organization affiliated with the Committee for Industrial Organization, the National Labor Relations Board found the Republic Steel Corporation (hereinafter called Republic) guilty of unfair labor practices and ordered it to cease and desist from them and to take certain affirmative action which the Board found would effectuate the policies of the National Labor Relations Act. Republic thereupon petitioned this court to review and set aside the order as contrary to law.

Republic is a large manufacturer of steel, having plants at Youngstown, Canton, Massillon, Warren and Cleveland, Ohio, among other places. In June, 1936, S. W. O. C. began a campaign to organize Republic's employees. Three years before, in June, 1933, Republic had introduced into each of its plants a plan of employee representation. These plans, company imposed and dominated ones, were doubtless a concession to the mandate of Sec. 7 (a) of the National Industrial Recovery Act of 1933 "That employees shall have the right to organize and bargain collectively through representatives of their own choosing, . . ." At least the record of Republic would indicate that this modest concession to the right of collective bargaining was not wholly voluntary.

Almost immediately after S. W. O. C. commenced its organization campaign Republic in its turn began a counter campaign to crush the union. It announced to all its employees at once that "Republic stands for the 'Open Shop' principle," that "No employee has to join any organization to get or hold a job," and that "Every Republic employee owes a duty of loyalty to the Company so that its best interests may be served. Conduct detrimental to the interests of the Company and which may disrupt the satisfactory relations between employees and management will not be tolerated." The union was denounced and vilified. From the beginning the organizers of the union were followed and spied upon by Republic's company police. The latter also maintained surveillance over union meet ings, thus discouraging employee attendance. Employees were threatened with discharge if they accepted union literature outside the plant gates. Union organizers were attacked and brutally beaten.

When in March, 1937 the employee representatives under the representation plans then in effect in Republic's plants proposed to amend them so as to eliminate company domination and provide for real collective bargaining Republic refused its consent. On the other hand it caused many of the employee representatives to spread anti-union propaganda and to campaign actively against the union in its plants. On March 17, 1937 the United States Steel Corporation and its subsidiaries signed a union contract with S. W. O. C. as the representative of its members who were employees of those companies. The next day Republic called a meeting of the central council of its employee representatives at which a motion was unanimously adopted that all the representatives back the management in opposition to all outside labor organizations.

Employees were coerced by foremen and representatives to sign petitions supporting the representation plans and opposing S. W. O. C. Meetings of employees were held by the management at which the virtues of the representation plans were praised; employees were threatened with discharge if they joined the "outside" union, and anti-union literature was distributed. At least 18 employees, Cikah, Arias, Popik, Pirichy, Troyanovich, Naletrich, Korecky, Exall, Petak, Babich, Neuman, Ugranovich, Armeli, White, Fagan, Wright, Shaban and Mouyios, were discharged because of their activity in behalf of the S. W. O. C.

On March 30, 1937 Golden, regional director of S. W. O. C., requested a conference with Girdler, chairman of the board of Republic, and submitted a proposed union contract containing provisions respecting wages, hours, vacations, seniority and methods of handling grievances substantially equivalent to those then in force in Republic's mills. It also contained the folowing provisions:

> "SECTION 2. *Recognition.*—The Corporation recognizes the Union as the collective bargaining agency for those employees of the Corporation who are members of the Union. The Corporation recognizes and will not interfere with the right of its employees to become members of the Union. There shall be no discrimination, interference, restraint or coercion by the Corporation or any of its agents against any members because of membership in the Union. . . .
>
> SECTION 8. *Management.*—The management of the works and the direction of the working forces, including the right to hire, suspend or discharge for proper cause, or transfer, and the right to relieve employees from duty because of lack of work, or for other legitimate reasons, is vested exclusively in the Corporation: Provided, that this will not be used for purposes of discrimination against any member of the Union.
>
> SECTION 9. *Discharge cases.*—In the event a member of the Union shall be discharged from his employment from and after the date hereof, and he believes he has been unjustly dealt with, such discharge shall constitute a case arising under the method of adjusting grievances herein provided. In the event it should be decided under the rules of this Agreement that an injustice has been dealt the employee with regard to the discharge, the Corporation shall reinstate such employee and pay full compensation at the employee's regular rate for the time lost. All such cases of discharge shall be taken up and disposed of within five (5) days from the date of discharge."

No reply to the request for a conference was made until May 5th, when Republic's director of industrial relations wired "In view of Wagner Act see no necessity for signed contract" and suggested May 11th for a conference. A conference was held on that day without result whereupon Republic issued a statement to its employees that it adhered to its policy not to sign a contract with the C. I. O. At about the same time Republic shut down its Canton tin plate mill, a stronghold of the union, and nearly all the mills of its Massillon works, and locked out all but the maintenance employees. These lockouts, coming after a long period of continual drastic anti-union measures, placed the union in a position where it could not hope to preserve itself without immediate resort to action. Accordingly on May 25th and 26th the union employees of Republic's Canton, Massillon, Youngstown, Warren and Cleveland plants went on strike.

The strike resulted in the closing of all of these plants and they remained closed for more than a month. Upon their reopening toward the end of June a great many of Republic's employees were refused reinstatement because of their union membership. Among these were Green, Hite, Lazer, Krill, Chismus, Haren, Neverdusky and DeLong. From the time the strike began Republic undertook to secure and did secure the aid of local police officials to break picket lines, enlisted workers in back-to-work movements and in other ways endeavored to defeat the strike by reopening its plants without any concessions to the union. By threats to remove its plants Republic succeeded in causing municipal authorities and business men to turn against the union. Violence and hysteria were incited deliberately by Republic in order to terrorize union members. Tear gas and fire arms were donated to the police department of Massillon.

This course of conduct had its tragic result on the evening of July 11th in Massillon. The city police had been augmented by a number of specially deputized Republic foremen and other employees. On this evening the chief of police was absent. In his absence command of the police was taken by one Curley who had come to the force with the hearty recommendation of Republic's district manager. Under Curley's leadership the augmented force made an unprovoked attack on an unarmed crowd of strikers at their headquarters, killing three of them and wounding many others. During the shooting, which continued for half an hour, none of the policemen received any sort of injury. Immediately after it was over one of the special policemen who was a Republic foreman led a group of his fellows in a round-up in which all persons in the neighborhood of union headquarters were arrested without warrants. These policemen in the early hours of the morning broke into rooming houses occupied by union members, dragged men from their beds and hauled them to jail where they were kept for several days.

Meanwhile on April 21, 1937 the Supreme Court had upheld the constitutionality of the National Labor Relations Act. Republic immediately took steps to eliminate some of the obviously objectionable features of its employee representation plans. In some plants these were replaced by new organizations but in each case they were dominated by Republic. After the strike a third group of organizations appeared in the Massillon, Canton and Youngstown plants. In form they were independent but in fact they were formed and officered in whole or in part by those who had been officers and representatives in the prior plans and who were known to be under Republic domination. They were accorded the use of Republic's time and property for organization purposes, including the solicitation of memberships and the collection of dues. Republic through its superintendents and foremen assisted in persuading employees to join them. Each of the three organizations was in fact but a continuation of its predecessor and was under the domination of Republic.

The foregoing brief recital is an epitome of the findings of fact made by the Board in an elaborate opinion. 9 N. L. R. B. 219. To further detail them would serve no useful purpose. Republic strongly urges that they are not supported by substantial evidence and must, therefore, be set aside. It points out evidence which is inconsistent with the findings. A great mass of testimony was taken in the case, much of it directly conflicting. The duty of reconciling this evidence was placed by the Act upon the Board, however, and not upon this court. Our sole duty is to determine whether there is in the record substantial evidence to support the Board's findings. Examining the record we find ample evidence to support these findings and they must, therefore, be sustained. Washington Coach Co. v. Labor Bd., 301 U. S. 142; Labor Board v. Fansteel Corp., 306 U. S. 240. They in turn fully support the conclusion of the Board that Republic had engaged in unfair labor practices within the meaning of Sec. 8, subsections (1), (2) and (3), of the Act (29 U. S. C. § 158), (1) by interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Sec. 7 [1] of the Act, (2) by dominating and interfering with the formation and administration of the employee representation plans and associations of its employees which succeeded them and by contributing financial and other support thereto, and (3) by discriminating in regard to the hire and tenure of employment of the 26 employees above mentioned.

Upon these findings and conclusions the Board ordered Republic to cease and desist from (a) dominating or interfering with the formation or administration of any labor organization of its employees or contributing financial or other support thereto; (b) discouraging membership in S. W. O. C. or any other labor organization of its employees, by discharging and refusing to reinstate employees, or otherwise discriminating in regard to hire or tenure of employment or any term or condition of employment or by threats of such discrimination; or (c) in any other manner interfering with, restraining or coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act. It is clear that under the Board's findings and conclusions this order was proper.

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[1] Sec. 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

It remains for us to consider the validity of that part of the Board's order which required affirmative action to be taken by Republic. In this connection it is to be remembered that Sec. 10 (c) of the Act (29 U. S. C. § 160 (c)) authorizes the Board, if it finds that an employer has engaged in an unfair labor practice, to require him to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of the Act. Sec. 1 of the Act (29 U. S. C. § 151) declares that it is the policy of the United States "to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

The directions for affirmative action are contained in section 2 of the Board's order. The section is subdivided into paragraphs which will be considered consecutively. Paragraph (a) directs Republic to withdraw recognition from and disestablish the labor organizations of its employees which the Board found it had dominated, interfered with or supported in violation of Sec. 8 (2) of the Act. Paragraph (h) directs the posting of notices that this has been done. As we have already indicated, the evidence supports the Board's finding that these organizations were dominated, interfered with or supported by Republic. The original employee representation plans were imposed by Republic upon its employees and as originally drawn they were incapable of serving as collective bargaining agencies representing the employees. The changes in form made after the decision of the Jones and Laughlin case and after the strike did not change their nature. They continued in charge of employees who had been active in the original organizations and who were known to be under Republic's domination. The organizations continued to enjoy the sunshine of Republic's favor in many ways. Employees were made to feel that membership in them was advisable in order to hold their jobs. They were undoubtedly what have come to be known as "company unions." It is clear that so long as these organizations exist Republic's employees will be unable to exercise and enjoy that free choice of bargaining agents which the Act intends that they should have. The Board's order of disestablishment was, therefore, proper. Labor Board v. Greyhound Lines, 303 U. S. 261; Labor Board v. Pacific Lines, 303 U. S. 272; Labor Board v. Fansteel Corp., supra; National Labor Relations Board v. Stackpole Carbon Co., 105 F. 2d 167; Titan Metal Mfg. Co. v. National Labor Relations Board, 106 F. 2d 254.

Since the order ran only against Republic the so-called company unions, some of which were permitted to intervene in this court, were not entitled to notice and hearing before the Board. Labor Board v. Greyhound Lines, supra. Their application to this court for leave to adduce additional evidence must be denied. National Labor Relations Board v. Stackpole Carbon Co., supra.

Paragraphs (b) and (c) of Section 2 of the Board's order require Republic to reinstate with back pay 14 employees, 6 who were discharged for union activities, and 8 who were refused reinstatement after the strike because of union membership. In the cases of 12 other employees who were similarly discharged and subsequently reinstated or offered reinstatement, Republic is required to make them whole for pay lost for the period before the strike. Paragraphs (d) and (e) direct Republic to make whole those employees of its Canton and Massillon mills who were locked out in May, 1937, for the pay lost during the period of the lockouts. The Board's findings of discrimination as to these employees are sustained by the evidence, as we have already pointed out. It follows that the order is justified under Sec. 10 (c) of the Act in order to effectuate its policies. Labor Board v. Jones & Laughlin, 301 U. S. 1; Labor Board v. Mackay Co., 304 U. S. 333.

One phase of this part of the order requires special mention. The order provides that any sums which these employees may have received in the interim for work performed upon federal, state, county, municipal or other work relief projects shall be deducted from the amounts ordered to be paid to them by Republic and shall be paid over to the appropriate governmental agencies which supplied the funds for the work relief projects. Republic urges that this provision is beyond the Board's jurisdiction. We think, however, that it is within the discretionary power of the Board and that it is not unreasonable. A similar order was enforced in National Labor Relations Board v. Planters Mfg. Co., 105 F. 2d 750.

There remain for our consideration paragraphs (f) and (g) of Section 2 of the Board's order. These paragraphs require Republic to offer to employees who went on strike, reinstatement in their former or equivalent positions or, if positions cannot be provided for them by dismissing new employees taken on since the strike, then to place them upon a preferential list for employment when available, and if they are not thus reinstated or placed on the preferential list to reimburse them for wages lost for the period beginning 5 days after their application. These provisions raise the major controversy in the case. This controversy is as to the cause of the strike. Republic vehemently contends that the strike was caused solely by its refusal to sign the contract submitted by S. W. O. C. This refusal the Board concedes was not an unfair labor practice. Consequently if Republic is right as to this the Board had no power to order the reinstatement of the strikers.

The Board, however, found "that the underlying cause of the strike, and a substantial factor in its precipitation on May 25th and 26th, was" Republic's "campaign to crush the union by means of the unfair labor practices" in which the Board found Republic had engaged prior to the strike, and which we have already described. We think that this finding is supported by the evidence and must be sustained. It is true that the strike was precipitated by Republic's refusal to sign the union contract and thus to recognize the union as the bargaining agent for its members. It is equally clear, however, that the signing of the contract was sought by the union not to raise wages or improve working conditions, for it purported to do neither, but solely to put an end to the warfare between the union and Republic which had resulted from the latter's unfair labor practices. What was sought, as the clauses of the contract hereinabove quoted demonstrate, was a formal declaration and agreement by Republic that it would not continue those practices but would recognize and not interfere with the right of its employees to become members of the union.

It is thus seen that the proposal to sign the contract was but a phase of the union's struggle against Republic's unfair labor practices and that the latter's refusal to sign was but one more indication that it proposed to continue those practices. The union contract in such a case as this becomes merely the symbol of the employer's acceptance of the union. If the contract is refused, we cannot say that the refusal is the cause of the ensuing strike, even though doubtless its acceptance would have averted it. The causes of the strike remain the unfair labor practices which the employer by his refusal of the proffered covenant of peace indicates that he will continue. As the Congress in Sec. 1 of the Act (29 U. S. C. § 151) significantly said: "The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest . . ."

Republic further contends that the order for the reinstatement of the strikers was invalid because the complaint did not tender the issue of the reinstatement of the strikers. The complaint did, however, enumerate certain unfair labor practices and allege that because of these practices and of the refusal to sign the contract the strike took place. Section 10 (c) of the Act specifically authorizes the Board to direct reinstatement of employees if unfair labor practices are found. Republic was, therefore, sufficiently informed that such action might be required by the Board.

It is argued that none of the strikers should be reinstated since they were all members of a combination and conspiracy and as such responsible for the acts of violence committed by some of their fellows. This argument, however, fails to take into account the provisions of Sec. 6 of the Norris-La Guardia Act (29 U. S. C. § 106) which prohibit courts of the United States from holding members of a union participating in a labor dispute responsible "for the unlawful acts of individual officers, members or agents, except upon clear proof of actual participation in, or actual authorization of, such acts, or of ratification of such acts after actual knowledge thereof." The act applies to this proceeding for the enforcement of the Board's order. No proof of actual participation, authorization or ratification was offered with respect to the strikers generally. Equally untenable is the contention that the strikers are not entitled to reinstatement because they have not come into court with clean hands. This principle is not applicable to a proceeding in which a governmental agency is seeking enforcement of its order in the public interest. National Labor Relations Board v. Remington Rand, Inc., 94 F. 2d 862, cert. den. 304 U. S. 576; National Labor Relations Board v. Carlisle Lumber Co., 99 F. 2d 533.

Finally Republic contends that the Board had no power to require the reinstatement of the individual strikers who had been guilty of criminal conduct in connection with the strike and it sought from the Board and from this court leave to present evidence on this subject. While leave was refused by the Board it treated Republic's offers of proof as evidence in deciding the case and we have done the same. Republic's petition for leave to adduce additional evidence will accordingly be denied.

In Labor Board v. Fansteel Corp., supra, the Supreme Court had before it a case involving the reinstatement of strikers who had been guilty of unlawfully seizing and holding their employer's buildings in a "sit-down" strike. The court held that their reinstatement would not effectuate the policies of the Act and that it was, therefore, beyond the power of the Board to order it. In that case Chief Justice Hughes said (p. 253) "The employees had the right to strike but they had no license to commit acts of violence or to seize their employer's plant. We may put on one side the contested questions as to the circumstances and extent of injury to the plant and its contents in the efforts of the men to resist eviction. The seizure and holding of the buildings was itself a wrong apart from any acts of sabotage. But in its legal aspect the ousting of the owner from lawful possession is not essentially different from an assault upon the officers of an employing company, or the seizure and conversion of its goods, or the despoiling of its property or other unlawful acts in order to force compliance with demands. To justify such conduct because of the existence of a labor dispute or of an unfair labor practice would be to put a premium on resort to force instead of legal remedies and to subvert the principles of law and order which lie at the foundations of society."

In the Fansteel case the court was dealing with a case which involved a sit-down strike in which the strikers forcibly and unlawfully deprived their employer of possession of his plant. The court made it clear that unlawful conduct of that character deprived the participant of the right of reinstatement. We think it must be conceded, however, that some disorder is unfortunately quite usual in any extensive or long drawn out strike. A strike is essentially a battle waged with economic weapons. Engaged in it are human beings whose feelings are stirred to the depths. Rising passions call forth hot words. Hot words lead to blows on the picket line. The transformation from economic to physical combat by those engaged in the contest is difficult to prevent even when cool heads direct the fight. Violence of this nature, however much it is to be regretted, must have been in the contemplation of the Congress when it provided in Sec. 13 of the Act that nothing therein should be construed so as to interfere with or impede or diminish in any way the right to strike. If this were not so the rights afforded to employees by the Act would be indeed illusory. We accordingly recently held that it was not intended by the Act that minor disorders of this nature should deprive a striker of the possibility of reinstatement. National Labor Relations Board v. Stackpole Carbon Co., supra.

In the present case there was evidence of violence and disorder on the part of many strikers. Numbers of them were convicted of crimes in the state courts. The Board accordingly undertook to determine which of these were sufficiently serious to bar reinstatement. This it did without the benefit of the Fansteel opinion, which was not handed down until four months later. In making its determination the Board confined itself to evidence of convictions and properly refused to try accusations of violence which had not resulted in convictions in the criminal courts. It decided that all strikers who had been convicted of possession and use of explosives, malicious destruction of property to the value of $300, and possession of a bomb, all felonies, should be denied reinstatement, but that all others who had been convicted of less serious offenses should be reinstated. Among these others were 9 convicted of unlawfully obstructing and retarding the passage of the United States mail, 3 of discharging firearms, 7 of malicious destruction of property to the value of less than $300, 1 of unlawfully interfering with telegraph or telephone messages, 1 of transporting explosives, 5 of interfering with and obstructing railway tracks, 13 of carrying concealed weapons, and 1 of assault and battery sufficiently serious to call for the imposition of a fine of $200 and costs and a suspended sentence of 6 months.

Whether all of these defendants were striking Republic employees does not clearly appear from the record although it seems that they were all affiliated with S. W. O. C. We think, however, that their offenses were sufficiently serious to render the reinstatement of those of them who were Republic employees inappropriate and improper under the rule laid down in the Fansteel case. Paragraph (f) of Section 2 of the order of the Board is accordingly modified to this extent. As to the remaining offenses proved to have been committed we are satisfied from their character and from the small penalties imposed that they were all sufficiently minor to come within our decision in the Stackpole case and the order of the Board directing the reinstatement of the persons involved in them will be enforced.

Republic raises certain objections to the form of the order. Its principal complaint is to a provision that employees directed to be reinstated for whom no positions are presently available shall be placed on a single preferential hiring list for all of Republic's plants in Ohio, in Monroe, Michigan, and in Pittsburgh and Beaver Falls, Pennsylvania. The objection is as to the provision directing possible reinstatement at a plant other than that at which the employee formerly worked. The Board has power to make such an order, however. National Labor Relations Board v. Remington Rand, Inc., supra. We do not think that its use in this case was an abuse of the discretion vested in the Board. We have also carefully considered Republic's other objections to the form of the order. Finding them without merit we will not discuss them further.

Finally Republic contends that it was not accorded procedural due process by the Board. We think that this point also is wholly without merit. After lengthy hearings the Board issued its findings and order on April 8, 1938. On June 14, 1939, after proceedings in this court and in the Supreme Court, 304 U. S. 486, the Board set aside its findings and order. On July 8, 1938, it issued a draft of proposed findings and order. Thereafter both Republic and S. W. O. C. filed exceptions to the proposed findings and order and also filed briefs in support of their exceptions. Oral argument upon the exceptions was had before the Board on August 11, 1938, participated in by counsel for Republic and S. W. O. C. On October 18, 1938, the Board issued the findings and order now before us for review. It is obvious from this recital that Republic was not denied due process. See Labor Board v. Mackay Co., supra; Edison Co. v. Labor Board, 305 U. S. 197.

Paragraph (f) of Section 2 of the order of the Board is modified as hereinabove indicated. In all other respects the order is affirmed. A decree enforcing it will be entered.

A true Copy:
Teste:

Clerk of the United States Circuit Court of Appeals
for the Third Circuit.

ORDER DENYING PETITION OF CENTRAL COUNCIL, ETC., NORTHERN DISTRICT, ETC., FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE.

(Filed November 8, 1939.)

And now, November 8, 1939, the petition of Central Council of Steel Plants, Northern District of Republic Steel Corporation, filed December 12, 1938, for leave to adduce additional evidence in the above-entitled cause, is hereby denied.

Albert B. Maris,
Circuit Judge.

(Endorsements: Order Denying Petition of Central Council, etc., Northern District, etc., for Leave to Adduce Additional Evidence. Received & Filed Nov. 8, 1939 Wm. P. Rowland, Clerk.)

ORDER DENYING PETITION OF REPUBLIC STEEL CORPORATION FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE.

(Filed November 8, 1939.)

And now, November 8, 1939, the petition of Republic Steel Corporation, filed December 8, 1938, for leave to adduce additional evidence in the above-entitled cause, is hereby denied.

Albert B. Maris,
Circuit Judge.

(Endorsements: Order Denying Petition of Republic Steel Corp. for Leave to Adduce Additional Evidence. Received & filed Nov. 8, 1939 Wm. P. Rowland, Clerk.)

DECREE.

(Filed January 2, 1940.)

This matter coming on upon motion of the National Labor Relations Board, respondent, for the entry of a decree in conformity with the opinion of this Court rendered herein on November 8, 1939,

It Is Ordered, Adjudged and Decreed by this Court that the petitioner, Republic Steel Corporation, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Dominating or interfering wtih the formation or administration of any labor organization of its employees or contributing financial or other support thereto;

(b) Discouraging membership in the Amalgamated Association of Iron, Steel and Tin Workers of North America or the Steel Workers Organizing Committee or any other labor organization of its employees, by discharging and refusing to reinstate employees, or otherwise discriminating in regard to hire or tenure of employment or any term or condition of employment or by threats of such discrimination;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection as guaranteed in Section 7 of the act.

2. Take the following affirmative action which the National Labor Relations Board finds will effectuate the policies of the National Labor Relations Act;

(a) Withdraw all recognition from the Plan of Employee Representation, and its successors—the Employees'

Representative Association and the Independent Association of Republic Employees at Massillon; the Plan of Employee Representation, and its successors—the Employees' Representative Association, and the Steel Workers Union of America—and the Plan of Representation of Employees at Canton; the Plan of Employee Representation, and its successors—the Employee Representation Plan, and the Independent Federation of Republic Employees at Youngstown; the Plan of Employee Representation, and its successor—the Employees' Independent Association at Warren; the Plan of Employee Representation, and its successor—the Employees' Representative Association at Cleveland; the Central Council of Employee Representatives; and each of them, as the representatives of any of its employees at its plants in the Massillon, Canton, Youngstown, Warren, Niles, and Cleveland districts, respectively, for the purpose of dealing with the petitioner concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work; and completely disestablish the foregoing labor organizations as such representatives;

(b) Offer to Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, and George Troyanovich (group A); John Lazar, Michael Krill, Balare Chismus, William A. Haren, Charles Neverdusky, Anthony Martin de Long, Richard Green, and Hallie P. Hite (group B), in the manner provided in the section in the Board's decision entitled "The remedy," immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority and other rights and privileges; and make them whole for any losses of pay they have suffered by reason of the petitioner's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group A, from the date of their lay-off or discharge until the date when the strike began, and again from the date on which operations in their departments began after the reopening of the plants involved to the date of the offer of reinstatement as provided herein, and in the case of group B, from the date of the refusal to reinstate nntil the date of the offer of reinstatement as provided herein; less the amounts, if any, which each earned during said period, deducting, however, from the amount otherwise due to each of the said employees, monies received by said employees during said periods for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work relief projects;

(c) Make whole Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (group C); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, and Fred Korecky (group D) for any losses of pay they have suffered by reason of the petitioner's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group C, from the date of their discharge to the date of their offer of reinstatement prior to the strike, and in the case of group D, from the date of their lay-off or discharge until the date of the strike; less the amounts, if any, which each earned during said period, deducting, however, from the amount otherwise due to each of the said employees, monies received by said employees during said periods for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work relief projects;

(d) Make whole the employees of the Canton tin plate mill who were employed on May 4, 1937, for any loss of pay they have suffered by reason of the closing of the Canton tin plate mill on May 5, 1937, by payment to each of them, respectively, of a sum equal to that which each of them would normally have earned as wages during the period from May 5 to May 24, 1937, less the amount, if any, which each has earned during said period;

(e) Make whole the employees of the Massillon Works, who were employed on May 19, 1937, for any loss of pay they have suffered by reason of the closing of the Massillon Works on May 20, 1937, by payment to each of them, respectively, of a sum which each of them would normally have earned as wages during the period from May 20 to May 23, 1937, less the amount, if any, which each has earned during said period;

(f) Offer to those employees at its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland district, (including those referred to as groups C and D in paragraph 2 (c) above) who went on strike on May 25, 1937, and thereafter, and who since the order of the National Labor Relations Board dated October 18, 1938, made, or who hereafter shall make, application (except Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, George A. Bundas, Andrew J. Marsh, Mike Spelich, Herman Herzog, Jesse Rentario (Runtario), Pete Vasleo, Omer Williams, Joe Morton, Leo Cox, Mike Walker, Sam Caputo, Will Williams, Theodore Pietowski, alias Tub, alias Friday, Kenneth H. Steed, alias Harry K. Steed, E. J. Parpontsi, Otis Cesar, Erardo Garcia, Nick Woodrich, Lewis Simonelli, John Bell, Sam Parnelli, alias Priorrello, Harold Rink, Paul Woodward, Ivan Bartalic, Steve Miku, John Zgurich, and Chester Dewitt), immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights or privileges, in the manner provided in the section in the Board's decision entitled "The remedy"; and place those employees for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in said manner, offer them employment as it becomes available;

(g) Make whole all the employees referred to in paragraph 2 (f) above for any losses they may have suffered or may suffer by reason of any refusal of reinstatement or placement upon the preferential list, required by paragraph 2 (f) of the order of the National Labor Relations Board dated October 18, 1938, and for any losses they may suffer by reason of any refusal of reinstatement or placement upon the preferential list, required by paragraph 2 (f) above, by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during the period from five (5) days after the date of any application for reinstatement made subsequent to the order of the National Labor Relations Board dated October 18, 1938, to the date of offer of reinstatement or placement upon the preferential list, less the amount, if any, which each, respectively, earned during said period, deducting, however, from the amounts otherwise due to each of the said employees, monies received by said employees during said period for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, or municipal or other government or governments which supplied the funds for said work relief projects;

(h) Post immediately in conspicuous places in its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland districts and maintain for a period of at least sixty (60) consecutive days, notices to its employees stating that the petitioner will cease and desist in the manner aforesaid and that recognition is withdrawn from the labor organizations named in paragraph 2 (a) above as representatives of any of the employees for the purpose of dealing with the petitioner concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, and that the foregoing labor organizations are completely disestablished as such representatives;

(i) Notify the National Labor Relations Board in writing what steps the petitioner has taken to comply herewith.

Entered this second day of January, 1940.

John Biggs, Jr.,
Circuit Judge.
Albert B. Maris,
Circuit Judge.
William Clark,
Circuit Judge.

(Endorsements—Decree Received & Filed Jan. 2, 1940 Wm. P. Rowland, Clerk.)

CLERK'S CERTIFICATE.

UNITED STATES OF AMERICA,
EASTERN DISTRICT OF PENNSYLVANIA, } *Sct.:*
THIRD JUDICIAL CIRCUIT,

I, W. P. ROWLAND, clerk of the United States Circuit Court of Appeals for the Third Circuit, DO HEREBY CERTIFY the foregoing to be a true and faithful copy of the original transcript of record (Volume VIII) and proceedings in this court in the case of Republic Steel Corporation, et al., Petitioners, v. National Labor Relations Board, et al., Respondents, No. 6907, on file, now remaining among the records of the said court, in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of the said court, at Philadelphia, this nineteenth day of January, in the year of our Lord one thousand nine hundred and forty, and of the Independence of the United States the one hundred and sixty-fourth.

(Seal)

WM. P. ROWLAND,
Clerk of the U. S. Circuit Court of Appeals, Third Circuit.

SUPREME COURT OF THE UNITED STATES

ORDER ALOWING CERTIORARI—May 20, 1940

On Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Third Circuit

A motion for leave to file a petition for rehearing and petition for rehearing having been submitted in this case;

Upon consideration thereof, it is ordered by this Court that the motion for leave to file and petition for rehearing be, and the same are hereby, granted.

And it is further ordered that the order denying certiorari, dated April 8, 1940, be, and the same is hereby, vacated; and that the petition for writ of certiorari herein be, and the same is hereby, granted, limited to the fourth question therein presented, which relates to the work relief provisions of the decree below: provided that this order shall not operate to suspend the remaining provisions of the decree.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

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CHARLES ELMORE CROPLEY
CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1939.

No. [redacted] 14

REPUBLIC STEEL CORPORATION,
Petitioner,

CENTRAL COUNCIL OF STEEL PLANTS, NORTHERN DISTRICT, REPUBLIC STEEL CORPORATION,
Intervening Petitioner,

VS.

NATIONAL LABOR RELATIONS BOARD,
Respondent,

STEEL WORKERS ORGANIZING COMMITTEE,
Intervening Respondent.

PETITION FOR WRIT OF CERTIORARI
To the United States Circuit Court of Appeals for The Third Circuit.

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THE GATES LEGAL PUBLISHING CO., CLEVELAND, OHIO

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  I. The decision of the court below that the alleged unfair labor practices of petitioner caused the strike, and, therefore, justified the general reinstatement of substantially all striking employees with back pay "to effectuate the policies of the Act," (a) does not follow the applicable decisions of this Court requiring that the Board's order be supported by substantial evidence, *N. L. R. B. v. Sands Manufacturing Co.,* 306

U. S. 332; *N. L. R. B. v. Columbian Enameling & Stamping Co.*, 306 U. S. 292; (b) is in conflict with the decision of this Court in *N. L. R. B. v. Sands Manufacturing Co., supra,* and the decision of the Fifth Circuit Court of Appeals in *Peninsular & Occidental S. S. Co. v. N. L. R. B.*, 98 Fed. (2d) 411, in that it depends for its support upon the alleged statements of minor supervisory employees with no authority to determine petitioner's labor policies; and (c) sanctioned the application by the Board of its "background" technique for finding facts in a new way so opposed to the laws and rules of evidence that it should be supervised by this Court 25

II. The decision of the court below as to the legal effect and significance of violence by individual strikers, some of them convicted of crimes, and holding that Congress, when it enacted Section 13 of the Act, 29 U. S. C. A., Section 163, preserving the right to strike, intended to sanction violence by strikers in a labor dispute, and contemplated that the commission of crimes and the use of violence in furtherance of a strike by strikers should not deprive them of the possibility of reinstatement, is in conflict with the decision of this Court in *N. L. R. B. v. Fansteel Metallurgical Corporation,* 306 U. S. 240, and in conflict with the decision of the First Circuit Court of Appeals in *N. L. R. B. v. Bradford Dyeing Association,* 106 Fed. (2d) 119 35

III. The court below erroneously decided an important question of federal law, relating to the construction and application of a federal statute, which has not been, but should be, settled by this Court, when it held that Section 6 of the Norris-LaGuardia Act (29 U. S. C. A., Sec. 106), providing that no member of any association participating in a labor dispute shall be held responsible or liable in any court of the United States for the unlawful acts of individual members except upon clear proof of actual participation in such acts, applied to this case, and prohibited the court below from considering petitioner's contention that strikers could not properly be ordered reinstated generally by the Board to effectuate the policies of the Act, in view of the principles announced by this Court in *N. L. R. B. v. Fansteel Metallurgical Corp., supra,* because they were all members of an illegal combination and conspiracy and, as such, responsible for the acts of violence committed, individually and collectively, in pursuance thereof 42

IV. The court below erroneously decided an important question of federal law, which has not been but should be settled by this Court, when it sustained the Board's order, sections 2(b) (c) and (g), requiring petitioner to reimburse fiscal agencies for work relief projects for payments made by them to strikers and other employees for services actually performed on so-called work relief projects, which order is beyond the Board's jurisdiction, or, at least, an abuse of its discretion and punitive in character, and deprives petitioner of its property without due process of law 44

V. The decision of the court below requiring petitioner to make whole certain of its employees at its Canton tin plate mill and Massillon works plants who were found to have been locked out for a short time but who were re-employed prior to the strike and the Board's hearing, for the pay lost during such alleged lockouts, when the Board and the court below did not, and could not, reinstate such employees in connection with this pay back order, is in conflict with the decision of the Ninth Circuit Court of Appeals in *N. L. R. B. v. Carlisle Lumber Co.,* 99 Fed. (2d) 533; and such holding of the court below is also in conflict with the decision of this Court in *N. L. R. B. v. Sands Manufacturing Co.,* 306 U. S. 332, in that it depends for its support upon alleged statements by petitioner's minor supervisory employees, not authorized to determine its labor policies, and, therefore, not substantial evidence 48

VI. The court below erroneously decided an important question of Federal law, which has not been, but should be, settled by this Court, when it approved and enforced Section 2(f) of the Board's order by which petitioner is required to reinstate strikers in certain of its plants in Ohio, and at Monroe, Michigan and at Pittsburgh and Beaver Falls, Pennsylvania, located in some instances as much as approximately 130 miles apart, and at new plants of petitioner acquired since the date of the hearing, *regardless of their place of former employment* 51

VII. The decision of the court below, holding that certain employees of petitioner who were not named in the charges filed by the Board could be ordered reinstated, with back pay, and finding that the strike was caused by unfair labor practices other than those alleged in the charges as causes of the strike, is in conflict with the decision of the Second Circuit Court of Appeals in *N. L. R. B. v. Hopwood Retinning Company, Inc.,* 98 Fed. (2d) 97 53

VIII. The court below decided an important question of Federal law which as not been, but should be, settled by this Court, when it upheld the Board's finding that petitioner had committed unfair labor practices as defined by Section 8 (3) of the Act when it discharged and refused to reinstate twenty-six of its former employees, notwithstanding that there was no evidence tending to show that such acts actually discouraged membership in a labor organization by either causing employees to withdraw therefrom or to refrain from joining it 54

IX. The decree of the court below, enforcing the Board's order notwithstanding petitioner was never afforded a hearing as to the charges made against it in the complaint, denies petitioner due process of law, and is in conflict with the decision of this Court in *Morgan v. U. S.*, 304 U. S. 1 ... 56

X. The court below, in holding that the Board, in ordering petitioner to cease recognition of certain independent unions, need not consider evidence that thousands of employees joined these unions of their own free will and were not influenced, in so doing, by anything that petitioner or its officers or agents said or did, decided an important question of law arising under the Act which has not been, but should be, settled by this Court 58

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* See Appendix, pp. 60-67, for pertinent Sections quoted in full.

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In the Supreme Court of the United States

OCTOBER TERM, 1939.

No. ....

REPUBLIC STEEL CORPORATION,
Petitioner,
CENTRAL COUNCIL OF STEEL PLANTS, NORTHERN DISTRICT, REPUBLIC STEEL CORPORATION,
Intervening Petitioner,
vs.
NATIONAL LABOR RELATIONS BOARD,
Respondent,
STEEL WORKERS ORGANIZING COMMITTEE,
Intervening Respondent.

PETITION FOR WRIT OF CERTIORARI
To the United States Circuit Court of Appeals for The Third Circuit.

Republic Steel Corporation prays that a writ of certiorari issue to review the decree of the United States Circuit Court of Appeals for the Third Circuit entered on January 2, 1940, granting the petition of the respondent, National Labor Relations Board (herein the Board), for the enforcement of its order against petitioner, Republic Steel Corporation.

OPINIONS BELOW.

The findings of fact, conclusion of law, and order of the National Labor Relations Board (R. II, 833-1109)* are reported in 9 NLRB 219. The opinion of the Circuit

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* Roman and arabic numerals in parenthesis refer to volume and page, respectively, of the record, throughout.

Court of Appeals (R. VIII, 6277) is reported in *Republic Steel Corporation et al. v. N. L. R. B.,* 107 Fed. (2d) 472.

JURISDICTION.

The decree of the Circuit Court of Appeals was entered January 2, 1940 (R. VIII, 6294). The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925, Title 28 U. S. C. A., Section 347, and Sections 10 (e) and (f) of the National Labor Relations Act, Title 29 U. S. C. A., Section 160.

QUESTIONS PRESENTED.

1. Whether the court below erred in enforcing the order of the Board requiring a general and indiscriminate reinstatement of practically all of petitioner's striking employees, when such order was predicated upon a finding that a strike at petitioner's plants involved herein was caused by petitioner's unfair labor practices, notwithstanding that such finding was based upon a clearly unwarranted application of the Board's method of "background" approach; was not supported by any substantial evidence, but depended for its support upon the statements of minor supervisory employees with no authority to determine or announce petitioner's labor policy; and despite the fact that the undisputed evidence disclosed that the sole cause of the strike was petitioner's concededly lawful refusal to sign a written collective bargaining contract presented to it by the Steel Workers Organizing Committee (herein SWOC) as a step in the drive of the Committee for Industrial Organization (herein CIO), to organize the nation's steel industry.

2. Whether, as was held by the court below,

(a) Congress, when it enacted Section 13 of the National Labor Relations Act (herein the Act), providing that nothing therein should be construed so as to interfere with or impede or diminish the right to strike, contemplated that strikers might, in furtherance of the strike, commit violent and unlawful acts against their employer and other employees and still be eligible for reinstatement, *thus sanctioning the use of violence by strikers in a labor dispute;**

(b) under the Act, strikers actually convicted of crimes committed in furtherance of the strike, were, nevertheless, eligible for reinstatement;

(c) the rule laid down by this Court in *N. L. R. B. vs. Fansteel Metallurgical Corporation,* 306 U. S. 240, sanctions, in principle, the proposition that strikers may, in furtherance of a strike, commit violent and unlawful acts against their employer and other employees, and still be eligible for reinstatement;

(d) in determining which strikers should be denied reinstatement, due to their own misconduct, the Board could properly confine itself to a consideration of evidence disclosing the actual conviction of strikers of crimes committed in furtherance of the strike, and refuse to consider evidence of numerous violent and unlawful acts, committed by strikers in furtherance of the strike, not made the subject of criminal proceedings;

(e) in determining if it will effectuate the policies of the Act to order a general and indiscriminate reinstatement of strikers, the Board and the court below could disregard evidence that such strikers, as a group, generally and collectively, were parties to a combination and conspiracy to paralyze petitioner's business by violent and unlawful means and committed violent and unlawful acts in furtherance thereof.

3. Whether, as was held by the court below, Section 6 of the Norris-LaGuardia *"anti-injunction"* Act (29 U. S. C. A. Sec. 106) applies to a proceeding before the Board,

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* Emphasis throughout is ours unless otherwise indicated.

and an enforcement proceeding in the Court of Appeals, and prohibits the Board and the Court, in determining whether or not to reinstate strikers, from considering evidence, that strikers were all parties to an unlawful conspiracy to paralyze petitioner's business by violent and unlawful acts, and from considering petitioner's contention that all members of such illegal conspiracy were responsible for the unlawful acts committed in pursuance thereof whether or not they participated therein.

4. Whether, as was held by the court below, the Board, having ordered deduction from back pay of amounts paid by governmental work relief projects to strikers and certain other employees discharged by petitioner, for services actually performed by them on such projects, had jurisdiction to order petitioner, as it did, to reimburse such governmental work relief projects for the moneys so paid to such strikers and discharged employees.

5. Whether, as was held by the court below, the Board had jurisdiction to award back pay to certain of petitioner's employees, when in fact the Board and the court below did not and could not reinstate such employees in connection with said back pay order.

6. Whether, as was held by the court below, the Board properly required petitioner to make whole certain employees at its Canton Tin Plate and Massillon Works plants who were found by the Board to have been locked out for a few days, but who were reemployed prior to the strike and the hearing herein, for the pay lost during the period of such alleged lockouts, notwithstanding the Board's finding in this respect was not supported by any competent substantial evidence, but depended upon alleged statements by minor supervisory employees as to petitioner's policy dictating the shut-downs.

7. Whether, as was held by the court below, the Board had jurisdiction and discretion to order petitioner to offer

jobs to strikers in plants at which such strikers never were employed, some of which plants never came into existence until after the strike, and some of which plants, located in other states, were in no wise involved in the proceeding before the Board, thus granting to strikers rights greater than those possessed by non-striking employees.

8. Whether, as was held by the court below, the Board had jurisdiction to make an order requiring petitioner to reinstate a large and numerous group of strikers based upon a finding that the strike was caused, in part, by a long series of unfair labor practices by petitioner, notwithstanding that the charges filed with the Board, upon which the complaint herein is based, do not allege that such unfair labor practices were causes of the strike.

9. Whether, as was held by the court below, the Board had jurisdiction to order petitioner to reinstate with back pay certain of its former employees found to have been discriminatorily discharged or refused reinstatement because of their union activities both before and after the strike, notwithstanding that such findings were not supported by substantial evidence; that the charges filed by the Board did not allege that certain of such former employees had been so discharged or refused reinstatement; and that the evidence failed to disclose that the discharge of, or refusal to reinstate, all of such former employees had discouraged membership in a labor organization.

10. Whether petitioner was afforded a hearing in this proceeding as required by law and the Constitution of the United States.

11. Whether, as was held by the court below, the Board properly ordered petitioner to cease and desist from dominating and interfering with alleged company unions, and to withdraw all recognition therefrom, notwithstanding that the Board in determining this issue, failed to give consideration to evidence offered by petitioner that thousands of its employees had joined such unions of their own free will

and without being influenced in that regard by anything that was said or done by petitioner, its officers or agents.

STATUTES INVOLVED.

The pertinent provisions of the National Labor Relations Act and the Norris-La Guardia Act are printed in the appendix to this petition.

STATEMENT.

The petitioner is engaged in the business of manufacturing steel and steel products with plants in Ohio, Michigan, Pennsylvania and elsewhere normally employing approximately 60,000 men. The Labor Board proceeding here involved related only to certain of petitioner's plants located in the State of Ohio normally employing approximately 40,000 men (R. II, 843, 844). Petitioner, in this proceeding, seeks review of an order of the Third Circuit Court of Appeals enforcing, with a slight modification, an order of the National Labor Relations Board, the details of which are discussed hereinafter. The facts are discussed in detail *infra*. To summarize:

As the Board found herein (R. II, 860), SWOC, an affiliate of CIO, began a campaign to organize petitioner's employees in June, 1936. Thereafter, SWOC obtained a written collective bargaining contract with the Carnegie-Illinois Steel Company and other United States Steel Corporation subsidiaries on March 17, 1937. Less than two weeks later, on March 30, 1937, SWOC forwarded a form of contract to petitioner requesting a conference. Subsequently, on May 3, 1937, SWOC repeated this request, and petitioner replied on May 5, 1937, stating that it would meet for collective bargaining purposes but saw no necessity of a signed contract. SWOC replied on May 6, 1937 stating that a conference was useless if any agreement made were not reduced to writing. Nevertheless, a conference was held on May 11th, 1937, at which time negotiations broke down. On May 26th, 1937, an SWOC strike commenced at petitioner's plants involved in this proceeding as well as others of its plants.

This strike, which, together with the strikes against Bethlehem Steel Corporation, Inland Steel Company, and Youngstown Sheet & Tube Company, was greatly publicized in the summer of 1937, was carried on with great violence on the part of SWOC as detailed *infra,* pages 17 *et seq.* Employees remained in some of petitioner's plants and were besieged by armed picket lines, remaining in such plants night and day until the Governor of Ohio issued a proclamation, sent the National Guard into the strike area, and the plants opened under military supervision, on or about June 25 to July 1, 1937.

The complaint in this case was filed during the strike on July 16, 1937.

PROCEDURAL FACTS.

An original and two supplementary charges (R. I, 1, 7, 10) were filed with the Board by SWOC. It is alleged therein that petitioner engaged in unfair labor practices within the meaning of Section 8 (1), (2) and (3) of the Act.

The complaint (R. I, 13) alleges that, before the strike, petitioner discharged certain of its employees at various of its plants because they had assisted SWOC, and locked out its employees at one Canton and one Massillon plant, for the reason that they joined and assisted SWOC and for the purpose of intimidating them to discontinue membership therein, thus engaging in unfair labor practices within the meaning of Section 8(3) of the Act; that, by reason of petitioner's unfair labor practices so described, and because of its refusal to enter into a written agreement with SWOC, the employees of petitioner, on or about May 26, 1937, went out on strike; that petitioner engaged in unfair labor practices in that it discharged and failed to reinstate, after the strike, because of their union activities, certain employees at its Warren and Youngstown plants; dominated and interfered with the formation and administration of certain labor organizations at its various plants; and committed certain other alleged unfair labor practices.

The answer of petitioner (R. I, 26) denies that the strike was caused by the acts alleged in the complaint, averring that it was called by SWOC without justification, and that there was no labor dispute between petitioner and its employees and no differences as to wages, hours or working conditions; denies the allegations of unfair labor practices by petitioner, and asks that the complaint be dismissed for various reasons.

The hearing was begun on July 21, 1937, before the Board itself, in Washington, and continued until September 27, 1937, before a trial examiner, in Ohio. No intermediate report was filed by the trial examiner. On April 8, 1938, more than six months after the hearings had been concluded, the Board, without any notice to petitioner, issued its final decision and order against petitioner (R. I, 59). Petitioner filed in the court below (No. 6764) its petition to review and set aside this order of the Board. The Board, apparently induced by the decision of this Court in *Morgan v. U. S.,* 304 U. S. 1, attempted to withdraw its original order for further proceedings, and a rule was issued by the court below (Buffington, Davis and Thompson, *JJ.*) requiring the Board to file with it its transcript of the proceedings before it. This Court in *In re N. L. R. B.,* 304 U. S. 486, permitted the Board to withdraw its order, and petitioner's original proceedings for review were dismissed by the court below. The proceedings in No. 6764 are in the record herein by stipulation (R. VIII, 6273) and printed in a separate volume filed herein.

On July 8, 1938, the Board issued a so-called proposed decision and order, which was substantially the same as that of April 8, 1938 (R. I, 323, 324), to which both petitioner (R. I, 580) and SWOC (R. I, 780) filed exceptions and briefs in support thereof. The petitioner moved on August 6, 1938, that the record be reopened for further proceedings and that it be permitted to introduce additional evidence or, in the alternative, to have incorporated into and made a part of the record detailed offers to prove (R. I, 746). On August 11, 1938, an alleged hearing before the Board was held, at which petitioner and SWOC were represented by counsel, petitioner expressly preserving all of its objections and exceptions to the jurisdiction of the Board, as fully appears in the record (R. I, 782).

On October 18, 1938, the Board issued its decision and order (R. II, 833) now under consideration, substantially identical, except in several respects,* with its original final order and decision of April 8, 1938, and overruled petitioner's motion to reopen the record and for leave to adduce additional evidence (R. II, 1076), incorporating petitioner's offers in the record (R. II, 1085).

The Board's order requires petitioner to *cease and desist* from dominating or interfering with the formation or administration of any labor organization of its employees at the Ohio plants involved, or contributing financial or other support thereto; discouraging membership in SWOC and affiliated organizations; and interfering with, restraining or coercing its employees in the exercise of the rights guaranteed to them by Section 7 of the Act.

The order also *affirmatively* requires petitioner to offer, upon their application, with certain minor specifically enumerated exceptions, reinstatement to all of petitioner's employees at its plants in the Canton, Massillon, Youngstown, Warren, Niles and Cleveland districts, who went o strike on May 25, 1937, and thereafter, together with bac pay from five days after failure to reinstate upon application if work is available, according to a method discusse in detail under the reasons for granting certiorari, *infr* page 51; to withdraw recognition from certain labo organizations which, the Board finds, were company dominated unions; to reinstate, with back pay, 26 former employees of petitioner specifically named in the complain as having been discriminated against; to make whole th employees at petitioner's Canton tin plate and Massillo works mills for the losses of pay sustained by them b reason of alleged unlawful lock-outs at these plants befor the strike.

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* e.g. The complaint is dismissed by the Board as to Harry Rigby (R. II, 1109). The preferential list for reinstatement purposes is limited in application to plants located in Ohio, Pennsylvania and Michigan instead of *all* petitioner's plants (R. II, 1095, 1096). Payments received by employees on work relief projects are ordered deducted from back pay awards and paid over to governmental agencies supplying the funds for such projects (R. II, 1106-7-8).

By the Board's order, petitioner is required to pay t fiscal agencies for federal, state, county, municipal or other work relief projects, the amounts paid by them to former employees of petitioner for services actually performed by them on such relief projects, in the event they are not offered reinstatement as above provided and obtain employment from such work relief projects. This is the first case in which such a provision was included in any Board order, although the Board had previously issued hundreds of orders involving back pay. It was not even included in the Board's first order or second proposed order in the case at bar.*

Proceedings in the Circuit Court of Appeals. The court below, upon review, enforced the Board's order in its entirety, except that it excluded from the order of general reinstatement of strikers some, but by no means all, of petitioner's employees who, during and incident to the strike, had been convicted of crimes but were, nevertheless ordered reinstated by the Board; and denied petitioner's petition for leave to adduce additional evidence (R. VIII, 6294).

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* Examination of Volumes I through IX of the Board's official reports (up to November 30, 1938) discloses that this provision had never been included in any order prior to that made in the case at bar.

EVIDENTIAL FACTS AND HOLDINGS OF COURT BELOW.

The cause of the strike. Sections 2(f) and 2(g) of the lower court's decree require petitioner to reinstate, upon application since October 18, 1938, the date of the Board's last order, and in the future, with back pay if the applications were or are refused, practically all of its striking employees (R. VIII, 6297, 6298) This portion of the order applies to a large group of strikers and may involve the payment by petitioner of a substantial sum of money.

The Board and the court below both held that these sections of the order can be sustained and these strikers legally reinstated only if it is established by the evidence that the strike was caused by petitioner's unfair labor practices (R. II, 1083; VIII, 6286), and both held, also, that the immediate cause of the strike was, in part at least, the refusal of petitioner to sign a standard form of collective bargaining contract submitted to it for signature by SWOC (R. II, 1074; VIII, 6287).

The petitioner's position is that there is no evidence that petitioner's alleged unfair labor practices caused the strike, but that such evidence as bears on this point discloses that petitioner's refusal to sign a contract, which, as the Board (R. II, 1074) and the court below (R. VIII, 6286) conceded, it was not required by law to sign, was not only the immediate and precipitating cause of the strike, but the sole cause thereof.

The Board found, in its first decision (R. I, 292), second *proposed* decision (R. I, 560), and third decision reviewed by the court below (R. II, 1071, 1072) that, while petitioner's refusal to sign a contract was not, of itself, an unfair labor practice, and was, in part, the immediate cause of the strike, nevertheless the "fundamental cause of the strike and a substantial factor in its precipitation" was petitioner's "campaign to crush the union" by means of its unfair labor practices.

After petitioner was afforded, for the first time, an opportunity to argue this issue, *inter alia,* to the Board upon its exceptions to the proposed decision and order, the Board found, in addition, and for the first time (R. II, 1074, 1083), that the form of contract was presented to petitioner by SWOC for the purpose of making it unnecessary to strike on account of petitioner's unfair labor practices, due to the fact that it contained (standard) provisions against such practices by the employer, and that petitioner claimed that SWOC made no complaint as to hours or wages of petitioner's employees.

The court below held that SWOC sought the signing of the contract presented, "not to raise wages or improve working conditions, for it purported to do neither (although the contract dealt specifically therewith), but solely to put an end to the warfare between the union and Republic," which had resulted from the latter's unfair labor practices; that the clauses of the contract against such practices demonstrated that SWOC sought "a formal declaration by Republic that it would not continue these practices but would recognize and not interfere with the right of its employees to become members of the union"; that "the latter's refusal to sign was but one more indication that it proposed to continue those practices"; that it could not say that petitioner's refusal to sign the contract was the cause of the strike, "even though doubtless its execution would have averted it," and upheld, as being sustained by the evidence, the Board's finding that petitioner's alleged unfair labor practices caused the strike (R. VIII, 6287).

The only direct evidence introduced by the Board as to the cause of the strike, although offered for an entirely different purpose, i.e. as disclosing petitioner's unfriendly attitude towards SWOC, is a written statement by petitioner issued about two weeks before the strike (Board's Ex. 97, of. R. IV, 2818, pr. R. VII, 5715*), wherein, in describing negotiations between it and SWOC, it, among other things, said: "The CIO made no complaint relative to wages or hours of Republic employees. *In spite of this, the union demanded that the company sign their contract. This is the only matter at issue,* and the company at its May 11th, 1937 meeting informed the CIO representatives that it still believed it inadvisable to sign such a contract."

The Board introduced no evidence (and none appears in the record) as to any strike vote at any of petitioner's plants, nor of any action at meetings of SWOC or its officers, or instructions by them to the local unions as to calling the strike, disclosing its cause or purpose, although SWOC filed the charges upon which the complaint was based.

The petitioner, at the hearing, offered in evidence, *over the objection of counsel for the Board,* the proposed collective bargaining contract itself, the letter from SWOC to petitioner enclosing it, and the telegraphic correspondence concerning it between petitioner and SWOC (R. VII, 5131), all of which were admitted in evidence. This disclosed that on March 30, 1937, SWOC forwarded a form of contract (Pet. Ex. 63, of. R. VII, 5132; pr. R. VIII, 6151) to petitioner, accompanied by a letter suggesting a conference (Pet. Ex. 62, of. R. VII, 5132; pr. R. VIII, 6149); that on May 3, 1937, SWOC wired petitioner demanding a "conference to negotiate written contract" (Pet. Ex. 59, of. R. VII, 5131; pr. R. VIII, 6146); that on May 5, 1937, petitioner replied that "in view of Wagner Act see no necessity for signed contract" but would meet SWOC "at any time mutually convenient for collective bargaining purposes"

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* For brevity, "offered in the record" and "printed in the record" are designated "of." and "pr." throughout.

(Pet. Ex. 60, of R. VII, 5131; pr. R. VIII, 6147); that SWOC replied on May 6, 1937, stating that if petitioner proposed that the parties "commit provisions verbally agreed upon to memory" the proposed conference was a "futile waste of time" (Pet. Ex. 61, of. R. VII, 5131; pr. R. VIII, 6148). As the Board found (R. II, 875, 880) one conference was held on May 11, 1937, at which negotiations broke down. The only evidence as to what took place at this conference is Board's Exhibit 97, *supra*. The contract submitted was described by SWOC to petitioner as its "standard form of collective bargaining contract" (Pet. Ex. 59), "identical" in its "principal features" with those signed by "Carnegie Illinois Steel Corporation and other United States Steel Corporation subsidiaries" (Pet. Ex. 62) on March 17, 1937 (R. II, 868), (thirteen days before submission thereof to petitioner, and described by the Board as "an event of historic importance in the steel industry" (R. II, 868)), and "approximately one hundred other companies" (Pet. Ex. 61). There is no reference or intimation whatsoever in the contract or correspondence to petitioner's alleged unfair labor practices.

The record affirmatively discloses that the strike at petitioner's plants was a part of a general strike against "little steel," including petitioner, Bethlehem Steel Corporation, Youngstown Sheet & Tube Company and Inland Steel Company (Board's Ex. 99; of. R. IV, 2818, pr. R. VII, 5723, 5728, 5749), supporting the inference arising from the proximity of the dates of signing by "big steel" and submission of the contract to "little steel," that refusal to sign the contract was the sole cause of the strike.

The "campaign to crush the union," the basis of the Board's finding on this phase of the case, was found by the Board to consist of the following: (1) Every unfair labor practice which the Board found petitioner had committed from the time it issued its statement of policy in July, 1936 (Board's Ex. 104, of. R. IV, 2854; pr. R. VII, 5776) up to May 3, 1937, when SWOC opened negotiations (R. II, 1071, 1072), specifically, (a) shadowing of union organizers, (b) attacks upon organizers by petitioner's police, (c) threatening, (d) laying off and discharge, of employees for union activities, (e) fostering of a series of puppet labor organizations, and (f) vilification of the union by petitioner's chairman and president; (2) "The manner and expression" of petitioner's *"refusal to deal* with the SWOC" (a) by issuing its statement of policy in July, 1936, *supra,* (which declared for the "open shop" principle, but did not refer to collective bargaining with SWOC); (b) statements by foremen and minor superintendents that petitioner would not sign any contract with CIO (Cf. *N. L. R. B. v. Sands Manufacturing Company, infra*); and (c) petitioner's statement that it saw no necessity for a signed contract (although it offered to bargain collectively); and (3) alleged lockouts at its Canton Tin Plate Mill and Massillon Works (although both of these mills resumed operations at least two days before the strike commenced, see *infra,* pages 22, 23), and attempts to obtain membership for alleged puppet unions after the breakdown of negotiations with SWOC on May 11, 1937.

Obviously, extended discussion of this "campaign" is impossible. The statement of the facts as to subdivisions (2) and (3) sufficiently indicates, we believe, their apparent lack of importance in causing the strike. As to subdivision (1), the record discloses (a) testimony as to the shadowing of two union organizers in the Canton and Massillon district identified only by their hearsay admissions to a deputy sheriff as petitioner's company police (R. II, 1592), one organizer at Youngstown who was not bothered thereby (R. III, 2049) and certain employees and organizers at Cleveland; (b) testimony as to three incidents at Cleveland, in the first of which an organizer was hit by an unidentified man seen two weeks later in company police uniform (R. IV, 2548-51, 2570), in the second of which a union organizer and an unidentified employee engaged in a fight stopped by a company policeman (R. IV, 2550, 2580), and in the third of which an organizer was beaten by a man identified as a company policeman at a place off petitioner's premises where the witness could not see into the plant, more than a month before the strike (R. IV, 2594-2597); (c) testimony as to sporadic statements made to individual employees by minor supervisory employees (R. III, 1789), (III, 1938), (III, 1911), (III, 1916), (III, 1712-1714), (III, 1687), (III, 1791-1793), (III, 2198), (III, 2209), (III, 2185), (III, 2173-2175), (III, 2416-2426), (IV, 2728), (IV, 2662), examination of which shows that, according to the Board's witnesses, most were made in the course of warnings against union organization *on company time and property,* and as to speeches at safety meetings (R. II, 871), (III, 1740), (III, 1763), (III, 1790), (III, 2170; 2187), (III, 2091), (III, 2095; VI, 4754, 4757), (III, 2255-58), (III, 2210-2212); (d) testimony showing discharge or layoff of 18 men (out of 40,172 employed in petitioner's Ohio plants (II, 843)), 7 of whom were found by the Board to have been discharged or laid off in 1936 (II, 983; 1043; 1044; 1045; 1046; 1049; 1051), 4 in January 1937 (II, 1056; 1058; 1059; 1060), 2 in February 1937 (R. II, 996; 1062), 2 in March 1937 (R. II, 1012), 2 in April, 1937 (II, 1001; 1003), and 1 on May 3, 1937 (R. II, 859) over a month before the strike commenced, and of whom 9 of the only 11 whose discharges were alleged by SWOC in the charges as causes of the strike (R. I, 2) were found by the Board to have been reemployed prior to the commencement of the strike (II, 1044; 1045; 1046; 1050; 1057; 1059; 1060; 1061; 1062) and 1 offered reemployment prior thereto (R. II, 1052); (e) testimony and other evidence as to employee representation plans, inaugurated at petitioner's plants in 1933, and independent unions found by the Board to have been fostered and dominated by petitioner; (f) evidence of alleged "vilification" of SWOC consisting only of petitioner's statement of policy of July 2, 1936 (Board's Ex. 104, *supra*), and petitioner's statement to its employees of May 11, 1937 with regard to negotiations with SWOC (Board's Ex. 97, *supra*).

Violence and lawless conduct during the strike by pickets, strikers, etc. The uncontroverted evidence discloses that, *at Massillon* on the night this strike commenced, the entrances to the Massillon works were blocked by cars and one gate wired completely shut (R. IV, 3063-3065); the plant was surrounded by pickets carrying clubs, iron pipes and ball bats (R. IV, 3067; V, 3599); that the next morning, a bus was prevented from discharging employees in the plant (R. IV, 3067); mail trucks were prevented by strikers from entering the Massillon plants (R. II, 1250, 1263); employees were prevented from entering the mill after the start of the strike (R. IV, 3133, 3140) and from entering the main office (R. IV, 3054, 3060, 3100, 3147); telephone wires into the main office of the Massillon works were cut by strikers (R. IV, 3072) who refused to allow petitioner's telephone line to be repaired (R. IV, 3118-3122). The Board found (II, 887, 901) that, according to the city officials at Massillon a controversy lasting several weeks occurred between them and a committee of citizens as to whether or not special police should be appointed, since the city officials felt that special police should not be used to "break the picket lines" and reopen petitioner's plants so that men who desired so to do could return to work. When the men who were besieged in the plant were finally taken out, they were escorted by the Chief of Police to the CIO headquarters (R. II, 1219; R. IV, 3076-3078, 3095), pickets beat up employees (R. II, 1249, 1250); a foreman was kidnapped and searched (R. IV, 3087). *At Canton,* petitioner's plants were completely surrounded by strikers carrying clubs, iron pipes, ball bats or rods on the first night of the strike (R. V, 3608-3611), and this situation continued (R. V, 3611-3614) until an injunction was issued by the state Common Pleas Court (R. V, 3615); employees were prevented from entering the plant on the first day of the strike (R. V, 3766) and those inside the plant did not attempt to leave on account of the "violent picketing" (R. V, 4113), but worked and slept in the plant from May 25 to July 1, as found by the Board (R. II, 992); pamphlets, bearing the union label (Pet. Ex. 18, of. V, 4147, pr. VIII, 6006), were dropped by an airplane inside one of the plants urging the besieged workmen to leave the plant, stating that their safety in leaving the plant would be guaranteed for the next twelve hours, *that after that time their safety would be their own responsibility* (R. V, 4146). Clubs and other weapons taken from the pickets following the granting of the injunction are pictured in Petitioner's Exhibit 8 (R. VIII, 5928½). Employees suspected of participating in a back-to-work movement were kidnapped and terrifically beaten by strikers (R. V, 3937-3943; 3767-3769; 3789-3795; 3796; 3825-3833; 3860-3865; 3868-3872; 3908-3911; 3889-3896; 3769-3776).

Upon exclusion of evidence by the trial examiner,* petitioner presented extensive and detailed offers to prove, which were made a part of the record by the Board, and were considered by the court below as being actually in evidence before it (R. VIII, 6289) relating to violence and lawless conduct by strikers, pickets, etc. in the *Youngstown, Warren, Niles* district (Pet. Ex. 50, of. R. VII, 5082; pr. R. VIII, 6072), and in the *Cleveland* district (Pet. Ex. 64, of. R. VII, 5134; pr. R. VIII, 6157) respectively, similar to, and even worse than, that at Massillon and Canton, described *supra*. The Board's findings (R. II, 897) as well as the record, disclose that various plants of petitioner were not opened for free ingress and egress, due to the strikers' conduct, until the Ohio National Guard was sent into the strike area pursuant to a proclamation of the Governor of Ohio (Pet. Ex. 65, of. R. VIII, 6226; pr. R. VIII, 6227) and order to the Adjutant General of Ohio (Pet. Ex. 66, of. R. VIII, 6226; pr. R. VIII, 6228).

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* Because the Board's counsel had ceased introducing evidence to show that SWOC picketing was "peaceful" after the hearings as to the Canton-Massillon area.

Petitioner urged in the court below that the strikers should not be reinstated generally and indiscriminately because of this general and indiscriminate, violent and unlawful conduct, and also because the record establishes that the strike was illegal in its inception and conduct, its purpose being to prevent petitioner from continuing its business operations until it complied with the strikers' demands and that each striker who was a factor in the combination and conspiracy was responsible for the unlawful acts committed by all other strikers engaged therein. The court below held that it could not consider this proposition because of the provisions of Section 6 of the Norris-La-Guardia "anti-injunction" Act (29 U. S. C. A., Sec. 106) which prohibits United States courts from holding members of a union participating in a labor dispute responsible "for the unlawful acts of individual officers, members or agents, except upon clear proof of actual participation in, or actual authorization of such acts, or ratification of such acts after actual knowledge thereof," the court indicating that this Act applied to this case although this was a special proceeding for the enforcement of the Board's order (R. VIII, 6288).

The court below (R. VIII, 6290) sustained the action of the Board (R. II, 1085) in considering only evidence of *conviction* of individual strikers of "sufficiently serious" *crimes*.

Crimes committed by strikers. The Board in its decision and order (R. II, 1087) finds:

> "An analysis of the convictions and pleas of guilty in all of the respondent's offers to prove, of which we take judicial notice, supplemented by an examination of the criminal dockets of the Municipal Courts of

Massillon, Canton, Niles, and Cleveland, the Courts of Common Pleas of Trumbull, Mahoning, Stark, and Cuyahoga Counties, and the United States District Court for the Northern District of Ohio, Eastern Division, at Cleveland, shows that in Youngstown seven 'members or former members of the C.I.O.' were indicted for the 'possession and use of explosives,' a felony; that three pleaded guilty to the indictment and received sentences of 1 to 20 years in the Ohio penitentiary; that three others who pleaded guilty to the indictment were placed on probation for 5 years; and that one pleaded guilty to 'malicious destruction of property to the value of $300,' a felony, and was fined $300 and costs. It also appears that in Cleveland four 'strikers, pickets, and persons affiliated with the S.W.O.C. and the C.I.O.' were found guilty of 'possession of a bomb,' a felony, and received sentences of 1 to 20 years in the Ohio penitentiary. It further appears that nine 'members of lodges or unions affiliated with the C.I.O. and the S.W.O.C.' pleaded guilty to indictments for 'unlawfully obstructing and retarding the passage of the United States Mail,' a misdemeanor; that six received suspended sentences of 6 months in jail and were placed on probation; that two received sentences of 30 days in jail and costs; and that one received three sentences, to run concurrently, of 60 days in jail and costs. It further appears that 144 'strikers, pickets, individuals, members of, or persons affiliated with, lodges or unions affiliated with the C.I.O. and the S.W.O.C.' entered pleas of guilty to, or were found guilty of, the following offenses:

"Intoxication (a misdemeanor)	1
Intoxication and violation of court order (a misdemeanor)	1
Threatening in a menacing manner (a misdemeanor)	1
Suspicious person (a misdemeanor)	4
Disturbing the peace (a misdemeanor)	4
Disorderly conduct (a misdemeanor)	7
Interference with a police officer (a misdemeanor)	3
Discharging firearms (a misdemeanor)	3

Assault and battery (a misdemeanor)	21
Rioting, assembling together to do an unlawful act (a misdemeanor)	72
Malicious destruction of property (a misdemeanor)	7
Unlawfully interfering etc. with telegraph or telephonic messages (a misdemeanor)	1
Transporting explosives (a misdemeanor)	1
Interfering with and obstructing railway tracks (a felony)	5
Carrying concealed weapons (a felony)	13''

Petitioner's offer to prove additional facts after the hearing (R. I, 47) filed pursuant to the Board's order (R. I, 45) discloses that SWOC paid fines of members of SWOC and CIO convicted of crimes in the Youngstown district totalling $4,711.32 (R. I, 54).

The Board, by its order, required petitioner, ''to effectuate the policies of the Act,'' to reinstate all of the employee members of this group who had committed the crimes specified, with the exception of six who pleaded guilty to the possession and use of explosives, one who pleaded guilty to the malicious destruction of property to the value of $300, and four who were found guilty of possession of a bomb (R. II, 1090). The court below added to this list such Republic employees as were included among

> ''nine persons convicted of unlawfully obstructing and retarding the passage of United States mail, three of discharging firearms, seven of malicious destruction of property to the value of less than $300, one of unlawfully interfering with telegraph or telephone messages, one of transporting explosives, five of interfering with and obstructing railroad tracks, thirteen of carrying concealed weapons, and one of assault and battery 'sufficiently serious' to call for the imposition of a fine of $200 and costs and a suspended sentence of six months'' (R. VIII, 6290, 6291).

The court, however, ordered reinstatement of all other striking Republic employees including twenty instances of conviction of assault and battery and seventy-two of riot.

Alleged Lockouts at the Canton Tin Plate Mill and Massillon Works.

The Canton tin plate mill, employing only 680 men (R. V, 4186), was closed from May 5th until May 24, 1937 (R. II, 987), and reopened two days prior to the strike. The former superintendent of this mill, who was not employed by petitioner at the time he testified (R. V, 4178), testified, without dispute, upon the basis of schedules covering production commencing Monday of each week (R. V, 4185) that no production was scheduled for the weeks commencing May 10th and May 17, 1937, because of a strike at the Canton Stamping & Enameling Company, the largest customer of the tin plate mill, on April 29, 1937, which resulted in that company's refusing delivery of tin plate equivalent to two weeks' production, and, therefore, the plant was shut down gradually when work in process was completed (R. V, 4182-4186).

The only evidence introduced by the Board was that of the vice president of the local SWOC lodge (R. III, 1711), who testified that he called Thomas (assistant superintendent of the tin plate mill (R. III, 1785, 1792)) to ascertain when the mill would resume operation, and that Thomas told him he did not think the mill would start up until they got rid of the union (R. III, 1717).

The Board held (R. II, 988) that petitioner failed to sustain the burden of proving facts in its sole possession that a decrease in orders caused the shut-down by showing the size of the orders of the Canton Stamping & Enameling Company, how long the strike lasted at that plant and the extent to which that strike caused the decrease in orders (although the Board's counsel did not cross examine petitioner's witness on this point). The Board found that the "ostensible business reason" advanced by petitioner's witness was "vitiated" by the statement supposed to have been made by Superintendent Thomas to the vice president of the SWOC local, *supra.*

The Massillon Works plant was partly closed on May 20th and reopened on May 23, 1937 (R. II, 878), three days before the strike commenced.

Petitioner's combustion engineer testified, without contradiction, that the evening of May 20, 1937, it was found necessary to shut down certain units of the plant, because the main generator was in a dangerous condition, but that other departments were unaffected by the shut-down (R. VI, 4253, 4254); that there was a provision for switching from the generator unit to power furnished by the public utility *with a demand charge involved* (R. VI, 4259) and that it was *a matter of expense* to have used the power from the power company instead of shutting down the mill (R. VI, 4259, 4260); that the works were partly shut down while the generator was repaired and opened up again on May 23rd (R. VI, 4254).

The Board did not controvert this evidence, but introduced evidence that two minor superintendents and a foreman had told employees that recognition of the CIO would mean a shut-down of the plant, and the testimony of the president of the SWOC local (who was later indicted for obstructing the United States mails during the strike (R. II, 1313-1314)), that during the three day period of the shut-down his foreman told him that the men would not want to strike when petitioner got through starving them out (R. II, 879).

The Board gave no credence to the engineer's testimony because power from the power company could have been substituted (R. II, 879), but in so doing disregarded his uncontroverted testimony that this would have been a matter involving expense and found that the SWOC local president's testimony "reveals the respondent's motive for the shut-down" (R. II, 879).

The Board ordered petitioner to reimburse employees at these plants for loss of pay during the shut-downs (R. II, 1107). The court below affirmed the Board's findings (R. VIII, 6281) and enforced its order (R. VIII, 6296, 6297).

Union domination. The Board ordered petitioner to withdraw recognition for collective bargaining purposes from certain organizations of its employees which were in existence after the strike, namely, the Independent Association of Republic Employees at Massillon, the Steel Workers Union at Canton, the Independent Federation of Republic Employees at Youngstown, and the Employees Independent Association at Warren (R. II, 1105, 1106). The court below sustained this order (R. VIII, 6283). The trial examiner excluded evidence of approximately 2000 or more witnesses *that they joined the independent union at Massillon of their own free will, and that in so doing they were not influenced by anything said or done by petitioner, or any of its officers or agents* (R. VI, 4337; 4345-46; 4350; 4354-5), an offer of proof being made by petitioner to that effect (R. VI, 4358-4362; 4389-4394). The same ruling and offer to prove were made as to testimony of approximately 2500 witnesses proffered with regard to the independent union at Canton (R. VI, 4364; 4382; 4389; 4392), testimony of 1900 witnesses with regard to that at Youngstown (R. VI, 4726-27; R. VII, 5138), and testimony of approximately 1800 witnesses with regard to that at Warren and Niles (R. VI, 4734; R. VII, 5138). The Board denied petitioner's exceptions to the ruling of the trial examiner in this respect, as well as others (R. II, 838), and its action in this regard was affirmed by the court below.

Discrimination cases. The court below affirmed the Board's findings (R. VIII, 6283), and enforced its order (R. VIII, 6295, 6296) with regard to Sections 2(b) and (c) requiring petitioner to reinstate with back pay eighteen former alleged employees found to have been wrongfully discharged or laid off for union activities before the strike, nine of whom had been reinstated before the strike, and eight employees who were refused reinstatement after the strike.

REASONS FOR GRANTING THE WRIT.

I.

The decision of the court below that the alleged unfair labor practices of petitioner caused the strike, and, therefore, justified the general reinstatement of substantially all striking employees with back pay "to effectuate the policies of the Act," (a) does not follow the applicable decisions of this Court requiring that the Board's order be supported by substantial evidence, N. L. R. B. v. Sands Manufacturing Co., 306 U. S. 332; N. L. R. B. v. Columbian Enameling & Stamping Co., 306 U. S. 292; (b) is in conflict with the decision of this Court in N. L. R. B. v. Sands Manufacturing Co., supra, and the decision of the Fifth Circuit Court of Appeals in Peninsular & Occidental S. S. Co. v. N. L. R. B., 98 Fed. (2d) 411, in that it depends for its support upon the alleged statements of minor supervisory employees with no authority to determine petitioner's labor policies; and (c) sanctions the application by the Board of its "background" technique for finding facts in a new way so opposed to the laws and rules of evidence that it should be supervised by this Court.

The facts, basis of the decision of the court below on this phase of the case, and its significance in relation to the decree, have been discussed *supra,* pages 11 *et seq.*

This Court may well take judicial notice of the notorious fact that CIO and its affiliate, SWOC, initiated a drive to organize the steel industry in 1936, and called a strike against "little steel" in the summer of 1937 because of the refusal of Bethlehem Steel Corporation, Inland Steel Company, Youngstown Sheet & Tube Company, and petitioner to sign written collective bargaining contracts with SWOC. In *In re Inland Steel Company,* 9 N. L. R. B. 783, originally decided by the Board three days before this case, in which the evidence of negotiations substantially paralleled that in the case at bar, the Board recognized that the "great steel strikes of the summer of 1937, of which (Inland's) was a part" were caused by this controversy.* The Seventh Circuit Court of Appeals in *N. L. R. B. v. Inland Steel Company,* — Fed. (2d) —, found that the strike was called "to settle this admittedly legal question" (as to whether such a contract must be signed). Conversely, in the present case, the Board and the court below found that, while refusal to sign the contract presented (apparently identical with that presented to Inland) was one cause of the strike, a fundamental and second proximate cause was petitioner's "campaign to crush the union" and that, indeed, because of the specific provisions in the contract against unfair labor practices, and lack of any specific controversy as to wages, etc., the contract was presented to make it unnecessary for SWOC to strike because of petitioner's prior unfair labor practices, if accepted by petitioner.

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* The Board's finding in that case, pages 794, *et seq.*, shows that the course of the negotiations between Inland and SWOC was substantally similar to that in the case at bar. The Board found, page 796, that "Inland's refusal to enter into a signed agreement broke up the negotiations summarily. *On May 26, 1937,* the SWOC called a strike"; that thereafter *petitioner,* Youngstown Sheet & Tube Company, Inland Steel Company and Bethlehem Steel Company met with the Federal Steel Mediation Board and refused to "recede from the position that they would not enter into any agreement, written or oral, with the SWOC." The Board found (page 801) that "*The great steel strikes of the summer of 1937, of which the strike of the respondent's employees was a part, bear testimony to the fact that negotiation without willingness to enter a signed agreement under such circumstances is regarded by workers as an empty procedure*"; in other words, that these strikes resulted from the refusal of the companies involved to sign such contracts, which were sought because "unions justifiably feel that *full recognition* * * * cannot be obtained if they are denied the type of contractual relationships which characterizes ordinary business dealings." This is a clear finding that the steel strikes of 1937, including petitioner's, were called by SWOC to obtain "full recognition" by means of signed contracts. The original decision in the *Inland* case was issued on April 5, 1938 (page 785), three days *before* the original decision in the case at bar on April 8, 1939 (9 N. L. R. B. 219, 223).

This remarkable disparity in the conclusions announced by the Board in these two cases as to the cause of the SWOC strike against "little steel" in the summer of 1937 alone emphasizes the importance of a review of this phase of this case by this Court.

However, in addition, the Board, in finding that the "campaign to crush the union" was the fundamental and a precipitating cause of the strike, applied its so-called "background" method, which was discussed and criticized by the court in *N. L. R. B. v. Union Pacific Stages, Inc.,* 99 Fed. (2d) 153, 158.

The Board's practice of finding facts showing hostility to unions as a "background," in the light of which, acts of employers relating to discharge of employees or to independent unions have been scrutinized and found unfair, has been sanctioned, *Agwilines, Inc. v. N. L. R. B.,* 87 F. (2d) 146, 151.* However, such evidence has been regarded as insufficient, in itself, to support findings of unfair labor practices in the absence of some direct and definite evidence. Cf. *Cupples Co. Mfgrs. v. N. L. R. B.,* 106 Fed. (2d) 100, 114; *N. L. R. B. v. Empire Furniture Corp.,* 107 Fed. (2d) 92.

Here, the Board predicated its finding upon an invalid inference based upon the "background" alone, and not upon direct and definite evidence as to the cause of the strike considered in the light of the background.

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* The "background" method followed by the Board probably had its inception in the statement of this Court in *Texas & N. O. R. Co. v. Brotherhood Ry. & S. S. Clerks,* 281 U. S. 547, 559, that "motive is a persuasive interpreter of equivocal conduct, and the petitioners are not entitled to complain because their activities were viewed in the light of manifest interest and purpose." This is suggested in an interesting article in 7 *George Washington Law Review* 797, and corroborated by the reference to the Brotherhood case in *Agwilines, Inc. v. N. L. R. B., supra* at page 153. If so, the importance of supervision by this Court of the use of the "background" method obviously is of public importance.

The Board made specific findings as to the "Background of the strike; * * *" at Massillon, Ohio (R. II, 860) and concluded generally that the fundamental cause of the strike and a substantial factor in its precipitation "was the long series of unfair labor practices which occurred prior to the strike as set forth in Section III above" (R. II, 1075), entitled "The Unfair Labor Practices" (R. II, 845), which covers 226 pages of the record (R. II, 845-1071).*

Since there was no direct evidence as to the cause of the strike, such as testimony by union officials or minutes of union action, *the Board necessarily based its finding in this respect upon the hypothesis that, since there was a "campaign to crush the union," the strike must have resulted from it.* This is indicated by the Board's finding that the "campaign" underlay and *"made inevitable the strike"* and that "faced with this illegal and provocative conduct the union called the strike, * * * because in fact *no other course remained open to it"* (R. II, 1074). Clearly, there is no basis for this finding. For instance, an appeal to the Board to put an end to petitioner's alleged "campaign," another course open to SWOC, was no less inevitable, and more in consonance with public policy. *N. L. R. B. v. Fansteel Metallurgical Corporation, supra.* Therefore, assuming that the evidence was consistent with the Board's hypothesis that the "campaign" caused the strike, it was not inconsistent with the contrary hypothesis, and supported neither; *Gunning v. Cooley,* 281 U. S. 90, 94; *Stevens v. The White City,* 285 U. S. 195, 204; *Appalachian Electric Power Co. v. N. L. R. B.,* 93 Fed. (2d) 985, 989.

The Board thus used its "background" method in a new and clearly unwarranted manner.

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* 99 pages of III (R. II, 881-980) are devoted to a discussion of the so-called Massillon riot during the strike, which has no bearing on this phase of the case.

The Board and the court below indulged in further unwarranted speculation and conjecture when they held that the (standard) form of contract was presented to petitioner by SWOC merely for the purpose of making it unnecessary for SWOC to strike because of petitioner's unfair labor practices due to the fact that it contained a (standard) provision against such practices. In the absence of direct evidence, it was inferred that this *must* have been the purpose of presenting the contract because there was no dispute as to wages, hours or conditions of labor. This inference is based upon the unsupported assumption that no union will ever seek recognition by the signing of a written collective bargaining contract by the employer in the absence of a controversy as to wages, hours and conditions of labor or some specific reason other than "recognition" itself. This assumption is clearly opposed to the Board's own assertions.* If the premise of the Board and the court below is accepted, it must be assumed that SWOC was settling specific grievances as to wages, hours or conditions of work, or making it unnecessary for the union to call a strike on account of specific unfair labor practices, when it signed its standard form of "collective bargaining contract" with each of the one hundred companies to which it referred in its correspondence with petitioner.**

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* The Board, itself, stated in *In re St. Joseph Stockyards Company,* 2 N. L. R. B. 39, that "* * * the main objective of organized labor for long has been the collective agreement and the history of organization and collective bargaining may be written in terms of the constant striving for union recognition through agreement. In many cases employees have left their employment *and struck solely because of the employer's refusal to enter into a collective agreement.*" In *In re Inland Steel Company, supra,* as previously seen, the Board recognized that the strikes against "little steel" in 1937 were for "full recognition" by means of signed written collective bargaining contracts.

** This assumption is disproved by the Board's own finding in *Matter of Inland Steel Company, supra,* that when SWOC presented the same form of contract to Inland Steel Co. that company stated

(Continued on page 30)

We trust that, in view of the substitution by the Board of speculation and conjecture for evidence which it was within its power to produce from SWOC, the charging party herein, if it existed, this Court will exercise its discretion to grant certiorari in this case, not only for the purpose of restricting the Board to a proper method of procedure in deciding an oft recurring question of great practical importance, but also in order to remedy an obviously erroneous decision herein.

The record demonstrates that, in the absence of direct evidence by SWOC as to why the strike was called, the only valid inference from the evidence in the record is that the sole cause of the strike was petitioner's refusal to sign the contract.

The discussion of the facts as to the negotiations between SWOC and petitioner, *supra,* pages 13 *et seq.,* discloses that SWOC, inspired by its success in obtaining "full recognition" from the United States Steel Corporation, presented its identical form of written collective bargaining contract to petitioner, unaccompanied by any complaints or ultimatums with regard to any prior "campaign" of petitioner to crush SWOC by unfair labor practices or mention of specific provisions against unfair labor practices contained in the contract, and stated that further negotiations were useless if petitioner refused to embody any agreement reached in a signed contract. This is the only evidence of any demand made upon petitioner by

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(Continued from page 29)

that it "saw no reason for signing an agreement, alleging that the respondent's wages and hours were already equal to those in effect at Carnegie-Illinois" (p. 795), that "there was little discussion of the terms" thereof, and that Inland's "refusal to enter into a signed agreement broke up the negotiations summarily" (p. 796), (indicating no effort by SWOC to settle specific controversies as to wages, hours, etc.); and its failure to find that the contract was presented for the purpose of making it unnecessary for SWOC to strike on account of specific unfair labor practices committed by Inland.

SWOC prior to the strike, refusal of which might result in a strike.

The only reference in this whole correspondence to anything other than a signed collective bargaining contract was SWOC's statement in its first telegram dated *May 3, 1937* requesting a conference (Petitioner's Exhibit 59) that "widespread unrest employees your company various mills prevails over uncertainty your position regarding signed collective bargaining contract Stop *This unrest accentuated result layoff several hundred union members your Canton and Massillon Works.*" This telegram, sent on May 3rd, 1937, as the Board found (R. II, 873) could not have referred to the subsequent shutdowns of the Canton Tin Plate Mill and Massillon Works, found by the Board to have occurred on May 5th, 1937 (R. II, 987) and May 20th, 1937 (R. II, 878). Yet the charges filed by SWOC, alleging certain discharges as causes of the strike (R. I, 2), referred in this connection to no one from Canton, and to only one man at Massillon, Mayer, charged to have been discharged on May 25, 1937, long after this telegram was sent. These facts lead to the necessary conclusion that this makeweight was pure fiction and could not have indicated another cause of the strike.

In view of the foregoing state of the record, and the Board's concession that refusal to sign the contract was not an unfair labor practice, the Board necessarily based Sections 2 (f) and (g) on its finding that petitioner's "campaign to crush the union" was the underlying and a precipitating cause of the strike. The discussion of the facts as to this "campaign," *supra,* pages 15 *et seq.,* shows, we believe, without further comment that, even if these alleged unfair labor practices took place, they preceded so far in time the date of the strike and were so sporadic in nature that it is impossible to believe that they could have constituted, without any attempt by the union at adjustment, a substantial cause for calling a general strike, the purpose of which was to close down numerous plants of petitioner in which over 40,000 men were employed.

The admission against interest by SWOC in the charges herein that, aside from the contract, the strike was caused by discharges of certain individuals and the shutdown of the Canton Tin Plate Mill (R. I, 2) seems a complete answer to the proposition that the "campaign" was the fundamental cause of the strike. Of the men referred to in these charges, only eleven at Cleveland were found to have been discriminatorily discharged, and of these, nine were found by the Board to have been reemployed, and one offered reemployment, prior to the commencement of the strike, *supra,* page 16. Layoffs of men at Cleveland were not mentioned, of course, in the only reference to layoffs made by SWOC in its negotiations with petitioner, *supra,* page 31. The Canton mill, of course, opened two days before the strike commenced. The incompetent basis of the Board's finding as to this shutdown is discussed *infra.*

In addition the following facts appear in the record without dispute; the complaint herein (R. I, 13, 17), signed by two members of the Board (R. I, 24), contained no reference to the alleged "campaign," the unfair labor practices therein alleged being confined to the alleged discriminatory discharge of certain employees before the strike and alleged lock-outs at two of petitioner's plants (which were reopened before the strike commenced, see *supra,* pages 22, 23); when, at the hearing, petitioner offered in evidence the contract presented to it by SWOC and the correspondence concerning it bearing upon the cause of the strike, counsel for the Board objected thereto upon the ground that they were incompetent, irrelevant and immaterial; there was no finding by the Board that the contract was presented to petitioner so as to obtain from it a declaration that it would put an end to its alleged unfair labor practices in the Board's first final and second proposed decisions, such finding appearing for the first time in the Board's third decision, now under review, after petitioner had attacked the Board's previous finding as to the cause of the strike; the Board offered no direct evidence as to the cause of the strike save a written statement by petitioner issued after its sole conference with SWOC, about two weeks before the strike, declaring in substance that the only matter at issue was petitioner's refusal to sign a contract, *supra,* page 12; the strike against petitioner was a part of a general strike against all of "little steel," including Bethlehem Steel Corporation, Youngstown Sheet & Tube Co., and Inland Steel Co.; there is no reference in the correspondence incident to the presentation of the contract by SWOC to petitioner, or otherwise in the evidence, disclosing or intimating that the union's purpose in having petitioner sign the contract had any reference to the provisions therein contained against commission by petitioner of acts constituting unfair labor practices; on the contrary, SWOC admitted against interest in the charges that, aside from certain discharges and the alleged lock-out at the Canton mill, the strike involved "the demand for *a* written contract" because petitioner "refused to enter into *any* written agreement" with SWOC (R. I, 3).

There is thus created a situation in which there is not only no direct evidence supporting the Board's finding, sustained by the court below, that the strike was caused by petitioner's campaign to crush the union, but all of the evidence supports the conclusion that the sole and proximate cause of the strike was petitioner's refusal to sign a contract, something which it was not compelled by law to do, and which, as both the Board and the court below found, did not constitute an unfair labor practice.

The Board's finding (R. II, 1073, 1074) approved by the court below (R. VIII, 6281), that the strike was precipitated, in large part, by unfair labor practices consisting of an alleged lockout at Canton, accompanied by a "threat" (of the assistant superintendent of this comparatively small mill, *supra,* page 22), that it would not resume operation until "we get rid of the union," and by an alleged lockout at Massillon, accompanied by a "taunt" (of a foreman, *supra,* page 23), that the men would not strike after they were "starved out," is directly in conflict with the decision of this Court in *N. L. R. B. v. Sands Manufacturing Co., supra,* in which this Court held that a superintendent or foreman does not hold "such a position that his statements are evidence of the company's policy."

The decision of the court below conflicts with that of the Fifth Circuit Court of Appeals in *Peninsular & Occidental S. S. Co. v. N. L. R. B.,* 98 Fed. (2d) 411, in which the Board's finding that seamen had been discharged because they had assisted the union "rested mainly on acts and statements attributed to certain inferior ship's officers which indicated opposition" (page 416) to the union. The court, in reversing the Board's order for lack of substantial evidence, said, page 413:

> "There was no evidence at all to show that the officers of the company, *who alone had authority to discharge the crews,* had participated in or ratified said actions of the ship's officers."

The conflict is particularly apparent since in this case SWOC had commenced negotiations on May 3, 1937 with the policy-making officials of petitioner prior to these shutdowns. In the *Peninsular* case Sibley, *J.,* concurring, said page 416:

> "It clearly appears that the decision to discharge all the crews and tie up the ships was made by the Company's officials, as was the decision to reemploy crews and sail them again. *The motives and intentions of the officials who made these decisions are to be attributed to the Company, and not those of ship's officers who had nothing to do with the decisions.*"

It does not appear herein which officials ordered the shutdowns, but it is obvious that an assistant superintendent of the Canton mill and a foreman in the Massillon Works could not have participated in these decisions.

II.

The decision of the court below as to the legal effect and significance of violence by individual strikers, some of them convicted of crimes, and holding that Congress, when it enacted Section 13 of the Act, 29 U. S. C. A., Section 163, preserving the right to strike, intended to sanction violence by strikers in a labor dispute, and contemplated that the commission of crimes and the use of violence in furtherance of a strike by strikers should not deprive them of the possibility of reinstatement, is in conflict with the decision of this Court in N. L. R. B. v. Fansteel Metallurgical Corporation, 306 U. S. 240, and in conflict with the decision of the First Circuit Court of Appeals in N. L. R. B. v. Bradford Dyeing Association, 106 Fed. (2d) 119.

The court below, as pointed out *supra,* page 21, excluded from reinstatement of striking employees required by Section 2 (f) of the order, in addition to those excluded by the Board, such Republic employees as were included within nine persons convicted of obstructing the United States mail, three of discharging firearms, seven of malicious destruction of property valued at less than $300, one of transporting explosives, five of interfering with or obstructing railroad tracks, thirteen of carrying concealed weapons, and one of assault and battery "sufficiently serious" to call for the imposition of a fine of $200 and a suspended sentence of six months; and the court below upheld the action of the Board in limiting its consideration in the respect above stated to strikers actually convicted of crimes. The court below approved the reinstatement of all other employee members of this group, including twenty cases of assault and battery and seventy-two cases of rioting and unlawful assembling (R. VIII, 6290, 6291).

An examination of the decision of the court below discloses that, in dealing with the subject of acts of violence and law violation committed by strikers who were identified and actually convicted of crimes committed during and in furtherance of the strike, the court held (R. VIII, 6288-6291): (a) "Congress when it provided in Sec. 13 of the Act that nothing therein should be construed so as to interfere with or impede or diminish in any way the right to strike" must have contemplated that striking employees might engage in *some acts of violence* and commit *some violations of law* during and in furtherance of the strike and still be eligible to "the possibility of reinstatement"; (b) striking employees may indulge in some degree of physical combat, strike "blows on the picket line" and commit "minor disorders" and still be eligible for reinstatement; (c) the right to strike, as protected by Section 13 of the Act, "would be indeed illusory" if strikers were deprived of the possibility of reinstatement by reason of their having indulged in violence and committed law violations of the character hereinbefore described and disclosed by the record herein; (d) the decision of this Court in the *Fansteel* case, *supra,* impliedly, at least, supports the action of the Board in reinstating with back pay striking employees actually convicted of crimes, including, among others, 20 strikers who pleaded guilty to assault and battery, and 72 who pleaded guilty to rioting and unlawful assembling; (e) the Board properly confined itself to evidence of actual "convictions in the criminal courts" in determining which, if any, strikers should be excluded from the operation of its order of general and indiscriminate reinstatement of strikers.

The holding by the court below that Congress, when it enacted Section 13 of the Act, contemplated that strikers might engage in some acts of violence and commit some violations of law and still be eligible for reinstatement, is, we submit, in direct conflict with the decision of this Court in the *Fansteel* case, *supra*; wherein this Court said, *inter alia,* page 255:

> "We think that the true purpose of Congress is reasonably clear. Congress was intent upon the protection of the right of employees to self-organization and to the selection of representatives of their own choosing for collective bargaining without restraint or coercion. *National Labor Relations Bd. v. Jones & L. Steel Corp., supra.* To assure that protection, the employer is not permitted to discharge his employees because of union activity or agitation for collective bargaining. *Associated Press v. National Labor Relations Bd.,* 301 U. S. 103, *supra. The conduct thus protected is lawful conduct.* Congress also recognized the right to strike,—that the employees could lawfully cease work at their own volition because of the failure of the employer to meet their demands. Section 13 provides that nothing in the Act 'shall be construed so as to interfere with or impede or diminish in any way the right to strike.' But this recognition of 'the right to strike' plainly *contemplates a lawful strike,*—the exercise of the right to quit work.

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Page 257:

> "We repeat that the fundamental policy of the Act is to safeguard the rights of self-organization and collective bargaining, and thus by the promotion of industrial peace to remove obstructions to the free flow of commerce as defined in the Act. *There is not a line in the statute to warrant the conclusion that it is any part of the policies of the Act to encourage employees to resort to force and violence in defiance of the law of the land.* On the contrary, the purpose of the Act is to promote peaceful settlements of disputes by providing legal remedies for the invasion of the employees' rights. Elections may be ordered to decide what representatives are desired by the majority of employees in appropriate units as determined by the Board. To secure the prevention of unfair labor practices by employers, complaints may be filed and heard and orders made. The affirmative action that is au-

> thorized is to make these remedies effective in the redress of the employees' rights, to assure them self-organization and freedom in representation, *not to license them to commit tortious acts or to protect them from the appropriate consequences of unlawful conduct.* We are of the opinion that to provide for the reinstatement or reemployment of employees guilty of the acts which the Board finds to have been committed in this instance would not only not effectuate any policy of the Act but would directly tend to make abortive its plan for peaceable procedure."

We do not believe that this Court intended by its decision in the *Fansteel* case to sanction violence or law violation by strikers committed in furtherance of the strike or as a means of enforcing their demands, nor to sanction, directly or impliedly, some acts of law violation while condemning others. We believe that when this Court said that "recognition of 'the right to strike' plainly contemplates a lawful strike," it did not intend to extend the protection of the Act to a strike characterized, as is that in the case at bar, by acts of assault and battery and rioting actually resulting in convictions of crimes. The court below clearly indicates that "blows on the picket line" and "minor disorders of this nature" should not deprive the striker of the possibility of reinstatement. What kind and character of "blows"? A blow may be a mere aggravated slap, or it may be such a vicious application of physical force as to fell a strong man. Where shall the line be drawn between the blow permissible and the blow prohibited? If certain acts of violence and law violation are, to use the language of the court below, "sufficiently serious" to bar the possibility of reinstatement, while other acts are "sufficiently minor" not to have that effect, again, where shall the line be drawn in this respect? The court below, on this phase of the case, had before it 21 convictions of assault and battery by strikers, pickets, members of SWOC, etc.; it approved the reinstatement in 20 cases and barred reinstatement in one case, "sufficiently serious to call for the imposition of a fine of $200 and costs and a suspended sentence of 6 months''; but is this a safe and practicable method of dealing with this question?

If the decision of the court below on this phase of the case is allowed to stand, will it mean that strikers on the picket line may, with impunity, govern their acts and conduct upon the basis that they may commit some acts of violence and of law violation, engage to some extent in assault and battery and rioting, in the belief that by so doing they will not necessarily be deprived of the possibility of reinstatement?

We respectfully submit that such a doctrine is not only opposed to the law as announced by this Court in the *Fansteel* case and to the law generally governing the conduct of strikers and pickets, but is one which, if not corrected, may lead to consequences, the dangers of which it is difficult to foretell.

It is true that, in the *Fansteel* case, it appeared that the employer discharged the sit-down strikers, while, in the case at bar, it does not appear that any of the strikers were expressly discharged by petitioner. However, the decision of the court in that case was not predicated solely upon the basis that the striking employees were not entitled to reinstatement because they had been properly discharged by their employer, but rested, also, upon the broader ground that, in any event, it would not effectuate the policies of the Act to reinstate employees who had engaged in a sit-down strike, and that such an order was not within the discretion of the Board, it appearing that some of the strikers who had refused reinstatement had theretofore been discharged, while other strikers, who were likewise denied reinstatement, had never been discharged and had participated in the sit-down phase of the strike only to the extent that they aided and abetted the actual ''sit-downers'' by soliciting, procuring and delivering supplies to them.

The action of the court below in upholding the Board in confining its consideration of this phase of the case to strikers actually convicted of crimes is also in conflict with this Court's decision in the *Fansteel* case, wherein it excluded from the right to reinstatement strikers who had not been convicted of crimes although "most of them were eventually fined and given jail sentences for violating the injunction" which the employer had obtained from the state court requiring the men to surrender the premises.

The Board, in making an order of general and indiscriminate reinstatement of strikers without, at least, considering and weighing the evidence offered by petitioner, discussed *supra,* page 17, that these strikers had, generally and collectively, committed violent and unlawful acts of such a character as to make it obvious that their wholesale and blanket reinstatement would not effectuate the policies of the act, and the court below in affirming and enforcing this order, decided the case contrary, not only to the decision of the majority of this Court in the *Fansteel* case, *supra,* but also to the dissenting opinion of Mr. Justice Reed, which requires the Board to weigh the conduct of the parties, necessarily involving consideration of evidence of this nature as bearing on the conduct of the strikers.

The only legal and justifiable basis for this order of general reinstatement of strikers with back pay is that it will effectuate the policies of the Act. Will it have that effect? Will it tend to prevent strikes and labor disputes, or will it defeat and thwart the policies of the Act to require petitioner, the employer, to reinstate this large group of strikers, who, in furtherance of the strike and in an attempt to compel petitioner to sign a contract which, it is unanimously conceded, it was not required by law to sign, committed the acts of violence and law violation disclosed by the record? This Court held to the contrary in the *Fansteel* case, and the decision of the court below in this case is clearly in conflict, in view of the uncontroverted evidence in the record as to the nature of the violent and unlawful conduct here involved, which even under the theory of the court below, was not limited to "blows on the picket line" and acts of "minor violence."

In *N. L. R. B. v. Bradford Dyeing Association, supra,* the First Circuit Court of Appeals held, with regard to two employees, page 124:

> "There is no basis in the Wagner Act (29 U. S. C. A. § 151 *et seq.*) for the Board to compel an employer to take back employees who have voluntarily refused to return to their jobs after being temporarily laid off for cause, *and who have, while laid off, indulged in unlawful acts,* such as attempting to incite their fellow employees to indulge in a 'sit-down strike,' *or any other unlawful acts.* The reinstatement in such case is not a matter of discretion, as the court stated in the *Fansteel* case."

In addition to the holding that, in view of the *Fansteel* case, *any* unlawful acts directed at the employer disqualify employees from reinstatement, it does not appear that these employees were convicted of crimes in this respect. This decision obviously is in conflict with that of the court below in this case.

The public and general importance of a decision by this Court of this phase of the case is too obvious to require comment.

III.

The court below erroneously decided an important question of federal law, relating to the construction and application of a federal statute, which has not been, but should be, settled by this Court, when it held that Section 6 of the Norris-LaGuardia Act (29 U. S. C. A., Sec. 106), providing that no member of any association participating in a labor dispute shall be held responsible or liable in any court of the United States for the unlawful acts of individ-

ual members except upon clear proof of actual participation in such acts, applied to this case, and prohibited the court below from considering petitioner's contention that strikers could not properly be ordered reinstated generally by the Board, to effectuate the policies of the Act, in view of the principles announced by this Court in N. L. R. B. v. Fansteel Metallurgical Corp., supra, because they were all members of an illegal combination and conspiracy and, as such, responsible for the acts of violence committed, individually and collectively, in pursuance thereof.

Petitioner contends that the uncontroverted evidence shows that the strike was illegal in its inception and conduct; that its purpose was to paralyze petitioner's business operations, not by lawful pressure, in the nature of quitting work and peaceful picketing, but by concerted acts of violence directed to preventing ingress to and egress from petitioner's various plants and preventing its employees from going to and from work by means of terrorism and violence; that, under well established principles, all of the union members engaged in this unlawful combination were responsible for the unlawful and violent acts committed in pursuance of the combination, and that, therefore, the Board could not properly reinstate strikers, since this would not "effectuate the policies of the Act" in view of the principles laid down by this Court in *N. L. R. B. v. Fansteel Metallurgical Corp., supra.* The Board refused to determine whether such a general combination existed, and the legal consequences thereof, in view of Section 6 of the Norris-LaGuardia Act (R. II, 1093), although it is expressly applicable only to "courts of the United States" and not administrative tribunals, and confined its consideration to acts of violence by individuals convicted therefor in the criminal courts (R. II, 1085)

The court below, instead of reviewing the Board's ruling that it could not consider this evidence, held that the court, itself, was prohibited from deciding whether or not there was an unlawful combination, and the legal consequences thereof, because the Norris-LaGuardia Act "applies to this proceeding for the enforcement of the Board's order" (R. VIII, 6288).

Petitioner submits that this Court, in this case, should decide whether or not the Norris-LaGuardia Act applies to this proceeding, which, according to the court below (R. VIII, 6288), does not involve private rights, but is one in which a governmental agency makes, and seeks to enforce, its order in the public interest. The Norris-LaGuardia "anti-injunction" Act does not apply, specifically, to proceedings before the Board, and, we believe, was not intended to apply to proceedings, either before the Board or the Circuit Court of Appeals, the purpose of which is to determine whether Board action with regard to strikers will "effectuate the policies of the Act," and not to determine private rights of the strikers or the employer, except incidentally to the main purpose. On the contrary, Section 16 (h) of the National Labor Relations Act, Title 29 U. S. C. A. Section 160 (h) provides that "when * * * *making* and entering a decree enforcing * * * an order of the Board, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by Sections 101 to 115 of this title," (which includes Section 106 of the Norris-LaGuardia Act). This Court held in *Ford Motor Company v. N. L. R. B.,* 305 U. S. 364, that the proceeding before the Circuit Court of Appeals for enforcement of the Board's order is *equitable in nature.* If the Norris-LaGuardia Act is not applicable to the proceedings before the Board, then the Board must apply pertinent non-statutory principles of general law in determining what affirmative action will effectuate the policies of the Act. Certainly, the Court of Appeals must have jurisdiction to determine the legality of the Board's order in this respect.

This statute was enacted for the purpose of dealing with private rights in equitable injunctive, and, perhaps, in legal proceedings, and it is of paramount importance that this Court decide in this case whether it applies in this special administrative proceeding. Here, the Board has made an order of general and indiscriminate reinstatement of strikers; and this being true, evidence of general and indiscriminate violence by strikers should be considered in determining whether such action as is ordered by the Board will actually effectuate the policies of the Act.

IV.

The court below erroneously decided an important question of federal law, which has not been but should be settled by this Court, when it sustained the Board's order, sections 2(b) (c) and (g), requiring petitioner to reimburse fiscal agencies for work relief projects for payments made by them to strikers and other employees for services actually performed on so-called work relief projects, which order is beyond the Board's jurisdiction, or, at least, an abuse of its discretion and punitive in character, and deprives petitioner of its property without due process of law.

By this order, which was made in this case for the first time, petitioner is required to deduct from the amount of money it might ultimately be required to pay to a striker denied reinstatement pursuant to the Board's order, and from amounts it is required to pay a discharged employee, such sums as have been paid to him by a work relief project for work which has actually been performed thereon (such as building roads, bridges, etc.), but petitioner must reimburse the work relief project for the amount it has paid the striker or employee, a process by which, in the last analysis, petitioner is compelled to pay the striker or employee for the work he has performed for another who receives the benefit and advantage of such work for nothing. The court below held that this order was "within the Board's discretion and not unreasonable," citing *N. L. R. B. v. Planters Mfg. Co., Inc.,* 105 Fed. (2d)

750, wherein the court approved, without comment,* a Board order containing such a provision.

This order is not "a means of removing or avoiding the consequences of violation" of the Act, *N. L. R. B. v. Fansteel Metallurgical Corporation, supra,* because payment to the project does not restore the striker's status quo, but merely *improves the project's status.* It will not effectuate the policies of the Act by fostering collective organization or preventing strikes, for, obviously, the striker is not interested in the disposition of moneys deducted from his back pay, and the order is punitive and not remedial in character, and, therefore, beyond the authority of the Board, if enforced only to restrain an employer from causing strikes for fear that this consequence, i.e., reimbursement of work relief projects for moneys paid by them to strikers, will be visited upon him. On the contrary, it will "thwart the purposes of the act." Since WPA cannot furnish work to all applicants, officials seeking to reduce costs of projects naturally will tend to prefer strikers, in view of the possibility of obtaining a return of amounts paid, and this, in turn, will tend to encourage employees to resort to industrial strife for the purpose of settling labor disputes, rather than the peaceable method of resort to the Board. Payments for work performed for relief projects, such, for instance, as WPA, are not merely charitable in their nature but are for work actually performed. As stated in *Block v. Sassaman,* 26 Fed. Sup. 105, 106:

> "* * * While the activities of the Works Progress Administration result in what has been commonly known as 'made work,' the appropriations to sustain the same are not grants for direct relief purposes, but are made for the purpose of furnishing employment to

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* Upon inquiry we were informed by counsel for Planters Mfg. Co. that this point was not raised or argued due to insignificance of the amount involved.

> needy and qualified persons *with the intention that remuneration is to be given to those who render an actual service in their employment.*"

There is no more reason for requiring petitioner to reimburse these former employees than there is for exacting the same requirement as to private employers for whom the strikers may have worked.

If it is suggested by counsel for the Board, as it was in the court below, that the Board had discretion to order payment of back pay without deduction of amounts earned by employees during the period for which the back pay is awarded, and, therefore, the order that amounts received from work relief projects be deducted and paid to such projects by petitioner is of no concern to petitioner, it is clear that petitioner *is* concerned, since the jurisdiction conferred upon the Board is "remedial, not punitive," *N. L. R. B. v. Fansteel Metallurgical Corporation, supra,* and merely extends, in so far as back pay is concerned, to putting the employee in *statu quo.* Therefore, the Board has *necessarily* deducted amounts earned from back pay awarded, not discretionarily, and its order that petitioner pay to projects what it could not require petitioner to pay employees is punitive and beyond its jurisdiction.

The Board's theory in this respect is that "to hold that the losses accruing from the respondent's unfair labor practices must be borne by the government or governments financing the work relief project would not effectuate the purposes of the act" (II, 1096). This does not constitute the necessary positive finding that reimbursement of the project will effectuate the policies of the Act, *which are to foster collective organization, not work relief projects,* and to prevent strikes tending to interfere with interstate commerce. However, it is clear that the Board's theory is faulty because theoretically there is no "loss" to the project. The theory must be based upon the premise that if the employee's work had not ceased as a result of the employer's unfair labor practices he would not have been employed upon the work relief project, in other words, that his work would not have ceased as a result of natural causes other than unfair labor practices. Otherwise, the "loss" resulting from his employment by the project would not be attributable to the employer's unfair labor practices. If the job continued, it must be assumed that some one was employed to take the employee's place who would otherwise have been unemployed and would theoretically have been reemployed by the work relief project. Therefore, the project suffers no "loss" because if it had not employed the employee, it would have employed the person who was employed to take his place. Furthermore, the work relief project does not sustain any "loss" in the amount of wages paid to workers, because the government receives "value" for their work.

The validity of such an order was doubted by the majority of the court, citing 53 *Harvard Law Review* 141, but expressly not decided because not argued, in *N. L. R. B. v. National Casket Co., Inc.*, 107 Fed. (2d) 992, 998. L. Hand, *C.J.*, dissenting, joined "in my brothers' caveat" as to this provision of the order (p. 999).

In so far as this order requires petitioner to pay for work done for the benefit of the agency, for which petitioner did not contract, its enforcement will tend to deprive petitioner of its property without due process of law.

The importance to the public of a final determination of this question by this Court, since the Board's practice here sanctioned by the court below has become standard,* is obvious in these times of labor unrest and widespread unemployment.

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* Examination of bound volumes IX through XII of the official reports of the Board (Oct. 1, 1938 through May 31, 1939), discloses that from Oct. 18, 1938, the date of the Board's order herein, through May 31, 1939 this provision was included in 67 orders.

V.

The decision of the court below requiring petitioner to make whole certain of its employees at its Canton tin plate mill and Massillon works plants who were found to have been locked out for a short time but who were reemployed prior to the strike and the Board's hearing, for the pay lost during such alleged lockouts, when the Board and the court below did not, and could not, reinstate such employees in connection with this pay back order, is in conflict with the decision of the Ninth Circuit Court of Appeals in N. L. R. B. v. Carlisle Lumber Co., 99 Fed. (2d) 533; and such holding of the court below is also in conflict with the decision of this Court in N. L. R. B. v. Sands Manufacturing Co., 306 U. S. 332, in that it depends for its support upon alleged statements by petitioner's minor supervisory employees, not authorized to determine its labor policies, and, therefore, not substantial evidence.

The Board's order, sections 2 (d) and 2 (e), requires petitioner to make whole, by paying them for the time they were without work, certain of its former employees at its Canton tin plate and Massillon works plants, based upon a finding by the Board that petitioner locked out these employees for the purpose of discouraging membership in SWOC. The Canton plant was closed from May 5th until May 24th, 1937 and the Massillon plant from May 20th to May 23rd, 1937, *supra,* pages 22, 23. The strike commenced on May 26th, 1937, and before it was called such employees had returned to work, so that no question of their reinstatement in connection with this back pay order could be presented.

The Board's order was made pursuant to Section 10 (c) of the Act, by which it is empowered to require the employer to take such affirmative action, "including *reinstatement* of employees *with or without back pay* as will effectuate the policies of this Act."

In *N. L. R. B. v. Carlisle Lumber Company,* 99 Fed. (2d) 533, *supra,* the court said at page 537:

> "A more critical examination of the reinstatement provision is required by the contentions of respondent. The statute says that the Board may order 'reinstatement of employees with or without back pay.' *While the act permits the Board to reinstate with or without back pay, it does not, I think, permit an award of back pay without reinstatement, because the back pay provision is connected with and dependent upon the reinstatement provision.* It can be seen from the quoted portion of the committee report, that the provisions were not placed in the act specifically to benefit employees, although they may have such effect, but were designed to insure that an employer would cease unfair labor practices. In other words, I think Congress was dealing with causes of obstructions affecting commerce, and not with the relationship of master and servant as such. For these reasons, I decline to follow *Mooresville Cotton Mills v. National Labor R. Board,* 4 Cir., 94 F. 2d 61, 66. It was there said that back pay might be awarded without reinstatement because it 'would not offend the terms of the act, would do justice to the worker, and would tend to effectuate the policies of the act.' I think such a construction offends the terms of the act, and what would effectuate the policies of the act is a legislative question for the Board, subject only to the constitutional prohibitions applicable to all such administrative agencies. It may be that such an order could be said to 'do justice to the employee,' yet I think that the real purpose of the statute was to deal with obstructions affecting commerce and that such purpose must be controlling in a construction of the act.
>
> "The only apparent basis for a construction which would permit 'back pay' without reinstatement is by considering that such power arises from the Board's power to order a person guilty of unfair labor practices 'to take such affirmative action * * * as will effectuate the policies of this Act' independently of the words omitted from that quotation, which are: 'including reinstatement of employees with or without back pay.'

> *I believe that since 'reinstatement' and 'back pay' were singled out for special treatment, it was intended that the general words were to be limited thereby.'"**

The foregoing quotation shows that Judge Haney, delivering the opinion of the court, announced a decision contrary to the decision of the court in the case at bar enforcing an order for back pay periods with regard to which no reinstatement could be ordered. It is true that Judge Stephens, concurring, stated that he saw no reason in that case to determine this question, page 543, but Judge Wilbur concurred in the order "which has its source *in the majority opinion* herein" (page 544). Under these circumstances the decision of the court in the *Carlisle Lumber Company* case is in conflict with the decision of the Circuit Court of Appeals in the case at bar on this point.

We respectfully submit this Court should, for that reason, consider and decide the question thus presented and put an end to the conflict because, obviously, the question is one of general importance and substance which is sure to arise frequently in cases of this character.**

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* It would seem that if Congress had intended to confer jurisdiction upon the Board to order "back pay" without "reinstatement," it would have so provided. The court in the *Carlisle Lumber Company* case, *supra*, pointed out, page 538, that

> "* * * the bill as originally introduced (S. 2926, 73rd Cong.) provided: 'The order may require such person to cease and desist from such unfair labor practice, *or* to take affirmative action, *or* to pay damages, *or* to reinstate employees * * *.'"

Obviously, reinstatement and payment of damages were disjunctive in the bill as originally drawn. If it had been intended that reinstatement and "back pay," which apparently later took the place of "damages," had been intended to be in the disjunctive, Congress would have enacted the law in its original frame work. The language of the Act must be reversed to read "including back pay with or without reinstatement" to be construed as in the case at bar. This would be judicial legislation, not interpretation.

** The question here raised relates likewise to certain employees found to have been improperly discharged or laid off and who were reinstated and actually at work when the strike was called, who were awarded back pay for the period of the discharge or lay off by Section 2 (c) of the decree (R. VIII, 6296).

It appears from the discussion of the facts, *supra* page 22 *et seq.*, that the finding of the Board, sustained by the court below, that these plants were shut down so as to discourage membership in the union, depends entirely for its support upon alleged statements of petitioner's minor supervisory employees, having no authority whatsoever to determine its labor policies, to the general effect that the plants were shut down to discourage union activities, and is, therefore, in conflict with the decision of this Court in *N. L. R. B. v. Sands Manufacturing Co.*, 306 U. S. 332, wherein this Court held that statements by a foreman and a superintendent did not constitute substantial evidence of the labor policies of the employer therein involved.

VI.

The court below erroneously decided an important question of Federal law, which has not been, but should be, settled by this Court, when it approved and enforced Section 2(f) of the Board's order by which petitioner is required to reinstate strikers in certain of its plants in Ohio, and at Monroe, Michigan and at Pittsburgh and Beaver Falls, Pennsylvania, located, in some instances as much as approximately 130 miles apart, and at new plants of petitioner acquired since the date of the hearing, REGARDLESS OF THEIR PLACE OF FORMER EMPLOYMENT.

Section 2 (f) of the Board's order, enforced by the court below, ordered that reinstatement of the strikers should be effected by reinstating each striker to his former or substantially equivalent position in the plant where he was employed at the time of the strike; that, in the event there were insufficient positions available, all or as many as might be necessary of the new employees hired subsequent to the strike to be dismissed to make positions for the strikers ordered reinstated; that in the event that, after such dismissal of all new employees, insufficient positions remained to reinstate all strikers ordered reinstated, all available positions should be distributed among those ordered reinstated and other employees not so required to be dismissed in accordance with petitioner's usual method of reducing its force without discrimination because of union affiliation and following a system of seniority to such extent as had theretofore been applied in the conduct of petitioner's business. The foregoing provisions were limited in application to the plants where strikers ordered reinstated had been employed prior to the strike. This section of the order then directed that any employees, remaining after such reduction, for whom there were then no available positions, should be placed upon a preferential list prepared in accordance with the principles set forth above, and should thereafter, in accordance with such list, be offered employment in their former or substantially equivalent positions at any of petitioner's plants (including plants acquired since the date of the hearing from petitioner's subsidiaries or otherwise) in Ohio, Monroe, Michigan, and in Pittsburgh and Beaver Falls, Pennsylvania, regardless of their previous place of employment, as such employment becomes available, and before new employees are hired for such work.

The Ohio plants are located within a maximum radius of 70 miles from each other, but the Michigan and Pennsylvania plants included in the Board's order are located approximately 130 miles from some of the Ohio plants.

Ordinarily, an employee laid off at Canton, Ohio, would have no seniority right to be employed at Beaver Falls, Pennsylvania, but must be rehired as a new man, if at all. Under this order, a new seniority for strikers at the Ohio plants involved in this proceeding is created which, in effect, gives strikers seniority, not only at all of petitioner's Ohio plants, but also at the Michigan and Pennsylvania plants covered by the order, and requires petitioner, in filling a vacancy at its Beaver Falls, Pennsylvania, plant, more than 130 miles from Canton, to offer the position to the Canton employee, if he is next in line, before any one else is employed.

The enforcement of this order will not, as was suggested by the Board, tend to remove the consequences of petitioner's alleged violation of the Act by restoring the *status quo,* but it will thwart and obstruct the policies of the Act as a matter of law, by giving to the employee, *as a striker,* greater rights than he would otherwise have had as an employee, *thus putting a premium upon his participation in strikes,* which it is the fundamental policy of the Act to avoid. The court below relied on *N. L. R. B. v. Remington Rand, Inc.,* 94 Fed. (2d) 862, in which, however, a "runaway plant" was involved, reinstatement at which merely restored the employees' *status quo.*

The inequitable and punitive character of this order is further emphasized by the fact that, by its terms, it is made applicable to certain of petitioner's plants which were not in existence at the time the strike occurred. In *N. L. R. B. v. Hearst,* 102 Fed. (2d) 658, the Ninth Circuit Court of Appeals held that "reinstatement means to return to a post previously held" (page 663). Obviously, the order "instates" and does not "reinstate" employees in plants acquired by the petitioner since the date of the hearing.

VII.

The decision of the court below, holding that certain employees of petitioner who were not named in the charges filed by the Board could be ordered reinstated, with back pay, and finding that the strike was caused by unfair labor practices other than those alleged in the charges as causes of the strike, is in conflict with the decision of the Second Circuit Court of Appeals in N. L. R. B. v. Hopwood Retinning Company, Inc., 98 Fed. (2d) 97.

The Board, and the court below, found that certain employees, who were not referred to as having been discriminatorily discharged in the charges, filed by SWOC and upon which the present proceeding is based, had been discriminatorily discharged by petitioner and ordered their reinstatement with back pay.

The Board, and the court below, found that the strike was caused in part by petitioner's "campaign to crush the union" whereas the charges filed by SWOC charged only that it was caused by discharges of certain employees and the alleged lockout at the Canton tin plate mill on May 5th.

Section 10 (b) of the Act provides that "Whenever it is charged" that an unfair labor practice has been committed, "the Board, or its agency, shall issue" a complaint "*stating the charges* in that respect." In *N. L. R. B. v. Hopwood Retinning Company, Inc.,* 98 Fed. (2d) 97, the Second Circuit Court of Appeals held that no order could be made against a company against which no charges had been made because, in view of the provision of the Act that the Board's complaint should "state the charges," "the Board cannot use its own initiative in respect to charging unfair labor practices" (page 101). While the facts patently are not the same, the principle applicable is, and it is apparent that the decision of the court below in the case at bar is in conflict with the decision in the *Hopwood* case.

VIII.

The court below decided an important question of Federal law which has not been, but should be, settled by this Court, when it upheld the Board's finding that petitioner had committed unfair labor practices as defined by Section 8 (3) of the Act when it discharged and refused to reinstate twenty-six of its former employees, notwithstanding that there was no evidence tending to show that such acts actually discouraged membership in a labor organization by either causing employees to withdraw therefrom or to refrain from joining it.

The court below found (R. VIII, 6283) that the findings of fact by the Board were supported by evidence, and that "They in turn fully support the conclusion of the Board that Republic had engaged in unfair labor practices within the meaning of Section 8, subsections (1), (2) and (3), of the Act * * * (3) *by discriminating in regard to the hire and tenure of employment of the twenty-six employees above mentioned,*" who had been discharged before the strike or refused reinstatement after the strike.

The Act, properly interpreted, requires that the Board find from substantial evidence, that the employer has discouraged membership in a labor organization by discrimination with regard to the tenure of employment, and not merely that the employer has discriminated with regard thereto, before the Board can conclude that the employer has committed an unfair labor practice as defined in Section 8 (3) of the Act; and the discouragement must be such as to actually induce employees to either refrain from joining the union or to discontinue membership therein. This is implicit from the provisions of Section 8 of the Act that:

> "It shall be an unfair labor practice for an employer—
>
> "(3) *By discrimination* in regard to hire or tenure of employment or any term or condition of employment *to* encourage or *discourage membership* in any labor organization: * * *."

There is no evidence in the record showing that employees refrained from joining SWOC as a result of petitioner's alleged discharges or refusals to reinstate, or that employees withdrew from SWOC as a result. It is true that the Board found, generally, that petitioner had discriminated against these employees "in regard to hire and tenure of employment, thereby discouraging membership in a labor organization" (R. II, 984, 1003, 1041, 1062); however, an examination of the evidential findings discloses that there was no basis therein for these ultimate findings, but that they were merely formal in nature, and based, apparently, upon the assumption that, since petitioner had discriminated against these employees, it necessarily followed that it had discouraged membership in a labor organization. The court below so interpreted the Board's findings, see emphasized language, *supra,* page 55.

Discouragement of membership in a labor organization is clearly a matter of affirmative proof in each case by the Board, upon which the burden of proof is cast, not invalid inference from proof of discrimination alone. Obviously, discrimination may, or may not, discourage membership.

This question has not been decided by this Court. It arose in *National Labor Relations Board v. National Motor Bearings Company,* 105 Fed. (2d) 652 in which Haney, *J.,* dissented from the order of the majority, requiring reinstatement of certain employees, on the ground that the Board had made no finding that their discharge resulted in actually discouraging membership in the union, and that this was not the necessary inference from the record (pages 664, 665). The interpretation of Section 8 (3) for which we contend is supported in 48 *Yale Law Journal* 1152, 1154.

The importance of determination of this question of interpretation of the Act need hardly be emphasized.

IX.

The decree of the court below, enforcing the Board's order notwithstanding petitioner was never afforded a hearing as to the charges made against it in the complaint, denies petitioner due process of law, and is in conflict with the decision of this Court in Morgan v. U. S., 304 U. S. 1.

The facts as to this point are set forth *supra,* page 8, disclosing that petitioner was not afforded any opportunity whatsoever to make an oral argument, to file a brief or to contest the charges made against it in the complaint before the Board issued its first final decision and order on April 8, 1938; that subsequent regularizing proceedings resulted in no substantial change beneficial to petitioner. Petitioner contends that in this situation it never was afforded a hearing as to the charges made against it in the complaint, as is guaranteed to it by the due process clause of the Constitution; that the Board made up its mind as to every issue and question of law and fact herein involved without affording the petitioner any opportunity to present an oral argument, file a brief or in any manner contest the charges made against it; that the withdrawal of its order by the Board was nothing more nor less than an attempt to regularize its original findings, etc. so as to avoid the application of the rule announced by this Court in the *Morgan* case, wherein it said: *"The 'hearing' is the hearing of evidence and argument.* If the one who determines the facts which underly the order has not considered evidence *or argument,* it is manifest that the hearing has not been given." A "hearing" before a Board which has already made up its mind as to every question of law and fact involved in the case is, we respectfully submit, not a hearing which amounts to due process of law.

It is true that petitioner made no request for an opportunity to submit oral argument and briefs before the Board prior to its first decision and order. However, petitioner was justified in assuming that the Board would "notify the parties of the time and place of such submission of briefs, oral argument or taking of further evidence," in view of the peremptory provisions of Article II, Section 38 of its rules which provides, *inter alia,* that, when the Board has permitted a charge to be filed with it (as was done in the case at bar), it may direct the Trial Examiner to prepare an intermediate report or decide the matter forthwith upon the record, or upon the filing of briefs or oral argument. This Court held in *Consolidated Edison Co. v. National Labor Relations Board,* 305 U. S. 197, that such an assumption was not permissible after a brief had been filed with the Trial Examiner if an *"additional* hearing" was desired before the Board, but has not decided whether it is permissible when no brief was filed or oral argument or hearing afforded either before the Trial Examiner or the Board.

This, we believe, is the first of the cases in which the Board withdrew its order for further proceedings induced by the decision of this Court in *Morgan v. United States, supra,* coming before this Court for review, and we suggest that it is important that this question be decided here.

X.

The court below, in holding that the Board, in ordering petitioner to cease recognition of certain independent unions, need not consider evidence that thousands of employees joined these unions of their own free will and were not influenced, in so doing, by anything that petitioner or its officers or agents said or did, decided an important question of law arising under the Act which has not been, but should be, settled by this Court.

The facts with regard to this evidence are stated *supra,* page 24.

While this Court has held that it is not improper for the Board to order withdrawal of recognition from an independent union, after consideration of evidence indicating that members of the union are satisfied with it, *N. L. R. B. v. Newport News Shipbuilding & Dry Dock Company,* — U. S. —, 60 S. Ct. 203, we know of no case in which this Court has held that the Board and the lower court need not consider evidence demonstrating lack of coercion in determining whether or not the withdrawal of recognition should be ordered. Certainly, this is the best evidence as to whether the employer has "dominated, interfered with, or assisted" the organization of the independent union, since the state of mind of employees joining the union is obviously the nub of the controversy. The court below, in *N. L. R. B. v. Swank Products, Inc.,* (C. C. A. 3, Dec. 29, 1939), — Fed. (2d) —, held, subsequent to and *contrary to its holding herein,* that its conclusion that the employer merely acquiesced in, and did not wrongfully dominate, organization of an unaffiliated union of its employees, was "* * * *reenforced* by a stipulation of counsel that members of the Association, if called, would have testified that they joined without interference or coercion and that their preference was for the association, and not for either the C.I.O. or the A. F. of L.," thus holding that such evidence was competent, relevant and admissible.

Obviously, the admissibility of such evidence is a question of great importance in the administration of the Act.

CONCLUSION.

Wherefore, it is respectfully submitted that this petition for a writ of certiorari to review the judgment of the Circuit Court of Appeals for the Third Circuit should be granted.

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APPENDIX.

APPLICABLE PROVISION OF THE NORRIS-LaGUARDIA ACT.

Title 29 U. S. C. A. Section 106, c. 90, Sec. 6, 47 Stat. 71:

"SEC. 106. *Responsibility of officers and members of associations or their organizations for unlawful acts of individual officers, members and agents.* No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute, shall be held responsible or liable in any court of the United States for the unlawful acts of individual officers, members, or agents, except upon clear proof of actual participation in, or actual authorization of, such acts, or of ratification of such acts after actual knowledge thereof. (Mar. 23, 1932, c. 90, Sec. 6, 47 Stat. 71.)"

APPLICABLE PROVISIONS OF THE NATIONAL LABOR RELATIONS ACT.

Title 29, U. S. C. A. Section 151 et seq., c. 372, Sec. 1, 49 Stat. 449, et seq.:

"SEC. 151. *Findings and declaration of policy.*

"The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

"The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

"Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

"It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection. (July 5, 1935, c. 372, Sec. 1, 49 Stat. 449."

"SEC. 152. DEFINITIONS.

"When used in sections 151 to 166 of this title—

* * * * *

"(3) The term 'employee' shall include any employee, and shall not be limited to the employees of a particular employer, unless the chapter explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse.

* * * * *

"(8) The term 'unfair labor practice' means any unfair labor practice listed in section 158 of this title.

"(9) The term 'labor dispute' includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee."

"SEC. 157. *Right of employees as to organization, collective bargaining, etc.*

"Employees shall have the right to self-organization, to form, joint, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection. (July 5, 1935, c. 372, Sec. 7, 49 Stat. 452.)"

"SEC. 158. *Unfair labor practices by employer defined.*

"It shall be an unfair labor practice for an employer—

"(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 157 of this title.

"(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: *Provided,* That subject to rules and regulations made and published by the Board pursuant to section 156 of this title, an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay.

"(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: *Provided,* That nothing in this chapter, or in sections 701 to 712 of Title 15, or in any code or agreement approved or prescribed thereunder, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in this chapter as an unfair labor practice) to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in section 159 (a) of this title, in the appropriate collective bargaining unit covered by such agreement when made. * * *"

"Sec. 160. *Prevention of unfair labor practices.*

"(a) *Powers of Board generally.* The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 158) affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise.

"(b) *Complaint and notice of hearing; answer; court rules of evidence inapplicable.* Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of said complaint. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the Board in its discretion at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent or agency conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony. In any such proceeding the rules of evidence prevailing in courts of law or equity shall not be controlling.

"(c) *Reduction of testimony to writing; findings and orders of Board.* The testimony taken by such member, agent or agency or the Board shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board upon notice may take further testimony or hear argument. If upon all the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this chapter. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon all the testimony taken the Board shall be of the opinion that no person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint.

"(d) *Modification of findings or orders prior to filing record in court.* Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

"(e) *Petition to court for enforcement of order; proceedings; review of judgment.* The Board shall have power to petition any circuit court of appeals of the United States (including the Court of Appeals of the District of Columbia), or if all the circuit courts of appeals to which application may be made are in vacation, any district court of the United States (including the Supreme Court of the District of Columbia), within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and order of the Board. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. No objection that has not been urged before the Board, its member, agent or agency, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Board as to the facts, if supported by evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken before the Board, its member, agent, or agency, and to be made a part of the transcript. The Board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in sections 346 and 347 of Title 28.

"(f) *Review of final order of Board on petition to court.* Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unfair labor practice in question was alleged to have been engaged in or wherein such person resides or transacts business, or in the Court of Appeals of the District of Columbia, by filing in such court a written petition praying that the order of the Board be modified or set aside. A copy of such petition shall be forthwith served upon the Board, and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding, certified by the Board, including the pleading and testimony upon which the order complained of was entered and the findings and order of the Board. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e), and shall have the same exclusive jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; and the findings of the Board as to the facts, if supported by evidence, shall in like manner be conclusive.

"(g) *Institution of court proceedings as stay of Board's order.* The commencement of proceedings under subsection (e) or (f) of this section shall not, unless specifically ordered by the court, operate as a stay of the Board's order.

"(h) *Jurisdiction of courts unaffected by limitations prescribed in chapter 6 of this title.* When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying and enforcing as so modified or setting aside in whole or in part an order of the Board, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by sections 101 to 115 of this title."

"Sec. 163. *Right to strike preserved.*

"Nothing in this chapter shall be construed so as to interfere with or impede or diminish in any way the right to strike. (July 5, 1935, c. 372, Sec. 13, 49 Stat. 457."

APPLICABLE PROVISIONS OF THE RULES AND REGULATIONS OF THE NATIONAL LABOR RELATIONS BOARD AS AMENDED APRIL 27, 1936.

Article II, Sections 37 and 38:

"Section 37. Whenever the Board deems it necessary in order to effectuate the purposes of the Act, it may permit a charge be filed with it, in Washington, D. C., or may, at any time after a charge has been filed with a Regional Director pursuant to Section 2 of this Article, order that such charge, and any proceeding which may have been instituted in respect thereto

"(a) be transferred to and continued before it, for the purpose of consolidation with any proceeding which may have been instituted by the Board, or for any other purpose; or

"(b) be consolidated for the purpose of hearing, or for any other purpose, with any other proceeding which may have been instituted in the same Region; or

"(c) be transferred to and continued in any other Region, for the purpose of consolidation with any proceeding which may have been instituted in or transferred to such other Region, or for any other purpose.

"The provisions of Sections 3 to 31, inclusive, of this Article shall, insofar as applicable, apply to proceedings before the Board pursuant to this Section, and the powers granted to Regional Directors in such provisions shall, for the purpose of this Section, be reserved to and exercised by the Board. After the transfer of any charge and any proceeding which may have been instituted in respect thereto from one Region to another pursuant to this Section, the provisions of Sections 3 to 36, inclusive, of this Article, shall apply to such charge and such proceeding as if the charge had originally been filed in the Region to which the transfer is made.

"Section 38. After a hearing for the purpose of taking evidence upon the complaint in any proceeding over which the Board has assumed jurisdiction in accordance with Section 37 of this Article, the Board may

"(a) direct that the Trial Examiner prepare an Intermediate Report, in which case the provisions of Sections 32 to 36, inclusive, of this Article shall in so far as applicable govern subsequent procedure, and the powers granted to Regional Directors in such provisions shall for the purpose of this Section be reserved to and exercised by the Board; or

"(b) decide the matter forthwith upon the record, or after the filing of briefs or oral argument; or

"(c) reopen the record and receive further evidence, or require the taking of further evidence before a member of the Board, or other agent or agency; or

"(d) make other disposition of the case.

"The Board shall notify the parties of the time and place of any such submission of briefs, oral argument or taking of further evidence."

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In the Supreme Court of the United States

OCTOBER TERM, 1939.

No. [redacted] 14

REPUBLIC STEEL CORPORATION,
Appellant,

vs.

NATIONAL LABOR RELATIONS BOARD,
and
STEEL WORKERS ORGANIZING COMMITTEE,
Appellees.

BRIEF OF APPELLANT, REPUBLIC STEEL CORPORATION.

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In the Supreme Court of the United States

OCTOBER TERM, 1939.

No. 707.

REPUBLIC STEEL CORPORATION,
Appellant,
vs.
NATIONAL LABOR RELATIONS BOARD,
and
STEEL WORKERS ORGANIZING COMMITTEE,
Appellees.

BRIEF OF APPELLANT, REPUBLIC STEEL CORPORATION.

I.

OFFICIAL REPORT OF OPINIONS BELOW.

The findings of fact, conclusion of law, and order of the National Labor Relations Board (R. II, 833-1109)[1] are reported in 9 N. L. R. B. 219. The opinion of the court below, the Third Circuit Court of Appeals, (R. VIII, 6277) is reported in *Republic Steel Corporation et al. v. National Labor Relations Board,* 107 Fed. (2d) 472.

II.

JURISDICTION.

The decree of the Circuit Court of Appeals was entered January 2, 1940 (R. VIII, 6294). A petition for a writ of certiorari was filed by the appellant, Republic Steel Corporation, in this Court on February 8, 1940, and was denied by order of this Court dated April 8, 1940, 309 U. S. (Preliminary Print, No. 1) xi, 60 S. Ct. 806. A motion by the appellant for leave to file out of time a petition for rehearing of its petition for a writ of certiorari, accompanied by a petition for rehearing thereof, was filed in this Court on May 13, 1940. On May 20, 1940 this Court entered the following order, 309 U. S. (Preliminary Print, No. 3) xi, 60 S. Ct. 1072:

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[1] Roman and arabic numerals in parenthesis refer to volume and page, respectively, of the record, throughout.

> "Motion for leave to file a petition for rehearing granted, and the petition for rehearing is also granted. The order denying certiorari, dated April 8, 1940 is vacated. The petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit is granted, limited to the fourth question therein presented, which relates to the work relief provisions of the decree below: provided that this order shall not operate to suspend the remaining provisions of the decree."

The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code as amended by the Act of February 13, 1925, Title 28 U. S. C. A., Section 347, and Sections 10 (e) and (f) of the National Labor Relations Act, Title 29 U. S. C. A., Section 160, c. 372 § 10, 49 Stat. 453.

III.

STATEMENT OF THE CASE.

This is an appeal from a decree of the Third Circuit Court of Appeals, issued on January 2, 1940 (R. VIII, 6294) affirming and enforcing an order of the National Labor Relations Board (hereinafter called the "Board") issued on October 18, 1938 (R. II, 833).

This appeal is limited by the order of this Court granting certiorari "to the fourth question therein presented, which relates to the work relief provisions of the decree below. * * *"

The appellant, as found by the Board (R. II, 842), *et seq.*) is engaged in the business of manufacturing steel and steel products with plants in Ohio, Michigan, Pennsylvania and elsewhere, employing on May 1, 1937, 59,282 persons, 40,172 of whom were employed in its Ohio plants. The proceeding before the Board here involved was based upon an original and two supplemental charges (R. I, 1, 7, 10) and a complaint by the Board (R. I, 13) involving only certain of appellant's plants located at Massillon, Canton, Youngstown, Warren, Niles and Cleveland in the State of Ohio. The Board found that appellant had engaged in certain unfair labor practices (R. II, 845-1071) and that these unfair labor practices constituted the underlying cause of a strike by the Steel Workers Organizing Committee (found by the Board to be a labor organization affiliated with the Committee for Industrial Organization (R. II, 845)) which commenced May 25 and 26, 1937 (R. II, 1071). The Board, on October 18, 1938 (R. II, 833), ordered appellant to cease and desist and to reinstate certain of its employees with compensation for loss of wages during certain periods (R. II, 1104). The court below enforced this order by its decree issued January 2, 1940 (R. VIII, 6294) with no changes pertinent herein.

By Section 2 paragraphs (b) and (c) of its decree[2] the lower court ordered appellant to offer reinstatement to specified employees found by the Board to have been discriminatorily laid off or discharged before, or refused reinstatement after, the strike and "make them whole for any losses of pay they have suffered by reason of the petitioner's discriminatory acts, by payment to each of them respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period," specifying the period for which compensation was ordered made, "less the amount, if any, which each earned during said period." By Section 2, paragraph (f) the court below ordered appellant to offer to those employees at certain of its Ohio plants who went on strike on

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[2] The pertinent sections of the lower court's decree are set forth in full in Appendix A.

May 25, 1937 and who had made application for reinstatement after the order of the Board dated October 18, 1938, or should do so after the date of the court's decree, reinstatement, or placement upon a preferential list if employment were not immediately available. Section 2, paragraph (g) ordered appellant to make whole "all the employees referred to in paragraph 2 (f)" for any losses they might have suffered by refusal of reinstatement or placement upon the preferential list required by the Board's order of October 18, 1938, or by reason of refusal of reinstatement or placement upon the preferential list ordered by Section 2 (f) of the court's decree, by payment of a sum of money equal to that which each would normally have earned as wages during the period from five days after the date of any application for reinstatement made subsequent to the Board's order dated October 18, 1938, to the date of offer of reinstatement or placement upon the preferential list, "less the amount, if any, which each respectively earned during said period."

Paragraphs (b), (c) and (g) of Section 2, after providing for deduction of amounts earned from normal wages in measuring the compensation awarded, each contain the following identical provision:

> "* * * deducting, however, from the amount otherwise due to each of the said employees, monies received by said employees during said periods for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work relief projects;"

This provision constitutes the portion of the decree of the lower court involved in the question presented on this appeal.

This provision was first included by the Board in its second final order in the case at bar. It has now become standard.[3] At the date of this brief, its validity has been sustained by the Third Circuit Court of Appeals, the lower court herein, with the sole comment that it was "within the Board's discretion and not unreasonable" (R. VIII, 6286). It has been held invalid, as beyond the Board's jurisdiction, by the Second Circuit Court of Appeals, *National Labor Relations Board v. Leviton Mfg. Co. Inc.* (C. C. A. 2) 111 Fed. (2d) 619, *Phelps Dodge Corporation v. National Labor Relations Board* (C. C. A. 2) 113 Fed. (2d) 202; by the Ninth Circuit Court of Appeals, *National Labor Relations Board v. Tovrea Packing Co.* (C. C. A. 9), 111 Fed. (2d) 626; by the Seventh Circuit Court of Appeals, *Stewart Die Casting Corporation v. National Labor Relations Board* (C. C. A. 7), — Fed. (2d) —, 6 L. R. R. 691;[4] *New York Handkerchief Company v. National Labor Relations Board* (C. C. A. 7), ... Fed. (2d) ..., 6 L. R. R. 729; *M. H. Ritzwoller Co. v. National Labor Relations Board* (C. C. A. 7), — Fed. (2d) —, 6 L. R. R. 758; and by the First Circuit Court of Appeals, *National Labor Relations Board v. Waumbec Mills, Inc.* (C. C. A. 1), — Fed. (2d) —, 6 L. R. R. 877. It has not been held valid by any Circuit Court of Appeals which appears from its opinion to have considered the question, other than the court below.

IV.

SPECIFICATION OF ERRORS.

The fourth question presented in the petition for certiorari, to a consideration of which this appeal is limited, is as follows:

> "Whether, as was held by the court below, the Board, having ordered deduction from back pay of amounts paid by governmental work relief projects to strikers

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[3] The Board stated in its brief opposing certiorari herein (page 24) that "The provision is now included in all orders of the Board providing for back pay * * *."

[4] Labor Relations Reporter. Pertinent parts of the opinions therein reported are contained in Appendix B.

and certain other employees discharged by petitioner, for services actually performed by them on such projects, had jurisdiction to order petitioner, as it did, to reimburse such governmental work relief projects for the moneys so paid to such strikers and discharged employees.''

V.

ARGUMENT.

SUMMARY OF ARGUMENT.

POINT A.

Section 2, paragraphs (b), (c) and (g) of the lower court's decree, enforcing the identical order of the Board, in substance require appellant to reimburse the government or governments which supplied the funds for work relief projects, upon which employees covered by the decree worked, for amounts paid to such employees for "work performed." This is *affirmative action.* Section 10 (c), 29 U. S. C. A. Sec. 160 (c), of the National Labor Relations Act (hereinafter called "the Act"), grants to the Board jurisdiction to require appellant to "take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act." The Board's jurisdiction in this respect is remedial, not punitive, and is to be exercised as a means of removing or avoiding the consequences of violations of the Act where the consequences are of a kind to thwart the purposes of the Act. The purposes of the Act are to prevent obstructions of interstate commerce by securing the rights of employees to self organization and collective bargaining. The portion of the Board's order requiring reimbursement of governments sponsoring work relief projects, enforced by the lower court cannot, as a matter of law, effectuate, but instead tends to thwart, the policies of the Act, and is penal and not remedial. Therefore, this portion of the order is beyond the jurisdiction of the Board, *as a matter of law,* and the lower court erred in enforcing it.

POINT B.

Section 2, paragraphs (b), (c) and (g) of the decree of the lower court, are erroneous because the Board's order enforced in this respect was arbitrary and unreasonable in that (1) it does not appear that the fiscal agencies of the government or governments providing the funds for work relief projects which have paid moneys to employees covered by the decree for work performed on such projects have requested reimbursement for such payments from the appellant, or (2) that such agencies have the power to receive the amounts ordered paid to them by the appellant, and (3) the appellant cannot properly be required to ascertain in what proportion, if any, the fiscal agencies of the government or governments, to which payments are ordered to be made, have supplied funds for the work relief projects which have paid moneys to the employees covered by the decree, and to reimburse such agencies in such proportions.

POINT C.

If it be assumed, for the sake of the argument, that the Board could properly find, under any circumstances, that it would effectuate the policies of the Act to order affirmatively reimbursement of work relief projects for moneys paid to employees covered by the decree, which is denied, there is no evidence in the record in the case at bar to support such a finding by the Board, the Board has made no proper finding that such an order will effectuate the policies of the Act, and the Board's order in this respect was based upon a finding not supported by evidence. Therefore, this portion of the Board's order, as enforced by the lower court, was not supported by evidence or findings and the lower court erred in enforcing it.

POINT A.

The Statement of The Case, *supra,* page 2, shows that the lower court decreed that three things be done in determining the amounts to be paid by appellant and the disposition thereof. These were as follows: (1) The amount of money which each employee would normally have earned as wages during the period for which compensation was awarded was first to be determined; (2) the amount which the employee actually earned during this period was to be ascertained and deducted from the amount determined as above; (3) from the net amount so determined appellant was required to deduct an amount equal[5] to the moneys received by the employee for work performed upon work relief projects and pay over the amount so deducted to the fiscal agency of the government or governments which supplied the funds for the work relief projects for which he performed the work. Appellant is required to pay to the employee a sum of money equal to that which he would normally have earned as wages during the period, less the two deductions provided for; is not required to pay to any one the deduction provided for in (2) above; but is required to pay the deduction provided for in (3) above to the governments sponsoring the work relief project or projects as above outlined.

The following hypothetical case is a concrete illustration. Employee A went out on strike on May 25, 1937, and is therefore covered by Section 2, paragraphs (f) and (g) of the court's decree. He applied for reinstatement two days after October 18, 1938, the date of the Board's order, was denied reinstatement until April 10, 1940, two days after this Court overruled appellant's petition for a writ of certiorari, but was then offered reinstatement in his former position. He would normally have earned as wages during the period between October 25, 1938 (five days after his application for reinstatement), and April 10, 1940, an average of $150 a month, or a total of $2,625. On October 25, 1938 he obtained a job carrying bricks on a PWA slum clearance apartment building project at $60 a month which he held for twelve months, earning $720. Thereafter, for the balance of five and one-half months of the period he obtained a job carrying bricks on a private apartment building project at $100 a month, earning $550. From the amount of $2,625, gross "normal wages," is deducted the total amount earned on PWA and in private employment, $1,270. Appellant is required to pay the difference, $1,355, to the employee, nothing to the private employer, but is also required to pay $720 to the fiscal agency of PWA, or, if PWA has put up part of the funds for the particular project on which Employee A worked, and some other state, county or municipal governmental body the balance, as is often the case, appellant is apparently required to distribute the $720 in proportion to the amounts contributed by the respective fiscal agencies.

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[5] The decree requires appellant to make such employees whole by payment of a sum of money "deducting, however, from the amounts otherwise due to each of the said employees, *moneys received* by said employees * * * for work performed upon * * * work relief projects * * *." However, it is obvious that since the employees have received the moneys, and the appellant has not, the court intended the deduction of *an amount equal to* moneys so received.

The foregoing illustration relates to a striking employee, but is equally illustrative of the method of determining amounts due specified employees covered by Section 2, paragraphs (b) and (c) of the decree of the lower court.

It will be immediately noted that the substantial effect of these portions of the decree of the lower court is to require the appellant to reimburse work relief projects for moneys paid out by such projects to employees covered by the decree "for *work performed* upon" such projects (so specified in the decree). To put it another way, the appellant is compelled to pay for work performed by the employee for the work relief project which receives the benefit and advantage of such work for nothing. The court below held that this order was "within the Board's discretion and not unreasonable" (R. VIII, 6286), without further comment, except that "A similar order was enforced in *National Labor Relations Board v. Planters Mfg. Co.*, 105 F. (2d) 750." (R. VIII, 6286.)[6]

The Board had no jurisdiction to order the appellant to pay over to the governments furnishing funds for work relief projects amounts equal to the moneys paid by such projects to employees covered by the Board's order for work performed upon such projects, and the lower court erred in enforcing the Board's decree in this respect for the following reasons.

First, the Board's jurisdiction is remedial, not penal, and is limited to ordering affirmative action which will effectuate the policies of the Act by removing or avoiding the consequences of violations thereof where the consequences are of a kind to thwart the purposes of the Act.

The Board being purely a creature of statute, its powers are limited to those conferred upon it by the Act which created it. Section 10 (c) of the Act, 29 U. S. C. A. Sec. 160 (c), confers jurisdiction upon the Board, if it finds that a person has engaged in unfair labor practices, to issue

> "* * * an order requiring such person to cease and desist from such unfair labor practice, *and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act.* * * *"

The portion of the decree of the court below here involved, of course, requires the appellant to take affirmative action.

This Court has recognized that the jurisdiction of the Board to require an employer to take affirmative action under Section 10 (c) of the Act is limited. In *Consolidated Edison Co. v. National Labor Relations Board,* 305 U. S.

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[6] Upon inquiry, counsel for the Planters Mfg. Co. in that case informed us that the question was not raised due to insignificance of the amount involved.

197, Mr. Chief Justice Hughes, announcing the opinion of the court, with regard to the authority of the Board, said, page 235:

> "* * * *That authority, if it exists, must rest upon the provisions of Sec. 10 (c).* That section authorizes the Board, when it has found the employer guilty of unfair labor practices, to require him to desist from such practices 'and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act.' We think that this authority to order affirmative action does not go so far as to confer a punitive jurisdiction enabling the Board to inflict upon the employer any penalty it may choose because he is engaged in unfair labor practices, even though the Board be of the opinion that the policies of the Act might be effectuated by such an order.
>
> *The power to command affirmative action is remedial, not punitive, and is to be exercised in aid of the Board's authority to restrain violations and as a means of removing or avoiding the consequences of violation where those consequences are of a kind to thwart the purposes of the Act.* * * *"[7]

In *National Labor Relations Board v. Fansteel Metallurgical Corporation,* 306 U. S. 240, this Court adhered (page 257) to the fundamental proposition announced in *Consolidated Edison Co. v. National Labor Relations Board, supra,* holding that, as a matter of law, reinstatement of "sit-down" strikers could not "effectuate the policies of the Act" but would thwart these policies. A minority of the court differed with the majority in the foregoing cases—upon the application of the rule to the facts in the former, and the extent of the Board's power thereunder in the latter,—but there was no dissent from the fundamental proposition above set forth. In *National Labor Relations Board v. Newport News S. B. & D. D. Co.,*

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[7] Emphasis in quotations is ours, unless otherwise noted.

308 U. S. 241, Mr. Justice Roberts, delivering the unanimous opinion of this Court, said, page 250:

> "* * * Sec. 10 (c) was not intended to give the Board power of punishment or retribution for past wrongs or errors. Action under that section must be limited to the effectuation of the policies of the Act."

Second, this portion of the Board's order, enforced by the lower court, does not, and cannot as a matter of law, remove the consequences of violations of the Act of a kind to thwart its purposes.

The purposes of the Act are to prevent labor disputes from interfering with interstate commerce by protecting the rights *of employees* to self organization and collective bargaining as this Court stated in *National Labor Relations Board v. Pennsylvania Greyhound Lines, Inc.,* 303 U. S. 261, 265:

> "The history of the Act and its language show that its ruling purpose was to protect interstate commerce by securing to employees the rights established by § 7 to organize, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for that and other purposes. *National Labor Relations Board v. Jones & Laughlin Steel Corp.,* 301 U. S. 1, 23, 33. This appears both from the formal declaration of policy in § 1 of the Act, *National Labor Relations Board v. Jones & Laughlin Steel Corp., supra,* 22-24, and from § 7, in itself a declaration of the policy which, in conjunction with § 10 (c), it adopts as the controlling guide to administrative action."

In the cases of discharges, layoffs or strikes resulting from violations of the Act, the consequences of the violation are loss of employment. Loss of employment is a consequence of a kind to thwart the purposes of the Act since, if not remedied, it will deter in the future employees involved from exercising their rights secured by Section 7 of the Act. The Board may, therefore, require affirmative action for the purpose of avoiding or neutralizing this consequence by restoring the employees affected to their status quo. That this is the basis of such an order appears from the decision of this Court in *National Labor Relations Board v. McKay Radio & Telegraph Co.*, 304 U. S. 333, in which this Court said, page 348:

> "* * * The Board enjoined further discrimination against employes by reason of union affiliation *but it could not grant complete relief in respect of the five men short of ordering that the discrimination be neutralized* by their being given their former positions and reimbursed for the loss due to their lack of employment consequent upon the respondent's discrimination. * * *"

Observe that the purposes of the Act are to prevent interference with interstate commerce, *which is the only constitutional basis for the Act,* by securing and protecting *the rights of employees* in labor matters, *and nobody else.*

The portion of the lower court's decree here involved does not, and cannot, remove the consequences of violation of the Act which are of a kind to thwart the purposes of the Act.

In the first place, the purposes of the Act are merely to protect the right *of employees.* The requirement that appellant reimburse work relief projects for amounts paid the employee does not assist in restoring the employee to status quo since he is not the recipient.

In the second place, if the extent of the Board's remedial jurisdiction to effectuate the policies of the Act by requiring affirmative action were still open to question, which it is not, due to the decisions of this Court, how could reimbursement of work relief projects for monies paid to employees conceivably effectuate the main purpose of the Act, necessary to its constitutionality, namely, the prevention of interference with interstate commerce arising from failure to neutralize the consequences of unfair labor practices upon employees? Employees placed in status quo by the Board's order certainly are not interested in the disposition made of payments which they do not receive, and will not conceivably strike if work relief projects for which they "performed work" are not reimbursed. Certainly, in no event will work relief projects engage in strikes interfering with interstate commerce because they are not so reimbursed. On the contrary, in the legislative finding contained in Section I of the Act, 29 U. S. C. A. Section 151, there is no suggestion that interferences with interstate commerce sought to be prevented are those caused otherwise than by interference with the rights *of employees.*

Therefore, as a matter of law, the order of the Board in this respect was beyond its jurisdiction because it did not remove the consequences of violations of the Act of a kind to thwart its purposes. In *Stewart Die Casting Corporation v. National Labor Relations Board* (C. C. A. 7, July 3, 1940), — Fed. (2d) —, 6 L. R. R. 691, the court, in holding this standard order of the Board invalid, said, page 696:

> "The Board inquires in its brief, in connection with this matter:
>
> > " '* * * Should the burden of relieving the distress of such employees be placed upon the public generally or upon the employer whose unlawful practices are responsible for their being out of work?'
>
> "*This inquiry, in our opinion, is beside the question.* Undoubtedly, the Board has the authority to order compensation for the employee who has sustained a loss by reason of an unfair labor practice on the part of the employer. *We find nothing in the Act, however, which indicates an intention by Congress to confer upon the Board the power of guardianship over the treasurer of a governmental agency.* * * *"

This epitomizes our argument above that, while the Board has jurisdiction to rehabilitate the employee, it has no general jurisdiction to do what it considers equity between the employer and a work relief project.

Third, this portion of the Board's order, enforced by the decree of the lower court, not only does not "avoid the consequences of violation where those consequences are of a kind to thwart the purposes of the Act" but, on the contrary, *tends to itself thwart the purposes of the Act.* In *National Labor Relations Board v. Fansteel Metallurgical Corporation,* 306 U. S. 240, this Court took into consideration the fact that reinstatement of "sit-down" strikers would tend to thwart the purposes of the Act by encouraging lawless conduct tending to interfere with interstate commerce in determining that the order of the Board could not, as a matter of law, effectuate the policies of the Act. The portions of the lower court's decree here in question will likewise tend to thwart the purposes of the Act. Since work relief projects cannot furnish work to all applicants, which is commonly known, officials seeking to reduce costs of projects naturally will tend to prefer strikers, in view of the possibility of obtaining a return of wages paid, and this, in turn, will tend to encourage employees to resort to industrial strife for the purpose of settling labor disputes, rather than the peaceable method of resort to the Board.

Fourth, this portion of the Board's order, enforced by the lower court, is not remedial, but penal.

As above seen, the decree, in the respect here complained of, is not remedial as to the employees. Neither is it remedial as to the work relief projects which appellant is ordered to reimburse.

The Board's theory in this respect is that "to hold that the losses accruing from the appellant's unfair labor practices must be borne by the government or governments financing the work relief project would not effectuate the purposes of the Act" (II, 1096). It is clear that the Board's theory is faulty because theoretically there is no "loss" to the project. It must be based upon the premise that if the employee's work had not ceased as a result of the employer's unfair labor practices he would not have been employed upon the work relief project, or in other words, that his job would not have ceased as a result of natural causes other than unfair labor practices, such as a decrease in demand for labor. Otherwise, the "loss" resulting from his employment by the project would not be attributable to the employer's unfair labor practices. If the job continued, it must be assumed that someone was employed to take the employee's place who would otherwise have been unemployed and would theoretically have been employed by the work relief project. Therefore, the project suffers no "loss" because if it had not employed the employee, it would have employed the person who was employed to take his place. Furthermore, the work relief project does not sustain any "loss" in the amount of wages paid to workers, because the government receives "value" for their work. Payments for work performed for relief projects, such, for instance, as PWA, are not merely charitable in their nature but are for work actually performed. As stated in *Block v. Sassaman,* 26 Fed. Sup. 105, 106:

> "* * * While the activities of the Works Progress Administration result in what has been commonly known as 'made work,' the appropriations to sustain the same are not grants for direct relief purposes, but are made for the purpose of furnishing employment to needy and qualified persons *with the intention that remuneration is to be given to those who render an actual service* in their employment."

Accord, National Labor Relations Board v. Leviton Mfg. Co., Inc. (C. C. A. 2), 111 Fed. (2d) 619; *Stewart Die Casting Corporation v. National Labor Relations Board* (C. C. A. 7), — Fed. (2d) —, 6 L. R. R. 691. There is no more reason for requiring appellant to reimburse these work relief projects than there is for exacting the same requirement as to private employers for whom the strikers may have worked. Since the governments supplying funds for the work relief projects received value for work performed upon the projects, the decree of the lower court, in effect, requiring the appellant to pay for this work, confers a gratuitous benefit upon these governments. The Board's order, enforced by the lower court, then, is clearly *more than remedial* as to these governments. But, even if it were merely remedial as to them, it still could not in any way effectuate the policies of the Act, as is seen *supra,* pages 13-14.

On the contrary, the order is penal as to the appellant, because the order *pro tanto* transfers a portion of the cost of the public improvements made by the work relief projects from the public, which presumably is to profit by it, to the appellant, which will do so only as a member of the public. As stated in *National Labor Relations Board v. Leviton Mfg. Co., Inc.,* fully quoted *infra,* "there could be no clearer instance of a punitive measure than that."

The foregoing arguments are supported by well-considered decisions of four Circuit Courts of Appeals. There are no decisions to the contrary except those of the court below, the opinions of which on this point can hardly be considered illuminating. In *National Labor Relations Board v. Leviton Mfg. Co., Inc.* (C. C. A. 2, April 29, 1940), 111 Fed. (2d) 619, the court held invalid a substantially identical order.[8] L. Hand, *J.,* announcing the opinion of the court, said, page 621:

> "The Third Circuit has twice passed upon the second point in the Board's favor, though without more discussion than to say that they thought it within the power of 'affirmative action' to 'effectuate the policies' of the act which Sec. 10 (c), 29 U. S. C. A. Sec. 160 (c), confers. *Republic Steel Corp. v. National Labor Relations Board,* 3 Cir. 107 F. 2d 472, 478; *Union Drawn Steel Co. v. Nat. Labor Rel. Board,* 3 Cir., 109 F. 2d, 587, 594. We cannot see that the

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[8] The order "directed the company, after deducting from Levine's back pay any money received 'for work performed upon Federal, State, county, municipal, or other work-relief projects,' to 'pay over the amount, so deducted, to the appropriate fiscal agency of the * * * governments which supplied the fund for said work-relief projects.' " (p. 620.)

point was ruled in *National Labor Rel. Board v. Planters Manufacturing Co.,* 4 Cir., 105 F. 2d 750, 753. The 'affirmative action' which the section contemplates must be remedial, and not punitive or disciplinary (*Consolidated Edison Co. v. Nat. Labor Rel. Board,* 305 U. S. 197, 236, 59 S. Ct. 206, 83 L. Ed. 126; *National Labor Rel. Board v. Fansteel Metallurgical Corp.,* 306 U. S. 240, 257, 59 S. Ct. 490, 83 L. Ed. 627, 123 A. L. R. 599; *Nat. Labor Rel. Board v. Newport News Shipbuilding Co.,* 308 U. S. 241, 250, 60 S. Ct. 203, 84 L. Ed. ....), and the order, qua payments, must therefore be confined to restitution for the wrong done, however widely that should be conceived. The Board itself has always deducted from the wages to be recovered what the employee may have earned meanwhile, and it is impossible to see how it could have done less, whatever may be proper as to what he could have earned by reasonable efforts, but did not. His receipts may be of three kinds: Wages from a private employer; wages from a public agency; alms or a dole. As to the first, the Board has never suggested that the employer must pay to another private employer what that employer paid to the employee, and obviously, that would be absurd. Since the order speaks of 'monies received * * * for work performed,' we need not consider alms, or a dole. 'Monies received * * * for work performed' may be no more than a fair return for services rendered, or they might have been deliberately made higher, the margin being dole; and the record at bar does not contain any evidence on the point. At most, any such provision would have to be confined to such a margin; we do not suggest that even then it would be valid. However, the whole administration of 'work-relief' was conceived in a spirit exactly the opposite of charity; the very purpose of it was that the employees should understand themselves not to be the objects of charity, but to be performing work of a value equal to what they received. As the case stands, therefore, there is no more reason why the company should be compelled under the guise of restitution, to subvene the public enterprises on which Levine worked, than if these had been the ventures of a private capitalist.

> We must assume that he gave as much as he got, and the order *pro tanto* transferred the burden of the public improvement from the public, which presumably is to profit by it, to the company which will do so only as a member of the public. *There could be no clearer instance of a punitive measure than that.* There should therefore be deleted from Article II (e) of the order all that part beginning with the words, 'deducting, however, from the amount' etc."

In *Phelps Dodge Corporation v. National Labor Relations Board* (C. C. A. 2, July 11, 1940) 113 Fed. (2d) 202, 6 L. R. R. 732 the same court omitted the same provision on the ground that "this part of the order went *beyond the power* of the Board," citing its prior decision in *National Labor Relations Board v. Leviton Mfg. Co., supra.* In *National Labor Relations Board v. Tovrea Packing Co.* (C. C. A. 9, April 30, 1940), 111 Fed. (2d) 626, the court held this standard provision invalid saying, page 630:

> "The Act, Sec. 10 (c), 29 U. S. C. A. Sec. 160 (c), provides for 'reinstatement of employees with or without back pay, as will effectuate the policies of this Act (chapter).' For a proper understanding this statement must be read and considered as a whole. To our minds the discretion conferred upon the Board is limited to the point of whether an order for back pay will do more toward effectuating the purposes of the Act than to omit it—or possibly than an order for payment of part thereof. Whether or not this provision is held to be punitive in nature, we see no warrant for doing other than it provides. Certainly it does not authorize the Board to go outside of the statute and prescribe its own coercive measures in aid of 'effectuating' the purposes of the Act. *Consolidated Edison Co. v. National Labor Relations Board,* 305 U. S. 197, 59 S. Ct. 206, 83 L. Ed. 126; *National Labor Relations Board v. Remington Rand,* 2 Cir., 94 F. 2d 862, 872."

In *Stewart Die Casting Corporation v. National Labor Relations Board* (C. C. A. 7, July 3, 1940), — Fed. (2d) —, 6 L. R. R. 691, *supra,* the court refused to enforce this standard provision, citing *National Labor Relations Board v. Leviton Mfg. Co.* and *National Labor Relations Board v. Tovrea Packing Company, supra,* and stated, page 696:

> "We are impressed with the reasoning employed and the conclusion reached in these cases that the Board *is without power* to decree such a requirement."

The court advanced other reasons which will be discussed hereinafter under Point B. In *New York Handkerchief Company v. National Labor Relations Board* (C. C. A. 7, July 11, 1940), — Fed. (2d) —, 6 L. R. R. 729, the same court held likewise. In *National Labor Relations Board v. Waumbec Mills, Inc.* (C. C. A. 1, Aug. 20, 1940), — Fed. (2d) —, 6 L. R. R. 877, the court, speaking through Magruder, *J.,* said that in this respect "* * * we believe the Board's order is without statutory warrant," (p. 882) following *National Labor Relations Board v. Leviton Mfg. Co., supra.*

POINT B.

Section 2, paragraphs (b), (c) and (g) of the decree of the lower court, enforcing the corresponding sections of the Board's order, are erroneous because the corresponding portions of the Board's order in this respect are arbitrary, unreasonable, and constitute an abuse of its discretion in that (1) it does not appear that the fiscal agencies of the government or governments providing the funds for work relief projects which have paid moneys to employees covered by the decree for work performed on such projects have requested reimbursement for such payments from the appellant as parties to this proceeding, or otherwise, or (2) that such agencies have the power to receive the amounts ordered paid to them by the appellant, and (3) the appellant cannot properly be required to ascertain in what proportion, if any, the fiscal agencies of the government or governments, to which payments are ordered to be made, have supplied funds for the work relief projects which have paid moneys to the employees covered by the decree, and to reimburse such agencies in such proportions.

The foregoing propositions are all supported by *Stewart Die Casting Corporation v. National Labor Relations Board* (C. C. A. 7, July 3, 1940), — Fed. (2d) —, 6 L. R. R. 691, in which the court, in refusing to enforce a substantially identical provision in an order of the Board, said page 696:

> "Although the suggestion is not made, we should think a serious question would be presented as to the right of a governmental agency to accept such funds in the absence of legislative authority so to do. Nor do we think the Board, as argued, is vested with discretionary authority in this respect, *but even so, under the circumstances presented, the order would constitute an abuse of such discretion.* No governmental agency, either before the Board or here, has requested that it be reimbursed for such payments. The order places upon petitioner an unreasonable requirement. How could it know or ascertain which, if any, of the numerous governmental agencies had furnished the employees with work-relief and the amount thereof: Although there is nothing indicative in the record, it is a matter of common knowledge that in some work-relief projects the funds are supplied by more than one, and sometimes numerous agencies. Under such circumstances, would it be the duty of petitioner to ascertain in what proportion the funds were furnished by these numerous agencies and reimburse them in the same proportion? Other questions of a similar nature suggest themselves, which we think demonstrate that the provision is unreasonable and arbitrary as well. The Board's request for enforcement in this respect is denied."

First, the governments sponsoring the work relief projects upon which the employees covered by the decree worked were not parties to this proceeding before the Board or the lower court. They made no attempt to intervene, and have never requested reimbursement as ordered by the Board. As a general rule, relief will not be awarded to one who does not seek it personally or by way of privity or representation. 21 *C. J.* 676:

> "* * * Nor will relief be awarded to one who does not seek it personally or by way of privity or representation, * * *."

While this Court has held that it was not improper for the Board to order an employer to withdraw recognition from a union found to have been dominated by the employer which was not a party to the proceeding before the Board, this situation seems entirely different from one in which the Board has conferred monetary benefits upon governmental bodies not parties to the proceeding, since withdrawal of recognition did not involve any action on the part of the union, whereas in the case at bar the right of the governments to participate and the extent thereof, was involved. In any event, the conferring of a gratuitous benefit upon these governments without any request or action on their part would seem to be of such an unusual and unprecedented nature as to constitute an arbitrary abuse of discretion by the Board.

Second, as a general proposition, governmental agencies have only those powers which are expressly conferred upon them, or are incidentally necessary to the exercise of such powers. *Huffman v. State Roads Commission* (Md. 1927), 137 Atl. 358:

> "The growth and development of boards and commissions as agencies for the administration of varied governmental functions has with the constantly increasing extent and complexity of governmental activities been extremely rapid in recent years, but the law as to their precise status and powers cannot be said to be either settled or certain. It is generally recognized, however, that while such agencies are governmental, they have no powers, but such as are expressly delegated to them by the organic or statutory law of the government of which they are a part, or such as are by

implication essential to the full and adequate exercise of such express powers.''

People ex rel. Brundage v. Righeimer (Ill. 1921), 132 N. E. 229; *State ex rel. Licking Township v. Clamme* (Ind App. 1922), 134 N. E. 676; *Danciger Oil & Refining Co. v. Railroad Commission* (Tex. 1932), 49 S. W. (2d) 837; *Railroad Commission et al. v. Highway Insurance Underwriters* (Tex. 1939), 124 S. W. 2d 413; *Newfield v. Ryan* (C. C. A. 5, 1937), 91 Fed. (2d) 700. The order requires payment of the amounts involved ''to the appropriate fiscal agency of the Federal, State, county, municipal or other government or governments which supplied the funds for said work relief projects.'' Certainly, it must be assumed that these ''fiscal agencies'' do not have the express power to accept gratuitous payments from private individuals. As an illustration, the greater part of the amounts which must be paid out under this portion of the decree of the lower court would go to the Federal Emergency Administration of Public Works. The statute creating this agency, 40 U. S. C. A. Sections 401 to 414, inclusive, nowhere expressly grants any authority to the Administration to receive funds from private sources. Nor is the receipt of funds from private sources a power incidental to the express powers conferred upon the Administration or its fiscal agency. To carry out this portion of the decree, it would be necessary for appellant to determine what are the proper ''fiscal agencies'' to whom such payments must be made, and to make such payments even though the fiscal agencies should have no power to accept such payments, and should take the position that they could not accept such payments. Certainly, the Board's order is arbitrary and unreasonable for this reason.

The arbitrary character of the Board's order in this respect is clearly demonstrated by the fact that its first final order (R. I, 305), which it later set aside (R. I, 317), and which was issued after the Board had given full consideration to all questions of law and fact involved, did not contain this provision. It must be assumed that in this, its original order, the Board ordered all affirmative action which, upon a full consideration of the case, it found necessary to effectuate the policies of the Act. If such an order was not necessary to effectuate the policies of the Act at the time of the Board's original order, why did it become necessary when the Board issued its second final order which is enforced by the decree of the lower court?

POINT C.

If the Court should be of the opinion that we are wrong in our position advanced under Point A, *supra,* namely, that the Board has no jurisdiction, *as a matter of law,* to order payment by the appellant to governments supplying the funds for work relief projects upon which its employees worked, nevertheless, the record in the case at bar fails to disclose *any factual basis* upon which the Board could base a conclusion that such an order would effectuate the policies of the Act. On the contrary, the record affirmatively discloses that the Board's order is based upon a conclusion which is not supported by any evidence. Therefore, the Board's order was not supported by evidence and the lower court erred in enforcing it in this respect.

First, as pointed out under Point A, it is established by the decisions of this Court in *Consolidated Edison Company v. National Labor Relations Board, supra,* and *National Labor Relations Board v. Fansteel Metallurgical Corporation, supra,* that the Board is limited, in ordering affirmative action under Section 10(c) of the Act, to an order of a remedial nature. The Board could make an order remedial as to the work relief projects only if the order attempted to place such projects in the position in which they would have been if the appellant had not committed acts found by the Board to have been unfair labor practices. In short, such an order could be remedial only if it reimbursed such work relief projects for losses sustained as a result of the appellant's acts.

There is no evidence in the record relating to work relief projects. Therefore, there is no evidence showing that the work relief projects on which employees of the appellant covered by the decree of the lower court worked sustained any losses as a result of such work. On the contrary, as demonstrated under Point A, theoretically such projects received value equivalent to the amounts paid to these employees. In the absence of evidence in the record as to work relief projects, there is no evidence from which the Board could infer or find that requiring appellant to reimburse such work relief projects would effectuate the policies of the Act. However, this Court has repeatedly held that the Board's order must in all respects be supported by substantial evidence. *Consolidated Edison Company v. National Labor Relations Board,* 305 U. S. 197; *National Labor Relations Board v. Columbian Enameling & Stamping Co. Inc.,* 306 U. S. 292; *National Labor Relations Board v. Sands Mfg. Co.,* 306 U. S. 332. This Court has recognized that there must be support in the evidence for the conclusion and finding by the Board that the affirmative action ordered by the Board will effectuate the policies of the Act. In *National Labor Relations Board v. Pacific Greyhound Lines, Inc.,* 303 U. S. 272, the Board affirmatively ordered the employer to withdraw all recognition from an independent union. This Court stated (page 273) that the question involved was whether the facts found by the Board afforded a basis for its conclusion that the policies of the Act would be effectuated by its order, and at page 275:

> "Whether the continued recognition of the Drivers' Association by respondent would be a continuing obstacle to the exercise of the employees' right of self-organization and to bargain collectively through representatives of their own choosing, was an inference of fact which the Board could draw if there was evidence

> to support it. Section 10(e); see *Swayne & Hoyt v. United States,* 300 U. S. 297. We cannot say that the Board's conclusion was without support in the evidence and in the subsidiary findings which respondent does not challenge."

In the case at bar, the Board's conclusion *is* without support in the evidence.

Second, the record affirmatively discloses that the order of the Board in the case at bar was not based upon a finding that the portion of its order requiring payments to work relief projects would effectuate the policies of the Act. It is true that the Board in Section 2 of its order (R. II, 1105) required the appellant to "take the following affirmative action *which the Board finds* will effectuate the policies of the Act; * * *," and thus found *generally* that *all* of the affirmative action ordered would effectuate the policies of the Act. However, this *formal* finding in the order must be considered in connection with the *subsidiary* finding in the Board's decision. Aside from the provisions in the order, the Board did not deal with the matter of payments to work relief projects except in that portion of its decision entitled "The Remedy," in which it stated (R. II, 1096):

> "The question is raised by the Union's exceptions whether the respondent should be permitted to deduct from the back pay due under our Order money received by an employee for work performed upon Federal, State, county, municipal or other work relief projects during the period for which the respondent is under obligation to pay such employee back wages. In so far as the employee receives remuneration for such work during periods when he would otherwise have been working for the respondent, it would not seem necessary, in restoring him to the status quo, that he be reimbursed in such amounts. *Nevertheless, to hold that the losses accruing from the respondent's unfair labor practices must be borne by the government or governments financing the work relief project would not effectuate the purposes of the Act. We shall therefore*

> *order* the respondent to deduct such sums from the amounts otherwise due the employees and to pay such deductions over to the appropriate fiscal agency of the Federal, State, county, municipal or other government or governments which supplied the funds for the work relief project.''

The emphasized language shows that the basis of this portion of the Board's order was that to hold that the governments financing work relief projects must bear losses accruing from the unfair labor practices found by the Board to have been committed by the appellant ''*would not* effectuate the purposes of the Act.'' Thus, it appears that the Board did not find, either as a matter of fact, or as a conclusion of law, that this portion of its order, requiring affirmative action, *would* effectuate the policies of the Act. Obviously, the negative finding of the Board cannot supplant, and perform the function of, a positive finding that the affirmative action required would, in fact or law, effectuate the policies of the Act. Since this was the only subsidiary finding upon which the Board based its *formal* and *general* finding in its order, it is clear that the Board did not, in fact, find that this portion of its order would effectuate the policies of the Act. Therefore, there was not only no evidence upon which the Board could base such a finding, but, further, no finding by the Board in this respect, and the court below erred in enforcing by its decree this portion of the Board's order.

Third, it is clear from the Board's subsidiary finding, *supra,* that the Board proceeded upon the faulty premise that the governments which financed the work relief projects, upon which the appellant's employees worked, *sustained losses* as a result of unfair labor practices found to have been committed by the appellant. As pointed out, *supra,* there is no evidence in the record that such losses were sustained, and in theory no such losses could be sustained. Therefore, the finding by the Board, necessarily subsidiary to a conclusion that an order requiring reimbursement for such losses would effectuate the policies of the Act, was not supported by evidence, and was erroneous as a matter of law.

CONCLUSION.

In view of the foregoing, it is submitted that the decree of the lower court should be modified by excluding therefrom the provisions which direct payments to the proper fiscal agencies of the governments furnishing the funds for work relief projects for which employees covered thereby performed work.

Respectfully submitted,

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APPENDIX A.

PERTINENT PORTIONS OF THE LOWER COURT'S DECREE (R. VIII, 6294).

"2. Take the following affirmative action which the National Labor Relations Board finds will effectuate the policies of the National Labor Relations Act; * * *

"(b) Offer to Peter Mouyios, Victor Arias, Mike Ugranovich, Will S. Wright, Sabri Shaban, and George Troyanovich (group A); John Lazar, Michael Krill, Balare Chismus, William A. Harren, Charles Neverdusky, Anthony Martin de Long, Richard Green, and Hallie P. Hite (group B), in the manner provided in the section in the Board's decision entitled 'The remedy,' immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority and other rights and privileges; and make them whole for any losses of pay they have suffered by reason of the petitioner's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group A, from the date of their lay-off or discharge until the date when the strike began, and again from the date on which operations in their departments began after the reopening of the plants involved to the date of the offer of reinstatement as provided herein, and in the case of group B, from the date of the refusal to reinstate until the date of the offer of reinstatement as provided herein; less the amounts, if any, which each earned during said period, deducting, however, from the amount otherwise due to each of the said employees, monies received by said employees during said periods for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work relief projects;

"(c) Make whole Thomas Cikah, John Popik, Frank Pirichy, Michael Naletrich, Wilbert Neuman (group C); Thomas White, Charles Bernard Fagan, John Exall, John Petak, Mathew Babich, Gaetano Armeli, and Fred Korecky (group D) for any losses of pay they have suffered by reason of the petitioner's discriminatory acts, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period, in the case of group C, from the date of their discharge to the date of their offer of reinstatement prior to the strike, and in the case of group D, from the date of their lay-off or discharge until the date of the strike; less the amounts, if any, which each earned during said period, deducting, however, from the amount otherwise due to each of the said employees, monies received by said employees during said periods for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work relief projects; * * *

"(f) Offer to those employees at its plants in the Canton, Massillon, Youngstown, Warren, Niles, and Cleveland district (including those referred to as groups C and D in paragraph 2 (c) above), who went on strike on May 25, 1937, and thereafter, and who since the order of the National Labor Relations Board dated October 18, 1938, made, or who hereafter shall make, application (except Charles Byers, Sidney Watkins, A. C. Scott, John Borawiec, George A. Bundas, Andrew J. Marsh, Mike Spelich, Herman Herzog, Jesse Rentario (Runtario), Pete Vasleo, Omer Williams, Joe Morton, Leo Cox, Mike Walker, Sam Caputo, Will Williams, Theodore Pietowski, alias Tub, alias Friday, Kenneth H. Steed, alias Harry K. Steed, E. J. Parpontsi, Otis Cesar, Erardo Garcia, Nick Woodrich, Lewis Simonelli, John Bell, Sam Parnelli, alias Priorrello, Harold Rink, Paul Woodward, Ivan Bartalic, Steve Miku, John Zgurich, and Chester Dewitt), immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights or privileges, in the manner provided in the section in the Board's decision entitled 'The remedy'; and place those employees for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in said manner, offer them employment as it becomes available;

"(g) Make whole all the employees referred to in paragraph 2 (f) above for any losses they may have suffered or may suffer by reason of any refusal of reinstatement or placement upon the preferential list, required by paragraph 2 (f) of the order of the National Labor Relations Board dated October 18, 1938, and for any losses they may suffer by reason of any refusal of reinstatement or placement upon the preferential list, required by paragraph 2 (f) above, by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during the period from five (5) days after the date of any application for reinstatement made subsequent to the order of the National Labor Relations Board dated October 18, 1938, to the date of offer of reinstatement or placement upon the preferential list, less the amount, if any, which each, respectively, earned during said period, deducting, however, from the amounts otherwise due to each of the said employees, monies received by said employees during said period for work performed upon Federal, State, county, municipal or other work relief projects; and pay over the amounts, so deducted, to the appropriate fiscal agency of the Federal, State, county, or municipal or other government or governments which supplied the funds for said work relief projects;"

APPENDIX B.

PERTINENT PORTIONS OF OPINIONS OF CIRCUIT COURTS OF APPEALS REPORTED IN THE LABOR RELATIONS REPORTER, AND NOT OFFICIALLY REPORTED AT DATE OF BRIEF.

Stewart Die Casting Corporation v. National Labor Relations Board (C. C. A. 7, No. 7132, July 3, 1940), 6 L. R. R. 691, 695:

> "In connection with the Board's order that the various groups of employees be reinstated with back pay, there is the provision that the amounts received by such employees for work performed upon Federal, State, county, municipal or other work-relief projects, be deducted, and 'paying over the amounts so deducted to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work-relief projects.' It is the quoted provision of the order which petitioner contends the Board is without authority to require. The courts are divided as to the propriety of an order of this character. It was approved in *Republic Steel Corp. v. Labor Board,* 107 F. (2d) 472, 478 (5 L. R. R. 266). The court, without discussion, however, merely expresses the opinion that such an order is within the discretionary power of the Board, and calls attention to *Labor Board v. Planters Mfg. Co.,* 105 F. (2d) 750 (4 L. R. R. Man. 616), where a similar order was approved, also without discussion.
>
> "In *Labor Board v. Somerset Shoe Co.* (6 L. R. R. 424) (First Cir., not reported), decided May 9, 1940, the provision was approved without discussion and, apparently, without consideration. In *Union Drawn Steel Co. v. Labor Board,* 109 F. (2d) 587, 594 (5 L. R. R. 634), we again find the provision approved by the same court which approved the order in *Republic Steel Corp. v. Labor Board, supra.*
>
> "On the other hand, we have a contrary holding in *Labor Board v. Leviton Mfg. Co.* (6 L. R. R. 351) (Second Cir., not reported), decided April 29, 1940, and *Labor Board v. Tovrea Packing Co.* (6 L. R. R. 387) (Ninth Cir., not reported), decided April 30, 1940. We

are impressed with the reasoning employed and conclusion reached in these cases that the Board is without power to decree such a requirement.

"The Board inquires in its brief, in connection with this matter:

> '* * * Should the burden of relieving the distress of such employees be placed upon the public generally or upon the employer whose unlawful practices are responsible for their being out of work?'

This inquiry, in our opinion, is beside the question. Undoubtedly, the Board has the authority to order compensation for the employee who has sustained a loss by reason of an unfair labor practice on the part of the employer. We find nothing in the Act, however, which indicates an intention by Congress to confer upon the Board the power of guardianship over the treasurer of a governmental agency. As was pointed out in the *Leviton* case, *supra*, the theory of 'work-relief' is not charity but compensation for work performed. The court said:

> '* * * We must assume that he gave as much as he got, and the order *pro tanto* transferred the burden of the public improvement from the public, which presumably is to profit by it, to the company which will do so only as a member of the public. * * *'

"Although the suggestion is not made, we should think a serious question would be presented as to the right of a governmental agency to accept such funds in the absence of legislative authority so to do. Nor do we think the Board, as argued, is vested with discretionary authority in this respect, but even so, under the circumstances presented, the order would constitute an abuse of such discretion. No governmental agency, either before the Board or here, has requested that it be reimbursed for such payments. The order places upon petitioner an unreasonable requirement. How could it know or ascertain which, if any, of the numerous governmental agencies had furnished the employees with work-relief and the amount thereof? Although there is nothing indicative in the record, it is a matter of common knowledge that in some work-relief projects the funds are supplied by more than one, and sometimes numerous agencies. Under such circumstances, would it be the duty of petitioner to ascertain in what proportion the funds were furnished by these numerous agencies and reimburse them in the same proportion? Other questions of a similar nature suggest themselves, which we think demonstrate that the provision is unreasonable and arbitrary as well. The Board's request for enforcement in this respect is denied."

New York Handkerchief Manufacturing Company v. National Labor Relations Board (C. C. A. 7, No. 7147, July 11, 1940), 6 L. R. R. 729, 730:

> "The Board found that petitioner had committed the unfair practices as charged, but had not discriminated against all of the employees named in the complaint (Note No. 1). Petitioner was ordered to cease and desist from its unfair labor practices; was directed to bargain collectively upon request with the Union; to offer reinstatement with back pay to seven named employees (Note No. 2); * * *"

> "Note No. 2.—The order provided for a deduction from the amount otherwise due each of said employees monies received for work performed upon Federal, State, county, municipal or other work-relief projects and, that petitioner pay amounts so deducted to the appropriate fiscal agency of the governments which supplied the funds for said work-relief projects."

Page 732:

> "As stated heretofore (footnote 2) the Board's order directs petitioner to reimburse any governmental agency for moneys paid to employees found to have been unlawfully discharged. We have, in the case of *Stewart Die Casting Corporation v. Labor Board* (6 L. R. R. 691), decided July 3, 1940, concluded that the Board is without authority to impose such a requirement. It would serve no good purpose to repeat what we said in that case, or further discuss the question.

"The petition to review and set aside the order of the National Labor Relations Board is denied and the petition of the Board for an order of enforcement is allowed, the order to be modified in conformity with the suggestion last above mentioned."

M. H. Ritzwoller Company v. National Labor Relations Board (C. C. A. 7, No. 7080, July 16, 1940), 6 L. R. R. 758:

"Major, Circuit Judge.—On petition for rehearing in the above entitled matter, petitioner raises the question as to the validity of that portion of the Board's order (5 L. R. R. 54, 15 N. L. R. B. 15) which requires petitioner to pay over 'to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work-relief projects.'

"Nothing was said concerning this requirement either in petitioner's original brief or in the Board's brief. It is mentioned, but not argued in petitioner's reply brief. The requirement is shown in a footnote of the Board's order as found in the Transcript of Record. The question, therefore, was not considered or decided.

"We have recently in *Stewart Die Casting Corporation v. National Labor Relations Board* (6 L. R. R. 691), decided July 3, 1940, held that the Board is without authority to make such requirement. There is no occasion to repeat or further discuss what we said in that case.

"In addition to the modification suggested in our original opinion (6 L. R. R. 429), the Board's order is further modified in conformity with this additional holding, and as so modified its request for enforcement is allowed."

National Labor Relations Board v. Waumbec Mills, Inc. (C. C. A. 1, No. 3528, August 20, 1940), 6 L. R. R. 877, 882:

"In one particular we believe the Board's order is without statutory warrant. In paragraph 2(b) of the order the employer is directed to reimburse Chartier and Geoffrion for any loss of pay resulting from the unfair labor practice less his net earnings elsewhere, 'deducting, however, from the amount otherwise due to each of them monies received by him during that period for work performed upon Federal, State, county, or municipal or other work-relief projects, and pay over the amount so deducted to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work-relief projects.' For the reasons stated in *National Labor Relations Board v. Leviton Mfg. Co.*, 111 F. (2d) 619 (6 L. R. R. 351), this quoted portion of paragraph 2(b) of the order cannot be enforced, and will be omitted from our decree. Accord, *National Labor Relations Board v. Tovrea Packing Co.*, 111 F. (2d) 626 (6 L. R. R. 387); *Stewart Die Casting Corp. v. National Labor Relations Board* (6 L. R. R. 691), (C. C. A. 7th) decided July 3, 1940. We did not discuss this point in our recent decision in *National Labor Relations Board v. Somerset Shoe Co.*, 111 F. (2d) 681 (6 L. R. R. 424), because the back pay portion of the order as a whole was not enforced by us, for the reasons stated in the opinion.

"A decree will be entered enforcing the order of the Board with the modification of paragraph 2(b) as previously indicated."

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FILE COPY

In the Supreme Court of the United States

OCTOBER TERM, 1940.

No. 14.

REPUBLIC STEEL CORPORATION,
Appellant,

v.

NATIONAL LABOR RELATIONS BOARD AND
STEEL WORKERS ORGANIZING COMMITTEE,
Appellees.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT
COURT OF APPEALS FOR THE THIRD CIRCUIT.

REPLY BRIEF OF REPUBLIC STEEL CORPORATION, APPELLANT.

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STATEMENT.

For the convenience of the Court, this brief will follow the outline of the brief for the National Labor Relations Board.

As to the suggestion that the petition for certiorari contains no specification of errors, we fail to see why this matter has been called to the Court's attention because counsel for the Board agree that no specification of errors was necessary due to the fact that no brief was filed in support of the petition for certiorari. Of course, the specification of errors would merely have been a repetition, in slightly different language from the "questions presented." We are not advised of any uncertainty among the profession as to the rule, and see no reason for decision of the point in this case since the writ has already been allowed.

As a general proposition, we are impressed with the fact that the Board seems to attempt to create the impression that, as a result of the payments received by employees for work performed upon work relief projects, "a fund" has been created as a "sort of windfall" (brief, page 18) which it was necessary for the Board to administer (brief, page 19), and that the Board, like the Court of Appeals reviewing its order could "adjust its relief to the exigencies of the case in accordance with the equitable principles governing judicial action"; in other words, that it could in effect administer this fund like a court of equity. There is no "fund" involved in this case. The employees received payment for their work on the work relief projects and, presumably, have spent this money. The decree of the court below, in this respect, was not different from that portion of its decree which ordered back pay. It has created a liability against the appellant which must be paid out of the appellant's pocket. There is no question of the administration of a fund as between appellant, the governments supplying funds for work relief projects, and the employees who worked on them.

ARGUMENT.

THE PROVISION FOR REIMBURSEMENT OF WORK RELIEF FUNDS IS NOT WITHIN THE BOARD'S POWER.

A. To Require Petitioner to Reimburse the Fiscal Agencies Will Not Effectuate the Policies of the Act.

An examination of the first three paragraphs of this section of the Board's brief (pages 11 to 13) immediately demonstrates that the Board's counsel are under a misconception as to its basic jurisdiction to order affirmative action. It is stated that an affirmative order of back pay accomplishes two purposes, namely, first, it compensates the employee, and second, "more important in effectuating the policies of the Act" it operates as a "substantial deterrent to employer violation." (brief, page 12.) Upon the basis of the latter alleged purpose, as a thesis, is based the proposition that unless governmental agencies which assume the burden of supporting the employees who were out of work are reimbursed then funds so used "will be converted to the subsidization of unfair labor practices," and therefore, employers will not be deterred.

As pointed out in our main brief, this Court has decided the jurisdiction of the Board to order affirmative action is purely remedial. Remedial action may operate as a deterrent but the Board has no jurisdiction to order action which will operate as a deterrent but which is not remedial. Therefore, when the Board argues that it is entitled to order reimbursement of work relief agencies because this will tend to deter unfair labor practices, it is attempting to sustain this order upon the basis of jurisdiction to order other than remedial action—a jurisdiction which this Court has said the Board does not have.

The Board argues in the fourth paragraph of this section (brief, page 13) that the order here in question effectuates the policies of the Act much as does the back pay order. It argues first, that if the employer is permitted to deduct amounts of work relief payments for back pay, the deterrent effect of the order is substantially diminished. As seen above, this is not a sound argument in support of the validity of the order, since the Board has no jurisdiction to make an affirmative order merely because it will deter violation of the Act. It is urged, second, that the order is merely remedial because it seeks to restore the innocent parties, "both the employees and the fiscal agencies" to their status quo. This argument gives no consideration to the fact that the governments supplying the funds for work relief projects to whose fiscal agencies payments are ordered made, have received the benefit of the work done by the employees upon the projects, and, therefore, to the extent that these payments represent compensation for value received, would be placed in a much better position than they would have occupied if the unfair labor practices had not occurred.

The sixth, seventh and eighth paragraphs of this section (brief, pages 14 to 16), are devoted, first, to an attempt to answer our proposition (brief, pages 14, *et seq.*) that this order will tend to encourage and foster strikes by giving strikers a more desirable status with the work relief projects, and, second, to an argument that, on the contrary, this type of order will effectuate the policies of the Act by encouraging work relief projects to employ persons who are unemployed as a result of unfair labor practices and thus protect the rights of the employees under the Act.

As to our argument, it is true that the Board generally denies back pay to employees for periods during which they are voluntarily on strike. However, it must be obvious that, as in the case at bar, strikers are given back pay by the Board's order for periods during which they are not reinstated in obedience to the Board's order. Thus, if the employer, not being satisfied with the correctness of the Board's order, appeals the case, and does not in the meantime make the case moot by complying with the Board's order, fiscal agencies of work relief projects employing the strikers involved stand a chance of being reimbursed for payments made to them for work performed at least from the date of the Board's order, which may be years prior to final disposition of the case, as in the case at bar. Certainly, work relief projects will be inclined to favor strikers to the extent that they are liable to be reimbursed for payments made to them covering periods subsequent to the order of the Board.

With regard to the Board's argument in this respect, namely, that this order is valid because it will tend to cause work relief projects to employ persons who have become unemployed as a result of unfair labor practices, and thus give aid and comfort to such employees, an entirely different situation is presented. The Board is given power to order "such affirmative action, including reinstatement of employees with or without back pay as will effectuate the policies of this Act,'' Section 10(c)). A fair and liberal interpretation of this power is that, in so far as rehabilitation of employees is concerned (as distinguished from non-recognition of dominated unions, etc.), it is limited to reinstatement of employees with or without back pay, with the incidents necessary to accomplishment of these fundamental purposes. If it is not so limited, and if, as the Board contends ''nothing in the language of § 10(c) limits affirmative relief to action which will directly or immediately benefit employees by restoration of their status quo'' (brief, page 16) then the Board has jurisdiction to order the employer to do practically anything which it believes will remedy the situation of an employee whose employment has ceased as a result of his unfair labor practices. For example, the Board could order the employer to invest money in the business of a third party in the hope that by expanding the third party's business the discharged employee might obtain employment. This would not differ substantially from the effect on the employee of the order in the present case. Can the Board make an order on the basis that it tends to indirectly influence or produce action by others than the employee and the employer which will indirectly benefit the employee in order to effectuate the policies of the Act? This is what the Board here contends. If such action is within the Board's power, then the inclusion by Congress in Section 10(c) of a specific reference to reinstatement of employees with or without back pay is without significance.

In this connection, we again respectfully refer the Court to *National Labor Relations Board v. Tovrea Packing Company* (C. C. A. 9), 111 Fed. (2d) 626, in which the court held that ''the discretion conferred upon the Board is limited to the point of whether an order for back pay would do more towards effectuating the purposes of the Act than to omit it—or possibly than an order for payment of part thereof'' but that the Act did not ''authorize the Board to go outside of the statute and prescribe its own coercive measures in aid of 'effectuating' the purposes of the Act.''

The ninth paragraph of this section (brief, page 17) argues that since the Act is for a public, not private, purpose, reimbursement of public agencies which have paid out work relief payments to employees comes within the Board's power to protect these public interests. It is urged that back pay and reinstatement are not mere private rights of action, but remedies of a public nature, and the same is true of reimbursement of work relief agencies. This, of course, is a *non sequitur.* The mere fact that an act is passed to protect interstate commerce, a public concern, and that remedies of a public nature are conferred in connection with it, does not increase the jurisdiction of the instrumentality created to administer the act beyond that specified in the enabling statute. Back pay and reinstatement, as previously stated, are specifically provided for in the Act, while reimbursement of public work relief agencies is not provided for. The fact that reimbursement of work relief agencies would be a remedy of a public nature does not supply its omission from the Act. Reparation of the so-called ''injustice'' resulting from ''the burden of economic dislocation'' allegedly placed upon the work relief agencies as a result of unfair labor practices does not, in any event, come within the public purpose for which the Board was created, which is to prevent interference with interstate commerce resulting from labor disputes. The Act protects the rights of employees, alone, for this purpose. It is not intended to remedy results of unfair labor practices which do not affect employees.

In the tenth and eleventh paragraphs of this section (brief, page 17) the Board asserts that the remedies which it may utilize ''*in the enforcement of the Act are in their nature equitable.*'' The Board does not exercise powers similar to that of an equity court. It is a fact-finding body, and its order has no operation and effect until enforced, upon request of the Board, by a Circuit Court of Appeals.

Therefore, to suggest that the Board's power to effectuate the policies of the Act should not be "narrowly" construed because its power, "like that of the court's in reviewing its orders" is equitable, is to urge that the Board, in making its orders, may take into consideration broad equities rather than merely the question of whether or not certain action will effectuate the policies of the Act, which is its sole function.

The argument that because the Board was competent to decide that an amount equal to work relief payments should be deducted from normal wages in determining back pay, it was competent to decide that these amounts should be paid to the work relief agencies, is, of course, a complete *non sequitur*. Although this statement is blandly made, it is apparent from the face of it that these matters are not interdependent.

B. The Reimbursement Provision Is Not Remedial, But Is Punitive.

A large part of this section of the brief, the first to seventh paragraphs, inclusive, (brief pages 19 to 24) is devoted to a detailed exposition of the nature of WPA, and the purport is that WPA, and other similar work relief projects, are more in the nature of relief than work, and that, therefore, the government suffers some loss in connection therewith.

This seems to be at variance with the views of the court in *National Labor Relations Board v. Leviton Mfg. Co., Inc.* (C. C. A. 2) 111 Fed. (2d) 619, in which the court, after undoubtedly duly considering similar arguments by the Board, said:

> "However, the whole administration of 'work-relief' was conceived in a spirit exactly the opposite of charity; the very purpose of it was that the employees should understand themselves not to be the objects of charity, but to be performing work of a value equal to what they received. As the case stands,

> therefore, there is no more reason why the company should be compelled under the guise of restitution, to subvene the public enterprises on which Levine worked, than if these had been the ventures of a private capitalist."

It is also at variance with the Board's statement in its Fourth Annual Report (1940), page 99:

> "Since the Board seeks to make whole employees who have been discriminated against by payment to them of a sum of money equal to that which the employees would normally have earned had the unfair labor practices not occurred, *the amounts earned* elsewhere during the period of discrimination are excluded from the sum to be paid. If, however, these amounts are earnings which the employee would have made while in the employ of the respondent, no deduction will be made. Upon the same principle, the Board has held that the net earnings to be deducted from back pay should be computed on the basis of total earnings less the expenses incident to the seeking of new employment, such as transportation costs. *Work-relief payments as earnings are properly deductible from the amount of back pay required to make a discriminatorily discharged employee whole.* The Board has held, however, that to permit the employer to retain such amounts would place the burden of the employer's unfair labor practices upon governmental relief agencies, and has therefore required employers, in deducting such amounts, to pay them over to the work-relief agency which supplied the funds for the project upon which the employee worked."

However, assuming for the sake of the argument the truth of the Board's thesis, what is the legal result? Certainly, counsel will not urge that people working on work relief projects do not produce *any* value by their efforts, and that such projects are purely or even predominantly charitable in nature. If the governments furnishing funds for these projects receive some value for services performed, then to the extent that they are reimbursed for payments made in exchange for such value, the appellant is penalized.

There is no evidence in the record in this case which shows that work relief agencies sustain any loss, or if so, how much loss they sustain, or sustained in the case at bar, as the result of paying the employees covered by the order for work performed upon work relief projects. As stated in *National Labor Relations Board v. Leviton Mfg. Co., Inc.,* (C. C. A. 2) 111 Fed. (2d) 619, 621:

> "The Board itself has always deducted from the wages to be recovered what the employee may have earned meanwhile, and it is impossible to see how it could have done less, whatever may be proper as to what he could have earned by reasonable efforts, but did not. His receipts may be of three kinds: Wages from a private employer; wages from a public agency; alms or a dole. As to the first, the Board has never suggested that the employer must pay to another private employer what that employer paid to the employee, and obviously, that would be absurd. Since the order speaks of 'monies received * * * for work performed,' we need not consider alms, or a dole. *'Monies received * * * for work performed' may be no more than a fair return for services rendered, or they might have been deliberately made higher, the margin being dole; and the record at bar does not contain any evidence on the point. At most, any such provision would have to be confined to such a margin*[1]; we do not suggest that even then it would be valid."

While the Board has made some attempt to answer our proposition that the work relief projects did not sustain loss because they received value of money paid as wages for work performed, it would appear counsel have misconceived altogether our second proposition on this point, although it is difficult to believe that we did not make ourselves reasonably clear in presenting it in the main brief. This point, discussed in the main brief, pages 15, 16, is substantially, that in order to make appellant responsible for any loss resulting to work relief projects in this connection, it must appear that appellant's unfair labor practices caused unemployment, rather than natural causes, but that if natural causes did not intervene, or would not have intervened, it must be assumed that a position at appellant's plant left open by cessation of employment of an employee covered by the order was filled by someone who otherwise would have been working on a work relief project so no loss could result. Counsel refer to our "speculation" that if appellant's employee had not been employed by the work relief projects other persons would have been, and assert that since it was the purpose of the projects to provide subsistence for these people the governments sustained loss to this extent. They thus attempt to make our argument appear as though we were merely claiming that if our employees had never worked on WPA someone else would have, which, obviously, is not the argument at all. No answer is, or could be, made to our point.

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[1] Emphasis in quotations throughout is ours unless otherwise noted.

In conclusion on this point, regardless of whether WPA or other work relief projects operate with the same eye to cutting costs and producing profits as does private business, nevertheless the employee is assumed to give value for what he receives. Therefore, it is difficult to conceive how the government sustains loss by the taking on of additional employees on a work relief project. However, it must be conceded that, in any event, only a part of the payments made by work relief projects for work performed constitute loss to the government, and that to the extent that such payments do not constitute loss, but payment for value received, any order requiring reimbursement of the governments supplying funds for the work relief projects confers upon them a gratuitous benefit and is, therefore, penal to this extent.

C. The Board Could Not Properly Hold that the Employee's Rights to the Amounts of the Work Relief Payments Are Superior to Those of Appellant, and Could Not Properly Require That the Employee Reimburse the Governments.

The general proposition sought to be sustained in this section of the Board's brief is that the Board was not required to deduct an amount equal to payments received for work performed on work relief projects by the employees covered by the order, in arriving at the amount of compensation to be paid them for loss of pay, but, instead, could have required these employees to reimburse the fiscal agencies of the governments furnishing the funds for the work relief projects; that the Board in effect, took a shortcut by deducting these amounts from payments to employees requiring appellant to make the payments to the fiscal agencies.

We submit that both of the fundamental propositions are unsound, and that, therefore, the Board had no power or jurisdiction to take the shortcut.

(1) The Board could not properly decide that the employees were entitled, as against appellant, to the amounts of work relief payments.

The first three paragraphs of this subsection (brief, pages 28 to 30) are devoted to an exposition of the common law relating to the measure of damages for loss of earnings. We may concede, for the sake of the argument, that the law is as therein announced, although shortness of time makes detailed examination of the authorities cited impossible. We may also concede, for the sake of the argument, that, as stated in the fourth paragraph of this subsection (brief page 31) "The measure of the wrong is the value of the opportunity denied * * *," and that the employer is not to be given the benefit of gratuitous assistance from third persons, or other benefits secured by the employees by prior expenditures or foresight, such as insurance or strike benefits. In fact, conceding for the sake of argument, the truth of everything stated in the first four paragraphs, it does not follow that it lay in the discretion of the Board to deduct or not deduct payments received from work relief projects, *and this is so regardless of whether such payments are considered to be earnings or charitable relief.*

Why is a distinction made between earnings received by an employee, wrongfully discharged, from other employment, and gratuities received from third persons or benefits for which the employee is paid contingent upon unemployment, from the standpoint of deduction from the gross amount of pay due the employee? Both result from unemployment, yet earnings are deducted, and the other receipts are not. The reason for deduction of earnings is stated in *McCormick on Damages* (1935) as follows, page 146:

> "40. Where the defendant's wrong or breach of contract has not only caused damage, but has also conferred a benefit upon plaintiff (such as saving of expense of performance *or making available an opportunity to dispose of* goods or *services*) which he would not otherwise have reaped, the value of this benefit must be credited to defendant in assessing the damages.
>
> "Closely akin to, but not entirely identical with, the doctrine of avoidable consequences, is the principle that, in arriving at damages for defendant's wrongful conduct, if any benefit or opportunity for benefit appears to have accrued to the plaintiff by reason of defendant's breach of duty, a balance must be struck between benefit and loss, and the defendant should be charged only with the difference—the net loss. * * *
>
> "It is constantly applied in contract cases as a necessary corollary of the fundamental canon that the damages, as near as may be, should be such as will put the plaintiff in the position he would have been in if the contract had been fully performed. * * *
>
> "Finally, the most obvious and frequent instance of the application of this principle is in cases of contracts

> of one person to devote his personal services *exclusively* for all or part of his time during a given period to a certain employment for another. *When the employer wrongfully terminates the service and is sued therefor by the person employed, the latter must give credit for what he earned elsewhere, or with reasonable diligence might have earned elsewhere, during the contract period. But for the breach, plaintiff could not have secured the other employment.*"

Since the foregoing rule is the basis of deduction of earnings, it is apparent that regardless of whatever work relief payments are called—whether a dole or earnings—they must be deducted from normal wages because termination of employment of the employees covered by the order was necessary to the receipt of such work relief payments—this, because if these employees had continued to work for the appellant, they obviously would not have had time to work on the work relief projects, *and such work was a condition precedent to receipt of work relief payments.* As stated in *McCormick, supra,* "but for the breach (unfair labor practices),[2] plaintiff (the employees) could not have secured the other employment."

Since, as a matter of law, work relief payments must be deducted because, under the basic theory of work relief they could be obtained only as a result of work, and the work could not have been performed unless employment had ceased as a result of appellant's act, the contention advanced in the fifth paragraph of this subsection (brief, page 31) to the effect that it was for the Board to decide whether work relief payments resemble more closely earnings or a dole is untenable. This question becomes immaterial.

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[2] Matter in parentheses is ours.

(2) The Board could not properly require that the employees reimburse the governments.

Under this subsection (brief, page 33), it is argued, in substance, that the employees who received work relief payments ought to reimburse the work relief agencies because receipt of back pay has enabled them to do so without "net loss to them," that therefore, the work relief agencies are subrogated to the rights of the employees to receive the portion of their back pay represented by the amount deducted on account of work relief payments, and that the Board has power to give effect to this subrogation.

Of course, the Board did not do this. A discussion of what the Board might have done is scarcely applicable to an attempt to defend what the Board actually did. However, a complete answer to this whole contention is that the Board has no power whatever under Section 10 (c) of the Act to make an order requiring affirmative action by any one *except a person found to have been guilty of an unfair labor practice.* Section 10 (c) provides, in part, as follows:

> "* * * If upon all the testimony taken the Board shall be of the opinion that *any person named in the complaint has engaged in or is engaging in any such unfair labor practice,* then the Board shall state its findings of fact and shall issue and cause to be served on such person *an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act.* * * *"

How can it be asserted that, under this provision, which embraces all of the jurisdiction of the Board to order affirmative action, the Board could order the employees, *who did not commit unfair labor practices,* to reimburse the work relief agencies?

Obviously, the whole argument under this section of the brief fails if the above proposition is conceded, as it must be, since, even if the Board had the right not to deduct payments received for work performed upon work relief projects from normal wages in ordering back pay, which we deny, *nevertheless the Board did deduct it.* But, if the Board had no power to require the employees to reimburse the work relief projects, and, therefore, no right of subrogation against the appellant for amounts expended on behalf of the employees, based upon a right against the employees enforceable by the Board, accrued to the governments fostering work relief projects, then the Board had no power to give effect to any such right.

D. Discussion of Appellant's Other Objections to the Reimbursement Order.

The Board's discussion of the above points (brief, pages 34 *et seq.*) adds nothing to what has not already been anticipated in our main brief previously discussed herein.

However, reference should be made to paragraphs 4 and 5 of this section (brief, pages 35, 36), in which counsel go outside of the record to tell the court how this portion of the order is being administered by the Board. Of course, the decree in the case at bar makes no provision for investigation or action by the Board for the purpose of determining to what agencies payments shall be made or seeing to it that these agencies accept payments. Even if, as counsel state outside the record, the Board is undertaking this work, plenty of investigation by the appellant obviously will be necessary for the purpose of determining whether its rights are being adequately protected.

Respectfully submitted,

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In the Supreme Court of the United States

OCTOBER TERM, 1939

REPUBLIC STEEL CORPORATION, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD AND STEEL WORKERS ORGANIZING COMMITTEE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

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In the Supreme Court of the United States

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NATIONAL LABOR RELATIONS BOARD AND STEEL WORKERS ORGANIZING COMMITTEE

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BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

OPINIONS BELOW

The opinion of the court below (R. VIII, 6277–6292) is reported in 107 F. (2d) 472. The findings of fact, conclusions of law, and order of the National Labor Relations Board (R. II, 833–1109) are reported in 9 N. L. R. B. 219.

JURISDICTION

The decree of the court below (R. VIII, 6294–6299) was entered on January 2, 1940. The petition for a writ of certiorari was filed on February

7, 1940. The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925, and Section 10 (e) and (f) of the National Labor Relations Act.

QUESTIONS PRESENTED

1. Whether the Board's finding that petitioner's unfair labor practices constituted the major cause of the strike was supported by substantial evidence.

2. Whether, in the circumstances of this case, the Board erred in ordering petitioner to reinstate (a) employees who were convicted of various minor offenses committed in connection with the strike, and (b) employees not convicted of any unlawful act but who were asserted to have committed various offenses in connection with the strike.

3. Whether Section 6 of the Norris-La Guardia Act, which provides that members of an organization participating in a labor dispute shall not be held responsible in any federal court for the unlawful acts of other members except upon clear proof of actual participation in or authorization or ratification of such acts, was properly considered by the Board and applied by the court below in rejecting petitioner's contention that all of the strikers should be denied reinstatement because of the unlawful acts committed by some of them.

4. Whether, as part of a back-pay order, the Board could validly require petitioner to deduct from the payments to employees any sums which

they have received for work performed upon work-relief projects and to pay such sums to the appropriate governmental agencies.

5. Whether the Board could validly require petitioner to make whole for pay lost employees who were locked out, discharged, or laid off in violation of the Act, but were thereafter reinstated by petitioner.

6. Whether the Board, in ordering reinstatement of employees who went on strike because of petitioner's unfair labor practices, could properly require petitioner to place those strikers for whom jobs were not available at the time of the Board's order upon a single preferential hiring list, and to offer such strikers employment at any of petitioner's plants in the area where the strike occurred, as such employment becomes available.

7. Whether the charge was adequate to support the complaint and order issued by the Board against petitioner.

8. Whether a fair hearing was afforded petitioner by the Board.

9. Whether the Board's findings that petitioner committed unfair labor practices within the meaning of Section 8 (1), (2), and (3) of the Act are supported by substantial evidence.

STATUTES INVOLVED

The pertinent provisions of the National Labor Relations Act (Act of July 5, 1935, c. 372, 49 Stat. 449, 29 U. S. C., Supp. IV, Sec. 151 *et seq.*) and the Norris-La Guardia Act (Act of March 23, 1932, c. 90, 47 Stat. 70; 29 U. S. C., Sec. 101 *et seq.*) are set forth in the Appendix, *infra*, p. 31 *et seq.*

STATEMENT

Charges (R. I, 1–12) having been filed by the Steel Workers Organizing Committee, a labor organization, the Board, on July 16, 1937, issued its complaint against petitioner. The complaint alleged, in substance, that petitioner had engaged and was engaging in unfair labor practices within the meaning of Section 8 (1), (2), and (3) of the Act, and that, as a result of certain of these unfair labor practices and of petitioner's refusal to enter into a written contract with the S. W. O. C., petitioner's employees had gone on strike (R. I, 13–24). Petitioner filed an answer denying these allegations and setting forth various defenses (R. I, 26–35). Pursuant to notice a hearing was held in Washington, D. C., from July 21 to 23, 1937, before the members of the Board, and in Canton, Youngstown, and Cleveland, Ohio, from August 9 to September 27, 1937, before a Trial Examiner of the Board. Petitioner and the S. W. O. C. were represented by counsel and participated in the hearing with full opportunity to examine and cross-examine witnesses and to introduce evidence.

On April 8, 1938, the Board issued a decision containing findings that petitioner had engaged in the unfair labor practices alleged and an order requiring petitioner to cease and desist therefrom and to take certain affirmative action to remedy them (R. I, 59–309). Petitioner filed a petition to review the Board's order in the court below, contending, *inter alia,* that the proceedings had were not sufficient to satisfy the requirements of due process. On June 14, 1938, the Board, upon due notice to the parties (R. I, 313–315), set aside its findings and order for the purpose of further proceedings (R. I, 317).[1] On July 8, 1938, the Board issued proposed findings of fact and a proposed order in the case (R. I, 324–578). Both petitioner and S. W. O. C. filed exceptions (R. I, 580–725, 780–781) and briefs and participated in oral argument held before the Board on August 11, 1938 (R. I, 782–832). On October 18, 1938, the Board, upon the entire record in the case, issued its Decision and Order (R. II, 833–1109). The facts, as found by the Board and as shown by the evidence, may be summarized as follows:[2]

Petitioner, a large manufacturer of steel, is substantially engaged in interstate commerce (R. II,

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[1] Upon application by petitioner, the court below enjoined the Board from vacating its order and ordered that the transcript of record be filed by the Board and the case proceed. Thereafter this Court held that the court below had no jurisdiction to enter these orders. *In the Matter of the Petition of the National Labor Relations Board for a writ of Mandamus*, 304 U. S. 486. The court below then vacated the orders in question and the Board, upon due notice, vacated its findings and order of April 8, 1938 (R. I, 313-317).

[2] In the following statement, the references preceding the semicolons are to the Board's findings and the following references are to the supporting evidence.

843–845). From the time the Act became effective until this Court held it valid in April 1937, petitioner maintained in each of its Ohio plants here involved [3] substantially identical "Plans of Employee Representation" (R. II, 846, 849, 980, 981, 1003-1004, 1030, 1041–1042; II, 1660–1662, III, 1881-1887, 2107–2108, 2486–2493, V, 3968, VI, 4612, 5095-5096, 5115–5117, 5283, 5296, 5455, 5466, 5506, 5672, 5691).[4] Upon establishment of these Plans in June 1933, all employees automatically became members, without opportunity to express their preference (R. II, 846, 849, 980–981, 1004–1005, 1030, 1042; II, 1642–1644, III, 1881–1886, 1999–2000, 2106–2112, 2023, 2488–2490, VI, 4289–4294, 4602). Petitioner had an equal number of votes with the employees on each governing committee and could veto any action, including amendments (R. II, 847–849, 1005–1006, 1031; II, 1645–1646, 1669–1671, III, 2112–2118,

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[3] The more important of such plants are located in Massillon, Canton, Cleveland, Youngstown, Warren, and Niles (R. II, 843–844, 846, 980; II, 1198–1199, VI, 4290, 4948, VII, 5086).

[4] Two of the plants involved, the Canton Tin Plate Mill and the Corrigan, McKinney plant in Cleveland, were not owned by petitioner on July 5, 1935, but were acquired shortly thereafter. However, plans identical in material provisions with those in petitioner's plants had been introduced by petitioner's predecessors in substantially the same manner and at the same time and continued in effect in the same way as the Plans in petitioner's plants; no point is made of the change in ownership (R. II, 981, 1041–1042; II, 1608–1609, 1618–1619, 1636–1639, IV, 2828–2830, VI, 4262, 4275, VII, 5095–5096, 5115–5117, 5270–5280, 5751-5762, 5786).

2500–2501, 2529, VI, 4604–4605, VII, 5461–5466, 5516, VIII, 5916).

In June 1936 the S. W. O. C. began to organize petitioner's employees (R. II, 860; II, 1557, 1578, III, 1693, 1772). On July 2, 1936, petitioner mailed to each of its employees a prepared statement containing a bitter and sweeping attack upon the S. W. O. C. and an open warning against "disloyalty" to petitioner (II, 861–863; IV, 2854, VII, 5777–5779). Commencing at about this time and for months thereafter, S. W. O. C. organizers and members were followed and otherwise kept under surveillance by petitioner's private police (R. II, 864–866, 1010, 1043, 1046–1051, 1054–1056, 1058, II, 1558–1577, 1580–1583, 1588–1594, III, 2047–2050, 2065-2066, IV, 2621–2625, 2683–2687, 2698–2699, 2714, 2720–2731, 2753–2756, 2761–2762, 2797–2799, 2803-2805, 2825–2826, VII, 5269, 5505). These tactics resulted in intimidation of the employees, and union meetings were secretly held (R. II, 866, 983, 1043; II, 1561–1563, 1584–1586, III, 1773, IV, 2722–2724, 2576). Nevertheless, these meetings were subjected to surveillance by petitioner's police and employees who attended were followed to their homes (R. II, 865, 1043, 1046–1047, 1050–1051, 1054, 1058, II, 1564, IV, 2621–2625, 2683–2684, 2688, 2693–2699, 2709, 2714, 2721–2731, 2753–2754).[5]

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[5] Illustrative of the success of petitioner's systematic intimidation of employees is the failure of a S. W. O. C. meet-

Employees' lockers were systematically broken into and searched for S. W. O. C. cards (R. II, 1056, 1059; IV, 2671, 2806–2807, VII, 5711–5712). Petitioner's police made repeated attempts to prevent the dissemination of S. W. O. C. literature by threatening the recipients (R. II, 1063; IV, 2578–2579) and by brutally beating organizers engaged in the peaceful distribution of literature outside the plant gates (R. II, 1063–1065; IV, 2548–2551, 2569–2570, 2580–2581, 2594–2599). Meetings were repeatedly held in all of petitioner's plants at which superintendents and foremen vilified the S. W. O. C., threatened employees with discharge or shutdown of the plant if they joined, and distributed antiunion literature (R. II, 871–872, 984–986, 991, 996, 1000, 1015–1016, 1019; III, 1740–1741, 1763, 1789–1793, 1845, 1914–1915, 1920–1922, 1938, 2003–2005, 2092–2102, 2157–2158, 2170–2172, 2200–2201, 2211–2212, 2257–2258, VII, 5612–5669, 5767–5776).

Attempts by Employee Representatives to change the Plans so as to make them more respon-

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ing for Negro employees scheduled to be held at Cleveland in August 1936 (R. II, 1063; IV, 2565–2567). The employees were afraid to attend because a carload of petitioner's police cruised near the meeting place (R. II, 1063; IV, 2566–2567, 2573). In January 1937 company police were stationed outside the meeting hall in Cleveland and watched the employees entering (R. II, 1056, 1058; IV, 2565, 2569–2570, 2574–2575, 2580, 2754–2755, 2809). In Youngstown company police watched all S. W. O. C. meetings and on at least one occasion spoke menacingly to the organizers (R. II, 1008–1009; III, 2046–2052).

sive to the employees' needs were rejected by petitioner (R. II, 1006–1008; III, 2122–2123, 2128–2129, VII, 5530–5536). Instead, petitioner utilized banquets and meetings attended by the Representatives to emphasize their obligation to keep the S. W. O. C. out of the plants (R. II, 1010–1011, 1066–1067; IV, 2795, 2842–2843, 2845–2846, VII, 5523, 5525, 5767). Various Representatives were offered promotions and other special inducements if they would campaign against the S. W. O. C. (R. II, 1047–1048, 1053–1054; IV, 2727–2729, 2793–2796). On March 18, 1937, the day after the United States Steel Corporation entered into a contract with the S. W. O. C., petitioner called a meeting of Employee Representatives from all of its northern plants; a motion was unanimously adopted approving petitioner's opposition to outside labor organizations (R. II, 868–870; III, 2128, VII, 5542–5544, VIII, 6150). Superintendents, foremen, and Employee Representatives used threats in soliciting the signatures of employees during working hours to petitions expressing satisfaction with the Plans and opposition to the S. W. O. C. (R. II, 870–871, 984–985, 1066; III, 1741, 1903–1904, 1912–1914, 2021–2025, IV, 2641–2643, 2670, 2677–2678, 2841–2842, 2847–2848, VII, 5025–5026). Following the decision of this Court in *National Labor Relations Board* v. *Jones & Laughlin Steel Corp.,* 301 U. S. 1, the Plans were amended, under petitioner's direction, so as to eliminate employer representation on the committees, petitioner's veto power, and the financial support which petitioner had theretofore openly extended to the Plans (R. II, 850–853, 981–982, 989–990, 1016–1017, 1034–1035, 1041–1042, 1067, II, 1678–1680, III, 1905, V, 3968, 3981–3983, 3993–3995, 4007–4008, VII, 5109–5110, 5428–5449, 5452–5455, 5492–5501, 5536).[6]

Discharges on account of union sympathy or activity, repeatedly threatened both at meetings and in private warnings by superintendents to employees suspected of union membership, were actually carried out in at least 18 instances. At the very beginning of the union organizing campaign the first employees to join or become active were discharged (R. II, 983, 1043–1050, III, 1772–1781, IV, 2616–2647, 2682–2689, 2693–2694, 2713–2715, 2720–2746, 2788–2794); after union officers were elected they were discharged (R. II, 1011–1012, 1051–1057; III, 2060–2075, IV, 2692–2714, 2766–2827); and from time to time enough ordinary union members were pointedly discharged to warn others of a similar fate if they became active (R. II, 859–860, 995–1003, 1058–1062; III, 1738–1769, 2005–2011, IV, 2607–2612, 2648–2652, 2667–2675, 2752–2766).

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[6] In some of the plants a pretense was made at establishing new organizations, which were merely the Plans as amended, with the same officers and Representatives as before (R. II, 850–853, 980–982, 989–990, 1016–1017, 1034–1035, 1041–1042, 1067; II, 1609–1612, 1629–1630, 1638, 1667, 1674–1680, 1682–1684, IV, 2836–2845, V, 3980–3987, 4006–4007, VI, 4621, VII, 5282–5283, 5427–5428, 5452–5455, 5492–5501). Superintendents and foremen assisted Employee Representatives in securing signatures to membership cards of the "new" organizations, threatening that employees who did not sign would lose their jobs (R. II, 853, 859–860, 1034–1037, 1068-1069; III, 1978–1980, 2005–2011, 2016, 2031–2034, 2377-2381, 2402–2404, 2442–2443, 2461-2464, 2472–2479, 2509–2512, IV, 2534–2540, 2839–2841, 2856–2858, 2861–2863, 2871–2874). Meetings at which Employee Representatives explained the "new" organizations to employees were held on company time and property (R. II, 853, 877–878, 990–991, 1019; III, 1714–1715, 1799–1803, 1837–1846, 1855, 1860, 1914–1915, 1935–1936, 1980, 2101–2105, 2144–2149, 2155–2164, 2166).

~~On~~ March 30, 1937, the S. W. O. C. wrote to Girdler, president of petitioner, requesting a conference and submitting a proposed contract providing for recognition of the S. W. O. C. as the collective-bargaining representative of its members, for a procedure whereby grievances might be adjusted, and for protection of the employees against discrimination, interference, restraint, or coercion because of union membership (R. II, 873; VII, 5132, VIII, 6149–6157). The proposed contract did not provide for changes in wages, hours, or working conditions but merely continued the present conditions (R. II, 1075; VII, 5715–5718). Petitioner did not reply to this communication (R. II, 873; VIII, 6146–6147). On May 3 the S. W. O. C. sent a telegram to petitioner pointing out that the letter of March 30 had been ignored, that widespread unrest existed among the employees, which was increased by the lay-offs of union members, and that a strike might occur unless petitioner negotiated concerning the proposed contract (R. II, 873; VII, 5128–5129; VIII, 6146–6147). On May 5 petitioner's director of industrial relations answered that "In view of Wagner Act see no necessity for signed contract," and suggested a conference for May 11 (R. II, 874; VIII, 6147–6148). On the same day petitioner locked out the 680 employees working at the Canton Tin Plate Mill, where the S. W. O. C. claimed a 90-percent membership (R. II, 980, 986–989; III, 1716–1717, 1786, 1791, V, 4182, 4186). Superintendent Thomas informed employees who inquired that "he did not believe the mills would start up until we get rid of that union" (R. II, 986–987; III, 1716–1717).[7] The mill remained closed until May 24 (R. II, 987; III, 1717, 1790–1791, V, 4184).

Representatives of petitioner and the S. W. O. C. met on May 11 but no progress toward an agreement was made (R. II, 875, 1073; VII, 5715–5716). On the same day, petitioner issued a statement to its employees berating the S. W. O. C., terming it irresponsible, and praising the Plans as successful instruments for collective bargaining (R. II, 875-

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[7] He had previously expressed repeated warnings to S. W. O. C. members that unless the union activity in the Canton Tin Plate Mill ended, petitioner would close the mill and put "everyone out of work" (R. II, 985–986; III, 1686–1688, 1712–1713, 1789–1790, VI, 4264–4266). Thomas did not testify.

877; IV, 2817, VII, 5715–5718). Beginning on the same evening and continuing through the succeeding two weeks, numerous meetings announced by foremen were held in the plants on company time; at these meetings various Employee Representatives vilified the S. W. O. C., warned against a strike, and exhorted the employees to "stand by" petitioner, to join the Plans and to stay away from "outside" unions (R. II, 877–878, 990–991, 1017–1019; III, 1714, 1801–1803, 1840–1845, 1860, 1863, 1935–1936, 1952–1953, 1978, 1980, 2095–2105, 2145, 2155–2164, 2166–2167, VI, 4451–4452, 4471, 4782–4789).

On May 20 petitioner shut down the Massillon Works, employing more than 3,000 persons (R. II, 846, 878–879; II, 1198–1199, III, 1940–1941, 1954–1955, IV, 2909). Union members were told by foremen "When we get through starving you out you won't want to strike" (R. II, 879; III, 1941, 1954–1955).[8] The plant remained closed through May 23 (R. II, 878; VI, 4254).

The lock-out of the Canton Tin Plate and Massillon employees, coming as the climax of many months of continuous and flagrant violations of the Act, threatened the very existence of the S. W.

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[8] Prior to the shut-down, Smith, superintendent of the Massillon works, and other supervisory employees, had repeatedly stated at various employee meetings that if the S. W. O. C. "asked for recognition, we will shut this plant down" (R. II, 853, 867–868, 871–872, 879; III, 1911–1915, 1918–1922, 1938). Smith did not testify.

O. C. in petitioner's plants unless immediate measures were taken to halt petitioner's campaign of intimidation against the union (R. II, 880). On May 25, the day after the plants reopened, the union employees at the Canton and Massillon plants went on strike (R. II, 880, 992; II, 1309–1310, III, 1688, 1790–1791, 1866, IV, 3053–3055, 3063–3067, V, 3902). On May 26 the employees at Youngstown, Warren, Niles, and Cleveland joined the strike (R. II, 1020, 1037, 1069; III, 2243, 2381, 2386, 2515, IV, 2852).

All of the plants here involved remained closed from May 25 or 26 until the end of June, when they reopened under the protection of the Ohio National Guard (R. II, 881, 993–994, 1022, 1038; II, 1205; III, 2336, 2386, 2427–2428, 2440–2441, IV, 2867, 2908–2909, 2922, 2933, 2972, VI, 4304–4305, 4795, 4841). During the strike petitioner deliberately planned and incited hysteria and violence in order to terrorize union members (R. II, 883–884, 888-895, 992–994; II, 1130, 1133–1135, 1150–1163, 1255-1256, 1268–1269, 1290–1296, 1337, IV, 2817, V, 3800-3807, 3815–3816, 3822–3823, 3842–3843, 3856–3857, VII, 5718–5722). On July 11, a group of foremen and employees, whom petitioner had had deputized by the Massillon police made an entirely unprovoked attack upon an unarmed group of strikers at their headquarters, killing three and wounding many others (R. II, 898–945, 975–980; II, 1169-1192, 1230–1231, 1382–1387, 1396–1400, 1410–1414, 1423–1430, 1444–1448, 1464–1473, IV, 3293, V, 3459, 3569–3570, 3573, 3579–3580). The tear gas and firearms used had been donated by petitioner to the Massillon police (R. II, 884–885, 897–898, 979; II, 1136–1138, 1166, 1230–1231, 1269–1270, IV, 3026, 3031, 3288–3291, 3373–3374, V, 3391–3393).

When the plants finally reopened, eight employees were refused reinstatement because of their membership in the S. W. O. C. (R. II, 1023–1029, 1038–1041; III, 2242–2247, 2259–2264, 2292–2297, 2304–2317, 2342–2347, 2349–2362, 2427–2453. "New" labor organizations led in whole or in part by the officers of the Plans and amply aided by petitioner through use of time, property, and coercion by supervisory employees to secure memberships, appeared at some of the plants (R. II, 854–859, 994–995, 1021–1022; III, 1966–1974, 1989–1998, V, 3973–3976, 3988–39 1, 3995–4003, 4005, 4021–4023, VI, 4304–4317, 4326–4331, 4340, 4347, 4351, 4356–4357, 4366–4377, 4454–4455, 4484–4488, 4493, 4618–4621, 4716–4718).

The Board found that by the foregoing acts petitioner had engaged in unfair labor practices within the meaning of Section 8 (1), (2) and (3) of the Act (R. II, 1079–1081) and that the strike was caused by petitioner's unfair labor practices (R. II, 1071–1075). The Board ordered petitioner to cease and desist from these unfair labor practices; to reinstate with back pay for appropriate periods the 26 persons, specifically named, who were discriminatorily discharged or refused reinstatement; to make whole the Canton Tin Plate and Masillon employees for losses of pay suffered by reason of the discriminatory lockouts; to offer reinstatement or placement upon a preferential list to the employees who went on strike, except certain employees convicted of serious offenses; to withdraw recognition from and disestablish the labor organizations found to be company-dominated; and to post appropriate notices (R. II, 1104–1109).

On October 20, 1938, petitioner filed in the court below its petition to review and set aside the Board's order (R. VII, 5173). The Board filed an answer thereto requesting that the petition to review be dismissed and that the Board's order be enforced (R. VII, 5208). On November 8, 1939, the court handed down its decision (R. VIII, 6277), enforcing the Board's order except as to the reinstatement of certain employees convicted of offenses deemed by the court to be of a sufficiently serious nature to preclude their reinstatement (R. VIII, 6290–6292). A decree was entered accordingly on January 2, 1940 (R. VIII, 6294).

ARGUMENT

I

THE BOARD'S FINDING THAT THE STRIKE WAS CAUSED BY PETITIONER'S UNFAIR LABOR PRACTICES IS SUPPORTED BY SUBSTANTIAL EVIDENCE

Petitioner contends (Pet. 11–17, 25–35) that there is insufficient evidence to support the Board's finding that petitioner's unfair labor practices constituted a substantial factor in causing the strike. The court below sustained the finding,[9] and petitioner's attack upon it presents no question of general importance. Compare *National Labor Relations Board* v. *Waterman Steamship Corp.,* No. 193, this Term, decided February 12, 1940.

Further, the evidence summarized in the Statement (*supra,* pp. 6–14) affords full support for the finding attacked by petitioner. After suffering petitioner's viciously antiunion campaign (*supra,* pp. 7–11) without defending itself, the S. W. O. C. informed petitioner on May 3 that the unrest of the men might result in a strike unless petitioner entered into negotiations concerning the contract proposed by the S. W. O. C., the plain purpose of which was to defend the union and the employees against petitioner's continuous violations of the Act (*supra*, pp. 11–12). Petitioner's blanket refusal, together with its blow at the existence of the S. W. O. C. by locking out the employees at two mills, directly led to the strike (*supra*, pp. 12–14). The facts are plain: failing to obtain assurance of any kind that petitioner would cease its illegal efforts to destroy it and seeing, instead, those efforts reach a crescendo not previously attained, the S. W. O. C. took the only remaining path—a strike. The responsibility plainly rests upon petitioner.[10]

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[9] The court said (R. VIII, 6287):

> We think that this finding is supported by the evidence and must be sustained. It is true that the strike was precipitated by Republic's refusal to sign the union contract * * * It is equally clear, however, that the signing of the contract was sought by the union not to raise wages or improve working conditions, for it purported to do neither, but solely to put an end to the warfare between the union and Republic which had resulted from the latter's unfair labor practices. What was sought, as the clauses of the contract hereinabove quoted demonstrate, was a formal declaration and agreement by Republic that it would not continue those unfair labor practices but would recognize and not interfere with the right of its employees to become members of the union.
>
> It is thus seen that the proposal to sign the contract was but a phase of the union's struggle against Republic's unfair labor practices and that the latter's refusal to sign was but one more indication that it proposed to continue those practices. * * * If the contract is refused, we cannot say that the refusal is the cause of the ensuing strike even though doubtless its acceptance would have averted it. The causes of the strike remain the unfair labor practices which the employer by his refusal of the proffered covenant of peace indicates that he will continue.

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[10] Petitioner relies (Pet. 25–30) upon an asserted inconsistency between the finding here and that made in *Matter of Inland Steel Co.*, 9 N. L. R. B. 783, order set aside, *Inland Steel Co. v. National Labor Relations Board*, decided January 9, 1940 (C. C. A. 7th). The asserted similarity between the two cases is thought to prove that here, as the Board found in the *Inland Steel* case, the strike was caused by petitioner's refusal to enter into a signed contract with the S. W. O. C. But both the Board and the court below recognized that this refusal was, in part, the immediate cause of the strike in this case; petitioner's contention does not reach the finding that the object of the request for a contract was to end petitioner's flagrantly illegal campaign against the union, and that the strike was thus precipitated by petitioner's rejection of the union's tender of means for removing the causes which were driving its members toward a strike, namely, the unfair labor practices. The conceded right of petitioner to reject this tender does not invalidate

II

THE ORDER TO REINSTATE STRIKERS WHO COMMITTED VARIOUS MISDEEDS IS NOT IN CONFLICT WITH THE *FANSTEEL* DECISION

Petitioner asserts (Pet. 35–41) that the reinstatement order, insofar as it includes employees who engaged in illegal acts during the strike, is in conflict with the decision in *National Labor Relations Board* v. *Fansteel Metallurgical Corp.,* 306 U. S. 240. Both the Board and the court below gave effect to the *Fansteel* case by excluding from the reinstatement order strikers who had been convicted of serious offenses in the local courts (R. II, 1087–1093, VIII, 6290–6291).[11] Petitioner contends that the *Fansteel* case requires the exclusion also of certain strikers who were convicted of misdemeanors and punished by small fines or short jail sentences[12] and of other persons whose participation in various illegal acts for which they were not convicted petitioner offered to prove at the hearing (R. VIII, 6072–6132, 6157–6222).

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the Board's findings that the principal cause of the strike was petitioner's unfair labor practices, which the contract was intended to halt.

[11] The court below excluded certain employees whom the Board had included in the reinstatement order, among them two whose offenses drew only a $10 fine from the local court (R. I, 774, VIII, 6290–6291, 6297).

[12] These offenses were the ones which usually occur during an industrial dispute of some magnitude: e. g., being intoxicated, threatening in a menacing manner, acting as a "suspicious person," disturbing the peace, engaging in dis-

The *Fansteel* case does not require the denial of reinstatement to employees who, in the course of a strike brought about by the employer's violations of the Act, engaged in the types of minor misconduct which are the usual unfortunate accompaniment of labor disputes. *National Labor Relations Board* v. *Stackpole Carbon Co.,* 105 F. (2d) 167, 176 (C. C. A. 3rd), certiorari denied, No. 418, this Term; *National Labor Relations Board* v. *Colten,* 105 F. (2d) 179, 183 (C. C. A. 6th). See also Note, *Employee Misconduct Under the Wagner Act: Developments Since the Fansteel Case,* 39 Columbia Law Review 1369. The Board followed the plain intent of Congress [13] when it refused to become a police court for the trial of minor offenses, indulging instead a presumption "that any significant crime committed was investigated by the proper authorities and, if adequate evidence was found, was prosecuted by them" (R. II, 1085–1086).[14]

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orderly conduct, interfering with a police officer, committing nonaggravated assault and battery, rioting, assembling together to do an unlawful act (R. II, 1088–1089).

[13] Senate Report No. 573, 74th Congress, 1st Sess., pp. 16–17; House Report No. 1147, 74th Congress, 1st Sess., p. 16.

[14] The presumption was doubly justified in this case, where the evidence showed that the police and prosecuting authorities in the communities where the strike occurred were active during the strike and thereafter. Many hundreds of arrests were made and more than a hundred convictions were obtained.

The Board excluded those who had been convicted of substantial offenses and the court below added to that category; under these circumstances there was no departure from the *Fansteel* decision.

Petitioner contends (Pet. 41) that the decision below is in conflict with *National Labor Relations Board* v. *Bradford Dyeing Association,* 106 F. (2d) 119 (C. C. A. 1st), certiorari granted, No. 588, this Term. In that case the court held that the Board's findings that two employees had been discharged in violation of Section 8 (3) were not supported by substantial evidence and that alleged efforts by the two employees to promote a sitdown strike barred their reinstatement. The court's observation (quoted Pet. 41) that the Board may not reinstate employees who engage in such conduct "or any other unlawful acts" is *obiter dictum.*

III

THE COURT BELOW DID NOT IMPROPERLY APPLY SECTION 6 OF THE NORRIS-LA GUARDIA ACT

The Board held that petitioner's contention that all of the strikers should be denied reinstatement because, under principles of conspiracy and combination, all were responsible for all violence that occurred, should be considered in the light of Section 6 of the Norris-La Guardia Act (Act of March 23, 1932, c. 90, 47 Stat. 70, 71).[15] And the Board

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[15] Section 6 provides:

"No officer or member of any association or organization, and no association or organization participating or interested found that there was no clear proof that the strikers generally had actually participated in, authorized or ratified the unlawful acts of individual strikers, and that they therefore were not barred from reinstatement (R. II, 1093–1094). The court below held that Section 6 applied to the proceeding before it for the enforcement of the Board's order, and pointed out that "No proof of actual participation, authorization or ratification was offered with respect to the strikers generally" (R. VIII, 6288).

Petitioner asserts (Pet. 41–44) that Section 6 is not applicable to proceedings under the National Labor Relations Act and that the court below should have applied principles of law apart from Section 6 in ruling upon the conspiracy contention. The legislative history of Section 6, however, reveals the broad intention of Congress wholly to abrogate for the federal courts the doctrine of conspiracy upon which petitioner relies.[16] Since the courts which must pass upon the validity of the Board's orders are forbidden to hold union mem-

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in a labor dispute, shall be held responsible or liable in any court of the United States for the unlawful acts of individual officers, members, or agents, except upon clear proof of actual participation in, or actual authorization of, such acts, or of ratification of such acts after actual knowledge thereof."

[16] In its report on Section 6, the Senate Committee on Judiciary stated that—

* * * the doctrine that a few lawless men can change the character of an organization whose members and officers are very largely law-abiding is one which has been developed peculiarly as judge-made law in labor disputes, and it is high time that, by legislative action, the courts should be

bers responsible for unlawful acts without clear proof of actual participation, authorization, or ratification, the Board may, and indeed obviously should, consider this restriction in issuing its orders. Cf. *United States* v. *Morgan,* 307 U. S. 183, 190–191. In any event, proof of a conspiracy would not affect the Board's discretionary power to reinstate strikers not shown to have participated in the overt acts committed, even had no reliance been placed upon the Norris-LaGuardia Act by the Board or the court below.

Petitioner's argument (Pet. 43) that the holding of the court below on this point is inconsistent with Section 10 (h) of the National Labor Relations Act clearly lacks merit. That section provides that in proceedings for the enforcement or review of Board orders "the jurisdiction of courts sitting in equity shall not be limited by" the Norris-LaGuardia Act. The court below did not apply that statute in limitation of its jurisdiction. It applied a rule of substantive law enacted by Congress to change the prior law of combination and conspiracy; it did not purport to observe any of the jurisdictional limitations imposed upon federal courts of equity by the Norris-LaGuardia Act.

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required to uphold the long established law that guilt is personal and that men can only be held responsible for the unlawful acts of associates because of participation in, authorization or ratification of such acts. Senate Report No. 163, 72d Congress, 1st Sess., pp. 19–20. See also the report of the House Committee on Judiciary, House Report No. 669, 72d Congress, 1st Sess., pp. 8–9.

IV

OTHER QUESTIONS RAISED ARE CLEARLY NOT WORTHY OF REVIEW

1. *Reimbursement of governmental relief agencies.*—Petitioner challenges (Pet. 44–47) the provision of the back-pay order requiring petitioner to deduct from the payments to employees any sums which they have received for work performed upon work-relief projects and to pay such sums to the appropriate governmental agencies. The provision is now included in all orders of the Board providing for back pay, and has been enforced by every Circuit Court of Appeals which has thus far passed upon an order including it.[17] It seems plainly to be a desirable provision and well within the Board's statutory authority to require such affirmative action as will effectuate the policies of the Act (Section 10 (c)).[18]

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[17] *National Labor Relations Board* v. *National Casket Co., Inc.*, 107 F. (2d) 992 (C. C. A. 2d); *National Labor Relations Board* v. *Planters Mfg. Co.*, 105 F. (2d) 750 (C. C. A. 4th); *North Whittier Heights Citrus Association* v. *National Labor Relations Board*, decided January 12, 1940 (C. C. A. 9th).

[18] Section 10 (c) of the Act contains no requirement that the employer be permitted to deduct from "back pay" sums earned by employees when they are out of work as a result of unfair labor practices. Petitioner accordingly cannot complain that the deductions here allowed are not the full amount earned by the employees, or that amounts which it could be required to pay the employees go instead to governmental relief agencies rather than to the employees, so that petitioner, instead of the public, may bear the burden of its illegal acts.

2. *Back pay to employees voluntarily reinstated by petitioner.*—The Board ordered petitioner to make whole certain employees for loss of pay during lock-outs and discharges by petitioner in violation of the Act (R. II, 1107–1108). The employees were voluntarily reinstated by petitioner before the strike. Petitioner contends that since the Board could not order reinstatement of the employees it could not, under Section 10 (c) of the Act, order back pay, and that the holding of the court below to the contrary is in conflict with *National Labor Relations Board* v. *Carlisle Lumber Co.,* 99 F. (2d) 533 (C. C. A. 9th), certiorari denied, 306 U. S. 646.

Petitioner quotes from the *Carlisle* case (Pet. 49–50) a discussion by Judge Haney of the question whether employees discharged in violation of the Act are disqualified from reinstatement and back pay when they obtain other regular and substantially equivalent employment, and thereby cease to be "employees" within the definition in Section 2 (3). The question here, however, does not concern employees who are asserted to have disqualified themselves from reinstatement and back pay by obtaining other employment. Moreover, the court in the *Carlisle* case held that the employees had not obtained other equivalent employment, and it enforced in full the Board's order as to all employees ordered reinstated. The statement of Judge Haney which petitioner quotes was, therefore, dictum. Finally, it was the opinion of but one judge: Judge Stephens, concurring, stated that the question was not before the court and that no opinion concerning it should be expressed (99 F. (2d) 543). Judge Wilbur concurred in the result only (99 F. (2d) 544).

Petitioner's contention is, in effect, that it may avoid a back-pay order by itself reinstating the discharged employees at any time prior to issuance of the Board's order and thereby forestalling a reinstatement order. The holding of the court below to the contrary is obviously correct. Compliance is no bar to an order of the Board. *National Labor Relations Board* v. *Pennsylvania Greyhound Lines, Inc.,* 303 U. S. 261, 271; *Consolidated Edison Co.* v. *National Labor Relations Board,* 305 U. S. 197, 230.

3. *The single preferential hiring list.*—In addition to requiring that all available positions at the plants where strikes occurred be filled, without discrimination, from among the strikers and from those employed at the time of the strike but who did not join in it, the Board provided in its order that the names of each employee for whom no position was available be placed upon a preferential list for employment at certain of petitioner's plants, and that vacancies be filled from that list regardless of whether the employee previously worked at the particular plant where the vacancy occurs (R. II, 1108, 1095–1096).[19] Petitioner objects (Pet. 51–53) that this provision gives the strikers greater rights

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[19] Under the Board's proposed order the preferential list applied to all of petitioner's plants (R. I, 573, 576–577). In its final decision the Board recognized the validity of peti-

than they would have enjoyed if no strike had occurred.

The challenged provision gives the strikers (and other employees thrown out of work by the strike) a preference over applicants for employment at the plants to which the list applies.[20] Since the strikers were compelled to leave their work in order to defend their right of self-organization against petitioner's illegal attacks, it is only fair that they should be preferred to newcomers. The Board was warranted in using every means consonant with justice to repair the economic havoc wreaked by petitioner's flagrant disregard of its obligations under the Act. The power to require reinstatement at a plant other than the one where the employee pre-

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tioner's objection that it would be inconvenient to employ the strikers at distant plants and restricted the operation of the preferential list to the plants located in Ohio, at Monroe, Michigan, and at Beaver Falls and Pittsburgh, Pennsylvania (R. II, 1095–1096).

[20] Petitioner's argument that an employee *laid off* at one plant would have no seniority right to be employed at another (Pet. 52) is beside the point. The necessary comparison is between what should be done for the strikers and the rights they would have enjoyed if no strike had occurred and they had continued working. There is no proof that they would have been laid off; petitioner might have transferred surplus employees to new plants or to other plants where experienced men were needed. It might have preferred such employees, whether still working or laid off, to new applicants. Petitioner cannot establish the invalidity of the provision in question by speculating that the strikers might have fared worse if there had been no strike than they will under the Board's order. Cf. *National Labor Relations Board* v. *Pennsylvania Greyhound Lines, Inc.*, 303 U. S. 261, 265.

viously worked was sustained in *National Labor Relations Board* v. *Remington Rand, Inc.*, 94 F. (2d) 862 (C. C. A. 2d), certiorari denied, 304 U. S. 576, 585, on contempt application, 97 F. (2d) 195 C. C. A. 2d). Moreover, petitioner does not point to any way in which it is prejudiced by the expedient adopted by the Board.

4. *Adequacy of the charge.*—Petitioner complains that the charge did not name all of the employees who were alleged in the complaint to have been discriminatorily discharged, or catalogue in detail all the various unfair labor practices found by the Board to have caused the strike (Pet. 53–54). It asserts that the decision below, in upholding the sufficiency of the charge, is in conflict with *National Labor Relations Board* v. *Hopwood Retinning Co., Inc.*, 98 F. (2d) 97 (C. C. A. 2d).

In the *Hopwood* case the Board issued its order against both Hopwood and another corporation, whereas the charge filed had alleged unfair labor practices only on the part of Hopwood. The court held that the order could not properly issue against the other corporation since the Act had not been invoked against it, as Section 10 (b) requires. In a subsequent decision the Second Circuit made it clear that the Hopwood case did not involve the question whether the complaint and order issued against an employer named in the charge must be limited to unfair labor practices alleged in the charge. *National Labor Relations Board* v. *National Licorice Co.*, 104 F. (2d) 655, 658, certiorari granted, No. 272, this Term, argued February 7, 1940.[21]

5. *Sufficiency of the hearing.*—Petitioner's assertions (Pet. 56–58) that it was never granted a hearing as to the charges made against it in the complaint are frivolous. Oral argument was had before the Board upon petitioner's exceptions to the Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Order, and petitioner filed a brief in support of its exceptions (R. I, 782–832). The fuller statement of the proceedings set forth hereinbefore (see pp. 4–5, *supra*) shows that petitioner was afforded by the Board, both before its first order and again before the order enforced below, full opportunity to present its contentions and to meet the issues of the case.

6. *Sufficiency of the evidence.*—Petitioner's various contentions that the Board's findings that the lock-outs and discharges were unfair labor practices within the meaning of Section 8 (3) of the Act were unsupported by the evidence (Pet. 22–23, 34–35, 51, 54–56) are trivial. See *supra,* pp. 10–13. Similarly, in view of the overwhelming evidence that the "independent" unions were mere puppet

---

[21] The general question whether the complaint and order are limited to unfair labor practices alleged in the charge is before the Court for decision in the *National Licorice* case. See brief for petitioner in No. 272, pp. 20–24; brief for the Board, pp. 65–72. The present case involves simply the question of what degree of particularity is required in the allegations of unfair labor practices contained in the charge, not the question whether the complaint and order may include unfair labor practices not stated in the charge.

labor organizations (*supra,* pp. 6, 8–10, 15), the claim that petitioner should have been permitted to call several thousand employees who would have testified that they joined the puppet organizations freely (Pet. 24, 58–59) warrants no consideration by this Court. Cf. *National Labor Relations Board* v. *Brown Paper Mill Co.,* decided January 17, 1940 (C. C. A. 5th).

CONCLUSION

The petition presents no substantial question of public importance. The decision of the court below was correct in all respects and is not in conflict with any decision of this court or of any circuit court of appeals. It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

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February 1940.

APPENDIX

The relevant provisions of the National Labor Relations Act (Act of July 5, 1935, c. 372, 49 Stat. 449; 29 U. S. C. Supp. IV, Sec. 151 *et seq.*) are as follows:

> SEC. 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.
>
> SEC. 8. It shall be an unfair lobor practice for an employer—
>
> (1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.
>
> (2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it * * *.
>
> (3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: * * *
>
> * * * * *
>
> SEC. 10. (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise.

(b) Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of said complaint. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the Board in its discretion at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent, or agency conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony. In any such proceeding the rules of evidence prevailing in courts of law or equity shall not be controlling.

(c) The testimony taken by such member, agent, or agency, or the Board shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board, upon notice, may take further testimony or hear argument. If upon all the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirm-

> ative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon all the testimony taken the Board shall be of the opinion that no person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint.
>
> * * * * *
>
> (h) When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified or setting aside in whole or in part an order of the Board, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (U. S. C., Supp. VII, title 29, secs. 101–115).

The relevant provisions of the Norris-LaGuardia Act (Act of March 23, 1932, c. 90, 47 Stat. 70, 71; 29 U. S. C., Sec. 101 *et seq.*) are as follows:

> SEC. 6. No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute shall be held responsible or liable in any court of the United States for the unlawful acts of individual officers, members, or agents except upon clear proof of actual participation in or actual authorization of such acts or of ratification of such acts after actual knowledge thereof.

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No. 14

In the Supreme Court of the United States

OCTOBER TERM, 1940

REPUBLIC STEEL CORPORATION, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD AND STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD

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In the Supreme Court of the United States

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No. 14

REPUBLIC STEEL CORPORATION, PETITIONER
v.
NATIONAL LABOR RELATIONS BOARD AND STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD

OPINIONS BELOW

The opinion of the court below (R. VIII, 6277–6292) is reported in 107 F. (2d) 472. The findings of fact, conclusions of law, and order of the National Labor Relations Board (R. II, 833–1109) are reported in 9 N. L. R. B. 219.

JURISDICTION

The decree of the court below (R. VIII, 6294–6299) was entered on January 2, 1940. The petition for writ of certiorari was filed on February

7, 1940, denied on April 8, 1940 (309 U. S. 684), and granted upon petition for rehearing on May 20, 1940, limited to the fourth question presented in the petition, which relates to the validity of the work-relief provisions of the decree below. The jurisdiction of this Court rests on Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925, and Section 10 (e) and (f) of the National Labor Relations Act.

QUESTION PRESENTED

Whether, as part of a back-pay order, it was within the power of the Board to require petitioner to deduct from the back pay any sums which the employees have received for work performed upon work-relief projects and to pay over such sums to the appropriate governmental agencies.

STATUTES INVOLVED

The pertinent provisions of the National Labor Relations Act are set out in the Appendix.

STATEMENT

Upon charges (R. I, 1–12) filed by the Steel Workers Organizing Committee, a labor organization hereafter called the S. W. O. C., and after various procedural steps which need not be detailed, the Board on October 18, 1938, upon the entire record in the case, issued its decision and order (R. II, 833–1109).

The Board found that petitioner, by dominating and interfering with the formation and administration of various labor organizations of its employees, and by contributing financial and other support thereto, had engaged in unfair labor practices within the meaning of Section 8 (1) and (2) of the Act (R. II, 1079–1081). The Board also found that petitioner, by discharging or refusing to reinstate 26 named employees because of their union membership and activity, and by discriminatorily locking out its employees at the Massillon Works and the Canton Tin Plate Mill, had engaged in unfair labor practices within the meaning of Section 8 (1) and (3) of the Act (R. II, 1080–1081). The Board further found that petitioner, by coercing and intimidating its employees in various ways in the exercise of their rights to self-organization and collective bargaining, had engaged in unfair labor practices within the meaning of Section 8 (1) of the Act (R. II, 1081). Finally, the Board found that a strike at petitioner's plants was caused by petitioner's unfair labor practices (R. II, 1071–1075).

Upon these findings, the Board ordered petitioner to cease and desist from the unfair labor practices; to withdraw recognition from and disestablish the company-dominated labor organizations; to reinstate with back pay for appropriate periods the 26 named employees who were discriminatorily discharged or refused reinstatement; to make whole the Canton Tin Plate and Massillon employees for losses of pay suffered by reason of the lock-outs; upon application, to offer reinstatement or placement upon a preferential list to the employees who went on strike, except certain employees convicted of serious offenses; to make whole the employees who went on strike for any losses of pay they might suffer through petitioner's refusal to reinstate them or place them on a preferential list within 5 days after application; to deduct from the payments to employees in all the foregoing groups any sums received by the employees for work performed upon work-relief projects, and pay over such sums to the appropriate governmental agencies; and to post appropriate notices (R. II, 1104–1109).

On October 20, 1938, petitioner filed in the court below its petition to review and set aside the Board's order (R. VII, 5173–5207). The Board filed an answer requesting that the petition to review be dismissed and that the Board's order be enforced (R. VII, 5208–5221). On November 8, 1939, the court handed down its decision (R. VIII, 6277–6292) enforcing the Board's order except as to the reinstatement of certain employees convicted of offenses deemed by the court to be of a sufficiently serious nature to preclude their reinstatement (R. VIII, 6290–6292). A decree was entered accordingly on January 2, 1940 (R. VIII, 6294–6299). On May 20, 1940, this Court granted a writ of certiorari limited to the question whether the decree below, in so far as it enforces the provisions of the Board's order requiring petitioner to deduct the amounts of work relief payments from back pay and to pay over such amounts to appropriate governmental agencies, is proper.

SUMMARY OF ARGUMENT

The Board found that petitioner had deprived various of its employees of employment because of their union membership or activities. That petitioner must compensate these employees for pay lost is now settled: the Board was faced with the further question of what effect it should give to payments which had been received by the employees from work relief projects. The Board determined that the policies of the Act would best be served if these payments were reimbursed to the governments which had financed the relief projects. We contend that the order effectuating this determination is within the power of the Board under the Act.

A

It will effectuate the policies of the Act to require petitioner to reimburse the governments. The back pay order specifically authorized in Section 10 (c) effectuates the Act by making whole the employees for loss of earnings, and, no less important, by providing a substantial deterrent—with reinstatment, the only deterrent specifically authorized in the Act—to employer violation. The reimbursement provision prevents employers from shifting to work relief agencies the financial burden of back pay and thereby eliminating in part the deterrent effect of a back pay order. Nor is reimbursement a "penal" deterrent, since it but serves to create the situation which would have existed save for the unfair labor practices.

Petitioner's contention that the reimbursement provision will, by causing relief agencies to prefer strikers, encourage employees to resort to industrial strife, is unsound. It is the practice of the Board, followed here, to order back pay only for periods when employees are out of work as the result of a discriminatory lock-out, discharge or denial of reinstatement, and not for periods when employees are voluntarily on strike. Further, nothing in the Act prescribes that the economic sanction against strikes which existed before the Act, namely the privation resulting from unemployment, must be preserved by the Board. And a denial of reimbursement might lead relief agencies to view with disfavor employees in the position of petitioner's, since such employees are contingently in a better position than are unemployed workers who have no possibility of reinstatement or back pay. Avoidance of such a result tends to effectuate the policies of the Act.

Petitioner argues that the power of the Board is limited to restoring employees to their status quo. But in framing remedies under the Act the Board acts for the protection of public interests, not of private rights. Here the Board concluded that the relief payments represented a beneficence from outside agencies which neither petitioner nor the employees were entitled to retain. If, as it is not denied, the Board was competent to decide that the employees should not retain the benefits of the relief payments, it was also competent to decide that the payments should not be credited to petitioner but should be restored to the governments.

B

Petitioner argues that the Government suffered no loss by reason of the payments to petitioner's employees, because the projects received value in labor for the wages paid the employees. This argument is unsound, for examination of the federal work relief program reveals that it is basically a relief device and not a public works program.

C

The Board could hold that, as between petitioner and its employees, the latter are entitled to retain the work relief payments, and the Board could properly require the latter to reimburse the governments which supported them. The validity of the Board's order must be considered in this context.

In deducting from back pay amounts earned by the workers in the service of other employers, the Board follows the common law rule as to the measure of damages for breach of an employment contract. The common law distinguishes, however, between earnings which are in the nature of wages and benefits conferred by third parties, whether the benefits be gratuities or payments secured by the worker's own foresight, such as insurance or strike benefits. Such benefits are not deducted from recovery. Here the Board could properly hold that payments from work relief agencies resemble benefits from outside sources more than they do earnings from ordinary employment. Hence the Board could properly refuse to permit the employer to deduct work relief payments from back pay.

Payment of back pay to the employees places them in a position to reimburse the relief agencies which assisted them, without net loss to themselves. The Board might properly regard such repayment as an equitable obligation of the employees and require that it be satisfied as a condition of the back pay order.

D

Various minor objections raised by petitioner to the reimbursement order, such as the absence of the fiscal agencies as parties and alleged difficulty of compliance with the order, are unsubstantial

ARGUMENT

As a preliminary matter, we wish to call to the Court's attention the fact that the petition for certiorari in this case contains no specification of errors. Read literally, the Court's rules do not require that a petition for certiorari contain a specification of errors, but only that the supporting brief, if one is filed, contain a specification. Rule 38, par. 2; Rule 27, par. 2. No supporting brief was filed by petitioner in this case; accordingly it is our belief that no specification of errors was necessary. See *General Pictures Co.* v. *Electric Co.,* 304 U. S. 175, 178; Robertson and Kirkham, *Jurisdiction of the Supreme Court,* p. 780, fn. 51. There is, however, some uncertainty on this score among the profession, and a definite ruling by the Court would be of future assistance to the bar.

Section 10 (c) of the National Labor Relations Act directs the Board, if it finds that the person proceeded against has engaged in any unfair labor practice, to order such person to cease and desist from such practice, "and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act." In the present case the Board found that petitioner, in addition to other unfair labor practices, had laid off, discharged, or refused reinstatement to various of its employees because of their membership in the S. W. O. C., and had thus deprived these employees of work for various periods in violation of the Act.

The S. W. O. C. had excepted to the Board's proposed back pay order "insofar as it may be interpreted to permit the respondent [petitioner] to deduct from back wages to be paid to any individual any sum which such individual may have earned on W. P. A. or other public relief employment" (R. I, 781). In considering this exception, the Board stated in its decision that insofar as the employees had received work relief payments it was not necessesy, in restoring them to the status quo, that the back pay to be paid to them include the amounts of relief payments (R. II, 1096). "Nevertheless," the Board added, "to hold that the losses accruing from the respondent's [petitioner's] unfair labor practices must be borne by the government or governments financing the work relief project would not effectuate the purposes of the Act." In this situation the Board ordered that the governments be reimbursed for the relief funds expended; that is, that petitioner deduct the amounts of relief payments from back pay, and pay over to the appropriate governments the amounts so deducted. The Board thus determined that as between petitioner, its employees, and the governments financing the relief agencies, the effectuation of the purposes of the Act would best be served if the governments received the funds in question. It is this determination, or the provisions in the order effectuating it, which are attacked here as beyond the power of the Board.

THE PROVISION FOR REIMBURSEMENT OF RELIEF FUNDS IS WITHIN THE BOARD'S POWER

A. TO REQUIRE PETITIONER TO REIMBURSE THE FISCAL AGENCIES WILL EFFECTUATE THE POLICIES OF THE ACT

Upon finding a violation of the Act, the Board, in addition to issuing a cease and desist order, may require an employer "to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act." By its terms this is a ~~board~~ broad discretionary power. "Notwithstanding the mandatory form of § 10 (c), its provisions in substance leave to the Board some scope for the exercise of judgment and discretion in determining, upon the basis of the findings, whether the case is one requiring an affirmative order, and in choosing the particular affirmative relief to be ordered." *National Labor Relations Board* v. *Pennsylvania Greyhound Lines, Inc.*, 303 U. S. 261, 265.

Basic in the scheme of remedies envisaged by Congress and enumerated in Section 10 (c) as a permissible type of affirmative relief, is an order that the employer make whole his employees for any loss of pay suffered as a result of the employer's unfair labor practices. Back pay compensates the employees for wages lost as a result of the employer's unfair labor practices, although it does not, of course, fully eradicate the probable effects on the employees, financial and otherwise, of having been for long periods without income. No less important in effectuating the policies of the Act, the back-pay order is a substantial deterrent to employer violation, as Congress must have foreseen in specifically providing for it. Such an order thus serves both to protect the worker in the exercise of his rights and to discourage the employer from infringing them. "Reinstatement of the employee and payment for time lost are requirements imposed for violation of the statute and are remedies appropriate to its enforcement." *National Labor Relations Board* v. *Jones & Laughlin Steel Corp.*, 301 U. S. 1, 48–49.

The Act prohibits an employer from depriving his employees of work because of their union membership or activities, as petitioner did. The Act plainly contemplates that the employer may ultimately be charged with the wages employees have thus lost. The Board cannot, however, compel the employer to assume this burden until after the employer's responsibility has been duly established. A delay of months or years may ensue, as in this case where the unfair labor practices occurred in 1937. Pending the realization of these statutory remedies, the employees may be without means of support. If, as part of a program of work relief, various governmental agencies assume the burden of supporting the employees—a burden which the

Act places upon the employer—then reimbursement of these agencies serves to effectuate the policies of the Act. To hold otherwise would permit the employer to cast onto the community those burdens which the Act places on his shoulders and would allow the resources of work relief, provided to care for the needy unemployed, to be diverted to the subsidization of unfair labor practices.

The requirement that the employer pay over to the fiscal agencies amounts equal to the work relief payments to its employees effectuates the policies of the Act much as does a back-pay order. If employers are permitted to deduct the amounts of relief payments from back pay, and to retain these amounts, the effect of a prospective back-pay order in deterring violation of the Act is substantially diminished. We do not suggest that any and every type of affirmative relief which would operate to deter violation of the Act should be sustained. The remedy should be directed to "removing or avoiding the consequences of violation", as said in *Consolidated Edison Co.* v. *National Labor Relations Board,* 305 U. S. 197, 236, and may not be punitive. The affirmative relief here in question is not only necessary to preserve the deterrent effect of the back-pay order, specifically authorized by Congress, but serves to create, as nearly as may be done, the situation which would have existed but for the unfair labor practices. It seeks to restore the innocent parties, both the employees and the fiscal agencies, to the position they would have occupied had not petitioner's unfair labor practices intervened.

Petitioner contends, however, that reimbursement will cause officials of governmental agencies to prefer strikers in accepting applicants for work relief, and will thus encourage employees to resort to industrial strife (Br. 15). In the first place, it is apparent that the employee is in no better position for having gone on strike, since the work relief payments will be deducted from his back pay. His only benefit is the immediate assistance which the work relief agency gives him during his period of idleness. Moreover, it is the practice of the Board, followed here, to order back pay only for periods when employees are out of work as the result of a discriminatory lay-off, discharge, or denial of reinstatement, and not for periods when employees are voluntarily on strike, even though the strike is provoked by the employer's unfair labor practices. See *Republic Steel Corp.* v. *National Labor Relations Board* (supplemental opinion filed September 30, 1940, C. C. A. 3d). Finally, petitioner's argument constitutes, in effect, a plea that a sanction available before adoption of the Act to discourage employees from striking against invasion of their rights of self-organization and collective bargaining, namely, the privation arising from unemployment during a long-drawn-out strike, must be preserved, and that any construction of the Act which permits impairment of that sanction should be disapproved. This contention is conclusively rebutted by Section 13, providing that "Nothing in this Act shall be construed so as to interfere with or impede or diminish in any way the right to strike."

While petitioner's argument about promotion of strikes is thus insubstantial, it is, we think, factually sound in so far as it resognizes the probable influence of reimbursement on relief agencies. Certainly a denial of reimbursement may be expected to lead relief agencies to view with disfavor employees who are out of work as a result of a labor dispute or discriminatory discharge, since they are contingently in a better position than are employees with no possibility of reinstatement or back pay. Thus, without the provision here in question, the economic sanction against strikes will not merely be preserved, but will be strengthened, in contravention of the policy of Section 13. Avoidance of such a result tends, we submit, to effectuate the policies of the Act, not to thwart them.

The reimbursement provision will, in these two ways, tend to remove consequences of petitioner's violations of the Act which "are of a kind to thwart the purposes of the Act" (the *Consolidated Edison* case, 305 U. S. at 236.) Reimbursement

will avoid the consequence, which would be host
to effectuation of the Act, of petitioner's shifti
to relief agencies the financial burden of back p
and thereby avoiding in part the deterrent eff
of a back-pay order. And it will encourage reli
agencies to support employees out of work as t
result of a labor dispute, or, at least, not discoura
them from so doing, thereby mitigating the cons
quences of unlawful discharge or lay-off and saf
guarding the employees in the assertion of the
rights under the Act.

Petitioner contends that "the purposes of t
Act are merely to protect the right of employee
and that the reimbursement provision is inval
because "it does not assist in restoring the e
ployee to status quo" (Br. 13). As has be
shown and as petitioner recognizes, although t
agencies are the primary beneficiaries of rei
bursement, the employees also benefit by means
the increased protection and security assured the
in the exercise of the rights conferred by Secti
7 of the Act. And nothing in the language of Se
tion 10 (c) limits affirmative relief to action whi
will directly or immediately benefit employees
restoration of their status quo. The sole limitati
which appears there is that the relief shall effect
ate the policies of the Act. That requirement,
have shown, is fulfilled here.

The Act was not framed as a code of priva
labor law. Its purpose is public, not private, a

the Board, in framing remedies under it, acts only for protection of the public interest. Section 1 of the Act; *National Licorice Co.* v. *National Labor Relations Board,* 309 U. S. 350; *Amalgamated Utility Workers* v. *Consolidated Edison Co.,* 309 U. S. 261; H. Rept. No. 1147, 74th Cong., 1st Sess., p. 24. Hence the reimbursement of public agencies which have assumed burdens which in law belong to the employer comes within the Board's power. The burden of economic dislocation resulting from unfair labor practices has been placed upon the already overburdened work-relief agencies. The correction of this condition, harmful to the public in general as well as to the unemployed in particular, surely comes within the Board's remedial power. Back pay and reinstatement themselves are not mere private rights of action. They are remedies of a public nature. *Agwilines, Inc.* v. *National Labor Relations Board,* 87 F. (2d) 146 (C. C. A. 5th); *National Labor Relations Board* v. *Colten,* 105 F. (2d) 179 (C. C. A. 6th). The same is true of reimbursement of those public agencies which have, for a temporary period, fulfilled those duties which the Act contemplates shall be assumed by the offending employer.

The direction to reimburse relief funds was not conceived by the Board out of thin air as a device to penalize petitioner. The Board was faced with a practical situation. Ordinarily petitioner would simply have been ordered to restore back pay to the employees, which would have compensated them for lost wages. But an outside factor intervened. As brought out by the S. W. O. C., undoubtedly various of the workers had, during their period of unemployment, been supported by work relief funds. These work relief funds were, it seemed to the Board, a sort of windfall, which neither petitioner nor the employees were entitled to retain. See R. II, 1096. The Board's problem was thus similar to that which confronted Congress when the A. A. A. processing and floor stock taxes were invalidated by this Court. See *Anniston Mfg. Co.* v. *Davis,* 301 U. S. 337. And compare *United States* v. *Morgan,* 307 U. S. 183. In this situation the Board ordered that the amounts of these relief funds be restored to the governments.

It would be going far to hold that this disposition of the question was not within the power of the Board. The remedies which the Board may utilize in the enforcement of the Act are in their nature equitable. Surely the Board, like the courts in reviewing its orders, "may adjust its relief to the exigencies of the case in accordance with the equitable principles governing judicial action." *Ford Motor Co.* v. *National Labor Relations Board,* 305 U. S. 364, 373. In this light the Board's power to effectuate the policies of the Act should not be narrowly construed. It does not suffice to say that the Board could merely leave the situation as it found it, for it had of necessity to decide whether to permit petitioner to deduct the amounts of the relief payments from the back pay. If the Board was competent to decide that the employees should not be permitted to retain the benefits of the relief payments, as of course petitioner does not deny, the Board was also competent to decide that the amounts of the relief payments should not be credited to petitioner but should be restored to the governments which provided them.

B. THE REIMBURSEMENT PROVISION IS REMEDIAL, NOT PUNITIVE

In ordering reimbursement of relief funds, the Board proceeded, as petitioner asserts (Br. 27), on the premise that the governments financing the relief projects had borne losses accruing from petitioner's unfair labor practices. Petitioner attacks this premise that the projects suffered loss, asserting, first, that if the projects had not employed petitioner's employees they would have employed other persons, and, second, that the projects received value in labor for the wages they paid (Br. 15 ff.). Therefore, petitioner asserts, work relief projects stand, as a matter of law, in exactly the same position as do private employers for whom its employees may have worked (Br. 16). That a work relief project which supports employees illegally thrown out of work bears no loss because it receives work for wages is likewise the chief basis of those lower-court decisions which have refused to enforce the reimbursement provision. See Br. 18–19. And, like petitioner, those decisions conclude that since the governments are ordered reimbursed for losses they never bore, the order is punitive, and not remedial.

Whether a work relief project which supports employees illegally thrown out of work does thereby suffer loss, or whether, because it receives work for wages, it suffers no loss, turns, we think, on the basic functions and objectives of work relief. For enlightenment on this score we turn to the operations of the federal work relief program, administered by the Work Projects Administration (W. P. A.), formerly called the Work Progress Administration.[1]

The federal work relief program, first instituted in its present form under authority of the Emergency Relief Appropriation Act of 1935, c. 48, 49 Stat 115, was designed to meet the problem of large-scale unemployment produced by a depression of more than five years' duration. The purpose of the program was to provide useful work at security wages for the employable unemployed. While the program has always emphasized the useful character of the projects constructed, and their value to the several communities, its primary objective has always been to furnish work and sustenance for the needy unemployed.[2]

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[1] State work relief appears to be quantitatively unimportant and to possess in general the same characteristics as that carried on through the W. P. A. See Robert C. Lowe, State Public Welfare Legislation (Works Progress Administration, Division of Research, 1939).

Work relief is, of course, to be distinguished from public works. The program of the federal Public Works Administration is carried out through contracts with private firms and the Board does not regard P. W. A. projects as work relief projects within the meaning of its back pay orders. Petitioner repeatedly confuses W. P. A. with P. W. A. (see Br. 8–9, 16).

This basic policy has conditioned the character of the entire work relief program; and from it have proceeded various subsidiary characteristics which patently differentiate work relief projects from ordinary private business and from other governmental activities.

The number of jobs provided by the W. P. A. has varied considerably during each of the four years in which the program has operated, generally paralleling the course of unemployment over the period. Employment on the program has been expanded during periods when private employment has declined and has been contracted when the number of persons in need of W. P. A. employment has fallen off as a result of increased employment in private industry.[3]

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[2] Report on the Works Program Through December 1935, Works Progress Administration, February 15, 1936, Part I, pp. 7–9; Hearings on S. Res. 36, Unemployment and Relief, U. S. Senate, 75th Cong., 3d Sess., pp. 1345–1346, 1355; Hearings before the Subcommittee of the Committee on Appropriations, on H. Res. 130, 76th Cong., 1st Sess., Part 1, pp. 19, 454, 457–458, 494, 498, 1266; Millis and Montgomery, *Labor's Risks and Social Insurance* (1938), pp. 95–96.

Work relief projects have not been selected or constructed with a single eye toward costs or usefulness. Projects roviding the greatest number of jobs in proportion to the amount expended have been favored. Likewise projects have been chosen to fit the number and type of needy unemployed workers in the various communities. This, of course, is in marked contrast to the conduct of private business or of other activities of the government, where the workers are selected to fit the jobs rather than the jobs to fit the workers. The work-relief statutes themselves have limited the proportion of the appropriations which may be spent on nonlabor costs, thus assuring that a maximum number of jobs would be provided.[4] Further to effectuate this policy, the use of labor-saving machinery has been limited on work-relief projects.[5]

The policies and procedures followed in the selection of persons for the federal work relief program are also notably different from personnel policies in vogue elsewhere. "In order that the operation of the W. P. A. projects will have a maximum effect in relieving distress caused by unemployment, the W. P. A. requires that at least 95 percent of the persons assigned to its projects in each state be certified as in need of relief."[6] Those who are given W. P. A. employment cannot retain it after refusing a *bona fide* offer of ordinary employment, since the purpose of the work relief program is to care for the needy unemployed only until other forms of employment reabsorb them.[7] Likewise W. P. A. workers are kept under constant pressure to seek other forms of employment. All non-war veterans engaged in W. P. A. projects for 18 continuous months are automatically purged from the rolls for a period of 30 days, and may be reinstated only after proof of inability to secure other work and on certification as in need or relief.[8] At the present time W. P. A. workers receive monthly wages in accordance with an established schedule which is designed to meet family subsistence requirements.[9]

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[3] Report on the Progress of the W. P. A. Program, Federal Works Agency, Works Progress Administration, June 30, 1939, p. 1.

[4] E. g. Section 1 (c) of the Emergency Relief Appropriation Act of 1939, c. 252, 53 Stat. 927.

[5] Hearings before the Subcommittee of the Committee on Appropriations, on H. Res. 130, 76th Cong., 1st Sess., Part 1, p. 1266; Report on Progress of the W. P. A. Program, Federal Works Agency, Works Progress Administration, June 30, 1939, p. 1.

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[6] Report on Progress of the W. P. A. Program, Federal Works Agency, Works Progress Administration, June 30, 1939, p. 4.

[7] Emergency Relief Appropriation Act of 1939, c. 252, 53 Stat. 927, sec. 17 (a); Hearings before the Subcommittee of the Committee on Appropriations, on H. Res. 130, 76th Cong., 1st Sess., Part 1, pp. 13, 423; Report on the Progress of the W. P. A. Program, Federal Works Agency, Works Progress Administration, June 30, 1938, p. 6.

[8] Section 15 (b) of the Emergency Relief Appropriation Act, fiscal year 1941, Public Resolution No. 88, 76th Cong., 3d Sess.

Furthermore the origins and history of the federal work relief program reveal that it was conceived as a superior substitute for direct relief, and that its purpose was to provide aid for the needy and employable unemployed without resort to the dole.[10] That the W. P. A. program was instituted as a means of dealing with the relief problem is dramatically indicated by the fact that since the commencement of the W. P. A., federal appropriations for direct relief have declined to the point of virtual cessation.[11]

It is thus apparent that the fundamental function and objective of work relief is to supply subsistence to the needy unemployed. The chief purpose of the payment of relief work wages is not to secure from the recipients that *quid pro quo* which petitioner emphasizes, but to provide aid to them. Work relief is, in other words, basically a relief device and not a public works program. It is too plain for argument that Congress views W. P. A. expenditures chiefly as money out of pocket, not as money spent for needed public works. Work relief thus represents loss to the governments, and any increase in the persons to be supported by work relief represents additional loss. This loss should not be obscured by the fact that the work relief projects receive work in return for wages. For the governments are not primarily investing in that work but are using it as a relief device.[12]

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[9] Report on Progress of the W. P. A. Program, Federal Works Agency, Works Progress Administration, June 30, 1939, p. 140; Corrington Gill, "W. P. A.," in Current History, Vol. 48, p. 38 (January 1938).

[10] Hearings before the Committee on Appropriations, U. S. Senate (Procurement Div., U. S. Treasury), 74th Cong., 1st Sess., pp. 9, 11, 42, 59, 94–95; Message from the President, April 27, 1939, 76th Cong., 1st Sess., Document No. 270, p. 1; Millis and Montgomery, *Labor's Risks and Social Insurance* (1938), pp. 95–96, 102; *Trends in Relief Expenditures*, 1910-1935, Works Progress Administration, Division of Social Research (1937), pp. 51–52, 62, 63, 67, 71, 73–74, 77, 78.

[11] *Trends in Relief Expenditures*, 1910–1935, Works Progress Administration, Division of Social Research (1937), p. 7; Hearings before the Special Committee on Unemployment and Relief, U. S. Senate, 75th Cong., 3d Sess., pp. 432–433.

These facts are all of common knowledge. So much so that it seems strange to suggest that additional persons on relief do not represent loss to the government because they work for their relief wages. If the governments had resorted to direct relief, rather than to work relief, it would not be suggested that relief payments did not represent a loss to them, or that petitioner had not occasioned this loss. That the governments resorted to work relief does not fundamentally alter the situation. As is well known, they were but making the best of a bad situation—the best from the standpoint both of the governments and of the unemployed—by securing projects useful to the governments and at the same time affording work to maintain the skills and morale of the workers.

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[12] "This work is being done because these men are broke and out of work. That is the only reason it is being done. If these men were not broke and out of work, this program would never have been suggested, and we say to them that the Government proposes to offer them an opportunity until they can get back into private industry. Instead of having to take relief as such—which is repugnant to them—we will offer them an opportunity for a work benefit * * *." Testimony of Mr. Hopkins, Hearings, Committee on Appropriations, U. S. Senate (Procurement Div., U. S. Treasury), 74th Cong., 1st Sess., p. 9.

Petitioner's speculation (Br. 17) that if its employees had not been placed on relief projects, other persons would have been, does not tend to prove that the projects suffered no loss from supporting petitioner's employees. For if other persons would have been employed additional needy persons would thereby have been given subsistence. So far as petitioner thwarted such an extension of assistance by diverting relief funds, it defeated *pro tanto* the objective of the work relief program and occasioned loss to the governments.

It was thus, we submit, entirely proper for the Board to conclude that the support of petitioner's employees, whom petitioner had illegally thrown out of work, occasioned losses to the governments financing the work relief projects. To the extent that the agencies paid out money for the support of petitioner's employees, who would have been self-supporting but for petitioner's unfair labor practices, the agencies suffered loss by reason of petitioner's actions, and the order that the sums paid out by them be restored by petitioner was reimbursement of money equitably due, not a "gratuitous benefit" as petitioner insists.

C. THE BOARD COULD PROPERLY HOLD THAT THE EMPLOYEES' RIGHTS TO THE AMOUNTS OF THE RELIEF PAYMENTS ARE SUPERIOR TO THOSE OF PETITIONER, AND COULD PROPERLY REQUIRE THAT THE EMPLOYEES REIMBURSE THE GOVERNMENTS

What we have said thus far has assumed that the only issue was between petitioner and the governments. But that is not the case, for there is also involved the right of petitioner's employees, as against both petitioner and the governments, to the amounts of the relief payments. We shall seek to show that the Board, in its discretion, could hold that as between petitioner and its employees it is the employees who are entitled to retain the work relief payments. And, as we shall seek further to demonstrate, the Board could properly require that the employees reimburse the governments for the relief payments.

It is in this context that the validity of the Board's order must be considered. In form the Board's order requires petitioner to reimburse the agencies. But in substance the order may as readily be viewed as determining that petitioner shall reimburse the employees for back pay lost, but that the employees, in turn, shall reimburse the governments for interim support. In this view it is but a bookkeeping convenience for petitioner to pay the governments directly. Certainly the Board's order may be considered in this light if necessary to sustain its validity.

1. The Board could properly decide that the employees are entitled, as against petitioner, to the amounts of relief payments

The question of reimbursement for relief payments wholly aside, the Board could properly decide that as between petitioner and its employees the latter are entitled to retain the relief payments. The Board, that is to say, could, in its discretion, decide that there should be no deduction of relief payments from the back pay which it requires the employer to restore to the employees.

As has been shown, reimbursement of employees for pay lost as a result of the employer's unfair labor practices is a basic remedy under the Act. The Board does not, of course, direct the employer to make compensation if the employee has sustained no loss in wages earned; hence the Board has consistently, in its back-pay orders, provided for deduction of the amounts earned by the discharged worker in the service of other employers. When however, the employee has received from third parties benefits which are not in the nature of earnings, the Board has not permitted their deduction. See, e. g., *Matter of Vegetable Oil Products Co., Inc.,* 5 N. L. R. B. 52, 53 (home relief); *Matter of Missouri-Arkansas Coach Lines, Inc.,* 7 N. L. R. B. 186, 206 (unemployment insurance and union relief benefits); *Matter of Lone Star Bag and Bagging Co.*, 8 N. L. R. B. 244, 262–263 (union benefits); *Matter of Sterling Corset Co., Inc.*, 9 N. L. R. B. 858, 871 (union benefits); *Matter of West Kentucky Coal Co.*, 10 N. L. R. B. 88, 128 (union benefits).

This is but adherence to a principle widely accepted at common law. Thus, "in an action by the employee against the employer for a wrongful discharge, a deduction of the net amount of what the employee earned [in other employment] * * * from what he would have received had there been no breach, furnishes the ordinary measure of damages." 5 Williston, Contracts (rev. ed.) § 1358. But a person tortiously injured may recover for loss of earnings or earning capacity without deduction of benefits received from third persons. 4 Torts Restatement § 920, Comment e, § 924 (b) and comment thereon. This doctrine applies whether the benefits received by the plaintiff are wages from his employer paid either under the contract of employment[13] or as a gift,[14] receipts from an insurance policy,[15] or charitable gifts.[16] While no authority has been found on this point in the field of contract law, undoubtedly the same rule should apply, *i. e.,* that benefits other than earnings received by the employee from third persons do not mitigate his damages for breach of the employment contract. There is no difference in principle in the two fields, as shown by the fact that the measure of damages for loss of earning capacity because of personal injury, and the rule as to mitigation of such damages, are the same as in the case of breach of an employment contract. See 4 Torts Restatement § 924, comment on clause (b).

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[13] *Shea* v. *Rettie*, 287 Mass. 454, 458–459; *Elmer* v. *Fessenden*, 154 Mass. 427, 428–429; *Wachtel* v. *Leonard*, 45 Ga. App. 14; *Hoobler* v. *Voelpel*, 246 Ill. App. 69, 78–79; *International etc. R. R. Co.* v. *Haddox*, 36 Tex. Civ. App. 385, 387; *Campbell* v. *Sutliff*, 193 Wis. 370, 374; 18 A. L. R. 678.

[14] *Hayes* v. *Morris & Co.*, 98 Conn. 603, 607–608; *Campbell* v. *Brandenburger*, 35 Del. 203, 209; *Nashville etc. Ry. Co. v. Miller*, 120 Ga. 453, 457; *The Ohio etc.* v. *Dickerson*, 59 Ind. 317, 324; *Williams* v. *St. Louis etc. Ry. Co.*, 123 Mo. 573, 585; *Illinois Cent. R. R. Co.* v. *Porter*, 117 Tenn. 13,

The basis of this principle is clear. The wrong, whether it be an unfair labor practice or an ordinary tort, is deprivation of the opportunity to earn

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22-23; *Missouri Pac. Ry. Co.* v. *Jarrard*, 65 Tex. 560, 566; *Graves* v. *Poe*, 118 S. W. (2d) 969, 970 (Tex. Civ. App.); *Cunnien* v. *Superior Iron Works*, 175 Wis. 172, 188; 18 A. L. R. 678; 1 Sedgewick on Damages (9th ed.) § 67.

[15] *Cox* v. *City of Chicago*, 83 Ill. App. 540, 542; *Louisville etc. R. R. Co.* v. *Carothers*, 23 Ky. L. Rep. 1673, 1674; *Rusk* v. *Jeffries*, 110 N. J. L. 307, 311; *Littman* v. *Bell Telephone Co.*, 315 Pa. 370, 381; *Heath* v. *Seattle Taxicab Co.*, 73 Wash. 177, 186; *Cunnien* v. *Superior Iron Works Co.*, 175 Wis. 172, 187–188; *Campbell* v. *Sutliff*, 193 Wis. 370, 374–375; 1 Sutherland on Damages (4th ed.) § 158; cf. *Francis* v. *Atchison etc. Ry. Co.*, 113 Tex. 202, 211; 18 A. L. R. 678.

[16] *Norristown* v. *Moyer*, 67 Pa. 355; cf. *Roth* v. *Chatlos*, 97 Conn. 282, 288; *Workmen's Compensation Bd.* v. *Rutherford*, 59 Ont. L. Rep. 364, 367; 1 Sedgewick on Damages (9th ed.) § 67.

a living. The measure of the wrong is the value of the opportunity denied; and the measure is not reduced simply because some third person supplies the employee with some of the benefits he could have obtained as the fruits of ordinary work. The wrongdoer should not, as a matter of policy, be permitted to derive advantage from benefits conferred upon his victim by third parties, or secured by the victim's own prior expenditures or foresight, as insurance or strike benefits, even though the victim's damages are in fact decreased by such benefits, which he would not have received but for the injury.

In the setting of this principle, the issue then is whether the Board could properly hold that monies received from work-relief agencies resemble such benefits from outside sources, more than they do earnings from ordinary employment. If work-relief payments could rationally be differentiated from normal earnings, then the Board would be justified in refusing, in its discretion, to let respondent deduct work-relief payments from the back pay of its employees to whom it wrongfully denied employment. And that work relief, in a number of vital respects, possesses the characteristics of direct relief rather than those of ordinary employment, whether private or governmental, has already been abundantly demonstrated in the discussion of the nature of the W. P. A., *supra,* pp. 20-25. Certainly a conclusion by the National

Labor Relations Board that the dissimilarity of work relief to ordinary employment was basic enough to justify a refusal to permit the employer to deduct these sums from back pay due his employees would not transcend the bounds of rational judgment. If such a judgment would be rooted in reason, then it is within the discretion which Section 10 (c), commits to the Board. Cf. *National Labor Relations Board* v. *Pennsylvania Greyhound Lines, Inc.,* 303 U. S. 261, 265.

That such a view, taken by the Board, would not exceed the bounds of its discretion is further shown by the widespread judicial recognition of the distinction between work-relief payments and ordinary earnings. The employee, when a judgment-debtor, need not pay over to his judgment-creditor monies received from work-relief agencies. *Dibner* v. *Cousminer,* 157 Misc. (N. Y.) 229. Likewise, in a number of cases, state statutes establishing "settlement" periods as a condition for the eligibility of unemployed persons to receive local relief have been construed to include time spent on work relief as coming, along with other forms of relief, within the exemptions to the "settlement" period. *In re Settlement of Hanson,* 206 Minn. 371; *In re Matruski,* 169 Misc. (N. Y.) 316, *In re Youngs,* 172 Misc (N. Y.) 155; Wisconsin Statutes, § 49.02 (4). Cf. *United States* v. *Owlett,* 15 F. Supp. 736 (E. D. Pa., 1936); *Block* v. *Sassaman,* 26 F. Supp. 105 (D. Minn., 1939); *City of Los Angeles* v. *Industrial Acc. Commission,* 9 Cal. (2d) 705.

2. The Board could properly require that the employees reimburse the governments

The remedies which the Board may utilize in the enforcement of the Act are in their nature equitable. The employees whose rights petitioner has denied and infringed were assisted by the various work relief agencies through the provision of sustenance for themselves and their families. Since, as petitioner states (Br. 15), there have never been enough work relief jobs to satisfy the available and deserving applicants, this assistance to petitioner's employees has been at the expense of other needy unemployed workers. The reparation of the wrongs which petitioner has inflicted upon these employees places them in position to reimburse the work relief agencies without net loss to themselves. While not legally bound to do so, it is certainly not inequitable for the Board to take cognizance of this relationship between the agencies and the employees, and to attach as a condition to its remedies the performance by the employees of what the Board might regard as an equitable obligation. This is in effect what the Board has done.

Just as one who furnishes the victim of a tort with medical care or other necessities is entitled to recover from the tort-feasor, so these agencies who have succored the victims of petitioner's unlawful conduct are equitably entitled to be subrogated to the employees' right of restitution from the employer. See Restatement of Restitution, §§ 113, 114.

D. PETITIONER'S OTHER OBJECTIONS TO THE REIMBURSEMENT ORDER ARE INSUBSTANTIAL

1. The government or governments which supplied the funds for the work relief projects were not parties to this case and did not request reimbursement as ordered by the Board. Petitioner asserts that it was therefore improper for the Board to concern itself with their interests (Br. 20–22). The validity of the reimbursement provision must be determined upon the considerations, discussed above, going to the question whether it effectuates the policies of the National Labor Relations Act. The absence from this proceeding of entities incidentally benefited by a provision which does effectuate the policies of the Act is immaterial. Compare *National Licorice Co.* v. *National Labor Relations Board,* 309 U. S. 350.

2. Petitioner complains that there is no evidence in the record that the work relief projects on which its employees worked sustained any losses as a result of such work; that there is therefore no evidence from which the Board could conclude that reimbursement of the projects would effectuate the policies of the Act (Br. 24–28). The nature of work relief projects, which is decisive of whether the governments suffered loss, is a matter of common knowledge, and is fully revealed in public

documents. Hence there was no occasion to take evidence on it.

3. Petitioner contends that the Board made no sufficient finding that its reimbursement order would effectuate the policies of the Act (Br. 26–27). The Board's specific finding as to the work relief provision (R. II, 1096) is set out by petitioner at Br. 26. In addition, the Board prefaced the affirmative provisions of its order with a general finding that the action ordered would effectuate the policies of the Act (R. II, 1105). Petitioner attacks the Board's specific finding on the ground that it is phrased negatively, and the Board's general affirmative finding on the ground that it must be construed in the light of the specific negative finding, with the result that there remains no finding whatever. These arguments border on the frivolous. There is no doctrine that the Board's findings must be cast in any particular form, or that an affirmative general finding becomes negative because the subsidiary findings are posited negatively.

4. Petitioner argues that there is serious question as to the authority of the fiscal agencies of the federal and state governments to accept reimbursement from petitioner in accordance with the Board's direction (Br. 20–23). Nothing cited in petitioner's brief even remotely supports the argument made, and petitioner's discussion suggests that petitioner really questions the authority

of relief agencies, rather than of fiscal agencies, to accept the payments (see Br. 22–23). In any event this is not the place to decide that question. If the Board's order is upheld, and petitioner undertakes compliance, the fiscal agencies themselves will decide whether they have authority to receive the sums offered. If they refuse proffered payments, the court below will decide whether any further action is required of petitioner under its decree.

5. Petitioner asserts that it "cannot properly be required to ascertain in what proportion, if any, the fiscal agencies of the government or governments, to which payments are ordered to be made, have supplied funds for the work relief projects which have paid moneys to the employees" (Br. 20–21. The Board's order directs petitioner to deduct the amounts of relief payments from back pay and to pay over such amounts to the appropriate fiscal agency of the government or governments which supplied the funds for the work-relief projects. The *amounts* of relief payments are readily obtainable from the respective employees, and indeed are already being ascertained by the Board through individual sworn statements. These amounts must be ascertained, regardless of whether petitioner prevails and retains the money or is required to pay it over to the fiscal agencies. The *sources* of the relief payments are readily ascertainable from the files of the relief agencies,

and in case of dispute the issue of the amounts due the various fiscal agencies, if more than one is involved, may be speedily determined by reference of the matter to a master by the court below.

CONCLUSION

For the reasons stated, it is respectfully submitted that the judgment of the court below should be affirmed.

Francis Biddle,
Solicitor General.
Charles Fa[illegible],
Assistant Solicitor General.
Thomas E. Harris,
Special Assistant to the Attorney General.
Robert B. Watts,
Associate General Counsel,
Laurence A. Knapp,
Assistant General Counsel,
Mortimer B. Wolf,
Morris P. Glushien,
Attorneys,
National Labor Relations Board.

October 1940.

APPENDIX

National Labor Relations Act

(Act of July 5, 1935, c. 372, 49 Stat. 449, 29 U. S. C. Supp. V, § 151 *et seq.*)

AN ACT To diminish the causes of labor disputes burdening or obstructing interstate and foreign commerce, to create a National Labor Relations Board, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND POLICY

Section 1. The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or dis-

the market for goods flowing from or into the
nels of commerce.
e inequality of bargaining power between em-
ees who do not possess full freedom of associa-
or actual liberty of contract, and employers
are organized in the corporate or other forms
wnership association substantially burdens and
ts the flow of commerce, and tends to aggra-
recurrent business depressions, by depressing
e rates and the purchasing power of wage earn-
n industry and by preventing the stabilization
ompetitive wage rates and working conditions
in and between industries.
xperience has proved that protection by law
e right of employees to organize and bargain
ctively safeguards commerce from injury, im-
ment, or interruption, and promotes the flow of
merce by removing certain recognized sources
ndustrial strife and unrest, by encouraging
tices fundamental to the friendly adjustment
ndustrial disputes arising out of differences as
ages, hours, or other working conditions, and
estoring equality of bargaining power between
loyers and employees.
is hereby declared to be the policy of the
ted States to eliminate the causes of certain
tantial obstructions to the free flow of com-
e and to mitigate and eliminate these obstruc-
when they have occurred by encouraging the
tice and procedure of collective bargaining and
rotecting the exercise by workers of full free-
of association, self-organization, and designa-
of representatives of their own choosing, for
urpose of negotiating the terms and conditions

of their employment or other mutual aid or protection.

* * * * *

RIGHTS OF EMPLOYEES

SEC. 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

SEC. 8. It shall be an unfair labor practice for an employer—

(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.

(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: * * *

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: * * *

(4) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act.

* * * * *

PREVENTION OF UNFAIR LABOR PRACTICES

SEC. 10 (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise.

* * * * *

(c) * * * If upon all the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order.

* * * * *

LIMITATIONS

SEC. 13. Nothing in this Act shall be construed so as to interfere with or impede or diminish in any way the right to strike.

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CHARLES ELMORE CROPLEY
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In the Supreme Court of the United States

OCTOBER TERM, 1939.

No. [redacted] 14

REPUBLIC STEEL CORPORATION,
Petitioner,
vs.
NATIONAL LABOR RELATIONS BOARD
and
STEEL WORKERS ORGANIZING COMMITTEE,
Respondents.

MOTION OF REPUBLIC STEEL CORPORATION FOR LEAVE TO FILE OUT OF TIME, AND PETITION FOR REHEARING OF PETITION FOR WRIT OF CERTIORARI.

LUTHER DAY,
1759 Union Commerce Bldg., Cleveland, Ohio,
THOMAS F. PATTON,
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80 Broad St., New York, N. Y.,
Attorneys for Petitioner,
Republic Steel Corporation.

THE GATES LEGAL PUBLISHING CO., CLEVELAND, OHIO

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In the Supreme Court of the United States

OCTOBER TERM, 1939.

No. 707.

REPUBLIC STEEL CORPORATION,
Petitioner,
vs.
NATIONAL LABOR RELATIONS BOARD
and
STEEL WORKERS ORGANIZING COMMITTEE,
Respondents.

MOTION OF REPUBLIC STEEL CORPORATION FOR LEAVE TO FILE OUT OF TIME PETITION FOR REHEARING OF PETITION FOR WRIT OF CERTIORARI.

Now comes Republic Steel Corporation, petitioner herein, and moves this Court for an order permitting it to file out of time a petition for rehearing of its petition for a writ of certiorari, a copy of which petition for rehearing is attached hereto and by reference made a part hereof, and in support of its motion represents that:

This Court entered an order on April 8, 1940, denying petitioner's petition for certiorari in this case. The time provided in Rule 33 of the Rules of this Court for filing a petition for rehearing expired on May 3, 1940. On May 6, 1940 there was published in Labor Relations Reporter the decision of the United States Circuit Court of Appeals for the Second Circuit in *National Labor Relations Board v. Leviton Manufacturing Co. Inc.,* decided April 29, 1940, which decision is squarely in conflict with the decision of the United States Circuit Court of Appeals for the Third Circuit in the case at bar on an important question of federal law, as appears in the attached petition for rehearing, thereby creating for the first time a direct conflict between the Circuits on such question of law. Prior to May 6, 1940, the decision of the Circuit Court of Appeals for the Second Circuit above referred to had not been published in any official or unofficial report to the best of the knowledge of petitioner's counsel and was unknown to petitioner and its counsel. This motion and the attached petition for rehearing have been prepared with due diligence since May 6, 1940.

WHEREFORE, petitioner prays that this Court enter an order permitting the filing instanter of the attached petition for rehearing.

REPUBLIC STEEL CORPORATION,
By LUTHER DAY,
1759 Union Commerce Bldg., Cleveland, Oh.
THOMAS F. PATTON,
Republic Bldg., Cleveland, Ohio,
JOSEPH W. HENDERSON,
Packard Bldg., Philadelphia, Pa.,
MORTIMER S. GORDON,
80 Broad St., New York, N. Y.,
Attorneys for Petitioner,
Republic Steel Corporation.

CERTIFICATE.

We, Luther Day and Thomas F. Patton, of counsel for petitioner, do hereby certify that the facts stated in the foregoing Motion are true to the best of our knowledge.

LUTHER DAY,
THOMAS F. PATTON,
Attorneys for Republic
Steel Corporation.

Dated: May 7, 1940.

In the Supreme Court of the United States

OCTOBER TERM, 1939.

No. 707.

REPUBLIC STEEL CORPORATION,
Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD
and
STEEL WORKERS ORGANIZING COMMITTEE,
Respondents.

PETITION FOR REHEARING OF PETITION FOR CERTIORARI.

Comes now the above named petitioner, Republic Steel Corporation, and presents this its petition for a rehearing of its Petition for Certiorari in the above entitled case and, in support thereof, respectfully shows:

Since denial of the petition for certiorari by this Court on April 8, 1940, a direct conflict of decisions on an important question of federal law involved in this case has arisen between the Circuit Court of Appeals for the Third Circuit (in this case) and the Circuit Court of Appeals for the Second Circuit in the case of *National Labor Relations Board v. Leviton Manufacturing Company, Inc.,* hereinafter discussed.

It was argued by petitioner in its brief in support of its petition for certiorari in the case at bar, Point IV, pages 44 to 47, that the court below had erroneously decided an important question of federal law when it sustained the order of the National Labor Relations Board (hereinafter called the Board) requiring the petitioner to reimburse work relief projects for the wages paid by such projects to striking employees. The amount of such wages involved in this case is substantial.

When the foregoing brief was prepared, and at the time certiorari was denied by this Court, there was no decision of another Circuit Court of Appeals squarely in conflict with the decision of the court below, although doubt had been expressed about the matter in the case of *National Labor Relations Board v. National Casket Co., Inc.*, 107 Fed. 2d 992, 998, decided by the Circuit Court of Appeals for the Second Circuit. (Petition for certiorari, p. 47.)

That there was no conflict of decisions at that time was stated in the brief of the Board in opposition to granting certiorari, at page 24.

The Circuit Court of Appeals for the Second Circuit has now squarely held that the Board has no authority in law to require an employer to reimburse work relief projects for compensation paid to striking employees. This decision is *National Labor Relations Board v. Leviton Manufacturing Company, Inc.*, decided April 29, 1940 and reported for the first time in Volume 6, No. 10 of the Labor Relations Reporter (issued May 6, 1940) at page 351. For the convenience of the Court the opinion in that case as printed in the report above referred to is reprinted as an appendix to this petition.

The Court, consisting of Judges Learned Hand, Augustus Hand and Patterson, reversed that part of a Board order

> "* * * which directed the company, after deducting from Levine's back pay any money received 'for work performed upon Federal, State, county, municipal, or other work-relief projects,' to 'pay over the amount, so deducted, to the appropriate fiscal agency of the

> * * * governments which supplied the fund for said work-relief projects.' "

The court said:

> "The Third Circuit has twice passed upon the second point in the Board's favor, though without more discussion than to say that they thought it within the power of 'affirmative action' to 'effectuate the policies' of the act which Section 10(c) confers (1 L. R. R. Man. 807). *Republic Steel Corp. v. N.L.R.B.*, 107 F. (2d) 472, 478 (5 L. R. R. 266); *Union Drawn Steel Co. v. N.L.R.B.*, 109 F. (2d) 587, 594 (5 L. R. R. 634). We cannot see that the point was ruled in *N.L.R.B. v. Planters Manufacturing Co.*, 105 F. (2d) 750, 753 (4 L. R. R. Man. 616, 618) (C. C. A. 4). The 'affirmative action' which the section contemplates must be remedial, and not punitive or disciplinary (*Consolidated Edison Co. v. N.L.R.B.*, 305 U. S. 197, 236 (3 L. R. R. Man. 645, 655); *N.L.R.B. v. Fansteel Metallurgical Corp.*, 306 U. S. 240, 257 (4 L. R. R. Man. 515, 520); *N.L.R.B. v. Newport News Shipbuilding Co.*, 308 U. S. 241, 250 (5 L. R. R. 404)), and the order, qua payments, must therefore be confined to restitution for the wrong done, however widely that should be conceived.
>
> * * *
>
> "However, the whole administration of 'work-relief' was conceived in a spirit exactly the opposite of charity; the very purpose of it was that the employees should understand themselves not to be the objects of charity, but to be performing work of a value equal to what they received. As the case stands, therefore, there is no more reason why the company should be compelled under the guise of restitution, to subvene the public enterprises on which Levine worked, than if these had been the ventures of a private capitalist. We must assume that he gave as much as he got, and the order *pro tanto* transferred the burden of the public improvement from the public, which presumably is to profit by it, to the company which will do so only as a member of the public. There could be no clearer instance of a punitive measure than that. There should therefore be deleted from Article

> II (e) of the order all that part beginning with the words, 'deducting, however, from the amount,' etc."

On the contrary, the Third Circuit Court of Appeals, in affirming the Board's standard order in this respect in the case at bar, said

> "One phase of this part of the order requires special mention. The order provides that any sums which these employees may have received in the interim for work performed upon federal, state, county, municipal or other work relief projects shall be deducted from the amounts ordered to be paid to them by Republic and shall be paid over to the appropriate governmental agencies which supplied the funds for the work relief projects. Republic urges that this provision is beyond the Board's jurisdiction. We think, however, that it is within the discretionary power of the Board and that it is not unreasonable. A similar order was enforced in *National Labor Relations Board v. Planters Mfg. Co.*, 4 Cir., 105 F. 2d 750." (p. 378)

The decision of the Third Circuit Court of Appeals in this case is, therefore, squarely in conflict with that of the Second Circuit Court of Appeals in the *Leviton Manufacturing Company* case, *supra*, on this important question.

The decision in the *Leviton Manufacturing Company* case gives an aspect to the question very different from that prevailing when certiorari was denied. Then the uniform practice of the Board, in the absence of authority to the contrary in the courts, constituted some foundation for the decision of the Circuit Court of Appeals in this case which must now be considered undermined by a squarely contrary well-considered holding of a court of such authority and distinction as the Circuit Court of Appeals for the Second Circuit.

For the foregoing reasons, as well as others urged in the petition for certiorari, it is respectfully urged that this petition for rehearing be granted and that upon further consideration, the petition for certiorari in this case be granted.

Respectfully submitted,

REPUBLIC STEEL CORPORATION,

By LUTHER DAY,
1759 Union Commerce Bldg., Cleveland, Ohio,

THOMAS F. PATTON,
Republic Bldg., Cleveland, Ohio,

JOSEPH W. HENDERSON,
Packard Bldg., Philadelphia, Penna.,

MORTIMER S. GORDON,
80 Broad Street, New York City.

Certificate of Counsel.

We, Luther Day and Thomas F. Patton, of counsel for the above named petitioner, do hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay.

LUTHER DAY,
THOMAS F. PATTON,
Attorneys for Republic Steel Corporation.

Dated: May 7, 1940.

APPENDIX.

(Opinion in National Labor Relations Board v. Leviton Manufacturing Company, Inc. as reported in Vol. 6, No. 10, Labor Relations Reporter at pages 351 and 352.)

U. S. CIRCUIT COURT OF APPEALS,
SECOND CIRCUIT.

NATIONAL LABOR RELATIONS BOARD v. LEVITON MANUFACTURING CO., INC., No. 297, APR. 29, 1940.

On motion of the National Labor Relations Board to enforce an order made by it against the respondent (4 L. R. R. Man. 83, 11 N. L. R. B., 1248) under Section 10(e) of the National Labor Relations Act. Order modified, and as modified, enforced.

Before L. HAND, AUGUSTUS N. HAND and PATTERSON, *Circuit Judges.*

L. HAND, *C. J.*:—This cause comes before us upon a motion of the National Labor Relations Board for an order of this court, enforcing its own order against the respondent company [4 L. R. R. Man. 83, 11 N. L. R. B. 1248]. Only two questions arise: whether there was any substantial evidence to support the finding that one, Levine, an employee of the company, was discharged because of his union activities; and whether, if so, that part of the order was valid which directed the company, after deducting from Levine's back pay any money received "for work performed upon Federal, State, county, municipal, or other work-relief projects," to "pay over the amount, so deducted, to the appropriate fiscal agency of the * * * governments which supplied the fund for said work-relief projects."

The evidence was in conflict as to whether Levine had quit the company of his own accord, or whether he had been discharged; one member of the Board dissented, believing that no case had been made out. The evidence in support of the complaint was that Levine began to work for the company in April, 1934, and had worked steadily until the spring of 1937, except for an eight weeks illness. In March of that year he joined a C. I. O. union and persuaded two other employees to do so (the union was just beginning to try to organize the plant) and the three became active proselytizers.

The company's business was increasing, and on Friday, April 2, its superintendent announced that the "bakelite division" must work Sundays; Levine protested against this on behalf of the men in that day division, and on Monday, the 5th, one Kupferman, one of the company's salesmen, and a friend of Levine's, asked Levine to meet him at 5:30 P. M. outside the plant. Levine got leave to quit early from his assistant foreman—who said that he "knew about it"—and met Kupferman as arranged. Kupferman then asked Levine why he was "ringleader" and the "center of everything"; and told him that he, Kupferman, was in "hot water" with the company, presumably because of his intimacy with Levine. Kupferman then promised Levine a job elsewhere, and dictated a resignation in which Levine said that he was leaving of his "own accord" because he had prospects of better pay and work more to his liking. That same evening Kupferman called upon him at his home and told him to disregard their talk, and to go to work as usual, which he did on Tuesday and Wednesday. On that day Kupferman gave him his pay, and told him not to come back because he was "organizing the plant," and that the company's president would not "stand for any union." All this depended upon Levine's testimony, corroborated, as to Kupferman's interview at Levine's home, by Levine's wife.

The respondent's witnesses told the following story. The superintendent of the bakelite division, Swanson, said that Levine came in on Monday, April 5th, and told him he was going to quit because he was afraid that he was getting sick again. Swanson told him that the company had recently begun to get written resignations from employees, and that he would "appreciate" one from Levine; Levine thereupon wrote out the resignation giving as the cause of his leaving the prospect of a better job. Later on that day Swanson told the plant superintendent, Leavenworth, that Levine was going to quit, and Leavenworth answered that this would be embarrassing, and went to Kupferman and asked him to persuade Levine to stay until another experienced bakelite molder could be obtained. Leavenworth and Kupferman corroborated this story. Kupferman did persuade him to stay, and on Wednesday, the 7th, Swanson thanked him for doing so and paid him his wages. Levine concededly filed a charge with the Board against the company on Friday, the 9th, on the ground of a discharge for union activity.

It is apparent from the foregoing that the case is one in which, despite the dissent of one member, the Board's finding is final; and that we must not say that it was bound to disbelieve Levine's testimony. True, it was possible that he might have concealed his real reason for leaving, because he did not want to make a written record of his illness; but it was extraordinary for him to quit just as he had begun to organize the shop for a militant union, giving illness as an excuse; and it was particularly perfidious for him to turn about in forty-eight hours and charge that he had been discharged for union activity. There is no suggestion that his illness was acute, or came upon him suddenly; indeed he was said to have spoken of it before he protested about the Sunday work. We are not even certain that in the Board's place we might not have voted with the majority; at any rate there was substantial evidence to support their finding.

The Third Circuit has twice passed upon the second point in the Board's favor, though without more discussion than to say that they thought it within the power of "affirmative action" to "effectuate the policies" of the act which Section 10(c) confers [1 L. R. R. Man. 807]. *Republic Steel Corp. v. N. L. R. B.*, 107 F. (2d) 472, 478 [5 L. R. R. 266]; *Union Drawn Steel Co. v. N. L. R. B.*, 109 F. (2d) 587, 594 [5 L. R. R. 634]. We cannot see that the point was ruled in *N. L. R. B. v. Planters Manufacturing Co.*, 105 F. (2d) 750, 753 [4 L. R. R. Man. 616, 618] (C. C. A. 4). The "affirmative action" which the section contemplates must be remedial, and not punitive or disciplinary (*Consolidated Edison Co. v. N. L. R. B.*, 305 U. S. 197, 236 [3 L. R. R. Man. 645, 655]; *N. L. R. B. v. Fansteel Metallurgical Corp.*, 306 U. S. 240, 257 [4 L. R. R. Man. 515, 520]; *N. L. R. B. v. Newport News Shipbuilding Co.*, 308 U. S. 241, 250 [L. R. R. 404]), and the order, *qua* payments, must therefore be confined to restitution for the wrong done, however widely that should be conceived.

The Board itself has always deducted from the wages to be recovered what the employee may have earned meanwhile, and it is impossible to see how it could have done less, whatever may be proper as to what he could have earned by reasonable efforts, but did not. His receipts may be of three kinds: wages from a private employer; wages from a public agency; alms or a dole. As to the first, the Board has never suggested that the employer must pay to another private employer what that employer paid to the employee, and obviously, that would be absurd. Since the order speaks of "monies received * * * for work performed," we need not consider alms, or a dole. "Monies received * * * for work performed" may be no more than a fair return for services rendered, or they might have been deliberately made higher, the margin being dole; and the record at bar does not contain any evidence on the point. At most, any such provision would have to be confined to such a margin; we do not suggest that even then it would be valid.

However, the whole administration of "work-relief" was conceived in a spirit exactly the opposite of charity; the very purpose of it was that the employees should understand themselves not to be the objects of charity, but to be performing work of a value equal to what they received. As the case stands, therefore, there is no more reason why the company should be compelled under the guise of restitution, to subvene the public enterprises on which Levine worked, than if these had been the ventures of a private capitalist. We must assume that he gave as much as he got, and the order *pro tanto* transferred the burden of the public improvement from the public which presumably is to profit by it, to the company which will do so only as a member of the public. There could be no clearer instance of a punitive measure than that. There should therefore be deleted from Article II (e) of the order all that part beginning with the words, "deducting, however, from the amount," etc.

Order modified as above; motion for an enforcement order granted.

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In the Supreme Court of the United States

OCTOBER TERM, 1939.

No. [redacted] 14

REPUBLIC STEEL CORPORATION,
Petitioner,
vs.
NATIONAL LABOR RELATIONS BOARD
and
STEEL WORKERS ORGANIZING COMMITTEE,
Respondents.

SUGGESTION IN SUPPORT OF PETITION FOR REHEARING OF PETITION FOR CERTIORARI.

Now comes Republic Steel Corporation, petitioner herein, and presents this, its suggestion in support of its petition for rehearing of its petition for certiorari in the above entitled case, and in support thereof, respectfully shows:

On May 8, 1940, this petitioner, Republic Steel Corporation, filed in this Honorable Court a motion for leave to file out of time a petition for rehearing of its petition for a writ of certiorari, and a petition for rehearing of its petition for certiorari, on the ground that the decision of the lower court in the case at bar is in direct conflict with the decision of the Circuit Court of Appeals for the Second Circuit in the case of *National Labor Relations Board v. Leviton Manufacturing Company, Inc.,* decided April 29, 1940. This conflict is with regard to the validity of that portion of the order of the National Labor Relations Board (hereinafter called the "Board"), which requires the petitioner herein to reimburse the fiscal agencies of work relief projects for amounts paid by such projects as wages to striking employees. The Third Circuit Court of Appeals held in this case that this portion of the order was within the discretionary power of the Board and not unreasonable; the Second Circuit Court of Appeals held in the *Leviton Manufacturing Company* case that it was a punitive measure and beyond the power of the Board.

On May 13, 1940, there was published in the Labor Relations Reporter, Volume 6, No. 11, page 387, the decision of the Circuit Court of Appeals for the Ninth Circuit in *National Labor Relations Board v. Tovrea Packing Company,* decided April 30, 1940, which decision also is squarely in conflict with the decision of the Circuit Court of Appeals for the Third Circuit in the case at bar on the same question. For the convenience of the Court the opinion in that case as printed in the report above referred to is reprinted as an appendix to this petition. Prior to May 13, 1940, the decision of the Circuit Court of Appeals for the Ninth Circuit above referred to had not been published in any official or unofficial report to the best of the knowledge of petitioner's counsel and was unknown to petitioner and its counsel. This suggestion in support of the petition for rehearing of the petition for certiorari herein has been prepared with due diligence since May 13, 1940.

The purpose of this suggestion in support of the petition for rehearing of the petition for certiorari herein is to bring to the attention of this Court the fact that the decision of the Circuit Court of Appeals for the Third Circuit in the case at bar is squarely in conflict, not only with the decision of the Circuit Court of Appeals for the Second Circuit in the *Leviton Manufacturing Company* case, *supra,* but also with the decision of the Circuit Court of Appeals for the Ninth Circuit in the *Tovrea Packing Company* cas *supra,* on this important question involving the interpretation of the National Labor Relations Act for the purpose of determining the extent of the Board's jurisdiction to make the type of order above referred to which, as pointed out in our petition for certiorari, page 47, has become a standard provision in "back pay" orders by the Board.

In the *Tovrea Packing Company* case the Ninth Circuit Court of Appeals (Judges Wilbur, Mathews and Stephens) said:

> "The order for reinstatement with back pay included the provision that there should be deducted from such pay 'his net earnings during said period; deducting, however, from the amount otherwise due to each of the said employees, monies received by said employee during said period for work performed upon Federal, State, county, municipal or other work-relief projects; and pay over the amount, so deducted, to the appropriate fiscal agency of' the governmental agency 'which supplied the funds for said work-relief projects.' The Board has in several cases made the requirement that the sum deducted on account of relief-work payments should be returned to the source of such payments by the company required to make the back pay. So far as we have been able to ascertain, no court has passed upon the legality of such an order after the point has been argued, with the possible exception of the Third Circuit Court of Appeals, in *Republic Steel Corp. v. National Labor Relations Board,* 107 Fed. (2d) 472, 478 (5 L. R. R. 266) (C. C. A. 3, 1939). In that case a like order was held to be within the discretionary power of the Board and not unreasonable. The Second Circuit in *National Labor Relations Board v. National Casket Co.,* 107 Fed. (2d) 992 (5 L. R. R. 437), called attention to the inclusion of this requirement in the Board's order, and remarked, 'The validity of this provision has not been argued and we express no opinion on the point.' Judge L. Hand filed a dissenting opinion as to other subjects but on the one under discussion specifically agreed with the court's expression as above quoted.
>
> "The Act provides for 'reinstatement of employees with or without back pay, as will effectuate the purpose of the Act.' For a proper understanding this

> statement must be read and considered as a whole. To our minds the discretion conferred upon the Board is limited to the point of whether an order for back pay will do more toward effectuating the purposes of the Act than to omit it—or possibly than an order for payment of part thereof. Whether or not this provision is held to be punitive in nature, we see no warrant for doing other than it provides. Certainly it does not authorize the Board to go outside of the statute and prescribe its own coercive measures in aid of 'effectuating' the purposes of the Act. *Consolidated Edison Co. v. National Labor Relations Board,* 305 U. S. 197 (3 L. R. R. Man. 645); *National Labor Relations Board v. Remington Rand,* 94 Fed. (2d) 862, 872 (1-A L. R. R. Man. 585, 594).
>
> "We have discussed each objection to the enforcement of the Board's order without lengthy quotation and discussion of fact and without citation of numerous authorities. It seems to us that the time has come when the fundamentals underlying the Wagner Act need not be the subject of treatises in every opinion upon the petition of the National Labor Relations Board for enforcement of its orders.
>
> "Let the order of the Board be enforced, excepting, however, that portion thereof in regard to payment to the Government agencies of amounts deducted from back awards by reason of monies received by the employees for work performed upon work-relief projects."

As pointed out in the petition for rehearing of the petition for certiorari in the case at bar (page 6), the Third Circuit Court of Appeals held that the Board's standard order in this respect herein was within the discretionary power of the Board and not unreasonable.

We respectfully submit that the additional conflict between the decision of the Third Circuit Court of Appeals herein and that of the Ninth Circuit Court of Appeals in the *Tovrea Packing Company* case emphasizes the importance of the setting at rest by this Court of this important question, as well as other questions presented in the petition for certiorari herein.

Respectfully submitted,

REPUBLIC STEEL CORPORATION,

LUTHER DAY,
1759 Union Commerce Bldg.,
Cleveland, Ohio,

THOMAS F. PATTON,
Republic Bldg.,
Cleveland, Ohio,

JOSEPH W. HENDERSON,
Packard Bldg.,
Philadelphia, Pa.,

MORTIMER S. GORDON,
80 Broad St.,
New York, N. Y.,
Attorneys for Petitioner,
Republic Steel Corporation.

CERTIFICATE.

I, THOMAS F. PATTON, of counsel for petitioner, do hereby certify that the facts stated in the foregoing suggestion in support of the petition for rehearing of the petition for certiorari are true to the best of my knowledge.

THOMAS F. PATTON,
Attorney for Petitioner,
Republic Steel Corporation.

Dated May 15, 1940.

APPENDIX.

(Opinion in National Labor Relations Board v. Tovrea Packing Company, as reported in Vol. 6, No. 11, Labor Relations Reporter, at pages 387 to 389.)

U. S. CIRCUIT COURT OF APPEALS,
NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD v. TOVREA PACKING COMPANY, No. 9254, APR. 30, 1940.

Upon petition for enforcement of an order of the National Labor Relations Board (4 L. R. R. Man. 227, 12 N. L. R. B. 1063). Order enforced in part, and denied enforcement in part.

Before WILBUR, MATHEWS and STEPHENS, Circuit Judges.

STEPHENS, Circuit Judge:—The National Labor Relations Board, acting under authority of the National Labor Relations Act [49 Stat. 449, 29 U. S. C. Sec. 151, *et seq.*] [1 L. R. R. Man. 803], herein referred to as the Act, is here petitioning for an order of enforcement of its order [Sec. 10(e) Act] against Tovrea Packing Company, an Arizona corporation, herein referred to as Respondent [4 L. R. R. Man. 227, 12 N. L. R. B. 1063]. The Tovrea Employees' Association appears as intervenor.

Following conventional procedure, the Board found the Respondent company guilty of unfair labor practices [Sec. 8(1) (2) (3) Act] and issued its order (Note No. 1) to cease and desist certain practices and to reinstate nine discharged workmen with back pay under facts which may be briefly stated as follows:

Note No. 1.—So much of the Board's order as is necessary to an understanding of this proceeding is here set out:

"* * * respondent, Tovrea Packing Company * * * shall:

"1. Cease and desist from:

(a) Discouraging membership in Amalgamated Meat Cutters and Butcher Workmen of North America or any other labor organization of its employees, by discriminating against its employees in

Respondent is engaged in the general meat packing business. It purchases, feeds, slaughters, processes and markets livestock. A large percentage of such stock and essential materials used in the business are shipped in interstate commerce. Respondent operates and maintains feeding pens, retaining pens, and a feed mill adjacent to its packing plant. The cattle at the feeding pens are fed chopped hay, higera ensilage, cotton seed meal, cotton seed hulls, barley, and molasses in varying quantities. This feed is mixed by hand and distributed by men employed as cattle feeders. The cattle fattened in the feeding pens are moved from one section of the feeding pens to another section thereof until they reach the retaining pens and are then ready for the killing floor in the plant. At the time of the hearing the Respondent had approximately 10,000 head of cattle in the plant pens. The major portion of such fattened stock is slaughtered and processed in Respondent's adjacent packing plant while a substantial portion is shipped to market on the hoof. There is one general man-

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regard to hire or tenure of employment or any term or condition of employment;

(b) Dominating or interfering with the administration of Tovrea Employees' Association, or dominating or interfering with the formation or administration of any other labor organization of its employees, or contributing support thereto;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, or to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection as guaranteed in Section 7 of the Act;

(d) Giving effect to its contract with Tovrea Employees' Association.

"2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Withdraw all recognition from Tovrea Employees' Association as a representative of any of its employees for the purpose of dealing with it concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, ager over the affairs of this packing plant and the mill and feeding pens. Respondent is not only in the business just described but operates four cattle feeding ranches. The ranch known as Topaco No. 2 was taken at the hearing before the Board as typical and its manager testified that it "consists of 640 acres divided up into various fields, and in the southeast corner it contains three feed lots sections comprising about 35 acres in all * * *. We raise general agricultural crops such as hay, alfalfa hay, grain hay, higera, and sometimes sedan grass for hay and pasture * * *." A large portion of the cattle food consumed on each one of the ranches is grown thereon or in its vicinity. While some stock is moved from ranch to packing plant, most of the stock fattened on the ranches is not marketed in any way through the packing plant and most of the stock fattened in the feeding pens adjacent to the packing plant comes to it from sources other than the ranches to which reference has been made. As stated in Respondent's brief, "There are no transfers of employees between the feed

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and completely disestablish said Association as such representative;

(b) Offer to [naming nine individuals] immediate and full reinstatement * * *.

(c) Make whole the employees named in 2(b) above for any loss of pay they will have suffered by reason of the termination of their employment by payment to each of them respectively, of a sum of money equal to that which each would normally have earned as wages from the date of such termination to the date of the offer of reinstatement or placement on the preferential list as ordered in paragraph (b) above, less his net earnings during said period; deducting, however, from the amount otherwise due to each of the said employees monies received by said employee during said period for work performed upon Federal, State, county, municipal, or other work-relief projects; and pay over the amount, so deducted, to the appropriate fiscal agency of the Federal, State, county, municipal, or other government or governments which supplied the funds for said work-relief projects;

(d) Post immediately in conspicuous places throughout its plants and other places of employment, and maintain for a period of at least sixty (60) consecutive days, notices that the respondent will cease and desist in the manner aforesaid * * *."

lots and the plant and there are no duties common to employees in the two operations."

The nine employees whose reinstatement has been ordered were working in the mill and feeding pens at the time of their discharge, and Respondent claims that their work was agricultural in character and that according to the terms of the Act [Sec. 2 (3)] the Board's order could not properly apply to them. The viewpoint of Respondent is, that the adjacent mill and feeding pens are operated separately and practically independently of the packing plant, and that the work performed is practically the same as that done on Respondent's stock feeding ranches, which of course is agricultural work. That, so runs the argument, since the status of the employee "depends entirely on the nature of the work which he is employed to perform," it follows that the mill and feeding pen employees occupy the status of agricultural employees.

The difficulty with Respondent's position is: (a) The feed mill and feeding pens adjacent to the packing plant are maintained as an incident to and not independent of the operation of the packing plant; (b) The nature of the work alone does not determine the status of workers under the provisions of the Act. We are not called upon to determine the status of the employees on the ranches but we do not hesitate to say that while the grinding of the feed and the actual feeding on the ranches may be quite similar to such work done adjacent to the packing plant, divergent circumstances may well throw the employees of the ranches without and those of the packing plant within the terms of the Act.

Labor on a cattle ranch is as agricultural in nature as labor on a wheat growing farm [3 *Corpus Juris Secundum,* Agriculture, Sec. 1, pp. 365-366]. But here we do not have stock raising or feeding as an incident to a stock ranch, nor do we have stock feeding or conditioning as a separate activity, but we do have stock ready for conditioning and fattening confined in relatively small corrals and fed intensively for short spaces of time as an incident to a meat slaughtering and packing industrial enterprise. The elements of agricultural labor as distinguished from non-agricultural labor seems entirely lacking. See *North Whittier Heights Citrus Assn. v. National Labor Relations Board,* — Fed. (2d) — [5 L. R. R. 596], (C. C. A. 9, Jan. 12, 1940), and cited authority. We see no effective relation between the packing plant with its adjacent mill and pens and Respondent's ranches. We hold that none of the laborers therein are agricultural laborers and that all are within the purview of the Act.

The Board finds that nine of such employees had been discriminatorily discharged because of their membership in and activity in the interests of a union and that Respondent has engaged in unfair labor practices as defined by Sec. 8 (1), (2) and (3) and Sec. 2 (6) and (7) of the Act.

Briefly the supporting evidence is as follows:

Relevant events date back to October, 1937, when strong hints of dissatisfaction among the feeding pen and mill employees reached the foreman, Walter Le Barron. Le Barron sought information from an employee, B. B. Henry, and learned that the men wanted a raise in wages. B. B. Henry at Le Barron's suggestion arranged for a committee of three employees, Le Barron, B. B. Henry, and Cline, to confer with the plant's general manager, who was also president. For some reason the conference was never held. B. B. Henry testified that shortly after the appointment of the committee he got from Cline that Le Barron thought it would be all right to ask for a little more money for those who handled the teams and the cattle. B. B. Henry according to his testimony disapproved of this to Cline and instead suggested a raise of ten cents an hour for all the employees in the feed lots. The next day Cline told B. B. Henry that he was quitting the committee; that there was "a report up in the office that we were going to have a strike down there, and if we went up we would all get canned." Shortly afterward Le Barron laid B. B. Henry off because he had "to many slick managers"—he was not giving the cattle enough feed. When B. B. Henry denied the charge Le Barron said, "I'm on the spot. I can't talk." A week or so later the hiring foreman told B. B. Henry that a lot of men lost their jobs because of union activity. B. B. Henry had been in the Respondent's employ for over a year and there was no evidence of any former complaints against him. It cannot be said that this evidence is not substantial in support of the Board's conclusion that B. B. Henry's discharge was discriminatory because of his membership on a committee of employees whose purpose was to induce the payment of higher wages.

An organized Union of some of the employees held its first meeting November 26, 1937, which was followed by another three days later, at which Woodrow Wilson and Wilford Henry were elected president and vice-president respectively. Wilson was discharged the same day and Wilford Henry the next.

Le Barron accused Wilson of improperly mixing the feed and allowing the trucks to obstruct the cattle pass way, but there is testimony that he told Wilson that if he would go home and say nothing about the Union or go to any of their meetings he would be back on the job in a few days. When Wilford Henry was discharged he was accused of leaving the feed gate open permitting the cattle to get out, but this he denied. There is evidence that Le Barron had warned Wilford Henry about talking unionism, and that he had told Wilford Henry that he was a pretty good feeder but if the union talk got to the office he would have to lay him off. We hold that the Board's conclusion that these two men's discharge was discriminatory is supported by the evidence.

Six additional discharges or lay offs occurred within a few days thereafter—all members of the union, and there is ample evidence to support the Board's conclusions that these men were discharged or laid off discriminatorily because of their union activity. There is also evidence to the effect that the discharges or lay offs were because of an economy movement. But the Act itself provides that we are not the triers of fact and that we have no authority to weigh the testimony and revise the Board's factual conclusions which are supported by substantial evidence.

Prior to the union activity hereinbefore narrated an organization of the Respondent's employees, known as the Tovrea Employees' Association, had existed for some time, and the evidence shows it to have functioned along social lines. Soon after the organization of the union heretofore referred to, which was a local affiliated with the American Federation of Labor, the Association became very active. Its membership grew rapidly and it changed its character to that of a union of employees. The president of the old organization resigned because as foreman of Respondent's shipping department he acted in a supervisory capacity and was therefore not eligible to retain membership. Respondent's vice-president and general manager advised a committee that the organization could no longer meet on Respondent's property. In shortly less than three weeks after this transformation, Respondent and the Association entered into an agreement for collective bargaining with a provision that either party could be relieved therefrom after a ten days' notice. There is evidence to the effect that the resigned president of the Association suggested the name of his successor; that a foreman suggested the name of one to go on a committee; that the committee met in Superintendent Belnap's office; that Mr. Laurent, assistant auditor of Respondent, was practically the leader in the reorganized Association; that at the meeting in Mr. Belnap's office Mr. Tovrea stated that the company would bargain with the Association; that Mr. Bainbridge stated to the witness Morgan that they would get Tovrea's Association together and get their membership strong enough so that they could keep out all outside organizations. There is other evidence calculated to show that the Respondent sought to discourage and defeat the formation of the union by encouraging what was unquestionably a company organization of employees.

We hold that there is substantial evidence to support the Board's conclusions that Respondent dominates the Association and thereby and through other acts has interfered with the formation and administration of another labor organization of the employees, and that its order in relation to such Association must in all respects be enforced. The evidence is also amply sufficient to support the Board's conclusions that the Respondent did interfere in the employees' right of self organization et cetera and we think it would not be useful to repeat or call special attention to such evidence.

The order for reinstatement with back pay included the provision that there should be deducted from such pay "his net earnings during said period; deducting, however, from the amount otherwise due to each of the said employees, monies received by said employee during said period for work performed upon Federal, State, county, municipal or other work-relief projects; and pay over the amount so deducted, to the appropriate fiscal agency of" the governmental agency "which supplied the funds for said work-relief projects." The Board has in several cases made the requirement that the sum deducted on account of relief-work payments should be returned to the source of such payments by the company required to make the back pay. So far as we have been able to ascertain, no court has passed upon the legality of such an order after the point has been argued, with the possible exception of the Third Circuit Court of Appeals, in *Republic Steel Corp. v. National Labor Relations Board,* 107 Fed. (2d) 472, 478 [5 L. R. R. 266] (C. C. A. 3, 1939). In that case a like order was held to be within the discretionary power of the Board and not unreasonable. The Second Circuit in *National Labor Relations Board v. National Casket Co.,* 107 Fed. (2d) 992 [5 L. R. R. 437], called attention to the inclusion of this requirement in the Board's order, and remarked, "The validity of this provision has not been argued and we express no opinion on the point." Judge L. Hand filed a dissenting opinion as to other subjects but on the one under discussion specifically agreed with the court's expression as above quoted.

The Act provides for "reinstatement of employees with or without back pay, as will effectuate the purpose of the Act." For a proper understanding this statement must be read and considered as a whole. To our minds the discretion conferred upon the Board is limited to the point of whether an order for back pay will do more toward effectuating the purposes of the Act than to omit it—or possibly than an order for payment of part thereof. Whether or not this provision is held to be punitive in nature, we see no warrant for doing other than it provides. Certainly it does not authorize the Board to go outside of the statute and prescribe its own coercive measures in aid of "effectuating" the purposes of the Act. *Consolidated Edison Co. v. National Labor Relations Board,* 305 U. S. 197 [3 L. R. R. Man. 645]; *National Labor Relations Board v. Remington Rand,* 94 Fed. (2d) 862, 872 [1-A L. R. R. Man. 585, 594].

We have discussed each objection to the enforcement of the Board's order without lengthy quotation and discussion of fact and without citation of numerous authorities. It seems to us that the time has come when the fundamentals underlying the Wagner Act need not be the subject of treatises in every opinion upon the petition of the National Labor Relations Board for enforcement of its orders.

Let the order of the Board be enforced, excepting, however, that portion thereof in regard to payment to the Government agencies of amounts deducted from back awards by reason of monies received by the employees for work performed upon work-relief projects.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1939

No. [redacted] 14

7.

REPUBLIC STEEL CORPORATION, *Petitioner*

vs.

NATIONAL LABOR RELATIONS BOARD

AND

STEEL WORKERS ORGANIZING COMMITTEE,
Respondents

Opposition of Steel Workers Organizing Committee to Motion of Republic Steel Corporation for Leave to File Out of Time, and Petition for Rehearing of Petition for Writ of Certiorari.

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THE CORNELIUS PRINTING COMPANY

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1939

No. 707

REPUBLIC STEEL CORPORATION, *Petitioner*

vs.

NATIONAL LABOR RELATIONS BOARD

AND

STEEL WORKERS ORGANIZING COMMITTEE,

Respondents

Opposition of Steel Workers Organizing Committee to Motion of Republic Steel Corporation for Leave to File Out of Time, and Petition for Rehearing of Petition for Writ of Certiorari.

Now comes the Steel Workers Organizing Committee, respondent herein, and moves this Court to deny the motion of Republic Steel Corporation for leave to file out of time petition for rehearing of petition for writ of certiorari, and respectfully shows as follows:

The Steel Workers Organizing Committee, an unincorporated association affiliated with the Congress of Industrial Organizations, is a labor organization embracing within its membership a substantial number of the workers in the iron and steel industry in the United States. The Steel Workers Organizing Committee was the charging union in the proceedings before the National Labor Relations Board herein.

Both the Order of the Board, and the Opinion of the Circuit Court of Appeals below show that the Order of the Board, which is the subject matter of this proceeding, arose directly out of a labor dispute between this respondent and the petitioner. The Order of the Board is primarily concerned with directing the petitioner to cease and desist from engaging in unfair labor practices tending to discourage membership in the Steel Workers Organizing Committee and otherwise interfering, through the use of company-dominated organizations and other forms of interference, with the right of the workers freely to choose the Steel Workers Organizing Committee as their representative for the purpose of collective bargaining. The Order of the Board likewise directs the company to reinstate some 5,000 individual steel workers who were unlawfully refused their employment with the petitioner because of their membership and activities in the Steel Workers Organizing Commttiee.

In short, as the representative of the employees of the petitioner, the Steel Workers Organizing Committee is directly and immediately concerned with the enforcement of the Order of the Board, as upheld by the Third Circuit Court of Appeals, upon which certiorari has been refused by this Court.

We submit that the present motion of the petitioner should be denied because in all conscience and equity, it is not entitled to any further delay in the enforcement of the Order of the Board. It is now three years since the petitioner engaged in its outright violations of the National Labor Relations Act. During that time, the workers who were the victims of the lawless conduct on the part of the petitioner have been remediless. During that time, they have suffered all kinds of damage, including the destruction of the lives of their co-workers, of their union property, and the deprivation of their livelihood. As appears from the findings of fact upheld by the Court of Appeals below, the complaint against the petitioner was issued on July 15, 1937. Hearings were commenced on July 21, 1937, and continued with interruptions until September 27, 1937. A final Order was not issued until October 18, 1938. Thereupon, the petitioner filed a petition in the United States Circuit Court of Appeals for the Third Circuit to review and set aside the Order of the Board. The Opinion of the Circuit Court of Appeals was filed on November 8, 1939, and on April 8, 1940, this Court denied the petition for certiorari. Thus, only after years of litigation and delays, largely attributable to the efforts of the petitioner to exhaust its full remedies before complying with the law, are the steel workers, whom the Steel Workers Organizing Committee represents, to have the grievous wrongs done to them remedied.

By the present motion the petitioner seeks further delay. If this motion should be granted, it would mean that the enforcement of the Order of the Board will be delayed for several additional months. The petitioner seeks a rehearing on a narrow question, namely, whether it shall be required to reimburse the public authorities for the amounts which employees have received from such authorities for work performed during the time that they were unlawfully deprived of their livelihood by the petitioner's unlawful conduct.

This narrow question was raised and fully argued by the petitioner in its original petition of certiorari. It was fully argued by the petitioner before the Circuit

Court of Appeals below. This narrow question must therefore have been fully considered by this Court when it denied the petition for certiorari herein.

It is only one part of the Order of the Board, but a review of this question will hold up the enforcement of the entire Order. More important, whatever damage the petitioner may suffer by being required to pay these sums, is due to its own violation of law. The mere accident that a conflicting decision on this narrow issue has arisen before the close of the present term of this Court should not entitle the petitioner to take advantage of its own illegal conduct and secure further delay, deeply prejudicial to the rights of the approximately 5,000 workers who have suffered the loss of their livelihood and their fundamental right to free association due to the illegal conduct of the petitioner.

For the foregoing reasons, it is respectfully urged that the petition for rehearing be denied and the matter finally determined so that the rights of the workers can be vindicated through the prompt enforcement of the Order of the Board.

Respectfully submitted,

STEEL WORKERS ORGANIZING COMMITTEE

By LEE PRESSMAN,
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In the Supreme Court of the United States

OCTOBER TERM, 1939

No. 707

REPUBLIC STEEL CORPORATION, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD AND STEEL WORKERS' ORGANIZING COMMITTEE

ON PETITION FOR REHEARING OF PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD

The petition for rehearing of the petition for a writ of certiorari is based upon a conflict between the decision below and the decision of the United States Circuit Court of Appeals for the Second Circuit in *National Labor Relations Board* v. *Leviton Mfg. Co.,* decided April 29, 1940, subsequent to the denial of the petition. The conflict exists solely as to the validity of a portion of the back-pay provisions of the lower court's decree in this case, namely those provisions (R. VIII, 6295, 6296,

6298) which require petitioner to pay over to governmental relief agencies sums equal to the amounts disbursed by those agencies for the employment on work relief projects of employees who would have been at work in petitioner's plants except for the unfair labor practices in which petitioner engaged. The validity or invalidity of those provisions does not in any way affect the amounts of back pay which petitioner is required to pay to the employees; the decree provides that in computing the amount petitioner is to pay each employee, the sums received by him for work performed upon work relief projects, together with other earnings during the periods in question, are to be deducted from the wages the employee would have received from petitioner had not the unfair labor practices been committed.

Questions concerning the validity of the provisions requiring petitioner to make payments to the governmental agencies financing the work relief projects were before the court on the petition for certiorari. The petition specifically challenged the validity of these provisions and asserted that they were beyond the Board's power under the Act and deprived petitioner of its property without due process of law (Pet. 4, 44–47).

The "work relief" provision of Board orders has been approved by the First Circuit Court of Appeals, as well as by the court below, and has been enforced without discussion by the

Fourth, Fifth, Sixth, Seventh, Eighth, and Tenth Circuit Courts of Appeals. *National Labor Relations Board* v. *Somerset Shoe Co.,* decided May 9, 1940 (C. C. A. 1st) (see 12 N. L. R. B., at 1061); *Union Drawn Steel Co.* v. *National Labor Relations Board,* 109 F. (2d) 587 (C. C. A. 3rd) (see 10 N. L. R. B., at 889); *Arcadia Hosiery Mills* v. *National Labor Relations Board,* decided March 12, 1940 (C. C. A. 3rd) (see 12 N. L. R. B., at 486); *National Labor Relations Board* v. *Planters Mfg. Co.,* 105 F. (2d) 750 (C. C. A. 4th) (see 10 N. L. R. B., at 760–761); *Hartsell Mills Co.* v. *National Labor Relations Board,* decided April 10, 1940 (C. C. A. 4th) (see 18 N. L. R. B., No. 43, at 21); *Mexia Textile Mills* v. *National Labor Relations Board,* decided March 1, 1940 (C. C. A. 5th) (see 11 N. L. R. B., at 1183); *National Labor Relations Board* v. *Good Coal Co.,* decided March 8, 1940 (C. C. A. 6th) (see 12 N. L. R. B., at 155); *Link-Belt Co.* v. *National Labor Relations Board,* decided March 2, 1940 (C. C. A. 7th) (see 12 N. L. R. B., at 885); *National Labor Relations Board* v. *J. Greenebaum Tanning Co.,* decided March 22, 1940 (C. C. A. 7th) (see 11 N. L. R. B., at 319); *Kansas City Power & Light Co.* v. *National Labor Relations Board,* decided April 25, 1940 (C. C. A. 8th) (see 12 N. L. R. B., at 1459); *Southern Colorado Power Co.* v. *National Labor Relations Board,* decided March 25, 1940 (C. C. A. 10th) (see 13 N. L. R. B., at 719). There is one decision in addition to that of the Second Circuit in *National Labor*

Relations Board v. *Leviton Mfg. Co., supra,* holding this provision to be beyond the Board's power. *National Labor Relations Board* v. *Tovrea Packing Co.,* decided April 30, 1940 (C. C. A. 9th).[1]

We submit that the decree of the court below enforcing the "work relief" provisions is correct, and aids proper administration of the Act. Section 10 (c) of the Act empowers the Board, upon findings that the person proceeded against has engaged in unfair labor practices, to issue an order requiring him to cease and desist from such practices "and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of the Act." These provisions "leave to the Board some scope for the exercise of judgment and discretion in determining, upon the basis of the findings, whether the case is one requiring an affirmative order, and in choosing the particular affirmative relief to be ordered." *National Labor Relations Board* v. *Pennsylvania Greyhound Lines, Inc.,* 303 U. S. 261, 265. And this Court held in *National Labor Relations Board* v. *Jones & Laughlin Steel Corp.,* 301 U. S. 1, 48, that Congress could provide for reinstatement with back pay as a proper "sanction for the enforcement of its valid regulation." The "work relief" portions of the Board's order, being but a particular variation of a back pay order, are, we submit, within the general type of order which Congress expressly authorized. They are "adapted to the situation which calls for redress." *National Labor Relations Board* v. *Mackay Radio & Telegraph Co.,* 304 U. S. 333, 348. See *Report of the House Committee on Labor* (House Report No. 1147, 74th Cong., 1st Sess.), p. 18.

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[1] In the *Tovrea Packing* case the court said:

"The Act provides for 'reinstatement of employees with or without back pay, as will effectuate the purpose of the Act.' [sic.] For a proper understanding this statement must be read and considered as a whole. To our minds the discretion conferred upon the Board is limited to the point of whether an order for back pay will do more toward effectuating the purposes of the Act than to omit it—or possibly than an order for payment of part thereof. Whether or not this provision is held to be punitive in nature, we see no warrant for doing other than it provides. Certainly it does not authorize the Board to go outside of the statute and prescribe its own coercive measures in aid of 'effectuating' the purposes of the Act. *Consolidated Edison Co.* v. *National Labor Relations Board*, 305 U. S. 197; *National Labor Relations Board* v. *Remington Rand*, 94 Fed. (2d) 862, 872."

Prior to the decisions in the *Leviton Mfg. Co.* and *Tovrea Packing Co.* cases, both the Second and Ninth Circuits enforced the provision, the Second expressly without passing upon its validity and the Ninth without discussion. *National Labor Relations Board* v. *National Casket Co.*, 107 F. (2d) 992 (C. C. A. 2d) (see 12 N. L. R. B., at 175–176); *North Whittier Heights Citrus Association* v. *National Labor Relations Board*, 109 F. (2d) 76 (C. C. A. 9th) (see 10 N. L. R. B., at 1297–1298).

No deductions from back pay are required by the statute. Nevertheless, from the beginning the Board has provided in its back-pay orders, as the decree provides in this case, that ordinary earnings obtained from other employment must be deducted.

Such a requirement is equitable because it prevents the employee from obtaining more than he has actually lost in earnings and in that it assumes that the one who has afforded the employee other employment has received *quid pro quo.* In the case of work relief, however, an element is involved in addition to the element of *quid pro quo,* which amply justifies the Board in casting the burden primarily upon the employer responsible for the unemployment. Public funds have been expended to supply work for employees who would have been gainfully employed by the employer except for his unfair labor practices. This expenditure of public funds need not be left unreimbursed; failure to require full reimbursement, particularly in such a case as the present where a large number of men are suddenly thrown out of work in a community, would materially reduce the deterrent effect upon violators of the law of the back-pay provisions of Board orders, and would cast upon public funds the burden of remedying the consequences of violations of the Act. In reason and equity the public policy of the statute is effectuated by requiring this burden to be borne by the employer responsible therefor. The deterrent consideration is strengthened by the fact that the statute carries no fines or penalties for violation. The anticipated extent of a shift of economic burden from the employer to government agencies would vitiate *pro tanto* the only effective deterrent which the Act provides.

The requirement that the employees be reimbursed to the extent of their losses is to no degree punitive against the one responsible for such losses. The decree remains entirely remedial and is not rendered punitive because of its deterrent effect.

Therefore, the portions of the Board's order in question were properly approved by the court below. This being so, the conflict which has arisen on this point by reason of the *Leviton* and *Tovrea* decisions does not require resolution in the present case. In the *Leviton* and *Tovrea* cases the decision invalidating the "work relief" provisions might be important as an unwarranted restriction by the court upon the exercise by the Board of its remedial powers in effectuating the policies of the Act; but in the present case that is not the situation. Where it appears, as here, that the Board was operating well within the bounds of the statute in requiring this particular form of affirmative action, not only under the provisions of the Act expressly authorizing reinstatement of employees with back pay, but also under the general grant of authority to require such affirmative action as will effectuate the policies of the Act, the approval of the order by the court below presents no question of such importance as might be said to exist had the decision been to the contrary.

This proceeding has long been in litigation. The labor strife occurred in the summer of 1936. In the summer of 1937 the complaint (R. I, 13–24) was issued and hearings were held. The Board issued a decision in April, 1938 (R. I, 59–309). Shortly thereafter petitioner filed a petition in the Court below to review the Board's order. In June, 1938, the Board set aside its order for the purpose of further proceedings (R. I, 317). The court below, upon application by petitioner, enjoined the Board from vacating its order, and directed that the transcript of record be filed with it. Thereafter this Court held that the court below had no jurisdiction to enter these orders. *In the Matter of the Petition of the National Labor Relations Board for a Writ of Mandamus,* 304 U. S. 486. In October 1938 the Board issued its decision and order (R. II, 833–1109), and petitioner filed in the court below its petition to review and set aside the Board's order (R. VII, 5173). In November 1939 the court below handed down its decision (R. VIII, 6277), and it entered its decree on January 2, 1940 (R. VIII, 6294).[2]

The conflict relied upon by petitioner goes to but a minor portion of the decree below. The other provisions require petitioner to cease and desist from the unfair labor practices found, to reinstate with back pay persons discriminatorily discharged or refused reinstatement, to make whole certain employees for losses suffered by reason of discriminatory lockouts, to offer reinstatement or placement upon a preferential list to employees who went on strike as a result of the unfair labor practices, to withdraw recognition from and disestablish certain labor organizations found to be company-dominated, and to post appropriate notices (R. VIII, 6294–6299). Compliance with these provisions of the decree is completely separable from compliance with the "work relief" provisions. And the question whether the latter provisions are valid is wholly separate from the other questions, going to other provisions of the decree, sought to be reviewed in the petition for certiorari.[3] None of these questions are necessary of determination in order to dispose of the question as to which a conflict exists.

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[2] It will be noted that the employees whose reinstatement is directed because they went on strike as a result of petitioner's unfair labor practices are to receive back pay only from the dates when petitioner refused, upon application, to reinstate them or place their names on a preferential list *after* the Board's order of October 18, 1938 (R. VIII, 6298).

In these circumstances, if the conflict between the decision below and the *Leviton* and *Tovrea* decisions, *supra,* is deemed to warrant review by this Court in the instant case, it would seem appropriate that the review be limited to the validity of the provisions requiring petitioner to reimburse the relief agencies.[4] Were those provisions to be held invalid on such review, they could be eliminated from the three paragraphs of the lower court's decree in which they appear (R. VIII, 6295, 6296, 6298). As we have pointed out (*supra*, p. 2), whether or not this is done, the amounts to be received *by the employees* remain the same. The other action which the order requires petitioner to take (*supra,* pp. 8–9) would likewise be unaffected. If any review is deemed warranted, it is submitted that it should be limited to the one point on which conflict exists. The Board's order is designed to resolve the serious economic dislocation produced by petitioner's extensive violations of the Act, and no good reason appears why the accomplishment of this end should be further postponed because of a conflict of circuits upon a question going to but a minor portion of the order. For this reason also the Government requests that if the petition is granted limited to the validity of the work relief provisions of the decree, that the order of this Court provide that it shall not operate to suspend enforcement of the remaining provisions of the decree below.

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[3] The review sought embraces questions as to (1) the sufficiency of the evidence to sustain the Board's findings in various particulars, which would involve examination of a record of 6,300 pages; (2) the validity of the order requiring the reinstatement of employees who were convicted of or are asserted to have committed various offenses in connection with the strike at petitioner's plants; (3) the interpretation of the Norris-La Guardia Act; (4) the validity of the order requiring the reimbursement for loss of pay of employees who were voluntarily reinstated by petitioner before the Board's order; (5) various details of the reinstatement provisions of the order; and (6) the sufficiency of the charge and of the hearing.

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[4] Number 4 of the "Questions Presented" enumerated in the petition for certiorari deals with the work-relief provisions of the decree (Pet. 4).

CONCLUSION

The present case has run a very full course. Unless grave doubt exists as to the correctness of the decision below on the relatively minor aspect in which it conflicts with the *Leviton* and *Tovrea* decisions, it is submitted that the petition for rehearing should be denied. If review is granted, it should be limited to the question upon which a conflict exists.

Respectfully submitted.

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SUPREME COURT OF THE UNITED STATES.

No. 14.—October Term, 1940.

Republic Steel Corporation, Petitioner,
vs.
National Labor Relations Board and Steel Workers Organizing Committee.

On petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Third Circuit.

[November 12, 1940.]

Mr. Chief Justice Hughes delivered the opinion of the Court.

The National Labor Relations Board, finding that the Republic Steel Corporation had engaged in unfair labor practices in violation of Section 8(1), 8(2) and 8(3) of the National Labor Relations Act, ordered the company to desist from these practices, to withdraw recognition from a labor organization found to be dominated by the company, and to reinstate certain employees, with back pay, found to have been discriminatorily discharged or denied reinstatement. The Board, in providing for back pay, directed the company to deduct from the payments to the reinstated employees the amounts they had received for work performed upon "work relief projects" and to pay over such amounts to the appropriate governmental agencies. Except for a modification, not now important, the Circuit Court of Appeals directed enforcement of the Board's order. 107 F. (2d) 472.

In view of conflict with decisions in *National Labor Relations Board* v. *Leviton Manufacturing Co.*, 111 F. (2d) 619 (C. C. A. 2d) and *National Labor Relations Board* v. *Tovrea Packing Co*, 111 F (2d) 626 (C. C. A. 9th), we granted certiorari limited to the question whether the Board had authority to require the company to make the described payments to the agencies of the Government. 310 U. S. 655.

The amounts earned by the employees before reinstatement were directed to be deducted from their back pay manifestly because, having already been received, these amounts were not needed to make the employees whole. That principle would apply whether the employees had earned the amounts in public or private employment. Further, there is no question that the amounts paid by the governmental agencies were for services actually performed. Presumably these agencies, and through them the public, received the benefit of services reasonably worth the amounts paid. There is no finding to the contrary.

The Board urges that the work relief program was designed to meet the exigency of large-scale unemployment produced by the depression; that projects had been selected, not with a single eye to costs or usefulness, but with a view to providing the greatest amount of employment in order to serve the needs of unemployed workers in various communities; in short, that the Work Projects Administration has been conducted as a means of dealing with the relief problem. Hence it is contended that the Board could properly conclude that the unfair labor practices of the company had occasioned losses to the Government financing the work relief projects.

The payments to the Federal, State, County, or other governments concerned are thus conceived as being required for the purpose of redressing, not an injury to the employees, but an injury to the public,—an injury thought to be not the less sustained although here the respective governments have received the benefit of the services performed. So conceived, these required payments are in the nature of penalties imposed by law upon the employer,—the Board acting as the legislative agency in providing that sort of sanction by reason of public interest. We need not pause to pursue the application of this theory of the Board's power to a variety of circumstances where community interests might be asserted. The question is,—Has Congress conferred the power upon the Board to impose such requirements.

We think that the theory advanced by the Board proceeds upon a misconception of the National Labor Relations Act. The Act is essentially remedial. It does not carry a penal program declaring the described unfair labor practices to be crimes. The Act does not prescribe penalties or fines in vindication of public rights or provide indemnity against community losses as distinguished from the protection and compensation of employees. Had Congress been intent upon such a program, we cannot doubt that Congress would have expressed its intent and would itself have defined its retributive scheme.

The remedial purposes of the Act are quite clear. It is aimed, as the Act says (Section 1) at encouraging the practice and procedure of collective bargaining and at protecting the exercise by workers of full freedom of association, of self organization and of negotiating the terms and conditions of their employment or other mutual aid or protection through their freely chosen representatives. This right of the employees is safeguarded through the authority conferred upon the Board to require the employer to desist from the unfair labor practices described and to leave the employees free to organize and choose their representatives. They are thus protected from coercion and interference in the formation of labor organizations and from discriminatory discharge. Whether the Act has been violated by the employer—whether there has been an unfair labor practice—is a matter for the Board to determine upon evidence. When it does so determine the Board can require the employer to disestablish organizations created in violation of the Act; it can direct the employer to bargain with those who appear to be the chosen representatives of the employees and it can require that such employees as have been discharged in violation of the Act be reinstated with back pay. All these measures relate to the protection of the employees and the redress of their grievances, not to the redress of any supposed public injury after the employees have been made secure in their right of collective bargaining and have been made whole.

As the sole basis for the claim of authority to go further and to demand payments to governments, the Board relies on the language of Section 10(c) which provides that if upon evidence the Board finds that the person against whom the complaint is lodged has engaged in an unfair labor practice, the Board shall issue an order—

> "requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act".

This language should be construed in harmony with the spirit and remedial purposes of the Act. We do not think that Congress intended to vest in the Board a virtually unlimited discretion to devise punitive measures, and thus to prescribe penalties or fines which the Board may think would effectuate the policies of the Act. We have said that "this authority to order affirmative action does not go so far as to confer a punitive jurisdiction enabling the Board to inflict upon the employer any penalty it may choose because he is engaged in unfair labor practices even though the Board be of the opinion that the policies of the Act might be effectuated by such an order". We have said that the power to command affirmative action is remedial, not punitive. *Consolidated Edison Company* v. *National Labor Relations Board,* 305 U. S. 197, 235, 236. See, also, *National Labor Relations Board* v. *Pennsylvania Greyhound Lines,* 303 U. S. 267, 268. We adhere to that construction.

In that view, it is not enough to justify the Board's requirements to say that they would have the effect of deterring persons from violating the Act. That argument proves too much, for if such a deterrent effect is sufficient to sustain an order of the Board, it would be free to set up any system of penalties which it would deem adequate to that end.

We think that affirmative action to "effectuate the policies of this Act" is action to achieve the remedial objectives which the Act sets forth. Thus the employer may be required not only to end his unfair labor practices; he may also be directed affirmatively to recognize an organization which is found to be the duly chosen bargaining-representative of his employees; he may be ordered to cease particular methods of interference, intimidation or coercion, to stop recognizing and to disestablish a particular labor organization which he dominates or supports, to restore and make whole employees who have been discharged in violation of the Act, to give appropriate notice of his compliance with the Board's order, and otherwise to take such action as will assure to his employees the rights which the statute undertakes to safeguard. These are all remedial measures. To go further and to require the employer to pay to governments what they have paid to employees for services rendered to them is an exaction neither to make the employees whole nor to assure that they can bargain collectively with the employer through representatives of their own choice. We find no warrant in the policies of the Act for such an exaction.

In truth, the reasons assigned by the Board for the requirement in question—reasons which relate to the nature and purpose of work relief projects and to the practice and aims of the Works Project Administration—indicate that its order is not directed to the appropriate effectuating of the policies of the National Labor Relations Act, but to the effectuating of a distinct and broader policy with respect to unemployment. The Board has made its requirement in an apparent effort to provide adjustments between private employment and public work relief, and to carry out supposed policies in relation to the latter. That is not the function of the Board. It has not been assigned a rôle in relation to losses conceived to have been sustained by communities or governments in connection with work relief projects. The function of the Board in this case was to assure to petitioner's employees the right of collective bargaining through their representatives without interference by petitioner and to make good to the employees what they had lost through the discriminatory discharge.

We hold that the additional provision requiring the payments to governmental agencies was beyond the Board's authority, and to that extent the decree below enforcing the Board's order is modified and the cause is remanded with directions to enter a decree enforcing the Board's order with that provision eliminated.

It is so ordered.

Mr. Justice ROBERTS took no part in the consideration and decision of this case.

A true copy.

Test:

Clerk, Supreme Court, U. S.

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SUPREME COURT OF THE UNITED STATES.

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[November 12, 1940.]

Mr. Justice **Black** and Mr. Justice **Douglas**:

It might fairly be implied by the words "reinstatement of employees with or without back pay" that the employees must themselves be the recipients of the back pay. Were the opinion based on that ground we would acquiesce. But the judgment here does not rest upon such an interpretation. The holding appears to be on the broad ground that the Board may not require full back pay, even to a wrongfully discharged employee, if he has received pay for services performed on a governmental relief project provided exclusively for the needy unemployed. With this conclusion we cannot agree.

The statute commands that the Board must order "back pay" if the policy of the Act will thereby be effectuated. At least two persons are immediately involved in "back pay", as here used; one who pays and one who receives. The propriety of a "back pay" order as an instrumentality for effectuating the Act's policies, must therefore be determined by the manner in which it influences the payor and payee, one, or both. The central policy of the Act is protection to employees from employer interference, intimidation and coercion in relation to unionization and collective bargaining. We cannot doubt but that a back pay order as applied to the employer will effectually aid in safeguarding these rights. We believe, as did the Board and the court below, that it may well be said that the policies of the Act will be effectuated by denying to an offending employer the opportunity of shifting to government relief agencies the burden of supporting his wrongfully discharged employees. The knowledge that he may be called upon to pay out the wages his employees would have earned but for their wrongful discharge, regardless of any assistance government may have rendered them during their unemployment, might well be a factor in inducing an employer to comply with the Act.

And the construction of the provision for back pay is not helped by labeling the Act's purpose or the Board's action as either "punitive" or "remedial." The "back pay" provision is clear and unambiguous. Hence, it is enough here for us to determine what Congress meant from what it said.

Nor is there substance to the expressed fear that complete acceptance of the words as Congress wrote them would vest unlimited discretion in the Board, because it would not. That discretion is narrowly limited, by the fact that as to "back pay" the Board can in no instance award any greater sum than "back pay" for the period in which the employee was absent from his employer's services by reason of his employer's violation of the law.